

## **ADMINISTRATIVE PANEL DECISION**

Fenix International Limited v. val consult  
Case No. D2024-1355

### **1. The Parties**

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

The Respondent is val consult, Lao People’s Democratic Republic.

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

The disputed domain name <onlyfans-thai.com> is registered with GoDaddy.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 29, 2024. On April 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 2, 2024, 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 (Registration Private) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 3, 2024 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 April 3, 2024.

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 April 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 25, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 30, 2024.

The Center appointed Masato Dogauchi as the sole panelist in this matter on May 3, 2024. 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 an Internet social media platform provider with more than 180 million registered users who are allowed to post and subscribe to audiovisual content.

The Complainant has registered its ONLYFANS trademark in several jurisdictions, such as:

- European Union Registration for ONLYFANS No EU017912377, registered on January 9, 2019;
- United Kingdom Registration for ONLYFANS No UK00917912377, registered on January 9, 2019;
- United States Registration for ONLYFANS No 5769267, registered on June 4, 2019.

The Complainant owns and operates the website located at the domain name <onlyfans.com> and has used its domain name for several years in connection with the provision of a social media platform that allows users to post and subscribe to audiovisual content.

The disputed domain name was registered on November 22, 2023, and offers adult entertainment services (including watermarked content pirated from Complainant's users) in direct competition with Complainant's services with a blue and white logo that is nearly identical to the Complainant's registered blue and white "OnlyFans" logo.

The Complainant sent a cease-and-desist letter to the Respondent on February 1, 2024, demanding the Respondent stop using and cancel the disputed domain name, but the Respondent did not respond to this letter.

#### **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 name.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

In accordance with the Rules, paragraph 15(a), a panel shall decide a case on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable. Since the Respondent has not made any arguments in this case, the following decision is rendered on the basis of the Complainant's contentions and other evidence submitted by the Complainant.

In accordance with the Policy, paragraph 4(a), in order to qualify for a remedy, the Complainant must prove each of the following:

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

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.

The Complainant has shown rights in respect of the ONLYFANS trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The main part of the disputed domain name before ".com", is "onlyfans-thai". The entirety of the Complainant's ONLYFANS trademark is reproduced within the disputed domain name. The fact that the disputed domain name includes a geographical term, "thai", does not prevent a finding of confusing similarity. Also, the Top Level Domain, ".com", does not change the result. Accordingly, the disputed domain name is confusingly similar to the trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Accordingly, 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.

Accordingly, 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, in consideration of the fact that the Complainant has been providing a social media platform for years with more than 180 million registered users, it is highly unlikely that the Respondent could have been unaware of the Complainant's trademark at the time of registration of the disputed domain name on November 22, 2023. Therefore, it is found that the Respondent registered the disputed domain name in bad faith.

With regard to the requirement that the Respondent is using the disputed domain name in bad faith, the Panel considers that the fact that the disputed domain name offers adult entertainment services (including

watermarked content pirated from Complainant's users) in direct competition with Complainant's services with a logo that is nearly identical logo of the Complainant constitutes bad faith use. The Panel also notes that the Respondent did not respond to the Complainant's cease-and-desist letter.

The Respondent did not reply to the Complaint in this proceeding.

Accordingly, 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 name <onlyfans-thai.com> be transferred to the Complainant.

*/Masato Dogauchi/*

**Masato Dogauchi**

Sole Panelist

Date: May 13, 2024