

## **ADMINISTRATIVE PANEL DECISION**

Fenix International Limited v. abdessamed nadri  
Case No. D2024-0399

### **1. The Parties**

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

The Respondent is Abdessamed Nadri, Algeria.

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

The disputed domain name <onlyfansmegacollections.com> is registered with Automattic Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 29, 2024. On January 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 31 and February 1, 2024, the Registrar transmitted by email to the Center its verification responses disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Private Whois, Knock Knock WHOIS Not There, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 2, 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 February 2, 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 February 15, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 6, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 11, 2024.

The Center appointed Johan Sjöbeck as the sole panelist in this matter on March 13, 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 owns and operates the website “www.onlyfans.com” for many years in connection with a social media platform that allows users to post and subscribe to audiovisual content on the Internet.

The Complainant has submitted evidence that it is the owner of a number of trademark registrations including the following:

- European Union trademark registration for ONLYFANS (fig), registration number 017946559, registered on January 9, 2019;
- United Kingdom trademark registration for ONLYFANS (fig), registration number UK00917946559, registered on January 9, 2019;
- European Union trademark registration for ONLYFANS (word), registration number 017912377, registered on January 9, 2019;
- United Kingdom trademark registration for ONLYFANS (word), registration number UK00917912377, registered on January 9, 2019;
- United States trademark registration for ONLYFANS (word), registration number 5,769,267, registered on June 4, 2019;
- United States trademark registration for ONLYFANS.COM (word), registration number 5,769,268, registered on June 4, 2019.

The disputed domain name was registered on October 3, 2023. The Complainant has provided evidence that the disputed domain name redirects to a website that distributes adult content including watermarked material originating from the Complainant’s website.

#### **5. Parties’ Contentions**

##### **A. Complainant**

In providing its services, the Complainant has made extensive use of the trademark ONLYFANS, which is registered in the European Union, United Kingdom, the United States and a number of countries across the world. Even if disregarding the Complainant’s registered rights, the Complainant registered the domain name <onlyfans.com> on January 29, 2013, and has extensive common law rights in the trademark that commenced by, at latest, July 4, 2016, well before the Respondent registered the disputed domain name on October 3, 2023. 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 and *Fenix International Limited v. WhoisGuard Protected, WhoisGuard, Inc. / Samuel Walton*, WIPO Case No. D2020- 3131.

In 2024, the Complainant’s website was one of the most popular websites in the world, with more than 180 million registered users. According to SimilarWeb, the Complainant’s website is the 97th most popular website on the Internet and it is the 55th most popular website in the United States. Hence, the Complainant’s trademark is a prime target for cybersquatters wishing to profit from the Complainant’s

goodwill. The fact that the Complainant has achieved global fame and success makes it likely that the Respondent had knowledge of the Complainant's trademark when registering the disputed domain name. The Complainant's trademark rights have been recognized in a large number of UDRP decisions, resulting in the cancellation or transfer of a large number of domain names to the Complainant.

The Respondent registered the disputed domain name on October 3, 2023. The disputed domain name is identical or confusingly similar to the Complainant's ONLYFANS trademarks. According to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, 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 "mega collections" after the Complainant's trademark, which does nothing to avoid confusing similarity.

According to the [WIPO Overview 3.0](#), section 2.5.1, a 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 the complainant. Here, the Respondent cannot claim the right to use the disputed domain name under fair use since it includes the trademark and the additional phrase "mega collections" which creates a risk of implied affiliation by suggesting to users that the "mega collection" of the Complainant's content at the disputed domain name is authorized by the Complainant. The disputed domain name redirects to a website where the Respondent offers adult entertainment services, including watermarked content pirated from the Complainant's users, in direct competition with the Complainant's services. The content previously published at the Complainant's website is offered free of charge by the Respondent, without remunerating the Complainant or the respective creators. Using the disputed domain name to host a commercial website that advertise goods and services in direct competition with the trademark owner does not give rise to legitimate rights or interests.

The Respondent has no connection or affiliation with the Complainant and has no authorization, license, or consent, whether express or implied, to use the trademark ONLYFANS in the disputed domain name. The Respondent is not commonly known by the disputed domain name and does not own any trademarks similar to the disputed domain name. The Respondent registered and used the disputed domain name, not because it refers to or is associated with the Respondent, but because the disputed domain name is identical or confusingly similar to the Complainant's ONLYFANS trademark. The Respondent's conduct amounts to bad faith. The disputed domain name was registered long after the Complainant attained registered trademark rights and long after the Complainant had common law rights which had acquired distinctiveness. Registering a domain name that is confusingly similar to a widely-known trademark and using it for a website to provide products and services in direct competition with the complainant, as is the case here, creates a presumption of bad faith.

The Complainant sent a cease-and-desist letter to Respondent on November 6, 2023, demanding the Respondent to stop all use and to cancel the disputed domain name. The Respondent did not respond, thus necessitating the filing of this Complaint. The Respondent's failure to respond to the correspondence is further evidence of bad faith. In addition, using a WhoIs privacy service may be another evidence of bad faith.

The Respondent registered the confusingly similar disputed domain name to offer services in direct competition with the Complainant, including providing watermarked content pirated from the Complainant's users. Hence, the Respondent clearly registered the disputed domain name to divert Internet traffic from the Complainant's site to a website offering adult entertainment content in direct competition with the Complainant's website. It is an intentional attempt to attract, for commercial gain, Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's mark as to the source, affiliation, or endorsement of the disputed domain name.

The bad faith allegations, combined with the Respondent's lack of legitimate interests or rights in the disputed domain name, should lead the Panel to the conclusion that there is no plausible circumstance under which the Respondent could legitimately register or use the disputed domain name and that, thus, the disputed domain name was registered and is being used by the Respondent in bad faith.

## **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 test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. See [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of the registered trademark ONLYFANS. The disputed domain name incorporates the trademark in its entirety with the addition of the terms "mega" and "collections". The Complainant's trademark is readily recognizable in the disputed domain name and the addition of such terms does not prevent a finding of confusing similarity. See [WIPO Overview 3.0](#), section 1.8.

Having the above in mind, the Panel concludes that the disputed domain name is confusingly similar to the trademark for the purposes of the Policy and that the first element of the Policy has been established.

### **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. 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 submitted evidence demonstrating that the Respondent is using the disputed domain name for a website that is operating in direct competition with the Complainant. According to the evidence, the Respondent's website contains watermarked content originating from the Complainant's website and users. Such use does not constitute a fair use and does not establish rights or legitimate interests in the 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. See [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available case file, the Panel finds that 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.

In light of the above, there is no evidence in the case that refutes the Complainant's submissions, and the Panel finds the second element of the Policy has been established.

### **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 Panel notes that the Respondent is using the Complainant's trademark ONLYFANS to create a false impression that the disputed domain name and the website, to which the disputed domain name resolves, are endorsed by or in some way associated with the Complainant. From the submitted evidence in the case, it is clear that the Respondent's website distributes adult content including those that originate from the Complainant's website, as the material is watermarked with the Complainant's ONLYFANS.COM trademark.

Using a domain name for illegal activities, such as impersonation or passing off, constitutes bad faith. See [WIPO Overview 3.0](#), section 3.4. The evidence in the case before the Panel indicates that the disputed domain name 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 as to the source, sponsorship, affiliation, or endorsement of the websites or of a product or service on the website. The Complainant sent a cease-and-desist letter to the Respondent on November 6, 2023, but the Respondent did not reply. There is no evidence in the case that refutes the Complainant's submissions.

In light of the above, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy and that the Complainant has also 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 <onlyfansmegacollections.com> shall be transferred to the Complainant.

*/Johan Sjöbeck/*

**Johan Sjöbeck**

Sole Panelist

Date: March 27, 2024