

ADMINISTRATIVE PANEL DECISION

Klarna Bank AB v. 石磊 (Lei Shi)

Case No. D2022-0006

1. The Parties

Complainant is Klarna Bank AB, Sweden, represented by SILKA AB, Sweden.

Respondent is 石磊 (Lei Shi), China.

2. The Domain Names and Registrars

The disputed domain names (the “First Domain Names”) <klarnaard.com>, <klarnacad.com>, <klarnacaed.com>, <klarnacar.com>, <klarnacards.com>, <klarnacars.com>, <klarnacrd.com>, and <klarnaxard.com> are registered with Cloud Yuqu LLC; the disputed domain names (the “Second Domain Names”) <klarnacsrd.com>, <wwwklarnacard.com>, and <klarnacarf.com> are registered with Chengdu West Dimension Digital Technology Co., Ltd. (collectively the “Registrars”, the First and the Second Domain Names collectively referred to as “the Domain Names” hereinafter).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on January 3, 2022. On January 4, 2022, the Center transmitted by email to the Registrars a request for registrar verification in connection with the Domain Names. On January 5, 2022, the Registrars transmitted by email to the Center their verification response disclosing registrant and contact information for the Domain Names which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to Complainant on January 5, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint in English on January 10, 2022.

On January 5, 2022, the Center sent an email in English and Chinese to the Parties regarding the language of the proceeding. Complainant confirmed its request that English be the language of the proceeding on January 10, 2022. Respondent did not comment on the language of the proceeding.

The Center verified that the Complaint together with the amendment to the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified Respondent in English and Chinese of the Complaint, and the proceedings commenced on January 13, 2022. In accordance with the Rules, paragraph 5, the due date for Response was February 2, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on January 3, 2022.

The Center appointed Kimberley Chen Nobles as the sole panelist in this matter on February 8, 2022. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

Complainant was founded in 2005 in Sweden and provides payment services for online storefronts, offering direct payments, pay after delivery options and installment plans in a one-click purchase flow. Complainant has more than 4,000 employees and provides payment solutions for 90 million consumers across 250,000 merchants in 20 countries. It owns and operates the website "www.klarna.com" (registered on December 12, 2008), the main KLARNA official website, which provides the global reference for its products and services.

Complainant is the owner of several KLARNA trademarks registered worldwide, all predating the registration of the 11 Domain Names, which were registered on November 23, 2021. The KLARNA trademarks are registered in several jurisdictions worldwide, including China, where Respondent appears to be located. These include:

- Chinese trademark number G1066079 for KLARNA word trademark registered on December 21, 2010;
- Chinese trademark number 14203830 for KLARNA word trademark registered on June 21, 2015;
- Chinese trademark number 14203833 for KLARNA word trademark registered on September 21, 2016;
- United States trademark number 4582346 for KLARNA word trademark registered on August 12, 2014;
- United States trademark number 4690489 for KLARNA word trademark registered on February 24, 2015;
- United States trademark number 5736415 for KLARNA. figurative trademark registered on April 30, 2019;
- United States trademark number 6358334 for KLARNA. figurative trademark registered on May 25, 2021.

The Domain Names were registered on November 23, 2021. At the time of filing the Complaint, the Domain Names resolved to pay-per-click ("PPC") websites displaying advertisements with either similar services provided by Complainant or related to Complainant's business.

5. Parties' Contentions

A. Complainant

Complainant contends that (i) the Domain Names are identical and confusingly similar to Complainant's trademarks; (ii) Respondent has no rights or legitimate interests in the Domain Names; and (iii) Respondent registered and is using the Domain Names in bad faith.

In particular, Complainant contends that it has trademark registrations for KLARNA and owns domain names incorporating the KLARNA trademarks. Complainant contends Respondent registered and is using the Domain Names to confuse Internet users looking for *bona fide* and well-known KLARNA products and services.

Complainant notes that it has no affiliation with Respondent, nor authorized Respondent to register or use a

domain name, which includes Complainant's trademarks, and that Respondent has no rights or legitimate interests in the registration and use of the Domain Names. Rather, Complainant contends that Respondent has acted in bad faith in acquiring and setting up the Domain Names, when Respondent clearly knew of Complainant's rights.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

6.1. Preliminary Procedural Issue – Language of the Proceeding

The Rules, in paragraph 11(a), provide that unless otherwise agreed by the parties or specified otherwise in the registration agreement between the respondent and the registrar in relation to the disputed domain name, the language of the 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.

Complainant submitted its original Complaint in English. In its Complaint, its email dated January 10, 2022, and its amended Complaint, Complainant requests that the language of the proceeding should be English. According to the information received from the Registrars, the language of the Registration Agreement for the Domain Names is Chinese.

Complainant contends that the Domain Names, which consist of Latin characters and resolve to English language websites providing sponsored links in English. Complainant also contends that the generic Top-Level Domains (gTLD) are “.com” which stands for “commercial” and not local “.CN” extensions, and Respondent had been involved in previous UDRP cases in which the proceedings were conducted in English.

In exercising its discretion to use a language other than that of the Registration Agreement for the Domain Names, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both Parties, taking into account all relevant circumstances of the case, including matters such as the Parties' ability to understand and use the proposed language, time and costs.

The Panel accepts Complainant's submissions regarding the language of the proceeding. The Panel notes that the Center notified the Parties in Chinese and English of the language of the proceeding as well as notified Respondent in Chinese and English of the Complaint and amended Complaint. Respondent chose not to comment on the language of the proceeding nor did Respondent choose to file a Response.

The Panel is also mindful of the need to ensure that the proceeding is conducted in a timely and cost-effective manner. Complainant may be unduly disadvantaged by having to translate the Complaint into Chinese and to conduct the proceeding in Chinese.

Having considered all the circumstances of this case, the Panel determines that English is the language of the proceeding.

6.2. Substantive Issues

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

- (i) the Domain Names are identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Names; and

(iii) the Domain Names were registered and are being used in bad faith.

Section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) states that failure to respond to the complainant’s contentions would not by itself mean that the complainant is deemed to have prevailed; a respondent’s default is not necessarily an admission that the complainant’s claims are true.

Thus, although in this case Respondent has failed to formally respond to the Complaint, the burden remains with Complainant to establish the three elements of paragraph 4(a) of the Policy by a preponderance of the evidence.

A. Identical or Confusingly Similar

Ownership of a trademark registration is generally sufficient evidence that a complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. See [WIPO Overview 3.0](#), section 1.2.1. Complainant provided evidence of its rights in the KLARNA trademarks, as noted above. Complainant has also submitted evidence, which supports that the KLARNA trademarks are widely known and a distinctive identifier of Complainant’s products and services. Complainant has therefore proven that it has the requisite rights in the KLARNA trademarks.

With Complainant’s rights in the KLARNA trademark established, the remaining question under the first element of the Policy is whether the Domain Names, typically disregarding the Top-Level Domain (“TLD”) in which they are registered (in this case, “.com”), are identical or confusingly similar to Complainant’s trademark. See, e.g., *B & H Foto & Electronics Corp. v. Domains by Proxy, Inc. / Joseph Gross*, WIPO Case No. [D2010-0842](#).

Here, the Domain Names are confusingly similar to Complainant’s KLARNA trademarks. These trademarks, which are fanciful and inherently distinctive, are recognizable in the Domain Names.

In particular, the Domain Names all include Complainant’s trademark KLARNA in its entirety, as shown below (separate by spaces for emphasis):

- KLARNA ard .com
- KLARNA cad .com
- KLARNA caed .com
- KLARNA car .com
- KLARNA cars .com
- KLARNA cards .com
- KLARNA crd .com
- KLARNA xard .com
- KLARNA csrd .com
- www KLARNA card .com
- KLARNA carf .com

Each of the Domain Names incorporate the KLARNA trademark in its entirety followed by the word “card” or by misspellings of the word “card” illustrated above. The addition of the word “card” or misspelling of the word “card” after the KLARNA trademark in the Domain Names does not prevent a finding of confusing similarity between the Domain Names and the KLARNA trademarks. Neither too, the addition of the prefix “www” in the disputed domain name <wwwklarnacard.com>. See section 1.8, [WIPO Overview 3.0](#).

Thus, the Panel finds that Complainant has satisfied the first element of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, a complainant must make at least a *prima facie* showing that a respondent possesses no rights or legitimate interests in a disputed domain name. See, e.g., *Malayan*

Banking Berhad v. Beauty, Success & Truth International, WIPO Case No. [D2008-1393](#). Once a complainant makes such a *prima facie* showing, the burden of production shifts to the respondent, though the burden of proof always remains on the complainant. If the respondent fails to come forward with evidence showing rights or legitimate interests, the complainant will have sustained its burden under the second element of the UDRP.

From the record in this case, it is evident that Respondent was, and is, aware of Complainant and the KLARNA trademarks, and does not have any rights or legitimate interests in the Domain Names. Complainant has confirmed that Respondent is not affiliated with Complainant, or otherwise authorized or licensed to use the KLARNA trademarks or to seek registration of any domain name incorporating the trademarks. Respondent is also not known to be associated with or commonly known by the KLARNA trademarks.

In addition, Respondent has not used the Domain Names in connection with a *bona fide* offering of goods or services or a legitimate noncommercial or fair use. Rather, the evidence demonstrates that at the time of filing the Complaint, the Domain Names resolved to pay-per-click (“PPC”) websites displaying advertisements with either similar services provided by Complainant or related to Complainant’s business.

Such use does not constitute a *bona fide* offering of goods or services or a legitimate noncommercial or fair use and cannot under the circumstances confer on Respondent any rights or legitimate interests in the Domain Names. See Section 2.9, [WIPO Overview 3.0](#). Moreover, there is no evidence showing that Respondent has been commonly known by the Domain Names.

Further, the nature of the Domain Names carries a risk of implied affiliation with Complainant (see [WIPO Overview 3.0](#), section 2.5.1). The Domain Names consist of Complainant’s KLARNA mark in its entirety, along with the addition by the word “card” or by misspellings of the word “card” as noted above, which is within the field of banking and financing services offered by Complainant, thus suggesting sponsorship or endorsement by Complainant, which is contrary to the fact, and which does not constitute fair use.

Accordingly, Complainant has provided evidence supporting its *prima facie* claim that Respondent lacks any rights or legitimate interests in the Domain Names. Respondent has failed to produce countervailing evidence of any rights or legitimate interests in the Domain Names. Thus, the Panel concludes that Respondent does not have any rights or legitimate interests in the Domain Names and Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that Respondent’s actions indicate that Respondent registered and is using the Domain Names in bad faith.

Paragraph 4(b) of the Policy provides a non-exhaustive list of circumstances indicating bad faith registration and use on the part of a domain name registrant, namely:

“(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or
(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or
(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or
(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your 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 your web site or location or of a product or service on your web site or location.”

The Panel finds that Complainant provided ample evidence to show that registration and use of the KLARNA trademarks long predate the registration of the Domain Names. Complainant's reputation is also well established and known. Indeed, the record shows that Complainant's KLARNA trademarks and related services are widely known and recognized. Therefore, and also noting the composition of each of the Domain Names itself, Respondent was likely aware of the KLARNA trademarks when it registered the Domain Names, or knew or should have known that the Domain Names were confusingly similar to Complainant's trademarks. See [WIPO Overview 3.0](#), section 3.2.2; see also *TTT Moneycorp Limited v. Privacy Gods / Privacy Gods Limited*, WIPO Case No. [D2016-1973](#).

The Panel therefore finds that Respondent's awareness of Complainant's trademark rights at the time of registration suggests bad faith. See *Red Bull GmbH v. Credit du Léman SA, Jean-Denis Deletraz*, WIPO Case No. [D2011-2209](#); *Nintendo of America Inc v. Marco Beijen, Beijen Consulting, Pokemon Fan Clubs Org., and Pokemon Fans Unite*, WIPO Case No. [D2001-1070](#); *BellSouth Intellectual Property Corporation v. Serena, Axel*, WIPO Case No. [D2006-0007](#).

Further, the registration of the Domain Names incorporating Complainant's KLARNA trademark - suggests Respondent's actual knowledge of Complainant's rights in the KLARNA trademarks at the time of registration of the Domain Names and its effort to opportunistically capitalize on the registration and use of the Domain Names.

In addition, as noted in Section B above, Respondent has not used the Domain Names in connection with a *bona fide* offering of goods or services or a legitimate noncommercial or fair use. The Panel finds that the use of the Domain Names indicates the obvious purpose of generating click-through revenues from the PPC links displayed at the websites to which the Domain Names resolve, which is a clear indication that Respondent intentionally attempted to attract, for commercial gain, Internet users to its own websites by creating a likelihood of confusion with Complainant's KLARNA trademark as to the source, sponsorship, affiliation or endorsement of this website.

Lastly, in the present circumstances, including the distinctiveness and reputation of the KLARNA trademarks, the failure of Respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, the use of a privacy service, and the implausibility of any good faith use to which the Domain Names may be put, support a finding of bad faith. Accordingly, the Panel finds that Respondent has registered and is using the Domain Names in bad faith and Complainant succeeds under the third element of paragraph 4(a) of the Policy

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the Domain Names, <klarnaard.com>, <klarnacad.com>, <klarnacaed.com>, <klarnacar.com>, <klarnacards.com>, <klarnacarf.com>, <klarnacars.com>, <klarnacrd.com>, <klarnacsrd.com>, <klarnaxard.com>, and <wwwklarnacard.com>, be transferred to Complainant.

/Kimberley Chen Nobles/

Kimberley Chen Nobles

Sole Panelist

Date: February 11, 2022