

ADMINISTRATIVE PANEL DECISION

Fenix International Limited v. Anemy Virtual
Case No. D2023-4634

1. The Parties

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

The Respondent is Anemy Virtual, Russian Federation.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 13, 2023. On November 14, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 14, 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 (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 17, 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 the same date.

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 November 28, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 18, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 26, 2023.

The Center appointed Geert Glas as the sole panelist in this matter on January 15, 2024. 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 a social media platform that allows users to post and subscribe to audiovisual content on the World Wide Web. This social media platform is known as OnlyFans and is located at the Complainant's "www.onlyfans.com" website.

The Complainant owns a large number of trademark registrations throughout the world which consist of the words ONLYFANS and primarily cover entertainment services and online subscription services for the purposes of allowing individuals to subscribe and access content uploaded by members of the service for sporting, fitness and entertainment purposes (classes 9, 35, 38, 41 and 42). These trademark registrations include:

- US trademark registration No. 5769267, registered on June 4, 2019; and
- European Union trademark registration No. 017912377, registered on January 9, 2019.

The Complainant also owns the domain name <onlyfans.com> which it registered on January 29, 2013.

It appears that from 2016 on the Complainant has made extensive use of its ONLYFANS trademarks associated with its website and platform services and has seen the popularity and international recognition of its website and services grow exponentially. In 2023, the Complainant's website counted more than 180 million registered users and its "www.onlyfans.com" website ranked among the 100 most popular websites on the World Wide Web.

Previous UDRP panels have noted that the largely uncensored content available on the Complainant's "www.onlyfans.com" website is posted by content creators which include celebrities, sex workers, musicians, physical fitness trainers and others (See *Fenix International Limited v. Dontrell Mcfarland*, WIPO Case No. [D2021-2232](#)).

The disputed domain name was registered on July 3, 2023, and the Complainant has provided evidence showing that the disputed domain name resolves to a website purportedly offering adult entertainment services, including content advertised as pirated from the Complainant's website.

On September 12, 2023, the Complainant sent a cease-and-desist letter to the Respondent but no reply to this letter was received by the Complainant.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that its ONLYFANS trademark is famous throughout the word and that the disputed domain name consists of this trademark in its entirety surrounded by the terms "best" and "leaks". As a result, the disputed domain name is confusingly similar to its trademark.

The Complainant also contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name as the Respondent has no connection or affiliation with the Complainant and has not received any consent to use the Complainant's ONLYFANS trademark in the disputed domain name. The Respondent is also not commonly known by the disputed domain name.

The Complainant points out that the Respondent is using the disputed domain name to resolve to a website purportedly offering adult entertainment services which compete with some of the services offered on and through the Complainant's "www.onlyfans.com" website. Such use cannot be considered a *bona fide* offering of services or a legitimate noncommercial or fair use of the disputed domain name.

The Complainant contends that the disputed domain name was registered in bad faith as it was registered long after the Complainant obtained registered trademark rights in its ONLYFANS mark. As this mark is internationally well known amongst the relevant public, the Respondent knew or ought to have known of the Complainant's mark and likely registered the disputed domain name to target this mark. There is no benign reason for the Respondent to have registered the disputed domain name. To the contrary, the Respondent uses the Complainant's ONLYFANS mark and the additional terms "best" and "leaks" within the disputed domain name to create a likelihood of confusion with the Complainant.

The Complainant finally contends that the Respondent also used the disputed domain name in bad faith as this domain name directs users to a commercial website which offers adult entertainment content (including content pirated from the Complainant's users) in direct competition with the Complainant. Such use is an intentional attempt to attract, for commercial gain, Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's mark as to the source, affiliation, or endorsement of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds that the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds that the entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy.

[WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here "best" and "Leaks", may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Indeed, in the present case the presence of the terms "best" and "Leaks" which surround the Complainant's ONLYFANS trademark does not prevent establishing the confusing similarity of the disputed domain name to this trademark.

Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with

relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

There is indeed no evidence whatsoever of the Respondent using the disputed domain name with a *bona fide* offering of goods or services, the Respondent being commonly known by the disputed domain name or the Respondent making a legitimate noncommercial or fair use of the disputed domain name.

To the contrary, the Respondent's use of the confusingly similar disputed domain name to resolve to a website purportedly offering adult entertainment services which seems to directly compete with some of the services offered through the Complainant's "www.onlyfans.com" website does not constitute a *bona fide* offering of services, nor a legitimate noncommercial or fair use of the disputed domain name.

Moreover, the presence of the terms "best" and "leaks" relevant to the Complainant's activity in the disputed domain name carries a risk of implied affiliation with the Complainant and as a result it is difficult to see how the Respondent could put the disputed domain name to a fair or legitimate noncommercial use.

[WIPO Overview 3.0](#), section 2.5.1.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

As to the registration of the disputed domain name, it should be noted that panels have consistently found that the mere registration of a domain name which is confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4

This is clearly the case here, as ONLYFANS had become a widely-known trademark by the time the disputed domain name was registered by the Respondent. As a result, the Respondent must have had knowledge of the ONLYFANS trademark when registering the disputed domain name.

Moreover, it cannot be envisaged how the disputed domain name in which the trademark of the Complainant is surrounded by the terms "best" and "leaks" could be put to any *bona fide* use by an entity which is unrelated to the Complainant. To the contrary, the nature and meaning of these added terms "best" and "leaks" illustrate the intention of the Respondent, already when registering the disputed domain name, to create an impression of affiliation or at least a likelihood of confusion with the Complainant and its ONLYFANS platform.

Based on the available record, the Panel finds that the disputed domain name has been registered in bad faith.

According to paragraph 4(b)(iv) of the Policy, the following circumstance, if found to be present, shall constitute evidence of the use of a domain name in bad faith: by using the domain name you have intentionally attempted to attract, for commercial gain, Internet users to your 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 your website or location or of a product or service on your website or location.

In the present case, the disputed domain name which is confusingly similar to the Complainant's ONLYFANS mark resolves to a website purportedly offering adult entertainment content, including content advertised as pirated from Internet users of the Complainant's "www.onlyfans.com" website. As a result, the disputed domain name seeks to attract Internet users to a commercial website which offers goods and services in direct competition with the Complainant.

This use clearly constitutes an intentional attempt to attract, for commercial gain, Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's ONLYFANS mark as to the source, affiliation, or endorsement of the Respondent's website to which the disputed domain name resolves.

Moreover, the Respondent opted not to reply to the Complainant's cease-and-desist letter sent on September 12, 2023, and did not file a response to the Complaint by which these proceedings were initiated. By doing so, the Respondent has twice failed to seize an opportunity it could have used to provide any justification for its use of the disputed domain name.

As a result, and based on the available record, the Panel finds that the Respondent's registration and use of the disputed domain name constitute bad faith under the Policy and that the third element of the Policy has been established.

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 <bestonlyfansleaks.xyz> be transferred to the Complainant.

/Geert Glas/
Geert Glas
Sole Panelist
Date: January 29, 2024