

## **ADMINISTRATIVE PANEL DECISION**

Fenix International Limited v. dk kumar  
Case No. D2024-0349

### **1. The Parties**

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

The Respondent is dk kumar, India.

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

The disputed domain name <onlyfansapk.cloud> is registered with Hostinger Operations, UAB (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on January 26, 2024. On January 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 29, 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 (Domain Admin) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 7, 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 February 7, 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 February 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 17, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 18, 2024.

The Center appointed Roger Staub as the sole panelist in this matter on March 27, 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 Fenix International Ltd. It owns and operates the website located at the domain <onlyfans.com>. The Complainant submits that it has been using this 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. The Complainant registered the <onlyfans.com> domain on January 29, 2013. In 2024, <onlyfans.com> had more than 180 million registered users. According to the “similarweb” ranking, it is the 97<sup>th</sup> most popular website on the World Wide Web, and it is the 55th most popular website in the United States.

The Complainant owns various trademark registrations consisting of, or containing, the term “onlyfans” in various jurisdictions. The Complainant’s portfolio of ONLYFANS trademark registrations includes, inter alia, the following trademark registrations:

- European Union trademark No. 017912377 ONLYFANS, registered on January 9, 2019, in Classes 9, 35, 38, 41, and 42.
- International trademark No. 1507723 ONLYFANS, registered on November 2, 2019, in Classes 9, 35, 38, 41, and 42, covering inter alia the Respondent’s purported home country, India;
- United States of America service mark No. 5769267 ONLYFANS, registered on June 4, 2019, in Class 35, claiming first use in commerce on July 4, 2016.

The disputed domain name was registered on July 8, 2023.

At the time the Complaint was filed, the disputed domain name resolved to an active website. That website informs its visitors that “*with the help of the platform OnlyFans, content producers can charge a subscription to share unique content with their users.*”. The website hosts an unauthorized Android application (or “APK”) that the Respondent advertises as the official OnlyFans mobile app. The Complainant submits that the website provides a bogus app that allows users to “unlock all restrictions” and “bypass the subscription charges” that the Complainant and its users require to access content. The Complainant’s word-/device mark ONLYFANS is depicted at various places of that website. It is the same logo, for which the Complainant owns trademark registrations.

#### **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.

First, the disputed domain name is identical or confusingly similar to the Complainant’s trademark ONLYFANS. The disputed domain name consists of the Complainant’s exact mark with the only difference being the insertion of the descriptive term “apk” after the Complainant’s mark. The use of the “.cloud” Top-Level Domain (“TLD”) does not change this result.

Second, the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent has no connection or affiliation with the Complainant and has not received any authorization, license, or consent to use the Complainant’s marks in the disputed domain name or in any other manner. The Respondent is not commonly known by the Complainant’s marks and does not hold any trademarks for the disputed domain name. In view of the Complainant’s global fame and success, it is clear that the

Respondent knew of the Complainant's trademarks and knew that it had no rights or legitimate interests in the disputed domain name. The Respondent cannot claim the right to use the disputed domain name under fair use, since it includes the Complainant's mark and the additional term "apk" which creates a risk of implied affiliation by suggesting that the mobile app APK file is provided by the Complainant or is otherwise an authorized method of accessing the Complainant's services. The Respondent is using an identical or confusingly similar domain name to direct Internet users to a website offering illegal services.

Third, the disputed domain name was registered and is being used in bad faith. The disputed domain name was registered long after the Complainant attained registered rights in its trademarks. The acquired distinctiveness of the Complainant's mark was so strong that the Complainant's website is among the Top 100 most popular websites in the world. Thus, the Respondent either knew or ought to have known of the Complainant's mark and likely registered the disputed domain name to target the Complainant's mark. This is even more probable, as the website to which the disputed domain name redirects features the Complainant's logos. The Respondent used the Complainant's ONLYFANS mark and the additional term "apk" within the disputed domain name, which enhances the likelihood of confusion. Further, the Respondent registered the confusingly similar disputed domain name to offer a mobile application that offers identical, yet unauthorized, services as the Complainant, under the Complainant's marks. The Respondent's failure to respond to the Complainant's cease-and-desist letter is further evidence of bad faith. The same applies to the Respondent's use of a privacy service. The Respondent clearly registered the disputed domain name to divert Internet traffic from the Complainant's site to a website offering a bogus "official" OnlyFans mobile application in direct competition with the Complainant. The offered "official" OnlyFans app, is counterfeit and not authorized by the Complainant. All this constitutes use in bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

According to the Policy, to qualify for a cancellation or transfer, the Complainant must prove each of the following:

First, the disputed domain name is identical or confusingly similar to a trademark or service mark to which the Complainant has rights.

Second, the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Third, the disputed domain name has been registered and is being used in bad faith.

Since the Respondent did not submit a reply, the Panel may choose to accept the reasonable contentions of the Complainant as true. This Panel will determine whether those facts constitute a violation of the Policy that is sufficient to order the transfer of the disputed domain name (see *Joseph Phelps Vineyards LLC v. NOLDC, Inc., Alternative Identity, Inc., and Kentech*, WIPO Case No. [D2006-0292](#)).

### **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 identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms (here, “apk”) 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.

The Panel is inclined to assume that the Respondent was well aware of the Complainant’s trademark when it registered the disputed domain name. This is supported by the fact that the Respondent uses the Complainant’s logo on the website accessible under the disputed domain name without the Complainant’s authorisation. The addition of the term “apk” (which stands for “Android Package Kit” and has therefore an inherent Internet connotation) tends to suggest sponsorship or endorsement by the Complainant as the trademark owner. [WIPO Overview 3.0](#), section 2.5.1.

Further, Panels have held that the use of a domain name for illegal activity (here, the offering of a counterfeit “official” OnlyFans app that purportedly allows users to unlock the Complainant’s restrictions and bypass the subscription charges required to access content) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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 notes that the Complainant submits as evidence screenshots of the website accessible under the disputed domain name showing a website with logos that are identical to the logos, for which the Complainant owns trademark registrations. On this website, the Respondent was offering a counterfeit “official” OnlyFans app that purportedly allows users to unlock the Complainant’s restrictions and

bypass the subscription charges required to access content. Panels have held that the use of a domain name for illegal activity constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

This finding is supported by the other circumstances of the present case, which lead the Panel to the conclusion that the disputed domain name has been registered and is used in bad faith: the disputed domain name incorporates the Complainant's trademark, which is both distinctive and reputed. The Complainant's trademark has also been registered in the Respondent's reported country. This reputed trademark has been combined with a descriptive term that suggests to the user that it will find an Android Package Kit, supported by the Complainant. There are no plausible indications at all for a possible good faith use of the disputed domain name by the Respondent. The Respondent failed to submit a response and, thus, any evidence of an actual or contemplated good faith use. A further relevant element supporting this finding is the use of a proxy service, which in the present case, due to the lack of any explanation from the Respondent, seems to serve the mere purpose of avoiding being notified of a UDRP proceeding. [WIPO Overview 3.0](#), section 3.6.

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 <onlyfansapk.cloud> be transferred to the Complainant.

*/Roger Staub/*

**Roger Staub**

Sole Panelist

Date: April 10, 2024