

## ADMINISTRATIVE PANEL DECISION

Equifax Inc. v. 石磊(Lei Shi)

Case No. D2024-4741

### 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 石磊 (Lei Shi), China.

### 2. The Domain Name and Registrar

The disputed domain name <equifaxtextmessage.com> is registered with Chengdu West Dimension Digital Technology Co., Ltd. (the “Registrar”).

### 3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on November 18, 2024. On November 19, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 20, 2024, 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 (REDACTED) and contact information in the Complaint. The Center sent an email communication to the Complainant on the same day, 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 in English on November 22, 2024.

On November 20, 2024, the Center informed the parties in Chinese and English, that the language of the registration agreement for the disputed domain name is Chinese. On November 22, 2024, the Complainant requested English to be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission.

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 in Chinese and English of the Complaint, and the proceedings commenced on November 22, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 12, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 16, 2024.

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on December 18, 2024. 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 leading 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 owns an international trademark portfolio for the mark EQUIFAX, including, but not limited to, the following trademark registrations: United States Trademark Registration Number 1,027,544 for EQUIFAX, registered on December 16, 1975 and United States Trademark Registration Number 1,045,574 for EQUIFAX, registered on August 3, 1976.

The disputed domain name was registered on January 25, 2024, and is therefore of a later date than the abovementioned registered trademarks owned by the Complainant. The Complainant provides evidence that the disputed domain name is linked to a parking page containing purported pay-per-click ("PPC") links or monetized links, that includes links for various services related to the Complainant and/or the EQUIFAX trademarks, including "Free Credit Report", "Equifax Free Credit Report" and "Experian Free Credit Report". The Complainant also provides evidence that security vendor Trustwave has flagged the disputed domain name as associated with phishing activities, and that the Respondent has configured MX (Mail Exchange) records for the disputed domain name.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends the disputed domain name is confusingly similar to its trademarks for EQUIFAX, since it incorporates these marks in their entirety, adding only the descriptive terms "text message". The Complainant argues that its trademarks for EQUIFAX are well-known and intensely used and refers to a number of prior decisions under the Policy recognizing such well-known status. The Complainant contends that the Respondent is not a licensee of the Complainant, nor is the Respondent otherwise entitled or authorized to use the Complainant's EQUIFAX mark for any purpose. The Complainant further states that it has not given the Respondent permission to use the mark and that the Respondent is not commonly known under the disputed domain name. Furthermore, the Complainant argues that the Respondent has merely registered the disputed domain name to display sponsored links or PPC links and such use indicates that the Respondent is using the disputed domain name in order to make a commercial gain by abusing the reputation of the Complainant's marks. Additionally, the Complainant contends that security vendor Trustwave has flagged the disputed domain name as associated with phishing activities, and

that the Respondent has configured MX records for the disputed domain name, enabling Respondent to send and receive email with addresses that use the disputed domain name. Finally, the Complainant argues that the Respondent is a serial cybersquatter who has lost numerous proceedings under the Policy including a case which was filed by the same Complainant as in this proceeding and also involving the same EQUIFAX trademark: see *Equifax Inc. v. 石磊 (Lei Shi)*, WIPO Case No. [D2024-3282](#) and *Sanofi v. 石磊 (Lei Shi)*, WIPO Case No. [D2024-2133](#). The Complainant essentially argues that in these circumstances, the Respondent has no rights or legitimate interests in the disputed domain name and the registration and use of the disputed domain name are made in bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1. Preliminary Issue: Language of the Proceeding**

The language of the Registration Agreement for the disputed domain name is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that the disputed domain name contains the English words "text" and "message"; the fact that the content on the website associated with the disputed domain name is in English ("Free Credit Report", "Equifax Free Credit Report" and "Experian Free Credit Report"); the fact that numerous prior cases involving the Respondent have been conducted in English, including *Klarna Bank AB v. 石磊 (Lei Shi)*, WIPO Case No. [D2022-0006](#), and *Kyndryl Holdings Inc. v. 石磊 (Lei Shi)*, WIPO Case No. [D2021-4218](#); and the allegation that it would be unfair and create unwarranted delay for the Complainant to translate the Complaint into another language.

The Respondent did not make any specific submissions with respect to the language of the proceeding.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

### **6.2. Substantive Issues.**

#### **A. Identical or Confusingly Similar**

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here, “text message”, may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, the Panel finds the first element of the Policy has been established.

## **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Moreover, upon review of the facts and evidence submitted, the Panel notes that the disputed domain name is linked to a page that contains purported PPC or monetized links to various services related to the Complainant and/or the EQUIFAX trademarks, including “Free Credit Report”, “Equifax Free Credit Report” and “Experian Free Credit Report”. The Panel also notes that there are no elements in this case that point to the Respondent having made any reasonable and demonstrable preparations to use the disputed domain name in connection with a bona fide offering of goods or services. In the Panel’s view, these elements show that the Respondent’s intention was not to make any use of the disputed domain name as a bona fide provider of goods or services, or to make legitimate noncommercial use or fair use of the disputed domain name. Instead, it shows the Respondent’s clear intention to mislead and divert Internet users for commercial gain to this parking webpage offering PPC links by taking unfair advantage of the goodwill and reputation of the Complainant’s EQUIFAX trademarks, see also [WIPO Overview 3.0](#), section 2.9.

Finally, the Panel also finds that the nature of the disputed domain name, incorporating the Complainant’s well-known mark entirely and merely combining it with the descriptive terms “text message”, noting also that the Complainant is a publicly traded company, carries a risk of implied affiliation and cannot constitute fair use, as it effectively impersonates the Complainant and its products or suggests sponsorship or endorsement by the Complainant (see [WIPO Overview 3.0](#), section 2.5.1).

Based on the available record, the Panel finds the second element of the Policy has been established.

### C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the Respondent has registered a domain name which is confusingly similar to the Complainant's well-known, intensely used and distinctive EQUIFAX trademarks and combined them with the descriptive terms "text message", which clearly suggests an affiliation or other connection to the Complainant. The Panel particularly accepts that the Complainant's EQUIFAX marks are well-known and refers to multiple prior UDRP decisions in which such marks were recognized as well-known marks, including *Equifax Inc. v. Super Privacy Service LTD c/o Dynadot / Babacan Gunduz*, WIPO Case No. [D2021-3814](#); and *Equifax Inc. v. Balticsea LLC, Balcsea LLC*, WIPO Case No. [D2022-2497](#). In this context, the Panel also refers to the [WIPO Overview 3.0](#), section 3.1.4, which states "[p]anel[s] have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith". Furthermore, the Panel also notes that the Complainant's trademarks were registered many years before the registration date of the disputed domain name. The Panel deducts from these elements that the Respondent knew, or at least should have known, of the existence of the Complainant's trademarks at the time of registering the disputed domain name. In the Panel's view, these elements indicate bad faith on the part of the Respondent, and the Panel therefore finds that it has been demonstrated that the Respondent registered the disputed domain name in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Particularly, the Complainant provides evidence that the disputed domain name is linked to a page that contains purported PPC or monetized links to various services related to the Complainant and/or the EQUIFAX trademarks, including "Free Credit Report", "Equifax Free Credit Report" and "Experian Free Credit Report". The Panel concludes that such use constitutes an intentional attempt to attract, for commercial gain, Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's marks as to the source, affiliation, or endorsement of the disputed domain name. This constitutes direct evidence of the Respondent's bad faith under paragraph 4(b)(iv) of the Policy.

Further, the Panel agrees with the Complainant that the Respondent has been engaged in a pattern of trademark-abusive domain name registrations. In this regard, the Panel refers to the Respondent's evidence from which it is clear that the Respondent has been involved as a respondent in a previous similar UDRP case in which the respective panel concluded that the Respondent had registered and used the respective domain names in bad faith, see *Equifax Inc. v. 石磊 (Lei Shi)*, WIPO Case No. [D2024-3282](#) and *Sanofi v. 石磊 (Lei Shi)*, WIPO Case No. [D2024-2133](#). Finally, the Panel has also reviewed the Complainant's evidence containing the MX records for the disputed domain name, which indicate that the Respondent has connected this disputed domain name to email servers. The Panel finds that this creates a grave risk that the Respondent may be using this disputed domain name, which is confusingly similar to the Complainant's well-known marks, for misrepresentations and/or phishing and spamming activities (see in this sense also previous UDRP decisions such as *Carrefour v. WhoisGuard, Inc., WhoisGuard Protected / Robert Jurek, Katrin Kafut, Purchasing clerk, Starship Tapes & Records*, WIPO Case No. [D2017-2533](#)). The preceding elements lead the Panel to conclude that the Respondent is using the disputed domain name in bad faith. The Panel therefore finds that it has been demonstrated that the Respondent has registered, and is using the disputed domain name in bad faith.

Based on the available record, the Panel finds that the Complainant has established the third element 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 <equifaxtextmessage.com> be transferred to the Complainant.

*/Deanna Wong Wai Man/*

**Deanna Wong Wai Man**

Sole Panelist

Date: December 24, 2024