

Decision for dispute CAC-UDRP-104967

Case number **CAC-UDRP-104967**

Time of filing **2022-11-01 09:52:33**

Domain names **klarnapaynow.com**

Case administrator

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

Complainant

Organization **Klarna Bank AB**

Complainant representative

Organization **SILKA AB**

Respondent

Name **Steely Black**

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

In these proceedings, the Complainant relies on the following trademarks:

- KLARNA (word), European Union Trademark No. 009199803, registered as of December 6, 2010, in the name of Klarna Bank AB (the Complainant);
- KLARNA (word), International Trademark Registration No. 1066079, registered as of December 21, 2010, in the name of Klarna Bank AB (the Complainant);
- KLARNA (word), International Trademark Registration No. 1217315, registered as of March 4, 2014, in the name of Klarna Bank AB (the Complainant); and
- Klarna. (fig.), International Trademark Registration No. 1530491, registered as of January 30, 2020, in the name of Klarna Bank AB (the Complainant).

It is worth noting that, the Complainant owns a lot of "KLARNA" trademarks, covering many countries – including China, where Respondent is located – which have not been cited in these proceedings.

FACTUAL BACKGROUND

According to information provided by the Complainant and not disputed by the Respondent, the Complainant is a well-known banking and payments business with some 5000 employees, active in as many as 45 countries around the world, with millions of clients (merchants and consumers) and thousands of daily transactions. The Complainant mainly offers safe and easy-to-use payment solutions to e-stores around the world.

The Complainant owns a fair-sized portfolio of trademarks worldwide, including the wording (and its company name) "KLARNA", among which an EU registration dating back to December 2010. It also owns a multitude of related domain names, like <klarna.com> since December 12, 2008 and, even, <payklarna.com> since November 1, 2016.

The disputed domain name <klarnapaynow.com> was registered on August 1, 2022 by the Respondent.

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant contends that the disputed domain name is confusingly similar to its KLARNA trademark, as it is a combination of this wholly incorporated trademark and of two descriptive terms. This last element is sufficient to support the finding that the disputed domain name is confusingly similar to the Complainant's trademark. The mere addition of generic terms to the Complainant's trademark does not change the overall impression of a most likely connection with the trademark KLARNA of the Complainant. The specific terms (PAY NOW) make the confusion stronger, as they directly relate to the Complainant's activities. As to the gTLD ".com", the Complainant suggests that it should be disregarded, as per the usual practice.

The Complainant maintains that the Respondent lacks rights or legitimate interests in the disputed domain name because the Respondent is not known by the disputed domain name, the Complainant is not affiliated with the Respondent nor has it ever authorised the Respondent to register its trademark as a domain name, and the Complainant has no business with the Respondent.

According to the Complainant, given the seniority, distinctiveness and worldwide reputation of the KLARNA trademark, the Respondent registered the disputed domain name with full knowledge of the Complainant's trademark in an intentionally designed way, with the aim to create a likelihood of confusion with the Complainant's trademarks and domain names, and this is evidence of the fact that the disputed domain name was registered in bad faith.

With respect to use in bad faith, the Complainant claims that the Respondent has acquired the disputed domain name primarily for the purpose of offering it for sale to users for a sum well exceeding its own out-of-pocket expenses, a fact that -in combination with the incorporation of a famous trademark in a domain name- proves use in bad faith. Further, the Complainant further points out to the fact that the disputed domain name resolves to a parking site, which amounts to passive use by the Respondent. In addition to all these, the Respondent is using a privacy service, to conceal its real identity.

For all these reasons, the Complainant concludes that the Respondent registered and used the disputed domain name in bad faith.

RESPONDENT:

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

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).

The disputed domain name consists of the Complainant's whole trademark (KLARNA), in combination with two generic words (PAY NOW). The addition of the specific generic words in the disputed domain name is not sufficient to escape the finding that the disputed domain name is confusingly similar to the trademark of the Complainant. Such words (PAY NOW) actually reinforce the confusion, as they relate directly to the activities of the Complainant.

As far as the gTLD ".com" is concerned, it is generally recognized that top level domains do not have any bearing in the assessment of identity or confusing similarity, according to paragraph 4(a)(i) of the Policy.

Hence, the Panel is satisfied that the first requirement under the Policy is met.

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).

Since proving a negative fact is almost impossible, panelists in UDRP proceedings have generally agreed that it is sufficient for the Complainant to establish a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name to shift the burden of proof to the Respondent.

In the case at issue, the Complainant argued that it had never authorised the Respondent to register the KLARNA trademark in a domain name, and that it had never licensed its trademarks to the Respondent.

Furthermore, the Respondent has not demonstrated any use of the disputed domain name in connection with a bona fide offering of goods and services or a legitimate non-commercial or fair use of the disputed domain name.

Finally, there is no other evidence in the case file that could demonstrate that the Respondent has been commonly known by the disputed domain name.

In view of the foregoing, the Panel is satisfied that the Complainant has established a prima facie case that the Respondent lacks rights and legitimate interests in the disputed domain name. In order to rebut the Complainant's arguments, the Respondent had the possibility to make his own defense. However, the Respondent has chosen not to file a Response.

Therefore, the Panel is satisfied that also the second requirement under the Policy is met.

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).

As far as registration in bad faith is concerned, given the seniority and reputation of the Complainant's trademarks and the fact that the disputed domain name fully incorporates these trademarks (even in combination with generic terms), it is evident that, at the time of the registration of the disputed domain name, the Respondent was well aware of the Complainant's trademark. The registration as domain name of a third party's well-known trademark with full knowledge of the fact that the rights over this trademark belong to a third-party amounts to registration in bad faith.

With respect to use in bad faith, the disputed domain name resolves to a parking website. Such use clearly aims at successfully selling the disputed domain name at a high price by creating a likelihood of confusion with the Complainant's well-known trademark. This fact is to be combined with the full incorporation of the Complainant's reputable trademark in the disputed domain name. For this Panel, same as for many previous panels, such misleading behaviour clearly amounts to use in bad faith. Consequently, it is impossible to conceive any plausible active use of the disputed domain name that would be legitimate.

Therefore, the Panel finds it clear that the disputed domain name was used in bad faith.

For all circumstances mentioned above, the Panel is satisfied that also the third requirement under the Policy is satisfied.

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

The disputed domain name wholly incorporates the Complainant's trademarks, written in combination with two descriptive/generic words. The disputed domain name is therefore confusingly similar to the Complainant's trademark.

The Respondent was not authorised to include the Complainant's trademarks in the disputed domain name, and the Complainant never licensed its trademarks to the Respondent. The Respondent is not using the disputed domain name in connection with a bona fide offering of goods or services, or a legitimate non-commercial or fair use.

The Respondent registered the disputed domain name with full knowledge of the Complainant's reputable trademark. Its use of the disputed domain name is in bad faith, as there is no conceivable use of the disputed domain name that could amount to a legitimate use.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **klarnapaynow.com**: Transferred
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PANELLISTS

Name	Sozos-Christos Theodoulou
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DATE OF PANEL DECISION	2022-12-05
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Publish the Decision
