

## ADMINISTRATIVE PANEL DECISION

Lennar Pacific Properties Management, LLC, Lennar Corporation v. Charles Benson

Case No. D2024-3859

### 1. The Parties

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

The Respondent is Charles Benson, Nigeria.

### 2. The Domain Name and Registrar

The disputed domain name <lennarcorp.org> is registered with NameSilo, LLC (the "Registrar").

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on September 20, 2024. On September 23, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 23, 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 September 24, 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 September 24, 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 September 25, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 15, 2024. Aside from an informal communication on September 26, 2024, the Respondent did not submit any formal response. Accordingly, the Center notified the Commencement of Panel Appointment Process on October 16, 2024.

The Center appointed Charles Gielen as the sole panelist in this matter on October 22, 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.

After the Panel was appointed, the Center received an email from an email address connected to the disputed domain name asking for information about the Complaint. The email address is not the one confirmed by the Request for Registrar Verification as belonging to the Respondent, but it was included for purposes of the Center's notification of this case. The email address however did not contain any substantive arguments. Consequently, the Panel decides to ignore this email noting that consideration thereof would have not impacted the outcome of this Decision.

#### **4. Factual Background**

The Complainants offer real estate, construction, mortgage, financial, and brokerage services in connection with the construction and sale of homes since 1973. The Complainant Lennar Pacific Properties Management, LLC is the owner of the trade mark LENNAR. This trade mark is licensed to the other Complainant, Lennar Corporation. The first Complainant owns two United States trade mark registrations, namely No. 3,108,401 for services in classes 35, 36 and 37, registered by the United States Patent and Trademark Office - UPSTO on June 27, 2006, as well as No. 3,477,143 for services in classes 36 and 37, registered on July 29, 2008.

Since many years the Complainants operate a website under the domain name <lennar.com>.

The disputed domain name was registered on March 4, 2024, and does not resolve to an active website. The Complainants have provided evidence demonstrating that the Respondent has used the disputed domain name for sending email communications impersonating employees of the Complainant purportedly attempting to fraudulently redirect funds and/or materials and parts and to complete a fraudulent vendor credit application form.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainants contend that the disputed domain name is confusingly similar to the trade mark LENNAR. It contains the trade mark LENNAR in its entirety with only the addition of the term "corp". and the addition of the generic Top-Level Domain ("gTLD") ".org".

Furthermore, the Complainants contend that the Respondent does not have any rights or legitimate interests in the disputed domain name. According to the Complainants, the Respondent is not offering any goods or services using the disputed domain name. The disputed domain name does not resolve to an active webpage and, as such, it is being passively held. The non-use of a domain name should be considered not to be a bona fide offering of goods or services.

The Complainants further contend that the disputed domain name has been registered and is being used in bad faith by the Respondent. The disputed domain name has been primarily registered for the purpose of disrupting the business of the Complainants and/or to fraudulently induce vendors to send materials to the Respondent under the name LENNAR. Specifically, the Respondent has been using the disputed domain name in bad faith to spoof email addresses from the <lennar.com> domain and impersonate employees of

the Complainants in an attempt to fraudulently redirect funds and/or materials and parts and to complete a fraudulent vendor credit application form.

## **B. Respondent**

The Respondent did not reply to the contentions of the Complainants.

## **6. Discussion and Findings**

### **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 the Complainant's trade mark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The Complainant, Lennar Pacific Properties Management, LLC, has shown rights in respect of a service mark for the purposes of the Policy ([WIPO Overview 3.0](#), section 1.2.1) and licenses this service mark to the Complainant, Lennar Corporation, which uses the marks in connection with the services it offers, including through its website "www.lennar.com." The Panel finds that both Complainants have standing. [WIPO Overview 3.0](#), section 1.4.1 (exclusive trade mark licensee is considered to have rights in a trade mark under the UDRP for purposes of standing to file a complaint).

The Panel finds that the disputed domain name is confusingly similar to the service mark LENNAR marks. The disputed domain name incorporates this mark in its entirety. [WIPO Overview 3.0](#), section 1.7. The addition of the term "corp" to the LENNAR mark in the disputed domain name does not avoid a finding of confusing similarity for purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds 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 Complainants, panels have recognized that proving the 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.

Having reviewed the available record, the Panel finds the Complainants have established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's *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.

In particular, the Panel finds that there is no evidence of any bona fide offering of goods or services using the disputed domain name. On the contrary, the Complainants established that the disputed domain name is used for illegal purposes, namely, to fraudulently induce vendors to send materials to the Respondent under the name LENNAR. Such use can never confer rights or legitimate interests on a respondent. [WIPO](#)

Overview 3.0, section 2.13.1.

The Panel finds 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.

In the present case, the Panel notes that the Respondent registered the disputed domain name for the purpose of disrupting the business of the Complainants and/or to fraudulently induce vendors to send materials to the Respondent using the service mark LENNAR. Furthermore, the Panel finds that use of the disputed domain name for illegal activities is a clear evidence of bad faith use. In this case the Respondent used the disputed domain name to spoof email addresses from the <lennar.com> domain name and impersonate employees of the Complainants in an attempt to fraudulently redirect funds and/or materials and parts and to complete a fraudulent vendor credit application form.

The Panel finds that the Complainant has 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 <lennarcorp.org> be transferred to the Complainant.

*/Charles Gielen/*

**Charles Gielen**

Sole Panelist

Date: October 30, 2024