

ADMINISTRATIVE PANEL DECISION

Fenix International Limited v. yasantha edirisinghe
Case No. D2024-2931

1. The Parties

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

The Respondent is yasantha edirisinghe, United States of America¹.

2. The Domain Name and Registrar

The disputed domain name <onlyforfeetfans.com> is registered with Hostinger Operations, UAB (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 17, 2024. On July 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 19, 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 (Domain Admin) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 19, 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 July 19, 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 July 25, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 14, 2024. The Respondent sent email communication to the

¹ In the Response there is an indication that the Respondent may be based in the United Kingdom.

Complainant on August 9, 2024. The Complainant transmitted this communication to the Center on August 13, 2024. The Respondent sent email communications to the Center on August 13 and 16, 2024.

The Center appointed Federica Togo as the sole panelist in this matter on September 8, 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

It results from the Complainant's undisputed allegations that it operates the website "www.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. In 2024, the website "www.onlyfans.com" has more than 180 million registered users.

The Complainant is the registered owner of many trademarks for ONLYFANS, e.g. European Union trademark registration no. 017912377, registered on January 9, 2019 for goods and services in classes 9, 35, 38, 41, and 42.

The disputed domain name <onlyforfeetfans.com> was registered on January 4, 2024. Furthermore, the undisputed evidence provided by the Complainant proves that the website - to which the disputed domain name resolves - offers adult entertainment services in direct competition with Complainant's services.

The Complainant sent a cease-and-desist letter to the Respondent on February 22, 2024, demanding the Respondent stop using and cancel the disputed domain name. The Respondent did not respond.

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 the disputed domain name is confusingly similar with the Complainant's trademark, since the disputed domain name consists of Complainant's exact mark with the only difference being the insertion of the descriptive phrase "for feet" within Complainant's mark, which does nothing to avoid confusing similarity.

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name. According to the Complainant, Respondent has no connection or affiliation with Complainant and 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 marks and does not hold any trademarks for the disputed domain name. All are evidence that Respondent has no rights or legitimate interests in the disputed domain name. The Respondent cannot claim the right to use the disputed domain name under fair use since it includes the mark and the additional phrase "for feet" which creates a risk of implied affiliation by suggesting to users that the website at the disputed domain name is Complainant's website for foot-fetish content, which Complainant's users routinely create and promote. In addition, the website at the disputed domain name arranges for subscriptions to adult and fetish-related content in direct competition with Complainant's registered services.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. According to the Complainant, the disputed domain name was registered long after the Complainant attained registered rights in the marks, which have been recognized as internationally well-known amongst

the relevant public, such that the respondent either knew or ought to have known of Complainant's marks and likely registered the domain to target the marks. The Respondent registered the confusingly similar disputed domain name to offer services in direct competition with the Complainant.

B. Respondent

The Respondent sent an informal communication to the Complainant on August 9, 2024 stating that "hi what is this i want to appeal against it". The Complainant transmitted this communication to the Center on August 13, 2024. The Respondent sent an informal communication to the Center on August 13, 2024 stating that "I only got the doorman name for website which was available so got it from domain.com I do not have business just a web site hosting name got by accident so only got domain name which onlyforfeetfans.com. which was available to purchase stripe I have no connections someone hacked my google account so lost google account etc". The Respondent sent another informal email to the Center on August 16, 2024 stating "hi i told you someone hacked my google account so i'm not responsible for after that so dooman name I got it .which was available so after that nothing im responsible or account for . i need dooman name thats it which i paid i have no business or next part no copyright .if there is how dooman name onlyforfeetfans.com available to buy. .i do ne have trademark or anything only doorman name so top of that someone hacked my account its still under investigation in google".

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs this 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 a complainant to prove each of the following three elements in order to obtain an order that each disputed domain name 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 therefore proceed to analyse whether the three elements of paragraph 4(a) of the Policy are satisfied.

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.

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, "for" and "feet" - may bear on assessment of the second and third elements, the Panel finds the addition of such terms 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 Panel notes that the disputed domain name is clearly constituted by the Complainant’s registered trademark ONLYFANS and the terms “for” and “feet”, which clearly refer to the Complainant’s field of commerce, tending to suggest sponsorship or endorsement by the Complainant. This is also confirmed by the content of the website to which the disputed domain name resolves, offering adult entertainment services, in direct competition with Complainant’s services.

The composition of the disputed domain name directly targeting the Complainant’s field of activity enhances the false impression that the disputed domain name is somehow officially related to the Complainant and an official website promoting the Complainant’s business. Such composition of the disputed domain name cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner, see section 2.5.1 of the [WIPO Overview 3.0](#). This is the case in the present proceeding.

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 shares the view of other UDRP panels and finds that the Complainant’s trademark ONLYFANS is well known (*Fenix International Limited c/o Walters Law Group v. WhoisGuard, Inc., WhoisGuard Protected / Marry Mae Cerna*, WIPO Case No. [D2021-0327](#); *Fenix International Limited v. Ivan*, WIPO Case No. [D2023-4876](#)). Therefore, this Panel has no doubt that the Respondent positively knew or should have known the Complainant’s trademark when registering the disputed domain name. This is underlined by the fact that the disputed domain name is clearly constituted by the Complainant’s trademark and the terms “for” and “feet”, which clearly refer to the Complainant’s field of commerce, tending to suggest sponsorship or endorsement by the Complainant. Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith, [WIPO Overview 3.0](#) section 3.1.4. The Panel shares this view.

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.

On this regard, the further circumstances surrounding the disputed domain name's registration and use confirm the findings that the Respondent has registered and is using the disputed domain name in bad faith:

- (i) the nature of the disputed domain name (a domain name incorporating the Complainant's mark plus additional terms related to the Complainant's field of activity);
- (ii) the content of the website to which the domain name redirects (i.e. offering adult entertainment services in direct competition with Complainant's services);
- (iii) the Respondent did not reply to the C&D letter;
- (iv) a clear absence of rights or legitimate interests coupled with no credible explanation for the Respondent's choice of the disputed domain name.
- (v) the respondent concealing his identity through a privacy shield.

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 <onlyforfeetfans.com> be transferred to the Complainant.

/Federica Togo/

Federica Togo

Sole Panelist

Date: September 20, 2024