

ESTTA Tracking number: **ESTTA1056901**

Filing date: **05/20/2020**

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	Armstrong & Associates, Inc.		
Entity	Corporation	Citizenship	Wisconsin
Address	10401 West Lincoln Avenue Suite 207 West Allis, WI 53227 UNITED STATES		

Attorney information	Christopher R. Liro Andrus Intellectual Property Law, LLP 100 East Wisconsin Avenue, Suite 1100 Milwaukee, WI 53202 UNITED STATES chris.liro@andruslaw.com, kspxearth@andruslaw.com, mariem@andruslaw.com, cathym@andruslaw.com (414) 271-7590		
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**Registration Subject to Cancellation**

Registration No.	5652730	Registration date	01/15/2019
Registrant	Armstrong Transfer & Storage Co., Inc. 3927 Winchester Road Memphis, TN 38118 UNITED STATES		

**Goods/Services Subject to Cancellation**


Class 035. First Use: 2017/11/15 First Use In Commerce: 2017/11/15 All goods and services in the class are subject to cancellation, namely: Business management services, namely, supply chain logistics, reverse logistics and liquidation of goods of others; Business relocation services
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**Grounds for Cancellation**

Priority and likelihood of confusion	Trademark Act Sections 14(1) and 2(d)
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**Mark Cited by Petitioner as Basis for Cancellation**

U.S. Application No.	88583800	Application Date	08/19/2019
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	A ARMSTRONG & ASSOCIATES, INC.
Design Mark	
Description of Mark	The mark consists of the letter A and 4straight horizontal lines near the peakof the letter A in a circle and followed by the words Armstrong & Associates, Inc.
Goods/Services	Class 035. First use: First Use: 2016/01/07 First Use In Commerce: 2016/01/07 Business management services, namely, consulting services related to supply chain and third-party logistics, supply chain and third-party logistics strategic planning, third-party logistics outsourcing, supply chain and third-party logistics mergers and acquisitions, supply chain and third-party logistics market research, third-party logistics pricing and performance benchmarking, and supply chain and third-party logistics legal/expertwitness engagements

Attachments	88583800#TMSN.png( bytes ) 2020-05-20 Cancellation Petition Armstrong.pdf(326358 bytes )
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Signature	/Christopher R. Liro/
Name	Christopher R. Liro
Date	05/20/2020

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

In the matter of Trademark Registration No. 5,652,730  
For the mark ARMSTRONG COMMERCIAL SERVICES

ARMSTRONG & ASSOCIATES, INC.,        )  
    a Wisconsin Corporation,            )  
  ) Cancellation No. \_\_\_\_\_  
Petitioner,                                )  
  )  
v.    )  
  )  
ARMSTRONG TRANSFER & STORAGE        )  
CO., INC.,                                )  
    a Tennessee Corporation,            )  
  )  
Registrant.                                )  
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**PETITION FOR CANCELLATION**

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Armstrong & Associates, Inc. (“Petitioner”), a Wisconsin corporation, believes that it is being and will continue to be damaged by U.S. Trademark Registration No. 5,652,730 (“the ‘730 Registration”) on the Principal Register, owned by Armstrong Transfer & Storage Co., Inc. (“Registrant”), a Tennessee corporation, and hereby petitions to cancel this registration. The grounds for this cancellation are as follows:

**Introduction and Parties**

1. Petitioner is a Wisconsin corporation with a business address at 10401 West Lincoln Avenue Suite 207, West Allis, Wisconsin 53227.

2. On information and belief, Registrant is a Tennessee corporation doing business at 3927 Winchester Road, Memphis, Tennessee 38118.

3. Petitioner seeks cancellation of Registrant's '730 Registration in light of damage to Petitioner from rejection of Petitioner's U.S. Trademark Application Serial No. 88/583,800 for its prior A ARMSTRONG & ASSOCIATES, INC. trademark based on asserted likelihood of confusion with Registrant's '730 Registration.

**Registrant's '730 Registration**

4. Registrant's application for what issued as the '730 Registration was filed on November 16, 2017 as Serial No. 87/688,147 for the design plus word mark



under Section 1(a).

5. The application for the '730 Registration filed November 16, 2017 asserted trademark use in: IC 035 for the services business management services, namely, supply chain logistics, reverse logistics and liquidation of goods of others, business relocation services; IC 037 for the services installation, maintenance and repair of furniture; and IC 039 for the services moving company services, moving and storage of goods, storage of goods, transport services, namely, local, interstate and international moving services, warehouse storage, warehousing, warehousing services, and further asserted first use and first use in commerce of November 15, 2017 for all classes.

6. On January 15, 2019, the application matured as the '730 Registration on the Principal Register for the design plus word mark including ARMSTRONG COMMERCIAL SERVICES.

7. Registrant's use and registration of the ARMSTRONG COMMERCIAL SERVICES design plus word mark is without Petitioner's consent or permission.

**Petitioner's A ARMSTRONG & ASSOCIATES, INC. Trademark and '800 Application**

8. Petitioner has used its A ARMSTRONG & ASSOCIATES, INC. trademark since at least January 7, 2016 to designate the source of its business management services.

9. Petitioner's A ARMSTRONG & ASSOCIATES, INC. trademark is symbolic of goodwill and consumer recognition built by Petitioner through substantial time, money, and other resources to market, promote, and advertise its services under its A ARMSTRONG & ASSOCIATES, INC. trademark.

10. Petitioner filed U.S. Trademark App. No. 88/583,800 ("the '800 Application") for the design mark A ARMSTRONG & ASSOCIATES, INC. on August 19, 2019.



11. Petitioner filed the '800 Application for IC 035 for the services: business management services, namely, consulting services related to supply chain and third-party logistics, supply chain and third-party logistics strategic planning, third-party logistics outsourcing, supply chain and third-party logistics mergers and acquisitions, supply chain and third-party logistics market research, third-party logistics pricing and performance benchmarking, and supply chain and third-party logistics legal/expert witness engagements.

12. Petitioner first used the A ARMSTRONG & ASSOCIATES, INC. mark and first used the A ARMSTRONG & ASSOCIATES, INC. mark in commerce at least by January 7, 2016.

13. The '800 Application states that Petitioner first used the A ARMSTRONG & ASSOCIATES, INC. mark and first used the A ARMSTRONG & ASSOCIATES, INC. mark in commerce at least by January 7, 2016.

14. Petitioner's use of the A ARMSTRONG & ASSOCIATES, INC. trademark predates any use of ARMSTRONG COMMERCIAL SERVICES, including the design plus word mark of the '730 Registration, by Registrant and, therefore, Petitioner has superior rights.

15. On November 20, 2019, the Examining Attorney of the '800 Application issued an action refusing registration of the A ARMSTRONG & ASSOCIATES, INC. trademark. A basis of refusal was under Section 2(d), asserting a likelihood of confusion with the mark in Registrant's '730 Registration.

16. Petitioner believes that it has been and will be damaged by the refusal of the Examining Attorney to grant registration to Petitioner.

#### **Grounds for Cancellation of the '871 Registration**

17. The allegations of paragraphs 1-16 are incorporated by reference as if stated in full herein.

#### **Likelihood of Confusion**

18. The Examining Attorney concluded that Registrant's ARMSTRONG COMMERCIAL SERVICES design plus word mark so resembles Petitioner's A ARMSTRONG & ASSOCIATES, INC. trademark as to be likely, when applied to the services of Registrant, to cause confusion or mistake or to deceive purchasers as to the source of the services, resulting in damage to Petitioner.

19. Petitioner has priority in the A ARMSTRONG & ASSOCIATES, INC. trademark because it has continuously used the A ARMSTRONG & ASSOCIATES, INC. trademark to

identify the source of its services since before November 16, 2017, the application date of the '730 Registration, and before Registrant's first use and first use of its ARMSTRONG COMMERCIAL SERVICES design plus word mark of November 15, 2017 that is stated in the '730 Registration.

20. Accordingly, the Board should cancel the '730 Registration under 15 U.S.C. § 1064 and 15 U.S.C. § 1052(d).

WHEREFORE:

Petitioner believes and avers that it is being damaged and will continue to be damaged by registration of the ARMSTRONG COMMERCIAL SERVICES design plus word mark, and therefore prays that Registrant's Trademark Registration No. 5,652,730 on the Principal Register be cancelled in accordance with the provisions of the Trademark Act, and that this Cancellation be sustained in favor of Petitioner.

The required fee is submitted herewith; however, please charge any additional fees that may be due in this opposition proceeding or credit any overpayments to Deposit Account No. 01.2000.

Respectfully submitted,

Date: May 20, 2020

/Christopher R. Liro/  
Christopher R. Liro, Reg. No. 70,399  
chris.liro@andruslaw.com  
Kevin J. Spexarth, Reg. 73,778  
kspexarth@andruslaw.com  
Andrus Intellectual Property Law, LLP  
100 East Wisconsin Avenue, Suite 1100  
Milwaukee, WI 53202  
Phone: (414) 271-7590

*Attorneys for Petitioner Armstrong & Associates, Inc.*