

ADMINISTRATIVE PANEL DECISION

Fenix International Limited v. Jeremy Mendez
Case No. D2024-0567

1. The Parties

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

Respondent is Jeremy Mendez, United States.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed originally against the Domain Name <onlyfans.cash> and another domain name with the WIPO Arbitration and Mediation Center (the “Center”) on February 7, 2024. On February 8, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the above domain names. On February 8, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the above domain names which differed from the named Respondent (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint.

The Center sent an email communication to Complainant on February 9, 2024, with the registrant and contact information for each one of the underlying registrants revealed by the Registrar for each of the above domain names, requesting Complainant to either file separate complaint(s) for the domain name(s) associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. Complainant filed an amended Complaint on February 12, 2024 with regard to the Domain Name <onlyfans.cash> and removed the other domain name from this proceeding.

On February 13, 2024, the registrant of the other domain name expressed its willingness to settle with Complainant. On February 23, 2024, the Center confirmed that the other domain name has been removed from the proceeding due to settlement, and the proceeding would continue in regard to the Domain Name <onlyfans.cash>.

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 Respondent of the Complaint, and the proceedings commenced on February 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 14, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on March 15, 2024. On the same day, Respondent sent an email communication to the Center.

The Center appointed Harrie R. Samaras as the sole panelist in this matter on March 21, 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

Complainant owns and operates the website located at the domain name <onlyfans.com>, which it uses in connection with a social media platform that allows users to post and subscribe to audiovisual content on the Internet. Complainant has registered rights worldwide for ONLYFANS including in the European Union Intellectual Property Office (“EUIPO”), the United Kingdom Intellectual Property Office (“UKIPO”), and the United States Patent and Trademark Office (“USPTO”), respectively: EUIPO Trade Mark No. EU017912377 (registered January 9, 2019), UKIPO Trade Mark No. UK00917912377 (registered January 9, 2019), and USPTO Reg. No. 5,769,267 (Registered June 4, 2019) (collectively, the “ONLYFANS Mark” or the “Mark”). Complainant has used the Mark since at least 2016. Complainant also has registered rights in the USPTO (Reg. No. 5,769,268, registered June 4, 2019) for the ONLYFANS.COM mark.

Complainant’s website at the domain name <onlyfans.com> has more than 180 million registered users. According to SimilarWeb, it is the 97th most popular website on the Internet, and it is the 55th most popular website in the United States.

Respondent registered the Domain Name on November 7, 2023. When the Complaint was filed, the website to which the Domain Name resolved (the “Website”) was promoting a “Deals” program (with details nebulously described) whereby if someone completed a certain number of Deals, they could claim a “Reward”. The Website mentions generally that: “[s]ome of the Deals we offer are free, while many require a purchase to complete.” Further, the Website mentions: “Many of our partner Deals require payments for products and services rendered.” One of the Deals references Complainant and the Mark, that is, if someone completed 15 Deals, they could try and claim “\$500 Towards OnlyFans Subscription”. To depict this particular Reward, the Website showed a mock-up of a USD 500 gift card with the Mark in stylized form. Text adjacent the image stated: “Do you like OnlyFans?” followed by “Yes” and “No” tabs. An individual would have to provide personal information (“ID verification”) to receive the “OnlyFans” gift card. This “Deals” program no longer appears on the Website. Currently, the Website has sponsored links to commercial sites selling various goods and services, for example: “DoorDash \$750”, “\$500 Amazon (Paypal Flow)”, “Spotify \$750 – US+”, “Sephora \$750 – US+”, “Venmo \$750+”, “UberEats \$750+”, and “Footlocker \$500 US+”.

Complainant’s counsel sent Respondent a letter to notify it that registering the Domain Name was, among other things, an infringement of Complainant’s registered trademark rights and a violation of the Policy, and Complainant demanded that Respondent take certain actions to cease its rights in and stop using the Domain Name. Complainant did not receive any response to its letter from Respondent.

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

Notably, Complainant contends that the Domain Name is identical to the Mark because it fully incorporates the ONLYFANS Mark, adding the Top-Level Domain ("TLD") ".cash". It notes that the TLD does not change the result because it is viewed as a standard registration requirement, and it is disregarded.

Complainant alleges Respondent neither has a connection or affiliation with it nor has Complainant authorized Respondent to use the Mark for any purpose. Also, it alleges Respondent is not commonly known by the Mark and does not hold any trademark for the Domain Name. Complainant further contends Respondent is using Complainant's Mark to complete a series of "sponsored Deals" (which are bogus or otherwise unattainable) to obtain an ONLYFANS- branded gift card that allegedly can be used towards a subscription to Complainant's ONLYFANS platform. Complainant has no relation with those gift cards or the promotions. In doing so, Respondent is using the Domain Name to offer illegal services which is not use in connection with a bona fide offering of goods or services.

Complainant contends, the Domain Name was registered long after it attained registered rights in the Mark and that registering a domain name that is at least confusingly similar to Complainant's widely-known trademark creates a presumption of bad faith. There is no benign reason for Respondent to have registered the Domain Name other than to target the Mark. Further, Complainant argues that Respondent's use of the Domain Name to resolve to the Website requiring users to complete a series of Deals to obtain a (bogus) USD 500 ONLYFANS-branded gift card constitutes bad faith use.

Respondent's failure to respond to the cease and desist letter is further evidence of bad faith.

B. Respondent

Respondent did not formally reply to Complainant's contentions, however he sent an email on March 15, 2024 stating: "I don't own the domain anymore, I removed access awhile ago." There is no record support for that statement.

6. Discussion and Findings

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 Complainant's trademark and the Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 1.7.

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

The entirety of the ONLYFANS Mark is reproduced within the Domain Name. Accordingly, the Domain Name is identical to the Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. Furthermore, the TLD ".cash" is disregarded under the first element confusing similarity test because the use of a TLD is required of domain name registrations. See, e.g., *Pomellato S.p.A v. Tonetti*, WIPO Case No. [D2000-0493](#) (finding the domain name <pomellato.com> identical to a UDRP complainant's mark because the addition of ".com" to the POMELLATO mark is not relevant to a Policy, paragraph 4(a)(i) analysis).

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 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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the Domain Name. Respondent has not rebutted Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Name such as those enumerated in the Policy or otherwise.

It is un rebutted that Respondent has no connection or affiliation with Complainant, and Complainant has not authorized Respondent to use the Mark for any purpose. Also, there is no record evidence to dispute that Respondent is not commonly known by the Mark or that he does not hold any trademark rights in the Domain Name. Neither Respondent’s earlier or current use of the Domain Name constitutes a bona fide or noncommercial use. Respondent was earlier using Complainant’s Mark in a program or scheme that involved soliciting the public to complete a series of “sponsored Deals” to obtain an ONLYFANS-branded gift card that allegedly could be used towards a subscription to Complainant’s ONLYFANS platform. The Website states that: “[s]ome of the Deals we offer are free, while many require a purchase to complete.” Further, the Website provides: “Many of our partner Deals require payments for products and services rendered.” Once an individual completes the requisite number of Deals then they must complete the “Reward claims process, which requires ID verification.” However, Complainant has no relation with those gift cards or the promotions. This scheme which relied on using Complainant’s Mark and reference to Complainant’s business platform to entice the public to participate, was an infringing and misleading (suggesting Complainant’s sponsorship) use of the Mark. For the possibility of a “Reward”, the public had to pay for sponsored Deals (purchase products and services of Respondent’s “partners”) which likely financially benefitted Respondent. The current and equally unauthorized use of the Domain Name in conjunction with sponsored links is also aimed at financially benefitting Respondent.

Panels have held that the use of a domain name for illegal activity here, the collection of personal information under the rubric of “ID verification” and possibly financial/bank information, and suggesting an association with Complainant can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. As described above the un rebutted record evidence shows that Respondent was using the Mark in a manner that suggested to the public an association existed between Respondent and Complainant. Someone participating in Respondent’s program would likely have to purchase third-party products and/or services for which they would have to provide credit card or bank information, and if they earned the right to a Reward, they would have to share personal information for ID verification. By using the Mark and referring to Complainant’s platform by name, the public might have a false sense of security to share bank and personal information with the expectation of earning the Deals and Reward.

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, the Panel notes that based on the aforementioned trademark registrations alone for the ONLYFANS Mark, Complainant has been using the Mark at least six years before Respondent registered the Domain Name. Similarly, Complainant has been using the ONLYFANS.COM mark in conjunction with its website for the same amount of time. This alone would lead one to conclude that Respondent would likely have known of Complainant before registering the Domain Name. Respondent's bad faith registration of the Domain Name is further evident from the facts that: (1) Respondent included the Mark in the Domain Name without any changes but chose a descriptive TLD ".cash" – likely because ".com" was taken by Complainant; and (2) Respondent not only used Complainant's Mark on the Website, it also referenced Complainant's platform to which the public can subscribe.

Without any rights legitimate interests in the Domain Name and having registered the Domain Name that is identical to Complainant's ONLYFANS Mark, Respondent has used and continues to use the Domain Name in bad faith as described above in part 6.B to financially profit.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have held that the use of a domain name for illegal activity here, the collection of personal information under the rubric of "ID verification" and possibly financial/bank information pursuant to a program that used Complainant's Mark and suggested an association with Complainant, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds Respondent's registration and use of the Domain Name constitutes bad faith under the Policy.

The Panel finds that 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 Domain Name <onlyfans.cash> be transferred to Complainant.

/Harrie R. Samaras/

Harrie R. Samaras

Sole Panelist

Date: April 4, 2024