

## **ADMINISTRATIVE PANEL DECISION**

### **Equifax Inc. v. Balticsea LLC, Balcsea LLC**

### **Case No. D2022-2497**

#### **1. The Parties**

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

The Respondent is Balticsea LLC, Balcsea LLC, Russian Federation.

#### **2. The Domain Name and Registrar**

The disputed domain name <equax.com> is registered with Tucows Inc. (the “Registrar”).

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 8, 2022. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 8, 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 July 12, 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 amended Complaint on July 14, 2022.

The Center verified that the Complaint together with the amended 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 July 19, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 8, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 15, 2022.

The Center appointed Philippe Gilliéron as the sole panelist in this matter on August 22, 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 leading global provider of information solution and human resources business process outsourcing services for business, government and consumers. It operates in 24 countries in North America, Central and South America, Europe and the Asia Pacific region. The Complainant employs approximately 11,000 people worldwide. It 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 owns at least 221 trademark registrations in at least 56 jurisdictions around the world for marks that consist of or contain the word EQUIFAX, which was first used in commerce and registered in 1975. It notably owns the following trademarks in the United States of America:

- EQUIFAX: U.S. Reg. No. 1,027,544 (first used in commerce March 4, 1975; registered December 16, 1975) for use in connection with "insurance risk information reporting services concerning potential policy holders".
- EQUIFAX: U.S. Reg. No. 1,045,574 (first used in commerce March 4, 1975; registered August 3, 1976) for use in connection with "conducting investigations and reporting on individuals and firms concerning credit, character and finances...".
- EQUIFAX: U.S. Reg. No. 1,644,585 (first used in commerce March 4, 1975; registered May 14, 1991) for use in connection with, *inter alia*, "providing on-line access to computer databases containing information relating to applicants for insurance, credit, mortgage loans, and employment".

The Complainant is the registrant of the domain name <equifax.com>, which was created on February 21, 1995. The Complainant uses the domain name <equifax.com> in connection with its primary website.

On May 14, 2002, the Respondent registered <equax.com>. The disputed domain name redirects to a variety of third party websites, one of which attempts to trick Internet users into installing a suspicious "Chrome Extension" called "Better Browse by SecurySearch". "SecurySearch" is widely known as a "search hijacker" that "stealthily infiltrates systems, modifies browser options, and stealthily records private information".

#### 5. Parties' Contentions

##### A. Complainant

The Complainant first argues that the disputed domain name is confusingly similar to its trademark EQUIFAX as it entirely incorporates its trademark with the mere deletion of the letters "I" and "F". This would be all the more obvious than one of the websites to which the disputed domain name redirects purports to provide "Free Credit Scores" and includes the EQUIFAX Trademark in the top right corner of the website.

The Complainant further considers that the Respondent has no rights or legitimate interest 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 EQUIFAX Trademark in any manner. To the Complainant's 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. By using the disputed domain name in connection with a website that attempts to trick Internet users into installing the "SecurySearch" search hijacker, the Respondent is not using the disputed domain name in connection with a *bona fide* offering of goods or services.

Complainant finally affirms that the disputed domain name was registered and is being used in bad faith. Taking into account the fact that the Complainant's trademark is a famous or widely-known one, it is implausible that the Respondent was unaware of the Complainant's trademark. Because the disputed

domain name is “so obviously connected with” the Complainant, the Respondent’s actions suggest “opportunistic bad faith” in violation of the Policy. Furthermore, the use of the disputed domain name in connection with a website that attempts to trick Internet users into installing a suspicious “Chrome Extension” called “Better Browse by SecurySearch” is tantamount of bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

Paragraph 15(a) of the Rules instructs this Panel to “[...] decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

Pursuant to paragraph 4(a) of the Policy, the Complainant must prove each of the following three elements to obtain an order that the disputed domain name should be cancelled or transferred:

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

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

According to the Policy, paragraph 4(a)(i), the Complainant has to prove that the disputed domain name is identical or confusingly similar to trademarks or service marks in which the Complainant has rights.

The Complainant is the holder of numerous trademarks throughout the world consisting of the term EQUIFAX.

UDRP panels widely agree that incorporating a trademark into a domain name can be sufficient to establish that the domain name is identical or confusingly similar to a registered trademark for purpose of the Policy (see, e.g., *Uniroyal Engineered Products, Inc. v. Nauga Network Services*, WIPO Case No. [D2000-0503](#); *Thaigem Global Marketing Limited v. Sanchai Aree*, WIPO Case No. [D2002-0358](#); and *F. Hoffmann-La Roche AG v. Relish Entreprises*, WIPO Case No. [D2007-1629](#)).

The mere deletion of two letters does not prevent a finding of confusing similarity, and the Panel finds that the disputed domain name is confusingly similar to the disputed domain name under the threshold test of the first element of the Policy (*Intesa Sanpaolo S.p.A. v. Domain Admin, PrivacyProtect.org / Ma Ying Jo*, WIPO Case No. [D2013-0642](#); *Fry’s Electronics, Inc v. Whois ID Theft Protection*, WIPO Case No. [D2006-1435](#)).

As a result, the Panel considers paragraph 4(a)(i) of the Policy to be satisfied.

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

According to the Policy, paragraph 4(a)(ii), the Complainant has to demonstrate that the Respondent has no rights or legitimate interests in the disputed domain name.

As the UDRP panel stated in *Do The Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#), demonstrating that a respondent has no rights or legitimate interests in a domain name “[...] would require complainant to prove a negative, a difficult, if not impossible, task”. Thus, in that decision, the panel opined

that “[w]here a complainant has asserted that the respondent has no rights or legitimate interests in respect of the domain name, it is incumbent upon the respondent to come forward with concrete evidence rebutting this assertion”.

Following that decision, subsequent UDRP panels developed a consensus view that it is deemed sufficient for a complainant to make a *prima facie* case that the respondent lacks rights or legitimate interests in a domain name. Once a *prima facie* case has been made, the burden of production shifts to the respondent to come forward with evidence to demonstrate its rights or legitimate interests. If it fails to do so, the complainant is deemed to have satisfied to paragraph 4(a)(ii) of the Policy (see, e.g., section 2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#))).

In the present case, the Complainant is the owner of numerous EQUIFAX trademarks. The Complainant has no business or other relationships with the Respondent. The Complainant thus has made a *prima facie* case showing that the Respondent has no rights or legitimate interests in the disputed domain name.

On its side, the Respondent has not answered the Complaint and did not proceed.

Considering the absence of a Response and the fact that the Respondent is neither commonly known by the disputed domain name, nor has made a legitimate noncommercial or fair use of the disputed domain name, the Panel finds that the Respondent has failed to demonstrate any rights or legitimate interests in the disputed domain name.

This is all the more true than, in the present case, the disputed domain name notably leads to a website that attempts to trick Internet users installing the “SecurySearch” search hijacker. As set forth in section 2.13 of [WIPO Overview 3.0](#): “Panels have categorically held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent.”

Consequently, in light of the above, the Panel considers paragraph 4(a)(ii) of the Policy to be fulfilled.

### **C. Registered and Used in Bad Faith**

For a complaint to succeed, a panel must be satisfied that a domain name has been registered and is being used in bad faith (Policy, paragraph 4(a)(iii)).

Bad faith requires a respondent to be aware of the goodwill of a complainant’s trademarks. In the present case, the Complainant is the owner of numerous EQUIFAX trademarks. There is no doubt in the Panel’s opinion that these marks enjoy a wide reputation and can be considered as a well-known trademark in the industry.

Considering the longstanding and reputation enjoyed by the EQUIFAX Trademark which is in use since more than forty years, one finds it hard to conceive that the Respondent would have chosen and registered the disputed domain name without having been aware of the Complainant’s trademarks.

By using the Disputed Domain Name in connection with a website that attempts to trick Internet users into installing the “SecurySearch” search hijacker, the Respondent is using the disputed domain name in bad faith. Taking into account the nature of the disputed domain name (being some short of an abbreviated or typosquatted form of the Complainant’s EQUIFAX trademark) and its use, Respondent’s actions suggest “opportunistic bad faith” in violation of the Policy (*Research In Motion Limited v. Dustin Picov*, WIPO Case No. [D2001-0492](#)). In light of the long history of Complainant’s trademarks and Complainant’s significant presence and brand recognition, “[i]t is likely that the Respondent knew of the Complainant’s mark, and has sought to obtain a commercial benefit by attracting Internet users based on that confusion”. (*Western Union Holdings, Inc. v. Manuel Rodriguez*, WIPO Case No. [D2006-0850](#). See also, e.g., *OSRAM GmbH v.*

*Azarenko Vladimir Alexeevich, Azarenko Group Ltd, WIPO Case No. [D2016-1384](#)*).

The Respondent, having neglected to participate in these proceedings, did not bring any evidence to support any good faith reason for having chosen to register the disputed domain name; such evidence is not apparent from the record, and the Respondent has to bear the consequences of its default in that regard.

Consequently, the Panel finds that the disputed domain name has been registered and is being used in bad faith under the 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 <equax.com> be transferred to the Complainant.

*/Philippe Gilliéron/*

**Philippe Gilliéron**

Sole Panelist

Date: September 6, 2022