

ADMINISTRATIVE PANEL DECISION

Lennar Pacific Properties Management, LLC and Lennar Corporation v.
George Oatman
Case No. D2024-3322

1. The Parties

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

The Respondent is George Oatman, United States.

2. The Domain Name and Registrar

The disputed domain name <lennarcorps.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 August 13, 2024. On August 14, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On August 14, 2024, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 14, 2024 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on August 16, 2024.

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 the Respondent of the Complaint, and the proceedings commenced on August 20, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 9, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 23, 2024.

The Center appointed Lynda M. Braun as the sole panelist in this matter on September 30, 2024. 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 Complainants are Lennar Pacific Properties Management, LLC (“LPPM”), and Lennar Corporation (“Lennar”), both Delaware corporations based in Miami, Florida, United States. The Complainants have offered real estate management, brokerage, development, construction and financial services since at least as early as 1973. LPPM is the owner of federal trademark registrations for the LENNAR mark. Lennar is a related company and authorized licensee of the LENNAR marks and also owns and operates the domain name <lennar.com>, which resolves to the Complainants’ official website at “www.lennar.com”. LPPM and Lennar will hereinafter collectively be referred to as the “Complainant”.

The Complainant has been a leading homebuilder since 1954 and builds and sells homes in 21 states in the United States. The Complainant also uses its domain name to conduct email correspondence for its business, including sending sensitive financial information and instructions for activities related to hiring new employees, making home purchases, and conducting closings.

The Complainant owns the following registered trademarks through the United States Patent and Trademark Office (“USPTO”): LENNAR, United States Trademark Registration No. 3,108,401, registered on June 27, 2006, with a first use date in commerce of May 31, 1973, in international classes 35, 36 and 37; and LENNAR, United States Trademark Registration No. 3,477,143, registered on July 29, 2008, in international classes 36 and 37 (hereinafter collectively referred to as the “LENNAR Mark”).

The Disputed Domain Name was registered on May 13, 2024, and currently resolves to the Complainant’s official website. The Respondent also used the Disputed Domain Name to perpetuate a phishing scheme in which the Respondent configured the Disputed Domain Name for email functions and used the email address incorporating the Disputed Domain Name to impersonate the Complainant’s employees and send fraudulent emails and fabricated invoices to the Complainant’s vendors, requesting payments with instructions to make payments to the Respondent’s bank account. The Complainant’s vendors were thus led to believe that they were interacting with genuine representatives of the Complainant. Screenshots of several such emails were attached as an Annex to the Complaint.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Disputed Domain Name. Notably, the Complainant contends that:

- the Disputed Domain Name is confusingly similar to the Complainant’s trademark because the Disputed Domain Name contains the LENNAR Mark in its entirety, followed by the additional term “corps” (an abbreviation for “corporation”), and then followed by the generic Top-Level Domain (“gTLD”) “.com”, and thus does not prevent a finding of confusing similarity;
- the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because, among other things, the Complainant has not made demonstrable preparations to use the Disputed Domain Name in connection with a bona fide offering of goods or services; and the Respondent was not commonly known by the LENNAR Mark or any similar name; and

- the Disputed Domain Name was registered and was used in bad faith because, among other things, the Respondent used the Disputed Domain Name to impersonate the Complainant's employees and send fraudulent emails to the Complainant's vendors, requesting that they make payments to the Respondent's bank account, though believing the payments were being sent to the Complainant's account.

The Complainant seeks the transfer of the Disputed Domain Name from the Respondent to the Complainant in accordance with paragraph 4(i) of the Policy.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

6.1 Preliminary Issue: Consolidation of the Complainants

The Complainants have requested the consolidation of the Complainants in this proceeding. Pursuant to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11, the consolidation of multiple complainants filing a joint complaint against one or more respondents is subject to the discretion of the appointed panel. The Panel has concluded that consolidation of the Complainants would be appropriate in the present proceeding and would not have any unfair prejudicial effect on the Respondent. Moreover, the Complainants have been the target of common conduct by the Respondent, who has engaged in bad faith registration and use of the Disputed Domain Name. Furthermore, the Panel notes that the Complainants in the present administrative proceeding are affiliated since LPPM is the owner of federal trademark registrations for the LENNAR Mark and Lennar is a related company and authorized licensee of the LENNAR Mark. Moreover, Lennar also owns and operates the domain name <lennar.com>, which resolves to the Complainant's official website at "www.lennar.com", and which both parties use. Thus, the Panel considers that it is fair and equitable under the circumstances of the case to permit consolidation as the Complainants are not only affiliated companies, but also have common interests. Therefore, the Panel concludes that consolidation of the Complainants is appropriate in this proceeding.

6.2 Substantive Matters

Paragraph 4(a) of the Policy requires that the Complainant prove the following three elements in order to prevail in this proceeding:

- (i) the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and
- (iii) the Disputed Domain Name was registered and is being used in bad faith.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires a two-fold inquiry: a threshold investigation into whether a complainant has rights in a trademark, followed by an assessment of whether the disputed domain name is identical or confusingly similar to that trademark. The Panel concludes that the Disputed Domain Name is confusingly similar to the LENNAR Mark.

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the Disputed Domain Name. See [WIPO Overview 3.0](#), section 1.7.

It is uncontroverted that the Complainant has established rights in the LENNAR Mark based on its years of use as well as its registered trademarks for the LENNAR Mark in the United States. The consensus view is that “registration of a mark is prima facie evidence of validity”. The Respondent has not rebutted this presumption, and therefore the Panel finds that the Complainant has rights in the LENNAR Mark.

The Disputed Domain Name consists of the entirety of the Complainant’s LENNAR Mark, followed by the term “corps”, and then followed by the gTLD “.com”. The test for confusing similarity involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name. Here, the LENNAR Mark is recognizable in the Disputed Domain Name. As stated in section 1.7 of the [WIPO Overview 3.0](#), “[i]n specific limited instances, while not a replacement as such for the typical side-by-side comparison, where a panel would benefit from affirmation as to confusing similarity with the complainant’s mark, the broader case context such as website content trading off the complainant’s reputation, [...], may support a finding of confusing similarity”.

Considering the evidence demonstrating that the Disputed Domain Name resolved to a website impersonating the Complainant to send fraudulent emails to the Complainant’s vendors and requesting payment of invoices to the Respondent’s bank account, it appears prima facie that the Respondent sought to target the Complainant’s trademark through the Disputed Domain Name. [WIPO Overview 3.0](#), section 1.15.

As stated 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”. Thus, the addition of the term “corps” to the Complainant’s LENNAR Mark in the Disputed Domain Name does not prevent a finding of confusing similarity. See e.g., *Allianz Global Investors of America, L.P. and Pacific Investment Management Company (PIMCO) v. Bingo-Bongo*, WIPO Case No. [D2011-0795](#); and *Hoffmann-La Roche Inc. v. Wei-Chun Hsia*, WIPO Case No. [D2008-0923](#).

Finally, the addition of a gTLD such as “.com” in a domain name is a technical requirement. As such, it is well established that a gTLD may typically be disregarded when assessing whether a disputed domain name is identical or confusingly similar to a trademark. See *Proactiva Medio Ambiente, S.A. v. Proactiva*, WIPO Case No. [D2012-0182](#) and [WIPO Overview 3.0](#), section 1.11.1. Thus, the Panel finds that the Disputed Domain Name is confusingly similar to the Complainant’s LENNAR Mark.

Based on the available record, the Panel finds that the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving that a respondent lacks rights or legitimate interests in a domain name may result in the difficult 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 (although the burden of proof always remains on the complainant). 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.

In this case, given the facts as set out above, the Panel finds that the Complainant has made out a prima facie case. The Respondent has not submitted any arguments or evidence to rebut the Complainant’s prima facie case. Furthermore, the Complainant has not authorized, licensed or otherwise permitted the Respondent to use its LENNAR Mark. Nor does the Complainant have any type of business relationship with the Respondent. There is also no evidence that the Respondent is commonly known by the Disputed

Domain Name or by any similar name, nor any evidence that the Respondent was using or making demonstrable preparations to use the Disputed Domain Name in connection with a bona fide offering of goods or services. See Policy, paragraph 4(c).

Further, based on the use made by the Respondent of the Disputed Domain Name to impersonate the Complainant's vendors and configure emails to perpetuate a phishing scheme does not confer rights or legitimate interests on the Respondent. See [WIPO Overview 3.0](#), section 2.13.1 ("Panels have categorically held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent."). See also *CMA CGM v. Diana Smith*, WIPO Case No. [D2015-1774](#) (finding that the respondent had no rights or legitimate interests in the disputed domain name, holding that "such phishing scam cannot be considered a bona fide offering of goods or services nor a legitimate noncommercial or fair use of the Domain Name"). This is precisely what occurred here, where the Respondent sent fraudulent emails created from the Disputed Domain Name to impersonate the Complainant and send emails and fabricated invoices to several of the Complainant's vendors, requesting payment to the Respondent.

In sum, the Panel concludes that the Complainant has established an un rebutted prima facie case that the Respondent lacks rights or legitimate interests in the Disputed Domain Name. The Panel finds that the Respondent is using the Disputed Domain Name for commercial gain with the intent to mislead and defraud the Complainant's vendors by incorporating the Disputed Domain Name into fraudulent emails sent by the Respondent to those vendors in the name of actual employees of the Complainant. Such use cannot conceivably constitute a bona fide offering of a product or service within the meaning of paragraph 4(c)(i) of the Policy. The Panel concludes that nothing on the record before it would support a finding that the Respondent is making a legitimate noncommercial or fair use of the Disputed Domain Name.

Based on the available record, the Panel finds that the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith. The Panel finds that based on the record, the Complainant has demonstrated the existence of the Respondent's bad faith registration and use of the Disputed Domain, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have held that the use of a domain name for illegal activity constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds that the Respondent's registration and use of the Disputed Domain Name constitutes bad faith under the Policy due to the Respondent's use of an email phishing scheme in which the Respondent sent fraudulent emails and fabricated invoices to the Complainant's vendors, requesting payments to bank accounts controlled by the Respondent. See [WIPO Overview 3.0](#), section 3.1.4 (use of a domain name for per se illegitimate activity such as phishing or impersonation/passing off is considered evidence of bad faith). See also *Stichting BDO v. Contact Privacy Inc. Customer 7151571251/gregory Motto*, WIPO Case No. [D2022-2023](#) (finding the phishing scheme and use of an email address incorporating the disputed domain name to fraudulently obtain payment of invoices to be evidence of bad faith pursuant to paragraph 4(b)(iv) of the Policy for intentionally misleading and confusing the public into believing that the Respondent was associated and/or affiliated with the Complainant).

Thus, the Panel concludes that the Respondent used the Disputed Domain Name as part of an illegal scheme to defraud the Complainant's vendors of significant sums of money. Such conduct demonstrates the Respondent's bad faith and is precisely the conduct that the Policy aims to proscribe.

The Panel also finds that the Respondent had actual knowledge of the Complainant and its rights in the LENNAR Mark when registering the Disputed Domain Name, emblematic of bad faith registration and use. It strains credulity to believe that the Respondent did not know of the Complainant or its LENNAR Mark as evidenced by the Respondent's redirection of the Disputed Domain Name to the Complainant's official website, and the Respondent's use of the entirety of the LENNAR Mark in the Disputed Domain Name. Thus, the Panel finds that in the present case, the Respondent had the Complainant's LENNAR Mark in mind when registering and using the Disputed Domain Name.

Further, the Panel concludes that the Respondent's registration of the Disputed Domain Name attempted to disrupt the Complainant's business for commercial gain. See *Newegg Inc. v. Nicole Alex and Alexander Ethan*, WIPO Case No. [D2019-2740](#) (registration of disputed domain names was likely to have been made in an attempt to receive commercial gain from their exploitation). The Panel additionally finds that the Respondent's use of the Disputed Domain Name was also highly likely to confuse the Complainant's customers into incorrectly believing that the Respondent was authorized by or affiliated with the Complainant.

Based on the available record, the Panel finds that the third element of the Policy has been established.

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 <lennarcorps.com> be transferred to the Complainant.

/Lynda M. Braun/

Lynda M. Braun

Sole Panelist

Date: October 14, 2024