

## **ADMINISTRATIVE PANEL DECISION**

Lennar Pacific Properties Management, LLC, Lennar Corporation v. Baba Himself

Case No. D2024-4774

### **1. The Parties**

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

The Respondent is Baba Himself, Nigeria.

### **2. The Domain Name and Registrar**

The disputed domain name <lennarcorpusa.org> is registered with GO54 LIMITED (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 19, 2024. On November 20, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 19, 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 Complainants on December 19, 2024, 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 amendment to the Complaint on the same December 19, 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 December 27, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 16, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 17, 2025.

The Center appointed Alistair Payne as the sole panelist in this matter on January 21, 2025. 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 Complainant companies ("the Complainant") are part of a group which has been one of America's leading homebuilders since 1954 and which develops, builds, and sells homes in twenty-one (21) states in the U.S. Lennar Pacific Properties Management LLC, is the owner of federal trade mark registrations and applications for the LENNAR marks including U.S. federal trade mark registrations 3108401 for LENNAR registered on June 27, 2006, and 3477143 for LENNAR registered on July 29, 2008. Lennar Corporation LLC is a related company and the authorised licensee of the LENNAR marks and also owns and operates the website at <lennar.com>. The Complainant provides services in relation to real estate, development, mortgage, financial, and brokerage services in connection with the construction and sale of homes.

The disputed domain name was registered on November 14, 2024, and resolves to a placekeeper page which notes that "This website is under construction".

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

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

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

The Complainant submits that it owns registered trade mark rights in its LENNAR mark as set out above and that the disputed domain name is virtually identical to and/or confusingly similar with the LENNAR mark with only the addition of the descriptive words "corp" and "usa" after the word "Lennar" and the addition of the ".org" generic Top-Level Domains. It submits that when a disputed domain name fully incorporates a complainant's mark, even if there are additional descriptive or geographical elements, that this is sufficient to establish that the disputed domain name is identical or confusingly similar for purposes of the Policy, which it says is the case here.

The Complainant further says that the Respondent should be considered as having no rights or legitimate interests in the disputed domain name. It says that it has not located any evidence of the Respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to it in connection with a bona fide offering of goods or services. It also submits, upon information and belief, that the Respondent has not been commonly known by the disputed domain name and has acquired no trade mark or service mark rights in the well reputed LENNAR marks. It also says that the Respondent is not making any legitimate noncommercial or fair use of the disputed domain name.

As for bad faith, the Complainant says that the Respondent's non-use of the disputed domain name coupled with the high degree of distinctiveness and reputation attaching to the LENNAR marks, and the fact that the Respondent has concealed its identity or use of false contact information, supports a finding that the disputed domain name is being used in bad faith. This is especially true, says the Complainant, considering the Respondent's choice to retain a privacy protection service so as to conceal the Respondent's identities. In addition, says the Complainant, a finding of bad faith is further warranted because the disputed domain name prompts users to install what appears to be a malicious Google Chrome browser extension.

##### **B. Respondent**

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

## **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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of a trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, "corp" and "usa" may bear on assessment of the second and third elements, the Panel finds the addition of such terms does 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.

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 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. 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.

The Complainant has submitted that the Respondent should be considered as having no rights or legitimate interests in the disputed domain name. It has asserted that it has not located any evidence of the Respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to it in connection with a bona fide offering of goods or services. It has also submitted that the Respondent has not been commonly known by the disputed domain name and has acquired no trade mark or service mark rights in the LENNAR mark. It has also contended that the Respondent is not making any legitimate noncommercial or fair use of the disputed domain name.

Having reviewed the available record, the Panel finds the Complainant has 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.

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 in 2024 many years after the registration of the LENNAR marks. Considering the degree of repute attaching to the LENNAR marks as a consequence of the Complainant's use of them in the U.S. over many years, of the level of distinctiveness of the LENNAR mark and its use on-line at the Complainant's website at "www.lennar.com", the Panel finds that it is more likely than not that the Respondent was well aware of the LENNAR mark and of the Complainant's business when it registered the disputed domain name in late 2024.

Panels have found that the non-use of a domain name (including a "coming soon" page) would 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 or reputation of the Complainant's LENNAR trade mark, its inclusion as the primary element in the disputed domain name, the Respondent's use of a privacy service most likely in an attempt to mask his identity and the implausibility that the Nigeria based Respondent (which given the disclosed name, "Baba Himself", and the mail courier's report of a "bad address", seem likely to be false or fake information) could make a good faith use of the disputed domain name which features the Complainant's mark and the geographical abbreviation "USA" for the United States of America. The Panel therefore 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.

In view of these findings and considering that there is no other evidence that the disputed domain name prompts users to install what the Complainant thinks may be a malicious Google Chrome browser extension, there is no need for the Panel to consider that particular submission further.

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 <lennarcorpusa.org> be transferred to the Complainant company, Lennar Pacific Properties Management, LLC.

*/Alistair Payne/*

**Alistair Payne**

Sole Panelist

Date: February 4, 2025