

**ASIAN INTERNATIONAL ARBITRATION CENTRE
(KUALA LUMPUR OFFICE)
ADMINISTRATIVE PANEL DECISION**

AIAC/ADNDRC-1382-2024

AirAsia Berhad ..Complainant

v/s

Cong Ty TNHH Du Lich Bay Viet My ..Respondent

In the matter of Disputed Domain Name <AIRASIAVN.COM>

1 The Parties and Disputed Domain Name

- 1.1 The Complainant is AirAsia Berhad, RedQ, Jalan Pekeliling 5, Lapangan, Terbang Antarabangsa Kuala Lumpur (KLIA2), 64000 Sepang, Selangor, Malaysia.
- 1.2 The Respondent is Cong Ty TNHH Du Lich Bay Viet My, 466/8 Tan Ky Tan Quy, Phuong Son Ky, Quan Tan Phu, Vietnam.
- 1.3 The disputed domain name is <AIRASIAVN.COM> (the “Disputed Domain Name”), registered with P.A. Viet Nam Company Limited, Vietnam (the “Registrar”).

2 Procedural History


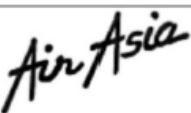
- 2.1 On September 6, 2024, the Complainant had filed the Complaint pursuant to the Uniform Domain Name Dispute Resolution Policy (the “Policy”) with the Asian International Arbitration Centre, Kuala Lumpur (the “Centre”). The Complainant opted for a sole Panel to handle this dispute.
- 2.2 The Policy is incorporated by reference into the Registration Agreement with the Registrar.
- 2.3 The Centre verified that the Complaint satisfied the formal requirements of the Policy, the Rules of Uniform Domain Name Dispute Resolution Policy (the “Rules”) and the Supplemental Rules of the AIAC (the “Supplemental Rules”).
- 2.4 In accordance with the Rules, the Centre formally notified the Respondent of the Complaint, and the proceedings commenced on January 10, 2025. In accordance with Rule 5 of the Rules, the due date for response was January 30, 2025. The Respondent did not submit any official response. However, the Respondent sent an informal communication to the Center on January 18, 2025 stating that the Respondent have permanently deactivated the Disputed Domain Name and also notified the Registrar to cancel the Disputed Domain Name.
- 2.5 The Centre appointed Prof. (Adv.) Dipak G. Parmar as the sole Panelist in this matter on February 5, 2025. The Panelist has submitted the Declaration of Impartiality and Independence as required by the Centre to ensure compliance with the Rules.

3 Factual Background

- 3.1 The Complainant, AirAsia Berhad, is a subsidiary of Capital A Berhad (formerly AirAsia Group Berhad), which owns and operates the first multinational low-cost and largest budget airline in Malaysia. Capital A Berhad started as a low-cost carrier in Malaysia, Indonesia, Thailand, Philippines and India, and has carried more than 800 million guests to over 130 destinations across Asia, Australia, Middle East and the U.S.
- 3.2 The aviation arm of Capital A Berhad, “AirAsia the airline”, was originally founded in 1993. The AirAsia Group of Companies (the “AirAsia Group”) now operates a network of low-cost carriers including its affiliated airlines: AirAsia Cambodia, Thai AirAsia, AirAsia India, Philippines AirAsia and Indonesia AirAsia. Its sister airline, AirAsia X, focuses on long-haul routes.
- 3.3 The AirAsia Group is known to be the pioneering airline for low-cost travel in Asia and has been recognized as the World’s Leading Low-Cost Airline for 15 consecutive years at the Skytrax World Airline Awards 2024 and have received multiple other prestigious awards.
- 3.4 The AirAsia Group has numerous brands, which, inter alia, include AIRASIA (word mark), various AIRASIA device marks, AirAsia Superapp, Teleport, BigPay, Santan etc. The Complainant owns trademarks AIRASIA and has filed various trademark applications for registration of its trademarks AIRASIA in Vietnam. As per TMview.org report dated February 6, 2025, the following device marks AIRASIA were registered and valid as on February 6, 2025 in Vietnam.

No.	Trademark	Registration No.	Class	Application Date (DD-MM-YYYY)	Registration Date (DD-MM-YYYY)
1		4-0328136-000	39	07-04-2017	23-08-2019
2		4-0328137-000	39	07-04-2017	23-08-2019
3		4-0328138-000	39	07-04-2017	23-08-2019
4		4-0328139-000	39	07-04-2017	23-08-2019

- 3.5 The Complainant's main domain name <AIRASIA.COM> was registered on May 29, 1997. It is currently registered in the name of Move Travel Sdn Bhd, a subsidiary of Capital A Berhad. <AIRASIA.COM> allows customers to make, among others, airline flight reservations (which include changing, checking-in and viewing flight status), hotel bookings and e-hailing bookings.
- 3.6 The Respondent, a travel agency operating under the name “Viet My Travel Group” has registered the Disputed Domain Name <AIRASIAVN.COM> on June 25, 2013 and using the same without authorization. The Respondent misrepresents itself as a trusted AirAsia agent and also unlawfully using the Complainant’s trademarks, images, and copyrighted materials to market and sell airline tickets.
- 3.7 At the time of registration of the Disputed Domain Name, the Complainant was the registered trademark owner of following two trademarks in Vietnam.

No.	Trademark	Application / Registration No.	Class	Application Date (DD-MM-YYYY)	Registration Date (DD-MM-YYYY)
1		Registration No. 4-0063801-000	39	06-08-2003	16-06-2005
2		Registration No. 4-0066623-000	39	06-09-2003	19-09-2005

4 Parties’ Contentions

4.1 Complainant

The Complainant contends that:

- 4.1.1 The AIRASIA Marks/brand, which is also the Complainant’s company name, is reproduced in its entirety in the disputed domain name with the addition of “vn”, and this does not prevent a finding of confusing similarity as the Complainant’s company name and/or “AIRASIA” mark are recognizable within the Disputed Domain Name.
- 4.1.2 The Respondent has no rights or legitimate interests in the Disputed Domain Name. Neither the Complainant, its parent company or subsidiaries authorized the Respondent to use the word “AIRASIA” or any other of the marks, images, keywords colour scheme etc. belonging to the AirAsia Group in the disputed domain name nor is the Respondent authorized to provide any goods or services bearing the word/mark “AIRASIA”. The word/term “AIRASIA”, brand and various AIRASIA Marks have been used by the Applicant for circa 23 years, whilst the Respondent is not commonly and/or widely known by the name “AIRASIA” in Vietnam and/or internationally nor does the Respondent own any trademark in the term “AIRASIA”. Thus, the Respondent’s use and registration of the Disputed Domain Name <AIRASIAVN.COM> is likely to lead internet users and/or the public into believing that the Respondent is associated with the Complainant and its business.

- 4.1.3 The Disputed Domain Name was registered and is being used in bad faith. Based on the worldwide and long standing reputation of the Complainant’s AIRASIA Marks, brand and business as well as having invested considerable amount of money in their worldwide advertising campaigns, it is highly unlikely that the Respondent was unaware of it. The Respondent took unfair advantage of the Complainant’s worldwide reputation by misleading internet users into believing an affiliation exists (particularly in claiming to be an “agent”) and diverting them for payment purposes.
- 4.1.4 Even though the Complainant reported to the Registrar on May 13, 2024 and the Registrar replied via email dated May 13, 2024 in that they have notified the Respondent, there have not been any changes to the Disputed Domain Name– i.e. the Complainant’s trademarks, flight bookings, images and keywords have not been removed from the Respondent’s website.

4.2 Respondent

The Respondent did not submit any official response. However, the Respondent sent an informal communication to the Center on January 18, 2025, stating that the Respondent have permanently deactivated the Disputed Domain Name and also notified the Registrar to cancel the Disputed Domain Name.

5. Discussion and Findings

- 5.1 According to the Policy, the Complainant must prove that:
- (i) the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which complainant has rights;
 - (ii) the Respondent has no rights or legitimate interests in the Disputed Domain Name; and
 - (iii) the Disputed Domain Name has been registered and is being used in bad faith.

5.2 Identical or Confusingly Similar

The Complainant, including its group companies, has been continuously and uninterruptedly using the trademark “AIRASIA” since 1993. The Complainant’s trademark “AIRASIA” is a registered trademark in Vietnam. The Complainant has provided evidence of its registered trademarks in Vietnam and usage of the trademark “AIRASIA”, based on which, it is found that the Complainant has established its rights in the trademark “AIRASIA”. It is well accepted, that submitting proof of trademark registration is considered *prima facie* evidence of enforceable rights in a mark.¹ The Disputed Domain Name <AIRASIAVN.COM> incorporates the Complainant’s trademark “AIRASIA” in its entirety, and mere addition of “VN”, the abbreviation for Vietnam, and the top-level domain “.com”. It is well-established in various decisions under the Policy that the presence or absence of spaces, punctuation marks between words or indicators for generic top-level domain (gTLD), such as .com, etc., are irrelevant to the consideration of identity or confusing similarity between a trademark and a disputed domain name. The “.com” suffixes should not be taken into account while comparing the Complainant’s trademark

¹ In the matter of Perfetti Van Melle Benelux BV v. Lopuhin Ivan, IPHOSTER WIPO Case No. D2010-0858 it was held that trademark registration constitutes *prima facie* evidence of the validity of trademark rights. See Backstreet Productions, Inc. v. John Zuccarini, CupcakeParty, Cupcake Real Video, Cupcake-Show and Cupcakes-First Patrol, WIPO Case no. D2001-0654.



and the Disputed Domain Name². Similarly, the addition of “VN”, the abbreviation for Vietnam, would be insufficient to avoid a finding of confusing similarity³. Therefore, the Panel finds that the Disputed Domain Name <AIRASIAVN.COM> is confusingly similar to the Complainant’s trademark “AIRASIA”.

5.4. Rights or Legitimate Interests

The Respondent is not commonly known by the Disputed Domain Name nor conducted legitimate business under such name. The Complainant asserts that it has not licensed, authorized, or permitted the Respondent to use the trademark “AIRASIA”. The composition of the Disputed Domain Name consists of "AIRASIA", trademark of the Complainant and the addition of "VN", the abbreviation for Vietnam. Such composition of the Disputed Domain Name itself carries a risk of implied affiliation and cannot constitute fair use if it effectively impersonates or suggests sponsorship/endorsement by the trademark owner. Thus, the Respondent is conveying a false impression about the relationship with or endorsement from the Complainant, and effectively impersonated the Complainant’s trademark⁴. The Respondent deliberately misrepresents itself as a trusted AirAsia agent and also unlawfully using the Complainant’s trademarks, images, and copyrighted materials to market and sell airline tickets. The Complainant has made out a *prima facie* case that the Respondent has no rights or legitimate interests in the Disputed Domain Name, and as such the burden of proof shifts to the Respondent. No formal response filed by the Respondent. Thus, the complainant may be deemed to have satisfied paragraph 4(a)(ii) of the Policy.⁵ Consequently, the Panel concludes that the Respondent has no rights or legitimate interests in the Disputed Domain Name <AIRASIAVN.COM>.

5.5 Registered and Used in Bad Faith

At the time of registration of the Disputed Domain Name, i. e. June 25, 2013, the Complainant was not only using the trademark “AIRASIA” but also the registered trademark owner of following two trademarks in Vietnam and the prior registrant of <AIRASIA.COM>.

No.	Trademark	Application / Registration No.	Class	Application Date (DD-MM-YYYY)	Registration Date (DD-MM-YYYY)
1		Registration No. 4- 0063801-000	39	06-08-2003	16-06-2005
2		Registration No. 4- 0066623-000	39	06-09-2003	19-09-2005

2 See 1.11.10 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (WIPO Overview 3.0). Also see Volkswagen AG v. Privacy Protection Services Case No. D2012-2066

3 See 1.8 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (WIPO Overview 3.0). Also see Yahoo! Inc. vs Akash Arora & Anr. 1999 (19) PTC 201, wherein domain name <yahooindia.com> was found identical or confusingly similar to trademark "Yahoo!"; Playboy Enterprises International, Inc. v. Zeynel Demirtas, WIPO Case No. D2007-0768, <playboyturkey.com>; Cellular One Group v. Paul Brien WIPO case no. D2000-0028, <cellularonechina.com>; BHP Billiton Innovation Pty Ltd v. Oloyi, WIPO Case No. D2017-0284, <bhpbillitonusa.com>; Allianz SE v. IP Legal, Allianz Bank Limited, WIPO Case No. D2017-0287, <allianzkenya.com>; and Wal-Mart Stores Inc. v. Walmart Canada WIPO case no. D2000-0150, <walmartcanada.com>; .

4 See LEGO Juris A/S v. Tiffany Freund Case No. D2024-0105

5 See Altria Group, Inc. v. Steven Company, WIPO Case No. D2010-1762

The Respondent knew, or at least should have known, of the existence of the Complainant's trademark "AIRASIA". The Respondent has incorporated the Complainant's trademark "AIRASIA" in its entirety and also deliberately misrepresents itself as a trusted AirAsia agent. The Respondent also unlawfully using the Complainant's trademarks, images, and copyrighted materials to market and sell airline tickets, to attract Internet users for commercial gain to the Disputed Domain Name by creating a likelihood of confusion as to association with the Complainant's mark with an intent of trading on the goodwill and reputation associated with the Complainant's trademark "AIRASIA" for illegal profits.⁶ These facts supports the inference that the Respondent deliberately registered the Disputed Domain Name and using the Complainant's trademark with the intention to exploit it. This proves beyond reasonable doubt his malafide intent behind registration and use of the Disputed Domain Name. Accordingly, the Panel finds on balance that the Disputed Domain Name has been registered and is being used in bad faith.

6. Decision

In light of the foregoing reasons, the Panel orders that the Disputed Domain Name <AIRASIAVN.COM> be transferred to the Complainant.



Panellist: Prof. (Adv.) Dipak G. Parmar

Date: February 17, 2025

⁶ See Weny's LLC v. Apex Limited, INDRP Case no. 737. In this case the domain name <wendys.co.in> was found to be registered with the intention of trading on the goodwill and reputation associated with Wendy's trademark and was held to be registered and use of domain name in bad faith. Also see Philip Morris Products S.A. v. Turgay Sevimli WIPO Case No. D2024-0007; Velcro IP Holdings LLC and Velcro USA, Inv. v. Muhammad Noman Akram WIPO Case No. D2024-0022; Decathlon v. Client Care, Web Commerce Communications Limited WIPO Case No. D2024-0020.