Decision for dispute CAC-UDRP-106598

Case number	CAC-UDRP-106598
Time of filing	2024-06-11 13:29:53
Domain names	pay-with-klarna.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Klarna Bank AB

Complainant representative

Organization	SILKA AB

Respondent

Name	Evgenii Khokhlov

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 numerous national, EU and international trademark registrations, eg. EU trademark KLARNA (Reg. No. 009199803), in Nice classes 35 and 36, registered since December 6, 2010.

FACTUAL BACKGROUND

The Complainant, Klarna Bank AB, founded in 2005 in Stockholm, Sweden, is a leading global payments and shopping service, providing solutions to 150 million active consumers 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 is the owner of numerous national, EU and international trademark registrations, eg. EU trademark KLARNA (Reg. No. 009199803), in Nice classes 35 and 36, registered since December 6, 2010.

The Complainant holds many domain names incorporating the KLARNA mark. The Complainant uses these to redirect internet users to region-specific URLs under <klarna.com>. The Complainant's additional domain names include <klarna.se>, <klarna.us>, <klarna.co.uk>, <klarna.es>, <klarna.de> and <klarna.cn>.

The disputed domain name was registered on April 25, 2024, and the Respondent has intentionally attempted to attract, for

commercial gain, internet users by creating a likelihood of confusion with the Complainant's KLARNA mark. The Respondent has used the global renown of the KLARNA mark to attract and, by impersonating the Complainant, give internet users the false and misleading impression that the disputed domain name is operated by the Complainant. The Respondent has engaged in this deception by, among other things: (a) prominently and repeatedly brandishing the Complainant's KLARNA mark and logo on the resolving site; (b) adopting a similar look and feel (e.g., through its choice of colours) to content found on the Complainant's official sites; and (c) featuring text in the resolving site's footer which identifies the Complainant and therefore falsely reinforces the impression that the Complainant controls it.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.
NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

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 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 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 Policy).

PROCEDURAL FACTORS

The Complainant filed the Complaint in English rather than in Russian (i.e. the language of the registration agreement). Pursuant to paragraph 11(a) of the Rules, unless otherwise agreed by the parties, or otherwise specified 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. Paragraph 10(b) and (c) of the Rules requires the Panel to ensure that the proceeding takes place with due expedition and that the parties are treated fairly and given a fair opportunity to present their respective cases.

The Complainant filed its Complaint in English and then requested that English be the language of the proceeding.

The Complainant noted the following factors supporting English as the fair language of the proceeding: (a) the disputed domain name is composed of the English words 'pay' and 'with', followed by the Complainant's KLARNA mark; (b) the disputed domain name resolves to a site which prominently brandishes English text; (c) the Respondent has registered other domain names which incorporate generic English words (eg. <a-confirmation.com>, <adwordsagencydirectnetwork.com> and <angelbusinessteam.com>.

The Panel agrees with the factors presented by the Complainant and also admits additional important factors in favour of the Complainant's option of English language for this proceeding: (a) the Respondent has been given the opportunity to present its case in this proceeding and to respond formally to the issue of the language of the proceeding; (b) the Respondent has not responded to the Complainant's request for a change of the language from Russian to English; (c) the Complainant would be unduly disadvantaged by having to proceed in Russian (i.e., by having to arrange and pay for the translation of the Complaint and annexes).

Considering the above circumstances, the Panel finds that the choice of English as the language of the present proceeding is fair to both parties and is not prejudicial to either one of the parties in his or her ability to articulate the arguments for this case.

The Panel has also taken into consideration the fact that insisting the Complaint and all supporting documents to be re-filed in Russian would cause an unnecessary burden of cost to the Complainant and would unnecessarily delay the proceeding which would be contrary to Paragraph 10(b) and (c) of the Rules.

Having considered all the above matters, the Panel determines under paragraph 11(a) of the Rules that (i) it will accept the

Complaint and all supporting materials as filed in English; and (ii) English will be the language of the proceeding and the decision will be rendered in English.

In view of all of the above, 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

The Panel notes that the KLARNA mark is wholly encompassed within the disputed domain name. The positioning of the KLARNA mark after a common verb “pay” and preposition “with” makes it instantly recognizable as the most distinctive element of the disputed domain name. Moreover, the additional words “pay with” do not preclude a finding of confusing similarity between the KLARNA mark and the disputed domain name. It is accepted by previous UDRP panels that the addition to the complainant’s trademarks of words or terms that describe or refer to part of the complainant’s business in the disputed domain name does not affect the finding of confusing similarity of the disputed domain name from the registered trade mark under the first element of the Policy. As the words “pay with” are related to the Complainant’s payment services, this additionally endorses the confusing similarity between the disputed domain name and the Complainant’s KLARNA mark.

The Panel acknowledges that the Complainant presented prima facie evidence that the Respondent is not sponsored by or affiliated with Complainant in any way. Furthermore, the Complainant has not licensed, authorized, or permitted Respondent to use Complainant’s trademarks in any manner, including in domain names. The Respondent's name (Evgenii Khokhlov) does not resemble the disputed domain name in any manner. Respondent’s use of the disputed domain name does not constitute a bona fide offering of goods or services or a legitimate non-commercial or fair use.

On these bases, the Panel concludes that the Respondent does not have any rights or legitimate interests in regard to the disputed domain name.

As no administratively compliant response has been provided to the Panel and the prima facie evidence was not challenged by the Respondent, the Panel concludes that the Respondent evidently meant Complainant's trademark KLARNA, when he/she registered the disputed domain name <pay-with-klarna.com> (see WIPO Overview 3.0, para. 3.1.3 and 3.2). Previous UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. Accordingly, the Panel finds that the disputed domain name was registered in bad faith.

The Respondent has used the global renown of the KLARNA mark to attract and, by impersonating the Complainant, give internet users the false and misleading impression that the disputed domain name is operated by the Complainant. The Respondent has engaged in this deception by, among other things: (a) prominently and repeatedly brandishing the Complainant’s KLARNA mark and logo on the resolving site; (b) adopting a similar look and feel (e.g., through its choice of colours) to content found on the Complainant’s official sites; and (c) featuring text in the resolving site’s footer which identifies the Complainant and therefore falsely reinforces the impression that the Complainant controls it. The Respondent may use details it collects through the site to, for example, interfere with transactions or send phishing correspondence purporting to originate from the Complainant to deceived internet users. As noted in WIPO Overview 3.0, section 3.1.4, the use of a domain name for per se illegitimate activity (see WIPO Overview 3.0, section 2.13.1, i.e., impersonation, phishing or other types of fraud) is manifestly considered evidence of bad faith. This means that the Respondent has used the disputed domain name to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant's KLARNA trademark as to the source of the Respondent’s website. Therefore, this is evident use of the domain name in bad faith (para. 4(b)(iv) of the Policy).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **pay-with-klarna.com**: Transferred

PANELLISTS

Name	**Darius Sauliūnas**

DATE OF PANEL DECISION 2024-07-23

Publish the Decision