

## **ADMINISTRATIVE PANEL DECISION**

Fenix International Limited v. Vik

Case No. D2022-0317

### **1. The Parties**

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

The Respondent is Vik, Russian Federation.

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

The disputed domain name <onlyfans-private.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 29, 2022. On January 31, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 1, 2022, the Registrar transmitted by email to the Center its verification response confirming that the 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 the Respondent of the Complaint, and the proceedings commenced on February 3, 2022. In accordance with the Rules, paragraph 5, the due date for Response was February 23, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 28, 2022.

The Center appointed Mario Soerensen Garcia as the sole panelist in this matter on March 4, 2022. 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 Fenix International Limited, who owns and operates the website at “www.onlyfans.com” for a social media platform that allows users to post and subscribe to audiovisual content on the web. In 2022, “www.onlyfans.com” is one of the most popular websites in the world, with more than 180 million registered users.

The Complainant registered the domain name <onlyfans.com> on January 29, 2013 and owns the following trademark registrations:

- US trademark registration No. 5,769,267 for ONLYFANS and No. 5,769,268 for ONLYFANS.COM, both filed on October 29, 2018, registered on June 4, 2019, and claiming a first use in commerce of July 4, 2016.
- European Union registration No. 017912377 for ONLYFANS, filed on June 5, 2018, and registered on January 9, 2019.

The disputed domain name was registered on August 5, 2021, and its corresponding website promotes products under the name of Loomly to shorten web addresses when creating social media with a tab “Watch onlyfanslist”.

#### **5. Parties' Contentions**

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

Initially, the Complainant says that because <onlyfans.com> is one of the most visited websites in the world, it has become a prime target for cybersquatters wishing to profit from the goodwill that the Complainant has achieved and that its rights have been recognized in over 40 other UDRP decisions, resulting in the cancellation or the transfer of different domain names to the Complainant.

The Complainant states that the disputed domain name consists of its trademark ONLYFANS with the addition of the descriptive term “private” which does not avoid a finding of confusing similarity. The Complainant alleges that the addition of such a term carries a risk of implied affiliation, since it refers to the privacy settings offered on the Complainant’s services, which allow users to hide content behind a paywall to be accessed only by paying users.

The Complainant argues that the Respondent has no rights or legitimate interests in the disputed domain name, that it is not known by the disputed domain name and that it has not acquired any trademark rights related to the disputed domain name.

In addition, the Complainant mentions that the widespread commercial recognition of its trademark ONLYFANS is such that the Respondent was certainly aware of the Complainant’s rights before registering the disputed domain name.

The Complainant argues that the Respondent registered the disputed domain name in bad faith since it resolves to a website that arranges for subscriptions to adult content in “direct competition” with the Complainant’s services, therefore capable of misleading and diverting visitors away from the Complainant.

Also, the Complainant informs that on November 16, 2021 it sent a cease & desist letter to the Respondent and did not receive any response.

According to the Complainant, the Respondent is also using the disputed domain name in bad faith, with the 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 and services.

Finally, the Complainant requests the cancellation of the disputed domain name.

## **B. Respondent**

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

## **6. Discussion and Findings**

As per paragraph 4(a) of the Policy, the Complainant must prove that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (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.

### **A. Identical or Confusingly Similar**

The evidence presented demonstrates that the Complainant is the owner of trademark registrations for ONLYFANS in the European Union and in the US. Also, the Complainant registered its own domain name and has been using its website "www.onlyfans.com". All these registrations predate the registration date of the disputed domain name.

The Panel finds that the Complainant has trademark rights for purposes of the Policy.

The disputed domain name comprises the Complainant's trademark ONLYFANS in its entirety. The addition of the term "private" does not avoid a finding of confusing similarity between the disputed domain name and the Complainant's trademark.

In this regard, it is the general view among prior UDRP panels that the addition of other terms to a trademark in a domain name would not prevent a finding of confusing similarity under the first element of the UDRP. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8.

Also, prior UDRP panels have recognized that the incorporation of a trademark in its entirety or a dominant feature of a trademark is sufficient to establish that the domain name is confusingly similar to the complainant's registered mark. See section 1.7, [WIPO Overview 3.0](#).

Therefore, the Panel finds that paragraph 4(a)(i) of the Policy has been proved by the Complainant, *i.e.*, the disputed domain name is confusingly similar to the Complainant's trademark.

### **B. Rights or Legitimate Interests**

The Respondent has not submitted a response to the Complaint or to the letter sent by the Complainant on November 16, 2021.

There is no evidence that the Respondent has any authorization to use the Complainant's trademark or to register domain names containing the trademark ONLYFANS.

There is no evidence that the Respondent is commonly known by the disputed domain name.

There is also no evidence that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name or that before any notice of the dispute the Respondent has made use of, or demonstrable preparations to use the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services. Instead, the disputed domain name resolves to a website offering products under the name of Loomly to shorten web addresses when creating social media with a tab “Watch onlyfanslist”, which does not create a right or legitimate interest, as the Respondent intends to mislead Internet users.

Based on the evidence in the Complaint, the Panel finds that the use of the disputed domain name, which incorporates the Complainant’s trademark, does not correspond to a *bona fide* use under the Policy.

Moreover, the construction of the disputed domain name itself, which incorporates the Complainant’s trademark in its entirety plus a term “private” possibly referring to the privacy settings offered on the Complainant’s services that allow users to hide content behind a paywall to be accessed only by paying users, carries a risk of implied affiliation that cannot constitute fair use. See section 2.5.1, [WIPO Overview 3.0](#).

For the above reasons, the Panel finds that the condition of paragraph 4(a)(ii) of the Policy has been satisfied, *i.e.*, the Respondent has no rights or legitimate interests in the disputed domain name.

### **C. Registered and Used in Bad Faith**

The trademark ONLYFANS is registered by the Complainant as per the documents presented in the Complaint and achieved global fame and success in a short time and before the registration of the disputed domain name.

The disputed domain name adds the term “private” to the Complainant’s trademark, which makes the disputed domain name even more associated with the Complainant’s mark because the term “private” may refer to the privacy settings on the Complainant’s services as described above. Therefore, the Panel finds that the Respondent knew or should have known of the ONLYFANS mark at the time of the disputed domain name registration. Moreover, any individual who has access to the Internet can find the ONLYFANS trademark on public databases.

The disputed domain name resolves to a website offering products under the name of Loomly to shorten web addresses when creating social media with a tab “Watch onlyfanslist”. This Panel finds that there is no other reason for the use and registration of the disputed domain name than to take advantage of the Complainant’s trademark, with the purpose of generating income. The Respondent’s intention to mislead Internet users into believing that the disputed domain name and its corresponding website belong to or is associated with the Complainant is clear.

Finally, the Respondent has chosen not to respond to the Complainant’s allegations. According to the panel’s decision in *The Argento Wine Company Limited v. Argento Beijing Trading Company*, WIPO Case No. [D2009-0610](#): “the failure of the Respondent to respond to the Complaint further supports an inference of bad faith”.

Therefore, this Panel finds that the Respondent’s intention of taking undue advantage of the trademark ONLYFANS as described in paragraph 4(b)(iv) of the Policy has been demonstrated.

For the above reasons, the Panel finds that the condition of paragraph 4(a)(iii) of the Policy has been satisfied, *i.e.*, the disputed domain name has been registered and is being used 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, <onlyfans-private.com>, be cancelled.

*/Mario Soerensen Garcia/*

**Mario Soerensen Garcia**

Sole Panelist

Date: March 18, 2022