

ADMINISTRATIVE PANEL DECISION

Kimley-Horn and Associates, Inc. v. Name Redacted
Case No. D2025-1136

1. The Parties

The Complainant is Kimley-Horn and Associates, Inc., United States of America (“United States”), represented by Nelson Mullins Riley & Scarborough, L.L.P., United States.

The Respondent is Name Redacted¹.

2. The Domain Name and Registrar

The disputed domain name <kimley-horninc.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 19, 2025. On March 20, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 20, 2025, 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, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 21, 2025, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on March 26, 2025.

The Center verified that the Complaint together with the amended 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”).

¹The Respondent appears to have used the name of a current employee of the Complainant when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted the Respondent’s name from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST 12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on March 31, 2025. In accordance with the Rules, paragraph 5, the due date for Response was April 20, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 6, 2025.

The Center appointed Dennis A. Foster as the sole panelist in this matter on May 16, 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

A United States corporation, the Complainant provides planning, engineering and design consulting services. For many years, the Complainant has offered these services under its service mark KIMLEY-HORN which is registered with the United States Patent and Trademark Office ("USPTO") (e.g., Trademark Registration No. 2,788,474, registered on December 2, 2003, international classes 036 for financial analysis and consultation services and 042 for engineering consultation and design; and Trademark Registration No. 7,036,864, registered on April 25, 2023, international classes 035 for business consulting services, 037 for consulting services in the field of construction of environmentally conscious buildings, 039 for transportation consulting services for municipalities and other government entities, 042 for consulting in the field of transportation planning, and 045 for advice and consultancy on environmental regulatory matters).

The disputed domain name, <kimley-horninc.com>, is owned by the Respondent, and was registered on March 3, 2025. Both at the time of filing of the Complaint and presently the disputed domain name did not host a functioning website.

5. Parties' Contentions

A. Complainant

Since its founding in 1967, the Complainant has used its KIMLEY-HORN service mark, composed of the surnames of two of the company founders, to market and promote its services. Given the goodwill and reputation of that mark, consumers recognize that it belongs exclusively to the Complainant.

The disputed domain name, <kimley-horninc.com>, includes fully the Complainant's service mark, merely adding the abbreviation for "incorporated" - "inc". Therefore, the disputed domain name is clearly confusingly similar to the Complainant's mark, which was registered with the USPTO many years prior to the Respondent's registration of the disputed domain name.

There is no evidence that the Respondent has rights or legitimate interests in the disputed domain name. There has been no license or authorization from the Complainant for use of the Complainant's service mark by the Respondent. Moreover, the Respondent has not been commonly known as the disputed domain name. The Respondent's passive holding of the disputed domain name fails to constitute a "bona fide offering of goods or services" per the Policy.

Given the distinctiveness and long use of the Complainant's mark, the disputed domain name was clearly registered in bad faith. Furthermore, non-use of the disputed domain name in connection with a blank website does not preclude a finding that the disputed domain name is being used in bad faith under the Policy. Also, the Respondent's failure to respond to the Complainant's cease-and-desist email notice is further evidence of bad faith registration and use of the disputed domain name by the Respondent. Finally, the Respondent's bad faith is certainly confirmed by its fraudulent use of the name of one of the Complainant's employees as the registrant of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

Pursuant to Policy paragraph 4(a)(i) - (iii), the Panel may decide in favor of the Complainant and grant a transfer of the disputed domain name, <kimley-horninc.com>, if the Complainant can demonstrate that:

- The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- The Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- The disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

Given the evidence presented, the Panel concludes that the Complainant has registered its KIMLEY-HORN service mark with the USPTO and therefore meets the requirements outlined in the Policy for establishing rights in that mark. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.2.1; and *LO 337 IP Holding, LLC v. John Williams, J Entertainment ATL / John Williams, J*, WIPO Case No. [D2019-2339](#) ("The Panel concludes that Complainant has rights in the mark WORLD STAR HIP HOP through registration with the USPTO.").

The Panel discerns that the Complainant's KIMLEY-HORN mark is contained fully within the disputed domain name, <kimley-horninc.com>. The only additions are the "incorporated" abbreviation, "inc", and the ".com" generic Top-Level Domain ("gTLD"). The Panel concludes that these two minor additions are not sufficient to deny confusing similarity between the Complainant's mark and the disputed domain name, especially since the Complainant, a corporation, includes "inc" within its name. See *Open Text Corporation v. darren myers, opentextinc*, WIPO Case No. [D2025-1069](#) (finding <opentextinc.com> to be confusingly similar to the OPENTEXT mark).

As a result, the Panel finds that the Complainant has established the first element of the Policy.

B. Rights or Legitimate Interests

It is well established under the Policy that a complainant need sustain only a prima facie case that a respondent has no rights or legitimate interests in a disputed domain name before that respondent must come forward with sufficient acceptable evidence to the contrary. See [WIPO Overview 3.0](#), section 2.1; and *OSRAM GmbH. v. Mohammed Rafi/Domain Admin, Privacy Protection Service INC d/b/a PrivacyProtect.org*, WIPO Case No. [D2015-1149](#) ("...once the complainant makes a prima facie showing under paragraph 4(a)(ii) of the Policy, paragraph 4(c) shifts the burden of production to the respondent to come forward with evidence of rights or legitimate interests in a disputed domain name."); and *Wal-Mart Stores, Inc. v. WalMart Careers, Inc.*, WIPO Case No. [D2012-0285](#).

The Panel has determined that the disputed domain name is confusingly similar to the Complainant's registered service mark, and the Complainant asserts directly that it has not granted the Respondent a license or other authority to use that mark for a domain name or any other purpose. Consequently, the Panel finds that the Complainant has met the pertinent requirements necessary to sustain a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name.

Although the Panel finds that the Respondent is obligated to rebut the Complainant's prima facie case, the Respondent has failed to file a Response in this case. Instead, the Panel will investigate the overall record as to whether there is sufficient evidence to plausibly rebut that prima facie case. In rendering its judgement, the Panel will accept the validity of all reasonable contentions found within the Complaint. See *OSRAM*

GmbH. v. Mohammed Rafi/Domain Admin, Privacy Protection Service INC d/b/a PrivacyProtect.org, supra (“The Respondent has not submitted a response to the Complaint, in the absence of which the Panel may accept all reasonable inferences and allegations in the Complaint as true”).

In the Complaint, the Panel finds credible evidence that the disputed domain name is not linked to a functioning commercial website. Such passive holding of the disputed domain name by the Respondent does not, in the opinion of the Panel, constitute a “bona fide offering of goods or services” pursuant to Policy paragraph 4(c)(i). Moreover, the Panel can detect no evidence within the Complaint to suggest that the Respondent has ever been known as the disputed domain name in compliance with Policy paragraph 4(c)(ii). Finally, the passive holding of the disputed domain name as described above also fails, in the estimation of the Panel, to create a “noncommercial or fair use” thereof per Policy paragraph 4(c)(iii). Therefore, as none of the criteria outlined in paragraph 4(c) of the Policy that might provide an adequate rebuttal to the Complainant’s prima facie case is available on behalf of the Respondent, the Panel finds that such prima facie case must prevail.

As a result, the Panel finds that the Complainant has established the second element of the Policy.

C. Registered and Used in Bad Faith

Policy paragraph 4(b) provides four examples of situations that would give rise to findings of bad faith registration and use of a disputed domain name, but failure to fall within those parameters does not prevent a Policy panel from declaring bad faith registration and use based on other appropriate rationales. See *Michael Patrick Lynch v. Steve Nicol (Stephen Joel Nicol)*, WIPO Case No. [D2015-0933](#) (“The examples of bad faith registration and use set forth in paragraph 4(b) of the Policy are not meant to be exhaustive of all circumstances from which such bad faith may be found.”); and *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#).

In the present case, it is evident to the Panel that, upon registration of the disputed domain name, the Respondent should have been aware of the Complainant’s KIMLEY-HORN service mark, given its inherently distinctive nature and the time length of its open and successful use. Consequently, the Panel finds that the disputed domain name was registered by the Respondent in bad faith. See [WIPO Overview 3.0](#), section 3.2.2; and *Nutricia International BV v. Eric Starling*, WIPO Case No. [D2015-0773](#) (“There is bad faith pursuant to the Policy when Respondent ‘knew or should have known’ of Complainant’s trademark rights at the time he registered the disputed domain name.”).

With respect to bad faith use of the disputed domain name, the Panel notes that the disputed domain name has not been put to any specific use. In this regard, the Panel finds [WIPO Overview 3.0](#), section 3.3 to be particularly relevant:

“From the inception of the UDRP, panelists have found that the non-use of a domain name (including a blank or “coming soon” page) would not prevent a finding of bad faith under the doctrine of passive holding.

While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant’s mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put”.

The Panel’s examination of the record in this case causes it to believe that the first three circumstances cited above apply directly to the disputed domain name. The Complainant’s KIMLEY-HORN mark is very distinct; the Respondent failed to file a Response; and the Respondent is concealing its identity by using a false contact name and address. Moreover, it would be difficult for the Panel to conceive of any good faith use to which the disputed domain name could be put. Therefore, the Panel finds that the disputed domain name is being used in bad faith.

As a result, 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, <kimley-horninc.com>, be transferred to the Complainant.

/Dennis A. Foster/

Dennis A. Foster

Sole Panelist

Date: May 30, 2025