

ADMINISTRATIVE PANEL DECISION

Penney OpCo LLC v. lei zhou
Case No. D2025-2119

1. The Parties

The Complainant is Penney OpCo LLC, United States of America (“U.S.”), represented by Catalyst Brands LLC, U.S.

The Respondent is lei zhou, China.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 28, 2025. On May 30, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 30, 2025, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 2, 2025, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on June 2, 2025.

The Center verified that the Complaint together with the amendment to 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 the Respondent of the Complaint, and the proceedings commenced on June 3, 2025. In accordance with the Rules, paragraph 5, the due date for Response was June 23, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 24, 2025.

The Center appointed William A. Van Caenegem as the sole panelist in this matter on July 2, 2025. 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 Complainant is Penney OpCo LLC, doing business as JCPenney (“JCPenney”). The Complainant is a U.S. corporation engaged in the development, marketing, advertising, and retail sale of home goods, accessories, and apparel to the general public, through stores throughout the U.S. and online at “www.jcpenny.com”. The Complainant is the owner of the LIZ CLAIBORNE and CLAIBORNE trademarks in connection with a number of classes of goods, including shirts, pants, jackets, sunglasses and glasses, wallets, household furnishings, and swimwear.

The Complainant is the current owner of a number of U.S. trademark registrations, including U.S. Registration Number 1,167,434 for LIZ CLAIBORNE, registered on September 1, 1981, for “Skirts, Shirts, Blouses, Pants, Jackets, Sweaters, Dresses, Shorts, Scarves, Tunics, Blazers and Outerwear_namely, Coats, Jackets, Hats, Hoods and Gloves” in International Class 25; U.S. Registration Number 1,422,446 for LIZ CLAIBORNE, registered on December 30, 1986, for “Perfumes and Colognes” in International Class 3; and U.S. Registration Number 1,442,825 for LIZ CLAIBORNE, registered on June 16, 1987, for “Sunglasses, Eyeglass Frames” in International Class 9, “Wallets and Key Cases” in International Class 18, “Household Furnishings, namely, Sheets, Pillow Cases, Bedspreads, Comforters, Towels, Pillow Shams, Dust Ruffles, and Duvet Covers” in International Class 24, and “Dress Hosiery, Boots, and Sneakers” in International Class 25.

The disputed domain name was registered on May 23, 2024, and resolves to a website that mimics the Complainant’s Internet presence and copies its LIZ CLAIBORNE marks.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy.

Notably, the Complainant contends that despite its long-standing exclusive rights in its LIZ CLAIBORNE marks, the Respondent chose to register the disputed domain name which is virtually identical to its protected marks. The Complainant adds that the disputed domain name differs merely by the addition of the word “fashion” to the end of its registered LIZ CLAIBORNE mark. The Complainant contends that it is therefore readily apparent that the disputed domain name is, and is intended to be, identical or at least confusingly similar to its registered LIZ CLAIBORNE marks.

The Complainant says that the Respondent is in no way affiliated with or endorsed by it, and has never been licensed or approved to use any of the Complainant’s registered marks, or any confusingly similar designation, as part of a domain name. The Complainant adds that the Respondent’s continued use of the disputed domain name to falsely imply such a license or authorization will likely cause the former to suffer irreparable damage through loss of valuable goodwill in its trademarks.

The Complainant then contends that the Respondent has not used the disputed domain name in connection with bona fide offerings of goods or services. In fact, the Respondent uses the disputed domain name to lure Internet users to a dubious website, where users are then confronted with multiple references to retail goods and services, all designed by the Respondent to confusingly suggest that Respondent is at least endorsed by or somehow affiliated with LIZ CLAIBORNE and/or JCPenney, the Complainant says. The Respondent even features the actual LIZ CLAIBORNE mark, including the ® designation, on the landing page to which the disputed domain name resolves, demonstrating that the Respondent’s only purpose is to divert Internet users for Respondent’s commercial gain by misappropriating JCPenney’s goodwill and

depriving JCPenney of a valuable source of revenue. The Complainant also says that the Respondent's use of the disputed domain name has not resulted in the Respondent being commonly known as "lizclaibornefashion." There is also no evidence that the Respondent was or is commonly known by "lizclaibornefashion" when it registered the disputed domain name. Further, the Complainant contends that the Respondent cannot demonstrate a legitimate noncommercial or fair use of the disputed domain name which it in fact uses to confuse consumers for its own commercial gain.

The Complainant contends that the Respondent deliberately attempts to attract Internet users to its website by creating confusion with the LIZ CLAIBORNE marks as to the source, sponsorship, affiliation or endorsement of the disputed domain name. As a result, the Complainant maintains, JCPenney's customers and prospective customers are likely to be deceived into entering the Respondent's websites believing that they are dealing with JCPenney or that the disputed domain name is affiliated with or somehow endorsed by JCPenney.

The Complainant concludes that the Respondent has used the disputed domain name to knowingly and deceitfully associate dubious websites with JCPenney and the LIZ CLAIBORNE brand. Accordingly, the Complainant contends that the Respondent's registration and use of the disputed domain name was, and continues to be, in bad faith. The Complainant also addresses the nine factors of the U.S. Anti-Cybersquatting Consumer Protection Act ("ACPA"; 15 U.S.C. § 1125(d)(1)(B)(i)), concluding that consideration of all the factors is consistent with inferences of bad faith on the part of the Respondent.

Accordingly, the Complainant requests the cancellation of the disputed domain name.

B. Respondent

The Respondent did not reply to the Complainant's contentions

6. Discussion and Findings

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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("WIPO Overview 3.0"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. WIPO Overview 3.0, section 1.2.1.

The entirety of the LIZ CLAIBORNE registered mark of the Complainant is reproduced in the disputed domain name. Although the addition of other terms, here "fashion", 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 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.

The disputed domain name resolves to a website where aspects of the Complainant’s LIZ CLAIBORNE branding are reproduced, including an identical trademark LIZ CLAIBORNE along with the ® registration sign, and where multiple references to retail goods and services and depictions of fashion items are found, none of which are authorized or licensed by the Complainant. The unauthorized copying and use of a registered trademark, the false suggestion of affiliation or license, and the offering of goods in association with the copied mark – all without explanation of the lack of relationship between the Respondent and the Complainant – are not legitimate activities. They therefore do not result in the recognition of rights or legitimate interests to the benefit of a Respondent who engages in them.

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.

In the present case, the Panel notes that the Respondent has registered a disputed domain name that incorporates a highly distinctive, long used, and widely known registered trademark without any approval to do so from the trademark owner. That the Respondent was aware of the exclusive rights of the Complainant in the LIZ CLAIBORNE mark in the field of fashion, is apparent from the composition itself of the disputed domain name. In any case a simple Internet or trademark registry search would have revealed those exclusive rights, and the Respondent ought to have undertaken such a search before registering the disputed domain name. The fact that the disputed domain name then resolves to a website where the Complainant’s registered trademark is copied without permission, and that has other features that shadow the Complainant’s own web presence, indicates that not only was the disputed domain name registered in bad faith, it was also so used. The relevant website by its content and design aims to deceive internet users into thinking they have arrived at a website established or approved by the Complainant, which is obviously not the case.

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 <lizclaibornefashion.com> be cancelled.

/William A. Van Caenegem/

William A. Van Caenegem

Sole Panelist

Date: July 16, 2025