

## Santa Maria Novella's Legacy between Cultural Heritage, Traditional Knowledge, and Intellectual Property

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### Introduction

The Officina Profumo-Farmaceutica of Santa Maria Novella in Florence, dating back to 1221, represents one of the oldest apothecaries globally. The history of the apothecary of Santa Maria Novella is closely tied to that of the Dominican church, and although some of its chapters remain a bit patchy due to the dispersion of archival documents, it is possible to trace a succession of events. The evolution of the Officina transpired through three pivotal timeframes: mainly under the patronage of the Medici family, and subsequently during the Kingdom of Italy – a period in which Florence was the capital of the Kingdom, and during the evolution in the 20<sup>th</sup> century.

### The institution of Officina-Profumo Santa Maria Novella

The establishment of the pharmacy dates back to the 13<sup>th</sup> century when it was first used as a monastic workshop.<sup>1</sup> In 1221, the monks began cultivating plants and medicinal herbs to prepare treatments for the infirmary when the church of Santa Maria Nuova (formerly Santa Maria Novella) was founded.<sup>2</sup> During the Medieval Age, monasteries usually had gardens protected by cloisters, which served the dual purpose of feeding the religious community and facilitating the cultivation of medicinal plants. Documentation from the 14<sup>th</sup> century extensively highlights the apothecary's specialisation in treating gastrointestinal and dermatological diseases. Dardano di Tingo, an important member of the Florentine mercantile elite, used the monks' medicinal preparations to recover from dermatological disease. He built a chapel next to the infirmary between 1332 and 1334 to thank the monks for the cures he received.<sup>3</sup> The chapel was dedicated to Saint Nicholas, initially a saint's patron of merchants and later venerated as protector of apothecaries and perfumers. At the end of the 14<sup>th</sup> century, the chapel was decorated with the history of the Passion of the Christ by Mariotto di Nardo di Cione.<sup>4</sup>

Alongside their pharmaceutical endeavours, the monks began to produce perfumes, especially 'acque profumate' (perfumed water) like rose water, which was used to reduce the plague's effect thanks to their disinfectant and aromatic properties. In 1553, the monks created their first perfume, dedicated to Catherine de Medici, the wife of Henry II, Duke of Orleans, and future king of France. The fragrance was based on bergamot, and its name is "Acqua della Regina" (Water of the Queen) in

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The archival documents will be summarized in the following ways: ASMNF= Archivio del Convento di Santa Maria Novella; AOPFSMNF= Archivio Officina Profumo-Farmaceutica di Santa Maria Novella di Firenze.

<sup>1</sup> For an overview on Officina Profumo Santa Maria Novella see Benedetta Alphasery, *Officina profumo Santa Maria Novella*, Milano (2017), Sandra Giovannini, *L'officina profumo-farmaceutica di Santa Maria Novella in Firenze, sette secoli di storia e di arte*, Roma (1994).

<sup>2</sup> Riccardo Spinelli (edited by), *Santa Maria Novella, la basilica e il convento*. Vol. 3, *Dalla Ristrutturazione vasariana e granducale ad oggi*, Firenze (2017).

<sup>3</sup> Fulvio Cervini, "Non racchiude l'indefinito gotico". *L'orizzonte internazionale di una novella architettura*, in *Santa Maria Novella*, Firenze, (2015), pp. 37-85.

<sup>4</sup> Simone Vettori, *Un nuovo recupero per Santa Maria Novella: il ricollocamento di un affresco di Nardo di Cione nella sede originale*, in *KERMES*, n. 116, pp. 46-49, (2019).

honour of Catherine. The Officina Profumo still produces the perfume under the same name: *Acqua della Regina o Acqua di S.M. Novella*.<sup>5</sup>

### The activity of Officina Profumo between the 16<sup>th</sup> and 17<sup>th</sup> century

By the mid-16<sup>th</sup> century, the apothecary's activities had evolved into a more complex enterprise, extending the treatments to both religious and secular communities.

As a result of this expansion, the management of the apothecary became autonomous and independent of the monastery. In 1542, the 'Libro dei Ricordi' documents the presence of a specific apothecary used as a pharmacy. At the same time, the room previously reserved for guests of honour, now known as the Sala Verde, was converted into a laboratory for the apothecary. The 'Libro delle Entrate e delle Uscite' (the register of income and expenditure) also attests to the gradual increase in activity and the purchase of different natural ingredients from lands outside the convent, highlighting an evolution in the products available to the public. In the small museum of the Officina, there are numerous majolica bottles and painted jars dating back to the 16<sup>th</sup> century, which testify to the evolution of the pharmacy during this period.

On 15 October 1612, the Council of the Dominican Monastery officially established an aromatic laboratory with perfumery and pharmaceutical features. The Officina Profumo-Farmaceutica of Santa Maria Novella thus formally began its activities. In just a few years, it had become a well-known officina, receiving requests from Florence and all over Italy.

Under the direction of Fra Angiolo Marchissi (1612-1659), the pharmacy was granted the title of "Fonderia Granducale" by Grand Duke Ferdinando II de Medici, which further underlined its importance on the territory of the Tuscan Grand Duchy. Furthermore, Marchissi created a series of interior decorations in the convent and designed a new access door from the Great Cloister.

### The activity of Officina Profumo between the 19<sup>th</sup> and 20<sup>th</sup> century

In the 19<sup>th</sup> century, the Officina Profumo of Santa Maria Novella suffered significant structural and legal changes due to anticlerical laws. In 1866, the complex of Santa Maria Novella faced a particularly challenging historical period. Due to the enactment of anticlerical laws that suppressed both regular and secular religious orders, the church, the convent, the cloisters, the sacristy, and the apothecary became the property of the Italian Kingdom. The complex was transferred to the State Property Office, which delegated its management to the Fondo per il Culto (Fund for Worship) in the Ministry of Interior Affairs in Rome. The anticlerical law culminated in the loss of legal status for the friars' community, thereby depriving them of the possibility to own goods of any kind. Fortunately, Santa Maria Novella was designated as a monumental complex by Art. n. 33 of the 1866, n. 3036 law protected its artistic patrimony, including all the furniture and tools for producing medicines and perfumes.<sup>6</sup>

The State Property Office then entrusted the ancient apothecary to Angelo Beni, also known as Fra Damiano, who took charge of its management in 1846. In February 1867, Beni agreed to lease the apothecary, which was registered under his nephew, Cesare Augusto Stefani (1829-1890).<sup>7</sup> In 1871,

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<sup>5</sup> Our Story, Officina Profumo-Farmaceutica di Santa Maria Novella, <https://us.smnovella.com/pages/story>.

<sup>6</sup> Ministero dell'interno [Ministry of Interior Affairs], *Archivio storico del Fondo Edifici di Culto* [ex Fondo per il Culto], *Direzione generale del Fondo per il Culto, Corporazioni religiose, "Atti della presa di possesso"*, fasc. 799, 1866-1868.

<sup>7</sup> AOPFSMNFi n. 38, *Documento che attesta l'affidamento della farmacia a fra' Damiano Beni, 16 ottobre 1866*.

the management of the apothecary was transferred to Cesare Augusto Stefani, who became a tenant of the State Property Office.

Subsequently, following the Rogito Guerri on April 29, 1868, the Administration of the Fondo per il Culto transferred the agreement of the transfer to the municipality of Florence. The transfer of the ownership concerned only a specific section of the monumental complex, while the ownership of the church remained with the Fondo per il Culto, which ensured its permanent use to the municipality.<sup>8</sup> Fra Damiano Beni oversaw the last architectural modifications of the spaces, which have remained unchanged until today. This project was entrusted to the architect Enrico Romoli. It was made possible by the significant economic power collected by the apothecary due to its renown from the Napoleonic era through the mid-19<sup>th</sup> century.<sup>9</sup>

From the 20<sup>th</sup> century to the present day, prominent private companies have managed the Officina Profumo-Farmaceutica of Santa Maria Novella, that have successfully offered a range of products to national and international clientele. Indeed, the products still feature the same historical graphics design by the Officina in the 1920s, making these items iconic worldwide. The production laboratories are located near the Santa Maria Novella train station. At the same time, the natural ingredients used in the products are cultivated at Villa Petraia in Florence – one of the historic villas of the Medici family.<sup>10</sup>

### The Officina Profumo today

The space of the Officina is divided into seven rooms: the entrance, the Room of the Lilies, the Sacristy, the Sales Room, the Cash Room, the Green Room, and the Ancient Apothecary. The access to the Officina is facilitated through a historical entrance crowned by a stone portal bearing the Dominican emblem. As previously noted, this entrance was established only in the 18<sup>th</sup> century, in contrast with the original one, dated in the 17<sup>th</sup> and located in Chiostrò Grande, today owned by the 'Scuola Sottoufficiali Carabinieri' (Carabinieri Sergeants School). The entrance vault is decorated with a fantastic installation of dried, fragrant, and colourful flowers, leading visitors towards the Room of the Lilies. This space serves primarily as a transitional area, housing some 18<sup>th</sup>-century furniture, notably including intricately inlaid wooden panelling and sacristy cabinets. The Officina's crowning jewel is in the next room: the old sacristy, where the beautiful frescoes by Mariotto di Nardo di Cione are still preserved, depicting the stories of the Passion of Christ. These frescoes underwent significant restoration in 2012, during which the restorer, Daniela Dini, removed overpainting that had covered the sacristy's vault. The celestial backdrop featuring stars and four evangelists was removed, and Mariotto di Nardo also painted three saints and a bishop.<sup>11</sup>

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<sup>8</sup> Ministero dell'interno [Ministry of Interior Affairs], *Archivio storico del Fondo Edifici di Culto* [ex Fondo per il Culto], Direzione generale del Fondo per il Culto, *Corporazioni religiose*, 2-A1, n. 4796.

<sup>9</sup> Ministero dell'interno [Ministry of Interior Affairs], *Archivio storico del Fondo Edifici di Culto* [ex Fondo per il Culto], Direzione generale del Fondo per il Culto, *Corporazioni religiose*, "Atti della presa di possesso", fasc. 799, 1866-1868.

<sup>10</sup> Our Story, Officina Profumo-Farmaceutica di Santa Maria Novella, <https://us.smnovella.com/pages/story>.

<sup>11</sup> Silvia Ciappi, *L'officina Profumo-Farmaceutica di Santa Maria Novella, Architettura, decori e arredi dal XVI an XX secolo*, in Riccardo Spinelli (edited by), *Santa Maria Novella, la basilica e il convento*. Vol. 3, *Dalla Ristrutturazione vasariana e granducale ad oggi*, Firenze (2017), pp. 277-301.

The path continues in the Green Room, constructed between 1335 and 1337, originally intended as a private apartment for distinguished guests. By the 18<sup>th</sup> century, the Green Room had changed into a reception area for esteemed guests, where the pharmacy's specialities like Alkermes, China, and notably chocolate – a highly fashionable beverage renowned for its soothing properties – were served. Today, the room is decorated with 18<sup>th</sup>-century Directoire-style furniture, including sofas, stools, and white-lacquered chairs upholstered in green silk. On the walls, there is the portrait of the Dominican saint Pietro da Verona by Lorenzo Lippi, the emblem of Santa Maria Novella is displayed within an ornate gilded frame, and portraits of all the Officina's directors since its official founding in 1612, accompanied by a collection of ancient ceramic pharmacy vessels from Montelupo.<sup>12</sup>

The Old Apothecary's Room and the Sales Room are the two rooms that best preserve 18<sup>th</sup> century decor and furnishings. In the apothecary room, an intricately decorated stucco vault depicts fantastical animals, sphinxes, dragons, royal eagles, masks, garlands of fruit and roses, all motifs emblematic of the period. Certain elements, such as ribbons and garlands, reappear in the 17<sup>th</sup>-century wood carvings on the cabinets. In the cabinet on the entrance wall, the central carving is a gilded wooden garland of roses, crowned and surrounded by a representation of the Mystical Marriage of Saint Catherine of Alexandria. The sales room, on the other hand, is characterised by neo-Gothic and classical decorative elements and furnishings. The showcases and counters are decorated with precious 18<sup>th</sup> century wooden inlays inspired by rose windows and Gothic stained glass. The frescoes decorating the vaults were commissioned from the painter Paolo Sarti, who depicted the continents in four panels, representing the raw materials imported for the Officina's products.<sup>13</sup> Lastly, the Officina Profumo-Farmaceutica di Santa Maria Novella Museum route unfolds in the former production laboratories. The museum was created to bring to life the machinery used in the past and the glassware, ancient ceramics, copper, and bronze objects. Various scientific instruments and vessels from the 17<sup>th</sup> to the 20<sup>th</sup> centuries are displayed throughout the pharmacy. The collection is divided into three main categories: ceramic apothecary vessels (by Montelupo, Richard-Ginori and Chini), glass apothecary items (bottles, stills and others) and genuine scientific instruments (thermometers, mortars, scales, beakers). The Ancient Apothecary Room displays old stills and other instruments used to extract and synthesise perfumes and medicinal compounds. The large thermometers from the Accademia del Cimento are replicas of the originals in the Galileo Museum in Florence.<sup>14</sup>

## The Officina Profumo: Religious History and more Brand Heritage Issues

### The Perfumery as a Business Activity

Today, the perfumery, is “[c]onsidered a gem of the Italian beauty industry” within the wider luxury industry.<sup>15</sup> This status builds on the perfumery’s history and links to its founding religious order. The history of the perfumery which we have thus far outlined from a historical perspective is a key part

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<sup>12</sup> Silvia Ciappi, *L'officina Profumo-Farmaceutica di Santa Maria Novella, Architettura, decori e arredi dal XVI an XX secolo*, in Riccardo Spinelli (edited by), *Santa Maria Novella, la basilica e il convento*. Vol. 3, *Dalla Ristrutturazione vasariana e granducale ad oggi*, Firenze (2017), pp. 277-301.

<sup>13</sup> Our Story, Officina Profumo-Farmaceutica di Santa Maria Novella, <https://us.smnovella.com/pages/story>.

<sup>14</sup> Anna Chiostrini Mannini, *Il bello dell'utile: ceramiche Ginori e Richard-Ginori dal 1750 al 1950*, Firenze (2001).

<sup>15</sup> Sandra Salibian, Officina Profumo-Farmaceutica di Santa Maria Novella Names New CEO, WWD, January 25, 2024 at 18.

of the perfumery's business strategy and luxury segmentation. In business literature, the history of a brand is referred to as brand heritage.<sup>16</sup> Historical facts as well as stories related to a brand's myths and values make up brand heritage. Brand heritage is often the sole factor or font of information that differentiates one brand from another on the luxury market and is a key part of management strategies.<sup>17</sup>

Like other luxury brands, the perfumery prominently emphasizes its legacy and age in marketing materials: it has "800 years of history" and products from the *aceto aromatico* to the *pasticche* (mints) are still made with "preparations based on essential principals of aromatic plants."<sup>18</sup> Great emphasis is made of place- the location of the perfumery and its historic connections both to the Dominican religious community, to its convent, and to the Tuscan landscape and city of Florence itself. As part of its presentation of its history, the business today does not dwell on the seizing of religious assets which in part enabled the business to exist as it does today. For example, in the marketing materials on its website, the perfumery shares information about Damiano Beni's restoration of the San Niccolò chapel by describing its historical context as "a delicate period of Italian history."<sup>19</sup> This gloss over the secularization of the perfumery masks an important issue of ownership which is central to the business' status today. Until 1866, we might say that the perfumery followed an organic and natural evolution of its business activities- first part of a religious organization, the perfumery slowly became a separate association still managed by the Dominican religious community but seen as outside of its traditional religious activities. The endorsement from the Grand Duke of Tuscany mirrored many of the exclusive licenses given in other countries to businesses- consider, for example, how Burberry was given a royal warrant in Britain by Queen Elizabeth II.<sup>20</sup> This endorsement was cited by a previous President of the company as the seed for the brand value: thanks to "the Medici's seal of approval, 'the Officina Profumo - Farmaceutica di Santa Maria Novella was then born with an emblematic name that gave precedence to perfume or the ephemeral, rather than the curative aspect of more spiritual inspiration, the medicinal or pharmaceutical."<sup>21</sup> This The seizing of the perfumery, however, no matter what its organization structure<sup>22</sup> in 1866 was also a move that allowed for a shift in the company's value. The permanent separation from a religious community in its organizational structure only furthered the business activity's value as an independent "emblematic name that gave precedence to perfume or the ephemeral."<sup>23</sup> Effectively becoming a business that could be fully licensed, and not just approved, by the Italian State, the value became permanently tied not to the

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<sup>16</sup> Floriana Iannone & Francesco Izzo, *Salvatore Ferragamo: An Italian Heritage Brand and Its Museum*, 13 PLACE BRANDING & PUB. DIPL. 163, 163 (2017).

<sup>17</sup> For an example of how sleeping beauties (brands that have not been continuously active as the Officina has been) are revived through brand heritage and, by extension, the importance of brand heritage, see Delphine Dion, *How to Manage Heritage Brands: The Case of Sleeping Beauties Revival*, THE OXFORD HANDBOOK OF LUXURY BUSINESS (Pierre-Yves Donzé (ed.) et al.) (2020).

<sup>18</sup> Our Story, Officina Profumo-Farmaceutica di Santa Maria Novella, <https://us.smnovella.com/pages/story>.

<sup>19</sup> Our Story, Officina Profumo-Farmaceutica di Santa Maria Novella, <https://us.smnovella.com/pages/story>.

<sup>20</sup> Our History, Burberry, <https://us.burberry.com/c/our-history/>.

<sup>21</sup> Benedict Browne, *Santa Maria Novella: The Oldest Pharmacy in the World?*, The Rake, August 2016, <https://therake.com/stories/santa-maria-novella>.

<sup>22</sup> Please note that many of the historical aspects of the organization are still to be determined in our research through interviews.

<sup>23</sup> Benedict Browne, *Santa Maria Novella: The Oldest Pharmacy in the World?*, The Rake, August 2016, <https://therake.com/stories/santa-maria-novella>.

connection between the product and a religious community, but to the connection between a product, its functionality, the product's now secular place (Florence), and a separate history only peripherally connected to a religious organization.

Little seems to have been written on the evolution of business activities managed by religious organizations in the time that the Italian State secularized religious property. No work thus far explores the Officina Profumeria's own evolution as an organization in this light or the multitude of changes in its legal structure. In some ways, it seems as though the roots of the Officina Profumeria's current success on the market in the luxury industry are to be found in these shifts of ownership between the religious and the secular, in a brand heritage that begins as religious and then takes a secular turn.

### Perfumes as Products between Intellectual Property and Intangible Cultural Heritage

Emphasizing values of innovation and tradition were also a part of this shift to an emblematic name that gave preference to the ephemeral. In a former President's words, "tradition and innovation has been and still is the 'motto' of Officina Profumo – Farmaceutica di Santa Maria Novella."<sup>24</sup> This duality of tradition and innovation is one that also informs the legal structure of intellectual property, a concept which recognizes innovation in the form of novelty (patents), creativity (copyright), and new commercial origins (trademark) under the law while recognizing that all novelty, creativity, and new commercial offerings grow from previous iterations. Some of these previous iterations are thought of by scholars as part of intangible cultural heritage. Recognized at the international level with a convention in 2003, intangible cultural heritage focuses on people and communities and on the knowledge they have which gives rise to products, instead of focusing on the products themselves.<sup>25</sup> The relationship between intangible cultural heritage and intellectual property is often a contentious one, as the legal requirements of intellectual property often subtract community envisioned products from their subject matter and also have particular term limits.<sup>26</sup> The Officina Profumo's perfume, for example, is "still manufactur[ed] through a process the Dominican monks practiced 400 years ago" but that process cannot be patented or copyrighted.<sup>27</sup>

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<sup>24</sup> Benedict Browne, Santa Maria Novella: The Oldest Pharmacy in the World?, The Rake, August 2016, <https://therake.com/stories/santa-maria-novella>.

<sup>25</sup> Art. 2, Convention for the Safeguarding of the Intangible Cultural Heritage, <https://ich.unesco.org/en/convention>.

<sup>26</sup> For a discussion of this see Michael F. Brown, Heritage as Property, in PROPERTY IN QUESTION: VALUE TRANSFORMATION IN THE GLOBAL ECONOMY (Katherine Verdery and Caroline Humphrey, eds.) 49-68 (2004); Michael F. Brown, Culture, Property and Peoplehood: A Comment on Carpenter, Katyal and Riley's 'In Defense of Property', 17 INT'L J. OF CULTURAL PROP. 569 (2010); Michael F. Brown, Can Culture Be Copyrighted? 39 (2) CURRENT ANTHROPOLOGY 193, 197 (1998). But note current efforts to include traditional knowledge as part of an international IP framework. See the resources for Diplomatic Conference on Genetic Resources and Associated Traditional Knowledge, WIPO, <https://www.wipo.int/diplomatic-conferences/en/genetic-resources/index.html>.

<sup>27</sup> Benedict Browne, Santa Maria Novella: The Oldest Pharmacy in the World?, The Rake, August 2016, <https://therake.com/stories/santa-maria-novella>.

Specific products from the perfumery are presented as “icons” of the business.<sup>28</sup> These “iconic fragrances” include Acqua della Regina.<sup>29</sup> Presented as the company’s “oldest fragrance”, the brand makes much of the tradition that is the foundation for this product: “[a]lso known as Acqua di S.M. Novella, Acqua della Regina (the Queen's Water) celebrates the perfume that Caterina de’ Medici commissioned to Renato Bianco, raised by the Santa Maria Novella Dominican friars, to create as her bridal gift. With Italian citruses, petigrain, neroli, and lavender, it offers a fresh and citrusy bouquet. Enchanting, since 1533.”<sup>30</sup> While Renato Bianco may have invented the fragrance in the 16<sup>th</sup> century, there is no legal right under patent law, which would, even if there had been, now be expired, to stop a competitor from making the fragrance on its own.<sup>31</sup> A more likely legal right that halts the Officina Profumo’s competitors is trade secrets- when companies keep the specific formula of notes in a perfume in-house, including through contractual obligations and agreements, companies have a right to prevent competitors from misappropriating the formula.<sup>32</sup> While a competitor can of course reverse engineer a perfume, an even greater threat to the exclusivity of fragrance formulas are sustainability initiatives through which many consumers call on brands to share the ingredients in their perfume to create a cleaner product offering.<sup>33</sup> The Officina Profumo has also begun to make its ingredients more transparent as part of sustainability initiatives.<sup>34</sup> In the case of the Officina Profumo, any patents for fragrances will have expired and the relevant community of religious friars who created the original fragrances is combined with individual inventors and even collaborative processes. The best way for the Officina Profumo to cement the value of its product offering is, therefore, through trade secrets, heritage storytelling that emphasizes its product’s “iconic” nature, and trademarks.

Trademark protection in fact seems to be, other than maintaining secrecy and telling its heritage story, the preferred way for the Officina Profumo to establish a legal right on the market. Under new leadership, the company is taking particular advantage of trademark registrations to communicate itself as the origin of its products. This makes sense as the Officina Profumo has expanded globally: it currently distributes its perfume in “30 countries” including in “81 monobrand stores.”<sup>35</sup> For example, on May 7, 2024, the Officina Profumo successfully registered the label for the bottle of Acqua della Regina.<sup>36</sup> As part of its application for trademark registration, the Officina Profumo found itself having to negotiate which parts of its label indicated the perfume company and which parts were merely descriptive and could signal any perfume company. For example, the United States

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<sup>28</sup> Our Icons, Officina Profumo-Farmaceutica di Santa Maria Novella, <https://us.smnovella.com/pages/collections-navigator>.

<sup>29</sup> Our Icons, Officina Profumo-Farmaceutica di Santa Maria Novella, <https://us.smnovella.com/pages/collections-navigator>.

<sup>30</sup> Acqua della Regina, Officina Profumo-Farmaceutica di Santa Maria Novella, <https://eu.smnovella.com/products/edcadr>.

<sup>31</sup> An overview of IP as applied to the perfume industry in the United States and in France may be found in Amanda Levendowski, *Open Source Perfume*, 45(4) CARDOZO L. REV. (2024) (forthcoming).

<sup>32</sup> Amanda Levendowski, *Open Source Perfume*, 45 (4) CARDOZO L. REV. (2024) (forthcoming) at 47-48.

<sup>33</sup> Amanda Levendowski, *Open Source Perfume*, 45 (4) CARDOZO L. REV. (2024) (forthcoming) at 50-51.

<sup>34</sup> Sandra Salibian, Officina Profumo-Farmaceutica di Santa Maria Novella Names New CEO, WWD, January 25, 2024 at 18.

<sup>35</sup> Sandra Salibian, Officina Profumo-Farmaceutica di Santa Maria Novella Names New CEO, WWD, January 25, 2024 at 18.

<sup>36</sup> Registration Number 7376480, USPTO.

Trademark Office asked Officina to renounce any claims that it might have “Officina Profumo” as a phrase on the label. Because this word, when translated into English, meant “a substance that emits a pleasant odor” and “a building or room stocked with merchandise for sale”, the Officina Profumo could not have a monopoly in it.<sup>37</sup> This word could not signal to consumers that Officina Profumo-Farmaceutica di Santa Maria Novella was the commercial origin of the goods. Rather, these words simply signalled *any* room, building or *any* perfume or similar good.<sup>38</sup> Rather, it is the label holistically, with other words, including “Farmaceutica di Santa Maria Novella” and the design, that signals that Officina Profumo-Farmaceutica di Santa Maria Novella, S.p.A. is the company producing and standing behind this product to consumers.<sup>39</sup>

This layered way of parsing how a perfume label on a bottle of Officina Profumo perfume communicates an association with Officina Profumo-Farmaceutica di Santa Maria Novella in many ways, mirrors the tension between intellectual property and intangible cultural heritage, which is at the heart of the Officina Profumo’s products. The Officina Profumo needs to balance its inclusion in the wider secular perfume industry with its unique offerings. As a matter of business strategy, the Officina Profumo needs to communicate its history and itself as the originator of a product while also recognising that much of what makes it unique is a part of a wider history of Italy and even ‘Made in Italy’ production.

Indeed, the use of the word “iconic” and the brand’s connection to the concept of ‘Made in Italy’ is in some ways a secular substitute for the religious mission and purpose which informed the early production of its products. Defined as “as a sacred image, an object of veneration, a symbol, something widely admired and of great influence and significance”<sup>40</sup>, iconic is often used in luxury marketing materials. Translating sacredness into a secular product, naming something iconic signals that a product has existed throughout time and is timeless. In the luxury market, this only increases a product’s value. When combined with ‘Made in Italy’, it seems as though the Officina Profumo’s iconic ‘Made in Italy’ product is like its own a religious cure for contemporary consumers.<sup>41</sup>

### The Perfumery’s Location as a Cultural Property

Another secularization aspect of the Officina Profumo is its operation in a formerly religious cloister which is now a cultural property. As detailed in the historic section, the seizing of religious property in the 19<sup>th</sup> century allowed the values within religious properties to evolve. No longer were religious properties only seen for their spiritual value: they were, instead, appreciated for their artistic and even historic value. The current Italian Code of Cultural Property recognizes that things belonging to the Italian State or to other public entities (which would include the public *Fondo per il Culto*) are

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<sup>37</sup> Non-Final Action, Full Refusal, May. 26, 2023, Registration Number 7376480, USPTO at 2.

<sup>38</sup> Non-Final Action, Full Refusal, May. 26, 2023, Registration Number 7376480, USPTO at 2 (“the wording merely describes applicant’s goods and/or services because applicant’s goods include perfumery and the goods can be offered for sale in stores”).

<sup>39</sup> The full registration can be found on the USPTO’s database, searching for Registration Number 7376480.

<sup>40</sup> For a discussion of “iconic” within trademark law see Felicia Caponigri, *Iconic Copies*<sup>TM</sup>, *Chicago-Kent Journal of IP* (forthcoming).

<sup>41</sup> For a discussion of ‘Made in Italy’ within the fashion and luxury sector see Barbara Pozzo, “*Bello e Ben Fatto*”—*The Protection of Fashion “Made in Italy”*, 14 *FIU L. REV.* 545 (2021), <https://doi.org/10.25148/lawrev.14.3.9>.



presumed to be cultural property.<sup>42</sup> These objects cannot be destroyed or alienated from the State and need to be preserved.<sup>43</sup>

While it is still unknown what type of agreement the Officina Profumo has with the municipality of Florence to remain in its historic location that is certainly classified as a cultural property, the Officina Profumo's activities in the space could potentially be perpetual. The business activities, even if secular, are very much in keeping with the artistic and historic value of the location itself.<sup>44</sup> Indeed, the rooms we have described in the Officina Profumo were *made* and *decorated* for the purpose to which they are still put. The almost unbreakable link between the Officina Profumo as a business activity and the location of the Officina Profumo classified as a cultural property is almost comparable to the Antico Caffè Greco in Rome on Via Condotti. In that case, the link between the place as a cultural property and the historic business, and the license to use the space for that historic business purpose, has made it practically impossible for the private owner of the cultural property to sell it with the possibility that another business would enter the space over the past few years.<sup>45</sup> The links between the Officina Profumo's business, its historic location, and cultural property are crucial for its continued success and differentiation as part of the luxury industry. From past presentations of the brand, it seems that tourism to the cultural property resulted in an increase of potential consumers, if not awareness of the brand alone.<sup>46</sup>

### The Officina Profumo's Ownership and Management between Business and Cultural Heritage Today

Today, according to its organizational documents, the Officina Profumo is a *società per azioni* under Italian law, the equivalent of a corporation with shares which can be owned by private or public entities. The central difference between a corporation and other forms of business entities is not just limited liability but separate taxation.<sup>47</sup> Indeed, Officina Profumo Farmaceutica di Santa Maria Novella S.p.A. is 100% owned by another corporation, Italmobiliare S.p.A.<sup>48</sup> An investment group that is family-owned Italmobiliare S.p.A. bought Officina Profumo Farmaceutica di Santa Maria Novella S.p.A. purchased the company's shares in stages in 2020 and 2021 for a total price of 200

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<sup>42</sup> Art. 10(1), Codice dei Beni Culturali, Codice d.lg. n. 42/2004, Altalex, <https://www.altalex.com/documents/news/2014/09/15/codice-dei-beni-culturali-e-dell-ambiente-parte-ii-beni-culturali#titolo2>.

<sup>43</sup> Also known as part of *tutela*. See generally *Diritto del patrimonio culturale* (Carla Barbati et al, eds) (2nd ed, 2020).

<sup>44</sup> See Art. 52, Art. 106, Art. 120(2) and Art. 20, Codice dei Beni Culturali, Codice d.lg. n. 42/2004 (for the notion of decoro); *Diritto del patrimonio culturale* (Carla Barbati et al, eds) 197-198 (2nd ed, 2020).

<sup>45</sup> La battaglia dell'Antico Caffè Greco per preservare la cultura e la storia di Roma, Coffee Today, July 14, 2023, <https://coffeetoday.news/2023/07/14/la-battaglia-dellantico-caffe-greco-per-preservare-la-cultura-e-la-storia-di-roma/>.

<sup>46</sup> Benedict Browne, Santa Maria Novella: The Oldest Pharmacy in the World?, The Rake, August 2016, <https://therake.com/stories/santa-maria-novella>. (“Partly due to the store being listed in travel guides and books, they have in recent years had a consistent surge of tourists, eager to smell the history, which resulted in the touch screen devices being installed.”)

<sup>47</sup> For more on the differences between limited liability companies and corporations see Felicia Caponigri and Jake Landreth, *Fashion Law and the Family Fashion Firm: Transatlantic Lessons from Multinational Italian Brands*, 9(1) The Italian Law Journal 169 (2023), <https://www.theitalianlawjournal.it/caponigrilandreth/>

<sup>48</sup> This information is contained on p. 3 of Officina Profumo Farmaceutica di Santa Maria Novella S.p.A.'s Organizational Model for the Management and Control of the Company, <https://eu.smnovella.com/it/pages/corporate>.

million euro.<sup>49</sup> Prior to Italmobiliare S.p.A.'s investment, the perfumery had been a rather quiet but renowned brand. From 1989 to 2020 the company was run by Eugenio Alphantery, who “came to the company’s rescue” and “positioned [the company] in the market as the leading pharmaceutical and grooming company in the world.”<sup>50</sup>

Today, new business strategies include the launch of a new perfume L’Iris, the first new product in 800 years, and a skincare line.<sup>51</sup> The creation of these new products may allow for an increase in the company’s intellectual property portfolio, including potential patents for the L’Iris formula, or, at the minimum, robust trade secrets, new trademarks and artistic partnerships that could result in copyrights. At the same time, legal and strategic questions still remain for management that are grounded in the business’ heritage. For example, how secure is the agreement to always be in the location in the extended Santa Maria Novella complex which is now a cultural property? Will future sustainability issues require the Officina Profumo to be transparent not just about its ingredients but also about its connections to an Italian State which deprived religious communities of their property?

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<sup>49</sup> Sandra Salibian, Officina Profumo-Farmaceutica di Santa Maria Novella Names New CEO, WWD, January 25, 2024 at 18.

<sup>50</sup> Benedict Browne, Santa Maria Novella: The Oldest Pharmacy in the World?, The Rake, August 2016, <https://therake.com/stories/santa-maria-novella>.

<sup>51</sup> Sandra Salibian, Officina Profumo-Farmaceutica di Santa Maria Novella Names New CEO, WWD, January 25, 2024 at 18.