

ADMINISTRATIVE PANEL DECISION

Fenix International Limited v. Ronald Remp Ronald
Case No. D2024-2188

1. The Parties

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

The Respondent is Ronald Remp, Ronald, US.

2. The Domain Name and Registrar

The disputed domain name <xvideosonlyfans.net> is registered with NameCheap, Inc. (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 disputed domain name. On May 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 (Redacted for Privacy, Privacy Service Provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 31, 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 May 31, 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 June 4, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 24, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 25, 2024.

The Center appointed Gökhan Gökçe as the sole panelist in this matter on June 28, 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 a social media platform at “www.onlyfans.com” – which was registered on January 29, 2013 – that allows users to post and subscribe to audiovisual content worldwide. In 2024, the Complainant has more than 180 million registered users.

The Complainant is the owner of several trademark registrations for ONLYFANS, including the following, as per trademark certificates submitted as annex C to the Complaint;

- European Union trademark registration No. 017912377 for ONLYFANS (word mark), filed on June 5, 2018, and registered on January 9, 2019, in classes 9, 35, 38, 41, and 42;
- European Union trademark registration No. 017946559 for ONLYFANS (figurative mark), filed on August 22, 2018, and registered on January 9, 2019, in classes 9, 35, 38, 41, and 42;
- United States trademark registration No. 5769267 for ONLYFANS (word mark), filed on October 29, 2018, and registered on June 4, 2019, in international class 35;
- United Kingdom trademark registration No. UK00917912377 for ONLYFANS filed on June 5, 2018, and registered on January 9, 2019, in Classes 9, 35, 38, 41 and 42.

The Complainant also asserts common law rights arising from its use of the mark since 2016.

The disputed domain name was registered by the Respondent on February 7, 2024.

The disputed domain name resolves to an active website which offers adult entertainment services.

The Respondent appears to be based in the United States. The Panel visited the disputed domain name on July 5, 2024, and noted that the disputed domain name is still active, and the disputed domain name redirected to a website at “www.mixputaria.net”. The website depicts adult-oriented content.

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 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 is confusingly similar to the trademark ONLYFANS in which the Complainant has rights, as it reproduces the trademark in its entirety with the only difference being the insertion of a third-party trademark “xvideos” before the Complainant’s mark. Furthermore, the generic Top-Level Domain (“gTLD”) in the disputed domain name is viewed as a standard registration requirement and is disregarded under the first element test.

With reference to rights or legitimate interests in respect of the disputed domain name, the Complainant states that the Respondent is in no way connected to, or affiliated with, the Complainant and has never received any authorization, license, or consent, whether express or implied, to use the disputed domain name. The Complainant further submits that the Respondent’s website offers adult entertainment services including content pirated from users of the Complainant’s main website, in direct competition with the Complainant. The Complainant asserts that such use does not give rise to rights or legitimate interests, because it gives a false impression that the Respondent’s website is associated with or endorsed by the

Complainant (see inter alia *Fenix International Limited v. WhoisGuard Protected, WhoisGuard Inc. / Genadiy Ivanov*, WIPO Case No. [D2021-0828](#)).

Finally, the Complainant submits that the disputed domain name was registered and has been used in bad faith. The Complainant contends that the Respondent was aware of and was targeting the Complainant when it registered the disputed domain name, and has used it to divert Internet traffic from the Complainant's website to a website offering similar adult entertainment content, including content pirated from the Complainant's users, in direct competition with the Complainant's website.

B. Respondent

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

6. Discussion and Findings

According to paragraph 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to a trademark 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.

Paragraph 4(a) of the Policy states that the Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complainant's contentions. *Stanworth Development Limited v. E Net Marketing Ltd.*, WIPO Case No. [D2007-1228](#).

However, concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. See section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

For the evaluation of this case, the Panel has taken note of the [WIPO Overview 3.0](#) and, where appropriate, will decide consistent with the consensus views stated therein.

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

Although the addition of other terms here, "xvideos", 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 disputed domain name comprises the Complainant's ONLYFANS trademark, in which the Complainant has exclusive rights. The difference between the disputed domain name and the trademark is the addition of the term "xvideos". In fact, "xvideos" is the trademark of a third party, which is known for pornographic content (see "<https://en.wikipedia.org/wiki/XVideos>"). It is well established that the addition of other third-party marks is insufficient to avoid a finding of confusing similarity to the Complainant's mark since the Complainant's registered mark is still recognizable within the disputed domain name under the first element of the UDRP (see section 1.12 of the [WIPO Overview 3.0](#)). This is also similar to previous UDRP panels' decisions (see *Aldi GmbH & Co. KG, Aldi Stores Limited v. Ronan Barrett*, WIPO Case No. D2016-2219).

Finally, the Panel finds, similarly to other UDRP panels, that the addition of the generic Top-Level Domain ("gTLD") ".net" to the disputed domain name does not constitute an element as to avoid confusing similarity for the Policy purposes. [WIPO Overview 3.0](#), section 1.11.1. (see, e.g., *F. Hoffmann La Roche AG v. Macalve e-dominios S.A.*, WIPO Case No. [D2006-0451](#); *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)).

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 also finds that the Respondent's use of the disputed domain name to direct Internet users to a website offering services that could be perceived to be in competition with the Complainant's services without providing a clear and prominent disclaimer of non-affiliation with the Complainant on the home page, does not amount to bona fide offering of goods or services or a legitimate noncommercial or fair use without intent for commercial gain to misleadingly divert consumers or to tarnish the Complainant's trademark.

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 Respondent has registered the disputed domain name well after the registration of the ONLYFANS trademarks.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

As noted above, the Respondent has failed to provide any exculpatory information or persuasive reasoning that might have led the Panel to question the Complainant's arguments that the Respondent acted in bad faith by creating confusion to the detriment of the Complainant by registering the disputed domain name.

In the present case, the Panel notes that the Respondent intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's trademark. First, the registration of a domain name that is confusingly similar to a famous or widely-known trademark by an entity that has no relationship to that mark may be, depending on the circumstances, evidence of opportunistic bad faith. See section 3.1.4, [WIPO Overview 3.0](#). Second, it is well-established in prior UDRP decisions that where the respondent knew or should have known of a famous trademark prior to registering the disputed domain name, such conduct may be, in certain circumstances, evidence of bad faith registration. See *Weetabix Limited v. Mr. J. Clarke*, WIPO Case No. [D2001-0775](#). In this case, the Complainant provided evidence that numerous UDRP panels have found that the trademark is well known. See for instance, *Fenix International Limited v. Quentine Bacon*, WIPO Case No. [D2023-4967](#); *Fenix International Limited v. b & s traede BV, Benjamin Peters Stefan Veit*, WIPO Case No. [D2023-4797](#); *Fenix International Limited v. Advena Inc*, WIPO Case No. [D2023-1348](#); *Fenix International Limited v. Withheld for Privacy Purposes, Privacy Service Provided by Withheld for Privacy ehf / Leon Key*, WIPO Case No. [D2021-3132](#); *Fenix International Limited v. Ladislav Hricko / 1a world Ltd, admin Me / Whois Privacy Corp.*, WIPO Case No. [D2021-2522](#); *Fenix International Limited c/o Walters Law Group v. Scripcariu Bogdan*, WIPO Case No. [D2021-2068](#); *Fenix International Limited v. Dontrell Mcfarland*, WIPO Case No. [D2021-2232](#); *Fenix International Limited v. Datos privados*, WIPO Case No. [D2021-1306](#); *Fenix International Limited v. Nicolas Landry*, WIPO Case No. [D2021-0881](#). Furthermore, the Panel considers that the Respondent likely registered the disputed domain name to take an unfair advantage of the power of attraction of the Complainant's trademark and the third party's trademarks.

In addition, the Respondent used a privacy service to hide his identity and contact details to register the disputed domain name, which diffculted any direct contact via a cease-and-desist demand sent by the Complainant on March 20, 2024. This reinforces the Panel's finding of bad faith.

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 <xvideosonlyfans.net> be transferred to the Complainant.

/Gökhan Gökçe/

Gökhan Gökçe

Sole Panelist

Date: July 12, 2024