Panel Decision for dispute CAC-ADREU-008597

Case number	CAC-ADREU-008597
Time of filing	2024-03-05 09:25:58
Domain names	klarnapay.eu

Case administrator

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

Complainant

Organization	Klarna Bank AB

Complainant representative

Organization	SILKA AB

Respondent

Name	Andre Mayer

FACTUAL BACKGROUND

The Complainant is the owner of the registered trademark KLARNA in numerous countries and territories worldwide. To mention a few examples, the Complainant holds the following trademark registrations with effect in the European Union:

- European Union Trademark Registration number 009199803 KLARNA (word mark), registered on December 6, 2010, in international classes 35 and 36;

- European Union Trademark Registration number 009199861, registered on December 6, 2010, in international classes 35 and 36;

- European Union Trademark Registration number 010844462 KLARNA (word mark), registered on September 24, 2012, in international classes 35, 36, 42 and 45;

- European Union Trademark Registration number 013642434, registered on June 1, 2015, in international classes 35, 36, 39, 42 and 45;

- European Union Trademark Registration number 017099896, registered on December 28, 2017, in international classes 35, 36, 39, 42 and 45; and

- European Union Trademark Registration number 018120004, registered on January 11, 2020, in international classes 9, 35, 36, 39, 42 and 45.

A. COMPLAINANT

The Complainant held that the Respondent has no rights or legitimate interests in respect of the Domain Name, as none of the above circumstances applies. The Respondent has been using the Domain Name to pass itself of as the Complainant, with the

unlawful purpose of obtaining personal and financial information from Internet Users.

B. RESPONDENT

The Respondent did not deliver any response.

DISCUSSION AND FINDINGS

Paragraph B(11)(d)(1)(i)(A) of the ADR Rules requires that the disputed domain name be “identical or confusingly similar to a name in respect of which a right is recognized or established by national and/or European Union law”.

As it can be seen, the Domain Name fully incorporates the Complainant’s well-known KLARNA mark in full, together with the descriptive and dictionary word “pay”, which is related to the Complainant’s field of activity (the Complainant is the leading global payments and shopping service) and does not serve to dispel their confusing similarity.

In view of the circumstances, the Panel held that the Complainant has satisfied the requirement of sub-paragraph B(11)(d)(1)(i)(A) of the ADR Rules, as it has been proven that that the Domain Name is confusingly similar to the name KLARNA in respect of which the Complainant has rights.

Under Paragraph B11(e) of the ADR Rules, a respondent may demonstrate its rights or legitimate interests to the domain name for purposes of Paragraph B11(d)(1)(i)(B) by showing any of the following circumstances, in particular but without limitation:

(1) prior to any notice of the dispute, the respondent has used the domain name or a name corresponding to the domain name in connection with the offering of goods or services or has made demonstrable preparation to do so;

(2) the respondent, being an undertaking, organization or natural person, has been commonly known by the domain name, even in the absence of a right recognized or established by national and/or European Union law;

(3) the respondent is making a legitimate and noncommercial or fair use of the domain name, without intent to mislead consumers or harm the reputation of a name in which a right is recognized or established by national law and/or European Union law.

It is clear that the Respondent has no rights or legitimate interests in respect of the Domain Name, as none of the above circumstances applies.

1. The Respondent is not a licensee of the Complainant, and it has not received any consent, permission or acquiescence from the Complainant to use its KLARNA mark in association with the registration of the Domain Name.
2. The Panel has found no evidence that the Respondent is commonly known by the Domain Name. In this regard, a Google Search of the Domain Name shows how its first results are referred to the Complainant and its activities. Given thus the association between the Complainant and the Domain Name, it is more than likely that Internet users will associate the Domain Name with the Complainant, when in fact they are not related.
3. Nothing suggests that the Respondent holds any trademarks on the Domain Name or on the term “klarnapay”.
4. The Panel has found no evidence that the Respondent has ever operated under the name “klarnapay”. On the contrary, a Google search of “klarnapay” reveals that the results of such search are referred to the Complainant and its activities. Therefore, as previously stated, it is more than likely that Internet users associate “klarnapay” with the Complainant and not with the Respondent.
5. The Domain Name does not resolve to an active website. However, it previously resolved to a website which prominently displayed the Complainant’s mark, impersonating the Complainant (in this regard, see how the copyright notice of the website specified “Copyright © 2005-2022 KlarnaBank AB”) and requesting Internet users to introduce information about their payment orders.

Therefore, in view of these circumstances, it can be concluded that the Respondent has been using the Domain Name to pass itself of as the Complainant, with the unlawful purpose of obtaining personal and financial information from Internet Users.

Thus, the Domain Name implies a high risk of implied false affiliation with Complainant and its activities. In view of all these circumstances, the Panel finds highly unlikely that the Respondent intended to use the Domain Name for any legitimate or fair use, especially in view of the former use of the website to pass itself of as the Complainant. Likewise, the Panel cannot conceive any possible use in which the use of the Domain Name would not infringe its rights in KLARNA. Therefore, the Complainant has satisfied the requirement of sub-paragraph B(1)(b)(10)(i)(B) of the ADR Rules, as it has been proven that Respondent lacks rights or legitimate interests in the Domain Name.

According to Paragraph B(11)(d)(1) of the ADR Rules lack of rights or legitimate interests and registration or use in bad faith are alternative requirements.

Although, in view of the arguments and evidence set out above, it can be concluded the Respondent lacks rights or legitimate interests in the Domain Name, the Panel will also address this requirement, given that the Domain Name has been registered and is being used in bad faith.

Registration in bad faith

Given the Complainant's numerous trademark registrations for the KLARNA mark in the European Union and worldwide, it is not possible to conceive of a plausible situation in which the Respondent would have been unaware of the Complainant and the Complainant's KLARNA mark when the Domain Name was registered.

Likewise, it is important to stress that:

1. The Domain Name reproduces in full the KLARNA mark, without the consent or authorization of the Complainant.
2. The Domain Name is similar to the Complainant's domain name <klarna.com> registered in 2008, well before the registration of the Domain Name. Hence, it is impossible to believe that the Respondent would have chosen the Domain Name if it did not have the Complainant's KLARNA mark and activities in mind.
3. A simple search in an online trademark register or in the Google search engine when the Domain Name was registered would have informed the Respondent on the existence of the Complainant and its rights in the KLARNA mark. In support of this contention, see Google Searches showing the available results on October 5, 2023, the day before its registration, in relation to the Domain Name and in relation to the term "klarnapay" Hence, it is more than likely that the Respondent had the Complainant and its activities in mind when registering the Domain Name, and thus registered the Domain Name in bad faith to take advantage of the Complainant and its marks. In view of all these circumstances, the Complainant asserts that the Respondent had the Complainant and its KLARNA rights in mind at the time of registration of the Domain Name, which amounts to a registration in bad faith.

Use in bad faith

In this case, the Domain Name does not currently resolve to an active website. The Complainant's KLARNA mark is well-known internationally, and the Respondent was aware of it as at the time of its registration of the Domain Name. Having regard to the well-known nature of the Complainant's KLARNA mark and the structure of the Domain Name (where the Complainant's KLARNA mark is reproduced in full together with a term which is clearly related to the Complainant's activities), it is impossible to think of any good faith use to which the Domain Name (which clearly postdates the Complainant's rights in KLARNA) could be put by the Respondent. As previously stated, the Domain Name previously resolved to website which prominently displayed the Complainant's mark, included in its copyright notice the Complainant's name ("Copyright © 2005-2022 KlarnaBank AB") and the content of the website requested Internet users to introduce information about their payment orders. Therefore, the Respondent has used the Domain Name in an effort to impersonate the Complainant, or otherwise mislead Internet users as to the source of the Respondent's website with illicit purposes

In view of all these circumstances, the Panel contends that it has satisfied the requirement of sub-paragraph B(1)(b)(10)(i)(C) of the ADR Rules, as it has been clearly proven that the Domain Name was registered or is being used in bad faith.

DECISION

For all the foregoing reasons, in accordance with Paragraphs B12 (b) and (c) of the Rules, the Panel orders that the Domain Name <klarnapay.eu> be transferred to the Complainant.

PANELISTS

Name	Thomas Hoeren

DATE OF PANEL DECISION 2024-03-05

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

I. Disputed domain name: klarnapay.eu

II. Country of the Complainant: Sweden

III. Date of registration of the domain name: 6 October 2023

IV. Rights relied on by the Complainant (B(11)(f) ADR Rules) on which the Panel based its decision:

The Complainant is the owner of the registered trademark KLARNA in numerous countries and territories worldwide. To mention a few examples, the Complainant holds the following trademark registrations with effect in the European Union:

- European Union Trademark Registration number 009199803 KLARNA (word mark), registered on December 6, 2010, in international classes 35 and 36;

- European Union Trademark Registration number 009199861, registered on December 6, 2010, in international classes 35 and 36;

- European Union Trademark Registration number 010844462 KLARNA (word mark), registered on September 24, 2012, in international classes 35, 36, 42 and 45;

- European Union Trademark Registration number 013642434 , registered on June 1, 2015, in international classes 35, 36, 39, 42 and 45;

- European Union Trademark Registration number 017099896 , registered on December 28, 2017, in international classes 35, 36, 39, 42 and 45;

- European Union Trademark Registration number 018120004 , registered on January 11, 2020, in international classes 9, 35, 36, 39, 42 and 45.

V. Response submitted: [No]

VI. Domain name/s is/are [identical/confusingly similar/neither identical nor confusingly similar] to the protected right/s of the Complainant

VII. Rights or legitimate interests of the Respondent (B(11)(f) ADR Rules): No

VIII. Bad faith of the Respondent (B(11)(e) ADR Rules): Yes

IX. Other substantial facts the Panel considers relevant: -

X. Dispute Result: [Transfer of the disputed domain name
XI. Procedural factors the Panel considers relevant: -

XII. [If transfer to Complainant] Is Complainant eligible? Yes