

## **ADMINISTRATIVE PANEL DECISION**

Commodity Exchange, Inc., Board of Trade of the City of Chicago, Inc., New York Mercantile Exchange, Inc., CME Group Inc. v. c bot, cbot / cme group, cmegroup / comex comex, comex Mercantile Exchange Inc / aws aws  
Case No. D2022-2141

### **1. The Parties**

Complainants are Commodity Exchange, Inc. (“COMEX”), Board of Trade of the City of Chicago, Inc. (“CBOT”), New York Mercantile Exchange, Inc. (“NYMEX”), CME Group Inc. (CME Group), United States of America (“United States”), represented by Norvell IP llc, United States.

Respondent is c bot, cbot, United States / cme group, cmegroup, United States / comex comex, comex Mercantile Exchange Inc, United States / aws aws, Hong Kong, China.

### **2. The Domain Names and Registrar**

The disputed domain names <cbothot.com>, <cbotour.com>, <cmegrouphot.com>, <comexall.com>, <xxcbot.com> and <xxcomex.com> (the “Domain Names”) are 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 13, 2022. On June 14, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On June 14, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Names which differed from the named Respondent and contact information in the Complaint. The Center sent an email to Complainant on June 16, 2022 providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on June 28, 2022.

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 Respondent of the Complaint, and the proceedings commenced on July 4, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 24, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on July 25, 2022.

The Center appointed Robert A. Badgley as the sole panelist in this matter on August 11, 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**

Complainant CME Group currently owns Complainants COMEX, CBOT, and NYMEX. COMEX was founded in 1933, and is a leading futures and options market for metals such as gold, silver, copper, and aluminum. COMEX merged with NYMEX, and the two were acquired by CME Group in 2008. CBOT, formed in 1848, was an agricultural commodities exchange until it merged with the Chicago Mercantile Exchange in 2007. Upon that merger, the parties formed CME Group, which is now a leading futures and options market for a variety of products, including agricultural products but also including gold, silver, United States Treasury bonds, and other products.

According to Complainants, "CME Group is the world's largest and most diverse financial exchange," offering futures and options in "all major asset classes." Complainants' operations are now global in scope. In 2021, Complainants generated revenues in excess of USD 4.7 billion, with more than 20 million contracts traded daily through Complainants' exchanges.

Complainants' primary website is located via the domain name <cmegroup.com>, but also accessible via <cbot.com> and <comex.com>.

Complainants hold numerous trademark registrations in various jurisdictions around the world, including: United States Patent and Trademark Office ("USPTO") Reg. No. 3,367,684 for CME GROUP, registered on January 15, 2008; USPTO Reg. No. 1,036,378 for COMEX, registered on March 23, 1976; and USPTO Reg. No. 1,716,422 for CBOT, registered on September 15, 1992.

Given the common ownership of the four Complainant entities, the Panel will hereafter treat all four Complainants as a single Complainant unless the context requires otherwise.

The two Domain Names <xxcbot.com> and <cbotour.com> were registered on January 11, 2022. The two Domain Names <cbotshot.com> and <cmegrouphot.com> were registered on January 20, 2022. The two Domain Names <comexall.com> and <xxcomex.com> containing "comex" in the Second Level Domain ("SLD") were registered on January 25, 2022. All Domain Names, except <cmegrouphot.com>, resolve to websites virtually identical in content and visual presentation. They purport to advise on "market trends" and hold themselves out as some type of financial trading platform. The Domain Name <cmegrouphot.com> resolves to a web page that is reportedly unsafe, and which may be a vehicle for phishing. According to Complainants, Respondent's websites are designed to lure Internet users who are seeking Complainants' genuine website, and to dupe such users into providing sensitive personal information to Respondent to perpetrate a fraud upon them.

Respondent does not deny the foregoing allegations.

Complainants assert that all six Domain Names are under common control. In support of this allegation, Complainants note the use of a single registrar, the common dates of registration for the Domain Names, an overlap of identical contact information which links the two Domain Names registered on January 11, 2022 with the pair registered on January 25, 2022, and the nearly identical websites for five of the Domain Names.

No Respondent (if there be more than one) has come forward to dispute the assertion that all six Domain Names were registered by the same person or entity and/or are all under common control.

The Panel concludes that all six Domain Names were in all probability registered by the same person or entity, and are under common control, such that it is appropriate to consider Respondent a single entity and to decide the merits surrounding all six Domain Names in a single proceeding.

## **5. Parties' Contentions**

### **A. Complainant**

Complainant contends that it has established all three elements required under the Policy for a transfer of each of the Domain Names.

### **B. Respondent**

Respondent did not reply to Complainant's contentions.

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to each of the Domain Names:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

### **A. Identical or Confusingly Similar**

The Panel concludes that Complainant has rights in the trademarks CMEGROUP, COMEX, and CBOT through registration and use demonstrated in the record. The Panel also concludes that the Domain Names are confusingly similar to those marks. The subject marks are, in each instance, entirely reproduced in the Domain Name, and are clearly recognizable within each Domain Name. The additional words or characters "all," "xx," "our," and "hot" do not prevent a finding of confusing similarity between the Domain Names and the subject trademarks.

Complainant has established Policy paragraph 4(a)(i).

### **B. Rights or Legitimate Interests**

For each of the Domain Names, pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to you [Respondent] of the dispute, your 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) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Domain Name, even if you have acquired no trademark or service mark rights; or

(iii) you [Respondent] are 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 Panel concludes that Respondent lacks rights or legitimate interests in respect of the Domain Names. Respondent has not come forward in this proceeding to dispute the allegations and evidence put forth by Complainant, or to assert and prove any *bona fides* Respondent might have vis-à-vis the Domain Names.

The undisputed record shows that Respondent has used the Domain Names to create fake websites impersonating Complainant in aid of a fraudulent phishing scheme. Such conduct is clearly illegitimate.

The Panel concludes that Complainant has established Policy paragraph 4(a)(ii).

### **C. Registered and Used in Bad Faith**

For each of the Domain Names, paragraph 4(b) of the Policy provides that the following circumstances, “in particular but without limitation”, are evidence of the registration and use of the Domain Name in “bad faith”:

(i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or

(ii) that Respondent has registered the Domain Name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or

(iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or

(iv) that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent’s website or other online location, by creating a likelihood of confusion with Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of Respondent’s website or location or of a product or service on Respondent’s website or location.

The Panel concludes that Respondent has registered and is using the Domain Names in bad faith. The Panel incorporates its discussion above in the “Rights or Legitimate Interests” section.

The Panel finds it more likely than not that Respondent had these marks in mind when registering the Domain Names. Given the common ownership and/or control over the six Domain Names, it cannot be a coincidence that Respondent – whose Domain Names contain three of Complainants’ different trademarks – had Complainants and their marks in mind when registering the Domain Names. The fact that the corresponding websites purport to imitate Complainants makes this conclusion inescapable.

As respects bad faith use of the Domain Names, the undisputed and plausibly alleged claim that Respondent is engaged in a fraudulent phishing scheme confirms Respondent’s bad faith use within the meaning of the above-quoted Policy paragraph 4(b)(iv).

Complainant has established Policy paragraph 4(a)(iii).

## 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 Domain Names <cbothot.com>, <cbotour.com>, <cmegrouphot.com>, <comexall.com>, <xxcbot.com>, and <xxcomex.com> be transferred to Complainant.

*/Robert A. Badgley/*

**Robert A. Badgley**

Sole Panelist

Date: August 25, 2022