

ESTTA Tracking number: **ESTTA94510**

Filing date: **08/14/2006**

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	RE/MAX International, Inc.
Granted to Date of previous extension	08/12/2006
Address	8390 E. Crescent Parkway Suite 600 Greenwood Village, CO 80111 UNITED STATES

Attorney information	Adam Lindquist Scoville RE/MAX International, Inc. 8390 E. Crescent Parkway Suite 600 Greenwood Village, CO 80111 UNITED STATES tmc Correspondence@remax.com Phone: 303-770-5531
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Applicant Information

Application No	78525633	Publication date	06/13/2006
Opposition Filing Date	08/14/2006	Opposition Period Ends	08/12/2006
Applicant	Powers, Tipmuncy C. 20 Pidgeon Hill Drive, #104 Sterling, VA 20165 UNITED STATES		

Goods/Services Affected by Opposition

Class 036. All goods and services in the class are opposed, namely: Financial services, namely, banking, loan financing, and mortgage banking services

Attachments	LendMax Notice of Opposition.pdf (13 pages)(504975 bytes)
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Signature	/scoal/
Name	Adam Lindquist Scoville
Date	08/14/2006

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

RE/MAX INTERNATIONAL, INC.,

Opposer,

v.

TIPMUNY C. POWERS,

Applicant.

Opposition No. _____

Mark: **LENDMAX**

Serial No. 78525633

Filing Date: December 2, 2004

Publication Date: June 13, 2006

NOTICE OF OPPOSITION

RE/MAX International, Inc., a Colorado corporation, located and doing business at 8390 East Crescent Parkway, Suite 600, Greenwood Village, Colorado 80111 (hereinafter "Opposer") believes that it will be damaged by the registration of LENDMAX, a mark sought to be registered through U.S. Service Mark Application Serial No. 78525633, filed on December 2, 2004, by Tipmuny C. Powers, an individual, (hereinafter "Applicant"), and Opposer hereby opposes the same.

The grounds for opposition are as follows:

1. Opposer provides real estate brokerage services throughout the United States and in numerous foreign countries through a network of sub-franchisors, franchisees, and affiliated sales agents who are authorized to use Opposer's registered service marks in connection with real estate brokerage services ("Opposer's Affiliates").

2. Opposer, since at least as early as 1973, has provided real estate brokerage services in interstate commerce through brokerage offices owned and operated by it and, since at least as

early as 1977, through Opposer's Affiliates, all in connection with its distinctive registered service marks, "REMAX" and "RE/MAX".

3. Opposer owns the following United States Trademark Registrations, among others:

Mark	Reg. No.	Goods/Services	Filing Date
RE/MAX	1,139,014	rendering technical aid and assistance to others in the establishment and operation of a real estate brokerage agency. real estate brokerage services.	01/21/77
RE/MAX	1,339,510	Insurance Brokerage Services.	11/26/84
REMAX	2,054,698	franchise services, namely, offering technical assistance in the establishment and/or operation of real estate brokerage firms.	03/07/96
REMAX	2,106,387	real estate brokerage services	03/07/96
RE/MAX	2,119,607	franchise sales and support services, namely, offering technical assistance in the establishment and/or operation of real estate brokerage services; real estate brokerage services.	11/15/96
RE/MAX	2,403,626	providing a website on global computer networks featuring information in the field of real estate	05/24/99
RE/MAX MAINSTREET	2,477,193	providing an on-line computer database in the field of real estate; providing on-line electronic bulletin boards for transmission of messages among computer users concerning real estate; electronic mail services; providing on-line chat rooms for transmission of messages among computer users concerning real estate.	05/24/99
REMAX.COM	2850996	Franchising services, namely, offering technical assistance in the establishment and/or operation of real estate brokerage offices.	06/26/03

4. Registrations numbers 1,139,014; 1,339,510; 2,054,698; 2,106,387; and 2,119,607 are incontestable, pursuant to 15 U.S.C. Section 1065. Opposer's common law and federal registration rights in and to the RE/MAX and REMAX marks are collectively referred to as the "RE/MAX Marks."

5. Opposer and Opposer's Affiliates use the RE/MAX Marks on a variety of advertising media including yard signs, business cards, newspapers and other print media, directional signs, open house signs, hot and cold air balloons, television commercials, Internet web sites,

billboards, displays at sporting events, bus stop benches, transit buses, moving vans, banners, brochures, coffee mugs and other advertising and promotional items.

6. Since at least as early as 1974, Opposer and Opposer's Affiliates, which are over 100,000 in number, have invested over six billion dollars to develop, promote and maintain the RE/MAX Marks in the United States and worldwide. Opposer's Affiliates have used the RE/MAX Marks in connection with representing either the buyer or the seller over 20 million times in real estate sale transactions in the United States and worldwide, resulting in over two and a half trillion dollars in sales volume from as early as 1973 to present date.

7. As a result of substantial sales and extensive advertising and promotion, the RE/MAX Marks have become widely and favorably known as identifying real estate brokerage services originating from, sponsored by or associated with Opposer. Indeed, the RE/MAX Marks are famous. The public has come to associate the RE/MAX Marks as a source of high quality real estate brokerage services.

8. Opposer and Opposer's Affiliates have also used the RE/MAX Marks in connection with other services offered to real estate owners in their capacities as homeowners or real estate owners, including homeowner's insurance. Opposer and/or Opposer's Affiliates also frequently refer owners and purchasers of real property to other providers of such ancillary services, including through Opposer's "Approved Supplier" program, and through referrals by individual RE/MAX sales agents for services related to the home buying process, such as inspections, mortgage and home equity lending services, insurance, locksmith services, title services, home construction, repair, and renovation contractor services. As a result of such provision and referrals for such ancillary services, and as a result of the fame of the RE/MAX Marks for real

estate services, the public is likely to associate with Opposer the use of marks similar to the RE/MAX Marks in connection with services ancillary to the home buying process.

9. Applicant filed U.S. Trademark Application Serial No. 78525633 on December 2, 2004, seeking to register LENDMAX, as shown below ("Applicant's Mark"). By that application, as amended, Applicant seeks to register Applicant's Mark as a trademark in connection with "Real Estate Brokerage" in International Class 36, services identical to the services provided Opponent's Affiliates and covered by several of Opponent's registrations for the RE/MAX Mark.

The logo for LendMax features the word "LendMax" in a bold, italicized, sans-serif font. A stylized, dark, curved line resembling a swoosh or a stylized 'X' is positioned over the right side of the word, starting from the top of the 'M' and extending towards the right.

10. Applicant's Mark was published in the Official Gazette for opposition on June 13, 2006. On June 15, 2005, Opponent timely requested, and was granted, a 30-day extension of time in which to oppose the registration of Applicant's Mark, to and including August 12, 2006. August 12, 2006 fell on a Saturday, and this Notice of Opposition is being filed on the next succeeding day that is not a Saturday, Sunday, or a Federal holiday, pursuant to 37 C.F.R. 2.196. Therefore, this Notice of Opposition is timely filed.

11. Applicant's Mark, when used in connection with the goods identified in application serial No. 78525633 is likely to cause confusion, or to cause mistake, or to deceive consumers as to the source of Applicant's services or as to an affiliation, connection or association between Opposer and Applicant, or as to the origin, sponsorship, or approval of Applicant's, services or other commercial activities.

12. Opposer's RE/MAX name and the RE/MAX Marks are of sufficient fame and reputation among consumers that, when Applicant's Mark is used in connection with the services set forth in the application, a false connection with Opposer will be presumed by consumers.

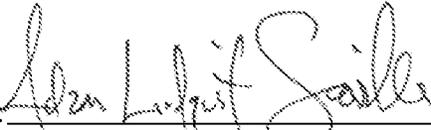
13. Opposer has not in any way authorized Applicant's use of LENDMAX for the services set forth in Application Serial No. 78525633.

14. The registration of Applicant's Mark on the Principal Register would be inconsistent with Opposer's rights under the aforementioned registrations, the common law and the Trademark Act, and would be damaging to Opposer.

WHEREFORE, Opposer RE/MAX INTERNATIONAL, INC. believes that it would be damaged by registration of Applicant's Mark and respectfully prays that U.S. Service Mark Application Serial No. 78525633 for LENDMAX be rejected, that no registration be issued thereon, and that this opposition be sustained in favor of Opposer.

Respectfully submitted this 14th day of August, 2006.

RE/MAX INTERNATIONAL, INC.

By: 

Adam Lindquist Scoville
Nancy L. Dempsey
RE/MAX International, Inc.
8390 E. Crescent Parkway
Greenwood Village, Colorado 80111
(303) 770-5531

ATTORNEYS FOR OPPOSER

Int. Cls.: 35 and 36

Prior U.S. Cl.: 101

United States Patent and Trademark Office

Reg. No. 1,139,014

Registered Aug. 26, 1980

SERVICE MARK

Principal Register

RE/MAX

Re/Max of America, Inc. (Colorado corporation)
5555 S. Trenton Way
Englewood, Colo: 80110

For: RENDERING TECHNICAL AID AND ASSISTANCE TO OTHERS IN THE ESTABLISHMENT AND OPERATION OF A REAL ESTATE BROKERAGE AGENCY, in CLASS 35 (U.S. CL. 101).

First use Jan. 30, 1973; in commerce Jun. 1, 1973.

For: REAL ESTATE BROKERAGE SERVICES, in CLASS 36 (U.S. CL. 101).

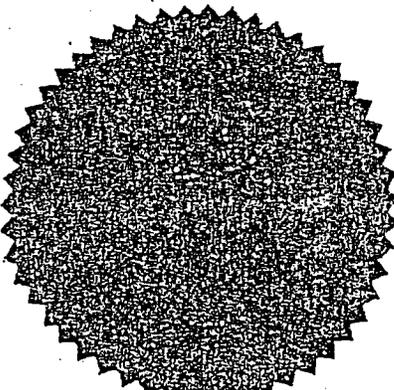
First use Jan. 30, 1973; in commerce Jun. 1, 1973.

Ser. No. 113,283. Filed Jan. 21, 1977.

MARC BERGSMAN, Primary Examiner

REGISTERED FOR A TERM OF 20 YEARS FROM Aug. 26, 1980

COMB. AFF. SEC 8 & 15



Attest

CERTIFIED TO BE A TRUE COPY OF THE REGISTRATION WHICH IS IN FULL FORCE AND EFFECT, WITH NOTATION OF ALL STATUTORY ACTIONS TAKEN THEREON, AS DISCLOSED BY THE RECORDS OF THE UNITED STATES PATENT AND TRADEMARK OFFICE. SAID RECORDS SHOW TITLE TO BE IN: Re/Max International, Inc.

MAY 19 1987
P.C. Saylor

Donald R. [Signature]

Int. Cl.: 36

Prior U.S. Cl.: 102

United States Patent and Trademark Office **Reg. No. 1,339,510**
Registered June 4, 1985

**SERVICE MARK
PRINCIPAL REGISTER**

RE/MAX

RE/MAX OF AMERICA, INC. (COLORADO
CORPORATION)
5251 S. QUEBEC
ENGLEWOOD, CO 80111

FOR: INSURANCE BROKERAGE SERVICES,
IN CLASS 36 (U.S. CL. 102).

FIRST USE 4-1-1980; IN COMMERCE
4-1-1980.

OWNER OF U.S. REG. NO. 1,139,014.

SER. NO. 510,503, FILED 11-26-1984.

SHARON R. MARSH, EXAMINING ATTORNEY

Int. Cl.: 35

Prior U.S. Cls.: 100, 101 and 102

United States Patent and Trademark Office

Reg. No. 2,054,698

Registered Apr. 22, 1997

SERVICE MARK
PRINCIPAL REGISTER

REMAX

RE/MAX INTERNATIONAL, INC. (COLORADO
CORPORATION)
5445 DTC PARKWAY, SUITE 1200
ENGLEWOOD, CO 80111

FOR: FRANCHISE SERVICES, NAMELY, OF-
FERING TECHNICAL ASSISTANCE IN THE
ESTABLISHMENT AND/OR OPERATION OF
REAL ESTATE BROKERAGE FIRMS, IN
CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 1-1-1977; IN COMMERCE
1-1-1977.

OWNER OF U.S. REG. NOS. 1,139,014 AND
1,173,586.

SER. NO. 75-068,927, FILED 3-7-1996.

RUSS HERMAN, EXAMINING ATTORNEY

Int. Cl.: 36

Prior U.S. Cls.: 100, 101 and 102

Reg. No. 2,106,387

United States Patent and Trademark Office

Registered Oct. 21, 1997

**SERVICE MARK
PRINCIPAL REGISTER**

REMAX

RE/MAX INTERNATIONAL, INC. (COLORADO
CORPORATION)
5445 DTC PARKWAY, SUITE 1200
ENGLEWOOD, CO 80155

FOR: REAL ESTATE BROKERAGE SERV-
ICES, IN CLASS 36 (U.S. CLS. 100, 101 AND 102).

FIRST USE 1-1-1977; IN COMMERCE
1-1-1977.

OWNER OF U.S. REG. NO. 1,339,510.

SER. NO. 75-068,799, FILED 3-7-1996.

RUSS HERMAN, EXAMINING ATTORNEY

Int. Cls.: 35 and 36

Prior U.S. Cls.: 100, 101 and 102

Reg. No. 2,119,607

United States Patent and Trademark Office

Registered Dec. 9, 1997

**SERVICE MARK
PRINCIPAL REGISTER**

RE/MAX

RE/MAX INTERNATIONAL, INC. (COLORADO
CORPORATION)
5445 DTC PARKWAY, SUITE 1200
ENGLEWOOD, CO 80111

FOR: FRANCHISE SALES AND SUPPORT
SERVICES, NAMELY, OFFERING TECHNICAL
ASSISTANCE IN THE ESTABLISHMENT AND/
OR OPERATION OF REAL ESTATE BROKER-
AGE SERVICES , IN CLASS 35 (U.S. CLS. 100,
101 AND 102).

FIRST USE 1-30-1973; IN COMMERCE
6-1-1973.

FOR: REAL ESTATE BROKERAGE SERV-
ICES, IN CLASS 36 (U.S. CLS. 100, 101 AND 102).
FIRST USE 1-30-1973; IN COMMERCE
6-1-1973.

OWNER OF U.S. REG. NOS. 1,139,014, 1,720,592
AND OTHERS.

SER. NO. 75-198,750, FILED 11-15-1996.

J. TINGLEY, EXAMINING ATTORNEY

Int. Cl.: 36

Prior U.S. Cls.: 100, 101 and 102

United States Patent and Trademark Office

Reg. No. 2,403,626

Registered Nov. 14, 2000

**SERVICE MARK
PRINCIPAL REGISTER**

RE/MAX

RE/MAX INTERNATIONAL, INC. (COLORADO CORPORATION)
8390 EAST CRESCENT PARKWAY, SUITE 600
GREENWOOD VILLAGE, CO 80111

FOR: PROVIDING A WEBSITE ON GLOBAL COMPUTER NETWORKS FEATURING INFORMATION IN THE FIELD OF REAL ESTATE, IN CLASS 36 (U.S. CLS. 100, 101 AND 102).

FIRST USE 8-1-1995; IN COMMERCE 8-1-1995.
OWNER OF U.S. REG. NOS. 1,139,014, 2,119,607
AND OTHERS.

SER. NO. 75-712,611, FILED 5-24-1999.

CAROLINE WEIMER, EXAMINING ATTORNEY

Int. Cls.: 36 and 38

Prior U.S. Cls.: 100, 101, 102 and 104

United States Patent and Trademark Office

Reg. No. 2,477,193

Registered Aug. 14, 2001

**SERVICE MARK
PRINCIPAL REGISTER**

RE/MAX MAINSTREET

REMAX INTERNATIONAL, INC. (COLORADO CORPORATION)
8390 EAST CRESCENT PARKWAY, SUITE 600
GREENWOOD VILLAGE, CO 80111

FOR: PROVIDING AN ON-LINE COMPUTER DATABASE IN THE FIELD OF REAL ESTATE, IN CLASS 36 (U.S. CLS. 100, 101 AND 102).

FIRST USE 10-1-1997; IN COMMERCE 10-1-1997.

FOR: PROVIDING ON-LINE ELECTRONIC BULLETIN BOARDS FOR TRANSMISSION OF MESSAGES AMONG COMPUTER USERS CONCERNING REAL ESTATE; ELECTRONIC MAIL SERVICES;

PROVIDING ON-LINE CHAT ROOMS FOR TRANSMISSION OF MESSAGES AMONG COMPUTER USERS CONCERNING REAL ESTATE, IN CLASS 38 (U.S. CLS. 100, 101 AND 104).

FIRST USE 10-1-1997; IN COMMERCE 10-1-1997.

OWNER OF U.S. REG. NOS. 1,139,014, 2,119,607 AND OTHERS.

SER. NO. 75-742,900, FILED 5-24-1999.

LA TONIA FISHER, EXAMINING ATTORNEY

Int. Cl.: 35

Prior U.S. Cls.; 100, 101 and 102

United States Patent and Trademark Office

Reg. No. 2,850,996

Registered June 8, 2004

**SERVICE MARK
PRINCIPAL REGISTER**

REMAX.COM

RE/MAX INTERNATIONAL, INC. (COLORADO
CORPORATION)
SUITE 600
8390 EAST CRESCENT PARKWAY
GREENWOOD VILLAGE, CO 801112800

FIRST USE 12-31-2000; IN COMMERCE 12-31-2000.

OWNER OF U.S. REG. NOS. 1,139,014, 1,339,510,
AND 2,119,607.

FOR: FRANCHISING SERVICES, NAMELY, OF-
FERING TECHNICAL ASSISTANCE IN THE ESTAB-
LISHMENT AND/OR OPERATION OF REAL
ESTATE BROKERAGE OFFICES , IN CLASS 35
(U.S. CLS. 100, 101 AND 102).

SER. NO. 78-267,662, FILED 6-26-2003.

ANDREA K. NADELMAN, EXAMINING ATTOR-
NEY