

ADMINISTRATIVE PANEL DECISION

Fenix International Limited v. Tiffany Oglesby
Case No. DCO2024-0027

1. The Parties

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

Respondent is Tiffany Oglesby, United States of America.

2. The Domain Name and Registrar

The disputed domain name <omnifans.co> (the “Domain Name”) is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 9, 2024. On April 10, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On the same day, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to Complainant on April 12, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on the same day.

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 Respondent of the Complaint, and the proceedings commenced on April 15, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 5, 2024. Two email communications from an unverified party were sent to the Center on April 14, 2024. On April 15, 2024, the Center responded to the email communications by requesting the sending party to identify himself or herself, clarifying his or her identity with regards to Respondent’s name provided by the Registrar and provide sufficient information to verify such relationship. No response was received. Accordingly, the Center notified the Parties of the commencement of panel appointment process on May 6, 2024.

The Center appointed Kimberley Chen Nobles as the sole panelist in this matter on May 8, 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 provides social media platform services, including adult entertainment services, which allow users to post and subscribe to audiovisual content, on the Internet, under the name “onlyfans” and via the domain name <onlyfans.com>. Complainant owns and registered the domain name <onlyfans.com> on January 29, 2013.

Complainant is the owner of several registered trademark with the ONLYFANS and OFTV design and word marks (the “ONLYFANS marks”), including:

- European Union registered trademark number 017912377 for the ONLYFANS word mark, filed on June 5, 2018, and registered on January 9, 2019;
- United Kingdom registered trademark number UK00917946559 for the ONLYFANS design and word mark, filed on August 22, 2018, and registered on January 9, 2019;
- United States (U.S.) registered trademark number 5769267 for the ONLYFANS word mark, filed on October 29, 2018, and registered on June 4, 2019;
- U.S. registered trademark number 5769268 for the ONLYFANS.COM word mark, filed on October 29, 2018, and registered on June 4, 2019;
- U.S. registered trademark number 6918292 for the OFTV word mark, filed on February 11, 2022, and registered on December 6, 2022;
- U.S. registered trademark number 6918294 for the OF design and word mark, filed on February 11, 2022, and registered on December 6, 2022.

Complainant also has common law rights in its trademarks as supported by its commencement of use of the ONLYFANS mark on July 4, 2016. Complainant’s unregistered common law rights have been recognized in previous UDRP decisions as having accrued and acquired distinctiveness by no later than July 4, 2016. See *Fenix International Limited v. Domain Admin, Beacons AI Inc.*, WIPO Case No. [D2024-0113](#).

Respondent registered the Domain Name on November 28, 2022. At the time of filing of the Complaint, the Domain Name resolved to a commercial website that offered adult entertainment content, including advertising content from Complainant’s users. At the time of the Decision, the Domain Name is inactive.

Complainant sent a cease-and-desist letter to Respondent on January 28, 2024, setting forth its intellectual property rights and requesting Respondent to stop using and canceling the Domain Name. Respondent did not respond. Thereafter, Complainant filed the current Complaint to initiate a UDRP proceeding.

5. Parties’ Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

Complainant contends that (i) the Domain Name is identical or confusingly similar to Complainant’s trademarks; (ii) Respondent has no rights or legitimate interests in the Domain Name; and (iii) Respondent registered and is using the Domain Name in bad faith.

In particular, Complainant contends that it has trademark registrations for ONLYFANS, and that Respondent registered and is using the Domain Name with the intention to divert Internet traffic to its own websites for commercial gain.

Complainant notes that it has no affiliation with Respondent. Complainant further contends that Respondent is using the Domain Name to deceive Internet users who would expect to find a website that is affiliated with or sponsored by Complainant, and that Respondent has no rights or legitimate interests in the registration and use of the Domain Name. Further, Complainant contends that Respondent has acted in bad faith in acquiring and setting up the Domain Name, when Respondent clearly knew of Complainant's rights.

B. Respondent

Respondent did not formally reply to Complainant's contentions. However, on April 14, 2024, an unverified party sent an email to the Center, indicating that he/she wanted to comply with the rules and transfer the Domain Name, but requested guidance for transferring it. A couple of hours after the initial email, this person sent a second email indicating that he/she had requested for deletion of the Domain Name on the Complaint, but was unable to do so. He/She again noted that he/she would like to delete it or transfer to the rightful owner.

On April 15, 2024, the Center responded to this email, noting that Respondent's name was "Tiffany Ogelsby" and requested that Respondent respond to the Center's email to clarify her/his relationship (if any) with the sender of the email. The Center also requested the sender of the email to identify himself or herself, to clarify his/her relationship to Respondent and provide information verifying such relationship.

There was no further communication from the sender of the mentioned email or any response from Respondent or the recipients of the emails noted on Respondent's email accounts on the Registrar.

6. Discussion and Findings

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

- (i) the 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 Domain Name; and
- (iii) the Domain Name was registered and is being used in bad faith.

Section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") states that failure to respond to the complainant's contentions would not by itself mean that the complainant is deemed to have prevailed; a respondent's default is not necessarily an admission that the complainant's claims are true.

Thus, although in this case, Respondent has failed to respond to the Complaint, the burden remains with Complainant to establish the three elements of paragraph 4(a) of the Policy by a preponderance of the evidence.

A. Identical or Confusingly Similar

Ownership of a trademark registration prima facie satisfies that a complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. See [WIPO Overview 3.0](#), section 1.2.1. Complainant has provided evidence of its rights in the ONLYFANS trademarks, as noted above under Section 4. Complainant has also submitted evidence which supports that the ONLYFANS trademarks, including its design marks, are widely known and a distinctive identifier of Complainant's products and services. Further, Complainant has submitted as evidence, support of its common law rights, which commenced as early as July 4, 2016.

With Complainant's rights in the ONLYFANS trademarks established, the remaining question under the first element of the Policy is whether the Domain Name, typically disregarding the Top-Level Domain ("TLD") in which it is registered (in this case is, ".co"), is identical or confusingly similar to Complainant's trademark. See, e.g., *B & H Foto & Electronics Corp. v. Domains by Proxy, Inc. / Joseph Gross*, WIPO Case No. [D2010-0842](#).

Here, the Domain Name is confusingly similar to Complainant's ONLYFANS trademark. The use of Complainant's trademark in its entirety, with the replacement of the term "only" by the term "omni" in the Domain Name, does not prevent a finding of confusing similarity between the Domain Name and the ONLYFANS trademark. See [WIPO Overview 3.0](#), section 1.8 and 1.9.

Regarding the Domain Name <omnifans.co>, the Panel notes it incorporates the initial letter "o" and latter term "fans" of Complainant's ONLYFANS trademark. This Domain Name previously resolved to a website, prominently displaying a logo that is very similar in look and feel of Complainant's ONLYFANS design trademark at the top of the website, and offering various similar services to those offered by Complainant. It is clear to the Panel that the website at this Domain Name trades off Complainant's reputation, which confirms that Respondent was seeking to target Complainant's ONLYFANS trademark through this Domain Name. The Panel finds that the circumstances of the case support a finding of confusing similarity between the Domain Name and Complainant's ONLYFANS trademarks. See [WIPO Overview 3.0](#), sections 1.7 and 1.15. See also: *Fenix International Limited v. Jean Valjean*, WIPO Case No. [D2023-3488](#), *Furla S.p.A v. mike kruger*; *Ssandra Nagel*; *Christina Ackermann*; *Shawn Thurin*; *Nico Eberhart*; *Brian Presley*; *Patricia Arvizu*; *Name Redacted*; and *Client Care, Web Commerce Communications Limited*, WIPO Case No. [D2024-0283](#), and *Jacques Bermon Webster aka Travis Scott II and LaFlame Enterprises, Inc. v. Mian Mian*, WIPO Case No. [D2024-0813](#).

Thus, the Panel finds that Complainant has satisfied the first element of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, a complainant must make a prima facie showing that a respondent possesses no rights or legitimate interests in a disputed domain name. See, e.g., *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#). Once a complainant makes out a prima facie showing, the burden of production shifts to the respondent, though the burden of proof always remains on the complainant. If the respondent fails to come forward with relevant evidence showing rights or legitimate interests, the complainant will have sustained its burden under the second element of the UDRP.

From the record in this case, Complainant asserts that Respondent is not an authorized reseller and is not related to Complainant. Respondent is also not known to be associated with the ONLYFANS trademarks and there is no evidence showing that Respondent has been commonly known by the Domain Name.

In addition, Respondent has not used the Domain Name in connection with a bona fide offering of goods or services or a legitimate noncommercial or fair use. Rather, at the time of filing of the Complaint, the record shows that the Domain Name resolved to webpages that were very similar to the look and feel of Complainant's websites, displayed a logo that is very similar to Complainant's ONLYFANS design trademark prominently at the top of the webpage, and offered services similar to those offered by Complainant.

At the time of the Decision, the Domain Name resolves to an inactive or error page. Such use does not constitute a bona fide offering of goods or services or a legitimate noncommercial or fair use and cannot under the circumstances confer on Respondent any rights or legitimate interests in the Domain Name. See, e.g., *Intesa Sanpaolo S.p.A. v. Charles Duke / Oneandone Private Registration*, WIPO Case No. [D2013-0875](#).

Accordingly, Complainant has provided evidence supporting its prima facie case that Respondent lacks any rights or legitimate interests in the Domain Name. Respondent has failed to produce countervailing evidence of any rights or legitimate interests in the Domain Name.

Thus, the Panel concludes that Respondent does not have any rights or legitimate interests in the Domain Name, and Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that Respondent's actions indicate that Respondent registered and is using the Domain Name in bad faith.

Paragraph 4(b) of the Policy provides a non-exhaustive list of circumstances indicating bad faith registration and use on the part of a domain name registrant, namely:

"(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your 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 your website or location or of a product or service on your website or location."

The Panel finds that Complainant has provided evidence to show that registration and use of the ONLYFANS trademarks long predate the registration of the Domain Name. Complainant is also well established and known. Indeed, the record shows that Complainant's ONLYFANS trademarks and related products and services are widely known and recognized. Therefore, particularly considering the use of a logo that is very similar to the ONLYFANS trademark on the website at the Domain Name, coupled by the similarity of services offered in direct competition with Complainant's business, the Panel finds that Respondent was aware of the ONLYFANS trademark when it registered the Domain Name, which suggests bad faith.

The Panel finds that by using the Domain Name to direct Internet users to a webpage that features a very similar logo to that of Complainant's ONLYFANS design trademark and prominently displaying it at the top of the webpage, and providing content and services that were very similar to the look and feel of Complainant's websites, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's webpage by creating a likelihood of confusion with Complainant's marks as to the source, sponsorship, affiliation, or endorsement of Respondent's website.

At the time of the Decision, the Domain Name resolves to an inactive or error page. Considering the circumstances of this case, such use does not prevent a finding of bad faith under the doctrine of passive holding. See [WIPO Overview 3.0](#), section 3.3.

Further, the Panel also notes the failure of Respondent to submit a response to the cease-and-desist letter sent by Complainant, or a formal Response despite the Center's request and despite the receipt of two email communications to the Center from a party who did not clarify or explain his/her identity in relation to the named Respondent, indicating that he/she wished to relinquish the Domain Name.

Accordingly, the Panel finds that Respondent registered and is using the Domain Name in bad faith and Complainant succeeds under the third element of paragraph 4(a) 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 <omnifans.co> be transferred to Complainant.

/Kimberley Chen Nobles/

Kimberley Chen Nobles

Sole Panelist

Date: May 23, 2024