

ESTTA Tracking number: **ESTTA162713**

Filing date: **09/14/2007**

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

Proceeding	91178739
Party	Defendant The Trustees of the Trust Associates, a Georgia Trust, comprising Louis Brown, a United States citizen
Correspondence Address	L. Clint Crosby Baker Donelson Bearman Caldwell & Berkowitz Six Concourse Parkway Suite 3100 Atlanta, GA 30328 UNITED STATES ccrosby@bakerdonelson.com
Submission	Answer
Filer's Name	L. Clint Crosby
Filer's e-mail	ccrosby@bakerdonelson.com
Signature	/L. Clint Crosby/
Date	09/14/2007
Attachments	Applicant's_Answer (2).pdf (5 pages)(14545 bytes) Exhibit A.pdf (2 pages)(63698 bytes)

UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

MORTGAGE GUARANTEED INVESTMENTS, LLC.,)
)
Opposer,) Opposition No. 91178739
vs.) Serial No. 78853377
)
)
THE TRUSTEES OF THE TRUST ASSOCIATES, a)
GEORGIA TRUST, comprising LOUIS BROWN, a)
UNITED STATES CITIZEN,)
)
Applicant.)

APPLICANT’S ANSWER TO THE NOTICE OF OPPOSITION

COMES NOW, The Trustees of the Trust Associates, a Georgia Trust, comprising Louis Brown, a United States Citizen d/b/a Trust Associates (“Trust Associates”), and responds to the Notice of Opposition filed by Mortgage Guaranteed Investments, LLC (“MGI”), and respectfully shows the following:

1.

The allegations contained in Paragraph 1 of MGI’s Opposition are denied.

2.

The allegations contained in Paragraph 2 of MGI’s Opposition are denied.

3.

[There is no Paragraph 3 in MGI’s Opposition].

4.

Trust Associates is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in this paragraph. Therefore, the allegations are denied.

5.

Trust Associates is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in this paragraph. Therefore, the allegations are denied. However, if confusion is likely as between Trust Associates and MGI, any damage would be to Trust Associates and not to MGI.

6.

Trust Associates is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in this paragraph. Therefore, the allegations are denied. Trust Associates is the owner of three registered related marks to wit: 3,001,964; 3,001,961; and 3,008,842. Given Trust Associates' registered STREET SMART marks and its long commercial uses of the same, Trust Associates asserts that if there is confusion among consumers of the parties' respective goods and/or services concerning mistaken origination, association or sponsorship, such confusion would be in the opposite direction than what MGI has alleged, as Trust Associates' is the senior user of the marks at issue here. In other words, any likely confusion is that consumers may believe that MGI's services originate from Trust Associates or are in some way associated with or sponsored by Trust Associates.

7.

The allegations contained in Paragraph 7 of MGI's Opposition are denied.

AFFIRMATIVE DEFENSES

In further answer to the Notice of Opposition, Applicant asserts that:

8.

MGI has failed to allege grounds sufficient to establish its standing to maintain the present Opposition.

9.

MGI has failed to state a claim upon which relief can be granted.

10.

MGI lacks equal or superior rights in the mark STREET SMART.

11.

MGI should be estopped from its pursuit of this Opposition due to its inequitable conduct in filing trademark application serial number 77/246,170, which states an incorrect date of first use and was filed the same date as MGI's Opposition. A copy is attached hereto as Exhibit "A".

12.

MGI should be denied in its pursuit of this Opposition due to its unclean hands in filing trademark application serial number 77/246,170, which states an incorrect date of first use and was filed the same date as MGI's Opposition.

13.

MGI has unclean hands and is entitled to none of the relief sought in its Opposition because MGI knew or should have known prior to filing its application for STREET SMART PROPERTIES and prior to initiating this Opposition of Trust Associates' rights in the STREET SMART marks, certainly on the basis of Trust Associates' prior registrations in the Trademark Office as well as MGI's dealings in the relevant marketplace, and therefore, has filed its application with a false declaration and is pursuing this Opposition under false pretenses that MGI has priority of rights in the marks at issue.

14.

Trust Associates asserts the Morehouse defense in light of its prior STREET SMART trademark registrations; to wit: 3,001,964; 3,001,961; and 3,008,842.

RELIEF REQUESTED

Having fully responded to MGI's Notice of Opposition, Trust Associates asks that this Opposition proceeding be dismissed and that its registration issued forthwith.

Respectfully submitted this 14th day of September, 2007.

/L. Clint Crosby/
L. Clint Crosby
Georgia Bar No. 197877
Michael J. Powell
Georgia Bar No. 586,275

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Counsel for Applicant Trust Associates

PROOF OF SERVICE

The person whose signature appears below confirms that the Response to Notice of Opposition has been served upon the following parties via electronic filing:

Michael J. Mehrman, Esq.
Mehrman Law Office, P.C.
5605 Glenridge Drive, Suite 795
Atlanta, Georgia 30342

This 14th day of September, 2007.

/L. Clint Crosby/
L. Clint Crosby
Georgia Bar No. 197877

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Counsel for Applicant Trust Associates

Thank you for your request. Here are the latest results from the TARR web server.

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Serial Number: 77246170 [Assignment Information](#)

[Trademark Document Retrieval](#)

Registration Number: (NOT AVAILABLE)

Mark



STREETSMARTS PROPERTIES

(words only): STREETSMARTS PROPERTIES

Standard Character claim: Yes

Current Status: Newly filed application, not yet assigned to an examining attorney.

Date of Status: 2007-08-06

Filing Date: 2007-08-03

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: (NOT AVAILABLE)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 011 -Initial Review/Serialization Branch(Mailroom)

Date In Location: 2007-08-06

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Mortgage Guaranteed Investments, LLC

Address:

Mortgage Guaranteed Investments, LLC
3246 Marjan Drive

Norcross, GA 30092

United States

Legal Entity Type: Ltd Liab Co

State or Country Where Organized: Georgia

Phone Number: 770-458-7100

Fax Number: 404-497-7405

GOODS AND/OR SERVICES

International Class: 036

Class Status: Active

(Based on Use in Commerce) Providing real estate listings and real estate information via the Internet;
Real estate investment; Real estate lending services

Basis: 1(a)

First Use Date: 2005-09-29

First Use in Commerce Date: 2005-09-29

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2007-08-08 - Notice Of Pseudo Mark Mailed

2007-08-07 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Michael J. Mehrman

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