

ESTTA Tracking number: **ESTTA348822**

Filing date: **05/20/2010**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Atlantic Importing Company		
Entity	Corporation	Citizenship	Massachusetts
Address	101 Bishop Street Framingham, MA 01702 UNITED STATES		

Attorney information	Paul W. Reid Law Office of Paul W. Reid 3300 Wycliffe Drive Modesto, CA 95355 UNITED STATES reid@sbcglobal.net Phone:(209) 526-1586
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Registration Subject to Cancellation

Registration No	1209953	Registration date	09/21/1982
Registrant	CE.DE.VI. - CENTRO DIFFUSIONE VINI - VILLADORIA - LANZAVECCHIA - DARDANO - SAN GIUSTINO - LA.PI.- LA.DA. - DA.LA.MO. - MARIA DE ROSS - TENUTA CAPPALLOTTO S.A.S. DI DANIELE LANZAVECCHIA EC. LOCALITA CAPPALLOTTO 5 SERRALUNGA D'ALBA PROVINCE OF CUNEO, 12050 ITALY		

Goods/Services Subject to Cancellation

Class 033. First Use: 1964/00/00 First Use In Commerce: 1971/09/06 All goods and services in the class are cancelled, namely: Wines
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Grounds for Cancellation

<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
Abandonment	Trademark Act section 14

Attachments	Atlantic Petition.pdf (5 pages)(117943 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/pwr/
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Name	Paul W. Reidl
Date	05/20/2010

1 **BEFORE THE UNITED STATES PATENT AND TRADEMARK OFFICE**
2 **TRADEMARK TRIAL AND APPEAL BOARD**

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4 Registration No. 1,209,953

5 Mark: Marchese Villadoria (stylized form)

6 Class: 33

7 _____)
8 ATLANTIC IMPORTING COMPANY,)

9 Petitioner)

10 v.)

11 CE.DE.VI – CENTRO DIFFUCIONE)
12 VINI – VILLADORIA –)
13 LANZAVECCHIA-DARDANO – SAN)
14 GIUSTINO – LA.PI. –LA.DA. –)
15 DA.LA.MO – MARIA DE ROSS –)
16 TENUTA CAPPALLOTTO S.A.S,)

17 Registrant.)
18 _____)

Cancellation No:

PETITION FOR CANCELLATION

16 Petitioner, Atlantic Importing Company (“Petitioner”), by and through its counsel, hereby
17 requests that registration No. 1,209,953, owned by CE.DE.VI – CENTRO DIFFUCIONE
18 VINI – VILLADORIA - LANZAVECCHIA-DARDANO – SAN GIUSTINO – LA.PI. –
19 LA.DA. – DA.LA.MO – MARIA DE ROSS - TENUTA CAPPALLOTTO S.A.S
20 (“Registrant”) be cancelled. As the basis for its petition, Petitioner alleges as follows:

21 1. Petitioner is the owner of application Serial Number 77/886,414 for the mark
22 VILLA MARCHESE for wine in Class 33.

1 9. Since 1982, the United States government has added two mandatory requirements
2 to all wine labels: a sulfite statement and a mandatory health warning statement. It would be a
3 felony to ship a label into the United States that does not contain these mandatory statements.

4 10. As of the date the renewal declaration was executed, Registrant had not received
5 any approval from the United States Department of Treasury Alcohol and Tobacco Tax and
6 Trade Bureau for any label bearing the registered mark since 1982. Registrant has not received
7 any label approvals for any bearing the registered mark containing the post-1982 mandatory
8 statements.

9 11. Beginning in or about 1983, Registrant began using the mark VILLADORIA.
10 This is materially different than the registered mark.

11 12. Wines bearing registered mark were not being sold in the United States at the time
12 the renewal declaration was executed. The specimens, reflecting a 1961 and a 1976 vintage,
13 were not being sold by Registrant at the time the renewal declaration was executed.

14 13. Registrant as the producer of the wine knew that its registered mark was not
15 lawfully in use in the United States at the time the renewal declaration was executed because it
16 had not complied with the legal requirements for shipping a wine label bearing the registered
17 mark to the United States and because it had for many years been using the VILLADORIA
18 mark. On information and belief, Registrant was told by counsel that in order to file a specimen
19 of use it needed to provide a specimen in the form of a label showing the use of the mark in the
20 United States or the registration would be abandoned. Registrant provided the specimens
21 knowing that they were not in use in the United States.

22 14. Registrant's renewal is void because the mark was not in use at the time the
23 renewal declaration was executed or filed. Accordingly, the registration should be cancelled.

