

ADMINISTRATIVE PANEL DECISION

Equifax Inc. v. Earl Voght
Case No. D2022-1945

1. The Parties

The Complainant is Equifax Inc., United States of America (“United States”), represented by The GigaLaw Firm, Douglas M. Isenberg, Attorney at Law, LLC, United States.

The Respondent is Earl Voght, United States.

2. The Domain Name and Registrar

The disputed domain name, <equifex.com>, is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 28, 2022. On May 30, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 31, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on June 2, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 22, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 23, 2022.

The Center appointed Dennis A. Foster as the sole panelist in this matter on June 30, 2022. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is a large and well-known United States company that operates throughout the world, primarily in the field of consumer credit reporting services. In connection with those services, the Complainant registered the EQUIFAX service mark with the United States Patent and Trademark Office (“USPTO”) in 1975 (*i.e.*, Registration No. 1,027,544; registered on December 16, 1975).

The disputed domain name, <equifex.com>, is owned by the Respondent, and the date of registration is May 24, 2022. The Complainant provided evidence that the disputed domain name does not resolve to an active website but is used by the Respondent to send emails in phishing activities designed to solicit payments from customers of the Complainant.

5. Parties’ Contentions

A. Complainant

- The Complainant is a company founded in the United States and incorporated there in 1913. It now operates in the United States and 23 other countries, employing approximately 11,000 people worldwide. The Complainant supplies consumer credit reporting and other human resource services for businesses, governments, and other consumers under the service mark EQUIFAX which is registered with the USPTO. The Complainant also offers services through its website located at “www.equifax.com”.
- The disputed domain name is confusingly similar to the Complainant’s EQUIFAX mark. The addition of the generic Top-Level Domain (“gTLD”), “.com”, is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. Moreover, the substitution of “l” for “i” and “e” for “a” in distinguishing the primary term in the disputed domain name, as compared with the Complainant’s service mark, does not prevent a finding of confusing similarity.
- The Respondent has no rights or legitimate interests in the disputed domain name. The Complainant has neither licensed nor authorized the Respondent to use the EQUIFAX service mark. The disputed domain name is not connected with an active website that provides a *bona fide* offering of goods or services, nor is the Respondent commonly known by the disputed domain name. Instead, the Respondent uses the disputed domain name to conduct a phishing scheme through which he has impersonated an employee of the Complainant in an attempt to fraudulently collect a payment from one of the Complainant’s customers.
- The disputed domain name was registered and is being used in bad faith. Instead of operating a legitimate website attached to the disputed domain name, the Respondent is engaged in illegitimate phishing schemes through the use of email services connected with the disputed domain name. In conducting his fraudulent activities under the disputed domain name, the Respondent was clearly aware of the Complainant’s widely known service mark.

B. Respondent

The Respondent did not reply to the Complainant’s contentions.

6. Discussion and Findings

In accordance with Policy paragraphs 4(a)(i) - (iii), the Panel may find for the Complainant and grant it a transfer of the disputed domain name, <equifex.com>, provided the Complainant proves that:

- The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

- The Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- The disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant's submission to the Panel of appropriate evidence that the Complainant has valid registrations with the USPTO for its EQUIFAX service mark satisfies the requirement under Policy paragraph 4(a)(i) that the Complainant has the necessary ownership interest in that mark. See *LO 337 IP Holding, LLC v. John Williams, J Entertainment ATL / John Williams, J*, WIPO Case No. [D2019-2339](#) ("The Panel concludes that Complainant has rights in the mark WORLD STAR HIP HOP through registration with the USPTO."); and *Equifax Inc. v. Taras Jurczak*, WIPO Case No. [D2022-1005](#) ("The Complainant has demonstrated its rights in the EQUIFAX mark by providing evidence of its trademark registrations.").

Clearly, the disputed domain name is not identical to the EQUIFAX service mark. However, the Panel notes that the second-level portion of the disputed domain name, "equifex", is the same length as that mark. Also, the Panel observes that the substitution of the letter "l" for the letter "i" offers little distinction, as the former can be considered a capitalization of the latter. Similarly, the replacement of "a" by "e" provides only a small difference, as both letters are vowels. Overall, since neither sequence of letters constitutes a common word and the disputed domain name contains sufficiently recognizable aspects of the EQUIFAX mark, the Panel views the two as confusingly similar. Prior Policy panels have found analogous situations with respect to the Complainant's mark and disputed domain names to constitute confusing similarity. See *Equifax Inc. v. Zhichao Yang, 杨智超 (Zhichao Yang), 林彦晓 (Yan Xiao Lin)*, WIPO Case No. [D2021-3287](#) (finding <myequifex.com>, among other disputed domain names, to be confusingly similar to the EQUIFAX mark); and *Equifax Inc. v. Robert Chris*, WIPO Case No. [D2021-2730](#) (finding <equifax.com> to be confusingly similar to the EQUIFAX mark). As a result, the Panel determines that the disputed domain name is confusingly similar to the Complainant's service mark. In making this determination, the Panel discounts the addition of the ".com" gTLD to the disputed domain name, as all domain names must possess a gTLD as a technical requirement.

Accordingly, the Panel finds that the Complainant has proved that the disputed domain name is identical or confusingly similar to a service mark in which the Complainant has rights.

B. Rights or Legitimate Interests

Prior Policy panels have consistently ruled that a complainant must put forward only a *prima facie* case that a respondent lacks rights or legitimate interests in a disputed domain name before the burden falls on the respondent to produce convincing evidence of those rights or legitimate interests. See, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 2.1; and, for example, *Wal-Mart Stores, Inc. v. WalMart Careers, Inc.*, WIPO Case No. [D2012-0285](#).

In addition to proving to the Panel that the disputed domain name is confusingly similar to the EQUIFAX service mark, the Complainant has claimed clearly that the Respondent was granted no authorization or license by the Complainant to use that mark. Consequently, the Complainant has met the minimum standard required to sustain a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name.

The Respondent, having failed to file a Response, offers no evidence to rebut the Complainant's *prima facie* case. Nonetheless, the Panel will examine the record for evidence that might plausibly sustain the Respondent's required rebuttal. In doing so, the Panel will accept all reasonable evidence submitted in the Complaint as true. See [WIPO Overview 3.0](#), section 2.1 ("The panel may draw inferences from the absence of a response as it considers appropriate, but will weigh all available evidence irrespective of whether a response is filed.").

The Panel finds that the Complaint sets forth pertinent evidence (Complaint Annexes 7, 8, 9, and 10) that the disputed domain name is not connected to an active website, but instead is used to host email services by

which the Respondent has tried, on at least one occasion, to falsely bill one of the Complainant's customers in a failed attempt to extort funds while pretending to represent the Complainant. In the opinion of the Panel, such phishing schemes do not constitute "a *bona fide* offering of goods or services" per Policy paragraph 4(c)(i). See [WIPO Overview 3.0](#), section 2.13.1; *Wesco Aircraft Hardware Corp. v. Contact Privacy Inc. Customer 1245095601 / Gulf Guns and Gear*, WIPO Case No. [D2019-2131](#) ("[...] the Panel finds that the purpose of registering the [disputed] Domain Name was to engage in an email scam or a phishing scheme, none of which is a *bona fide* offering of goods or services."); and *CMA CGM v. Diana Smith*, WIPO Case No. [D2015-1774](#) ("[...] such phishing scam cannot be considered a *bona fide* offering of goods or services [...]").

Given the complete disparity between the spelling of the Respondent's name, Earl Voght, and the disputed domain name the Panel concludes that the Respondent has never been commonly known by the disputed domain name. Therefore, Policy paragraph 4(c)(ii) is not applicable to this case.

Furthermore, as the Panel cannot possibly view the Respondent's phishing scheme as a "legitimate noncommercial or fair use" of the disputed domain name, Policy paragraph 4(c)(iii) is inapplicable as well.

Accordingly, the Panel finds that the Complainant's *prima facie* case prevails, and that the Complainant has proved that the Respondent has no rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

As explained above, the Complainant has presented clear and convincing evidence to the Panel that the Respondent is using the disputed domain name for illegitimate phishing schemes. This includes evidence of one circumstance where a customer of the Complainant was contacted through emails connected with the disputed domain name and encouraged to make a payment which was not authorized by the Complainant and was presumably meant for the Respondent's benefit. The Panel determines that this phishing activity constitutes bad faith use of the disputed domain name, and presents convincing evidence that it was registered in bad faith since that activity occurred shortly after registration, many years after the registration of the Complainant's EQUIFAX mark. See, *Kimley-Horn and Associates, Inc. v. Abraham Hashim*, WIPO Case No. [DCO2019-0017](#) ("The registration of a domain name in furtherance of phishing scams supports a finding of bad faith registration and use."); and *BHP Billiton Innovation Pty Ltd v. Domains By Proxy LLC / Douglass Johnson*, WIPO Case No. [D2016-0364](#) ("[...] the use of an email address associated with the disputed domain name, to send a phishing email for the purposes of dishonest activity is in itself evidence that the disputed domain name was registered and is being used in bad faith.").

Accordingly, the Panel finds that the Complainant has proved that the disputed domain name was registered and is being used in bad faith.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name, <equifax.com>, be transferred to the Complainant.

/Dennis A. Foster/

Dennis A. Foster

Sole Panelist

Date: July 14, 2022