

## **ADMINISTRATIVE PANEL DECISION**

Kimley-Horn and Associates, Inc. v. Tred Asuit  
Case No. D2025-3155

### **1. The Parties**

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

The Respondent is Tred Asuit, United Kingdom.

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

The disputed domain name <kimley-horns.org> (the “Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 7, 2025. On August 7, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 7, 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 (Not available) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 8, 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 August 11, 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”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on August 12, 2025. In accordance with the Rules, paragraph 5, the due date for Response was September 1, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 3, 2025.

The Center appointed José Pio Tamassia Santos as the sole panelist in this matter on September 8, 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 Complainant is one of the premier planning, engineering, and design consulting firms in the United States, offering full services in a wide range of disciplines, since 1967.

The Complainant applied for and owns many federal trademark registrations for the KIMLEY-HORN and KIMLEY HORN trademarks in the United States including:

- United States trademark Reg. No. 2,788,474 for KIMLEY-HORN (word) registered on December 2, 2003, and
- United States trademark Reg No. 4,685,771 for KIMLEY HORN (figurative) registered on February 10, 2015

(hereinafter referred to as the “KIMLEY-HORN Mark”).

The Domain Name was registered on May 4, 2025. The Respondent used the Domain Name in connection with an attempted phishing/fraud email attack directed at one of the Complainant’s clients wherein the Respondent impersonated a previous employee of the Complainant that is now retired posing as a current Purchasing Manager and inquired about purchasing equipment from a vendor. The Complainant further submits that it has received multiple reports from additional different vendors that they have also been contacted by Respondent in a similar manner.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The Complainant contends that the Disputed domain name is confusingly similar to its KIMLEY-HORN Mark, that the Respondent has no rights or legitimate interests in respect of the Domain Name as the Complainant has not authorized the Respondent to use the KIMLEY-HORN Mark and the Respondent is not a licensee of the KIMLEY-HORN Mark, and that the Respondent registered and is using the Domain Name in bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

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

##### **B. Respondent**

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

#### **6. Discussion and Findings**

For this Complaint to succeed in relation to the Domain Name, the Complainant must prove that:

- (i) the 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 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 Complainant has 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 Complainant obtained United States trademark registrations for the KIMLEY-HORN Mark, specifically, a registration for the KIMLEY-HORN (word) trademark of December 2, 2003, and the KIMLEY HORN (figurative) trademark of February 10, 2015.

As such, where the complainant holds a nationally or regionally registered trademark or service mark, this prima facie satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case. See *Ralph Maltby Enters., Inc. v. Women With Balls (W.W.B. Accessories)*, WIPO Case No. [D2004-0917](#).

Having established the Complainant's rights in the KIMLEY-HORN Mark, the critical inquiry under the first element of the Policy is whether the Domain Name, when directly compared to the KIMLEY-HORN Mark, is identical or confusingly similar thereto, see *Wal-Mart Stores, Inc. v. Richard MacLeod d/b/a For Sale*, WIPO Case No. [D2000-0662](#).

In cases where a domain name incorporates the entirety of a trademark the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing. [WIPO Overview 3.0](#), section 1.7. Furthermore, a domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element. See [WIPO Overview 3.0](#), section 1.9.

In this case, the Domain Name is confusingly similar to the KIMLEY-HORN Mark as the Domain Name is comprised of the trademark in its entirety with the only addition of the letter "s" at the end.

Accordingly, the Complainant has established that the Domain Name is confusingly similar to the Complainant's registered KIMLEY-HORN Mark in which the Complainant has valid trademark rights, and therefore the condition of paragraph 4(a)(i) is fulfilled.

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

The Respondent has no prior rights or legitimate interests in the Domain Name. The Respondent is not commonly known by the name “Kimley Horn” or “Kimley-Horns”, or any variation thereof. Accordingly, absent a showing by the Respondent otherwise, it is reasonable to infer based inter alia on the information contained in the Whois record that the Respondent has never been commonly known by the Domain Name, and thus, lacks rights and legitimate interests in the Domain Name.

Moreover, the Complainant has not authorized the Respondent to use the KIMLEY-HORN Mark. The Respondent is not a licensee of the Complainant. Such assertions constitute a prima facie showing under paragraph 4(a)(ii) of the Policy thereby shifting the burden of proof to the Respondent to show that it has rights or legitimate interests in the Domain Name under paragraph 4(c) of the Policy. See *Spencer Douglass, MGA v. Bail Yes Bonding*, WIPO Case No. [D2004-0261](#) (absence of authorization of use of trademark constitutes prima facie showing under paragraph 4(a)(ii) of the Policy).

In addition to the above, the Complainant further submits that the Respondent’s lack of any rights or legitimate interests in the Domain Name is unquestionably established by the fact that the Respondent has not made a bona fide use of the Domain Name nor engaged in any demonstrable preparations to use the Domain Name in connection with a bona fide offering of goods or services as evidenced by the Respondent’s use of the Domain Name in furtherance of an illegal/fraudulent activity. Panels have categorically held that the use of a domain name for illegal activity, such as phishing or impersonation/passing off, or other types of fraud can never confer rights or legitimate interests on a respondent. See [WIPO Overview 3.0](#), section 2.13.1.

Accordingly, the Respondent’s use of the Domain Name to impersonate one of the Complainant’s purchase managers in furtherance of the Respondent’s fraudulent activities will never provide the Respondent with any rights or legitimate interests in the Domain Name for purposes of the Policy. Nor can such use of the Domain Name ever qualify as a legitimate noncommercial or fair use of the Domain Name.

Accordingly, the Complainant has established that the Respondent does not have any rights or legitimate interests in the Domain Name.

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.

The panel may consider the totality of the circumstances when conducting the analysis of bad faith under paragraph 4(a)(iii) of the Policy and may make a finding of bad faith that is not limited to the enumerated factors in paragraph 4(b) of the Policy. See *Do The Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#) (“The examples [of bad faith in Paragraph 4(b)] are intended to be illustrative, rather than exclusive”).

Prior UDRP panel decisions have consistently recognized that registration of domain names which are used in furtherance of fraudulent/illegal activities such as phishing are evidence of bad faith registration and use of the domain name. See [WIPO Overview 3.0](#), section 3.4 and *Kimley-Horn and Associates, Inc. v. Rachel Zona*, WIPO Case No. [D2023-1465](#). As established above, the Respondent registered and used the Domain Name in fraudulent/illegal activities, namely, impersonating the Complainant in an attempt to purchase equipment from a vendor and very likely the Respondent was going to try and do so on credit with the vendor based on the goodwill the Complainant has established and then the Respondent would never pay their debt. As such, there is no question regarding the Respondent’s bad faith registration and use of the Domain Name.

Accordingly, based on the facts above, the Respondent's conduct undoubtedly constitutes bad-faith registration and use of the Domain Name under the Policy and the Complainant has satisfied the conditions of paragraph 4(a)(iii) of the Policy.

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 Domain Name <kimley-horns.org> be transferred to the Complainant.

*/José Pío Tamassia Santos/*

**José Pío Tamassia Santos**

Sole Panelist

Date: September 18, 2025