



CANADIAN INTERNATIONAL INTERNET DISPUTE RESOLUTION CENTRE
DOMAIN NAME DISPUTE
ADMINISTRATIVE PANEL
DECISION

CIIDRC case number:	18328-CDRP	Decision date: September 20, 2022
Domain Name:	equiax.ca	
Panel:	Claude Freeman	
Complainant:	Equifax Inc. and Equifax Canada Co.	
Complainant's representative:	Doug Isenberg, Esq. of Giga Law	
Registrant:	Mike Leigh	

1. PROCEDURAL HISTORY

The procedural history of this case was set out in a letter from the Canadian International Internet Dispute Resolution Centre to the Panel:

On August 10, 2022, the Complainant (through their representative) filed a complaint (the Original Complaint") with CIIDRC. In the original complaint, the Complainant sought an order in accordance with the Policy and Rules directing that the registration of the domain name (equiax.ca) (the "Domain Name") be transferred to the Complainant.

As the identity of the owner of the Domain Name was not published on the WHOIS database, in the Original Complaint, therefore, the Complainant did not identify the name of the Registrant in the Complaint.

On August 11, 2022, CIRA was notified of this proceeding, and on the same date, CIRA transmitted to CIIDRC its verification response confirming the Registrant's identity as follows:

Mike Leigh
 Box 276, 130-8191 Westminster Highway
 Richmond, BC. V6X 1A7
 Emails: bt4-mkb56ehr@namesproprivity.ca and: postmaster@quiix.ca

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CIRA also confirmed that the “equiax.ca” domain name was placed on a Registrar LOCK.

On August 12, 2022, the Complaint, was reviewed by CIIDRC and was found to be in administrative compliance with the requirements of Paragraph 3.2 of the Rules 3, and by way of an emailed letter, dated August 12, 2022, (the “Transmittal letter”) forwarded a copy of the Complaint to the Registrant at the email address for the Registrant provided for by CIRA, to serve as notice of the Complaint to the Registrant in accordance with Paragraphs 2.1 and 4.3 of the Rules. The Transmittal letter determined the date of the commencement of proceedings in accordance with Paragraph 4.4 of the Rules to be August 10, 2022. The Transmittal letter advised the Registrant that in accordance with the Rules, a response to the Complaint was to be filed within 20 days of the commencement of proceedings, or September 1, 2022. Pursuant to Resolution Rule 4.4, CIIDRC, this notice also notified the Registrant of the login information and the link to the Complaint.

The Registrant failed to file its response by the due date of September 1, 2022.

Accordingly, the Complainant in this proceeding elected for a panel of a single-member, and on September 14, 2022, this panel member confirmed to CIIDRC that it could impartially and independently act as sole arbitrator in this matter. This panel member determines that it has been properly appointed to determine the Complaint in accordance with the Rules.

This matter is conducted pursuant to the Canadian Dispute Resolution Policy (the CDRP) and the Canadian Dispute Resolution Rules (the Resolution Rules) of the Canadian Internet Registry Authority.

The Domain Name was created on August 12, 2004.

This matter is conducted pursuant to the Canadian Dispute Resolution Policy (the CDRP) and the Canadian Dispute Resolution Rules (the Resolution Rules) of the Canadian Internet Registry Authority.

2. FACTS ALLEGED BY THE PARTIES

About the Complainant

Complainant Equifax is a leading 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 (USA) in 1913, and its predecessor company dates back to 1899.

Complainant Equifax Canada is, as stated above, a subsidiary of Equifax and owner of the EQUIFAX Trademark in Canada.

Headquartered in Atlanta, Georgia (USA), 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.

The Complainant’s 2021 annual report was submitted as part of this proceeding.

Among its many services, Complainant offers a credit reporting service that provides consumers with a summary of their credit history, and 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 is available via the WHOIS record for this domain name.

Complainant uses the domain name <equifax.com> in connection with its primary website.

Complainant is also the registrant of the domain name <equifax.ca>, which was created on September 19, 2000, and is supported by the WHOIS record for this domain name. Complainant uses the domain name <equifax.ca> in connection with its primary website in Canada.

About the Registrant

Registrant created the Disputed Domain Name on August 12, 2004 – 29 years after Complainant's first registrations for the EQUIFAX Trademark (U.S. Reg. Nos. 1,027,544; 1,045,574; and 1,644,585), and 28 years after Complainant's first registration for the EQUIFAX Trademark in Canada (Canadian Reg. No. TMA213693).

Respondent is using the Disputed Domain Name to redirect visitors to a variety of different websites, including a website that falsely appears to be a warning from Apple, displaying multiple apparent pop-up windows and falsely informing users that "Access to this PC has been blocked for security reasons" due to "Threat Detected: Trojan Spyware" as part of an apparent malware scam and encouraging them to "Contact Apple Support".

Complainant has captured (on August 19, 2022) a short (22-second) screen recording that shows the Disputed Domain Name being improperly redirected.

The Registrant

The Registrant has not filed a Response.

3. CONTENTIONS OF THE PARTIES

The Complainant

The Disputed Domain Name is Confusingly Similar to a trademark or service mark in which the Complainant has rights

Complainant is the owner of at least 221 trademark registrations in at least 56 jurisdictions around the world for the EQUIFAX Trademark, which was first used in commerce and registered in 1975, including multiple registrations in Canada, the oldest of which is Canadian Reg. No. TMA213693 (registered May 7, 1976). Most of the EQUIFAX Trademark registrations were registered prior to the date on which the Disputed Domain Name was created.

The Disputed Domain Name is "Confusingly Similar" to the EQUIFAX Trademark, as required by paragraph 3.1(a) of the CDRP. The Disputed Domain Name <equiax.ca> contains the EQUIFAX Trademark in its entirety, missing only a single letter "f" in the middle. As set forth in WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), section 1.9: "A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark. This stems from the fact that the domain name contains sufficiently recognizable aspects of the relevant mark." Previous domain dispute panels have found that a domain name that is identical to a complainant's trademark except for a single letter is confusingly similar to the trademark – including in a decision involving the EQUIFAX Trademark. *Equifax Inc. and Equifax Canada Co.*, CIIDRC Case No. 16881-CDRP (domain names missing a single letter from the EQUIFAX Trademark are "a classic example of typosquatting" and are confusingly similar to the trademark). See also, e.g., *ArcelorMittal (SA) v. WhoisGuard Protected, WhoisGuard, Inc. / Flame zy, xls co*, WIPO Case No. DME2017-0010 (domain name that "reproduces Complainant's trademark in its entirety, with the absence of just one letter" is confusingly similar to the trademark); *Instra Corporation Pty Ltd v. Domain Management SPM*, WIPO Case No. D2009-1097 (a domain name that is "simply missing a single letter in the mark" is confusingly similar to the mark); and *Research In Motion Limited v. Privacy Locked LLC/Nat Collicot*, WIPO Case No. D2009-0320 (a domain name that contains a complainant's trademark "absent one letter" is confusingly similar to the mark).

The Complainant submits the Registrant's domain name to be identical and confusingly similar to the Complainant's mark, as it comprises the entirety of the word mark and the word element in the logo mark, it resembles the mark in appearance, sound and the ideas suggested by the mark as to be likely mistaken for the mark.

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Considering that the Registrant is not using the Disputed Domain Name in association with any wares, services, business, or non-commercial activity, the Complainant submits that the Registrant has acquired the Disputed Domain Name primarily for disrupting the mark and business operations and for economic gain to be derived at the expense of the Complainant. As a result, the Complainant concludes on a balance of probabilities, that the Registrant has engaged in a pattern of misconduct that clearly demonstrates bad faith.

The Registrant has no legitimate interests in the Disputed Domain Name

Registrant has no legitimate interest in the Disputed Domain Name, pursuant to paragraph 3.1(b) of the CDRP, including under any of the factors set forth in paragraph 3.4 of the CDRP.

With respect to paragraph 3.4(a): Registrant has no rights in the EQUIFAX Trademark (or any mark similar thereto), nor (as further stated below) has Registrant used this mark in good faith. As noted above, Complainant is the owner of at least 221 trademark registrations in at least 56 jurisdictions around the world for the EQUIFAX Trademark, which was first used in commerce and registered in 1975, including multiple registrations in Canada, the oldest of which is Canadian Reg. No. TMA213693 (registered May 7, 1976). Paragraph 3.4(a) specifically requires that “the Registrant had Rights in the Mark” – which very clearly is not the case here given that Complainant is the exclusive owner of the EQUIFAX Trademark.

With respect to paragraph 3.4(b): The Disputed Domain Name was not registered in good faith in association with any wares, services or business that is “clearly descriptive” given that the Disputed Domain Name is confusingly similar to Complainant’s EQUIFAX Trademark and that the Disputed Domain Name is being used by to redirect visitors to a variety of different websites, including a website that falsely appears to be a warning from Apple, displaying multiple apparent pop-up windows and falsely informing users that “Access to this PC has been blocked for security reasons” due to “Threat Detected: Trojan Spyware” as part of an apparent malware scam and encouraging them to “Contact Apple Support.”

With respect to paragraph 3.4(c): By redirecting the Disputed Domain Name to a variety of different websites, including a website that falsely appears to be a warning from Apple, displaying multiple apparent pop-up windows and falsely informing users that “Access to this PC has been blocked for security reasons” due to “Threat Detected: Trojan Spyware” as part of an apparent malware scam and encouraging them to “Contact Apple Support,” Registrant clearly did not register the domain name in Canada in good faith in association with any wares, services or business; nor, given Complainant’s extensive trademark rights in the EQUIFAX Trademark as described repeatedly above, could the Disputed Domain Name be understood to be a generic name for any wares, services, or business.

With respect to paragraph 3.4(d): By using the Disputed Domain Name to redirect visitors to a variety of different websites, including a website that falsely appears to be a warning from Apple, displaying multiple apparent pop-up windows and falsely informing users that “Access to this PC has been blocked for security reasons” due to “Threat Detected: Trojan Spyware” as part of an apparent malware scam and encouraging them to “Contact Apple Support,” Registrant is clearly not using the Disputed Domain Name for “non-commercial activity including, without limitation, criticism, review or news reporting.”

With respect to paragraph 3.4(e): The WHOIS record for the Disputed Domain Name does not identify the Registrant as “Equiax” or anything similar thereto. Accordingly, the Disputed Domain Name does not “comprise the legal name of the Registrant” and is not “a name, surname or other reference by which the Registrant was commonly identified.”

With respect to paragraph 3.4(f): Given that the Disputed Domain Name does not describe any “geographical name,” it is impossible that the Disputed Domain Name is the geographical name of any location in which Registrant might claim to conduct any “non-commercial activity or place of business.”

The Domain Name has been registered in bad faith

The Disputed Domain Name should be considered as having been registered in bad faith by Registrant under paragraph 3.1(c) of the CDRP.

As stated above, Registrant is using the Disputed Domain Name to redirect visitors to a variety of different websites, including a website that falsely appears to be a warning from Apple, displaying multiple apparent pop-up windows and falsely informing users that “Access to this PC has been blocked for security reasons” due to “Threat Detected: Trojan Spyware” as part of an apparent malware scam and encouraging them to “Contact Apple Support”. Such use of the Disputed Domain Name is a clear indication that “the Registrant has intentionally attempted to attract, for commercial gain, Internet users to the Registrant’s website or other on-line location, by creating a likelihood of confusion with the Complainant’s Mark as to the source, sponsorship, affiliation, or endorsement of the Registrant’s website or location or of a product or service on the Registrant’s website or location,” in violation of paragraph 3.5(d) of the CDRP. See, e.g., *Sodexo v. “On behalf of sodexorewrdwrhub.com OWNER c/o whoisproxy.com” / Tulip Trading Company*, WIPO Case No. D2019-1166 (finding bad faith where respondent’s “website opens multiple new windows preventing the Internet users from leaving the website and making the taskbar and the browser’s menu inaccessible” in an effort “to install viruses or malware onto the Internet user’s computer”); *Maryland State Lottery and Gaming Control Agency v. Whois Privacidad SA de CV / Iris Milady Soto Puerto*, WIPO Case No. D2015-2325 (“Complainant’s Cisco and McAfee software block access to the website because of adware and spyware on several pages within the website”); *CenturyLink Intellectual Property LLC v. By Proxy, Inc. Domain Names*, WIPO Case No. D2014-1147 (website associated with disputed domain name directed visitors to download “a series of programs, including one that was identified by third party software as a heuristic virus”); and *ZB, N.A., dba Zions First National Bank v. Domain Admin, Whois Privacy Corp.*, WIPO Case No. D2017-0386 (a website “inviting the user to follow links which may lead to the installation of disruptive adware or damaging malware” is “for commercial gain or use for the purpose of disrupting the business of the Complainant.

The foregoing is true even if Internet users do not actually believe that the website associated with the Disputed Domain Name is affiliated with Complainant, as a result of the doctrine of “initial interest confusion” – “which occurs when a member of the public sees the disputed domain name and thinks that it may lead to a website associated with the Complainant.” *CBS Broadcasting v. Nabil Z. aghloul*, WIPO Case No. D2004-0988 (emphasis added). In such cases, as here, “[t]he content of Respondent’s sites... is irrelevant to the harm to the mark owner and to the unwary consumer. That harm results from the confusion caused by the initial attraction to the site by means of borrowing the complainant’s mark. And that is exactly the harm the Policy was adopted to address.” *Justice for Children v. R neetso / Robert W. O’Steen*, WIPO Case No. D2004-0175.

Further, “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.” WIPO Overview 3.0, section 3.1.4. The EQUIFAX Trademark is clearly famous and/or widely known, given that it is protected by at least 221 trademark registrations in at least 56 jurisdictions worldwide, the oldest of which was used and registered 47 years ago.

Additionally, because the Disputed Domain Name is “so obviously connected with” Complainant, Registrant’s actions suggest “opportunistic bad faith” in violation of the Policy. Similarly, “it is not possible to conceive of any plausible actual or contemplated active use of the domain name by the Registrant that would not be illegitimate, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of the Complainant’s rights under trademark law” (*Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. D2000-0003).

The Registrant

As noted above, no Response has been filed by the Registrant.

The Remedy Sought

The Complainant requests that the Panel issue a decision that the disputed domain-name registration be transferred to the Complainant.

4. DISCUSSION AND FINDINGS

4.1 Canadian Presence Requirements

Paragraph 1.4 of the Policy requires that in order to initiate the Complaint, the Complainant at the time of the initiation of the Complaint must satisfy the Canadian Presence Requirements for Registrants v 1.3 (“Canadian Presence Requirements”) unless the Complaint relates to a trademark registered in the Canadian Intellectual Property Office (“CIPO”) and the Complainant is the owner of that trademark.

The evidence before the Panel is that the Complainant is the owner of the Mark together with the related trademark application registered in the CIPO at the date of the Complaint and that the Complaint relates to the Mark.

The Panel therefore determines that the Complainant has satisfied the provisions of paragraph 1.4 of the Policy.

4.2 The Policy

The purpose of the Policy, as stated in Paragraph 1.1 of the Policy as referenced above, is to provide a forum in which cases of bad faith registration of .ca domain names can be dealt with relatively inexpensively and quickly.

Paragraph 4.1 of the Policy puts the onus on the Complainant to demonstrate this “bad faith registration” by proving on a balance of probabilities that:

1. The Mark qualifies as a “Mark” as defined in Paragraph 3.2 of the Policy,
2. The Complainant had “Rights” in the Mark prior to the date of registration of the Domain Name and continues to have “Rights” in the Mark,
3. The Domain Name is “Confusingly Similar” to one or more of the registrations comprising the Mark as the concept of “Confusingly Similar” is defined in Paragraph 3.3 of the Policy,
4. The Registrant does not have a “legitimate interest” in the Domain Name as the concept of “legitimate interest” is defined in Paragraph 3.4 of the Policy, and
5. The Registrant or an unknown third party has registered the Domain Name in “bad faith” in accordance with the definition of “bad faith” contained in Paragraph 3.5 of the Policy.

If the Complainant is unable to satisfy this onus, bad faith registration is not demonstrated, and the Complaint fails.

4.3 Notice to the Registrant

As noted above, after CIIDRC had determined the Complaint to be in administrative compliance with the requirements of Paragraph 3.2 of the Rules, by way of the emailed Transmittal Letter dated August 12, 2022, CIIDRC forwarded a copy of the Complaint to the Registrant in accordance with Paragraphs 2.1 and 4.3 of the Rules. Paragraph 2 of the Rules entitled “Communications” requires that CIIDRC give to a registrant notice of a complaint being filed against a domain name which is registered in the name of the registrant. Such notice will be deemed to have been given to this registrant provided that CIIDRC uses one of the various methods of communication as listed in Paragraph 2, and provided that such communication is directed to the address shown in the registration information for that registrant for the domain name in question.

The term “Registration Information” is defined in the Rules as:

“Registration Information” means the information of record regarding a Registration in the Registry’s WHOIS database. Though the identity of the Registrant is not publicly published in the WHOIS database, it is clear from the evidence before the Panel that CIIDRC in forwarding a copy of the Transmittal Letter and a copy of the Complaint to the party and to the address set forth as the registration information by CIRA in their database with respect to the Domain Name, that CIIDRC complied with the notice provision contained in Paragraph 2 of the Rules. It is also highly likely that with CIRA placing a Registrar LOCK on the Domain Name, this action served to further alert the Registrant of proceeding.

The Panel, therefore, finds that the Registrant is deemed to have been given notice(s) of the Complaint.

4.4 That the Domain Name is Confusingly Similar to a Mark in which the Complainant has Rights

In the matter at hand, the relevant portions of Paragraph 3.2 of the Policy states that for the purpose of the Policy a “Mark” is: (a) a trademark, including the word elements of a design mark, or a trade name that has been used in Canada by a person, or the person’s predecessor in title, for the purpose of distinguishing the wares, services or business of that person or predecessor or a licensor of that person or predecessor from the wares, services or business of another person;

For over 46 years, the Complainant has used the Mark in Canada to distinguish its services and business from any other provider of similar financial products/services or business. Further, there is a Canadian Trade-Mark Application filed by the Complainant on February 21, 1975.

This use by the Complainant of the Mark commenced well before current knowledge of the registration of the Domain Name became known, as well as before the creation of the Disputed Domain Name in 2004.

The Complainant continues to so use their Mark in Canada.

The Panel finds that the Complainant has established that the Mark qualifies as a “Mark” for the purposes of Paragraph 3.2(a) of the Policy.

Rights

Paragraph 3.1 of the Policy requires that the Complainant has “Rights” in the Mark. Unfortunately, the term “Rights” is not defined in the Policy.

However, given the evidence before the Panel of the Complainant’s ownership and use of the Mark in Canada, the Panel finds that the Complainant has “Rights” in the Mark for the purpose of Paragraph 3.1 of the Policy.

Confusingly Similar

The Policy in Paragraph 3.3 provides that the Domain Name will be found to be “Confusingly Similar” to the Mark only if the Domain Name so nearly resembles the Mark in appearance, sound or the ideas suggested by the Mark as likely to be mistaken for the Mark.

As Paragraph 1.2 of the Policy defines the Domain Name for the purpose of this proceeding to exclude the .ca suffix, the portion of the Domain Name consisting of “equiax” is the portion of the Domain Name relevant for consideration.

The Domain Name consists of the word “equiax”. To satisfy the onus placed upon it by the Policy, the Complainant must demonstrate that the addition of any word(s) or suffix (such as .ca) to the Mark in the Domain Name is not sufficient to distinguish the Domain Name from the Mark so that the Domain Name can not be said to so nearly resemble the Mark in appearance, sound or the ideas suggested by the Mark as likely to be mistaken for the Mark.

The test to be applied when considering confusing similarity is one of first impression and imperfect recollection. Will a person as a matter of first impression, knowing only the complainant’s corresponding trademark (but having Domain Name “equiax.ca”), likely mistake the disputed domain name for the complainant’s trademark based upon the appearance, sound or the idea suggested by the trademark?

In the matter at hand, the Panel finds that the Mark is sufficiently known in Canada as reflecting the goodwill of licensees of the Mark from the Complainant who are engaged in their business of metal fabrication and industrial equipment manufacturing. The Panel is therefore, satisfied that the Complainant has met the confusingly similar requirement of Paragraph 3.3.

The Panel finds that the Complainant has met the onus placed upon it by Paragraph 3.3 of the Policy and has demonstrated that the Domain Name so nearly resembles the Mark in appearance, sound or the ideas suggested by the Mark as to be likely to be mistaken for the Mark.

4.5 That the Registrant has No Legitimate Interest in the Domain Name

Paragraph 4.1 of the Policy requires that to succeed in the Complaint, the Complainant must provide some evidence that the Registrant has no legitimate interest in the Domain Name as the concept of “legitimate interest” is provided for in Paragraph 3.4 of the Policy.

Paragraph 3.4 of the Policy provides that the Registrant has a legitimate interest in a domain name if:

- a) the domain name was a Mark, the Registrant used the Mark in good faith and the Registrant had Rights in the Mark;
- b) the Registrant used the domain name in Canada in good faith in association with any wares, services or business and the domain name was clearly descriptive in Canada in the English or French language of:
 - (i) the character or quality of the wares, services or business;
 - (ii) the conditions of, or the persons employed in, production of the wares, performance of the services or operation of the business; or
 - (iii) the place of origin of the wares, services or business;
- b) the Registrant used the domain name in Canada in good faith in association with any wares, services or business and the domain name was understood in Canada to be the generic name thereof in any language;
- c) the Registrant used the domain name in Canada in good faith in association with a non-commercial activity including, without limitation, criticism, review or news reporting;
- d) the domain name comprised the legal name of the Registrant or was a name, surname or other reference by which the Registrant was commonly identified; or
- e) the domain name was the geographical name of the location of the Registrant’s non-commercial activity or place of business.

In Paragraph 3.4(d) “use” by the Registrant includes, but is not limited to, use to identify a website. It is to be noted that with respect to the matter at hand, in Paragraphs 3.4(a), (b), (c), and (d), there is a requirement that the Registrants act “in good faith”.

There is no evidence before the Panel that the Registrant used the Domain Name and the website to which the Domain Name resolves in good faith. Further, the Complainant submits that the Registrant has no license or contract allowing him to use their Name/Mark.

The Registrant’s name would appear not to be included in the Domain Name nor is there a geographical reference in the Domain Name, so the provisions of Paragraph 3.4(e) and Paragraph 3.4(f) do not apply.

The Panel finds that the Complainant has provided evidence that the Registrant has no legitimate interest in the Domain Name.

4.6 That the Registrant has Registered the Domain Name in Bad Faith

Under Paragraph 3.5 of the Policy, the Registrant will be considered to have registered the Domain Name in bad faith if, and only if, the Complainant can demonstrate that the Registrant in effecting the registration of the Domain Name was motivated by any one of the four general intentions set out in Paragraph 3.5.

Of these intentions, the form of intention contained in Paragraph 3.5(d) is the one most applicable to the matter at hand.

Paragraph 3.5(d) provides as follows:

(d) the Registrant has intentionally attempted to attract, for commercial gain, Internet users to the Registrant’s website or other on-line location, by creating a likelihood of confusion with the Complainant’s Mark as to the source, sponsorship, affiliation, or endorsement of the Registrant’s website or location or of a product or service on the Registrant’s website or location.

Based upon the evidence before the Panel and especially the Registrant’s failure to provide accurate information in the registration information with respect to the Domain Name, the Panel finds that the Complainant has satisfied the provisions of Paragraph 3.5 (d) of the Policy by establishing that that the Registrant has intentionally attempted to attract/redirect for commercial or other gain, traffic to the website to which the Domain Name resolves by creating a likelihood of confusion with the Mark as to the source, sponsorship, affiliation, or endorsement of such website.

5. DECISION and ORDER

For the above reasons, in accordance with Paragraph 4 of the CDRP, Paragraph 12 of the Resolution Rules, the Panel orders that:

5.1 Decision

As was above set out, Paragraph 4.1 of the Policy provides that to be successful in the Complaint, the Complainant has the onus of proving on a balance of probabilities three specific items and of providing some evidence that the Registrant has no legitimate interest in the Domain Name.

The Panel finds that the Complainant has satisfied this onus with respect to all three of these items by demonstrating that the Mark qualifies as a Mark in accordance with Paragraph 3.2 of the Policy; that the Domain Name is Confusingly Similar to the Mark; and that the Registrant has registered the Domain Name in bad faith in accordance with the provisions of Paragraph 3.5 of the Policy.

The Panel also finds that the Complainant has shown evidence that the Registrant does not have a legitimate interest in the Domain Name in accordance with the provisions of Paragraph 3.4 of the Policy.

The Panel therefore finds that the Complainant has satisfied the onus placed upon it by Paragraph 4.1 of the Policy and is entitled to the remedy sought by it.

5.2 Order

The Complainant in the Complaint seeks an order in accordance with the Policy and the Rules directing that the registration of the Domain Name be transferred from the Registrant to the Complainant.

For the above reasons, in accordance with Paragraph 4 of the Policy and Paragraph 12 of the Rules, the Panel orders that the Domain Name (equiax.ca) be transferred to the Complainant.

Made as of September 20, 2022

SIGNATURE OF PANEL



Claude Freeman, LL.M., C. Med., C. Arb.

