

Decision for dispute CAC-UDRP-105016

Case number **CAC-UDRP-105016**

Time of filing **2022-11-25 11:00:23**

Domain names **klarnareward.com**

Case administrator

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

Complainant

Organization **Klarna Bank AB**

Complainant representative

Organization **SILKA AB**

Respondent

Name **huade wang**

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 is the owner of several KLARNA trademarks registered worldwide (hereinafter the "Klarna Trademarks"), all of them predating the registration of the disputed domain name. In this regard, whereas the disputed domain name was registered on September 13, 2021, the Klarna Trademarks dates back to almost, 10 years earlier. The Klarna Trademarks are registered in several territories worldwide, including the United States, where the Respondent appear to be located:

| Trademark | Registration Date | Registration Number |
|------------------------|-------------------|-------------------------|
| KLARNA | 01/08/2013 | 1182130 |
| KLARNA | 04/03/2014 | 1217315 |
| Klarna. (Figurative) | 14/02/2018 | 1415063 |
| Klarna. (Figurative) | 30/01/2020 | 1530491 |

In addition, the wide expansion of the Klarna business is evidenced by the registration of several Klarna trademark in many other countries worldwide:

| Trademark | Registration Date | Territory | Registration Number |
|-------------------------|-------------------|----------------------------------|---------------------|
| Klarna | 06-12-2010 | Europe | 009199803 |
| KLARNA | 24-09-2012 | Europe | 010844462 |
| KLARNA | 30-07-2014 | Europe | 012656658 |
| KLARNA | 01-06-2015 | Europe | 013642434 |
| KLARNA | 28-12-2017 | Europe | 017099896 |
| Klarna. | 11-01-2020 | Europe | 018120004 |
| KLARNA | 04-09-2019 | Canada | TMA1052419 |
| Klarna. | 30-01-2020 | Canada | 1530491 |
| Klarna | 21-12-2010 | Russia, China, Turkey and Norway | 1066079 |

FACTUAL BACKGROUND

The Complainant is one of the Europe's largest banks founded in 2005 in Stockholm (Sweden) that provides payment services for online storefronts. The Complainant offers direct payments, pay after delivery options and installment plans in a one-click purchase flow. The Complainant has more than 4000 employees and provides payment solutions for 90 million consumers across 250,000 merchants in 20 countries including Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Ireland, Italy, Netherlands, New Zealand, Norway, Poland, Portugal, Spain, Sweden, Switzerland, United Kingdom and the United States. The Complainant's reputation and good practice is backed by investors such as Sequoia Capital, Bestseller, Permira, Visa and Atomico.

The Complainant's popularity is widely evident from its promotions, social media pages and numerous domain names, including [www.klarna.com](#) (registered on December 12, 2008), the main official website for the Complainant, which is the global reference to the public to know more about its products and services. Furthermore, the presence of the Complainant's trademarks in the digital world, Internet and social media dates from, at least, 15 years ago, as it can be observed in the Complainant's official accounts in Instagram, Facebook, Twitter or LinkedIn.

PARTIES CONTENTIONS

COMPLAINANT

Identical or confusingly similar (Policy, Paragraph 4(a)(i)):

The Complainant states that the disputed domain name is confusingly similar to the Complainant's well known trademark KLARNA, as it combines the Complainant's distinctive trademark KLARNA along with the generic and evocative word "reward" in the disputed domain name a word being easily associated to the field of loyalty and reward programs within banking and finance.

Far from providing a differentiation from Complainant's trademark, the disputed domain name seems to impersonate the Complainant's when referring to "**Klarna** reward", which will probably lead the user to think the disputed domain name is related to the Complainant, somehow associated to the Klarna Trademarks, to a business unit of the Complainant or to a new service concerning a reward program.

The addition of this generic term does not differentiate the disputed domain name from the Complainant's registered trademark, see, for instance the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), paragraph 1.8 *"Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element"*. Furthermore, in this particular case, the Respondent has selected specific words in the disputed domain name (*i.e.*, "reward" which may be related to the Complainant's activity. The Complainant believes that these words have not been chosen randomly, but intentionally to lead the consumer/visitor think that the disputed domain name belongs to the Complainant or is in some way related to.

In this regard, it is appropriate to pay attention to *AB Electrolux v. Handi Sofian, Service Electrolux Lampung* (WIPO Case No. D2016-2416) where the Panel stated that *"the addition in the disputed domain name of the descriptive word "service" and the geographic indicator "Lampung" does not dispel the confusing similarity. See also, e.g., National Association for Stock Car Auto Racing, Inc. v. Racing Connection / The Racin' Connection, Inc., WIPO Case No. D2007-1524."*

The addition of the generic Top-Level Domain (gTLD) ".com" does not add any distinctiveness to the disputed domain name. According to many UDRP precedents, a gTLD suffix is disregarded under the confusingly similarity test as it is a technical requirement: *"In addition, it is generally accepted that the addition of the top-level suffix in the domain name (e.g., ".com") is to be disregarded under the confusing similarity test"*. The following should apply in the current case and the disputed domain name should be considered as confusingly to the registered trademark Klarna. (See [WIPO Overview on Selected UDRP Questions, Third Edition](#), section 1.7, WIPO Overview 3.0).

Respondent has no rights or legitimate interests in respect of the disputed domain name:

(Policy, Paragraph 4(a)(ii); Rules, Paragraph 3(b)(ix)(2))

It is important to consider that the word "Klarna" is a unique fantasy name invented by the Complainant. It is unlikely that the disputed domain name is the product of the Respondent's invention, on the contrary, it would probably be the result of trying to impersonate the Complainant's name. Also, when searching in several public trademark databases, it has not been found other Klarna Trademark under Respondent's name and a simple search in any Internet search engine reveals that all "Klarna" results relate to the Complainant. The Complainant's Trademark KLARNA is a distinctive term and has no other meaning, that is, it exclusively refers to Klarna Trademarks. The trademark has been continually and extensively used and marketed by the Complainant for the last 15 years in finance and banking field. As a result, the Klarna services and products are associated by consumers to the Complainant's services only.

Therefore, the Complainant states it is clear that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant has not found that the Respondent is 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. It is clear that the intention of the Respondent by registering the disputed domain name is to prevent the Complainant from exercising its legitimate rights over the well-known trademark KLARNA in which the Complainant has prior rights.

As stated by the Panel in *Philip Morris USA Inc. v. Prophet Partners Inc.*, WIPO Case D2007-1614: "If, on the contrary, the Respondent chose the Domain Name in an effort to capitalize on the Complainant's famous trademark, this could not be considered a use in connection with a "bona fide" offering of goods or services".

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name because the Complainant has not granted authorization or license to the Respondent to use the KLARNA trademarks, and therefore, the Respondent has no rights (including trademark rights), in respect of the "Klarna" term. The Complainant confirms there is no business or legal relationship between the Complainant and the Respondent. Therefore, the Complainant is the only legitimate owner of the trademark KLARNA and, as such, the Complainant is entitled to exercise its exclusive rights over the trademark KLARNA and prevent third parties from use its registered trademark.

The Respondent cannot show that prior to notice of the dispute, the Respondent used, or made demonstrable preparations to use, the disputed domain name or a name corresponding to them in connection with a bona fide offering of good or service. Furthermore, as explained at section 2.5.1 of the WIPO Overview 3.0 : "Generally speaking, UDRP panels have found that domain names identical to a complainant's trademark carry a high risk of implied affiliation. Even where a domain name consists of a trademark plus an additional term (at the second- or top-level), UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner."

Finally, the Complainant tried to contact the owner, but no response was received. The Respondent has therefore been granted an opportunity to present some compelling arguments that it has rights in the disputed domain name but has failed to do so. This behavior cannot be considered as legitimate use of the disputed domain name. As indicated in the WIPO Overview 3.0, paragraph 2.1, "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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element."

The disputed domain name was registered and is being used in bad faith.

(Policy, paragraphs 4(a)(iii), 4(b); Rules, paragraph 3(b)(ix)(3))

The Domain Name is registered in bad faith:

It must be noted that the Complainant's trademark registrations KLARNA predate the registration of the disputed domain name and that the Complainant's trademark KLARNA enjoy an extensive reputation among the Banking and Finance business. The Complainant's trademark KLARNA has been continually and extensively used and marketed for the last 15 years and as a result, the services and products of the Complainant under the KLARNA trademark have gained recognition for their innovation, style, quality and unique promotions (buy now, pay later with Klarna) and are associated by consumers to the Complainant's services/products only.

The active presence of the Complainant in the market and Social Media shows that it seems to be unlikely that the Respondent was not aware of the unlawful registration of the disputed domain name.

Also, when accepting the Registrar Agreement, the Respondent agreed to "represent and warrant (...) that, neither the registration of the domain (...) infringes the legal rights of any third party".

Moreover, the Complainant believes that the generic and evocative word "reward" has not been used randomly, but with the aim of leading the Internet user to believe that the disputed domain name is part of the Complainant's structure. The Complainant states that the disputed domain name has been registered with the aim of taking advantage of the reputation of the Complainant's well-known trademark KLARNA.

Also, as mentioned previously, the Complainant contacted the Respondent, but no response was received. The Respondent has simply disregarded the communication attempt and the notice given by the Complainant. Since the effort of trying to solve the matter amicably was unsuccessful, the Complainant chose to file a complaint according to the UDRP process. It has been mentioned in earlier cases that the failure of a respondent to respond to a cease and desist letter, or a similar attempt at contact, has been considered relevant in a finding of bad faith, e.g., *Nike, Inc. v. Azumano Travel*, [WIPO Case No. D2000-1598](#): "*Failure to positively respond to a complainant's efforts to make contact provides 'strong support for a determination of bad faith registration and use.'*" *Encyclopaedia Britannica v. Zucarini*, D2000-0330 (WIPO June 7, 2000)."; and *America Online, Inc. v. Antonio R. Diaz*, [WIPO Case No. D2000-1460](#): "*The fact that [...] Respondent failed to respond to the referenced notice and cease and desist demand, and that the Respondent failed to respond to this Complaint, also suggests that Respondent was aware that it has no rights or legitimate interests in the domain names at issue, and that the domain names have been registered and are being used in bad faith.*"

The disputed domain name is being used in bad faith

The disputed domain name resolved to a pay-per-click ("PPC") website displaying competitive adverts whereby the Respondent was deliberately trying to portray a connection between the disputed domain name and the Klarna trademarks. This use of the disputed domain name strongly suggests that that it was used in bad faith and merely intended to mislead internet users by taking unlawful advantage of the registered trademark KLARNA and related keywords. That the disputed domain name resolves to a PPC website displaying links is a clear intention of making an unfair connection and attracting users to this Website, damaging the image and reputation of the Complainant.

The Complainant considers that the use of the disputed domain name to host a parking page containing PPC links, added to the fact that such domain can be purchased as from 100 USD, does not represent a bona fide offering. Both the PPC website and the possibility of purchasing the disputed domain name can only mean that the Respondent is trying to obtain incomes from this practice, and therefore the Respondent cannot be considered as having rights, legitimate interest of good faith in regard to the disputed domain name.

For reference, please see *Merck Sharp & Dohme Corp. v. Domain Administrator, PrivacyGuardian.org / George Ring, DN Capital Inc.* (WIPO Case No. D2017-0302): "Furthermore, using the disputed domain name to host a pay-per-click parking page the Respondent creates a likelihood of confusion with the Complainant's trademark and potentially obtains revenue from this practice. Previous UDRP decisions have considered this type of use of a domain name sufficient to demonstrate bad faith. [...]". Also, see *Archer-Daniels-Midland Company v. Wang De Bing*, WIPO Case No. D2017-0363: "The disputed domain name leads Internet users to a pay-per-click website displaying commercial links of prima facie the Complainant's services [...]. The Respondent's actions therefore constitute bad faith. Based on the evidence that was presented to the Panel, [...], the Panel draws the inference that the disputed domain name was registered and is being used in bad faith."

Furthermore, please see *Cash Converters Pty Ltd. v. Cameron David Jackson*, WIPO Case No. D2014-2265: "[...] These include emails in which the Respondent refers to the 'cash converters domains' for sums including \$ 200 to \$ 600. On its face, these sums appear to the Panel to be in excess of the out-of-pocket costs that could reasonably be incurred by the Respondent". See also, *Pepperdine University v. BDC Partners, Inc.* (WIPO Case No. Case No. D2006-1003): "While there has been no attempt at an outright sale, there has certainly been an attempt by Respondent to leverage Pepperdine's trademarks against Complainant to generate revenues for Respondent in excess of Respondent's actual costs. [...] ("Because respondent offered to sell the Domain Name to complainant 'for valuable consideration in excess of' any out-of-pocket costs [...], it still appears to the Panel to be abusive in nature and certainly runs counter to the Policy's spirit. The Panel concludes that Complainant has shown both bad faith registration and use of the Domain Names."

To summarize, the Complainant's trademark KLARNA is a well-known trademark worldwide in the Banking and Finance field. It is highly unlikely that the Respondent was not aware of the rights that the Complainant has in the trademark KLARNA and the value of said trademark, when the disputed domain name was registered. Also, the content of the disputed domain name may only infer bad faith on the Respondent in the use and registration of such domain name.

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

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).

This is a case of adding a generic term "reward" to a somewhat well-known trademark - the addition of these generic elements does not take away the confusing similarity between the trademark and the disputed domain name. Furthermore, it is well-established practice that the specific top level of a domain name such as ".com" does not affect the domain name for the purpose of determining whether it is identical or confusingly similar.

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).

The Complainant has informed that the Respondent is not affiliated with nor authorized by the Complainant in any way.

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).

Given the circumstances of the case, including the provided information of the use and reputation of the Complainant's trademark KLARNA and the distinctive nature of this mark, it is inconceivable to the Panel that the Respondent registered the disputed domain name without prior knowledge of the Complainant and the Complainant's mark. The Panel, therefore, finds that the disputed domain name was registered in bad faith.

The disputed domain name resolves to an active website with PPC links. The Panel finds it evidenced that the Respondent registered and is using the disputed domain name to attract customers for commercial gain. The Panel therefore finds that the Respondent has registered and uses the disputed domain name in bad faith.

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. The three essential issues under the paragraph 4(a) of the Policy are whether:

- i. the disputed 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 with respect to the disputed domain name; and
- iii. the disputed domain name has been registered and is being used in bad faith.

2. The Panel reviewed carefully all documents provided by the Complainant. The Respondent did not provide the Panel with any documents or statements. The Panel also visited websites and public information concerning the disputed domain name, namely the WHOIS databases.

3. The UDRP Rules clearly say in its Article 3 that any person or entity may initiate an administrative proceeding by submitting a complaint in accordance with the Policy and these Rules.

4. The Panel, therefore, came to the following conclusions:

a) The Complainant states and proves that the disputed domain name is confusingly similar to its trademarks and its domain names. Indeed, the trademark is partially incorporated in the disputed domain name.

The disputed domain name is therefore deemed confusingly similar.

b) The Respondent is not generally known by the disputed domain name and have not acquired any trademark or service mark rights in the name or mark, nor is there any authorization for the Respondent by the Complainant to use or register the disputed domain name.

The Panel therefore finds that the Respondent does not have rights or legitimate interest with respect to the disputed domain name.

c) It is clear that the Complainant's trademarks and website were used by the Complainant long before the disputed domain name was registered. The present use of the disputed domain name is for PPC links.

The Panel therefore finds that the disputed domain name has been registered and is being used in bad faith.

For the reasons stated above, it is the decision of this Panel that the Complainant has satisfied all three elements of paragraph 4(a) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **klarnareward.com**: Transferred

PANELLISTS

| | |
|------|-------------|
| Name | Lars Karnoe |
|------|-------------|

DATE OF PANEL DECISION 2023-01-27

Publish the Decision