Decision for dispute CAC-UDRP-104824

Case number	**CAC-UDRP-104824**
Time of filing	**2022-09-05 12:51:53**
Domain names	**klarna-ab.com, klarna-login.com**

Case administrator

Organization	**Denisa Bilík (CAC) (Case admin)**

Complainant

Organization	**Klarna Bank AB**

Respondent

Organization	**REDACTED FOR PRIVACY**

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain names.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of a number of trade marks for KLARNA including, by way of example, International Trade Mark, registration number 1217315 in classes 35, 36, 39, 42 and 45, registered on March 4, 2014.

FACTUAL BACKGROUND

The Complainant is a banking and payments business founded in 2005, with its headquarters in Stockholm, Sweden. It now has more than 5,000 employees and 147 million customers and is operational in 45 countries. The Complainant's brand is KLARNA and, in addition to its trade marks for KLARNA, it owns domain names which comprise or include this term, including <klarna.com> and <klarna.co>.

The disputed domain name <klarna-ab.com> was registered on May 23, 2022 and the disputed domain name <klarna-login.com> was registered on June 1, 2022. Neither of the disputed domain names resolves to an active website.

The disputed domain names are confusingly similar to a trade mark in which the Complainant has rights. Each of them contains the Complainant's KLARNA trade mark in its entirety, and adds terms which do not serve to distinguish them from that mark, namely "ab" (an abbreviation for the Swedish company structure "Aktiebolaget") and "login". These additional terms are referrable to the Complainant or its services and, in these circumstances, do not prevent a finding of confusing similarity.

The Respondent has no rights or legitimate interests in respect of the disputed domain names. The Complainant has not found that the Respondent is commonly known by either of the disputed domain names nor is there any evidence to suggest that the Respondent is using, or preparing to use, the disputed domain names in connection with a bona fide offering of goods or services. The Respondent has never been a licensee of the Complainant and has not sought to put forward any arguments that it has rights to the disputed domain names by replying to the claim letter sent to it by the Complainant's representatives.

The Respondent has registered and is using the disputed domain names in bad faith. The Complainant's trade mark registrations precede the registrations of the disputed domain names and the use by the Respondent of related generic terms in them suggest that the Respondent was aware of the Complainant's trade marks as at the dates of registration. Moreover, the Respondent's failure to

respond to the Complainant's cease and desist letter should be taken as a further indication of bad faith.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain names (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names have been registered and are being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

Paragraph 4(a) of the Policy requires that the Complainant prove each of the following three elements in order to succeed in its Complaint:

(i) the disputed domain name is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights; and

(ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and

(iii) the disputed domain name has been registered and is being used in bad faith.

Rights

The Panel finds that both the disputed domain names are confusingly similar to the Complainant's KLARNA trade marks. Each of them contains the Complainant's KLARNA mark in full, followed by a hyphen (which has no significance in this context) and the terms "ab" and "login" respectively. Where a complainant's mark is recognizable within a domain name, the addition of other terms, irrespective of their meaning, will not prevent a finding of confusing similarity; see CAC Case No. 102382, MAJE v enchong lin.

Rights and legitimate interests

The Policy sets out at paragraph 4(c) examples of circumstances, without limitation, by which a respondent may demonstrate rights or legitimate interests in a disputed domain name. These are, in summary: (i) if the respondent has been using the domain name in connection with a bona fide offering of goods and services or has made demonstrable preparations to do so; (ii) if the respondent has been commonly known by the domain name; or (iii) if the respondent has been making a legitimate non-commercial or fair use of the domain name.

The fact that the disputed domain names do not presently resolve to an active website means that they are not being used in connection with a bona fide offering of goods and services. Nor is there any evidence that the Respondent has been commonly known by either of the disputed domain names, nor does the Respondent's passive holding of the domain names amount to making a legitimate, non-commercial or fair use of them.

The Complainant having made out a prima facie case in relation to the second element, the burden of proof shifts to the Respondent to rebut it; see, for example, CAC Case No. 102333, Amedei S.r.l. v sun xin. In the absence of any response by it to the Complaint, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain names.

Bad faith

The inactive status of the disputed domain names does not prevent a finding of bad faith use under the doctrine of passive holding and the principles set out initially in the decision of Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003. See also Intesa Sanpaolo S.p.A. v Leone Toscano, CAC Case No. 103819.

Factors which are typically 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 and (iv) the implausibility of any good faith use to which the domain name may be put.

Applying these facts to the current circumstances, the Complainant has established that its mark is well-established and it is evident from the scope of the Complainant's business that it is in widespread use. Moreover, the Respondent has not submitted a response or provided any evidence of good faith use and it has sought to conceal its identity through use of a privacy service. Finally, having regard to the fact that each of the disputed domain names contain the Complainant's KLARNA mark as well as a term which is apt to associate it closely with the Complainant or its services, it is not possible to conceive of any plausible good faith use to which they could be put by the Respondent. Accordingly, the inactive status of the disputed domain names comprises bad faith use under the doctrine of passive holding.

The Panel therefore finds that the disputed domain names were both registered and are being used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **klarna-ab.com**: Transferred
2. **klarna-login.com**: Transferred

PANELLISTS

Name	**Antony Gold**

DATE OF PANEL DECISION 2022-10-11