



08-CV-05219-CMP

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CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT TACOMA  
DEPUTY

Issued  
T-3653

IN THE UNITED STATES DISTRICT COURT FOR  
THE WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

CHARTER CONSTRUCTION, INC.,

Plaintiff,

v.

CHARTER MECHANICAL CONTRACTORS,  
INC.

Defendant.

CASE NO. 08 5219 BMS  
COMPLAINT

Plaintiff Charter Construction, Inc. ("Charter Construction"), by and through its attorneys, Stanislaw Ashbaugh, alleges as follows:

I. PARTIES

1. Plaintiff Charter Construction is and at all relevant times has been a Washington corporation with its principal place of business located in King County, Washington. Charter Construction also has an office in Portland, Oregon.

2. Based upon information and belief, defendant Charter Mechanical Contractors, Inc. ("Charter Mechanical") is and at all relevant times has been an Oregon corporation which has done business in Clark County, Washington under the names Charter Mechanical Contractors Inc., Charter Mech Contractors Inc. and/or Charter Mechanical.



1           10. Charter Construction has won a variety of awards for its work, including  
2 among others, multiple Associated General Contractors Grand Awards for Construction  
3 Excellence, and more than 10 American Institute of Architects Awards.

4           11. Charter Construction was also recently featured in the *Seattle Daily Journal of*  
5 *Commerce* for its participation in the construction of Olson Sundberg Kundig Allen's first  
6 condominium project, 1111 East Pike.

7           12. Charter Construction is a famous company in the Pacific Northwest  
8 Construction community.

9           13. Charter Construction is informed and believes that Charter Mechanical was  
10 formed in 2006, and provides subcontracting services in the areas of process piping, HVAC  
11 and plumbing.

12           14. Charter Mechanical is not a famous company in the Pacific Northwest  
13 Construction community.

14           15. Charter Mechanical has a distinctive logo (the "Charter Logo"). Charter  
15 Mechanical owns all rights, title and interests in the Charter Logo, and has filed a federal  
16 trademark registration for its name and the Charter Logo.

17           16. Charter Construction has for many years continuously been using the Charter  
18 Logo to identify and distinguish the source of its goods and services in its business materials.  
19 Examples of the Charter Logo can be found on Charter Construction's website,  
20 <http://www.chartercon.com/>.

21           17. A logo that is a copy of the Charter Log and/or is substantially similar to the  
22 Charter Logo appears on Charter Mechanical's website, <http://www.chartermechanical.com/>.

1 Charter Mechanical is and has been using that logo to identify its goods and services in  
2 commerce without Charter Construction's permission.

3 18. Charter Mechanical's use of that logo in commerce is likely to cause  
4 confusion as to the affiliation, connection or association of Charter Construction with Charter  
5 Mechanical and/or likely to cause confusion as to the origin, sponsorship or approval of  
6 Charter Construction's goods and services with those of Charter Mechanical's.

7 19. After becoming aware of Charter Mechanical's infringing use of the Charter  
8 Logo, Charter Construction notified Charter Mechanical that it was infringing the Charter  
9 Logo.

#### 10 IV. CLAIMS FOR RELIEF

##### 11 A. **First Cause of Action: Trademark Infringement Under Section 32 of the 12 Lanham Act**

13 20. Charter Construction repeats and realleges each and every preceding  
14 paragraph as though fully set forth herein.

15 21. Charter Construction has been continuously using its Charter Logo since at  
16 least April 1, 2003 to identify its goods and services.

17 22. Charter Mechanical's use of a logo that is substantially similar to the Charter  
18 Logo in connection with the advertising and sale of its services causes and is likely to cause  
19 confusion, cause mistake, and to deceive.

20 23. Charter Mechanical's use of a logo that is substantially similar to the Charter  
21 Logo in connection with the advertising and sale of its services deceives and is likely to  
22 deceive others as to the affiliation, connection or association between Charter Construction  
23 and Charter Mechanical and/or is likely to cause confusion as to the origin, sponsorship or  
24 approval of Charter Construction's goods with those of Charter Mechanical.

1           24. Charter Mechanical's use of a logo that is a copy of and/or is substantially  
2 similar to the Charter Logo in connection with the advertising and sale of its services  
3 infringes the trademark rights of Charter Construction and is a violation of Section 32 of the  
4 Lanham Act, 15 U.S.C. § 1114.

5           25. Charter Construction has been, and continues to be, damaged by the infringing  
6 actions of Charter Mechanical in an amount to be proven at trial, and also in a manner that  
7 cannot be fully measured or compensated in economic terms. The infringement by Charter  
8 Mechanical has damaged, and will continue to damage, the market share, reputation, and  
9 goodwill of Charter Construction, and discourages current and potential customers from  
10 dealing with Charter Construction.

11           26. The irreparable harm caused by Charter Mechanical's infringement will  
12 continue unless and until such use is enjoined during the pendency of this action and  
13 thereafter.

14           27. Charter Construction is entitled to an award of its attorneys' fees and costs  
15 pursuant to the provisions of the Lanham Act.

16 **B. Second Cause of Action: Unfair Competition Under Section 43 of the Lanham**  
17 **Act**

18           28. Charter Construction repeats and realleges each and every preceding  
19 paragraph as though fully set forth herein.

20           29. Charter Construction has been continuously using its Charter Logo since at  
21 least April 1, 2003 to identify its goods and services.

22           30. Use of the Charter Logo by Charter Mechanical in connection with the  
23 advertising and sales of its services constitutes unfair competition in violation of Section  
24 43(a) of the Lanham Act, 15 U.S.C. § 1125.

1           31. Use of the Charter Logo in connection with the operation of  
2 <http://www.chartermechanical.com/> and the resulting sales of goods and services by Charter  
3 Mechanical is likely to cause confusion, cause mistake and deceive as to the origin,  
4 sponsorship or approval of services under the Charter Logo by Charter Construction.

5           32. Charter Mechanical knew of the exclusive rights of Charter Construction in  
6 the Charter Logo. Charter Mechanical's use of a logo that is a copy of and/or is substantially  
7 similar to the Charter Logo has therefore been knowing, willful, and deliberate.

8           33. Charter Construction has been, and continues to be, irreparably damaged by  
9 such unfair competition in an amount to be proven at trial and in a manner and amount that  
10 cannot be fully measured or compensated in economic terms. The actions of Charter  
11 Mechanical have damaged, and will continue to damage, the market, reputation and goodwill  
12 of Charter Construction, and discourages current and potential customers from dealing with  
13 Charter Construction.

14           34. The irreparable harm caused by the use of a logo that is a copy of and/or is  
15 substantially similar to the Charter Logo will continue unless and until such use is enjoined  
16 during the pendency of this action and thereafter.

17           35. Charter Construction is entitled to an award of its attorneys' fees and costs  
18 pursuant to the provisions of the Lanham Act.

19 **C. Third Cause of Action: Unfair Competition Under Washington State Law**

20           36. Charter Construction repeats and realleges each and every preceding  
21 paragraph as though fully set forth herein.

22           37. Use of a logo substantially similar to the Charter Logo by Charter Mechanical  
23 in connection with the operation of <http://www.chartermechanical.com/> and the resulting  
24

1 sales of goods and services by Charter Mechanical is an unlawful use by Charter Mechanical  
2 which is likely to cause confusion in the minds of the public.

3 38. Use of a logo substantially similar to the Charter Logo by Charter Mechanical  
4 in connection with the operation of <http://www.chartermechanical.com/> and the resulting  
5 sales of goods and services by Charter Mechanical constitutes unfair competition in violation  
6 of the common law of the State of Washington.

7 39. Charter Construction has been, and continues to be, irreparably damaged by  
8 such unfair competition in an amount to be proven at trial and in a manner and amount that  
9 cannot be fully measured or compensated in economic terms. The actions of Charter  
10 Mechanical have damaged, and will continue to damage, the market, reputation and goodwill  
11 of Charter Construction, and discourages current and potential customers from dealing with  
12 Charter Construction.

13 40. The irreparable harm caused by the use of a logo that is a copy of and/or is  
14 substantially similar to the Charter Logo will continue unless and until such use is enjoined  
15 during the pendency of this action and thereafter.

## 16 VII. PRAYER FOR RELIEF

17 WHEREFORE, plaintiff Charter Construction prays for relief against defendant  
18 Charter Mechanical as follows:

19 1. That Charter Mechanical and all persons in active concert or participation  
20 with Charter Mechanical be enjoined and restrained during the pendency of this action from  
21 infringing Charter Construction's trademark rights in the Charter Logo, including but not  
22 limited to ordering Charter Mechanical to remove the substantially similar logo from Charter  
23 Mechanical's websites and corporate materials;

