

ADMINISTRATIVE PANEL DECISION

Fenix International Limited v. szentes tivadar
Case No. D2022-3462

1. The Parties

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

The Respondent is szentes tivadar, Romania.

2. The Domain Name and Registrar

The disputed domain name <onlyfansgo.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 16, 2022. On September 19 and 23, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 19, 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 (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 20, 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 September 20, 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 September 26, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 16, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 17, 2022.

On October 17, 2022, the Center received informal communications from the Respondent expressing its willingness to settle the dispute. The Complainant did not request a suspension of the procedures for settlement discussions..

The Center appointed Ada L. Redondo Aguilera as the sole panelist in this matter on November 1, 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, in this case, is Fenix International Limited a multifaceted technology company. The Company offers administration, software development, mobile app creation among other Internet services.

The Complainant owns and operates the website located at their domain name <onlyfans.com> in which they provide among other services, a social media platform that allows users to post and subscribe to audiovisual content on the Internet.

Also, the Complainant has registered their trademark rights with the European Union Intellectual Property Office (“EUIPO”), the United Kingdom Intellectual Property Office (“UKIPO”), and the United States Patent and Trademark Office (“USPTO”)

In the United States, the Complainant has registrations in International Class 35 for the ONLYFANS and ONLYFANS.COM word marks and registrations in multiple classes for the ONLYFANS word mark (“Mark”), and design mark (“Logo”) (collectively, the “Marks”).

The Complainant further owns two European Union trademark registrations for the ONLYFANS trademark and logo and two identical national trademark registrations in the United Kingdom.

EUIPO Trade Mark ONLYFANS No. EU017912377 for classes 9, 35, 38, 41, and 42; EU017946559 trademark ONLYFANS and design for classes 9, 35, 38, 41, and 42 and UKIPO Trade Mark No. UK00917912377 and UK00917946559 (device), all registered on January 9, 2019.

In the United States, USPTO Registration No. 5769267 for the ONLYFANS trademark in the class 35 and for ONLYFANS and 5769268 in class 35 for ONLYFANS.COM, both registered on June 4, 2019.

The Complainant registered its domain name <onlyfans.com> on January 29, 2013.

The disputed domain name was registered on February 27, 2022, and resolves to a website that contains adult entertainment content (including content pirated from the Complainant’s users).

5. Parties’ Contentions

A. Complainant

The Complainant argues that the disputed domain name is confusingly similar to its trademark ONLYFANS. Due to the fact that the trademark is included in its entirety with the addition of the word “go”. Also, the Complainant argues that the Respondent has no rights or legitimate interests with respect to the disputed domain name and finally, that the Respondent registered and is using the disputed domain name in bad faith.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Panel is satisfied that the Complainant has established trademark rights on the ONLYFANS trademark (the "Trademark"). The test that a panel must do in order to establish if a domain name is confusingly similar to a trademark involves the comparison between the trademark and the disputed domain name.

In this case, the disputed domain name consists in the complete inclusion of the Trademark ONLYFANS with the addition of the word "go".

The disputed domain name comprises the term "onlyfans", identical to the Complainant's registered trademark ONLYFANS.

Regarding whether the disputed domain name is identical or confusingly similar to the ONLYFANS Trademark, this Panel observes that the disputed domain name is comprised of: (a) the Complainant's Trademark ONLYFANS; (b) with the addition of the word "go" (c) followed by the generic Top-Level Domain ("gTLD") ".com".

It is also well established that where a domain name incorporates a complainant's trademark in its entirety, the domain name will be normally considered confusingly similar to that mark. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 1.7.

The disputed domain name also comprises the word "go". 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. See [WIPO Overview 3.0](#), section 1.8.

The addition of the gTLD ".com" does not have any impact on the assessment of the first element and is therefore irrelevant to determine the confusing similarity between the trademark and the disputed domain name.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, a respondent may establish rights to or legitimate interests in a domain name by demonstrating any of the following:

(i) before any notice to it of the dispute, the respondent's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or (ii) the respondent has been commonly known by the domain name, even if it has acquired no trademark or service mark rights; or (iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain, to misleadingly divert consumers, or to tarnish the trademark or service mark at issue.

Even though the Policy addresses ways in which a respondent may demonstrate rights or legitimate interests in a domain name, it is well established that, as it is put in section 2.1 of [WIPO Overview 3.0](#) that a complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests. Once such *prima facie* case is made out, the burden of production shifts to the respondent to

come forward with relevant allegations and evidence demonstrating rights or legitimate interests in the domain name. If the respondent does come forward with arguments or evidence proving its rights or legitimate interests, the panel weighs all the evidence, with the burden of proof always remaining on the complainant.

The Complainant contends that the Respondent is not commonly known by the disputed domain name or the Trademark. The Respondent has not been authorized by the Complainant to register or use the Trademark in any way including the disputed domain name. The website that is displayed on the disputed domain name does not show any *bona fide* offering of goods or services, due to the fact that what is displayed in the disputed domain name is adult entertainment content, similar to the adult entertainment content that the Complainant has in its website at <onlyfans.com>.

The Respondent had the opportunity to demonstrate its rights or legitimate interests but did not do so. In the absence of a Response from the Respondent, the *prima facie* case established by the Complainant has not been refuted by the Respondent.

In the present case, the Panel has the view that the Respondent, by using the Trademark ONLYFANS in the disputed domain name for adult entertainment content, including content pirated from the Complainant's users, affects in a negative way the trademark ONLYFANS. Such use does not constitute a *bona fide* offering goods or services or legitimate noncommercial or fair use within paragraphs 4(c)(i) and (iii) of the Policy. Regarding paragraph 4(c)(ii) of the Policy, the Panel finds that the Respondent has not been commonly known by the term "onlyfans" or the disputed domain name.

In conclusion, in this case, the Panel finds that the Complainant has made out a *prima facie* case. The Respondent has not submitted any arguments or evidence to rebut the Complainant's *prima facie* case. Furthermore, the Complainant has not authorized, licensed, or otherwise permitted the Respondent to use the ONLYFANS trademark. The Complainant doesn't have any type of relationship with the Respondent. Based on the use made of the disputed domain name to resolve to a website that contains adult entertainment services in direct competition with the Complainant's services, the Panel finds that the Respondent is not making a *bona fide* offering of goods or services nor making a legitimate noncommercial or fair use of the disputed domain name. On the contrary, the Respondent is using the Trademark in the disputed domain name to promote its website for illegitimate commercial gain. In the present case, the Respondent intentionally attempted to create a likelihood of confusion by using the disputed domain name incorporating the ONLYFANS trademark to increase Internet user traffic to its website.

Therefore, the Panel finds that the Complainant has established that the Respondent has no rights or legitimate interests in the disputed domain name. Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

This Panel finds that, based on the record, the Complainant has demonstrated the existence of the Respondent's bad faith pursuant to paragraph 4(b) of the Policy. In order to prevail under the Policy, the Complainant must demonstrate that the disputed domain name has been registered and is being used in bad faith, accordingly it is a cumulative requirement.

The Panel is satisfied that the Respondent must have been aware of the Trademark when it registered the disputed domain name as the disputed domain name contains the Complainant's widely-known Trademark in its entirety.

The Panel is aware according to the file in this case, that the Respondent registered the disputed domain name on February 27, 2022, the Complainant has used their official domain name since January 29, 2013. Therefore, from all the available evidence, the disputed domain name was registered long after the Complainant attained registered rights in the Trademark and their official website. Previous panels have consistently found that registration of a domain name that is confusingly similar to a widely-known trademark,

as is the case here, creates a presumption of bad faith. See [WIPO Overview 3.0](#), section 3.1.4.

Previous panels have found that the respondent was likely 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. In the present case, the Respondent registered the confusingly similar disputed domain name to offer services in direct competition with the Complainant in the nature of a website featuring non-downloadable video, photographs, images, and audio, in the field of adult entertainment. Here, the Respondent clearly registered the disputed domain name to divert Internet traffic from the Complainant's site to a website offering adult entertainment content in direct competition with the Complainant's website.

On the issue of registration, in light of the reputation of the Complainant's Trademark and the scope of its operations, for this Panel it is evident that the Respondent had knowledge of both the Complainant and its Trademark at the time the disputed domain name was registered. Furthermore, it is well established that when the disputed domain name is so obviously connected with a re-known trademark such as the ONLYFANS Trademark in the field of adult entertainment.

Further, the Panel finds that the use of the disputed domain name is also in bad faith due to the fact that it illegally reproduces content taken from the Complainant's website. Here the Respondent created a disputed domain name that incorporated the ONLYFANS Trademark to attempt to attract the Complainant's customers to its website by creating a likelihood of confusion with the Complainant's ONLYFANS Trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website and thus generate revenue through the unauthorized use of the ONLYFANS Trademark ([WIPO Overview 3.0](#), section 3.1.4). In addition, the Respondent's registration and use of the disputed domain name indicate that such registration and use had been done for the specific purpose of trading on the name and reputation of the Complainant and its ONLYFANS Trademark.

For all the foregoing reasons the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(iii) 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 name, <onlyfansgo.com>, be transferred to the Complainant.

/Ada L. Redondo Aguilera/

Ada L. Redondo Aguilera

Sole Panelist

Date: November 15, 2022