

ADMINISTRATIVE PANEL DECISION

Lennar Pacific Properties Management, Inc., Lennar Corporation v.
Registration Private, Domains By Proxy, LLC / IAutomation Contractors
Case No. D2022-1768

1. The Parties

Complainants are Lennar Pacific Properties Management, Inc., United States of America (“United States”) and Lennar Corporation, United States, represented by Slates Harwell LLP, United States.

Respondent is Registration Private, Domains By Proxy, LLC, United States / IAutomation Contractors, United States.

2. The Domain Name and Registrar

The disputed domain name <lennarc.com> 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 May 16, 2022. On May 17, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 17, 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 Complainants on May 18, 2022 providing the registrant and contact information disclosed by the Registrar, and inviting Complainants to submit an amendment to the Complaint. Complainants filed an amendment to the Complaint on May 23, 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 Respondent of the Complaint, and the proceedings commenced on May 30, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 19, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on June 20, 2022.

The Center appointed Gregory N. Albright as the sole panelist in this matter on July 1, 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 following information is derived from the amended Complaint and supporting materials submitted by Complainants.

Complainant Lennar Pacific Properties Management, Inc. ("LPPM") is the owner of United States Reg. No. 3,108,401 for the LENNAR service mark, in international classes 35, 36 and 37, issued by the United States Patent and Trademark Office on June 27, 2006.

Complainant LPPM is also the owner of United States Reg. No. 3,477,143 for the LENNAR service mark, in international classes 36 and 37, issued by the United States Patent and Trademark Office on July 29, 2008.

The disputed domain name was registered on May 3, 2021.

5. Parties' Contentions

A. Complainant

Complainant LPPM is the owner of federal trademark registrations and applications for the LENNAR marks. Complainant Lennar Corporation ("Lennar") is a related company and authorized licensee of the LENNAR marks. Lennar also owns and operates the website "www.lennar.com" related to services offered under the LENNAR marks, at the domain name <lennar.com>.

Complainants have offered real estate management, brokerage, development, construction, mortgage, and financial services under the LENNAR marks since at least as early as 1973. Lennar has been one of America's leading homebuilders since 1954; it builds and sells homes in twenty-one states in the United States. Under the LENNAR marks, Complainants offer real estate, mortgage, financial, and brokerage services in connection with the construction and sale of homes.

The disputed domain name <lennarc.com> is virtually identical and/or confusingly similar to the LENNAR marks, because it incorporates the LENNAR mark in its entirety and adds the letter "C" at the end of "Lennar." The disputed domain name consists of a common, obvious, or intentional misspelling of the LENNAR marks and the <lennar.com> domain name, as confirmed by the evidence, discussed below, that Respondent has used the disputed domain name to send fraudulent emails to Lennar's vendors.

Complainants have not located any evidence of Respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services. Complainants believe Respondent has not been commonly known by the disputed domain name, and has not acquired any trademark or service rights in the famous and strong LENNAR marks. Respondent is not making any legitimate non-commercial or fair use of the disputed domain name and, instead, is using the disputed domain name in bad faith, as discussed below.

Respondent is using the disputed domain name in bad faith for the primary purpose of disrupting Complainants' business and/or for selling the disputed domain name to Complainants or a competitor for more than the documented out-of-pocket expenses related to the disputed domain name. Most important, Respondent has registered and is using the disputed domain name in bad faith in connection with attempted fraud or theft through two email addresses "[...].@lennarc.com". Respondent is using these email addresses to impersonate Lennar's procurement department and send fake purchase orders to Lennar's vendors,

attempting to purchase goods worth hundreds of thousands of dollars on Lennar's account. This conduct is direct evidence of bad faith registration and use of the disputed domain name. See *Lennar Pacific Prop. Mgmt., Inc. v. Contact Privacy Inc.*, WIPO Case No. [D2019-2256](#).

Complainants request as that the disputed domain name be transferred to Complainant LPPM.

B. Respondent

Respondent did not reply to Complainants' contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy requires the Complainant to prove that: (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and (iii) the disputed domain name has been registered and is being used in bad faith.

Paragraph 4(b) of the Policy elaborates some circumstances that shall be evidence of the registration and use of the disputed domain name in bad faith. Paragraph 4(c) sets out various circumstances which, if found by the Panel to be proved based on the evaluation of all the evidence presented, shall demonstrate that the Respondent has rights or legitimate interests in the disputed domain name.

A. Preliminary Matter: Multiple Complainants

Complainants in this case are part of the same corporate group. Complainant LPPM owns the registered service marks at issue and licenses them to Complainant Lennar. The Panel finds the Complainants have a common grievance against Respondent, Respondent has engaged in common conduct that has affected Complainants in a similar fashion, and it is equitable and efficient to permit the consolidation of their complaints in this proceeding. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 4.11.1.

B. Identical or Confusingly Similar

Under Paragraph 4(a) of the Policy, a complainant must prove that (1) the complainant has rights in a trademark or service mark; and (2) the disputed domain name is identical or confusingly similar to the complainant's mark. The first element is a question of standing. [WIPO Overview 3.0](#), section 1.7 ("It is well accepted that the first element functions primarily as a standing requirement.").

Here, Complainant LPPM holds service mark registrations for the LENNAR service marks in the United States, as discussed in Section 4, above. Complainant LPPM licenses the LENNAR service marks to Complainant Lennar, which uses the marks in connection with the services it offers, including through its website "www.lennar.com." The Panel finds that both Complainants have standing. [WIPO Overview 3.0](#), section 1.4.1 (exclusive trademark licensee is considered to have rights in a trademark under the UDRP for purposes of standing to file a complaint).

The Panel also finds that the disputed domain name is confusingly similar to the LENNAR marks. The disputed domain name incorporates LENNAR in its entirety. [WIPO Overview 3.0](#), section 1.7 ("While each case is judged on its merits, in cases where a domain name incorporates the entirety of a trademark, ... the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing."). The addition of the letter "C" to the LENNAR mark in the disputed domain name does not avoid a finding of confusing similarity for purposes of the Policy. [WIPO Overview 3.0](#), section 1.9.

The first element of paragraph 4(a) of the Policy is satisfied.

C. Rights or Legitimate Interests

“While 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 often impossible 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. 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.

Here, Complainants have made out a *prima facie* case that Respondent does not have any other rights or legitimate interests in respect of the disputed domain name. Specifically, Complainants have submitted evidence that Respondent is using the disputed domain name to impersonate Complainants in connection with spear-phishing. See WIPO 2.13.1 (“Panels have categorically held that the use of a domain name for illegal activity (e.g., ... phishing,... impersonation / passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent.”).

In addition, Respondent has not responded to the Complaint to assert any rights or legitimate interests in respect to the disputed domain name. There is no evidence that “Lennar” is Respondent’s personal name, or that Respondent is known by, or has acquired any trademark rights in the terms “lennar” or “lennarc.”

The second element of paragraph 4(a) of the Policy is satisfied.

D. Registered and Used in Bad Faith

The Panel finds sufficient evidence that Respondent registered the disputed domain name in bad faith. It may be inferred that Respondent registered the disputed domain name with knowledge of Complainants and the LENNAR marks, because (i) Complainant LPPM’s registrations for the LENNAR marks were issued in 2006 and 2008, (ii) Complainants have used the LENNAR marks in commerce since 1973, and (iii) the disputed domain name was registered on May 3, 2021. Further, Respondent’s incorporation of the entirety of the LENNAR marks in the disputed domain name is evidence that Respondent intended to create the false impression that the disputed domain name is associated with and/or authorized by Complainant.

Complainants have also shown that Respondent has used the disputed domain name as part of fraud, impersonating an employee of Complainants and using unauthorized email addresses associated with the disputed domain name to attempt to purchase goods on Lennar’s account. This is quintessential bad faith. See [WIPO Overview 3.0](#), section 3.1.4 (“given that the use of a domain name for per se illegitimate activity such as the sale of counterfeit goods or phishing can never confer rights or legitimate interests on a respondent, such behavior is manifestly considered evidence of bad faith”).

The third element of paragraph 4(a) of the Policy is satisfied.

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 <lennarc.com> be transferred to Complainant LPPM.

/Gregory N. Albright/

Gregory N. Albright

Sole Panelist

Date: July 15, 2022