

## **ADMINISTRATIVE PANEL DECISION**

Fenix International Limited v. Elias Machado

Case No. D2025-0479

### **1. The Parties**

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

The Respondent is Elias Machado, Brazil.

### **2. The Domain Name and Registrar**

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

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 6, 2025. On February 7, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 7, 2025, 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, Super Privacy Service LTD) and contact information in the Complaint. The Center sent an email communication to the Complainant February 10, 2025, 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 February 10, 2025.

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 February 11, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 3, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 4, 2025.

The Center appointed Enrique Bardales Mendoza as the sole panelist in this matter on March 10, 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 website at the domain name <onlyfans.com>, registered on January 29, 2013, and has used it in connection with the provision of a social media platform that allows users to post and subscribe to audiovisual content under the name 'OnlyFans'.

The Complainant is the owner of multiple registrations for ONLYFANS trademark including the following ones:

- European Union Trademark No. 017912377 for ONLYFANS (registered on January 9, 2019) and covering goods and services in classes 9, 35, 38, 41 and 42;
- United States Trademark No. 5769267 for ONLYFANS (registered on June 4, 2019) and covering services in class 35;
- United Kingdom Trademark No. UK00917912377 for ONLYFANS (registered on January 9, 2019) and covering goods and services in classes 9, 35, 38, 41 and 42.

In addition to the above trademarks, the Complainant states that its unregistered common law trademark rights have been recognized in UDRP decisions resulting in the cancellation or transfer of the disputed domain names.

The disputed domain name was registered on July 5, 2024 and resolves to a commercial website that offers adult entertainment content.

#### **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 is identical or confusingly similar to the ONLYFANS trademark and the addition of the terms "gratis brasil" ("free brazil") and the additional generic Top-Level Domain ("gTLD") ".com" to the Complainant's trademark does not prevent a finding of confusing similarity.

The Complainant further contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent has no connection or affiliation with the Complainant and has not received any authorization, license or consent, whether express or implied, to use the trademark in the disputed domain name or in any other manner. The Respondent is not commonly known by and does not hold any trademarks for the disputed domain name. The Respondent cannot claim a right to use the disputed domain name under fair use, since it includes the trademark and the additional geographical term "brasil" which falsely suggests sponsorship or endorsement by the Complainant. Also, the disputed domain name advertises adult entertainment services in direct competition with the Complainant's services.

Furthermore, the Complainant states that the disputed domain name is registered in bad faith as it was registered long after the Complainant has attained rights in ONLYFANS trademark. Having in mind that the Complainant's trademark is widely known, the registration of a confusing domain name creates a presumption of bad faith. The Complainant sent a cease-and-desist letter to the Respondent demanding the Respondent to stop using and cancel the disputed domain name, but have received no response. Also,

according to the Complainant, the Respondent uses the disputed domain name to offer services in direct competition with the Complainant, in an intentional attempt to attract users for a commercial gain by creating a likelihood of confusion with the Complainant's mark as to the source, affiliation, or endorsement of the disputed domain name.

## **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 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 brasil") 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 disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

In addition, it is well established that ".com", as a gTLD, can be disregarded in the assessment of the confusing similarity between the disputed domain name and the Complainant's trademark. [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 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.

The Panel notes that there is any kind of relationship between the Respondent and the Complainant. Also, the Respondent has not been authorized by the Complainant to use ONLYFANS trademark, and the Respondent has not used the disputed domain name for a legitimate noncommercial or fair use, nor used it in connection with a bona fide offering of goods or services.

Panels have held that the use of a domain name for illegal activity (here, claimed impersonation) 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 the Respondent registered the disputed domain name in order to intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the complainant's mark. Since the Complainant's trademark is widely known, the Respondent have knowledge of the trademark before registering the disputed domain name. Also, the disputed domain name suggests that it was authorized by the Complainant and adding the terms "gratis brasil" enhances the likelihood of confusion. Furthermore, the Respondent uses the disputed domain name to offer services in direct competition with the Complainant and the Respondent did not respond to the cease-and-desist letter sent by the Complainant.

Panels have held that the use of a domain name illegal activity (here, claimed impersonation) 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 <onlyfansgratisbrasil.com> be transferred to the Complainant.

*/Enrique Bardales Mendoza/*

**Enrique Bardales Mendoza**

Sole Panelist

Date: March 24, 2025