

Decision for dispute CAC-UDRP-105283

Case number CAC-UDRP-105283

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Domain names klarna-pay.com

Case administrator

Name Olga Dvořáková (Case admin)

Complainant

Organization Klarna Bank AB

Complainant representative

Organization SILKA AB

Respondent

Name Carolin Ernst

OTHER LEGAL PROCEEDINGS

The Panel is unaware of any other pending or decided legal proceedings relating to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of the following trademarks:

1. Trademark "KLARNA", registration no. 1217315 dating from 04-03-2014.
2. Trademark "KLARNA", registration no. 1530491 dating from 30-01-2020.
3. Trademark "KLARNA", registration no. 1066079 dating from 21-12-2010.
4. Trademark "KLARNA", registration no. 009199803 dating from 06-12-2010.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

Founded in Stockholm in 2005, Klarna Bank AB 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. 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 has registered a number of domain names under several different Top-Level Domains ("TLD") containing the term "klarna", for example <klarna.com> (created December 12, 2008), as well as multiple others. Complainant uses these domain names to inform potential customers about its "KLARNA" mark and its products and services.

The disputed domain name was registered on January 16, 2023.

PARTIES CONTENTIONS

COMPLAINANT:

1. Identical or confusingly similar

The disputed domain name, which was registered on January 16, 2023 directly and entirely incorporates the Complainant's well-known registered trademark "KLARNA". The addition of the generic word "pay" or a generic Top-Level Domain (gTLD) ".com" does not add any distinctiveness to the disputed domain name.

The above-mentioned principles should apply in the current case and the disputed domain name should therefore be considered confusingly similar to the registered trademark "KLARNA" in which the Complainant have rights.

2. The Respondent has no rights or legitimate interests in respect of the domain name

The Respondent has never been a licensee of the Complainant and does not have any rights to use the Complainant's trademark. Furthermore, there is no active website on the disputed domain name. It has been established in previous UDRP cases that such use cannot constitute a right or legitimate interest in the domain name.

The Complainant has been able to capture an archive screen shot of what the site used to look like. The disputed domain name was connected to a site that featured the "KLARNA" logo and it stated "Unser Payment Gateway" and the language of the site was German. It is clear that the owner used the disputed domain name to connect it to a site to come across as "Klarna".

Clearly, the Respondent lacks right to the disputed domain name, is not known by the disputed domain name nor have the Respondent made legitimate, non-commercial fair use of the disputed domain name.

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

It has to be noted that the Complainant's trademark registrations predate the registration 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 a related generic term such as "pay" in combination Complainant's well-known mark in its entirety, further clearly indicate that the Respondent was aware of the services offered by the Complainant under the trademark "KLARNA" and creates a presumption of bad faith. In this case, the disputed domain name incorporates the Complainant's widely-known "KLARNA" mark plus the descriptive words "pay" that is related to the Complainant's payment services, thus, creating a presumption of bad faith.

According to paragraph 4(b)(i) of the Policy, bad faith registration and use can be found when a respondent registered or has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the documented out-of-pocket costs directly related to the domain name.

Bearing in mind the distinctiveness of the "KLARNA" mark (with no meaning in English language), their presence in full in the disputed domain name and the fact that the Respondent used to connect the disputed domain name to a site featuring the "Klarna" logo and "Klarna" trademark amounts to registration and use of the disputed domain name in bad faith.

Currently the disputed domain name resolves to parking website which may amount to passive use by the Respondent. In this regard, section 3.3 of the WIPO Overview 3.0 states that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding, if certain circumstances are met.

Applying these circumstances to this case, the Respondent's passive holding of the disputed domain name has the characteristics which are associated with bad faith registration and use, as set out at section 3.3 of the WIPO Overview 3.0, since:

(i) According to the evidence on record, it is more than likely that the Respondent was aware of the Complainants' trademarks at the time of its registration of the Domain Name;

(ii) the Respondent is using a privacy service to conceal its identity;

(iii) only someone who was familiar with the Complainants' marks and their activities would have registered a domain name including solely the Complainants' "KLARNA" mark connecting it to a Klarna site.

(iv) having regard to the popularity of the Complainants' "KLARNA" marks and the structure of the disputed domain name (almost identical to the domain name <Klarna.com>, it is impossible to think of any good faith use to which the disputed domain name could be put by the Respondent.

In view of all these circumstances, the Complainant contends that it has fulfilled the third requirement of the UDRP and established that the disputed domain name was registered and is being used in bad faith.

RESPONDENT:

No administratively compliant Response was filed.

RIGHTS

To the satisfaction of the Panel, the Complainant has shown that the disputed domain name is identical or confusingly similar to the trademark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

To the satisfaction of the Panel, the Complainant has 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

To the satisfaction of the Panel, the Complainant has 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 have been met, and there is no other reason why it would be unsuitable for providing the Decision.

PRINCIPAL REASONS FOR THE DECISION

1. Identical or Confusingly Similar

First, the Panel is satisfied that the Complainant has shown it owns rights in the "KLARNA" trademark, with registration and evidence provided dating the trademark registration back to at least 2010.

Turning to analyze if there is a confusing similarity between the disputed domain name and the trademark, the Panel notes, based on the record at hand, that the disputed domain name reproduces the trademark in its totality, namely "KLARNA", with an addition of a term. This term is the only difference, which is the word "PAY", after the trademark, with the addition of a hyphen separating it from the trademark.

This slight difference is immaterial to dispel the confusing similarity between the disputed domain name and the Complainant's

trademarks.

Consequently, the Panel determines that the Complaint has satisfied the Policy's first element set under paragraph 4(a)(i).

2. Rights or Legitimate Interests

Based on the evidence on record and acknowledging that the Respondent failed to produce any allegations or evidence necessary to demonstrate its rights or legitimate interests in the disputed domain name, the Panel must turn to the uncontested facts.

The uncontested facts indicate that a) the Respondent is not authorized to carry out any business activity for the Complainant and has no license or authorization to use the trademarks; b) the Respondent is not commonly known by the disputed domain name; and c) the Respondent is not using the disputed domain name and has no demonstratable plans to use the disputed domain name legitimately.

Based on the above, the record at hand, and on the balance of probability, and considering that the Respondent has failed to respond to the Complainant's contentions, the Respondent has consequently not rebutted the prima facie case, as described in paragraph 2.1 of WIPO 3.0 Overview.

In addition to this, the Respondent's use of the trademark plus the term "pay", seems to indicate, on the balance of probabilities, that the Respondent not only was aware of the Complainant but deliberately targeted the Complainant to benefit from the appearance of legitimate association to the Complainant and confuse Internet users as to the source of sponsorship. A practice like this can never be considered a bona fide offering under the Policy, but further analysis will be conducted under the last element below.

Furthermore, a screenshot of the disputed domain name appears to have been used on the website associated with the disputed domain name, which featured the "KLARNA" logo and text in the German language referring to "payment", a business activity associated with the Complainant. This further confirms the evidence pattern discussed above; however, a more detailed analysis of this will be provided under the third element below.

These facts lead the Panel to conclude that the Respondent did not have rights or legitimate interests in the disputed domain name.

Consequently, the Panel determines that the Respondent has no rights or legitimate interests in the disputed domain name. Subsequently, the Complainant has fulfilled the second requirement set under paragraph 4(a)(ii) of the Policy.

3. Registered and Used in Bad Faith

Per the record and evidence at hand, the Panel finds that the Respondent was likely aware of the Complainant and had the Complainant's trademark in mind when registering the disputed domain name. This is further reinforced by the fact that "KLARNA" is a well-known, distinctive trademark worldwide.

Additionally, this conclusion is supported by the fact that the Respondent seems to evoke a connection to the Complainant's trademark by including the term "pay", which appears to refer to a main business activity of the Complainant and appears to misrepresent a link between the disputed domain name and the Complainant. In this case, as supported by the record at hand, the Respondent appears to have targeted the Complainant on the balance of probabilities.

Additionally, the website associated with the disputed domain name featured the "KLARNA" logo and trademark, which is further evidence of the Respondent's registration and use of the disputed domain name to confuse Internet users as to the source of the disputed domain name for its own benefit.

All the preceding analysis leaves the Panel no other option than to conclude that the most likely intention of the Respondent was to intentionally attempt to attract, for commercial gain, Internet users to its website/disputed domain name by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website and/or disputed domain name, as per illustrated under paragraph 3.1 of WIPO 3.0 Overview.

In light of the case's circumstances, based on the available records, the Panel finds that the Complainant has proven that the disputed domain name was registered and is used in bad faith according to paragraph 4(a)(iii) of the Policy.

4. Decision

For the preceding reasons and in concurrence with the provisions specified under Paragraph 4(i) of the Policy and Paragraph 15 of the Rules, the Panel orders the transfer of the disputed domain name to the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. klarna-pay.com: Transferred

PANELLISTS

Name	Rodolfo Rivas Rea
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DATE OF PANEL DECISION 2023-05-01

Publish the Decision
