Decision for dispute CAC-UDRP-106109

Case number	CAC-UDRP-106109
Time of filing	2023-12-21 11:14:57
Domain names	klarnaworld.com

Case administrator

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

Complainant

Organization	Klarna Bank AB

Complainant representative

Organization	SILKA AB

Respondent

Name	Ciara Sheahan

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 following trademark registrations:

Trademark	Registration Date	Territory	Registration Number
KLARNA	22-12-2010	International Reg. designating Switzerland, Russia, China, Turkey and Norway (WIPO)	1066079
KLARNA	07-12-2010	EU	009199803
KLARNA	25-09-2012	EU	010844462
KLARNA	02-08-2013	International Reg. designating the United States (WIPO)	1182130

KLARNA	31-07-2014	EU	012656658
KLARNA	13-08-2014	USA	4582346

The Complainant proved its ownership of the listed trademark registrations by the submitted extract from WIPO Brand Database Search.

FACTUAL BACKGROUND

The Complainant is a Swedish e-commerce company that was established in 2005. It focuses on providing payment services for online stores, offering various options including direct payments, pay-after-delivery, and instalment plans. The company's main goal is to simplify online shopping and make it more accessible to people. The Complainant has a workforce of over 5,000 employees. As of 2011, about 40% of all e-commerce sales in Sweden went through the Complainant. 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 company generated $80 billion in gross merchandise volume (copy of the webpage about the Complainant). The Complainant is also popular among social media (copy of the webpage on Meta).

The Complainant places great value on its intellectual property rights as it was successful in numerous UDPR disputes as shown in their list.

The disputed domain name <klarnaworld.com> (hereinafter "disputed domain name") was registered on 11 October 2023 according to the Whois information. According to the Registrar, the Respondent is 'Ciara Sheahan'. The Respondent's provided address as being at Blessington, Ireland.

PARTIES CONTENTIONS

COMPLAINANT:

A. The Complainant contends that the disputed domain name is confusingly similar to the Complainant's trademarks.

The Complainant claims that it is the only one in the world to have conceived and adopted the mark "KLARNA" and so has exclusive rights to the mark "KLARNA" (extract from WIPO Brand Database Search). The mark "KLARNA" has been openly, continuously, and extensively used globally for the last numerous years and has thus acquired secondary meaning.

The Complainant adds that the registered trademark "KLARNA" is clearly recognizable within the disputed domain name <klarnaworld.com>. The registration and the use of the confusingly similar disputed domain name is a direct infringement of the legitimate rights held by the Complainant in the mark "KLARNA".

As the Complainant points out, 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 Complainant contends that the addition of the gTLD ".com" in <klarnaworld.com> does not differentiate the disputed domain name from the trademark.

Thus, the disputed domain name is confusingly similar to the Complainant's company name, "KLARNA" trademarks and the related domain names.

B. The Complainant states that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Complainant claims that the Respondent lacks rights and legitimate interests in the disputed domain name because the Respondent is not affiliated with/authorized by the Complainant in any way to make use of the "KLARNA" mark, while the Complainant has exclusive rights to the trademark "KLARNA", which is evident from a WIPO Global Trademark database search and otherwise from a Google search as well.

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. The disputed domain name has a recent registration as of 11 October 2023, while the Complainant has been using the mark "KLARNA" for over fifteen years. The Complainant's registered mark is a distinctive term, exclusively associated with the Complainant only that one would not legitimately choose as a domain name without having specific rights to such combination.

The Complainant adds that it is extremely difficult to foresee any legitimate use that the Respondent may have with the disputed domain name, which combines the "KLARNA" mark with the "WORLD" word. The said combination is already in use by the Complainant upon its homepage - "klarna around the world", indicating its global presence. 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. Since there is no such authorized association, the Respondent's use of the disputed domain name cannot be said to

be legitimate. Rather the Respondent's registration of the disputed domain name is a clear case of cyber-squatting, the intention is to take advantage of the Complainant's substantial reputation and goodwill in order to cause confusion and mislead the public, thereby tarnishing the reputation and goodwill of the Complainant and its marks.

Given the fame of the Complainant's mark, 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 nexus with the Complainant and lead to confusion and deception. It is apparent that the Respondent knew of the Complainant's mark and its business activities, which is not only evident from the combination of keywords "KLARNA" and "WORLD" in the passively held domain name (Screenshot of Website) but also has the MX servers configured in the background (MX Records), clearly indicating that the emails have been or planned to be used in near future for phishing, spamming or other illegal activities.

The Complainant contends that 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 name by the Respondent has the propensity to cause irreparable loss to the goodwill and reputation of the Complainant.

The said usage is certainly not in terms of clause 4(c)(i) or (iii) as neither the demonstrable preparation to use is a bona fide offering of goods or services nor a legitimate non-commercial or fair use of the domain name is being made (Complainant provided screenshot of website as evidence).

Further, it does not satisfy the remaining clause 4(c)(ii) of UDRP either, so as to uphold any kind of legitimate interest in Respondent's registering or holding of the disputed domain name. The disputed domain name incorporates a trademark which is neither owned by the Respondent nor is the Respondent commonly known by the name "Klarna World" either as an individual, business or any other organization. Further, it is clearly not an attempt on the part of the Respondent to make a legitimate non-commercial or fair use of the domain name. Rather, it is obviously intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue, by the Respondent.

The Complainant concludes that the above facts establish a prima facie case that the Respondent has no right or legitimate interest in the disputed domain name and that pursuant to the UDRP, the burden shifts to the Respondent to show it does have a right or legitimate interest.

C. The Complainant contends that the disputed domain name has been registered and is being used in bad faith.

The Complainant is one of Europe's largest banks and is providing payment solutions to approx. 150 million customers in 45 countries in the last decade. The popularity is evident from its advertisement/promotion, news coverage, active social media pages (copy of the webpage on Meta) and numerous domain names already owned (list of Klarna Domain Names and previous UDRP disputes), which act as a window to the public all over the world to know more about its products and services. Such wide usage of the "KLARNA" mark has resulted in the trademark transcending regional boundaries and acquiring an enviable trans-border reputation. A simple Google search evidences the popularity of the Complainant's mark and otherwise keywords contained in the disputed domain name make reference to the Complainant only.

The Complainant assumes that given the immense popularity and goodwill enjoyed by the Complainant's trademark globally by virtue of its open, continuous and extensive use and its impeccable market reputation, it is clear that the Complainant's trademark is well-known and the Respondent knowingly chose to register and use the disputed domain name to divert customers and drawing damaging conclusions as to the Complainant's operations through the disputed domain name, thus can adversely affect the Complainant's goodwill and reputation and its right to use the disputed domain name.

The actual knowledge of a complainant's rights in a mark at the time of registration of the disputed domain name can easily be assumed based upon the distinctiveness and the reputation of the Complainant's "KLARNA" mark and the inclusion of the mark in the disputed domain name along with a related keyword.

The Complainant asserts that it is inconceivable that the registration of the disputed domain name was made without any knowledge of the existence of the Complainant and its 'well-known' trademark.

The Complainant owns and uses various domain names, all incorporating its "KLARNA" trademark (list of Klarna Domain Names and previous UDRP disputes). Hence, any individual coming across the disputed domain name or an associated email ID ending with "@klarnaworld.com" may assume it to be the Complainant's website/email and instantly associate the same with the Complainant. The same is quite evident from the active MX records for the disputed domain name.

The MX servers are pointed towards hosts.co.uk and it has been widely held that activating the MX records to designate an email server and enable email is an action beyond mere registration of the disputed domain name and constitutes bad faith use. There is clear evidence that the Respondent intends to send suspicious emails using email services.

The Complainant adds that given the facts as to unused disputed domain name also satisfies the doctrine of passive holding.

Moreover, the Complainant asserts that it is a settled law that registration of identical or confusingly similar domain name that is patently connected with a particular trademark owned by an entity with no connection with the trademark owner is indicative of opportunistic bad faith as understood in the UDRP.

The Complainant concludes that given the foregoing, the use and registration of the disputed domain name <klarnaworld.com> is clearly intended to capitalize on consumer confusion for Respondent's profit, a bad faith registration and use under the UDRP.

RESPONDENT:

No administratively Response has been filed. Nevertheless, the Respondent accessed the online case and filed a simple message on 4 January 2024 stating: “I instructed the domain verification body, Register 365.com on December 6th that I was agreeable to transfer the domain Klarnaworld.com to Klarna AB”.

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 UDRP).

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 UDRP).

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 UDRP).

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

In the present case, the Respondent has not submitted any Response on the merrits and consequently has not contested any of the contentions made by the Complainant. The responded just wrote that on 6 December 2023, he informed Register 365.com that he “was agreeable to transfer the domain Klarnaworld.com to Klarna AB”. However, the Responded did not attached copy of that message to its communication and moreover, the Complainant did not confirm that the disputed domain name has been transferred to it. Therefore, the Panel proceeds to decide only on the basis of the Complainant’s factual statements and the documentary evidence provided in support of them (Paragraph 5(f) of The Rules).

1. CONFUSING SIMILARITY

The Panel finds that the disputed domain name is confusingly similar to the Complainant’s “KLARNA” trademark.

The WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (hereinafter “The WIPO Overview 3.0”) in Paragraph 1.2.1 states: “Where the complainant holds a nationally or regionally registered trademark or service mark, this prima facie satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case”.

The WIPO Overview 3.0 in Paragraph 1.7 states: “[…] in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing.”

The WIPO Overview 3.0 in Paragraph 1.8. states: “Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element.”

In the WIPO Case No. D2003-0888, Dr. Ing. h.c. F. Porsche AG v. Vasiliy Terkin, the panel stated that: “In numerous cases, it has been held that a domain name that wholly incorporates a Complainant´s registered mark may be sufficient to establish confusing similarity for purposes of the UDRP.”

In the WIPO Case No. D2006-0451, F. Hoffmann-La Roche AG v. Macalve e-dominios S.A., the panel stated that: “It is also well established that the specific top level of a domain name such as “.com”, “.org” or “.net” does not affect the domain name for the purpose of determining whether it is identical or confusingly similar”.

In the present case, the Complainant has established that owns numerous trademark registrations all around the world in multiple jurisdictions (including the EU, USA, or China) consisting of the “KLARNA”, verbal element protected for the classes in connection with financial services (evidenced by extract from WIPO Brand Database Search).

The disputed domain name <klarnaworld.com> contains the Complainant’s trademark in its entirety and adds the general and geographic word “WORLD”. No further adjustments were made to distinguish it from the Complainant’s trademark. The addition of the gTLD <.com> does not change the overall impression of the disputed domain name either.

Past panels have declared that when the trademark is recognizable within the disputed domain name, the addition of a general term (“WORLD”) would not prevent a finding of confusing similarity.

Therefore, the disputed domain name is considered to be confusingly similar to the relevant trademark.

As a result, the Panel finds that the Complainant has satisfied Paragraph 4(a)(i) of the UDRP.

1. THE RESPONDENT´S LACK OF RIGHTS OR LEGITIMATE INTERESTS IN THE DISPUTED DOMAIN NAME

The Panel finds that the Respondent lacks rights or legitimate interests in the disputed domain name.

According to Paragraph 4(a)(ii) of the UDRP, the Complainant shall make a case that the Respondent lacks rights and legitimate interests in the disputed domain name. If the Complainant fulfills this demand the burden of proof shifts to the Respondent and so the Respondent shall demonstrate rights or legitimate interests in the disputed domain name. If the Respondent fails to prove its rights or legitimate interests, it is assumed that the Complainant satisfied the element of Paragraph 4(a)(ii) of the UDRP (see CAC Case No. 102430, Lesaffre et Compagnie v. Tims Dozman). Moreover, past panels were of the view that it is difficult or sometimes impossible to prove negative facts, i.e., absence of rights or legitimate interest on the part of the Respondent. In this respect, past panels referred to the WIPO Case No. D2000-1769, Neusiedler Aktiengesellschaft v. Vinayak Kulkarni. Within the meaning of Paragraph 4(a)(ii) of the Policy, once the complainant has made something credible (prima facie evidence), the burden of proof shifts to the Respondent to show that he has rights or legitimate interests in the domain name at issue by providing concrete evidence.

In the CAC Case No. 102279, FileHippo s.r.o. v. whois agent, the panel stated that “[i]n the absence of a response, the Panel accepts the Complainant's allegations as true that the Respondent has no authorization to use the Complainant’s trademarks in the disputed domain name. Hence, as the Complainant has made out its prima facie case, and as the Respondent has not demonstrated any rights or legitimate interests as illustrated under Paragraph 4(c) of the Policy, nor has the Panel found any other basis for finding any rights or legitimate interests of the Respondent in the disputed domain name, the Panel concludes that the Complainant has satisfied the requirements of Paragraph 4(a)(ii) of the Policy.”

In the Forum Case No. FA 1781783, Skechers U.S.A. Inc. v. Chad Moston / Elite Media Group, the panel stated that: “where a response is lacking, WHOIS information can support a finding that the respondent is not commonly known by the disputed domain name”.

In the present case, the Complainant claims that the Respondent is not related in any way to the Complainant and the Complainant has never granted any license nor authorization to the Respondent to use the Complainant’s trademark or apply for registration of the disputed domain name.

The Complainant submitted extracts from the WIPO Database declaring numerous trademark registrations for the word “KLARNA”, all predating the date of the disputed domain name registration on 11 October 2023 (proven by extract from WIPO Brand Database Search).

The Complainant's activities reach millions of customers around the world (demonstrated by copy of the webpage about the Complainant), the Complainant is active on social media (as shown on the webpage on Meta), and a simple Google search for “Klarna World” leads to the Complainant’s trademarks and domain names associated (evidenced by Google search results). All of the mentioned supports the finding of the Complainant’s exclusive rights in the “KLARNA” word and the high degree of recognition of this mark.

There is no evidence that would lead to the conclusion that the Respondent is known by the disputed domain name. The Respondent is not identified in the WHOIS information as it is apparent from WHOIS information.

Moreover, the disputed domain name has MX servers configured in the background (proven by MX Records) and thus, it may be used for e-mail purposes. This Panel assumes that such use of the disputed domain name cannot be understood as a legitimate non-commercial fair use of the disputed domain name.

The Respondent did not reply to the Complaint and so failed to demonstrate her rights or legitimate interests in the disputed domain name.

Therefore, the Panel finds that the Complainant has satisfied requirement under Paragraph 4(a)(ii) of the UDRP.

1. THE REGISTRATION AND USE OF THE DISPUTED DOMAIN NAME IN BAD FAITH

The Panel finds that the Respondent registered and used the disputed domain name in bad faith.

The WIPO Overview 3.0 in Paragraph 3.1.1 states: “If on the other hand circumstances indicate that the respondent’s intent in registering the disputed domain name was in fact to profit in some fashion from or otherwise exploit the complainant’s trademark, panels will find bad faith on the part of the respondent. While panel assessment remains fact-specific, generally speaking such circumstances, alone or together, include: (i) the respondent’s likely knowledge of the complainant’s rights, (ii) the distinctiveness of the complainant’s mark, […], (vii) failure of a respondent to present a credible evidence-backed rationale for registering the domain name, […].

The WIPO Overview 3.0 in Paragraph 3.1.4 states: “Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith.”

The WIPO Overview 3.0 in Paragraph 3.3 states: “From the inception of the UDRP, panelists have found that the non-use of a domain name (including a blank or “coming soon” page) would not prevent a finding of bad faith under the doctrine of passive holding.”

In the WIPO Case No. D2006-1440, National Football League v. Thomas Trainer, the panel stated: “when a registrant, such as the Respondent here, obtains a domain name that is confusingly similar to a famous mark, with no apparent rights or legitimate interests in the name, and then fails to respond to infringement claims and a UDRP Complaint, an inference of bad faith is warranted.”

In the WIPO Case No. D2015-1167, Valero Energy Corporation and Valero Marketing and Supply Company v. Sharad Bhat, the panel stated that: “In accordance with previous UDRP decisions, inactive or passive holding of a domain name, under the circumstances does not prevent a finding of bad faith use.”

In the Forum Case No. FA 1773444, Ashley Furniture Industries, Inc. v. Joannet Macket / JM Consultants, the panel stated that: “The Panel finds that Respondent’s lack of content at the disputed domain shows the lack of a bona fide offering of goods or services or a legitimate noncommercial or fair use per Policy ¶¶ 4(c)(i) and (iii).”

In the present case, the Complainant has established that owns numerous trademark registrations all around the world in multiple jurisdictions (including the EU, USA, or China) comprising of the “KLARNA”, verbal element protected for the classes in connection with financial services with the priority right since 2010. The disputed domain name consists of the Complainant’s trademark wording in its entirety. The addition of the “WORLD” verbal element does not change the overall impression. Therefore, the disputed domain name is confusingly similar to a highly distinctive earlier trademark of the Complainant.

Past panels have decided that the Complainant’s trademark “KLARNA” is well-known and has obtained a high degree of recognition [cf., e.g., the WIPO Case No. D2022-0006, Klarna Bank AB v. (Lei Shi), the CAC Case No. 105283, Klarna Bank AB v. Carolin Ernst]. A simple Google search for “Klarn World” leads Internet users mostly to the Complainant name and Its domain names associated as it is clear from presented Google search results.

The Complainant's activities reach millions of people around the world and the Complainant is active on social media proven by pertinent copies of webpages mentioned above.

This Panel states that the Respondent must have been aware of the Complainant’s trademark and its reputation before the registration of the disputed domain name on 11 October 2023.

The Respondent is not identified in the WHOIS information and so cannot be recognized under the disputed domain name (evidenced by WHOIS information). Moreover, the Respondent did not reply to the Complaint and so failed to demonstrate her rights or legitimate interests in the disputed domain name.

Finally, the disputed domain name has MX servers configured in the background (proven by MX Records). This panel agrees with the Complainant that any individual coming across the disputed domain name or an associated email ID ending with “@klarnaworld.com” may assume it to be the Complainant’s website/email and instantly associate the same with the Complainant. It cannot be assumed that any legitimate e-mail activity would be associated with such use of a confusingly similar domain name or that it would be used for good faith purposes.

This Panel agrees with the Complainant that Internet users might be confused about the source of the potentially dangerous page regarding the confusing similarity created by the Respondent. As a result, it might bring a detrimental effect on the Complainant’s trademarks and Its reputation.

Following the above-mentioned, the Panel finds that the Complainant has satisfied conditions pursuant to Paragraph 4(a)(iii) of the UDRP.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **klarnaworld.com**: Transferred

PANELLISTS

Name	**Radim Charvát**

DATE OF PANEL DECISION 2024-01-29

Publish the Decision