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DATE OF DEPOSIT: September 24, 2002

I hereby certify that this correspondence is being deposited with the United States Postal Service under 37 CFR § 1.10 on the date indicated above and is addressed to the Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513

By: *Kristen Kern*  
Kristen Kern

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

**Applicant:** Jeffrey J. Archuleta  
DBA Arch Consulting Group  
1348 East 11570 South  
Sandy, Utah 84092

**Trademark:** ARCH CONSULTING

**Serial No.:** 76/228,845

**International Class:** 35

**Filed:** March 22, 2001

**Published:** May 28, 2002

ARCH WIRELESS OPERATING )  
COMPANY, INC., )  
 )  
Opposer, )  
 )  
v. )  
 )  
JEFFERY J. ARCHULETA, )  
 )  
Applicant. )

**OPPOSITION NO.** \_\_\_\_\_

**NOTICE OF OPPOSITION**

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Opposer, ARCH WIRELESS OPERATING COMPANY, a corporation organized and existing under the laws of the State of Delaware, headquartered at 1800 West Park Drive, Westborough, Massachusetts 01581 (hereinafter called "ARCH"), believes that it will be damaged by registration of the trademark ARCH CONSULTING for the services identified in Application Serial No. 76/228,845 filed by JEFFERY J. ARCHULETA, a United States Citizen, having a business address of 1348 East 11570 South, Sandy Utah 84092 (hereinafter called "ARCHULETA"). ARCH requested and was granted an extension for time to oppose the trademark ARCH CONSULTING until September 25, 2002.

As grounds of Opposition, ARCH alleges as follows.

**I. Likelihood of Confusion**

1. The Application was filed on March 22, 2001, under § 1(b) of the Lanham Act, alleging an intent to use and seeking registration on the Principal register for the mark ARCH CONSULTING as a trademark in for " computerized retail and wholesale on-line store services via on-line electronic communications featuring computers, computer equipment and computer accessories and in the field of general merchandise, namely, electronic equipment, musical instruments and cameras in Class 35."

2. ARCH has been in the business of telecommunications and paging goods and services for several decades, which it markets under its ARCH family of trademarks. ARCH has spent substantial sums in the advertising and promotion throughout the United States of the goods and services it offers under its ARCH trademark.

3. ARCH's priority is indisputable. ARCH has used various ARCH trademarks, alone and in conjunction with other terms, for several decades, and all ARCH trademarks were in use prior to ARCHULETA's filing of the subject intent-to-use application on March 22, 2001. Since the first use of ARCH's ARCH trademarks, ARCH has continuously marketed, and is presently marketing, ARCH's goods and services nationwide under the ARCH

trademarks. ARCH's ARCH trademarks are displayed on or in connection with ARCH's goods and services and in advertisements and promotional materials of various types disseminated nationwide by ARCH in conjunction with the advertising, offering for sale and selling of ARCH's goods and services.

4. As a result of its promotional expenditures and activities, and by virtue of the high quality of its goods and services, ARCH has garnered for its ARCH family of trademarks an exceedingly valuable reputation and extensive goodwill.

5. ARCH is the owner of numerous federal trademark applications, which include the element ARCH.

6. The mark proposed for registration by ARCHULETA, ARCH CONSULTING, is substantially the same as ARCH's ARCH trademarks, is to be applied to services identified in Class 35 (hereinafter "ARCHULETA's Services") which are related and/or identical to those offered by ARCH, and so nearly resembles ARCH's ARCH trademarks as to be likely to be confused with ARCH'S ARCH trademarks. ARCHULETA's mark is deceptively similar to the ARCH's ARCH trademarks so as to cause confusion and lead to misunderstanding as to the origin of ARCHULETA's Services bearing ARCHULETA's mark.

7. If ARCHULETA were granted the registration herein opposed, confusion in trade resulting in damage and injury to ARCH would be caused and would result by reason of the similarity between ARCHULETA's mark and ARCH's ARCH trademarks. Consumers familiar with ARCH's ARCH trademarks would be likely to purchase ARCHULETA's Services mistakenly believing them to be services sold by ARCH. Furthermore, any faults or objections found with ARCHULETA's Services would reflect poorly upon and injure the reputation that ARCH has established for its goods and services under the ARCH trademarks.

8. Upon information and belief, ARCH alleges that ARCHULETA, willfully chose a mark that (a) causes public confusion and mistake, and (b) causes a false and incorrect suggestion and association of ARCHULETA and ARCHULETA's services with ARCH and

ARCH's goods and services, and (c) unfairly simulates, copies, and resembles ARCH's ARCH trademarks.

\* \* \*

Wherefore, ARCH prays that this Opposition be sustained and that registration to ARCHULETA for the mark ARCH CONSULTING covered by Application Serial No. 76/228,845 be denied.

ARCH hereby appoints the firm Steinhart & Falconer LLP, 333 Market Street, Suite 3200, San Francisco, California 94105, to prosecute this Opposition, and to transact all business in the U.S. Patent and Trademark Office in connection therewith. All future communications in this Opposition should be directed to ARCH's attorneys identified above, to the attention of Anna C. Silva, telephone number (415) 777-3999.

ARCH hereby files this Notice of Opposition in triplicate. Please charge the statutory filing fee of \$300.00 and any additional fees to the Deposit Account of Steinhart & Falconer LLP, No. 19-4215 (Our File No.: 57925-54).

Respectfully submitted,

Attorneys for Opposer

ARCH WIRELESS OPERATING COMPANY, INC.

Dated: September 24, 2002

By: \_\_\_\_\_



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