

## **ADMINISTRATIVE PANEL DECISION**

Fenix International Limited v. Ittipat Soothipa, Ittipat Soothipan  
Case No. D2023-1076

### **1. The Parties**

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

The Respondents are Ittipat Soothipa, Thailand and Ittipat Soothipan, Thailand (together the “Respondent”).

### **2. The Domain Names and Registrar**

The disputed domain names <onlyfans24.co> and <onlyfans24.net> are registered with GoDaddy.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 10, 2023. On March 10, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On March 13, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Registrations Private, Domains by Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 11, 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 April 12, 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 April 14, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 4, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 9, 2023.

The Center appointed Alistair Payne as the sole panelist in this matter on May 15, 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 located at <onlyfans.com> and has used it for several years in connection with the provision of a social media platform that allows users to post and subscribe audiovisual content and in particular adult entertainment content. It has more than 180 million registered users and according to Similarweb, it is the 94th most popular website globally and the 53th most popular website in the United States.

The Complainant owns numerous trade mark registrations for ONLYFANS including European Union Trade Mark registration 017912377 registered on January 9, 2019 and United States Trade Mark registration 5,769,267 registered on June 4, 2019.

The Respondent registered the disputed domain names on July 31, 2021 and October 22, 2022 respectively. Each of the disputed domain names resolves to a website that offers adult entertainment content.

#### **5. Parties' Contentions**

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

The Complainant has requested that the cases in relation to each of the disputed domain names, which according to the WHOIS information were registered by the same registrar and use the same privacy service, should be consolidated. It says that all the evidence suggests that the registrants of the disputed domain names are either one and the same person, entity, or network, or are somehow connected to each other and are under common control aimed at intentionally infringing the Complainant's marks and harming consumers. The Complainant submits that both disputed domain names were registered via GoDaddy.com, LLC and contain the same structure (that is, the ONLY FANS mark plus the number "24" and a Top-Level Domain). Further, says the Complainant, the <onlyfans24.net> disputed domain name is set to permanently redirect to the other disputed domain name. Thus, submits the Complainant, it is more likely than not the disputed domain names are subject to common ownership or control and based the circumstances that it is procedurally efficient and fair and equitable to consolidate the cases.

The Complainant submits that it owns registered trade mark rights for its ONLYFANS trade mark as set out above and that each of the disputed domain names wholly incorporate its ONLYFANS trade mark and are identical to this mark other than the inclusion of the numeral "24" and the respective generic Top-Level Domain ("gTLD") which should not be taken into account in the test for confusing similarity. The Complainant submits that the addition of "24" to the disputed domain names do not prevent a finding of confusing similarity.

The Complainant submits that the Respondent has no connection or affiliation with the Complainant and has not received any authorisation, licence, or consent, whether express or implied, to use the ONLYFANS trade mark in each of the disputed domain names, or in any other manner and that the Respondent is not commonly known by the ONLYFANS trade marks and owns no trade mark registrations for the disputed domain names.

The Complainant also notes that the website at each of the disputed domain names offers adult entertainment services (including content blatantly pirated from the Complainant's users) that is in direct competition with the Complainant's services, including "providing entertainment services ... in the nature of a website featuring non-downloadable video, photographs, images, audio, and ... in the field of adult entertainment". It says that using a disputed domain name to host commercial websites that advertise goods

and services in direct competition with the trade mark owner does not give rise to legitimate rights or interests.

The Complainant also notes that the website at each of the disputed domain names contains a logo that is virtually identical to the Complainant's registered trade mark logo. It says that the Respondent has mimicked the Complainant's padlock device logo trade mark by using the same color scheme and similar typeface to create an "OnlyFans24" logo and notes that the Respondent's padlock is in an unlocked state while the authentic logo displays a locked padlock. The Complainant says that the Respondent's choice of an unlocked padlock further evidences the Respondent's bad faith in that it is providing free or "unlocked" access to the Complainant's users' material. In summary the Respondent registered and used the disputed domain names not because they refer to or are associated with the Respondent, but because the disputed domain names are identical or confusingly similar to the domain name and trade marks used by the Complainant in association with the Complainant's services.

As far as registration in bad faith is concerned, the Complainant submits that the disputed domain names were registered respectively on July 31, 2021 and on October 22, 2022, long after the Complainant had attained registered rights in the ONLYFANS trade mark and long after the Complainant had first used its marks and acquired common law rights in them. It says that the acquired distinctiveness attaching to its ONLYFANS mark is so strong that the Complainant's website is among the top 100 most popular websites in the world.

The Complainant notes that previous panels have consistently found that registration of a domain name that is confusingly similar to a widely-known trade mark creates a presumption of bad faith (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 3.1.4) It says that, as in this case, the Complainant's trade marks have been recognised in numerous previous UDRP proceedings as being "internationally well-known amongst the relevant public" such that the Respondent either knew or ought to have known of the Complainant's trade marks and most likely registered the disputed domain names in order to target the Complainant's trade marks. It is more probable than not, says the Complainant, that the Respondent was fully aware of the Complainant and its ONLYFANS mark at the time of registration particularly in the circumstances that the website features a logo that is similar to the Complainant's ONLY FANS logo".

According to the Complainant, bad faith registration has also been found where the disputed domain name includes the complainant's mark and an additional word that enhances the likelihood of confusion with the Complainant and thereby suggests that the website at the disputed domain name is authorised by the Complainant to provide access to the Complainant's services. In this case, says the Complainant, bad faith registration should be found, since the Respondent used the Complainant's ONLY FANS mark and the additional term "24" within each of the disputed domain names, which only enhances the likelihood of confusion by suggesting 24-hour free access to the official ONLYFANS website. It also asserts that the Respondent registered the confusingly similar disputed domain names in order to offer services in direct competition with the Complainant (including content pirated from the Complainant's users), including by providing entertainment services in the nature of a website featuring non-downloadable video, photographs, images, audio and in the field of adult entertainment.

The Complainant says that it sent a cease-and-desist letter to the Respondent on December 16, 2022, demanding that the Respondent stop using and cancel the disputed domain names. The Respondent did not respond, thus necessitating the filing of this Complaint and the Respondent's failure to respond to this correspondence is further evidence of bad faith. Further, says the Complainant, the Respondent hid from the public behind a Whois privacy wall. According to the Complainant, a respondent's use of a privacy service, combined with a failure to submit a response, is additional evidence of bad faith registration.

The disputed domain names resolve to a commercial website that offers adult entertainment content (including content pirated from the Complainant's users) in direct competition with the Complainant's services, including by providing entertainment services in the nature of a website featuring non-downloadable video, photographs, images, audio in the field of adult entertainment. This says the

Complainant is indicative of bad faith in terms of paragraph 4(b)(iv) of the Policy and that using a logo on the website to which the disputed domain names resolves, that is similar to the Complainant's ONLYFANS logo, is further evidence of bad faith use as is using a similar browser icon, color scheme and fonts, and logo.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **A. Consolidation**

The Registrar confirmed upon verification that both the disputed domain names were registered using the same email address. The Panel finds that Ittipat Soothipa and Ittipat Soothipan are the same person and that the disputed domain names are subject to common ownership.

### **B. Identical or Confusingly Similar**

The Complainant has demonstrated that it owns numerous trade mark registrations for its ONLYFANS mark including European Union Trade Mark registration 017912377 registered on January 9, 2019 and United States trade mark registration 5,769,267 registered on June 4, 2019. Each of the disputed domain names wholly incorporate this mark into them and are therefore confusingly similar to the Complainant's registered trade mark rights under the Policy. The addition in each of the disputed domain names of the numeral "24" does not prevent a finding of confusing similarity. Accordingly, the Panel finds that each of the disputed domain names are confusingly similar to the Complainant's registered trade mark rights and as a result the Complaint succeeds under this element of the Policy.

### **C. Rights or Legitimate Interests**

The Complainant has submitted that the Respondent has no connection or affiliation with the Complainant and has not received any authorisation, licence, or consent, whether express or implied, to use the ONLY FANS trade mark in each of the disputed domain names, or in any other manner and that the Respondent is not commonly known by the ONLY FANS trade marks and owns no trade mark registrations for the disputed domain names.

The disputed domain names resolve to the same website that offers adult entertainment services (including content that the Complainant alleges is pirated from its users) and that appears to be in direct competition with the Complainant's services (even if aimed at Thai language users as discussed under Part C below), including the provision of non-downloadable video, photographs, images, audio, and in the nature of adult entertainment. The Complainant has also asserted that the website to which each of the disputed domain names resolve contains a logo that is virtually identical to the Complainant's registered trade mark for its logo (United States registration number 6253475 and International registration number 1509110) and that the Respondent has mimicked the Complainant's padlock device logo trade mark by using the same color scheme and similar typeface to create an "OnlyFans24" logo, the only difference appearing to be that the padlock logo on the website to which each of the disputed domain names resolve is unlocked.

In these circumstances the Panel finds that the Complainant has made out a *prima facie* case that the Respondent has no rights or legitimate interests in each of the disputed domain names. The Respondent has failed to respond to or to rebut the Complainant's case or to explain her conduct and the Panel therefore finds that the Complaint also succeeds under this element of the Policy.

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

The disputed domain names were registered after the registration of the Complainant's ONLYFANS trade

mark. The Respondent appears to be based in Thailand and the website to which both of the disputed domain names resolve is in the Thai language and to all intents and purposes could appear to Internet users as being a Thai language version of the Complainant's website.

The Complainant's ONLY FANS trade mark enjoys a considerable degree of international renown with more than 180 million registered users and according to Similarweb it is the 94th most popular website globally and the 53th most popular website in the United States. Further, the ONLYFANS mark is a coined term and a distinctive mark and the use on the website to which each of the disputed domain names resolve mimics the Complainant's trademark (design), strongly suggests that the Respondent was well aware of the Complainant's mark and business when it registered each of the disputed domain names and that their registration was not a coincidence.

Under paragraph 4(b)(iv) of the Policy there is evidence of registration and use of the disputed domain name in bad faith where a Respondent has used the disputed domain name to intentionally attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trade marks as to the source, sponsorship, affiliation or endorsement of the website.

The Respondent has blatantly used each of the disputed domain names, incorporating as they do the Complainant's ONLY FANS mark, to resolve to a website which not only feature the Complainant's ONLY FANS mark but also versions of its registered padlock logo and which offer very similar sorts of adult content to that provided by the Complainant through its website, even if this appears to be aimed at Thai speaking users. This conduct is obviously calculated to confuse internet users into erroneously thinking that the website at each of the disputed domain names is either provided by the Complainant or is affiliated with it or endorsed by it. The disputed domain names are obviously being used by the Respondent to drive traffic to its website for its own commercial benefit which fulfills the requirements of paragraph 4(b)(iv) of the Policy and amounts to evidence of registration and use of each of the disputed domain names in bad faith. The Respondent's use of a privacy service in an attempt to mask its identity in relation to each of the disputed domain names and its failure to respond to the Complainant's cease and desist letter sent in December 2022 only reinforces the Panel's view of the Respondent's use of both the disputed domain names in bad faith.

Accordingly, the Panel finds that each of the disputed domain names has been registered and used in bad faith and that the Complaint also succeeds under this element 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 <onlyfans24.co> and <onlyfans24.net> be transferred to the Complainant.

*/Alistair Payne/*

**Alistair Payne**

Sole Panelist

Date: May 29, 2023