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

Proceeding	92045271
Party	Plaintiff Wiscon Corp. Wiscon Corp. Wiscon Corp 1945 N 15th Ave Melrose Pk, IL 60160 UNITED STATES
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IN THE UNITED STATES PATENT & TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

WISCON CORP.  Petitioner  v.  CANTINE CAPUTO, S.p.A.  Registrant	Cancellation No. 92,045,271  Reg. No. 2,984,449  Response to Registrant's Request for Extension of Time
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RESPONSE TO REQUEST FOR EXTENSION OF TIME TO RESPOND TO ORDER  
DATED JUNE 1, 2007 AND REQUEST TO ENTER DEFAULT JUDGMENT

Petitioner, Wiscon Corp. ("WISCON"), by and through its counsel of record below, herewith responds to Registrant, Cantine Caputo's, ("CANTINE") Request for Extension of Time to Order, Dated June 1, 2007, and requests this Honorable Board DENY CANTINE's request for an Extension of Time and move for a Default Judgment for failure to show cause why default judgment should not be entered based on the party's apparent loss of interest in the case. TBMP § 513.01. Not only has CANTINE failed to comply with the Board's Order of June 1, 2007, but it did not show any good cause for an Extension of Time, as required by the Rules, nor has WISCON agreed to an Extension of Time. Further, CANTINE's problems with hiring and retaining Counsel date back to Dec. 30, 2005 and have been its excuse for complete inaction on this proceeding since then.

The Board must act immediately to put an end to such lame gamesmanship.

At the outset, it should be noted, CANTINE has failed to provide proof of service.<sup>1</sup> Accordingly, "Proof of such service must be made before the paper will be considered by the Office." Trademark Rules 2.119(a). Furthermore, CANTINE has not yet retained counsel because according to the request, Timothy D. Meade states that "Registrant [*sic*] has not yet been retained." See Registrant's Motion to Extend Time, Doc. No. 15. This combination of lack of service and failure to retain counsel can only mean that CANTINE has still not shown enough interest in the case and continues to waste this Board's and WISCON's time in the matter.<sup>2</sup> CANTINE has a long history of being uncooperative and unresponsive to WISCON's discovery request. See Petitioner's Motion to Compel Discovery, Doc. No. 10.

CANTINE has not shown any good cause which is needed to grant the Motion to Extend Time. "[A] party moving to extend time must demonstrate that the requested extension of time is not necessitated by the party's own lack of diligence or unreasonable delay in taking the required action during the time previously allotted therefor."<sup>3</sup> CANTINE's counsel initially requested to withdraw as counsel and as domestic

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<sup>1</sup>WISCON would like to note for the record that in fact counsel of record never actually received any copy of the Registrant's Request for Extension of Time to Order Dated June 1, 2007. It was only after a routine electronic status check of the file that WISCON discovered CANTINE filed such a pleading.

<sup>2</sup>WISCON would like to note that CANTINE has, for the most part, remained inactive, uncooperative and unresponsive in all aspects of this proceeding. See Petitioner's Motion to Compel Discovery, Doc. No. 10.

<sup>3</sup>TBMP 509.01(a). A motion to extend must set forth with particularity the facts said to constitute *good cause* for the requested extension. (*Emphasis added*).

representative on December 30, 2005. See Defendant's Counsel's Request to Withdraw, Doc. 4. CANTINE's counsel then agreed to continue representation after their initial request was inadequate. See Response Due 30 Days, Doc. 6; See Response to Board's 2/14/06 Order, Doc. 7. The Board has suspended the proceedings to allow CANTINE's counsel to perfect its response and resumed the proceedings on September 13, 2006. See Proceedings Resumed, Doc. 9. The Board issued an order suspending this proceeding in view of CANTINE's counsel once again requesting to withdraw as counsel on January 2, 2007. See Defendant's Allowed 30 Days to Show Cause, Doc. 14; See also Defendant's Request to Withdraw as Attorney, Doc. 11; See also Suspended, Doc. 13.

CANTINE has had considerable time to obtain new counsel. CANTINE was aware their counsel intended to for a second time withdraw as of January 2, 2007, which put them on notice of their need for new counsel over 180 days ago.<sup>4</sup> The Board granted CANTINE's counsel's motion to withdraw as attorney on April 10, 2007 which has been over 90 days now.<sup>5</sup> See Suspended, Doc. 13. The Board had given CANTINE thirty (30) additional days to show cause why default judgment should not be entered against CANTINE based on CANTINE's apparent loss of interest in this case. CANTINE had only "very recently" contacted a law firm which has not yet been retained. "Not yet retained" does not constitute good cause because merely "contacting" a law firm clearly indicates lack of good faith by failing to follow the instruction given in the Order. Accordingly,

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<sup>4</sup>197 days as of July 18, 2007.

<sup>5</sup>99 day as of July 18, 2007.

CANTINE has shown its lack of diligence and has imposed unreasonable delay in showing its interest in this case. This is also shown through its latest Request for Extension of Time to Respond because no contact has been made from CANTINE to WISCON requesting an Extension of Time, no counsel has been retained, and, therefore, no good cause has been shown to portray CANTINE's interest in this case. See Registrant's Request for Extension of Time to Respond to Order Dated June 1, 2007, Doc. 14.

All of these delays have resulted in an unacceptable amount of time to elapse since Wiscon's Motion to Compel for Discovery was served over seven months ago. See Petitioner's Motion to Compel Discovery, Dated Dec. 13, 2006, Doc. 10, which referenced a previous insufficient answer, See Registrant's Answer, Dated Jan. 30, 2006, Doc. 5). Cantine has not provided one sheet of discovery requested: no documents have been produced as requested, and not a single Request For Documents or any Interrogatory has been answered. In fact, the amount of time that has elapsed since the first insufficient response to the Petitioner's discovery request is now 534 days as of the writing of this document.

WHEREFORE, WISCON respectfully requests the Board DENY CANTINE's Motion and immediately grant default judgment in WISCON's favor per the most recent Order given by this Board because CANTINE has not shown good cause either to prove its continued interest in the case or to obtain any Extension of Time. It has failed to comply with the Board's Order and the responsive pleading CANTINE filed, a Motion to Extend

Time, cannot even be considered by the Board because it was filed without any actual service upon WISCON and no Certificate of Service was ever provided.

Respectfully submitted,

/s/JoAnne Denison/e-signature

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CERTIFICATE OF SERVICE

I certify that I have mailed a copy of the foregoing pleading, Response to Request of Extension of Time to Respond to Order Dated June 1, 2007 and Motion for Default Judgment, via email as shown on their website and first class mail, (Global Priority) postage prepaid to:

Cantine Caputo, S.p.A.  
Via Garibaldi 64  
Teverola (CE), Italy 81030  
info@caputo.it

this July 18, 2007.

/s/JoAnne Denison/e-signature

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