

ADMINISTRATIVE PANEL DECISION

Equifax Inc. v. Wesley Karr

Case No. D2022-4190

1. The Parties

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

Respondent is Wesley Karr, United States.

2. The Domain Name and Registrar

The Disputed Domain Name <equifax.com> is registered with Sea Wasp, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 4, 2022. On November 4, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On November 5, 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 Complainant on November 10, 2022 providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on November 10, 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 Respondent of the Complaint, and the proceedings commenced on November 14, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 4, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on December 5, 2022.

The Center appointed Richard W. Page as the sole panelist in this matter on December 12, 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

Complainant is a global provider of information solutions and human resources business process outsourcing services for businesses, governments, and consumers. Complainant was originally incorporated under the laws of the State of Georgia (United States) in 1913, and its predecessor company dates back to 1899.

Headquartered in Atlanta, Georgia (United States), Complainant operates or has investments in 24 countries in North America, Central and South America, Europe and the Asia Pacific Region.

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.

Complainant employs approximately 11,000 people worldwide.

Among its many services, Complainant offers a credit reporting service that provides consumers with a summary of their credit history and with certain other information reported to credit bureaus by lenders and creditors.

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

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.

Complainant's registrations of the EQUIFAX Mark include, without limitation:

EQUIFAX: United States 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"; and

EQUIFAX: United States 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..."

The Disputed Domain Name was registered on January 8, 2006, and redirects visitors to a website for "TransUnion" Credit Monitoring.

5. Parties' Contentions

A. Complainant

Complainant contends that the Disputed Domain Name is confusingly similar to the EQUIFAX Mark, pursuant to paragraph 4(a)(i) of the Policy.

Complainant notes that it has numerous registrations of the EQUIFAX Mark. Complainant further contends that its EQUIFAX Mark is well-known.

Complainant further contends that the "overall impression of the designation" of the Disputed Domain Name in one of being connected to the EQUIFAX Mark. Complainant further contends that the Disputed Domain Name contains the EQUIFAX Mark in its entirety, simply adding the letter "i" in the middle. Complainant further contends that the Top-Level Domain ("TLD") (".com") may be disregarded for the purpose of determining confusing similarity.

Complainant further contends that it has prevailed in numerous proceedings under various domain name dispute policies, for domain names that are identical or confusingly similar to the EQUIFAX Mark, including the UDRP.

Complainant asserts that Respondent has no rights or legitimate interests in the Disputed Domain Name, pursuant to paragraph 4(a)(ii) of the Policy.

Complainant further asserts that it has never assigned, granted, licensed, sold, transferred, or in any way authorized Respondent to register or use the EQUIFAX Mark.

Complainant further asserts that Respondent is using the Disputed Domain Name to redirect visitors to a website for TransUnion (which, like Complainant, is one of the three major U.S. credit reporting agencies), and therefore a direct competitor of Complainant. Complainant further asserts that such activities are not *bona fide* sales of goods or services. Complainant further asserts that Respondent's actions are clearly not legitimate and are misleading.

Complainant further asserts that 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.

Complainant alleges that the Disputed Domain Name has been registered and used in bad faith, pursuant to paragraph 4(a)(iii) of the Policy.

Complainant further alleges that Respondent had actual and constructive knowledge of Complainant's trademark rights because the EQUIFAX Mark is widely-known. Complainant further asserts that the Disputed Domain Name was created on January 8, 2006 – thirty-one (31) years after Complainant first used and registered the EQUIFAX Mark in commerce and eleven (11) years after Complainant registered the domain name <equifax.com>.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs the Panel as to the principles the Panel is to use in determining the dispute: "A Panel shall decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules, and any rules and principles of law that it deems applicable."

Even though Respondent has failed to file a Response or to contest Complainant's assertions, the Panel will review the evidence proffered by Complainant to verify that the essential elements of the claims are met. See section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)).

Paragraph 4(a) of the Policy directs that Complainant must prove each of the following:

- i) the Disputed Domain Name registered by Respondent is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and,
- ii) 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

Complainant contends that the Disputed Domain Name is confusingly similar to the EQUIFAX Mark, pursuant to paragraph 4(a)(i) of the Policy.

Section 1.2.1 of the [WIPO Overview 3.0](#) states that registration of a trademark is *prima facie* evidence of Complainant having enforceable rights in the EQUIFAX Mark.

Complainant notes that it has numerous registrations of the EQUIFAX Mark. Complainant further contends that its EQUIFAX Mark is well-known. Respondent has not countered these contentions.

Therefore, the Panel finds that Complainant for purposes of this proceeding has enforceable trademark rights in the EQUIFAX Mark.

Section 1.7 of the [WIPO Overview 3.0](#) says that inclusion of the entire trademark in a domain name will be considered confusingly similar. Section 1.8 of the [WIPO Overview 3.0](#) instructs that the addition of other terms (whether descriptive, geographical, pejorative, meaningless or otherwise) does not prevent a finding of confusing similarity. Section 1.11.1 of the [WIPO Overview 3.0](#) instructs that TLDs such as “.com” may be disregarded for purposes of assessing confusing similarity.

Complainant further contends that the Disputed Domain Name contains the EQUIFAX Mark in its entirety, simply adding the letter “i” in the middle. Complainant further contends that the TLD “.com” may be disregarded for the purpose of determining confusing similarity.

Respondent has not countered these contentions.

The Panel finds that the entirety of the EQUIFAX Mark is contained in the Disputed Domain Name and the additional “i” does not prevent a finding of confusing similarity.

The Panel further finds that Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Complainant asserts that Respondent has no rights or legitimate interests in the Disputed Domain Name, pursuant to paragraph 4(a)(ii) of the Policy.

Section 2.1 of the [WIPO Overview 3.0](#) states that once Complainant makes a *prima facie* case in respect of the lack of rights or legitimate interests of Respondent, Respondent carries the burden of demonstrating it has rights or legitimate interests in the Disputed Domain Name. Where Respondent fails to do so, Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

Paragraph 4(c) of the Policy allows three nonexclusive methods for the Panel to conclude that Respondent has rights or legitimate interests in the Disputed Domain Name:

(i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable preparations to use, the Disputed Domain Name or a name corresponding to the Disputed Domain Name in connection with a *bona fide* offering of goods or services; or

(ii) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Disputed Domain Name, even if you have acquired no trademark or service mark rights; or

(iii) you [Respondent] are 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 EQUIFAX Mark. Complainant further asserts that it has never assigned, granted, licensed, sold, transferred, or in any way authorized Respondent to register or use the EQUIFAX Mark.

Complainant further asserts that Respondent is using the Disputed Domain Name to redirect visitors to a website for TransUnion (which, like Complainant, is one of the three major U.S. credit reporting agencies), and therefore a direct competitor of Complainant. Complainant further asserts that such activities are not *bona fide* sales of goods or services. Complainant further asserts that Respondent's actions are clearly not legitimate and are misleading.

Complainant further asserts that 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.

The Panel finds that Complainant has stated a *prima facie* case that Respondent lacks rights and legitimate interests in the Disputed Domain Name. Respondent has not contested these assertions.

The Panel further finds that Complainant has satisfied the requirements of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Complainant contends that Respondent registered and is using the Disputed Domain Name in bad faith in violation of paragraph 4(a)(iii) of the Policy.

Paragraph 4(b) of the Policy sets forth four nonexclusive criteria for Complainant to show bad faith registration and use of the Disputed Domain Name:

(i) circumstances indicating that you [Respondent] have registered or you have acquired the Disputed Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Disputed Domain Name registration to Complainant who is the owner of the EQUIFAX Mark or to a competitor of Complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the Disputed Domain Name; or

(ii) you [Respondent] have registered the Disputed Domain Name in order to prevent Complainant, as the owner of the EQUIFAX Mark from reflecting the EQUIFAX Mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you [Respondent] have registered the Disputed Domain Name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the Disputed Domain Name, you [Respondent] have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the EQUIFAX Mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product on Respondent's website or location.

The four criteria set forth in paragraph 4(b) of the Policy are nonexclusive. See, *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#) ("*Telstra*"). In addition to these criteria, other factors alone or in combination can support a finding of bad faith.

The Panel finds that Complainant has shown (1) the elements of paragraph 4(b)(iv), (2) incorporation of the entirety of the EQUIFAX Mark in the Disputed Domain Name (Section 3.1.4 of the [WIPO Overview 3.0](#)), (3) typosquatting (section 1.9 of the [WIPO Overview 3.0](#)), (4) actual and constructive knowledge of Complainant's rights (Section 3.2.2 of the [WIPO Overview 3.0](#)), and (5) redirection of the Disputed Domain Name (Section 3.1.4 of the [WIPO Overview 3.0](#))

The Panel finds that 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 Complainant.

/Richard W. Page/

Richard W. Page

Sole Panelist

Date: December 14, 2022