

ADMINISTRATIVE PANEL DECISION

Fenix International Limited v. Domain Administrator / Clivator, Andrey Ivanov
Case No. DME2022-0013

1. The Parties

The Complainant is Fenix International Limited, United States of America (“USA” or “United States”), represented by Lawrence G. Walters, USA.

The Respondent is Domain Administrator, USA / Clivator, Andrey Ivanov, Russian Federation.

2. The Domain Name and Registrar

The disputed domain name <onlypornfans.me> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 26, 2022. On June 27, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 27, 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 29, 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 July 1, 2022.

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 July 1, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 21, 2022. The Respondent submitted an informal communication email on July 16, 2022, however did not submit any formal response. Accordingly, the Center notified the commencement of panel appointment process on July 22, 2022.

The Center appointed 陈长杰 Jacob (Changjie) Chen as the sole panelist in this matter on July 28, 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 operates a website at “www.onlyfans.com” to provide a social media platform enabling users to post and subscribe to audiovisual content. The Complainant’s website has over 180 million registered users, ranking the 177th most popular website worldwide and the 75th most popular website in the United States.

The Complainant owns the European Union Trademark ONLYFANS (logo) Registration No. 017946559, registered on January 9, 2019; United States Trademark ONLYFANS Registration No. 5769267, registered on June 4, 2019; and United States Trademark ONLYFANS.COM Registration No. 5769268, registered on June 4, 2019.

The disputed domain name was registered on March 15, 2021, and resolves to a website providing adult entertainment services.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the disputed domain name is identical or confusingly similar to the ONLYFANS and ONLYFANS.COM trademarks. According to the Complainant, the disputed domain name consists of its exact ONLYFANS mark with the only difference being the insertion of the descriptive term “porn”, which does not avoid confusing similarity.

The Complainant further contends that the Respondent has neither rights nor legitimate interests in the disputed domain name. According to the Complainant, the Respondent has no connection or affiliation with the Complainant and has not received any authorization to use the Complainant’s trademark in the disputed domain name. The Respondent is using the disputed domain name to provide services similar to that of the Complainant, which creates a risk of implied affiliation and does not give rise to rights or legitimate interests.

The Complainant finally contends that the disputed domain name was registered and is being used in bad faith. According to the Complainant, the disputed domain name was registered long after the Complainant obtained ONLYFANS trademarks, which creates a presumption of bad faith. Bad faith use is found where the disputed domain name directs to a commercial website that offers goods and services in direct competition with the Complainant.

B. Respondent

The Respondent submitted an informal communication email, stating “Hello, Domain. Trademark - onlyfans.com only_RANDOM_WORD_fans is not a trademark Thank you” on July 16, 2022, however did not submit any formal response.

6. Discussion and Findings

A. Identical or Confusingly Similar

“.me” being the Top Level Domain is viewed as a standard registration requirement and as such can be

disregarded under the first element confusing similarity test.

In the present case, the disputed domain name differs to the Complainant's ONLYFANS trademark by inserting a descriptive word "porn" within the ONLYFANS trademark. The Panel holds that addition of the word "porn" does not prevent a finding of confusing similarity of the disputed domain name to the Complainant's trademarks ONLYFANS and ONLYFANS.COM. Contrary to what the Respondent seems to claim, the Panel notes that the ONLYFANS trademark is included in its entirety, being recognizable in the disputed domain name despite the inclusion of the additional term "porn" between "only" and "fans". The Panel reaches the same conclusion when comparing the disputed domain name to the trademark ONLYFANS.COM, where the absence of the ".COM" particle of the trademark in the disputed domain name does not prevent a finding of confusing similarity. See sections 1.7 and 1.8 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Panel concludes that the disputed domain name is confusingly similar to the Complainant's ONLYFANS and ONLYFANS.COM trademarks and that paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

The Panel holds that the Complainant has made out a *prima facie* case that the Respondent does not have rights or legitimate interests in respect of the disputed domain name. The burden of production on this element hence shifts to the Respondent to rebut the Complainant's contentions. The Respondent however did not submit a formal response to rebut the Complainant's *prima facie* case. The Respondent's email communication merely states the visual difference between the disputed domain name and the trademark, which has been addressed by the Panel under the first element of the Decision.

The website at the disputed domain name provides adult entertainment services. The Panel determines that using the disputed domain name to host a commercial website in direct competition with the Complainant cannot give rise to rights or legitimate interests on the Respondent nor represent a *bona fide* offering of goods or services by the Respondent.

The Panel concludes that the Respondent has no rights nor legitimate interests in respect of the disputed domain name and that paragraph 4(a)(ii) of the Policy is satisfied.

C. Registered and Used in Bad Faith

Given the fame of the Complainant among the relevant public, the Panel finds that the Respondent must have knowledge of the ONLYFANS trademark when registering the disputed domain name. The additional word "porn" added to the Complainant's trademark directly refers to the Complainant's services, which is further evidence of the Respondent's awareness of the Complainant and its ONLYFANS trademark at the time of registration.

The website at the disputed domain name provides adult entertainment services which is in direct competition with the Complainant's services. Using the disputed domain name to host a commercial website directly competing with the Complainant is a clear indication that the disputed domain name has been registered and is being used in bad faith.

In addition, the Complainant sent a cease-and-desist letter to the Respondent demanding the Respondent to stop using and cancel the disputed domain name. The Respondent however did not respond. In the Panel's opinion, failure of the Respondent to respond to the Complainant's letter, combined with the Respondent's failure to submit a formal response along with any relevant evidence of rights or legitimate interests, affirms the finding of bad faith registration and use of the disputed domain name.

The Panel therefore concludes that the disputed domain name was registered and is being used in bad faith and that paragraph 4(a)(iii) of the Policy is satisfied.

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 <onlypornfans.me> be cancelled.

/Jacob (Changjie) Chen/

陈长杰 **Jacob (Changjie) Chen**

Sole Panelist

Date: August 16, 2022