

ADMINISTRATIVE PANEL DECISION

Fenix International Limited v. nongjoy aroideena
Case No. D2024-2215

1. The Parties

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

The Respondent is nongjoy aroideena, Thailand.

2. The Domain Name and Registrar

The disputed domain name <onlyfiwfans.com> 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 29, 2024. On May 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 30, 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) 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 James Bridgeman as the sole panelist in this matter on June 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 hosts a web platform that allows users to post and subscribe to audiovisual content, hosted at “www.onlyfans.com” and the Complainant is the owner of an international portfolio of registered trademarks and service marks for the ONLYFANS mark including the following:

- European Union trademark ONLYFANS, registration number EU017912377, registered on January 9, 2019, for goods and services in classes 9, 35 and 38;
- United Kingdom registered trademark ONLYFANS registration number UK00912377, registered on 9 January 2029 for goods and services in classes 9 and 35;
- United States of America registered service mark ONLYFANS, registration number 5769267, registered on the Principal Register on June 4, 2019 for services in international class 35;

The Complainant has an established Internet based business and hosts its adult entertainment platform at “www.onlyfans.com”.

The disputed domain name was registered on February 5, 2024, and resolves to a website providing adult entertainment services competing with the Complainant.

There is no information available about the Respondent, except for that provided in the Complaint, the Registrar’s Whois and the information provided by the Registrar in response to the request by the Center for details of the registration of the disputed domain name for the purposes of this proceeding.

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 claims registered trademark and service mark rights in the ONLYFANS mark established by its ownership of the portfolio of registrations described above; and common law rights in the mark established by its use in providing services on its web platform at <onlyfans.com> and has used its domain name 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 alleges that the disputed domain name is identical or confusingly similar to the ONLYFANS mark in which the Complainant has rights.

Citing the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, section 1.8, ([WIPO Overview 3.0](#)), the Complainant submits that “[w]here 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.”

The Complainant argues that the disputed domain name consists of the Complainant’s exact mark with the only difference being the insertion of the descriptive or otherwise meaningless term “fiw” inserted within the

Complainant's mark, which does nothing to avoid confusing similarity. See *Fenix International Limited v. Gary Goch*, WIPO Case No. [D2024-0360](#) (April 8, 2024) (transferring <onlybfans.com> to the Complainant).

It is further argued that the generic Top-Level Extension (gTLD) “.com” should be viewed as a standard registration requirement and as such should be disregarded when comparing the disputed domain name with the Complainant's mark for the purpose of this proceeding.

Next the Complainant alleges that the Respondent has no rights or legitimate interests in the disputed domain name arguing that:

- the Respondent has no connection or affiliation with Complainant;
- the Respondent has not received any authorization, license, or consent, whether express or implied, to use the marks in the disputed domain name or in any other manner;
- the Respondent is not commonly known by the disputed domain name or by the marks and does not hold any trademarks for the disputed domain name;
- neither is the Respondent known by the text of the disputed domain name;
- as shown in screen captures of the website to which the disputed domain name resolves and the Complainant's platform, the website to which disputed domain name offers adult entertainment services including content pirated from the Complainant's users in direct competition with the services offered by the Complainant's services;
- the screen captures specifically show that the Respondent's website is branded as “Onlyfans-24.com” and specifically includes content bearing the Complainant's URL watermarks;
- such use of a disputed domain name to host a commercial website that advertises goods and services in direct competition with the Complainant as owner of the ONLYFANS trademark does not give rise to legitimate rights or interests.

The Complainant next alleges that the disputed domain name was registered and is being used in bad faith, arguing that the disputed domain name was chosen and registered not because it refers to, or is associated with, the Respondent, but it is identical or confusingly similar to the Complainant's <onlyfans.com> domain name and the ONLYFANS mark used by the Complainant in association with the Complainant's services.

It is further argued that there is no benign reason for the Respondent to have registered the disputed domain name, and it is clear that the Respondent registered the disputed domain name to target the Complainant's marks.

From all available evidence, the disputed domain name was registered on February 5, 2024, long after the Complainant attained registered rights in the ONLYFANS mark and long after the Complainant had common law rights in the marks which had acquired distinctiveness. Previous panels established under the Policy 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. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (“[WIPO Overview 3.0](#)”), section 3.1.4.

It is also argued that the Complainant's ONLYFANS mark has been recognized in numerous previous UDRP proceedings as internationally well-known amongst the relevant public such that the Respondent either knew or ought to have known of the Complainant's ONLYFANS mark and likely registered the disputed domain name to target the Complainant and its reputation. [WIPO Overview 3.0](#), section 3.6.

The Complainant adds that the evidence shows that the Respondent registered the disputed domain name to divert Internet traffic from the Complainant's own website to a website offering adult entertainment content (including content pirated from Complainant's users) in direct competition with the Complainant's website.

Furthermore, the Complainant further argues that bad faith use is found where a domain name at issue directs Internet users to a commercial website that offers goods and services in direct competition with the trademark owner. Such use is an intentional attempt to attract, for commercial gain, Internet users to the

Respondent's website by creating a likelihood of confusion with the Complainant's mark as to the source, affiliation, or endorsement of the disputed domain name. [WIPO Overview 3.0](#), section 3.1.4.

Here, the disputed domain name directs to a commercial website that offers adult entertainment content (including watermarked content pirated from the Complainant's users) in direct competition with the Complainant's services, including providing entertainment services in the nature of a website featuring non-downloadable video, photographs, images, audio, and in the field of adult entertainment.

The Complainant adds that it sent a cease-and-desist letter to the Respondent on March 20, 2024, and the Complainant avers that the Respondent did not reply. Furthermore, the Whois information for the disputed domain name shows that the Respondent also hid from the public behind a Whois privacy wall. The Complainant argues that the Respondent's failure to reply to the Complainant's cease-and-desist letter or to submit a Response in this proceeding combined with the Respondent's concealment of his identity from the public constitute additional evidence of bad faith registration. [WIPO Overview 3.0](#), sections 3.6. and 4.3.

B. Respondent

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

6. Discussion and Findings

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.

Furthermore, the Panel finds that the Complainant has shown registered rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The ONLYFANS mark is distinctive, and the Complainant has shown that it is being used on and within the address of its website at "www.onlyfans.com".

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.

The Panel finds the mark is recognizable 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. Specifically, the mark consists of four elements, the terms "only", "fiw" and "fans" in combination with the gTLD extension ".com" two of which in combination constitute the Complainant's mark.

Although the addition of other terms, here, "fiw" 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 Respondent’s use of the confusingly similar disputed domain name, as the address of a website that purports to offer adult entertainment services in direct competition with those offered by the Complainant while using content from the Complainant’s own website cannot be described as establishing rights or legitimate interests in the disputed domain name.

Panels have held that the use of a domain name for illegal activity, here claimed impersonation/passing off, 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 Respondent chose and registered the disputed domain name which is confusingly similar to the Complainant’s ONLYFANS mark, long after the Complainant’s rights, reputation and goodwill in the mark were established by its portfolio of trademark and service mark registrations described above and through the goodwill created by its use of the mark within the address of, and in the content posted on its website at “www.onlyfans.com”.

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.

The exhibited screen captures show that the disputed domain name is used to direct users to a commercial website that offers goods and services in direct competition with those offered by the Complainant. Such use is an intentional attempt to attract, for commercial gain, Internet users to the Respondent’s website by creating a likelihood of confusion with the Complainant’s mark as to the source, affiliation, or endorsement of the disputed domain name. [WIPO Overview 3.0](#), section 3.1.4.

Panels have held that the use of a domain name for illegal activity, here, claimed as impersonation/passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Having reviewed the record, the Panel finds the Respondent’s registration and use of the disputed domain name constitutes bad faith under the Policy.

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 <onlyfiwfans.com> be transferred to the Complainant.

/James Bridgeman/

James Bridgeman

Sole Panelist

Date: July 11, 2024