

ADMINISTRATIVE PANEL DECISION

Fenix International Limited v. Global Domain Privacy/ Adam Little
Case No. D2022-0316

1. The Parties

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

The Respondent is Global Domain Privacy, Italy/ Adam Little, Bulgaria.

2. The Domain Name and Registrar

The disputed domain name <onlyfanshotties.com> is registered with Register SPA (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 3, 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 8, 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 8, 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 25, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 17, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 24, 2022.

The Center appointed Johan Sjöbeck as the sole panelist in this matter on March 30, 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 has submitted evidence that it is the owner of a number of trademark registrations including the following:

European Union Trade Mark registration for ONLYFANS (figurative), registration number 017946559, registered on January 9, 2019;

European Union Trade Mark registration for ONLYFANS (word), registration number 017912377, registered on January 9, 2019;

United States service mark registration for ONLYFANS (word), registration number 5,769,267, registered on June 4, 2019; and

United States service mark registration for ONLYFANS.COM (word), registration number 5,769,268, registered on June 4, 2019.

The disputed domain name <onlyfanshotties.com> was registered on July 4, 2021. The Complainant has provided evidence that the disputed domain name redirects to a commercial website that appears to offer adult entertainment in direct competition with the trademark owner.

5. Parties' Contentions

A. Complainant

The Complainant owns and operates the website located at the domain <onlyfans.com> in connection with the provision of a social media platform that allows users to post and subscribe to audiovisual content on the Internet. The Complainant has registered trademark rights for ONLYFANS with the European Union Intellectual Property Office, the United Kingdom Intellectual Property Office and the United States Patent and Trademark Office. The Complainant registered the domain name <onlyfans.com> on January 29, 2013, and has extensive common law rights in the ONLYFANS trademark throughout the world that commenced by, at latest, July 4, 2016, well before the Respondent registered the disputed domain name <onlyfanshotties.com> on July 4, 2021.

In 2022, the Complainant's website <onlyfans.com> is one of the most popular websites in the world, with more than 180 million registered users. According to Alexa Internet, it is the 428th most popular website on the Internet and it is the 264th most popular website in the United States.

The Complainant's unregistered common law rights have been recognized in previous UDRP decisions as having accrued and acquired distinctiveness by no later than May 30, 2017. See for example *Fenix International Limited v. c/o who is privacy.com / Tulip Trading Company, Tulip Trading Company Limited*, WIPO Case No. [DCO2020-0038](#). The Complainant's trademark rights have been recognized in over forty other UDRP decisions, resulting in the cancellation or transfer of the disputed domain names to the Complainant.

The disputed domain name <onlyfanshotties.com> is identical or confusingly similar to the Complainant's trademark ONLY FANS. The disputed domain consists of the Complainant's exact trademark with the only difference being the insertion of the descriptive term "hotties" after the Complainant's trademark, which does nothing to avoid confusing similarity.

The Respondent has no connection or affiliation with the Complainant and has not received any authorization, license, or consent, whether express or implied, to use the trademark in the disputed domain name or in any other manner. The Respondent is not commonly known by the trademark and does not hold any trademarks for the disputed domain name. The Respondent has no rights or legitimate interests in the disputed domain name.

The Respondent cannot claim it a right to use the disputed domain name under fair use, since it includes the trademark and the additional term “hotties” which creates a risk of implied affiliation, because it refers to the creators that post adult entertainment content to the Complainant’s services to which other users subscribe. The website at the disputed domain name offers arrangements for subscriptions to adult content in direct competition with the Complainant’s registered services in the international class 35 of “arranging subscriptions of the online publications of others.” Using a disputed domain name to host commercial websites that advertise goods and services in direct competition with the trademark owner does not give rise to rights or legitimate interests.

From all available evidence, the disputed domain name was registered on July 4, 2021, long after the Complainant attained registered rights in the ONLYFANS trademark and long after the Complainant had common law rights in the trademark which had acquired distinctiveness. This acquired distinctiveness was so strong that the Complainant’s website is among the top 500 most popular websites in the world.

According to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.8, “Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element.” The disputed domain name consists of the Complainant’s exact trademark with the only difference being the insertion of the descriptive term “hotties” after the Complainant’s trademark, which does nothing to avoid confusing similarity. See *Guccio Guccio S.p.A. v. Bo Zhou*, WIPO Case No. [D2013-1624](#), in which the domain name <hottiesguccijapan.com> was transferred to the owner of the GUCCI trademark. The fact that the Respondent used the Complainant’s ONLYFANS trademark in combination with the additional term “hotties” in the disputed domain name enhances the likelihood of confusion.

The Respondent has no connection or affiliation with the Complainant and has not received any authorization, license, or consent, whether express or implied, to use the trademark in the disputed domain name or in any other manner. The Respondent is not commonly known by the trademark and does not hold any trademark for the disputed domain name. The Complainant sent a cease-and-desist letter to the Respondent on November 16, 2021 and the Respondent did not reply. Furthermore, the Respondent is using a Whois privacy wall to maintain anonymous. Such activities are further evidence of bad faith.

According to [WIPO Overview 3.0](#), section 2.5.1, a disputed domain name comprising a complainant’s trademark and certain additional terms cannot constitute fair use, when doing so effectively impersonates or suggests sponsorship or endorsement by a complainant. Here, the Respondent cannot claim it a right to use the disputed domain name under fair use, since it includes the trademark and the additional term “hotties” which creates a risk of implied affiliation, because it refers to the creators that post adult entertainment content to the Complainant’s services to which other users subscribe. The website to which the disputed domain name resolves offers and arranges subscriptions to adult content in direct competition with the Complainant’s registered services in International Class 35 of “arranging subscriptions of the online publications of others”. Using the disputed domain name in accordance with the above does not give rise to rights or legitimate interests. On the contrary, it demonstrates bad faith use.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, 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 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 Complainant is the owner of the registered trademark ONLYFANS. The disputed domain name <onlyfanshotties.com> incorporates the ONLYFANS trademark in its entirety with the addition of the term “hotties”. In the present case, the Complainant’s trademark is readily recognizable in the disputed domain name and the addition of the term “hotties” to the ONLYFANS trademark in the disputed domain name does not prevent a finding of confusing similarity.

Having the above in mind, the Panel concludes that the disputed domain name is confusingly similar to the Complainant’s trademarks ONLYFANS and that the Complainant has proven the requirement under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant must show that the Respondent has no rights or legitimate interests with respect to the disputed domain name. The Respondent may establish rights or legitimate interests in the disputed domain name by demonstrating in accordance with paragraph 4(c) of the Policy any of the following:

- (i) the Respondent uses or has made 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 prior to the dispute; or
- (ii) the Respondent is commonly known by the disputed domain name, even if the Respondent has not acquired any trademark rights; or
- (iii) the Respondent is making a legitimate noncommercial or fair use of the disputed domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark.

The Complainant’s trademark registrations for ONLYFANS predate the Respondent’s registration of the disputed domain name <onlyfanshotties.com>. The Complainant has not licensed, approved or in any way consented to the Respondent’s registration and use of the trademark in the disputed domain name.

There is no evidence in the case file indicating that the Respondent has used or made any preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services prior to the dispute. On the contrary, the Complainant has submitted evidence demonstrating that the Respondent is using the disputed domain name to host a commercial website that advertise goods and services in direct competition with the trademark owner. Such use does not constitute a legitimate fair use and does not establish rights or legitimate interests in the disputed domain name.

Although given the opportunity, the Respondent has not rebutted the Complainant’s *prima facie* case. The Respondent has not submitted any evidence indicating that it is the owner of any trademark or that it is commonly known by the disputed domain name. Furthermore, there is no evidence indicating that the Respondent intends to make a legitimate, noncommercial or fair use of the disputed domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark.

The Respondent has failed to invoke any circumstances, which could demonstrate, pursuant to paragraph 4(c) of the Policy or otherwise, any rights or legitimate interests in respect of the disputed domain name. Thus, there is no evidence in the case that refutes the Complainant’s submissions, and the Panel concludes

that the Complainant has also proven the requirement under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Under paragraph 4(b) of the Policy, evidence of bad faith registration and use include without limitation:

- (i) circumstances indicating the disputed domain name was registered or acquired primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name registration to the owner of a trademark or to a competitor of the trademark owner, for valuable consideration in excess of the documented out-of-pocket costs directly related to the disputed domain name; or
- (ii) circumstances indicating that the disputed domain name was registered in order to prevent the owner of a trademark from reflecting the mark in a corresponding disputed domain name, provided there is a pattern of such conduct; or
- (iii) circumstances indicating that the disputed domain name was registered primarily for the purpose of disrupting the business of a competitor; or
- (iv) circumstances indicating that the disputed domain name has intentionally been used in an attempted to attract, for commercial gain, Internet users to the Respondent's website or other online location, by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on that website or location.

The disputed domain name incorporates the ONLYFANS trademark in its entirety with the addition of the term "hotties" which is slang derived from the English word "hot" and is usually used to refer to persons who are very physically attractive. As previously mentioned, the Complainant's trademark registrations for ONLYFANS predate the registration of the disputed domain name <onlyfanshotties.com>. The Complainant has submitted evidence demonstrating that the Respondent is using the Complainant's trademark in order to create a false impression that the disputed domain name and the website, to which the disputed domain name resolves, are endorsed by or are associated with the Complainant. The Complainant sent a cease-and-desist letter to the Respondent on November 16, 2021, but the Respondent did not reply.

Thus, the evidence in the case before the Panel indicates that the disputed domain name <onlyfanshotties.com> has intentionally been registered and used in an attempt to attract, for commercial gain, Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's trademark ONLYFANS as to the source, sponsorship, affiliation, or endorsement of the websites or of a product or service on the website.

There is no evidence in the case that refutes the Complainant's submissions.

The Panel concludes that the Complainant has proved the requirements under paragraph 4(b) of the Policy and that the disputed domain name <onlyfanshotties.com> 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 <onlyfanshotties.com> shall be cancelled.

/Johan Sjöbeck/

Johan Sjöbeck

Sole Panelist

Date: April 6, 2022