

ADMINISTRATIVE PANEL DECISION

Lennar Pacific Properties Management, LLC, Lennar Corporation v.
Thomas Inner
Case No. D2022-2807

1. The Parties

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

Respondent is Thomas Inner, United States.

2. The Domain Name and Registrar

The Disputed Domain Name <leenaar.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (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 2, 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 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 Richard W. Page 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

Complainant Lennar Pacific Properties is the owner/licensor and Lennar Corporation is the licensee of the following marks: LENNAR U.S. Registration No. 3,108,401 registered on June 27, 2006 in classes 35, 36, and 37 and LENNAR, U.S. Registration No. 3,477,143 registered on July 29, 2008 in classes 36 and 37 (“LENNAR Mark”).

Complainant has offered real estate management, brokerage development, construction, mortgage, and financial services under the LENNAR Mark since at least as early as 1973. More specifically, Complainant has been one of United States’ leading homebuilders since 1954 and builds and sells home in twenty-one (21) states in the United States. Under the LENNAR Mark, Complainant offers real estate, construction, mortgage, financial, and brokerage services in connection with the construction and sale of homes.

In connection with these services, Complainant owns and operates a website utilizing the LENNAR Mark, located at the domain name <lennar.com>.

The Disputed Domain Name was registered on May 31, 2022 and it has been used to send emails impersonating Complainant’s employees.

5. Parties’ Contentions

A. Complainant

Complainant contends that the Disputed Domain Name consists of a common, obvious, or intentional misspelling of and is confusingly similar to the LENNAR Mark and to the <lennar.com> domain name, especially given the evidence of actual bad faith use of the Disputed Domain Name described below. Complainant refers to the intentional misspelling as “typosquatting”.

Complainant further contends that Respondent has not used or made 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 and services. In addition, upon information and belief, Complainant further contends that Respondent has not been commonly known by the Disputed Domain Name and has acquired no trademark or service mark rights in the famous and strong LENNAR Mark. Complainant further contends that Respondent is not making any legitimate, noncommercial or fair use of the Disputed Domain Name.

Complainant alleges that the Disputed Domain Name has been registered and is being used in bad faith by Respondent, including registration primarily for the purpose of disrupting Complainant’s business by fraudulently inducing Complainant’s vendor, and/or for the purpose of selling the Disputed Domain Name to Complainant or to Complainant’s competitor for more than the documented out-of-pocket expenses related to the Disputed Domain Name. Complainant further alleges that Respondent has been using the Disputed Domain Name in bad faith to spoof legitimate email addresses from “@lennar.com” and to impersonate Complainant’s accounting employees to Complainant’s vendors, presumably in an attempt to fraudulently redirect funds.

Complainant sent a cease and desist letter to Respondent in July 14, 2022 regarding registration of the Dispute Domain Name.

B. Respondent

Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs the Panel as to the principles the Panel is to use in determining the dispute: “A Panel shall decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules, and any rules and principles of law that it deems applicable.”

Even though Respondent has failed to file a Response or to contest Complainant’s assertions, the Panel will review the evidence proffered by Complainant to verify that the essential elements of the claims are met. See section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”).

Paragraph 4(a) of the Policy directs that Complainant must prove each of the following:

- i) that the Disputed Domain Name registered by Respondent is identical or confusingly similar to the LENNAR Mark in which Complainant has 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.

A. Identical or Confusingly Similar

Section 1.2.1 of the [WIPO Overview 3.0](#) states that registration of the trademark is *prima facie* evidence of Complainant having rights for purposes of standing to file a UDRP case.

Complainant Lennar Pacific Properties is the owner/licensor and Lennar Corporation is the licensee of the LENNAR Mark.

Therefore, the Panel finds that Complainant has established rights in the LENNAR Mark for purposes of this proceeding.

Section 1.9 of the [WIPO Overview 3.0](#) instructs that intentional misspellings or typosquatting does not prevent a finding of confusing similarity. Section 1.11.1 of the [WIPO Overview 3.0](#) instructs that generic Top Level Domains (“gTLDs”) such as “.com” may be disregarded for purposes of assessing confusing similarity.

Respondent’s registration of the Disputed Domain Name is confusingly similar with the LENNAR Mark, with the typosquatting additions of an extra “e”, deletion of “n” and addition of an extra “a” to the Disputed Domain Name.

Based on this record, the Panel finds that the Disputed Domain Name is confusingly similar to the LENNAR Mark and that Complainant has demonstrated the elements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Complainant contends that Respondent has no rights or legitimate interests in the Disputed Domain Name pursuant to paragraph 4(a)(ii) of the Policy.

Section 2.1 of the [WIPO Overview 3.0](#) states that once Complainant makes a *prima facie* case in respect of the lack of rights or legitimate interests of Respondent, Respondent carries the burden of demonstrating it has rights or legitimate interests in the Disputed Domain Name. Where Respondent fails to do so, Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

Paragraph 4(c) of the Policy allows three nonexclusive methods for the Panel to conclude that Respondent has rights or a legitimate interest in the Disputed Domain Name:

(i) before any notice to you [Respondent] of the dispute, your 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; or

(ii) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Disputed Domain Name, even if you have acquired no trademark or service mark rights; or

(iii) you [Respondent] are making a legitimate noncommercial or fair use of the Disputed Domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the LENNAR Mark.

Complainant contends that Respondent has not used or made 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 and services. In addition, upon information and belief, Complainant further contends that Respondent has not been commonly known by the Disputed Domain Name and has acquired no trademark or service mark rights in the famous and strong LENNAR Mark. Complainant further contends that Respondent is not making any legitimate, noncommercial or fair use of the Disputed Domain Name.

The Panel finds that Complainant has made a *prima facie* case, without any opposition from Respondent.

Therefore, the Panel finds that Complainant has met the requirements of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Complainant contends that Respondent registered and is using the Disputed Domain Name in bad faith in violation of paragraph 4(a)(iii) of the Policy.

Paragraph 4(b) of the Policy sets forth four nonexclusive criteria for Complainant to show bad faith registration and use of the Disputed Domain Name:

(i) circumstances indicating that you [Respondent] have registered or you have acquired the Disputed Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Disputed Domain Name registration to Complainant who is the owner of the LENNAR Mark or to a competitor of Complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the Disputed Domain Name; or

(ii) you [Respondent] have registered the Disputed Domain Name in order to prevent Complainant as owner of the LENNAR Mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you [Respondent] have registered the Disputed Domain Name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the Disputed Domain Name, you [Respondent] have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the LENNAR Mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product on Respondent's website or location.

Complainant alleges that the Disputed Domain Name has been registered and is being used in bad faith by Respondent, including registration primarily for the purpose of fraudulently inducing Complainant's vendor to pay Respondent directly. Complainant owns and operates a website utilizing the LENNAR Mark, located at the domain name <lennar.com>. Complainant further alleges that Respondent has been using the Disputed Domain Name in bad faith to spoof legitimate email addresses from "@lennar.com" and to impersonate Complainant's accounting employees to Complainant's vendors, presumably in an attempt to fraudulently redirect funds.

The Panel finds that the record supports Complainant's allegations and that Complainant has shown the necessary elements under paragraph 4(b)(iv) of the Policy.

The Panel further finds that Complainant has shown the necessary elements of paragraph 4(a)(iii) 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, <leenaar.com> be transferred to Complainant.

/Richard W. Page/

Richard W. Page

Sole Panelist

Date: September 16, 2022