

Decision for dispute CAC-UDRP-105268

Case number	CAC-UDRP-105268
Time of filing	2023-03-06 11:01:13
Domain names	betaiingkiarna.org, kiarnabetaling.org, betaiingkiarna.net, betalingkiarna.net, kiarnabetaling.net, kiarnabetaiing.org, kiarnabetal.net, kiarnabetal.org, klarnabetai.org

Case administrator

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

Complainant

Organization	Klarna Bank AB
--------------	----------------

Complainant representative

Organization	SILKA AB
--------------	----------

Respondents

Name	kjhgviuv khbukjhb
Name	kdhgj gfjhgdjdg
Organization	Transure Enterprise Ltd
Name	gfh ghfghfghf
Name	ghhfg hdf ghfdghdfgh
Name	jdfhgjgdhj dgjhgh
Name	fgh fghghsffgsh
Name	njdgh dndgvn
Name	dsfgh gdfssfgd

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 the trademark KLARNA, registered in several countries, among which the following registrations:

- International registration No. 1066079 of 21 December 2010, designating Russia, China, Turkey and Norway, for services in classes 35 and 36;
- EU registration No. 009199803 of 6 December 2010, for services in classes 35 and 36;
- EU registration No. 010844462 of 24 September 2012, for services in classes 35, 36, 42 and 45;
- International registration No. 1182130 of 1 August 2013, for services in classes 35, 36, 42 and 45;
- EU registration No. 012656658 of 30 July 2014, for services in classes 35, 36, 39, 42, 45;
- US registration No. 4582346 of 12 August 2014, for services in classes 35, 36, 42 and 45.

FACTUAL BACKGROUND

The Complainant was incorporated in 2005 and is one of the European largest banks, with more than 5,000 employees. The Complainant offers payment solutions to more than 150 million consumers across 450,000 merchants in 45 countries. In 2021, the Complainant generated US\$ 80 billion in gross merchandise volume. The number of transactions per day using the Complainant's services is equal to 2 million.

The disputed domain names were registered between December 12, 2022 and January 4, 2023 by multiple Respondents. The disputed domain names trigger a security message from the Internet browser Google Chrome. Moreover, Mail exchanges ("MX records") are set up for two of the disputed domain names and some of the disputed domain names have been used in connection with fraudulent activities.

PARTIES CONTENTIONS

No administratively compliant Response has been filed.

The Complainant requests the consolidation of the proceedings as the disputed domain names, although registered in the name of different Respondents (hereinafter collectively referred to as the "Respondent"), are subject to a common control. In particular, the disputed domain names have been registered within a span of three weeks. Moreover, the Whois records for all the disputed domain names except <betaiingkiarna.net> show that the country of the owners of the disputed domain names is Norway. Furthermore, the names of the owners of the disputed domain names are most likely false, as they merely consist of a series of letters, which do not form a meaningful name, the nature of the disputed domain names is similar, and the disputed domain names <kiarnabetaling.org>, <kiarnabetaling.net> and <betaiingkiarna.net> have all been used for scams.

The Complainant further requests the change of language of this UDRP proceeding from Dutch to English in relation to the disputed domain names <betaiingkiarna.org> and <kiarnabetaling.org> for which the Registration Agreement of the Registrar Hosting Concepts B.V. d/b/a Registrar.eu is in Dutch, unlike the Registration Agreements of the other disputed domain names, which are in English.

The Complainant states that the disputed domain names are confusingly similar to its trademark KLARNA, since this trademark is clearly recognizable within each disputed domain name. In particular, the disputed domain names include either the identical trademark KLARNA, or a very similar name, such as "kiarna", which is a typo of the Complainant's trademark. The fact that the disputed domain names contain an additional term to either the trademark KLARNA or its typo "kiarna", cannot prevent a finding of confusing similarity.

The Complainant further maintains that the Respondent lacks rights or legitimate interests in the disputed domain names because the Respondent is not affiliated with, or authorized by, the Complainant, to make use of its KLARNA trademark. A simple Internet search would have revealed that the trademark KLARNA is exclusively associated to the Complainant. Moreover, the Respondent does not appear to be known by the disputed domain names.

The Respondent is not making a legitimate or fair use of the disputed domain names. By trying to access the webpages associated with the disputed domain name, the Internet user is faced with a security warning message. If the Internet user proceeds one step further, it faces a phishing warning. If the Internet user continues, a malware is downloaded on its computer. Mail exchanges ("MX records") are set up for the disputed domain names <klarnabetai.org> and <kiarnabetal.org>. The word "betaling" added to most of the disputed domain names, is the Dutch word for "payment" and is closely related to the Complainant's activity. Hence, through the registration of the disputed domain names, the Respondent is impersonating the Complainant to create an impression of an association with the Complainant.

As far as bad faith is concerned, the Complainant notes that the trademark KLARNA is highly distinctive and enjoys substantial reputation. It is therefore not conceivable that the Respondent registered the disputed domain names without knowledge of the Complainant's trademark. This is also confirmed by the composition of the disputed domain names. The Respondent has engaged in a pattern of conduct given the number of similar domain names that the Respondent has registered within a gap of less than one month. The disputed domain names have been used in relation to phishing activities and Mail exchanges ("MX records") are set up for two of the disputed domain names. The nature itself of the disputed domain names, which implies an association of affiliation with the Complainant, suggests opportunistic bad faith.

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

On 30 April 2023, the Panel requested the Complainant to pay the Additional UDRP Fees set forth by Annex A to the CAC's UDRP Supplemental Rules of the Czech Arbitration Court in consideration of the complexity of the proceedings. The Complainant paid the Additional UDRP Fees in due time, on 2 May 2023. The CAC acknowledge receipt of the payment of the Additional UDRP Fees on 4 May 2023. The Panel is therefore 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. Preliminary Matters

(a) Consolidation

Before assessing the merits of this UDRP dispute, it is necessary for the Panel to evaluate the consolidation of the proceedings, requested by the Complainant. Paragraph 10(e) of the UDRP Rules grants a panel the power to consolidate multiple domain name disputes, while Paragraph 3(c) of the UDRP Rules provides that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder. In assessing whether a single complaint may be filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario.

In assessing common control, "Panels have considered a range of factors, typically present in some combination, such as similarities in or relevant aspects of (i) the registrants' identity(ies) including pseudonyms, (ii) the registrants' contact information including email address(es), postal address(es), or phone number(s), including any pattern of irregularities, (iii) relevant IP addresses, name servers, or webhost(s), (iv) the content or layout of websites corresponding to the disputed domain names, (v) the nature of the marks at issue (e.g., where a registrant targets a specific sector), (vi) any naming patterns in the disputed domain names (e.g., <mark-country> or <mark-goods>), (vii) the relevant language/scripts of the disputed domain names particularly where they are the same as the mark(s) at issue, (viii) any changes by the respondent relating to any of the above items following communications regarding the disputed domain name(s), (ix) any evidence of respondent affiliation with respect to the ability to control the disputed domain name(s), (x) any (prior) pattern of similar respondent behaviour, or (xi) other arguments made by the complainant and/or disclosures by the respondent(s)". See in this respect, section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Jurisprudential Overview 3.0").

In the instant case, the Panel notes a number of similarities among the disputed domain names. In particular, the disputed domain names <betalingkiarna.net>, <kiarnabetaling.net>, <kiarnabetaiing.org>, <kiarnabetal.net>, <kiarnabetal.org> and <klarnabetai.org>, are all registered with the same Registrar, Hostinger UAB, in a period ranging from the 13th to the 25th of December 2022. The Registrants' names are all of the same kind, namely a series of repeated letters that do not form a meaningful name. Their country of origin is Norway. The telephone numbers of these disputed domain names <kiarnabetaiing.org>, <kiarnabetal.net>, <kiarnabetal.org> and <klarnabetai.org> reflect a similar pattern, namely two numbers repeated four times, the Postal Code numbers for the disputed domain names <kiarnabetal.net> and <klarnabetai.org> are the same, likewise the Registrant's fax extension.

The disputed domain names <betaiingkiarna.org> and <kiarnabetaling.org>, are registered with the Registrar Hosting Concepts B.V.

d/b/a Registrar.eu, on the 12th and 15th December 2022, i.e., in the same period of the disputed domain names cited above. The Registrants' names are also made of a series of random letters that do not form a meaningful name, likewise the street address and city name. Both domain names indicate the same State, namely "Hedmark" and country "Norway" (as above). The street address of these domain names is the same. The telephone numbers follow the same pattern of the telephone numbers reported above, namely two repeated numbers. Furthermore, the disputed domain name <betaiingkiarna.org> is almost the same as the disputed domain name <kiarnabetaiing.org>, except that the order of the words "kiarna" and "betaiing" is reversed. The disputed domain name <kiarnabetaling.org> is identical (except for the gTLD) to <kiarnabetaling.org>.

Finally, with respect to the disputed domain name <betaiingkiarna.net>, the Panel notes that most of the similarities mentioned above do not apply in this case, as the owner has a meaningful name and originates from the United States of America, and its contact details are different from those of the previous cited disputed domain names. Nevertheless, also in this case the Panel finds that there are some similarities. In particular, the disputed domain name was registered on January 5, 2023, which is only 11 days later than the last registered disputed domain names. Furthermore, the domain name <betaiingkiarna.net> is identical to the domain name <betaiingkiarna.org> (although with a different gTLD), and is very similar to the domain name <kiarnabetaiing.org>, as it contains the same words "kiarna" and "betaiing", but in a reversed order.

Lastly, the Panel notes that all the disputed domain names lead to a web page displaying a security warning from the Google browser.

In consideration of all the similarities listed above, it appears more likely than not that all the disputed domain names are either registered by the same owner or subject to a common control. The Panel also finds that the consolidation appears fair and equitable to all parties for the sake of efficiency it brings to the proceedings. The Respondents have not presented any arguments as to why consolidation would be unfair or inequitable. Accordingly, conditions for proper consolidation of all the disputed domain names into one matter are satisfied.

(b) Change of language

The Complainant has requested the Panel to allow the change of language of these proceedings from Dutch to English for the disputed domain names <betaiingkiarna.org> and <kiarnabetaling.org>. The Complainant's request is based on the assumption that the language of the Registration Agreement for these domain names is Dutch. However, the Panel notes that in its Verification Response the Registrar has indicated that the language of the Registration Agreement for both domain names is English. Therefore, there is no need for the Panel to evaluate the Complainant's request to change the language of the proceedings for these disputed domain names.

2. Substantive Matters

(a) Confusing similarity of the disputed domain names with the Complainant's trademark

The Panel notes that the Respondent has successfully proved that it is the owner of several KLARNA trademark registrations with effects in various jurisdictions. The Panel finds that all the disputed domain names are confusingly similar to the Complainant's KLARNA trademark.

The disputed domain name <klarnabetai.org> reproduces the trademark KLARNA followed by the word "betai". According to section 1.8 of the WIPO Jurisprudential Overview 3.0, "[w]here 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". In the instant case, the trademark KLARNA is easily distinguishable from the word "betai" as it is placed at the beginning of the disputed domain name. Therefore, the addition of this term cannot prevent a finding of confusing similarity.

With respect to the other disputed domain names, they include the term "kiarna", which is a common misspelling of the trademark KLARNA, as the capital letter "i" is identical to the low-case letter "l" and is confusingly similar thereto. In all these disputed domain names the word "kiana" is clearly recognizable regardless of the fact that it is placed at the beginning or at the end of the disputed domain names. Indeed, either the term "kiarna" is the first term of the disputed domain name and is therefore the one that is read first or, for the disputed domain names <betaiingkiarna.org>, <betaiingkiarna.net>, <betalingkiarna.net>, it follows words ending with the letter "g". As the letters "g" and "k" are visually very different one another, the word "kiarna" is immediately perceivable by the Internet user, despite it is placed at the end of the disputed domain name.

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

(b) Respondent's lack of rights or legitimate interests in the disputed domain names

While the overall burden of proof rests with the complainant, UDRP panels have recognized that this could result in the often-impossible task of proving a negative, requiring information that is often primarily within the knowledge of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name.

In the instant case, the Complainant states that it has no relation with the Respondent and that it did not authorize the Respondent to use its trademark in a domain name. Furthermore, there is no evidence in the file that the Respondent has acquired trademark

rights or other rights on the word "klarna" or "kiarna" and it does not appear either that the Respondent is commonly known by any of the disputed domain names. Some of the disputed domain names contain the word "betaling", which is the Dutch translation of "payment", a word that clearly refers to the Complainant's activity. The other disputed domain names contain words that are a misspelling of "betaling", such as "betaiing", or shortest version of this word, such as "betal" and "betai". Given the composition of the disputed domain names, it appears that the purpose of the Respondent was that of impersonating the Complainant. This situation can never confer rights or legitimate interests on the Respondent (see also section 2.13.1 of the WIPO Jurisprudential Overview 3.0) as any possible use of the disputed domain names cannot amount to a legitimate or fair use. Moreover, MX records are set up for some of the disputed domain names and scam e-mails have been sent to Complainant's customers through these disputed domain names. This use cannot amount to a legitimate or fair use of the disputed domain names.

The Panel is therefore satisfied that the Complainant has made a prima facie case of the Respondent's lack of rights or legitimate interests in the disputed domain names. The onus now shifts to the Respondent to put forward convincing arguments and evidence attesting to its rights or legitimate interests. However, the Respondent has chosen not to file any Response.

In light of the foregoing, the Panel is satisfied that also the second condition under the Policy is met.

(c) Bad faith

The Panel notes that the Complainant's mark is highly distinctive and that due to its longstanding and widespread use it also enjoys reputation. The reputation of the KLARNA trademark has been recognized by several previous UDRP decisions, such as Klarna Bank AB v. (Lei Shi), WIPO Case No. D2022-0006; Klarna AB v. Pan Jing, WIPO Case No. D2019-1325; Klarna Bank AB v. Withheld for Privacy Purposes, Privacy service provided by Withheld for Privacy ehf / Gabriella Garlo, WIPO Case No. D2021-2155. Furthermore, prior UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (in particular, domain names comprising typos or incorporating the trademark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. See section 3.1.4 of the WIPO Overview 3.0.

The Panel is convinced that the registration of the disputed domain names cannot have occurred by chance. The fact that the disputed domain names include the trademark KLARNA or a typo of this mark, coupled with a word referring to the Complainant's activity, is a clear indication that the Respondent registered the disputed domain names to target the Complainant and its mark and mislead Internet users as to the true origin of the disputed domain names.

The disputed domain names do not resolve to active websites. However, all of them trigger a security alert from the Google Chrome web browser. In addition, MX records are set up for two disputed domain names, and three disputed domain names have been used in connection with fraudulent activities. These uses amount to use in bad faith (see, among various, Sunrise Senior Living, LLC v. Registration Private, Domains By Proxy, LLC / Caroline Rodrigues, Fundacion Comercio Electronico, WIPO Case No. D2020-1620). Further evidence of bad faith is also the fact that, through the disputed domain names, the Respondent impersonates the Complainant and misleads the Complainant's customers as to the origin of the disputed domain names, and that the Respondent registered the disputed domain names providing false contact details to conceal its identity.

In view of the above, the Panel finds that the Respondent registered and used the disputed domain names to take unfair advantage from the distinctive character and reputation of the Complainant and of its KLARNA trademark for some malicious intent.

Thus, the Panel concludes that the disputed domain names have been registered and are being used in bad faith, and that 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. **betaiingkiarna.org**: Transferred
2. **kiarnabetaling.org**: Transferred
3. **betaiingkiarna.net**: Transferred
4. **betalingkiarna.net**: Transferred
5. **kiarnabetaling.net**: Transferred
6. **kiarnabetaiing.org**: Transferred
7. **kiarnabetal.net**: Transferred
8. **kiarnabetal.org**: Transferred
9. **klarnabetai.org**: Transferred

PANELLISTS

Name Angelica Lodigiani

DATE OF PANEL DECISION 2023-05-04

Publish the Decision
