

ADMINISTRATIVE PANEL DECISION

Fenix International Limited v. Charles Harris
Case No. D2023-4798

1. The Parties

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

Respondent is Charles Harris, United States.

2. The Domain Name and Registrar

The disputed domain name <atlantaflameonlyfans.com> is registered with GoDaddy.com, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 17, 2023. On November 20, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to Complainant on November 21, 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 November 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 Respondent of the Complaint, and the proceedings commenced on November 23, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 13, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on December 15, 2023.

The Center appointed Timothy D. Casey as the sole panelist in this matter on December 28, 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

Complainant owns and operates a website located at <onlyfans.com> and has used it and the ONLYFANS brand since at least 2016 in connection with the provision of a social media platform that allows users to post and subscribe to audiovisual content. Complainant's website has more than 180 million registered users and as of January 6, 2023 was the 94th most popular website on the world wide web.

Complainant has registrations for numerous trademarks for or that include "onlyfans" as part of the mark (the "ONLYFANS Marks"), including the following:

Mark	Jurisdiction	Class(es)	Registration No.	Registration Date
ONLYFANS	European Union	9, 35, 38, 41, 42	EU017912377	January 9, 2019
ONLYFANS	United Kingdom	9, 35, 38, 41, 42	UK00917912377	January 9, 2019
ONLYFANS	United States of America	35	5,769,267	June 4, 2019

The disputed domain name was registered on June 23, 2023. At the time of filing the Complaint, the disputed domain name resolved to an account at a competitive website offering adult content through a subscription service.

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, Complainant contends that the disputed domain name is confusingly similar to the ONLYFANS Marks because the ONLYFANS Marks are recognizable within the disputed domain name and because the disputed domain name consists of the ONLYFANS Marks with the addition of the term "atlantaflamez", the name of an Atlanta-based exotic dancer group, and therefore is confusingly similar to the ONLYFANS Marks. Complainant further notes that the use of a top level domain in the disputed domain name should be disregarded under the first element analysis.

Complainant contends Respondent has no connection or affiliation with Complainant, has not received any authorization, license, or consent from Complainant to use the ONLYFANS Marks, and is not commonly known by the ONLYFANS Marks or hold any trademark rights therein. Complainant contends this is evidence that Respondent has no rights or legitimate interest in the disputed domain name. Complainant contends that the combination of the ONLYFANS Marks and certain terms, such as a geographical term, in the disputed domain name cannot constitute fair use as it effectively impersonates or suggests sponsorship or endorsement by Complainant. Complainant further contends that Respondent's use of the disputed domain name to host a commercial website that advertises goods and services in direct competition with Complainant does not give rise to legitimate rights or interests.

Complainant contends that Respondent's registration of the disputed domain name years after Complainant attained rights in the ONLYFANS Marks, coupled with the confusing similarity between the disputed domain name and the ONLYFANS Marks, creates a presumption of bad faith. Complainant further notes that it sent

two cease-and-desist letters to Respondent demanding Respondent stop using and cancel the disputed domain name. Respondent did not respond, which Complainant contends, along with Respondent's failure to participate in the present proceeding and use of a privacy shield, further evidence bad faith. Finally, Complainant contends that bad faith use may be found where the disputed domain name directs users to a commercial website that offers goods and services in direct competition with Complainant because it is an intentional attempt to attract, for commercial gain, Internet users to Respondent's website by creating a likelihood of confusion with Complainant's ONLYFANS Marks as to the source, affiliation, or endorsement of the Disputed Domain Name.

B. Respondent

Respondent did not reply to 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 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.

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 entirety of the ONLYFANS Marks are reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the ONLYFANS Marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The ONLYFANS Marks are recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the ONLYFANS Marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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

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 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 as set out above, the Panel finds Complainant has established a *prima facie* case that Respondent lacks rights or legitimate interests in the disputed domain name. Respondent has not rebutted 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.

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.

In the present case, the Panel notes that Respondent use of the disputed domain name to attract users to a competing website constitutes bad faith registration and use of the disputed domain name at least because it disrupts Complainant's competitive business and it intentionally attempts to attract, for commercial gain, Internet users by creating a likelihood of confusion with the ONLYFANS Marks.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances, such as Respondent's failure to respond to the cease-and-desist letters, Respondent's failure to respond to the present complaint, and Respondents use of a privacy service, are relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Based on the available record, the Panel finds that the Complainant has established the third element of 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 <atlantaflamezonlyfans.com> be transferred to the Complainant.

/Timothy D. Casey/

Timothy D. Casey

Sole Panelist

Date: January 12, 2024