



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

CIIDRC case number:	18867-CDRP	Decision date: 11 January 2023
Domain Name:	Equofax.ca	
Panel:	Rodolfo C. Rivas	
Complainant:	Equifax Inc. and Equifax Canada Co.	
Complainant's representative:	Douglas M. Isenberg, Esq.	
Registrant:	Mike Morgan	

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:

The Canadian International Internet Dispute Resolution Centre (the "Centre", the "CIIDRC") is a recognized service provider pursuant to the CIRA Domain Name Dispute Resolution Policy of the Canadian Internet Registration Authority ("CIRA").

This is a proceeding under the CIRA Domain Name Dispute Resolution Policy (the "Policy", "CDRP"), in accordance with the CIRA Dispute Resolution Rules (the "Resolution Rules").

On **December 8, 2022**, the Complainant, through its counsel, filed a Complaint pursuant to the CDRP and the Resolution Rules. On **December 8, 2022**, CIRA was notified of this proceeding.

On **December 9, 2022**, CIRA transmitted by email to CIIDRC its verification response informing who is the Registrant of the disputed domain name. CIRA also confirmed that the <equofax.ca> domain name was placed on a Registrar LOCK.

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On **December 9, 2022**, CIIDRC confirmed compliance of the Complaint and commencement of the dispute resolution process. Pursuant to Resolution Rule 4.4, CIIDRC notified the Registrant of this administrative proceeding via email on **December 9, 2022**. There was no valid mailing address so a copy was not mailed to the Registrant.

The Registrant failed to file its response by the due date of **December 29, 2022**.

The Complainant in this administrative proceeding has elected for a Panel consisting of a single-member. CIIDRC appointed the undersigned as a single-member Panel in the above-referenced matter by letter dated **January 10, 2023**. The undersigned has confirmed to CIIDRC that he can act impartially and independently as the single-member Panel in the above-referenced matter.

Absent exceptional circumstances, and pursuant to Resolution Rule 12.2, the decision is due by **January 31, 2023**.

The disputed domain name was registered on **September 26, 2018**.

The undersigned determines that he has been properly appointed and constituted as the single-member Panel to determine the Complaint in accordance with the Policy and the Resolution Rules.

2. FACTS ALLEGED BY THE PARTIES

The background facts can be summarized as follows. As the Registrant has not appeared in this matter, the Panel will decide the dispute based upon the Complaint per Resolution Rule 5.8.

Equifax Canada is a Canadian entity located in Toronto, ONTARIO M2M4K2. Therefore, this Complaint satisfies the Canadian presence requirements via paragraph 2(d).

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.

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

In addition, this Complaint relates to multiple trademarks registered in Canada, including Reg. No. TMA213693 for "EQUIFAX" (registered May 7, 1976). Therefore, this Complaint satisfies the Canadian presence requirements via paragraph 2(q) of the Canadian presence requirements.

Finally, previous panels have found that Complainant satisfied the Canadian presence requirements.

In addition, 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.

3. CONTENTIONS OF THE PARTIES

- **Complainant**

The Complainant submits the following.

Registrant created the disputed domain name on September 26, 2018 – 43 years after Complainant's first registrations for the "EQUIFAX Trademark" and 42 years after Complainant's first registration for the "EQUIFAX Trademark" in Canada.

Respondent is using the disputed domain name to redirect visitors to a website at “https://freecreditscore.credit/” that promotes the sale of the disputed domain name.

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

As set forth 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). 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 <equofax.ca> contains the EQUIFAX Trademark in its entirety, simply replacing the letter “i” in the middle with the letter “o” instead.

b) 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 set forth 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 Registrant in connection with the goods and services covered by the “EQUIFAX Trademark”.

With respect to paragraph 3.4(c): By using the disputed domain name to redirect visitors to a website at “https://freecreditscore.credit/” that promotes the sale of the disputed domain name, Registrant clearly did not register the disputed 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 website at "https://freecreditscore.credit/" that promotes the sale of the disputed domain name, 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 "Equofax" 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." Further, as stated above, use of the disputed domain name in connection with a monetized parking page that contains affiliate links for goods and services associated with Complainant's "EQUIFAX Trademark" is clearly not "non-commercial activity."

Finally, and in general, Registrant has no legitimate interest in the disputed domain name because Registrant is using the disputed domain name to redirect visitors to a website at "https://freecreditscore.credit/" that promotes the sale of the disputed domain name.

c) 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 website at "https://freecreditscore.credit/" that promotes the sale of the disputed domain name. 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.

Paragraph 3.5 of the CDRP makes clear that the circumstances set forth therein establishing bad faith are “without limitation.” Accordingly, the panel “can take into consideration surrounding circumstances and draw inferences to determine whether” bad faith exists.

As stated above, Registrant is not using the disputed domain name in connection with an active website (other than a website that is promoting a sale of the disputed domain name itself).

Here, the factors forth in WIPO Overview 3.0, section 3.3, indicate that bad faith exists under the passive holding doctrine, specifically: Complainant’s “EQUIFAX Trademark” “has a strong reputation and is widely known,” given that the “EQUIFAX Trademark” was registered 43 years (including 42 years in Canada) before Registrant registered the disputed domain name; and the “EQUIFAX Trademark” is used by a public company that operates or has investments in 24 countries in North America, Central and South America, Europe and the Asia Pacific region.

Further, bad faith exists because Registrant is using the disputed domain name to redirect visitors to a website at “<https://freecreditscore.credit/>” that promotes the sale of the disputed domain name.

Additionally, because the disputed domain name is “so obviously connected with” Complainant, Registrant’s actions suggest “opportunistic bad faith” in violation of the Policy.

- **Registrant**

The Registrant, as noted above, did not file a Response.

- **Remedy Sought**

The Complainant requests the disputed domain name be transferred to it.

4. DISCUSSION AND FINDINGS

4.1 Eligibility

Paragraph 1.4 of the Policy requires that to initiate the Complaint, the Complainant, at the time of the initiation of the Complaint, must satisfy the Canadian Presence Requirements for Registrants (“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 Panel finds that the Complainant owns the Canadian registered trademark under Reg. No. TMA213693 for "EQUIFAX", registered on May 7, 1976.

Therefore, the Panel determines that the Complainant has satisfied the provisions under section 1.4 of the Policy.

4.2 Requirements

In accordance with Paragraph 4.1 of the CDRP, the onus is on the Complainant to prove on a balance of probabilities that:

- 1) The Complainant's trademark qualifies as a "Mark" as defined in paragraph 3.2 of the Policy;
- 2) The Complainant had "Rights" in the trademark prior to the date of registration of the disputed domain name and continues to have "Rights" in the trademark.
- 3) The disputed 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 disputed 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 disputed 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 Analysis

Based upon the information provided by CIIDRC, the Panel finds that the Registrant is deemed to have been given notice of the Complaint, and all technical requirements for the prosecution of this proceeding have been met.

The Panel will now consider each of the requirements below.

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

In analyzing the first requirement and looking at the relevant portions of paragraph 3.2 of the Policy, it states that for this proceeding, a "Mark" is: "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, to distinguish 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."

Based on the evidence provided, it appears that the Complainant has been using the trademark "EQUIFAX" widely and across the world, including Canada, since at least its earliest registration in 1975 and 1976 in Canada and continues to use the trademark in Canada.

Based on this, the Panel finds that the Complainant has established that the "EQUIFAX" trademark qualifies as a "Mark" for paragraph 3.2(a) of the Policy and that it has Rights to the mark.

The Panel must now analyze if there is a confusing similarity between the disputed domain name and the trademark.

As contained in the record and evidence, the disputed domain name almost reproduces the trademark in its totality, namely, "EQUIFAX". As paragraph 1.2 of the Policy indicates, the .ca suffix can be excluded from the analysis for the purpose of this proceeding. The reason why it is not considered a total reproduction is that there is a slight change of the letter "o" in the disputed domain name in the place of the letter "i" in the "EQUIFAX trademark".

It is important to note that according to paragraph 3.3 of the Policy, in determining whether a domain name is confusingly similar to a Mark, the Panel shall only consider whether the domain name resembles the Mark in appearance sound, or ideas suggested by the Mark as to be likely to be mistaken for the Mark. Confusion will be established when the domain name incorporates the distinguishing element of the Mark.

In the matter at hand, the Panel finds that it is more likely than not that an Internet user would mistake the disputed domain name as being somehow affiliated to or owned by the Complainant, mainly because the disputed domain name almost reproduces the entirety of the "EQUIFAX trademark" with the slight change mentioned above. However, this slight difference is immaterial to dispel the confusing similarity between the disputed domain name and the Complainant's trademarks.

This is a common practice known as "typosquatting", which consists of insignificant modifications to trademarks to seek to wrongfully take advantage of errors by users in typing domain names into their web browser's location bar.

Based on the preceding, the Panel finds that the Complainant has established, on a balance of probabilities, that the disputed domain name is confusingly similar to the "EQUIFAX trademark".

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

Paragraph 4.1 of the Policy requires that to succeed in the Complaint, and the Complainant must provide some evidence that the Registrant has no legitimate interest in the disputed domain name “as described in paragraph 3.4”. For this, paragraph 3.4 of the Policy provides a list of circumstances, which, if found to be proved upon evaluation of all evidence presented, shall demonstrate that the Registrant does have a legitimate interest in a domain name.

Although in the matter at hand, the Registrant did not provide a Response, there is no evidence presented that: the Registrant had Rights in the Mark, that either the disputed domain name was descriptive or that it was a generic name, that it was used in association with a non-commercial activity, that it comprised a reference by which the Registrant was commonly identified, or that it was the geographical name of the location of the Registrant business.

The evidence shows, on the balance of probability, that the Registrant targeted the Complainant and its trademarks with the disputed domain name, which is evidenced by the redirection resolving from the website at “<https://freecreditscore.credit/>”, which promotes the sale of the disputed domain name, and which appears to be referring to one of the primary services offered by the Complainant in order to confuse Internet users.

The Panel, on the balance of probability, finds that the Complainants have provided sufficient evidence to establish that the Registrant has no legitimate interest in the disputed domain name and the Registrant has failed to demonstrate that any of the circumstances set out in paragraph 3.4 of the Policy exist in this case.

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

The Panel must now turn to the bad faith requirement contained under paragraph 3.5 of the Policy. Under this requirement, the Registrant will be considered to have registered the disputed domain name in bad faith if the Complainant can demonstrate that the Registrant in effecting the registration of the disputed domain name was motivated by any one of the four general intentions set out in paragraph 3.5 of the Policy.

In this case in particular, based on the record at hand and on balance of probability, the Registrant appears to be using the disputed domain name to redirect visitors to a website at “<https://freecreditscore.credit/>” that promotes the sale of the disputed domain name. Additionally, the domain name resolving from the redirected website, namely “<https://freecreditscore.credit/>”, would appear to be a reference to some of the services provided by the Complainant, which would enhance a conclusion that the Registrant was not only aware of the Complainant, but targeted the Complainant with the registration of the disputed domain name, with an intention to confuse Internet users.

This use of the disputed domain name by the Registrant, which as elucidated above is confusingly similar to the Complainant’s registered mark, appears to fall squarely under the circumstances described by the Policy

when referring to intentionally attempt to attract Internet users to its website for commercial gain amounts to bad faith under paragraph 3.5(d) of the Policy.

Additionally, in this case paragraph 3.5(c) seems to apply, namely due to the Registrant’s registration of the disputed domain name primarily for the purpose of disrupting the business of the Complainant, by resolving the disputed domain name to a website, namely “https://freecreditscore.credit/”, that appears to be a reference to some of the services provided by the Complainant with an intention to confuse Internet users.

Finally, although the WIPO Overview 3.0 does not strictly apply under this matter, the Panel does find persuasive paragraph 3.3, which indicate that bad faith exists under the passive holding doctrine. In this case in particular, the persuasive arguments set forth under paragraph 3.3 of the WIPO 3.0 Overview appear relevant because of Complainant’s “EQUIFAX Trademark” has a strong reputation and is widely known, due to the fact that it was registered 43 years (including 42 years in Canada) before Registrant registered the disputed domain name and has been previously recognized as such under previous domain name dispute cases.

Accordingly, the Panel finds on a balance of probabilities that the Registrant has registered the disputed domain name in bad faith under paragraph 3.5(d) of the Policy.

5 DECISION and ORDER

For the above reasons, the Panel 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, in accordance with Paragraph 4 of the CDRP, Paragraph 12 of the Resolution Rules, the Panel orders that the disputed domain name, namely <equofax.ca>, be transferred to the Complainant.

Made as of 11 January 2023.

SIGNATURE OF PANEL

