

## **ADMINISTRATIVE PANEL DECISION**

Fenix International Limited v. sergeyyarkov

Case No. D2023-2615

### **1. The Parties**

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

The Respondent is sergeyyarkov, Russian Federation.

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

The disputed domain name <slivyonlyfans.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 17, 2023. On June 19, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 20, 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 (Domain Admin, Privacy Protect, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 20, 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 June 21, 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 June 26, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 16, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 20, 2023.

The Center appointed Emre Kerim Yardimci as the sole panelist in this matter on August 8, 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 a technology company operating a social media platform that allows users to post and subscribe to audiovisual content.

This platform is located at the Complainant's website "www.onlyfans.com". As of end of 2022, the Complainant has more than 180 million registered users.

The Complainant is the owner of numerous ONLYFANS trademark registrations, including:

- the European Union Trademark Registration ONLYFANS No. 017912377 registered on January 9, 2019;
- the United States Trademark Registration ONLYFANS No. 5769267 registered on June 4, 2019;
- the International Trademark Registration ONLYFANS No. 1507723 registered on November 2, 2019;

The disputed domain name was registered on January 4, 2023.

On March 2, 2023, the Complainant sent to the Respondent a cease-and-desist letter, demanding the Respondent stop using and cancel the disputed domain name. The Respondent did not respond to this letter.

The Complaint contains evidence that at the time the Complaint was filed, the disputed domain name resolved to a website offering adult entertainment services. As of the date of this decision, disputed domain name resolves to an inactive website.

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

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

The Complainant asserts that the disputed domain name is confusingly similar to the Complainant's trademark ONLYFANS and the addition of the word "slivy" is not sufficient to distinguish the disputed domain name from the mark. The Complainant asserts that the Complainant's trademark is recognizable within the disputed domain name.

The Complainant considers that the Respondent has no rights or legitimate interests in respect of the disputed domain name, mainly because the Complainant has neither licensed nor otherwise authorized the Respondent to use its marks or to apply for or use any domain name incorporating the trademarks of the Complainant and the Respondent does not appear to be known by the disputed domain name.

The Complainant contends that the Respondent has registered and is using the disputed domain name in bad faith. It is clear that the Respondent was aware of the rights the Complainant has in the trademark at the time of its registration.

The Complainant claims that the Respondent is using the disputed domain name with the aim to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's trademark and for the purpose of disrupting the Complainant's business and targeting the Complainant's trademark.

Doing that, the Respondent has used privacy shield in order to hide its identity, which together with other elements, reinforces the bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

Pursuant to paragraph 4(a) of the Policy, the Complainant is required to prove the presence of each of the following three elements to obtain the remedy it has requested:

- (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 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**

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights. A trademark registration provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner.

As indicated above, the Complainant holds several trademark registrations for the trademark ONLYFANS. The disputed domain name integrates the Complainant's ONLYFANS trademark in its entirety.

The disputed domain name differs from the registered ONLYFANS trademark by the addition of the word "slivy". This addition does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") at section 1.8.

As regards the generic Top-Level Domain ".com", it is typically disregarded under the confusing similarity test under the Policy. Consequently, the Panel finds that the Complainant has shown that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

### **B. Rights or Legitimate Interests**

The onus is on the Complainant to make out at least a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name, and it is then for the Respondent to rebut this case. See section 2.1 of the [WIPO Overview 3.0](#).

The Panel accepts the Complainant's submissions that the Respondent does not appear to be known by the disputed domain name, has not used, or made demonstrable preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services, is not making a legitimate noncommercial or fair use of the disputed domain name, and has no consent from the Complainant to use its trademark.

The Respondent has not filed a Response.

The Complainant has made out its *prima facie* case under this element of the Policy and the Respondent has failed to rebut it. Accordingly, the Complainant succeeds in relation to the second element of the Policy.

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

At the time of registration of the disputed domain name, the Complainant's trademark ONLYFANS was a very well-known trademark for some time throughout the world. As a matter of fact, the Complainant's trademark rights for ONLYFANS have been recognized in over 100 UDRP decisions.

As the Complainant submits, it is inconceivable that the Respondent would not have known of the Complainant's mark.

The Panel finds that the Respondent is using the disputed domain name to intentionally attempt to attract for commercial gain Internet users to its website by creating a likelihood of confusion with the Complainant's famous trademark. As a matter of fact, considering;

- the use of the Complainant's famous trademark within the disputed domain name;
- the use of the logo similar to the Complainant's logo trademark; and
- the offer of services in direct competition with the Complainant's website (including content pirated from the Complainant's users) featuring non-downloadable video, photographs, images, and audio in the field of adult entertainment,

it is clear that the Respondent has targeted the Complainant and its famous trademark to benefit its own commercial activities.

The Respondent's registration of the disputed domain name incorporating the Complainant's mark that is resolving to a website in the field of adult entertainment clearly constitutes bad faith use and registration.

Therefore, the only reason for the registration of the disputed domain name by the Respondent must have been with bad faith with the intent to use it to exploit, for commercial gain, the Complainant's reputation.

The Respondent has used the disputed domain name for precisely that purpose. Therefore, in the view of cumulative circumstances, the Panel finds that the requirement of registration and use in bad faith is satisfied, according to 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 <slivionlyfans.com> be transferred to the Complainant.

*/E. Kerim Yardimci/*

**E. Kerim Yardimci**

Sole Panelist

Date: August 12, 2023