

## Decision for dispute CAC-UDRP-107251

Case number **CAC-UDRP-107251**

Time of filing **2025-01-22 09:45:24**

Domain names **nuxemagasin.com**

### Case administrator

Name **Olga Dvořáková (Case admin)**

### Complainant

Organization **LABORATOIRE NUXE**

### Complainant representative

Organization **AUDE GUILLERMARD (ATOUTPI LAPLACE)**

### Respondent

Name **Linn Arnevik**

#### OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

#### IDENTIFICATION OF RIGHTS

The Complainant is the owner of multiple international and European Union trademark registrations for the word mark "NUXE," including:

- International trademark no. 1072247, registered on February 14, 2011, covering classes 3 and 44 in various countries worldwide, including Australia and the United States;
- European Union trademark no. 8774531, registered on June 15, 2010, also covering classes 3 and 44.

(collectively referred to as the "**NUXE trademarks**" or "**Complainant's trademarks**").

#### FACTUAL BACKGROUND

The Complainant, Laboratoire Nuxe ("Nuxe"), is a French company specializing in the manufacture and sale of cosmetics and personal care products under the trademark NUXE.

The Complainant owns multiple domain names containing the word NUXE, including <nuxe.com>.

The disputed domain name <nuxemagasin.com> was registered on December 11, 2024.

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## PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.

No administratively compliant Response has been filed.

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## RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

The Complainant has demonstrated that it is the rightful owner of several "NUXE" word trademarks, which are protected in multiple jurisdictions, including the European Union and the United States. The Panel recognizes that the Complainant's trademark is fully incorporated into the disputed domain name as its sole distinctive element, rendering the domain name confusingly similar to the Complainant's trademarks.

The addition of the term "magasin," which means "shop" in French, is a common descriptive and generic word. As established in previous UDRP decisions, such terms are generally insufficient to distinguish a domain name from a registered trademark (see *Daimler AG v. William Wood*, WIPO Case No. D2008-1712, *mercedesshop.com*, and *Audi AG v. Jun Suk Min*, WIPO Case No. D2007-0200, *audi-shop.com*). On the contrary, the inclusion of "magasin" reinforces the confusing similarity, as it suggests that the website associated with the disputed domain name is an online shop for NUXE goods.

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## NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

A complainant is required to establish a prima facie case that the respondent lacks rights or legitimate interests. Once such a case is made, the burden of proof shifts to the respondent to demonstrate their rights or legitimate interests in the disputed domain name. Failure to do so results in the complainant satisfying paragraph 4(a)(ii) of the Policy (as per Article 2.1 of WIPO Jurisprudential Overview 3.0).

Based on the contentions of the Complainant, the Panel finds that the Complainant has successfully established a prima facie case that the Respondent lacks rights or legitimate interests. As the Respondent has failed to provide relevant evidence demonstrating any such rights or legitimate interests, the Complainant is deemed to have satisfied the second element.

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## BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

### *Registration in bad faith*

In evaluating whether the disputed domain name was registered in bad faith, the Panel notes that the Complainant has continuously used the NUXE trademarks for a significant period prior to the domain name's registration. The NUXE mark is also part of the Complainant's company name. Furthermore, the Complainant's trademarks predate the registration of the disputed domain name, which was only recently registered in December 2024.

The Panel also observes that the trademark NUXE is a distinctive, fanciful term with no pre-existing meaning. Given these factors, it is implausible that the Respondent registered the domain name without prior knowledge of the Complainant's trademark. This conclusion is further reinforced by evidence showing that the disputed domain name was used for an active website offering cosmetic products, including NUXE products and those of other cosmetic brands.

Based on these circumstances, the Panel concludes that the Respondent was aware of the Complainant and its NUXE trademarks at the time of registration. It is highly unlikely that the Respondent registered the domain name by mistake or without knowledge of the Complainant's brand.

While, in theory, the Respondent could have intended to register the domain for the bona fide resale of the Complainant's products—if such use met the OKI Data test under Article 2.0 of the WIPO Jurisprudential Overview 3.0—subsequent actions undermine this possibility. Specifically, the Respondent used the website associated with the disputed domain name to offer cosmetic products of other cosmetic brands (e.g. L'Oréal), and it failed to provide a credible explanation for the domain's registration in response to the Complaint.

Accordingly, the Panel determines that the Respondent intentionally targeted the Complainant's trademark and business when registering the domain name, thereby establishing bad faith registration.

#### *Bad faith use*

The Complainant has submitted evidence demonstrating that the disputed domain name was used for an active website selling both NUXE products and those of other cosmetic brands, including L'Oréal, Mesauda, and PaolaP. The Complainant also requested that the website be disabled by the Registrar; however, the evidence does not conclusively establish whether the disabling of the website was a direct result of this request.

Furthermore, the website associated with the disputed domain name prominently features the Complainant's trademark alongside the generic term "magasin" (which means "shop" in French). The Panel finds that this usage is likely to mislead Internet users into believing that the website is either operated by the Complainant or is authorized, licensed, or endorsed by it.

Given these similarities, the Panel determines that the website is misleading and seeks to impersonate the Complainant and its trademarks. Such use is not for bona fide commercial purposes but rather an attempt to attract Internet users for commercial gain by creating a likelihood of confusion regarding the source, sponsorship, affiliation, or endorsement of the website.

Based on the totality of circumstances, the Panel finds that the Respondent's use of the disputed domain name constitutes bad faith use.

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#### PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

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#### PRINCIPAL REASONS FOR THE DECISION

The Panel has determined that the disputed domain name is confusingly similar to the Complainant's trademark.

Based on the arguments and evidence provided by the Complainant, the Panel finds that the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. As the Respondent has failed to submit any relevant evidence to rebut this claim, the Complainant is deemed to have satisfied the second element of the Policy.

Considering the Complainant's submissions and supporting evidence, the Panel concludes that the Respondent was likely aware of the Complainant's trademarks at the time of registering the disputed domain name. This indicates that the domain name was registered in bad faith. Furthermore, the Panel finds that the Complainant has also demonstrated that the disputed domain name is being used in bad faith.

For these reasons, the Panel orders that the disputed domain name <nuxemagasin.com> be transferred to the Complainant.

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#### FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

**Accepted**

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#### AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **nuxemagasin.com**: Transferred

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## PANELLISTS

Name	<b>Karel Šindelka</b>
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DATE OF PANEL DECISION 2025-03-01

Publish the Decision

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