

ADMINISTRATIVE PANEL DECISION

Rob Schwartz, RMS MEDIA SOLUTIONS, LLC v. David Freund
Case No. D2025-5128

1. The Parties

Complainant is Rob Schwartz, RMS MEDIA SOLUTIONS, LLC, United States of America (“United States”), self-represented.

Respondent is David Freund, United States, represented by Wolter Van Dyke Davis, PLLC, United States.

2. The Domain Names and Registrars

The disputed domain name <brainbuffet.com> is registered with NameCheap, Inc. The disputed domain name <brainbuff.ai> is registered with GoDaddy.com, LLC (together the “Registrars”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 10, 2025. On December 12, 2025, the Center transmitted by email to the Registrars requests for registrar verification in connection with the disputed domain names. On December 12 and 13, 2025, the Registrars transmitted by email to the Center their verification responses confirming that Respondent is listed as the registrant and providing the contact details. Complainant filed amended Complaints on December 27, 2025, and January 2, 2026.

The Center verified that the Complaint together with the amended Complaints 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 Respondent of the Complaint, and the proceedings commenced on January 5, 2026. In accordance with the Rules, paragraph 5, the due date for Response was January 25, 2026. Response was filed with the Center on January 22, 2026.

Complainant filed Supplemental Filings on January 8, 26, and 27, 2026.

The Center appointed Georges Nahitchevansky as the sole panelist in this matter on January 28, 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.

On January 29, 2026, Respondent filed a Supplemental Filing in response to Complainant's Supplemental Filings.

4. Factual Background

As the Parties in this matter agree on only a few of the underlying facts, the Panel has decided to provide a general overview of the matter and the undisputed facts as understood by the Panel.

This matter concerns the disputed domain names <brainbuffet.com> and <brainbuff.ai> and ultimately ownership of the common law trademark BRAINBUFFET, which has been used for a curriculum development business that focuses on providing interactive courses to prepare students for certification and future careers. The courses have been offered through a website at the disputed domain name <brainbuffet.com>.

Complainant appears to have first used the name "BrainBuffet" in 2001, though it is not clear how such was used, and registered the disputed domain name <brainbuffet.com> in 2000. In 2010, Complainant with his company RMS Media Solutions, Inc. ("RMS") started the BrainBuffet business and in 2015 RMS, which on November 26, 2013 filed for and subsequently adopted the fictitious name BRAINBUFFET, entered into a reseller agreement with Pearson VUE under which RMS contracted to market, license, sell, and distribute RMS products to Pearson's customers.

In 2019, Respondent began working with Complainant in the BrainBuffet business. In 2020, the Parties agreed to incorporate a company by the name of "BrainBuffet Solutions, Inc." ("BBSI") to run the BrainBuffet business in which each Party owned a fifty percent (50%) ownership interest. Respondent was listed as the "President" of the company and Complainant as the CEO.

In 2023, according to Florida Secretary of State records, Complainant ceased being an owner or officer of BBSI and the parties entered into a Consulting Agreement, pursuant to which RMS was paid USD 1,000,000. On February 22, 2024, RMS executed a Release and Satisfaction of Debt in favor of Respondent. From that point forward, Respondent was the sole listed owner of BBSI and has handled all of the day-to-day activities of the BrainBuffet business. The disputed domain name <brainbuffet.com> appears to have been transferred from Complainant to Respondent in February 2024 and is currently being used by BBSI for the BrainBuffet business and website. Neither Party provided evidence that it had ever filed a trademark application to register the BRAINBUFFET trademark before the Complaint was filed.¹

On December 31, 2023, the fictitious name filing of RMS for "BRAINBUFFET" expired.

On June 17, 2025, Respondent registered the disputed domain name <brainbuff.ai>. To date, that disputed domain name has not been put to use for an active website or page. Instead, it redirects to <google.com>.

At some point in 2025, a dispute arose between the Parties over various issues, including the ownership of the BRAINBUFFET name and mark. Several communications were exchanged between Complainant and Respondent's representative in which various accusations and responses were set forth. On December 15, 2025, after the filing of the Complaint, Respondent filed a lawsuit against Complainant in the Circuit Court of

¹ Noting the general powers of a panel articulated in paragraphs 10 and 12 of the Rules, it is commonly accepted that a panel may undertake limited factual research into matters of public record, as the Panel has done in this proceeding. The Panel notes that on January 27 and 30, 2026, Respondent filed in the name of BBSI in the United States Patent and Trademark Office two applications for BRAIN BUFFET, one as a word mark and the second with a design (Application Nos. 99616786 and 99624713).

the Ninth Judicial District in and for Osceola County, Florida (the "Lawsuit"). In the Lawsuit, Respondent seeks, inter alia, a declaration on whether Complainant has an ownership interest in BBSI or its intellectual property. That case is currently pending.

5. Parties' Contentions

A. Complainant

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

Complainant contends that he is the founder of BrainBuffet and has used the name and mark BRAINBUFFET continuously for over twenty years. Complainant further contends that he never transferred ownership of the BRAINBUFFET brand, common law trademark, the <brainbuffet.com> disputed domain name or related IP to Respondent or any other party. Complainant maintains that the 2023 Consulting Agreement entered into with BBSI did not assign or transfer rights in the BRAINBUFFET mark to BBSI.

Complainant asserts that since the 2023 Consulting Agreement Respondent has acted as though it owns the BRAINBUFFET brand even though Respondent has no legal rights in such.

Complainant maintains that the disputed domain names are identical or confusingly similar to the BRAINBUFFET mark which he claims to own. Complainant argues that Respondent has no legitimate interests in the disputed domain names and has acted in bad faith as Respondent (i) is not the owner of and never obtained rights in the BRAINBUFFET name and mark, (ii) registered the disputed domain name <brainbuuf.ai> after Complainant made announcements about an AI-branded curriculum using the BRAINBUFF name and (iii) locked Complainant out of various email accounts and the <brainbuffet.com> disputed domain name.

B. Respondent

Respondent rejects Complainant's contentions.

Respondent argues that the BRAINBUFFET mark and name is owned by Respondent. Respondent does not contest that Complainant started the BrainBuffet business with his company RMS in 2010 and made a fictitious name filing for "BRAINBUFFET" in 2013. Respondent maintains that he started working with Complainant and RMS in 2019 and that Respondent then "redeveloped the entire BrainBuffet website (i.e., www.brainbuffet.com), and performed many of the day-to-day activities for the business which was RMS Media Solutions, Inc. at the time". Respondent also maintains that Complainant stepped back from the BrainBuffet business in late 2019 and "ceased to play any meaningful role in the operation of the business, which was then solely operated by Freund".

According to Respondent, the parties agreed to incorporate BSI in 2020 for the BRAINBUFFET business and that they would each own a fifty percent (50%) ownership interest in BBSI. The Parties further agreed that Respondent would be listed as the President and Complainant the CEO of such. Complainant states that Respondent "managed all aspects of BBSI's business while Schwartz performed no role in the activities or operation of BBSI", as Complainant "wanted to step away from the business and retire in Puerto Rico".

Respondent asserts that in 2022, Respondent renegotiated a contract with Pearson VUE and its affiliate Certiport, which was more favorable than the original 2015 agreement negotiated between RMS and Pearson VUE and which substituted BBSI with RMS as the contracting party. Also in 2022, the Parties "discussed and agreed that Freund would buy out Schwartz's fifty percent (50%) ownership interest in BBSI, because Schwartz had retired and desired to cash out of the business". Respondent states that it was agreed that Respondent would pay Complainant USD 1,000,000 for his fifty percent (50%) ownership interest. According to Complainant, as Complainant wanted to avoid paying capital gains taxes on the sale

of his ownership interest, the sale was structured as a Consulting Agreement pursuant to which BBSI would pay Complainant's company RMS the USD 1,000,000. Respondent argues that the Consulting Agreement also specifically transferred the intellectual property rights of the BrainBuffet business to BBSI.

Respondent notes that Complainant "required that the sale of his fifty percent (50%) interest in BBSI be secured and collateralized by seven (7) properties which Freund owned" and that when BBSI had fully paid all sums due under the Consulting Agreement in 2024, RMS executed a Release and Satisfaction of Debt that acknowledged that all payments under the Consulting Agreement had been made. Respondent maintains that Complainant never provided any consulting services to BBSI under the Consulting Agreement. Lastly, Respondent states that in or about February 2024 the disputed domain name <brainbuffet.com> was transferred to BBSI and that since 2023 Complainant ceased being listed as an owner of BBSI in the Florida's Secretary of State website.

Respondent does not contest that the disputed domain names are identical or confusingly similar to the BRAINBUFFET name and mark and reiterates that it is the owner of the BRAINBUFFET mark and name. Respondent argues that it has a legitimate interest in the disputed domain names as it is the rightful owner of the BRAINBUFFET mark and the <brainbuffet.com> disputed domain name. Respondent also argues that it has not registered or used the disputed domain names in bad faith given that Complainant originally registered the <brainbuffet.com> disputed domain name and given that Respondent is the owner of the BRAINBUFFET name and mark and <brainbuffet.com> disputed domain name.

Respondent notes that it filed the Lawsuit on December 15, 2025, against Complainant in which Respondent seeks, inter alia, a declaration on whether Complainant has an ownership interest in BBSI or its intellectual property. That case is currently pending.

C. The Parties' Supplemental Filings

On January 8, 26, and 27, 2026, Complainant submitted multiple unsolicited Supplemental Filings. On January 23, 2026, Respondent sent the Center an email objecting to any supplemental filings by Complainant as prejudicial and untimely and on January 29, 2026 filed a formal response to Complainant's Supplemental Filings in which Respondent again objected to the admission of Complainant's Supplemental Filings.

Neither the Policy nor the Rules provide a party with an automatic right to submit additional arguments or evidence. Under paragraph 10 of the Rules, panels enjoy broad powers for conducting administrative proceedings, provided that the parties are treated fairly and the proceedings are conducted expeditiously. Within this framework, a panel can determine within its sole discretion whether to admit or reject supplemental submissions, and, under paragraph 12 of the Rules, to request further statements or documents from either party. In exercising this discretion, many panels have made clear that additional evidence or submissions should only be admitted in exceptional circumstances, such as, by way of example, where new pertinent facts arise after the submission of the complaint or where a party could not have reasonably known of the existence, relevance or veracity of further material when it made its primary submission. See, e.g., *Office Club, Ltd. v. John Adem*, WIPO Case No. [D2000-1480](#); *Gordon Sumner, p/k/a Sting v. Michael Urvan*, WIPO Case No. [D2000-0596](#); *The E.W. Scripps Company v. Sinologic Industries*, WIPO Case No. [D2003-0447](#); *Cerulean Studios, LLC v. Hexuan Cai*, WIPO Case No. [D2013-0902](#). The Panel agrees with this position and adds that further material should only be admitted to the extent necessary in a proceeding and when such is essential in reaching a fair decision on the facts of the matter.

In the instant case, and after reviewing the Complaint and Respondent's response, the Panel does not believe there are exceptional circumstances in this matter that warrant the acceptance of these Supplemental Filings that mostly reargue and amplify points already made by both parties and which simply provide further documents that purport to support the Parties' respective positions. That being said, the Panel wants to make clear that even if the Panel were to accept the Parties' Supplemental Filings such would not alter the decision rendered by the Panel as noted below.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

- (i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- (iii) the disputed domain names were registered and are being used in bad faith.

A. Identical or Confusingly Similar

In this proceeding, the Parties do not dispute that the disputed domain names are identical or confusingly similar to the BRAINBUFFET name and mark. The central issue in this proceeding, however, is whether Complainant owns any rights in the BRAINBUFFET mark and held such at the time the Complaint was filed. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.1.3.

Complainant, on the one hand, argues that it founded the BrainBuffet business and adopted the BRAINBUFFET name and mark and that it never transferred the rights in the BRAINBUFFET name and mark to Respondent in 2023. On the other hand, Respondent does not contest that Respondent originally created and started the BrainBuffet business in 2010 (and registered the <brainbuffet.com> disputed domain name in 2000), but argues that Respondent properly and fully purchased Complainant's ownership interest in the BrainBuffet business along with all rights in and to the BRAINBUFFET mark and <brainbuffet.com> disputed domain name in 2023. As such, Respondent asserts that Complainant does not currently own and has no existing rights in the BRAINBUFFET name and mark.

The Parties have provided numerous documents that they claim support their respective contentions, including a copy of the 2023 Consulting Agreement between BBSI and RMS which is central to the dispute. In total, while it appears that Complainant may have sold its rights in the BrainBuffet business and the BRAINBUFFET mark to Respondent in 2023, the documents are not conclusively clear on this issue particularly as the Parties contest whether the language of the 2023 Consulting Agreement or the transactions between the Parties in 2023 and 2024 specifically transferred the rights in the BRAINBUFFET common law mark from Complainant to Respondent.

To the Panel, the Parties ownership dispute, as set forth in their respective submissions, is not properly the subject of a UDRP proceeding, particularly given that the Panel is not in a position to examine witnesses to assess their contentions and the veracity of their respective statements and claims. The Panel is being asked to render a judgement on a limited record on the ownership of the BRAINBUFFET mark and whether Complainant retains any ownership interest in such after the 2023 Consulting Agreement and Complainant's receipt of USD 1,000,000 from Respondent, even though Complainant does not appear to be currently involved in the activities of BBSI. What complicates the matter further is the fact that the Parties suggest different interpretations of the 2023 Consulting Agreement, which on its face has ambiguities and might likely require the admission of parole evidence to fully assess its import.

In the Panel's view, the adjudication of the ownership dispute between the parties is more properly the subject of the pending Lawsuit between the Parties, in which discovery and the cross-examination of witnesses is available, than in a UDRP proceeding which simply concerns whether cybersquatting has occurred.

That being said, for purposes of the first element only, the Panel finds that Complainant has not established that it currently owns rights in the BRAINBUFFET mark and thus Complainant's Complaint fails.²

B. Rights or Legitimate Interests and Registration and Use in Bad Faith

Given the Panel's finding on the first element, there is no need for the Panel to consider the second and third elements.

That being said, if in fact Complainant has no existing rights in the BRAINBUFFET trademark then there is no basis for Complainant's UDRP against Respondent in this UDRP proceeding.

If, however, Complainant is able to establish that it maintains ownership of, or existing rights in, the BRAINBUFFET or BRAINBUFF marks, then Complainant might have a claim against Respondent. But on the record before the Panel, the ownership issue remains unresolved.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Georges Nahitchevansky/

Georges Nahitchevansky

Sole Panelist

Date: February 7, 2026

² While the dispute between the Parties centers around the common law mark BRAINBUFFET, the Panel notes that to the extent Complainant claims its own trademark rights in BRAINBUFF, such have not been established. Complainant has not provided any trademark registrations or applications for BRAINBUFF and has not submitted any of the typical documents or evidence that would establish that Respondent has unregistered or common law rights in BRAINBUFF. [WIPO Overview 3.0](#) at section 1.3.