

ADMINISTRATIVE PANEL DECISION

Fenix International Limited v. Juan Diego Acevedo Escobar
Case No. D2024-4820

1. The Parties

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

The Respondent is Juan Diego Acevedo Escobar, Colombia.

2. The Domain Name and Registrar

The disputed domain name <onlyfansgratispormega.com> is registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 21, 2024. On November 22, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 22, 2024, the Registrar transmitted by email to the Center its verification response registrant and contact information for the disputed domain name which differed from the named Respondent (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 22, 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 amended Complaint on November 25, 2024.

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 the Respondent of the Complaint, and the proceedings commenced on December 2, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 22, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 27, 2024.

The Center appointed Manuel Moreno-Torres as the sole panelist in this matter on January 13, 2025. 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 ONLYFANS social media platform at the domain name <onlyfans.com> where users can monetize their content through a subscription service and develop relationships with their fanbase. The Complainant registered the domain name <onlyfans.com> on January 29, 2013.

According to <similarweb.com> the ONLYFANS website is the 97th most popular website on the World Wide Web.

The Complainant is the owner of a portfolio of registered trademarks for ONLYFANS in different jurisdictions. By way of example:

- European Union trademark with registration number 017946559, registered on January 9, 2019
- United Kingdom trademark with registration number UK00917912377, registered on January 9, 2019.
- United States of America trademark with registration number 5769267, registered on June 4, 2019.

Based on previous decisions and evidence ONLYFANS is to be considered well-known for UDRP purposes. 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](#).

The disputed domain name <onlyfansgratispormega.com> was registered on April 23, 2024, and resolves to an active adult content page.

The Complainant sent a cease-and-desist letter to the Respondent via the Registrar of the disputed domain name on July 24, 2024. No answer was received.

5. 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.

Notably, the Complainant contends that the Respondent registered the disputed domain name to divert internet traffic from the Complainant's site to a website offering adult entertainment content advertised as free content from the Complainant's users in direct competition with the Complainant's website. Further, the Complainant alleges that none of the circumstances depicted in paragraph 4(c) of the Policy applies in this case.

Lastly, the Complainant claims that the Respondent knew of and targeted the Complainant's trademark when registering the disputed domain name and have been using them in bad faith.

B. Respondent

The Respondent did not reply to the Complainant's contentions

6. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed the Complainant must satisfy the Panel that:

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

There are no exceptional circumstances within paragraph 5(f) of the Rules to prevent the Panel from determining the dispute based upon the Complaint, notwithstanding the failure of the Respondent to file a Response. Under paragraph 14(a) of the Rules in the event of such a “default” the Panel is still required “to proceed with a decision on the complaint”, whilst under paragraph 14(b) it “shall draw such inferences there from as it considers appropriate”. This dispute resolution procedure is accepted by the disputed domain name registrant as a condition of registration.

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 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, “gratis”, “por” and “mega”, may bear on assessment of the second and third elements, the Panel finds the addition of such terms do 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 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.

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.

Indeed, none of the circumstances described in paragraph 4(c) of the Policy can be inferred from the file.

Moreover, the nature of the disputed domain name, incorporating the Complainant's distinctive trademark with descriptive terms, carries a risk of implied affiliation. [WIPO Overview 3.0](#), section 2.5.1.

Under these circumstances the Panel notes that the well-known nature of the ONLYFANS trademarks, as well as its use by a competitor in the disputed domain name and related website, prevent the Panel from recognizing rights or legitimate interests in favour the Respondent.

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 the Respondent intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's mark in terms as described in paragraph 4(b)(iv) of the Policy.

Further, the Panel looks at [WIPO Overview 3.0](#), section 3.1.3, where a broad concept of competitor includes "a person who acts in opposition to another' for some means of commercial gain, direct or otherwise", and finds that the Respondent registered the disputed domain name primarily for the purpose of disrupting the business of a competitor in the same manner as described in paragraph 4(b)(iii) of the Policy.

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.

The Panel finds that the Respondent knew or should have known about the Complainant and its trademarks due to its reputation and distinctiveness.

Panels have held that the use of a domain name for illegitimate activity, here, claimed impersonation/passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

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 <onlyfansgratispormega.com> be transferred to the Complainant.

/Manuel Moreno-Torres/

Manuel Moreno-Torres

Sole Panelist

Date: January 27, 2025