

ADMINISTRATIVE PANEL DECISION

Fenix International Limited v. Ivan
Case No. D2023-4876

1. The Parties

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

The Respondent is Ivan, Ukraine.

2. The Domain Names and Registrar

The disputed domain names <best-onlyfans.site>, <find-onlyfan.site>, <get-onlyfans-leaks.site>, <onlyfan-real.site>, <onlyfans-fan.site>, <onlyfans-princess.site>, <the-onlyfans.site>, and <2023-onlyfans.site> are 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 November 23, 2023. On November 23, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On November 24, 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 December 15, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 4, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 10, 2024.

The Center appointed Mireille Buydens as the sole panelist in this matter on January 23, 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. Further Procedural Considerations

Under paragraphs 10 (b) and 10 (c) of the Rules, the Panel is required to ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case, and also that the administrative proceeding takes place with due expedition.

Since the Respondent's postal address is stated to be in Ukraine, which is subject to an international conflict at the date of this Decision that may impact case notification, it is appropriate for the Panel to consider, in accordance with its discretion under paragraph 10 of the Rules, whether the proceeding should continue.

Having considered all the circumstances of the case, the Panel is of the view that it should continue. The Panel notes that the Center has sent the Notification of Complaint by email to the Respondent. There is no evidence that the case notification email to this email address was not successfully delivered.

On this basis, the Panel concludes that the Parties have been given a fair opportunity to present their cases, and proceeds to issue the present decision on the substance of the dispute.

5. Factual Background

The Complainant owns and operates a social media platform at the domain name <onlyfans.com> – registered on January 29, 2013 – that allows users to post and subscribe to audiovisual (adult) content worldwide. In 2023, the website “www.onlyfans.com” is one of the most popular websites in the world, with more than 180 million registered users.

The Complainant is the owner of several trademark registrations for ONLYFANS (the “Trademark”), including the following:

- European Union trademark registration No. 017912377 for ONLYFANS (word mark), registered on January 9, 2019, in international classes 9, 35, 38, 41, and 42;
- European Union trademark registration No. 017946559 for ONLYFANS (figurative mark), registered on January 9, 2019, in international classes 9, 35, 38, 41, and 42;
- United States trademark registration No. 5769267 for ONLYFANS (word mark), registered on June 4, 2019, in international class 35;
- International trademark registration No. 1507723 for ONLYFANS (word mark) registered on November 2, 2019, in international classes 9, 35, 38, 41, and 42 covering inter alia Ukraine.

The disputed domain names were registered in April and May 2023 respectively, as follows:

- <2023-onlyfans.site> and <best-onlyfans.site>: April 21, 2023;
- <find-onlyfan.site>: on May 4, 2023;
- <get-onlyfans-leaks.site> and <onlyfans-princess.site>: May 5, 2023;
- <the-onlyfans.site>: May 14, 2023;
- <onlyfans-fan.site> and <onlyfan-real.site>: May 16, 2023.

The Complainant sent the cease-and-desist letters to the Respondent on June 2 and July 9, 2023 respectively, demanding the Respondent to stop using and cancel the disputed domain names. The Respondent did not respond.

The evidence provided by the Complainant shows that each of the disputed domain names resolves to a similar landing page (evoking adult content) asking if the user is over 18, and then after clicking “yes” it redirects the user to either a hookup/dating website or a website allowing to download adult content.

6. 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 names.

First, the Complainant asserts that it owns registrations for the Trademark. The Complainant also asserts that it registered the <onlyfans.com> domain name on January 29, 2013, and has extensive common law rights in the Trademark throughout the world that commenced by, at latest, July 4, 2016, well before the Respondent registered the disputed domain names in April and May 2023. The disputed domain names are confusingly similar to the Complainant’s Trademark. The disputed domain names consist of the Complainant’s Trademark with the only difference being the insertion of other terms “2023,” “best,” “find,” “get leaks,” “fan,” “real,” “princess,” and “the” surrounding the Complainant’s Trademark, which does nothing to avoid confusing similarity. The generic Top-Level Domain (“gTLD”) “.site” in the disputed domain names should be disregarded.

Second, the Complainant asserts that the Respondent lacks rights or legitimate interests in the disputed domain names. The Respondent has no connection or affiliation with the Complainant and has not received any authorization, license, or consent, whether express or implied, to use the Trademark in the disputed domain names or in any other manner. The Respondent is not commonly known by the Trademark and does not hold any trademarks for the disputed domain names. The Complainant further asserts that the Respondent cannot claim the right to use the disputed domain names under fair use, since they each include the Trademark and additional terms which create a risk of implied affiliation by creating an impression that users can “find” the “best” “real” “leaked” content that has been pirated from the Complainant’s services in “2023”. The websites at the disputed domain names offer adult entertainment services as evidenced by each disputed domain name loading an “18+” age verification landing page before offering hookup/dating services and/or pirated adult content in direct competition with the Complainant’s services. Using a disputed domain name to host commercial websites that advertise goods and services in direct competition with the trademark owner does not give rise to rights or legitimate interests. Further, the Complainant contends that the Respondent is using certain of the disputed domain names to direct Internet users to websites offering potentially illegal services, which can never confer rights or legitimate interests on the Respondent.

Third, the Complainant asserts that the disputed domain names were registered and are being used in bad faith. The Complainant submits that the Trademark (which predates the registration of the disputed domain names) is a well-known Trademark. At the time of registration of the disputed domain names, the Respondent knew, or at least should have known, of the existence of the Complainant’s Trademark. The Complainant further asserts that bad faith registration should be found since the Respondent used the Complainant’s ONLYFANS Trademark and the additional terms “2023,” “best,” “find,” “get leaks,” “fan,” “real,” “princess,” and “the” within the disputed domain names, which enhances the likelihood of confusion. Besides, the Respondent registered the confusingly similar disputed domain names to offer services in direct competition with the Complainant (adult content). The Complainant further explains that it sent cease-and-desist letters to Respondent on June 2 and July 9, 2023 respectively, but the Respondent did not respond – which is further evidence of bad faith. The Complainant further contends that the address provided in the Whois records appears incomplete, if not fictional. Finally, the Complainant explains that the disputed domain names direct to websites that phish for users’ personal information.

B. Respondent

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

7. Discussion and Findings

Dealing with the Respondent's failure to file a response to the Complaint, paragraph 14(b) of the Rules provides that if a party, in the absence of exceptional circumstances, does not comply with a provision of, or requirement under these Rules, the panel shall be entitled to draw such inferences from this omission, as it considers appropriate.

Paragraph 4(a) of the Policy provides that the Complainant proves each of the following three elements in order to succeed in its Complaint:

- (i) the disputed domain names are 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 names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

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 the Complainant has shown rights in respect of a trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the Trademark is reproduced within the disputed domain names except for the disputed domain names <find-onlyfan.site> and <onlyfan-real.site>. The disputed domain names <find-onlyfan.site> and <onlyfan-real.site> almost reproduce the Trademark in its entirety omitting the letter "s". Nevertheless, the Trademark is recognizable in all of the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the Trademark for the purposes of the Policy. See [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms (here the insertion of the terms "2023," "best," "find," "get," "leaks," "fan," "real," "princess," and "the") 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 names and the Trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The gTLD ".site" is a standard registration requirement and does not prevent the disputed domain names from being confusingly similar to the Trademark. [WIPO Overview 3.0](#), section 1.11.1.

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 names. 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 names such as those enumerated in the Policy or otherwise.

The Respondent is not licensed by or affiliated with the Complainant in any way. There is no evidence that the Respondent would be commonly known under the disputed domain names, nor is there any evidence of use or demonstrable plans to use the disputed domain names for a bona fide offering of goods or services. On the contrary, the websites at the disputed domain names offer adult entertainment services as evidenced by each of the disputed domain name loading an "18+" age verification landing page before offering hookup/dating services and/or adult content in direct competition with the Complainant's services.

The Panel notes that the composition of the disputed domain names, adding the terms "2023," "best," "find," "get," "leaks," "fan," "real," "princess," and "the" to the Complainant's Trademark, affirms the Respondent's intention of taking unfair advantage of the likelihood of confusion between the disputed domain names and the Complainant's Trademark.

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.

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 may be 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.

In the present case, the Panel notes that the disputed domain names contain the Complainant's widely-known Trademark either in full or a misspelled version, which is also registered in Ukraine (where the Respondent is located) and which predates the registration of the disputed domain names. The composition of some of the disputed domain names is well-suited to mislead Internet users, which will unduly believe that these disputed domain names resolve to the websites operated by the Complainant or endorsed by the Complainant. It is highly unlikely that the Respondent was not aware of the Complainant's Trademark at the time of registration of the disputed domain names. The registration of the disputed domain names creates a likelihood of confusion with the Complainant and its Trademark. This has been emphasized by the fact that the disputed domain names resolve to websites offering services directly competing with the Complainant's services. Therefore, the Panel finds that the Respondent has registered and used the disputed domain names in bad faith pursuant to paragraph 4(b)(iv) of the Policy.

Having reviewed the available record, the Panel further notes the reputation of the Complainant's Trademark, the composition of the disputed domain names, and the failure of the Respondent to submit a response.

Based on the available record, the Panel finds that the Complainant has established the third element of the Policy.

8. 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 names <best-onlyfans.site>, <find-onlyfan.site>, <get-onlyfans-leaks.site>, <onlyfan-real.site>, <onlyfans-fan.site>, <onlyfans-princess.site>, <the-onlyfans.site>, and <2023-onlyfans.site> be transferred to the Complainant.

/Mireille Buydens/

Mireille Buydens

Sole Panelist

Date: February 6, 2024