

ADMINISTRATIVE PANEL DECISION

Fenix International Limited v. STIVE BELB

Case No. D2023-4960

1. The Parties

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

The Respondent is STIVE BELB, Algeria.

2. The Domain Names and Registrar

The disputed domain names <ofans.xyz>, <ofhack.xyz>, <ofunlock.com>, and <ofunlock.xyz> are registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 29, 2023. On November 29, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On November 29, 2023, 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 (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 12, 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 amended Complaint on December 14, 2023.

The Center verified that the Complaint together with the amended 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 December 22, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 11, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 12, 2024.

The Center appointed Wilson Pinheiro Jabur as the sole panelist in this matter on January 18, 2024. 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 the provider of the ONLYFANS social media platform, available at “www.onlyfans.com”, which according to *similarweb*, it is the 94th most popular website on the Internet, as well as the 53rd most popular website in the United States.

In addition to the domain name <onlyfans.com>, registered on January 29, 2013, the Complainant is the owner of the following, amongst other, trademark registrations:

- United States Trademark Registration No. 5,769,267 for the word mark ONLYFANS, registered on June 4, 2019, claiming first use in commerce on July 4, 2016, in class 35;
- United States Trademark Registration No. 5,769,268 for the word mark ONLYFANS.COM, registered on June 4, 2019, claiming first use in commerce on July 4, 2016, in class 35;
- United States Trademark Registration No. 6,918,292 for the word mark OFTV, registered on December 6, 2022, claiming first use in commerce in August 2020, in class 9;
- United States Trademark Registration No. 6,918,293 for the word and device mark OF, registered on December 6, 2022, claiming first use in commerce in August 2020, in class 9;
- United States Trademark Registration No. 6,938,573 for the word and device mark OF, registered on January 3, 2023, claiming first use in commerce on August 10, 2020, in classes 38, 41 and 42; and
- European Union Trademark Registration No. 017912377 for word mark ONLYFANS, filed on June 5, 2018 and registered on January 9, 2019, in classes 9, 35, 38, 41 and 42.

The disputed domain names were respectively registered on February 11, 2021, February 12, 2021, May 18, 2021, and May 18, 2021. All of the disputed domain names presently are used in connection with active webpages offering “hacking tools” to access the Complainant’s platform.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

Notably, the Complainant asserts to be one of the most popular websites in the world, counting with more than 180 million registered users, having the Complainant started using its ONLYFANS trademark since at least July 4, 2016.

According to the Complainant, the disputed domain names are identical or confusingly similar to the Complainant’s trademarks, given the abbreviation of the ONLYFANS trademark to the letters “OF”, as already recognized in past UDRP decisions (*Fenix International Limited v. Ladislav Hricko / 1a world Ltd, admin Me / Whois Privacy Corp.*, WIPO Case No. [D2021-2522](#); *Fenix International Limited v. Nemanja Krecelj, Rocket Science Group*, WIPO Case No. [D2021-2667](#); and *Fenix International Limited v. Host Master, 1337 Services LLC*, WIPO Case No. [D2021-0582](#)); being the likelihood of confusion enhanced by

the use made of the disputed domain names and the multiple references to the Complainant's trademarks in the respective websites and the addition of other terms ("hack" and "unlock"), insufficient to prevent a finding of confusing similarity.

As to the absence of rights or legitimate interests, the Complainant argues that:

- a. the Respondent has no connection or affiliation with the Complainant and has not received any authorization, license, or consent, whether express or implied, to use the Complainant's trademarks in the disputed domain names or in any other manner;
- b. the Respondent is not commonly known by the Complainant's trademarks nor holder of any trademarks for the disputed domain names; and
- c. the Respondent is using the disputed domain names to direct Internet users to websites offering illegal services given that the respective websites boldly advertise "unlocking" and "hacking" profiles of the Complainant's platform to bypass the security and payment features, which is illegal.

In what it relates to the bad faith registration and use of the disputed domain names, the Complainant asserts to have acquired such extensive and worldwide distinctiveness that the Complainant's website is among the Top 100 most popular websites in the world that the registration of the disputed domain names per se should be considered in bad faith, what is further corroborated by the use made of the disputed domain names in connection with the offer of illegal services. Other elements that corroborate the Respondent's bad faith are the Respondent's failure to respond to the Complainant's cease-and-desist letter sent prior to this procedure (Annex F to the Complaint) and the registration of the disputed domain names under a privacy shield.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy sets forth the following three requirements which the Complainant must meet in order for the Panel to order the transfer of the disputed domain names:

- (i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainants have rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

The Complainant must prove in this administrative proceeding that each of the aforesaid three elements is present in order to obtain the transfer of the disputed domain names.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the mark (in its various forms) is recognizable within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.7 and 1.9. Although the addition of other terms (“hack” and “unlock”) may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, 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. [WIPO Overview 3.0](#), section 2.1.

Paragraph 4(c) of the Policy provides a nonexclusive list of circumstances that may indicate the Respondent’s rights to or legitimate interests in the disputed domain names. These circumstances are:

- (i) before any notice of the dispute, the Respondent’s use of, or demonstrable preparations to use, the disputed domain names or a name corresponding to the disputed domain names in connection with a bona fide offering of goods or services; or
- (ii) the Respondent (as an individual, business, or other organization) has been commonly known by the disputed domain names, in spite of not having acquired trademark or service mark rights; or
- (iii) the Respondent is making a legitimate noncommercial or fair use of the disputed domain names, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Respondent, in not formally responding to the Complaint, has failed to invoke any of the circumstances, which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights to or legitimate interests in the disputed domain names. This entitles the Panel to draw any such inferences from such default as it considers appropriate pursuant to paragraph 14(b) of the Rules. Nevertheless, the burden of proof is still on the Complainant to make a prima facie case against the Respondent.

In that sense, the Panel notes that the Complainant has made out a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain names, indeed stating that the Respondent has no connection or affiliation with the Complainant and has not received any authorization, license, or consent, whether express or implied, to use the Complainant’s trademarks in the disputed domain names or in any other manner.

Also, the lack of evidence as to whether the Respondent is commonly known by the disputed domain names or the absence of any trademarks registered by the Respondent corresponding to the disputed domain names, corroborates the indication of an absence of rights or legitimate interests in the disputed domain names.

The present use of the disputed domain names in connection with websites advertising the “unlocking” and “hacking” profiles of the Complainant’s platform so as to bypass the security and payment features cannot characterize under this Panel’s view a bona fide offering of goods or services. [WIPO Overview 3.0](#), section 2.13.1.

Therefore, the Panel finds that the Respondent lacks rights or legitimate interests in the disputed domain names. The second element of the Policy has also been met.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

The registration and use of the disputed domain names in bad faith can be found in the present case in view of the following circumstances:

- (i) the Respondent has provided no evidence whatsoever of any actual or contemplated good faith use of the disputed domain names, not having submitted a response;
- (ii) the well-known status of the Complainant’s trademarks;
- (iii) the nature of the disputed domain names (reproducing in various manners the Complainant’s trademarks), and the Respondent’s likely intention to unduly profit from the value of the Complainant’s trademark, suggest rather a clear indication of the Respondent’s registration and holding of the disputed domain names in bad faith, with the implausibility of any good faith use to which the disputed domain names may be put;
- (iv) the Respondent’s failure to respond to the Complainant’s cease-and-desist letter sent prior to this procedure (Annex F to the Complaint); and
- (v) the Respondent’s apparent choice to retain a privacy protection service so as to conceal its true identity.

The Panel finds that the Complainant has established the third element of 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 names <ofans.xyz>, <ofhack.xyz>, <ofunlock.com>, and <ofunlock.xyz> be transferred to the Complainant.

/Wilson Pinheiro Jabur/

Wilson Pinheiro Jabur

Sole Panelist

Date: February 1, 2024