

ADMINISTRATIVE PANEL DECISION

Fenix International Limited v. Radoslaw Kaszak, Dom
Case No. D2022-4177

1. The Parties

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

The Respondent is Radoslaw Kaszak, Dom, Poland.

2. The Domain Name and Registrar

The disputed domain name <leak-onlyfans.com> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 4, 2022. On November 4, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 4, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.¹

The Center verified that 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 November 9, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 29, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 6, 2022.

The Center appointed Douglas Clark as the sole panelist in this matter on December 9, 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.

¹ At the time of filing the Complaint, the public Whois indicated a privacy service, PrivacyGuardian.org llc, as the registrant of the disputed domain name.

4. Factual Background

The Complainant owns and operates the website located at the domain name <onlyfans.com> and has used its domain name for several years in connection with the provision of a social media platform that allows users to post and subscribe to audiovisual content on the World Wide Web. It has over 180 million users.

The Complainant has registered rights in the trademark ONLYFANS in multiple classes with the European Union Intellectual Property Office (“EUIPO”), namely, European Union Trade Mark No. 017912377 (registered on January 9, 2019) and 017946559 (registered on January 9, 2019). The Complainant also has a registration for ONLYFANS in Class 35 in the United States of America with the United States Patent and Trademark Office (“USPTO”) (United States Registration No. 5769267 (registered on June 4, 2019)) and a registration for ONLYFANS.COM in Class 35 (United States Registration No. 5769268 (registered on June 4, 2019)).

The Complainant also registrations with the United Kingdom Intellectual Property Office (“UKIPO”) (United Kingdom Trade Mark No. UK00917912377 (registered on January 9, 2019) and UK00917946559 (registered on January 9, 2019)), and other registrations under the Madrid Protocol.

The disputed domain name <leak-onlyfans.com> was registered on June 3, 2022. At the date of the Complaint, the disputed domain name resolved to a website featuring pornography. (At the date of decision it had been suspended.)

5. Parties’ Contentions

A. Complainant

The Complainant contends that:

(a) The disputed domain name is confusingly similar to its trade mark ONLYFANS. The disputed domain name is identical to the Complainant’s ONLYFANS trade mark along with the addition of the word “leak” and a hyphen as a prefix. The use of the generic Top-Level Domain (“gTLD”) “.com” in the disputed domain name is typically irrelevant to the consideration of confusing similarity;

(b) The Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not affiliated with the Complainant in any way and the Respondent has never been granted any authorization or license to use the Complainant’s trade mark. The Respondent is not commonly known by the disputed domain name, and has not made a *bona fide* offering of goods or services or a legitimate noncommercial or fair use of the disputed domain name. The Respondent is providing downloadable images in competition with the Complainant; and

(c) The disputed domain name was registered and is being used in bad faith. The Respondent registered the disputed domain name with knowledge of the ONLYFANS mark. The Respondent is using the disputed domain name to confuse unsuspecting Internet users looking for the Complainant’s services, and to mislead Internet users as to the source of the disputed domain name and website.

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 Complainant must satisfy all three elements of paragraph 4(a) of the Policy in order to succeed in its action:

- (i) the disputed domain name is identical or confusingly similar to a trade mark 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.

A. Identical or Confusingly Similar

The Panel finds that the disputed domain name is confusingly similar to the Complainant's trade mark. The disputed domain name reproduces the ONLYFANS trade mark in its entirety along with the word "leak" and a hyphen as a prefix. The gTLD ".com" is generally disregarded when considering the first element. (See section 11.1, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)")).

The Complainant has therefore satisfied the first element under paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

The Complainant asserts that the Respondent has no business with and is in no way affiliated with the Complainant. The Respondent is not authorized nor licensed to use the Complainant's ONLY FANS trade mark or to apply for registration of the disputed domain name. There is no evidence that the Respondent is commonly known by the disputed domain name or the name "onlyfans".

Section 2.1 of the [WIPO Overview 3.0](#) provides:

"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."

The Panel finds that the Complainant has made out a *prima facie* case that the Respondent lacks rights or legitimate interests, which has not been rebutted by the Respondent. Accordingly, the Respondent has no rights or legitimate interests in regard to the disputed domain name.

The Complainant has therefore satisfied the second element under paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

Based on the given evidence, the disputed domain name was registered and is being used in bad faith.

The disputed domain name was registered long after the Complainant registered the ONLYFANS trade mark internationally which shows that the Respondent seeks to target the Complainant through the disputed domain name. The Panel finds that the Respondent has registered the disputed domain name to attract Internet users to the website at the disputed domain name for commercial gain in accordance with paragraph 4(b)(iv) of the Policy.

The pornographic material on the website that the disputed domain name resolved to establish the Respondent was likely making a commercial gain from the website by attracting users to generate click through revenue. This has been found in previous UDRP cases to constitute evidence of registration and use of a domain name in bad faith.

For the above reasons, the Panel finds that the disputed domain name was registered and is being used in bad faith.

The Complainant has therefore satisfied the third element under 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 name <leak-onlyfans.com> be transferred to the Complainant.

/Douglas Clark/

Douglas Clark

Sole Panelist

Date: December 28, 2022