Decision for dispute CAC-UDRP-106328

Case number	CAC-UDRP-106328
Time of filing	2024-03-08 11:02:51
Domain names	klarna.auction, klarna.autos, klarna.bar, klarna.best, klarna.bet, klarna.bingo, klarna.bio, klarna.blog, klarna.boats, klarna.bond, klarna.boutique, klarna.buzz, klarna.company, klarna.contact, klarna.cyou, klarna.directory, klarna.fun, klarna.guru, klarna.hair, klarna.homes, klarna.icu, klarna.lat, klarna.life, klarna.lol, klarna.love, klarna.mom, klarna.monster, klarna.one, klarna.pics, klarna.quest, klarna.team, klarna.tokyo, klarna.wtf, wklarna.com, wwklarna.com, klarna.cam

Case administrator

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

Complainant

Organization	Klarna Bank AB

Complainant representative

Organization	SILKA AB

Respondent

Name	Mihaela Sinclair

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 names.

IDENTIFICATION OF RIGHTS

The Complainant owns a portfolio of trade marks consisting of or incorporating the name KLARNA, including the Swedish national trade mark KLARNA, registration number 405801, first registered on 11 September 2009 in international classes 35 and 36; the European Union trade mark KLARNA, registration number 009199803, first registered on 6 December 2010 in international classes 35 and 36; the International trade mark KLARNA, registration number 1066079, first registered on 21 December 2010 in international classes 35 and 36; the European Union trade mark KLARNA, registration number 012656658, first registered on 30 July 2014 in international classes 35, 36, 39, 42 and 45; and the United States national trade mark KLARNA, registration number 4582346, first registered on 12 August 2014 in international classes 35, 36, 42 and 45. The aforementioned trade mark registrations of the Complainant predate the registration of the disputed domain names.

Furthermore, the Complainant also owns numerous domain names which consist of or incorporate the name KLARNA, including <klarna.com>, first registered on 12 December 2008, which is connected to the Complainant's official main international website through which it informs Internet users and customers about its products and services, as well as the further domain names <klarna.us>, <klarna.se>, <klarna.co.uk>, <klarna.es>, <klarna.de> and <klarna.cn>.

FACTUAL BACKGROUND

The Complainant is a leading global payments and shopping services provider, founded in 2005 in Stockholm, Sweden. The Complainant provides solutions to 150 million active customers across more than 500,000 merchants in 45 countries. The Complainant has over 5,000 employees and facilitates more than two million transactions per day. The Complainant's main international website at <klarna.com> received an average of more than 45 million monthly visits between July and September 2023. The Complainant has a substantial social media presence, with almost 600,000 followers on Instagram (https://www.instagram.com/klarna/), more than 220,000 followers on Facebook (https://www.facebook.com/Klarna), and almost 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 application has been downloaded more than 10 million times.

The 36 disputed domain names <klarna.auction>, <klarna.autos>, <klarna.bar>, <klarna.best>, <klarna.bet>, <klarna.bingo>, <klarna.bio>, <klarna.blog>, <klarna.boats>, <klarna.bond>, <klarna.boutique>, <klarna.buzz>, <klarna.cam>, <klarna.company>, <klarna.contact>, <klarna.cyou>, <klarna.directory>, <klarna.fun>, <klarna.guru>, <klarna.hair>, <klarna.homes>, <klarna.icu>, <klarna.lat>, <klarna.life>, <klarna.lol>, <klarna.love>, <klarna.mom>, <klarna.monster>, <klarna.one>, <klarna.pics>, <klarna.quest>, <klarna.team>, <klarna.tokyo>, <klarna.wtf>, <wklarna.com> and <wwklarna.com> were all registered on 21 November 2023, save for the disputed domain name <klarna.mom>, which was registered on 26 April 2023. As at the date of the amended complaint, the disputed domain names redirected users via various URLs to a website at https://www.lotto60.com/, which advertised a soon-to-launch gambling offering unrelated to the Complainant. However, as at the date of this decision, the disputed domain names resolve to an inactive error page.

PARTIES CONTENTIONS

The Complainant contends that all three elements of the UDRP have been fulfilled and it therefore requests the transfer of the disputed domain names to the Complainant.

No administratively compliant response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names are identical or confusingly similar to a trade mark 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 names (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 names have been registered and are being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel notes that the amended complaint relates to some 36 disputed domain names registered by the same respondent, Mihaela Sinclair, with the same registrar and (with one exception) on the same date. As at the date of this decision, the disputed domain names all resolve to an error page without active content. The Panel considers it appropriate that the complaints against the disputed domain names are consolidated in a single UDRP proceeding for the following reasons: Paragraph 4(f) of the Policy provides that "[i]n the event of multiple disputes between [a respondent] and a complainant, either [the respondent] or the complainant may petition to consolidate the disputes before a single Administrative Panel…." This is allowed where it "promotes the shared interests of the parties in avoiding unnecessary duplication of time, effort and expense, reduces the potential for conflicting or inconsistent results arising from multiple proceedings, and generally furthers the fundamental objectives of the Policy." (See, for example, WIPO Case No D2009-0985, MLB Advanced Media, The Phillies, Padres LP -v- OreNet, Inc.). Furthermore, paragraph 3(c) of the Rules provides that "[t]he complaint may relate to more than one domain name, provided that the domain names are registered by the same domain-name holder", as is the case here. Not only have the disputed domain names at issue in this proceeding been

registered by the same Respondent, but they were also registered predominantly on the same date and none resolves to an active website. The Panel therefore concludes that it would be equitable and procedurally efficient to permit the consolidation of the disputed domain names into this single case.

The Panel further notes that, as at the date of this decision, the disputed domain names resolve to an inactive error page, whereas at the date of the amended complaint, the disputed domain names redirected to an online gambling website unrelated to the Complainant. It has been commonly accepted by a large number of UDRP decisions that panels may perform limited independent factual research into matters of public record in assessing the merits of a case, based on the wide general powers set out in paragraphs 10 and 12 of the UDRP Rules. Such research may include, in particular, visiting the website linked to the disputed domain name in order to obtain information about a respondent's use of the disputed domain name (see, for example, WIPO Overview 3.0 at paragraph 4.8). The Panel is therefore satisfied that it can take into account the change away from the website to which the disputed domain names were originally linked. The Panel does not consider it necessary to invite the parties to make further submissions on the fact that the disputed domain names now resolve to an error page because doing so would undermine the UDRP process insofar as a respondent would simply have to change the redirection at different stages during the administrative proceeding to prevent a timely and effective decision from being reached. The Panel therefore considered it appropriate to proceed to a decision without inviting further party submissions.

The Panel is also satisfied that all other 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

With regard to the first UDRP element, the Panel finds that 34 of the 36 disputed domain names are identical with the Complainant's trade mark KLARNA. Indeed, the disputed domain names incorporate the Complainant's trade mark in its entirety without any alteration. The Panel follows in this respect the view established by numerous other decisions that a domain name which wholly incorporates a Complainant's registered trade mark may be sufficient to establish confusing similarity for the purposes of the UDRP (see, for example, WIPO Case No. D2003-0888, Dr. Ing. h.c. F. Porsche AG v. Vasiliy Terkin <porsche-autoparts.com>). The Panel further finds that the remaining two disputed domain names are confusingly similar to the Complainant's trade mark KLARNA. The disputed domain names < wklarna.com> and <wwklarna.com> incorporate the Complainant's trade mark in its entirety, save that the disputed domain names add the letters "w" and "ww" respectively in front of the Complainant's trade mark. The Panel considers this to be a plain case of "typosquatting", i.e., the disputed domain names contain an obvious and intentional misspelling of the Complainant's trade marks, which is not sufficient to alter the overall impression of the designation as being connected to the Complainant's trade marks. Minor alterations to the Complainant's trade marks do not prevent the likelihood of confusion between the disputed domain names and the Complainant, its trade marks and associated domain names. The Panel follows in this respect the view established by numerous other decisions that a domain name which consists of a common, obvious, or intentional misspelling of a trade mark is to be considered to be confusingly similar to the relevant trade mark (see, for example, CAC Case No. 103124, Boehringer Ingelheim Pharma GmbH & Co.KG v. Fundacion Comercio Electronico <boehringeringelheimpetrreebates.com>; CAC Case No. 101990, JCDECAUX SA v. Emma Purnell <jcdeceux.com>; CAC Case No. 101892, JCDECAUX SA v. Lab-Clean Inc <jcdacaux.com>; WIPO Case No. D2005-0941, Bayerische Motoren Werke AG, Sauber Motorsport AG v. Petaluma Auto Works <bmwsauberf1.com>; WIPO Case No. D2015-1679, LinkedIn Corporation v. Daphne Reynolds <linkedlnjobs.com>; CAC Case No. 103960, SCHNEIDER ELECTRIC SE v. michele Swanson <schnaider-electric.com> ("the obvious misspelling of the Complainant's trademark SCHNAIDER ELECTRIC instead of SCHNEIDER ELECTRIC is a clear evidence of "typosquatting"); and CAC Case No. 103166, BOURSORAMA SA v. Cloud DNS Ltd <recover-bousorama.link> ("A domain name that contains sufficiently recognizable aspects of the relevant mark and uses a common name, obvious or intentional misspelling of that mark is considered by UDRP panels to be similar to the relevant mark for the purposes of the first element (see paragraph 1.9 WIPO Overview 3.0)"). Likewise, panels have consistently held that where the relevant trade mark is recognisable within the disputed domain name, the addition of other terms (whether meaningless or otherwise) would not prevent a finding of confusing similarity under the first element (see WIPO Overview 3.0, section 1.8; and, for example, WIPO Case No. D2023-2542, Merryvale Limited v. tao tao <wwbetway.com>).

With regard to the second UDRP element, the Panel accepts, on the basis of the evidence adduced by the Complainant, that the Complainant's KLARNA brand is widely known and has accrued significant reputation and goodwill. There is no evidence before the Panel to suggest that the Respondent has made any use of, or demonstrable preparations to use, the disputed domain names in connection with a bona fide offering of goods or services. Neither is there any indication that the Respondent is making legitimate non-commercial or fair use of the disputed domain names. Indeed, the disputed domain names are not being used for any active website but resolve to an inactive error page. A lack of content at the disputed domain has in itself been regarded by other panels as supporting a finding that the respondent lacked a bona fide offering of goods or services and did not make legitimate non-commercial or fair use of the disputed domain name (see, for example, Forum Case No. FA 1773444, Ashley Furniture Industries, Inc v. Joannet Macket/JM Consultants). The Panel further finds that the Respondent is not affiliated with or related to the Complainant in any way and is neither licensed nor otherwise authorised to make any use of the Complainant's trade marks or to apply for or use the disputed domain names. Additionally, the Whois information for the disputed domain names does not suggest that the Respondent is commonly known by any of the 36 disputed domain names. Past panels have held that a respondent was not commonly known by a disputed domain name if the Whois information was not similar to the disputed domain name, as is equally not the case here (see, for example, Forum Case No. FA 1781783, Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group <bobsfromsketchers.com> ("Here, the WHOIS information of record identifies Respondent as "Chad Moston / Elite Media Group." The Panel therefore finds under Policy ¶ 4(c)(ii) that Respondent is not commonly known by the disputed domain name under Policy ¶ 4(c)(ii)."). Finally, as noted above, in two instances, the disputed domain names are typosquatted versions of the Complainant's trade mark; the Panel follows the view expressed in other decisions that typosquatting can evidence

that a respondent lacks rights and legitimate interests in the domain names (see, for example, Forum Case No. 1597465, The Hackett Group, Inc. v. Brian Herns / The Hackett Group < thehackettgroups.com> ("The Panel agrees that typosquatting is occurring, and finds this is additional evidence that Respondent has no rights or legitimate interests under Policy ¶ 4(a)(ii).")). Against this background, and absent any response from the Respondent, or any other information indicating the contrary, the Panel concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain names.

With regard to the third UDRP element, it is reasonable to infer that the Respondent either knew, or should have known, that the disputed domain names would be identical or confusingly similar to the Complainant's trade marks, and that the Respondent registered the disputed domain names in full knowledge of the Complainant's trade marks. Indeed, if the Respondent had carried out a Google search for the term "Klarna", the search results would have yielded immediate results related to the Complainant, its websites, and its connected business and services. It is likely that the disputed domain names would not have been registered if it were not for the Complainant's trade marks (see, for example, WIPO Case No D2004-0673 Ferrari Spa v. American Entertainment Group Inc <ferrariowner.com>). The Complainant submits that the Respondent's decision to register 36 domain names which are identical/confusingly similar to the Complainant's KLARNA trade mark constitutes additional evidence that the Respondent had specific knowledge of, and planned from the outset to capitalise on, the Complainant's KLARNA brand in bad faith. The Panel considers that the disputed domain names were intentionally designed to be either identical or confusingly similar with the Complainant's trade marks. Previous panels have seen such actions as evidence of bad faith, which is a view the Panel in this proceeding shares (see, for example, Forum Case No. FA 877979, Microsoft Corporation v. Domain Registration Philippines <microssoft.com> ("In addition, Respondent's misspelling of Complainant's MICROSOFT mark in the <microssoft.com> domain name indicates that Respondent is typosquatting, which is a further indication of bad faith registration and use pursuant to Policy ¶ 4(a)(iii)."")). Furthermore, the disputed domain names resolve to an inactive error page. The Respondent has not demonstrated any activity in respect of the disputed domain names. First, it is difficult to conceive of any plausible actual or contemplated active use of the disputed domain names by the Respondent that would not be illegitimate on the grounds that it would constitute passing off, an infringement of consumer protection legislation, or an infringement of the Complainant's rights under trade mark law under circumstances where the disputed domain names correspond to the Complainant's trade mark and are similar to the Complainant's genuine domain names currently used by the latter to promote its goods and services. Secondly, numerous other UDRP decisions have taken the view, which this Panel shares, that the passive holding of a domain name with knowledge that the domain name infringes another party's trade mark rights may in itself be regarded as evidence of bad faith registration and use (see, for example, WIPO Case No. D2000-0003, Telstra Corporation Limited v. Nuclear Marshmallows; and WIPO Case No. D2004-0615, Comerica Inc. v. Horoshiy, Inc.). Finally, the Panel takes further support for an inference of bad faith, first, from the fact that the Respondent failed to respond to cease-and-desist correspondence sent by the Complainant's representatives in December 2023, requesting the transfer of the disputed domain names (see, for example, WIPO Case No. D2010-1589, Guccio Gucci S.p.A. v. Domain Administrato - Domain Administrator <guccicollection.com>: 'The Panel also considers the failure of the Respondent to respond to the Complainant's letters of demand and failure to file a Response to the Complaint further support an inference of bad faith'); and secondly, from the fact that the Respondent has registered 36 domain names which are either identical or confusingly similar to the Complainant's KLARNA trade mark, which the Panel regards as the Respondent having engaged in a pattern of abusive conduct within the meaning of paragraph 4(b)(ii) of the Policy (see WIPO Overview 3.0, section 3.1.2: 'UDRP panels have held that establishing a pattern of bad faith conduct requires more than one, but as few as two instances of abusive domain name registration'; see also, for example, CAC Case No. 105266, Domain Manager (Klarna Bank AB) v. Host Master (1337 Services LLC) <direct1-klarna.com>: 'Furthermore, since the Respondent registered 10 domain names, all of them consisting of the Complainant's distinctive trademark in its entirety with the addition of generic and descriptive terms, the Panel finds that the Respondent is engaged in a pattern of abusive conduct (paragraph 4(b)(ii) of the Policy)'; and: WIPO Case No. D2022-0091, G4S Limited v. Frederick R. Nielsen, Nielsen Business Worldwide Corporation <g4s.business>: 'The fact that the Respondent has registered six domain names also supports a finding that it has engaged in a pattern of conduct, whereby it has registered them in order to prevent the Complainant from reflecting the G4S trademark in a corresponding domain name, which supports a finding of bad faith under paragraph 4(b)(ii) of the Policy'). Absent any response from the Respondent, or any other information indicating the contrary, the Panel therefore also accepts that the Respondent has registered and is using the disputed domain names in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **klarna.auction**: Transferred
2. **klarna.autos**: Transferred
3. **klarna.bar**: Transferred
4. **klarna.best**: Transferred
5. **klarna.bet**: Transferred
6. **klarna.bingo**: Transferred
7. **klarna.bio**: Transferred
8. **klarna.blog**: Transferred
9. **klarna.boats**: Transferred
10. **klarna.bond**: Transferred

11. **klarna.boutique**: Transferred
12. **klarna.buzz**: Transferred
13. **klarna.company**: Transferred
14. **klarna.contact**: Transferred
15. **klarna.cyou**: Transferred
16. **klarna.directory**: Transferred
17. **klarna.fun**: Transferred
18. **klarna.guru**: Transferred
19. **klarna.hair**: Transferred
20. **klarna.homes**: Transferred
21. **klarna.icu**: Transferred
22. **klarna.lat**: Transferred
23. **klarna.life**: Transferred
24. **klarna.lol**: Transferred
25. **klarna.love**: Transferred
26. **klarna.mom**: Transferred
27. **klarna.monster**: Transferred
28. **klarna.one**: Transferred
29. **klarna.pics**: Transferred
30. **klarna.quest**: Transferred
31. **klarna.team**: Transferred
32. **klarna.tokyo**: Transferred
33. **klarna.wtf**: Transferred
34. **wklarna.com**: Transferred
35. **wwklarna.com**: Transferred
36. **klarna.cam**: Transferred

PANELLISTS

Name	**Gregor Kleinknecht LLM MCIArb**

DATE OF PANEL DECISION 2024-04-16

Publish the Decision