

ADMINISTRATIVE PANEL DECISION

Officina Profumo Farmaceutica di Santa Maria Novella S.p.A. v. Phyllis Wolff
Case No. D2025-1198

1. The Parties

The Complainant is Officina Profumo Farmaceutica di Santa Maria Novella S.p.A., Italy, represented by Bugnion S.p.A., Italy.

The Respondent is Phyllis Wolff, United States of America.

2. The Domain Name and Registrar

The disputed domain name <smnovellaeu.top> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 24, 2025. On March 24, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 24, 2025, 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 (Redacted for privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 25, 2025, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. On March 28, 2025, the Complainant filed an amended Complaint in respect of the domain name <smnovellaeu.top> and requested the termination of proceeding in respect of the other domain name <smnovella-us.shop>. On April 1, 2025, the Center acknowledged the Complainant’s request and confirmed that it would not proceed in respect of the domain name <smnovella-us.shop>.

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, 2025. In accordance with the Rules, paragraph 5, the due date for Response was April 21, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 25, 2025.

The Center appointed Rodrigo Azevedo as the sole panelist in this matter on May 5, 2025. 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 is an Italian joint-stock company with a history dating back to 1221.

The Complainant is internationally known for producing and selling cosmetics, fragrances, and related goods under the S.M.NOVELLA mark and variations thereof.

The Complainant owns multiple trademark registrations for S.M.NOVELLA, including European Union Trademark No. 013125893, filed on July 30, 2014 and registered on September 6, 2015; European Union Trademark No. 016768947, filed on May 29, 2017 and registered on September 27, 2017; and International Registration No. 1365123, registered on June 8, 2017, designating the United States of America, among other jurisdictions.

The Complainant also operates numerous domain names incorporating its S.M.NOVELLA mark, including <smnovella.com>, <smnovella.it>, <smnovella.eu> and <smnovella.us>, through which it offers its products online.

The disputed domain name was registered on February 14, 2025.

The Panel accessed the disputed domain name on May 15, 2025, when it was linked to the "www.amazon.com" website. However, the Complainant brought evidence that the disputed domain name was recently linked to a website where the Complainant's mark and logo were reproduced, and where products were offered for sale under the Complainant's marks.

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:

(i) The disputed domain name is identical or confusingly similar to the Complainant's trademark. The Complainant asserts that the disputed domain name incorporates its registered trademark S.M.NOVELLA in its entirety, omitting only the non-functional punctuation, and that the additional geographic term "eu" is non-distinctive and does not prevent a finding of confusing similarity. The Complainant states that its trademark is clearly recognizable within the disputed domain name.

(ii) The Respondent has no rights or legitimate interests in the disputed domain name. The Complainant argues that the Respondent is not commonly known by the disputed domain name, has not been authorized to use the S.M.NOVELLA trademark, and is not using the disputed domain name in connection with a bona fide offering of goods or services. The Complainant further contends that the Respondent's use of the disputed domain name to offer products purporting to be those of the Complainant, including unauthorized use of the Complainant's trademarks and imagery, is not legitimate.

(iii) The disputed domain name was registered and is being used in bad faith. The Complainant asserts that the Respondent registered the disputed domain name with knowledge of the Complainant's rights and that the website associated with the disputed domain name mimics the Complainant's own website, including the

use of identical trademarks and product images. This, according to the Complainant, demonstrates an intent to attract Internet users for commercial gain by creating a likelihood of confusion with the Complainant's trademark.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that in order to be entitled to a transfer of the disputed domain name, a complainant shall prove the following three elements:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (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.

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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Annex 4 to the Complaint shows numerous trademark registrations for S.M.NOVELLA. Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The disputed domain name incorporates the Complainant's trademark S.M.NOVELLA, omitting the non-functional punctuation, and with the addition of the geographic term "eu" as a suffix. The disputed domain name also presents the generic Top-Level Domain ("gTLD") extension ".top".

Although the suppression of symbols (such as the dots) and the addition of other terms / acronyms (here, "eu", which is a common geographic term for the European Union) may bear on assessment of the second and third elements, the Panel finds that such alterations do not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

It is also well established that the addition of a gTLD (such as ".top") is typically disregarded when determining whether a domain name is confusingly similar to a complainant's trademark as such is viewed as a standard registration requirement. [WIPO Overview 3.0](#), section 1.11.1.

Therefore, the Panel finds the disputed domain name is confusingly similar to the Complainant's trademark and that 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 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 3.0](#), 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 have 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 no indication that the Respondent is commonly known by the disputed domain name.

The Complainant has asserted that the Respondent is not an authorized representative, nor has the Respondent obtained any permission for registering the disputed domain name. The Panel finds that the nature of the disputed domain name, comprising the Complainant's trademark and a geographic term, and the evidence of previous reproductions of the Complainant's brand and logo on the website at the disputed domain name, indicate an awareness of the Complainant and its trademark and an intent to take unfair advantage of such, which does not support a finding of any rights or legitimate interests.

Based on the available record, 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 3.0](#), section 3.2.1.

The disputed domain name includes the distinctive trademark S.M.NOVELLA in its entirety, omitting only the non-functional punctuation. According to the [WIPO Overview 3.0](#), section 3.1.4, UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely known trademark by an unaffiliated entity can by itself create a presumption of bad faith.

Actually, when the disputed domain name was registered in 2025, the S.M.NOVELLA trademark was already well known and directly connected with the Complainant's products.

The Panel concludes that it is unlikely that the Respondent was not aware of the Complainant's trademark and that the registration of the disputed domain name was a mere coincidence. Especially considering that the Complainant brought evidence that the disputed domain name recently was linked to a website reproducing the S.M.NOVELLA brand and logo, making clear that the intent of the Respondent with the disputed domain name was to specifically target the Complainant's trademark.

The Panel holds that the Respondent is intentionally attempting to attract, for commercial gain, Internet users to its own website by creating a likelihood of confusion with the Complainant's trademark as to the source, affiliation, or endorsement of the disputed domain name.

From the Panel's search, the disputed domain name currently points to "www.amazon.com". However, the Respondent's previous use of the disputed domain name - reproducing the Complainant's trademark and logo - and its non-collaborative posture, i.e., not providing justifications for the use of a third party trademark,

certainly cannot be used in benefit of the Respondent in this Panel's opinion. The circumstances of this case, together with the lack of any plausible justification for the adoption of the term "smnovellaeu" by the Respondent, are enough in this Panel's view to characterize bad faith registration and use in the present case.

Therefore, having reviewed the record, the Panel finds the registration and use of the disputed domain name constitutes bad faith under 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 <smnovellaeu.top> be transferred to the Complainant.

/Rodrigo Azevedo/

Rodrigo Azevedo

Sole Panelist

Date: May 19, 2025