

ADMINISTRATIVE PANEL DECISION

Fenix International Limited v. Host Master, 1337 Services LLC
Case No. D2024-1824

1. The Parties

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

The Respondent is Host Master, 1337 Services LLC, Saint Kitts and Nevis.

2. The Domain Name and Registrar

The disputed domain name <onlyfans00.com> is registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 30, 2024. On May 1, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 1, 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 (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 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 May 7, 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 May 8, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 28, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 29, 2024.

The Center appointed Iris Quadrio as the sole panelist in this matter on June 5, 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 operates the website “www.onlyfans.com” since 2013 in connection with the provision of a social media platform that allows users to post and subscribe to audiovisual content. In providing its services, Complainant has made extensive use of the ONLYFANS trademark.

The Complainant claims that its website is one of the most popular websites in the world, with more than 180 million registered users. In fact, as evidenced by the Complainant in Annex D, according to similarweb, it is the 97th most popular website in the world and the 55th most popular website in the United States.

The Complainant is the owner of the trademark ONLYFANS, among other marks, in many jurisdictions, including European Union Intellectual Property Office (EUIPO) Reg. No. 017912377 for classes 9, 35, 38, 41 and 42, registered on January 9, 2019; United Kingdom Intellectual Property Office (UKIPO) Reg. Nos. 00917912377 and 00917946559 for classes 9, 35, 38, 41 and 42, both registered on January 9, 2019; and United States Patent and Trademark Office Reg. Nos. 5769267 for class 35, registered on June 4, 2019. Additionally, Complainant is owner of the trademark ONLYFANS.COM Reg. No. 5769268 for class 35 in the United States Patent and Trademark Office, registered on June 4, 2019. Complainant also holds International Registrations on the word and logo under No. 1507723 and 1509110 for classes 9, 35, 38, 41 and 42, both registered on November 2, 2019.

In fact, Complainant's trademark rights have been recognized in over one hundred and fifty other UDRP decisions, resulting in the cancellation or transfer of the disputed domain names to the Complainant.

Likewise, the Complainant asserts to have online presence in Internet through its primary website “www.onlyfans.com” registered in January 2013. In particular, the Complainant claims to have extensive common law rights in the marks throughout the world that commenced by, at latest, July 4, 2016, well before Respondent registered the disputed domain name on December 19, 2023. In this regard, Complainant claims that such unregistered rights have been recognized by an earlier UDRP panel as having acquired distinctiveness by at least July 4, 2016.

The Complainant tried to resolve this dispute outside of this administrative proceeding by sending a cease-and-desist letter to the Respondent on February 22, 2024, but did not receive a reply (as per evidenced in Annex F).

Finally, the disputed domain name was registered on December 19, 2023. Although it now resolves to a “404 Not Found” website error, it originally resolved to a webpage promoting adult entertainment (as evidenced by the Complainant in Annex E).

5. Parties' Contentions

A. Complainant

The Complainant states that the disputed domain name is confusingly similar to its trademarks ONLYFANS and ONLYFANS.COM, and to its associated domain names.

The Complainant contends that the Respondent has no rights or legitimate interest in respect of the disputed domain names, nor is it related in any way to the Complainant. Neither license nor authorization has been granted to the Respondent to make any use of the Complainant's trademarks ONLYFANS and ONLYFANS.COM or apply for registration of the disputed domain name.

More specifically, the Complainant alleged that the Respondent has not used and/or has no demonstrable intention to use the disputed domain name except to create a likelihood of confusion with the Complainant's trademarks. In fact, the Complainant claims that the Respondent has selected the disputed domain name only to intentionally lead Internet users to believe they are accessing the Complainant's website.

Finally, the Complainant has requested the Panel to issue a decision ordering the transfer of the disputed domain name to the Complainant.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain name, the Complainant must prove each of the following, namely that:

- (i) the disputed domain name is identical or confusingly similar with a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interest in respect of the disputed domain name; and
- (iii) the disputed domain name was 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 a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark ONLYFANS is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, the generic numeral "00", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Moreover, the ".com" generic Top-Level Domain ("gTLD") is viewed as a standard registration requirement and is generally disregarded under the first element of the confusing similarity test, as set forth in section 1.11.1 of [WIPO Overview 3.0](#).

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.

The Complainant has claimed not to have authorized, licensed, or permitted the Respondent to register or use the disputed domain name or to use the trademark ONLYFANS nor is there any other evidence in the file suggesting that the Respondent has or could have rights or legitimate interests in the disputed domain name. Also, the Complainant has prior rights in the ONLYFANS trademark which clearly precede the Respondent’s registration of the disputed domain name.

Likewise, it does not seem that the Respondent is making any legitimate noncommercial or fair use of the disputed domain name. On the contrary, Respondent’s first use of the disputed domain name appeared to be merely intended to benefit from the Complainant’s reputation by confusing Internet users and leading them to believe that the site to which the disputed domain name relates is an official site of the Complainant. Hence, as established in section 2.5 of [WIPO Overview 3.0](#): “Fundamentally, a respondent’s use of a domain name will not be considered ‘fair’ if it falsely suggests affiliation with the trademark owner; the correlation between a domain name and the complainant’s mark is often central to this inquiry”. Currently, the Panel has confirmed that disputed domain name resolves to an inactive website.

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.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy contains a non-exhaustive list of factors evidencing registration and use in bad faith. Among others, it states that it is sufficient to support a finding of bad faith the fact that by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on the website or location (See also *G.D. Searle & Co. v. Celebrex Drugstore*, NAF Case No. FA00123933).

In such connection, the Complainant has submitted evidence to support that the trademark ONLYFANS is widely known and was registered and used many years before the Respondent registered the disputed domain name. When registering the disputed domain name, the Respondent has targeted the Complainant’s trademark ONLYFANS to create confusion among the Internet users and benefit from Complainant’s reputation.

Therefore, the Panel is satisfied that the Respondent must have been aware of the Complainant and the Complainant’s trademark ONLYFANS when it registered the disputed domain name. Consequently, and in accordance with section 3.1.4 of [WIPO Overview 3.0](#), the Panel considers that the inclusion of the Complainant’s ONLYFANS trademark in the disputed domain name creates a presumption that the disputed domain name was registered on a bad faith basis.

Likewise, based on the evidence provided by the Complainant in Annex E, the disputed domain name resolved to a commercial website that offered goods and services in direct competition with the Complainant. Clearly, the Respondent should have known the existence of the Complainant when registering the disputed domain name.

The Panel finds therefore that the Respondent's use of the disputed domain name was intended to attract and mislead Internet users when searching for the Complainant's website and to redirect them to a website from which the Respondent most probably derives commercial revenue by creating a likelihood of confusion with the Complainant's trademark.

Additionally, the Panel has made some limited investigations on the disputed domain name and currently the disputed domain name resolves to an inactive website. As per section 3.3 of [WIPO Overview 3.0](#), the fact that the disputed domain name does not resolve to an active website does not prevent a finding of bad faith under the doctrine of passive holding. (See also *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)).

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 <onlyfans00.com> be transferred to the Complainant.

/Iris Quadrio/

Iris Quadrio

Sole Panelist

Date: June 19, 2024