

## **ADMINISTRATIVE PANEL DECISION**

Kimley-Horn and Associates, Inc. v. Jon Baxter, kimlery-horn llc  
Case No. D2025-5346

### **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 Jon Baxter, kimlery-horn llc, United States.

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

The disputed domain name <kimlery-horn.com> is registered with Tucows Domains Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 19, 2025. On December 22, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 22, 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 (Contact Privacy Inc. Customer 0176437340) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 23, 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 December 29, 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 January 5, 2026. In accordance with the Rules, paragraph 5, the due date for Response was January 25, 2026. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 1, 2026.

The Center appointed Nels T. Lippert as the sole panelist in this matter on February 4, 2026. 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 a North Carolina, United States corporation. The Complainant is a planning, engineering, and design consulting firm that offers full services in a wide range of disciplines. The Complainant has been using the KIMLEY-HORN trademark since it was founded in 1967. The Complainant has registered the domain name <kimley-horn.com> which resolves to a website that the Complainant uses to host the Complainant's company-related email addresses and information.

The Complainant is the owner of United States trademark registrations of the KIMLEY-HORN trademark either in the standard character form or a stylized form. Representative examples of registrations of the KIMLEY-HORN mark include:

- United States Registration No. 2,788,474 registered on December 2, 2003;
- United States Registration No. 7,036,864 registered on April 25, 2023; and
- United States Registration No. 4,685,771 registered on February 10, 2015.

The disputed domain name was registered on October 16, 2025. Currently, the disputed domain name resolves to a parking page. The Complainant has provided evidence that at the time of filing the Complaint, the disputed domain name had associated MX email servers and were used to intercept emails and pose as employees of the Complainant.

The Respondent appears to be an individual who resides in the United States who claims to be associated with an organization named "kimlery-horn llc".

#### **5. Parties' Contentions**

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

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to the KIMLEY-HORN trademark because it consists of an obvious and intentional misspelling of the KIMLEY-HORN trademark. Specifically, the Complainant asserts that the Respondent has inserted the letter "r" after the letter "e" in KIMLEY and the letters "e" and "r" are adjacent to each other on a keyboard which is an intentional misspelling. The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain name because it is not commonly known by the disputed domain name and has not been authorized or licensed by the Complainant to use the KIMLEY-HORN mark. The Complainant notes that the disputed domain name registration lists the Respondent as associated with "kimlery-horn llc" but asserts that such registration data is fabricated as evidenced by the fact that the listed address is that of a law firm in Mississippi, United States. The Complainant argues that the Respondent has not made a bona fide use of the disputed domain name because the Respondent registered the disputed domain name solely for the purpose of impersonating the Complainant in furtherance of a business email compromise (BEC) attack directed at one of the Complainant's clients.

The Complainant additionally asserts that the disputed domain name was registered and is being used in bad faith because the Respondent has no rights or legitimate interests in the disputed domain name and has used the disputed domain name for illegal attempted BEC attack. The Complainant argues that bad faith is

also evidenced by the fact that the Respondent employs a privacy or proxy service to conceal its identity and has also provided false contact information because the address provided in the registration data for the disputed domain name corresponds to a law firm and not to “kimlery-horn llc” listed in the registration.

## **B. Respondent**

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

## **6. Discussion and Findings**

As noted above, the Respondent did not respond to the Complainant’s allegations. Under the Rules, paragraphs 5(f) and 14(a), the effect of a default by the Respondent is that, in the absence of exceptional circumstances, the Panel shall proceed to a decision on the basis of the Complaint. The Panel does not find any exceptional circumstance in this case.

Paragraph 4(a) of the Policy provides that in order to divest a respondent of a domain name, a complainant must demonstrate each of the following:

- (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.

Under paragraph 15(a) of the Rules, “[a] Panel 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”.

In this case, the Panel finds that as a result of the Respondent’s failure to submit a Response, the Respondent has failed to rebut any of the reasonable factual assertions that are made and supported by evidence submitted by the Complainant. By failing to respond, the Respondent has failed to offer the Panel any of the types of evidence set forth in paragraph 4(c) of the Policy or otherwise, from which the Panel might conclude that the Respondent has any rights or legitimate interests in the disputed domain name.

Moreover, the Respondent failed to provide any information or reasoning that might rebut the Complainant’s arguments that the Respondent has acted 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 (“[WIPO Overview 3.1](#)”), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.1](#), section 1.2.1.

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 3.1](#), section 1.7. A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered to be confusingly similar to the relevant mark for purposes of the first element. [WIPO Overview 3.1](#), section 1.9.

Furthermore, it is well established that the applicable Top-Level Domain in a domain name is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. [WIPO Overview 3.1](#), section 1.11.1.

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 3.1](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s prima facie showing and has not 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.

Panels have held that the use of a domain name for illegal activity here, claimed as applicable to this case: phishing, passing off, or other types of fraud can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.1](#), section 2.13.1.

The Respondent’s use of name “kimlery-horn llc” when registering the disputed domain name does not confer any rights or legitimate interests on the Respondent under the circumstances of this case.

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.

In the present case, the Panel notes that the Respondent has not refuted any of the Complainant’s allegations of bad faith registration and use of the disputed domain name. In this case, the Panel finds that the Complainant has established that the Respondent registered and used the disputed domain name to conduct illegal activities such as impersonating employees of the Complainant as part of a BEC scam.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.1](#), section 3.2.1.

Panels have held that the use of a domain name for illegal activity here, claimed as applicable to this case: phishing, passing off, or other types of fraud constitutes bad faith. [WIPO Overview 3.1](#), section 3.4. Having reviewed the record, the Panel finds the Respondent’s registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel additionally observes that the Complainant has presented compelling evidence that the Respondent used a privacy or proxy service to avoid being notified of a UDRP proceeding and has provided false contact information in the registration of the disputed domain name, which have not been refuted by the Respondent. These elements further support an inference of bad faith. [WIPO Overview 3.1](#), section 3.6.

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 <kimlery-horn.com> be transferred to the Complainant.

*/Nels T. Lippert/*

**Nels T. Lippert**

Sole Panelist

Date: February 18, 2026