

## **ADMINISTRATIVE PANEL DECISION**

Fenix International Limited v. Dmitrii Ryazanov  
Case No. D2023-2639

### **1. The Parties**

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

The Respondent is Dmitrii Ryazanov, Russian Federation.

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

The disputed domain name <onlyfuns.cyou> is registered with Registrar of Domain Names REG.RU LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on June 20, 2023. On June 20, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 21, 2023, 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 (Protection of Private Person) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 3, 2023 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 July 3, 2023.

On July 3, 2023, the Center sent a message to the Parties in English and Russian in respect of the language of the proceeding. On the same day, the Complainant requested that the proceeding be held in English. The Respondent did not submit any comments on the language of the proceeding.

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 in both English and Russian, and the proceedings commenced on July 12, 2023. In accordance

with the Rules, paragraph 5, the due date for Response was August 1, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 7, 2023.

The Center appointed William A. Van Caenegem as the sole panelist in this matter on August 10, 2023. 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> providing a social media platform that allows users to post and subscribe to audiovisual content.

The Complainant has registered its ONLYFANS trademark with the European Union (EU) EUIPO, Trade Mark No. EU017912377, registered on January 9, 2019, and EU017945559, registered on January 9, 2019; the United Kingdom (UK) UKIPO, Trade Mark Nos. UK00917912377, registered on January 9, 2019, and UK00917946559, registered on January 9, 2019; and in the United States it has registered ONLYFANS and ONLYFANS.COM: USPTO Registration Nos. 5769267, registered on June 4, 2019 and 5769268, registered on June 4, 2019 respectively. It has pursued trademark registrations in many other jurisdictions.

The Complainant registered the <onlyfans.com> domain name on January 29, 2013 and claims extensive common law rights in the ONLYFANS marks throughout the world from July 4, 2016.

The disputed domain name was registered on November 28, 2021 and resolves to a website that offers adult entertainment services in direct competition with the Complainant's services, including pirated content of the Complainant.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant says that the disputed domain name is confusingly similar to its ONLYFANS registered trademark as the use of "funs" in ONLYFUNS rather than "fans" as in the Complainant's mark does not prevent a finding of confusing similarity. The Complainant stresses that the disputed domain name contains an identical component of its registered mark, that is, "only", plus a visually and aurally similar component, that is, "funs" instead of "fans". The associated website contains various references to the Complainant's marks, including watermarked content from the Complainant's users, and the Complainant's logo device. The Complainant argues that the latter fact is relevant to the assessment of confusing similarity, and also points out that the disputed domain name is a typosquatting version of its registered ONLYFANS mark.

The Complainant says that it has no connection or affiliation with the Respondent and has not given any authorization, license, or consent, whether express or implied, to use its registered marks in the disputed domain name or in any other manner. It says that the Respondent is not commonly known by the term "onlyfans" and does not hold any trademark rights for the disputed domain name. The Complainant adds that using a disputed domain name to host commercial websites that advertise goods and services in direct competition with the trademark owner, as is the case here, does not give rise to legitimate rights or interests.

The Complainant points out that the disputed domain name was registered long after it had obtained common law rights in the ONLYFANS mark which had acquired distinctiveness, as is proven by the fact that the Complainant's website was amongst the top 100 most visited sites in the world. The Complainant also contends that registration of a domain name that is confusingly similar to a widely known mark such as ONLYFANS creates a presumption of bad faith. The Complainant says that its marks have been recognized in numerous previous UDRP proceedings as "internationally well-known amongst the relevant public" such

that the Respondent either knew or ought to have known of the Complainant's marks and likely registered the disputed domain name to target them. The Complainant says that there is no alternative benign reason to target its marks. The fact that the disputed domain name is a typosquatting version of the Complainant's registered trademark is proof enough in and of itself of bad faith registration, the Complainant says. The fact that the website to which the disputed domain name resolves offers directly competing services indicates that the Respondent was well aware of the Complainant's trademark rights. The Complainant also failed to respond to cease and desist letters and hid behind a privacy wall, further indications of bad faith registration.

The Complainant also says that bad faith use can be inferred from the fact that it had well recognized rights in the ONLYFANS mark years before registration of the disputed domain name and because the latter referred to a website with directly competing content.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **Language of the Proceeding**

The language of the registration agreement in this proceeding is Russian, but the Complainant has requested that the proceeding be conducted in English. By virtue of UDRP paragraph 11(a), the Panel has the authority to conduct the proceeding in a language other than that of the registration agreement, taking into account the particular circumstances, and in a manner that is fair and equitable. The Complainant says that it is evident that the Respondent understands English and that conducting the proceeding in Russian, a language it does not master, would cause substantial cost and delay. Avoidance of unnecessary delay is an important characteristic of proceedings under the UDRP.

The website to which the disputed domain name resolved when accessed by the Complainant is English, and the disputed domain name the Respondent has chosen to register includes the English words "only" and "fans" although the latter is arguably a neologism. The Respondent has been formally notified not only in English but also in Russian by the Center, but has chosen not to respond and not to take part in the proceeding. It has not made a case for conducting this proceeding in Russian and on the basis of the material provided by the Complainant the facts known to the Panel strongly favor the latter. In the circumstances and to avoid unnecessary cost and delay, it would be fair and equitable, given that the Respondent was given a proper opportunity to make its views known, to conduct the proceedings in English.

Therefore the Panel holds that the language of this proceeding is to be English.

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

The disputed domain name is not identical to the ONLYFANS registered trademark of the Complainant. However, that mark, consisting of a distinctive conjunction of two terms, is immediately visible and recognizable within the disputed domain name. The substitution of the "a" for a "u" is so trivial as to be almost unnoticeable and the difference is therefore of no consequence in the consideration of confusing similarity.

Therefore, the Panel holds that the disputed domain name is confusingly similar to the ONLYFANS registered trademark of the Complainant.

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

The Respondent has not been authorized to use the ONLYFANS trademark of the Complainant in any way, nor to include it or something very similar in a domain name. The Respondent's name has no correlation

whatsoever with the disputed domain name. The Respondent did not reply to the Complainant's contentions and there is nothing before the Panel that suggests he has acquired trademark rights or made any other previous legitimate use of the name or mark ONLYFUNS. The disputed domain name resolves to a website that mimics the official site of the Complainant, and according to the latter, has some pirated content. The acquisition of the disputed domain name appears to be aimed at deceiving internet users into thinking the website to which it resolves is associated with or operated by the Complainant, which is in reality in no way the case. In essence it contains a very distinctive trademark with a very substantial global reputation, in which the Respondent has no rights, and his actions are consequently not of a kind to result in the recognition of rights or legitimate interests in his behalf.

Therefore, the Panel holds that the Respondent has no rights or legitimate interests in the disputed domain name.

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

It appears very unlikely that the Respondent was not aware of the ONLYFANS mark of the Complainant at the time of registration of the disputed domain name, given its widespread reputation and the large number of users of its platform services at the time of registration of the disputed domain name. A simple internet search would have immediately revealed the rights of the Complainant and it is manifest that "Onlyfans" is simply too close to "Onlyfans". In any case it can be safely inferred that the Respondent carefully modified the terms "onlyfans" to "onlyfans" to create for himself the opportunity to register it and then use it. That use itself was in bad faith as the disputed domain name resolves to a site that mimics the official web presence of the Complainant and according to the latter contains material that is misappropriated from its own site, and is in any case in direct competition with the Complainant. Given the distinctiveness of, and widespread reputation that adheres to the ONLYFANS mark, it is in any case very difficult to imagine a legitimate use of the disputed domain name. What the Respondent has done amounts to a typical example of the typosquatting with all that implies in terms of bad faith.

Therefore, the Panel holds that the disputed domain name was registered and used in bad faith.

### **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, <onlyfans.cyou> be transferred to the Complainant.

*/William A. Van Caenegem/*

**William A. Van Caenegem**

Sole Panelist

Date: August 24, 2023