

## ADMINISTRATIVE PANEL DECISION

Lennar Pacific Properties Management, LLC, and Lennar Corporation v.

王文贞 (wang wen zhen)

Case No. D2024-4821

### 1. The Parties

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

The Respondent is 王文贞 (wang wen zhen), China.

### 2. The Domain Name and Registrar

The disputed domain name <newlennar.com> is registered with Xin Net Technology Corporation (the “Registrar”).

### 3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on November 21, 2024. On the following day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 28, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name that differed from the named Respondent (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainants on November 28, 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 in English on December 3, 2024.

On November 28, 2024, the Center informed the parties in Chinese and English, that the language of the registration agreement for the disputed domain name is Chinese. On December 3, 2024, the Complainants requested English to be the language of the proceeding. The Respondent did not submit any comment on the language of the proceeding.

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 in Chinese and English of the Complaint, and the proceedings commenced on December 4, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 24, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 26, 2024.

The Center appointed Matthew Kennedy as the sole panelist in this matter on January 2, 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 Second Complainant, founded in 1954, is a home construction company that develops, builds, and sells homes in 21 states of the United States. The First Complainant is one of its subsidiaries. The Complainants offer real estate, development, mortgage, financial, and brokerage services in connection with the construction and sale of homes under the LENNAR brand. The First Complainant holds various trademark registrations, including the following:

- United States trademark registrations numbers 3,108,401 and 3,477,143, both for LENNAR, registered on June 27, 2006 and July 29, 2008, respectively, collectively specifying services in classes 35, 36, and 37; and
- Chinese trademark registration numbers 14666601, 22542887, and 23204784, all for LENNAR, registered on June 28, 2017, February 14, 2018, and December 28, 2018, respectively, specifying services in classes 37, 36, and 35, respectively.

The above trademark registrations are current. The Second Complainant is an authorized licensee of these marks and uses the domain name <lennar.com> in connection with a website where it provides information about the company group and its LENNAR-branded services.

The Respondent is an individual based in China.

The disputed domain name was registered on November 21, 2023. It does not resolve to any active website; rather, it is passively held.

On November 5, 2024, the Complainants sent a cease-and-desist letter addressed to the Respondent via a contact form on the Registrar’s website.

#### **5. Parties’ Contentions**

##### **A. Complainants**

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 virtually identical and/or confusingly similar to the LENNAR mark. The Respondent has no rights or legitimate interests in respect of the disputed domain name. The disputed domain name was registered and is being used in bad faith. Passive use of the disputed domain name coupled with the distinctiveness and reputation of the famous and strong LENNAR marks, and the Respondent’s concealment of its identity or use of false contact information supports a finding that the disputed domain name is being used in bad faith.

## **B. Respondent**

The Respondent did not reply to the Complainants' contentions.

## **6. Discussion and Findings**

### **6.1. Procedural Issues**

#### **A. Consolidation: Multiple Complainants**

The Complaint was filed by two complainants against a single respondent. The First Complainant is a subsidiary of the Second Complainant. The First Complainant owns relevant trademark registrations while the Second Complainant is an authorized licensee of those trademarks. The Panel finds that the Complainants have a common grievance against the disputed domain name registrants and that it is efficient to permit the consolidation of their complaints. Therefore, the Complainants are referred to below collectively as "the Complainant" except as otherwise indicated.

#### **B. Language of the Proceeding**

The language of the Registration Agreement for the disputed domain name is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint and the amendment to the Complaint were filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including that its domicile is in the United States, it would suffer an undue burden if the proceeding were conducted in Chinese, and the disputed domain name includes the English words "new" and "Lennar" which demonstrate the Respondent's capacity to understand English.

Despite the Center having sent an email regarding the language of the proceeding and the notification of the Complaint in both Chinese and English, the Respondent did not make any submission with respect to the language of the proceeding or express any interest in otherwise participating in this proceeding.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1.

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English. The Panel would have accepted a Response in Chinese, but none was filed.

### **6.2. Substantive Issues**

Paragraph 4(a) of the Policy provides that a complainant must prove 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; and
- (ii) the respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The burden of proof of each element is borne by the Complainant.

### **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 trademark and the disputed domain name. See [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of the LENNAR trademark for the purposes of the Policy. See [WIPO Overview 3.0](#), section 1.2.1.

The disputed domain name wholly incorporates the LENNAR mark. It adds the word "new" as its initial element but the LENNAR mark is clearly recognizable within the disputed domain name. The only additional element is a generic Top-Level Domain ("gTLD") extension (".com") which, as a standard requirement of domain name registration, may be disregarded in the assessment of confusing similarity for the purposes of the first element of paragraph 4(a) of the Policy. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. See [WIPO Overview 3.0](#), sections 1.7, 1.8, and 1.11.1.

Therefore, 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. See [WIPO Overview 3.0](#), section 2.1.

In the present case, the disputed domain name is passively held. This does not constitute a use of the disputed domain name in connection with a bona fide offering of goods or services, nor does it constitute a legitimate noncommercial or fair use of the disputed domain name. Further, the Registrar has confirmed that the Respondent's name is "王文贞" (wang wen zhen), not "newlennar". Nothing indicates that the Respondent has been commonly known by 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.

Based on the record, the Panel finds the second element of the Policy has been established.

### **C. Registered and Used in Bad Faith**

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. See [WIPO Overview 3.0](#), section 3.2.1.

In the present case, the disputed domain name was registered in 2023, years after the registration of the Complainant's LENNAR mark, including in China, where the Respondent is reportedly based. As far as the Panel is aware, the operational element of the disputed domain name has no apparent meaning other than as a combination of the adjective "new" and the LENNAR mark, which itself is a coined term with no apparent meaning other than as a reference to the Complainant and its services. The Complainant has made longstanding use of the LENNAR mark, including online through its website. The Respondent offers no explanation for his choice to register the disputed domain name. In these circumstances, the Panel has reason to find that the Respondent registered the disputed domain name with the Complainant and its LENNAR mark in mind.

As regards use, prior UDRP panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. See [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness and reputation of the Complainant's LENNAR trademark, and the composition of the disputed domain name. The Respondent offers no explanation of any potential good faith use of the disputed domain name. Furthermore, the Respondent has provided false or incomplete contact details when registering the disputed domain name (the courier service was not able to deliver the Center's Written Notice). The Panel finds, in the circumstances of this case, that the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Therefore, 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 <newlennar.com> be transferred to the Complainant.

*/Matthew Kennedy/*

**Matthew Kennedy**

Sole Panelist

Date: January 6, 2025