

ADMINISTRATIVE PANEL DECISION

Equifax Inc. v. Ed Hibberd

Case No. D2022-4025

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 Ed Hibberd, Australia.

2. The Domain Name and Registrar

The disputed domain name <equifax.store> is registered with Dreamscape Networks International Pte Ltd (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 27, 2022. On October 27, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 28, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on October 31, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on November 2, 2022. The Center received email communications from the Respondent on October 31 and November 3, 2022.

The Center verified that the Complaint together with the amendment to 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 November 3, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 23, 2022. Pursuant to paragraph 5(b) of the Rules and the Respondent’s request of November 22, 2022, the Response due date was extended to November 27, 2022. The Center received an email communication from the Respondent on November 26, 2022.

The Center appointed Taras Kyslyy as the sole panelist in this matter on December 1, 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 global provider of information solutions and human resources business process outsourcing services for businesses, governments, and consumers. The Complainant was originally incorporated in 1913, and its predecessor company dates back to 1899. Headquartered in Atlanta, Georgia (United States), the Complainant operates or has investments in 24 countries in North America, Central and South America, Europe, and the Asia Pacific region. The Complainant is a member of Standard & Poor's (S&P) 500 Index, and its common stock is traded on the New York Stock Exchange (NYSE) under the symbol EFX. The Complainant employs approximately 11,000 people worldwide.

The Complainant is the registrant of the domain name <equifax.com>, which was registered on February 21, 1995, and then used for primary website of the Complainant.

The Complainant owns at least 221 trademark registrations in at least 56 jurisdictions around the world for marks that consist of or contain the word "equifax" including, for instance, United States trademark registration No. 1027544 for EQUIFAX, registered on December 16, 1975.

The disputed domain name was registered on September 22, 2022, and resolves to a parking webpage.

Upon serving of the Complaint, the Respondent and the Complainant had an exchange of emails aiming to settle, however unsuccessful.

5. Parties' Contentions

A. Complainant

The disputed domain name is identical to the Complainant's trademark. The relevant comparison to be made is with the Second-Level portion of the disputed domain name only (*i.e.*, "equifax"), as it is well established that the generic Top-Level Domain ("gTLD") (*i.e.*, ".store") may be disregarded for this purpose.

The Respondent has no rights or legitimate interests in the disputed domain name. The Complainant has never assigned, granted, licensed, sold, transferred or in any way authorized the Respondent to register or use the Complainant's trademark in any manner. By failing to use the disputed domain name in connection with an active website, the Respondent clearly has not used the disputed domain name in connection with a *bona fide* offering of goods or services and, therefore, cannot establish rights or legitimate interests. The Respondent has never been commonly known by the disputed domain name and has never acquired any trademark or service mark rights in the disputed domain name. By failing to use the disputed domain name in connection with an active website, the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The disputed domain name was registered and is being used in bad faith. The registration of the disputed domain name that is identical to the well-known trademark of the Complainant by the unaffiliated Respondent creates a presumption of bad faith. It is implausible that the Respondent was unaware of the Complainant when he registered the disputed domain name given the fame of the Complainant's trademark. The Complainant's trademark is very distinctive and has a strong reputation, and it is impossible to identify any good faith use to which the disputed domain name may be put.

B. Respondent

The Respondent did not reply to the Complainant's contentions. In its informal email communications the Respondent explained that he did not intend to register the disputed domain name and it was included free of charge in his "shopping cart" while researching other domains. The Respondent believes that it is better that he holds the disputed domain name to preclude it is owned by some third party with bad intentions. The Respondent also requested that the disputed domain name is granted to the Complainant.

6. Discussion and Findings

A. Consent to Remedy

According to section 4.10 of the [WIPO Overview 3.0](#), "[w]here parties to a UDRP proceeding have not been able to settle their dispute prior to the issuance of a panel decision using the 'standard settlement process' described above, but where the respondent has nevertheless given its consent on the record to the transfer (or cancellation) remedy sought by the complainant, many panels will order the requested remedy solely on the basis of such consent". However, "a panel may in its discretion still find it appropriate to proceed to a substantive decision on the merits". *Id.* Accordingly, noting that the Parties' were unable to settle and the Respondent's communications seem to disclaim any bad faith, going so far as to suggest that his passive holding of the disputed domain name was a service to the Complainant by means of preventing other bad actors from using the disputed domain name, the Panel finds a broader interest in recording a substantive decision on the merits and will proceed to do so.

B. Identical or Confusingly Similar

The Panel finds that the Complainant has rights in its registered trademark.

The gTLD ".store" in the disputed domain name is viewed as a standard registration requirement and may be disregarded for the purposes of the confusing similarity test (see, e.g., *Rexel Developpements SAS v. Zhan Yequn*, WIPO Case No. [D2017-0275](#)).

According to section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (the "[WIPO Overview 3.0](#)") in cases where a domain name incorporates the entirety of a trademark the domain name will normally be considered identical or confusingly similar to that mark for purposes of UDRP standing. The Panel finds that in the present case the disputed domain name incorporates the entirety of the Complainant's trademark with no addition.

Considering the above, the Panel finds the disputed domain name is identical to the Complainant's trademark, therefore, the Complainant has established its case under paragraph 4(a)(i) of the Policy.

C. Rights or Legitimate Interests

The Complainant has established *prima facie* that the Respondent has no rights or legitimate interests in the disputed domain name.

The Panel finds that the Respondent's explanation on accidental registration of the disputed domain name does not confer rights or legitimate interests in the disputed domain name for the Respondent.

The available evidence confirms that the Respondent is not commonly known by the disputed domain name, which could demonstrate its rights or legitimate interests (see, e.g., *World Natural Bodybuilding Federation, Inc. v. Daniel Jones, TheDotCafe*, WIPO Case No. [D2008-0642](#)).

The Complainant did not license or otherwise agree for use of its prior registered trademarks by the Respondent, thus no actual or contemplated *bona fide* or legitimate use of the disputed domain name could be reasonably claimed (see, e.g., *Sportswear Company S.P.A. v. Tang Hong*, WIPO Case No. [D2014-1875](#)).

The Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name resolving to an inactive website (see, e.g., *Philip Morris USA Inc. v. Daniele Tornatore*, WIPO Case No. [D2016-1302](#)). Moreover, the Respondent himself has acknowledged the Complainant's rights to the disputed domain name, seemingly conceding that the Respondent has no rights or legitimate interests in the disputed domain name.

Noting the high risk of implied affiliation between the disputed domain name and the identical well-known trademark of the Complainant, the Panel finds that there is no plausible fair use to which the disputed domain name could be put that would not have the effect of being somehow connected to the Complainant (see, e.g., *Instagram, LLC v. Super Privacy Service LTD c/o Dynadot / Zayed*, WIPO Case No. [D2019-2897](#)).

Considering the above, the Panel finds the Respondent does not have rights or legitimate interests in the disputed domain name. Therefore, the Complainant has established its case under paragraph 4(a)(ii) of the Policy.

D. Registered and Used in Bad Faith

According to section 3.1.4 of the [WIPO Overview 3.0](#), the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. The Panel is convinced that the Complainant's trademark is well established through long and widespread use and the Complainant has acquired a significant reputation and level of goodwill in its trademark both in the United States and internationally. Thus, the Panel finds that the disputed domain name identical to the Complainant's trademark was registered in bad faith.

According to section 3.3 of the [WIPO Overview 3.0](#), from the inception of the UDRP, panelists have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. In this regard, the Panel takes into account (i) the high degree of distinctiveness and reputation of the Complainant's trademark, (ii) the failure of the Respondent to submit a substantive response or to provide any evidence of actual or contemplated good-faith use, and (iii) the implausibility of any good faith use to which the disputed domain name may be put. Taking this into account the Panel finds the bad faith use of the disputed domain name in the present case.

Considering the above, the Panel finds the disputed domain name was registered and is being used in bad faith. Therefore, the Complainant has established its case under paragraph 4(a)(iii) of the Policy.

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.store> be transferred to the Complainant.

/Taras Kyslyy/

Taras Kyslyy

Sole Panelist

Date: December 8, 2022