

ADMINISTRATIVE PANEL DECISION

Fenix International Limited v. Advena Inc

Case No. D2023-1348

1. The Parties

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

The Respondent is Advena Inc, United States.

2. The Domain Name and Registrar

The disputed domain name <twonlyfans.com> is registered with Moniker Online Services, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 29, 2023. On March 29, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 31, 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 (Moniker Privacy Services) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 3, 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 4, 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 6, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 26, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 28, 2023.

The Center appointed Angela Fox as the sole panelist in this matter on May 10, 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 an adult entertainment website at the domain name <onlyfans.com>. The Complainant registered the domain name <onlyfans.com> on January 29, 2013 and has been using it to host adult content since at least 2016. The Complainant's website has more than 180 million registered users, and independent website rankings show it as the 94th most popular website on the World Wide Web, and the 53rd most popular website in the United States.

The Complainant's website is operated under the name and trademark ONLY FANS, for which the Complainant owns registered trademark rights in countries around the world. Annexed to the Complaint were details of the Complainant's trademark registrations for ONLYFANS in plain and stylized form, including the following:

- European Union trademark registration no. 17946559 for ONLYFANS Logo in Classes 9, 35, 38, 41 and 42, filed on August 22, 2018, and registered on January 9, 2019;
- European Union trademark registration no. 17912377 for ONLYFANS in Classes 9, 35, 38, 41 and 42, filed on June 5, 2018 and registered on January 9, 2019;
- United Kingdom trademark registration no. 917912377 for ONLYFANS in Classes 9, 35, 38, 41 and 42, filed on June 5, 2018, and registered on January 9, 2019;
- United Kingdom trademark registration no. 917946559 for ONLYFANS Logo in Classes 9, 35, 38, 41 and 42, filed on August 22, 2018, and registered on January 9, 2019; and
- United States trademark registration no. 5,769,267 for ONLYFANS in Class 35 filed on October 29, 2018, and registered on June 4, 2019.

The disputed domain name was registered on November 7, 2022. It links to a website which is headed "TW ONLYFANS" and which features adult content, including adult content pirated from the Complainant's website.

5. Parties' Contentions

A. Complainant

The Complainant submits that the disputed domain name is identical or confusingly similar to its registered trademark, ONLYFANS. The disputed domain name consists of the Complainant's ONLYFANS mark preceded by the initials "tw", which the Complainant submits does not avoid confusing similarity. The Complainant submitted website printouts showing that the Respondent's website includes links to other domains that combine "tw" with other third-party trademarks and generic terms, including "TW TikToks", "TW Pornstars" and "TW Muscle Gays."

The Complainant further submits that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent has no connection or affiliation with the Complainant and is not authorised or licensed, whether expressly or impliedly, to use the Complainant's mark in the disputed domain name or in any other manner. The Respondent is not commonly known by a name corresponding to the disputed domain name and does not hold any trademark rights in it. The Respondent's website offers adult entertainment services including content pirated from users of the Complainant, in direct competition with the Complainant. The Complainant asserts that such use does not give rise to rights or legitimate interests, because it gives a false impression that the Respondent's website is associated with or endorsed by the Complainant (see *inter alia Fenix International Limited v. WhoisGuard Protected, WhoisGuard Inc. / Genadiy Ivanov*, WIPO Case No. [D2021-0828](#)).

Finally, the Complainant submits that the disputed domain name was registered and has been used in bad faith. The Complainant contends that the Respondent was aware of and was targeting the Complainant when it registered the disputed domain name, and has used it to divert Internet traffic from the Complainant's website to a website offering similar adult entertainment content, including content pirated from the Complainant's users, in direct competition with the Complainant's website.

B. Respondent

The Respondent did not reply to the Complainant's contentions and is in default. No exceptional circumstances explaining the default have been put forward. Therefore, in accordance with paragraphs 14 (a) and (b) of the Rules, the Panel will decide the Complaint and shall draw such inferences as it considers appropriate from the Respondent's default.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, a complainant can only succeed in an administrative proceeding under the Policy if the panel finds that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) the respondent has no rights or legitimate interests in the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

All three elements must be present before a complainant can succeed in an administrative proceeding under the Policy.

A. Identical or Confusingly Similar

The disputed domain name is <twonlyfans.com>, whereas the Complainant's registered trademark is ONLYFANS. The Top-Level Domain ".com" may be disregarded for the purpose of assessing confusing similarity (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.11), leaving the comparison here as between "twonlyfans" and ONLYFANS.

The disputed domain name contains the Complainant's registered trademark in its entirety, preceded by the initials "tw". Under [WIPO Overview 3.0](#), section 1.7, "This test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name. (This may also include recognizability by technological means such as search engine algorithms.)"

Taking that into account, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

The Complainant has never authorized the Respondent to use its trademarks, nor is there any evidence that the Respondent has ever been commonly known by the disputed domain name or has acquired any trademark rights in it.

The Complainant has provided evidence that the Respondent has used the disputed domain name in connection with a website which appears, for commercial gain, to be offering adult entertainment content of the same kind as that offered by the Complainant under its ONLYFANS trademark; the Complainant says moreover that this content includes content that was pirated from its users, and the Respondent has not

denied that assertion. In the Panel's view, this is not a *bona fide* offering of services under the disputed domain name such as to confer on the Respondent a legitimate right or interest in it. The Respondent is making unauthorized use of the Complainant's registered ONLYFANS trademark in a clear and recognizable capacity on its website, and the Panel agrees that such use does not give rise to rights or legitimate interests, because it gives a false impression that the Respondent's website is associated with or endorsed by the Complainant (see *inter alia Fenix International Limited v. WhoisGuard Protected, WhoisGuard Inc. / Genadiy Ivanov*, WIPO Case No. [D2021-0828](#)).

The Respondent has made no attempt to prove that its activities give rise to a right or legitimate interest in the disputed domain name, or that it is otherwise entitled to such a right or legitimate interest.

The Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

Para 4(b) of the Policy sets out a number of circumstances which, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Under paragraph 4(b)(iv) in particular, the Panel may find both registration and use in bad faith where there is evidence that by using the domain name, a 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 a 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 it.

In this case, the Complainant has shown evidence that the Respondent has used the disputed domain name in connection with a website offering the same type of adult entertainment content as offered by the Complainant under its ONLYFANS trademark, and has been making unauthorized use of the Complainant's ONLYFANS trademark on that website, in a clear and recognizable manner. The Complainant alleges moreover that the Respondent's website included content pirated from the Complainant's users. Overall, the Panel considers that such activities amount to intentional use of the disputed domain name to attract, for commercial gain, Internet users to an online location of the Respondent. The Respondent has not responded to the Complaint and has made no effort to rebut the allegations against it.

The Panel finds that the disputed domain name was registered and has been used in bad faith.

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 <twonlyfans.com> be transferred to the Complainant.

/Angela Fox/

Angela Fox

Sole Panelist

Date: May 24, 2023