

ADMINISTRATIVE PANEL DECISION

Fenix International Limited v. Privacy Services Provided by Withheld for Privacy ehf / Hoang Nguyen Kien
Case No. D2022-2856

1. The Parties

The Complainant is Fenix International Limited c/o Walters Law Group, United States.

The Respondent is Privacy Services Provided by Withheld for Privacy ehf, Iceland / Hoang Nguyen Kien, Viet Nam.

2. The Domain Names and Registrar

The disputed domain names <onlyfanleak.com>, and <onlyforfan.com> (the “Disputed Domain Names”) are registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 3, 2022. On August 3, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Names. On August 3, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Disputed Domain Names, which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on August 4, 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 amendment to the Complaint on August 5, 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 the Respondent of the Complaint, and the proceedings commenced on August 12, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 1, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 5, 2022.

The Center appointed Isabelle Leroux as the sole panelist in this matter on September 16, 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 owns and operates the website “www.onlyfans.com”, a social media platform that allows users to post and subscribe to audiovisual content on the Internet, mostly of erotic or pornographic character. In 2022, “www.onlyfans.com” was one of the most popular websites in the world with 180 million registered users and also one of the most visited websites in the world.

For the needs and purposes of its activities, the Complainant is the owner of numerous ONLYFANS trademarks including the following:

- European Union wordmark ONLYFANS No.17912377, filed on June 5, 2018, registered on January 9, 2019, in classes 9, 35, 38, 41 and 42;
- European Union figurative mark ONLYFANS No. 17946559, filed on August 22, 2018, registered on January 9, 2019, in classes 9, 35, 38, 41 and 42;
- United Kingdom wordmark ONLYFANS No. UK00917912377, filed on June 5, 2018, registered on January 9, 2019, in classes 9, 35, 38, 41 and 42;
- United Kingdom wordmark ONLYFANS No. UK00917946559, filed on August 22, 2018, registered on January 9, 2019, in classes 9, 35, 38, 41 and 42;
- United States of America wordmark ONLYFANS No. 5769267, filed on October 29, 2018, registered on June 4, 2019, in class 35;
- United States of America wordmark ONLYFANS.COM No. 5769268, filed on October 29, 2018, registered on June 4, 2019, in class 35;
- International wordmark ONLYFANS No. 1507723 registered on November 2, 2019, classes 9, 35, 38, 41 and 42 and designating, Albania, Armenia, Australia, Belarus, Bosnia and Herzegovina, Brazil, Brunei Darussalam, Canada, China, Colombia, Eswatini, Georgia, Iceland, India, Indonesia, Israel, Japan, Republic of Korea, Malaysia, Mexico, New Zealand, Norway, Philippines, Russian Federation, Sao Tome and Principe, Singapore, Switzerland, Thailand, Trinidad and Tobago, Turkey, Ukraine, and Sint Maarten, Netherlands; and
- International figurative mark ONLYFANS No. 1509110 registered on November 2, 2019, classes 9, 35, 38, 41 and 42 and designating Albania, Armenia, Australia, Belarus, Bosnia and Herzegovina, Brazil, Brunei Darussalam, Canada, China, Colombia, Eswatini, Georgia, Iceland, India, Indonesia, Israel, Japan, Republic of Korea, Malaysia, Mexico, New Zealand, Norway, Philippines, Russian Federation, Sao Tome and Principe, Singapore, Switzerland, Thailand, Trinidad and Tobago, Turkey, Ukraine, and Sint Maarten, Netherlands.

Hereafter the “Trademarks” or “Trademark”.

Moreover, the Complainant has also registered the domain name <onlyfans.com> on January 29, 2013.

The Disputed Domain Names <onlyfanleak.com> and <onlyforfan.com> were respectively registered on December 21, 2020, and March 20, 2021 and redirect to commercial websites offering adult entertainment content.

5. Parties' Contentions

A. Complainant

The Complainant claims that:

a) The Disputed Domain Names are identical or at least confusingly similar to the Complainant's Trademarks since they fully incorporate the Complainant's ONLYFANS Trademarks, without the letter "s" and with the addition of the terms (i) "for" within the Trademark for the Disputed Domain Name <onlyforfan.com> (ii) and "leak" after the Trademark for the other Disputed Domain Name <onlyfanleak.com>.

b) The Respondent has no rights nor legitimate interests in the Disputed Domain Names since:

- The Respondent has no connection or affiliation with the Complainant;
- The Complainant has never granted any license or authorization to use its Trademarks to the Respondent;
- The Respondent is not known by the text of the Disputed Domain Names;
- The Respondent does not own any trademarks incorporating the Disputed Domain Names; and
- The Respondent cannot claim it has the right to use the Disputed Domain Names under fair use principles.

c) The Respondent registered and used the Disputed Domain Names in bad faith given the following factors:

- The Disputed Domain Names were registered years after the registration of the Complainant's Trademarks;
- The Complainant's Trademarks have acquired a strong distinctiveness and are widely known Trademarks;
- The Respondent could not be unaware of the existence of the Complainant's rights since he registered confusingly similar domain names and used them to operate commercial websites offering adult entertainment content (including content pirated from Complainant's users) in direct competition with the Complainant; and
- The Respondent did not respond to the cease-and-desist letter sent by the Complainant and used a Whols privacy wall to hide itself from the public.

Finally, the Complainant requests that the Disputed Domain Names be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

First of all, the Panel finds that the Complainant has provided evidence that it has prior rights in the ONLYFANS Trademarks.

Then, the Panel notices that the Disputed Domain Names are composed of the identical reproduction of the ONLYFANS Trademarks without the letter "s", to which has either been added (i) the term "for" and the generic Top-Level Domain ("gTLD") ".com" or (ii) the term "leak" and the gTLD ".com".

i. On the Disputed Domain Name <onlyforfan.com>

The addition of the term "for" between the Trademark's terms "only" and "fan", without the letter "s" does not

avoid a finding of confusing similarity since the Complainant's Trademarks are clearly recognizable in the Disputed Domain Name. See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), "[w]here the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element".

Furthermore, the gTLD ".com" does not affect the confusing similarity between the Disputed Domain Name and the Complainant's earlier Trademarks since it is viewed as a standard registration requirement and as such is disregarded for the purpose of determining whether a domain name is identical or confusingly similar to a trademark. See section 1.11 of the [WIPO Overview 3.0](#).

Consequently, the Panel finds that the Disputed Domain Name <onlyforfan.com> is confusingly similar to the Complainant's Trademark. The first element of paragraph 4(a) of the Policy is thus fulfilled.

ii. On the Disputed Domain Name <onlyfanleak.com>

The addition of the term "leak" at the end of the Trademark does not avoid a finding of confusing similarity since the Complainant's Trademarks are clearly recognizable in this Disputed Domain Name. See section 1.8 of the [WIPO Overview 3.0](#), "[w]here the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element".

Furthermore, the gTLD ".com" does not affect the confusing similarity between the Disputed Domain Name and the Complainant's earlier Trademarks since it is viewed as a standard registration requirement and as such is disregarded for the purpose of determining whether a domain name is identical or confusingly similar to a trademark. See section 1.11 of the [WIPO Overview 3.0](#).

Consequently, the Panel finds that the Disputed Domain Name <onlyfanleak.com> is confusingly similar to the Complainant's Trademark. The first element of paragraph 4(a) of the Policy is thus fulfilled.

B. Rights or Legitimate Interests

Numerous UDRP panels have found that, even though the complainant bears the general burden of proof under paragraph 4(a)(ii) of the UDRP, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. See section 2.1 of the [WIPO Overview 3.0](#).

In this case, the Complainant brings forward the following elements:

- No license nor authorization has been granted by the Complainant to the Respondent;
- The Respondent is not known under the Disputed Domain Names, nor does the Respondent have any trademark rights on the term "onlyfans";
- The Complainant has no professional relationship with the Respondent; and
- The Respondent has not used the Disputed Domain Names for a *bona fide* offering of goods or services since the Disputed Domain Names offers overlapping services with those offered by the Complainant.

Therefore, the Panel finds that the Complainant has made a *prima facie* case that the Respondent lacks rights or legitimate interests in the Disputed Domain Names.

The Respondent has not responded to the Complainant's contentions and therefore not proved otherwise.

Given these circumstances, the Panel finds that the second element of the paragraph 4(a) of the Policy is satisfied.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy requires that the Complainant prove that the Disputed Domain Names were registered and are being used by the Respondent in bad faith.

The Panel considers that the Respondent could not plausibly ignore the existence of the Complainant's ONLYFANS Trademarks at the time of the registrations of the Disputed Domain Names since (i) the Disputed Domain Names were registered several years after the registration of the Complainant's Trademarks and domain name <onlyfans.com>, (ii) the reputation of the Complainant and the well-known character of the Trademark have been recognized by previous UDRP panels. See *Fenix International Limited v. c/o who is privacy.com / Tulip Trading Company, Tulip Trading Company Limited*, WIPO Case No. [DCO2020-0038](#); and *Fenix International Limited v. WhoisGuard Protected, WhoisGuard, Inc. / Samuel Walton*, WIPO Case No. [D2020-3131](#).

The Panel finds that the Respondent registered the Disputed Domain Names because of its reference to the Trademarks owned by the Complainant and the registrations were therefore made in bad faith.

As to the use of domain name in bad faith, paragraph 4(b) of the Policy sets out examples of circumstances that are considered by a panel to be evidence of bad faith use of a domain name. The Policy provides that for the purposes of paragraph 4(a)(iii), the following circumstances, in particular, but without limitation, if found by the panel to be present, shall be evidence of the use of a domain name in bad faith:

"[...]

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site 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 your web site or location or of a product or service on your web site or location."

The Panel has noticed that the Disputed Domain Names direct users to commercial websites that offer adult entertainment content (including content taken from the Complainant's users) in direct competition with the Complainant's services.

The Panel has also noticed that the Respondent has filed not one, but two similar domain names, including the Complainant Trademarks.

The Panel therefore finds that the use of the Disputed Domain Names is made in bad faith.

Consequently, the Panel finds that the Disputed Domain Names were registered and used in bad faith, and that the third and final element of paragraph 4(a) of the Policy is met.

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 Names, <onlyfanleak.com>, and <onlyforfan.com> be transferred to the Complainant.

/Isabelle Leroux/

Isabelle Leroux

Sole Panelist

Date: September 30, 2022