

ADMINISTRATIVE PANEL DECISION

Five Below, Inc. v. Gustavo Henrique
Case No. D2026-1407

1. The Parties

The Complainant is Five Below, Inc., United States of America (“United States”), represented by Troutman Pepper Locke LLP, United States.

The Respondent is Gustavo Henrique, Brazil.

2. The Domain Name and Registrar

The disputed domain name <fivebelowdumpling.com> is registered with Hostinger Operations, UAB (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 1, 2026. On April 2, 2026, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 3, 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 (HOSTINGER Operations, UAB) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 8, 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 April 10, 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 13, 2026. In accordance with the Rules, paragraph 5, the due date for Response was May 3, 2026. The Respondent sent an email communication to the Center on April 13, 2026. The Center sent a Notice of Commencement of Panel Appointment Process on May 5, 2026.

The Center appointed Mihaela Maravela as the sole panelist in this matter on May 8, 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

According to information in the Complaint, the Complainant is using the FIVE BELOW formative trademarks in connection with retail services featuring a wide variety of consumer goods, including, but not limited to, toys and novelty items. The Complainant's official website is located at the domain name <fivebelow.com>.

The Complainant owns many trademark registrations for FIVE BELOW, including the following:

- the United States Trademark Registration No. 5625042 for FIVE BELOW (stylized), registered on December 11, 2018, in international class 35;
- the Brazil Trademark Registration No. 907465463 for FIVE BELOW (word), registered on July 18, 2017, in international class 35.

The disputed domain name was registered on February 23, 2026 and does not currently resolve to an active website. According to evidence furnished with the Complaint, the disputed domain name resolved previously (at least on March 11, 2026) to an online shop allegedly offering the Complainant's products for sale, displaying the Complainant's trademark and a number of the Complainant's official product images. The website at the disputed domain name indicated that the Respondent is an "authorized retailer".

The Respondent is (presumably) an individual reportedly located in Brazil. No information is available on the Respondent except for the information made available by the Registrar.

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 the disputed domain name is confusingly similar both to the Complainant's FIVE BELOW trademarks and with the domain name which the Complainant uses for its website. The Complainant argues that the disputed domain name only removed the space between the terms "five" and "below" in the Complainant's trademark and then added the term "dumpling" followed by the generic Top-Level Domain ("gTLD") ".com". The Complainant contends that these changes are insufficient to distinguish the disputed domain name from the Complainant's FIVE BELOW trademarks, as these marks are directly recognizable in the disputed domain name.

As regards the second element, the Complainant argues that its rights in the FIVE BELOW trademarks long preceded the registration of the disputed domain name and the Complainant has not granted the Respondent permission to use the FIVE BELOW trademarks in the disputed domain name. Furthermore, the Complainant argues that at no time has the Respondent engaged in a bona fide offering of goods or services or made a legitimate noncommercial or fair use of the disputed domain name. Instead, the Respondent uses the disputed domain name to operate an e-commerce site where the Respondent attempts to pass itself off as the Complainant to unsuspecting consumers for the Respondent's commercial gain. In doing so, the Respondent prominently features and offers for sale products that are exclusive to the Complainant, including the Complainant's distinctive "Squishy Dumpling" or "Squishy Bun" stress toys, thereby misleading consumers into believing they are purchasing directly from, or through an authorized channel of, the Complainant.

With respect to the third element, the Complainant argues that it is inconceivable that the Respondent could have registered the disputed domain name without actual knowledge of the Complainant's rights in the FIVE BELOW trademarks, not only because of the fame of the FIVE BELOW trademarks, but also because the Respondent has incorporated the Complainant's trademark FIVE BELOW verbatim into the disputed domain name. The Respondent further prominently displays a logo using a style that mirrors the Complainant's longstanding use of diverse font-casing and a superscript of the same letter in its primary logo. Furthermore, the Complainant contends that the Respondent also offers for sale on the website at the disputed domain name the same exclusive "Squishy Dumplings" and "Squishy Buns" products that are authorized to be sold exclusively by the Complainant, and further uses identical product photographs copied from the Complainant's website to advertise those goods. The Complainant argues that the Respondent's bad faith is further evidenced by the fact that the Respondent represents itself as an "authorized retailer" and makes prominent use of the FIVE BELOW trademarks, thereby falsely suggesting an affiliation, sponsorship, or endorsement by the Complainant that does not exist and diverting consumers who may be seeking the Complainant's website to the website at the disputed domain name instead.

B. Respondent

The Respondent has sent an informal communication to the Center advancing its willingness to voluntarily transfer the disputed domain name to the Complainant, while at the same time mentioning he would like to "negotiate a brief written settlement agreement with the Complainant covering the terms of the transfer and a mutual release of claims arising from the subject matter of this proceeding". No other submissions were received from the Parties on any possible settlement.

6. Discussion and Findings

No substantive response has been received from the Respondent in this case. Accordingly, the Panel considers it can proceed to determine the Complaint based on the statements and documents submitted by the Complainant as per paragraph 15(a) of the Rules. The applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence", and the Panel can draw certain inferences in light of the particular facts and circumstances of the case. WIPO Overview of WIPO Panel Views on Select UDRP Questions ("[WIPO Overview 3.1](#)"), section 4.2. Concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the reasonable factual allegations in the Complaint as true. [WIPO Overview 3.1](#), section 4.3.

Even if the Respondent has not formally replied to the Complainant's contentions, the Complainant still bears the burden of proving that all requirements are fulfilled. To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and (iii) the disputed domain name has been registered and is being used in bad faith.

The Panel has taken note of the [WIPO Overview 3.1](#), and, where appropriate, will decide consistently with the consensus views stated therein.

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 the trademark FIVE BELOW for the purposes of the Policy. [WIPO Overview 3.1](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.1](#), section 1.7.

Although the addition of other terms (here the dictionary word “dumpling”) 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 3.1](#), section 1.8. It has also long been held that gTLDs are generally disregarded when evaluating the confusing similarity between a disputed domain name and a trademark. See section 1.11.1 of the [WIPO Overview 3.1](#).

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.

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 Respondent has no connection or affiliation with the Complainant, and the Complainant has not licensed or otherwise authorized the Respondent to use or register any domain name incorporating the Complainant’s trademarks. Further, the Respondent does not appear to make any legitimate noncommercial or fair use of the disputed domain name, nor any use in connection with a bona fide offering of goods or services. Rather, the Respondent, portrayed to be an official online retailer of the Complainant, offering what appeared to be the Complainant’s products for sale, without disclosing the (non-existent) relationship between the Complainant and the Respondent. Furthermore, the Respondent’s website displayed without authorisation product images from the Complainant’s official website. Such use cannot constitute any bona fide offering of goods or services, nor legitimate noncommercial or fair use of the disputed domain name.

Furthermore, the Panel finds that the composition of the disputed domain name (incorporating the Complainant’s trademark FIVE BELOW in its entirety with the addition of the term “dumpling”), coupled with the display of the Complainant’s FIVE BELOW trademark and Complainant’s product images on the website at the disputed domain name, signals the Respondent’s intention of taking unfair advantage of the likelihood of confusion between the disputed domain name and the Complainant as to the origin or affiliation of the website.

The Respondent is reportedly called “Gustavo Henrique” and there is no evidence that the Respondent is commonly known by the disputed domain name within the meaning of paragraph 4(c)(ii) of the Policy.

Furthermore, the Respondent has not formally replied to the Complainant's contentions, claiming any rights or legitimate interests in the disputed domain name. Instead, he indicated willingness for a possible settlement of the dispute.

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.

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.

The disputed domain name reproduces, without any authorization or approval, the Complainant's registered FIVE BELOW trademark with the addition of the dictionary word "dumpling", which presumably alludes to a sort of toy sold by the Complainant called "squishy dumpling". The disputed domain name was registered over two decades after the Complainant's FIVE BELOW trademark was registered. Noting also the use of the disputed domain name, as described above, it is more likely than not that the Respondent, when registering the disputed domain name, had knowledge of the Complainant's earlier rights to the FIVE BELOW trademarks. The Respondent provided no explanation for why he registered the disputed domain name and did not deny in his informal communication his knowledge of the Complainant and its trademarks.

As regards the use, the Respondent purported to offer similar goods on the website at the disputed domain name, displaying product images from the Complainant's website and pretending to be an authorized retailer. By doing so, it is clear the Respondent was intentionally seeking to attract Internet users for commercial gain through the creation of a likelihood of confusion with the Complainant's trademark. See [WIPO Overview 3.1](#), section 3.1.4.

The fact that the disputed domain name at present no longer resolves to an active website does not change the Panel's findings.

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 <fivebelowdumpling.com> be transferred to the Complainant.

/Mihaela Maravela/

Mihaela Maravela

Sole Panelist

Date: May 18, 2026