

ADMINISTRATIVE PANEL DECISION

Fenix International Limited v. Host Master, 1337 Services LLC
Case No. D2024-0114

1. The Parties

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

The Respondent is Host Master, 1337 Services LLC, Saint Kitts and Nevis.

2. The Domain Name and Registrar

The disputed domain name <norgeonlyfans.com> is registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 11, 2024. On January 12, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 12, 2024, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 17, 2024, 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 January 17, 2024.

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 January 24, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 13, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 15, 2024.

The Center appointed Halvor Manshaus as the sole panelist in this matter on March 4, 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 website located at the domain name <onlyfans.com> and has used the domain name for several years in connection with the provision of social media platform that allows users to post and subscribe to audiovisual content on the Internet.

The Complainant has, among other, registered the following trademarks containing the ONLYFANS mark:

- The United Kingdom registration number UK00917912377, registered on January 9, 2019, for various goods and services in classes 9, 35, 38, 41, and 42;
- The United Kingdom registration number UK00917946559, registered on January 9, 2019, for various goods and services in classes 9, 35, 38, 41, and 42;
- The United States registration number 5769267, registered on June 4, 2019, for various services in class 35;
- The United States registration number 5769268, registered on June 4, 2019, for various services in class 35; and
- The United States registration number 6918292, registered on December 6, 2022, for various goods in class 9.

The Complainant holds the domain name <onlyfans.com>, registered on January 29, 2013. In 2024, the Complainant's website hosted on the domain name <onlyfans.com> was one of the most popular websites in the world with more than 180 million registered users.

The disputed domain name was registered on August 20, 2023. The disputed domain name resolves to a website that offers the same services as offered 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 is identical or confusingly similar to the Complainant's trademarks. The disputed domain name contains the exact trademark with the insertion of the geographic term "norge" which is the Norwegian for "Norway". The use of the ".com" Top-Level Domain does not change the element of confusing similarity.

The Complainant asserts that the Respondent has no connection or affiliation with the Complainant and has not received any authorization, license, or consent to use the Complainant's trademarks. The Complainant further argues that the Respondent is not commonly known by the trademarks and that it does not hold any trademark rights to the disputed domain name. Further, the Complainant holds that the Respondent is not using the disputed domain name under fair use, as the disputed domain name falsely suggests sponsorship by the Complainant or implies an affiliation. Additionally, the Complainant asserts that the Respondent is using the disputed domain name to offer services in direct competition with the Complainant's services, which does not constitute a legitimate interest.

The Complainant argues that its trademark is a widely-known trademark which creates a presumption of bad faith registration of the disputed domain name. The Complainant asserts that the Respondent was likely aware of the Complainant's trademark as it was registered long after the Complainant registered its trademarks and since the Respondent has used the disputed domain name to offer services in direct competition with the Complainant in order to divert Internet traffic from the Complainant's website. Further, the Complainant holds that the insertion of the geographical term "norge" enhances the likelihood of confusion as it suggests that the website at the disputed domain name is authorized by the Complainant. In addition, the Complainant has sent a cease-and-desist letter to the Respondent, which the Respondent did not respond to, evidencing 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 other terms here, "norge", 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.

The Panel has not been presented with, or discovered, any evidence that (i) the Respondent has received a license or other permission to use the Complainant's trademark or any domain name incorporating this mark; (ii) the Respondent is commonly known by the disputed domain name; (iii) the Respondent has acquired trademark rights to use the disputed domain name; or (iv) the Respondent is making legitimate noncommercial or fair use of the disputed domain name. Moreover, the Respondent is using the disputed domain name to offer services in direct competition with the Complainant's services thereby misleading Internet users to believe that they were accessing the Complainant's services or that there is an affiliation or sponsorship with the Complainant. The Panel finds that such use of the disputed domain name does not constitute a bona fide offering of goods or services.

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.

The disputed domain name reproduces the Complainant's ONLYFANS mark in its entirety with the additional term "norge", and in the circumstances, creates a risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

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 finds it unlikely that the Respondent was unaware of the Complainant's trademark registration as the Complainant's trademark is well known and predates the registration of the disputed domain name. Additionally, the Panel notes that the Respondent has not responded to the Complainant's cease-and-desist letter.

Furthermore, the Panel finds that the website hosted on the disputed domain name likely was established to achieve commercial gain by diverting Internet users to the website at the disputed domain name as the Respondent uses the website hosted on the disputed domain name to offer services in direct competition with the Complainant's services. Further, the Panel finds that the inclusion of the geographical term "Norge" which further enhances the likelihood of confusion to evidence that the registration of the disputed domain name was in bad faith as it could mislead Internet users to believe that the disputed domain name is authorized by the Complainant.

The website at the disputed domain name offers the same services as offered by the Complainant's official website. The Panel is of the view that the Respondent intentionally created a likelihood of confusion with the Complainant's ONLYFANS mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website. This demonstrates bad faith registration and use of the disputed domain name, as provided in paragraph 4(b)(iv) of the Policy.

The Panel therefore concludes that the Complainant has demonstrated that the Respondent both registered and is using the disputed domain name in bad faith.

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 <norgeonlyfans.com> be transferred to the Complainant.

/Halvor Manshaus/

Halvor Manshaus

Sole Panelist

Date: March 18, 2024