

## **ADMINISTRATIVE PANEL DECISION**

Fenix International Limited c/o Walters Law Group v. Andrea Depaul  
Case No. D2024-2287

### **1. The Parties**

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

The Respondent is Andrea Depaul, Italy.

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

The disputed domain name <onlytelegramfans.com> (the “Domain Name”) is registered with Tucows Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 4, 2024. On June 5, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On June 5, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 6, 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 June 6, 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 11, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 1, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 2, 2024.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on July 4, 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, “www.onlyfans.com” 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. EU017912377, registered on January 9, 2019; and European Union Trademark No. EU017946559, registered on January 9, 2019; and 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. All trademarks and the domain name are registered before the Domain Name.

The Domain Name was registered on February 6, 2024. The Complainant has documented that the Domain Name at the time of filing the Complaint resolved to a website that prominently displays “Only Telegram Fans” and “Sell videos outside OnlyFans: LOWER COSTS MORE EARNINGS”, and purportedly offers videos for sale on another social media platform which is in direct competition with the Complainant’s services. The website states: “No banned content and no rules on Telegram, keeping content safe from screenshots and recordings. You can receive payments in € without having to pay 20% to OnlyFans as well as not charging any tax to the buyer!”

#### **5. Parties’ Contentions**

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

The Complainant provides evidence of trademark registrations, and argues that it has unregistered common law rights as it has been recognized in previous UDRP decisions. The Complainant submits that the Domain Name is legally identical or at very least confusingly similar to the Complainant’s trademark. The additional element “telegram” 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 using the Complainant’s trademark, 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 trademark 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 to direct users to a commercial website that offers goods and services in direct competition with the Complainant is evidence of bad faith. 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 "telegram". 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 unrebutted 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 that may be considered as natural in connection to the services provided by the Complainant. It carries a risk of implied affiliation to the Complainant. The affiliation is exacerbated by the fact that the Respondent purportedly offers content for sale on another social media platform which is in direct competition with the Complainant's services.

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 in direct 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 the Domain Name <onlytelegramfans.com> be transferred to the Complainant.

*/Mathias Lilleengen/*

**Mathias Lilleengen**

Sole Panelist

Date: July 8, 2024