

ADMINISTRATIVE PANEL DECISION

Fenix International Limited v. Host Master, Njalla Okta LLC
Case No. D2024-4899

1. The Parties

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

The Respondent is Host Master, Njalla Okta LLC, Saint Kitts and Nevis.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 27, 2024. On November 27, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On November 27, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the 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 November 28, 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 November 30, 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 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 23, 2024.

Due to an administrative error, the Center did not initially forward the Notification of Complaint to the email addresses of the admin, billing and tech contacts of the Respondent as disclosed by the Registrar in the registrar verification response of November 27, 2024 (the Center did forward the Notification of Complaint to other addresses identified in the Complaint and registrar verification including the postal address on December 2, 2024). On December 30, 2024, a further Notification of Complaint, including the missed addresses, was sent to the Respondent. The Respondent was given an additional 5 days to respond. No response was received.

The Center appointed Nicholas Smith as the sole panelist in this matter on January 14, 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 operates a successful website at “www.onlyfans.com” which operates as a social media platform for creators to offer, and uses to subscribe and engage with, content posted on the platform.

The Complainant has held a trademark registration for the word “ONLYFANS” (the “ONLYFANS Mark”) in various jurisdictions since 2019, including an European Union trademark registration for the ONLYFANS Mark since January 9, 2019, for a variety of goods and services in classes 9, 35, 38, 41, and 42 (registration No. EU017912377).

The Domain Name was registered on March 29, 2024. The Domain Name resolves to a website (the “Respondent’s Website”) that prominently reproduces the ONLYFANS Mark and a (modified) version of the Complainant’s logo. The Respondent’s Website states (in Spanish) that it is the “Official OnlyFans Collaborating Agency” and purports to offer marketing services to creators interested in the Complainant’s OnlyFans platform.

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 Domain Name.

Notably, the Complainant contends that:

- a) It is the owner of the ONLYFANS Mark, having registered the ONLYFANS Mark in various jurisdictions. The Domain Name is confusingly similar to the ONLYFANS Mark as it reproduces the ONLYFANS Mark in its entirety and adds the term “oficial”.
- b) There are no rights or legitimate interests held by the Respondent in respect of the Domain Name. The Complainant has not granted any license or authorization for the Respondent to use the ONLYFANS Mark. The Respondent is not commonly known by the ONLYFANS Mark, nor does it use the Domain Name for a bona fide purpose or legitimate noncommercial purpose. Rather the Respondent is using the Domain Name to pass off as the Complainant or as endorsed or sponsored by the Complainant for commercial gain. Such use is not a legitimate use of the Domain Name.
- c) The Domain Name was registered and is being used in bad faith. The Respondent is using the Domain Name to divert Internet users searching for the Complainant to the Respondent’s Website which misleadingly suggests association or affiliation with the Complainant for commercial gain. Such conduct amounts to registration and use of the Domain Name in bad faith.

B. Respondent

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

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 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 ONLYFANS Mark is reproduced within the Domain Name. Accordingly, the 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, "oficial" ("official" in Spanish) may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the 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 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 Domain Name.

The Panel considers that the record of this case reflects that:

- before any notice to the Respondent of the dispute, the Respondent did not use, nor has it made demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a bona fide offering of goods or services. Paragraph 4(c)(i) of the Policy, and [WIPO Overview 3.0](#), section 2.2.

- the Respondent (as an individual, business, or other organization) has not been commonly known by the Domain Name. Paragraph 4(c)(ii) of the Policy, and [WIPO Overview 3.0](#), section 2.3.
- the Respondent is not making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue. Paragraph 4(c)(iii) of the Policy, and [WIPO Overview 3.0](#), section 2.4.
- the record contains no other factors demonstrating rights or legitimate interests of the Respondent in the Domain Name.

The Respondent uses the Domain Name to operate the Respondent's Website that purports to offer marketing services to individuals seeking to offer content on the Complainant's OnlyFans platform. It is unclear on the evidence before the Panel whether those services are legitimate or fake.

However, even if the Respondent is offering legitimate marketing services from the Respondent's Website, such use does not automatically grant it rights and legitimate interests. The principles that govern whether a reseller of genuine goods (or the offering of services related to the Complainant) has rights or legitimate interests have been set out in a variety of UDRP decisions, starting with the case of *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#).

The [WIPO Overview 3.0](#), section 2.8 summarizes the consensus views of UDRP panels in assessing claims of nominative (fair) use by resellers or distributors in the following manner:

"... Panels have recognized that resellers, distributors, or service providers using a domain name containing the complainant's trademark to undertake sales or repairs related to the complainant's goods or services may be making a *bona fide* offering of goods and services and thus have a legitimate interest in such domain name. Outlined in the "Oki Data test", the following cumulative requirements will be applied in the specific conditions of a UDRP case:

- (i) the respondent must actually be offering the goods or services at issue;
- (ii) the respondent must use the site to sell only the trademarked goods or services;
- (iii) the site must accurately and prominently disclose the registrant's relationship with the trademark holder; and
- (iv) the respondent must not try to "corner the market" in domain names that reflect the trademark.

The "Oki Data test" does not apply where any prior agreement, express or otherwise, between the parties expressly prohibits (or allows) the registration or use of domain names incorporating the complainant's trademark."

In this case, the Respondent's Website does not accurately or prominently disclose the Respondent's relationship with the Complainant, in particular that it is not authorized or has any particular connection with the Complainant. The Respondent's Website does not contain a disclaimer or any explanation as to the identity of the operator of the Respondent's Website (noting that a visitor to a website at a domain name including the trademark and the word "official/official" may expect the entity at the website to be authorized by the Complainant).

Furthermore, by including a modified version of the Complainant's logo and an assertion that it is the "Official OnlyFans Collaborating Agency" the Respondent's Website misleadingly asserts that it is associated with or licensed by the Complainant, which is not the case. Even if the Respondent offering marketing services to creators hoping to list on the OnlyFans platform, its use of the Domain Name (also noting the misleading nature of the Domain Name) for the Respondent's Website does not grant it rights or legitimate interests in the Domain Name.

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.

The Panel considers that the record of this case reflects that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's Website or location or of a product or service on the Respondent's Website or location. Paragraph 4(b)(iv) of the Policy, and [WIPO Overview 3.0](#), section 3.1.4.

The Respondent registered the Domain Name for the purposes of operating a website specifically to offer marketing services in connection with the Complainant's platform which it does by passing off as associated with the Complainant, which is not the case. The Respondent is using a Domain Name that is confusingly similar to the ONLYFANS Mark to offer services that may relate to the Complainant's services without the Complainant's approval and without meeting the *Ok! Data* test.

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 Domain Name <oficialonlyfans.com> be transferred to the Complainant.

/Nicholas Smith/

Nicholas Smith

Sole Panelist

Date: January 17, 2025