

ADMINISTRATIVE PANEL DECISION

Lennar Pacific Properties Management, LLC and Lennar Corporation v. jun guo, guo jun
Case No. D2022-2204

1. The Parties

Complainants are Lennar Pacific Properties Management, LLC (“Complainant No. 1”) and Lennar Corporation (“Complainant No. 2”) (collectively “Complainants”), United States of America (“United States”), represented by Slates Harwell LLP, United States.

Respondent is jun guo, guo jun, China.

2. The Domain Name and Registrar

The disputed domain name <lennarcharlotte.com> is registered with Threepoint Domains LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 16, 2022. On June 17, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 21, 2022, the Registrar transmitted by email to the Center its verification response confirming that Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 June 24, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 14, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on July 15, 2022.

The Center appointed Stephanie G. Hartung as the sole panelist in this matter on July 21, 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

Complainants are companies organized under the laws of the United States that are active in the real estate and homebuilding industry.

Complainants have provided evidence that Complainant No. 1 is the registered owner of numerous trademarks relating to the company name and brand LENNAR, *inter alia*, but not limited to the following:

- word mark LENNAR, United States Patent and Trademark Office (USPTO), registration number: 3,108,401, registration date: June 27, 2006, status: active;
- word mark LENNAR, USPTO, registration number: 3,477,143, registration date: July 29, 2008, status: active; and
- word mark LENNAR, China National Intellectual Property Administration (CNIPA), registration number: 14666601, registration date: June 27, 2017, status: active.

Moreover, Complainants have documented that Complainant No. 2 owns since 1996 the domain name <lennar.com> under which it operates Complainants' official website at "www.lennar.com" in order to promote Complainants' services in the real estate and homebuilding industry.

Respondent, according to the Whois information for the disputed domain name, is a resident of China who registered the disputed domain name on March 8, 2022. By the time of the rendering of this decision, the disputed domain name resolves to a page displaying "This domain name has expired and cannot be normally accessed". Complainants, however, have also documented that at some point before the filing of the Complaint, the website at the disputed domain name featured adult material, namely pornographic content.

Complainants request that the disputed domain name be transferred to Complainant No. 1.

5. Parties' Contentions

A. Complainants

Complainants contend to have offered services in the real estate and homebuilding industry for many decades to nowadays build and sell homes in 21 states within the United States, including in Charlotte, North Carolina.

Complainants submit that the disputed domain name is confusingly similar to Complainants' LENNAR trademark, as it includes the latter in its entirety with only the addition of the geographically descriptive word "Charlotte". Moreover, Complainants' assert that Respondent has no rights or legitimate interests in respect of the disputed domain name since (1) Complainants have not located any evidence of Respondent's use of the disputed domain name in connection with a *bona fide* offering of goods or services, but rather in relation to offering adult material, and (2) Respondent obviously has not been commonly known by the disputed domain name and has not acquired any rights in the famous and strong LENNAR trademark on its own. Finally, Complainants argue that Respondent has registered and is using the disputed domain name in bad faith since (1) Respondent's website under the disputed domain name features adult material, namely pornographic content which is why there is no need to consider any additional grounds of bad faith, and (2) Complainants have sent a cease-and-desist letter to Respondent on April 18, 2022, to which Respondent has failed to respond to date.

B. Respondent

Respondent did not reply to Complainants' contentions.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, Complainants carry the burden of proving:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainants have rights; and
- (ii) that Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

Respondent's default in the case at hand does not automatically result in a decision in favor of Complainants, however, paragraph 5(f) of the Rules provides that if Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute solely based upon the Complaint. Further, according to paragraph 14(b) of the Rules, the Panel may draw such inferences from Respondent's failure to submit a Response as it considers appropriate.

A. Consolidation due to multitude of Complainants

As regards the multitude of Complainants, given that Complainant No. 1 is the registered owner of the LENNAR trademarks while Complainant No. 2 is a related company and authorized licensee of the LENNAR trademarks, both Complainants obviously have a specific common grievance against Respondent why it is appropriate in the case at hand and in line with the UDRP panelists' majority view to accept this Complaint filed by multiple complainants (see 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

The Panel concludes that the disputed domain name is confusingly similar to the LENNAR trademark in which Complainants have rights.

The disputed domain name incorporates the LENNAR trademark in its entirety. Numerous UDRP panels have recognized that where a domain name incorporates a trademark in its entirety, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that trademark (see [WIPO Overview 3.0](#), section 1.7). Moreover, it has been held in many UDRP decisions and has become a consensus view among panelists (see [WIPO Overview 3.0](#), section 1.8), that the addition of other terms (whether *e.g.*, geographic or otherwise) would not prevent the finding of confusing similarity under the first element of the UDRP. Accordingly, the addition of the term "charlotte" (in the sense that it refers to the city of Charlotte, North Carolina, United States) does not prevent a finding of confusing similarity between Complainants LENNAR trademark and the disputed domain name.

Therefore, Complainants have established the first element under the Policy as set forth by paragraph 4(a)(i).

C. Rights or Legitimate Interests

The Panel is further convinced on the basis of Complainants' undisputed contentions that Respondent has not made use of the disputed domain name in connection with a *bona fide* offering of goods or services, nor has Respondent been commonly known by the disputed domain name nor can it be found that Respondent has made a legitimate noncommercial or fair use thereof without intent for commercial gain.

Respondent obviously has not been authorized to use Complainants' LENNAR trademark, either as a domain name or in any other way. Also, there is no reason to believe that Respondent's name somehow corresponds with the disputed domain name and Respondent does not appear to have any trademark rights associated with the term "lennar" on its own. Moreover, while by the time of rendering of this decision, the disputed domain name does not resolve to any relevant content on the Internet, Complainants have demonstrated that at some point before the filing of the Complaint, the disputed domain name resolved to a Chinese language/character website at "www.lennarcharlotte.com", displaying adult material, namely pornographic content. Given that the disputed domain name incorporates Complainants' LENNAR trademark in its entirety, and that the only added term "charlotte" most likely relates to the city of Charlotte, North Virginia, United States, where Complainants have a strong business in the real estate and homebuilding industry since decades, it must be held that the disputed domain name carries, as such, a risk of implied affiliation with Complainant's LENNAR trademark (see e.g., [WIPO Overview 3.0](#), section 2.5.1). Therefore, using the disputed domain name e.g. to resolve to a Chinese language/character website at "www.lennarcharlotte.com", which displays pornographic content, without any apparent reason as to why Respondent should rely on the term "lennar" together with the term "charlotte" in the disputed domain name other than to point at Complainants' undisputedly well-known LENNAR trademark, can neither constitute *bona fide* nor a legitimate noncommercial or fair use within the meaning of the Policy.

Accordingly, Complainants have established a *prima facie* case that Respondent has no rights or legitimate interests in respect of the disputed domain name. Having done so, the burden of production shifts to Respondent to come forward with appropriate evidence demonstrating such rights or legitimate interests (see [WIPO Overview 3.0](#), section 2.1). Given that Respondent has defaulted, it has not met that burden.

Therefore, the Panel finds that Complainants have also satisfied paragraph 4(a)(ii) and, thus, the second element of the Policy.

D. Registered and Used in Bad Faith

The Panel finally holds that the disputed domain name was registered and is being used by Respondent in bad faith.

On the basis of the circumstances to this case, it is at least more likely than not that Respondent was well aware of Complainants rights in the LENNAR trademark (notwithstanding any claimed well-known character) when registering the disputed domain name and that the latter clearly is directed to such trademark. The term "lennar" - as it is reflected in the disputed domain name - is on the one hand identical with Complainants' LENNAR trademark and on the other hand lacks any direct or indirect connection to pornographic content as it had been temporarily put in place by Respondent under the disputed domain name. Moreover, such website under the disputed domain name was set up in Chinese language/characters, and not in English, from which language the terms "lennar" and "charlotte" in the disputed domain name derive. Such circumstances are a clear enough indication that Respondent intentionally attempted to attract, for commercial gain, Internet users to its own website by creating a likelihood of confusion with Complainants' LENNAR trademark as to the source, sponsorship, affiliation, or endorsement of Respondent's website, and so serve as evidence of registration and use of the disputed domain name in bad faith within the larger meaning of paragraph 4(b)(iv) of the Policy.

In connection with this finding, it also carries weight in the eyes of the Panel that (1) the pornographic content website under the disputed domain name apparently did and does not include any legal notice/imprint allowing to identify who was and is running that website, (2) Respondent kept silent on all kinds of previous correspondence by Complainants, including the Complaint as such, as well as a cease-and-desist letter of April 18, 2022, and (3) Respondent obviously provided false or incomplete contact information in the Whois register for the disputed domain name since, according to the correspondence by the postal courier, the Written Notice on the Notification of Complaint dated June 24, 2022, could not be delivered due to an invalid address. Such circumstances at least throw a light on Respondent's behavior which supports the Panel's bad faith finding.

Therefore, the Panel holds that Complainants have also satisfied the third element under the Policy as set forth by paragraph 4(a)(iii).

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, <lennarcharlotte.com>, be transferred to Complainant No. 1.

/Stephanie G. Hartung/

Stephanie G. Hartung

Sole Panelist

Date: August 4, 2022