

ADMINISTRATIVE PANEL DECISION

BJ's Wholesale Club, Inc. v. shi meimei
Case No. D2026-1206

1. The Parties

The Complainant is BJ's Wholesale Club, Inc., United States of America ("United States"), represented by Nelson Mullins Riley & Scarborough LLP, United States.

The Respondent is shi meimei, China.

2. The Domain Name and Registrar

The disputed domain name <berkley-jensen.com> is registered with Dynadot Inc (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on March 20, 2026. On March 20, 2026, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 31, 2026, 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 (Dynadot Privacy Service, Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 31, 2026, 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 amended Complaint on March 31, 2026.

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 Respondent of the Complaint, and the proceedings commenced on April 1, 2026. In accordance with the Rules, paragraph 5, the due date for Response was April 21, 2026. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 22, 2026.

The Center appointed Alistair Payne as the sole panelist in this matter on April 30, 2026. 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 has since the mid 1980's operated a series of warehouse clubs located primarily in the eastern half of the United States. The Complainant provides customers with a curated assortment of groceries, fresh foods, general merchandise, gasoline, and other ancillary services through 250 large format, high volume warehouse clubs and 186 petrol stations in 21 states. It offers various private label brands, including the BERKLEY JENSEN brand which it has offered since 1999 in connection with household, personal care and general merchandising products. It owns various trade mark registrations including United States trade mark registration number 2696009 registered on March 11, 2003.

The disputed domain name was registered on May 25, 2025 and resolves to a website that appears as an official BERKLEY JENSEN website and which uses the BERKLEY JENSEN mark and offers its branded products but which contains a note at the footer of the website claiming to be a "participant in the Amazon Services LLC Associates Program, an affiliate advertising program designed to provide a means for sites to earn advertising fees by advertising and linking to Amazon.com".

The website at the disputed domain name contains "Buy on Amazon" links embedded on its home page both at the top of the page and also other lower down on the page. These links purport to link Internet users to a BERKLEY JENSEN listing on Amazon, however, according to the Complainant's evidence, when clicking one of the links, Internet users are rather directed to an Amazon search results page for a search for "Berkley Jensen t-shirts" and are then presented with multiple listings for third party branded t-shirts.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that it owns registered trade mark rights for its BERKLEY JENSEN mark as set out above. It says that its BERKLEY JENSEN mark is wholly incorporated into the disputed domain name which is comprised solely of this mark and is therefore confusingly similar to it.

The Complainant submits that the Respondent is not commonly known by the BERKLEY JENSEN mark and has not authorised the Respondent to use its mark. Nor, says the Complainant, is the Respondent a licensee of the BERKLEY JENSEN mark. It also asserts that the disputed domain name is identical/confusingly similar to the Complainant's BERKLEY JENSEN mark and that it carries a high risk of implied affiliation which supports a finding that the Respondent lacks any rights or legitimate interests.

The Complainant maintains that the Respondent has not been using the disputed domain name for a bona fide offering of goods or services prior to notice of the Complaint. The Complainant says that the Respondent's use of the disputed domain name to resolve to a website that masquerades as if it is the Complainant's website, or is affiliated with, or authorised by, the Complainant as described under section 4 above, is in furtherance of an illegal activity, namely, the impersonation or passing off and possibly also the harvesting of personal information under false pretenses. Nor, says the Complainant, can such use of the disputed domain name ever qualify as legitimate noncommercial, or fair use, of the disputed domain name.

The Complainant also contends that the Respondent cannot argue that it is a legitimate reseller of BERKLEY JENSEN products as it does not satisfy the test set out in WIPO Overview of WIPO Panel Views on Select UDRP Questions ("[WIPO Overview 3.1](#)"), section 2.8.1. This, says the Complainant, is because it does not appear to be selling the BERKLEY JENSEN products but is rather driving traffic to Amazon which, even if it is selling the Complainant's products, is also promoting and selling third party products.

The Complainant submits that the BERKLEY JENSEN mark is a highly distinctive and well-known mark that it has used in commerce for the past 26 years and that it stretches credibility that the Respondent would have a legitimate speculative reason for registering the disputed domain name other than for targeting the Complainant in bad faith. Further, the Complainant says that there can be no question but that the Respondent knew of the Complainant when it registered the disputed domain name which is apparent from the Respondent's use of the disputed domain name and accompanying website to impersonate the Complainant.

As far as use in bad faith is concerned, the Complainant says that prior panel decisions have consistently found that the use of domain names in furtherance of illegal activities amounts to use in bad faith. It maintains that the use of a domain name for fraudulent/illegal activities, such as impersonation or passing off amounts to evidence of registration and use in bad faith. The Complainant submits that the Respondent's use of the disputed domain name in this case amounts to use in order to impersonate the Complainant and to hold the website out as being an official site of the Complainant or an officially affiliated site. It also says that it is very likely that the Respondent is using the website at the disputed domain name to harvest third party personal information.

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 3.1](#), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.1](#), section 1.2.1.

The Panel finds the mark is recognisable within the disputed domain name. Accordingly, the disputed domain name is nearly identical (save for addition of the hyphen) and is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.1](#), section 1.7.

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 that 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 3.1](#), section 2.1.

The Complainant has submitted that the Respondent is not commonly known by the BERKLEY JENSEN mark and has not authorised the Respondent to use its mark. The Complainant has also submitted that the Respondent is not a licensee of the BERKLEY JENSEN mark and that the disputed domain name is confusingly similar to the Complainant's BERKLEY JENSEN mark and accordingly carries a high risk of implied affiliation.

The Complainant has also asserted that the Respondent is not using the disputed domain name for a bona fide offering of goods or services, prior to notice of the Complaint. The Complainant has submitted that the Respondent's use of the disputed domain name to resolve to a website that masquerades as if it is the Complainant's website, or is affiliated to, or authorised by, the Complainant, as described under section 4 above, is in furtherance of an illegitimate or illegal activity, namely, the impersonation or passing off and possibly also the harvesting of personal information under false pretenses. The Complainant has also asserted that such use of the disputed domain name can never qualify as legitimate noncommercial, or fair use.

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 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 BERKLEY JENSEN mark is a distinctive and well-known mark that has been used in commerce by the Complainant for the past 26 years and for many years prior to the registration of the disputed domain name. The Panel finds that the Respondent almost certainly knew of the Complainant and of its BERKLEY JENSEN mark when it registered the disputed domain name in 2025 which is apparent from the Respondent's use of the disputed domain name and accompanying website to present itself falsely as if it is the Complainant, or is authorised to promote and sell the Complainant's BERKLEY JENSEN products.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.1](#), section 3.2.1.

Under paragraph 4(b)(iv) of the Policy there is evidence of registration and use of the disputed domain name in bad faith where a Respondent has used the disputed domain name to intentionally attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trade marks as to the source, sponsorship, affiliation or endorsement of the website.

In this case the Respondent has used the disputed domain name to divert Internet users to its website at which it masquerades as if it is the Complainant, or is affiliated with the Complainant without distinguishing itself properly or using a clear disclaimer. The website to which the disputed domain name resolves contains "Buy on Amazon" links that offer either the Complainant's or a third party's goods to Internet users. This

amounts to conduct in terms of paragraph 4(b) (iv) of the Policy and is evidence of registration and use of the disputed domain name in bad faith under the Policy.

Panels have held that the use of a domain name for illegitimate or illegal activity, here, claimed to be passing off, constitutes bad faith. [WIPO Overview 3.1](#), section 3.4. Further, having reviewed the record, the Panel finds that in circumstances that there is no evidence that the Respondent itself sells or has sold goods to Internet users through the website at the disputed domain name, it is more likely than not that the Respondent uses the website at the disputed domain name to obtain the personal information of Internet users for illicit reasons. This also constitutes evidence of registration and use in bad faith under the Policy.

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 <berkley-jensen.com> be transferred to the Complainant.

/Alistair Payne/

Alistair Payne

Sole Panelist

Date: May 14, 2026