

ADMINISTRATIVE PANEL DECISION

Klarna Bank AB v. Whois Privacy Protection Service by Z.com SG / ubaidah nugroho, safuer

Case No. D2022-0539

1. The Parties

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

The Respondent is Whois Privacy Protection Service by Z.com SG, Singapore / ubaidah nugroho, safuer, Indonesia.

2. The Domain Name and Registrar

The disputed domain name <klarnacash.com> is registered with GMO Internet, Inc. d/b/a Discount-Domain.com and Onamae.com (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on February 16, 2022. On February 17, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 18, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on February 18, 2022 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint in English on February 22, 2022.

On February 18, 2022, the Center transmitted an email communication to the Parties in English and Japanese regarding the language of the proceeding. On February 22, 2022, the Complainant submitted a request that English be the language of the proceeding. On February 22, 2022, the Respondent sent an email agreeing to the Complainant’s request that English be 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 the Respondent in English and Japanese of the Complaint, and the proceedings commenced on February 25, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 17, 2022. On February 26, 2022, the Respondent sent an email stating its views on certain aspects of the Complaint but did not submit a formal Response. On March 18, 2022, the Center informed the Parties that it would proceed to panel appointment.

The Center appointed Teruo Kato as the sole panelist in this matter on March 24, 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

According to the Complainant, the Complainant was founded in Stockholm, Sweden in 2005 and operates a banking and payments business in 17 countries with more than 4,000 employees, serving in excess of 250,000 merchants, 90 million consumers and with approximately 2,000,000 transactions every day.

The Complainant owns a number of trademarks KLARNA, including:

- the International trademark registration No. 1217315 for KLARNA, registered on March 4, 2014, covering goods and services in classes 35, 36, 39, 42, and 45, designating 12 jurisdictions including Indonesia, where the Respondent is registered to be located;
- the International trademark registration No. 1530491 for KLARNA, registered on January 30, 2020, covering goods and services in classes 9, 35, 36, 39, 42, and 45, designating 14 jurisdictions including Indonesia, where the Respondent is registered to be located;
- the International trademark registration No. 1066079 for KLARNA, registered on December 21, 2010, covering goods and services in classes 35 and 36, designating 5 jurisdictions; and
- the European Union Trade Mark registration No. 009199803 for KLARNA, registered on December 6, 2010, covering goods and services in classes 35 and 36.

Additionally, the Complainant owns, among others, the domain name <klarna.com> which resolve to the Complainant's global website offering information on its products and services.

The disputed domain name was registered on November 26, 2021.

The Respondent is Ubaidah Nugroho, safuer, whose address is given as in Indonesia.

As shown in the Complaint, the disputed domain name currently resolves to a listing for sale at domain name marketplace Uniregistry Market with an offer price of USD 1,450,000.

The Complainant requests that the disputed domain name be transferred to the Complainant.

5. Parties' Contentions

A. Complainant

The Complainant contends that it is the owner of trademark KLARNA.

The Complainant also contends that the disputed domain name is confusingly similar to the Complainant's KLARNA trademark.

The Complainant further contends that the Respondent is not a licensee, an authorized agent of the Complainant, or in any other way authorized to use the Complainant's trademark KLARNA and that the Respondent is not commonly known by the disputed domain name as an individual, business, or other organization, and that the Respondent does not make any *bona fide* use or trade under the disputed domain name.

The Complainant also contends that the Respondent registered and is using the disputed domain name in bad faith.

B. Respondent

The Respondent did not submit a formal Response to the Complainant's contentions, but in its emails sent to the Center it stated, among others, that "Klarna is a generic word, dictionary word, not new word from compound or blending word", that "Klarna is widely used by many companies", that "we do not have any bad faith on the domain registration", that "many companies use Klarna as their domain name", and that "As a domain investor, reselling a domain name is not a cybersquatting".

6. Discussion and Findings

6.1 Preliminary Issue: Language of the Proceeding

Pursuant to paragraph 11(a) of the Rules, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to authority of the Panel to determine otherwise having regard to the circumstances of the administrative proceeding. The Panel notes that in the present case the Registrar has confirmed that the language of the Registration Agreement is Japanese.

The Complainant has filed the Complaint in English, and requests that the language of the proceeding be English on the grounds, among others, that the use of Japanese would risk delaying the procedure and place an undue burden on the Complainant, that the Whols disclosure request shows that the Respondent is not Japanese but rather located in Indonesia.

On February 18, 2022, the Respondent was invited by the Center, in both Japanese and English, to indicate any objection to the proceeding being conducted in English by February 23, 2022. On February 22, 2022, the Respondent sent an email agreeing to the Complainant's request that English be the language of the proceeding.

On February 25, 2022, the Center informed the Respondent, in both Japanese and English, that the Center has decided, under the circumstances of this case, to: 1) accept the Complaint as filed in English; 2) accept a Response in either English or Japanese; 3) appoint a Panel familiar with both languages mentioned above, if available.

In the circumstances the Panel upholds the parties' agreement to use English as the language of the present proceedings, and in accordance with paragraph 11(a) of the Rules, the Panel decides that English be the language of the proceeding.

6.2 Substantive Issues

A. Identical or Confusingly Similar

The Panel must determine whether (a) the Complainant has a trademark or service mark; and (b) whether the disputed domain name is identical or confusingly similar to that trademark or service mark.

The Complainant submitted evidence of its KLARNA trademark registrations, and the Panel is satisfied that the Complainant is the owner of the trademark registrations, including:

- the International trademark registration No. 1217315 for KLARNA, registered on March 4, 2014, covering goods and services in classes 35, 36, 39, 42, and 45, designating 12 jurisdictions including Indonesia, where the Respondent is registered to be located;
- the International trademark registration No. 1530491 for KLARNA, registered on January 30, 2020, covering goods and services in classes 9, 35, 36, 39, 42, and 45, designating 14 jurisdictions including Indonesia, where the Respondent is registered to be located;
- the International trademark registration No. 1066079 for KLARNA, registered on December 21, 2010, covering goods and services in classes 35 and 36, designating 5 jurisdictions; and
- the European Union Trade Mark registration No. 009199803 for KLARNA, registered on December 6, 2010, covering goods and services in classes 35 and 36.

As to the confusing similarity element for the purposes of the Policy, the Panel has proceeded to compare the disputed domain name to the trademark rights which have been provided.

Section 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)) states that "[t]he applicable Top Level Domain ('TLD') in a domain name (e.g., 'info', '.com', '.club') is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test". The Panel finds no reason why this established practice should not be applied to the present case.

Apart from the TLD ".com", the Panel finds that the disputed domain name contains the Complainant's trademark KLARNA in its entirety, followed by the word "cash".

The Panel notes that section 1.7 of the [WIPO Overview 3.0](#) states that "[w]hile each case is judged on its own merits, in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing."

The Panel also notes that section 1.8 of the [WIPO Overview 3.0](#) states that "[w]here the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element."

In the circumstances, the Panel sees no reason why this established practice should not be applied to the present case.

The Panel notes that the Respondent stated, among others, that "Klarna is generic word, dictionary word, not new word from compound or blending word. so klarna is not brandable.", "Klarna is widely used by many companies" and "many companies use Klarna as their domain name."

Whilst these contentions were not presented as a formal Response to the Complaint by the Respondent, the Panel has taken their substances into its consideration as if they had been pleaded by the Respondent in the present proceedings.

Having given due considerations, the Panel are not persuaded by the Respondent's statements and holds that the disputed domain name is confusingly similar to the Complainant's trademarks. Even if the Respondent's allegations regarding the nature of the term "klarna" were true, that would not be material under the first element, but could be a factor under the second and/or third elements.

Accordingly, the Panel finds that the requirement of paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

Under paragraph 4(c) of the Policy, any of the following circumstances, if found by the Panel, may demonstrate a respondent's rights or legitimate interests in a domain name:

(i) before any notice to it of the dispute, the respondent's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or

(ii) the respondent has been commonly known by the domain name, even if it has acquired no trademark or service mark rights; or

(iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The consensus view of UDRP panels is that the burden of proof in establishing no rights or legitimate interests in respect of a domain name rests with the complainant in making out a *prima facie* case that the respondent lacks rights or legitimate interests. Once such *prima facie* case is made, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (see section 2.1 of the [WIPO Overview 3.0](#)).

In the present case, the Complainant contends with relevant evidence that "the Respondent lacks right to the Domain Name, is not known by the [disputed] [d]omain [n]ame nor have the Respondent made legitimate, non-commercial fair use of the [disputed] [d]omain [n]ame."

Further, the Complainant contends with relevant evidence that "[t]here is no active website on the [disputed] [d]omain [n]ame, rather, the [disputed] domain name is redirected to its listing for sale at domain name marketplace Uniregistry Market".

The Complainant also contends that, whilst the Complainant had sent two cease and desist emails to the Respondent, no reply was received, and that "[t]he Respondent has been granted an opportunity to present some compelling arguments that it has rights in the [disputed] [d]omain [n]ame but has failed to do so". The Panel, however, cannot verify, based on the case file, whether or not the email address used by the Complainant in the said cease and desist emails was related to the Respondent.

Having examined the contentions and evidences submitted by the Complainant, the Panel is satisfied that the Complainant has established a *prima facie* case of no rights or legitimate interests.

The Respondent did not specifically responded to the Complainant's contentions above, but it stated in his emails, among others, that "Klarna is widely used by many companies, and I registered the domain klarnacash because still available, everybody in the registrar can register or buy this domain". It also stated that "Klarna word in beginning domain names: 403 domains matched", "Klarna word in end domain names: 952 domains matched", "Klarna word in any position domain names: 1340 domains matched", and "When try to check whois lookup Klarna Bank AB owned just 32 domain names". In its emails the Respondent provided with hyperlinks to the database/search sites, being "https://dotdb.com" and "https://www.whoxy.com", as the sources of its contentions.

In its emails the Respondent further stated that "Should be aware that many companies use Klarna as their domain name, and I believe they are not Klarna client business partner too. for example Klarna.xyz Klarnabox.com Klarnabet.com Klarnaclaims.com Klarnaloan.com etc".

Having considered these statements by the Respondent, the Panel notes that the Respondent did not provide with a claimed justification giving it rights, as stipulated under paragraph 4(c) of the Policy, but rather merely indicated how the term may be used by other people – which the Panel does not in any event find convincing. In the circumstances, the Panel holds that the Respondent failed to invoke any of the defenses, and the Panel is satisfied that the Respondent has failed to overturn such *prima facie* case.

Accordingly, the Panel finds that the Respondent has no rights nor legitimate interests in respect of the disputed domain name.

C. Registered and Used in Bad Faith

To fulfill the third requirement, the Complainant must prove that the disputed domain name was registered and is being used in bad faith, and in the present case the Complainant submitted a number of contentions with relevant evidences to support them.

The Panel notes that the trademarks KLARNA were registered and extensively used internationally, including Indonesia where the Respondent resides, long before the disputed domain name was registered on November 26, 2021. The Panel therefore holds that the Respondent was likely to have known of the Complainant, its products, and trademarks prior to registering the disputed domain name and that, given that the Complainant is engaged in the financial services industry across the world, the addition of the word “cash” to the trademark KLARNA supports this view.

As to the Respondent’s motive for the registration, the Panel notes that the Respondent stated that “[a]s a domain investor, reselling a domain name is not a cybersquatting”. The Panel also notes and accepts the Complainant’s contention and its evidence that the disputed domain name resolves to a third party domain name market place, stating that “Get this name right now \$1,450,000 USD”, “BUY NOW”, “Buy now and make klarnacash.com yours today.” and “This domain name is listed for sale in the Uniregistry Market, a premier domain name marketplace.”

It is therefore clear that the Respondent acquired the disputed domain name for reselling.

In this connection paragraph 4(b) of UDRP provides four non-exhaustive scenarios for the reselling of disputed domain names, which “if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith”. They include:

“(i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of *selling*, renting, or otherwise transferring the domain name *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 the respondent’s documented out-of-pocket costs directly related to the domain name.* (emphasis added)”.

The Panel is of a view that this should be applied in accordance with Section 3.1.1 of the [WIPO Overview 3.0](#), which states as follows:

Generally speaking, panels have found that the practice as such of registering a domain name for subsequent resale (including for a profit) would not by itself support a claim that the respondent registered the domain name in bad faith with the primary purpose of selling it to a trademark owner (or its competitor).

The Panel therefore notes that the mere fact that the Respondent has placed the disputed domain name for a sale should not, by itself, be considered to be an indication of the bad-faith registration and use.

The Panel further notes that both of paragraph 4(b) of UDRP and the section 3.1.1 of the [WIPO Overview 3.0](#) as quoted above refer to “selling it to a trademark owner (or its competitor)”.

In the present case, there is no evidence found in the file which indicates that the Respondent had approached the Complainant (or its competitor) for the resale. However, the Panel notes that the Respondent's desire to sell the disputed domain name had been communicated to the Complainant, albeit indirectly through a third-party intermediary chosen by the Respondent. The Panel also notes that the said offer for sale still remains in the public domain even now and is visible to the Complainant and, potentially, to its competitors.

In the circumstances, the Panel concludes that the requirement for "for the purpose of selling or otherwise transferring the domain name to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant" as provided under paragraph 4(b)(i) of UDRP is satisfied.

As regards the requirement for the excessive consideration under paragraph 4(b)(i) of UDRP, being "for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name", the Panel holds that the quoted price of USD 1,450,000 clearly satisfies this requirement.

The Panel therefore holds that the present case falls into the scenario contemplated under paragraph 4(b)(i) of UDRP and notes that paragraph 4(b) of UDRP provides that "*shall* be evidence of the registration and use of a domain name in bad faith" (emphasis added).

Further, the Panel notes that Section 3.1.1 of the [WIPO Overview 3.0](#) provides additional guidance:

Circumstances indicating that a domain name was registered for the bad-faith purpose of selling it to a trademark owner can be highly fact-specific; the nature of the domain name (e.g., whether a typo of a famous mark, "*a domain name wholly incorporating the relevant mark plus a geographic term or one related to the complainant's area of commercial activity*", or a pure dictionary term") and the distinctiveness of trademark at issue, among other factors, are relevant to this inquiry. (emphasis added)

The Panel notes that the present case matches one of the bad-faith examples given, being "a domain name wholly incorporating the relevant mark plus a geographic term or one related to the complainant's area of commercial activity", i.e., the combination of "KLARNA" and "cash". The Panel also holds that, in light of the established reputation of the Complainant and its KLARNA trademarks in the financial service industry, the existence of "the distinctiveness of trademark at issue" is present in this case.

The Panel also notes that Section 3.1.1 of the [WIPO Overview 3.0](#) states further:

If on the other hand circumstances indicate that the respondent's intent in registering the disputed domain name was in fact to profit in some fashion from or otherwise exploit the complainant's trademark, panels will find bad faith on the part of the respondent. While panel assessment remains fact-specific, generally speaking such circumstances, alone or together, include: (i) the respondent's likely knowledge of the complainant's rights, (ii) the distinctiveness of the complainant's mark, ... (vi) *threats to "sell to the highest bidder" or otherwise transfer the domain name to a third party*, (vii) *failure of a respondent to present a credible evidence-backed rationale for registering the domain name*, ... (emphasis added).

In the present case, the Panel holds that the Respondent's placement of the disputed domain name for sale publicly at the market place is equivalent to "(vi) threats to "sell to the highest bidder" or otherwise transfer the domain name to a third party" as above.

The Panel also notes that the Respondent did not submit a formal Response in these administrative proceedings. The Panel has carefully considered the views of the Respondent stated in its emails sent to the Center and holds that they fall short of "a credible evidence-backed rationale for registering the domain name" as set out in Section 3.1.1(vii) of the [WIPO Overview 3.0](#) as quoted above.

Further, Section 3.1.1 of the [WIPO Overview 3.0](#) states:

Particularly where the domain name at issue is identical or confusingly similar to a highly distinctive or famous mark, panels have tended to view with a degree of skepticism a respondent defense that the domain name was merely registered for legitimate speculation (based for example on any claimed dictionary meaning) *as opposed to targeting a specific brand owner.* (emphasis added)

In this regard the Respondent stated that “the Swedish word “Klarna” means “clear” in English and that “Klarna is widely used by many companies, and I registered the domain klarna cash because still available, everybody in the registrar can register or buy this domain, so the fact is, I do not know or we do not have any bad faith on the domain registration.”

The Panel notes that “the domain name at issue is identical or confusingly similar to a highly distinctive or famous mark” is present in this case. The Panel is also of a view that the addition of “cash” and the high level of the consideration quoted by the Respondent indicate that it was likely that the Respondent designed to target the Complainant specifically as contemplated under Section 3.1.1 of the [WIPO Overview 3.0](#) as quoted above.

Further, the Panel holds that these facts of the present case also correspond to a number of the “additional bad faith consideration factors” as set out in Section 3.2.1 of the [WIPO Overview 3.0](#).

In the circumstances, the Panel is satisfied with the Respondent’s bad faith in registration and use of the disputed domain name. The Panel therefore concludes that the third requirement of the Policy has been met.

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 disputed domain name <klarnacash.com> be transferred to the Complainant.

/Teruo Kato/

Teruo Kato

Sole Panelist

Date: April 7, 2022