

Decision for dispute CAC-UDRP-105441

Case number **CAC-UDRP-105441**

Time of filing **2023-05-12 12:10:48**

Domain names **mein-klarna.com**

Case administrator

Name **Olga Dvořáková (Case admin)**

Complainant

Organization **Klarna Bank AB**

Complainant representative

Organization **SILKA AB**

Respondent

Name **Gabel Stapler**

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 proprietor of a number of marks in respect of the string 'KLARNA', including EU trade mark 009199803 (7 December 2010) in classes 35 and 36 in respect of retail and financial services.

FACTUAL BACKGROUND

The Complainant, a company (AB) with its seat in Stockholm, Sweden, provides payment services for online retailers. It is a significant player in the Swedish market, having been founded there in 2005, and now operates across 45 countries. It has a range of online activities including a website at www.klarna.com and various social media accounts.

The Respondent, an individual with an address in the Democratic Republic of the Congo, registered the disputed domain name on 6 March 2023 (initially using a proxy/privacy registration service).

PARTIES CONTENTIONS

No administratively compliant Response has been filed. Neither the written notice of the Complaint nor the advice of delivery thereof was returned to the Provider. It is also not known whether email notice of the Complaint (sent to the address supplied by the Respondent when registering the disputed domain name) was received, and the Respondent never accessed the online Platform.

The Complainant's arguments are summarised under each heading, below. The Complaint is accompanied by evidence in the form of properly presented Annexes, which are helpfully indexed in the Complaint itself and referred through in the body of the Complainant as appropriate.

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 only differences between the Complainant's mark and the disputed domain name, setting aside in accordance with usual practice the generic TLD .com, are the presence of a hyphen and the addition in the dispute domain name of the text 'MEIN'. The hyphen is a common feature in disputed domain names in place of a space, and so the Panel considers whether the domain name is confusingly similar to the mark on the basis of the text 'MEIN'. As the Complainant submits, this is the German word for 'my'. (The fact that this is in the German language is of particular relevance in the present case as, as noted below, the Respondent is presently redirecting Internet users to the German-language version of the Complainant's website). Taking account of the range of cases cited in the Complaint, and the general principle that the addition of a generic or descriptive term to a mark does not normally negate confusing similarity (WIPO Jurisprudential Overview, version 3.0, para 1.8), the Panel is satisfied that the Complainant has made out its case in respect of this aspect 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).

The Complainant has affirmed, without contradiction from the Respondent, that the Respondent is not affiliated with or authorised by the Complainant in any way. The Complainant has made out the required prima facie case that there are no rights or legitimate interests present within the scope of the Policy, pointing to the singular nature of the string KLARNA and the lack of any association between the Respondent and the text in question (including that the Respondent is not known by or doing business under the name KLARNA or MEIN KLARNA). Moreover, the Panel notes and accepts that any rights or legitimate interests are highly implausible, in light of the evidence that the Respondent has intentionally chosen to register a domain name containing the Complainant's mark and then redirect Internet users to the Complainant's website for the time being. (It is long established that redirection by a Respondent to a Complainant's website is not evidence of legitimate interests and indeed often points to the opposite; WIPO Jurisprudential Overview, version 3.0, paragraph 2.5.3, and a range of cases cited in the Complaint). There is no further evidence that would serve as grounds for rights or legitimate interests, and the Respondent - through its failure to participate in proceedings - has not assisted the Panel in such regard.

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).

The Complainant has provided evidence of the distinctive and well-known nature of its mark and activities, to the extent that the Panel is satisfied that the Respondent must have been aware of the Complainant and its activities at the point of registration of the disputed domain name. Along with extensive supporting materials in respect of the reach and fame of the mark, the Complainant also points to previous decisions under the Policy where the same has been found, e.g. WIPO Case No. D2022-0006, Klarna Bank AB v. (Lei Shi). The Panel has not been able to identify a good faith basis for the intentional registration of a domain name of this nature (taking into account the submissions and conclusions already noted above under the other aspects of the Policy).

Regarding use, the Panel finds that this dispute falls within the scope of paragraph 4(b)(iv) of the Policy, addressing situations where a Respondent's use in bad faith is found through its use of a domain name to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with a Complainant's mark. In particular, the evidence that the Respondent is redirecting users to the Complainant's website, for the time being, is one of the six examples of circumstances under para 4(b)(iv) of the Policy further discussed in light of case law in the WIPO Jurisprudential Overview, version 3.0, paragraph 3.1.4 ('redirecting the domain name to the complainant's (or a competitor's) website'). As the Respondent controls the redirection, there is a continuing real or potential threat to the Complainant, and the Respondent has not assisted the Panel through participating in the proceedings and addressing this issue. (A range of relevant and helpful cases are cited in the Complainant, e.g. WIPO Case No. D2021-2813, Telefonaktiebolaget LM Ericsson v. Registration Private, Domains By Proxy, LLC / Aha Tek. The Panel notes the further submissions of the Complainant in respect of 'passive holding' but does not need to consider them any further given the clear evidence and conclusions in respect of the submissions already considered in this decision.

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 reasons for the decision are as set out above. In the absence of any Response from the Respondent, or any other information indicating the contrary, the Panel concluded that the Respondent has no rights or legitimate interests in respect of the disputed domain name. On the other hand, it is clear that the Complainant has rights in respect of the trade mark KLARNA, and that the presence of a descriptive term in the disputed domain name (MEIN, a German-language term) does not prevent a finding of confusing similarity with the Complainant's marks. It is likely, in light of the nature of the Complainant's mark and activities that the Respondent would have been aware of the Complainant and its particular activities, and that the Respondent is intentionally using the disputed domain name to attract Internet users to its online activities, which presently include redirecting Internet users to the Complainant's German-language website. The Panel takes into account the evidence supplied by the Complainant, and the well-known nature of its mark. The Panel can find for these reasons that the disputed domain name was registered and is being operated in bad faith, and that the Respondent, through its failure to participate in these proceedings and on the basis of the strength of the Complainant's evidence, has not pointed to any rights, legitimate interests, or the absence of bad faith registration or use. The requirements for the acceptance of a Complaint under paragraph 4 of the Policy have therefore been met, and the Panel ordered that the disputed domain name be transferred to the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **mein-klarna.com**: Transferred

PANELLISTS

Name	Daithi Mac Sithigh
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DATE OF PANEL DECISION	2023-06-16
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Publish the Decision
