



**THE SUPREME COURT OF APPEAL OF SOUTH AFRICA**  
**MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF**  
**APPEAL**

**From:** The Registrar, Supreme Court of Appeal

**Date:** 25 February 2025

**Status:** Immediate

*The following summary is for the benefit of the media in the reporting of this case and does not form part of the judgments of the Supreme Court of Appeal*

*Casadobe Props 60 (Pty) Ltd v Fratelli Martini Secondo Luigi SpA (Case no 759/2023) [2025]  
ZASCA 14 (25 February 2025)*

---

Today the Supreme Court of Appeal (SCA) handed down judgment in which it upheld the appellant's appeal against an order of the Western Cape Division of the High Court.

The appellant, Casadobe Props 60 (Pty) Ltd, (Casadobe), appealed a decision of the Western Cape High Court (the high court), which granted the respondent, Fratelli Martini Secondo Luigi SpA (Fratelli), an interdict restraining Casadobe from infringing Fratelli's rights acquired by the registration of the Trade Mark No 2012/08843 CANTI in or any other mark nearly resembling or so similar to thereto as to be likely to cause deception or confusion in terms of s 34(1)(a) of the Trade Marks Act 194 of 1993 in the course of trade and in relation to wines and sparkling wines.

Casadobe is a South African company which owns and operates the Canto Wines boutique wine estate in the Durbanville wine valley, Western Cape. It uses the trademark CANTO. Fratelli is an Italian company with its principal place of business in Cossano Belbo, Italy. It uses the trademark CANTI. The issue in this appeal is whether the trade mark is likely to confuse or deceive as contemplated in s 10(14) of the Act.

The SCA found that the notional consumer would not be confused on encountering the two marks in the market place as the CANTO mark would be found on South African wines or MCCs while Fratelli's CANTI mark would be found on the imported (Italian) wine section of the store. Therefore, the likelihood of deception or confusion would be diminished.

Furthermore, the SCA reasoned that even though CANTO and CANTI are both five letters long and have the same first four letters, the 'I' and 'O' at the end of the marks make a huge

difference. They determine the different visual cues, tones and senses of the two marks. It is therefore improbable that consumers would be deceived or confused.

The SCA agreed with the submissions on behalf of the appellant that the average consumer's level of attention varies according to the category of goods in question. As wines and sparkling wines are expensive, the purchase thereof would not be an insignificant purchase and would also not typically form part of daily domestic shopping. Furthermore, given their price, the purchase of wine and sparkling wine would therefore require more discernment on the part of the consumer and would therefore be preceded by a lengthier examination than would be expected.

The SCA further held that consumers of wines, including sparkling wines, are quite discerning. They are likely to exercise circumspection and a greater degree of care in making a purchase. It is not an overstatement that many wine drinkers take pride in the product they consume and are able to distinguish whether it is a spumante or frizzante, its age, as well as its source of origin.

Ultimately the SCA found that the finding of the high court that the two marks are closely similar, and that their pronunciation sounds similar, was incorrect. A further finding that the single letters 'I' and 'O' 'which happens to be right at the back of the words does not sufficiently distinguish the marks from each other was equally incorrect. The conclusion that trade marks CANTO and CANTI are visually, aurally and conceptually similar and that there exists a likelihood that confusion or deception among consumers would result was wrong. Therefore, the SCA found that the appeal must succeed.

-----oOo-----