

## ADMINISTRATIVE PANEL DECISION

Fenix International Limited v. FYNN AMBOSSS, 101 Legal GmbH / Fynn Amboss

Case No. D2022-2945

### 1. The Parties

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

The Respondents are FYNN AMBOSSS, 101 Legal GmbH, Germany / Fynn Amboss, Germany.<sup>1</sup>

### 2. The Domain Names and Registrars

The disputed domain names <ofhub.gold>, <onlyleaks.vip> and <onlyleakz.fun> are registered with NameCheap, Inc. The disputed domain name <ofleaks.xyz> is registered with Porkbun LLC. NameCheap, Inc. and Porkbun LLC are separately and collectively referred to below as the “Registrar”.

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 10, 2022. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On August 10, 2022, the Registrar transmitted by email to the Center its verification responses disclosing registrant and contact information for the disputed domain names that differed from the named Respondent and contact information in the Complaint. On the following day, the Center sent an email communication to the Complainant, 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 August 12, 2022.

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”).

<sup>1</sup> The original Complaint initiated this dispute against privacy services that are listed in the Registrar’s public Whois database as registrants of the disputed domain names. The amended Complaint added the Registrar-verified underlying registrants as respondents. Given that the Registrar’s disclosure was timely and that the privacy services appear to be otherwise unrelated to the underlying registrants, the Panel considers the latter to be the appropriate respondents against which this dispute should proceed. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.4.5.

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on August 15, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 4, 2022. A reply was received from the Respondents on August 16, 2022 via the contact email address shown on the websites associated with the disputed domain names. The Center notified the Parties of the Commencement of the Panel Appointment Process on September 27, 2022.

The Center appointed Matthew Kennedy as the sole panelist in this matter on September 27, 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 operates the OnlyFans subscription-only social media platform at “www.onlyfans.com” where users can post, and subscribers can view, audiovisual content. The Complainant registered the domain name <onlyfans.com> on January 29, 2013. The Complainant holds trademark registrations in multiple jurisdictions, including European Union trademark registration number 017912377 for ONLYFANS, registered on January 9, 2019 and specifying goods and services in classes 9, 35, 38, 41, and 42. That trademark registration remains current. The Complainant’s platform currently has 180 million subscribers. According to evidence provided by the Complainant, its website was ranked by Alexa as the 177<sup>th</sup> most popular website on the World Wide Web during the 90-day period ended April 28, 2022.

The Respondent is an individual and, in the case of three disputed domain names, a company, both located in Germany.

The disputed domain names were registered on the dates and in the names shown below:

<b>Disputed domain name</b>	<b>Date of registration</b>	<b>Registrant</b>
<ofleaks.xyz>	June 20, 2021	Fynn Amboss
<ofhub.gold>	June 25, 2021	FYNN AMBOSS, 101 Legal GmbH
<onlyLeaks.vip>	June 28, 2021	FYNN AMBOSS, 101 Legal GmbH
<onlyleakz.fun>	October 22, 2021	FYNN AMBOSS, 101 Legal GmbH

The disputed domain names each resolved to virtually identical websites displaying pornographic video channels, each of which is presented as an “OnlyFans Leak” channel. The title of each website is the respective associated domain name. Each website also displayed a list of hyperlinks, some of which are labelled with a name and the “OnlyFans” mark, usually followed by the word “Leak”.

The Complainant sent a cease-and-desist letter to the Respondents on March 8, 2022.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The disputed domain names are confusingly similar to the ONLYFANS mark in which the Complainant has registered and common law trademark rights.

The Respondent has no rights or legitimate interests in respect of the disputed domain names. 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 ONLYFANS mark in the disputed domain names or in any other manner.

The disputed domain names were registered and are being used in bad faith. The Complainant's ONLYFANS mark is widely known. The disputed domain names direct to commercial websites that offer adult entertainment, including content pirated from the Complainant's users. The websites use a similar browser icon, color scheme, fonts and logo as the Complainant's website.

## **B. Respondents**

In an informal communication sent in reply to the Notification of Complaint, the Respondents stated "we have taken the Websites down and will restrain from further use of them". Otherwise, they did not reply to the Complainant's contentions, nor did they consent to transfer the disputed domain names.

## **6. Discussion and Findings**

### **6.1. Consolidation: Multiple Domain Name Registrants**

The amended Complaint initiates disputes in relation to two nominally different domain name registrants regarding four disputed domain names. The Complainant alleges that the Respondents are either the same person, entity or network, are somehow connected to each other, and are under common control aimed at intentionally infringing the Complainant's marks and harming consumers.

The Complainant requests consolidation of the disputes against the nominally different domain name registrants pursuant to paragraph 10(e) of the Rules. The disputed domain names registrants did not comment on the Complainant's request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder. However, the Panel does not consider that paragraph 3(c) was intended to enable a single person or entity to put a complainant to the unnecessary time, expense and effort of initiating multiple proceedings against technically different domain name registrants, particularly when each registration raises the same issues. In addressing the Complainant's request, the Panel will consider: (i) whether the disputed domain names or associated websites are subject to common control; and, if so, (ii) whether the consolidation would be fair and equitable to all Parties. See *Speedo Holdings B.V. v. Programmer, Miss Kathy Beckerson, John Smitt, Matthew Simmons*, WIPO Case No. [D2010-0281](#); and [WIPO Overview 3.0](#), section 4.11.2.

In the present case, the disputed domain names appear to be not only under common control but also registered by the same person. The registrant and contact details for three disputed domain names are identical while the fourth is very similar, lacking only the final "s" in the family name and an organization name; it also shows a very similar contact street address as the others. In these circumstances, the Panel considers it likely that the domain name registrants are the same person.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes regarding the four disputed domain names would be unfair or inequitable to any Party.

Accordingly, the Panel will decide the Complaint regarding all four disputed domain names registered in the names of FYNN AMBOSSS, 101 Legal GmbH, and Fynn Amboss, who are separately and collectively referred to below as the "Respondent".

### **6.2 Substantive Issues**

Paragraph 4(a) of the Policy provides that the Complainant must prove each of the following elements with respect to each disputed domain name:

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

- (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.

#### **A. Identical or Confusingly Similar**

Based on the evidence presented, the Panel finds that the Complainant has rights in the ONLYFANS mark.

The disputed domain names <onlyleaks.vip> and <onlyleakz.fun> contain the same initial element as the ONLYFANS mark, *i.e.*, the word “only”, followed by another word, *i.e.*, “leaks” or misspelt as “leakz”, rather than the word “fans” as in the mark. Meanwhile, the disputed domain names <ofhub.gold> and <ofleaks.xyz> contain as their respective initial elements the initials of the two words that form the ONLYFANS mark, *i.e.*, “of”, followed by a word, either “hub” or “leaks”. The incorporation of dictionary words (even misspelt) does not prevent a finding of confusing similarity as a truncated or abbreviated version of the Complainant’s mark remains clearly recognizable within all the disputed domain names. Bearing in mind that the first element of paragraph 4(a) of the Policy functions primarily as a standing requirement, the Panel considers that there is a *prima facie* case of confusing similarity between all the disputed domain names and the ONLYFANS mark.

Further, the Panel notes that the websites associated with all the disputed domain names present their content as “OnlyFans Leak” channels, a description that incorporates the entirety of the Complainant’s ONLYFANS mark. This circumstance confirms that the Respondent is seeking to target the ONLYFANS trademark through all the disputed domain names. See [WIPO Overview 3.0](#), section 1.15.

The disputed domain names all include a generic Top-Level Domain (“gTLD”) extension, variously “.fun”, “.gold”, “.vip”, or “.xyz”. As a standard requirement of domain name registration, the Panel may disregard the gTLD extensions in the comparison between the disputed domain names and the Complainant’s mark for the purposes of the first element of paragraph 4(a) of the Policy.

Therefore, the Panel finds that the disputed domain names are confusingly similar to a trademark in which the Complainant has rights. The Complainant has satisfied the first element in paragraph 4(a) of the Policy.

#### **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy sets out the following circumstances which, without limitation, if found by the Panel, shall demonstrate that the Respondent has rights to, or legitimate interests in, a disputed domain name, for the purposes of paragraph 4(a)(ii) of the Policy:

- (i) before any notice to [the Respondent] of the dispute, [the Respondent’s] use of, or demonstrable preparations to use, the [disputed] domain name or a name corresponding to the [disputed] domain name 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 name, even if [the Respondent has] acquired no trademark or service mark rights; or
- (iii) [the Respondent is] making a legitimate noncommercial or fair use of the [disputed] domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

As regards the first and third circumstances set out above, the disputed domain names resolve to websites displaying pornographic video channels that were presented as “OnlyFans Leak” channels, with a list of hyperlinks to other pornographic websites, some of which are labelled as “OnlyFans” channels. This use is presumably for commercial gain, if not for the Respondent himself then for the subscribers who upload content, the operators of the linked websites, or some combination of them. The Complainant submits that the Respondent has no connection or affiliation with it. In the Panel’s view, this evidence constitutes a *prima*

*facie* case that the disputed domain names are not being used in connection with a *bona fide* offering of goods or services and that the Respondent is not making a legitimate noncommercial or fair use of the disputed domain names.

As regards the second circumstance, the Respondent's name is listed in the Registrar's Whois database as "FYNN AMBOSS, 101 Legal GmbH" or "Fynn Amboss", not the disputed domain names. The initials in the disputed domain names are not those of the Respondent either. There is no evidence indicating that the Respondent has been commonly known by the disputed domain names.

In summary, the Panel considers that the Complainant has made a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain names. The Respondent failed to rebut that *prima facie* case because he did not address the substance of the Complaint.

Therefore, based on the record of this proceeding, the Complainant has satisfied the second element in paragraph 4(a) of the Policy.

### **C. Registered and Used in Bad Faith**

Paragraph 4(b) of the Policy provides that certain circumstances shall be evidence of the registration and use of a domain name in bad faith. The fourth of these is as follows:

(iv) by using the [disputed] 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] web site or location or of a product or service on [the respondent's] website or location.

With respect to registration, the disputed domain names were registered in 2021, after the registration of the Complainant's ONLYFANS trademark, including in the European Union where the Respondent is located. The disputed domain names incorporate either a truncated or an abbreviated version of that trademark as their respective initial elements. They resolved to websites displaying what were presented as "OnlyFans Leak" channels, with a list of hyperlinks, some of which are labelled as "OnlyFans" or "Only Fans Leak" channels. In view of these circumstances, there is little doubt that the Respondent was aware of the Complainant and its ONLYFANS trademark at the time when he registered the disputed domain names.

With respect to use, the disputed domain names resolved to websites that presented the same or similar content as the Complainant's website. For the reasons given in Section 6.2B above, the websites give the false or at least confusing impression that they are somehow affiliated with the Complainant, and they are also operated for commercial gain. Given these circumstances, the Panel finds that the Respondent is using the disputed domain names intentionally to attract, for commercial gain, Internet users to his website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation or endorsement of the Respondent's websites or of a service on the Respondent's websites, within the terms of paragraph 4(b)(iv) of the Policy.

Therefore, the Panel finds that the disputed domain names have been registered and are being used in bad faith. The Complainant has satisfied the third element in paragraph 4(a) 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 <ofhub.gold>, <ofleaks.xyz>, <onlyLeaks.vip> and <onlyLeakz.fun> be transferred to the Complainant.

/Matthew Kennedy/

**Matthew Kennedy**

Sole Panelist

Date: October 6, 2022