

ADMINISTRATIVE PANEL DECISION

Charlotte Pipe and Foundry Company v. jia yao
Case No. D2023-2715

1. The Parties

The Complainant is Charlotte Pipe and Foundry Company, United States of America (“United States”), represented by Nelson Mullins Riley & Scarborough, L.L.P., United States.

The Respondent is jia yao, China.

2. The Domain Name and Registrar

The disputed domain name <charlotteus.com> is registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 23, 2023. On June 26, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 30, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 of the Complaint, and the proceedings commenced on July 10, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 4, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 7, 2023.

The Center appointed Miguel B. O’Farrell as the sole panelist in this matter on August 28, 2023. 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

The Complainant was founded in 1901 by W. Frankl Dowd to address the need for plumbing pipe in the newly industrialized post-war South in the United States.

The Complainant was founded in order to initially produce cast iron soil pipe and fittings. Over the next century Complainant expanded the company's business to include a plastic division in 1967 that produced thermoplastic plumbing pipe and fittings for drain, waste and vent applications.

Currently, the Complainant is the largest manufacturer of drain, waste, and vent pipe and fittings in the United States and operates one of the largest fittings molding facilities in the world.

The Complainant's headquarters is in Charlotte, North Carolina and the Complainant has satellite pipe extrusion plants in Muncy, Pennsylvania; Cameron; Texas; Wildwood; Florida; Cedar City, UT; and Huntsville, Alabama. Id.

As of 1901 the Complainant has continuously and extensively used the trademarks CHARLOTTE, CHARLOTTE PIPE and FOUNDRY COMPANY, CHARLOTTE PUMP & FOUNDRY and CHARLOTTE PIPE.

The Complainant owns several trademark registrations for CHARLOTTE, CHARLOTTE PIPE and FOUNDRY COMPANY, CHARLOTTE PIPE and FOUNDRY COMPANY and CHARLOTTE PIPE in classes 6, 9, 17, 35 and 37 the United States, including the following.

- United States, Trademark Registration Number 2,320,511, CHARLOTTE, registered on February 22, 2000, in classes 6 and 17.
- United States, Trademark Registration Number 2,310,779, CHARLOTTE PIPE, registered on January 25, 2000, in classes 6 and 17.

Likewise, the Complainant owns a large number of trademark registrations in many jurisdictions such as Colombia, Perú, México, India, Japan, Republic of Korea, the Russian Federation, Türkiye among others.

In addition, the Complainant registered the domain name <charlottepipe.com> on September 18, 1997 which resolves to a website in which the Complainant offers its goods and services.

The Respondent registered the disputed domain name on September 2, 2022, which resolves to an active website that passes itself off as the Complainant's own website, offering for sale products identical to the Complainant's products.

5. Parties' Contentions

A. Complainant

The Complainant, in essence, claims that the disputed domain name is confusingly similar to the trademark CHARLOTTE in which the Complainant has rights and that the Respondent has no rights or legitimate interests in the disputed domain name, which was registered and is being used in bad faith.

As a result of the Complainant's use of the CHARLOTTE marks over the course of the past century these trademarks have acquired a substantial amount of reputation and goodwill in the marketplace, which consumers recognize as belonging exclusively to the Complainant.

Finally, the Complainant requests the Panel to issue a resolution ordering the transfer of the disputed domain name to the Complainant.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain name, the Complainant must prove each of the following, namely that:

- (i) the disputed domain name is identical or confusingly similar with a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name was registered and is being used in bad faith.

A. Identical or Confusingly Similar

As set forth in section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") the standing test for confusing similarity involves a reasoned but relatively straightforward comparison between the trademark and the disputed domain name to determine whether the disputed domain name is confusingly similar with the trademark. The test involves a side-by-side comparison of the disputed domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name.

The Panel considers that the disputed domain name is confusingly similar to the Complainant's CHARLOTTE trademark.

The disputed domain name is comprised of the Complainant's CHARLOTTE trademark in its entirety followed by the "us" country code abbreviation which does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark CHARLOTTE.

Moreover, while the content of the website is typically disregarded under the first element analysis, the Panel notes here that the website at the disputed domain name is an online e-commerce website offering that is meant to look like it is operated by or affiliated with Complainant and is allegedly offering Complainant's products at a discount, which confirms confusing similarity.

The Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark CHARLOTTE and that the requirements of paragraph 4(a) of the Policy are fulfilled.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, a respondent may establish rights to or legitimate interests in a domain name by demonstrating any of the following non-exclusive defenses:

- (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.

Although the Policy addresses ways in which a respondent may demonstrate rights or legitimate interests in a disputed domain name, it is well established, as it is put in section 2.1 of [WIPO Overview 3.0](#), that a complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the domain name. 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 disputed domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

There is no evidence in the present case that the Respondent has been commonly known by the disputed domain name, enabling it to establish rights or legitimate interests therein.

Furthermore, there is no evidence in the file to prove any of the circumstances mentioned in paragraph 4(c) of the Policy, nor any other circumstances to suggest that the Respondent has rights or legitimate interests in the disputed domain name.

The Panel finds that the Complainant has made out a *prima facie* case, a case calling for an answer from the Respondent. The Respondent has not responded and the Panel is unable to conceive of any basis upon which the Respondent could sensibly be said to have any rights or legitimate interests in respect of the disputed domain name.

The Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name and that the requirements of paragraph 4(a)(ii) of the Policy have been fulfilled.

C. Registered and Used in Bad Faith

The Panel is satisfied that the Respondent must have been aware of the Complainant's trademark CHARLOTTE mentioned in section 4 above (Factual Background) when it registered the disputed domain name on September 2, 2022. By that time, the Complainant had long ago registered and intensely used the trademark CHARLOTTE.

The website at the disputed domain name passes itself off as the Complainant's own website found at the <charlottepipe.com> domain name or at least as a website affiliated with Complainant offering for sale products identical to Complainant's products, this is evidence that when registering the disputed domain name the Respondent was targeting the Complainant and its business.

The fact that there is a clear absence of rights or legitimate interests coupled with no explanation for the Respondent's choice of the disputed domain name, the nature of the disputed domain name, and the use of the domain name to mimic Complainant's own website, are indicative of bad faith (as stated in section 3.2.1 of the [WIPO Overview 3.0](#)). The Panel finds that the Respondent registered and is using the disputed domain name in bad faith.

For the above reasons, the Panel finds that the requirements of paragraph 4(a) (iii) of the Policy have been fulfilled.

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 <charlotteus.com> be transferred to the Complainant.

/Miguel B. O'Farrell/

Miguel B. O'Farrell

Sole Panelist

Date: September 8, 2023