Decision for dispute CAC-UDRP-106324

Case number	CAC-UDRP-106324
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Domain names	klarnaplus.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Klarna Bank AB

Complainant representative

Organization	SILKA AB

Respondent

Name	Shi Lei

OTHER LEGAL PROCEEDINGS

The Panel is unaware of any other pending or decided legal proceedings in respect of the domain name <klarnaplus.com > ('the disputed domain name').

IDENTIFICATION OF RIGHTS

The Complainant relies upon the following registered trade marks, amongst others:

- Swedish trade mark registration no. 405801, filed 17 June 2009, for the word mark KLARNA, in classes 35 and 36 of the Nice Classification;
- EU trade mark registration no. 009199803, filed on 24 June 2010, for the word mark KLARNA, in classes 35 and 36 of the Nice Classification; and
- International trade mark registration no. 1066079, filed on 21 December 2010, designating, inter alia, China, for the word mark KLARNA, in classes 35 and 36 of the Nice Classification.

(Collectively or individually referred to as 'the Complainant's trade mark', 'the Complainant's trade mark KLARNA, or 'the trade mark KLARNA').

The disputed domain name was registered on 24 January 2024. At the time of writing of this decision, it resolves to a parked page featuring pay-per-click (PPC) advertisement for goods and services related to the Complainant's business segment (for present purposes, 'the Respondent's website').

FACTUAL BACKGROUND

A. Complainant's Factual Allegations

The Complainant, founded in Sweden in 2005, is a leading global payments and shopping service. It provides solutions to 150 million active customers spanning over 500,000 merchants in 45 countries.

The Complainant operates its activities through its official website at <www.klarna.com>, which had an average of 45+ million monthly visits between July and September 2023. Furthermore, the Complainant holds numerous domain names incorporating the trade mark KLARNA. On 24 January 2024, the Complainant launched its premium subscription named 'Klarna Plus'.

The Complainant seeks to obtain the transfer of the disputed domain name <klarnaplus.com> on the grounds set out in section A.2 below.

B. Respondent's Factual Allegations

The Respondent has defaulted in this UDRP administrative proceeding and has therefore made no factual allegations.

PARTIES CONTENTIONS

A. Complainant

A.1 Preliminary Matter: Language of the Proceeding

With respect to the language of the proceedings, the Panel notes the following:

• The Complaint is written in English and the Complainant has made a pre-emptive request that English be the language of this UDRP administrative proceeding;

• The registrar's verification response provided that the language of the registration agreement for the disputed domain name is Chinese; and

• The Complainant's grounds for English to be the language of this UDRP administrative proceeding can be summarised as follows: (i) the Respondent's website contains PPC links in English; (ii) The disputed domain name includes the English word 'plus' in its string; (iii) the the disputed domain name is formed by Latin characters, as opposed to Chinese script; (iv) the Complainant and its representatives are not based in China and cannot communicated in Chinese; (v) the name servers of the disputed domain name direct to <parkingcrew.net>, which provides content in English; and (vi) Panel's determination of Chinese as the language of this UDRP administrative proceeding would be inequitable and burdensome owing to the delay and costs associated with translations.

A.2 Substantive grounds

A.2.1 The disputed domain name is identical or confusingly similar to a trade mark in which the Complainant has rights

The disputed domain name <klarnaplus.com> is confusingly similar to the Complainant's trade mark, to the extent that it consists of the trade mark KLARNA and the word 'plus'. The Complainant's trade mark KLARNA remains dominant, distinctive and clearly recognisable within the disputed domain name string. Furthermore, generic Top-Level Domains ('gTLDs'), in this case <.com>, are typically disregarded by UDRP panels under this UDRP Policy ground (see paragraph 1.11.1 the WIPO Panel Views on Selected UDRP Questions, Third Edition ('WIPO Jurisprudential Overview 3.0')).

A.2.2 The Respondent has no rights or legitimate interests in respect of the disputed domain name

The Claimant asserts that the Respondent lacks rights or legitimate interests in respect of the disputed domain name, owing to the following indicia:

• The Respondent does not own registered on unregistered trade mark rights in 'klarnaplus' nor in any similar term;

• The Respondent is not affiliated or otherwise connected with the Complainant, nor has the Complainant authorised the Respondent to register domain names featuring the trade mark KLARNA or any confusingly similar variant thereof;

• The Respondent's case does not fall within any of the circumstances of paragraph 4(c) of the UDRP Policy which may demonstrate rights or legitimate interests in the disputed domain name;

• The Respondent has not used, nor prepared to use, the disputed domain name in connection with a bona fide offering of goods or services. Furthermore, the Respondent is not using the disputed domain name for legitimate non-commercial or fair use purposes;

• The Complainant refers to section 2.9 of the WIPO Jurisprudential Overview 3.0, according to which the use of a domain name to host PPC links does not equate to bona fide offering where such links compete with, or capitalise on the reputation and goodwill of,

a complainant's mark or otherwise mislead Internet users. The Complainant submits that the Respondent has attempted to capitalise on the trade mark KLARNA and misled Internet users as a result, not least given the high risk of implied affiliation by juxtaposing the trade mark KLARNA and the term 'plus' which taken together refers to the Complainant's new product Klarna Plus. In addition, the disputed domain name is not being used to present PPC links related to generic or other fair use interpretation of the string 'klarnaplus'; and

• The Respondent is not known, nor has ever been known, by the trade mark KLARNA, 'klarnaplus', nor any similar term. The Respondent is not connected to, or affiliated with, the Complainant, and has not received any licence or consent to use the trade mark KLARNA in any way.

In view of the above, the Complainant concludes that the Respondent has no rights or legitimate interests in the dispute domain name.

A.2.3 The Respondent registered and is using the disputed domain name in bad faith

Registration

The Complainant states that the disputed domain name was registered in bad faith, owing to the following indicia:

• The Complainant's trade mark KLARNA has been in use for more than 15 years, well before the registration of the disputed domain name;

• The Complainant holds numerous trade mark registration for KLARNA worldwide and Internet users are likely to associate 'klarnaplus' with the Complainant and its trade marks;

• A simple search via online trade mark registers or through Google search engine would have revealed the existence of the Complainant and the trade mark KLARNA. The Respondent's registration of the disputed domain name juxtaposing the trade mark KLARNA with the term 'plus' further evidences that the Respondent was aware of, and had plans from the outset to capitalise on, the trade mark KLARNA in bad faith; and

• The Respondent registered the disputed domain name on the same date the Complainant launched its Klarna Plus offering;

Use

Under this UDRP Policy ground, the Complainant avers that the Respondent's purpose is to capitalise on the reputation of the trade mark KLARNA by diverting Internet users seeking KLARNA products to third party websites, for financial gain, by intentionally creating a likelihood of confusion with trade mark KLARNA as to the source, sponsorship, affiliation, or endorsements of the third party websites and/or the goods offered or promoted through the third party websites ((paragraph 4(b)(iv) of the UDRP Policy).

The Complainant submits that the Respondent has configured the disputed domain name with an MX (mail exchange) record and that this is indicative of the Respondent's intention to capitalise on the Complainant by engaging in email phishing or other fraudulent activities.

The Complainant therefore concludes that the Respondent has registered and is using the disputed domain name in bad faith.

B. Respondent

The Respondent has defaulted in this UDRP administrative proceeding and has therefore failed to advance any substantive case on the merits.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown that the disputed domain name is identical or confusingly similar to a trade mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the UDRP 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 UDRP 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 UDRP Policy).

PROCEDURAL FACTORS

A. Complainant's Language Request

The Panel is given discretion under Rule 11 of the UDRP Rules to determine the appropriate language of the UDRP administrative proceeding. The Panel notes Rule 10 of the UDRP Rules, which vests the Panel with authority to conduct the proceedings in a manner it deems appropriate while also ensuring both that the parties are treated with equality, and that each party is given a fair opportunity to present its case.

On this particular matter, the Panel takes the liberty to adopt the language of proceeding test applied in CAC Case no. 104144, Writera Limited v. alexander ershov, which helpfully sets out the following six guiding factors:

(i) **the language of the disputed domain name string**: the Panel considers that English is the only identifiable language in the disputed domain name string, particularly the noun 'plus';

(ii) **the content of the Respondent's website**: the Respondent's website contains PPC links in English only;

(iii) **the language(s) of the Parties**: the Complainant is a company based in Sweden and the Respondent appears to be a Chinese national residing in China. The English language would therefore be considered neutral for both Parties. In addition, the Respondent's email address on record contains the English language words 'four' and 'stone', which is an indicium of the Respondent's knowledge of, or interest in communicating in, English;

(iv) **the Respondent's behaviour**: the Panel notes that the Respondent has shown no inclination to participate in this UDRP administrative proceeding;

(v) **the Panel's overall concern with due process**: the Panel has discharged its duty under Rule 10 (c) of the UDRP Rules; and

(vi) **the balance of convenience**: while determining the language of the UDRP administrative proceeding, the Panel has a duty to consider who would suffer the greatest inconvenience as a result of the Panel's determination. On the one hand, the determination of English as the language of this UDRP administrative proceeding – a widely spoken language – is unlikely to cause the Respondent any inconvenience, not least given that the Respondent appears to have some familiarity with English, as discussed above under item (iii). The determination of Chinese as the language of this UDRP administrative proceeding, on the other hand, is very likely to cause the Complainant inconvenience, and to interfere with the overall due expedition of the proceedings under the UDRP Rules.

In view of the above factors, the Panel has decided to accept the Complainant's language request, such that the decision in the present matter will be rendered in English.

B. Miscellaneous

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

A. UDRP Threshold

Pursuant to Rule 15 of the UDRP Rules, the Panel shall decide a complaint based on the statements and documents submitted and in accordance with the UDRP Policy, the UDRP Rules, and any rules and principles of law that the Panel deems applicable.

Paragraph 4(a) of the UDRP Policy sets out the grounds which the Complainant must establish to succeed:

> i) The disputed domain name is identical or confusingly similar to a trade mark 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 are being used in bad faith.

It is incumbent on the Complainant the onus of meeting the above threshold. The evidentiary standard under the UDRP administrative proceedings is the balance of probabilities and, on that basis, the Panel will now proceed to determine each of the three UDRP Policy grounds in turn.

B. Identical or Confusingly Similar

The Panel is satisfied that the Complainant has UDRP-relevant rights in the registered trade mark KLARNA since at least 2009.

The disputed domain name <klarnaplus.com> was registered in 2024 and contains the Complainant's trade mark KLARNA in its entirety, together with the term 'plus'. The addition word 'plus' has no material impact on the recognisability of the Complainant's trade mark in the disputed domain name string. Furthermore, the TLDs are typically disregarded by UDRP panels under this UDRP Policy ground.

The Panel therefore finds that the Complainant has met the requirement under paragraph 4(a)(i) of the UDRP Policy.

C. Rights or Legitimate Interests

The Panel notes that the Complainant denies any affiliation and/or association with, or authorisation for, the Respondent of any nature. There is no contractual arrangement between the Parties to that effect, nor has the Complainant otherwise authorised the Respondent to make any use of the Complainant's trade mark. Moreover, there is no evidence on the record to suggest that the Respondent (as an individual, business, or other organisation) has been commonly known by the disputed domain name.

The Panel is likewise unconvinced that, before any notice of the dispute, the Respondent used, or made demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a bona fide offering of goods or services. On the contrary, the presence of PPC links on the Respondent's website is a testament to the Respondent's lack of bona fide use of the disputed domain name under paragraph 4 (c) of the UDRP Policy.

The Respondent has failed to refute the Complainant's prima facie case that it has met its burden under the second UDRP Policy ground.

D. Registered and Used in Bad Faith

The Complainant raises a number of factors that may indicate registration and use in bad faith of the disputed domain name. Firstly, the Complainant's trade mark predates the registration of the disputed domain name by many years, in fact for over a decade. Secondly, the disputed domain name bears the trade mark KLARNA in its string, coupled with the term 'plus' which is immaterial to affect the recognisability of the Complainant's trade mark. Therefore, the Panel has no hesitation in finding that the Respondent registered the disputed domain name with knowledge of, and intention to target, the Complainant.

As regards the use in bad faith, the Complainant submits that the Respondent has engaged in the conduct described in paragraph 4(b)(iv) of the UDRP Policy, which provides as follows:

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

As mentioned in the above section 'Identification of Rights', the disputed domain name presently resolves to a parked page featuring PPC advertisement for goods and services related to the Complainant's business segment.

In order to determine this UDRP Policy ground, the Panel takes stock of paragraph 3.1.4 of the WIPO Jurisprudential Overview 3.0, according to which panels have found various types of evidence to support a presumption of bad faith under the above circumstances. The most compelling factors in the present matter are: (i) the actual confusion between the Complainant's trade mark KLARNA and the disputed domain name; (ii) the Respondent's attempt to cause such confusion; (iii) the lack of the Respondent's own rights to, or legitimate interests in, the disputed domain name; and (vi) the absence of any conceivable good faith use of the disputed domain name, particularly in view of the Respondent's website hosting PPC commercial links related to the Complainant's business area.

In view of the above, the Panel finds that the Complainant has succeeded under paragraph 4(a)(iii) of the UDRP Policy.

E. Decision

For the foregoing reasons, in accordance with paragraph 4(a) of the UDRP Policy and Rule 15 of the UDRP Rules, the Panel orders that the disputed domain name <klarnaplus.com> be transferred to the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **klarnaplus.com**: Transferred

PANELLISTS

Name	**Yana Zhou**

DATE OF PANEL DECISION 2024-03-28

Publish the Decision