

ADMINISTRATIVE PANEL DECISION

Fenix International Limited v. Privacy Service Provided by Withheld for Privacy ehf / Konstantin Ilin
Case No. D2022-1912

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 / Konstantin Ilin, Russian Federation.

2. The Domain Names and Registrar

The disputed domain names <love-onlyfans.com> and <sliv-of.net> are registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 26, 2022. On May 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name <sliv-of.net>. On May 28, 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 June 1, 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 amended Complaint on June 1, 2022, and added a second domain name (<love-onlyfans.com>).

On June 2, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name <love-onlyfans.com>. On June 2, 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 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 notified the Respondent of the Complaint, and the proceedings commenced on June 3, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 23, 2022. The Respondent submitted four informal emails; on June 3, June 6, June 12, and July 5, 2022.

The Center appointed Reyes Campello Estebaran as the sole panelist in this matter on July 1, 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 owns and operates a social media platform that allows users to post and subscribe to audiovisual exclusive, mostly adult, content. The users of this platform pay a subscription fee to see exclusive content and live streaming from their favorite content creators. The Complainant's social media platform is located at the website "www.onlyfans.com", which is listed in 2022, according to Alexa Internet, as the 177th most popular website worldwide, and the 75th most popular website in the United States.

The Complainant holds trademark registrations that comprise the term "onlyfans" in various jurisdictions around the world, including the following:

- European Union Trademark Registration No. 17,912,377 ONLYFANS, word, registered on January 9, 2019, in classes 9, 35, 38, 41 and 42;
- European Union Trademark Registration No. 17,946,559 ONLYFANS, figurative, registered on January 9, 2019, in classes 9, 35, 38, 41, and 42;
- United States Trademark Registration No. 5,769,267 ONLYFANS, word, registered on June 4, 2019, in class 35;
- United States Trademark Registration No. 5,769,268 ONLYFANS.COM, word, registered on June 4, 2019, in class 35;
- United States Trademark Registration No. 6,253,455 ONLYFANS, word, registered on January 26, 2021, in classes 9, 35, 38, 41, and 42;
- United States Trademark Registration No. 6,253,475 ONLYFANS, figurative, registered on January 26, 2021, in classes 9, 35, 38, 41, and 42;
- International Registration No. 1507723, ONLYFANS, word, registered on November 2, 2019, in classes 9, 35, 38, 41, and 42, which designates, among other jurisdictions, the Russian Federation; and
- International Registration No. 1509110, ONLYFANS, figurative, registered on November 2, 2019, in classes 9, 35, 38, 41, and 42, which designates, among other jurisdictions, the Russian Federation, (collectively the "ONLYFANS mark").

Prior decisions under the Policy have recognized the Complainant's common law trademark rights in the ONLYFANS mark since 2017, and its first use in commerce since 2016, as well as the global fame and well-known character of the ONLYFANS mark.¹

¹ See *Fenix International Limited v. WhoisGuard Protected, WhoisGuard, Inc. / Samuel Walton*, WIPO Case No. [D2020-3131](#); *Fenix International Limited c/o Walters Law Group v. WhoisGuard, Inc. / Arsen Kadyrov*, WIPO Case No. [D2021-0352](#); *Fenix International Limited v. Domain Admin, Privacy Protect, LLC (PrivacyProtect.org) / Juan Paolo Dino*, WIPO Case No. [D2020-3460](#); *Fenix*

The Complainant further owns the domain name <onlyfans.com> (registered on January 29, 2013), which resolves to its corporate website.

The disputed domain name <sliv-of.net> (“First Disputed Domain Name”) was registered on August 6, 2021, and the disputed domain name <love-onlyfans.com> (“Second Disputed Domain Name”) was registered on January 7, 2022. According to the evidence provided by the Complainant, the disputed domain names have been used in connection to a website, in English and Russian languages, offering adult entertainment content, including photographs and videos of adult, as well as premium access to “Telegram adult content”. This website included in its heading a logo that imitated the Complainant’s well-known logo, using the same light blue color, a padlock inserted within the letter “o” contained in the term “Sliv- OF.net”, and an identical stylized letter “f” to the same letter included in the Complainant’s logo. At the time of drafting this decision, the Second Disputed Domain is apparently inactive resolving to an Internet browser error message, while the First Disputed Domain still resolves to the said website, albeit the said logo (imitating the Complainant’s logo) has been deleted from its heading.

On March 11, 2022, the Complainant sent a cease-and-desist letter to the Respondent, and the Respondent did not reply to this communication.

5. Parties’ Contentions

A. Complainant

Key contentions of the Complaint may be summarized as follows:

The disputed domain names are confusingly similar to the ONLYFANS mark. The disputed domain names reproduce the ONLYFANS mark or its abbreviation “OF”, adding (separated by a hyphen) the term “sliv” (a Russian term that means “plumb,” “drain,” or “leak”, which refers to the content pirated or “leaked” from the Complainant’s platform), or the term “love” (which alludes to its sexual content). The generic Top-Level-Domains (“gTLDs”) “.com” and “.net” are standard registration requirements and as such are disregarded under the first element confusing similarity test. Additionally, the Respondent’s website content should be considered when determining confusing similarity, since its site contain content trading off the Complainant’s reputation and a logo similar to the Complainant’s padlock device.

The Respondent has neither rights nor legitimate interests in the disputed domain names. The Respondent is not known by the terms included in the disputed domain name, and it has no authorization to use the ONLYFANS mark or to download and post any content from the Complainant’s social media platform. The disputed domain names include the ONLYFANS mark or its abbreviation, as well as additional terms that create implied affiliation, and the disputed domain names are used to resolve to a website that offers adult entertainment services (including content pirated from the Complainant’s users and illegally downloaded from its platform) in direct competition with the Complainant’s services. The implied affiliation is further reinforced by the use in the Respondent’s website of a lock logo that is confusingly similar to the Complainant’s registered logo.

The disputed domain names were registered and are being used in bad faith. Due to the well-known character of the Complainant’s platform and its ONLYFANS mark, the Respondent was likely aware of them when it registered the disputed domain names. Furthermore, the content of the Respondent’s website corroborates its bad faith, as this site offers entertainment services in direct competition to the Complainant’s services, includes pirated content from the Complainant’s platform, and a lock logo that imitates the Complainant’s reputed logo. Other evidences of the Respondent’s bad faith are the use of a privacy service for the registration of the disputed domain names, and the lack of response to the cease and desist letter

sent by the Complainant. The Respondent intentionally registered and used the disputed domain names in an attempt to divert Internet traffic from the Complainant's website to a site providing access to misappropriated copyright-protected content from the Complainant's platform, which disrupts the Complainant's business, depriving the Complainant and its users of revenue, and evidences the Respondent's bad faith.

The Complainant has cited previous decisions under the Policy and various sections of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)") that it considers supportive of its position.

The Complainant requests the cancellation of the disputed domain names.

B. Respondent

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

The Respondent forwarded various email communications to the Center (on June 3, June 6, and June 12 2022, as well as on July 5, 2022), requesting information about this administrative proceeding. The Respondent indicated in one of its emails that it has already deleted the content related to the Second Disputed Domain Name, and would be willing to "remove" this disputed domain name. However, the Respondent requested to keep the First Disputed Domain Name indicating that it does not include content from the Complainant's platform and does not affect the Complainant, as "*the name sliv-of.net is Russian words. Sliv = leak, o - candid f - photo f=f.*" Additionally, in another email communication, the Respondent indicated that it was "ready to appeal this complaint."

These email communications were unsigned.

6. Discussion and Findings

The Complainant has made the relevant assertions as required by the Policy and the dispute is properly within the scope of the Policy. The Panel has authority to decide the dispute examining the three elements in paragraph 4(a) of the Policy, taking into consideration all of the relevant evidence, annexed material and allegations, and performing some limited independent research under the general powers of the Panel articulated, *inter alia*, in paragraph 10 of the Rules.

A. Preliminary issue: Respondent's informal unilateral consent to the "deletion" of the Second Disputed Domain Name

Where the respondent to a UDRP proceeding has nevertheless given its consent on the record to the transfer (or cancellation) remedy sought by the complainant, many panels will order the requested remedy solely on the basis of such consent. In such cases, the panel gives effect to an understood party agreement as to the disposition of their case (whether by virtue of deemed admission, or on a no-fault basis). See paragraph 4.10 of the WIPO Overview.

However, in this case, the Panel considers that the Respondent's communications are not sufficiently clear, as it accepted the "deletion" of the Second Disputed Domain Name, but such "deletion" seems to be conditioned to its continuation on the ownership and use of the First Disputed Domain Name. Furthermore, albeit the said admission to the "deletion" of the Second Disputed Domain Name, the Respondent indicated in a separate communication that it was "ready to appeal" the Complaint, without a clear indication of the extent of such "appeal". Therefore, the Panel considers necessary to proceed to a substantive decision on the merits regarding both disputed domain names.

B. Identical or Confusingly Similar

The Complainant indisputably has rights in the registered trademark ONLYFANS, both by virtue of its trademark registrations and as a result of continuous use of this mark.

The disputed domain names incorporate the ONLYFANS mark in its entirety or its abbreviation “OF”, adding the terms “sliv” or “love” separated by a hyphen, which does not prevent the finding of confusing similarity. The ONLYFANS mark and its commonly used abbreviation “OF” are recognizable in the disputed domain names, and the gTLDs “.com” or “.net” are technical requirements, generally disregarded for the purpose of the analysis of the confusing similarity. See sections 1.7, 1.8, 1.9 and 1.11 of the [WIPO Overview 3.0](#).

It is further to be noted that the content of the website associated to the disputed domain names confirms the confusing similarity. Before this proceeding started, according to the evidence provided by the Complainant, the Respondent’s website included in its heading a lock logo similar to the Complainant’s registered reputed logo, and this site offered the same type of adult entertainment services provided by the Complainant under the ONLYFANS mark. Such content supports and confirms, in the Panel’s view, the confusing similarity. In this respect, see section 1.15 of the [WIPO Overview 3.0](#).

Accordingly, this Panel finds that the disputed domain names are confusingly similar to the ONLYFANS mark, and the first element of the Policy under paragraph 4(a)(i) has been satisfied.

C. Rights or Legitimate Interests

Although the Complainant bears the ultimate burden of establishing all three elements of paragraph 4(a) of the Policy, UDRP panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of proving a negative, requiring information that is primarily if not exclusively within the respondent’s knowledge. Thus, the consensus view is that paragraph 4(c) of the Policy shifts to the respondent the burden of production to come forward with relevant evidence of rights or legitimate interests in a disputed domain name, once the complainant has made a *prima facie* case that the respondent lacks rights or legitimate interests.

The Complainant’s above-noted assertions and evidence in this case effectively shift the burden of production to the Respondent of producing evidence of rights or legitimate interests in the disputed domain names, providing the circumstances of paragraph 4(c) of the Policy, without limitation, in order to rebut the Complainant’s *prima facie* case.

The applicable standard of proof in UDRP cases is the “balance of probabilities” or “preponderance of the evidence”, being the Panel prepared to draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2, [WIPO Overview 3.0](#).

A core factor in assessing fair use of a domain name is that it does not falsely suggest affiliation with the Complainant’s trademark. See section 2.5, [WIPO Overview 3.0](#). The disputed domain name <love-onlyfans.com> incorporates the ONLYFANS mark in its entirety, adding a term (“love”) that indicates a connection to the Complainant’s site and related to its sexual content. The Panel considers that the disputed domain name <love-onlyfans.com> generates an implied affiliation (and risk of confusion) with the Complainant and its platform, giving the impression that the disputed domain name <love-onlyfans.com> may be referred to a site related to the Complainant’s platform provided by the Complainant or any business related company.

The Panel further considers that the Complainant has made out a strong *prima facie* case that the Respondent could not have rights or legitimate interests in the disputed domain names, not being authorized to use the ONLYFANS mark, and there is no evidence that suggests that the Respondent is commonly known by the disputed domain names. In this respect, the Panel notes that the Respondent’s name has no resemblance with the term “onlyfans” or to the disputed domain names, and that the Respondent has not

alleged and not provided any evidence of having applied for or registered (in the Russian Federation or in any other jurisdiction) any trademark containing these terms.

The Panel further notes that, according to the evidence provided by the Complainant, the disputed domain names have been used (before the notification of the Complaint) to resolve to a website displaying in its heading a lock logo similar to the Complainant's reputed logo, which offered the same type of services offered by the Complainant in its platform. These circumstances (whether the content included in that site was obtained from the Complainant's site or not) are sufficient, in the Panel's view, to consider that such use cannot be qualified as a *bona fide* offering of services.

The Panel notes that the meaning of the Russian word "sliv" included in the First Disputed Domain Name, equivalent to "leak" or "drain", may corroborate the Complainant's allegations regarding the inclusion in the Respondent's website of content pirated from the Complainant's website. However, the Panel finds that the evidence provided by the Complainant in this respect is insufficient to allow ascertaining this point. Some more information about the specific allegedly pirated content and the inclusion of such content in the Complainant's platform should have been provided. See section 2.13 of the WIPO Overview.

It is further important to note the Respondent's reaction to this Complaint and to the previous cease and desist letter, not providing any evidence of any right or legitimate interests in respect of the disputed domain name. The Respondent's reaction to this Complaint has been deleting the content that was linked to the Second Disputed Domain Name and agreeing to its deletion, as well as to modify the content of its website, communicating all these steps to the Center in an apparent sort of negotiation, all in exchange of keeping the First Disputed Domain Name. The Panel wishes to clarify that a negotiation over this proceeding is only available to the Parties, and the Complainant has not manifested its consent to such sort of offer.

All the above-mentioned circumstances lead the Panel to conclude that the Respondent has not rebutted the Complainant's *prima facie* case, and nothing in the case file gives reason to believe that the Respondent has or has had any rights or legitimate interests in respect of the disputed domain names. Therefore, the second element of the Policy under paragraph 4(a)(ii) has been established.

D. Registered and Used in Bad Faith

The Policy, paragraph 4(a)(iii), requires that the Complainant establish that the disputed domain names have been registered and are being used in bad faith.

The applicable standard of proof is, likewise, the "balance of probabilities" or "preponderance of the evidence". See section 4.2, [WIPO Overview 3.0](#).

The Panel notes the continuous extensive use of the ONLYFANS mark and presence over the Internet since its launch in 2016, as well as the well-known character of this trademark worldwide, as has been recognized by previous decisions under the Policy.²

The Panel considers that all cumulative circumstances of this case point to bad faith registration and use of the disputed domain names:

(i) the disputed domain names incorporate the Complainant's trademark or its common abbreviation, adding term "love" in the disputed domain name <love-onlyfans.com> which reinforces the intrinsic likelihood of affiliation and the Russian term "sliv" in the disputed domain name <sliv-of.net> that indicates the possibility of obtaining content for free through the website linked to the disputed domain name;

(ii) the ONLYFANS mark is well-known worldwide and the Complainant operates online, being its adult's platform available and extensively used worldwide, including in the Russian Federation, where the Respondent is located;

² See footnote number 1, *supra*.

(iii) according to the evidence provided by the Complainant, the disputed domain names have been used to resolve to a website displaying in its heading a lock logo similar to the Complainant's reputed logo, and providing the same type of services provided by the Complainant (adult entertainment services); and

(iv) the Respondent has not sufficiently alleged or proven any rights or legitimate interests in the disputed domain names.

It is further to be noted that the fact that the Respondent has registered, on separate occasions, and used in connection to its website, two domain names targeting the Complainant's ONLYFANS mark, may indicate a pattern of conduct of preventing the Complainant from reflecting its mark in a domain name, which corroborates the Respondent's bad faith. See section 3.2.1 of the WIPO Overview.

It is further to be noted that the current non-use of the Second Disputed Domain Name does not prevent a finding of bad faith under the doctrine of passive holding. See section 3.3, [WIPO Overview 3.0](#).

In light of the above, taking into consideration all cumulative circumstances of this case, on the balance of probabilities, the Panel considers that the disputed domain names were registered and are being used targeting the ONLYFANS mark, in bad faith, with the intention of obtaining a free ride on the established reputation of the Complainant and its trademarks. The circumstances of this case show that the Respondent's purpose was to generate a likelihood of confusion and affiliation with the Complainant and its trademark to increase the traffic of the Respondent's website for commercial gain, which constitutes bad faith under the Policy.

Accordingly, the Panel concludes that the Complainant has met its burden of establishing that the disputed domain names have been registered and are 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 names, <love-onlyfans.com> and <sliv-of.net> be cancelled.

/Reyes Campello Estebarez/

Reyes Campello Estebarez

Sole Panelist

Date: July 15, 2022