

ADMINISTRATIVE PANEL DECISION

Lennar Pacific Properties Management, LLC, Lennar Corporation v. William Houle

Case No. D2024-4863

1. The Parties

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

Respondent is William Houle, United States of America.

2. The Domain Name and Registrar

The disputed domain name <lennarcloseoutproperties.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 November 25, 2024. On November 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 26, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to Complainants on November 28, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainants filed an amendment to the Complaint on November 29, 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 Respondent of the Complaint, and the proceedings commenced on December 3, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 23, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on December 26, 2024.

The Center appointed Bradley A. Slutsky as the sole panelist in this matter on January 13, 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

Complainants have offered real estate management, brokerage, development, construction, mortgage, and financial services under the LENNAR mark since at least as early as 1973. Complainant Lennar Corporation (“Lennar”) has been building homes since 1954 and develops, builds, and sells homes in twenty-one states in the United States. Complainant Lennar Pacific Properties Management, LLC (“LPPM”) has a website at <lennar.com>, and owns the following U.S. trademark registrations:

Mark	Goods/Services	Jurisdiction	Reg. No.	Reg. Date
LENNAR	Consultation in the fields of real estate management and real estate brokering, etc.	United States of America	3,108,401	June 27, 2006 (date of first use: May, 1973)
LENNAR	Real estate listing services, etc.	United States of America	3,477,143	July 29, 2008 (date of first use: March 2006)

The disputed domain name was registered on November 5, 2024, and leads to a GoDaddy landing page with pay-per-click links as well as a link to “Get This Domain” for a price to be negotiated plus a Broker Service Fee of USD 119.99 and a 20% commission.

5. Parties’ Contentions

A. Complainant

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

Notably, Complainants contend that the disputed domain name “is virtually identical and/or confusingly similar with the LENNAR Mark in its entirety, with only the addition of the descriptive words ‘close,’ ‘out,’ and ‘properties’ after the word ‘lennar’”. Complainants also assert that Respondent has no rights or legitimate interests in respect of the disputed domain name because there is no evidence of Respondent’s use or demonstrable preparations to the disputed domain name or a name corresponding to the disputed domain name in connection with a bona fide offering of goods or services. Respondent has not been commonly known by the disputed domain name, Respondent has no trademark or service mark rights in the LENNAR mark, Respondent is not making any legitimate non-commercial or fair use of the disputed domain name, and Respondent failed to respond to Complainants’ cease and desist letter. Complainants also assert that Respondent registered and is using the disputed domain name in bad faith, because the LENNAR mark allegedly is famous and strong.

B. Respondent

Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

Pursuant to paragraph 15(a) of the Rules, a panel in UDRP proceedings “shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

Under paragraph 4(a) of the Policy, Complainants must prove the following:

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

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 Complainants’¹ trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (“[WIPO Overview 3.0](#)”), section 1.7.

Complainants have shown rights in respect of a trademark 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; *Lennar Pacific Properties Management, LLC, Lennar Corporation v. Chris Cosma*, WIPO Case No. [D2024-4026](#) (<lennarhomesswfl.com> is confusingly similar to LENNAR trademark); *LEGO Juris A/S v. My Store Admin, Wrangler Bags*, WIPO Case No. [D2024-2560](#) (<lego-closeouts.com> is confusingly similar to LEGO trademark).

Although the addition of other terms – here, “closeout” and “properties” – 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.

Accordingly, 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 Respondent may demonstrate rights or legitimate interests in a disputed domain name. “Any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate [Respondent’s] rights or legitimate interests to the domain name for purposes of paragraph 4(a)(ii):

- (i) before any notice to [Respondent] of the dispute, [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; or

¹ For the reasons set forth in *Lennar Pacific Properties Management, LLC and Lennar Corporation v. Sajid Pervez*, WIPO Case No. [D2024-4180](#) and [WIPO Overview 3.0](#), section 4.11.1, the Panel finds that the filing of a joint complaint in this case by Lennar and LPPM is permissible.

(ii) [Respondent] (as an individual, business, or other organization) [has] been commonly known by the [disputed] domain name, even if [Respondent has] acquired no trademark or service mark rights; or
(iii) [Respondent is] making a legitimate noncommercial or fair use of the [disputed] domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue". Policy, paragraph 4(c).

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 a respondent. As such, where a complainant make out a prima facie case that a 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 Complainants have established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. There is no evidence of use of the disputed domain name in connection with a bona fide offering of goods or services, that Respondent has been commonly known by the disputed domain name, or that Respondent is making a legitimate noncommercial or fair use of the disputed domain name. [WIPO Overview 3.0](#), section 2.9 ("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"). Respondent did not respond to Complainants' cease and desist letter, and has not rebutted Complainants' prima facie showing or 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.

Accordingly, 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. Specifically, "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 [Respondent has] registered or [Respondent has] acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to [a] Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of [Respondent's] documented out-of-pocket costs directly related to the domain name; or
- (ii) [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 [Respondent has] engaged in a pattern of such conduct; or
- (iii) [Respondent has] registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, [Respondent has] intentionally attempted to attract, for commercial gain, Internet users to [Respondent's] website or other online location, by creating a likelihood of confusion with [a] Complainant's mark as to the source, sponsorship, affiliation, or endorsement of [Respondent's] website or location or of a product or service on [Respondent's] website or location." Policy, paragraph 4(b).

“Given that the scenarios described in UDRP paragraph 4(b) are non-exclusive and merely illustrative, even where a complainant may not be able to demonstrate the literal or verbatim application of one of the above scenarios, evidence demonstrating that a respondent seeks to take unfair advantage of, abuse, or otherwise engage in behavior detrimental to Complainant’s trademark would also satisfy Complainant’s burden.” [WIPO Overview 3.0](#), section 3.1.

In the present case, the disputed domain name leads to GoDaddy default pay-per-click links. Further, the use in the disputed domain name of Complainants’ trademark, along with the words “closeout” and “properties”, suggests a domain that would lead to discounted homes and/or land associated with Complainants, and the disputed domain name likely was registered with this association in mind. These factors support a finding of bad faith. *Lennar Pacific Properties Management, LLC, Lennar Corporation v. Shi Lei*, WIPO Case No. [D2024-4440](#) (“The degree of similarity leads the Panel to find it unrealistic, on balance, that the similarity is accidental, coincidental, or innocent. Inescapably the Respondent has intentionally targeted the Complainant in the knowledge of the Complainant’s trademark and the Complainant’s website ‘www.lennartotalrewards.com’. According to evidence in the Complaint, the disputed domain name has resolved to a website with PPC link headings On the totality of the evidence and on the balance of probabilities, the Panel finds the Respondent to have registered and used the disputed domain name for commercial gain and with intent to cause confusion to Internet users with the Complainant’s trademark, of which it had knowledge, being registration and use of the disputed domain name in bad faith in the terms of paragraphs 4(b)(iv) and 4(a)(iii) of the Policy.”); [WIPO Overview 3.0](#), section 3.5 (“Particularly with respect to ‘automatically’ generated pay-per-click links, panels have held that a respondent cannot disclaim responsibility for content appearing on the website associated with its domain name (nor would such links ipso facto vest the respondent with rights or legitimate interests). Neither the fact that such links are generated by a third party such as a registrar or auction platform (or their affiliate), nor the fact that the respondent itself may not have directly profited, would by itself prevent a finding of bad faith.”).²

Accordingly, the Panel finds that Complainant have 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 – <lennarcloseoutproperties.com> – be transferred to Complainant LPPM.

/Bradley A. Slutsky/

Bradley A. Slutsky

Sole Panelist

Date: January 26, 2025

²Complainants also assert that this is a case of passive holding of a domain name where *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#) applies, and that “Respondent’s concealing of its identity or use of false contact information supports a finding that the Domain is being used in bad faith.” [WIPO Overview 3.0](#), section 3.3 refers to passive holding as “non-use” of a domain name, such as “a blank or ‘coming soon’ page”. Panels typically find use of a domain name for pay-per-click links to be bad faith under paragraph 4(b)(iv) of the Policy, rather than under the passive holding doctrine. See, e.g., *Scribd, Inc. v. Nanci Nette, Name Management Group*, WIPO Case No. [D2024-4613](#). Further, Complainants have not provided evidence as to whether Respondent provided false contact information or used an additional privacy or proxy service to conceal Respondent’s identity, see [WIPO Overview 3.0](#), section 3.6, or whether the information that initially appeared in the Whois search for the disputed domain name was not part of Respondent’s bad faith but rather the consequence of the registrar’s attempt to comply with the GDPR (with no intent by Respondent to avail itself of the same). See *Kite Pharma, Inc. v. Arturo Pereira, Interactive, LLC*, WIPO Case No. [D2021-2900](#), fn. 1. As such, Complainants presented insufficient evidence for the Panel to conclude whether Respondent used a privacy shield in bad faith.