

PTO Form 1957 (Rev 9/05)

OMB No. 0651-0050 (Exp. 04/2009)

Response to Office Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	78942880
LAW OFFICE ASSIGNED	LAW OFFICE 109
MARK SECTION (no change)	
ARGUMENT(S)	
<p>Attached hereto is an agreement showing the consent of the owner of the cited registration to registration of the subject mark. As stated in Section 1207.01(d)(viii), "[t]he examining attorney should give great weight to a proper consent agreement. The examining attorney should not interpose his or her own judgment concerning likelihood of confusion when an applicant and registrant have entered into a <i>credible</i> consent agreement and, <i>on balance</i>, the other factors do not dictate a finding of likelihood of confusion." As the Examining Attorney will clearly see, the consent agreement is a credible one that clearly differentiates the nature of the respective services.</p> <p>The Applicant is also filing a Notice of Appeal concurrent herewith since this is a final refusal.</p>	
EVIDENCE SECTION	
EVIDENCE FILE NAME(S)	
ORIGINAL PDF FILE	http://tgate/PDF/ROA/2007/08/05/20070805204841531899-78942880-001_001/evi_7116346176-204245216__ARCUS_agreement_executed.pdf
CONVERTED PDF FILE(S) (2 pages)	\\TICRS2\EXPORT13\789\428\78942880\xml1 ROA0002.JPG
	\\TICRS2\EXPORT13\789\428\78942880\xml1 ROA0003.JPG
SIGNATURE SECTION	
RESPONSE SIGNATURE	/Janice Housey/
SIGNATORY'S NAME	Janice Housey
SIGNATORY'S POSITION	Applicant's Counsel of Record
DATE SIGNED	08/05/2007
AUTHORIZED SIGNATORY	

	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Sun Aug 05 20:48:41 EDT 2007
TEAS STAMP	USPTO/ROA-71.163.46.176-2 0070805204841531899-78942 880-3802dfaa294ad8083f57d 763452eec51af6-N/A-N/A-20 070805204245216477

PTO Form 1957 (Rev 9/05)

OMB No. 0651-0050 (Exp. 04/2009)

Response to Office Action

To the Commissioner for Trademarks:

Application serial no. **78942880** has been amended as follows:

Argument(s)

In response to the substantive refusal(s), please note the following:

Attached hereto is an agreement showing the consent of the owner of the cited registration to registration of the subject mark. As stated in Section 1207.01(d)(viii), "[t]he examining attorney should give great weight to a proper consent agreement. The examining attorney should not interpose his or her own judgment concerning likelihood of confusion when an applicant and registrant have entered into a *credible* consent agreement and, *on balance*, the other factors do not dictate a finding of likelihood of confusion." As the Examining Attorney will clearly see, the consent agreement is a credible one that clearly differentiates the nature of the respective services.

The Applicant is also filing a Notice of Appeal concurrent herewith since this is a final refusal.

Evidence

Original PDF file:

http://tgate/PDF/ROA/2007/08/05/20070805204841531899-78942880-001_001/evi_7116346176-204245216_ARCUS_agreement_excuted.pdf

Converted PDF file(s) (2 pages)

Evidence-1

Evidence-2

Response Signature

Signature: /Janice Housey/ Date: 08/05/2007
Signatory's Name: Janice Housey
Signatory's Position: Applicant's Counsel of Record

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

Serial Number: 78942880
Internet Transmission Date: Sun Aug 05 20:48:41 EDT 2007
TEAS Stamp: USPTO/ROA-71.163.46.176-2007080520484153
1899-78942880-3802dfaa294ad8083f57d76345
2eec51af6-N/A-N/A-20070805204245216477

CONSENT TO USE AND REGISTER

This Agreement is made this 13 day of July, 2007, by and between Arnaud Isnard, a citizen of France, having a principal place of business at 2 Savile Row London W1S 3PA, United Kingdom ("ISNARD"), and WellPoint, Inc., a corporation of Indiana, having a principal place of business at 120 Monument Circle, Indianapolis, IN 46204, United States ("WELLPOINT").

WHEREAS, ISNARD is the owner of U.S. Registration No. 2328412 for the mark, ARCIS, for insurance, financial and monetary consultation services; financial, advisory and investment services in the field of real estate; and

WHEREAS, WELLPOINT uses or intends to use the marks, ARCUS FINANCIAL and ARCUS FINANCIAL BANK, for banking services; financial services, namely, administration and management of health savings accounts; and

WHEREAS, WELLPOINT recognizes the validity of ISNARD's registered mark and wishes to avoid any conflict therewith.

NOW, THEREFORE, in consideration of the sum of One Dollar and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound, it is agreed as follows:

1. ISNARD believes there is no likelihood of confusion or conflict between the two trademarks described above.

2. ISNARD consents to the use and registration by WELLPOINT of the trademarks, ARCUS FINANCIAL and ARCUS FINANCIAL BANK, for banking services; financial services, namely, administration and management of health savings accounts, as specified in WELLPOINT'S Application Serial Nos. 78942876 (ARCUS FINANCIAL) and 78942880

(ARCUS FINANCIAL BANK).

3. ISNARD will take no action to interfere with the use and/or registration of ARCUS FINANCIAL or ARCUS FINANCIAL BANK by WELLPOINT, provided that said marks are not used or registered for financial, advisory and investment services in the field of equity and private equity.

4. WELLPOINT will take no action to interfere with the use and/or registration of ARCIS, provided that the ARCIS mark is not used or registered for banking services or services related to tax advantaged savings accounts for health savings.

In Witness Whereof, the parties hereto set their hands and seals hereto on the date first written above.

Arnaud Isnard

By: *Arnaud Isnard*
Name: *Arnaud Isnard*
Title: _____

Date: *31 July 2007*

WellPoint, Inc.

By: *Carol J. Buret*
Name: *Carol J. Buret*
Title: *SVP Finance and Corporate Development*

Date: *7/13/2007*