

## **ADMINISTRATIVE PANEL DECISION**

Fenix International Limited v. Busche Damian, Pines Ginger  
Case No. D2023-4877

### **1. The Parties**

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

Respondents are Busche Damian, United States, and Pines Ginger, United States.

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

The disputed domain names <mronlyfansleaks.com>, <onlyfansleaklist.com>, <onlyfansleak69.com>, <onlyfansxx.com>, <onlylikefans.com> (the “Domain Names”) are registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 23, 2023. On November 24, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On November 24, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Names, 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 to Complainant on December 4, 2023, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting that Complainant either file a separate Complaint for the Domain Names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity. Complainant filed an amended Complaint on December 13, 2023.

The Center verified that the Complaint together with the amended 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 Respondents of the Complaint, and the proceedings commenced on January 4, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 24, 2024. Respondents did not submit any response. Accordingly, the Center notified Respondents' default on January 25, 2024.

The Center appointed Robert A. Badgley as the sole panelist in this matter on February 7, 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**

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 94<sup>th</sup> 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 <onlyfansleaklist.com> was registered on June 17, 2023. The four other Domain Names were registered on June 28, 2023. The Domain Names resolve to nearly identical websites which, according to October 12, 2023 screenshots annexed to the Complaint, offer adult entertainment content. The sites boast that they feature "OnlyFans Models Leaked." According to Complainant, Respondents' websites "offer adult entertainment services (including watermarked content pirated from Complainant's users) in direct competition with Complainant's services."

Respondents' sites bear a small disclaimer stating that they are not affiliated with Fenix International Limited (Complainant in this proceeding) or the website "onlyfans.com".

On September 12, 2023, Complainant's counsel sent a separate cease-and-desist letter for each of the five Domain Names to the Registrar (Respondents used a privacy service). Complainant received no substantive response to these letters.

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

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

Complainant contends that it has satisfied each of the elements required under the Policy for the transfer of each of the Domain Names.

## B. Respondent

Respondents did not reply to Complainant's contentions.

## 6. Discussion and Findings

### 6.1 Consolidation and Multiple Purported Respondents

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing Complainant's implicit request to consolidate in a single UDRP proceeding five domain names purportedly registered by different persons or entities, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

Complainant asserts as follows:

"Here, all evidence suggests that the registrants of the Disputed Domain Names are either one and the same person, entity, or network, are somehow connected to each other, and are under common control aimed at intentionally infringing the Complainant's marks and harming consumers. Four Disputed Domain Names were registered via the same registrar within seconds of each other while a fifth was registered that same month, and each domain references the full ONLYFANS Mark. Three of the Disputed Domain Names are registered to the same registrant with the name of Pines Ginger and using the same contact information. The remaining two Disputed Domain Names (including [onlyfansleaklist.com](#), which Complainant requests be consolidated into this proceeding) are registered to the same registrant with the name of Busche Damiam and using the same contact information. Additionally, the websites at each Disputed Domain Name are similarly designed, with the sites providing a large table of OnlyFans creator profiles and images bearing watermarks with Complainant's [onlyfans.com](#) URL. Thus, more likely than not the Disputed Domain Names are subject to common ownership or control. See *Fenix International Limited v. WhoisGuard Protected, WhoisGuard, Inc. / Yazid Laiss / Stive Belb / Ahmed Bel Bouahli*, WIPO Case No. [D2021-0152](#)."

Respondents do not dispute any of the foregoing allegations.

The Panel accepts Complainant's arguments and supporting evidence. The fact that four of the five were registered within seconds of each other, the fact that the same registrant name is indicated for one of the four Domain Names registered on June 28, 2023, and the one registered 11 days earlier, the similarity of the five websites, and the fact that no Respondent has come forward in this proceeding to dispute the claim that both nominal Respondents are in fact one and the same person, lead the Panel to conclude, on a balance of probabilities, that all five Domain Names in this proceeding were registered by the same person. As such, the Panel will refer henceforth to "Respondent" as being one person and will decide all five Domain Names in this proceeding.

### 6.2 Merits

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

- (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**

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

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 Names are confusingly similar to that mark. The Domain Names entirely incorporate the ONLYFANS mark and add the words or characters "xx", "69", "mr", "like", "list", "leak", or "leaks". The Panel concludes that the mark remains clearly recognizable within the Domain Names despite these additional characters, and also irrespective of the fact that in <onlylikefans.com> the added term "like" is reproduced splitting the ONLYFANS mark into two terms. 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**

For each of the Domain Names, 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.

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 often primarily within the knowledge or control of the respondent. Thus, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production 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.

The Panel concludes that Respondent lacks rights or legitimate interests in connection with the Domain Names. 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 Names. Based on the undisputed record in this case, the Panel finds that Respondent clearly 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 purportedly provided at Respondent's site are similar to Complainant's services, and it is plausibly alleged and undisputed that Respondent has pirated content from Complainant's site. Such conduct does not permit a finding that Respondent has rights or legitimate interests vis-à-vis the Domain Names.

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

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

For each of the Domain Names, 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 Names 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 five Domain Names, and has used the Domain Names 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 Names <mronlyfansleaks.com>, <onlyfansleaklist.com>, <onlyfansleak69.com>, <onlyfansxx.com>, and <onlylikefans.com> be transferred to Complainant.

*/Robert A. Badgley/*

**Robert A. Badgley**

Sole Panelist

Date: February 21, 2024