

## **ADMINISTRATIVE PANEL DECISION**

**K-Mine Ltd v. Alagesh, Kmine Info Solutions Limited**  
**Case No. D2024-4540**

### **1. The Parties**

Complainant is K-Mine Ltd, United Kingdom (“UK”), represented by LAWA LEGAL LTD, UK.

Respondent is Alagesh, Kmine Info Solutions Limited, India, represented by Cylaw Solutions, India.

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

The disputed domain name <kmine.com> (the “Domain Name”) is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 5, 2024. On November 6, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On November 7, 2024, the Registrar transmitted by email to the Center its verification response confirming that Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 November 11, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 1, 2024. Respondent requested the extension of the Response due date, and the Center granted four calendar day extension for response under Paragraph 5(b) of the Rules. The new due date for Response was December 5, 2024. The Response was filed with the Center on December 4, 2024.

The Center appointed Robert A. Badgley as the sole panelist in this matter on December 10, 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.

#### 4. Factual Background

Complainant was formed under the laws of England and Wales on October 7, 2022. Complainant alleges:

“K-MINE has multiple clients all over the World and is well-known from Australia to Canada for our software for their mining fields. K-MINE was developed over 20 years ago and used as a name before the practical and factual registration with intellectual property authorities.”

Complainant makes reference to three trademarks in the Complaint.

First, Complainant held a registration in Ukraine for the word mark K-MINE, Reg. No. 199874, registered on June 10, 2015. According to the evidence annexed to the Complaint, that mark expired on October 21, 2023.

Second, Complainant holds an Australia trademark registration for the figurative mark K-MINE, Reg. No. 2411435, registered on July 4, 2023 in connection with, among other things, “computer software including end-to-end software solution in the field of mining industry...”; “sales promotion for others...”; and “computer modelling including relating to the mining industry...”

Third, Complainant holds an International registration for the figurative mark K-MINE, Reg. No. 1764702, registered on July 4, 2023 in connection with the same goods and services as are associated with designating countries including Australia.

There is no evidence in the record regarding the extent to which Complainant’s K-MINE mark is renowned. Also, there is no evidence of Complainant’s use of that mark back in 2013 or 2014.

The Domain Name was first registered on February 14, 2014. According to Respondent, it acquired the Domain Name on December 30, 2014.

As of November 5, 2024, Respondent’s website stated, among other things: “We help businesses of all sizes to increase visibility, drive more traffic and improve commercial success.” Under the header “ABOUT US”, the site stated:

“Kmine info solutions limited, IT solutions company registered and headed in UK. Kmine off shore development team equiped in India. Kmine expertise in design and development complex IT projects in various Industrial sector. Kmine equiped with a core team of strong techno minded people with decades of experience with creative ideas, kmine provides technology design, development, BI solutions and Infrastructure management.”

Respondent’s website has a link to Respondent’s Facebook page, which page the Panel reviewed. At the Facebook page, there are posts going back to 2016 which include descriptions of Respondent’s business to include “IT Consulting,” “Infrastructure Management,” and “Secure Cloud.”

Respondent had also registered the domain name <kmine.co> on November 30, 2013.

According to Respondent:

“The Respondent Company’s director previously incorporated a Company in India, vide CIN number U72900TN2013PTC091875 [...], on June 27, 2013, as Kmine Info Solutions Private Limited. However, the Respondent Company shifted its base to the UK in March 2016. Therefore a new company by the same name was incorporated in the jurisdiction of the UK, vide Company Number: 10091036 - Kmine Info Solutions Limited.” [...]

“The Respondent has been engaged in the rendering of information technology services since 2013 under the name ‘kmine’, which was derived from the common phrase ‘Knowledge Mining’, also known as Data Mining. [...] The Respondent Company first registered the Domain Name [<kmine.co>] in November 2013 and later in December 2014, acquired the disputed Domain name [<kmine.com>] to exactly match its Company name KMINE INFO SOLUTIONS. The promoters of the Respondent Company did a trademark search under class 42 in India before selecting the Company Name, which was followed by the Domain Name registration.”

It appears from the record that Complainant, via a broker, approached Respondent and offered to purchase the Domain Name for USD 400, which offer Respondent declined.

## **5. Parties’ Contentions**

### **A. Complainant**

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name. With respect to the second and third elements under the Policy, Complainant’s entire position is set forth below:

[Element 2:] “The Respondent does not have the right to use our registered trademark as our trademark was registered a long time ago, the Respondent does not have the registered trademark and is easily able to change his domain name and his approach to business.”

[Element 3:] “The domain kmine.com uses a K-MINE environment and SEO for advertising the services and creates a fake understanding for customers who are looking for our software services.”

### **B. Respondent**

Respondent disputes Complainant’s contentions under the second and third elements of the Policy. Among other things, Respondent asserts:

“At no time did the Respondent ever use the Domain Name to interfere with the Complainant.”

“At no time did the Respondent ever use the Domain Name in any way which prejudiced or harmed the Complainant.”

“[N]o sale of Domain Name was attempted by the Respondent, i.e. at no time did the Respondent solicit the sale from the Complainant; it was the other way round – Complainant tried to purchase Domain Name anonymously via a representative.”

“In this case, there is simply no evidence whatsoever to support the complainant’s limited contention that the Domain Name was registered/acquired because of the non-existent complainant in 2014. The Complainant’s failure to allege ‘bad faith registration’ is unsurprising since it is a chronological impossibility given the fact that the Domain Name was registered long before the Complainant obtained trademark rights.” Respondent also alleges that Complainant has engaged in Reverse Domain Name Hijacking.

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to the Domain Name:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;

- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the 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 the complainant's 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.

The Panel finds that Complainant has rights in the mark K-MINE through registration demonstrated in the record. The Panel also finds that the Domain Name is confusingly similar to the K-MINE mark. Notwithstanding the omission of the hyphen in the Domain Name, Complainant's mark is recognizable within the Domain Name.

Complainant has established Policy paragraph 4(a)(i).

#### **B. Rights or Legitimate Interests**

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name 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 Domain Name, 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 Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel concludes, on the record presented here, that Respondent has a legitimate interest in the Domain Name. There is simply no basis in the record for the Panel to conclude that Respondent was aware of Complainant or its trademark K-MINE when it acquired the Domain Name in 2014. There is evidence in the record that Respondent has been using its business name "Kmine Info Solutions" since at least 2016 in connection with its business. Respondent's explanation for choosing "Kmine" as part of its business name is plausible, and not contradicted or undermined by anything in the record. As such, the Panel concludes that Respondent is vested with a legitimate interest in the Domain Name pursuant to the above-quoted Policy paragraph 4(c)(1).

The Complaint fails.

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

Paragraph 4(b) of the Policy provides that the following circumstances, "in particular but without limitation," are evidence of the registration and use of the Domain Name in "bad faith":

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or
- (ii) that 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) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) that 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 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.

The Panel concludes, on the record provided here, that Complainant has failed to prove bad faith registration and use under the Policy. The Panel incorporates its discussion above under the "Legitimate Interests" element. The Panel reiterates that there is no basis in the record to support a finding that Respondent had Complainant and its K-MINE mark in mind when registering the Domain Name in 2014.

#### **D. Reverse Domain Name Hijacking**

Paragraph 15(e) of the Rules provides that, if after considering the submissions, the Panel finds that the Complaint was brought in bad faith, for example in an attempt at Reverse Domain Name Hijacking ("RDNH") or to harass the domain-name holder, the Panel shall declare in its decision that the Complaint was brought in bad faith and constitutes an abuse of the administrative proceeding. The mere lack of success of the complaint is not, on its own, sufficient to constitute RDNH. [WIPO Overview 3.0](#), section 4.16.

There are some serious holes in Complainant's case, such that one might be tempted to conclude that the Complaint was foredoomed and hence should never have been brought. There are certainly plenty of instances where a UDRP panel finds RDNH precisely because the complainant knew or should have known that it had no chance of success and filed and pursued a case anyhow. In many instances, the fact that a complainant was represented by counsel reinforces the argument for an RDNH finding.

Ultimately, however, the Panel declines to find RDNH against Complainant here, largely because it does not appear that Complainant knew or suspected that its case was foredoomed. Rather, the Complaint here failed primarily because there was insufficient effort made to prove up an essential element, namely, that Respondent targeted Complainant's mark when registering the Domain Name. Complainant asserts that its mark has been in use for 20 years, but the evidence of use presented is a registration certificate showing a November 3, 2021 priority date, and a 2015 Ukrainian registration for a mark that expired in 2023. It should have been easy for Complainant to provide evidence of its use of the K-MINE mark prior to the date of the Domain Name's registration in 2014, but such evidence was lacking in this record.

Further, as noted above, Complainant asserts that its mark is "well-known," but Complainant provides no evidence to support that claim.

Put another way, it appears that Complainant might have made out a stronger case if it had provided a more robust record, even if the outcome of this case had remained the same. That bespeaks a poor presentation, rather than an abuse of this proceeding or an attempt to harass Respondent.

Another minor consideration weighing against an RDNH finding is the fact that Respondent's website is fairly rudimentary and contains some grammatical and spelling errors. While such shortcomings do not necessarily undermine one's claim to be operating a legitimate business, they might lead one in Complainant's position to suspect that Respondent's website was merely pretextual, rather than genuine.

In sum, although it is a close call, the Panel declines to make an RDNH finding here, largely because Complainant, represented by counsel, presented a shoddy case that probably could have been much stronger (even if the result were the same).

## **7. Decision**

For the foregoing reasons, the Complaint is denied.

*/Robert A. Badgley/*

**Robert A. Badgley**

Sole Panelist

Date: December 24, 2024