

ADMINISTRATIVE PANEL DECISION

**Fenix International Limited v. Privacy Service Provided by
Withheld for Privacy ehf / Julio Medina
Case No. D2022-0337**

1. The Parties

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

The Respondent is Privacy Service Provided by Withheld for Privacy ehf, Iceland / Julio Medina, United States.

2. The Domain Name and Registrar

The disputed domain name <notyouronlyfan.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 31, 2022. On February 1, 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 disclosing registrant and contact information for the disputed domain name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on February 2, 2022 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 February 2, 2022.

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 February 9, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 1, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 2, 2022.

The Center appointed Evan D. Brown as the sole panelist in this matter on March 7, 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 in the business of arranging for subscriptions to online content, including adult entertainment. It owns the trademark ONLYFANS, which it has registered in a number of different countries, including the United States (Reg. No. 5,769,267) registered on June 4, 2019.

According to the Whois records, the disputed domain name was registered on June 28, 2021. The Respondent has used the disputed domain name to set up a website that displays adult content, including links to services offered by a competitor of the Complainant and the following disclaimer at the bottom of the page:

“© 2021 - Not Your Only Fan - Reviews of Premium Content Creators & more...

Note: We are independent all reviews are our own. This site and the products and services offered on this site is in no way sponsored, affiliated, endorsed or administered by, or associated with, OnlyFans, Nafty, or any other brands/registered trademarks. Nor have they been reviewed tested or certified by any of the mentioned brands. The content in the reviews belongs to the content creators and their respective platforms. All trademarks belong to their registered owners. This site was built for educational and entertainment purposes only.”

The Respondent did not reply to cease and desist communications the Complainant sent concerning the disputed domain name.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is identical or confusingly similar to the Complainant's trademark; that the 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

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

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements listed 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 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. The Panel finds that all three of these elements have been met in this case.

A. Identical or Confusingly Similar

This element requires the Panel to consider two issues: first, whether the Complainant has rights in a relevant mark; and, second, whether the disputed domain name is identical or confusingly similar to that mark. This element under the Policy functions primarily as a standing requirement. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 1.7.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. See *Advance Magazine Publishers Inc., Les Publications Conde Nast S.A. v. Voguechen*, WIPO Case No. [D2014-0657](#). The Complainant has demonstrated its rights in the ONLYFANS mark by providing evidence of its trademark registrations.

The disputed domain name is confusingly similar to the Complainant's mark. The disputed domain name incorporates all but the last letter of the ONLYFANS mark, and adds the dictionary words "not" and "your" at the beginning. These do not eliminate the confusing similarity.

The Complainant has established this first element under the policy.

B. Rights or Legitimate Interests

The Panel evaluates this element of the Policy by first looking to see whether the Complainant has made a *prima facie* showing that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. If the Complainant makes that showing, the burden of production of demonstrating rights or legitimate interests shifts to the Respondent (with the burden of proof always remaining with the Complainant).

On this point, the Complainant asserts, among other things, that (1) the Respondent has no connection or affiliation with the Complainant, and has not received any authorization, license, or consent to use the ONLYFANS mark in the disputed domain name, (2) there is no evidence the Respondent has been known by the disputed domain name, and (3) use of the website found at the disputed domain name to promote the services of a competitor of the Complainant does not give rise to rights or legitimate interests.

The Panel finds that the Complainant has made the required *prima facie* showing. The Respondent has not presented evidence to overcome this *prima facie* showing and nothing in the record otherwise tilts the balance in the Respondent's favor. Accordingly, the Panel finds that the Complainant has established this second element under the Policy.

C. Registered and Used in Bad Faith

The Policy requires a complainant to establish that the disputed domain name was registered and is being used in bad faith. The Policy describes several non-exhaustive circumstances demonstrating a respondent's bad faith registration and use. Under paragraph 4(b)(iv) of the Policy, a panel may find bad faith when a respondent "[uses] the domain name to intentionally attempt to attract, for commercial gain, Internet users to [respondent's] website or other online location, by creating a likelihood of confusion with complainant's mark as to the source, sponsorship, affiliation, or endorsement of [respondent's] website or location or a product or service on [the respondent's] website or location".

Because the Complainant's ONLYFANS mark is so well-known, it is implausible to believe that the Respondent was not aware of that mark when it registered the disputed domain name. In the overall circumstances of this case (*i.e.*, noting the use to which the disputed domain name has been put), such a showing is sufficient to establish bad faith registration of the disputed domain name.

While the website at the disputed domain name states that the "site was built for educational and entertainment purposes only", the Panel finds that the Respondent is using the disputed domain name in bad faith because it primarily promotes the services of a competitor of the Complainant which the Panel presumes the Respondent benefits somehow (*e.g.*, via affiliate commission or otherwise). Moreover, the Panel finds that the disclaimer on the website stating that the "site is in no way sponsored, affiliated, endorsed or administered by, or associated with, OnlyFans" is an admission by the Respondent that users may be confused as to the source, sponsorship, affiliation, or endorsement of the website. [WIPO Overview 3.0](#), section 3.7.

Accordingly, the Panel finds the third element has been met.

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 <notyouronlyfan.com> be cancelled.

/Evan D. Brown/

Evan D. Brown

Sole Panelist

Date: March 23, 2022