

ADMINISTRATIVE PANEL DECISION

Fenix International Limited v. Frank Bekkenbower
Case No. D2023-2216

1. The Parties

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

The Respondent is Frank Bekkenbower, Morocco.

2. The Domain Name and Registrar

The disputed domain name <freeonlyfansthai.com> is registered with Web Commerce Communications Limited dba WebNic.cc (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on May 22, 2023. On May 23, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 23, 2023, 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.

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 May 25, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 14, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 16, 2023.

The Center appointed Tao Sun as the sole panelist in this matter on June 26, 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 is the operator of the website located at the domain name <onlyfans.com> and has used the 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.

The Complainant owns trademark registrations worldwide for ONLYFANS and/or ONLYFANS.COM, etc. In particular, the Complainant is the owner of the following trademarks registered well before the registration of the disputed domain name:

- European Union trademark ONLYFANS No. EU017912377, registered on January 9, 2019, designating goods/services in International classes 9, 35, 38, 41 and 42;
- European Union trademark ONLYFANS logo No. EU017946559, registered on January 9, 2019, designating goods/services in International classes 9, 35, 38, 41 and 42;
- The United Kingdom trademark ONLYFANS No. UK00917912377, registered on January 9, 2019, designating goods/services in International classes 9, 35, 38, 41 and 42;
- The United Kingdom trademark ONLYFANS logo No. UK009117946559, registered on January 9, 2019, designating goods/services in International classes 9, 35, 38, 41 and 42;
- The United States trademark ONLYFANS No. 5769267, registered on June 4, 2019, designating services in International class 35;
- The United States trademark ONLYFANS.COM No. 5769268, registered on June 4, 2019, designating services in International class 35;
- The United States trademark ONLYFANS No. 6253455, registered on January 26, 2021, designating goods/services in International classes 9, 35, 38, 41, 42;
- The United States trademark ONLYFANS logo No. 6253475, registered on January 26, 2021, designating goods/services in International classes 9, 35, 38, 41, 42;
- International trademark ONLYFANS No. 1507723, registered on November 2, 2019, designating goods/services in International classes 9, 35, 38, 41 and 42;
- International trademark ONLYFANS logo No. 1509110, registered on November 2, 2019, designating goods/services in International classes 9, 35, 38, 41 and 42.

The Complainant is the owner of domain name <onlyfans.com>, which was registered on January 29, 2013. It is one of the most popular websites in the world. According to the statistic of Similarweb, it is the 94th most popular website on the World Wide Web, and it is the 53th most popular website in the United States.

The disputed domain name was registered on January 24, 2023. The website at the disputed domain name offers adult entertainment services including the audiovisual contents. In the website, the terms of “onlyfans”, “Free Onlyfans Thai”, “Thai Onlyfans” and “Free Onlyfans Thai”, are widely used.

5. Parties' Contentions

A. Complainant

The Complainant submits that the disputed domain name is legally identical or at the very least confusingly similar to the Complainant's earlier registered trademarks for ONLYFANS and ONLYFANS.COM.

The Complainant asserts that the Respondent has neither rights nor legitimate interests in the disputed domain name since (1) the Respondent has no connection or affiliation with the Complainant and has not received any authorization, license, or consent to use the Complainant's trademarks in the disputed domain name; (2) No evidence indicates that the Respondent is known by the text of the disputed domain name; and (3) the disputed domain name is used to host commercial website that provide adult contents which is in direct competition with the Complainant's business. 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 trademarks used by the Complainant. Such use does not give rise to rights or legitimate interests to the Respondent.

The Complainant contends that the Respondent has registered and is using the disputed domain name in bad faith, since (1) the disputed domain name was registered long after the registration and use of the Complainant's trademarks; (2) the Complainant's trademarks have been recognized in numerous previous UDRP proceedings as "internationally well-known amongst the relevant public" such that the Respondent either knew or ought to have known of the Complainant's trademarks; (3) the Respondent was likely aware of the Complainant's trademark rights when it registered a confusingly similar domain name and operated a website that provides adult contents which are in direct competition with the Complainant;

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy lists three elements, which the Complainant must satisfy in order to succeed:

- (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 has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Panel finds that the Complainant owns the trademark ONLYFANS by registration. The disputed domain name contains the trademark ONLYFANS, with the addition of terms "free" and "thai" before and after the trademark. It has been widely recognized that "[W]here 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 of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8). In this case, addition of the terms "free" and "thai" does not prevent the finding of confusing similarity.

The Panel therefore finds that the requirement of paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

Though the Policy requires the Complainant to prove all three elements of paragraph 4(a) have been met, it nevertheless has been widely recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of "providing negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, once the Complainant makes a *prima facie* case that the Respondent lacks rights or legitimate interests, the burden of production shifts to the Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the

disputed domain name. If the Respondent fails to demonstrate rights or legitimate interests in the disputed domain name in accordance with paragraph 4(c) of the Policy or on any other basis, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy (see [WIPO Overview 3.0](#), section 2.1).

The Panel maintains that the Complainant has established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name for the following reasons:

- (i) the Complainant asserts that the Respondent has no connection or affiliation with the Complainant and has not received any authorization, license, or consent to use the Complainant's trademarks in the disputed domain name;
- (ii) there is no evidence showing that the Respondent is known by or in any way associated with the disputed domain name;
- (iii) the Respondent is using the disputed domain name to provide adult contents which is in competition with the business of the Complainant. Moreover, the terms of "free onlyfans thai", "onlyfans thai", and "thai onlyfans", are widely used in the website of the Respondent. Such uses are neither *bona fide* offering of goods or services conferring rights or legitimate interests on the Respondent, nor making a legitimate noncommercial or fair use of the disputed domain name;
- (iv) Composition of the disputed domain name carries a risk of implied affiliation.

Now the burden of production shifts to the Respondent, who however did not present any evidence of any rights or legitimate interests it may have in the disputed domain name and therefore fails to meet this burden.

As such, the Panel finds that the requirement of paragraph 4(a)(ii) of the Policy is satisfied in this case.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that "[...] for the purposes of paragraph 4(a)(iii) of the Policy, the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that [the Respondent has] registered or 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 the Complainant, for valuable consideration in excess of its documented out-of-pocket costs directly related to the domain name; or
- (ii) that [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) that [the Respondent has] registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the domain name, [the Respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the Respondent's] 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 [the Respondent's] website or location".

Panels have consistently found that mere registration of a domain name that is confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith (see [WIPO Overview 3.0](#), section 3.1.4). In this case, since the ONLYFANS mark is famous, the Panel finds that the

Respondent likely knew of the Complainant and deliberately registered the disputed domain name in bad faith.

The disputed domain name resolves to a website providing adult contents, which is in direct competition with the Complainant's business. Moreover, as shown by the evidence of the Complainant, the Respondent is actively using terms such as "Free Onlyfans Thai", "Free Onlyfans", etc. in the website of the disputed domain name, which confirms that the Respondent seeks to target the Complainant's trademark on the website. Such uses are apparently seeking to cause confusion for the Respondent's commercial benefits and thus constitutes bad faith in accordance with paragraph 4(b)(iv) of the Policy.

The Panel therefore concludes that the requirement of paragraph 4(a)(iii) of the Policy is also satisfied in this case.

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 <freeonlyfansthai.com> be transferred to the Complainant.

/Tao Sun/

Tao Sun

Sole Panelist

Date: July 7, 2023