

## **ADMINISTRATIVE PANEL DECISION**

Fenix International Limited v. Domain Administrator, See PrivacyGuardian.org / Cheng Xianming  
Case No. D2022-0292

### **1. The Parties**

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

The Respondent is Domain Administrator, See PrivacyGuardian.org, United States / Cheng Xianming, China.

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

The disputed domain name <onlyfans.com> is registered with NameSilo, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 28, 2022. On January 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 28, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on February 8, 2022, 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 8, 2022.

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 15, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 7, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 21, 2022.

The Center appointed Alistair Payne as the sole panelist in this matter on March 25, 2022. 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 located at the domain name <onlyfans.com> and has used it for several years in connection with the provision of a social media platform that allows users to post and subscribe to audiovisual content on the Internet. The Complainant owns numerous registered trade marks for its ONLY FANS mark and in particular United States trade mark registration 5769267 registered on June 4, 2019.

The Respondent registered the disputed domain name on July 16, 2021. The disputed domain name resolves to a page featuring adult entertainment content including non-downloadable video, photographs, images and audio files.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant submits that it owns registered trade mark rights as set out above and submits that confusing similarity exists where the disputed domain name is a typosquatted version of a complainant's trade mark, such as in this case where the letter "j" is inserted into a mark. In this case it says that the letter "j" has been inserted between the words "only" and "fans" in the Complainant's registered trade mark. This is especially true according to the Complainant where the letter "j" is near the letter "y" on a normal qwerty-keyboard, making a typo more likely. See *Avid Dating Life Inc. v. Registration Private, Domains by Proxy, LLC / Online Management*, WIPO Case No. [D2014-0460](#). The Complainant says that the degree of confusing similarity is even more apparent as a consequence of the disputed domain name using the ".com" generic Top-Level Domain ("gTLD") which is the same as the Complainant's domain name for its main website.

The Complainant submits that the Respondent has no connection or affiliation with the Complainant and has not received any authorisation, license, or consent, whether express or implied, to use its ONLY FANS mark in the disputed domain name or in any other manner. The Respondent is not commonly known by the disputed domain name and does not hold any trade marks for the disputed domain name

The Complainant asserts that its website at the disputed domain name is currently one of the most popular websites in the world, with more than 180 million registered users. It notes that according to Alexa Internet, it is the 428th most popular website on the Internet and it is the 264th most popular website in the United States and because of this it has become a prime target for cybersquatters wishing to profit from the goodwill that attaches to the ONLY FANS mark. The Complainant says that the Respondent is one such cybersquatter.

In this regard it notes that the website at the disputed domain name offers adult entertainment services in direct competition with the Complainant's services, including "providing entertainment services ... in the nature of a website featuring non-downloadable video, photographs, images, audio, and ... in the field of adult entertainment." It submits that using the disputed domain name to host a commercial websites that advertise goods and services in direct competition with the trade mark owner does not give rise to legitimate rights or interests.

The Complainant submits that the disputed domain name was registered on July 16, 2021, long after the Complainant attained registered rights in the ONLY FANS mark and long after the Complainant had developed common law rights in its mark, noting that the Complainant's website is among the top 500 most

popular websites in the world. It says that the registration of a domain name that is confusingly similar to a widely-known trade mark, as is the case here, creates a presumption of bad faith as does the use of a typosquatted version of the Complainant's mark in the disputed domain name.

According to the Complainant, the disputed domain name directs to a commercial website that offers adult entertainment content in direct competition with the Complainant's services. As such it says that the Respondent is using the disputed domain name to attract Internet users to its website by creating a likelihood of confusion with the Complainant's mark as to the source, affiliation, or endorsement of the disputed domain name in bad faith under paragraph 4(b)(iv) of the Policy.

Further, the Complainant notes that it sent a cease-and-desist letter to the Respondent on November 9, 2021, to which the Respondent did not reply. The Complainant also says that the Respondent hid from the public behind a Whois privacy wall. These activities are further evidence of bad faith according to the Complainant.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **A. Identical or Confusingly Similar**

The Complainant has demonstrated that it owns United States trade mark registration 5769267 for ONLY FANS registered on June 4, 2019. The disputed domain name wholly incorporates the ONLY FANS mark except that the letter "j" has been inserted between the words "only" and "fans". This appears to be a case of typosquatting in which the "j" has likely been inserted into the disputed domain name because it is near the letter "y" on a normal qwerty keyboard, making a typographical error more likely. The disputed domain name, which consists of a common, obvious, or intentional misspelling of a trademark, is confusingly similar to the Complainant's mark. See section 1.9 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition.

Consequently, the Panel finds that the disputed domain name is confusingly similar to the Complainant's registered trade mark and the Complainant succeeds under this element of the Policy.

### **B. Rights or Legitimate Interests**

The Complainant has submitted that the Respondent has no connection or affiliation with the Complainant and has not received any authorisation, license, or consent, whether express or implied, to use its ONLY FANS mark in the disputed domain name or in any other manner. It has further submitted that the Respondent is not commonly known by the disputed domain name and does not hold any trade marks for the disputed domain name

The Complainant's website at the disputed domain name appears to be extremely well visited with more than 180 million registered users. It has, according to the Complainant, been listed as the 428th most popular website on the Internet by Alexa internet and the 264th most popular website in the United States.

The Respondent is using the disputed domain name to resolve to a website that offers adult entertainment services that appear to be similar or in competition with the Complainant's services, including as noted in the Complaint by "providing entertainment services ... in the nature of a website featuring non-downloadable video, photographs, images, audio, and ... in the field of adult entertainment." The Panel agrees with the Complainant that using the disputed domain name to host a commercial websites that advertise services that are in direct competition with the Complainant and obviously attempting to trade off the goodwill and renown

attaching to the Complainant's mark does not give rise to rights or legitimate interests in the disputed domain name.

In these circumstances the Panel finds that the Complainant has made out a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name. As the Respondent has failed to rebut this case and also for the reasons set out under Part C below, the Panel finds that the Complainant has successfully made out its case and that the Complaint also succeeds under this element of the Policy.

### **C. Registered and Used in Bad Faith**

The disputed domain name was registered on July 16, 2021. By that time the Complainant's trade mark registration was two years old and the Complainant's business had developed into being a substantial undertaking with a very significant international following and online presence. By this time its website at the <onlyfans.com> domain name had a rating amongst the most popular websites in the United States and indeed in the world. With this in mind and considering the degree of overall distinctiveness of the ONLY FANS mark and that the Respondent has used it to resolve to a website that features similar services and content to that available at the Complainant's website, it is most likely that the Respondent was well aware of the Complainant's ONLY FANS mark when it registered the disputed domain name.

This case is a blatant example of typosquatting in which the Respondent is using the disputed domain name to divert Internet users to its own website at which it offers competing adult entertainment services. This is exactly the sort of conduct that the policy sets out to proscribe and the Panel finds that it amounts to evidence of use of the disputed domain name in bad faith.

In any event, under paragraph 4(b)(iv) of the Policy there is evidence of registration and use of the disputed domain name in bad faith where a Respondent has used the disputed domain name to intentionally attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trade marks as to the source, sponsorship, affiliation or endorsement of the website.

The disputed domain name resolves to a website that offers adult entertainment services that appear to be similar to, or in competition with, the Complainant's services as described under Part B above. The Respondent in this case has used the disputed domain name to intentionally attract, obviously for its own commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's very well reputed ONLY FANS trade mark as to the source, sponsorship, affiliation or endorsement of the Respondent's website. This amounts to evidence of registration and use of the disputed domain name in bad faith

The fact that the Respondent failed to respond to the Complainant's cease and desist letter sent to the Respondent on November 9, 2021, and used a privacy service to mask its real identity only further reinforces the Panel's view of the Respondent's bad faith.

For these reasons the Panel finds that the disputed domain name was both registered and used in bad faith and that the Complaint succeeds under this 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 <onlyjfans.com> be cancelled.

**Alistair Payne**

Sole Panelist

Date: April 1, 2022