

TTAB

United States Patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Mailed: September 19, 2005

Concurrent Use No. 94002126

Arcon Associates, Inc.

V.

Archon Group

V.

Archon Group

V.

ARCON Architects, Inc.

V.

Arcon Architectural

V.

ArCON Group

V.

IRT-ARCON

78,218,850

10-06-2005

U.S. Patent & TMO/TM Mail Rcpt Dt. #11

To: Archon Group
600 Las Colinas Blvd E
Irving, TX 75039

CC
Archon Group
4801 Woodway Dr
Houston, TX 77056

CC
ARCON Architects, Inc.
5206 Hidden Brook
League City, TX 77573

CC
Arcon Architectural
332 E 500 S
Salt Lake City, UT 84111

CC
ArCON Group
1052 Highland Colony Parkway, #203
Ridgeland, MS 39157

CC
IRT-ARCON

281 NE 32nd Street
Oakland Park, FL 33334

Re: **ARCON**

Karl Kochersperger, Paralegal

The applicant in application Serial No. 78218850 has applied for a concurrent use registration for the trademark or service mark set forth below.

Name of applicant	: Arcon Associates, Inc.
Applicant's address	: 420 Eisenhower Lane Lombard, IL 60148
Applicant's mark	: ARCON
Goods or services	: Building construction management services; and building inspection services, in Class 37 Architectural design services, in Class 42
Filing date	: 02/25/2003
Territory of use	: Applicant claims the exclusive right to use of the mark in the states of Illinois, Iowa, Wisconsin, Michigan, and Indiana.
Attorney	: John R Crossan Chapman and Cutler 111 W Monroe St, #1700 Chicago, IL 60603

In its application, the applicant has recited as an exception to its allegation of exclusive use of said mark, use by you of an identical or very similar mark. Your mark, goods or services, and territory of use, *as acknowledged in the referenced application*, are set out below in a summary of details of the application. A copy of the application as filed is also included herewith.

Your mark	: ARCON
Your goods or services	: Building construction

management and building
inspection services

Your territory of use : In areas outside of the
area claimed by applicant

Since the Office has determined that applicant's mark appears entitled to registration, subject to a concurrent use proceeding with you, a concurrent use proceeding is hereby instituted under the provisions of Section 2(d) of the Trademark Act of 1946.

The proceeding will be conducted in accordance with the Rules of Practice in Trademark cases, as set out in Title 37 of the Code of Federal Regulations. Trademark Rule 2.99 thereof, under which this notice is given, provides that:

An answer to the notice is not required in the case of an applicant or registrant whose application or registration is specified in the application to register as concurrent user in the application, but a statement, if desired, may be filed within forty days after the mailing of the notice; in the case of any other party specified as a concurrent user in the application, an answer must be filed within forty days after the mailing of the notice.

You are allowed until **40 days from the mailing date above** to file such answer in accordance with Trademark Rule 2.99. If filed, the answer should be directed to the allegations relating to concurrent use recited in the application identified herein. If an answer is not filed, then the proceeding may be handled as in a case of default. See Trademark Rule 2.99(d)(3).

You are requested to advise the Trademark Trial and Appeal Board of any relevant applications or registrations, other than that already listed herein, which should be included in this concurrent use proceeding. Your response, if any, should be in writing and should accompany your answer.

**DISCOVERY AND TESTIMONY PERIODS ARE SET AS
INDICATED BELOW.**

IN EACH INSTANCE, a copy of the transcript of testimony together with copies of documentary exhibits,

must be served on the adverse party WITHIN THIRTY DAYS after completion of the taking of testimony. Trademark Rule 2.125.

Discovery period to open: **October 09, 2005**

Discovery period to close: **April 07, 2006**

30-day testimony period for party
in position of plaintiff to close: **July 06, 2006**

30-day testimony period for party
in position of defendant to close: **September 4, 2006**

15-day rebuttal testimony period
to close: **October 19, 2006**

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b).

An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

CC:

John R. Crossan
Chapman and Cutler
111 W. Monroe St., #1700
Chicago IL, US 60603-4080

LISTING OF GOODS AND/OR SERVICES	Building construction management services; and building inspection services
FIRST USE ANYWHERE DATE	12/31/1979
FIRST USE IN COMMERCE DATE	12/31/1979
BASIS FOR FILING AND GOODS/SERVICES INFORMATION	
USE IN COMMERCE: SECTION 1(a)	Yes
SPECIMEN	Yes
SPECIMEN DESCRIPTION	An image of the home page of Applicant's Internet web site, describing the services offered by Applicant and its experience.
INTERNATIONAL CLASS NUMBER	042
LISTING OF GOODS AND/OR SERVICES	Architectural design services.
FIRST USE ANYWHERE DATE	12/31/1979
FIRST USE IN COMMERCE DATE	12/31/1979
OPTIONAL INFORMATION	
SECTION 2(f)	Yes
CONCURRENT USE	Applicant claims the exclusive right to use of the mark on building construction management and building inspection services in class 037 and for architectural design services in class 042 in the states of Illinois, Iowa, Wisconsin, Michigan, and Indiana.
MISCELLANEOUS STATEMENT	The following are all of the present concurrent users of the ARCON or similar mark for architectural design and related services, including building construction management and building inspection services, in areas outside of the area claimed by Applicant; Applicant and its counsel are unaware of the prior dates of use of such marks, but all are common law marks used without registration: Archon Group 600 Las Colinas Blvd E Irving, TX 75039 (972) 368-0000; Archon Group 4801 Woodway Dr, Houston, TX 77056 (713) 624-7900; ARCON Architects, Inc. 5206 Hidden Brook League City, TX 77573 281-316-6392; Arcon Architectural 332 E 500 S Salt Lake City, UT 84111 801-521-9161; ArCON Group 1052 Highland Colony

DOCUMENT INFORMATION	
TRADEMARK/SERVICEMARK APPLICATION	
VERSION 1.24	
APPLICANT INFORMATION	
NAME	Arcon Associates, Inc.
STREET	420 Eisenhower Lane
CITY	Lombard
STATE	IL
COUNTRY	USA
ZIP/POSTAL CODE	60148
TELEPHONE NUMBER	630-495-1900
APPLICANT ENTITY INFORMATION	
CORPORATION: STATE/COUNTRY OF INCORPORATION	Illinois
TRADEMARK/SERVICEMARK INFORMATION	
MARK	ARCON
TYPED FORM	Yes
BASIS FOR FILING AND GOODS/SERVICES INFORMATION	
USE IN COMMERCE: SECTION 1(a)	Yes
SPECIMEN	Yes
SPECIMEN DESCRIPTION	An image of the home page of Applicant's Internet web site, describing the services offered by Applicant and its experience.
INTERNATIONAL CLASS NUMBER	037

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P.O. Box 1451
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Concurrent Use No. 94002126
Arcon Associates, Inc. in

Archon Group

V.

Archon Group

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ARCON Architects, Inc.

V.

Arcon Architectural

V.

ArCON Group

V.

IRT-ARCON

To:

John R. Crossan
Chapman & Cutler
111 W Monroe St, #1700
Chicago, IL 60603

Serial No.: 78218850
Filed: February 25, 2003

Karl Kochersperger, Paralegal

A concurrent use proceeding involving your above-identified application is hereby instituted under the provisions of Section 2(d) of the Trademark Act of 1946. The proceeding will be conducted in accordance with the Rules of Practice in Trademark Cases, as set out in Title 37 of the Code of Federal Regulations.

Arcon Architectural; Archon Group (Irving); Archon Group (Houston); ARCON Architects, Inc.; ArCON Group; and IRT-ARCON, the users referred to in your application, are being notified on this date of the institution of the concurrent use proceeding and is being supplied with a copy of your application, in accordance with the provisions of Trademark Rule 2.99. The user has been given until **40 days from the mailing date above** to file an answer under Trademark Rule 2.99. Should the user fail to file the

required answer, the proceeding may be handled as in a case of default. See Trademark Rule 2.99(d)(3).

You are requested to advise the Board of any relevant applications or registrations, other than that already referenced herein, which should be included in this concurrent use proceeding. Your response, if any, should be in writing and should be filed on or before **40 days from the mailing date above**.

**DISCOVERY AND TESTIMONY PERIODS ARE SET AS
INDICATED BELOW.**

IN EACH INSTANCE, a copy of the transcript of testimony together with copies of documentary exhibits, must be served on the adverse party **WITHIN THIRTY DAYS** after completion of the taking of testimony. Trademark Rule 2.125.

Discovery to open:	October 9, 2005
Discovery to close:	April 7, 2006
Testimony period for party in position of plaintiff to close: (opening thirty days prior thereto)	July 6, 2006
Testimony period for party in position of defendant to close: (opening thirty days prior thereto)	September 4, 2006
Rebuttal testimony period to close: (opening fifteen days prior thereto)	October 19, 2006

Briefs shall be filed in accordance with Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

CC:

Archon Group
600 Las Colinas Blvd E
Irving, TX 75039

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Archon Group
4801 Woodway Dr
Houston, TX 77056

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ARCON Architects, Inc.
5206 Hidden Brook
League City, TX 77573

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Arcon Architectural
332 E 500 S
Salt Lake City, UT 84111

cc
ArCON Group
1052 Highland Colony Parkway, #203
Ridgeland, MS 39157

cc
IRT-ARCON
281 NE 32nd Street
Oakland Park, FL 33334

Parkway, # 203 Ridgeland, MS 39157 601-853-6855; and IRT-ARCON 281 NE 32nd Street Oakland Park, FL 33334 888-548-8387 (also a sales office in Amelia, VA).

ATTORNEY INFORMATION

NAME	John R. Crossan
STREET	111 W. Monroe St., #1700
CITY	Chicago
STATE	IL
COUNTRY	USA
ZIP/POSTAL CODE	60603-4080
FIRM NAME	Chapman and Cutler
E-MAIL ADDRESS	crossan@chapman.com
AUTHORIZE E-MAIL COMMUNICATION	Yes
TELEPHONE NUMBER	312-845-3420
FAX NUMBER	312-803-5299
ATTORNEY DOCKET NUMBER	1714393
OTHER APPOINTED ATTORNEY(S)	Robert J. Schneider, Jane S. Berman

FEE INFORMATION

TOTAL FEES PAID	670
NUMBER OF CLASSES PAID	2
NUMBER OF CLASSES	2

LAW OFFICE INFORMATION

E-MAIL ADDRESS	crossan@chapman.com
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FOR CORRESPONDENCE	
SIGNATURE AND OTHER INFORMATION	
SIGNATURE	/jrcrossan/
DATE	02/25/2003
NAME	John R. Crossan
TITLE	Attorney
MAILING ADDRESS	
LINE	John R. Crossan
LINE	Chapman and Cutler
LINE	111 W. Monroe St., #1700
LINE	Chicago IL USA 60603-4080
SERIAL NUMBER INFORMATION	
SERIAL NUMBER	78218850
RAM INFORMATION	
RAM SALE NUMBER	337
RAM ACCOUNTING DATE	02/26/2003
INTERNET TRANSMISSION DATE	Tue Feb 25 18:09:49 EST 2003
TEAS STAMP	USPTO/BAS-65207212116-20030225180949473356-78218850- 20049e1e0822529011a4e6a45ce2450d1-RAM-337-20030225180300732082
E-MAIL ADDRESS FOR ACKNOWLEDGMENT	crossan@chapman.com