

ESTTA Tracking number: **ESTTA975229**

Filing date: **05/21/2019**

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 has filed a petition to cancel the registration indicated below.

Petitioner Information

Name	Ariston Group LLC		
Entity	Corporation	Citizenship	Georgia
Address	1300 Peachtree Industrial Blvd. Suite 3209 Suwanee, GA 30024 UNITED STATES		

Attorney information	N. Andrew Crain Thomas Horstemeyer LLP 3200 Windy Hill Road Suite 1600E Atlanta, GA 30339 UNITED STATES trademarks@thomashorstemeyer.com, wesley.roberts@thomashorstemeyer.com, hannah.reyes@thomashorstemeyer.com, andrew.crain@thomashorstemeyer.com 7709339500		
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Registration Subject to Cancellation

Registration No.	4626984	Registration date	10/28/2014
International Registration No.	NONE	International Registration Date	NONE
Registrant	Aristoon Group, Inc. 330 7th Avenue, 15th Floor New York, NY 10001 UNITED STATES		

Goods/Services Subject to Cancellation

Class 036. First Use: 0 First Use In Commerce: 0 All goods and services in the class are subject to cancellation, namely: Insurance services, namely, administration, brokerage, consultancy; financial affairs, namely, credit and financial consultation, financial forecasting, financial planning; monetary affairs, namely, acquisition and transfer of monetary claims; real estate affairs, namely, real estate escrow services, real estate listing, real estate investment; financial services relating to real estate property, namely, investment in real estate, notebrokerage, valuation of real estate and due diligence services
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Grounds for Cancellation

Abandonment	Trademark Act Section 14(3)
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Attachments	Petition_to_Cancel_Corrected_.pdf(142436 bytes) EX_A.pdf(170938 bytes) EX_B.pdf(256711 bytes) EX_C.pdf(258228 bytes) Ex_D.pdf(169752 bytes) Ex_E.pdf(128208 bytes)
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Signature	/N. Andrew Crain/
Name	N. Andrew Crain
Date	05/21/2019

and due diligence services” in International Class 036, among others (“Registrant's Certificate”). A copy of Registrant's Certificate is attached hereto as Ex. A.

Petitioner, Ariston Group, LLC (“Petitioner”), a Georgia Limited Liability Company, with a place of business located at 1300 Peachtree Industrial Blvd., Suite 3209, Suwanee, GA, believes it has been and will continue to be damaged by Registrant's Certificate, and hereby petitions to cancel Registrant's Certificate for its services offered in International Class 036.

The grounds for cancellation are as follows:

BACKGROUND

Registration at Issue and Abandoned Registration

1. Registrant's Certificate covers “Insurance services, namely, administration, brokerage, consultancy; financial affairs, namely, credit and financial consultation, financial forecasting, financial planning; monetary affairs, namely, acquisition and transfer of monetary claims; real estate affairs, namely, real estate escrow services, real estate listing, real estate investment; financial services relating to real estate property, namely, investment in real estate, note brokerage, valuation of real estate and due diligence services” in International Class 036 (“Registrant's Services”), among other goods and services.

2. Registrant's Certificate is not due for its next renewal until October 28, 2020.

Petitioner's Applications

3. On October 30, 2017, Petitioner filed an application to register the trademark ARISTON for “Marketing services, namely, promotion and marketing of new real estate developments in the nature of mixed-use development projects by means of

providing coupons, rebates, and vouchers; promotion and marketing of new real estate developments in the nature of mixed-use development projects by providing advertising space, business merchandising display services, business directory information, and conducting promotional events for lessees of mixed-use development projects that draw customers to mixed-use development projects” in International Class 036, which was assigned serial number 87/664,322 (“Petitioner’s First Application”). A TESS printout of Petitioner’s First Application is attached as Ex. B.

4. On November 21, 2018, the United States Patent and Trademark Office (“USPTO”) issued an Office Action rejecting Petitioner’s First Application on the ground that there was a likelihood of confusion with Registrant’s Certificate.

5. On October 30, 2017, Petitioner filed an application to register the trademark ARISTON for “Real estate services, namely, property management services for mixed-use development projects” in International Class 036, which was assigned serial number 87/664,350 (“Petitioner’s Second Application”). A TESS printout of Petitioner’s First Application is attached as Ex. C.

6. On November 21, 2018, the United States Patent and Trademark Office (“USPTO”) issued an Office Action rejecting Petitioner’s Second Application on the ground that there was a likelihood of confusion with Registrant’s Certificate.

REGISTRANT HAS ABANDONED REGISTRANT’S CERTIFICATE

7. Registrant filed its mark for ARISTOON under Section 44(d) of the Trademark Act, 15 U.S.C. § 1126(d). As such, Registrant was not required to file a specimen of use showing that the ARISTOON mark was being used in interstate commerce in the United States.

8. A thorough review of internet resources and websites associated with the ARISTOON mark fails to demonstrate any use of the ARISTOON mark in commerce at all, much less use in interstate commerce in the United States. There is no evidence that the ARISTOON mark has been used in commerce for well over three years. For example, while an account named ARISTOON joined Twitter in 2009, there has never been any activity on that account. While there is an account named AristoonGroup on Instagram, that account has never used the mark ARISTOON in connection with any goods or services, much less Registrant's Services.

9. The ARISTOON mark purports to be owned by Aristoon Group, Inc., a New York corporation. However, business records from New York indicate that Aristoon Group, Inc., a domestic New York corporation, was dissolved by proclamation or annulment of authority on June 29, 2016. Ex. D. Following that dissolution, there are no recorded assignments of the ARISTOON mark.

10. In response to an inquiry from Petitioner to the identified correspondence address in the trademark file, Thomas Goldenberg claimed that the ARISTOON mark is no longer owned by "Aristoon Group Inc.," and was instead owned by "a sister company to it." Mr. Goldenberg stated that "there is planes [sic] for using the brand / trademark in the future." Mr. Goldenberg did not provide any information on the current owner of the mark and did not claim the mark was currently in use. Rather, Mr. Goldenberg relied solely on a generic assertion of plans for using the "brand / trademark in the future." Ex. E.

11. Upon information and belief, the failure to use the ARISTOON mark on or in association with Registrant's Goods occurred well over 3 years ago, constituting *prima facie* evidence that Registrant has abandoned Registrant's Certificate.

12. Additionally, on information and belief, Registrant is not using its mark in interstate commerce in the United States and does not have a *bona fide* intent to resume use of the ARISTOON mark in interstate commerce in the United States.

13. Accordingly, Registrant has abandoned the ARISTOON mark that is the subject of Registrant's Certificate and Registrant's Certificate as it pertains to Registrant's Services should therefore be cancelled.

By reason of all of the foregoing, Petitioner believes it will be damaged by the continued registration of the above ARISTOON mark by Registrant.

WHEREFORE, Petitioner respectfully requests that this Petition for Cancellation be sustained, and Registrant's Certificate for the trademark ARISTOON be cancelled as it pertains to Registrant's Services.

This Petition for Cancellation is being submitted via the Electronic System for the Trademark Trial and Appeal Board, which will serve the same upon Registrant.

Respectfully submitted,

/Wesley A. Roberts/

N. Andrew Crain
GA Bar No. 45,442
Wesley A. Roberts
GA Bar No. 867,277
THOMAS HORSTEMEYER, L.L.P.
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wesley.roberts@thomashorstemeyer.com

Attorneys for Petitioner Aristoon Group LLC

EXHIBIT A

United States of America
United States Patent and Trademark Office

ARISTOON

Reg. No. 4,626,984

ARISTOON GROUP, INC. (NEW YORK CORPORATION)
330 7TH AVENUE, 15TH FLOOR
NEW YORK, NY 10001

Registered Oct. 28, 2014

Int. Cls.: 25, 36 and 41

FOR: CLOTHING, NAMELY, T-SHIRTS, PANTS, SHIRTS, SCARVES, SWEATERS, JACKETS; FOOTWEAR; HEADGEAR, NAMELY, HATS AND CAPS, IN CLASS 25 (U.S. CLS. 22 AND 39).

TRADEMARK

SERVICE MARK

PRINCIPAL REGISTER

FOR: INSURANCE SERVICES, NAMELY, ADMINISTRATION, BROKERAGE, CONSULTANCY; FINANCIAL AFFAIRS, NAMELY, CREDIT AND FINANCIAL CONSULTATION, FINANCIAL FORECASTING, FINANCIAL PLANNING; MONETARY AFFAIRS, NAMELY, ACQUISITION AND TRANSFER OF MONETARY CLAIMS; REAL ESTATE AFFAIRS, NAMELY, REAL ESTATE ESCROW SERVICES, REAL ESTATE LISTING, REAL ESTATE INVESTMENT; FINANCIAL SERVICES RELATING TO REAL ESTATE PROPERTY, NAMELY, INVESTMENT IN REAL ESTATE, NOTE BROKERAGE, VALUATION OF REAL ESTATE AND DUE DILIGENCE SERVICES, IN CLASS 36 (U.S. CLS. 100, 101 AND 102).

FOR: EDUCATION, NAMELY, PROVIDING CLASSES, SEMINARS, WORKSHOPS IN THE FIELD OF BUSINESS; PROVIDING OF TRAINING IN THE FIELD OF BUSINESS; ENTERTAINMENT SERVICES, NAMELY, ENTERTAINMENT EVENT BOOKING AGENCIES, PRODUCTION AND DISTRIBUTION OF TELEVISION SHOWS AND MOVIES; ORGANIZING COMMUNITY SPORTING AND CULTURAL EVENTS; ELECTRONIC PUBLISHING SERVICES, NAMELY, PUBLICATION OF TEXT AND GRAPHIC WORKS OF OTHERS ON CD, ON-LINE, AND DVD IN THE FIELD OF BUSINESS AND ENTERTAINMENT; PUBLICATION OF BOOKS AND MAGAZINES; PRODUCTION OF MOVIES, RADIO AND TELEVISION PROGRAMMES, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).



THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

PRIORITY CLAIMED UNDER SEC. 44(D) ON ERPN CMNTY TM OFC APPLICATION NO. 010570992, FILED 1-18-2012, REG. NO. 010570992, DATED 10-22-2013, EXPIRES 10-22-2023.

Michelle K. Lee

Deputy Director of the United States
Patent and Trademark Office

SER. NO. 85-679,291, FILED 7-17-2012.

ALAIN LAPTER, EXAMINING ATTORNEY

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

Requirements in the First Ten Years*

What and When to File:

First Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. *See* 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

Second Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.*
See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*

What and When to File:

You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or
reminder of these filing requirements.**

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the USPTO. The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. *See* 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. *See* 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.

EXHIBIT B



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ARISTON

Word Mark	ARISTON
Goods and Services	IC 035. US 100 101 102. G & S: Marketing services, namely, promotion and marketing of new real estate developments in the nature of mixed-use development projects by means of providing coupons, rebates, and vouchers; promotion and marketing of new real estate developments in the nature of mixed-use development projects by providing advertising space, business merchandising display services, business directory information, and conducting promotional events for lessees of mixed-use development projects that draw customers to mixed-use development projects
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	87664322
Filing Date	October 30, 2017
Current Basis	1B
Original Filing Basis	1B
Owner	(APPLICANT) Ariston Group LLC LIMITED LIABILITY COMPANY GEORGIA Suite 3209 1300 Peachtree Industrial Blvd. Suwanee GEORGIA 30024
Attorney of Record	Andrew Crain
Type of Mark	SERVICE MARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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ARISTON

Word Mark	ARISTON
Goods and Services	IC 036. US 100 101 102. G & S: Real estate services, namely, property management services for mixed-use development projects
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	87664350
Filing Date	October 30, 2017
Current Basis	1B
Original Filing Basis	1B
Owner	(APPLICANT) Ariston Group LLC LIMITED LIABILITY COMPANY GEORGIA Suite 3209 1300 Peachtree Industrial Blvd. Suwanee GEORGIA 30024
Attorney of Record	Andrew Crain
Type of Mark	SERVICE MARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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EXHIBIT D

NYS Department of State

Division of Corporations

Entity Information

The information contained in this database is current through May 15, 2019.

Selected Entity Name: ARISTOON GROUP, INC.

Selected Entity Status Information

Current Entity Name: ARISTOON GROUP, INC.

DOS ID #: 3954538

Initial DOS Filing Date: MAY 26, 2010

County: NEW YORK

Jurisdiction: NEW YORK

Entity Type: DOMESTIC BUSINESS CORPORATION

Current Entity Status: INACTIVE - Dissolution by Proclamation / Annulment of Authority (Jun 29, 2016)

Information to reinstate a corporation that has been dissolved by proclamation or annulment of authority by proclamation is available on the New York State Department of Taxation and Finance website at www.tax.ny.gov keyword TR-194.1 or by telephone at (518) 485-6027

Selected Entity Address Information

DOS Process (Address to which DOS will mail process if accepted on behalf of the entity)

ARISTOON GROUP, INC.

330 7TH AVENUE

15TH FLOOR

NEW YORK, NEW YORK, 10001

Registered Agent

NONE

This office does not record information regarding the names and addresses of officers, shareholders or directors of nonprofessional corporations except the chief executive officer, if provided, which would be listed above. Professional corporations must include the

name(s) and address(es) of the initial officers, directors, and shareholders in the initial certificate of incorporation, however this information is not recorded and only available by [viewing the certificate](#).

*Stock Information

# of Shares	Type of Stock	\$ Value per Share
200	No Par Value	

*Stock information is applicable to domestic business corporations.

Name History

Filing Date	Name Type	Entity Name
MAY 26, 2010	Actual	ARISTOON GROUP, INC.

A **Fictitious** name must be used when the **Actual** name of a foreign entity is unavailable for use in New York State. The entity must use the fictitious name when conducting its activities or business in New York State.

NOTE: New York State does not issue organizational identification numbers.

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EXHIBIT E

From: [Goldenberg Bros](#)
To: [Roberts, Wesley](#)
Subject: Re: ARISTOON GROUP INC.
Date: Friday, February 8, 2019 12:12:22 PM

Dear Mr Esley,

I think you misunderstood my kind words before.

If you have no intents to come with an offer, we are not interested to talk at all and this conversion stops here.

I am Israeli and there is no fight in this world who I am afraid to take up. Believe me. But I am also a reasonable businessman who are interesting of solutions, for both sides.

I haven't correspond with our lawyers yet, and maybe you are right and have the law on you say and you can do what you threaten to do. Maybe. I am the owner of both of the companies, Aristoon Group Inc and the one who owns the trademark today. So it is in the same family and will stay there. And how do know you that "Aristoon" have not been used in the US ? And will it be soon.

So do me a favor and recommend your client to start using the trademark Ariston and we see you in court later when your client has been using it for a while.

Have a good day.

Shabbat shalom,

Thomas.

On 8 Feb 2019, at 17:42, Roberts, Wesley
<Wesley.Roberts@thomashorstemeyer.com> wrote:

Mr. Goldenberg,

Thank you for your email. To be clear, my client is only interested in using ARISTON, not ARISTOON.

Additionally, because the ARISTOON mark is not being used in the United States, does not appear to have been used in the United States for numerous years, if ever, and

because there does not appear to be a bona fide intent to use the ARISTOON mark in the United States, the registration for ARISTOON is likely subject to cancellation. See 15 U.S.C. § 1064 (“A petition to cancel a registration of a mark ... may ... be filed ... At any time if the registered mark ... has been abandoned ...”); see also 15 U.S.C. § 1127 (“Nonuse for 3 consecutive years shall be prima facie evidence of abandonment.”).

As a courtesy, prior to filing a petition to cancel the ARISTOON mark, we reached out to see if the owners of the ARISTOON mark would be interested in providing a consent to register ARISTON to avoid cancellation proceedings. We reiterate that offer. If the owner of ARISTOON provides a letter consenting to registration of ARISTON, my client will have no need to move forward with cancellation proceedings, allowing your client to retain its ARISTOON registration. If the owner of ARISTOON is not interested in providing such consent, we will pursue other avenues available to us under the law.

Sincerely,

Wesley Roberts

Associate

<image001.png>

3200 Windy Hill Road SE | Suite 1600E | Atlanta, GA 30339

O: (770) 933-9500 | F: (770) 951-0933

thomashorstemeyer.com

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From: Goldenberg Bros [<mailto:info@goldenbergbros.com>]

Sent: Friday, February 8, 2019 6:15 AM

To: Roberts, Wesley <Wesley.Roberts@thomashorstemeyer.com>

Subject: ARISTOON GROUP INC.

Dear Wesley,

We have been contacted by our lawyer Åsa Righard that you are interesting to get a permission to use the trademark Aristoon.

The trademark is no longer owned by Aristoon Group Inc., instead a sister company to it and there is planes for using the brand / trademark in the future. So we are not so content to give any permissions right now. But if your client is ready to put an offer on the table, than maybe I can convince my partners to agree. An alternative could be that your client buy the trademark including the domain address.

Let me hear from you,

Thank you,

Best regards,

Thomas Goldenberg
+972 53 43 10 919

Med vänlig hälsning
Åsa