Decision for dispute CAC-UDRP-106067

Case number	CAC-UDRP-106067
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Domain names	klarnaqq.com

Case administrator

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

Complainant

Organization	Klarna Bank AB

Complainant representative

Organization	SILKA AB

Respondent

Organization	Transure Enterprise Ltd

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 Klarna Bank AB is the owner of various trademark registrations such as:

Trademark	Territory	Registration Number	Registration Date	Class(es) Covered
KLARNA	Sweden	405801	11/09/2009	35, 36
KLARNA	European Union	009199803	06/12/2010	35, 36
KLARNA	International	1066079	21/12/2010	35, 36
				35, 36, 39,

KLARNA	International	1217315	04/03/2014	42, 45
KLARNA	European Union	012656658	30/07/2014	35, 36, 39, 42, 45
KLARNA	United States	4582346	12/08/2014	35, 36, 42, 45

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The Complainant, founded in 2005 in Stockholm, Sweden, is a leading global payments and shopping service, providing solutions to 150 million active customers across more than 500,000 merchants in 45 countries. The Complainant has more than 5,000 employees and facilitates more than two million transactions per day.

The Complainant's main international website is klarna.com, which received an average of more than 45 million monthly visits between July and September 2023.

The Complainant holds many trademarks for the KLARNA brand, and these cover numerous jurisdictions, as the ones mentioned above.

The Complainant holds numerous domain names incorporating the KLARNA mark which it uses in connection with different regional sites. For example, in addition to <klarna.com>, the Complainant uses <klarna.us>, <klarna.se>, <klarna.co.uk>, <klarna.es>, <klarna.de> and <klarna.cn>.

The Complainant has a substantial social media presence with, for example, almost 600,000 followers on Instagram (https://www.instagram.com/klarna/) and 60,000 followers on X (https://twitter.com/klarna/). The Complainant also has a mobile application for the Google Play and Apple App Store platforms. The Complainant's Google Play app has been downloaded more than 10 million times.

The Complainant is frequently featured in third-party articles as being among the top payment providers/gateways in its field.

The Complainant has been a successful complainant in numerous domain name dispute proceedings involving the KLARNA brand. These decisions include, among others:

Klarna Bank AB v. Bobbi Kontozoglou, CAC-UDRP-105594 (2023)

Klarna Bank AB v. Host Master (1337 Services LLC), CAC-UDRP-105587 (2023)

Klarna Bank AB v. Susanne Eiberle, CAC-UDRP-105513 (2023)

Klarna Bank AB v. Justus Smith, CAC-UDRP-105515 (2023)

Klarna Bank AB v. Arlyne Beard, CAC-UDRP-105514 (2023)

The Complainant submits the following Legal Grounds:

The Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;

(Policy, Paragraph 4(a)(i); Rules, Paragraphs 3(b)(viii), (b)(ix)(1))

The consensus view among panels, in relation to the first UDRP element, is that where a complainant holds a nationally or regionally registered trademark or service mark, this prima facie satisfies the threshold of having trademark rights for the purposes of standing to file a UDRP case (see the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ('WIPO Overview 3.0'), section 1.2.1).

As established in the Factual Grounds, the Complainant holds many trademark registrations for the KLARNA term, which cover numerous jurisdictions. The Complainant also refers to the goodwill and recognition that it has attained under the KLARNA brand, which has become a distinctive identifier of its services.

The Complainant submits that it satisfies the identity/confusing similarity requirement of the first element. The Domain Name consists of the KLARNA mark in full, only followed by the letters 'qq'. Panels have consistently held that, where the relevant trademark is recognisable within a disputed domain name, the addition of other terms (whether descriptive or otherwise) would not prevent a finding of confusing similarity under the first UDRP element (see WIPO Overview 3.0, section 1.8). It is clear that the Complainant's KLARNA mark remains dominant, distinctive and clearly recognisable in the Domain Name's string.

The Respondent has no rights or legitimate interests in respect of the Domain Name;

(Policy, Paragraph 4(a)(ii); Rules, Paragraph 3(b)(ix)(2))

The Complainant submits that the Respondent lacks rights or legitimate interests in the Domain Name. Following the submissions made in this section of the Complaint, the burden will shift to the Respondent to put forward evidence to show that it has rights or legitimate interests in the Domain Name. In fact, after registrar disclosure it reveals that the Respondent is a notorious cybersquatter that has been involved in multiple UDRP proceedings.

To the best of the Complainant's knowledge, the Respondent has not registered any trademarks, nor does the Respondent have

unregistered trademark rights, for ‘klarnaqq’ nor any similar term. The Complainant further notes that the Respondent has not been licensed by the Complainant to register domain names featuring the KLARNA mark, nor any confusingly similar variant thereof.

The Complainant submits that the Respondent has not used, nor prepared to use, the Domain Name in connection with a bona fide offering of goods or services. The Respondent is also not using the Domain Name for some legitimate non-commercial or fair use purpose. In this regard the Complainant notes that the Domain Name is being used to resolve to pages containing pay-per-click (‘PPC’) links to unrelated sites and services under headings such as ‘Hire a Mobile App Developer’.

The Complainant refers to WIPO Overview 3.0, section 2.9, which notes that ‘the use of a domain name to host a parked page comprising PPC links does not represent a bona fide offering where such links compete with or capitalize on the reputation and goodwill of the complainant’s mark or otherwise mislead Internet users.’ The Complainant’s KLARNA mark is internationally distinctive and the Respondent is using such, which forms the dominant part of the Domain Name, to attract and then redirect users to unrelated sites and services. The Respondent’s conduct capitalises on the trademark value of the KLARNA term and clearly misleads internet users believing they are reaching a site controlled by or associated with the Complainant. The Complainant further emphasises that the Domain Name is not being used to present links related to any generic or other fair use interpretation of the string ‘klarnaqq’.

Panels have repeatedly found that 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 (see, for example, Government Employees Insurance Company v. See PrivacyGuardian.org / johnny leed, WIPO Case No. D2022-0826: ‘The fact that the links on the Respondent’s webpage have no obvious connection with the Complainant is insufficient for the Respondent’s activities to comprise a bona fide offering of goods and services, as the distinctive character and reputation of the Complainant’s GEICO trademark is such that any use of the disputed domain name by the Respondent capitalizes on the repute of the Complainant’s trademark and cannot amount to use in connection with a bona fide offering of goods or services.’ and Canva Pty Ltd. v. Perfect Privacy LLC / Milen Radumilo, WIPO Case No. D2022-0351).

Lastly, the Complainant submits that the Respondent is not known, nor has ever been known, by its distinctive KLARNA mark, ‘klarnaqq’, nor anything similar. The Respondent is not connected to nor affiliated with the Complainant and has not received license or consent to use the KLARNA mark in any way. Past UDRP decisions have also established that the mere ownership of a domain name does not confer rights or legitimate interests on a respondent (see, for example, Parchment LLC v. Jim Lovelle / Parchment Transcript LLC, NAF Claim No. 2009654 (2022)).

The Domain Name was registered and is being used in bad faith.

(Policy, paragraphs 4(a)(iii), 4(b); Rules, paragraph 3(b)(ix)(3))

Under the Policy, bad faith is understood to occur where a respondent ‘takes unfair advantage of or otherwise abuses a complainant’s mark’ (see WIPO Overview 3.0, section 3.1). The Complainant submits that the Respondent has both registered and is using the Domain Name in bad faith, in accordance with paragraph 4(a)(iii).

The Complainant has been operating for 18 years and its earliest trademark rights in KLARNA precede the registration of the Domain Name by more than 10 years. The Complainant’s trademarks cover numerous jurisdictions and its services are used by

more than 150 million active customers through some two million daily transactions. The Complainant's KLARNA mark is distinctive and its trademarks are readily identifiable in publicly accessible trademark databases (e.g., WIPO's Global Brand Database). Additionally, the top Google and Baidu search results for the Complainant's mark were presented by the Complainant as evidence, where 'klarnaqq' clearly pertains to the Complainant's offerings. It is therefore evident that, notwithstanding other considerations, the simplest degree of due diligence would have otherwise made the Respondent aware of the Complainant's internationally-established rights in the KLARNA mark.

The Complainant further submits that the Respondent's decision to register a domain name juxtaposing the KLARNA mark with the letters 'qq' constitutes further evidence that the Respondent was aware of, and had plans from the outset to capitalise on, the KLARNA mark in bad faith. The Complainant notes that the addition of 'qq' may refer to the popular instant messaging software service and web portal, under the QQ brand, developed by the multinational Chinese technology company Tencent (see qq.com). The QQ brand is popular in China, with more than 550 million users of its services. The Respondent may, therefore, have selected the addition of 'qq' with a view to creating the false impression that the KLARNA and QQ brands are affiliated. This is further evidence of bad faith registration.

Panels have repeatedly found that a respondent's use of a confusingly similar domain name to attract and misleadingly divert internet users to competing, or unrelated, third-party sites constitutes evidence of bad faith (see, for example, Government Employees Insurance Company v. See PrivacyGuardian.org / johnny leed, WIPO Case No. D2022-0826: 'The disputed domain name is used by the Respondent to direct to a website displaying PPC advertisements. Given the confusing similarity between the GEICO trademark and the disputed domain name, the distinctiveness and repute of the Complainant's trademark, Internet users would likely be confused into believing that the Complainant is affiliated with the website to which the disputed domain name resolves. Presumably, the Respondent intends to benefit from the confusion created: it is likely that the Respondent earns income when Internet users click on the links in search of GEICO services.').

Also see, for example, Klarna Bank AB v. huade wang, CAC-UDRP-105016 (2023): 'The disputed domain name resolves to an active website with PPC links. The Panel finds it evidenced that the Respondent registered and is using the disputed domain name to attract customers for commercial gain. The Panel therefore finds that the Respondent has registered and uses the disputed domain name in bad faith.'

The Complainant lastly submits that the Respondent has configured the Domain Name with an MX (mail exchange) record, and this conduct is indicative of the Respondent's intention to capitalise on the Complainant by engaging in e-mail phishing or other fraudulent activities. Given the prominence of the KLARNA mark, and the potential for users to perceive some association between it and the QQ brand in its string, the Respondent may use the Domain Name to send e-mails which misleadingly create the false impression that the two are connected. Internet users may, without realising the Domain Name is not legitimately associated with the Complainant, provide the Respondent with sensitive information which can then be used for other illegitimate purposes.

Panels have repeatedly found that the activation of MX records, in circumstances where there is a likelihood of internet-user confusion, is indicative of a respondent's intention to engage in illegitimate conduct (see, for instance, TEVA Pharmaceutical Industries Limited v. Name Redacted, WIPO Case No. D2022-3791 ('The Panel finds that Respondent's registration of MX records in respect of the disputed domain are further circumstances demonstrating bad faith registration and use of the disputed domain name.') and Morgan Stanley v. Stone Gabriel, NAF Claim No. 1998634 (2022) ('The Panel has determined that there are MX records for the disputed domain name, therefore it might be intended for use in an email phishing scheme.')).

The Complainant lastly submits that whether or not the Domain Name is deemed to contain the trademark of a third party (e.g., the QQ brand referred to above), this should not prevent the Panel from issuing a transfer order without prejudice to the concerned third party's rights (see WIPO Overview 3.0, section 4.13 and, for example, International Business Machines Corporation (IBM) v. Domain Administrator, See PrivacyGuardian.org / zhihua liu, WIPO Case No. D2020-3339).

PARTIES CONTENTIONS

The Complainant's contentions are reproduced above.

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the 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 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 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

1. RIGHTS

The Domain Name is confusingly similar to the Complainant's KLARNA registered trademarks, which is clearly recognisable in the domain name by appearing in the first place.

As stated in Crédit Industriel et Commercial v. Manager Builder, Builder Manager, WIPO Case No. D2018-2230:

"The disputed domain name incorporates the CIC trademark in its entirety. Numerous UDRP panels have recognized that incorporating a trademark in its entirety can be sufficient to establish that the disputed domain name is at least confusingly similar to a registered trademark (see e.g., PepsiCo, Inc. v. PEPSI, SRL (a/k/a P.E.P.S.I.) and EMS Computer Industry (a/k/a EMS), WIPO Case No. D2003-0696). Moreover, it has been held in many UDRP decisions and has become a consensus view among panelists (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), section 1.8), that where the relevant trademark is recognizable within the disputed domain name, the addition of other terms would not prevent a finding of confusing similarity under the first element of the UDRP.

Accordingly, the addition of the term "banks", which even is the English translation of the French term "banques" as it is reflected in Complainant's CIC BANQUES trademark, does not avoid the confusing similarity arising from the incorporation of Complainant's CIC trademark in the disputed domain name."

Therefore, the first element is met.

2. NO RIGHTS OR LEGITIMATE INTERESTS

The Respondent has not submitted any response. Therefore, they have submitted no information on possible rights or legitimate interests they might hold. On its part, the Complainant has submitted information and arguments which, prima facie, allow it to be reasonably assumed that the Respondent has no rights or legitimate interest in the Domain Name.

As the WIPO Arbitration and Mediation Center pointed out in UDRP case No. D2002-0856:

“As mentioned, [in the decision], the Respondent has not filed a Response and is therefore in default. In those circumstances when the Respondent has no obvious connection with the disputed domain name, the prima facie showing by the Complainant that the Respondent has no right or legitimate interest is sufficient to shift the burden of proof to the Respondent to demonstrate that such a right or legitimate interest exists.“ WIPO Case No. D20020273 <sachsenanhalt>; WIPO Case No. D20020521 <volvovehicles.com>.

Furthermore, the domain name in dispute redirects to pages containing pay-per-click (‘PPC’) links to unrelated sites and services under headings such as ‘Hire a Mobile App Developer’. Obviously, this use cannot be considered as legitimate, as such links capitalize on the reputation and goodwill of the complainant’s marks or otherwise mislead Internet users.

WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (‘WIPO Overview 3.0’), section 2.9: Applying UDRP paragraph 4(c), panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a bona fide offering where such links compete with or capitalize on the reputation and goodwill of the complainant’s mark or otherwise mislead Internet users.“

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the Domain Name.

3. BAD FAITH

The Respondent has, as a result of their default, not invoked any circumstances which could invalidate the Complainant´s allegations and evidence with regard to the Respondents’ registration and use of the Domain Name in bad faith.

The Complainant has filed evidence of the well-known character of its KLARNA trademarks. The Domain Name redirects to pages containing pay-per-click (‘PPC’) links. It seems clear that the Respondent is trying to take advantage of the Complainant's position in the sector.

It is therefore logical to think that the Respondent registered the Domain Name for this fraudulent purpose.

Paragraph 4(b) (iii) of the Policy provides that the following circumstances are deemed to be evidence that the Respondent has registered and is using the Domain Name in bad faith:

(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation or endorsement of its website or location or of a product or service on its website or location.

As mentioned in Andrey Ternovskiy dba Chatroulette v. Alexander Ochki, WIPO Case No. D2017-0334:

"It is clear in the Panel's view that in the mind of an Internet user, the disputed domain names could be directly associated with the Complainant's trademark, which is likely to be confusing to the public as suggesting either an operation of the Complainant or one associated with or endorsed by it (see AT&T Corp. v. Amjad Kausar, WIPO Case No. D2003-0327)."

Furthermore, the Complainant has provided evidence that the Respondent has been involved in multiple UDRP proceedings, ruled against him. The pattern of abusive registrations by the Respondent is also indication of bad faith (WIPO Overview 3.0', section 3.1.2).

It has, therefore, been satisfactorily demonstrated to the Panel that the Domain Name has been registered and used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **klarnaqq.com**: Transferred

PANELLISTS

Name	**José Ignacio San Martín**

DATE OF PANEL DECISION 2024-01-24

Publish the Decision