

ADMINISTRATIVE PANEL DECISION

Equifax Inc. v. HEMANG INFRASTRUCTURE PRIVATE LIMITED

Case No. D2022-4931

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 HEMANG INFRASTRUCTURE PRIVATE LIMITED, India.

2. The Domain Name and Registrar

The disputed domain name <equifax.com> is registered with Tirupati Domains and Hosting Pvt Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 22, 2022. On December 22, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 23, 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 December 23, 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 December 23, 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 December 27, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 16, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 17.

The Center appointed Manuel Moreno-Torres as the sole panelist in this matter on January 25, 2023. 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 United States company doing business worldwide in information solutions and human resources business processes. The Complainant is member of Standard & Poor's 500 Index and its common stock is traded on the New York Stock Exchange.

The Complainant is the owner of more than 200 trademarks registration for or including EQUIFAX in several jurisdictions around the world. By way of example:

EQUIFAX, United States Patent and Trademark Office ("USPTO"), registered December 16, 1975, registration number 1027544, in class 36;

EQUIFAX, USPTO, registered August 3, 1976, registration number 1045574, in class 35; and

EQUIFAX, USPTO, registered May 14, 1991, registration number 1644585, in classes 35, 36 and 42.

Previous UDRP decisions have concluded that EQUIFAX is well-known. Such as, *Equifax Inc. v. Super Privacy Service LTD c/o Dynadot / Babacan Gunduz*, WIPO Case No. [D2021-3814](#).

The Complainant is the registrant of the domain name <equifax.com> since February 21, 1995, which is in used as its primary website.

The disputed domain name resolves to a website with pay-per-click ("PPC") links related to the Complainant's services.

5. Parties' Contentions

A. Complainant

The Complainant has provided evidence to be owner EQUIFAX trademarks registrations in different jurisdictions as well as a large list of previous UDRP decisions where such rights have been recognized.

The Complainant submits that the disputed domain name is confusingly similar its EQUIFAX trademark. While it is well established that the Top-Level Domain may be disregarded for the comparison test, the Complainant points out how EQUIFAX is reproduced in its entirety in the disputed domain name. Indeed, the Complainant refers to WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.9 to support a finding of confusing similarity since the disputed domain name contains sufficient recognizable aspects of the EQUIFAX trademark. That said, by repeating the two letters "fa" in the middle of the disputed domain name the trademark is clearly recognizable, alleges the Complainant.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. For such, the Complainant alleges that has never assigned, granted, licensed, sold, transferred or in any way authorized the Respondent to register or use EQUIFAX trademark in any manner. Further, the Complainant says that by using the disputed domain name in connection with a PPC page that includes links for services related to EQUIFAX services, the Respondent has failed to create a *bona fide* offering of goods or services under the UDRP. Neither can the Respondent establish rights or legitimate interests pursuant to paragraph 4 (c)(iii), ergo, noncommercial, since the disputed domain name is used in connection with a monetized PPC parking page.

The Complainant submits that to its knowledge 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.

Regarding to the third requirement, the Complainant considers that the Respondent has registered and has used the disputed domain name in bad faith.

The Complainant refers to [WIPO Overview 3.0](#), section 3.1.4, to highlight the recognition of the EQUIFAX trademark and the lack of affiliation with the Respondent to presume bad faith. Indeed, based on the reputation and fame of EQUIFAX the Complainant finds implausible that the Respondent was unaware of the Complainant when registering the disputed domain name.

In the Complainant's view, the Respondent registration is so obviously connected with the Complainant that it suggests "opportunistic bad faith" in violation of the Policy.

Previous panel decisions have held that using a domain name in connection with a monetized parking page constitutes bad faith. For such, the Complainant provides printout evidence of the Respondent's attempt to generate click-through fees. Adding that even if the Respondent was unaware of such monetization bad faith would exist in any case.

The Complainant notes that EQUIFAX is a widely known trademark and was first used and registered 32 years before the Respondent's registration of the disputed domain name to take into account [WIPO Overview 3.0](#), section 3.2.2.: "...a respondent cannot credibly claim to have been unaware of the mark". In addition, the Complainant submits that the Respondent is a serial cybesquatter who has lost numerous domain name disputes proceedings.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed the Complainant must satisfy the Panel that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name was registered and is being used in bad faith.

There are no exceptional circumstances within paragraph 5(f) of the Rules to prevent the Panel from determining the dispute based upon the Complaint, notwithstanding the failure of the Respondent to file a Response. Under paragraph 14(a) of the Rules in the event of such a "default" the Panel is still required "to proceed with a decision on the complaint", whilst under paragraph 14(b) it "shall draw such inferences there from as it considers appropriate". This dispute resolution procedure is accepted by the domain name registrant as a condition of registration.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy provides that the Complainant must establish that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

The Panel is satisfied with the trademarks registration provided by the Complainant for EQUIFAX to show appropriate rights for the purpose of the Policy.

It is well established that the test typically involves a side-by-side comparison of the disputed domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name. The Panel finds that the disputed domain name contains the Complainant's EQUIFAX trademark and consequently is found to be confusingly similar. By duplicating the letters "fa" within the disputed domain name the Respondent intentionally misspelled the Complainant's trademark. See section 1.9 of the [WIPO Overview 3.0](#). That said, the additional two letters do not prevent confusing similarity and the Complainant's trademark remains recognizable within the disputed domain name.

Therefore, the first requirement is met under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant must prove that the Respondent has no rights or legitimate interests in the disputed domain name.

Paragraph 4(c) of the Policy sets out non-exclusive examples in which the Respondent may establish rights or legitimate interests in the disputed domain name, by demonstrating any of the following:

- (i) before any notice to it of the dispute, the Respondent's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) that the Respondent has been commonly known by the domain name, even if it has acquired no trademark or service mark rights; or
- (iii) the Respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Complainant asserts that the Complainant has not granted, licensed, sold, transferred or in any way authorized the Respondent to register or use the EQUIFAX trademark in any manner. That said, nor as a domain name for the purposes of this proceeding. Notwithstanding, the Respondent used the disputed domain name to host a parking page with PPC links that includes services related to the EQUIFAX trademark. In the Panel's view, the lack of authorization and the later use prevents the Respondent to create a *bona fide* offering of goods or services under the Policy and, therefore the Respondent cannot demonstrate rights or legitimate interests. Besides, by using the disputed domain name in connection with a monetized parking page the Respondent cannot establish rights or legitimate interests since it is purportedly commercial. See *Bally Gaming, Inc. d/b/a bally technologies v. Dreamhost, LLC / Aaron Stein*, WIPO Case No. [D2015-0757](#).

Further, the Complainant asserts that EQUIFAX trademarks have been in use for 47 years and that the Respondent is not commonly known by the disputed domain name. Indeed, the Whois records do not identify the registrant of the disputed domain name as "Equifax". There is no evidence in the file for the Panel to conclude otherwise.

Under the above, the Panel is satisfied that the Complainant has established a *prima facie* case that the Respondent does not have any rights or legitimate interests in the disputed domain name and thereby the burden of production shifts to the Respondent to produce evidence demonstrating rights or legitimate interests in respect of the disputed domain name. See [WIPO Overview 3.0](#), section 2.1.

There is no response by the Respondent in this proceeding, and there is no rebuttal of the Respondent to the Complainant's *prima facie* case. Accordingly, the Complainant is deemed to have satisfied the second element.

Therefore, the Respondent lacks rights or legitimate interests in the disputed domain name to the satisfaction of the Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

For the purposes of the Policy, a complainant must establish that the domain name was registered and used in bad faith by the respondent.

The disputed domain name is confusingly similar to a well-known trademark because a typo mistake as set out in previous headings. The Panel looks at [WIPO Overview 3.0](#), section 3.2.1, where it states, "...circumstances panels may take into account in assessing whether the respondent's registration of a domain name is in bad faith include: (i) the nature of the domain name e.g., a typo of a widely-known mark...". Being that as it is, the Panel finds that the Respondent had in mind the Complainant's trademark when registering the disputed domain name and intentionally registered the typo squatting version of the trademark. Indeed, the mere registration of a well-known mark by an unaffiliated entity can, under certain circumstances, itself support a finding of registration in bad faith. [WIPO Overview 3.0](#), section 3.1.4.

The Respondent has been found by previous panels decisions under the Policy to have engaged in a pattern of registering domain names to prevent the owners of marks from registering them. See *LEGO Juris A/S v. HEMANG INFRASTRUCTURE PRIVATE LIMITED / PrivacyProtect.org, Domain Admin*, WIPO Case No. [D2010-1847](#). The Complainant has provided evidence as the Respondent's similar course of conduct in at least 28 UDRP cases before. Such a pattern of bad faith conduct deserves an adverse finding under the terms of paragraph 4(b)(ii) for reasonably being qualified as a persistent cybersquatter.

The Panel finds that EQUIFAX has a long establish brand recognition and the Respondent is taking advantage of such value by linking Internet users to third-party competitors services in an attempt to generate click-through-fees. In other words, conferring commercial gain on the Respondent. The Panel also accepts, as noted by the Complainant, that a respondent cannot disclaim responsibility for links appearing on the website associated with its domain name. *Volkswagen Aktiengesellschaft v. Robert Brodi*, WIPO Case No. [D2015-0299](#).

Therefore, the Panel finds that the Complainant has satisfied the requirements of 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.com> be transferred to the Complainant.

/Manuel Moreno-Torres/

Manuel Moreno-Torres

Sole Panelist

Date: February 8, 2023