

## **ADMINISTRATIVE PANEL DECISION**

Fenix International Limited v. CD Webservice, JSV SRL  
Case No. D2024-0361

### **1. The Parties**

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

Respondent is CD Webservice, JSV SRL, Italy.

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

The disputed domain names <onlyfans.farm> and <onlyfans.green> (the “Domain Names”) are 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 26, 2024. On January 29, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On January 29, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Names which differed from the named Respondent (Registrations Private, Domains By Proxy, LLC) 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. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on March 6, 2024.

The Center appointed Dinant T. L. Oosterbaan as the sole panelist in this matter on March 11, 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**

According to the information provided Complainant owns and operates a website in connection with the provision of a social media subscription platform that allows users to post audiovisual content on the Internet empowering creators to own their full potential, monetize their content and develop authentic connections with their fans. Complainant's website has more than 180 million registered users.

Complainant owns multiple trademarks for ONLYFANS, including:

- European Union wordmark ONLYFANS, registration number 017912377 and registration date January 9, 2019, and
- the trademark ONLYFANS.COM registered with the United States Patent and Trademark Office with registration number 5769268 and registration date June 4, 2019.

In addition, Complainant runs a website using the domain name <onlyfans.com>.

The Domain Names were registered on July 30, 2023.

The Domain Names resolve to websites offering adult entertainment services.

The trademark registrations of Complainant were issued prior to the registration of the Domain Names.

#### **5. Parties' Contentions**

##### **A. Complainant**

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Names.

Notably, Complainant contends that the Domain Names are identical to the ONLYFANS trademark because they fully and solely incorporate the ONLYFANS mark with the addition of the <.farm> and <.green> Top Level Domains ("TLDs").

According to Complainant, Respondent has no rights or legitimate interests in the Domain Names. 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 trademark in the Domain Names or in any other manner. Respondent is not commonly known by the trademark and does not hold any trademarks for the Domain Names. Complainant submits that the websites at the Domain Names offer adult entertainment services by sending users to profiles on "www.creatyrs.com" in direct competition with Complainant's services. According to Complainant using a domain name to host commercial websites that advertise goods and services in direct competition with the trademark owner does not give rise to legitimate rights or interests.

Complainant submits that Respondent registered and is using the Domain Names in bad faith. According to Complainant registration of the Domain Names that are identical or confusingly similar to the widely-known ONLYFANS trademark creates a presumption of bad faith. Complainant asserts that bad faith use is found where the disputed domain name directs users to a commercial website that offers goods and services in direct competition with the trademark owner. Here, the Domain Names direct to a commercial website that

offers adult entertainment content by Complainant's competitor, Creatyrs.com, in direct competition with Complainant's services. As such, Respondent is using the Domain Names in 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 to "decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

Paragraph 4(a) of the Policy requires that a complainant proves each of the following three elements to obtain an order that the disputed domain name should be transferred or cancelled:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (ii) the respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The Panel will proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied in this proceeding.

### **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.

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 Domain Names. Accordingly, the Domain Names are identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. The TLDs ".green" and ".farm" are disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

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 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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the Domain Names. 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 Domain Names such as those enumerated in the Policy or otherwise.

Complainant has not licensed or otherwise permitted Respondent to use its ONLYFANS trademark or to register the Domain Names incorporating its trademark. Respondent is not making a legitimate noncommercial or fair use of the Domain Names without intent for commercial gain to misleadingly divert Internet users or to tarnish the trademark of Complainant.

Based on the undisputed submission and evidence provided by Complainant, the Domain Names resolve to websites offering adult entertainment services by redirecting users to profiles on the website "www.creatyrs.com" in direct competition with Complainant's services. The Panel does not consider such use a bona fide offering of goods or services, nor a legitimate noncommercial or fair use of the Domain Names. Respondent is also not commonly known by the Domain Names nor has it acquired any trademark or service mark rights.

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 noting the status of the ONLYFANS mark and the overall circumstances of this case, the Panel finds it more likely than not that Respondent knew or should have known Complainant's mark. The registration of the Domain Names in awareness of the ONLYFANS trademark and in the absence of rights or legitimate interests amounts under these circumstances to registration in bad faith.

The Panel notes that the Domain Names resolve to websites offering adult entertainment services by redirecting users to profiles on the website "www.creatyrs.com" in direct competition with Complainant's services, which indicates, in the circumstances of this case, that Respondent registered and used the Domain Names with the intention to attract, for commercial gain, Internet users to its websites by creating a likelihood of confusion with the trademark of Complainant as to the source, sponsorship, affiliation, or endorsement of its websites or location or of a service on its websites or location, which constitutes registration and use in bad faith pursuant to paragraph 4(b)(iv) of the Policy.

The Panel finds that 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 Domain Names <onlyfans.farm> and <onlyfans.green> be transferred to Complainant.

*/Dinant T. L. Oosterbaan/*

**Dinant T. L. Oosterbaan**

Sole Panelist

Date: March 25, 2024