

ADMINISTRATIVE PANEL DECISION

Fenix International Limited v. IVAN KOBETS, MINERAL
Case No. D2023-0690

1. The Parties

The Complainant is Fenix International Limited c/o Walters Law Group, United States of America (“United States” or “USA”).

The Respondent is IVAN KOBETS, MINERAL, Russian Federation.

2. The Domain Name and Registrar

The disputed domain name <onlysiterip.com> is registered with URL Solutions, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 15, 2023. On February 15, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 15, 2023, 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 (Whois, Global Domain Privacy Services Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 16, 2023, 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 February 16, 2023.

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 February 17, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 9, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 13, 2023.

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on March 15, 2023. 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 is a company active in the online media sector. The Complainant operates a social media platform allowing users to subscribe to view creator's audiovisual content and to upload their own content, including media concerning physical fitness, music, and adult entertainment. The Complainant states that in the year 2023, the website hosted at its official domain name <onlyfans.com> is one of the most popular websites in the world, with more than 180 million registered users. According to the third party service Similarweb, it is the 94th most popular website on the World Wide Web, and it is the 53rd most popular website in the USA.

The Complainant provides evidence that it owns an international trademark portfolio for ONLYFANS, including but not limited to the United Kingdom trademark registration Nos. UK00917912377 and UK00917946559 registered on January 9, 2019; the European Union trademark registration Nos. 017912377 and 017946559 registered on January 9, 2019; and, United States Trademark Nos. 5769267 and 5769268 registered on June 4, 2019. The Complainant also has a strong online presence and also owns a portfolio of official domain names incorporating its ONLYFANS mark.

The disputed domain name was registered on August 16, 2021, and is therefore of a later date than the abovementioned trademarks of the Complainant. The Complainant submits evidence that the disputed domain name directs to an active website which offers adult content, including content which is clearly advertised as being pirated from Complainant's users and users of other adult content providers.

The Complainant also provides evidence that it attempted to settle this matter amicably by sending a cease-and-desist letter to the Respondent on March 8, 2022, requesting for the disputed domain name to be cancelled. However, the Complainant did not receive any response to the demand letter from the Respondent.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to its trademark for ONLYFANS, that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the disputed domain name was registered, and is being used in bad faith to divert Internet users to the Respondent's active website which makes available pirated version of content uploaded by the Complainant's users.

The Complainant argues that its trademark ONLYFANS is internationally famous, and refers to a large number of prior UDRP panel decisions which have recognized its rights in the ONLYFANS trademarks and their strong reputation and fame, such as *Fenix International Limited v. Danesco Trading Ltd. / Mikasantik Dikalov*, WIPO Case No. [D2021-0593](#), and *Fenix International Limited c/o Walters Law Group v. WhoisGuard, Inc., WhoisGuard Protected / Marry Mae Cerna*, WIPO Case No. [D2021-0327](#).

The Complainant essentially contends that the disputed domain name is confusingly similar to the Complainant's intensively used trademarks, as it incorporates the most distinctive part of the Complainant's ONLYFANS trademark, with the addition of the merely descriptive words "site rip" to the disputed domain name. The Complainant also provides evidence that the disputed domain name is linked to an active webpage which makes available pirated version of content uploaded by the Complainant's users, which, the Complainant argues, confers no legitimate interest in the disputed domain name on the Respondent.

The Complainant also argues that the Respondent had or can be expected to have had prior notice of the Complainant's trademarks at the time the disputed domain name was registered, and that the selection of the disputed domain name was therefore intentional and designed to divert Internet traffic from Complainant's site to Respondent's website. The Complainant essentially contends that the registration and use of the disputed domain name in such circumstances constitutes registration and use in bad faith.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

The Policy requires the Complainant to prove three elements:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the 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.

Based on the evidence and arguments submitted, the Panel's findings are as follows:

A. Identical or Confusingly Similar

The Panel finds that the Complainant has shown that it has valid rights in the mark ONLYFANS, based on its use and registration of the same as trademarks in multiple jurisdictions, as indicated above.

As to confusing similarity of the disputed domain name with the Complainant's marks, the Panel considers that the disputed domain name consists of the combination of two elements, respectively the first part of the Complainant's ONLYFANS trademark, namely the word "only", combined with the term "site rip". The Panel finds that it is well-established that the use of a dominant portion (or mere abbreviation) of a trademark, as is the case here, is insufficient to prevent a finding of confusing similarity under the first element test (see also earlier UDRP decisions in this regard, e.g. *Fenix International Limited c/o Walters Law Group v. Privacy Service Provided by Withheld for Privacy ehf / Pablo Espinoza*, WIPO Case No. [D2021-3200](#)). This finding is also confirmed by the Panel's examination of the contents of the website associated with the disputed domain name, from which it is clear that the Respondent was indeed intentionally targeting the Complainant's ONLYFANS trademarks (see in this regard the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, "[WIPO Overview 3.0](#)", section 1.15). Furthermore, the Panel refers to the [WIPO Overview 3.0](#), section 1.8, which states: "Where 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." The Panel concludes that in this case, the Complainant's trademarks for ONLYFANS remain recognizable in the disputed domain name (through the inclusion of the distinctive part "only"), and that the addition of the term "site rip" therefore does not prevent a finding of confusing similarity. The Panel also notes that the applicable generic Top-Level Domain ("gTLD"), ".com" in this case, is viewed as a standard registration requirement, and may as such be disregarded by the Panel, see in this regard the [WIPO Overview 3.0](#), section 1.11.1.

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the Complainant's registered trademarks for ONLYFANS, and concludes that the Complainant has satisfied the requirements of the first element under the Policy.

B. Rights or Legitimate Interests

On the basis of the evidence and arguments submitted, the Panel finds that the Complainant makes out a *prima facie* case that the Respondent is not, and has never been, an authorized reseller, service provider, licensee or distributor of the Complainant, is not a *bona fide* provider of goods or services under the disputed domain name and is not making legitimate noncommercial or fair use of the disputed domain name. The Panel also notes that the Respondent is not commonly known by the disputed domain name. As such, the Panel finds that the burden of production regarding this element shifts to the Respondent (see [WIPO Overview 3.0](#), section 2.1). However, no evidence or arguments have been submitted by the Respondent in reply.

Moreover, upon review of the facts and evidence submitted, the Panel notes that the disputed domain name resolves to an active website which clearly and prominently displays, *inter alia*, the ONLYFANS mark and which appears to make available pirated versions of content uploaded by the Complainant's users. In the Panel's view, no rights or legitimate interests can derive from using a disputed domain name which is confusingly similar to a third party trademark to host websites for commercial gain that advertise infringing goods and services in direct competition with those of the trademark owner (see in this regard also earlier UDRP decisions such as *Fenix International Limited v. Danesco Trading Ltd. / Mikasantik Dikalov*, WIPO Case No. [D2021-0593](#)).

Additionally, the Panel agrees with the Complainant that the nature of the disputed domain name, incorporating the distinctive part "only" of the Complainant's ONLYFANS trademarks, combined with the term "site rip", carries a risk of implied affiliation and cannot constitute fair use as the term "site rip" appears to refer to the disputed domain name providing content "ripped" or condensed from the Complainant's official website (see [WIPO Overview 3.0](#), section 2.5.1).

On the basis of the foregoing, the Panel considers that none of the circumstances of rights or legitimate interests envisaged by paragraph 4(c) of the Policy apply, and that the Complainant has satisfied the requirements of the second element under the Policy.

C. Registered and Used in Bad Faith

The Panel considers that by registering the disputed domain name, which the Panel sees as a clear attempt to obtain a domain name confusingly similar to the Complainant's internationally famous and intensively used trademarks, the Respondent deliberately and consciously targeted the Complainant's prior trademarks for ONLYFANS. The Panel finds that this creates a presumption of bad faith. In this regard, the Panel also refers to the [WIPO Overview 3.0](#), section 3.1.4, which states "[p]anel has consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith". Furthermore, the Panel also notes that the Respondent must have been aware of the Complainant's trademark rights when it registered a confusingly similar domain name and began operating a website that provides products and services in direct competition with the Complainant, including clearly displaying the Complainant's trademarks on the website linked to the disputed domain name. In the Panel's view, these elements clearly indicate bad faith on the part of the Respondent, and the Panel therefore finds that it has been demonstrated that the Respondent registered the disputed domain name in bad faith.

As to use of the disputed domain name in bad faith, the Complainant provides evidence that the website linked to the disputed domain name is a website which makes available, *inter alia*, "ripped" versions of content uploaded by the Complainant's users. The Panel finds that this means that the Respondent attempts to direct unsuspecting Internet users to its commercial website which offers services in direct competition with the trademark owner, which clearly constitutes use in bad faith of the disputed domain name (see in this regard also prior UDRP decisions such as *Guardant, Inc. v. Jeff Park*, WIPO Case No. [D2009-0631](#)). The Panel concludes that such use constitutes an intentional attempt to attract, for commercial gain, Internet users to the Respondent's website by creating a likelihood of confusion with the

Complainant's marks as to the source, affiliation, or endorsement of the disputed domain name. This constitutes direct evidence of the Respondent's bad faith under paragraph 4(b)(iv) of the Policy. The Panel therefore finds that it has been demonstrated that the Respondent has used, and is using the disputed domain name in bad faith.

Finally, the Respondent has failed to provide any response or evidence to establish its good faith or absence of bad faith. The Panel therefore finds that the Complainant has satisfied the requirements of the third element under 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, <onlysiterip.com> be transferred to the Complainant.

/Deanna Wong Wai Man/

Deanna Wong Wai Man

Sole Panelist

Date: March 29, 2023