

## **ADMINISTRATIVE PANEL DECISION**

Colorado Kitchen Designs, LLC v. Gregory Nikov, IDS Group  
Case No. D2025-0813

### **1. The Parties**

Complainant is Colorado Kitchen Designs, LLC, United States of America ("United States"), represented by Allen Vellone Wolf Helfrich & Factor, P.C., United States.

Respondent is Gregory Nikov, IDS Group, United States, self-represented.

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

The disputed domain name <coloradokitchendesign.com> (hereinafter "Disputed Domain Name") 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 February 27, 2025. On February 27, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On February 27, 2025, the Registrar transmitted by email to the Center its verification response confirming that Respondent is listed as the registrant and but disclosing contact information for the disputed domain name which differed from the provided in the Complaint. The Center sent an email communication to Complainant on March 3, 2025, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on March 5, 2025.

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 March 7, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 27, 2025. The Response was filed with the Center on March 20, 2025.

On March 21 and 31, 2025, Complainant requested leave to file Reply.

The Center appointed Lawrence K. Nodine as the sole panelist in this matter on March 28, 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.

#### **Procedural Ruling.**

On March 21 and 31, 2025, Complainant requested leave to file a Reply arguing that it could not have anticipated Respondent's contention that Complainant had acted unethically by "poaching" Respondent's employees. The Panel rejects this justification because it addresses an issue that is irrelevant to these proceedings. Complainant also requested to address Respondent's claim that Complainant has "historically branded itself as "CKD" and not as "Colorado Kitchen Designs".

The Panel has considered Complainant's Reply.

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

Based in Denver Colorado, Complainant has used COLORADO KITCHEN DESIGNS (hereinafter the "Mark") for 25 years as a tradename and service mark for its business, which is the design and construction of kitchens.

Complainant operates the domain name <coloradokitchendesigns.com>, registered in 2000, which resolves to a website promoting Complainant's services. Since 2014, Complainant also operates the domain name <ckddenver.com>, which auto-forwards to <coloradokitchendesigns.com>.

Complainant registered COLORADO KITCHEN DESIGN as a trade name with the Colorado Secretary of State in 2011.

Complainant claims that for the past ten years, its annual sales in connection with the Mark have exceeded USD 1,000,000.

On its "www.coloradokitchendesigns.com" website, Complainant states: "Our company was founded in 1998. Since then, we have received over 30 industry awards and been published in at least 15 magazines and several books." Complainant offers evidence supporting this assertion in the annexes submitted with the Complaint, including examples of unsolicited media attention and citations to numerous awards such as several "Colorado Awards for Remodeling Excellence" ("C.A.R.E.") Awards.

Complainant has used the Mark when advertising its services through the "www.houzz.com" website, which maintains a directory of home improvement professionals often used by professionals and homeowners seeking services. According to its Wikipedia page, in 2021 Houzz had over 65 million users. In 2021, 2022 and 2023, Complainant received a Houzz "Best of Service Award"

Complainant uses the Mark when it promotes its services on platforms including Facebook, Instagram, and LinkedIn.

The Disputed Domain Name was registered July 12, 2023. On the associated website ("Disputed Website"), Respondent states "Welcome to Colorado Kitchen Design: Your Gateway to Modern Luxury. Elevate Your Kitchen Experience with Colorado Kitchen Design." The Disputed Website offers services to "our customers in Colorado...". Respondent emphasizes that "One of the unique aspects of our design process is the use of renderings. Renderings are digital representations of your kitchen design, created using advanced design software. These renderings allow you to see your new kitchen before any construction or renovation begins." The Disputed Website displays several samples of renderings of kitchen and bath designs.

On December 12, 2024, Complainant's counsel sent a cease-and-desist letter to Respondent, and subsequently had a telephone conversation with Respondent. Complainant says that Respondent asked for money to resolve the dispute, but Complainant did not disclose the amount.

Respondent disabled the Disputed Website after talking to Complainant's counsel.

## **5. Parties' Contentions**

### **A. Complainant**

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Disputed Domain Name.

Notably, Complainant contends "Respondent intentionally copied Complainant's and engaged in bait-and-switch tactics, misrepresenting itself as Colorado Kitchen Designs to lure consumers to its Baczewski Luxury business."

Complainant submitted the Declaration of its President attesting that he contacted the number that was listed on the Disputed Website, and talked to a representative of Respondent. Complainant's President asked to speak to "Jonathan or Keith," which are names of two people associated with Complainant. Respondent agent responded, "I am not sure who that is".

Complainant also contends that the Disputed Website is a copy of the "look and feel of Complainant's webpage."

### **B. Respondent**

Respondent contends that Complainant has not satisfied all three of the elements required under the Policy for a transfer of the Disputed Domain Name.

Respondent contends that its services are not confusingly similar because he serves a distinctly different market. Complainant "primarily specializes in traditional kitchen..." designs, while Respondent "specializes in modern and ultra-modern European-kitchen designs with high-end international brands..."

Respondent also contends that Complainant's primary trademark is CKD, rather than COLORADO KITCHEN DESIGN.

Respondent contends that Complainant's Mark is comprised of common, descriptive words; that Complainant does not have exclusive "rights over kitchen design services in Colorado"; that the Mark consists of generic industry terms.

Respondent denies that he registered the Disputed Domain Name in bad faith, noting that the business phone number and contact details are different.

## **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 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.

Complainant has established unregistered trademark or service mark rights for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.3.<sup>1</sup> The Panel notes that Complainant has offered evidence of acquired distinctiveness, including examples of unsolicited media articles and many industry awards that use the Mark to refer to Complainant as a specific source, an identified single source of services. The media articles do not use “Colorado Kitchen Design” to refer to a category or type of service. The Panel therefore does not consider that “Colorado Kitchen Designs” is generic. Instead, the Mark is descriptive and capable of serving as a service mark given evidence of acquired distinctiveness, which Complainant has provided and Respondent has not rebutted. The Panel also notes the longstanding and continuous use of the Complainant’s corresponding domain name.

Although the Mark, unlike the Disputed Domain Name, ends with an “s”, the Panel finds the Mark is recognizable 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.

The Panel finds the first element of the Policy has been established.

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

Because the Panel finds that Complainant has not satisfied the third element of the Policy, it does not address the second element.

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

The Panel finds that Complainant has not proved by a preponderance of the evidence that Respondent registered the Disputed Domain Name in bad faith.

“Even where a panel finds that a complainant has UDRP standing based on unregistered or common law trademark rights, the strength of the complainant’s mark may be considered relevant in evaluating the second and third elements.” [WIPO Overview 3.0](#), section 1.3.

Although the Panel finds that Complainant has offered evidence sufficient to support a finding of common law rights and satisfy the first element of the Policy, Complainant has not submitted sufficient evidence to persuade the Panel that it is more likely than not that Respondent was aware of and targeted Complainant’s rights when he registered the Disputed Domain Name. Complainant has not secured any trademark registrations that would have secured exclusive national or state rights to its Mark. Although Complainant evidence is sufficient to support a claim to common law rights, the evidence does not persuade the Panel that Complainant’s Mark was well known. The Panel is not persuaded that Respondent was more likely than not aware of Complainant or, more importantly, aware that Complainant’s use gave rise to common law rights.

The Panel is not persuaded that Respondent copied the look and feel of Complainant’s website. The Panel has compared the Parties’ websites as reflected in the annexes that Complainant submitted. The Panel does not find similarities that would support a finding that Respondent was attempting to mimic Complainant’s website.

The Panel is not persuaded that Respondent attempted to impersonate Complainant in the telephone call recounted in the declaration submitted by Complainant Vice-President of Sales. Although Complainant’s

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<sup>1</sup>Panel notes that Complainant submitted in these proceedings a “Statement of Trade Name of An Individual” filed under Colorado Revised Statutes 7-71-103. Complainant has not provided any authority that such a registration confers any exclusive rights. *Compare*, according to the Colorado Secretary of State: “Trade names are not distinguishable or unique, so more than one person can file the same trade name.” Available at “<https://www.sos.state.co.us/pubs/business/FAQs/tradeNames.html>”. Accordingly, given uncertainty about whether Complainant’s registration confers exclusive rights, the Panel does not rely on Complainant’s “Statement of Trade Name of An Individual” registration as a basis for finding that Complainant has rights under the first element of the Policy.

Vice-President said several times that he had an appointment with “Jonathan or Keith” which are presumably (it is not clear from the declaration) names of two of Complainant’s employees, Respondent’s agent merely said that “I am not sure who that is”. It appears to the Panel that Complainant meant to tempt Respondent’s agent into falsely claiming to be Complainant where the caller had an appointment with “Keith or Jonathan”. Respondent’s agent made no such false statements.

Furthermore, Respondent asserts that he believed that “Colorado Kitchen Designs” consisted of generic industry terms. Although the Panel has not found that Complainant’s mark is generic when considering the first element of the Policy, it is nonetheless plausible that when Respondent registered the Disputed Domain Name, Respondent believed – arguably mistakenly; as noted above the mark is descriptive but not generic – that the “Colorado Kitchen Design” was a generic phrase. *Carrefour SA v. Salam Nazari*, WIPO Case No. [D2022-4457](#). Complainant has not proved by a preponderance of the evidence that Respondent acted in bad faith when he registered the Disputed Domain Name. It is at least equally plausible that Respondent adopted the phrase because he meant to exploit its descriptive meaning without any intention to target Complainant’s rights.

It may be that a court would be persuaded that Respondent’s use was trademark infringement, which would follow a more detailed assessment than is possible in the present. But Complainant’s evidence is not sufficient to satisfy the Policy.

The Panel finds the third element of the Policy has not been established.

## **7. Decision**

For the foregoing reasons, the Complaint is denied.

*/Lawrence K. Nodine/*

**Lawrence K. Nodine**

Sole Panelist

Date: April 11, 2025