

## ADMINISTRATIVE PANEL DECISION

Chicago Mercantile Exchange Inc., CME Group Inc. v. Name Redacted  
Case No. D2024-3626

### 1. The Parties

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

The Respondent is Name Redacted. <sup>1</sup>

### 2. The Domain Name and Registrar

The disputed domain name <comexotc.com> is registered with Amazon Registrar, Inc. (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 6, 2024. On September 9, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 13, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (John Doe (Unidentified Registrant)) and contact information in the Complaint. The Center sent an email communication to the Complainants on September 13, 2024, 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 September 17, 2024.

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

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<sup>1</sup>The Respondent appears to have used the name of a third party when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted Respondent’s name from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

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 20, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 10, 2024. The Respondent did not submit any formal response. On September 25 and September 28, 2024, and on October 5 and October 6, 2024, the Center received email communications from a third party, who claimed their identity had been stolen and used fraudulently. However, no communications were received from the Registrar confirmed Respondent email address. Accordingly, the Center notified the Respondent’s default on October 14, 2024.

The Center appointed Mihaela Maravela as the sole panelist in this matter on October 17, 2024. 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.

On October 23, 2024, the Panel issued a Procedural Order asking the Complainants to either (i) submit evidence of trademark registration for COMEX in the name of one of the Complainants, or (ii) explain with supporting evidence the corporate relationship between the trademark owner for COMEX, Commodity Exchange Inc, and the Complainants. The Complainants filed on October 23, 2024 their submission in response to the Procedural Order. The Respondent did not provide comments by the deadline indicated in the Procedural Order in this respect.

#### **4. Factual Background**

According to information in the Complaint, the Complainants are Chicago Mercantile Exchange Inc. (“CME”) and CME Group Inc. (“CMEG”). CME is part of CMEG. CME is a financial institution, providing financial and risk management services. CMEG is a financial exchange, offering futures and options in various 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 COMEX trademark has been used in commerce since 1963, for one of the Complainants’ four major exchanges. In 2021, the Complainants and their related entities generated revenues in excess of \$4.7 billion dollars (USD). In 2021, more than 20.5 million contracts were traded daily through the Complainants’ exchanges.

Commodity Exchange Inc. holds trademark registrations for COMEX, such as the United States Registration No. 1,036,378, registered on March 23, 1976 for International Class 36; and United States Registration No. 5,483,800, registered on June 5, 2018 for International Class 36. The Complainant provided evidence that Commodity Exchange Inc. is a wholly-owned subsidiary related to CME and CMEG.

Given the corporate connection between the Complainant entities, the Panel will hereafter treat the two Complainants as a single Complainant unless the context requires otherwise.

The disputed domain name was registered on June 14, 2024, and according to information in the Complaint, at the date of the Complaint it redirected to a third party page advertising a crypto wallet. At the date of the Decision, the disputed domain name resolves to a 403 Forbidden page.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name fully incorporates the Complainant's COMEX trademark, merely supplementing the full mark with the generic acronym "OTC" (over the counter). Moreover, the Complainant's trademarks are well known in the international financial community, which intensifies the confusing similarity between the disputed domain name and the Complainant's trademarks.

As regards the second element, the Complainant argues that the disputed domain name is being redirected to a third party page advertising a crypto wallet. The Complainant submits that this unauthorized use of the Complainant's COMEX trademark to redirect to another financial institution's website and product constitutes an attempt to fraudulently represent a connection or affiliation between the third party and the Complainant, when no such connection or affiliation exists. Also, the Complainant contends that the Respondent is not affiliated with or connected to the Complainant in any way.

With respect to the third element, the Complainant argues that the Respondent knew of the Complainant's rights as the Complainant registered the COMEX trademarks and names in jurisdictions across the globe, well before the Respondent registered the disputed domain name. According to the Complainant, registration of a well-known trademark as a domain name is a clear indication of bad faith in itself, even without considering other elements. As regards the use, the Complainant contends that the Respondent registered and is using the disputed domain name to deceive the public, and this is a clear case of bad faith.

## **B. Respondent**

The Respondent did not formally reply to the Complainant's contentions. In an informal communication of September 25, 2024, a third party inquired about these proceedings and on September 28, 2024, the third party claimed identity theft. In subsequent informal emails between September 28, 2024, and October 6, 2024, it further inquired about the proceedings and denied registering the disputed domain name.

## **6. Discussion and Findings**

The applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence", and the Panel can draw certain inferences in light of the particular facts and circumstances of the case. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 4.2.

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights, (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name, and (iii) the disputed domain name has been registered and is being used in bad faith.

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

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

As regards the ownership of trademark rights, Commodity Exchange Inc. holds trademark registrations for COMEX. In response to the Procedural Order issued on October 23, 2024, the Complainant explained and provided evidence in this respect, that Commodity Exchange Inc. is related to CME and CMEG, as Commodity Exchange Inc. and CME are wholly-owned subsidiaries of CMEG. Considering the evidence submitted by the Complainant, the Panel deems that the Complainant has shown rights in respect of the trademark COMEX for the purpose of standing to file a UDRP Complaint under the Policy.

[WIPO Overview 3.0](#), section 1.4.1 ("A trademark owner's affiliate such as a subsidiary of a parent or of a holding company, or an exclusive trademark licensee, is considered to have rights in a trademark under the UDRP for purposes of standing to file a complaint.")

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms (here, “otc”) may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel disregards the Top-Level Domain (“TLD”) “.com” in the confusing similarity test, as it is a standard registration requirement for technical reasons ([WIPO Overview 3.0](#), section 1.11.1).

The Panel finds the first element of the Policy has been established.

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

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

There is no evidence in the case file showing that the Respondent holds any right for COMEX trademarks. The Panel also notes that there is no evidence showing that the Respondent is authorized or licensed to use the trademark COMEX, nor has the Respondent claimed it would hold such authorization or license. There is no evidence in the record that the Respondent is currently using the disputed domain name in connection with a bona fide offering of goods or services, nor does the Respondent appear to engage in any legitimate noncommercial or fair use of the disputed domain name within the meaning of paragraphs 4(c)(i) and (iii) of the Policy.

Furthermore, the disputed domain name incorporates the Complainant’s mark in its entirety with the additional term “otc”, which is an acronym for “over the counter”, which is descriptive of goods and services associated with the Complainant’s industry. Such composition carries a risk of implied affiliation and cannot constitute fair use as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. See [WIPO Overview 3.0](#), section 2.5.1.

Also, there is no evidence that the Respondent is commonly known by the disputed domain name within the meaning of paragraph 4(c)(ii) of the Policy.

The Panel finds the second element of the Policy has been established.

### C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

According to the unrebutted assertions of the Complainant, its COMEX trademarks were widely used in commerce well before the registration of the disputed domain name and are reputed. The disputed domain name is confusingly similar with the Complainant's trademarks and contain terms pertaining to the Complainant's industry (the addition of "otc" shows that the Respondent was aware of the Complainant). According to the unrebutted evidence in the case file, the disputed domain names redirected to another financial institution's website and product. Under these circumstances, the Panel considers that the Respondent knew or should have known that the disputed domain name consisted of the Complainant's trademark when registering the disputed domain name. Registration of the disputed domain names in awareness of the reputed COMEX mark and in the absence of rights or legitimate interests in this case amounts to registration in bad faith.

As regards the use of the disputed domain name, from the evidence on file and not rebutted by the Respondent, it results that the disputed domain redirected to a third party page advertising a crypto wallet. Such use creates a false impression of an association with the Complainant. As the Respondent is not authorised by the Complainant to use the Complainant's trademarks and is not associated with the Complainant in any way, such use is in bad faith. Accordingly, the Panel finds that the Respondent has registered the disputed domain name with the intention of taking advantage of the fame and reputation of the Complainant's trademark for the commercial benefit of the Respondent.

Moreover, the Respondent has not formally participated in these proceedings and has failed to rebut the Complainant's contentions and to provide any evidence of actual or contemplated good-faith use and indeed none would seem plausible. Further, the Respondent seems to have impersonated the identity of a third party when registering the disputed domain name.

The subsequent switch to a "403 Forbidden" notice does not, in the circumstances described above, change this finding, and the Panel finds that the current passive holding of the disputed domain name does not, in the circumstances of this case, prevent a finding of bad faith. There is no evidence in the record of a legitimate use of the disputed domain name. Also the record in the present case shows that: (i) the trademark of the Complainant is distinctive and widely used in commerce, (ii) the disputed domain name is confusingly similar to the Complainant's trademark and includes a terms pertaining to the Complainant's business, and (iii) the disputed domain name redirected to competing services to confuse and mislead Internet users before the disputed domain name led to an inactive page. In light of these specific circumstances, the Panel concludes that the Respondent's prior use of the disputed domain name and his current passive holding of the disputed domain name in the present matter also satisfies the bad faith requirement of paragraph 4(a)(iii) of the Policy.

The Panel finds that the Complainant has established the third 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 name <comexotc.com> be transferred to the Complainant.

*/Mihaela Maravela/*

**Mihaela Maravela**

Sole Panelist

Date: November 4, 2024