

ADMINISTRATIVE PANEL DECISION

Charles & Keith International Pte. Ltd. v. Client Care, Web Commerce Communications Limited
Case No. D2023-5030

1. The Parties

The Complainant is Charles & Keith International Pte. Ltd., Singapore, represented by Strategic IP Information Pte Ltd., Singapore.

The Respondent is Client Care, Web Commerce Communications Limited, Malaysia.

2. The Domain Name and Registrar

The disputed domain name <charlesandkeithuae.com> is registered with Alibaba.com Singapore E-Commerce Private Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 4, 2023. On December 4, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 5, 2023, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 5, 2023, 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 amended Complaint on December 8, 2023.

The Center verified that the Complaint together with the amended 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 December 28, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 17, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 18, 2024.

The Center appointed David Taylor as the sole panelist in this matter on January 29, 2024. 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

Incorporated in Singapore in 2005, the Complainant is a Singapore-based company engaged in the manufacturing and retail of footwear, bags, and fashion accessories. The Complainant markets its goods throughout the world, including online via its website at “www.charleskeith.com”. The Complainant is the owner of a substantial number of trademark registrations for CHARLES & KEITH, including:

- European Union Trade Mark No. 004520672, CHARLES & KEITH, registered on July 3, 2006;
- International Trademark Registration No. 1070666, CHARLES & KEITH, registered on December 17, 2010; and
- United States Trademark Registration No. 5024429, CHARLES & KEITH, registered on August 23, 2016.

The disputed domain name was registered on July 26, 2023. The disputed domain name resolves to a website (the “Respondent’s website”) that purports to offer goods bearing the Complainant’s trademark for sale. The Respondent’s website has a similar look and feel to the Complainant’s official website, displaying the same product images as those shown on the Complainant’s website. The goods offered for sale via the Respondent’s website are offered with substantial discounts. Prices on the Respondent’s website are listed in United Arab Emirates Dirhams.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that it has rights in the CHARLES & KEITH trademark and submits that the disputed domain name is identical or confusingly similar to the Complainant’s trademark.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant asserts that it has not authorized the Respondent to make use of the Complainant’s CHARLES & KEITH trademark. The Complainant argues that Internet users viewing the Respondent’s website are likely to view the disputed domain name as being connected with the Complainant, which is not the case.

The Complainant submits that the disputed domain name was registered and is being used in bad faith. The Complainant asserts that the Respondent was aware of the Complainant’s rights when registering the disputed domain name, and that the Respondent is using the disputed domain name to mislead Internet users into believing that the disputed domain name is associated with or endorsed by the Complainant.

The Complainant requests transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

In order to prevail, the Complainant must demonstrate on the balance of probabilities that it has satisfied the requirements of paragraph 4(a) of the Policy:

- (i) The disputed domain name is identical or confusingly similar to 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

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 1.7.

The Complainant is the owner of the trademark CHARLES & KEITH, registration details of which are set out in the factual background section above. The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the mark is recognizable within the disputed domain name. The Complainant's CHARLES & KEITH trademark is reproduced in the disputed domain name, altered by the omission of the spaces between the elements making up the Complainant's trademark, the replacement of the ampersand with the word "and", and the addition of the letters "uae" as a suffix. Accordingly, Panel finds the disputed domain name to be confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here "uae", may bear on assessment of the second and third elements, the Panel finds the addition of such a term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

As noted above, the disputed domain name resolves to a website purporting to offer for sale goods bearing the Complainant's trademark. There is no suggestion that the Respondent is an authorized reseller of the Complainant's goods. Prior panels have recognized that resellers using a domain name containing a complainant's trademark to undertake sales related to a complainant's goods or services may be making a

bona fide offering of goods and services and thus have a legitimate interest in such domain name. In this instance, the Respondent's website fails to accurately and prominently disclose the Respondent's non-affiliation with the Complainant. Rather, the Respondent's website copies the look and feel of the Complainant's official website, making use of product images that appear to have been misappropriated from the Complainant's website. The result is that the Respondent's website appears to be a genuine website of the Complainant serving customers in the United Arab Emirates. The Panel finds that such use does not amount to a bona fide offering of goods or services pursuant to paragraph 4(c)(i) of the Policy; see *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#).

The Respondent's use of the disputed domain name does not support a legitimate claim of being commonly known by the disputed domain name as contemplated by paragraph 4(c)(ii) of the Policy.

Nor is the Respondent making any legitimate noncommercial or fair use of the disputed domain name within the meaning of paragraph 4(c)(iii) of the Policy.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

It is clear from the contents of the Respondent's website that the Respondent was well aware of the Complainant and its rights in the CHARLES & KEITH trademark when registering the disputed domain name. The Panel finds that the Respondent registered the disputed domain name with a view to creating a misleading impression of association between the disputed domain name and the Complainant, in bad faith.

The Panel further finds that Internet users who arrive at the Respondent's website while seeking the Complainant online are likely to mistakenly believe that the Respondent's website is an official online point of sale for the Complainant's goods, which is not the case. The Panel finds that by using the disputed domain name in the manner described above the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website and the goods offered for sale therein, in bad faith pursuant to paragraph 4(b)(iv) of the Policy.

The Panel finds that the Complainant has established the third element 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 disputed domain name <charlesandkeithuae.com> be transferred to the Complainant.

/David Taylor/

David Taylor

Sole Panelist

Date: February 12, 2024