

Decision for dispute CAC-UDRP-104809

Case number CAC-UDRP-104809

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Domain names Klarna-pay.online

Case administrator

Organization Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization Klarna Bank AB

Complainant representative

Organization SILKA AB

Respondent

Name Kristin Ebersbach

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 name.

IDENTIFICATION OF RIGHTS

The Complainant bases its Complaint on the several KLARNA trademark registrations, namely the international trademark registration KLARNA, no. 1217315, designating for protection several territories, registered on 04.03.2014, for services in classes 35, 36, 39, 42, 45, the international trademark registration KLARNA, no. 1530491, designating for protection several territories, registered on 30.01.2020, for goods and services in classes 09, 35, 36, 39, 42, 45, the international trademark registration KLARNA, no. 1066079, designating for protection several territories, registered on 21.12.2010, for services in classes 35, 36, the European Union trademark KLARNA, no. 009199803, filed on 24.06.2010, registered on 06.12.2010, for services in classes 35, 36.

FACTUAL BACKGROUND

The Complainant was founded in Stockholm in 2005 and it operates a banking and payments business in 45 countries with more than 5,000 employees, serving in excess of 400,000 merchants, 147 million consumers and with approximately 2,000,000 transactions every day (<https://www.klarna.com/international/about-us/>).

The Complainant offers safe and easy-to-use payment solutions to e-stores, e.g. after-delivery-payment which allows buyers to receive the ordered goods before any payment is due, attracting major international clients such as Spotify, Disney, Samsung, Wish,

ASOS and many others.

The Complainant is the owner of several KLARNA trademark registrations, such as the international trademark registration KLARNA, no. 1217315, designating for protection several territories, registered on 04.03.2014, for services in classes 35, 36, 39, 42, 45, the international trademark registration KLARNA, no. 1530491, designating for protection several territories, registered on 30.01.2020, for goods and services in classes 09, 35, 36, 39, 42, 45, the international trademark registration KLARNA, no. 1066079, designating for protection several territories, registered on 21.12.2010, for services in classes 35, 36, the European Union trademark KLARNA, no. 009199803, filed on 24.06.2010, registered on 06.12.2010, for services in classes 35, 36.

The Complainant also owns a number of domain names, such as the domain name <klarna.com>, registered since 12.12.2008.

The disputed domain name <Klarna-pay.online> was registered on 27.06.2022 and resolves to a non-active page.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED. PARTIES'

The Complainant's contentions are the following:

The Complainant states that the disputed domain name <Klarna-pay.online> is identical or confusingly similar to its prior KLARNA trademarks.

The Complainant contends that the addition of the generic related word "pay" and the generic Top-Level Domain (gTLD) such as ".online" does not add any distinctiveness to the disputed domain name and that it does not prevent the likelihood of confusion between the disputed domain name and its trademarks.

Further, the Complainant sustains that the Respondent does not have any rights or legitimate interest in the contested domain name.

In this sense, the Complainant asserts that the Respondent is not commonly known by the disputed domain name and there is no evidence that the Respondent has a history of using, or preparing to use, the disputed domain name in connection with a bona fide offering of goods and services. The Claimant asserts that it is clear that the intention of the disputed domain name registration is to take undue advantage of the internet traffic generated due to the incorporation of the well-known KLARNA trademark in the disputed domain name, and/or to sell the disputed domain name for profit due to the incorporation of the well-known KLARNA trademark in the disputed domain name.

Moreover, the Complainant sustains that the Respondent has never been a licensee of the Complainant and does not have any rights to use the Complainant's trademark. Also, the Complainant contends that there is no active website on the disputed domain name.

Further, the Complainant sustains that the disputed domain name has been registered and is being used in bad faith.

To this end, the Complainant contends that the Complainant's trademark registrations predate the registrations of the disputed domain name and therefore it seems highly unlikely that the Respondent was not aware of the existence of the trademarks and the unlawfulness of the registration of the disputed domain name. Furthermore, the addition of the related generic terms such "pay" and "online" which relates to the Complainant's online payment services creates a presumption of bad faith in the Complainant's view.

Further, the Complainant sustains that the Respondent has never been granted permission to register the disputed domain name.

The Complainant further asserts that the Respondent clearly knew about the Complainant's trademark at the time of the registration of the disputed domain name and proceeded use it for a website where access is denied.

As a summary, the Complainant sustains that the brand KLARNA is a globally well-known trademark. In the Complainant's view, it is highly unlikely that the Respondent was not aware of the right that the Complainant has in the trademark and the value of said trademark, when the disputed domain name was registered. Lastly, all of the above-mentioned circumstances together with the fact that the Respondent is merely using the disputed domain name for an access denied page clearly indicate Respondent's bad faith registration and use, in the Complainant's view.

On these bases, the Complainant asserts that the Respondent has registered and is using the disputed domain name in bad faith.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is 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 name (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 name has been registered and is 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

1. Confusing Similarity

The Panel agrees that the disputed domain name <Klarna-pay.online> is confusingly similar to the Complainant's earlier trademarks KLARNA. The addition of the generic term "pay" is not sufficient to escape the finding that the disputed domain name is confusingly similar to the trademarks KLARNA.

Moreover, the extension ".online" is not to be taken into consideration when examining the similarity between the Complainant's trademarks and the disputed domain name (WIPO Case No. D2005-0016, Accor v. Noldc Inc.). The mere adjunction of a gTLD such as ".online" is irrelevant as it is well established that the generic Top Level Domain is insufficient to avoid a finding of confusing similarity (WIPO Case No. 2013-0820, L'Oréal v Tina Smith, WIPO Case No. D2008-0820 Titoni AG v Runxin Wang and WIPO Case No. D2009-0877, Alstom v. Itete Peru S.A.).

Therefore, the Panel is satisfied that the first condition under the Policy is met.

1. Lack of Respondent's rights or legitimate interests

The Complainant is required to make out a prima facie case that the respondent lacks rights or legitimate interests. Once such prima facie case is made, the burden of proof shifts to the respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such appropriate allegations or evidence, a complainant is generally deemed to have satisfied paragraph 4(a)(ii) of the Policy.

Based on the available evidence, the Respondent does not appear to be known by the disputed domain name. The Respondent is not a licensee of, nor has any kind of relationship with, the Complainant. The Complainant has never authorised the Respondent to make use of its trademark, nor of a confusingly similar trademark in the disputed domain name.

The disputed domain name resolves to a non-active page. Such use does not amount to a bona fide offering of goods or services, or to a legitimate noncommercial or fair use of the disputed domain name, as other UDRP panels have found.

The Panel notes that the Respondent had an opportunity to comment on the Complainant's allegations by filing a Response, which the Respondent failed to do.

Thus, the Panel is satisfied that the Complainant has at least established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. Accordingly, the Panel takes the view that also the second requirement under the Policy is met.

1. Bad Faith

The Complainant founded in 2005, operates a banking and payments business. The registration of the KLARNA trademarks predates the Respondent's registration of the disputed domain name.

Therefore, the Panel concludes that at the time of registration of the disputed domain name, the Respondent was aware of the Complainant's trademarks and has intentionally registered the disputed domain name in order to create confusion with the Complainant's trademarks.

In the present case, the following factors should be also considered:

(i) the Respondent failed to submit any response and has not provided any evidence of actual or contemplated good faith use of the disputed domain name;

(ii) the Respondent registered the disputed domain name containing the Complainant's earlier trademark KLARNA to which it added the generic term "pay", in the context where the Complainant operates a banking and payments business and it already has the domain name <klarna.com>;

(iii) the Respondent has no business relationship with the Complainant, nor was ever authorised to use a domain name similar to the Complainant's KLARNA trademarks;

(iv) the disputed domain name redirects to a non-active page.

In light of the foregoing, the Panel concludes that the Respondent has registered and has been using the disputed domain name in bad faith. Thus, also the third and last condition under the Policy is satisfied.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. Klarna-pay.online: Transferred

PANELLISTS

Name **Delia-Mihaela Belciu**

DATE OF PANEL DECISION **2022-10-14**

Publish the Decision
