

ADMINISTRATIVE PANEL DECISION

Fenix International Limited v. Michael Basile
Case No. D2024-2570

1. The Parties

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

Respondent is Michael Basile, United States of America.

2. The Domain Name and Registrar

The disputed domain name <onlyshares.net> is registered with Porkbun LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 24, 2024. On June 25, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 26, 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 (Whois Privacy, Private by Design, LLC) and contact information in the Complaint. The Center sent an email communication to Complainant on June 27, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on June 27, 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 Respondent of the Complaint, and the proceedings commenced on July 4, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 24, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on July 26, 2024.

The Center appointed Marina Perraki as the sole panelist in this matter on August 27, 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 operates the website “www.onlyfans.com” since at least 2016 in connection with the provision of a social media platform that allows users to post and subscribe to audiovisual content.

Complainant owns several trademark registrations for ONLYFANS including the European Union trademark registration No. 017912377, ONLYFANS (word), filed on June 5, 2018, and registered on January 9, 2019, for goods and services in international classes 9, 35, 38, 41, and 42.

Complainant also owns the domain name registration <onlyfans.com> registered on January 29, 2013.

Per Complaint, Complainant’s website is one of the most popular websites in the world, with more than 180 million registered users in 2024. According to Similarweb, it is the 97th most popular website on the World Wide Web, and it is the 55th most popular website in the United States.

The disputed domain name was registered on January 7, 2021, and resolves to a website (the “Website”) that purports to offer unauthorized, free access to Complainant’s users’ content but visitors to the Website must first supply personal information to complete likely-bogus offers to then unlock the, per Complaint, stolen content. According to Complainant, where the Website currently says “Content Downloader – Download any video or picture for free!” in December 2021 it stated “Onlyfans Content Ripper – Download content from your favorite Onlyfans creator for free!”. The Complaint alleges that the Website throughout shows the same alleged OnlyFans creator profiles and solicits users to provide what are currently implied as OnlyFans usernames in order to freely download such users’ content. Furthermore, the Website allegedly offers adult entertainment content (including content pirated from Complainant’s users).

Complainant sent a cease-and-desist letter to Respondent on March 22, 2024, to which Respondent did not reply.

5. Parties’ Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

B. Respondent

Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to the disputed domain name:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of 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

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 disputed 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 Panel finds the mark is recognizable within the disputed domain name given that it incorporates its first characteristic part "only" and has the same structure: "only" plus a one syllable noun, which includes the letter "a" in the middle. 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 "shares" instead of "fans," 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. To affirm confusingly similarity, the Panel has also considered the broader context in this case and in particular the Website content, which targets Complainant trading off its reputation, as it purports to offer unauthorized, free access to Complainant's users' content. [WIPO Overview 3.0](#), section 1.15; [WIPO Overview 3.0](#), section 1.7.

The generic Top-Level Domain ("gTLD") ".net" is disregarded, as gTLDs typically do not form part of the comparison on the grounds that they are required for technical reasons. See *Rexel Developpements SAS v. Zhan Yequn*, WIPO Case No. [D2017-0275](#); *Hay & Robertson International Licensing AG v. C. J. Lovik*, WIPO Case No. [D2002-0122](#); see also [WIPO Overview 3.0](#), section 1.11.1.

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 disputed 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 disputed domain name such as those enumerated in the Policy or otherwise.

On the contrary Respondent has been using the disputed domain name for the Website, targeting Complainant, as it purports to offer unauthorized, free access to Complainant's users' content, see further discussions under 6.C. Given the composition of the disputed domain name and the use to which the disputed domain name was put, it is clear that Respondent sought to mislead Internet users through the likelihood of confusion represented by the disputed domain name and its website. Furthermore, the term "shares" may be seen as referring to the "sharing" of the OnlyFans content found thereon.

Panels have held that the use of a domain name for illegal activity, here claimed phishing, unauthorized content access, or other types of fraud, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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 Complainant's trademark and platform have a strong reputation as panels have repeatedly recognized. See *Fenix International Limited c/o Walters Law Group v. Privacy Service Provided by Withheld for Privacy ehf / Eduardo Guerrero Romero*, WIPO Case No. [D2021-3180](#).

As alleged in the Complaint, the Website purports to offer unauthorized, free access to Complainant's users' content while requesting personal information from visitors. Furthermore, the Website in December 2021 allegedly stated "Onlyfans Content Ripper – Download content from your favorite Onlyfans creator for free!". Last, the Panel notes that the Website shows the same alleged OnlyFans creator profiles while it offers adult entertainment content (including content pirated from Complainant's users) in direct competition with Complainant's services.

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 claimed phishing, unauthorized content access or other types of fraud, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds Respondent's registration and use of the disputed 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 disputed domain name <onlyshares.net> be transferred to Complainant.

/Marina Perraki/

Marina Perraki

Sole Panelist

Date: September 10, 2024