Decision for dispute CAC-UDRP-106028

Case number	CAC-UDRP-106028
Time of filing	2023-11-30 09:58:46
Domain names	klarnatech.com

Case administrator

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

Complainant

Organization	Klarna Bank AB

Complainant representative

Organization	SILKA AB

Respondent

Organization	Klarnatech

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

- KLARNA, Registration Number: EUTM009199803, European Union;

- KLARNA, Registration Number: EUTM00912656658, European Union;

- KLARNA, Registration Number: US4582346, USA;

- KLARNA, Registration Number: SE405801, Sweden.

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. The Complainant's website WWW.CLARNA.COM received an average of over 45 million visits per month during the second half of 2023.

These trademark registrations predate the registration of the disputed 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 name.

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

The Complainant has established rights in the name KLARNA. The disputed domain name <KLARNATECH.COM> 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. ".com") in the comparison; and

b) finding that the simple combination of a trademark and a generic term would by no means be considered sufficient to distinguish a domain name from a trademark. In this case, the term "tech" could be seen in relation to the electronic payment services and the associated technology provided by the Complainant or to create a link to technological goods sold and advertised by enterprises selling technological goods and associated with the Complainant (in each case "tech" would be read as a reference to technology related to the brand KLARNA). The Complainant in this case offers a one-stop-shop solution for customers' electronics needs, advertising goods ranging from washing machines to laptop computers.

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. There appear to be no trademark or other registrations in the name of the Respondent.

In the absence of any further evidence of the existence of rights or legitimate interests, the mere fact that the Respondent has entered the name KLARNATECH as the organisation registering the domain name is to be disregarded. There is not a single Google entry for a KLARNATECH organisation under the address given or even in the entire city of Torrance, USA. Accepting the Respondent's action as evidence of the existence of a legitimate interest would clearly be contrary to the Policy. It would give anybody the opportunity to simply register a domain name in the name of an identically named organisation in an attempt to establish such a legitimate interest. This cannot be accepted. If the Respondent furnishes no further evidence than to use identical names for both the domain name and the organisation acting as the Registrant, this cannot be sufficient in any way to establish the existence of any rights or interests in the domain name.

The Respondent has not used the disputed domain name in connection with a bona fide offering of goods or services. Nor is the Respondent using the disputed domain name for some legitimate non-commercial or fair use purpose. The disputed domain name has been used to resolve to pages containing pay-per-click ('PPC') links to unrelated sites and services under headings such as: 'Aircraft Maintenance'

The use of a domain name confusingly similar to a complainant's mark, to host unrelated PPC links that do not genuinely reflect some generic reading of the domain name, does not constitute bona fide nor legitimate non-commercial or fair use. The disputed domain name's composition, by juxtaposing its distinctive KLARNA mark with the term 'tech', carries a high risk of implied affiliation. Internet users are highly likely to believe that the disputed domain name is controlled and used by the Complainant (or an authorised agent of the same) to advertise the technological solutions or the goods of technology merchants with which the Complainant is associated. The disputed domain name's composition, by effectively impersonating or suggesting endorsement by the Complainant, cannot constitute fair use.

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 "tech" in combination with the 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 Respondent has configured the disputed domain name with MX (mail exchange) records, and this conduct is indicative of the Respondent's intention to capitalise on the Complainant by engaging in email phishing or other fraudulent activities. Given the risk of implied affiliation to the Complainant, the Respondent can only realistically use the disputed domain name to send messages which create the false impression that such e-mails (ending in @klarnatech.com) originate from the Complainant (or an authorised agent of the same). The use of the disputed domain name to send e-mails may result in deceived internet users unknowingly providing the Respondent with sensitive information, which the latter may use to engage in further fraudulent conduct.

Panels have repeatedly found that the activation of MX records, in circumstances where there is a high likelihood of internet-user confusion, is indicative of an intention to engage in illegitimate conduct and there is no reason to decide differently in this 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. **klarnatech.com**: Transferred

PANELLISTS

Name	**Udo Pfleghar B.A. (Melb.)**

DATE OF PANEL DECISION 2024-01-12

Publish the Decision