

ADMINISTRATIVE PANEL DECISION

Lennar Pacific Properties Management, Inc. and Lennar Mortgage, LLC
v. 杨智超 (Zhichao Yang)
Case No. D2022-0599

1. The Parties

The Complainants are Lennar Pacific Properties Management, Inc., United States of America (“United States”) (the “First Complainant”), and Lennar Mortgage, LLC, United States (the “Second Complainant”), represented by Slates Harwell LLP, United States.

The Respondent is 杨智超 (Zhichao Yang), China.

2. The Domain Name and Registrar

The disputed domain name <lennarmortgahe.com> (“Disputed Domain Name”) is registered with Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn) (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on February 18, 2022. On February 21, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On February 22, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

On February 22, 2022, the Center transmitted an email in English and Chinese to the Parties regarding the language of the proceeding. The Complainants confirmed the request that English be the language of the proceeding on February 22, 2022. The Respondent did not comment on the language of the proceeding.

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 the Respondent in English and Chinese of the Complaint, and the proceedings commenced on March 7, 2022. In accordance with the

Rules, paragraph 5, the due date for Response was March 27, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 28, 2022.

The Center appointed Kar Liang Soh as the sole panelist in this matter on April 19, 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

The Complainants are related companies offering real estate management, brokerage, development, construction, mortgage and financial services under the trademark LENNAR since at least 1973. The First Complainant owns trademark registrations for LENNAR (the "LENNAR Mark") including:

Jurisdiction	Trademark No.	Registration Date
United States	3,108,401	June 27, 2006
China	22542887	February 14, 2018

The First Complainant has a pending United States trademark application No. 90,121,641 for LENNAR MORTGAGE with an application date of August 18, 2020. The First Complainant is the registrant of the domain name <lennar.com>, registered on September 4, 1996.

The First Complainant has licensed the LENNAR Mark to the Second Complainant. The Second Complainant has been building and selling homes in the United States since 1954. The Second Complainant operates website under the domain name <lennarmortgage.com> (registered on November 5, 2019), which is used as its email domain for employees to communicate with customers.

The Disputed Domain Name was registered on December 3, 2021. On or before December 15, 2021, the Disputed Domain Name resolved to a parking website which featured prominent links to online resources entitled "Mortgage Calculator", "Mortgage Payment Calculator" and "Refinance Calculator". On December 15, 2021, the Complainant sent a cease and desist letter to the Respondent via the Registrar's online contact form but did not receive any response from the Respondent.

The Respondent appears to be an individual based in China. There is no information about the Respondent beyond what is disclosed by the Registrar's verification and the Complaint. The Respondent has been named in past UDRP cases (e.g., *Combined Insurance Company of America v. Domain Administrator*, See *PrivacyGuardian.org / Zhichao Yang et al*, WIPO Case No. [D2020-0863](#), which involved almost 40 typographically variant domain names which the learned panel ordered to transfer to the complainant in that case).

5. Parties' Contentions

A. Complainants

The Complainants contend that:

a) The Disputed Domain Name is confusingly similar to the LENNAR Mark in which the Complainants have rights. The Disputed Domain Name is virtually identical to the Complainants' domain name <lennarmortgage.com> and the Complainants' trademark registrations and application absent the minimal typo-squatting variation of the descriptive word "mortgage" substituting the letter "g" with the letter "h" which is directly next to the "g" on an American English keyboard;

b) The Respondent has no rights or legitimate interests in respect of the Disputed Domain Name. The Complainants could not locate 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 the *bona fide* offering of goods or services. The Respondent is not commonly known by the Disputed Domain Name or has acquired trademark rights in the LENNAR Mark. The Respondent is not making any legitimate noncommercial or fair use of the Disputed Domain Name; and

c) The Disputed Domain Name was registered and is being used in bad faith. The Disputed Domain Name resolves to a webpage which is intended to attract Internet users for commercial gain by creating a likelihood of confusion with the LENNAR Mark. The Disputed Domain Name was registered shortly after the First Complainant filed a new trademark application for LENNAR MORTGAGE and soon after the Second Complainant started using the <lennarmortgage.com> domain name to advertise and offer its services. The Respondent registered the Disputed Domain Name with the bad faith intent to misdirect customers of the Complainants, employ malware/viruses to obtain sensitive customer financial data or use the Disputed Domain Name to send spam or spoof emails. The Respondent has an extensive history of bad faith domain name registrations.

B. Respondent

The Respondent did not reply to the Complainants' contentions.

6. Discussion and Findings

6.1 Procedural Issues

A. Language of the Proceeding

The language of the Registration Agreement of the Disputed Domain Name is Chinese. As such, the default language of the proceeding is Chinese, subject to the authority of the Panel to determine otherwise having regard to the circumstances under paragraph 11(a) of the Rules.

The Panel notes the Complainants' request for English to be adopted as the language of the proceeding. Having considered the circumstances and particularly the following, the Panel grants the Complainants' request:

- a) The Complaint has been submitted in English;
- b) The website resolved from the Disputed Domain Name is entirely in English;
- c) The Respondent has neither objected to the Complainants' request nor responded to the Complaint, although the Center notified the Respondent in Chinese and English of the language of the proceeding and the Complaint;
- d) Maintaining that Chinese should be the language of the proceeding would serve no administrative or procedural benefit. Instead, it would unnecessarily delay proceeding arising from time taken to prepare and submit a translation of the Complaint; and
- e) The Panel is bilingual in both English and Chinese and could have dealt documents submitted in the proceeding in either language.

6.2 Substantive Discussion

To succeed in this proceeding, the Complainants must establish all three limbs of paragraph 4(a) of the Policy on the facts:

- a) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- b) the respondent has no rights or legitimate interests in respect of the domain name; and
- c) the domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Panel accepts that the Complainants have rights in the LENNAR Mark by virtue of their various trademark registrations. The only relevant difference (putting aside the generic Top-Level Domain (“gTLD”) which is disregarded for purposes of comparison under the first element by consensus of past UDRP panels – see section 1.11 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”)) between the Disputed Domain Name and the LENNAR Mark is the suffix letters “mortgahe” in the Disputed Domain Name. The suffix letters appear very clearly to the Panel to be an obvious typographical misspelling of the word “mortgage”. The LENNAR Mark remains obviously dominant and recognizable in the Disputed Domain Name. As such, the Panel holds that the Disputed Domain Name is confusingly similar to the LENNAR Mark thereby establishing the first limb of paragraph 4(a) of the Policy, and the presence of the suffix “mortgahe” in the Disputed Domain Name does not prevent this finding of confusing similarity from being maintained.

B. Rights or Legitimate Interests

The context of the Complainants’ submissions in the Complaint conveys the impression that the Complainants do not have any business relationship with the Respondent, and the Complainants would not have authorized the Respondent to use the LENNAR Mark in the Disputed Domain Name. The Complainants have also asserted that the Respondent is not commonly known by the Disputed Domain Name or has any trademark rights in the LENNAR Mark. The Panel does not see any reason in the evidence to doubt the Complainants’ assertions and are satisfied that the Complainants have established a *prima facie* case that the Respondent has no rights or legitimate interests in the Disputed Domain Name. In the absence of any response from the Respondent or suggestion that the Respondent could have used or prepared to use the Disputed Domain Name for a *bona fide* or legitimate noncommercial or fair use purpose (the Disputed Domain Name currently resolves to a parking page with pay-per-click links), the *prima facie* case has not been rebutted. The Panel confirms that the Complainants have made out their case in relation to the second limb of paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b)(iv) of the Policy outlines the following circumstances as an example of bad faith registration and use of a domain name. It states:

“by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location.”

The parking page resolved from the Disputed Domain Name incorporated links to resources which on the face are highly suggestive to the Panel to be directed at commercial gain. The Disputed Domain Name is an obvious typographical misspelling of “Lennar mortgage”, which the Panel believes to be a reasonable trademark use of the LENNAR Mark in natural association to the services which the Second Complainant provides. As the Complainants pointed out, the timing of the registration of the Disputed Domain Name soon after the First Complainant’s filing of the trademark application for LENNAR MORTGAGE is most uncanny. The circumstances before the Panel are such as to point to the very reasonably likelihood that the Respondent was well aware of the LENNAR Mark at the time of registering the Disputed Domain Name. The Panel is convinced that the Respondent must have intentionally attempted to attract Internet users to the

website resolved from the Disputed Domain Name by creating a likelihood of confusion with the LENNAR Mark as to the source, sponsorship, affiliation or endorsement of the website. On this basis, the Panel reaches the conclusion that the Disputed Domain Name was registered and is used in bad faith in the manner exemplified by paragraph 4(b)(iv) of the Policy.

The Panel also notes the Respondent's past history of domain name typo-squatting. Such a pattern of conduct also falls squarely within another example of bad faith registration and use of a domain name outlined in paragraph 4(b)(ii) of the Policy, which states:

"you have 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 you have engaged in a pattern of such conduct."

Further, the Complainants have allayed very serious allegations of nefarious designs on the part of the Respondent, not least of all, an intent to misdirect the Complainants' customers, employing malware/viruses to obtain sensitive customer financial data, and using the Disputed Domain Name to send spam or spoof emails. These are very strong accusations which an unreasonably maligned respondent would react and counter furiously. Strangely, the Respondent has kept silent in the face of this, which suggests to the Panel that the Respondent is unable to refute these accusations.

In the circumstances, the Panel holds that the Respondent has registered and is using the Disputed Domain Name in bad faith. The Complainant has therefore successfully established the third limb of paragraph 4(a) 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, <lennarmortgage.com>, be transferred to the Complainant.

/Kar Liang Soh/

Kar Liang Soh

Sole Panelist

Date: May 5, 2022