

ESTTA Tracking number: **ESTTA94761**

Filing date: **08/15/2006**

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	Ameriquest Mortgage Company		
Entity	Corporation	Citizenship	Delaware
Address	1100 Town & Country Road, 11th Floor Orange, CA 92868-4642 UNITED STATES		

Attorney information	Karin E. Peterka, Esq. BUCHALTER NEMER, A Professional Corporation 1000 Wilshire Boulevard, Suite 1500 Los Angeles, CA 90017-2457 UNITED STATES kpeterka@buchalter.com, msolmon@buchalter.com, rormond@buchalter.com, jhawke@buchalter.com Phone:213-891-0700		
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Applicant Information

Application No	78696008	Publication date	07/18/2006
Opposition Filing Date	08/15/2006	Opposition Period Ends	08/17/2006
Applicant	AmeriFirst Home Improvement Finance Co. 4041 Powder Mill Road, Suite 204 Calverton, MD 20705 UNITED STATES		

Goods/Services Affected by Opposition

Class 036. First Use: 2004/11/09 First Use In Commerce: 2004/11/09 All goods and services in the class are opposed, namely: Mortgage banking services, namely, origination, acquisition, servicing, securitization and brokerage of mortgage loans; Mortgage banking; Mortgage brokerage; Mortgage lending

Applicant Information

Application No	78696009	Publication date	07/18/2006
Opposition Filing Date	08/15/2006	Opposition Period Ends	08/17/2006
Applicant	AmeriFirst Home Improvement Finance Co. 4041 Powder Mill Road, Suite 204 Calverton, MD 20705 UNITED STATES		

Goods/Services Affected by Opposition

Class 036. First Use: 2004/09/15 First Use In Commerce: 2004/09/15 All goods and services in the class are opposed, namely: Mortgage banking services, namely,

origination, acquisition, servicing, securitization and brokerage of mortgage loans; Mortgage banking; Mortgage brokerage; Mortgage lending

Related Proceedings	91166511
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Attachments	AMC v Amerifirst - Notice of Opposition 2.pdf (23 pages)(777088 bytes)
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Signature	/Matthew S. Solmon/
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Name	Matthew S. Solmon, Esq.
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Date	08/15/2006
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As grounds for this notice of opposition, Opposer alleges as follows:

1. Opposer, Ameriquest Mortgage Company, is a Delaware corporation duly organized and existing under the laws of the State of Delaware, with offices at 1100 Town & Country Road, 11th Floor, Orange, California 92868-4642.

2. Applicant, AmeriFirst Home Improvement Finance Co., is a Virginia corporation duly organized and existing under the laws of the State of Virginia, with offices at 4041 Powder Mill Road, Suite 204, Calverton, Maryland 20705.

3. On August 18, 2005, Applicant filed use based application serial number 78/696,008 to register the “AMERIFIRST” mark for “mortgage banking services, namely, origination, acquisition, servicing, securitization and brokerage of mortgage loans; mortgage banking; mortgage brokerage; mortgage lending,” in International Class 36, on the Principal Register, and on August 18, 2005, Applicant filed used based application serial number 78/696,009 to register the “AMERIFIRST HOME IMPROVEMENT FINANCE” mark for “mortgage banking services, namely, origination, acquisition, servicing, securitization and brokerage of mortgage loans; mortgage banking; mortgage brokerage; mortgage lending,” in International Class 36, on the Principal Register (collectively, “Applicant’s Marks”). True and correct copies of the listings for Applicant’s Marks from the United States Patent and Trademark Office (“USPTO”) Trademark Electronic Search System (“TESS”) are attached hereto as **Exhibit 1** and made a part hereof by this reference.

4. Commencing long prior to Applicant’s filing date of August 18, 2005 and Applicant’s first use dates of November 9, 2004 and September 15, 2004, and being in use continuously to the present, Opposer has engaged, and is now engaged in rendering financial services, including but not limited to, residential mortgage services, in interstate commerce, under the following service marks (collectively, “Opposer’s Marks”):

AMERIQUEST	Registration No. 2,551,713
AMERIQUEST MORTGAGE COMPANY	Registration No. 2,551,714
AMERIQUEST MORTGAGE	Registration No. 2,620,964
AMERIQUEST MORTGAGE COMPANY AND DESIGN	Registration No. 2,608,552

True and correct copies of the listings for Opposer’s Marks from USPTO TESS are attached hereto as **Exhibit 2** and made a part hereof by this reference.

5. Opposer has adopted and has continuously used its “AMERIQUEST”, “AMERIQUEST MORTGAGE COMPANY”, and “AMERIQUEST MORTGAGE” marks in commerce since at least as early as January 2, 1995, and Opposer has adopted and has continuously used its “AMERIQUEST MORTGAGE COMPANY AND DESIGN” mark in commerce since at least as early as April 8, 1997.

6. Since initial use of Opposer’s Marks, Opposer has used, advertised, promoted, and offered Opposer’s services under Opposer’s Marks to the public on a nationwide basis through various channels of trade in commerce, with the result that Opposer’s customers and the public in general have come to know, rely upon, and recognize Opposer’s Marks and associate Opposer’s Marks with Opposer as the source of the services rendered by Opposer. Opposer has devoted substantial time, money, and effort in the establishment of the goodwill, consumer recognition, and nationwide reputation of its Marks, and such Marks are symbolic of the extensive goodwill, consumer recognition, and nationwide reputation built up by Opposer in connection with the rendering of the services in connection with Opposer’s Marks. Thus, Opposer has an exceedingly valuable goodwill established in its Marks.

7. Applicant’s Marks are substantially identical in appearance, sound, and connotation to Opposer’s Marks. Applicant’s Marks so resemble Opposer’s Marks as to be likely, when used in connection with the services identified in the application for Applicant’s Marks, to cause confusion, to cause mistake, or to deceive the consuming public, and Applicant’s Marks should be found to be unregistrable under § 2(d) of the United States Trademark Act, 15 U.S.C. § 1052(d), as amended.

8. Opposer and Applicant are both engaged in rendering financial and lending services, including mortgage services, in connection with their respective Marks. Attached hereto as **Exhibit 3** is a copy of the home web page from Applicant's website under the domain name "www.trustamerifirst.com" which website offers mortgage services under the "AMERIFIRST HOME IMPROVEMENT FINANCE" and "AMERIFIRST" marks. The "AMERIFIRST HOME IMPROVEMENT FINANCE" mark is shown at the top of the web page with the term "AMERIFIRST" in prominent capital letters and the terms "HOME IMPROVEMENT FINANCE" in much smaller lowercase letters underneath the term "AMERIFIRST". In addition, at the top of the web page is the heading "ABOUT AMERIFIRST". Purchasers are likely to consider the services of Applicant sold under Applicant's "AMERIFIRST HOME IMPROVEMENT FINANCE" and "AMERIFIRST" marks as emanating from Opposer and purchase such services as those of the Opposer, resulting in loss of sales to Opposer. Concurrent use of Opposer's Marks and Applicant's Marks may result in irreparable damage to Opposer's reputation and goodwill, if the services sold or intended to be sold by Applicant are of an inferior quality or objectionable, in comparison to the services used with Opposer's Marks, since purchasers are likely to attribute the source of Applicant's services to Opposer.

9. The services used in connection with Opposer's Marks are sold and offered for sale throughout the United States via stores, direct mail, the telephone, the Internet, the radio, the television, trade publications, newspapers and magazines. In addition, Opposer has an Internet website that can be reached under various web addresses, including but not limited to, the web addresses of "www.ameriquest.com" and "www.ameriquestmortgage.com". Opposer's website is used to sell and offer for sale Opposer's services used in connection with Opposer's Marks.

10. Applicant sells and offers for sale its services on the Internet, and on information and belief, in stores across the United States. Thus, Applicant's and Opposer's services are offered to the same classes of customers through the same channels of trade, and Applicant's

Marks are likely to be confused with and mistaken for Opposer's Marks, so as to cause confusion and lead to deception as to source, sponsorship, or affiliation by the consuming public.

11. Due to the similarities in Applicant's Marks and Opposer's Marks, the similarities in the services used with the respective Marks, the overlap in the channels of trade used with the respective Marks, and the overlap in customers who use the services used with the respective Marks, Applicant's Marks are likely to be confused with and mistaken for Opposer's Marks, so as to cause confusion and lead to deception as to source, sponsorship, or affiliation by the consuming public.

12. Opposer believes it will be damaged by the registration of Applicant's Marks because such registrations would give Applicant at least a *prima facie* exclusive right to use Applicant's confusingly similar Marks in commerce in the United States, in derogation of Opposer's rights in Opposer's Marks. To the extent that Opposer has priority of use of Opposer's Marks, Applicant will obtain federal registrations to which it is not entitled, and which is inconsistent with Opposer's prior rights.

13. As the result of Opposer's prior, continuous, and extensive use of Opposer's Marks, which use has not been abandoned, such Marks of Opposer have become widely and favorably known to the purchasing public and the mortgage industry as identifying Opposer as a particular source for mortgage services. As a result of Opposer's long and extensive use, sales, and advertising since January 2, 1995, of its Marks, Opposer's "AMERIQUEST" name and Marks have become, and are, famous and are recognized among consumers and members of the trade as indicating the source and quality of the services offered by Opposer. The "AMERIQUEST" name and Marks, and their respective goodwill, are assets of immense value to Opposer.

14. Opposer's Marks are famous and distinctive, and they are well known to the public and to the trade based upon widespread marketing and advertising throughout the United States. Opposer's "AMERIQUEST" name and Marks became famous before Applicant's filing date of its "AMERIFIRST" application of August 18, 2005, and first use date of November 9,

2004, and before Applicant's filing date of its "AMERIFIRST HOME IMPROVEMENT FINANCE" application of August 18, 2005, and first use date of September 15, 2004.

15. Applicant has marketed, sold, advertised and promoted its services under Applicant's Marks so as to induce the public into perceiving that Applicant's services are associated with Opposer's services. Applicant's acts described herein have diluted, and are diluting, the distinctive quality of Opposer's Marks, thereby violating Opposer's rights pursuant to the Lanham Act §43(c), 15 U.S.C. § 1125(c).

16. Applicant's use of Applicant's Marks dilutes the distinctive quality of Opposer's famous "AMERIQUEST" Marks and lessens the ability of Opposer's "AMERIQUEST" Marks to distinguish the services of Opposer. Thus, Applicant should not be allowed registrations for Applicant's Marks.

17. Applicant's use in commerce of Applicant's Marks, which are confusingly similar to Opposer's famous "AMERIQUEST" Marks, and such use in the promotion, advertising and sale of Applicant's services, which use began after Opposer's "AMERIQUEST Marks" had become famous, has caused the dilution of the distinctive quality of Opposer's "AMERIQUEST" Marks and constitutes dilution under Lanham Act §43(c), 15 U.S.C. § 1125(c).

18. Applicant's misappropriation, use, and infringement of Opposer's Marks debase and cheapen Opposer's Marks and create dilution of the distinctive quality thereof and injure Opposer's business, reputation, and the goodwill associated with its services and Marks. Due to the similarities between Applicant's Marks and Opposer's Marks, the similarities in the services used with the respective Marks, the overlap in the channels of trade used with the respective Marks, and the overlap in customers who use the services used with the respective Marks, Applicant's Marks are blurring and tarnishing Opposer's famous, distinctive, and well-established Marks, so as to cause dilution of Opposer's Marks.

WHEREFORE, Opposer believes and avers that it will be damaged by the registration of Applicant's Marks, including damage as a result of dilution under Lanham Act §43(c), and prays for judgment sustaining this opposition and refusing the registration of Applicant's Marks, and that such other and further relief as is deemed just and proper be granted.

Please charge the filing fee of \$600.00 for the opposition of the two service mark applications to Deposit Account No. 500977 and direct all correspondence in connection with this opposition to the undersigned.

Respectfully submitted,
BUCHALTER NEMER
A Professional Corporation

Date: August 15, 2006

By: Karin E. Peterka

Karin E. Peterka
Michael Wachtell
Richard Ormond
Matthew Solmon
Rachel Saldana
Buchalter Nemer
1000 Wilshire Boulevard, Suite 1500
Los Angeles, California 90017
Telephone: (213) 891-0700
Facsimile: (213) 896-0400

Attorneys for Opposer
Ameriquet Mortgage Company

EXHIBIT 1



Trademarks > Trademark Electronic Search System(Tess)

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AMERIFIRST

Word Mark	AMERIFIRST
Goods and Services	IC 036. US 100 101 102. G & S: Mortgage banking services, namely, origination, acquisition, servicing, securitization and brokerage of mortgage loans; Mortgage banking; Mortgage brokerage; Mortgage lending. FIRST USE: 20041109. FIRST USE IN COMMERCE: 20041109
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Design Search Code	
Serial Number	78696008
Filing Date	August 18, 2005
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	July 18, 2006
Owner	(APPLICANT) AmeriFirst Home Improvement Finance Co. CORPORATION VIRGINIA 4041 Powder Mill Road, Suite 204 Calverton MARYLAND 20705
Attorney of Record	Matthew H. Swyers, Esq.

Type of Mark SERVICE MARK
Register PRINCIPAL
Live/Dead
Indicator LIVE

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AMERIFIRST HOME IMPROVEMENT FINANCE

Word Mark AMERIFIRST HOME IMPROVEMENT FINANCE
Goods and Services IC 036. US 100 101 102. G & S: Mortgage banking services, namely, origination, acquisition, servicing, securitization and brokerage of mortgage loans; Mortgage banking; Mortgage brokerage; Mortgage lending. FIRST USE: 20040915. FIRST USE IN COMMERCE: 20040915
Standard Characters Claimed
Mark Drawing Code (4) STANDARD CHARACTER MARK
Design Search Code
Serial Number 78696009
Filing Date August 18, 2005
Current Filing Basis 1A
Original Filing Basis 1A
Published for Opposition July 18, 2006
Owner (APPLICANT) AmeriFirst Home Improvement Finance Co. CORPORATION VIRGINIA 4041 Powder Mill Road, Suite 204 Calverton MARYLAND 20705
Attorney of Record Matthew H. Swyers, Esq.

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Type of Mark SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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EXHIBIT 2



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Typed Drawing

Word Mark **AMERIQUEST**
Goods and Services IC 036. US 100 101 102. G & S: MORTGAGE LENDING AND FINANCIAL SERVICES; MORTGAGE BANKING; MORTGAGE BROKERAGE; AND WHOLESALE AND RETAIL MORTGAGE SERVICES, NAMELY PURCHASING MORTGAGE LOANS FROM REAL ESTATE BROKERS AND CORRESPONDENT LENDERS; AND MORTGAGE LENDING, BANKING, AND BROKERAGE SERVICES OVER THE GLOBAL COMPUTER NETWORK. FIRST USE: 19950102. FIRST USE IN COMMERCE: 19950102
Mark Drawing Code (1) TYPED DRAWING
Design Search Code
Serial Number 75909580
Filing Date February 4, 2000
Current Filing Basis 1A
Original Filing Basis 1A
Published for Opposition January 1, 2002
Registration Number 2551713
Registration Date March 26, 2002
Owner (REGISTRANT) AMERIQUEST MORTGAGE COMPANY CORPORATION DELAWARE 1100 Town & Country Road, 11th Floor Orange CALIFORNIA 92868
Attorney of Record Karin E. Peterka
Prior Registrations 2224856
Type of Mark SERVICE MARK

Register PRINCIPAL
Live/Dead LIVE
Indicator

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Typed Drawing

Word Mark **AMERIQUEST MORTGAGE COMPANY**
Goods and Services IC 036. US 100 101 102. G & S: MORTGAGE LENDING AND FINANCIAL SERVICES; MORTGAGE BANKING; MORTGAGE BROKERAGE; AND WHOLESALE AND RETAIL MORTGAGE SERVICES, NAMELY PURCHASING MORTGAGE LOANS FROM REAL ESTATE BROKERS AND CORRESPONDENT LENDERS; AND MORTGAGE LENDING, BANKING, AND BROKERAGE SERVICES OVER THE GLOBAL COMPUTER NETWORK. FIRST USE: 19950102. FIRST USE IN COMMERCE: 19950102
Mark Drawing Code (1) TYPED DRAWING
Design Search Code
Serial Number 75909646
Filing Date February 4, 2000
Current Filing Basis 1A
Original Filing Basis 1A
Published for Opposition January 1, 2002
Registration Number 2551714
Registration Date March 26, 2002
Owner (REGISTRANT) AMERIQUEST MORTGAGE COMPANY CORPORATION DELAWARE 1100 Town & Country Road 11th Floor Orange CALIFORNIA 92868
Attorney of Record Karin E. Peterka
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Type of Mark SERVICE MARK

Register PRINCIPAL
Live/Dead LIVE
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Typed Drawing

Word Mark **AMERIQUEST MORTGAGE**
Goods and Services IC 036. US 100 101 102. G & S: MORTGAGE BANKING SERVICES; MORTGAGE BROKER SERVICES; MORTGAGE LENDING AND FINANCIAL SERVICES, NAMELY, LOAN PROCESSING LOAN COLLECTIONS, WHOLESALE AND RETAIL MORTGAGES, AND PURCHASING MORTGAGE LOANS FROM REAL ESTATE BROKERS AND CORRESPONDENT LENDERS; MORTGAGE BANKING, MORTGAGE BROKER SERVICES, AND MORTGAGE LENDING SERVICES OVER THE GLOBAL COMPUTER NETWORK. FIRST USE: 19950102. FIRST USE IN COMMERCE: 19950102
Mark Drawing Code (1) TYPED DRAWING
Design Search Code
Serial Number 76312371
Filing Date September 13, 2001
Current Filing Basis 1A
Original Filing Basis 1A
Published for Opposition June 25, 2002
Registration Number 2620964
Registration Date September 17, 2002
Owner (REGISTRANT) AMERIQUEST MORTGAGE COMPANY CORPORATION DELAWARE 1100 Town & Country Road 11th Floor Orange CALIFORNIA 92868
Attorney of Record Karin E. Peterka
Prior Registrations 2224856

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Type of Mark SERVICE MARK
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Word Mark AMERIQUEST MORTGAGE C O M P A N Y

Goods and Services IC 036. US 100 101 102. G & S: MORTGAGE LENDING AND FINANCIAL SERVICES; MORTGAGE BANKING; MORTGAGE BROKERAGE; AND WHOLESALE AND RETAIL MORTGAGE SERVICES, NAMELY PURCHASING MORTGAGE LOANS FROM REAL ESTATE BROKERS AND CORRESPONDENT LENDERS; AND MORTGAGE LENDING, BANKING, AND BROKERAGE SERVICES OVER THE GLOBAL COMPUTER NETWORK. FIRST USE: 19970408. FIRST USE IN COMMERCE: 19970408

Mark Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Search Code 22.03.24 - Bells, hand; Hand bells; Single bells

Serial Number 75909644

Filing Date February 4, 2000

Current Filing Basis 1A

Original Filing Basis 1A

Published for Opposition May 21, 2002

Registration Number 2608552

Registration Date August 20, 2002

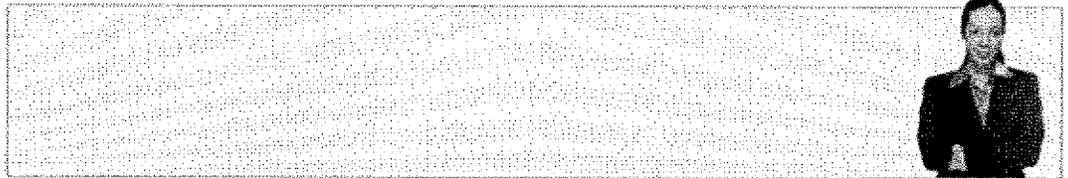
Owner (REGISTRANT) AMERIQUEST MORTGAGE COMPANY CORPORATION DELAWARE 1100 Town & Country Road 11th Floor Orange CALIFORNIA 92368

Attorney of Record Karin E. Peterka
Prior Registrations 2224856
Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "MORTGAGE COMPANY" APART FROM THE MARK AS SHOWN
Description of Mark The stippling in the drawing appears to be for shading purposes only.
Type of Mark SERVICE MARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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EXHIBIT 3



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- [ABOUT AMERIFIRST](#)
- [APPLY NOW](#)
- [CREDIT RESOURCES](#)
- [NEW DEALER ENROLLMENT](#)
- [DEALER LOGIN](#)
- [CONTACT AMERIFIRST](#)

WELCOME TO: AMERIFIRST Home Improvement Finance

SERVING AMERICA'S HOMEOWNERS

AmeriFirst Home Improvement Finance is dedicated to providing quality financial services to individual homeowners and to the contractors who serve them.

Our Mortgage Division offers America's homeowners a comprehensive list of mortgage products.

WHY AMERIFIRST IS RIGHT FOR YOU

- We have been serving America's homeowners for more than 25 years and operate nationally
- We offer all standard and adjustable-rate mortgages
- We offer construction/permanent and rehab loans
- We offer a Cash-out loan Program
- We offer loan programs to homeowners with credit problems, prior bankruptcies OK
- Pre-approval is FREE, there are no up front fees

APPLY NOW!

NEW DEALER ENROLLMENT

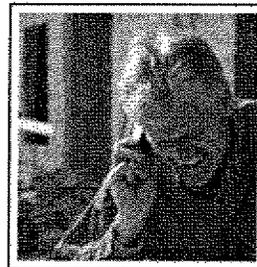
DO YOU WANT TO FINANCE MORE OF YOUR CUSTOMERS?

DO YOU WANT MORE TIME TO FOCUS ON YOUR BUSINESS?

AmeriFirst Home Improvement Finance created the Remodel-Edge Program to help dealers finance more customers and to simplify the loan approval process. Remodel-Edge was designed from the ground up to serve the requirements of the home improvement industry.

Partner with AmeriFirst Home Improvement Finance to provide the services necessary to finance more of your customers.

sign up to be a dealer now!



APPLY NOW

Start Now Click Here

Get pre-qualified for your loan request, it's easy & FREE!

MORTGAGE CALCULATOR

*Loan Amount

*Duration years

*Interest Rate %

* required field

MORTGAGE ADVISOR

Select your state, from the list below, to get contact information for the Mortgage Advisor closest to you.

Select Your State