

ADMINISTRATIVE PANEL DECISION

Fenix International Limited v. Ca Network, CNNAMADOR BRASIL
Case No. D2024-2187

1. The Parties

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

The Respondent is Ca Network, CNNAMADOR BRASIL, Switzerland.

2. The Domain Name and Registrar

The disputed domain name <xvideosonlyfans.com> (the “Domain Name”) 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 May 28, 2024. On May 29, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On the same day, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 4, 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.

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 June 10, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 30, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 1, 2024.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on July 5, 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 owns and operates the website located at “www.onlyfans.com”. The Complainant has used it for several years as a social media platform that allows users to post and subscribe to audiovisual content. In 2022, it was one of the most popular websites in the world, with more than 180 million registered users.

The Complainant owns trademark registrations in multiple jurisdictions for the ONLYFANS word and design mark, such as European Union Trademark No. 017912377, registered on January 9, 2019; European Union Trademark No. 017946559, registered on January 9, 2019; United Kingdom Trademark No. UK00917912377, registered on January 9, 2019; and United Kingdom Trademark No. UK00917946559, registered on January 9, 2019. The Complainant’s domain name <onlyfans.com> was registered on January 29, 2013. The abovementioned trademarks and the domain name are registered before the Domain Name.

The Domain Name was registered on December 1, 2021. The Complainant has documented that the Domain Name at the time of filing the Complaint resolved to a website that offers adult entertainment services (including watermarked content pirated from Complainant’s users).

5. Parties’ Contentions

A. Complainant

The Complainant provides evidence of trademark registrations and argues that it has unregistered common law rights recognized in previous UDRP decisions. The Complainant submits that the Domain Name is identical or at least confusingly similar to the Complainant’s trademark. The Complainant’s trademark is recognizable within the Domain Name. The additional element “xvideos” does nothing to avoid confusing similarity.

The Complainant asserts that it has no association with the Respondent and has never authorized or licensed the Respondent to use its trademark. There is no evidence indicating that the Respondent has been commonly known by the Domain Name. Moreover, the Respondent’s use is and cannot be bona fide offering of goods or services. The Complainant argues that the Respondent’s use of a confusingly similar domain name to direct Internet users to a website offering services in competition with the Complainant while making available pirated version of content uploaded by the Complainant’s users, cannot confer rights or legitimate interests.

The Complainant submits that the Respondent was aware of the Complainant prior to registering the Domain Name. The facts that the Complainant’s rights predate the Respondent’s registration of the Domain Name, and the Respondent’s unauthorized use of the Domain Name, prove that the Respondent knew of the Complainant and its business. The Respondent’s use of the Domain Name is evidence of bad faith use. Moreover, the Respondent has not responded to the Complainant’s cease-and-desist letter.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has established that it has rights in the trademark ONLYFANS. The test for confusing similarity involves a comparison between the trademark and the Domain Name. The Domain Name incorporates the Complainant's trademark in its entirety with the additional element "xvideos". The addition does not prevent a finding of confusing similarity between the Domain Name and the trademark. For the purpose of assessing under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domain ("gTLD"), see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.11.1.

The Panel finds that the Domain Name is confusingly similar to a trademark in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant has made un rebutted assertions that it has not granted any authorization to the Respondent to register a domain name containing the Complainant's trademark or otherwise make use of the Complainant's mark. There is no evidence that the Respondent has registered the Domain Name as a trademark or acquired unregistered rights. The Respondent has not provided any evidence of good faith use. The Panel agrees with the Complainant that the Respondent's use of the Domain Name is not bona fide offering of goods or services, but rather evidence of bad faith, see below.

The Domain Name consists of the Complainant's trademark plus an additional term. The Respondent offers services that could be perceived to be in competition with the Complainant, including watermarked content pirated from the Complainant's users.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name in accordance with paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds it probable that the Respondent was aware of the Complainant when the Respondent registered the Domain Name. This is based on the composition and use of the Domain Name, as well as the fact that the Complainant's trademarks predate the registration of the Domain Name.

The Respondent operates a website that could be perceived to be in competition with the Complainant. The Panel finds it evidenced that the Respondent has tried to attract Internet users to its website for commercial gain by creating a likelihood of confusion with the Complainant's trademark, see [WIPO Overview 3.0](#), section 3.1.

The Respondent has not provided any evidence of actual or contemplated good faith use and has not responded to the Complainant's Cease and Desist letter or the Complaint.

For the reasons set out above, the Panel concludes that the Domain Name was registered and is being used in bad faith, within the meaning of paragraph 4(b)(iv) 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 <xvideosonlyfans.com> be transferred to the Complainant.

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: July 15, 2024