

ESTTA Tracking number: **ESTTA58296**

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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	Wiscon Corp		
Entity	Corporation	Citizenship	Illinois
Address	1945 N 15th Ave Melrose Pk, IL 60160 UNITED STATES		

Attorney information	JoAnne M Denison Denison & Assocs, PC 212 W Washington St, #2004 Chicago, IL 60606 UNITED STATES joanne@denisonlaw.com Phone:312-553-1300
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### Registration Subject to Cancellation

Registration No	2984449	Registration date	08/16/2005
Registrant	Cantine Caputo S.p.A. Via Garibaldi 64 Teverola (CE), ITALY		
Goods/Services Subject to Cancellation	Class 033. First Use: 1997/00/00 , First Use In Commerce: 1997/00/00 Goods/Services: WINES		

Attachments	wiscon-cantine-SOF-noo.pdf ( 4 pages )
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Signature	/s/joanne m denison/
Name	JoAnne M Denison
Date	12/19/2005

Petitioner Wiscon Corp. believes that it will be damaged if Cantine Caputo SpA ("Registrant") continues in existence and in full force and effect on the U.S. Trademark Register. Accordingly, Petitioner herewith petitions that the Trademark Trial and Appeal Board cancel U.S. Reg. No. 2,984,449 for the mark CAPUTO.

The grounds for the instant Petition are as follows:

1. Petitioner, Wiscon Corp., has for many years used the mark CAPUTO on a wide variety of food products and services related to the sales, distribution and processing of food products. The mark is imprinted both on packaging for food products and is also used in advertising, on brochures, invoices and a wide variety of other manners customary in the trade. Such usage commenced in both intrastate and interstate commerce since at least as early as 1978.
2. Petitioner, Wiscon Corp. holds the entire right, title and interest in and to the following U.S. trademark registrations as they relate to food products:

Owner	Re. No.	Mark	Reg. Date	Goods
Wiscon Corp.	2,009,696	CAPUTO	10-22-96	Cheese (Int. Cl. 29)
Wiscon Corp.	1,763,053	CAPUTO & Design	4-6-93	Cheese, nondairy processed cheese, vegetable oil, corn oil, and processed peppers, namely, pepperoncini and pasta (Int. Cl. 29 & 30)

Wiscon Corp.	2,464,986	CAPUTO	7-3-01	Cheese, processed cheese, edible oils, spices and vinegar (Int. Cl. 29)
Wiscon Corp.	2,899,306	CAPUTO	11-2-04	Wines, namely, red, white and pink wine (Int. Cl. 33)

3. In addition to the above usages on a variety of cheese products, oil, vinegar, pepperoncini, pasta and spices, as well as a wide variety of food products.

Petitioner has also used the mark CAPUTO in the following manner in interstate and intrastate commerce: a grocery store, a website at [www.wiscon.com](http://www.wiscon.com) offering food products for sale by internet, mail, phone and fax, meat products, including beef and sausage, as well as a wide variety of other food products.

4. The long and extensive prior use of the CAPUTO mark by Petitioner is undisputed and the CAPUTO mark is well known in the relevant marketplace as being an indication of very high quality foods and food sales services to both the trade and to the end consumer.
5. Petitioner believes that Registrant's use of the mark CAPUTO for the exact same goods, namely wines will create, and is currently creating, a likelihood of confusion in the marketplace, thereby damaging Petitioner, the original, sole and rightful owner of all title and interest in and to the CAPUTO branded food products and food distribution and sales services.
6. Petitioner believes that its CAPUTO mark and Registrant's CAPUTO mark as used

upon wines damages Petitioner, the original, sole and rightful owner of all title and interest in and to the CAPUTO branded food products and food distribution and sales services.

7. Petitioner believes that its CAPUTO mark and Registrant's CAPUTO mark as used upon wines create deception in the marketplace.

8. The Petitioner has been diligent in seeking to protect its highly valuable mark CAPUTO, as this mark is well recognized in the Italian food products distribution marketplace, and is also well known to the end consumer inasmuch as CAPUTO brand food products are sold in numerous grocery stores across the nation. Petitioner for a long period of years has extensively advertised and distributed, and caused to be distributed CAPUTO brand foods in the markets of the United States and Petitioner is enjoying a substantial and enviable business in the marketing, sales and distribution of said products, and has brought said products prominently before the purchasing public, and its CAPUTO are highly valued, and the trademark is well and familiarly known, and the current registration of CAPUTO by Registrant on wines is working serious injury to the business of the Petitioner by misleading the public as to the origin and quality of the products, by diminishing and impairing the rights of the Petitioner to the great damage of Petitioner, and by placing a cloud on the title of the valued CAPUTO trademarks of the Petitioner.

9. If the Registrant continues the usage of the mark CAPUTO for wines, this will deceive the purchasing public and potential purchasers into believing that CAPUTO brand products are sponsored, approved or sold by Petitioner, which they are not, and such deception and confusion will dilute the value, scope and effect of

Petitioner's line of CAPUTO brand food products.