

ESTTA Tracking number: **ESTTA353675**

Filing date: **06/18/2010**

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	Wego Chemical & Mineral Corp.		
Entity	Corporation	Citizenship	New York
Address	239 Great Neck Road Great Neck, NY 11021 UNITED STATES		

Attorney information	Barry A. Cooper Gottlieb, Rackman & Reisman, P.C. 270 Madison Avenue New York, NY 10016 UNITED STATES efiling@grr.com Phone:212-684-3900		
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**Registration Subject to Cancellation**

Registration No	3472480	Registration date	07/22/2008
International Registration No.	NONE	International Registration Date	NONE
Registrant	Wigo Chemie GmbH Sandweg 7-13 55543 Bad Kreuznach  GERMANY		


**Goods/Services Subject to Cancellation**

Class 001. All goods and services in the class are cancelled, namely: Chemicals used in industry
Class 003. All goods and services in the class are cancelled, namely: Bleaching preparations and detergents for laundry use; all purpose cleaning preparations, polishing preparations, scouring powders and liquids, abrasive paste; detergent soaps; perfumery, essential oils, cosmetics, hair lotions; dentifrices
Class 004. All goods and services in the class are cancelled, namely: Industrial oils and greases; industrial lubricants

**Grounds for Cancellation**

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

**Mark Cited by Petitioner as Basis for Cancellation**

U.S. Application No.	77824425	Application Date	09/11/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	WEGO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1978/10/00 First Use In Commerce: 1978/10/00 Wholesale distributorships featuring industrial chemicals		

Attachments	77824425#TMSN.jpeg ( 1 page )( bytes ) Petition to Cancel 3,472,480.pdf ( 6 pages )(269941 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	/Barry A. Cooper/
Name	Barry A. Cooper
Date	06/18/2010

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

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In the Matter of Trademark Registration No. 3,472,480 :  
For the mark: WIGO : Cancellation No.  
Issued February 12, 2008 :  
WEGO CHEMICAL & MINERAL CORP., :  
 :  
Petitioner, :  
v. :  
 :  
WIGO CHEMIE GMBH, :  
 :  
Registrant. :  
-----X

**PETITION TO CANCEL**

In re Registration No. 3,472,480, issued February 12, 2008 to Wigo  
Chemie GmbH ("Registrant"):

Wego Chemical & Mineral Corp. ("Petitioner"), a New York corporation,  
having an office and place of business at 239 Great Neck Road, Great Neck, New York  
11021, believes that it may be damaged by the mark shown in Registration No.  
3,472,480 and hereby petitions to cancel the same pursuant to §14 of the Act of July 5,  
1946, 15 U.S.C. §1064, on the following grounds:

1. Founded in 1978, Petitioner is a well-known and highly regarded  
distributor, supplier and/or resource of chemical products to various industries and  
industrial markets.

2. Petitioner is the owner of all right, title and interest in and to the  
service mark WEGO ("the WEGO Mark") as applied to wholesale distributorships

featuring industrial chemicals (“Petitioner’s Services”), which service mark has been used by Petitioner for Petitioner’s Services since 1978. Such use has been active, uninterrupted and continuous. The WEGO Mark is also the dominant portion of Petitioner’s trade name.

3. Petitioner has enjoyed substantial sales and has advertised and promoted Petitioner’s Services under the WEGO Mark.

4. Petitioner has built up valuable and substantial goodwill in the WEGO Mark, such that the mark has come to identify and distinguish Petitioner’s Services.

5. The sales success and promotion of Petitioner’s Services under the WEGO Mark have established for Petitioner an enviable reputation in the trade involved in the field of industrial chemicals.

6. As a result of sales success and promotion, the WEGO Mark has become distinctive and has become a “famous mark” in the trade involved in the field of industrial chemicals.

7. On or about September 11, 2009, Petitioner filed an application, Serial No. 77824425 (“Petitioner’s Application”) in the United States Patent and Trademark Office to register the WEGO Mark for Petitioner’s Services.

8. In an Office Action mailed December 26, 2009, the USPTO refused registration of the WEGO Mark as applied for in Petitioner’s Application asserting that said mark would result in a likelihood of confusion with Registration No. 3,472,480 (“the

'480 Registration") for the mark WIGO ("the WIGO Mark") as registered for goods in classes 1, 3 and 4.

9. The '480 Registration was filed in the USPTO on June 14, 2007 and was based on International Registration No. 0928905 pursuant to Section 66(a). No use of the WIGO Mark was alleged in the United States or elsewhere.

10. Upon information and belief, Registrant has made no use of the WIGO Mark in the United States prior to June 14, 2007.

11. Upon information and belief, Registrant has made no use of the WIGO Mark in the United States.

12. As between Petitioner and Registrant, Petitioner is the prior user of the WEGO Mark for Petitioner's Services as compared to use of the WIGO Mark for the goods recited in the '480 Registration.

13. If there is a likelihood of confusion or dilution between the WEGO Mark for Petitioner's Services and the WIGO Mark for the goods recited in the '480 Registration, then Petitioner will be harmed and damaged by the continued existence of the '480 Registration as such registration will block issuance of Petitioner's Application.

14. If there is a likelihood of confusion or dilution between the WEGO Mark for Petitioner's Services and the WIGO Mark for the goods recited in the '480 Registration, then Petitioner will be harmed and damaged by the continued existence of the '480 Registration as such registration will provide Registrant with prima facie evidence of the validity of the WIGO Mark and the registration thereof, of Registrant's ownership of the WIGO Mark and of Registrant's exclusive right to use the WIGO Mark

in commerce for the goods recited therein, notwithstanding the fact that Petitioner is the senior user of the WEGO Mark for Petitioner's Services.

15. For the foregoing reasons, the '480 Registration should be cancelled pursuant to Section 14 of the Act.

This Petition to Cancel is being submitted along with filing fees of \$900. The Commissioner is authorized to charge any underpayment or to refund any overpayment to our Deposit Account No. No. 07-1730.

Respectfully submitted,

Gottlieb, Rackman & Reisman, PC  
270 Madison Avenue  
New York, New York 10016  
212 684-3900  
212 684-3999 (facsimile)

By: /s/ Barry A. Cooper  
Barry A. Cooper  
bcooper@grr.com

Dated: New York, NY  
June 18, 2010

**CERTIFICATE OF SERVICE**

I hereby certify that on the 18th day of June, 2010, I caused a true copy of this Petition to Cancel to be served by first class mail, postage prepaid, on Registrant's representative of record, namely, on Christian Clemens Traumann, Dr.-Karl-Aschoff-Str. 16A, 55543 Bad Kreuznach, Germany.

/s/ Barry A. Cooper  
Barry A. Cooper

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/s/ Barry A. Cooper

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