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RANJAN NARULA

ARBITRATOR

Appointed by the .In Registry - National Internet Exchange of India

In the matter of:

**Equifax Inc.**

1600 Peachtree Street  
NW Atlanta, Georgia 30309  
U.S.A

.Complainant

**The Admin**

Unit 18, #33 Harbour Plaza,  
East Bay Street  
Nassau, New Providence  
Bahamas.

.Respondent

## **AWARD**

### **1) The Parties:**

The Complainant is Equifax Inc., 1600 Peachtree Street, NW Atlanta, Georgia 30309, U.S.A. The Complainant is represented by its authorized representatives Jeff Thorpe of Equifax Inc., 1600 Peachtree Street, NW Atlanta, Georgia 30309, U.S.A. through Binny Kalra of Anand and Anand, First Channel, Plot No. 17A, Sector 16A, Film City, Noida who have submitted complaint against the domain. The Respondent is The Admin, Unit 18, #33 Harbour Plaza, East Bay Street, Nassau, New Providence, Bahamas.

### **2) The Domain Name, Registrar & Registrant:**

The disputed domain name is [www.equifax.in](http://www.equifax.in) . The Registrar is Directi Internet Solutions Pvt. Ltd. The Registrant is The Admin (Respondent), Unit 18, #33 Harbour Plaza, East Bay Street, Nassau, New Providence, Bahamas.

### **3) Procedural History:**

The Complainant filed this complaint with the .IN Registry and the .IN Registry appointed "Ranjan Narula" ("The Arbitrator") as the Sole Arbitrator under clause 5 of its policy. On 6<sup>th</sup> October, 2010 the Arbitrator gave his statement of acceptance and declaration of impartiality and independence. The complaint was produced before the Arbitrator on 12<sup>th</sup> October, 2010 and the notice was issued to the Respondent on October 13, 2010 at his email address with a deadline of 10 days to submit his reply. The Respondent filed his response vide email dated October 23, 2010. On 25<sup>th</sup> October, 2010 the Arbitrator provided opportunity to both parties to make any additional submission. The Complainant filed additional submissions vide email dated November 01, 2010 in response to earlier reply/ communication from the Respondent. On 3<sup>rd</sup> November, 2010, the Arbitrator notified the parties that sufficient time has been provided to both parties, therefore he shall now pass an award based on documents/submission of the parties.

Since both parties have filed their respective submissions/ contentions, the Arbitrator is proceeding to decide the present dispute.



#### **4) Summary of the Complainant's contentions in the Complaint:**

##### **The complainant in support of its case has made the following submissions**

- a. The Complainant Equifax Inc. founded in the year 1899 is an international consumer credit reporting agency and gathers and maintains information on over 400 million credit holders worldwide. The Complainant's business encompasses the collection, organization and management of numerous types of credit, financial, public record, demographic and marketing information regarding individuals and businesses. The Complainant offers businesses a variety of services including consumer and business credit intelligence, portfolio management, fraud detection, decisioning technology, marketing tools. Further, the Complainant manages personal credit information, identity protection and maximization of financial wellbeing of individual consumers.
- b. The Complainant is a truly global service provider with over 7000 employees in 15 countries including India, the United States of America, the United Kingdom of Great Britain and Northern Ireland, Canada, Costa Rica, Argentina, Brazil, Chile, El Salvador, Peru, Uruguay, Honduras, Portugal, The Republic of Ireland and Spain.
- c. The Complainant is a standard and Poor's S&P 500 public company with annual revenues of over US\$ 1.82 billion reported in the year 2009. The magnitude of the Complainant's annual revenue is a reflection of the immense reputation and goodwill enjoyed by the Complainant.
- d. The Complainant is the owner of the trademark and service mark EQUIFAX (the EQUIFAX mark) which has been promoted extensively since the year 1975 and the complainant has actively sought to protect its intellectual property rights in the EQUIFAX mark.
- e. The EQUIFAX mark is registered in favour of the complainant in over 75 countries including India, United States, the United Kingdom, Singapore, etc. The EQUIFAX mark is used by the Complainant extensively in relation to its goods and services in number of countries including India, the United States and the United Kingdom. The Complainant has established a substantial international reputation for its goods and services under the mark EQUIFAX.
- f. The Complainant's long, continuous Extensive and ubiquitous use of the EQUIFAX mark along with the registrations of the EQUIFAX mark in favour of the complainant evidences the overwhelming rights of the Complainant over the mark EQUIFAX.



- g. The Complainant's rights in the EQUIFAX mark and its variations have also been upheld by the Administrative Panel of the World Intellectual Property Organization Arbitration and Mediation Center in the matter of Equifax Inc. v. PabloPalermao/Registrant (225148): Moniker Privacy Services (case no. D2008-0506). The complainant has filed a true copy of the decision of the Administrative Panel as **Annexure C**.
- h. The Complainant has also started operations in India on a large scale. The Complainant's entry into India was eagerly anticipated by the businesses and individuals alike. The Complainant's foray into the Indian credit information scene was widely reported in a number of leading national newspapers and dailies. The complainant has filed true copies of some of these collectively as **Annexure D**
- i. The Complainant is the registrant of various trademarks incorporating its famous and well-known mark EQUIFAX in over 75 jurisdictions, e.g. United States, United Kingdom, Singapore etc. True copies of some of these trademark registrations and a list of the trademarks registered in favour of the Complainant have been filed collectively as **Annexure E**.
- j. The Complainant is also the registrant of the trademark EQUIFAX in India and its earliest registration dates back to the year 1996. The following are the details of the trademark registrations and pending trademark applications of the Complainant:

<b>Trademark</b>	<b>Regn. /Appn. No.</b>	<b>Class</b>	<b>Date</b>
EQUIFAX	744246	9	October 16, 1996
EQUIFAX	744247	16	October 16, 1996
EQUIFAX	1882148	35,36,41,42	Application pending

True copies of the trademark registration certificates in favour of Complainant have been filed as **Annexure F**.

#### **Complainant's Internet Presence**

- k. The Complainant offers credit related products and services on the World Wide Web. Complainant is the owner of the top level domain name [www.equifax.com](http://www.equifax.com) as well as numerous variations thereof in the .com and other gTLDs. The Complainant has filed printout of his website located at [www.equifax.com](http://www.equifax.com) as **Annexure G (collectively)**.

- I. The Complainant is also the owner of numerous country code domain registrations that incorporate its well known EQUIFAX mark. Whois results of the some of these domain names and the list of domain names incorporating the Complainant's Equifax mark has been filed collectively as **Annexure H**.

#### **5) Summary of Registrant's/ Respondent's response**

By way of email dated 23 October 2010, the Registrant/ Respondent filed their response to the complaint filed by the Complainant. The Respondent's allegations/ submissions are summarized as under:

- i. Respondent has never heard of the name "Equifax".
- ii. In fact, since the Complainant's trademark was first registered in India on 16<sup>th</sup> October 1996, it has never provided services or goods up to and including today.
- iii. The domain name was registered by the Respondent because they wanted to provide facsimile services under the name "Equi Fax".

#### **Bad Faith**

- iv. Respondent is not using the domain in bad faith
- v. There is no time limit for domain names to be developed as such having an undeveloped site on the domain name is not, in and of itself, sufficient evidence to support that the domain holder has no rights or legitimate interests in the domain name.
- vi. Respondent has never shown bad faith intent or profited from the Complainant's mark.

#### **Conclusion**

In conclusion, the complainant does NOT meet the "Registered AND used in bad faith" element that is required of the policy in order to prove the complaint. For this reason the complaint should be denied.

#### **6) Further submissions/ contentions raised by the Complainant**

The Complainant filed their rejoinder to the Respondent's reply, by way of email dated 01 November, 2010. Submissions of the Complainant in their rejoinder are summarized below:



1. The Complainant has started operations in India on a large scale. The Complainant's foray into the Indian credit information scene was widely reported in a number of leading national newspapers and dailies. True copies of some of these articles are annexed collectively as Annexure D (collectively) of the Complaint. Further, the Complainant has immense trans border and spillover reputation in India in view of its long, continuous, extensive and ubiquitous use of the Equifax mark since 1899.
2. The term Equifax is a coined and invented mark and there can be no plausible reason for the Respondent to have hit upon an identical term and there is no justification for its adoption of the mark Equifax other than to ride on the Complainant's reputation.
3. Further, there are 119 domain names are registered in favour of the Respondent at the address as provided in the present Complaint (i.e. The Admin, Unit 18, #33 Harbour Plaza, East Bay Street, Nassau, New Providence, Bahamas) and the email contact [Xe3fghz0q@lwam.com](mailto:Xe3fghz0q@lwam.com) is indicated to be associated with about 84 other domain names. This clearly evidences that the Respondent is a typical cyber squatter and its registration of the domain name Equifax.in is in bad faith and the Respondent has no legitimate intention to provide any services under the name "Equi fax". The above information is available on the following links, which are also the whois results for two domain names (<gameshour.com> and <jogosdehabilidade.com>) registered in the Respondent's favour:
  - 1- <http://whois.domaintools.com/gameshour.com>
  2. <http://whois.domaintools.com/jogosdehabilidade.com>

## **7) Discussions and Findings:**

On perusal of the submission of the parties & going through the documents filed by the complainant (no documents were filed by the Respondent in support of its case), the Arbitrator is inclined to agree that the Complainant has established better & prior rights in the mark EQUIFAX. Further, the Arbitrator is of the view that complainant has satisfied all three conditions outlined in paragraph 4 of the policy viz.

- A. The Domain Name is identical or confusingly similar to the trade mark/ name EQUIFAX in which the Complainant has rights;
- B. The Registrant has no rights or legitimate interests in respect of the domain name; and





The Registrant's Domain Name has been registered or is being used in bad faith.

**The Domain Name is identical or confusingly similar to the trade mark/ name EQUIFAX in which the Complainant has rights:**

- i) The Complainant is prior in adoption & use of the trademark EQUIFAX. It has filed documents to show its adoption, use & registration of the mark Equifax prior to adoption of the domain name Equifax.in by the Respondent on 11<sup>th</sup> June, 2007. The explanation offered for adoption of the domain that 'it was to offer facsimile service' does not sound convincing. The combination of 'Equi' and 'fax' is quite unique. The domain name of Respondent is identical to the trademark of the Complainant for which they hold registration in several countries including India (since 1996).

In view of the above, the Arbitrator finds that documents on record are sufficient to establish that Domain name is identical or confusingly similar to the Complainant's mark 'Equifax' and that the Complainant has better rights in the domain name.

**The Registrant has no rights or legitimate interests in respect of the domain name:**

- ii) The Complainant has established its world-wide use, prior adoption & registration of the mark 'Equifax'. On the other hand, the Respondent has adduced no documents in support of its adoption. The explanation for adoption does not appear credible. The Respondent has adduced no evidence to suggest that he has been commonly known by the name 'Equifax'. Thus there is nothing on record to show Respondent's rights or legitimate interest in the Domain name.

**The Registrant's Domain Name has been registered or is being used in bad faith:**

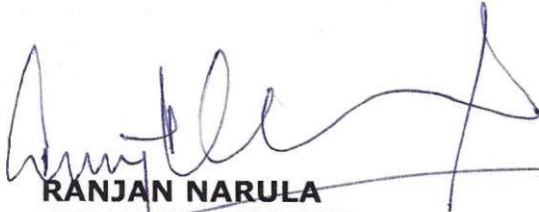
- iii) The Complainant has alleged that the Respondent has registered more than 100 domain names. Thus the purpose of registration is to trade in the domain name & not to provide any legitimate service. This coupled with the fact that Equifax is a coined word suggests bad faith registration. The Arbitrator holds that even though the Respondent has



not used the domain name, the overall impression of the Respondent business is to park the domain name.

**8) Decision:**

For the reasons discussed above, the Arbitrator orders that the domain name <[www.equifax.in](http://www.equifax.in)> be transferred to the Complainant.



**RANJAN NARULA  
SOLE ARBITRATOR  
NIXI  
INDIA**

**19 November 2010**