

ADMINISTRATIVE PANEL DECISION

Chicago Mercantile Exchange Inc., CME Group Inc. v. WONG WAEI KUEN Case No. D2023-3554

1. The Parties

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

The Respondent is WONG WAEI KUEN, Malaysia.

2. The Domain Names and Registrars

The disputed domain names <cmebf.com>, <cmebi.com>, <cmebj.com>, <cmebk.com>, <cmebl.com>, <cmebm.com>, <cmebn.com>, <cmebo.com>, <cmebp.com>, <cmebq.com>, <cmebr.com>, <cmebt.com>, <cmebx.com>, <cmeby.com>, <cmebz.com>, <cmebc.com>, <cmebj.com>, <cmedln.com>, <cmefacb.com>, <cmefacd.com>, <cmeface.com>, <cmegb.com>, <cmegc.com>, <cmegd.com>, <mege.com>, <megf.com>, <megh.com>, and <megi.com> (the “Disputed 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 August 22, 2023. On August 24, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Names. On August 24, 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 (Redacted for privacy, Privacy Service Provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 29, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on August 30, 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 September 1, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 21, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 27, 2023.

The Center appointed Flip Jan Claude Petillion as the sole panelist in this matter on October 3, 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

Chicago Mercantile Exchange Inc. (the "First Complainant") and CME Group Inc. (the "Second Complainant") are financial institutions based in the United States. The First Complainant is owned by the Second Complainant. In 2021, the Second Complainant generated revenues of USD 4.7 billion.

The First Complainant holds various registered trademarks consisting of or including CME, including the following:

- CME, United States word mark registered under No. 1085681 on February 14, 1978, in class 36;
- CME, United States word mark registered under No. 3084640 on April 25, 2006, in classes 9 and 42;
- United States figurative mark depicted below, registered under No. 4369249 on July 16, 2013, in classes 9, 36, and 42:



- CME GROUP, United States word mark registered under No. 3367684 on January 15, 2008 in classes 9;
- United States figurative mark depicted below, registered under No. 4544077 on June 3, 2014 in classes 9, 36 and 42:



The following Disputed Domain Names were registered on July 4, 2023:

- <cmefacb.com>
- <cmefacd.com>
- <cmeface.com>

The following Disputed Domain Name was registered on July 11, 2023:

- <cmedln.com>

The following Disputed Domain Names were registered on July 25, 2023:

- <cmefb.com>
- <cmefbi.com>
- <cmefbj.com>
- <cmefbk.com>
- <cmefbl.com>
- <cmefbm.com>
- <cmefbn.com>
- <cmefbo.com>

- <cmebp.com>
- <cmebq.com>

The following Disputed Domain Names were registered on August 3, 2023:

- <cmebr.com>
- <cmebt.com>
- <cmebx.com>
- <cmeby.com>
- <cmebz.com>
- <cmecb.com>
- <cmecl.com>
- <cmecj.com>
- <cmegb.com>
- <cmegc.com>
- <cmegd.com>
- <cmege.com>
- <cmegf.com>
- <cmegh.com>
- <cmegi.com>

According to the Complainants' evidence, the Disputed Domain Name <cmebk.com> resolved to a web page appearing to offer financial trading services and showing the First Complainant's figurative mark depicting a globe and the First Complainant's CME word mark. The Panel observes that the Disputed Domain Names currently resolve to an inactive web page.

5. Parties' Contentions

A. Complainant

The Complainants consider the Disputed Domain Names to be confusingly similar to a trademark in which the First Complainant claims to have rights.

The Complainants further claim that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Names. According to the Complainants, the Respondent has not received any license or permission to use the CME trademark. In the Complainants' view, the Respondent knowingly adopted the preexisting CME mark in the Disputed Domain Names which are not used in connection with a *bona fide* offering of goods and services. To the best of the Complainant's knowledge, the Respondent is not commonly known by the Disputed Domain Names. The Complainants claim that there is no evidence that the Respondent is making a legitimate noncommercial or fair use of the Disputed Domain Names, all of which resolved to the same website as exhibited for the Disputed Domain Name <cmebk.com>.

Finally, the Complainants claim that the Disputed Domain Names were registered and are being used in bad faith. According to the Complainants, the Respondent knew of the Complainants' rights in the well-known CME trademarks when it registered the Disputed Domain Names. The Complainant also claims that the Respondent registered and is using the Disputed Domain Names to perpetrate a fraud, illegitimate scheme, or scam; that the Respondent registered and uses the Disputed Domain Names for commercial gain by intentionally creating a likelihood of confusion with the Complainants' CME trademarks as to the source, sponsorship, affiliation, or endorsement of the Respondent's web pages; that the Respondent's continued ownership of the Disputed Domain Names represents an abusive threat hanging over the Complainants; and that the Respondent shows a pattern of abusive and illegal conduct intentionally targeting the Complainants.

B. Respondent

The Respondent did not reply to the Complainants' contentions.

6. Discussion and Findings

6.1. Preliminary Procedural Issue: Multiple Claimants

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 (see section 4.11.1. of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Panel observes that the First Complainant is owned by the Second Complainant and that the Complainants therefore have a common legal interest allowing a unitary complaint against the Respondent.

6.2 Substantive elements of the Policy

Paragraph 15 of the Rules provides that the Panel is to decide the Complaint on the basis of the statements and documents submitted in accordance with the Policy, the Rules, and any rules and principles of law that it deems applicable.

The *onus* is on the Complainants to make out their case and it is apparent, both from the terms of the Policy and the decisions of past UDRP panels, that the Complainants must show that all three elements set out in paragraph 4(a) of the Policy have been established before any order can be made to transfer the Disputed Domain Names. As the UDRP proceedings are administrative, the standard of proof is the balance of probabilities.

Thus, for the Complainants to succeed they must prove, within the meaning of paragraph 4(a) of the Policy, that:

- i. The Disputed Domain Names are identical or confusingly similar to a trademark or service mark in which the First Complainant has rights; and
- ii. The Respondent has no rights or legitimate interests in respect of the Disputed Domain Names; and
- iii. The Disputed Domain Names have been registered and are being used in bad faith.

The Panel will therefore deal with each of these requirements.

A. Identical or Confusingly Similar

To prove this element, the Complainants must first establish that there is a trademark or service mark in which at least one of them has rights. The Complainants have clearly established that there are trademarks in which the First Complainant has rights. The First Complainant's CME trademark has been registered and used in various countries in connection to the Complainants' financial services business.

The Panel observes that the Disputed Domain Names all incorporate the First Complainant's CME trademark in its entirety, simply adding random letters after this mark.

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 of [WIPO Overview 3.0](#)). In the Panel's view, the addition of the letters "bf", "bi", "bj", "bk", "bl", "bm", "bn", "bo", "bp", "bq", "br", "bt", "bx", "by", "bz", "cb", "cj", "dln", "facb", "facd", "face", "gb", "gc", "gd", "ge", "gf", "gh", and "gi" does not prevent a finding of confusing similarity between the Disputed Domain Names and the CME trademark. The Panel finds that the First Complainant's mark is recognizable in all the Disputed Domain Names (see also *Chicago Mercantile Exchange Inc., CME Group Inc. v. WONG WAEI KUEN*, WIPO Case No. [D2023-2691](#)).

It is well established that the generic Top-Level Domain ("gTLD"), here ".com", may be disregarded when considering whether the Disputed Domain Names are confusingly similar to a trademark in which the Complainants have rights.

In light of the above, the Complainants succeed on the first element of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, the Complainants have the burden of establishing that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Names.

As established by previous UDRP panels, it is sufficient for the Complainants to make a *prima facie* showing that the Respondent has no rights or legitimate interests in the Disputed Domain Names in order to place the burden of production on the Respondent (see section 2.1 of the [WIPO Overview 3.0](#)).

The Panel observes that the Respondent does not appear to be commonly known by the Disputed Domain Names and that the Respondent does not seem to have acquired trademark or service mark rights (there being no Response or evidence of any such rights). According to the information provided by the Registrar, the Respondent is named "WONG WAEI KUEN" from the organization "WONG WAEI KUEN". There are no indications that a connection between the Complainants and the Respondent exists.

The Panel observes that the Respondent registered 28 Disputed Domain Names in a short (one month) period of time, which all combine the First Complainant's CME mark with two to four letters after the mark.

Beyond looking at the domain name(s) and the nature of any additional terms appended to it, UDRP panels assess whether the overall facts and circumstances of the case, such as the content of the website linked to the disputed domain name and the absence of a response, support a fair use or not (see sections 2.5.2 and 2.5.3 of the [WIPO Overview 3.0](#)).

According to the Complainant's evidence dated August 15, 2023, the Disputed Domain Name <cmebk.com> referred to a website appearing to offer financial services and including not only the First Complainant's CME word mark but also the figurative trademark depicting a globe. The Complainant claims that all the other Disputed Domain Names refer to an identical webpage. As the Respondent has failed to object to that statement and considering the circumstances of this case, the Panel has every reason to believe the Complainants.

In the Panel's view, the above elements are indications of illegal activity using the Disputed Domain Names. UDRP panels have categorically held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods, phishing, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent (see section 2.13 of the [WIPO Overview 3.0](#)).

The Panel observes that the Disputed Domain Names currently resolve to an inactive webpage. In the Panel's view, this does not amount to any legitimate noncommercial or fair use or use in connection with a *bona fide* offering of goods and services.

The Respondent had the opportunity to demonstrate rights or legitimate interests but did not do so. In the absence of a Response from the Respondent, the *prima facie* case established by the Complainants has not been rebutted.

Therefore, the Panel finds that the Complainants have established that the Respondent has no rights or legitimate interests in the Disputed Domain Names. In light of the above, the Complainants succeed on the second element of the Policy.

C. Registered and Used in Bad Faith

The Complainants must prove on the balance of probabilities both that the Disputed Domain Names were registered in bad faith and that these are used in bad faith (see section 4.2 of the [WIPO Overview 3.0](#) and, for example, *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#), and *Control Techniques Limited v. Lektronix Ltd*, WIPO Case No. [D2006-1052](#)).

Paragraph 4(b) of the Policy provides a non-exhaustive list of factors, any one of which may demonstrate bad faith. Among these factors demonstrating bad faith registration and use is the use of a domain name to intentionally attempt to attract, for commercial gain, Internet users to a website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on the website or location.

In the present case, the Panel finds it inconceivable that the Respondent was unaware of the First Complainant and its rights in the CME mark when it registered the Disputed Domain Names. At least one of the First Complainant's CME marks predate the registration of the Disputed Domain Names by 45 years, and the Complainants provided extensive evidence of the reputation of and investments in the CME marks. Moreover, the website linked to (at least one of) the Disputed Domain Names include the First Complainant's logo and purport to offer services similar to those offered by the Complainants. As a result, the Respondent must have had knowledge of the First Complainant's rights at the time of registering the Disputed Domain Names. The Panel finds that the Respondent's awareness of the First Complainant's trademark rights at the time of registration suggests bad faith.

Given the use of the First Complainant's CME mark in the Disputed Domain Names, and the use of a website mentioning the First Complainant's logo and purporting to offer financial services similar to the Complainants' services, the Panel finds that the Respondent intentionally aimed to attract Internet users to visit this website for commercial gain, by creating a likelihood of confusion with the First Complainant's marks as to the source, sponsorship, affiliation, or endorsement of the website or location and of the products advertised on the website (see *Simyo GmbH v. Domain Privacy Service FBO Registrant / Ramazan Kayan*, WIPO Case No. [D2014-2227](#)).

In addition, pursuant to a recent UDRP decision involving the Parties, the Respondent was ordered to transfer 30 domain names including the Complainant's CME mark (*i.e.*, "<cmeclaw.com>," "<cmeclubmax.com>," *etc.*) that directed to websites which appear to be similar to the website shown in the current procedure (see *Chicago Mercantile Exchange Inc., CME Group Inc. v. WONG WAEI KUEN*, WIPO Case No. [D2023-2691](#): "(...) 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."). The Respondent's actions therefore show a pattern of abusive conduct intentionally targeting the Complainants which constitutes evidence of bad faith (see *Nick Cannon v. Modern Limited –Cayman Web Development*, WIPO Case No. [D2005-0757](#)).

Moreover, the Panel finds that in the circumstances of this case, the fraudulent nature of the financial services offered through the websites linked to the Disputed Domain Names cannot be excluded. Such illegal activity is manifestly considered evidence of bad faith (see section 3.1.4 of the [WIPO Overview 3.0](#)).

Finally, by failing to respond to the Complaint, the Respondent did not take any initiative to contest the foregoing. Pursuant to paragraph 14 of the Rules, the Panel may draw the conclusions it considers appropriate.

Therefore, the Panel finds that, on the balance of probabilities, it is sufficiently shown that the Disputed Domain Names were registered and are being used in bad faith. In light of the above, the Complainants also succeed on the third and last element 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 Disputed Domain Names <cmebf.com>, <cmebi.com>, <cmebj.com>, <cmebk.com>, <cmebl.com>, <cmebm.com>, <cmebn.com>, <cmebo.com>, <cmebp.com>, <cmebq.com>, <cmebr.com>, <cmebt.com>, <cmebx.com>, <cmeby.com>, <cmebz.com>, <cmeb.com>, <cmebj.com>, <cmedln.com>, <cmefacb.com>, <cmefacd.com>, <cmeface.com>, <cmegb.com>, <cmegc.com>, <cmegd.com>, <cmege.com>, <cmegf.com>, <cmegh.com>, and <cmegi.com> be transferred to the Complainants¹.

/Flip Jan Claude Petillion/

Flip Jan Claude Petillion

Sole Panelist

Date: October 18, 2023

¹The Complainants do not specify to which entity the Disputed Domain Names should be transferred. As a domain name can only have one registrant, the Panel leaves it to the Registrar and the Complainants to determine to which Complainant the transfer of the Disputed Domain Names should occur.