

ADMINISTRATIVE PANEL DECISION

Chicago Mercantile Exchange Inc., CME Group Inc. v. fgfgf yty
Case No. D2023-1954

1. The Parties

The Complainants are Chicago Mercantile Exchange Inc., United States of America ("USA"), and CME Group Inc., USA, represented by Norvell IP llc, USA.

The Respondent is fgfgf yty, China.

2. The Domain Names and Registrar

The disputed domain names <cme2233.com>, <cme3388.com>, <cme3399.com>, <cme5599.com>, <cme6677.com>, <cme6699.com>, <cme7799.com>, <cme8888.com>, <1877cme.com>, <2009cme.com>, <2023cme.com>, <2233cme.com>, <3355cme.com>, <3378cme.com>, <3535cme.com>, <3599cme.com>, <555cme.com>, <666cme.com>, <777cme.com>, and <888cme.com> are registered with GoDaddy.com, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on May 1, 2023. On May 2, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On May 3, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Registration Private, Domain By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainants on May 4, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amended Complaint on May 9, 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 May 9, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 29, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 30, 2023.

The Center appointed Richard C.K. van Oerle as the sole panelist in this matter on June 21, 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 First Complainant was founded in 1898. The Second Complainant owns the First Complainant. The Second Complainant was formed in 2007 after the First Complainant and the Chicago Board of Trade merged.

The Second Complainant offers futures and options in major asset classes, such as metals, commodities, foreign exchange, energy, and other products through four exchanges: CME or Chicago Mercantile Exchange, CBOT or Chicago Board of Trade, COMEX or Commodity Exchange, and NYMEX or New York Mercantile Exchange. In 2021, more than 20.5 million contracts were traded daily through the Complainants' exchanges.

The Complainants provide evidence that they own a large international portfolio of trademark registrations for the Trademarks CME and CME GROUP. Examples of such registrations include USA trademark registration number 1085681 for CME, registered on February 14, 1978; USA trademark registration number 3084640 for CME, registered on April 25, 2006; China trademark registration number 4162022 for CME, registered on December 7, 2007; USA trademark registration number 3367684 for CME GROUP, registered on January 15, 2008; and China trademark registration number 16668026 for CME GROUP, registered on September 28, 2018, hereinafter referred to as the "Trademark(s)".

The Complainants also maintain a strong online presence, including through the website linked to their main domain names and the relevant registered Trademarks adduced by the Complainants were successfully registered prior to the dates of registration of the disputed domain names by the Respondent, which all fall between September 21, 2022, and January 1, 2023.

The Complainants submit evidence that the disputed domain names directed to active websites, which all displayed identical versions of a login screen, featuring the Complainants' Trademark in the middle of the page against the same view of a blue and purple background, requiring user name and password to log in.

As of the filing of the Complaint, three of the disputed domain names do not resolve to an active website: <1877cme.com>, <2009cme.com>, and <cme888.com>.

5. Parties' Contentions

A. Complainants

The Complainants essentially contend that the disputed domain names are confusingly similar to their Trademarks for CME or CME GROUP, that the Respondent has no rights or legitimate interests in respect of the disputed domain names, and that the disputed domain names were registered, and are being used in bad faith.

The Complainants claim that their Trademarks are intensively used and are globally famous in the financial sector, and provide printouts of their official website and of their marketing and related materials. Moreover, the Complainants provide evidence that the disputed domain names directed to active websites, which all displayed identical versions of a webpage featuring the Complainants' Trademarks and globe design on a purple background with buttons to log into an unknown portal. In this context, the Complainants essentially claim that the Respondent is abusing their Trademarks in an attempt to mislead the public to believe that the disputed domain names are affiliated with the Complainants. The Complainants also argue that the

Respondent is using the CME and CME GROUP Trademarks and logo at the login screen on such websites solely to fraudulently impersonate the Complainants in attempts to obtain their consumers' personal information. The Complainants essentially contend that the registration and use of the disputed domain names in such circumstances constitutes registration and use in bad faith.

The Complainants request the transfer of the disputed domain names.

B. Respondent

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

6. Discussion and Findings

6.1 Preliminary Issue: Consolidation of the Complainants

The Complainants in this administrative proceeding request consolidation in regard to the Complainants. In this regard, the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (the "[WIPO Overview 3.0](#)") states in section 4.11.1: "In assessing whether a complaint filed by multiple Complainants may be brought against a single respondent, panels look at whether (i) the Complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the Complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation."

The Panel has carefully reviewed all elements of this case, giving particular weight to the fact that the Complainant Chicago Mercantile Exchange Inc., is owned by the Complainant CME Group Inc. The Panel therefore accepts that the Complainants form part of the same organization and have a common grievance against the Respondent regarding their trademark-abusive domain name registrations and use. As such, the Panel concludes that the Complainants are the target of common conduct by the Respondent and both have common grievances regarding the use of the CME or CME GROUP Trademarks in the disputed domain names by the Respondent. The Panel accepts that permitting the consolidation of the Complainants would be fair and equitable to all Parties involved and would safeguard procedural efficiency. The Panel therefore grants the request for consolidation of the Complainants and shall hereafter refer to the Complainants jointly as "the Complainant".

6.2 Discussion and Findings on the Merits

Dealing, first, with the Respondent's failure to file a response to the Complaint, paragraph 14(b) of the Rules provides that if a party, in the absence of exceptional circumstances, does not comply with a provision of, or requirement under these Rules, the Panel shall be entitled to draw such inferences from this omission, as it considers appropriate.

The Policy requires the Complainant to prove three elements:

- (a) the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (b) the Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- (c) the disputed domain names have been registered and are being used in bad faith.

Based on the evidence and arguments submitted, the Panel's findings are as follows:

A. Identical or Confusingly Similar

The Panel finds that the Complainant has provided sufficient evidence that it has valid and sufficient rights in its Trademarks for CME and CME GROUP, based on its use and registration of the same as Trademarks in several jurisdictions, as stated above.

Further, as to confusing similarity of the disputed domain names with the Complainant's CME Trademarks, the Panel finds that the disputed domain names all consist of the combination of two elements, namely each time the CME Trademark of the Complainant combined with three or four digits.

According to the [WIPO Overview 3.0](#), section 1.8, "Where 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".

The Panel concludes that the disputed domain names all contain the entirety of the Complainant's trademark CME, which remains easily recognizable in each of the disputed domain names, and are therefore confusingly similar to the Complainant's CME Trademarks.

The Panel also notes that the applicable generic Top-Level Domain ("gTLD") (".com" in this case) is viewed as a standard registration requirement, and may as such be disregarded by the Panel, see in this regard the [WIPO Overview 3.0](#), section 1.11.1.

Accordingly, based on the above elements, the Panel finds that the disputed domain names are confusingly similar to the Complainant's Trademarks. The Panel decides that the Complainant has satisfied the requirements of the first element under the Policy.

B. Rights or Legitimate Interests

On the basis of the evidence and arguments submitted, the Panel accepts that the Complainant makes out an un rebutted *prima facie* case that the Respondent is not, and has never been, an authorized reseller, service provider, licensee or distributor of the Complainant. The Panel also notes that the Respondent is not commonly known by the disputed domain names.

As such, the Panel finds that the burden of production regarding this element shifts to the Respondent (see [WIPO Overview 3.0](#), section 2.1). The Panel draws an adverse inference from the Respondent's failure to take part in the present proceeding where an explanation is certainly called for ([WIPO Overview 3.0](#), section 4.3).

Further, upon review of the facts and the evidence submitted in this proceeding, the Panel notes that the disputed domain names directed to active websites, which showed a clear intent on the part of the Respondent to misleadingly pass them off as the websites of the Complainant by prominently displaying the Complainant's Trademarks and globe design. Moreover, the Panel also accepts the Complainant's argument that such websites posed a risk of fraud or phishing by requesting user name and password to log into a portal, leading to further access to the website, which may lead unsuspecting Internet users to share sensitive information with the Respondent. It is clear to the Panel from the foregoing elements that the Respondent is not a good faith provider of goods or services under the disputed domain names and, given the abovementioned facts, the Panel concludes that the Respondent's use does not constitute a legitimate noncommercial use or fair use of the disputed domain names.

On the basis of the foregoing elements, the Panel considers that none of the circumstances of rights or legitimate interests envisaged by paragraph 4(c) of the Policy apply, and that the Complainant has satisfied the requirements of the second element under the Policy.

C. Registered and Used in Bad Faith

The Panel finds that the Complainant has used its CME and CME GROUP Trademarks intensively and for a long time before the registration dates of the disputed domain names, and that such Trademarks have therefore acquired a substantial reputation. Given this strong reputation and the registration of the Complainant's Trademarks many years before the registration date of the disputed domain names, the Panel finds that the subsequent registration of the disputed domain names clearly and consciously targeted the Complainant's prior registered Trademarks for CME and CME GROUP.

This finding is especially obvious for some of the disputed domain names containing the CME or CME GROUP Trademarks combined with descriptive words such as, and the previous use of the disputed domain name for websites displaying the Complainant's CME and CME GROUP Trademarks. The Panel deducts from these efforts to consciously target the Complainant's prior registered Trademarks that the Respondent knew of the existence of the Complainant's Trademarks at the time of registering the disputed domain names. In the Panel's view, these elements clearly indicate bad faith on the part of the Respondent, and the Panel therefore finds that it has been demonstrated that the Respondent registered the disputed domain names in bad faith.

As to use of the disputed domain names in bad faith, the Complainant provides evidence that the disputed domain names directed to active websites, which showed a clear intent on the part of the Respondent to misleadingly pass them off as the websites of the Complainant by prominently displaying the Complainant's Trademarks and globe design. Moreover, the Panel also accepts the Complainant's argument that such websites posed a risk of fraud or phishing by requesting the insertion of login information leading to further access to such websites, which may lead unsuspecting Internet users to share sensitive information with the Respondent. The Panel concludes from these facts that the Respondent has registered the disputed domain names primarily for the purpose of attracting, for commercial gain, Internet users to the Respondent's websites by creating a likelihood of confusion with the Complainant's Trademarks. This constitutes direct evidence of the Respondent's bad faith under paragraph 4(b)(iv) of the Policy. Such use of the disputed domain names by the Respondent also disrupts the Complainant's business. In addition, the non-use of three of the disputed domain names does not prevent a finding of bad faith under the doctrine of passive holding (see section 3.3 of the [WIPO Overview 3.0](#)).

Finally, the Respondent has failed to provide any response or evidence to establish its good faith or absence of bad faith.

The Panel therefore finds that the Complainant has satisfied the requirements of the third requirement under 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 names <cme2233.com>, <cme3388.com>, <cme3399.com>, <cme5599.com>, <cme6677.com>, <cme6699.com>, <cme7799.com>, <cme8888.com>, <1877cme.com>, <2009cme.com>, <2023cme.com>, <2233cme.com>, <3355cme.com>, <3378cme.com>, <3535cme.com>, <3599cme.com>, <555cme.com>, <666cme.com>, <777cme.com>, and <888cme.com> be transferred to the Complainant.

/Richard C.K. van Oerle/

Richard C.K. van Oerle

Sole Panelist

Date: July 5, 2023