

ADMINISTRATIVE PANEL DECISION

Lennar Pacific Properties Management, LLC, Lennar Corporation v. Chris Cosma

Case No. D2024-4026

1. The Parties

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

Respondent is Chris Cosma, United States.

2. The Domain Name and Registrar

The disputed domain name <lennarhomesswfl.com> (hereinafter “Disputed Domain Name”) is registered with IONOS SE (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 1, 2024. On October 1, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On October 7, 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, 1&1 Internet Inc”) and contact information in the Complaint. The Center sent an email communication to Complainants on October 9, 2024, 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 October 10, 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 Respondent of the Complaint, and the proceedings commenced on October 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 12, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on November 13, 2024.

The Center appointed Lawrence K. Nodine as the sole panelist in this matter on November 18, 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

Complainants have offered real estate management, brokerage, development, construction, mortgage, and financial services under the trademark LENNAR (hereinafter the "Mark") since at least 1973. Complainants operate in twenty-one states of the United States, including Florida.

Complainant LPPM owns United States Reg. Nos. 3,108,401 (registered June 27, 2006) and 3,477,143 (registered July 29, 2008) for the Mark,¹ which it licenses to Lennar (a related company).

Complainant Lennar owns the domain name <lennar.com>, which resolves to a website that it operates.

The Disputed Domain Name was registered on August 29, 2024. It does not resolve to an active website.

Complainant Lennar sent cease-and-desist correspondence to Respondent on September 6, 2024 regarding registration of the Disputed Domain Name, but Respondent has not responded.

5. Parties' Contentions

A. Complainant

Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the Disputed Domain Name.

B. Respondent

Respondent did not respond to the Complaint.

6. Discussion and Findings

Complainants seek confirmation of their right to proceed as joint complainants. The Panel confirms Complainants' right to proceed jointly, noting inter alia the Complainants' specific common grievance against the Respondent. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 4.11.1.

¹ The Panel examined the United States Patent and Trademark Office file for the two trademark registrations upon which Complainants rely. With respect to the application for Registration No. 3,108,401, the Trademark Examiner initially refused registration, asserting that "Lennar" was primarily merely a surname. Complainant LPPM overcame the rejection and secured the registrations based on a showing of substantially exclusive use for more than twenty years with respect to the listed real estate related services. This conclusion also supported Registration No. 3,477,143.

A. Identical or Confusingly Similar

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 Complainants' trademark and the Disputed Domain Name. [WIPO Overview 3.0](#), section 1.7.

Complainants have shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the Mark is reproduced and recognizable within the Disputed Domain Name. Although the addition of other terms, here the geographically descriptive acronym "swfl" (commonly understood to refer to "South West Florida") and the descriptive word "homes", may bear on assessment of the second and third elements, the Panel finds these terms do not prevent a finding of confusing similarity between the Disputed Domain Name and the Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Accordingly, the Disputed Domain Name is confusingly similar to the Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Although 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 difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. Consequently, 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.

Having reviewed the available record, the Panel finds Complainants have established a prima facie case that Respondent lacks rights or legitimate interests in the Disputed Domain Name. Respondent has not rebutted Complainants' prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Disputed Domain Name such as those enumerated in the Policy or otherwise.

Where, as here, Respondent is not making any use of the Disputed Domain Name, and there is no evidence that Respondent is commonly known as a name or word corresponding to the Disputed Domain Name, there is nothing in the record that suggests the Respondent has rights or a legitimate interest in the Disputed Domain Name.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

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.

The non-use of a domain name does not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness of the Mark, and the composition of the Disputed Domain Name, and finds that in the circumstances of this case the passive holding of the Disputed Domain Name does not prevent a finding of bad faith under the Policy. The Mark has no descriptive meaning that would support a benign explanation for Respondent's registration of the Disputed Domain Name. Although "Lennar" is a surname, it has acquired distinctiveness (and registrability) as a trademark with respect to real estate related services. There is no evidence that Respondent, whose surname is Casma, intended to exploit the surname connotations of "Lennar". Moreover, the inclusion of the "homes" and the acronym "swfl" into the Disputed Domain Name evidences an intent to target Complainants who build and sell homes in southwest Florida. Add to this Respondent's failure to respond to Complainants' cease-and-desist letter and the Complaint in these proceedings. Based on all of these facts, the Panel finds that Respondent's passive holding constitutes bad faith registration and use.

In addition, the screenshot (undated) of the webpage associated with Disputed Domain Name that Complainant submitted with the Complaint includes a Microsoft Defender Smartscreen warning: "This site has been reported as unsafe [...] It has been reported to Microsoft for containing phishing threats which may try to steal personal information." Panels have relied on similar evidence to support a finding bad faith based on a risk that the Disputed Domain Name would be used in a phishing scheme. See *The Commissioners for HM Revenue and Customs v. Sam Bentley*, WIPO Case No. [D2021-2001](#); *AXA SA v. Ghita Zuoiné*, WIPO Case No. [D2020-3374](#). See also [WIPO Overview 3.0](#) section 3.4.

The Panel finds that Complainants have established 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 <lennarhomesswfl.com> be transferred to Complainants.

/Lawrence K. Nodine/

Lawrence K. Nodine

Sole Panelist

Date: December 2, 2024