

ESTTA Tracking number: **ESTTA19448**

Filing date: **11/17/2004**

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

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Masonite Corporation
Granted to Date of previous extension	11/17/2004
Address	One North Dale Mabry Highway Tampa, FL 33609 UNITED STATES

Correspondence information	Joseph W. Berenato, III Attorney Liniak, Berenato & White, LLC 6550 Rock Spring Drive Suite 240 Bethesda, MD 20817 UNITED STATES jberenato@lblw.com Phone:(301) 896-0600
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Applicant Information

Application No	76522860	Publication date	07/20/2004
Opposition Filing Date	11/17/2004	Opposition Period Ends	11/17/2004
Applicant	Legacy Steel Buildings, LLC 16990 Dallas Parkway, Suite 107		

Dallas, TX 75248 UNITED STATES

Goods/Services Affected by Opposition

Class 006.

All goods and services in the class are opposed, namely: Metal building components, namely, wall studs, roofs, rafters, columns, and siding

Attachments	NoticeofOpposition1.pdf (4 pages)
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Signature	/s/
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Name	Joseph W. Berenato, III
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Date	11/17/2004
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Application Serial No. 76/522,860
Published in the Official Gazette of July 20, 2004

MASONITE CORPORATION	:	
	:	
Opposer,	:	
	:	Opposition No.
LEGACY STEEL BUILDINGS, LLC	:	
	:	
Applicant.	:	

BOX TTAB FEE
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513

NOTICE OF OPPOSITION

Sir:

Masonite Corporation, a corporation organized and existing under the laws of the State of Delaware (hereinafter, "OPPOSER"), believes that it would be damaged by registration of the mark shown in Serial No. 76/522,860 in International Class 6 and hereby opposes the same.

As grounds for this opposition, Opposer alleges that:

1. Applicant seeks to register "LEGACY STEEL BUILDINGS" as a trademark for metal building components, namely, wall studs, roofs, rafters, columns, and siding in an application filed June 16, 2003, based upon a bona fide intent to use the mark in commerce as evidenced by the publication of said mark in the Official Gazette of July 20, 2004.

2. Upon information and belief, Applicant has made no bona fide use of the term “Legacy Steel Buildings” as a trademark in commerce prior to June 16, 2003, as stated in the above-listed application for registration.

3. Opposer is in the business of developing, manufacturing and selling building components, including metal and non-metal building components, including metal doors, metal door frames, prehung metal doors, door facings made of metal and prefinished metal doors doors not made of metal; door facings not made of metal; non-metal wainscot; softboard; hardboard; wooden and wood composite interior and exterior trim; wood or wood composite siding; door frames not made of metal; prefinished doors not made of metal; fiberboard, wood or wood composite tackboard; non-metal flame retardant panels made of wood or wood composite materials for use as door panels, ceiling panels, wall panels or door cores; and millwork, non-metal pallets; furniture cabinets; kitchen cabinets and non-metallic door cores, construction board; namely, fiberboard, composite board, particleboard, hardboard and synthetic lumber or artificial lumber for various construction purposes.

4. Opposer is the owner of U.S. Trademark Reg. No. 1,431,970 for the mark LEGACY, registered March 10, 1987, claiming use since October 5, 1972, as applied to construction board; namely, fiberboard, composite board, particleboard, hardboard and synthetic lumber or artificial lumber for various construction purposes.

5. Opposer itself and/or through one or more related companies continues to use the mark as set forth in the registration.

6. The ‘970 registration is in full force and effect.

7. Additionally and alternatively, Opposer itself or through one or more related companies uses the trademark LEGACY in the marketing of doors and upon information and belief has done so prior to any use by Applicant of its mark.

8. Opposer requested extensions of time through November 17, 2004 to oppose and the extension requests were granted. Hence this opposition is timely filed.

9. Upon information and belief, Opposer alleges that the goods of Opposer and Applicant are competitive, are offered in similar channels of commerce and offered to similar customers.

10. Applicant's alleged mark "Legacy Steel Buildings" is similar to Opposer's aforesaid "LEGACY" mark in sound, appearance, meaning and commercial impression.

11. There is a confusing similarity between Opposer's mark and Applicant's mark, and because the goods of Applicant and Opposer are similar, are in similar channels of commerce and are directed to similar customers, registration of the mark "Legacy Steel Buildings" in connection with Applicant's goods is likely to cause confusion or is likely to deceive purchasers as to the source or sponsorship of such goods.

12. In view of the foregoing facts, Opposer believes that it will be damaged if Applicant's application is registered.

WHEREFORE, the Opposer prays that the application Serial No. 76/522,860 be rejected and that the mark therein sought for the goods herein specified in International Class 6 be denied and refused.

The undersigned Opposer hereby consents and appoints Joseph W. Berenato, III, Matthew W. Stavish, Matthew F. Johnston and William C. Schrot, of LINIAK, BERENATO & WHITE, LLC, 6550 Rock Spring Drive, Suite 240, Bethesda, Maryland 20817, as its duly

authorized agents and attorneys in the matter of this opposition to prosecute said opposition, to transact all business in the Patent and Trademark Office in the United States and in the United States courts in connection with this opposition, to sign their name to all papers which may hereinafter be filed in connection therewith, and to receive all communications relating to the same. The Commissioner is hereby authorized to charge any deficiencies or credit any overpayment to Deposit Account No. 50-0548.

Respectfully submitted,

Date: _____

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(301) 896-0600
Attorney for Opposer