

ADMINISTRATIVE PANEL DECISION

Fenix International Limited v. Vercel Whois, Vercel Inc.
Case No. D2024-3175

1. The Parties

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

The Respondent is Vercel Whois, Vercel Inc., United States of America, represented by Hopkins & Carley A Law Corporation, United States of America.

2. The Domain Name and Registrar

The disputed domain name <onlyfans-subscribers.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 August 1, 2024. On August 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 13, 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 August 13, 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 August 14, 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 August 16, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 5, 2024. The Respondent did not submit a formal response, however, sent email communications to the Center on August 31, and September 2, 2024. The Center informed the Parties that it would proceed with panel appointment on September 11, 2024.

The Center appointed Marina Perraki as the sole panelist in this matter on September 17, 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.

5. 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. 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 of America.

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; and
- the European Union trademark registration No. 017946559, ONLYFANS (figurative), filed on August 22, 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.

The disputed domain name was registered on December 24, 2023, and at the time of filing of the Complaint resolved to a website (the “Website”) which prominently displayed Complainant’s trademark and logo and sold fraudulent subscriptions to Complainant’s service. Complainant sent a cease-and-desist letter to Respondent on February 22, 2024, to which Respondent did not respond. The disputed domain name currently leads to an inactive website.

6. Parties’ Contentions

A. Complainant

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

B. Respondent

The Respondent did not formally reply to the Complainant’s contentions.

The Respondent’s representative sent email communications on August 31, 2024, and September 2, 2024, stating that the disputed domain name is operated by a customer of the Respondent company and that the Respondent essentially operates as a privacy service for the disputed domain name. The representative indicated that it forwarded all the correspondence and Complaint documents to the customer.

7. Discussion and Findings

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

- the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;

- (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. Preliminary Issue: Identity of Respondent

On August 31 and September 2, 2024, an of counsel attorney of a law corporation sent emails to the Center stating that they represent Respondent Vercel Inc. and that the disputed domain name is operated by a Vercel Inc. customer. Per the emails, Vercel Inc. essentially operates as a privacy service for the disputed domain name, while they have forwarded the case correspondence and Complaint documents to the customer and advised Complainant's counsel of their contact information.

Given that the named Respondent, per the registrant and contact information disclosed by the Registrar, is listed as the registrant of the disputed domain name and that the supposedly underlying registrant did not send any communications to the Center, in these circumstances, the Panel finds that "Vercel Whois, Vercel Inc." is the Respondent as the holder of the disputed domain name registration (see paragraph 1 of the Rules).

B. 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 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, "subscribers" 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.

The generic Top-Level Domain ("gTLD") ".com" 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.

C. 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.

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.

On the contrary, as Complainant demonstrated, the disputed domain name resolved to the Website which prominently displayed Complainant's trademark and logo and sold fraudulent subscriptions to Complainant's service.

Panels have held that the use of a domain name for illegal activity here, claimed impersonation/passing off, phishing 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.

D. 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. Withheld for Privacy Purposes, Privacy Service Provided by Withheld for Privacy ehf / Eduardo Guerrero Romero*, WIPO Case No. [D2021-3180](#).

As alleged in the Complaint, the Website prominently displayed Complainant's trademark and logo and sold fraudulent subscriptions to Complainant's service.

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 impersonation/passing off, phishing or other types for fraud, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. The Panel also notes that the disputed domain name was registered under a privacy service to hide the true identity of Respondent and that Respondent did not submit any response and did not reply to the warning letter of Complainant. 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.

8. 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-subscribers.com> be transferred to the Complainant.

/Marina Perraki/
Marina Perraki
Sole Panelist
Date: October 9, 2024