

ADMINISTRATIVE PANEL DECISION

Fenix International Limited v. premium onlyfans
Case No. D2022-0125

1. The Parties

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

The Respondent is premium onlyfans, Philippines.

2. The Domain Name and Registrar

The disputed domain name <premium-onlyfans.com> is registered with Hosting Concepts B.V. d/b/a Registrar.eu. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 14, 2022. On January 14, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 16, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on January 17, 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 January 18, 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 January 25, 2022. In accordance with the Rules, paragraph 5, the due date for Response was February 14, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 15, 2022.

The Center appointed Tuukka Airaksinen as the sole panelist in this matter on February 18, 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 located at “www.onlyfans.com”, and has used its domain name for several years with the provision of a social media platform allowing users to post and subscribe to audiovisual content on the Internet. The Complainant’s website is one of the most popular websites in the world, with more than 180 million registered users.

The Complainant is the owner of the trademark ONLYFANS, which is registered, *inter alia*, as a European Union Trade Mark No. 17912377 as of January 9, 2019. The Complainant has been using its trademark continuously since June 4, 2016.

The disputed domain name was registered on July 28, 2021. The disputed domain name resolves to a website offering adult entertainment services that are in direct competition with the Complainant’s services.

5. Parties’ Contentions

A. Complainant

The disputed domain name contains the Complainant’s trademark in its entirety, with the only difference being the insertion of the descriptive term “premium” before the Complainant’s trademark. This does not avoid confusing similarity with the Complainant’s trademark.

The Respondent has no connection or affiliation with the Complainant, and has not received any authorization, license, or consent to use the Complainant’s trademark or the disputed domain name. The Respondent is not commonly known by the disputed domain name.

The Complainant’s trademark is a well-known trademark in the field of offering adult online services, as held by many previous panels. The disputed domain name resolves to a website offering commercial services that are in direct competition with the Complainant’s services.

B. Respondent

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

6. Discussion and Findings

In order to obtain the transfer of a domain name, a complainant must prove the three elements of paragraph 4(a) of the Policy, regardless of whether the respondent files a response to the complaint or not. The first element is that the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights. The second element a complainant must prove is that the respondent has no rights or legitimate interests in respect to the domain name. The third element a complainant must establish is that the domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires that the Complainant establish that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights. Consequently, the Complainant must prove that it has rights to a trademark, and that the disputed domain name is identical or confusingly similar to this trademark.

According to section 1.11 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), “[t]he applicable Top Level Domain (‘TLD’) in a domain name (e.g., ‘.com’, ‘.club’, ‘.nyc’) is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test”.

Furthermore, “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 nature of such additional term(s) may however bear on assessment of the second and third elements”. See section 1.8 of the [WIPO Overview 3.0](#).

The disputed domain name is confusingly similar to the Complainant’s trademark, which is clearly recognizable in the disputed domain name. The word “premium” in the disputed domain name does not prevent a finding of confusing similarity between the Complainant’s trademark and the disputed domain name.

This means that the disputed domain name is confusingly similar with the Complainant’s trademark and hence the first element of the Policy has been fulfilled.

B. Rights or Legitimate Interests

Paragraph 4(a)(ii) of the Policy requires that the Complainant establish that the Respondent has no rights or legitimate interests to the disputed domain name.

It is widely accepted among UDRP panels that once a complainant has made a *prima facie* showing indicating the absence of the respondent’s rights or legitimate interests in a disputed domain name the burden of production shifts to the respondent to come forward with evidence of such rights or legitimate interests. If the respondent fails to do so, the complainant is deemed to have satisfied the second element of the Policy. See, e.g., *Document Technologies, Inc. v. International Electronic Communications Inc.*, WIPO Case No. [D2000-0270](#), and section 2.1 of the [WIPO Overview 3.0](#).

The Complainant has credibly submitted that the Respondent is neither affiliated with the Complainant in any way nor has it been authorized by the Complainant to use and register the disputed domain name, that the Respondent has no rights or legitimate interests in the disputed domain name, and that the Respondent has not made and is not making a legitimate noncommercial or fair use of the disputed domain name and is not commonly known by the disputed domain name in accordance with paragraph 4(c)(ii) of the Policy.

Moreover, the Panel finds that the nature of the disputed domain names carries a risk of implied affiliation with the Complainant’s trademark. See section 2.5.1 of the [WIPO Overview 3.0](#).

Accordingly, the Panel finds that the Complainant has made a *prima facie* case that has not been rebutted by the Respondent. Considering the Panel’s findings above, the Panel finds that there are no other circumstances that provide the Respondent with any rights or legitimate interests in the disputed domain name. Therefore, the Panel finds that the second element of the Policy is fulfilled.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy requires that the Complainant establish that the disputed domain name has been registered and is being used in bad faith. Paragraph 4(b) of the Policy provides that the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

“(i) circumstances indicating that [the respondent has] registered or has acquired the domain name primarily for the purpose of selling, renting or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that

complainant, for valuable consideration in excess of [the respondent's] documented out-of-pocket costs directly related to the domain name; or

(ii) [the respondent has] registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that [the respondent has] engaged in a pattern of such conduct; or

(iii) [the respondent has] registered the domain name primarily for the purpose of disrupting the business or competitor; or

(iv) by using the domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the respondent's] website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [the respondent's] website or location or of a product or service on [the respondent's] website or location."

The Panel agrees with the Complainant and previous panels that the Complainant's trademark is a well-known trademark within the Complainant's industry. It is therefore inconceivable that the Respondent would not have been aware of the Complainant's trademark when registering the disputed domain name, considering also that the Respondent uses the disputed domain name for a competing service. The word "premium" in the disputed domain name may give the impression that the Respondent's services are better than those offered by the Complainant and as such increase likelihood of confusion between the Complainant's trademark and the disputed domain name.

The disputed domain name resolves to a website offering adult entertainment services that are in direct competition with the services offered by the Complainant. Hence, the disputed domain name is used to attract, for commercial gain, Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's trademark.

Therefore, the Panel finds that the third element of the Policy is fulfilled.

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 <premium-onlyfans.com> be cancelled.

/Tuukka Airaksinen/

Tuukka Airaksinen

Sole Panelist

Date: March 4, 2022