

ADMINISTRATIVE PANEL DECISION

Fenix International Limited v. SEO G7

Case No. D2024-0238

1. The Parties

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

The Respondent is SEO G7, Thailand.

2. The Domain Name and Registrar

The disputed domain name <freeonlyfan.vip> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 19, 2024. On January 22, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 22, 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 (Registration Private / Domains By Proxy LLC, DomainsbyProxy.com) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 23, 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 23, 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 14, 2024.

The Center appointed Zoltán Takács as the sole panelist in this matter on February 22, 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 is a United Kingdom company that owns and operates the “www.onlyfans.com” website, a platform that allows users to post and subscribe to various, among others adult oriented and sports betting content on the Internet. According to a January 9, 2024 dated capture of the web traffic and ranking service Similarweb, the Complainant’s website was the 97th most popular website in the world.

The corresponding domain name <onlyfans.com> has been registered since January 29, 2013.

The Complainant is among others owner of the International Trade Mark Registration No. 1507723 for the word mark ONLYFANS registered on November 2, 2019. The mark is registered in over 50 jurisdictions for among others 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 disputed domain name was registered on August 11, 2023 and was resolving to a Thai language website offering almost exclusively adult entertainment services. At the time of rendering of this administrative decision the disputed domain name resolved to a Thai language online sport betting and casino website.

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, which consists of the singular form of its mark with insertion of the term “free” before the mark is confusingly similar to it;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name, and is unable to rely on any of the circumstances set out in paragraphs 4(c)(i), (ii), or (iii) of the Policy;
- the widespread recognition of its mark indicates the Respondent’s awareness of the mark at the time of registration of the disputed domain name, while the use of the disputed domain name, inclusive of the content copied from the Complainant’s users suggest the Respondent’s intent to divert Internet traffic from the Complainant’s website.

The Complainant requests that the disputed domain name be transferred from the Respondent to the Complainant.

B. Respondent

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

6. Discussion and Findings

A complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the complaint, namely that:

- (i) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) the 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 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 disputed domain name consists of the singular form of the Complainant's mark with the insertion of the term "free" before the mark. The Panel finds that the mark is recognizable 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, in this case "free" 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 that 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.

The composition of the disputed domain name as mentioned above, use of the disputed domain name for a website competing with the Complainant's business and last but not least the Respondent's use of the content copied from the Complainant's users cannot constitute fair use since it suggests that the content at the disputed domain name was authorized by the Complainant as "free" OnlyFans content, which it was not. [WIPO Overview 3.0](#), sections 2.5.1. and 2.5.2.

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.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

In the present case, the Panel notes that the ONLYFANS trademark of the Complainant, singular form of which is the dominant portion of the disputed domain name is a term invented by the Complainant and is distinctive for the corresponding goods and services.

Panels have established that the ONLYFANS mark has acquired a considerable reputation, not least in the adult entertainment industry (see *Fenix International Limited v. Registration Private, Domains By Proxy LLC./Jason Douglas*, WIPO Case No. [D2021-0829](#)).

In absence of the Respondent's explanation as to why it incorporated the singular form of the Complainant's mark in the disputed domain name, used content copied from the Complainant's users and it has been using the disputed domain name for a website competing with the Complainant's business the Panel concludes that the Respondent had actual knowledge of the Complainant and its mark and has registered the disputed domain name to trade on the value and goodwill attached to it.

Registration of a domain name that is identical or confusingly similar to a famous or widely known trademark by an unaffiliated entity can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

The Respondent's use of the disputed domain name for offering adult oriented entertainment and sports betting content in direct competition with the Complainant's business, including use of the content copied from the Complainant's users is evidence of bad faith. Paragraph 4(b)(iv) of the Policy.

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 <freeonlyfan.vip> be transferred to the Complainant.

/Zoltán Takács/

Zoltán Takács

Sole Panelist

Date: March 7, 2024