

**Asian Domain Name Dispute Resolution Centre
(Kuala Lumpur Office)**

ADMINISTRATIVE PANEL DECISION

Case No.	AIAC/ADNDRC-1124-2022
Complainant:	Etiqa International Holdings Sdn. Bhd.
Respondent:	Musaab bin Mesuri
Disputed Domain Name(s):	<etiqa.com>

1. The Parties and Contested Domain Name

The Complainant is Etiqa International Holdings Sdn. Bhd. of Dataran Maybank, No. 1, Jalan Maarof, 59000 Kuala Lumpur, Malaysia.

The Respondent is Musaab bin Mesuri of Lot 8B, Ground Floor, D'bayu Bukit Jelutong, Jalan Serambi U8/21, 40150 Shah Alam, Malaysia.

The domain name at issue is etiqa.com, registered by Respondent with NetEarth One, Inc., of Suite 5, 7th Floor, 5 Greenwich View Place, Millharbour, London E14 9NN, United Kingdom.

2. Procedural History

The present complaint (the "Complaint") was filed with the Kuala Lumpur Office of the Asian Domain Name Dispute Resolution Centre (the "Centre") on 22 August 2022 in accordance with the Uniform Domain Name Dispute Resolution Policy (the "Policy") which was adopted by the ICANN and came into effect on 24 October 1999, the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules") which became effective on 28 September 2013 and the ADNDRC Supplemental Rules to ICANN Uniform Domain Name Dispute Resolution Policy and the Rules for the Uniform Domain Name Dispute Resolution Policy (the "Supplemental Rules") which came into effect on 31 July 2015.

On 14 October 2022, the Centre sent the formal Complaint Notice to the Respondent and confirmed that the formal date of the commencement of the administrative proceeding is 14 October 2022. On the same day, the Centre requested the Respondent to reply within 20 days from 14 October 2022 (on or before 3 November 2022) in accordance with the Rules and forwarded the Complaint and all the Annexes thereof. The Centre confirmed that the language of the proceedings shall be in English.

On 3 November 2022, the Respondent submitted a formal response in English with the Centre by way of an email along with Annexures.

On 4 November 2022, the Centre sent a Notice of Panelist Appointment to Ms. Vivien Chan as Panel candidate for the current case, and the Panel candidate considered that it was properly constituted and submitted the acceptance notice as well as a statement of impartiality and independence on 4 November 2022.

On 7 November 2022, the Centre notified both parties and the Panel Ms. Vivien Chan by email that Ms. Vivien Chan be the sole panelist for arbitrating this case. The Centre then formally transferred the case to the Panelist. The Panelist agreed to deliver her decision with respect to the Disputed Domain Name on or prior to 21 November 2022.

On 2 December 2022, the Panelist issued an Administrative Order by way of email requesting the Respondent to submit English translations of the exhibits attached thereto to its Response on or before 8 December 2022.

On 7 December 2022, the Respondent submitted English translations of its exhibits. On 8 December 2022, the Panelist notified the Centre that it is in receipt of the Respondent's translated exhibits and the Panelist agreed to deliver her decision with respect to the Disputed Domain Name on or prior to 15 December 2022.

3. Factual background

Background information of the Complainant

The Complainant is Etiqa International Holdings Sdn. Bhd., with an address at Dataran Maybank, No. 1, Jalan Maarof, 59000 Kuala Lumpur, Malaysia. The authorized representative of the Complainant is SKRINE.

Background information of the Respondent

The Respondent, Musaab bin Mesuri, of Lot 8B, Ground Floor, D'bayu Bukit Jelutong, Jalan Serambi U8/21, 40150 Shah Alam, Malaysia, registered the Disputed Domain Name on 7 July 2007.



4. Parties' Contentions


A. Complainant

The Complainant claims that it is a wholly-owned subsidiary of its parent company, Malayan Banking Berhad ("MBB"), and is the holding company for these following entities (the "Etiqa Entities"):

- a) Maybank Ageas Holdings Berhad, which in turn is the holding company of:
 - i) Etiqa General Takaful Berhad
 - ii) Etiqa Family Takaful Berhad;
 - iii) Etiqa General Insurance Berhad;
 - iv) Etiqa Life Insurance Berhad; and
 - v) Etiqa Insurance Pte Ltd (Singapore);
- b) Etiqa Digital Solutions Sdn. Bhd.;
- c) Etiqa General Insurance and Etiqa Life Insurance (Cambodia);
- d) Etiqa Life and General Assurance (the Philippines); and
- e) PT Asuransi Etiqa Internasional (Indonesia).

(Refer to Annexure No. 5, a copy of the corporate structure showing the relationship between the Complainant and the Etiqa Entities)

The Complainant claims that it is duly authorized by MBB to utilize the registered and common law trademark rights over including but not limited to “” and “” marks bearing the word “Etiqa” (the “Complainant’s Trademarks”) (Refer to Page 18, Annexure No. 3 showing an authorization letter from MBB to the Complainant dated 21 July 2022 for enforcement and use of the Complainant’s Trademarks including to lodge the present Complaint) in multiple classes and in various jurisdictions (including Malaysia, the Philippines, Cambodia, Singapore, Indonesia, Brunei and Pakistan) as summarized in Annexure A enclosed in Annexure No. 3 (Refer to Pages 20-30).

The Complainant further claims that its subsidiary’s (i.e. Maybank Ageas Holdings Berhad) fully owned subsidiary, Etiqa General Insurance Berhad is the registered proprietor of the Singaporean mark “” under registration no. T0906577J in Class 36.

Through the Complainant, MBB and Etiqa Entities’ extensive, continuous and extensive publicity and actual use of the Complainant’s Trademarks since 2007, it is the Complainant’s view that the marks for "Etiqa" have been widely known to the relevant public around the world, specifically in Southeast Asian Region including Malaysia (Refer to Annexure No. 6 showing the Complainant’s Trademarks promoted through the Complainant’s/Etiqa Entities’ official websites; and selected screen shots of various social media pages and online promotional materials with the use of Complainant’s Trademarks).

The Complainant submits that a substantial amount of money and resources is allocated each year towards the promotion and advertising of the Complainant’s Trademarks. In 2021 alone, over Ringgit Malaysia (RM) 10,177,970.00 was expended towards advertising the Complainant’s Goods and Services under the Complainant’s Trademarks in Malaysia, the Philippines, Cambodia, Singapore and Indonesia.



The Complainant’s contentions may be summarized as follows:

i. The Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights:

The Disputed Domain Name is “etiqa.com”, among which “.com” is only the Top Level Domain and is a standard registration requirement which plays no role in distinguishing the Disputed Domain Name from the Complainant’s Trademarks (Refer to Page 90, Annexure No. 7, Paragraph 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition). Therefore, it depends on the second-level portion of the Disputed Domain Name, i.e. “etiqa”, to determine whether the Disputed Domain Name is similar to the Complainant’s Trademarks (Refer to Annexure No. 8).

The Complainant contends that the second-level portion of the Disputed Domain Name, “etiqa”, is identical or confusingly similar to the Complainant’s



Trademarks for “” and “” conceptually and aurally. It is the Complainant’s submission that the Complainant’s Trademarks incorporates a single and unique “invented” word “Etiqa” and the Disputed Domain Name wholly consists of an alphabetical replication of this distinctive word in identical order. Accordingly, the Complainant submits that this is highly likely to cause confusion of the relevant public and that the first element of the Complaint is satisfied.

ii. The Respondent has no rights or legitimate interests in respect of the Disputed Domain Name:

The Complainant puts forward that the Respondent is not affiliated with, sponsored by, endorsed by the Complainant in any manner or whatsoever. Further, the Complainant has not licensed, consented, or otherwise authorized the Respondent to use the Complainant’s Trademarks or the Disputed Domain Name.

The Complainant puts forward that there is no evidence that Respondent on his own is commonly known by the Disputed Domain Name or that the Respondent is making a legitimate noncommercial or fair use of the Disputed Domain Name without intent for commercial gain to misleadingly divert consumers or to tarnish the Complainant’s Trademarks.

The Complainant holds that the above evidence sufficiently constitutes prima facie evidence to prove that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.

iii. The Disputed Domain Name has been registered and is being used in bad faith:


The Complainant claims that the bad faith can be established based on the following grounds:

- (1) The Respondent has actual knowledge of the Complainant before registering the Disputed Domain Name.

It is submitted that the Complainant’s Trademarks are highly distinctive and widely used in the South East Asia Region including Malaysia. Given the fact that the Respondent’s name “Musaab bin Mesuri”, an individual who is wholly unconnected to the Complainant and the Complainant’s Trademarks at the time of registering / acquiring the Disputed Domain Name, the Complainant contends that the Respondent has prior actual knowledge of the Complainant’s Trademarks and has knowingly chosen to register the Disputed Domain Name with deliberate reference to the Complainant/Complainant’s Entities and the Complainant’s Trademarks in any attempt to impersonate and/or draw an unauthorized connection to the Complainant/Complainant’s Entities and ride on the goodwill and reputation of the Complainant’s Trademarks.

The Complainant argues that the justification provided by the Respondent in its email dated 15 November 2021 that the Respondent registered the Disputed Domain Name on 7 July 2007 due to its “common” connotation with the dictionary word of “etiquette” the next day after the Complainant’s



Malaysian “” trademark no. 07050050 is registered on 6 July 2007 is without substance and is not a mere coincidence. The Complainant submits that the inherent proximity in time between the two events should leave little doubt that they are intimately connected (Refer to Pages 117-8, Annexure No. 11 following a WIPO Case No. *D2013-2081 Steril B.V. v. Nergis*).

(2) The Respondent has used the Disputed Domain Name in bad faith.

The Complainant claims that the Disputed Domain Name was and continues to be inactive since the Complainant’s Letter was sent to the Respondent on or about 5 November 2021. The Complainant submits that the mere fact that the Disputed Domain Name is inactive at present would not prevent a finding of bad faith as it is a well-established principle that the passive holding of a domain name by a respondent can amount to bad faith for the purpose (Refer to P.188-9 Annexure No. 17: *WIPO Case No. D2000-0003 Telstra Corporation Limited v. Nuclear Marshmallows*; Annexure No. 20: *WIPO Case No. D2008-1393 Malayan Banking Berhad v. Beauty, Success & Truth International*).

On 5 November 2021, the Complainant sent a cease and desist letter to the Respondent (the “Complainant’s Letter”). However, the Respondent replied in email on 15 November 2021 and claimed that the Disputed Domain Name was purportedly used to develop a rewards and apps system referred to as “Etiq Apps”. It is the Complainant’s submissions that the Respondent has continuously failed to provide any credible evidence substantiating such claim and to support its prior use or demonstrable preparations to use the Disputed Domain Name with a bona fide offering of goods and services. Even if the Respondent’s assertion that the Disputed Domain Name was used to develop the rewards apps system “Etiq Apps” as recent as in 2021 (which the Complainant denied), such purported use would serve to reinforce the fact that the Respondent has no rights and legitimate interests in the Disputed Domain Name given the confusingly similarity between the Disputed Domain Name and the Complainant’s Trademarks.

The Complainant submits that the Respondent had entered into two agent agreements with an entity of the Complainant’s Entities, Etiqa Family Takaful Berhad as an agent for two Islamic insurance products, respectively on 5 October 2011 for Family Takaful and 28 June 2012 for General Takaful (Refer to Annexure No. 12 for copies of the said agreements). Considering these agreements, the Complainant contends that the Respondent, acting as the top-earning insurance agent for one of the Complainant’s Entities would already have full knowledge of the Complainant’s Trademarks for more than a decade since 2011. As such, the Complainant’s purported use of the Disputed Domain Name for developing “Etiq Apps” in 2021 is still tainted

with bad faith and with the intention to attract internal users to the Disputed Domain Name for obtaining commercial gain.

- (3) The Respondent has engaged in a pattern of bad faith conducts targeting other marks

The Complainant has conducted “whois” search and contends that the Respondent with his official email address musaabmesuri@gmail.com, is in the habit of registering or acquiring domain names containing famous names of third parties in the Malaysian Islamic insurance and banking sectors without any legitimate interests and in bad faith. For instance, the Complainant’s search revealed that the Respondent was in ownership of a) <bankislam.net>, bearing the name of one of the largest Islamic bank in Malaysia on 2 July 2015 and; b) <wasiyyahshoppe.com>, bearing the name of one of the biggest Shariahcompliant trust company in Malaysia on 29 September 2014 (Refer to Annexure No. 22).

The Complainant submits that the Respondent’s registration on the Disputed Domain Name along with other domain names containing famous names demonstrates that the Registrar has engaged in a pattern of registering/acquiring domain names in order to prevent the trademark or service mark from reflecting the mark in a corresponding domain name (Refer to Annexure Nos. 23 and 24).

From the above, the Complainant asserts that it can be seen that the Respondent intended to cause confusion and deception amongst members of the public, using the Complainant’s trade name and the Complainant’s Trademarks with a view of taking unfair advantage of the power of attraction, reputation and prestige of the Complainant’s Trademarks. The Complainant also contends that the Respondent has engaged in a pattern of bad faith conduct by registering the Disputed Domain Name in order to prevent the owner of the trademark from reflecting the mark in the corresponding domain name. As such, the Complainant submits that the Respondent has registered/used the Disputed Domain Name in bad faith.

The Complainant requests that the disputed domain name be transferred to the Complainant.

B. Respondent

The Respondent’s contentions may be summarized as follows:

- (i) **The Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights:**

The Respondent submitted that the Complainant was incorporated on 13 December 2007 by using a different name, Pelangi Amanmaz Sdn Bhd, and the Complainant changed its name to the current name on 15th December 2009. The Respondent claimed that the Complainant’s Trademarks were submitted using a different entity, Malayan Banking Bhd, and that the domain name <etiqa.com.my> was created by Malayan Banking Bhd recently on 6 April 2022. (Refer to Annexure 2)

Given the abovesaid, the Respondent submitted that the Respondent has no knowledge about the Complainant's Trademarks in 2007 at the time of creation of the Disputed Domain Name.

The Respondent did not directly rebut the Complainant's claims that the Complainant has rights in the Complainant's Trademarks, and/or the Complainant's claims that the Disputed Domain Name is confusingly similar with their marks.

(ii) The Respondent has no rights or legitimate interests in respect of the Disputed Domain Name:

The Respondent contends that the Disputed Domain Name was created on 7 July 2007 which was dated before the acceptance date of the Complainant's trademark for "Etiqa" on 11 July 2017, and thus the Respondent has rights or legitimate interests in respect of the Disputed Domain Name. (Refer to Annexure 2)

(iii) The Disputed Domain Name has been registered and is being used in bad faith:

1. In response to the Complainant's claims that the Respondent has actual knowledge of the Complainant before registering the Disputed Domain Name

As abovementioned, the Respondent put forwards that they do not have any knowledge of the Complainant and the Complainant's Trademarks at the time of creation of the Disputed Domain Name in 2007 given the fact that the Complainant's Trademarks were filed in a different name, Malayan Banking Bhd, instead of the Complainant's name, and that the Complainant has only changed its name to the current name in 2009.

The Respondent further submits that the Respondent had knowledge of the Complainant when an agent of the Complainant approached the Respondent to invite him to become its agent on 15 November 2011. The Respondent has officially resigned as an agent from Etiqa Takaful Berhad on 8 April 2022. (Refer to Annexures 3 and 9)

2. In response to the Complainant's claim that the Respondent has used the Disputed Domain Name in bad faith

The Respondent claimed that the Disputed Domain Name was not filed in bad faith as it was created as soon as the domain names dropped from French company on 7 July 2007. The Respondent explained that the choice of the word "Etiqa" in the Disputed Domain Name was because the word "Etiquette" or "Ethic" were spelled as "Etika" in Bahasa Malaysia and it is similar to the dictionary word pronunciations of "Eti-ka" and "Eti-qa". (Refer to Annexure 1)

The Respondent further submitted that the Respondent used a private sub domain name <etiqa.com/EtiqApps> to build a web app named "Etiq Apps" in 2019 to manage his kids' behavior and for them to build a good ethics. (Refer to Annexure 5)

3. In response to the Complainant's claims that the Respondent has engaged in a pattern of bad faith conducts targeting other marks

The Respondent rebutted that the Complainant's allegation of the Respondent owning the domain name <WasiyyahShoppe.com> in bad faith is untrue. The Respondent claimed that the said domain name was registered on behalf of Respondent's client's request at first, but the client has decided to use the name Wasiyyah Amanah Bhd instead. As such, the domain name <wasiyyahshoppe.com> has not been in use since 2018. (Refer to Annexure 7)

5. Findings


The ICANN Uniform Domain Name Dispute Resolution Policy provides, at Paragraph 4(a), that each of three findings must be made in order for a Complainant to prevail:

- i. Respondent's domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- ii. Respondent has no rights or legitimate interests in respect of the domain name; and
- iii. Respondent's domain name has been registered and is being used in bad faith.

A) Identical / Confusingly Similar

Pursuant to the Paragraph 4(a)(i) of the Policy, the complainant must prove that a disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights.

The Panel accepts that MBB is the registered owner of the Complainant's Trademarks,

which includes “” with registration date on 6 July 2007. In view of the evidence submitted by the Complainant, including but not limited to the screenshots of various social media pages and online promotional materials with the use of the Complainant's Trademarks (Refer to Annexure No. 6), the Panel accepts that the MBB enjoys registered and common law rights in marks bearing the word “Etiqa” before the Respondent registered the Disputed Domain Name on 7 July 2007.

The Panel notes the Complainant claimed in the Complaint that it is a wholly-owned subsidiary of its parent company, MBB and is affiliated with the Etiqa Entities (Refer to Annexure No. 5 on the corporate structure diagram showing the relationship between the Complainant and the Etiqa Entities). The Panel is satisfied that the authorization letter issued by MBB to the Complainant (Refer to Annexure No. 3) is sufficient to show that the Complainant has been duly authorized by MBB to utilize the registered and common law trademark rights over including but limited to the Complainant's Trademarks, and to file the subject domain name complaint.

The Disputed Domain Name is <etiqa.com>, the distinctive element being “etiqa”. Comparing the Complainant's Trademarks and the distinctive element of the Disputed Domain Name, the distinctive element is identical to the Complainant's marks bearing the word “Etiqa” and the Complainant's company name. The suffix “.com” in the Disputed Domain Name is general term which do not confer to the whole a new meaning involving the absence of risk of confusion with the Complainant's Trademarks.

Based on the above, the Panel finds that the Disputed Domain Name is identical or confusingly similar to the Complainant's Marks. Accordingly, the Complainant has satisfied the element required by Paragraph 4(a)(i).


B) Rights and Legitimate Interests

Once the Complainant establishes a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name, the burden of production shifts to the Respondent to show that it has rights or legitimate interests in respect to the disputed domain name. (See *Edgwell Personal Care Brands LLC v. jifeifeil*, Case No. HK-1600855)

In the present case, the Complainant has demonstrated prima facie that the Respondent lacks rights or legitimate interests in respect of the Disputed Domain Name and the Respondent has failed to assert any such rights or legitimate interests.

The Panel notes that the Complainant indicated that the Complainant has not licensed or otherwise permitted the Respondent to use the Complainant's Trademarks or a variation thereof.

The Panel cannot accept the Respondent's rebuttal that it has rights or legitimate interests in respect of the Disputed Domain Name merely because of its creation of the same on 7 July 2007, which was before the acceptance date of the Complainant's Malaysian

trademark for “” under trademark no. 07050050 on 11 July 2017. Based on the Annexure 2 of the Response and evidence provided by the Complainant, it is clearly shown that trademark no. 07050050 was “Registered/Protected on 6 July 2007”, which was earlier than the registration date of the Disputed Domain Name. The Panel considers the acceptance date of the Complainant's trademark no. 07050050 to be an irrelevant consideration.

Other than the aforesaid argument, the Respondent did not provide any further explanation or evidence to show any rights or legitimate interests in the Disputed Domain Name sufficient to rebut the Complainant's prima facie case. The Panel further notes that the Respondent's name “Musaab bin Mesuri” has no relationship with “etiqa”.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.

C) Bad Faith


The Complainant must show that the Respondent registered and is using the Disputed Domain Name in bad faith (Paragraph 4(a)(iii) of the Policy). Paragraph 4(b) of the Policy provides circumstances that may evidence bad faith under paragraph 4(a)(iii) of the Policy: “the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that the Respondent has registered or acquired the Disputed Domain Name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in

- excess of the Respondent's documented out-of-pocket costs directly related to the Disputed Domain Name; or
- (ii) the Respondent has registered the Disputed Domain Name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the Respondent has engaged in a pattern of such conduct; or
 - (iii) the Respondent has registered the Disputed Domain Name primarily for the purpose of disrupting the business of a competitor; or
 - (iv) by using the domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent's web site or other on-line location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's web site or location or of a product or service on the Respondent's web site or location."

Based on the evidence submitted by the Complainant (including but not limited to Annexure No. 6), the Panel accepts that the Complainant's Trademarks have acquired a certain level of reputation around the world, such as in the South East Asia Region, including in Malaysia, through the extensive promotion of the goods and services.

The Panel further notes that the Respondent registered the Disputed Domain Name on 7 July 2007, which was one day after the Complainant registered its Malaysian trademark for


“ eTiqa ” under trademark no. 07050050 on 6 July 2007. The Panel accepts the Complainant's submission of the WIPO Case No. *D2013-2081 Steril B.V. v. Nergis* (Refer to Annexure No. 11) which lays down the rule that such inherent proximity in time between the two events should leave little doubt that they are intimately connected.

The Respondent claimed that the word “Etiqa” used in the Disputed Domain Name is chosen because the word “Etiquette” or “Ethic” were spelled as “Etika” in Bahasa Malaysia and it is similar to the dictionary word pronunciations of “Eti-ka” and “Eti-qa” (Refer to Annexure 1). The Respondent further submitted screenshots of the alleged “Etiq Apps” built by the Respondent and used under a private sub domain of the Disputed Domain Name (Refer to Annexure 5). However, the Panel considers the Respondent's submissions and evidence to be insufficient as there is no explanation as to why the Respondent has changed the spelling of the Bahasa Malaysian word of “Etika” to “Etiqa” and adopt the same in the Disputed Domain Name, and there is no indication that the screenshots of the web app indeed pertain to the website under the Disputed Domain Name.

Given the fact that “Etiqa” forms part of the Complainant's company name, and the fact that the Respondent name “Musaab bin Mesuri” has no relevance to the Disputed Domain Name at all, the Panel finds that the Respondent's application for the Disputed Domain Name which is identical/highly similar to the Complainant's Trademarks and its brand, which have acquired a certain level of reputation, is not a mere coincidence. The Panel considers that the Respondent has specifically registered the Disputed Domain Name in bad faith, including but not limited to primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant and/or for the purpose of disrupting the business of a competitor, satisfying to Paragraph 4(b)(i) and/or (iii) of the Policy.

In view of the above, the Panel finds that the above evidence is sufficient to show bad faith of the Respondent and accordingly, the Complainant has met its burden to establish the element under Paragraph 4(a)(iii) of the Policy.

6. Decision

Pursuant to Paragraph 4 of the Policy and Article 15 of the Rules, the Panel orders that the Disputed Domain Name <etiqa.com> be transferred to the Complainant.

Vivien Chan
Sole Panelist

Dated: 15 December 2022