

ADMINISTRATIVE PANEL DECISION

MARTINEZ NIETO, S.A. v. Julie Rutkjær, New Nordic Manufacturing ApS
Case No. D2026-1216

1. The Parties

The Complainant is MARTINEZ NIETO, S.A., Spain, represented by Abril Abogados, Spain.

The Respondent is Julie Rutkjær, New Nordic Manufacturing ApS, Denmark, represented by Ploughmann & Vingtoft A/S, Denmark.

2. The Domain Name and Registrar

The disputed domain name <beautyinandout.com> (the “Disputed Domain Name”) is registered with CSL Computer Service Langenbach GmbH dba Joker.com (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 23, 2026, the Registrar transmitted by email to the Center its verification response, disclosing registrant and contact information which partly differed from the named Respondent in the Complaint. The Center sent an email communication to the Complainant on March 24, 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 26, 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 March 27, 2026. In accordance with the Rules, paragraph 5, the due date for Response was April 16, 2026. The late Response was filed with the Center on April 20, 2026.

The Center appointed Nick J. Gardner as the sole panelist in this matter on April 23, 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, trading as “MARNYS”, is a Spanish laboratory specialising in food supplements, natural cosmetics, essential oils, and sports nutrition products. It has been operating for almost 60 years and markets more than 400 products internationally.

Among the Complainant’s product lines is a range marketed under the brand name BEAUTY IN & OUT, comprising cosmetic and nutritional supplement products. The Complainant holds the following registered trademark rights in the BEAUTY IN & OUT sign:

- (i) European Union Trade Mark Registration (“EUTM”) No. 015294382 (figurative mark), filed March 31, 2016, registered December 22, 2016, Classes 3, 5 and 30.
- (ii) United Kingdom (“UK”) Trademark Registration No. UK00915294382 (figurative mark), filed March 31, 2016, registered December 22, 2016, Classes 3, 5 and 30.
- (iii) EUTM No. 018135703 (figurative mark), filed October 11, 2019, registered February 26, 2020, Classes 3 and 5.
- (iv) UK Trademark Registration No. UK00918135703 (figurative mark), filed October 11, 2019, registered February 26, 2020, Classes 3 and 5.
- (v) International Trademark Registration No. 1506593 (figurative mark), registered October 18, 2019, Classes 3 and 5, with protection in Iran (Islamic Republic of) and India.

The Complainant’s founder owned an earlier EUTM No. 004218996 (filed February 7, 2005, registered July 31, 2006, Classes 3, 5 and 30) which expired on February 7, 2015. The above trademarks are composite figurative marks that incorporate the textual element BEAUTY IN & OUT alongside design elements. The Respondent has filed a request for cancellation for non-use before the European Union Intellectual Property Office (“EUIPO”) in respect of EUTM No. 018135703; those proceedings remain pending.

The Respondent is a Danish company and part of the New Nordic group, a multinational enterprise selling food supplements and beauty/wellness products internationally under the NEW NORDIC brand. The group operates through various national affiliates and maintains country-specific websites. The group’s principal parent is New Nordic Healthbrands AB, a Swedish company.

Mrs. Julie Rutkjær is the International Webmaster of New Nordic Manufacturing ApS and is listed as the domain name registrant on behalf of her employer. The Panel accepts, consistent with established practice, that the relevant respondent for the purposes of this proceeding is the registrant organisation, New Nordic Manufacturing ApS, acting through its employee.

The Disputed Domain Name was created on August 25, 2012, according to the Registrar’s Whois data. Wayback Machine archive evidence submitted by the Complainant indicates that between 2001 and 2003 the Disputed Domain Name was used by an unrelated third party selling health and cosmetic products; between 2004 and 2005, it resolved to a website displaying a message in Dutch from a hosting provider Plushosting B.V. stating that the Disputed Domain Name had been reserved for future use by one of its customers; and from approximately 2013 to 2019, the Disputed Domain Name redirected to the website “www.hugedomains.com” where it was listed for sale. The first archived evidence of the Respondent’s use of the Disputed Domain Name is dated November 26, 2021, at which point it redirected to the website “www.newnordic.com”.

As at the date of this Decision, the Disputed Domain Name redirects to “www.newnordic.com”, which is the Respondent’s global landing page allowing visitors to select a country or region to access a local NEW NORDIC website.

The parties have a history of trademark disputes before the EUIPO. In November 2019, the Respondent filed three EUTM applications, all of which were opposed by the Complainant:

(i) Application No. 018154398 for the word mark BEAUTY IN & OUT in Classes 3 and 5, refused on December 17, 2020 (Opposition No. B 003110130).

(ii) Application No. 018154400 for the word mark IN & OUT in Classes 3 and 5, refused on January 14, 2021 (Opposition No. B 003110118).

(iii) Application No. 018156264 for a figurative mark BEAUTY IN & OUT in Classes 3 and 5, refused on January 22, 2021 (Opposition No. B 003110167).

The opposition decisions were issued in default, the Respondent having not filed a response to any of the opposition proceedings which had been brought by the Complainant.

In April 2023, the Respondent filed two Australian trademark applications: No. 2351537 for the word mark BEAUTY IN AND OUT in Classes 3 and 5 (which lapsed on September 24, 2024) and No. 2351633 for the figurative mark BEAUTY IN & OUT BY NEW NORDIC in Classes 3 and 5 (registered April 25, 2023). In March 2024, the Respondent filed EUTM Application No. 019000462 for the figurative mark BEAUTY IN & OUT BY NEW NORDIC in Classes 3, 5 and 30; the Complainant has filed an opposition, which remains pending.

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 as to the first element, the Disputed Domain Name is identical to the Complainant’s BEAUTY IN & OUT trademark registrations. The substitution of the ampersand “&” with the word “and” is not a material distinction, as both convey the same meaning and pronunciation. The Complainant owns multiple registered EU, UK and international trademark rights in the BEAUTY IN & OUT sign. The Respondent’s own EUIPO trademark applications were refused for likelihood of confusion with the Complainant’s marks.

As to the second element, the Respondent has no rights or legitimate interests in the Disputed Domain Name. The Respondent is known as NEW NORDIC and does not use the BEAUTY IN & OUT sign in connection with any of its products. The Disputed Domain Name redirects to the Respondent’s general website at “www.newnordic.com”, which does not feature any BEAUTY IN & OUT branding. Such use, diverting Internet users to a competing commercial website, cannot constitute a bona fide offering of goods or services or any other legitimate interest under the Policy. The Respondent’s Australian trademark registration No. 2351633 BEAUTY IN & OUT BY NEW NORDIC was filed in a jurisdiction where the Complainant holds no trademark rights, appears designed to create a facade of legitimacy, and is not used in connection with the Disputed Domain Name. Mere registration of a trademark does not confer rights or legitimate interests under the Policy where the registration was not obtained for a bona fide purpose.

As to the third element, the Respondent acquired the Disputed Domain Name after its own EUTM applications for BEAUTY IN & OUT were refused upon the Complainant's oppositions. The first archived evidence of the Respondent's use is from November 2021, several months after the final EUIPO opposition decision in January 2021. The Respondent therefore acquired the Disputed Domain Name with full actual knowledge of the Complainant's trademark rights and the EUIPO's findings of likelihood of confusion. The Disputed Domain Name redirects to the Respondent's own competing website, constituting bad faith under paragraph 4(b)(iv) of the Policy. The Complainant relies on WIPO Overview of WIPO Panel Views on Selected UDRP Questions, ("[WIPO Overview 3.1](#)"), section 3.8.1 for the proposition that where a respondent acquires a domain name after a complainant's trademark rights accrue, the Panel should assess the circumstances as at the date of that acquisition.

B. Respondent

The Respondent contends as follows, by way of the late Response filed on April 20, 2026.

The Respondent acknowledges the late filing and requests that the Panel exercise its discretion to admit the Response, on the grounds that Mrs. Julie Rutkjær, as the domain name registrant of record, had no prior legal experience with UDRP proceedings and did not appreciate the urgency of the Complaint, which was not forwarded internally until after the response deadline. The Respondent further notes that it would have been appropriate practice for the Complainant, aware that the Respondent was legally represented in the ongoing EUIPO proceedings, to have notified the Respondent's counsel directly upon filing.

On the merits, the Respondent contends, first, that the Complainant's trademark rights are limited and subject to challenge. The current EUTM registrations are composite figurative marks and the Complainant has no exclusive rights in the verbal element BEAUTY IN & OUT alone. Two of the Complainant's EUTM registrations (Nos. 015294382 and 018135703) are subject to pending cancellation proceedings for non-use before the EUIPO. The word mark EUTM No. 004218996 expired in 2015. The sign BEAUTY IN & OUT is descriptive and lacks distinctive character in relation to goods in Classes 3 and 5, as the word "beauty" directly describes the purpose or effect of the relevant products and the additional phrase "IN & OUT" conveys a meaning of products addressing beauty both externally and internally. The Respondent submits evidence of numerous EUTM refusals of marks containing the word "beauty" in Class 3 on grounds of non-distinctiveness, and evidence of what it says is widespread third-party use of the phrase "beauty in and out" in a descriptive sense in the cosmetics and wellness industry.

Second, the Respondent contends that the words "BEAUTY IN & OUT" are descriptive and that the Complainant cannot establish relevant exclusive rights in those words. The Respondent and/or its affiliates hold a registered Australian trademark (No. 2351633 BEAUTY IN & OUT BY NEW NORDIC) and a pending EUTM (Application No. 019000462), and the Respondent submits evidence of its own commercial use of the phrase "BEAUTY IN AND OUT" as early as 2020. Other traders use the phrase "beauty in and out" descriptively throughout the beauty industry.

Third, as to bad faith, the Respondent contends that where a domain name consists of descriptive and non-distinctive terminology, its registration cannot constitute bad faith. The Respondent denies each of the specific bad faith circumstances enumerated in paragraph 4(b) of the Policy. It also notes that the precise acquisition date of the domain name by the Respondent and the circumstances surrounding acquisition are uncertain. Even if the acquisition post-dates the EUIPO opposition decisions, those decisions were issued in default and cannot be treated as conclusive determinations on the question of distinctiveness.

6. Discussion and Findings

Preliminary Issue: Admissibility of the Late Response

The Respondent filed its Response on April 20, 2026, four calendar days after the deadline of April 16, 2026. Under Rules, paragraph 14(b), where a party fails to comply with a deadline, the Panel “shall proceed to a decision on the complaint” and may draw such inferences as it considers appropriate. Under Rules, paragraph 10(b), the Panel shall ensure that each party is afforded a fair opportunity to present its case. The Panel has a general discretion to admit a late Response where good cause is shown.

In the present case, the explanation for the late filing is that Mrs. Julie Rutkjær, the domain name registrant of record, is not a legal professional, did not appreciate the UDRP procedure, and did not forward the Complaint to the Respondent’s legal representatives until after the deadline. The Respondent’s counsel observes that the Complainant, which was engaged in concurrent EUIPO proceedings against the Respondent represented by the same counsel, could have ensured that the Respondent’s legal representatives received direct notice. The four-day delay is modest and the Respondent’s legal representatives acted promptly upon becoming aware of the situation. The Panel notes that the Response raises substantive arguments that have a bearing on the overall merits of the case.

In the circumstances, and exercising its discretion the Panel admits the late Response and has considered its contents. Both Parties have had a fair opportunity to present their respective cases.

Substantive Matters

To succeed in this proceeding, the Complainant must establish all three elements required by paragraph 4(a) of the Policy, namely: (i) that the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; (ii) that the Respondent has no rights or legitimate interests in respect of the domain name; and (iii) that the domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Panel notes at the outset that the first element of the UDRP functions as a threshold standing requirement. The test is whether the Disputed Domain Name is identical or confusingly similar to a mark in which the Complainant has rights, and does not involve an assessment of likelihood of confusion in the trademark law sense or an evaluation of the scope or distinctiveness of the mark: see [WIPO Overview 3.1](#), section 1.7.

The Complainant holds multiple registered trademark rights in the sign BEAUTY IN & OUT. The current registrations are composite figurative marks; however, consistent with the approach in [WIPO Overview 3.1](#), section 1.10, where a figurative mark contains a textual element, it is that textual element which is compared with the Disputed Domain Name. The textual element of the Complainant’s registered marks is “BEAUTY IN & OUT”.

The Respondent contests the relevance of the Complainant’s registered marks, on the grounds that the verbal element “BEAUTY IN & OUT” is descriptive and non-distinctive in relation to goods in Classes 3 and 5, and that the Complainant’s registered rights reside only in the figurative elements of its composite marks. The Panel acknowledges that it is at least arguable that BEAUTY IN & OUT has a degree of descriptiveness in relation to beauty and wellness products that address both external and internal wellbeing, and the Panel returns to this question in the context of the second and third elements. However, for purposes of paragraph 4(a)(i), the Panel cannot ignore that the Complainant holds multiple subsisting registered trademark rights, including EUTM registrations and a registered United Kingdom trademark. The Policy is clear that registered trademark rights suffice for standing under the first element, regardless of arguments as to the distinctiveness or scope of those rights: see [WIPO Overview 3.1](#), sections 1.1.2 and 1.2.1.

The question of whether the Complainant's registered rights are broad enough to exclude descriptive uses is not a matter for a UDRP panel.

The Disputed Domain Name incorporates the textual element of the Complainant's mark in its entirety, substituting only the ampersand symbol "&" with its written equivalent "and". As is well established under UDRP practice, the difference between an ampersand and the word "and" does not prevent a finding of confusing similarity: see [WIPO Overview 3.1](#), section 1.7. The generic Top-Level Domain ".com" is disregarded in the comparison. The Disputed Domain Name is accordingly confusingly similar to the Complainant's BEAUTY IN & OUT trademarks.

The Panel therefore finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy. The Panel notes, however, that the descriptiveness argument advanced by the Respondent is directly relevant to the assessment under paragraphs 4(a)(ii) and 4(a)(iii), and is considered in detail below.

B. Rights or Legitimate Interests

The Respondent raises several arguments in support of a legitimate interest in the Disputed Domain Name: (i) the sign BEAUTY IN & OUT is descriptive and its constituent words should remain available for use by all traders in the beauty and wellness sector; (ii) the Respondent and its affiliates hold registered trademark rights containing the wording "BEAUTY IN & OUT" (Australian Trademark Registration No. 2351633 and EU TM Application No. 019000462); and (iii) the Respondent's commercial use of the phrase "BEAUTY IN AND OUT" dates back to at least 2020. The Panel addresses each of these in turn.

The Panel is prepared to accept that the expression BEAUTY IN & OUT arguably has a degree of descriptiveness when applied to goods in Classes 3 and 5 within the beauty and wellness sector. The phrase conveys to English-speaking consumers the idea that a product addresses beauty both externally ("out", e.g., cosmetics applied to the skin) and internally ("in", e.g., dietary supplements). The Panel notes that the Respondent has submitted evidence of what it says is third-party use of the phrase in a descriptive sense (Annex 5 to the Response). The Panel does not find this evidence particularly compelling. It comprises the following:

- A webpage headed "Beauty IN & OUT — when science meets synergy - Complife Group". It is not clear to the Panel exactly what products or service this site promotes.
- A Facebook page entitled "Beauty Inside and Out | Seaford | Facebook". This is of course a different formulation using the word "Inside" rather than "In". The page has 589 followers.
- What appears to be a webpage entitled "Beauty Inside Out - WE ACT for Environmental Justice". Again, this is a different formulation. This site appears to be some form of environmental organisation.
- A Goodreads reference to a book entitled "Beauty Inside Out by Bessie Hicks". Again, the term used is "Inside".
- A webpage entitled "Beauty Inside Out" which appears to promote a spa of that name. Once again "Inside" is used.
- A webpage entitled "ChicBeauty In & Out". The Panel is unclear what this website promotes - its strapline is "Embrace the God Given Beauty Inside of You to Reveal the Beauty Outside of You".
- A webpage entitled "Beauty In&Out - Essence Expert" which appears to promote a supplement of that name.
- A webpage entitled "Beauty In and Out - Skincare, haircare, and lifestyle" which appears to promote a range of beauty products.

Taken as whole this evidence appears to show that a few (less than 10) other third parties have adopted the terms “Beauty In and Out” (or “In & Out”) for various commercial purposes but not that the usage is common or widespread. It does not conclusively show that BEAUTY IN & OUT is a generic descriptive term widely used by many organisations active in the beauty/cosmetic/supplements sectors.

As a general principle - see [WIPO Overview 3.1](#), section 2.10 - panels have held that merely registering a domain name comprised of a dictionary word or phrase would not by itself automatically confer rights or legitimate interests on the respondent. Mere arguments that a domain name corresponds to a dictionary term may not be sufficient, and panels will consider the overall facts and circumstances of the case when assessing such arguments; a respondent may have a legitimate interest in a domain name that corresponds to a descriptive or generic expression, provided that the domain name is used without intent to target a trademark holder, and where there are no other indicia of cybersquatting. The critical question, however, is not whether the words are descriptive in the abstract but whether the Respondent it is targeting the Complainant.

The Respondent’s use of the Disputed Domain Name is, on the record, entirely that of a redirect to “www.newnordic.com”. That website is the Respondent’s own commercial hub directing consumers to country-specific NEW NORDIC websites. The Respondent’s products are sold under the NEW NORDIC brand; the BEAUTY IN & OUT or “BEAUTY IN AND OUT” sign is not prominently featured on those websites as an independent product brand. As noted in [WIPO Overview 3.1](#), section 2.5.3, a respondent’s use of a complainant’s mark to redirect Internet users to a competing website does not support a claim to rights or legitimate interests under the Policy. In the present case, the Disputed Domain Name corresponds to the textual element of the Complainant’s marks, and is used to redirect consumers to a website of the Respondent, which is a direct commercial competitor of the Complainant in the food supplements and beauty products sector.

As to the Respondent’s registered Australian trademark (No. 2351633 BEAUTY IN & OUT BY NEW NORDIC) and pending EUTM Application No. 019000462, the Panel notes that a trademark registration relied upon by a respondent does not support a claim for rights or legitimate interests if the overall circumstances demonstrate that the registration was not obtained for a bona fide purpose, but rather to bolster a domain name registration: see *Madonna Ciccone p/k/a Madonna v. Dan Parisi and Madonna.com*, WIPO Case No. [D2000-0847](#); *BECA Inc. v. CanAm Health Source Inc.*, WIPO Case No. [D2004-0298](#). The Panel must assess the overall chronology and circumstances.

The question arises as to the date the Respondent acquired the Disputed Domain Name. The Complainant provided clear and detailed evidence derived from “www.archive.org” as to the history of the Disputed Domain Name. Between 2013 and May 18, 2019, the Disputed Domain name redirected to a Huge Domains website offering it for sale. This does not appear to be anything to do with the Respondent. There is no evidence as to what the position was between May 18, 2019, and November 26, 2021. On November 26 2021, it redirected to the Respondent’s website. It therefore seems likely that the Respondent acquired the Disputed Domain Name sometime between May 18, 2019, and November 26, 2021. The Complainant expressly alleged that the date of acquisition was more likely than not after the date of the first Decision by the EUIPO refusing registration to the Respondent’s trade mark application which occurred on December 17, 2020. The Respondent said in relation to this issue “As the Respondent¹ was instructed only recently to assist with the preparation of this Response, it has not been possible to fully reconstruct the precise circumstances surrounding the original acquisition date of the disputed domain name, whether in 2019 or later as alleged by the Complainant”. The Panel does not follow this explanation. The date the Respondent acquired the Disputed Domain Name should be a readily available and easily ascertainable fact. If, for some reason, it cannot be established a proper explanation for that reason should have been provided, given the importance of this issue. Simply saying that timing issues prevented establishing this fact is not in the Panel’s opinion good enough. The Panel concludes on the balance of the evidence that the Respondent acquired the Disputed Domain Name most likely in or around November 2021.

¹ The Panel infers this reference is in error and is intended to mean the Respondent’s legal representatives.

The Respondent went on to say “Regardless of when the domain name was registered, it consists of terms that are descriptive and non-distinctive and were therefore legitimately available to the first party to register them”. The Panel disagrees. The Complainant and Respondent had been fighting a battle in trademark opposition proceedings over trademark applications which included the words “BEAUTY IN & OUT”. The Complainant had succeeded in opposing the Respondent’s applications. It seems more likely than not that shortly thereafter the Disputed Domain Name (previously listed for sale by Huge Domains) was obtained by the Respondent who promptly arranged to redirect it to the Respondent’s existing website. The obvious inference to be drawn from that sequence of events is not that the Respondent was obtaining an entirely descriptive domain name for its inherent value. Rather the Respondent saw an opportunity to obtain and use a domain name which was in substance nearly identical to the Complainant’s trademark and thereby attract customers to its own website. If that was not what happened the Panel would have expected to see a very clear rebuttal supported by contemporaneous documents not merely an assertion that the words in question were descriptive and legitimately available. Further the Panel notes that the Respondent’s evidence of what it says is its use of the term “BEAUTY IN & OUT” is thin at best. It comprises (Annex 6 to the Response) a catalogue from 2020 entitled “New Nordic Healthbrands AB. Beauty Catalogue 2020. BEAUTY IN & OUT BY NEW NORDIC”. The entire catalogue is not in evidence but pages 12-13 are exhibited and contain various references to BEAUTY IN & OUT. If this is the extent of the available evidence of the Respondent’s use, it is in the Panel’s opinion impossible to conclude the Respondent is using the Disputed Domain Name because it corresponds to a product line offered by the Respondent. It is far more likely it is being used to attract the Complainant’s customers.

So far as the Australian trademark applications are concerned, these were not filed until April 2023, some two years after the likely Disputed Domain Name acquisition and well after the EUIPO opposition proceedings. The figurative Australian registration (No. 2351633) adds the element “BY NEW NORDIC” to the sign, which itself suggests awareness that BEAUTY IN & OUT alone overlaps with the Complainant’s rights. The pending EUTM application was filed in March 2024, also after the Disputed Domain Name acquisition and in a jurisdiction where the Complainant’s marks are registered and oppositions are being maintained by the Complainant.

In the Panel’s view, applying the principles in *BECA Inc. v. CanAm Health Source Inc.*, WIPO Case No. [D2004-0298](#), the Australian trademark registration cannot in the present circumstances be treated as establishing a bona fide right or legitimate interest. The registration was obtained after the Respondent had been informed of the Complainant’s rights through the EUIPO proceedings, in a jurisdiction likely selected because the Complainant had no registered rights there, and in a form (BEAUTY IN & OUT BY NEW NORDIC) that implicitly acknowledged the problem with the unadorned BEAUTY IN & OUT sign. The Disputed Domain Name itself, however, uses the bare “BEAUTY IN AND OUT” expression without the “BY NEW NORDIC” qualifier, and redirects not to any BEAUTY IN & OUT branded product offering but to the Respondent’s generic NEW NORDIC commercial website.

The Respondent’s evidence of commercial use of the phrase “BEAUTY IN AND OUT” since 2020 (Annex 6 to the Response) has been noted (see above). The Panel considers it to be de minimis. In circumstances where the Disputed Domain Name redirects to the Respondent’s NEW NORDIC branded website, and where the Respondent itself presents its commercial identity as NEW NORDIC throughout its marketing materials, the Panel is unable to find that the Respondent has made or is making a bona fide use of the Disputed Domain Name consistent with a legitimate interest in the sign BEAUTY IN & OUT.

The Panel therefore finds that the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests, and that the Respondent has not discharged the burden of producing evidence sufficient to rebut that prima facie case. The Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The third element requires the Complainant to establish that the Disputed Domain Name has been both registered and used in bad faith.

The first question is the relevant date of registration. See analysis above. It is well established under UDRP practice, and as stated in [WIPO Overview 3.1](#), section 3.8.1, that where a respondent acquires a domain name from a prior registrant, the relevant date for assessing bad faith registration is the date of the respondent's own acquisition, not the original creation date. As discussed above the Panel concludes on the balance of the evidence that the Respondent acquired the Disputed Domain Name most likely in or around November 2021, post-dating all three EUIPO opposition decisions.

The significance of this finding is considerable. The Respondent had, by the time of its domain name acquisition, been a party to three EUIPO opposition proceedings in which the Complainant's BEAUTY IN & OUT marks had precluded the Respondent from registering a similar sign in relation to identical goods. The Respondent accordingly had actual, specific knowledge of the Complainant's trademark rights as at the date of acquisition. This is not a case of a respondent who may have been unaware of the complainant's existence; it is a case in which the EUIPO had already established, as between these specific Parties, the existence of a likelihood of confusion between the Respondent's desired BEAUTY IN & OUT signs and the Complainant's marks.

The Respondent's principal defence on bad faith is that BEAUTY IN & OUT is a descriptive expression which cannot be the exclusive property of any single undertaking, and that the registration and use of a domain name reflecting a descriptive term cannot constitute bad faith. The Panel agrees that descriptive domain names may be legitimately registered and used, and acknowledges the force of the argument in the abstract. However, that general proposition must be assessed against the specific facts. The Respondent is not a disinterested trader who registered BEAUTY IN & OUT as a descriptive domain name without knowledge of the Complainant. It is a direct commercial competitor that registered the Disputed Domain Name after its own trademark applications for the identical sign had lapsed following the Complainant's opposition and the Respondent's failure to respond to those oppositions. The commercial reality is that the Disputed Domain Name is used to redirect traffic to the Respondent's own competing website, not to any genuine stand-alone BEAUTY IN & OUT product or informational offering.

In the Panel's assessment, the Respondent's conduct falls squarely within paragraph 4(b)(iv) of the Policy, which treats as evidence of bad faith registration and use the intentional use of a domain name to attract, for commercial gain, Internet users to a website by creating a likelihood of confusion with the complainant's mark as to source, sponsorship, affiliation, or endorsement. Internet users searching for the Complainant's BEAUTY IN & OUT products - a real and foreseeable possibility, given the near identity between the Disputed Domain Name and the Complainant's product line - will be directed to the Respondent's competing commercial website. This falls precisely within paragraph 4(b)(iv).

The Respondent's argument that the EUIPO opposition decisions should be discounted because they were issued in default is rejected for purposes of this proceeding. Whatever the merits of the non-distinctiveness argument as a matter of EUIPO practice, the fact remains that the Respondent knew those decisions existed, knew they found a likelihood of confusion with the Complainant's marks, and proceeded to acquire the Disputed Domain Name with that full state of knowledge.

The Panel therefore finds that the Complainant has satisfied paragraph 4(a)(iii) 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 <beautyinandout.com> be transferred to the Complainant.

/Nick J. Gardner/

Nick J. Gardner

Sole Panelist

Date: May 7, 2026