

ADMINISTRATIVE PANEL DECISION

Chicago Mercantile Exchange Inc., and CME Group Inc. v. Hai Liu, Chain; Haitao Liu; Ying Liu; Mingfang Liu; Haitao Du; Tao Hai; Hai Liu; Daoqi Zhu, Chain; and Zhu Daoqi
Case No. D2022-0274

1. The Parties

Complainants are Chicago Mercantile Exchange Inc., United States of America (“United States”) (“Complainant No. 1”), and CME Group Inc., United States (“Complainant No. 2”), represented by Norvell IP llc, United States (collectively referred to as “Complainants”).

Respondents are Hai Liu, Chain, China (“Respondent No. 1”); Haitao Liu, Hong Kong, China (“Respondent No. 2”); Ying Liu, China (“Respondent No. 3”); Mingfang Liu, Hong Kong, China (“Respondent No. 4”); Haitao Du, Hong Kong, China (“Respondent No. 5”); Tao Hai, Hong Kong, China (“Respondent No. 6”); Hai Liu, Hong Kong, China (“Respondent No. 7”); Daoqi Zhu, Chain, China (“Respondent No. 8”); and Zhu Daoqi, Hong Kong, China (“Respondent No. 9”), (collectively referred to as “Respondents”).

2. The Domain Names and Registrar

The disputed domain names <cmegroupadm.com>, <cmegroupage.com>, <cmegroupall.com>, <cmegroupand.com>, <cmegroupb2c.com>, <cmegroupes.com>, <cmegroupfor.com>, <cmegrouping.com>, <cmegrouplib.com>, <cmegroupmax.com>, <cmegroupmin.com>, <cmegrouptan.com>, <cmegroupplus.com>, <cmegroupsee.com>, <cmegroupsep.com>, <cmegrouptan.com>, <cmegroupters.com>, <cmegrouptop.com>, and <cmegroupusr.com> are registered with Name.com, Inc. (Name.com LLC) (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 26, 2022. On January 27, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On January 27, 2022, the Registrar transmitted by email to the Center its verification response confirming that Respondents are listed as the registrants and providing the contact details.

The Center verified that the 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 Respondents of the Complaint, and the proceedings commenced on February 7, 2022. In accordance with the Rules, paragraph 5, the due date for Response was February 27, 2022. Respondents did not submit any response. Accordingly, the Center notified Respondents’ default on February 28, 2022.

The Center appointed Stephanie G. Hartung as the sole panelist in this matter on March 10, 2022. 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

Complainants are companies organized under the laws of the United States that are active in the financial industry.

Complainants have provided evidence that they are each registered owners of numerous trademarks relating to the company names and brands CME and/or CME GROUP, *inter alia*, but not limited to the following:

- Complainant No. 1: Word mark CME GROUP, United States Patent and Trademark Office (“USPTO”), registration number: 4,544,078, registration date: June 3, 2014, with protection in Nice Classes 9, 36 and 42, status: active;
- Complainant No. 2: Word mark CME GROUP, China National Intellectual Property Administration (“CNIPA”), registration number: 20672382, registration date: September 14, 2017, with protection in Nice Class 42, status: active.

Moreover, Complainants have demonstrated to own the domain name <cmegroup.com>, which resolves to Complainants’ main website at “www.cmegroup.com”, used to promote Complainants’ services in the financial industry.

Respondents, according to the Whois information for the disputed domain names, all are residents of China with postal addresses in either Beijing or Hong Kong, China and other contact information (in particular email addresses) which overlap in different ways (see also Section 6.A. paragraph 2 below). By the time of the rendering of this decision, the disputed domain names do not resolve to any valid content on the Internet. However, Complainants have documented that, at some point before the filing of the Complaint, all disputed domain names resolved to identical, carbon copy versions of a website that featured counterfeit and infringing versions of Complainants’ CME GROUP trademark and copyright protected works. Moreover, this website attempted to lure Complainants’ customers to download an app version of such website, thereby requesting to enter personal information and allowing to chat with a fraudulent customer service representative.

Complainants request that the disputed domain names be transferred to Complainants.

5. Parties’ Contentions

A. Complainants

Complainants claim to belong to the world’s leading financial institutions, with Complainant No. 1 having roots going back to the year 1989 and having started to use the designation CME in 1919, while Complainant No. 2 was formed in the year 2007 and is the owner of Complainant No. 1. Due to an intensive

advertising and promotion program, Complainants' CME trademarks, including the CME GROUP trademark, meanwhile have become distinctive, famous, and widely recognized around the world.

In procedural terms, Complainants argue that as related corporate entities they have a common legal interest sufficient to justify a unitary Complaint against Respondents, in regard of which Complainants have reason to believe that they are controlled by a single person or entity having registered all disputed domain names under identical names, addresses, phone numbers, and/or email addresses, thus, justifying a unitary Complaint against Respondents, too.

On the substance of the matter, Complainants submit that the disputed domain names are confusingly similar to Complainants' CME GROUP trademark, as the disputed domain names fully incorporate the latter, with the additional word elements not being able to avoid confusion with Complainants' CME GROUP trademark. Moreover, Complainants assert that Respondents have no rights or legitimate interests in respect of the disputed domain names since (1) at no time, Complainants have licensed or otherwise endorsed, sponsored, or authorized Respondents to use Complainants' CME GROUP trademark, nor are Complainants in any way affiliated with Respondents, (2) the disputed domain names are obviously designed to deceive customers, creating the false impression that Respondents' services and communications are associated with Complainants' which they are not, and (3) in particular, Respondents are using the disputed domain names to lure Complainants' customers to provide their identifying information to Respondents under the pretenses that they are providing these identifying information to Complainants which they do not. Finally, Complainants argue that Respondents have registered and are using the disputed domain names in bad faith since (1) Respondents apparently knew of Complainants' rights in the CME GROUP trademark prior to the registration of the disputed domain names, particularly given the fame and reputation of such trademark in the financial community, and (2) the disputed domain names have been registered and are intentionally being used in connection with a fraudulent scheme aiming to confuse and defraud Complainants' customers for Respondents' commercial gain.

B. Respondents

Respondents did not reply to Complainants' contentions.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, Complainants carry the burden of proving:

- (i) that the disputed domain names are identical or confusingly similar to a trademark or service mark in which Complainants have rights; and
- (ii) that Respondents have no rights or legitimate interests in respect of the disputed domain names; and
- (iii) that the disputed domain names have been registered and are being used in bad faith.

Respondents' default in the case at hand does not automatically result in a decision in favor of Complainants, however, paragraph 5(f) of the Rules provides that if Respondents do not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute solely based upon the Complaint. Further, according to paragraph 14(b) of the Rules, the Panel may draw such inferences from Respondents' failure to submit a Response as it considers appropriate.

A. Consolidation due to multitude of Complainants and Respondents

As regards the multitude of Complainants, given that Complainant No. 1 is a subsidiary of Complainant No. 2 and apparently is the registered owner of a number of the CME GROUP trademarks which are being used, *inter alia*, by both Complainants and most likely by the CME group of companies as a whole, both Complainants obviously have a specific common grievance against Respondents why it is appropriate in the

case at hand and in line with the UDRP panelists' majority view to accept this Complaint filed by multiple complainants (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.1).

As regards the multitude of Respondents and disputed domain names belonging to them, it should first be noted that Respondents Nos. 2, 4, 5, 6, 7, and 9 share most, if not all of their Whois contact information, while Respondent No. 3 has at least the same registered email address as have Respondents Nos. 2, 4, 5, 6 and 7, and finally Respondent No. 1 is registered under the same postal address as is Respondent No. 8, whose registered email address reflects the personal name of Respondent No. 9. Second, it should be recognized that all 19 disputed domain names belonging to these Respondents have been registered through the same registrar, in a close temporal link and set up by the very same method, namely combining Complainants' CME GROUP trademark with some varying word element. Therefore, it is reasonable to argue that the disputed domain names are subject to some kind of common control which is why it is also fair and equitable to all Parties that this Complaint is consolidated against multiple Respondents at the same time (see [WIPO Overview 3.0](#), section 4.11.2).

Having said so, the Panel comes to the following finding:

B. Identical or Confusingly Similar

The Panel concludes that the disputed domain names are confusingly similar to the CME GROUP trademark in which both Complainants have rights.

The disputed domain names all incorporate the CME GROUP trademark in its entirety together with other varying word elements such as, *inter alia*, "and", "for", or "max". Numerous UDRP panels have recognized that where a domain name incorporates a trademark in its entirety, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that trademark (see [WIPO Overview 3.0](#), section 1.7). Moreover, it has been held in many UDRP decisions and has become a consensus view among panelists (see [WIPO Overview 3.0](#), section 1.8), that the addition of other terms (whether *e.g.* descriptive or otherwise) would not prevent the finding of confusing similarity under the first element of the UDRP. Accordingly, the addition of varying word elements such as, *inter alia*, "and", "for", or "max", does not dispel the confusing similarity arising from the incorporation of Complainants' CME GROUP trademark in all of the disputed domain names.

Therefore, Complainants have established the first element under the Policy set forth by paragraph 4(a)(i).

C. Rights or Legitimate Interests

The Panel is further convinced on the basis of Complainants' undisputed contentions that Respondents have not made use of the disputed domain names in connection with a *bona fide* offering of goods or services, nor have Respondents been commonly known by the disputed domain names, nor can it be found that Respondents have made a legitimate noncommercial or fair use thereof without intent for commercial gain.

None of Respondents has been authorized to use Complainants' CME GROUP trademark, either as a domain name or in any other way. Also, there is no reason to believe that Respondents' names somehow correspond with the disputed domain names and Respondents do not appear to have any trademark or other rights associated with the terms "cme" and/or "cme group" on their own. To the contrary, Respondents, at some point before the filing of the Complaint, let the disputed domain names resolve to identical, carbon copy versions of a website that featured counterfeit and infringing versions of Complainants' CME GROUP trademark and copyright protected works, thereby attempted to lure Complainants' customers to download an app version of such website, and so requesting to enter personal information and allowing to chat with a fraudulent customer service representative, presumably for Respondents' commercial gain. Such use of the disputed domain names obviously neither qualifies as a *bona fide* offering of goods or services nor as using the disputed domain names for a legitimate noncommercial or fair purpose within the meaning of paragraph (4)(c) of the Policy.

Accordingly, Complainants have established a *prima facie* case that Respondents have no rights or legitimate interests in respect of the disputed domain names. Now, the burden of production shifts to Respondents to come forward with appropriate allegations or evidence demonstrating to the contrary (see [WIPO Overview 3.0](#), section 2.1). Given that Respondents have defaulted, Respondents have not met that burden.

The Panel, therefore, finds that Complainants have also satisfied paragraph 4(a)(ii) and, thus, the second element of the Policy.

D. Registered and Used in Bad Faith

The Panel finally holds that the disputed domain names were registered and are being used by Respondents in bad faith.

The circumstances to this case leave no doubt that Respondents were fully aware of Complainants' rights in the CME GROUP trademark (notwithstanding its claimed worldwide recognition) when registering the disputed domain names and that they are all clearly directed to this trademark. Moreover, using a considerable number of 19 disputed domain names in total, which all are confusingly similar to Complainants' CME GROUP trademark, to run identical, carbon copy versions of a website that at some point in the past featured counterfeit and infringing versions of Complainants' CME GROUP trademark and copyright protected works, thereby attempted to lure Complainants' customers to download an app version of such website, and so requesting to enter personal information and allowing to chat with a fraudulent customer service representative, presumably for Respondents' commercial gain, without any permission to do so, is a clear indication that Respondents intentionally attempted to attract, for commercial gain, Internet users to their own websites by creating a likelihood of confusion with Complainant's CME GROUP trademark as to the source, sponsorship, affiliation or endorsement of Respondents' websites. Such circumstances are evidence of registration and use of the disputed domain names in bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

In connection with this finding, it also carries weight in the eyes of the Panel that Respondents appear to have provided false or incomplete contact information in the Whois register for the disputed domain names, noting, for example, email correspondence between the Center and the concerned postal courier indicating the Written Notices of the Notification of Complaint dated February 7, 2022 could not be delivered. This fact at least throws a light on Respondents' behavior which supports the Panel's bad faith finding.

Accordingly, the Panel holds that Complainants have also satisfied the third element under the Policy as set forth by paragraph 4(a)(iii).

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 <cmegroupadm.com>, <cmegroupage.com>, <cmegroupall.com>, <cmegroupand.com>, <cmegroupb2c.com>, <cmegroupes.com>, <cmegroupfor.com>, <cmegrouping.com>, <cmegrouplib.com>, <cmegroupmax.com>, <cmegroupmin.com>, <cmegrouppopt.com>, <cmegroupplus.com>, <cmegroupsee.com>, <cmegroupsep.com>, <cmegrouptan.com>, <cmegroupters.com>, <cmegrouptop.com>, and <cmegroupusr.com> be transferred to Complainants.

/Stephanie G. Hartung/

Stephanie G. Hartung

Sole Panelist

Date: March 22, 2022