

Decision for dispute CAC-UDRP-105440

Case number CAC-UDRP-105440

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Domain names klarnapay.org

Case administrator

Name Olga Dvořáková (Case admin)

Complainant

Organization Klarna Bank AB

Complainant representative

Organization SILKA AB

Respondent

Name Andre Mayer

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 the registered trademark KLARNA as a word and figure mark in several classes in various countries, such as e.g.

KLARNA, Registration Number: IR1217315, Designated territories: US, JP, MX, RU, NZ, KR, CH, AU, ID, TR, NO

Klarna. (Figurative), Registration Number: IR1530491, Designated territories: US, JP, MX, KR, NZ, IN, AU, GB, CA, NO, CH, ID, CN

KLARNA, Registration Number: IR1066079, Designated territories: Russia, China, Turkey and Norway

KLARNA, Registration Number: EUTM009199803, European Union

FACTUAL BACKGROUND

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. Klarna offers 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.

These trademark registrations predate the registration of the Domain Name. Due to extensive use, advertising and revenue associated with its trademarks, the Complainant enjoys a high degree of goodwill around the world and has successfully challenged domain names infringing the rights in the KLARNA trademark in a number of UDRP cases.

PARTIES CONTENTIONS

The Complainant submits that the requirements of the Policy have been met and that the disputed domain name should be transferred to it. The Complainant makes a number of legal arguments (referenced below) and also supplies a set of annexes providing evidence of its activities and of the Respondent's use of the disputed domain names.

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).

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

According to Paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements to obtain an order that the disputed domain name should be transferred or cancelled:

- (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 in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The Panel has examined the evidence available to it and has come to the following conclusion concerning the satisfaction of the three elements of paragraph 4(a) of the Policy in these proceedings:

RIGHTS

The Complainant has established rights in the name KLARNA. The disputed domain name <KLARNAPAY.ORG> is found to be confusingly similar to the Complainant's trademark and company name. This finding is based on the settled practice in evaluating the existence of a likelihood of confusion of:

- a) disregarding the top-level suffix in the domain names (i.e. ".org") in the comparison, and
- b) finding that the simple combination of a trademark and a generic term relating to the very services provided by the Complainant (in this case "pay" for payment services) would by no means be considered sufficient to distinguish a domain name from a trademark.

The disputed domain name is therefore found to be confusingly similar to the earlier rights in the name KLARNA and the Panel

concludes that the Complainant has satisfied the requirement under paragraph 4(a)(i) of the policy.

NO RIGHTS OR LEGITIMATE INTERESTS

The onus to make out a prima facie case that the Respondent lacks rights or legitimate interests is placed on the Complainant. However, once such a prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the disputed domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the policy.

The Respondent has no rights or legitimate interests in the disputed domain name. The Complainant and the Respondent have never had any previous relationship, nor has the Complainant ever granted the Respondent with any rights or license to use the KLARNA trademark in any form, including in the disputed domain Name. Additionally, the disputed domain name did not resolve to any active page/content. Therefore, the disputed domain name cannot be in use in connection with a bona fide offering of goods or services. There is no available evidence that the Respondent engages in, or has engaged in any activity or work, i.e., legitimate or fair use of the disputed domain name, that demonstrates a legitimate interest in the disputed domain name, so that there is nothing that could be interpreted as rights or legitimate interests of the Respondent. Since the Respondent has not filed a response, the Respondent has also failed to put forward any arguments at all which could change this finding.

The Panel therefore concludes that the Respondent did not refute the Complainant's prima facie case and has not established any rights or legitimate interest in the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy). The Complainant has therefore also satisfied the requirement under paragraph 4(a)(ii) of the Policy.

BAD FAITH

The Panel finds that the Complainant has established that the disputed domain name was registered by the Respondent and is being used by the Respondent in bad faith.

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. 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 must have been aware of the services offered by the Complainant under the brand KLARNA and creates a presumption of bad faith.

The well-known nature of the KLARNA trademark has been confirmed in earlier decisions. The Respondent has combined this trademark with a generic element related to the services provided by the Complainant. Therefore, this registration can only be viewed as an attempt to exploit the goodwill vested in the trademark by attracting Internet users and confusing them to the extent that they would believe that a website connected to the disputed domain name offers the services of an entity that is affiliated to the Complainant. No other reason for registering a combination of the trademark of the Complainant together with generic terms as a domain name appears even remotely feasible. Any, even the most basic Google search in respect of the letter combination KLARNA would have yielded obvious references to the Complainant. The Complainant is using a privacy service to conceal its identity and only someone familiar with the Complainant's trademarks and activities would have registered a domain name consisting solely of the Complainant's trademarks and the description of the Complainant's services.

The disputed domain name is passively held. There is no evidence of any actual or contemplated good-faith use of the disputed domain name, as previous UDRP panels held. Instead, such panels have ruled, under the doctrine of passive holding, that the non-use of a domain would not prevent a finding of bad faith and that it is possible, in certain circumstances, for inactivity by the Respondent to amount to the domain name being used in bad faith. As indicated above, these circumstances required for such passive holding being use in bad faith are fulfilled in the present case.

The Panel therefore concludes that the Respondent has registered and is using the disputed domain name in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy). The Complainant has therefore also satisfied the requirement under paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **klarnapay.org**: Transferred

PANELLISTS

Name	Udo Pflighar B.A. (Melb.)
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DATE OF PANEL DECISION 2023-06-15

