

ADMINISTRATIVE PANEL DECISION

Fenix International Limited v. Dark Zone

Case No. D2023-5071

1. The Parties

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

The Respondent is Dark Zone, China.

2. The Domain Name and Registrar

The disputed domain name <onlyfansclip.com> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 5, 2023. On December 6, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 6, 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 (Domain Administrator, PrivacyGuardian.org llc) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 12, 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 December 12, 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 the Respondent of the Complaint, and the proceedings commenced on December 20, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 9, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 10, 2024.

The Center appointed Geert Glas as the sole panelist in this matter on January 16, 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 <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 for ONLYFANS include:

- US trademark registration n° 5769267, registered on June 4, 2019 (class 35); and
- European Union trademark registration n° 017912377 (classes 9, 35, 38, 41 and 42) 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 "www.onlyfans.com" website counted more than 180 million registered users and this 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 a variety of 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 May 4, 2023, and the Complainant has provided evidence showing that the disputed domain name resolves to a website offering adult entertainment services, including watermarked content pirated from the Complainant's ONLYFANS website.

On July 9, 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 the disputed domain name consists of the Complainant's exact ONLYFANS trademark, with the only difference being the adding of the descriptive term "clip" which is commonly used to describe a section of filmed, videotaped, or recorded material. The adding of such descriptive term does nothing to prevent a finding of confusing similarity.

The Complainant also contends that the Respondent has no connection or affiliation with the Complainant and has not received any consent to use the ONLYFANS trademark in the disputed domain name. No evidence indicates that the Respondent would be commonly known by the disputed domain name and the Respondent does not hold any trademarks in the disputed domain name. In view of the global fame and success which the Complainant's website achieved in a short time, the Respondent knew that it has no rights or legitimated interests in the disputed domain name. It should also be taken into account that the disputed domain name consists of the Complainant's ONLYFANS trademark and the descriptive term "clip" which creates a risk of implied affiliation by informing users that video "clip" of ONLYFANS created content is available under the disputed domain name. Using a domain name to host commercial websites that advertise goods and services in direct competition with the trademark owner, as would here be the case, cannot give rise to legitimate rights or interest.

The Complainant contends that the disputed domain name was registered long after the Complainant had obtained rights in its ONLYFANS trademarks and made it into a well-known trademark, such that the Respondent knew or ought to have known of the Complainant's trademark. Here, bad faith registration should be found, since the Respondent added the word "clip" to the Complainant's trademark, which enhances the likelihood of confusion by informing users that video "clip" of ONLYFANS content is available at the disputed domain name.

The Respondent finally contends that the disputed domain name was used in bad faith as it is used to direct users to a commercial website which offers adult entertainment content (including watermarked content pirated from the Complainant's users) in direct competition with the Complainant's services which also include services in the adult entertainment field. As such, the Respondent is using the disputed domain name in bad faith.

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.

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 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 another term, here "clip", 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 mark 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 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 the Respondent being commonly known by the disputed domain name or of 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, namely, to resolve to a website offering adult entertainment services which seem to directly compete with some of the services offered through the Complainant’s ONLYFANS 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 word “clip”, relevant to the Complainant’s business, in the disputed domain name creates a risk of implied affiliation with the Complainant as it clearly hints at the availability of ONLYFANS created content. [WIPO Overview 3.0](#), section 2.5.1. As a result, it is difficult so see how the Respondent could put the disputed domain name to a fair use.

Accordingly, 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-know trademark by an affiliated 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 the ONLYFANS trademark had become a well-known trademark by the time the disputed domain name was registered by the Respondent. As a result, the Respondent most likely knew the ONLYFANS trademark when registering the disputed domain name. It should be noted that in the present case this knowledge can deduced from the fact that the Respondent opted to insert the term “clip” in the disputed domain name. The presence of this term clearly shows the intention of the Respondent, already when registering the disputed domain name, to inform Internet users that video clip of ONLYFANS content would be available at the website to which the disputed domain resolves. By doing so an impression of affiliation or at least a likelihood of confusion is created with the Complainant.

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 ONYFANS mark resolves to a website which offers adult entertainment services (using watermarked content pirated from the users of the Complainant's ONLYFANS website). As a result, the disputed domain name seeks to direct Internet users to a commercial website which offers goods and services in direct competition with the Complainant.

This use clearly constitutes an intentional attempt by the Respondent to attract, for commercial gain, Internet users to its 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 resolves.

As indicated it is hard to envisage any good faith use of the disputed domain name. It should be noted though that the Respondent could have brought forward any such argument in support of the good faith nature of its registration or use of the disputed domain name: first in a reply to the cease-and-desist letter sent by the Complainant on July 9, 2023 and then in filing a response to the Complaint by which these proceedings were initiated. The Respondent however opted not to cease any of these opportunities to provide any justification for its actions.

As a result, and based on the available record, the Panel finds that the Respondent's registration and use of the disputed domain name constitutes 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 <onlyfansclip.com> be transferred to the Complainant.

/Geert Glas/

Geert Glas

Sole Panelist

Date: January 30, 2024