

ADMINISTRATIVE PANEL DECISION

Fenix International Limited v. Lee Andrew
Case No. D2023-3486

1. The Parties

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

Respondent is Lee Andrew, U.S.

2. The Domain Name and Registrar

The disputed domain name <guyswithonlyfans.xyz> (the “Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 17, 2023. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. Also on August 17, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint.

The Center sent an email to Complainant on August 28, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on the same August 28, 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 Respondent of the Complaint, and the proceedings commenced on August 29, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 18, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on September 25, 2023.

The Center appointed Robert A. Badgley as the sole panelist in this matter on September 27, 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

Since 2016, Complainant has operated a website at <onlyfans.com> to host a platform for subscribers to view and post audiovisual content. The website states: "Sign up to support your favorite creators."

According to Complainant, the <onlyfans.com> website is one of the most popular websites in the world, and Complainant has 180 million subscribers. By one Internet ranking service, the site is ranked 94th in the world in terms of traffic.

Complainant holds several registered trademarks for ONLYFANS or ONLYFANS.COM. For instance, Complainant holds with the United States Patent and Trademark Office ("USPTO") Reg. No. 5,769,267 for ONLYFANS, registered on June 4, 2019 in connection with "arranging the subscriptions of the online publications of others," with a date of first use in commerce of July 4, 2016. Complainant also holds USPTO Reg. No. 5,769,268 for ONLYFANS.COM, registered on June 4, 2019 and also in connection with "arranging the subscriptions of the online publications of others," with a date of first use in commerce of July 4, 2016. Complainant also holds European Union Reg. No. 017912377 for ONLYFANS, registered on January 9, 2019 in connection with, among other things, "online subscription services for the purpose of allowing individuals to subscribe and access content uploaded by members of the service for sporting, fitness and entertainment purposes."

The Domain Name was registered on March 31, 2023. The Domain Name resolves to a website with various "adult entertainment" offerings, under headings such as "Boy Cams sex video archives" and "Asian Bondage." Complainant also alleges that Respondent has pirated the content of some of Complainant's members.

On June 2, 2023, Complainant's counsel sent a cease-and-desist letter to Respondent. Respondent did not reply to this letter.

5. Parties' Contentions

A. Complainant

Complainant contends that it has established all three elements required under the Policy for a transfer of the Domain Name.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to the Domain Name:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and

(iii) the Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Panel concludes that Complainant has rights in the trademark ONLYFANS through registration and use demonstrated in the record. The Panel also concludes that the Domain Name is confusingly similar to that mark. The Domain Name entirely incorporates the ONLYFANS mark and adds the words “guys with.” The Panel concludes that the mark remains recognizable within the Domain Name despite these additional words. See *Fenix International Limited v. Tony Lear, midieast corp.*, WIPO Case No. [D2021-1304](#) (transferring <modelsofonlyfans.com>).

Complainant has established Policy paragraph 4(a)(i).

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services; or
- (ii) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Domain Name, even if you have acquired no trademark or service mark rights; or
- (iii) you [Respondent] are making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel concludes that Respondent lacks rights or legitimate interests in connection with the Domain Name. Respondent has not come forward, either in response to the cease-and-desist letter or in response to the Complaint in this proceeding, to articulate any *bona fide* reason for registering the Domain Name. Based on the undisputed record in this case, the Panel finds that Respondent targeted Complainant’s mark to create a commercial website seeking to divert, for financial gain, users seeking Complainant’s website. Complainant’s mark is well-known, the services provided at Respondent’s site overlap somewhat with Complainant’s services and unrebutted allegation and it is plausibly alleged and undisputed that Respondent has pirated content of Complainant’s members. Such conduct does not permit a finding that Respondent has rights or legitimate interests vis-à-vis the Domain Name.

Complainant has established Policy paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that the following circumstances, “in particular but without limitation,” are evidence of the registration and use of the Domain Name in “bad faith”:

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or
- (ii) that 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 Respondent has engaged in a pattern of such conduct; or
- (iii) that 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, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's website or other online location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website or location or of a product or service on Respondent's website or location.

The Panel concludes that Respondent registered and used the Domain Name in bad faith under the Policy. The Panel incorporates its discussion above in the "Rights or Legitimate Interests" section. On this record, the Panel finds it clear that Respondent targeted Complainant's mark when registering the Domain Name, and has used the Domain Name for illegitimate commercial gain by seeking to divert Internet traffic for commercial gain by free-riding on Complainant's well-known mark. This constitutes bad faith registration and use within the meaning of the above-quoted Policy paragraph 4(b)(iv).

Complainant has established Policy paragraph 4(a)(iii).

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 Domain Name <guyswithonlyfans.xyz> be transferred to Complainant.

/Robert A. Badgley/

Robert A. Badgley

Sole Panelist

Date: October 5, 2023