

ADMINISTRATIVE PANEL DECISION

Lennar Pacific Properties Management, LLC, Lennar Corporation v.
Registration Private, Domain By Proxy, LLC / Joe Crimaldi
Case No. D2022-2207

1. The Parties

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.

Respondent is Registration Private, Domain By Proxy, LLC, United States / Joe Crimaldi, United States.

2. The Domain Names and Registrars

The Disputed Domain Names <bidlennar.com> and <lennaroffers.com> are 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 Names. On June 21, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Disputed Domain Names which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to Complainant on July 1, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on July 7, 2022.

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 July 15, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 4, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on August 18, 2022.

The Center appointed Richard W. Page as the sole panelist in this matter on September 6, 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.

The Disputed Domain Names were registered on January 11, 2022 and resolve to a pay-per-click (“PPC”) website containing links related to Complainants’ activities.

5. Parties’ Contentions

A. Complainant

Complainant contends that it owns and operates a website utilizing the LENNAR Mark, located at the domain name “www.lennar.com”. Complainant further contends that Respondent’s registration of the Disputed Domain Names is virtually identical and/or confusingly similar with the LENNAR Mark in its entirety, with only the addition of descriptive words “bid” and “offers”, both of which connote the offering of an item or services for sale.

Complainant alleges upon that Respondent has not used or made demonstrable preparations to use the Disputed Domain Names or a name corresponding to the Disputed Domain Names in connection with a *bona fide* offering of goods and services. Complainant further alleges upon information and belief that Respondent has not been commonly known by the Disputed Domain Names and has acquired no trademark or service mark rights in the famous and strong LENNAR Mark. Complainant further alleges that Respondent is not making any legitimate, non-commercial or fair use of the Disputed Domain Names.

Complainant asserts that Respondent’s Disputed Domain Names resolve to webpages with PPC links, which are intended to attract Internet users for commercial gain by creating a likelihood of confusion with the LENNAR Mark. Complainant sent a cease and desist letter to Respondent on January 31, 2022, regarding registration of both Disputed Domain Names and Respondent has failed to respond.

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 3.0](#).

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

- i) that the Disputed Domain Names registered by Respondent are 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 Names; and
- iii) that the Disputed Domain Names have been registered and are being used in bad faith.

A. Identical or Confusingly Similar

Section 1.2.1 of the [WIPO Overview 3.0](#) states that registration of a 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 rights in the LENNAR Mark for purposes of this proceeding.

Section 1.7 of the [WIPO Overview 3.0](#) says that inclusion of the entire trademark in a domain name will be considered confusingly similar. Section 1.8 of the [WIPO Overview 3.0](#) instructs that the addition of other terms (whether descriptive, geographical, pejorative, meaningless or otherwise) does not prevent a finding of confusing similarity. Section 1.11.1 of the [WIPO Overview 3.0](#) instructs that generic Top-Level Domains such as ".com" may be disregarded for purposes of assessing confusing similarity.

Complainant contends that Respondent's registration of the Disputed Domain Names is virtually identical and/or confusingly similar with the LENNAR Mark in its entirety, with only the addition of descriptive words "bid" and "offers", both of which connote the offering of an item or services for sale.

The Panel finds that the entirety of the LENNAR Mark is recognizable in the Disputed Domain Names and the addition of the words "bid" and "offers" cannot prevent the finding of confusing similarity, therefore the Disputed Domain Names are confusingly similar to the LENNAR Mark.

Therefore, Complainant has met the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

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, then Respondent carries the burden of demonstrating it has rights or legitimate interests in the Disputed Domain Names. 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 Names:

- (i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable preparations to use, the Disputed Domain Names or a name corresponding to the Disputed Domain Names 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 Names, 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 Names, without intent for commercial gain to misleadingly divert consumers or to tarnish the LENNAR Mark.

Complainant alleges upon that Respondent has not used or made demonstrable preparations to use the Disputed Domain Names or a name corresponding to the Disputed Domain Names in connection with a *bona fide* offering of goods and services. Complainant further alleges upon information and belief that Respondent has not been commonly known by the Disputed Domain Names 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, non-commercial or fair use of the Disputed Domain Names.

Furthermore, previous UDRP Panels held that the use of a domain name comprising PPC links does not represent a *bona fide* offering where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users.

The Panel finds that Complainant has stated a *prima facie* case which has not been contested by Respondent.

Therefore, Complainant has satisfied 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 Names 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 Names:

- (i) circumstances indicating that you [Respondent] have registered or you have acquired the Disputed Domain Names primarily for the purpose of selling, renting, or otherwise transferring the Disputed Domain Names registrations 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 Names; or
- (ii) you [Respondent] have registered the Disputed Domain Names in order to prevent Complainant 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 Names primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the Disputed Domain Names, 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 Complainant's 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 asserts that Respondent's Disputed Domain Names resolve to webpages with PPC links, which are intended to attract Internet users for commercial gain by creating a likelihood of confusion with the LENNAR Mark. Complainant sent a cease and desist letter to Respondent on January 31, 2022 regarding registration of both Disputed Domain Names and Respondent has failed to respond.

The Panel finds that Respondent was aware of the LENNAR Mark at the moment of registration of the Disputed Domain Names. Moreover, the PPC links contained in the Disputed Domain Names website are related to the Complainant's activities. Section 2.9 of the [WIPO Overview 3.0](#) establishes that panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a *bona fide* offering where such links compete with or capitalize on the reputation and goodwill of the complainant's

mark or otherwise mislead Internet users. The Panel finds this is the case here.

Respondent has failed to contest Complainant's assertions of bad faith registration and use.

Therefore, the Panel finds that Complainant has satisfied paragraphs 4(b)(iv) and 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 Names, <bidlennar.com> and <lennaroffers.com> be transferred to the Complainant.

/Richard W. Page/

Richard W. Page

Sole Panelist

Date: September 16, 2022