

## **ADMINISTRATIVE PANEL DECISION**

Fenix International Limited v. Love On  
Case No. D2023-3430

### **1. The Parties**

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

Respondent is Love On, U.S.

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

The disputed domain name <loveonlyfans.site> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 11, 2023. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. Also on August 11, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name that differed from the named Respondent (REDACTED FOR PRIVACY, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint.

The Center sent an email communication to Complainant on August 14, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint also on August 14, 2023.

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 Respondent of the Complaint, and the proceedings commenced on August 17, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 6, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on September 12, 2023.

The Center appointed Jeffrey D. Steinhardt as sole panelist in this matter on September 15, 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**

Complainant owns and operates the well-known website located at “www.onlyfans.com”, which it has used for several years to provide an online social media platform permitting users to post and subscribe to audiovisual content. The terms of Complainant’s website restricts users to those above 18 years of age, and the website has been generally associated with offerings of adult entertainment content, although it also offers non-adult content.

Complainant owns many registrations around the world for its ONLYFANS trademark including, for example, U.S. Trademark Registration No. 5,769,267 registered in International Class 35, registered on June 4, 2019 with a first use in commerce date of July 4, 2016.

The <loveonlyfans.site> disputed domain name was registered on February 12, 2023. The disputed domain name resolves to a website with the legends “LOVE ONLYFANS” and “HOTTEST NUDE PROFILES”, displaying sexually explicit adult content and links to commercial websites offering pornography for download.

#### **5. Parties’ Contentions**

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

Providing some third-party statistics in support, Complainant avers that its website at “www.onlyfans.com” is among the 100 most popular websites in the world, with more than 180 million registered users. Complainant also avers that in some instances, the website to which the disputed domain name routes displays some content “pirated” from Complainant’s posting users.<sup>1</sup>

Complainant alleges that on March 30, 2023, it sent to Respondent a cease and desist letter via the privacy registration service, to which Complainant received no response.

Summarizing its legal contentions, Complainant alleges that (1) the disputed domain name is identical or confusingly similar to Complainant’s ONLYFANS trademarks, (2) Respondent has no rights or legitimate interests in the disputed domain name, and (3) the disputed domain name was registered and is being used in bad faith, all in violation of the Policy.

Complainant seeks transfer of the disputed domain name.

##### **B. Respondent**

Respondent did not reply to Complainant’s contentions.

#### **6. Discussion and Findings**

For Complainant to prevail under the Policy, it must be established that (1) the disputed domain name is identical or confusingly similar to Complainant’s ONLYFANS trademark, (2) Respondent has no rights or legitimate interests in the disputed domain name, and (3) the disputed domain name was registered and is being used in bad faith. Policy, paragraph 4(a).

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<sup>1</sup> Since the annex submitted by Complainant to support this allegation purports only to present screen captures from Respondent’s website and no corresponding material from Complainant’s users, the Panel is unable to confirm or rely on this particular averment.

The fact that Respondent has not provided any Response does not, by itself, mean that Complainant prevails. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.3. In the absence of a Response, however, the Panel may also accept as true reasonable factual allegations in the Complaint. See, e.g., *ThyssenKrupp USA, Inc. v. Richard Giardini*, WIPO Case No. [D2001-1425](#) (citing *Talk City, Inc. v. Michael Robertson*, WIPO Case No. [D2000-0009](#)).

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

The Panel agrees with Complainant that the disputed domain name is confusingly similar to Complainant's marks for purposes of the Policy.

UDRP panels commonly disregard generic Top-Level Domains ("gTLDs") in determining whether a disputed domain name is identical or similar to a complainant's marks. [WIPO Overview 3.0](#), section 1.11.1.

Omitting the ".com" gTLD, the Panel notes that the disputed domain name replicates Complainant's mark in total, having added only the additional term "love" to Complainant's ONLYFANS mark.

The Panel finds that this addition to Complainant's trademark does not prevent a finding of confusing similarity. See, e.g., [WIPO Overview 3.0](#), section 1.7 (where a domain name incorporates the entirety of a trademark, the domain name will normally be considered by UDRP panels to be confusingly similar); [WIPO Overview 3.0](#), section 1.8 ("Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element.").

The Panel therefore concludes that the first element of paragraph 4(a) of the Policy is satisfied with respect to each of the disputed domain names.

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

The Panel also agrees that Complainant establishes that Respondent has no rights or legitimate interests in respect of the disputed domain name.

Paragraph 4(c) of the Policy contains a non-exhaustive list of circumstances that may demonstrate when a respondent has rights or legitimate interests in the use of a domain name. The list includes:

- (1) the use of the domain name in connection with a *bona fide* offering of goods and services;
- (2) being commonly known by the domain name; or
- (3) the making of a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers.

Complainant must establish a *prima facie* case that Respondent lacks rights or legitimate interests. See e.g., *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#) (citing *De Agostini S.p.A. v. Marco Cialone*, WIPO Case No. [DTV2002-0005](#)). The absence of rights or legitimate interests is established if a *prima facie* case is established and Respondent does not rebut that *prima facie* case.

Complainant avers that Respondent is not affiliated with Complainant, has no authorization to use Complainant's trademarks, and that Respondent is not commonly known by the disputed domain name. The Panel accepts these undisputed allegations.

Respondent uses the disputed domain name to display Complainant's registered ONLYFANS trademark and to offer adult entertainment content, which is closely associated with the main category of content for which Complainant's trademarks have become well known. The Panel finds that Respondent's use of

Complainant's trademark and links to commercial pornography websites on the website to which the disputed domain name routes precludes the possibility that Respondent is making a legitimate noncommercial or fair use. *E.g.*, [WIPO Overview 3.0](#), section 2.5.3.<sup>2</sup>

The Panel also finds that the linking to third-party commercial websites offering pornographic content, eliminates the possibility of *bona fide* use.

Complainant establishes a *prima facie* case. Refraining from submitting a response, Respondent has brought to the Panel's attention no circumstances from which the Panel could infer that Respondent has rights or legitimate interests in respect of the disputed domain name.

Therefore, the Panel concludes that the second element of paragraph 4(a) of the Policy is established.

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

The Panel finds that the third element of paragraph 4(a) of the Policy, bad faith registration and bad faith use, is also established.

The record shows that Respondent registered the disputed domain name long after Complainant perfected and registered its trademark rights. Under these circumstances, the Panel finds that a presumption of bad faith is created by Respondent's mere registration of a domain name which is confusingly similar to Complainant's well-known ONLYFANS mark. [WIPO Overview 3.0](#), section 3.1.4.

Respondent has submitted no evidence to contradict this presumption. The Panel holds therefore that Respondent registered the disputed domain name in bad faith.

The terms used to make up the disputed domain name, and its use to direct users to a website with adult entertainment content make obvious that Respondent was aware of the nature of the business associated with Complainant's ONLYFANS trademarks. The Panel finds that Respondent deliberately attempted to attract Internet users to redirect traffic to commercial websites for commercial gain, by creating a likelihood of confusion with Complainant's marks. This is evidence of bad faith registration and bad faith use. Policy, paragraph 4(b)(iv); *e.g.*, *Pfizer Inc. v. jg a/k/a Josh Green*, WIPO Case No. [D2004-0784](#); *DaimlerChrysler Corporation and DaimlerChrysler Services North America LLC v. LaPorte Holdings, Inc.*, WIPO Case No. [D2005-0070](#).

The Panel also infers from the content of Respondent's website that Respondent registered the disputed domain name to and to disrupt Complainant's business. This also supports a finding of bad faith under Policy paragraph 4(b)(iii).

Respondent's failure to submit a response to the Complaint and Complainant's cease and desist letter, and the failure to provide accurate contact details as required by the Registrar, are further evidence of use in bad faith.<sup>3</sup> [WIPO Overview 3.0](#), section 3.3; *Telstra Corp. Ltd. v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#).

The Panel holds therefore that Respondent registered and used the disputed domain name in bad faith, satisfying the third element under paragraph 4(a) of the Policy.

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<sup>2</sup> The Panel also notes that Complainant is correct that, in this case, Respondent's use of a disputed domain name made up of Complainant's trademark in combination with "love", a term that effectively impersonates or suggests sponsorship or endorsement by Complainant, cannot constitute fair use. *E.g.*, [WIPO Overview 3.0](#), section 2.5.1.

<sup>3</sup>Written notification of the Complaint to Respondent by courier was not possible using the registrant address details provided by Respondent to the Registrar.

## 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 <loveonlyfans.site> be transferred to Complainant.

*/Jeffrey D. Steinhardt/*

**Jeffrey D. Steinhardt**

Sole Panelist

Date: September 29, 2023