

ADMINISTRATIVE PANEL DECISION

Chicago Mercantile Exchange Inc., CME Group Inc. v. Fan Hkydigi
Case No. D2023-3499

1. The Parties

The Complainants are Chicago Mercantile Exchange Inc. and CME Group Inc., United States of America (“United States” or “U.S.”), represented by Norvell IP llc, United States.

The Respondent is Fan Hkydigi, China.

2. The Domain Name and Registrar

The disputed domain name <cmefund.com> (the “Domain Name”) is registered with Dynadot, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 17, 2023. On August 18, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On August 18, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Redacted for Privacy, Super Privacy Service Ltd. c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainants on August 21, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainants filed an amended Complaint on August 21, 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 August 24, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 13, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 15, 2023.

The Center appointed Ian Lowe as the sole panelist in this matter on September 22, 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 Complaint is brought by two Complainants. The Complainant Chicago Mercantile Exchange Inc. (“CME”) is owned by the Complainant CME Group Inc (“CME Group”). The Panel is satisfied that the Complainants have a common grievance against the Respondent and that it would be equitable and procedurally efficient to permit consolidation in bringing the Complaint. The Complainants are together referred to as the “Complainant”.

CME is a leading financial institution originally founded in 1898. It has been using the CME name since 1919. CME Group was formed in 2007 after the merger of CME and the Chicago Board of Trade. CME Group now offers futures and options in all 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. The Complainants’ operations now extend globally with offices in the U.S., Canada, Brazil, the United Kingdom, Ireland, Singapore, Hong Kong, China, Republic of Korea, India, and Japan.

The Complainant’s principal website is at “www.cmegroup.com” promoting its products and services. The Complainant is the proprietor of a number of registered trademarks comprising CME, including United States trademark number 1,085,681 CME registered on February 14, 1978, United States trademark number 4,544,078 CME GROUP registered on June 3, 2014, and International trademark number 1139496 figurative mark CME GROUP and device (the “CME Group Device”) registered on July 31, 2012, designating a number of countries including China.

The Domain Name was registered on February 8, 2022. It resolves to a website (the “Respondent’s Website”) with the same get up as the Complainant’s website at “www.cmegroup.com” and featuring in the header to the home page the CME Group Device. The Respondent’s Website appears to mimic that of the Complainant. It provides no information as to the operator of the website, save for the false references to CME Group.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the Domain Name is confusingly similar to its CME Trademark (the “Mark”), that the Respondent has no rights or legitimate interests in respect of the Domain Name, and that the Respondent registered or is using the Domain Name in bad faith within the meaning of the Policy.

B. Respondent

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

6. Discussion and Findings

For this Complaint to succeed in relation to the Domain Name the Complainant must prove that:

- (i) the 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 Domain Name; and
- (iii) the Domain Name has been registered or is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has uncontested rights in the Mark, both by virtue of its trademark registrations and as a result of the substantial goodwill and reputation acquired through its widespread use of the Mark over many years. Ignoring the generic Top-Level Domain (“gTLD”) “.com”, the Domain Name comprises the entirety of the CME mark together with the word “fund”. In the Panel’s view, the addition of this word does not prevent a finding of confusing similarity between the Domain Name and the Mark. Accordingly, the Panel finds that the Domain Name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

The Complainant has made out a strong *prima facie* case that the Respondent could have no rights or legitimate interests in respect of the Domain Name. The Respondent is not authorized by the Complainant to use the Domain Name. The Respondent has not used the Domain Name in connection with a *bona fide* offering of goods or services, but rather has used it for a website featuring the CME Group Device, mimicking that of the Complainant. There is no indication as to the operator of the website. The Panel is satisfied that the Respondent has set up the website with a view to confusing Internet users into believing that the Respondent’s Website was operated by or authorised by the Complainant and very likely to phish for personal information or for other fraudulent purposes. Such intent is reflected in the composition of the Domain Name whereby the Complainant’s CME mark is incorporated together with the descriptive term “fund” that further associates the Domain Name with the Complainant’s services. Such activity cannot possibly give rise to rights or legitimate interests.

The Respondent has chosen not to respond to the Complaint or to take any steps to counter the *prima facie* case established by the Complainant. In the circumstances, the Panel finds that the Respondent does not have any rights or legitimate interests in respect of the Domain Name.

C. Registered and Used in Bad Faith

In light of the use of the Complainant’s CME Group Device mark and the nature of the Respondent’s website, the Panel is in no doubt that the Respondent had the Complainant and its rights in the CME mark in mind when it registered the Domain Name. The Panel considers that the Respondent has registered and used the Domain Name to deceive Internet users into believing that the Domain Name is operated or authorized by the Complainant, and to attract Internet users by creating a likelihood of confusion with the CME mark, very likely with a view to phishing for personal information or other fraudulent purposes, and no doubt for commercial gain. The Panel considers that this amounts to paradigm bad faith registration and use.

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 Name, <cmefund.com>, be transferred to the Complainant.

/Ilan Lowe/

Ilan Lowe

Sole Panelist

Date: October 6, 2023