

## **ADMINISTRATIVE PANEL DECISION**

Fenix International Limited v. Not disclosed, and Domain Admin, Whois Privacy Corp.

Case No. D2023-3876

### **1. The Parties**

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

The Respondents are Not disclosed, Germany, and Domain Admin, Whois Privacy Corp., Bahamas.

### **2. The Domain Names and Registrars**

The disputed domain names <only-fans.asia> and <only-fans.vip> are registered with TLD Registrar Solutions Ltd. and Key-Systems GmbH, respectively (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on September 16, 2023. On September 18, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 19, 2023, 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 Domain Admin Whois Privacy Corp.) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 21, 2023, 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 amended Complaint on September 21, 2023.

The Center verified that the Complaint together with the amended 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 sent notification to the Respondents of the Complaint, and the proceedings commenced on October 2, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 22, 2023. The Respondents did not submit any response. Accordingly, the Center sent notification of the Respondents' default on October 23, 2023.

The Center appointed Petra Pecar as the sole panelist in this matter on November 27, 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**

The Complainant is the owner of the domain name <onlyfans.com>, registered on January 29, 2013. The Complainant has been using the domain name for a social media platform that focuses on audiovisual content since at least June 4, 2016. By 2023, this platform had attracted over 180 million registered users. According to Similarweb, it ranks as the 94th most visited website worldwide and is seventh in the “Adult” category in the United States.

The Complainant owns a ONLYFANS trademark portfolio, which among others includes:

- European Union Trademark No. 017912377, ONLYFANS, registered on January 9, 2019, effective from June 5, 2018, in International Classes 9, 35, 38, 41, and 42;
- United States Trademark No. 5769267, ONLYFANS, registered on June 4, 2019 in International Class 35 and claiming a first use in commerce on July 4, 2016; and
- United States Trademark No. 6253455, ONLYFANS, registered on January 26, 2021, in International Classes 9, 35, 38, 41, and 42.

The disputed domain name <only-fans.asia> was registered on February 7, 2023, and at the time of the Complainant filing was redirected to the disputed domain name <only-fans.vip>. The disputed domain name <only-fans.vip> was registered on January 25, 2022, and at the time of the Complainant filing was redirected to <porn-thai.cc>.

The Complainant sent a cease-and-desist letter to the Respondent on March 30, 2023, but received no response from the Respondent.

The Respondent of the disputed domain name <only-fans.vip> is Domain Admin, Whois Privacy Corp. and in case of the disputed domain name <only-fans.asia> is Not disclosed.

#### **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 names.

Notably, the Complainant contends the disputed domain names are confusingly similar to its ONLYFANS trademark. The core of this argument lies in the incorporation of the Complainant's trademark with generic Top-Level Domains (gTLDs), which, according to the Complainant, does not sufficiently differentiate them.

The Complainant asserts that the Respondent lacks authorization or legitimate interest in using the ONLYFANS trademarks, evidenced by the use of the disputed domain names for services directly competing with the Complainant's, particularly in the adult entertainment industry. This is coupled with the allegation that the Respondent has pirated content from the Complainant's platform.

Furthermore, the Complainant argues that the timing of the disputed domain names registration, following the establishment and recognition of their trademarks, indicates bad faith. The Respondent's failure to respond to cease-and-desist letter and efforts to conceal their identity using privacy services are also seen as indicative of bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1 Procedural Issue: Consolidation of Multiple Respondents**

The Panel has considered the possible consolidation of the multiple respondents. Paragraphs 4(f) of the Policy and 10(e) of the Rules allow, at the discretion of the panel, for the consolidation of multiple UDRP disputes. Under Paragraph 3(c) of the UDRP Rules, the Complaint may relate to more than one domain name, so long as the registrant of the disputed domain names are the same.

The Panel finds that disputed domain names in question are variations of ONLYFANS trademark with different gTLDs. The disputed domain name <only-fans.asia> is set up to permanently redirect to the second disputed domain name <only-fans.vip>, which in turn redirects to <porn-thai.cc>. The site located at <porn-thai.cc> is noted for hosting pirated content and prominently features a logo that closely imitates the "Only Fans" brand. The mentioned use of a recreated logo suggests an intention to mislead or confuse consumers.

Regarding common ownership or control, the Whois records for both disputed domain names show that they were updated on the same date, September 19, 2023. This simultaneous update, coupled together with the redirection of one disputed domain name to the other, suggests a coordinated effort or management, implying that the registrants of these domains are likely the same person, entity, or network. This coordinated action seems to be part of an intentional strategy aimed at infringing upon the Complainant's ONLYFANS trademarks and potentially harming consumers by misleading them with similar domain names that redirect to a site with unauthorized content.

In view of all the above, the Panel finds that the consolidation is fair to the Parties, and the Respondents have been given an opportunity to object to consolidation through the submission of pleadings to the Complaint but have chosen not to rebut the consolidation. Based on the Complaint, the Panel finds that it is more likely than not that the disputed domain names are in common control of one entity; hence, the Panel grants the consolidation and will refer to these Respondents as "Respondent".

## **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.

Based on the available record, the Panel finds 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 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.

Although the addition of the hyphen may bear on assessment of the second and third elements, the Panel finds the addition of such hyphen does not prevent a finding of confusing similarity between the disputed domain names and the trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, 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.

In this case, the Respondent did not submit a response to the Complainant’s contentions. From the evidence provided by the Complainant, Panel finds that the Respondent has not used the disputed domain names in connection with a *bona fide* offering of goods and services, nor has the Complainant authorized the Respondent to use its ONLYFANS trademarks. The Respondent is not commonly known by the disputed domain names and has not used the disputed domain names in connection with a *bona fide* offering of goods or services.

Panels have held that the use of a domain name for competing services cannot support a claim to rights or legitimate interests. [WIPO Overview 3.0](#), section 2.5.3.

Based on the available record, 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 disputed domain names were registered and used in bad faith. The Complainant’s trademark ONLYFANS is used as a social media platform that focuses on audiovisual content since at least June 4, 2016 with over 180 million registered users while the disputed domains were registered, at the earliest, six years after the ONLYFANS trademarks. A simple Internet search would show that ONLYFANS is a registered trademark used in connection with social media. The Respondent’s effort to deceive Internet users by registering domain names based on the Complainant’s trademarks, by dividing the trademark ONLYFANS with a hyphen and the gTLDs “.vip” and “.asia”, may itself be sufficient to support a finding of bad faith. Based on the evidence, it is evident that the Respondent was aware of the Complainant and its ONLYFANS trademarks, and intentionally targeted those trademarks when registering the disputed domain names in order to take advantage of the Complainant’s trademarks’ reputation for commercial gain by creating a likelihood of confusion with the Complainant’s ONLYFANS trademark.

As regards use, the Policy provides a non-exhaustive list of examples whereby panels may find registration and use in bad faith. Under the circumstances of this proceeding, it is clear that the use of the disputed domain names falls squarely within the confines of paragraph 4(b)(iv) of the Policy, namely that the

Respondent intentionally attempted to attract, for commercial gain, Internet users to its disputed domain names, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement the disputed domain names.

At the time of filing the Complaint, the disputed domain name <only-fans.asia> redirected to the second disputed domain name <only-fans.vip>, which itself redirected to <porn-thai.cc> with explicit adult content. The redirection of the disputed domain name <only-fans.vip> to <porn-thai.cc> with explicit adult content which is connected to the Complainant's main activity in social media field confirms that the Respondent was aware of the Complainant, its activity, and trademarks. The use of the disputed domain names for redirection to the websites with similar content as the Complainant activity in order to obtain commercial gain on the basis of the reputation of the prior Complainant's ONLYFANS trademark constitutes use in bad faith.

The Respondent also appears to have provided false contact information in view of the Registrar's disclosure of "Not disclosed" as not only the name, but also the Respondent's alleged street and city, with a corresponding non-existent zip code.

The Complainant's ONLYFANS trademark is distinctive and enjoys widespread reputation. Secondly, the Respondent has failed to provide any response to the Complaint. The Respondent has therefore, failed to provide any relevant evidence of actual or contemplated good-faith use of the disputed domain name. Finally, and in connection with the previous points, it seems rather implausible that there could be any good faith use of the disputed domain name having in mind that the disputed domain names contain the well-known ONLYFANS trademark in its entirety.

Based on the available record, 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 names <only-fans.asia> and <only-fans.vip> be transferred to the Complainant.

*/Petra Pecar/*

**Petra Pecar**

Sole Panelist

Date: December 11, 2023