

ADMINISTRATIVE PANEL DECISION

Fenix International Limited v. Privacy Services Provided by Withheld for Privacy ehf / Megan Scott
Case No. D2022-1943

1. The Parties

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

The Respondent is Privacy Services Provided by Withheld for Privacy ehf, Iceland / Megan Scott, United States.

2. The Domain Name and Registrar

The disputed domain name <onlyfans-app.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 May 27, 2022. On May 30, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 30, 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 10, 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 June 10, 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 June 28, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 18, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 29, 2022.

The Center appointed Kathryn Lee as the sole panelist in this matter on August 4, 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 the owner of OnlyFans, an online subscription platform at <onlyfans.com>. The platform hosts work from content creators who earn money from users that subscribe to the content. The platform was launched on July 4, 2016 and now has more than 180 million registered users worldwide. According to Alexa Internet, it is the 177th most popular website on the World Wide Web, and it is the 75th most popular website in the United States.

The Complainant owns a number of trademark registrations in various jurisdictions for the word mark ONLYFANS, including European Union Trade Mark Number 017912377, registered on January 9, 2019, and United States Registration Number 5,769,267, registered on June 4, 2019. The Complainant also owns the trademark ONLYFANS.COM in the United States (Registration Number 5,769,268, registered on June 4, 2019). The Complainant's domain name <onlyfans.com> was registered on January 29, 2013.

As disclosed by the Registrar, the Respondent is an individual with an address in the United States.

The disputed domain name was registered on September 25, 2020, and previously resolved to a website reproducing the Complainant's trademark that promoted an unauthorized mobile application offering goods and services similar to the Complainant's and included links to the Complainant's competitors. At the moment of drafting the Complaint, the disputed domain name resolved to a domain parking site with pay-per-click links.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to the ONLYFANS trademark in which the Complainant has rights. Namely, the Complainant asserts that the disputed domain name consists of the Complainant's exact trademark ONLYFANS, and the additional term "app" is descriptive and does not avoid confusing similarity.

The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain name and confirms that it has not authorized or licensed rights to the Respondent in any respect. The Complainant further contends that the Respondent's use of the disputed domain name to display links to the Complainant's competitors does not qualify as legitimate use.

Finally, the Complainant contends that the disputed domain name was registered and is used in bad faith. The Complainant points out that the disputed domain name was registered several years after the Complainant first began using, and obtained trademark registrations to, the ONLYFANS trademark, and as the disputed domain name is confusingly similar to the Complainant's trademark, there is a presumption of bad faith registration on the part of the Respondent. The Complainant also contends that the additional term "app" increases the likelihood of confusion with the Complainant. Further, the Complainant contends that the disputed domain name previously resolved to a website that promoted an unauthorized, possibly malicious, mobile application, which supports a finding of bad faith. Furthermore, at one point the disputed domain name showed pay-per-click links to the Complainant's competitors, which creates a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the Respondent's website and constituted bad faith use of the disputed domain name. The Complainant also states that the Respondent's use of a privacy service and failure to respond to a cease and desist letter sent to the Respondent on March 10, 2022 are further evidence of the Respondent's bad faith.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has demonstrated with supporting evidence that it has trademark registrations for ONLYFANS that precede the registration of the disputed domain name. The disputed domain name consists of the Complainant's trademark ONLYFANS in its entirety along with the term "app", separated by a hyphen "-". In this regard, the Complainant's trademark ONLYFANS is clearly recognizable in the disputed domain name, and the addition of the term "app" and a hyphen "-" do not prevent the finding of confusingly similarity under the first element. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7 establishes that a domain name is considered confusingly similar to a trademark where it "incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name". Therefore, the disputed domain name is confusingly similar to the Complainant's trademark.

For the reasons mentioned above, the Panel finds that the first element has been established.

B. Rights or Legitimate Interests

On the basis of the present record, the Panel finds that the Complainant has made the required allegations to support a *prima facie* showing that the Respondent has no rights or legitimate interests in the disputed domain name. Once such a *prima facie* basis has been established, the Respondent carries the burden of demonstrating its rights or legitimate interests in the disputed domain name. However, the Respondent in this case has chosen to file no substantive response to these assertions by the Complainant, and there is no evidence or allegation in the records that would warrant a finding in favor of the Respondent on this point.

In this regard, the disputed domain name previously resolved to a website reproducing the Complainant's trademark that promoted an unauthorized, possibly malicious, mobile application offering goods and services similar to the Complainant's and included links to the Complainant's competitors. Additionally, the disputed domain name is currently linked to a parking page with various pay-per-click links, and at one point, pay-per-click links to the Complainant's competitors. Such uses trade on the reputation and goodwill associated with the Complainant's trademark and do not represent a *bona fide* offering of goods or services. See, e.g., [WIPO Overview 3.0](#), section 2.9. Further, a respondent's use of a domain name is not considered "fair" if it falsely suggests affiliation with the trademark owner. See [WIPO Overview 3.0](#), section 2.5.1. Here, the disputed domain name contains the Complainant's trademark ONLYFANS in its entirety with a term related to the Complainant's business, and therefore, carries a risk of implied affiliation with the Complainant.

For the reasons provided above, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, and that the second element has been established.

C. Registered and Used in Bad Faith

The Panel finds that there is sufficient evidence to find bad faith in this case.

Considering the reputation of the Complainant and the Complainant's mark, it is highly unlikely for the Respondent to have not known about the Complainant when registering the disputed domain name. Rather, especially with no response to claim otherwise, it is more probable that the Respondent registered the disputed domain name with the intention of taking advantage of the mark in some way. This is clear given the prior use of the disputed domain name reproducing the Complainant's trademark when offering an unauthorized mobile application and the later use of the disputed domain name to display pay-per-click links

to the Complainant's competitors.

The Respondent's prior use of the disputed domain name to offer an unauthorized, possibly malicious, mobile application under the Complainant's trademark ONLYFANS on a website containing links to the Complainant's competitors shows a clear intent to take advantage of the Complainant's trademark in bad faith.

Further, by reproducing the Complainant's trademark in the disputed domain name and linking the disputed domain name to a parking page displaying pay-per-click links, the Respondent created a likelihood of confusion and benefited commercially from the confusion of Internet users that visited the site by mistake as per paragraph 4(b)(iv) of the Policy.

For the reasons given above, the Panel finds that the third and final element has been sufficiently established.

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-app.com> be cancelled.

/Kathryn Lee/

Kathryn Lee

Sole Panelist

Date: August 18, 2022