

Decision for dispute CAC-UDRP-105448

Case number **CAC-UDRP-105448**

Time of filing **2023-05-15 11:27:57**

Domain names **betale-kiarna.info, betalklarna.info, kiarnabetal.info, kiarnabetaling.info, klarnainkasso.org**

Case administrator

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

Complainant

Organization **Klarna Bank AB**

Complainant representative

Organization **SILKA AB**

Respondent

Organization **Sahad Mohammed Riviera (Sahari Muti Inc)**

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 submitted evidence that it is the owner of 47 trademark registrations in various countries containing the word "KLARNA". In particular, the Complainant relied on the following registered rights:

- international trademark No. 1066079 registered since 22 December 2010 for "Klarna" in classes 35 and 36, and designated for Switzerland, Russia, China, Turkey and Norway;
- European Union trademark No. 009199803 registered since 7 December 2010 for "Klarna" in classes 35 and 36;
- European Union trademark No. 010844462 registered since 25 September 2012 for "KLARNA" in classes 35, 36, 42 and 45;
- international trademark No. 1182130 registered since 2 August 2013 for "KLARNA" in classes 35, 36, 42 and 45, and designated for USA;
- European Union trademark No. 012656658 registered since 31 July 2014 for "KLARNA" in classes 35, 36, 39, 42 and 45; and
- US trademark No. 4582346 registered since 13 August 2014 for "KLARNA" in classes 35, 36, 42 and 45.

The Complainant further asserted that it holds registration for the trademark KLARNA under different classes (9, 35, 36, 39, 42, 45) in multiple jurisdictions around the world since 2010, including but not limited to the European Union (including Spain), United States of America, WIPO (International Registrations), Australia, Singapore, New Zealand, Chile, Canada, India and China.

FACTUAL BACKGROUND

The Complainant is a Swedish e-commerce company that provides payment services for online storefronts, that include direct payments, pay after delivery options and instalment plans in a one-click purchase flow. It was founded in 2005 in Stockholm, Sweden with the aim of making it easier for people to shop online. The Complainant has more than 5,000 employees, most of them working at the headquarters in Stockholm. As of 2011, about 40% of all e-commerce sales in Sweden went through Klarna. It is currently one of Europe's largest banks and is providing payment solutions for over 150 million consumers across 500,000 merchants in 45 countries. In 2021, the Complainant generated US \$80 billion in gross merchandise volume.

The disputed domain names were registered between 14 February 2023 and 20 February 2023:

- <betale-kiarna.info> (creation date: 2023-02-20T16:07:09Z)
- <betalklarna.info> (creation date: 2023-02-15T13:02:02Z)
- <kiarnabetal.info> (creation date: 2023-02-15T14:19:24Z)
- <kiarnabetaling.info> (creation date: 2023-02-15T17:51:13Z)
- <klarnainkasso.org> (creation date: 2023-02-14T17:17:48Z)

The Registrar confirmed that the Respondent is the current registrant of the disputed domain names and that the language of the registration agreement is English.

The Respondent has not filed a Response.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

The Complainant made the following contentions:

The Complainant's registered trademark KLARNA is clearly recognizable within each disputed domain name, either as KLARNA or its typo KIARNA. The registration and the use of the confusingly similar disputed domain(s) is a direct infringement of the legitimate rights held by the Complainant in the mark KLARNA. Previous UDRP panels also have found that the mere addition of a term to a trademark in a domain name does not avoid a finding of confusing similarity. Lastly, the addition of the gTLD ".com" does not differentiate domain names from the trademark. The Complainant thus asserts that the first element of the Policy is satisfied.

According to the Complainant, the Respondent lacks rights and legitimate interests in the disputed domain names because the Respondent is not affiliated with the Complainant in any way, nor authorized by the Complainant to make use of KLARNA mark. The Complainant refers to a previous UDRP decision which found that the Complainant's trade mark enjoys a significant Internet presence and emphasises that the Complainant has painstakingly built up a good reputation and has invested a substantial amount of resources in promoting its product under the KLARNA mark world over. The disputed domain names have a recent registration date, while the Complainant has been using the brand KLARNA for over fifteen years.

Furthermore, the Complainant asserts that its registered mark is a distinctive term, exclusively associated with the Complainant so that one would not legitimately choose as a domain name without having specific rights to such combination. It is indeed extremely difficult to foresee any legitimate use that the Respondent may have with the disputed domain names, which combines the mark KLARNA or its typo KIARNA with related keywords such as 'betal', 'betaling' and 'inkasso'. It is pertinent to note that the Respondent with mala fide intent has registered the disputed domain names by replacing letter 'L' with an 'I', so that the trademark with an "i" (kiarna) when represented with a capital "I" looks similar to the Complainant's mark 'klarna'. The word 'Betaling' (in Dutch) means 'Payment', and 'Inkasso' (in Norwegian) means 'Debt Collection', and are closely related to the Complainant's activities in relation to payment solutions for online storefronts. Hence, the Respondent cannot be said to have legitimately chosen the disputed domain names in bulk, unless it was seeking to create an impression of an association with the Complainant.

The Complainant further points out that it has not authorized the Respondent either as a licensee, vendor, supplier, distributor, or customer relations agent for the Complainant's services. Therefore, the Respondent had no rights to incorporate the mark KLARNA in the disputed domain names, along with a related keyword(s). The said act on behalf of the Respondent carries a risk of implied affiliation. Moreover, the Respondent is not making any legitimate or fair use of the disputed domain names as on date, but on visiting any of the disputed domain names, a visitor is issued by a security warning by the Chrome Browser for majority of the disputed domain names. The disputed domain names were registered within a span of one week, i.e. between 14 February 2023 and 20 February 2023, with mala fide intention for commercial gain to misleadingly divert consumers and tarnish the trademark at issue, given the above said facts.

According to the Complainant, the disputed domain names were clearly being used for phishing or other fraudulent purposes, which is bound to lead customers and other internet users to infer that the disputed domain names have an association or nexus with the Complainant and lead to confusion and deception.

Accordingly, there is a prima facie proof of the Respondent's intent to usurp the reputation of the Complainant and make illegal gains off its worldwide reputation and goodwill. Suffice it to state that the said usage of the disputed domain names by the Respondent has the propensity to cause irreparable loss to the goodwill and reputation of the Complainant.

In view of the prior rights of the Complainant in the trademark KLARNA since 2010 and the enormous goodwill and reputation vested in the Complainant's trademark, it is evident from above that the sole purpose behind the Respondent in registering the disputed domain

names was to take undue advantage of the Complainant's trademarks. Hence, the Respondent cannot be held to have any kind of legitimate interests. The above facts establish a prima facie case that the Respondent has no right or legitimate interest in the disputed domain names and that pursuant to the Policy, the burden shifts to the Respondent to show it does have a right or legitimate interests.

The Complainant concludes that also the second element of the Policy as to lack of legitimate interests on behalf of the Respondent is quite evident from the above and hence prima-facie satisfied.

Turning to the bad faith argument, the Complaint firstly argues that its mark KLARNA is well-known as it transcends regional boundaries and has acquired an enviable trans-border reputation. A simple Google search (as demonstrated by the Complainant) evidences the popularity of the Complainant's mark and the keywords contained in the disputed domain names make reference to the Complainant only.

The Complainant then lists the following factors as contributing to establishing of the Respondent's bad faith conduct:

Actual or Constructive Knowledge: The registration of a Domain Name that is confusingly similar to another's mark, despite actual or even constructive knowledge of the mark holder's rights, constitutes bad faith registration and use, pursuant to Policy 4(a)(iii). Given the immense popularity and goodwill enjoyed by the Complainant's trademark globally by virtue of its open, continuous and extensive use and their impeccable market reputation, it is clear that the Complainant's trademark is well-known and the Respondent knowingly chose to register the disputed domain names incorporating the Complainant's trademark (or its typo) to divert customers and drawing damaging conclusions as to the Complainant's operations, thus can adversely affect the Complainant's goodwill and reputation and its right to use the disputed domain names. In the circumstances of this case, the Complainant asserts that it is inconceivable that the registrations of the disputed domain names were made without full knowledge of the existence of the Complainant and its 'well-known' trademark, when a simple Google search for KLARNA+Keywords make reference to the Complainant only.

Pattern of Conduct: The Respondent registered the disputed domain names between 14 February 2023 and 20 February 2023 all incorporating the Complainant's well-known distinctive mark within a weeks' time, hence pattern of conduct is evident.

Fraudulent/Phishing Activity: The Complainant owns and uses various domain names all incorporating its trademark KLARNA. Hence, any individual coming across any of the disputed domain names or an associated email ID may assume it to be the Complainant's website/email and instantly associate the same with the Complainant. The screenshots further indicate that the disputed domain names have been put to bad faith use in the recent past.

Passive Holding: The Complainant asserts that the doctrine of passive holding is satisfied in this case.

Opportunistic Bad Faith: Any person or entity using the mark/name KLARNA in any manner is bound to lead customers and users to infer that its product or service has an association or affiliation with the Complainant and lead to confusion and deception.

Given the foregoing, the use and registration of the disputed domain names are, according to the Complainant, clearly intended to capitalize on consumer confusion for the Respondent's profit, a bad faith registration and use under the Policy.

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

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.

Under Paragraph 3(c) of the Rules, the complaint may relate to more than one domain name, provided that the domain names

are registered by the same domain-name holder. The Panel is satisfied that the Respondent is the registrant of all disputed domain names.

PRINCIPAL REASONS FOR THE DECISION

This is a proceeding pursuant to Paragraph 4 of the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules") and the CAC Supplemental Rules.

Paragraph 15 of the Rules provides that the Panel shall decide the complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

According to Paragraph 4(a) of the Policy, a complainant must prove each of the following: (A) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; (B) the respondent has no rights or legitimate interests in respect of the domain name; (C) the domain name has been registered and is being used in bad faith.

1. Identical or confusingly similar domain name

The Complainant demonstrated that it owns the asserted trademark registrations for "KLARNA" which were registered long before the registration of the disputed domain names by the Respondent. It is well established that a nationally or regionally registered trademark confers on its owner sufficient rights to satisfy the requirement of having trademark rights for the purposes of standing to file a UDRP case. Therefore, the Panel finds that the Complainant has established such rights.

It is also well established that the generic top-level suffix may be disregarded when considering whether a disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights, as it is a necessary technical requirement of a domain name.

Two of the disputed domain names incorporate the Complainant's trademark "KLARNA" in its entirety, whereas the three remaining disputed domain names contain the word "KIARNA" which – given the context of this case – clearly looks highly similar to the word "KLARNA" and can be considered a typo. Numerous previous panels have accepted that the incorporation of a trademark in its entirety into a domain name is sufficient to establish that the disputed domain name is identical or confusingly similar to a registered trademark. Indeed, in most cases where a domain name incorporates the entirety of a trademark, the domain name is, for the purposes of the Policy, considered as confusingly similar to the trademark. The same conclusion applies to those situations where the disputed domain name incorporates a misspelled trademark and the trademark is clearly recognisable, as in this case.

In addition to the Complainant's trademark, the disputed domain names also contain terms "betale", "betal", "betaling" and "inkasso" which are all descriptive terms (in some pertinent languages including Dutch and Norwegian) in the field of payment services. Addition of descriptive terms (even if only in some languages) to a well-known trademark included in a domain name in its entirety is, in the view of this Panel, not sufficient to avoid the likelihood of confusion of the disputed domain names with the Complainant's well-known trademark.

The Panel therefore finds that the disputed domain names are confusingly similar to the trademark in which the Complainant has rights.

2. Lack of rights or legitimate interests

The Respondent has not filed a Response and has neither provided any other information that would oppose the Complainant's allegations. Therefore, the Panel holds that the Complainant successfully presented its prima facie case that the Respondent has no rights or legitimate interests in respect of the disputed domain names.

In particular, the Respondent is not in any way connected with the Complainant nor is it authorized to use the Complainant's trademark for its commercial activities.

The Panel also tends to agree with the Complainant in that the Respondent cannot be said to have legitimately chosen all the disputed domain names in bulk, unless it was intentionally seeking to create an impression of an association with the Complainant.

The Panel therefore finds that the Respondent has no rights or legitimate interest in the disputed domain names.

3. Registration and use of the disputed domain name in bad faith

With respect to the bad faith argument, the Complainant makes a number of allegations supporting the finding of bad faith registration and use by the Respondent, namely: (a) that the disputed domain is confusingly similar to the Complainant's well-known trademark; (b) that the Respondent must have had actual knowledge of the Complainant's rights in its trademarks; and (c) that the Respondent engages in pattern of conduct; (d) that the disputed domain names were in all likelihood registered for fraudulent/phishing activity; (e) that the disputed domain names are being passively held; and (f) that any person or entity using the Complainant's mark "KLARNA" in any manner will make customers and users to infer that its product or service has an association or affiliation with the Complainant.

The Panel has already found that the disputed domain names are all confusingly similar to the Complainant's trademark "KLARNAs". It is well established that the mere registration of a domain name that is confusingly similar to a trademark by an unaffiliated entity can lead to the presumption of bad faith.

Given the facts of this matter and the (non-) use of the disputed domain names, as described above, the Panel not only believes that the Respondent must have been aware of the existence of the Complainant and its trademark but also that the Respondent must have registered and must have been using the disputed domain names in bad faith for obviously fraudulent purposes. As outlined by the Complainant, there are numerous indications of bad faith in this case and the Respondent has failed to explain its bulk registration of the disputed domain names.

Consequently, the Panel finds that the disputed domain names have been registered and have been used by the Respondent in bad faith.

In conclusion, the Panel finds that all three elements required by Paragraph 4(a) of the Policy were met and makes the following decision.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **betale-kiarna.info**: Transferred
2. **betalklarna.info**: Transferred
3. **kiarnabetal.info**: Transferred
4. **kiarnabetaling.info**: Transferred
5. **klarnainkasso.org**: Transferred

PANELLISTS

Name	Vojtěch Chloupek
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DATE OF PANEL DECISION 2023-06-30

Publish the Decision
