

ESTTA Tracking number: **ESTTA355427**

Filing date: **06/29/2010**

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 parties oppose registration of the indicated application.

Opposers Information

Name	Weyerhaeuser Real Estate Company
Granted to Date of previous extension	06/30/2010
Address	33663 Weyerhaeuser Way South Federal Way, WA 98003 UNITED STATES

Name	Pardee Homes		
Entity	Corporation	Citizenship	California
Address	10880 Wilshire Blvd., Suite 1900 Los Angeles, CA 90024 UNITED STATES		

Name	Trendmaker Homes, Inc.		
Entity	Corporation	Citizenship	Texas
Address	16285 Park Ten Place Houston, TX 77084 UNITED STATES		

Attorney information	Teresa J. Wiant Weyerhaeuser NR Company PO Box 9777 Federal Way, WA 98063-9777 UNITED STATES trademarks@weyerhaeuser.com Phone:253-924-3991
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Applicant Information

Application No	77707887	Publication date	03/02/2010
Opposition Filing Date	06/29/2010	Opposition Period Ends	06/30/2010
Applicant	Weyand, Rudi 11835 Carmel Mtn Rd, Ste 1304-359 San Diego, CA 92128 UNITED STATES		

Goods/Services Affected by Opposition

Class 037.

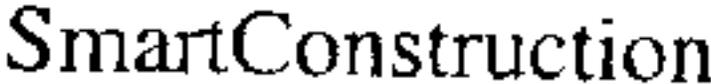
All goods and services in the class are opposed, namely: Building construction, remodeling and repair; Construction and renovation of buildings; Custom construction and building renovation

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2562855	Application Date	11/12/1999
Registration Date	04/23/2002	Foreign Priority Date	NONE
Word Mark	SMARTCENTER GARAGE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 037. First use: First Use: 1995/02/15 First Use In Commerce: 1995/04/15 residential construction services, namely, providing customized garage design features in new homes		

U.S. Registration No.	2436665	Application Date	11/12/1999
Registration Date	03/20/2001	Foreign Priority Date	NONE
Word Mark	SMARTCONSTRUCTION		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 037. First use: First Use: 1996/12/15 First Use In Commerce: 1997/01/15 residential construction services, namely, providing custom roof and exterior siding and paint design features in new homes		

U.S. Registration No.	2461428	Application Date	03/06/2000
Registration Date	06/19/2001	Foreign Priority Date	NONE
Word Mark	SMARTSUITE		

Design Mark	SMARTSUITE
Description of Mark	NONE
Goods/Services	Class 037. First use: First Use: 1999/07/15 First Use In Commerce: 1999/10/15 residential construction services, namely, providing custom design features for the master bedroom and bathroom

U.S. Registration No.	2436664	Application Date	11/12/1999
Registration Date	03/20/2001	Foreign Priority Date	NONE

Word Mark	SMARTTOUCHES
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Design Mark	SmartTouches
Description of Mark	NONE
Goods/Services	Class 037. First use: First Use: 1996/12/15 First Use In Commerce: 1997/01/15 residential construction services, namely, providing custom interior design features in new homes

U.S. Registration No.	2631476	Application Date	12/12/2001
Registration Date	10/08/2002	Foreign Priority Date	NONE

Word Mark	LIVING SMART
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Design Mark	LIVING SMART
Description of Mark	NONE
Goods/Services	Class 037. First use: First Use: 2001/09/24 First Use In Commerce: 2001/09/24 Building construction services; real estate development services

U.S. Registration No.	2631473	Application Date	12/12/2001
Registration Date	10/08/2002	Foreign Priority Date	NONE
Word Mark	LIVING SMART		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 037. First use: First Use: 2001/09/24 First Use In Commerce: 2001/09/24 Building construction services; real estate development services		

Attachments	75846437#TMSN.gif (1 page)(bytes) 75846436#TMSN.gif (1 page)(bytes) 76005754#TMSN.gif (1 page)(bytes) 75846433#TMSN.gif (1 page)(bytes) 76347435#TMSN.gif (1 page)(bytes) 76347402#TMSN.gif (1 page)(bytes) Notice of Opp SMART HOME RENOVATIONS.pdf (5 pages)(793110 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Teresa J. Wiant/
Name	Teresa J. Wiant
Date	06/29/2010

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Applicant: Rudi Weyand

International Class: 37

Serial No.: 77/707,887

Published for Opposition: March 2, 2010

Filed: April 6, 2009

Attorney Docket No.: 26781

Mark: SMART HOME RENOVATIONS

Services: Building construction, remodeling and repair; Construction and renovation of buildings; Custom construction and building renovation

WEYERHAEUSER REAL ESTATE DEVELOPMENT
COMPANY, a Washington corporation; PARDEE
HOMES, a California Corporation; and
TRENDMAKER HOMES, INC., a Texas
corporation,

Opposers,

v.

Rudi Weyand, DBA SMART HOME RENOVATIONS,

Applicant.

Opposition No.:

NOTICE OF OPPOSITION

NOTICE OF OPPOSITION

Federal Way, Washington 98003

Dated this June 29, 2010

TO THE COMMISSIONER FOR TRADEMARKS

TRADEMARK TRIAL AND APPEAL BOARD:

Weyerhaeuser Real Estate Company, a corporation of the State of Washington, having a place of business at 33663 Weyerhaeuser Way South, Federal Way, Washington 98003; Pardee Homes, a corporation of the State of California, having a place of business at 10880 Wilshire Boulevard, Suite 1900, Los Angeles, California 90024; and Trendmaker Homes, Inc., a corporation of the State of Texas, having a place of business at 16285 Park Ten Place, Houston, Texas 77084, (hereinafter collectively referred to as

1 "Opposers") believe that they will be damaged by registration of the mark
2 shown by Application Serial No. 77/707,887, filed April 6, 2009, and
3 published for opposition in the *Official Gazette* on March 2, 2010, and hereby
4 opposes the same.

5 As grounds for opposition, Opposers allege as follows:

6 1. On information and belief, Rudi Weyand is an individual doing
7 business as Smart Home Renovations and having a place of business at 11835
8 Carmel Mtn Rd, Ste 1304-359, San Diego, California 92128.

9 2. Weyerhaeuser Real Estate Company (hereinafter "WRECO") is the
10 parent company of Trendmaker Homes, Inc. (hereinafter "TMI"). WRECO is also
11 the parent company of Pardee Homes ("Pardee").

12 3. Continuously, since long prior to any date upon which Applicant
13 can rely, Opposers have used the marks SMARTCENTER GARAGE,
14 SMARTCONSTRUCTION, SMARTSUITE, SMART TOUCHES, and LIVING SMART in
15 association with residential construction services and building construction
16 services.

17 4. TMI is the owner of U.S. Trademark Registration No. 2,562,855 for
18 the mark SMARTCENTER GARAGE for residential construction services, namely,
19 providing customized garage design features in new homes. Said registration
20 issued April 23, 2002, and is valid, subsisting, and incontestable.

21 5. TMI is the owner of U.S. Trademark Registration No. 2,436,665 for
22 the mark SMARTCONSTRUCTION for residential construction services, namely,
23 providing custom roof and exterior siding and paint design features in new
24 homes. Said registration issued March 1, 2001, and is valid, subsisting,
25 and incontestable.

26 6. TMI is the owner of U.S. Trademark Registration No. 2,461,428 for
27 the mark SMARTSUITE for residential construction services, namely, providing
28 custom design features for the master bedroom and bathroom. Said
registration issued June 19, 2001, and is valid and subsisting.

1 7. TMI is the owner of U.S. Trademark Registration No. 2,436,664 for
2 the mark SMARTTOUCHES for residential construction services, namely,
3 providing custom interior design features in new homes. Said registration
4 issued March 20, 2001, and is valid, subsisting, and incontestable.

5 8. Pardee is the owner of U.S. Trademark Registration No. 2,631,476
6 for the mark LIVING SMART for building construction services, real estate
7 development services. Said registration issued October 8, 2002, and is
8 valid, subsisting, and incontestable.

9 9. Pardee is the owner of U.S. Trademark Registration No. 2,631,473
10 for the mark LIVING SMART and DESIGN for building construction services,
11 real estate development services. Said registration issued October 8, 2002,
12 and is valid, subsisting, and incontestable.

13 10. Opposers will be damaged by the registration sought by Applicant
14 insofar as the registration will be *prima facie* evidence of the validity of
15 the registration, Applicant's ownership of the mark claimed by Application
16 Serial No. 77/707,887, and Applicant's exclusive right to use the mark
17 claimed by Application Serial No. 77/707,887, when, in fact, Applicant is
18 not entitled to such rights by virtue of Opposers' prior rights in the marks
19 SMARTCENTER GARAGE, SMARTCONSTRUCTION, SMARTSUITE, SMART TOUCHES, and LIVING
20 SMART for residential construction services and building construction
21 services sold, promoted and provided in the same channels of trade in which
22 the services claimed by Application Serial No. 77/707,887 would be sold,
23 promoted and provided.

24 11. The mark claimed by Application Serial No. 77/707,887, when used
25 by Applicant in association with the services claimed by said application so
26 resembles Opposers marks SMARTCENTER GARAGE, SMARTCONSTRUCTION, SMARTSUITE,
27 SMART TOUCHES, and LIVING SMART as to be likely to cause confusion, or to
28 cause mistake, or to deceive within the meaning of Section 2(d) of the
Lanham Act, 15 U.S.C. § 1052(d).

1 12. Based upon the foregoing, registration of the mark shown by U.S.
2 Application Serial No. 77/707,887 is likely to cause injury and damage to
3 Opposers.

4 WHEREFORE, Opposers respectfully request that the registration of the
5 mark shown by U.S. Application Serial No. 77/707,887 be denied pursuant to
6 Section 2(d) of the Lanham Act, and that this Opposition be sustained.

7 Please charge the required filing fee in the amount of \$300.00 (\$300.00
8 per class) to Deposit Account No. 23-1480 of Opposers counsel noted below.
9 Please charge any excess fees to Deposit Account No. 23-1480 of Opposers
10 counsel noted below.

11 Please direct all correspondence to Teresa J. Wiant of Weyerhaeuser NR
12 Company at the following address:

13 Teresa J. Wiant, Esq.
14 Senior Intellectual Property Counsel
15 Weyerhaeuser NR Company
16 P.O. Box 9777
17 Federal Way, Washington 98063-9777

18 Please direct all telephone calls to Teresa J. Wiant at 253-924-3991.

19 Respectfully submitted,

20 
21 Teresa J. Wiant
22 Attorney for Opposers

23 **CERTIFICATE OF FILING**

24 I hereby certify that this NOTICE OF OPPOSITION to U.S. Trademark Application
25 Serial No. 77/707,887 is being filed with the Trademark Trial and Appeal Board using
26 the ESTTA filing system of the U.S. Patent and Trademark Office on the below date.

27 Date: June 29, 2010

28 
Teresa J. Wiant

CERTIFICATE OF SERVICE

I hereby certify that this NOTICE OF OPPOSITION to U.S. Trademark Application Serial No. 77/707,887 is being duly served upon the Applicant by mailing a copy thereof via the U.S. Postal Service in a sealed envelope as first class mail with postage thereupon fully prepaid and addressed to:

Rudi Weyand, DBA Smart Home Renovations
11835 Carmel Mtn Rd, Ste 1304-359
San Diego, CA 92128

Date: June 29, 2010



Teresa J. Wiant