

Decision for dispute CAC-UDRP-105514

Case number	CAC-UDRP-105514
-------------	-----------------

Time of filing	2023-06-07 17:35:08
----------------	---------------------

Domain names	theklarnagroup.com
--------------	--------------------

Case administrator

Name	Olga Dvořáková (Case admin)
------	-----------------------------

Complainant

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

Complainant representative

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

Respondent

Name	Arlyne Beard
------	--------------

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 founded in 2005, in Stockholm, Sweden, is one of Europe's largest banks and is providing payment solutions to approx. 150 million customers in 45 countries for the last one decade. The Complainant also provides e-commerce payment services solutions for online storefronts, that include direct payments, pay after delivery options and installment plans in a one-click purchase flow. Through the Complainant's services, payments are easier to people to shop online.

The Complainant owns the following Trademarks:

- International Trademark KLARNA, Reg. No. 1066079, registered on December 21, 2010, in classes 35, and 36, and in force until December 21, 2030.

- EUIPO Trademark KLARNA, Reg. No. 009199803, filed on June 24, 2010, registered on December 6, 2010, in classes 35, and 36, and in force until June 24, 2030.

- EUIPO Trademark KLARNA, Reg. No. 010844462, filed on April 27, 2012, registered on September 24, 2012, in classes 35, 36, 42 and 45, and in force until April 27, 2032.

- International Trademark KLARNA, Reg. No. 1182130, registered on August 1, 2013, in classes 35, 36, 42 and 45, and in force until August 1, 2033.

- EUIPO Trademark KLARNA, Reg. No. 012656658, filed on March 3, 2014, registered on July 30, 2014, in classes 35, 36, 39, 42 and

45, and in force until March 3, 2024.

- US Trademark KLARNA, Reg. No. 4582346, registered on August 12, 2014, in classes 35, 36, 42 and 45, and in force until August 12, 2024.

FACTUAL BACKGROUND

The Complainant founded in 2005, in Stockholm, Sweden, is a is one of Europe's largest banks and is providing payment solutions to approx. 150 million customers in 45 countries for the last one decade. The Complainant also provides e-commerce payment services solutions for online storefronts, that include direct payments, pay after delivery options and installment plans in a one-click purchase flow. The Complainant aim to make paying as simple, safe and especially, smooth as possible. The Complainant has consistent and relevant presence in the Social Networks as well.

The Complainant has more than 5,000 employees, with its majority 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 provides payment solutions for over 150 million consumers across 500,000 merchants in 45 countries. In 2021, the Complainant generated \$80 billion in gross merchandise volume. The Complainant is backed by investors such as Sequoia Capital, Silver Lake, Bestseller Group, Dragoneer, Permira, Visa, Ant Group and Atomico.

The Complainant also owns the following domain names: <klarnagroup.com> (created on March 5, 2014); <klarnagroup.fr> (created on March 6, 2014); <klarnagroup.fi> (created on March 6, 2014) and <klarnagroup.se> (created on March 5, 2014).

The Complainant places great value on its Intellectual Property Rights and has been diligent in protecting its intellectual property and in preventing the unauthorized use thereof. Since 2016, it has been successful in over 50 UDRP matters including *Klarna AB v. Willi Ehrlich, Insulaner e.K.*, WIPO Case No. D2016-2182 (<klarna.tel>, <klarna.name>); *Klarna AB v. Domain Administrator, See PrivacyGuardian.org / Zhichao Yang*, WIPO Case No. D2017-0220 (<payklarna.com>); *Klarna AB v. Zhangwei*, WIPO Case No. DCO2017-0006 (<klarna.co>); *Klarna AB v. Syed Hussain, Domain Management MIC*, WIPO Case No. D2018-1189 (<klarna.group>); *Klarna Bank AB v. Wei Dai Hong*, WIPO Case No. D2018-2164 (<klarnagroup.net>); *Klarna AB v. Pan Jing*, WIPO Case No. D2019-1325 (<klarna.site>); *Klarna Bank AB v. (qianmengdan)*, WIPO Case No. D2020-2514 (<klarnarewards.com>); *Klarna Bank AB v. E.P.*, WIPO Case No. DSE2021-0002 (<klarnaclicks.se>); *Klarna Bank AB v. WhoisGuard Protected, WhoisGuard, Inc. / Melanie Forster*, WIPO Case No. D2021-0756 (<klarna-gateway.com>).

The disputed domain name <**theklarnagroup.com**> was registered on **April 18, 2023** and resolves to a website to perpetrate phishing activity and with highly and potentially malicious content.

PARTIES CONTENTIONS

Response:

The Respondent did not reply to any of the Complainant's contentions.

Complainant Contentions:

- The Complainant asserts that it has been in existence since 2005; that it is the only one in the world who has conceived and registered the trademark KLARNA in multiple jurisdictions all over the world since 2010 including but not limited to the United States of America, European Union, WIPO (International Registrations), Australia, Singapore, New Zealand, Chile, Canada, India and China.
- The Complainant contends that the disputed domain name composed by its Trademark KLARNA and common words, it is confusingly similar to its Trademark KLARNA, citing point 1.8 of the WIPO Overview 3.0.
- The Complainant contends that the Respondent has no rights or legitimate interests in respect of the domain name, due to the Complainant has not licensed or authorized the Respondent to register or use the disputed domain name, nor is the Respondent affiliated to the Complainant in any form; that there is no evidence that the Respondent is known by the disputed domain name or owns any corresponding registered trademarks.
- The Complainant contends that has painstakingly built up a good reputation and has invested a substantial amount of resources in promoting its product under the KLARNA's Trademark at a worldwide level; that the disputed domain name has a recent registration date of April 18, 2023, while the Complainant has been using the brand KLARNA for the last eighteen years; that the Complainant's Trademark is a distinctive term used in relation to banking, exclusively associated with the Complainant only that one would not legitimately choose as a domain name without having specific rights to such combination, citing *Klarna Bank AB v. 1&1 Internet Limited / Slawomir Markow*, WIPO Case No. D2022-1193.
- The Complainant also contends that due to the combination of characters done by the Respondent of the Trademark KLARNA with related keyword 'group', prefixed with 'the', the Respondent cannot be said to have legitimately chosen the disputed domain name, unless it was seeking to create an impression of an association with the Complainant, with it, carrying a risk of implied affiliation, citing *Klarna Bank AB v. (Lei Shi)*, WIPO Case No. D2022-0006.

- The Complainant asserts and emphasizes its concern, since by visiting the disputed domain name a security/phishing warning message it is displayed by the Chrome Browser, showing the Respondent's clear intention of taking advantage of the Complainant's substantial reputation and goodwill, confusing the public, diverting its business and tarnishing the Complainant's reputation.
- The Complainant contends that the disputed domain name has MX servers active as on date, indicating that the disputed domain name is being used for phishing or other fraudulent purposes and which is bound to lead customers and other internet users to infer that the disputed domain name has an association or nexus with the Complainant and lead to confusion and deception, citing *American Machinery Works Inc. v. Registration Private, Domains by Proxy LLC / Name Redacted*, WIPO Case No. D2021-3006.
- The Complainant asserts that is one of Europe's largest banks and is providing payment solutions to approx. 150 million customers in 45 countries for the last one decade, providing it an immense popularity and goodwill over the Trademark KLARNA; that a simple Google search evidences the popularity of the Complainant's Trademark and otherwise keywords contained in the disputed domain name make reference to the Complainant only; that it is inconceivable that the registration of the disputed domain name was made without full knowledge of the existence of the Complainant and its 'well-known' trademark; that by noting the composition of the disputed domain name itself, the Respondent was likely aware of the KLARNA trademarks when it registered the disputed domain name, or knew or should have known that the disputed domain name was confusingly similar to Complainant's trademarks, citing among other references the section 3.2.2 of the WIPO Overview 3.0.
- The Complainant contends that the disputed domain name is being used for fraudulent and phishing activity; that the Complainant owns and uses a variety of domain names that incorporate its trademark KLARNA and otherwise commonly referred as 'KLARNA GROUP', that any individual coming across the disputed domain name or an associated email ID (@theklarnagroup.com) may assume it to be the Complainant's website/email and instantly associate the same with the Complainant.
- The Complainant contends that the disputed domain name has been passively held, and that there is no evidence showing that the Respondent has been using, or preparing to use, the disputed domain name in connection with a bona fide offering of goods and services or has made a legitimate noncommercial or fair use of the disputed domain name.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is 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, including a Complaint to ICANN concerned to the lack of collaboration by the Registrar NICENIC INTERNATIONAL GROUP CO., LIMITED, were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

In accordance with Paragraph 4(a) of the Policy, the onus is on the Complainant to prove:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (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 will consider each of these requirements in turn.

1. Identical or Confusingly Similar

The Complainant has provided vast and sufficient evidence of having Trademark Rights over the word KLARNA, since 2010.

The disputed domain name <**theklarnagroup.com**> is the result of the exact incorporation of Complainant's Trademarks KLARNA, plus the addition of the noun "group", prefixed by the article "the", terms that, irrespective of their meaning, will not prevent a finding of confusing similarity (see *Klarna Bank AB v. David Vaughn (REDACTED FOR PRIVACY)*, CAC-UDRP Case No. 104824; *Klarna Bank AB v. Kristin Ebersbach*, CAC-UDRP Case No. 104809 and Section 1.8 of the WIPO Overview 3.0).

In relation to the gTLD ".com", it is well established that such element may typically be disregarded when assessing whether a domain name is identical or confusingly similar to a trademark, as it is a technical requirement of registration (see Section 1.11.1 of the WIPO Overview 3.0 and *Klarna Bank AB v. Michelle Glaser (Glas tech Ltd)*, CAC-UDRP Case No. 104966).

Therefore, the disputed domain name <**theklarnagroup.com**> is confusingly similar to Complainant's KLARNA Trademarks.

2. Rights or Legitimate Interests

According to the vast submitted evidence, and considering the absence of any communication or Response by the Respondent, meaning of any relevant evidence, this Panel determines that the Complainant has established its *prima facie* case in relation to the Second Element of the Policy, due to:

(1) the Respondent registered the disputed domain name on April 18, 2023, very well after the Complainant's acquired its Trademark Rights over KLARNA on 2010, *e.g.*: EUIPO Trademark KLARNA, Reg. No. 009199803, filed on June 24, 2010, registered on December 6, 2010, and in force until June 24, 2030.

(2) the Respondent purposely selected a well-known Trademark as KLARNA which has been protected in multiple jurisdictions, registered as a domain name without the Complainant's authorization, intentionally adding it a noun as 'group' prefixed by the article 'the', which are potentially related to the Complainant's business, suggesting at any event a false affiliation, confusing the Internet Users who seeks or expects to find the Complainant on the Internet.

(3) the Respondent is not a licensee, or associated or affiliated to/by the Complainant in any form.

(4) nothing in the records suggest or prove that the Respondent has become commonly known by the term "theklarnagroup.com"; in contrary, and according to the evidence submitted by the Complainant, by conducting a simple Google search of the term "Klarna" alone or associated to the word "group" on popular search engines, including in any IP database, the Respondent could easily have noticed the Complainant's existence and preponderance of the Trademark KLARNA, additionally violating Paragraph 2 of the Policy.

(5) there is no evidence showing that the Respondent has been using, or preparing to use, the disputed domain name in connection with a bona fide offering of goods and services or has made a legitimate noncommercial or fair use of the disputed domain name, being in this case, all the contrary. According with the submitted and detailed evidence, confirmed by this Panel, where the disputed domain name is even configured for email purposes (active MX records), the Respondent is using the disputed domain name to incur in phishing activity and/or any other illegal activity as the installment of malicious software, in an effort to capitalize on the Complainant's well-known Trademark, which can never 'be considered a use in connection with a 'bona fide' offering of goods and services' and/or 'can never confer rights or legitimate interests on a respondent' (see *Klarna Bank AB v huade wang*, CAC-UDRP Case No. 105016; *American Machinery Works Inc. v. Registration Private, Domains by Proxy LLC / Name Redacted*, WIPO-D2021-3006 and *Klarna Bank AB v. WhoisGuard Protected, WhoisGuard, Inc. / Melanie Forster*, WIPO Case No. D2021-0756).

Therefore, this Panel concludes, that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

3. Registered and Used in Bad Faith

a) Registration in Bad Faith:

The Complainant acquired its Trademark Rights over the word KLARNA in 2010 (*e.g.*: EUIPO Trademark KLARNA, Reg. No. 009199803, filed on June 24, 2010, registered on December 6, 2010, and in force until June 24, 2030), meaning at least 13 years before the Respondent registered the disputed domain name (April 18, 2023). According to the evidence submitted before this Panel, the Complainant is a recognized finance institution, with a well-known Trademark as KLARNA which 'enjoys an extensive reputation among the Banking and Finance business', including on the Internet (see *Klarna Bank AB v huade wang*, CAC-UDRP Case No. 105016; *Klarna Bank AB v Susanne Eiberle*, CAC-UDRP Case No. 105513).

In this case, as stated in the previous section of this Decision, there is a clear absence of rights or legitimate interests over the disputed domain name by the Respondent, constituting *per se* an additional factor in terms of the registration in bad faith (see WIPO Overview, Section 3.2.1).

Given the evidence and circumstances of the present case, this Panel, agrees with the Complainant, and determines that it is impossible that the Respondent was not aware of Complainant's Trademark at the moment of the registration of the disputed domain

name, in contrary, was sufficiently aware about its value and potential, up to the point of using it for phishing and obtaining revenues purposes (see WIPO Overview, Section 3.2.2).

Therefore, this Panel concludes that the disputed domain name was registered in bad faith.

1. b) Bad Faith Use:

In this case, the disputed domain name not necessarily seems to be inactive, since according with the evidence at the moment of visiting it, the following [in red] warning message it is displayed by the Google Safe Brower:

“Dangerous

Google Safe Browsing recently detected phishing on the theklarnagroup.com. Phishing sites pretend to be other websites to trick you.

You can report a detection problem or, if you understand the risks to your security, visit this unsafe site.

Deceptive site ahead

*Attackers on **theklarnagroup.com** may trick you into doing something dangerous like installing software or revealing your personal information (for example, passwords, phone numbers, or credit cards). Learn more.”*

Therefore, this Panel, will not analyze this element, under the Passive Holding Doctrine. Instead, determines, that such evidence constitutes, without any trace of doubt, an illegitimate conduct on which the Respondent pursues to incur or has incurred already, generating confusion and/or harming the Internet User and of course, the Complainant's Trademarks, in accordance to paragraph 4.b(iv) of the Policy. Phishing activity, including the present 'warning message' scenario, has been already established by multiple UDRP Panelists as bad faith use (see *Accor v. SANGHO HEO / Contact Privacy Inc.*, WIPO Case No. D2014-1471; *Instagram, LLC v. Ferhat Kilinc, Bursa*, WIPO Case No. D2021-0180; *Enel S.p.A. v. Contact Privacy Inc. Customer 0162013950 / Milen Radumilo*, WIPO Case No. D2021-2320; *Klarna Bank AB v. Sahad Mohammed Riviera (Sahari Muti Inc)*, CAC-UDRP Case No. 105448; *Intesa Sanpaolo S.p.A. v. adam senior*, CAC-UDRP Case No. 105389).

Therefore, this Panel concludes that, the disputed domain name is being used in faith as well.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **theklarnagroup.com**: Transferred

PANELLISTS

Name	María Alejandra López García
------	-------------------------------------

DATE OF PANEL DECISION	2023-07-21
------------------------	------------

Publish the Decision
