

## ADMINISTRATIVE PANEL DECISION

### Chicago Mercantile Exchange Inc., CME Group Inc. v. WONG WAEI KUEN Case No. D2023-2691

#### 1. The Parties

The Complainants are Chicago Mercantile Exchange Inc. (the “Complainant 1”) and CME Group Inc. (the “Complainant 2”), United States of America (“United States”), represented by Norvell IP llc, United States.

The Respondent is WONG WAEI KUEN, Malaysia.

#### 2. The Domain Names and Registrar

The disputed domain names <cmecage.com>, <cmeclaw.com>, <cmeclubmax.com>, <cmeclubmaxpro.com>, <cmeclubplus.com>, <cmeclubpro.com>, <cmeclubpromax.com>, <cmedom.com>, <cmegood.com>, <cmehash.com>, <cmelapse.com>, <cmemaxclub.com>, <cmemaxproclub.com>, <cmemaxprorun.com>, <cmemaxrun.com>, <cmename.com>, <cmeplayed.com>, <cmeplusclub.com>, <cmeplusrun.com>, <cmeproclub.com>, <cmepromaxclub.com>, <cmepromaxrun.com>, <cmeprorun.com>, <cmerunmax.com>, <cmerunmaxpro.com>, <cmerunplus.com>, <cmerunpro.com>, <cmerunpromax.com>, <cmerush.com>, <cmesoil.com> (the “Domain Names”) are registered with NameCheap, Inc. (the “Registrar”).

#### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 22, 2023. On June 22, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On June 23, 2023, 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 (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainants on July 5, 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 July 7, 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 July 13, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 2, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 3, 2023.

The Center appointed Piotr Nowaczyk as the sole panelist in this matter on August 8, 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 1 is a global derivatives marketplace based in Chicago, the United States. It was founded in 1898.

The Complainant 2 is one of the world's largest derivatives marketplace. It was formed in 2007. The Complainant 1 constitutes a part of the Complainant 2's group of companies.

The Complainant 1 is the owner of numerous CME trademark registrations, including:

- the United States Trademark Registration for CME, No. 5,842,697 registered on August 27, 2019; and
- the United States Trademark Registration for CME, No. 3,084,640 registered on April 25, 2006.

The Complainant 1 is also the owner of numerous CME GROUP trademark registrations, including:

- the United States Trademark Registration for CME GROUP, No. 4,544,078 registered on June 3, 2014; and
- the European Union Trademark Registration for CME GROUP, No. 1142045 registered on July 31, 2012.

Moreover, the Complainant 1 is the owner of the United States Trademark Registration for the trademark consisting of a globe design, No. 4,369,249, registered on July 16, 2013 (the "Globe Trademark").

Furthermore, the Complainant 1 is the owner of the domain names incorporating the CME trademark, including <cme.com>, as well as the domain names incorporating the CME GROUP trademark, such as <cmegroup.com>.

The disputed domain name <cmecage.com> was registered on May 15, 2023.

The disputed domain name <cmeclaw.com> was registered on May 15, 2023.

The disputed domain name <cmeclubmax.com> was registered on April 21, 2023.

The disputed domain name <cmeclubmaxpro.com> was registered on April 21, 2023.

The disputed domain name <cmeclubplus.com> was registered on April 21, 2023.

The disputed domain name <cmeclubpro.com> was registered on April 21, 2023.

The disputed domain name <cmeclubpromax.com> was registered on April 21, 2023.

The disputed domain name <cmedoom.com> was registered on May 15, 2023.

The disputed domain name <cmegood.com> was registered on May 15, 2023.

The disputed domain name <cmehash.com> was registered on May 15, 2023.

The disputed domain name <cmelapse.com> was registered on May 15, 2023.

The disputed domain name <cmemaxclub.com> was registered on April 21, 2023.

The disputed domain name <cmemaxproclub.com> was registered on April 21, 2023.

The disputed domain name <cmemaxprorun.com> was registered on May 6, 2023.

The disputed domain name <cmemaxrun.com> was registered on May 6, 2023.

The disputed domain name <cmename.com> was registered on May 15, 2023.  
The disputed domain name <cmeplayed.com> was registered on May 15, 2023.  
The disputed domain name <cmepusclub.com> was registered on April 21, 2023.  
The disputed domain name <cmepusrun.com> was registered on May 6, 2023.  
The disputed domain name <cmeproclub.com> was registered on April 21, 2023.  
The disputed domain name <cmepromaxclub.com> was registered on April 21, 2023.  
The disputed domain name <cmepromaxrun.com> was registered on May 6, 2023.  
The disputed domain name <cmeporun.com> was registered on May 6, 2023.  
The disputed domain name <cmernunmax.com> was registered on May 6, 2023.  
The disputed domain name <cmernunmaxpro.com> was registered on May 6, 2023.  
The disputed domain name <cmernunplus.com> was registered on May 6, 2023.  
The disputed domain name <cmernunpro.com> was registered on May 6, 2023.  
The disputed domain name <cmernunpromax.com> was registered on May 6, 2023.  
The disputed domain name <cmernush.com> was registered on April 11, 2023.  
The disputed domain name <cmesoil.com> was registered on May 15, 2023.

At the time of submitting the Complaint, the Domain Names resolved to the websites offering alleged financial trading services, as well as displaying the CME trademark and the Globe Trademark (the “Websites”). As of the date of this decision, the Domain Names also resolve to the Websites.

## **5. Parties’ Contentions**

### **A. Complainant**

According to the Complainants, each of the three elements specified in paragraph 4(a) of the Policy are satisfied in the present case.

First, the Complainants submit that the Domain Names are confusingly similar to the CME trademark.

Second, the Complainants argue that the Respondent has neither rights nor legitimate interests in the Domain Names.

Third, the Complainants contend that the Domain Names were registered and are being used in bad faith.

### **B. Respondent**

The Respondent did not reply to the Complainants’ contentions.

## **6. Discussion and Findings**

### **6.1. Substantive Matters – Three Elements**

Paragraph 4(a) of the Policy places a burden on the Complainants to prove the presence of three separate elements, which can be summarized as follows:

- (i) the Domain Names are identical or confusingly similar to a trademark or service mark in which the Complainants have rights;
- (ii) the Respondent has no rights or legitimate interests in the Domain Names; and
- (iii) the Domain Names have been registered and are being used in bad faith.

The requested remedy may only be granted if the above criteria are met.

At the outset, the Panel notes that the applicable standard of proof in UDRP cases is the “balance of probabilities” or “preponderance of the evidence”. See section 4.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”).

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

Under the first requirement, the Complainants must establish that the Domain Names are identical or confusingly similar to the trademark in which the Complainants have rights.

The Complainant 1 holds valid CME and CME GROUP trademarks registrations. All the Domain Names incorporate the CME trademark in its entirety. As numerous UDRP panels have held, incorporating a trademark in its entirety is sufficient to establish that a domain name is identical or confusingly similar to a registered trademark (see *PepsiCo, Inc. v. PEPSI, SRL (a/k/a P.E.P.S.I.) and EMS COMPUTER INDUSTRY (a/k/a EMS)*, WIPO Case No. [D2003-0696](#)).

The addition of additional terms, namely “cage”, “claw”, “clubmax”, “clubmaxpro”, “clubplus”, “clubpro”, “clubpromax”, “doom”, “good”, “hash”, “lapse”, “maxclub”, “maxproclub”, “maxprorun”, “maxrun”, “name”, “played”, “plusclub”, “plusrun”, “proclub”, “promaxclub”, “promaxrun”, “prorun”, “runmax”, “runmaxpro”, “runplus”, “runpro”, “runpromax”, “rush” and “soil” in the Domain Names does not prevent a finding of confusing similarity between the Domain Names and the CME trademark. UDRP panels have consistently held that 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. See section 1.8, [WIPO Overview 3.0](#).

The Top-Level Domain (“TLD”) “com” in the Domain Names is viewed as a standard registration requirement and as such are disregarded under the first element confusing similarity test. See section 1.11.1, [WIPO Overview 3.0](#).

Given the above, the Panel finds that the Domain Names are confusingly similar to the CME trademark in which the Complainant 1 has rights. Thus, the Complainants have proved the requirements under paragraph 4(a)(i) of the Policy.

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

Under the second requirement, the Complainants must prove that the Respondent has no rights or legitimate interests in the Domain Names.

The respondent may establish a right or legitimate interest in the domain name by demonstrating in accordance with paragraph 4(c) of the Policy any of the following:

- (i) that it has used or made 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 prior to the dispute; or
- (ii) that it is commonly known by the domain name, even if it has not acquired any trademark rights; or
- (iii) that it is 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.

Although given the opportunity, the Respondent has not submitted any evidence indicating that any of the circumstances foreseen in paragraph 4(c) of the Policy are present in this case.

On the contrary, it results from the evidence on record that the CME trademark registrations predate the Respondent’s registration of the Domain Names. There is no evidence in the case record that the

Complainants have licensed or otherwise permitted the Respondent to use the CME trademark or to register the Domain Names incorporating this trademark. There is also no evidence to suggest that the Respondent has been commonly known by the Domain Names.

Moreover, it results from the evidence on record that the Respondent does not make use of the Domain Names in connection with a *bona fide* offering of goods or services, nor does it make a legitimate noncommercial or fair use of the Domain Names. On the contrary, the Domain Names resolve to the Websites offering alleged financial services, in particular the trading of various financial instruments, as well as displaying the CME trademark and Globe Trademark. Such use of the Domain Names does not confer rights or legitimate interests on the Respondent.

Given the above, the Panel concludes that the Complainants have also proved the requirement under paragraph 4(a)(ii) of the Policy.

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

Under the third element, the Complainants must prove that the Domain Names were registered and are being used in bad faith.

Bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark. See section 3.1, [WIPO Overview 3.0](#).

Under paragraph 4(b) of the Policy, evidence of bad faith registration and use includes without limitation:

- (i) circumstances indicating the domain name was registered or acquired primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the owner of a trademark or to a competitor of the trademark owner, for valuable consideration in excess of the documented out-of-pocket costs directly related to the domain name; or
- (ii) circumstances indicating that the domain name was registered in order to prevent the owner of a trademark from reflecting the mark in a corresponding domain name, provided it is a pattern of such conduct; or
- (iii) circumstances indicating that the domain name was registered primarily for the purpose of disrupting the business of a competitor; or
- (iv) circumstances indicating that the domain name has intentionally been used in an attempt to attract, for commercial gain, Internet users to a website or other online location, by creating a likelihood of confusion with a trademark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on a website or location.

As indicated above, the rights of the Complainant 1 in the CME trademark predate the registration of the Domain Names. This Panel finds that the Respondent was or should have been aware of this trademark at the time of registration. Such a finding is supported by the content of the Websites suggesting affiliation with the Complainants by *i.a.* displaying the CME trademark together with the Globe Trademark. Moreover, it has been proven to the Panel's satisfaction that the CME trademark is well known and unique to the Complainants. Thus, the Respondent could not possibly ignore the reputation of services under this trademark. In sum, the Respondent registered the Domain Names with the expectation of taking advantage of the reputation of the CME trademark.

Furthermore, the Domain Names are being used in bad faith by the Respondent to allegedly offer financial services, in particular the trading of various financial instruments. The Internet users could have been possibly scammed, or are at-risk of being scammed, or tricked into providing sensitive personal and financial information to the Respondent. By reproducing the registered CME trademark in the Domain Names and displaying the CME trademark together with the Globe Trademark on the Websites the Respondent

suggests an association with the Complainants pursuant to paragraph 4(b)(iv) of the Policy. There is thus little doubt that the Respondent intended to earn profit from the confusion created with Internet users. In consequence, the Panel finds that the Respondent registered and used the Domain Names deliberately in order to take advantage of the Complainants' reputation and to give credibility to its operations.

Finally, the Respondent's use of privacy services that concealed registrant information is a further evidence of bad faith.

For the reasons discussed above, the Panel finds that the Complainants have proved the requirements under paragraph 4(a)(iii) 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 Domain Names <cmecage.com>, <cmeclaw.com>, <cmeclubmax.com>, <cmeclubmaxpro.com>, <cmeclubplus.com>, <cmeclubpro.com>, <cmeclubpromax.com>, <cmedoom.com>, <cmegood.com>, <cmehash.com>, <cmelapse.com>, <cmemaxclub.com>, <cmemaxproclub.com>, <cmemaxprorun.com>, <cmemaxrun.com>, <cmename.com>, <cmeplayed.com>, <cmeplusclub.com>, <cmeplusrun.com>, <cmeproclub.com>, <cmepromaxclub.com>, <cmepromaxrun.com>, <cmeprorun.com>, <cmerunmax.com>, <cmerunmaxpro.com>, <cmerunplus.com>, <cmerunpro.com>, <cmerunpromax.com>, <cmerush.com>, <cmesoil.com> be transferred to the Complainants.

*/Piotr Nowaczyk/*

**Piotr Nowaczyk**

Sole Panelist

Date: August 22, 2023