

ADMINISTRATIVE PANEL DECISION

Fenix International Limited v. Apple, Thi Hua
Case No. D2023-1051

1. The Parties

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

The Respondent is Apple, Thi Hua, Viet Nam.

2. The Domain Name and Registrar

The disputed domain name <onlyfan.info> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 9, 2023. On March 9, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 9, 2023, 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 March 13, 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 amendment to the Complaint on March 13, 2023.

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 March 17, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 6, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 12, 2023.

The Center appointed Kiyoshi Tsuru as the sole panelist in this matter on May 4, 2023. 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 to which the domain name <onlyfans.com> resolves, and which is used as a social media platform that allows users to post and subscribe to audiovisual content.

The Complainant is the owner of several trademark registrations around the world, among others, the following:

Trademark	No. Registration	Jurisdiction	Date of Registration	International Classes
ONLYFANS 	017946559	European Union	January 9, 2019	9, 35, 38, 41, and 42
ONLYFANS 	UK00917946559	United Kingdom	January 9, 2019	9, 35, 38, 41, and 42
ONLYFANS	UK00917912377	United Kingdom	January 9, 2019	9, 35, 38, 41, and 42
ONLYFANS	5769267	United States	June 4, 2019	35
ONLYFANS.COM	5769268	United States	June 4, 2019	35
 OF	6918293	United States	December 6, 2022	9
 OF	6918294	United States	December 6, 2022	9
 OF	6938572	United States	January 3, 2023	38, 41, and 42

The disputed domain name <onlyfan.info> was registered on September 16, 2022. It currently resolves to a website that makes available adult content.

5. Parties' Contentions

A. Complainant

The Complainant argued the following:

That the Complainant's website to which the domain name <onlyfans.com> resolves is one of the most

popular websites in the world with over 180 million registered users. That, according to Similarweb, it is the 94th most popular website on the Internet and the 53rd most popular website in the United States.

That, since the website to which the domain name <onlyfans.com> resolves is one of the most visited websites in the world, it has become a prime target for cybersquatters wishing to profit from the goodwill that the Complainant has gained.

That the disputed domain name was registered on September 16, 2022, being that the Complainant has had previous registered rights since at least June 4, 2016, in addition to its common law rights that have been recognized by prior UDRP panels.

I. Identical or Confusingly Similar

That the disputed domain name is identical or confusingly similar to the Complainant's trademarks, since the disputed domain name consists of the Complainant's ONLYFANS trademark with the only difference being the absence of the letter "s", which does nothing to avoid confusing similarity.

That the use of the Top-Level Domain ("TLD") ".info" does not change the result in the confusing similarity analysis since it does not sufficiently distinguish the disputed domain name from the Complainant's trademark.

II. Rights or Legitimate Interests

That the Respondent has no connection to or affiliation with the Complainant, and that the Respondent has not received any authorization, license, or consent to use the Complainant's trademark in the disputed domain name, or in any other manner.

That the Respondent is not commonly known by the Complainant's trademarks and does not hold any trademark rights to the disputed domain name.

That the Complainant has achieved global fame and success in a short time, which shows that the Respondent knew of the Complainant's trademark and knew that it had no rights to, or legitimate interests in the disputed domain name.

That there is no evidence indicating that the Respondent is known by the text of the disputed domain name.

That once a complainant asserts that a respondent has no rights or legitimate interests, the burden of production then shifts to the respondent to provide concrete evidence showing rights to, or legitimate interests in the disputed domain name at hand.

That the registration and use of the disputed domain name in bad faith cannot establish rights to or legitimate interests in favor of the Respondent.

That using the disputed domain name to offer adult entertainment services, including content expressly advertised as pirated and "leaked" in direct competition with those of the Complainant, does not constitute rights or legitimate interests.

That the Respondent registered and used the disputed domain name not because it refers to, or is associated with the Respondent, but because the disputed domain name is identical or confusingly similar to the <onlyfans.com> domain name and the trademarks used by the Complainant in association with its services.

III. Registered and Used in Bad Faith

a) Registered in Bad Faith

That the disputed domain name was registered on September 16, 2022, after the Complainant secured registered rights to the trademarks, and long after the Complainant had acquired common law rights to said trademarks, which have acquired distinctiveness. That this acquired distinctiveness is so strong that the Complainant's website is among the top 100 most popular websites in the world.

That previous UDRP panels have found that the registration of a domain name that is confusingly similar to a widely known trademark may create a presumption of bad faith.

That the Complainant's trademark ONLYFANS has been recognized in numerous previous cases decided under the Policy as "internationally well known amongst the relevant public", such that the Respondent either knew or ought to have known of the Complainant's trademark, and likely registered the disputed domain name to target said trademark.

That previous UDRP 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 those of the complainant, and makes available content pirated from the Complainant's users.

That the Complainant sent a cease-and-desist letter to the Respondent on December 6, 2022, but that the Respondent did not reply, which is further evidence of bad faith.

That the Respondent registered the disputed domain name to divert Internet traffic from the Complainant's website to a website offering adult entertainment content (including content pirated from the Complainant's users).

b) Used in Bad Faith

That since the Complainant's trademarks are well-recognized, bad faith should be found.

That use in bad faith is found where a disputed domain name directs users to a commercial website that offers goods and services in direct competition with those of the trademark owner.

That the Respondent's attempts to attract, for commercial gain, Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's trademark as to the source, affiliation, or endorsement of the disputed domain name, constitutes bad faith use.

B. Respondent

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

6. Discussion and Findings

In accordance with paragraph 4(a) of the Policy, the Complainant is required to prove that each of the three following elements is satisfied:

- (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 was registered and is being used in bad faith.

Given the Respondent's failure to submit a formal Response, the Panel may decide this proceeding based on the Complainant's undisputed factual allegations under paragraphs 5(f), 14(a), and 15(a) of the Rules, (see *Joseph Phelps Vineyards LLC v. NOLDC, Inc., Alternative Identity, Inc., and Kentech*, WIPO Case No. [D2006-0292](#)).

A. Identical or Confusingly Similar

The Complainant has filed evidence showing that it owns registrations for the trademark ONLYFANS, among others, in the United States, the European Union, the United Kingdom, as well as international registrations.

This disputed domain name is confusingly similar to the Complainant's trademark ONLYFANS, as it incorporates it entirely, with the omission of the letter "s", which does not eliminate the confusing similarity (see sections 1.7 and 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"); see also *Fenix International Limited v. Yusuf Massa*, WIPO Case No. [D2022-3445](#)).

The addition of the gTLD ".info" to the disputed domain name constitutes a technical requirement of the Domain Name System ("DNS"), and as such may be disregarded under the first element confusing similarity test (see section 1.11.1 of the [WIPO Overview 3.0](#)).

In light of the above, the first element of the Policy has been met.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets forth the following examples as circumstances where a respondent may have rights or legitimate interests in the disputed domain name:

- (i) before any notice to the respondent of the dispute, the use by the respondent 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 it did not acquire 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.

The Complainant has asserted that there is no relationship between the Complainant and the Respondent, that it has not granted any authorization, license, or consent to the Respondent to use its trademark ONLYFANS in the disputed domain name, and that the Respondent has not been commonly known by the disputed domain name (see *Beyoncé Knowles v. Sonny Ahuja*, WIPO Case No. [D2010-1431](#); and *Six Continents Hotels, Inc. v. IQ Management Corporation*, WIPO Case No. [D2004-0272](#)). The Respondent did not contest these allegations.

The Panel agrees with previous panels appointed under the Policy, in that the ONLYFANS trademark is well known (see *Fenix International Limited c/o Walters Law Group v. Andrei Ivanov*, WIPO Case No. [D2021-1284](#); *Fenix International Limited c/o Walters Law Group v. Marius*, WIPO Case No. [D2021-1340](#); *Fenix International Limited c/o Walters Law Group v. Dilshan Omantha*, WIPO Case No. [DCC2021-0002](#); *Fenix International Limited v. Withheld for Privacy Purposes, Privacy service provided by Withheld for Privacy ehf / Brent Harracksingh*, WIPO Case No. [D2021-1337](#); *Fenix International Limited v. Datos privados*, WIPO Case No. [D2021-1306](#); *Fenix International Limited v. Withheld for Privacy Purposes, Privacy service provided by Withheld for Privacy ehf / Andrei Ivanov*, WIPO Case No. [D2021-1339](#); *Fenix*

International Limited v. Kiril Kirilov, WIPO Case No. [D2021-0853](#); *Fenix International Limited c/o Walters Law Group v. Juan Anton, Onlyfanx*, WIPO Case No. [D2021-0837](#); *Fenix International Limited v. WhoisGuard Protected, WhoisGuard, Inc / Genadiy Ivanov*, WIPO Case No. [D2021-0828](#); *Fenix International Limited v. WhoisGuard Protected, WhoisGuard, Inc. / kadene wignall*, WIPO Case No. [D2021-0825](#); *Fenix International Limited c/o Walters Law Group v. Danesco Trading Ltd. / AVO Ltd AVO Ltd*, WIPO Case No. [D2021-0863](#); *Fenix International Limited v. WhoisGuard Protected, WhoisGuard, Inc. / Yazid Laiss / Stive Belb / Ahmed Bel Bouahli*, WIPO Case No. [D2021-0152](#); *Fenix International Limited c/o Walters Law Group v. WhoisGuard, Inc., WhoisGuard Protected / Marry Mae Cema*, WIPO Case No. [D2021-0327](#); *Fenix International Limited v. Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2020-3447](#); *Fenix International Limited v. Tuncay Karatas, Skalonga Event*, WIPO Case No. [D2021-0132](#); and *Fenix International Limited v. Perfect Privacy, LLC/ Chad Moston, Speedplexer*, WIPO Case No. [D2020-1162](#)).

The disputed domain name is confusingly similar to the Complainant's trademark ONLYFANS, which suggests that the Respondent has targeted the Complainant to offer content that was apparently reproduced from materials that were initially uploaded by users of the Complainant to the Complainant's portal without their consent, which conduct cannot be considered as a legitimate noncommercial or fair use of the disputed domain name (see section 2.4 of the [WIPO Overview 3.0](#); see also *Multi Media, LLC v. Domain Admin, Privacy Protect, LLC (PrivacyProtect.org) / John Holmes*, WIPO Case No. [D2020-1213](#): "The Panel further finds that the Respondent's use of the Complainant's trademark in the disputed domain name and on Respondent's website, to provide free of charge what appears to be content that was originally uploaded to the Complainant's website, does not amount to a legitimate noncommercial or fair use of the disputed domain name pursuant to paragraph 4(c)(iii) of the Policy.").

The making available on the website to which the disputed domain name resolved, of content apparently taken from the Complainant's portal (created by users of the Complainant's site) without authorization, cannot be deemed as a *bona fide* offering of goods and services (see *Fenix International Limited v. Withheld for Privacy Purposes, Privacy Service Provided by Withheld for Privacy ehf / Marius Pop*, WIPO Case No. [D2021-2715](#)).

The consensus view among panels appointed under the Policy is that the use of a domain name for illegal activity, such as the unauthorized reproduction of copyrighted material, cannot confer rights to, or legitimate interests in a domain name (see section 2.13 of the [WIPO Overview 3.0](#); see also *Self-Portrait IP Limited v. Franklin Kelly*, WIPO Case No. [D2019-0283](#); and *Take-Two Interactive Software, Inc. v. AmarildoDomi*, WIPO Case No. [D2013-0608](#): "(a) the Respondent is offering the genuine Grand Theft Auto version 5 software, presumably a beta version, notwithstanding the Complainant's denial of its existence. If so, however, the making available of a copy for download would plainly be a copyright infringement in nearly all, if not all, countries in the world and this could never amount to a legitimate interest in the Complainant's trademark for purposes of the Policy.").

The Complainant has made a *prima facie* case asserting that there is no evidence of the Respondent's use of the disputed domain name in connection with a *bona fide* offering of goods or services and that the Respondent has not been commonly known by the disputed domain name. The Respondent has not submitted evidence to rebut the Complainant's *prima facie* case.

Thus, the second element of the Policy has been fulfilled.

C. Registered and Used in Bad Faith

According to paragraph 4(b) of the Policy, the following circumstances, in particular but without limitation, shall be evidence of registration and use in bad faith:

- (i) circumstances indicating that the respondent has registered or the respondent 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 of a competitor; or
- (iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its 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 its website or location.

As noted above, the Complainant has filed evidence showing that it owns registrations for the trademark ONLYFANS, among others, in the United States, the European Union, the United Kingdom, as well as international registrations.

The fact that the Respondent registered the disputed domain name, which includes the well-known trademark ONLYFANS (with the omission of the letter "s"), and the fact that the website to which the disputed domain name resolved apparently displayed illegally reproduced or "leaked" content that portrays a watermark of the Complainant's website, shows that the Respondent has targeted the Complainant's trademark, and suggests opportunistic bad faith (see section 3.2.1 of the [WIPO Overview 3.0](#); see also *L'Oréal v. Contact Privacy Inc. Customer 0149511181 / Jerry Peter*, WIPO Case No. [D2018-1937](#); *Gilead Sciences Ireland UC / Gilead Sciences, Inc. v. Domain Maybe For Sale c/o Dynadot*, WIPO Case No. [D2019-0980](#); *Dream Marriage Group, Inc. v. Romantic Lines LP, Vadim Parhomchuk*, WIPO Case No. [D2020-1344](#); *Valentino S.p.A. v. Qiu Yufeng, Li Lianye*, WIPO Case No. [D2016-1747](#); and *Landesbank Baden-Württemberg (LBBW) v. David Amr*, WIPO Case No. [D2021-2322](#): "Given the distinctiveness of the Complainant's trademark, it is reasonable to infer that the Respondent has registered the Disputed Domain Name with full knowledge of the Complainant's trademarks, constituting opportunistic bad faith. The Panel finds it hard to see any other explanation than that the Respondent knew of the Complainant's well-known trademark.").

Previous panels appointed under the Policy have found that the mere registration by an unauthorized party of a domain name that is identical or confusingly similar to a well-known trademark can, under certain circumstances, create a presumption of bad faith in itself (see section 3.1.4 of the [WIPO Overview 3.0](#), see also *Toyota Jidosha Kabushiki Kaisha d/b/a Toyota Motor Corporation; Toyota Motor Sales, U.S.A., Inc. and Toyota Motor Sales De Mexico, S. De R.L. de C.V. v. Salvador Cobian*, WIPO Case No. [DMX2001-0006](#); and *Ferrari S.p.A. v. Ms. Lee Joohee (or Joo-Hee)*, WIPO Case No. [D2003-0882](#)). This is so in the present case.

Moreover, according to the evidence submitted by the Complainant and not contested by the Respondent, the disputed domain name resolved to a website that apparently reproduced and made available, without authorization, content that seems to have been taken from the Complainant's platform, and which had been uploaded to said platform by the Complainant's users. Therefore, this Panel considers that the Respondent tried to capitalize on the reputation and goodwill of the Complainant's trademark by misleading Internet users, for commercial gain, to the website at the disputed domain name, by creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the disputed domain name and the website to which it resolved, which constitutes bad faith under paragraph 4(b)(iv) of the Policy (see section 3.1.4 of the [WIPO Overview 3.0](#); see also *Fontem Holdings 4, B.V. v. J- B-, Limestar Inc.*, WIPO Case No. [D2016-0344](#); *Archer-Daniels-Midland Company v. Wang De Bing*, WIPO Case No. [D2017-0363](#); and *Merck Sharp & Dohme Corp. v. Domain Administrator, PrivacyGuardian.org / George Ring, DN Capital Inc.*, WIPO Case No. [D2017-0302](#)).

The abovementioned facts show that not only the Respondent registered the disputed domain name in bad faith, but also, that the Respondent has used the disputed domain name in bad faith.

Therefore, the third element of the Policy has been proven.

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 <onlyfan.info> be transferred to the Complainant.

/Kiyoshi Tsuru/

Kiyoshi Tsuru

Sole Panelist

Date: May 24, 2023