Decision for dispute CAC-UDRP-106411

Case number	CAC-UDRP-106411
Time of filing	2024-04-12 08:41:10
Domain names	klarna-secure.pro, klarna-secure.com, klarna-https.com

Case administrator

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

Complainant

Organization	Klarna Bank AB

Complainant representative

Organization	SILKA AB

Respondents

Organization	ConsoleART
Name	Viktor Vasil

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

EU TM Registration No. 009199803 KLARNA registered from 6 December 2010 for various services in classes 35 and 36.

FACTUAL BACKGROUND

The Complainant is an e-commerce company that was established in Sweden in 2005 and trades as "KLARNA". Its business focuses on providing payment services for online stores. It currently employees over 5000 people and provides payment services for over 150 million consumers across 500,000 merchants in 45 countries.

The Complainant has registered numerous trade marks containing or consisting of the word "KLARNA", including the European Union trade mark registration referred to above.

The Complaint concerns three disputed domain names. The first, <klarna-https.com>, was registered on 21 February 2024 in the name of Viktor Vasil. The second and third, <klarna-secure.pro> and <klarna-secure.com> were registered four days later on 25 February 2024 in the name of Andry Bruno. All the disputed domain names share the same nameservers. Further, both <klarna-

secure.com> and <klarna-https.com> redirect web-users a Russian e-commerce site titled "PayMaster", which offers competing services to Complainant.

The language of the registration agreements for <klarna-https.com> and <klarna-secure.com> is Japanese, whilst the language of the registration agreement for <klarna-secure.com> is English.

The Complainant has requested that the Panel determine the Complaint regarding all three of the disputed domain names in one proceeding and that the language of that proceeding be English.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain names should be transferred to it. It has further contended that the Panel determine the Complaint in relation to all three disputed domain names and that the language of the proceeding be English.

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 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 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 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

CONSOLIDATION REQUEST

Paragraph 10(e) of the Rules grants the Panel the power to consolidate multiple domain name disputes. Paragraph 3(c) of the Rules notes that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain-name holder.

Paragraph 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ('WIPO Overview 3.0') notes that 'Where a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario.'

The disputed domain names are registered under two different registrant names. However it is quite clear that the same person has directed the registration of all three disputed domains. Aside from all the disputed domain names being registered within a four day period and all of them using the same nameservers the use of the domain names is telling. Domain names in both the name of Viktor Vasil and Andry Bruno direct to the same Russian website.

The Panel is satisfied that "Viktor Vasil" and "Andry Bruno" are in fact the same person. The Panel accepts the Complainant's request to consolidate the disputes in relation to all the disputed domain names.

LANGUAGE OF PROCEEDINGS

Paragraph 11(a) of the Rules reads:

(a) Unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

It has been stated that the discretion to decide upon the language of the proceeding under Rule 11(a) "must be exercised in the spirit of fairness and justice to both parties taking into consideration matters such as command of the language, time and costs" (Transtrands Handelsaktiebolag v. Jack Terry; WIPO Case No. D2005-0057). However it is without doubt that the command of language is the most vital consideration in the sense that if a respondent has no understanding of the language of the complaint, and therefore is unable to even understand that a type of complaint which calls upon a response has been made against them, then there would be an obvious injustice to proceed in a language other than that of the Registration Agreement to which the respondent agreed.

For reasons set out above the Panel has found that the one person registered all the disputed domain names. In doing so they agreed to one registration agreement in the English language and two in Japanese. In such circumstances there is a reasonable basis to imply that the registrant of all the disputed domain names understood English at the times of registration.

The Panel accepts the Complainant's request for the language of the proceeding to be in English.

SUBSTANTIVE LAW

Paragraph (4)(a) of the Policy lists three elements that the Complainant must prove to merit a finding that the disputed domain names registered by the Respondent (being the one person using two names) be transferred to the Complainant:

1) the disputed domain names are identical or confusingly similar to a trademark or service mark ("mark") in which the Complainant has rights; and

2) the Respondent has no rights or legitimate interests in respect of the disputed domain names; and

3) the disputed domain names have been registered and are being used in bad faith.

The Panel is satisfied that the Complainant has satisfied all three elements for the principal reasons set out below.

RIGHTS IN AN IDENTICAL OR CONFUSINGLY SIMILAR TRADEMARK

As mentioned above the Complainant claims registered rights over a number of trade marks containing or consisting of KLARNA. However the Panel has focused on one trademark registration in particular, being EU TM Registration No. 009199803 KLARNA.

To satisfy paragraph 4(a)(i) of the Policy it is enough that the Panel is satisfied that the Complainant has registered rights in a single trademark in a single jurisdiction that predates the registration of the disputed domain names (even if that single jurisdiction is not one in which the Respondent resides or operates) (Koninklijike KPN N.V. v. Telepathy, Inc D2001-0217 (WIPO May 7, 2001); see also WIPO Case Nos. D2012-0141 and D2011-1436). The Complainant has satisfied this requirement.

The next question is whether the disputed domain names are confusingly similar to the KLARNA trademark.

KLARNA is a distinctive sign with no generic meaning in relation payment services. By contrast, the further elements of the disputed domain names constitute purely descriptive and common terms. A consumer will likely ignore the latter elements and focus on the KLARNA element in each of the disputed domain names.

The Panel is therefore satisfied that the disputed domain names are confusingly similar to a trademark in which the Complainant has rights.

NO RIGHTS OR LEGITIMATE INTERESTS

The registrant names for the disputed domain names bear no resemblance to the disputed domain names. Further, the two disputed domain names that actually resolve to a website redirect webusers to a competitor of the Complainant. That does not indicate a legitimate interest, it in fact indicates the contrary.

There is no basis to conclude that the Respondent has any rights or legitimate interests in the disputed domain names.

BAD FAITH

Based on the above undisputed facts, the Panel accepts that KLARNA is a well known trademark in relation to payment services. That finding alone would make it highly unlikely that the Respondent could have registered the disputed domain names without knowing of the Complainant. However what puts the matter of the Respondent's knowledge of KLARNA beyond doubt is the fact that for two of the three disputed domain names the Respondent has redirected web users to a competitor of the Complainant.

In doing so, the Respondent did not choose to direct webusers to some page that was unrelated to payment services. It directed them to a competitor in precisely the same industry as KLARNA. Such conduct betrays the fact that the Respondent knew of

KLARNA and knew it was a trademark used in the payment services industry.

Finally, the fact that the Respondent engaged in such redirection shows an intent to disrupt the Complainant's business. It makes the Respondent's conduct all the more egregious.

The Respondent has registered and used all 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-secure.pro**: Transferred
2. **klarna-secure.com**: Transferred
3. **klarna-https.com**: Transferred

PANELLISTS

Name	**Andrew Sykes**

DATE OF PANEL DECISION 2024-05-13

Publish the Decision