

ADMINISTRATIVE PANEL DECISION

Lennar Pacific Properties Management, LLC and Lennar Mortgage, LLC v.
Registration Private, Domains By Proxy, LLC / Carolina Rodrigues,
Fundacion Comercio Electronico
Case No. D2022-2203

1. The Parties

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

The Respondent is Registration Private, Domains By Proxy, LLC, United States / Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

2. The Domain Name and Registrar

The disputed domain name <lennarmrotgage.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 16, 2022. On June 17, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 21, 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 the Complainants on June 23, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amended Complaint on June 24, 2022.

The Center verified that the Complaint together with the amended 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 June 27, 2022. In accordance with the Rules, paragraph 5,

the due date for Response was July 17, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 19, 2022.

The Center appointed José Pio Tamassia Santos as the sole panelist in this matter on July 27, 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

4.1. In this case both Complainants have the same grievance against the Respondent. Specifically, the Complainant Lennar Pacific Properties Management, LLC is the owner of federal trademark registrations for the LENNAR mark such as United States trademark registration No. 3108401, registered on June 27, 2006. The Complainant Lennar Mortgage, LLC is a related company and authorized licensee of the LENNAR marks and also owns and operates the website "www.lennarmortgage.com" related to services offered under the LENNAR marks.

4.2. As such, both Complainants have a common legal interest in a relevant right or rights that are affected by the Respondent's conduct regarding the registration of the disputed domain name and both Complainants are the target of common conduct by the Respondent which has clearly affected their individual legal interests.

4.3. The Complainants have offered real estate management, brokerage, development, construction, mortgage, and financial services under the LENNAR Marks since at least as early as 1973.

4.4. The disputed domain name <lennarmrotgage.com> was registered on December 23, 2021. At the time of filing the Complaint, the disputed domain name resolved to a blank page with the message "Too many requests".

5. Parties' Contentions

A. Complainants

5.1. The Complainants state that the Respondent registered without authorization the disputed domain name.

5.2. Furthermore, the Complainants contend that the disputed domain name is virtually identical and/or confusingly similar typosquatting to the Complainants' domain name <lennarmortgage.com> and the LENNAR Marks, as the domain name and Marks are virtually identical absent the minimal variation transposing two letters in the descriptive word "mortgage" by placing the "r" in "mortgage" in front of the "o".

5.3. The Complainants state that the Respondent has no rights or legitimate interests in the disputed domain name.

5.4. Finally, the Complainants state that the disputed domain name has been registered and is being used in bad faith by the Respondent. The Respondent registered the disputed domain name to either misdirect Lennar customers to a "fake" website, employ malware/viruses to obtain sensitive Lennar customer financial data, or use the disputed domain name to create and send spam or spoof emails to Lennar customers disguised as legitimate Lennar correspondence in an attempt to re-direct funds from home purchases.

B. Respondent

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

6. Discussion and Findings

6.1. Paragraph 4(a) of the Policy provides specific remedies to the complainant against the respondent where the complainant proves each of the following elements:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (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.

6.2. The Complainants have the burden of proof, by a preponderance of the evidence, in respect to each element in paragraph 4(a) of the Policy.

6.3. The Respondent, having failed to respond in the present proceeding, is in default, and in accordance with paragraph 14(b) of the Rules, "the panel shall draw such inferences [...] as it considers appropriate".

A. Identical or Confusingly Similar

6.4. The Complainant Lennar Pacific Properties Management, LLC is the owner/licensor and the Complainant Lennar Mortgage, LLC is the licensee of the Mark as mentioned in section 4 above.

6.5. The Complainants have offered real estate management, brokerage, development, construction, mortgage, and financial services under the LENNAR Marks since at least as early as 1973. More specifically, the Complainants have been one of America's leading homebuilders since 1954 and builds and sells homes in twenty-one states in the United States.

6.6. The disputed domain name comprises the LENNAR Mark in its entirety, with addition of the term "mrotgage" which is transposing two letters in the word "mortgage" by placing the "r" in "mortgage" in front of the "o".

6.7. The Complainant's trademark is clearly recognizable in the domain name. Therefore, the disputed domain name is confusingly similar to the Complainant's LENNAR Mark.

6.8. The first element of the Policy, therefore, has been met.

B. Rights or Legitimate Interests

6.9. The Respondent should be considered as having no rights or legitimate interests with respect to the disputed domain name.

6.10. Upon initial investigation, information, and belief, the 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.

6.11. In addition, upon information and belief, the Respondent has not been commonly known by the disputed domain name and has acquired no trademark or service mark rights in the LENNAR Marks.

6.12. The nature of the disputed domain name, comprising the Complainant's Mark and the additional related term with misspellings "mrotgage", indicates an awareness of the Complainant and its mark and intent to take unfair advantage of such, which does not support a finding of any rights or legitimate interests.

6.13. Finally, the Respondent is not making any legitimate noncommercial or fair use of the disputed domain name. Accordingly, the second element of the Policy has been established.

C. Registered and Used in Bad Faith

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

(i) circumstances indicating that the respondent has registered or has 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 the complainant, for valuable consideration in excess of its documented out-of-pocket costs directly related to the domain name; or

(ii) that the respondent 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 respondent has engaged in a pattern of such conduct; or

(iii) that the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) that by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to the respondent'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 respondent's website or location or of a product or service on the respondent's website or location.

6.15. Complainants have offered real estate management, brokerage, development, construction, mortgage, and financial services under the LENNAR Marks since at least as early as 1973. The registration of the disputed domain name which incorporates the Complainant's Mark in its entirety (being confusingly similar to such Mark) by an individual or entity that has no relationship to that mark, without any reasonable explanation for its registration, may be suggestive of opportunistic bad faith. Furthermore, the misspelling in the disputed domain name tend to support a finding of bad faith. All evidences lead to the conclusion that the disputed domain name has been registered and is being used in bad faith by the Respondent.

6.16. The Complainants sent a cease and desist correspondence to the Respondent on January 31, 2022, regarding registration of the disputed domain name, and the Respondent has failed to respond to date.

6.17. The Respondent has previously registered at least four other domain names including the Complainants' LENNAR Mark in bad faith and has an extensive history of bad faith domain name registrations before the Center. See *Lennar Pacific Properties Management, Inc., Lennar Mortgage, LLC v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, 杨智超 (Zhichao Yang), WIPO Case No. [D2021-4262](#); *Lennar Pacific Properties Management, Inc., Lennar Corporation v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundación Comercio Electrónico*, WIPO Case No. [D2020-1416](#); and *Lennar Mortgage, LLC, Lennar Pacific Properties Management, Inc. v. Registration Private, Domains By Proxy, LLC/ Carolina Rodrigues Fundacion Comercio Electronico*, WIPO Case No. [D2021-0165](#).

6.18. The Panel therefore finds that paragraph 4(a)(iii) of the Policy has been satisfied.

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, <lennarmrotgage.com>, be transferred to the Complainants.

/José Pio Tamassia Santos/

José Pio Tamassia Santos

Sole Panelist

August 8, 2022