

ADMINISTRATIVE PANEL DECISION

Fenix International Limited v. Gary Goch

Case No. D2024-0360

1. The Parties

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

Respondent is Gary Goch, United States.

2. The Domain Name and Registrar

The disputed domain name <onlygbfans.com> (the “Domain Name”) 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 26, 2024. On January 29, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On January 29, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name, which differed from the named Respondent (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to Complainant on February 2, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on February 2, 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 Respondent of the Complaint, and the proceedings commenced on February 9, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 29, 2024. The Response was filed with the Center on February 22, 2024. Respondent also sent an email communication to the Center on March 10, 2024.

The Center appointed Christopher S. Gibson as the sole panelist in this matter on March 13, 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 at the domain name <onlyfans.com> and has used it in connection with a social media platform that allows users to post and subscribe to audiovisual content, including adult entertainment under the name “OnlyFans”. While providing services, Complainant has made extensive use of the ONLYFANS trademark.

Complainant is the owner of a number of trademark registrations incorporating the “OnlyFans” name, including the following:

- European Union Trademark Registration No. EU17912377 ONLYFANS word mark registered on January 9, 2019 (application filed June 5, 2018) for a variety of goods and services in classes 9, 35, 38, 41, and 42.
- European Union Trademark Registration No. EU017946559 ONLYFANS figurative mark registered on January 9, 2019 (application filed August 22, 2018) for a variety of goods and services in classes 9, 35, 38, 41, and 42.

As a result of the United Kingdom formally exiting the European Union, Complainant’s European Union registrations automatically generated two identical national trademark registrations in the United Kingdom:

- United Kingdom Trademark No. UK00917912377 ONLYFANS word mark registered on January 9, 2019 (application filed June 5, 2018) for a variety of goods and services in classes 9, 35, 38, 41, and 42.
- United Kingdom Trademark No. UK00917946559 figurative mark registered on January 9, 2019 (application filed August 22, 2018) for a variety of goods and services in classes 9, 35, 38, 41, and 42.

Complainant also owns trademark registrations in the United States, including:

- United States Trademark Registration No. 5769267 ONLYFANS word mark registered on June 4, 2019 (application filed on October 29, 2018) in class 35 for arranging subscriptions of the online publications of others. The registration incorporates a first use in commerce claim of July 4, 2016.
- United States Trademark Registration No. 5769268 ONLYFANS.COM word mark registered on June 4, 2019 (application filed on October 29, 2018) in class 35 for arranging subscriptions of the online publications of others. The registration incorporates a first use in commerce claim of July 4, 2016.
- United States Trademark Registration No. 6253455 ONLYFANS.COM word mark registered on January 26, 2021 (application filed on November 2, 2019) for a variety of goods and services in classes 9, 35, 38, 41, and 42.

In addition to registered trademark rights, Complainant claims common law trademark rights in respect of the name “OnlyFans”. Complainant states its unregistered common law rights have been recognized in over 40 other UDRP decisions, resulting in the cancellation or transfer of the disputed domain names to Complainant, including *Fenix International Limited v. c/o whoisprivacy.com / Tulip Trading Company, Tulip Trading Company Limited*, WIPO Case No. [DCO2020-0038](#) (“*Tulip Trading*”); *Fenix International Limited v. WhoisGuard Protected, WhoisGuard, Inc. / Samuel Walton*, WIPO Case No. [D2020-3131](#).

Complainant states that in 2024, the website hosted on its <onlyfans.com> domain name is one of the most popular sites in the world, with more than 180 million registered users. According to similarweb, it is the 97th most popular website on the World Wide Web and is the 55th most popular site in the United States.

Respondent registered the Domain Name on July 31, 2023. The Domain Name resolves to a website that appears to offer services competing with those offered by Complainant.

5. Parties' Contentions

A. Complainant

(i) Identical or confusingly similar

Complainant contends that Respondent's Domain Name is identical or confusingly similar to Complainant's marks. Complainant states the Domain Name is comprised of Complainant's mark with the only difference being the insertion of the descriptive term "gb" within Complainant's mark, which does nothing to avoid confusing similarity. Based on text found on the website at the Domain Name, "gb" refers to "gang bang", a genre of pornographic materials that are commonly provided by certain of the creators on Complainant's services. Complainant stresses that the Domain Name uses the ".com" generic Top-Level Domain ("gTLD"), which is identical to Complainant's registration under its ONLYFANS.COM mark. Thus, Complainant contends Respondent's use of the ".com" gTLD in the Domain Name does not distinguish that Domain Name from Complainant's marks.

Complainant argues that given that the Domain Name is legally identical or at the very least confusingly similar to Complainant's marks, Complainant easily demonstrates that it has satisfied the first element of the Policy.

(ii) Rights or legitimate interests

Complainant states that Respondent has no connection or affiliation with Complainant and has not received any authorization, license, or consent to use Complainant's marks in the Domain Name or in any other manner. Further, Complainant asserts that Respondent is not commonly known by the marks and does not hold any trademarks for the Domain Name.

Complainant states it has achieved global fame and success in a short time, which makes it clear that Respondent knew of Complainant's marks and that it had no rights or legitimate interests in the Domain Name. Further Complainant urges Respondent will be unable to provide credible evidence that it has rights or legitimate interests in the Domain Name, as registration and use of a domain name in bad faith cannot establish rights or legitimate interests.

Complainant contends that using a disputed domain name comprising a complainant's trademark and certain additional terms cannot constitute fair use, when doing so effectively impersonates or suggests sponsorship or endorsement. Here, Respondent cannot claim the right to use the Domain Name since it includes Complainant's mark and the additional term "gb", which Respondent uses to mean "gang bang", and thereby creates a risk of implied affiliation by suggesting to users that the content at the Domain Name is specialty "gang bang" content approved or sponsored by Complainant.

Complainant indicates that the website at the Domain Name arranges for subscriptions to adult content in direct competition with Complainant's registered services. The site also offers additional adult entertainment services in direct competition with Complainant's services, including providing entertainment services in the nature of a website featuring non-downloadable video, photographs, images, and audio in the field of adult entertainment. Complainant asserts that using the Domain Name to host commercial websites that advertise goods and services in direct competition with Complainant does not give rise to legitimate rights or interests. See *Fenix International Limited v. Registration Private, Domains By Proxy, LLC. / Jason Douglas*, WIPO

Case No. [D2021-0829](#); *Fenix International Limited v. WhoisGuard Protected, WhoisGuard Inc. / Gary Brown*, WIPO Case No. [D2021-0830](#); *Fenix International Limited c/o Walters Law Group v. Danesco Trading Ltd. / AVO Ltd AVO Ltd*, WIPO Case No. [D2021-0863](#). Such use gives a false impression that the Domain Name is associated with and/or endorsed by Complainant and is capable of misleading and diverting visitors away from Complainant. Thus, Respondent registered and used the Domain Name not because it refers to or is associated with Respondent, but because it is identical or confusingly similar to Complainant's <onlyfans.com> domain name and marks used in association with Complainant's services.

(iii) Registered and used in bad faith

Complainant claims that because its website at the domain name <onlyfans.com> is one of the most visited sites in the world, it has become a prime target for cybersquatters wishing to profit from the goodwill that Complainant has garnered in its marks. Complainant claims Respondent is one such cybersquatter.

Complainant contends that it has registered rights in its marks as early as June 5, 2018, and that it has used the marks since at least June 4, 2016. Further, Complainant states its common law rights have been recognized by a previous UDRP panel as having acquired distinctiveness by at least May 30, 2017. See *Tulip Trading*, supra. Thus, Respondent's registration of the Domain Name on July 31, 2023, was long after Complainant attained both registered and common law rights in its marks, which had acquired distinctiveness. This acquired distinctiveness was so strong that Complainant's website is among the top 100 most popular websites in the world.

Complainant states that previous panels have consistently found that the registration of a domain name that is confusingly similar to a widely-known trademark, as is the case here, creates a presumption of bad faith. Here, Complainant contends its marks have been recognized in numerous previous UDRP cases as internationally well-known amongst the relevant public, such that Respondent either knew or ought to have known of Complainant's marks and likely registered the Domain Name to target those marks. Because there is no benign reason for Respondent to have registered the Domain Name, it is clear that Respondent registered it to target the marks.

Complainant states that bad faith registration has also been found where a disputed domain name includes the complainant's mark and an additional word that enhances the likelihood of confusion with the complainant and thereby suggests that the website at the disputed domain name is authorized by the complainant. Here, bad faith registration should be found, since Respondent used Complainant's ONLYFANS mark and the additional term "gb" (meaning "gang bang") within the Domain Name, which enhances the likelihood of confusion given Complainant's related adult content. Previous panels have found that a respondent was likely aware of the complainant's trademark rights when it registered a confusingly similar domain name and began operating a website that provides products and services in direct competition with the complainant. Here, Respondent registered the confusingly similar Domain Name to divert Internet traffic from Complainant's site to a site offering adult entertainment content and related subscription services in direct competition with Complainant's site.

Complainant states it sent a cease-and-desist letter to Respondent on September 19, 2023, demanding Respondent stop using and cancel the Domain Name. Respondent did not respond, thus necessitating the filing of this case. Complainant asserts that Respondent's failure to respond to this correspondence is further evidence of bad faith. Moreover, Respondent hid from the public behind a Whois privacy wall. A respondent's use of a privacy service combined with a failure to submit a response is additional evidence of bad faith registration.

In sum, Complainant states the bad faith allegations set out above, combined with Respondent's lack of interest or rights in the Domain Name, should lead the Panel to conclude there is no plausible circumstance under which Respondent could legitimately register or use the Domain Name and thus, the Domain Name was registered and is being used by Respondent in bad faith.

B. Respondent

Respondent submitted a brief Response. Respondent submits that the Panel should find in his favor based on two of the elements under the Policy. Regarding the first element, Respondent claims he does not think anyone would have any confusion with the domain name of any other business.

Second, with respect to bad faith, Respondent states he has been hosting live events since 2005 that bring together like-minded adults for meet and greets with a common interest in the “GB” fetish. The platform used had users interested in so many different types of fetish events, so for live events, Respondent restricted attendance to only “gb” fans. After many fans requested that Respondent start a website to publish content, the name “onlygbfans.com” seemed to be a good choice. Respondent asserts there was no bad faith and no intention to disrupt any other business.

Respondent also states that he reached out to Complainant’s legal counsel to inform them that Respondent was “not opposed to selling them my domain for less than the cost they must pay to mediate their complaint”.

6. Discussion and Findings

In order to succeed on its Complaint, Complainant must demonstrate that the three elements set forth in paragraph 4(a) of the Policy have been satisfied. These elements are that:

- (i) the Domain Name registered by Respondent is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) Respondent has registered and is using the Domain Name in bad faith.

A. Identical or Confusingly Similar

Complainant has established that it owns trademark registrations for its ONLYFANS mark in a number of jurisdictions – they were registered prior to the registration of the Domain Name. Complainant has also claimed that it has common law trademark rights arising as a result of its use of the mark starting from 2016. Previous UDRP panels have found that Complainant has common law trademark rights (see e.g., *Tulip Trading, supra*; *Fenix International Limited v. WhoisGuard Protected, WhoisGuard, Inc. / Samuel Walton*, WIPO Case No. [D2020-3131](#); and *Fenix International Limited v. Domains By Proxy, LLC, Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2020-3048](#)). Considering these previous decisions and the evidence presented in this case, the Panel finds that Complainant has established it has both registered and common law trademark rights, which were obtained prior to the registration of the Domain Name.

The Domain Name incorporates Complainant’s ONLYFANS trademark in its entirety while adding the acronym “gb” between the words “only” and “fans”. According to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.8, where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. Further, it is well-established that gTLD suffixes are disregarded in the assessment of similarity between a disputed domain name and a complainant’s mark. Here, the Panel finds the mark is recognizable within the Domain Name, and thus, the Domain Name is confusingly similar to Complainant’s mark.

Accordingly, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Regarding the second element of the Policy, section 2.1 of the [WIPO Overview 3.0](#), states, “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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element”.

Here, the Panel determines that Complainant has made out a prima facie case, while Respondent has failed to rebut adequately Complainant’s contentions. The Panel finds that Complainant has not authorized Respondent to use Complainant’s ONLYFANS trademarks; that Respondent is not commonly known by the Domain Name or the name “Only GB Fans” and has not presented any evidence corroborating its claims of use of those terms from 2005 (and given the registration date of the Domain Name in 2023, such claims seem dubious); that Respondent has not used the Domain Name for a legitimate noncommercial or fair use, nor used it in connection with a bona fide offering of goods or services. While Respondent has argued that the Domain Name is not confusingly similar to Complainant’s ONLYFANS mark and there was no bad faith intention to disrupt any other business, the Panel finds that the Domain Name offers adult entertainment services in direct competition with Complainant’s services. Moreover, the Domain Name effectively impersonates or suggests sponsorship or endorsement by Complainant, by including the entirety of Complainant’s well-known ONLYFANS mark as the dominant element in the Domain Name, along with the acronym “gb” placed between the word “only” and “fans”, where “gb” may be read to refer to the phrase “gang bang”, a genre of pornography that Complainant indicates is provided by certain users/creators on Complainant’s services.

Accordingly, the Panel finds that Complainant has made a prima facie showing of Respondent’s lack of rights or legitimate interests in respect of the Domain Name, which has not been sufficiently rebutted by Respondent. The Panel therefore finds that Complainant has established the second element of the Policy in accordance with paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

The third element of paragraph 4(a) of the Policy requires that Complainant demonstrate that Respondent registered and is using the Domain Name in bad faith. [WIPO Overview 3.0](#), section 3.1, states, “bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant’s mark”.

Here, the Panel determines that the Domain Name was registered and is being used in bad faith. Factors that support this conclusion include the nature of the Domain Name itself, which incorporates Complainant’s distinctive ONLY FANS mark in its entirety, plus the additional term “gb”, which refers to content offered by Complainant’s users/creators. In addition, Complainant’s trademark registrations (dating from June 2018) predate the registration of the Domain Name (in July 2023) by more than five years, while Complainant’s common law rights date back to six years before the Domain Name was registered. Moreover, Complainant has provided evidence that its ONLY FANS marks have been recognized as internationally well-known amongst the relevant public, as previous UDRP panels have also found. *Fenix International Limited c/o Walters Law Group v. Juan Anton, Onlyfanx*, WIPO Case No. [D2021-0837](#) (“[T]he widespread commercial recognition of the Complainant’s ONLYFANS mark is such that the Respondent, must have knowledge of the trademark before registering the disputed domain name.”). Indeed, Complainant’s website is among the top 100 most popular websites in the world, and Respondent has not attempted to claim he was unaware of Complainant’s mark. Respondent has also used the Domain Name to offer services that compete directly with those offered by Complainant through its platform.

In view of all of the evidence in this case, the Panel finds, on the balance of the probabilities, that Respondent either knew or ought to have known of Complainant’s marks and likely registered the Domain Name to target those marks. See [WIPO Overview 3.0](#), section 3.1.4 (“Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names

comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith.”); *Accenture Global Services Limited v. ICS Inc./PrivacyProtect.org*, WIPO Case No. [D2013-2098](#) (finding that it was unlikely that the respondent was unaware of complainant and its ACCENTURE mark at the time the disputed domain name was registered). The Panel also determines that Respondent has intentionally attempted to attract, for commercial gain, Internet users to his website by creating a likelihood of confusion with Complainant’s mark.

In conclusion, the Panel determines that, for all of the above reasons, the Domain Name was registered and is being used in bad faith. Accordingly, Complainant has satisfied 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 Domain Name <onlygbfans.com> be transferred to Complainant.

/Christopher S. Gibson/

Christopher S. Gibson

Sole Panelist

Date: April 8, 2024