

## ADMINISTRATIVE PANEL DECISION

Lennar Pacific Properties Management, LLC, Lennar Title, LLC v.  
Privacy Service Provided by Withheld for Privacy ehf / Name Redacted  
Case No. D2022-2806

### 1. The Parties

Complainants are Lennar Pacific Properties Management, LLC and Lennar Title, LLC (each, a “Complainant”; jointly, the “Complainants”), United States of America (“United States” or “U.S.”), represented by Slates Harwell LLP, United States.

Respondent is Privacy Service Provided by Withheld for Privacy ehf, Iceland / Name Redacted.<sup>1</sup>

### 2. The Domain Name and Registrar

The disputed domain name <lennarstitle.com> (the “Disputed Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 29, 2022. On August 1, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On August 1, 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 August 2, 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 August 3, 2022.

---

<sup>1</sup> Respondent appears to have used the name of a third party when registering the Disputed Domain Name. The third-party, after receiving the letter from the Center, stated that it did not register the Disputed Domain Name and claimed that someone used its name and address but not its phone number or email address. In light of the potential identity theft, the Panel has redacted Respondent’s name from this Decision. However, the Panel has attached as Annex 1 to this Decision an instruction to the Registrar regarding transfer of the Disputed Domain Name, which includes the name of Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this Decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

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 5, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 25, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on August 29, 2022.

The Center appointed Douglas M. Isenberg as the sole panelist in this matter on September 2, 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 state that it “has been one of America’s leading homebuilders since 1954 and builds and sells homes in twenty-one (21) states in the United States”; that it “is among the largest real estate settlement service providers in the United States”; and that it “offer[s] real estate, title, escrow, and closing services”.

Complainants state, and provide documentation in support thereof, that it is the registrant of at least two registrations for the mark LENNAR in the United States: U.S. Reg. No. 3,108,401 (registered June 27, 2006) and 3,477,143 (registered July 29, 2008); as well as one pending trademark application for the mark LENNAR TITLE in the United States: U.S. Serial. No. Serial No. 90/056,188 (filed July 16, 2020). The trademark application for LENNAR TITLE apparently matured into a registration on August 16, 2022, after the Complaint was filed.<sup>2</sup> These three registrations are referred to herein as the LENNAR Trademark; and the registration for LENNAR TITLE is referred to herein as the LENNAR TITLE Trademark.

The Disputed Domain Name was created on July 21, 2022. According to the Complaint and documentation submitted in support thereof, the Disputed Domain Name has been used “to commit attempted wire fraud/theft via use of @lennartitle.com as an email domain to trick Lennar consumers into wiring money for home purchases to a fraudulent account not associated with [Complainant]”. Complainants state that on the same date that the Disputed Domain Name was created, Respondent used it “to send a fraudulent and fake emails disguised as legitimate Lennar Title correspondence from a Lennar Title escrow officer to a Lennar customer in an attempt to divert and steal funds associated with a residential home closing”.

Complainants further state that it sent a demand letter to Respondent regarding the Disputed Domain Name on July 25, 2022 (a copy of which was provided as an annex to the Complaint), but that Respondent has never replied.

---

<sup>2</sup> “Noting in particular the general powers of a panel articulated *inter alia* in paragraphs 10 and 12 of the UDRP Rules, it has been accepted that a panel may undertake limited factual research into matters of public record if it would consider such information useful to assessing the case merits and reaching a decision. This may include... accessing trademark registration databases.” WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.8.

## 5. Parties' Contentions

### A. Complainant

Complainants contend, in relevant part, as follows:

- The Disputed Domain Name is confusingly similar to the LENNAR Trademark because the Disputed Domain Name "consists of a common, obvious, or intentional misspelling of and is confusingly similar to the" LENNAR Trademark.
- Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because, *inter alia*, "upon initial investigation, information, and belief, Complainants have not located any evidence of the 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"; "upon information and belief, Respondent has not been commonly known by the [Disputed Domain Name] and has acquired no trademark or service mark rights in the LENNAR [Trademark]"; and "Respondent is not making any legitimate non-commercial or fair use of the [Disputed Domain Name] and has instead used the [Disputed Domain Name] for fraud and commercial gain and to misleadingly divert Respondents' consumers or to tarnish the LENNAR [Trademark]".
- The Disputed Domain Name was registered and is being used in bad faith because, *inter alia*, Respondent's "fraudulent registration and use of the [Disputed] Domain Name to impersonate an employee in an attempt to redirect funds is direct evidence of bad faith registration and use of the [Disputed] Domain Name"; and Respondent did not respond to Complainants' demand letter.

### B. Respondent

Respondent did not reply to Complainants' contentions.

## 6. Discussion and Findings

Pursuant to the Policy, Complainants are required to prove the presence of each of the following three elements to obtain the relief it has requested: (i) the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; (ii) 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. Policy, paragraph 4(a).

### A. Preliminary Issue: Consolidation of Multiple Complainants

Complainants state that Lennar Pacific Properties Management, LLC, is the owner of the LENNAR Trademark; and that Lennar Title, LLC, is "a related company and authorized licensee of the LENNAR marks and also operates the website [www.lennartitle.com](http://www.lennartitle.com) related to real estate and title services offered under the LENNAR marks". Therefore, Complainants argue, "both Complainants have a common legal interest in a relevant right or rights that are affected by the Respondent's conduct regarding registration of the domain name [www.lennarstitle.com](http://www.lennarstitle.com) and both Complainants are the target of common conduct by the Respondent which has clearly affected their individual legal interests".

As set forth in section 4.11.1 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"): "In assessing whether a complaint filed by multiple complainants may be brought against a single respondent, panels look at whether (i) the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation." The Panel finds that both of these factors are present here and, therefore, consolidation is appropriate.

## B. Identical or Confusingly Similar

Based upon the trademark registrations cited by Complainant, it is apparent that Complainant has rights in and to the LENNAR Trademark.

As to whether the Disputed Domain Name is identical or confusingly similar to the LENNAR Trademark, the relevant comparison to be made is with the second-level portion of the Disputed Domain Name only (*i.e.*, “lennarstitle”) because “[t]he applicable Top-Level Domain (‘TLD’) in a domain name (*e.g.*, ‘.com’, ‘.club’, ‘.nyc’) is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test”. [WIPO Overview 3.0](#), section 1.11.1.

As set forth in section 1.7 of [WIPO Overview 3.0](#): “in cases where a domain name incorporates the entirety of a trademark, 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 mark for purposes of UDRP standing.” Further, as set forth in section 1.8 of [WIPO Overview 3.0](#): “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.”

Here, the Disputed Domain Name incorporates the entirety of the LENNAR Trademark, including the LENNAR TITLE Trademark. The additional of the single letter “s” in the middle of the Disputed Domain Name does not prevent a finding of confusing similarity.

Accordingly, the Panel finds that Complainant has proven the first element of the Policy.

## C. Rights or Legitimate Interests

Complainant has argued that Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because, *inter alia*, “upon initial investigation, information, and belief, Complainants have not located any evidence of the 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”; “upon information and belief, Respondent has not been commonly known by the [Disputed Domain Name] and has acquired no trademark or service mark rights in the LENNAR [Trademark]”; and “Respondent is not making any legitimate non-commercial or fair use of the [Disputed Domain Name] and has instead used the [Disputed Domain Name] for fraud and commercial gain and to misleadingly divert Respondents’ consumers or to tarnish the LENNAR [Trademark]”.

[WIPO Overview 3.0](#), section 2.1, states: “[w]hile 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.”

The Panel finds that Complainant has established its *prima facie* case and without any evidence from Respondent to the contrary, the Panel is satisfied that Complainant has satisfied the second element of the Policy.

## D. Registered and Used in Bad Faith

Whether a domain name is registered and used in bad faith for purposes of the Policy may be determined by evaluating four (non-exhaustive) factors set forth in the Policy: (i) circumstances indicating that the registrant has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise

transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the registrant's documented out-of-pocket costs directly related to the domain name; or (ii) the registrant has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the registrant has engaged in a pattern of such conduct; or (iii) the registrant has registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) by using the domain name, the registrant has intentionally attempted to attract, for commercial gain, Internet users to the registrant's website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the registrant's website or location or of a product or service on the registrant's website or location. Policy, paragraph 4(b).

By using the Disputed Domain Name to send emails impersonating Complainant in an attempt to fraudulently collect payment from Complainant's customers, Respondent has engaged in a phishing scam that amounts to bad faith pursuant to paragraphs 4(b)(iii) and 4(b)(iv) of the Policy. As set forth in [WIPO Overview 3.0](#), section 3.1.4, "the use of a domain name for *per se* illegitimate activity such as... phishing... is manifestly considered evidence of bad faith" And as set forth in [WIPO Overview 3.0](#), section 3.4, using a Disputed Domain Name for "phishing", especially where "the respondent's use of the domain name [is] to send deceptive emails" for purposes such as "to solicit payment of fraudulent invoices by the complainant's actual or prospective customers" constitutes bad faith. See also, *e.g.*, *Kimley-Horn and Associates, Inc. v. Abraham Hashim*, WIPO Case No. [DCO2019-0017](#) (finding bad faith where respondent "posed as two of Complainant's actual employees in order to send phishing emails to one of Complainant's clients in an effort to obtain payment on an allegedly outstanding invoice").

Further, Respondent's failure to respond to Complainant's demand letter is additional evidence of bad faith. *Encyclopedia Britannica v. John Zucarini and The Cupcake Patrol a/ka Country Walk a/k/a Cupcake Party*, WIPO Case No. [D2000-0330](#); and *RRI Financial, Inc., v. Ray Chen*, WIPO Case No. [D2001-1242](#).

Accordingly, the Panel finds that Complainant has proven the third 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 <lennarstitle.com> be transferred to the Complainant.<sup>3</sup>

*/Douglas M. Isenberg/*

**Douglas M. Isenberg**

Sole Panelist

Date: September 15, 2022

---

<sup>3</sup> The Complaint specifically requests as a remedy that the Disputed Domain Name be transferred to "the Complainants" – which is defined in the Complaint as both Lennar Pacific Properties Management, LLC, and Lennar Title, LLC. However, given the apparent close legal relationship between the Complainants and the impracticality of transferring a domain name to two entities, the Panel finds that transfer of the Disputed Domain Name to either of the two Complainants as may be requested jointly by the Complainants during the implementation of this decision is appropriate.