

ADMINISTRATIVE PANEL DECISION

Fenix International Limited v. Keith Allan

Case No. D2023-1350

1. The Parties

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

Respondent is Keith Allan, United States.

2. The Domain Name and Registrar

The disputed domain name <onlygirls18.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 March 28, 2023. On March 29, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 29, 2023, the Registrar transmitted by email to the Center its verification response, confirming that Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 Respondent of the Complaint, and the proceedings commenced on April 4, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 24, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on April 25, 2023.

The Center appointed Lynda J. Zadra-Symes as the sole panelist in this matter on May 10, 2023. 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

Complainant owns and operates the website located at the domain name <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. Complainant uses the mark ONLYFANS, ONLYFANS.COM, and OFTV in connection with its services. Complainant owns registered trademarks in the European Union, the United Kingdom, the United States and claims extensive common law rights throughout the world in the marks ONLYFANS, ONLYFANS.COM and OFTV as word marks and design marks (the “Marks”).

- Europe trademark ONLYFANS (registration no. EU017912377) was registered on January 9, 2019
- United States trademark ONLYFANS.COM (registration no. 5,769,268) was registered on Jun 4, 2019

In addition, Complainant registered the domain name <onlyfans.com> on January 29, 2013, and has developed extensive common law rights in the Marks through use of that domain in connection with its services. Complainant claims that, in 2023, <onlyfans.com> is one of the most popular sites in the world, with more than 180 million registered users.

Complainant submits that it has owned registered rights in the Marks since as early as June 5, 2018, and has used the Marks since at least as early as June 4, 2016. Complainant’s unregistered common law rights have been recognized in previous WIPO decisions as having accrued and acquired distinctiveness by no later than May 30, 2017. See *Fenix International Limited v. c/o whoisprivacy.com / Tulip Trading Company, Tulip Trading Company Limited*, WIPO Case No. [DCO2020-0038](#) (October 5, 2020); *Fenix International Limited v. WhoisGuard Protected, WhoisGuard, Inc. / Samuel Walton*, WIPO Case No. [D2020-3131](#) (January 3, 2021).

Respondent registered the disputed domain name on September 15, 2021. The website at the disputed domain name offers services in direct competition with Complainant’s services (Annex E of the Complaint). Some of the videos on the website are titled “Leaked from Onlyfans HD” and some include watermarks featuring the Complainant’s the ONLYFANS.COM mark (Annex F of the Complaint).

Complainant sent a cease and desist letter to Respondent on March 8, 2022, demanding that Respondent stop using and cancel the disputed domain name. Respondent failed to respond.

5. Parties’ Contentions

A. Complainant

Complainant contends that the disputed domain name is identical or confusingly similar to Complainant’s registered and common law trademarks, that Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the disputed domain name was registered and is being used in bad faith.

B. Respondent

Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

In order to succeed in its claim, Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests with respect to the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

Paragraph 15(a) of the Rules instructs the 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”.

A. Identical or Confusingly Similar

Complainant has demonstrated that it has rights in the trademarks ONLYFANS, ONLYFANS.COM, and OFTV in connection with online social networking applications, computer software for the collection, storage and sharing of data and information, and related software and online subscription services relating to sporting, fitness and entertainment services, including adult entertainment. The disputed domain name contains the same initial portion of the ONLYFANS and ONLYFANS.COM marks, *i.e.*, the word “only”, with the terms “girls” and “18”. Bearing in mind that the threshold test for confusing similarity involves a reasoned but relatively straightforward comparison between a complainant’s trademark and the disputed domain name, a question arises as to the confusing similarity noting that the sole term reproduced from Complainant’s marks is the word “only”.

In this connection, the Panel refers to section 1.7 of [WIPO Overview 3.0](#), which provides: “In specific limited instances, while not a replacement as such for the typical side-by-side comparison, where a panel would benefit from affirmation as to confusing similarity with the complainant’s mark, the broader case context such as website content trading off the complainant’s reputation, or a pattern of multiple respondent domain names targeting the complainant’s mark within the same proceeding, may support a finding of confusing similarity. On the other hand, if such website content does not obviously trade off the complainant’s reputation, panels may find this relevant to an overall assessment of the case merits, especially under the second and third elements (with such panels sometimes finding it unnecessary to make a finding under the first element).”

The Panel notes that the associated website offers services in direct competition with Complainant’s services, including “providing entertainment services ... in the nature of a website featuring non-downloadable video, photographs, images, audio ... in the field of adult entertainment”. A number of the videos on the website at the disputed domain name are titled “Leaked from Onlyfans HD”, and some include the watermarks featuring the ONLYFANS.COM mark. The Panel further notes that the Parties were involved in a previous proceeding where the targeting of Complainant was established. See *Fenix International Limited v. Katey Cox, Kinky Fantasy Dolls; Hoang Quang; John Eod; Privacy service provided by Withheld for Privacy ehf / Keith Allan; Whois Privacy Protection Services by Z.com MM / Jason Taro; Manuel Klein; Domain Admin, Whois protection, this company does not own this domain name s.r.o / Whatever Tube, East Asia; teamRD r.d.; and Danesco Trading Ltd. / Herman Yang*, WIPO Case No. [D2022-0073](#). All 38 domain names at issue in that proceeding (registered between April 6 and December 4, 2021) reproduced the terms “onlyfan” or “onlyfans”, with at least two also including the number “18”.

Noting these circumstances, the Panel finds that Respondent is seeking to target Complainant’s marks through the disputed domain name.

In making this finding, the Panel further refers to the decision in *Fenix International Limited v. Withheld for Privacy Purposes, Privacy Service Provided by Withheld for Privacy ehf / Eduardo Guerrero Romero*, WIPO Case No. [D2021-3180](#), involving Complainant and the domain name <onlypacks.net>:

“The Panel is satisfied that the Complainant has rights in its ONLYFANS trademark with reference to the registered trademarks noted in the factual background section above. Comparing such mark to the disputed

domain name, it may be seen that the mark is not identical thereto. However, the majority of the Complainant's mark is present, including the first term 'only' and the final letter 's'. The 'fan' portion of the mark has been replaced in the disputed domain name with 'pack' but this does not prevent a finding of confusing similarity between the Complainant's trademark and the disputed domain name. Moreover, the Complainant's mark and the disputed domain name are syntactically and conceptually similar. Each contains two terms, both of one syllable each, with the second term being in plural form, such second term being recognizably qualified by the first term 'only' in both cases.

While the content of the website associated with the domain name undergoing the comparison exercise is typically disregarded in the assessment of identity or confusing similarity, it can be relevant in some instances where such content affirms the fact that the respondent *prima facie* seeks to target the complainant's mark. That is the situation in the present case. The Complainant's ONLYFANS mark is directly and specifically referenced in the heading to the Respondent's website. Furthermore, the Complainant's padlock device is reproduced throughout (see section 1.15 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)) on the relevance of website content to the question of identity or confusing similarity). In all of these circumstances, there appears to the Panel to be no doubt that the Respondent specifically selected the disputed domain name as a play on the Complainant's mark, and on the basis that it would be confusingly similar thereto.

Likewise, the mentioned circumstances of the present case confirm that Respondent is seeking to target Complainant's mark through the disputed domain name. The Panel concludes that the disputed domain name is confusingly similar to Complainant's trademarks.

B. Rights or Legitimate Interests

Complainant contends that Respondent is not affiliated with or connected to Complainant in any way. Complainant has not given Respondent authorization, license or consent, express or implied, to use the Marks in the disputed domain name or in any other manner. Respondent is not commonly known by the Marks and does not hold any trademarks for the disputed domain name. There is no evidence indicating that Respondent is commonly known by the disputed domain name. The disputed domain name offers adult entertainment services in direct competition with Complainant's services and, in the circumstances of this case, in an intentional attempt to attract, for commercial gain, Internet users to Respondent's website by creating a likelihood of confusion with Complainant's Marks as to the source, affiliation or endorsement of the disputed domain name.

The Panel finds that Complainant has satisfied the requirement of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The disputed domain name was registered on September 15, 2021, long after Complainant acquired registered rights in the Marks and long after Complainant developed common law rights in the Marks. Complainant submitted evidence that its website is among the Top 100 most popular websites in the world. Complainant's Marks have been recognized in numerous previous UDRP proceedings as "internationally well-known amongst the relevant public" such that Respondent either knew or should have known of Complainant's Marks, and most likely registered the disputed domain name with knowledge of Complainant's Marks. This is further supported by Respondent's use of the disputed domain name to offer services in direct competition with Complainant. In this regard, the Panel refers to the discussion under the first element concerning the Parties' involvement in a previous proceeding.

Accordingly, the Panel finds that Respondent has registered and used the disputed domain name in bad faith.

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, <onlygirls18.net>, be transferred to Complainant.

/Lynda J. Zadra-Symes/

Lynda J. Zadra-Symes

Sole Panelist

Date: June 12, 2023