

## **ADMINISTRATIVE PANEL DECISION**

Board of Trade of the City of Chicago, Inc. and CME Group Inc. v. main main,  
main; cbot; and mains, mains  
Case No. D2022-4699

### **1. The Parties**

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

The Respondents are main main, main; cbot; and mains, mains, Hong Kong, China.

### **2. The Domain Names and Registrar**

The disputed domain names <cbotage.com>, <cbotaim.com>, <cbotboxs.com>, <cbotbr.com>, <cbotbro.com>, <cbotb2c.com>, <cbotcen.com>, <cbotclub.com>, <cbotcon.com>, <cbotcta.com>, <cbotdao.com>, <cbotdtc.com>, <cbotgp.com>, <cbotite.com>, <cbottld.com>, and <cbottop.com> are registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 8, 2022. On December 9, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On December 10, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondents are listed as the registrants and providing the contact details. On December 14, 2022, the Center sent an email communication to the Complainants requesting that the mutual jurisdiction request of the Complaint be modified. The Complainants filed an amended Complaint on December 14, 2022.

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 Respondents of the Complaint, and the proceedings commenced on December 21, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 10, 2023. The Respondents did not submit any response. Accordingly, the Center notified the Respondents’ default on January 11, 2023.

The Center appointed Wilson Pinheiro Jabur as the sole panelist in this matter on January 31, 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 Board of Trade of the City of Chicago, Inc. (hereinafter referred to either as “CBOT” or “First Complainant”) is a financial institution established in 1848, originally trading agricultural commodities such as wheat, corn and soybeans. In 2007, the First Complainant merged with the Chicago Mercantile Exchange, forming the CME Group (hereinafter referred to either as “CME” or “Second Complainant”). The First Complainant now offers options and futures contracts on a wide range of products including gold, silver, U.S. Treasury bonds, and energy as an affiliate of the Second Complainant, a leading financial exchange.

The Complainants own multiple domain name registrations amongst which <cbot.com>, originally registered in 1994, and <cmegroup.com> which is used as a primary point of communication between the Complainants and their customers and where the Complainants’ trading systems and applications are accessed.

The First Complainant is the owner, amongst others, of the United States trademark registration No. 1,716,422 for the word mark CBOT, registered on September 15, 1992, subsequently renewed, in class 36.

The disputed domain names are the following:

Disputed domain name	Registration Date	Present use
<cbotage.com>	April 22, 2022	No active webpage.
<cbotaim.com>	February 11, 2022	No active webpage.
<cbotboxs.com>	March 24, 2022	No active webpage.
<cbotbr.com>	March 12, 2022	No active webpage.
<cbotbro.com>	April 5, 2022	No active webpage.
<cbotb2c.com>	March 6, 2022	No active webpage.
<cbotcen.com>	April 6, 2022	No active webpage.
<cbotclub.com>	April 30, 2022	No active webpage.
<cbotcon.com>	March 27, 2022	No active webpage.
<cbotcta.com>	April 6, 2022	No active webpage.
<cbotdao.com>	February 4, 2022	No active webpage.
<cbotdtc.com>	March 18, 2022	No active webpage.
<cbotgp.com>	February 21, 2022	No active webpage.
<cbotite.com>	April 29, 2022	No active webpage.
<cbottld.com>	February 25, 2022	No active webpage.
<cbottop.com>	March 11, 2022	No active webpage.

#### 5. Parties’ Contentions

##### A. Complainants

The Complainants assert to have generated, together with their related entities, revenues in excess of USD 4.7 billion in 2021, making them one of the world’s largest and most diverse financial exchanges, offering 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, COMEX or Commodity Exchange, and NYMEX or New York Mercantile Exchange, also counting with offices in

Canada, Brazil, the United Kingdom, Ireland, Singapore, Hong Kong, China, Republic of Korea, India, and Japan and maintaining strong relationships with international financial centres throughout the world.

The Complainants further assert that the goodwill symbolized by the CBOT trademark in connection with financial related products and services belongs exclusively to the Complainants and that their CBOT trademark has become an asset of immeasurable value as a result of the extensive promotion and advertising they have undertaken.

According to the Complainants, they were alerted of the registration of the disputed domain names by their cyber defense team that identifies infringing and fraudulent websites designed to defraud the Complainants' customers given that the websites that initially resolved from the disputed domain names contained multiple uses of the Complainants' CBOT Mark, and attempt to fraudulently represent that they were sanctioned websites of the Complainants, attempting to lure the Complainants' customers to enter personal information on those websites and chat with a customer service representative through a scheme facilitated through the disputed domain names.

Also according to the Complainants, the disputed domain names are under common control given that all of the disputed domain names: i) share a common Registrar and host information; ii) have previously resolved to nearly identical fraudulent websites, under identical names, telephone numbers, and/or email addresses; iii) share a similar naming pattern, reproducing the Complainant's well-known CBOT trademark with the addition of two to four additional characters under the same Top-Level Domain ("gTLD") ".com"; and iv) share similar registrant name and contact information that link them together (fourteen of the disputed domain names list "main main" as the registrant name and identify some portion of the address in Hong Kong, China, the remaining two disputed domain names, <cbotdao.com> and <cbotaim.com>, list an email format and/or telephone number that is identical to one or more of the other disputed domain names.

Under the Complainant's view, the disputed domain names all incorporate the Complainant's well-known CBOT trademark with the addition of two to four characters that follow the CBOT trademark in each of the disputed domain names.

Regarding the absence of the Respondents' rights or legitimate interests, the Complainants argue that:

- i) the Respondents are not affiliated with or connected to the Complainants in any way; not having the Complainants, at no time, ever licensed or authorized the Respondents to use the CBOT trademark or name, or any of the Complainants' other intellectual property, or to register any domain name incorporating the CBOT trademark;
- ii) the Respondents have not used, and are not using or preparing to use, the disputed domain names in connection with a *bona fide* offering of goods or services; rather having the disputed domain names been designed to deceive customers, creating the false impression that the Respondents' services and communications are associated with the Complainants', thus intentionally creating false association and confusion and attempting to lure the Complainants customers into providing personal information to the Respondents under the impression they were providing this information to the Complainants, when in fact, they were not;
- iii) there is no evidence that the Respondents have been commonly known by the disputed domain names or that they have any rights that might predate those of the Complainants; and
- iv) there is no evidence that the Respondents are making any legitimate non-commercial or fair use of the disputed domain names without intending to gain a commercial advantage.

As to the registration and use of the disputed domain names in bad faith, the Complainants assert that:

- i) the Respondents knew of the Complainants' rights in the CBOT trademark prior to the registration of the disputed domain names;

- ii) the Respondents registered and are using the disputed domain names to perpetrate a fraud, illegitimate scheme, or scam;
- iii) the Respondents registered and used the disputed domain names for commercial gain by intentionally creating a likelihood of confusion with the Complainants' CBOT trademark as to the source, sponsorship, affiliation, or endorsement of the Respondents' webpages; and
- iv) the Respondents' continued ownership of the disputed domain names represents an abusive threat hanging over the Complainants.

## **B. Respondents**

The Respondents did not reply to the Complainant's contentions.

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy sets forth the following three requirements, which have to be met for this Panel to order the transfer of the disputed domain names to the Complainants:

- (i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainants have rights; and
- (ii) the Respondents have 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 Complainants must prove in this administrative proceeding that each of the aforementioned three elements is present in order to obtain the transfer of the disputed domain names.

Before turning to these questions, however, the Panel needs to address the issue of the consolidation of multiple Respondents.

### **A. Consolidation of Multiple Respondents**

The Complainants request that this Panel accept multiple Respondents in a single proceeding in view of the facts enumerated at the section 5A above.

The Respondents have not objected to the common control claim.

In addition to that, section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") establishes that "[w]here a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario".

All of the aforementioned criteria are present in this case and therefore this Panel accepts such request considering that it would be more procedurally efficient to have the sixteen disputed domain names dealt with in the same proceeding given that: i) all of the disputed domain names share a common naming pattern, reproducing the Complainants' well-known CBOT trademark with the addition of two to four characters; ii) the disputed domain names were registered over a relatively short period of time (from February 4, 2022 to April 30, 2022); iii) the disputed domain names presently do not resolve to active webpages; iv) the disputed domain names appear to have been used in connection with a similar fraudulent scheme to impersonate the First Complainant; v) all of the disputed domain names share the same Registrar; also vi) sharing similar registrant name and contact information that link them together.

This Panel is satisfied, in view of the evidence submitted and on balance that the disputed domain names are indeed subject to a common control and that consolidation would be fair and equitable to all Parties.

## **B. Identical or Confusingly Similar**

The Complainants have established rights over the CBOT trademark duly registered.

The Panel finds that all of the disputed domain names reproduce the Complainant's CBOT trademark in its entirety. The addition of the terms or characters "age", "aim", "boxes", "br", "bro", "b2c", "cen", "club", "con", "cta", "dao", "dte", "gp", "ite", "ld", or "top", does not prevent a finding of confusing similarity under the Policy which, as recognized by past UDRP panels, involves a "side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name" ([WIPO Overview 3.0](#), section 1.7).

For the reasons above, the Panel finds that the disputed domain names are confusingly similar to the Complainants' trademark.

## **C. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy provides a non-exclusive list of circumstances that may indicate the Respondents' rights or legitimate interests in the disputed domain names. These circumstances are:

- (i) before any notice of the dispute, the Respondents' use of, or demonstrable preparations to use, the disputed domain names or a name corresponding to the disputed domain names in connection with a *bona fide* offering of goods or services; or
- (ii) the Respondents (as individuals, businesses, or other organizations) have been commonly known by the disputed domain names, in spite of not having acquired trademark or service mark rights; or
- (iii) the Respondents are making a legitimate noncommercial or fair use of the disputed domain names, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Respondents, in not responding to the Complaint, have failed to invoke any of the circumstances, which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights to or legitimate interests in the disputed domain names. This entitles the Panel to draw any such inferences from such default as it considers appropriate pursuant to paragraph 14(b) of the Rules. Nevertheless, the burden of proof is still on the Complainants to make a *prima facie* case against the Respondents.

In that sense, the Panel notes that the Complainants have made out a *prima facie* case that the Respondents lack rights or legitimate interests in the disputed domain names, indeed stating that the Respondents are not affiliated with or connected to the Complainants in any way; not having the Complainants, at no time, ever licensed or authorized the Respondents to use the CBOT trademark or name, or any of the Complainants' other intellectual property, or to register any domain name incorporating the CBOT trademark.

Also, the lack of evidence as to whether the Respondents are commonly known by the disputed domain names or the absence of any trademarks registered by the Respondents corresponding to the disputed domain names, corroborates the indication of an absence of rights or legitimate interests in the disputed domain names.

Moreover, according to the evidence submitted by the Complainants, the use made of the disputed domain names in connection with a financial scam impersonating the Complainants clearly does not constitute a *bona fide* offering of goods or services, nor a legitimate noncommercial or fair use of the disputed domain names in these circumstances.

Under these circumstances and absent evidence to the contrary, the Panel finds that the Respondent does not have rights or legitimate interests with respect to the disputed domain names.

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

The Policy indicates in paragraph 4(b)(iv) that bad faith registration and use can be found in respect of a disputed domain name, where a respondent has intentionally attempted to attract, for commercial gain, Internet users to the respondent's website or other on-line location, by creating a likelihood of confusion with a 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 this case, both the registration and use of the disputed domain names in bad faith can be found pursuant to Policy, paragraph 4(b)(iv), in view of the fraudulent scam perpetrated via the disputed domain names in an attempt to impersonate the Complainants and their well-known trademark unduly reproduced in the webpages that used to resolve from the disputed domain names.

Further, the Panel finds that the currently inactive use of the disputed domain names does not prevent a finding of bad faith. Prior UDRP panels have held that the non-use of domain names may support a finding of bad faith when considering factors such as the distinctive nature and reputation of the trademark, the failure of the respondent to file a response, and the implausibility of any good faith use to which the domain name may be put.

Other indications of the Respondents' bad faith lie in the indication of what appear to be false contact information, the Center has been unable to fully deliver Written Notice to the Respondents.

For the reasons above, the Panel finds that the Respondents have registered and are using the disputed domain names in bad faith pursuant to paragraph 4(b)(iv) of the Policy.

The third element of the Policy has therefore been met.

#### **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, <cbotage.com>, <cbotaim.com>, <cbotboxs.com>, <cbotbr.com>, <cbotbro.com>, <cbotb2c.com>, <cbotcen.com>, <cbotclub.com>, <cbotcon.com>, <cbotcta.com>, <cbotdao.com>, <cbotdtc.com>, <cbotgp.com>, <cbotite.com>, <cbottld.com> and <cbottop.com> be transferred to the Complainant.

*/Wilson Pinheiro Jabur/*

**Wilson Pinheiro Jabur**

Sole Panelist

Date: February 14, 2023