

ADMINISTRATIVE PANEL DECISION

Fenix International Limited v. Max Hammer
Case No. D2024-0152

1. The Parties

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

Respondent is Max Hammer, United States.

2. The Domain Name and Registrar

The Disputed Domain Name <onlyfans420.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 15, 2024. On January 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On January 15, 2024, the Registrar transmitted by email to the Center its verification response confirming that 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 Respondent of the Complaint, and the proceedings commenced on January 17, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 6, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on February 20, 2024.

The Center appointed Richard W. Page as the sole panelist in this matter on March 12, 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

Complainant owns and operates the website located at the domain <onlyfans.com> and has used its domain for several years in connection with the provision of a social media platform that allows users to post and subscribe to audiovisual content on the World Wide Web. Complainant has made extensive use of the ONLYFANS Mark. Complainant has registered rights in the ONLYFANS Mark with the European Union, the United Kingdom, and the United States, including without limitation, the following:

- European Union Registration No. EU017912377 registered June 5, 2018 in classes 9,35,38,41,42;
- European Union Registration No. EU017945559 registered January 29, 2019 in classes 9,35,38,41,42;
- United Kingdom Registration No. UK00917912377 registered January 9, 2019 in classes 9,35,38,41,42;
- United States Registration No. 5769267 registered June 4, 2019 in class 35.

Complainant registered its <onlyfans.com> domain name on January 29, 2013.

At the present time in 2024, the website at <onlyfans.com> is one of the most popular websites in the world, with more than 180 million registered users. According to similar web, it is the 97th most popular website on the World Wide Web, and it is the 55th most popular website in the United States. Because the website at <onlyfans.com> is one of the most visited websites in the world, it has become a prime target for cybersquatters wishing to profit from the goodwill that Complainant has garnered in the ONLYFANS Mark.

Complainant sent a cease-and-desist letter to Respondent on September 18, 2023, demanding Respondent stop using and cancel the Disputed Domain Name. Respondent did not respond, thus necessitating the filing of this Complaint.

The Disputed Domain Name was registered on July 17, 2023, and has been used to offer adult content appropriated from Internet users on Complainant's social media platform in direct competition with Complainant.

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Complainant further contends that it has had registered rights in the ONLYFANS Mark since as early as June 5, 2018, and has used the ONLYFANS Mark since at least June 4, 2016. Complainant's common law rights have been recognized by an earlier UDRP panel as having acquired distinctiveness by at least May 30, 2017. *Fenix International Limited v. Tulip Trading*, WIPO Case No. [DCO2020-0038](#) (October 5, 2020).

Complainant further contends that, in addition to its trademark registrations, it has extensive common law rights in the ONLYFANS Mark throughout the world, well before Respondent registered the Disputed Domain Name on July 17, 2023.

Complainant further contends that the Disputed Domain Name consists of Complainant's exact ONLYFANS Mark with the insertion of the number "420" after the ONLYFANS Mark, which does nothing to avoid confusing similarity.

Complainant asserts that Respondent has no connection or affiliation with Complainant and has not received any authorization, license, or consent, whether express or implied, to use the ONLYFANS Mark in the Disputed Domain Name or in any other manner. Complainant further asserts that Respondent is not

commonly known by the ONLYFANS Mark and does not hold any trademarks for the Disputed Domain Name. Complainant further asserts that that Respondent has no rights or legitimate interests in the Disputed Domain Name, because Respondent knew of Complainant's ONLYFANS Mark.

Complainant further asserts that the Disputed Domain Name directs to a commercial website that offers adult entertainment content (including content pirated from Complainant's users) in direct competition with Complainant's services, including providing entertainment services in the nature of a website featuring non-downloadable video, photograph, image, and audio in the field of adult entertainment.

Complainant alleges that there is no plausible circumstance under which Respondent could legitimately register or use the Disputed Domain Name and that the Disputed Domain Name was registered and used by Respondent in bad faith.

Complainant further alleges that pursuant to WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 3.1.4 registration of a domain name that is confusingly similar to a widely-known trademark creates a presumption of bad faith.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs the Panel as to the principles the Panel is to use in determining the dispute: "A Panel shall decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules, and any rules and principles of law that it deems applicable."

Even though Respondent has failed to file a Response or to contest Complainant's assertions, the Panel will review the evidence proffered by Complainant to verify that the essential elements of the claims are met. See [WIPO Overview 3.0](#), section 4.3.

Paragraph 4(a) of the Policy directs that Complainant must prove each of the following three elements:

- i) that the Disputed Domain Name registered by Respondent is identical or confusingly similar to the ONLYFANS Mark in which Complainant has rights; and,
- ii) that Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and,
- iii) that the Disputed 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 the ONLYFANS Mark and the Disputed Domain Name. [WIPO Overview 3.0](#), section 1.7.

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 Mark is reproduced within the Disputed Domain Name. Accordingly, the Disputed Domain Name is confusingly similar to the ONLYFANS Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, the number “420” and the generic Top Level Domain “.com”, 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 Name and the ONLYFANS 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 Respondent may demonstrate rights or legitimate interests in Disputed Domain Name.

Although the overall burden of proof in UDRP proceedings is on Complainant, panels have recognized that proving Respondent lacks rights or legitimate interests in the Disputed Domain Name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of Respondent. As such, where Complainant makes out a prima facie case that Respondent lacks rights or legitimate interests, the burden of production on this element shifts to Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the Disputed Domain Name (although the burden of proof always remains on Complainant). If Respondent fails to come forward with such relevant evidence, Complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Paragraph 4(c) of the Policy allows three nonexclusive methods for the Panel to conclude that Respondent has rights or a legitimate interest in the Disputed Domain Name:

- (i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable preparations to use, the Disputed Domain Name or a name corresponding to the Disputed 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 Disputed 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 Disputed Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the ONLYFANS Mark.

Having reviewed the available record, 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 the Disputed Domain Name in bad faith.

Paragraph 4(b) of the Policy sets forth four nonexclusive criteria for Complainant to show bad faith registration and use of the Disputed Domain Name:

- (i) circumstances indicating that you [Respondent] have registered or you have acquired the Disputed Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Disputed Domain Name registration to Complainant who is the owner of the ONLYFANS Mark or to a competitor of Complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the Disputed Domain Name; or

(ii) you [Respondent] have registered the Disputed Domain Name in order to prevent the owner of the ONLYFANS Mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you [Respondent] have registered the Disputed Domain Name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the Disputed Domain Name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other online location, by creating a likelihood of confusion with the ONLYFANS Mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product on your website or location.

Complainant alleges that Respondent has used the Disputed Domain Name to offer adult content appropriated from Internet users on Complainant's social media platform in direct competition with Complainant.

The Panel finds that Respondent is using the Disputed Domain Name to attract, for commercial gain, Internet users to the website associated with the Disputed Domain Name, by creating a likelihood of confusion with Complainant's ONLYFANS Mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website in accordance to paragraph 4(b)(iv) of the Policy.

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.

The Panel additionally finds that Respondent knew or should have known about Complainant's rights in the ONLYFANS Mark when Respondent registered the Disputed Domain Name. [WIPO Overview 3.0](#), section 3.2.2.

Hence, 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 <onlyfans420.com> be transferred to Complainant.

/Richard W. Page/

Richard W. Page

Sole Panelist

Date: March 22, 2024