

8-4-10

Application No. 77707887

Opposition No. 91195481

Dear Ms. Linda Skoro,

I believe there are no grounds for opposition due to the fact that the term "Smart" as it applies to Homes is a term used since at least 1992 by Joe Dada and David Tan who launched "Smarthome.com" in that year(supporting paper work #2).

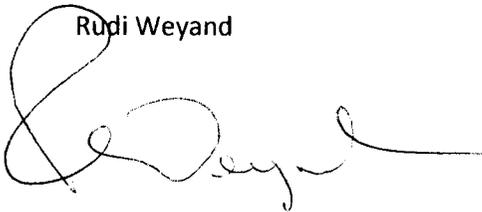
Furthermore the word "Smart", as it refers to homes is a Green/Tech generic terminology that is readily used throughout sector of business (#3)

It predates any use by Werehaeuser by at least 9 years and refers to home automation and products thereof. As I had described in a letter to Teresa Wiant (#1), I see nothing that we are doing that means to compete with Werehaeuser in any of their oppositions.

I don't mind finding a more definitive class if you would suggest one.

Thank you for your time,

Rudi Weyand

A handwritten signature in black ink, appearing to read 'Rudi Weyand', with a large, stylized initial 'R'.

11835 Carmel Mtn Rd Ste 1304-359

San Diego CA 92128

619-954-8233

Weyandesigns@cox.net



Ms. Teresa Wiant,

It was a pleasure speaking with you earlier today. Please find below my attempt to clarify my business. The intent of the company (Smart Home Renovations) is not to construct new homes and dwellings but to retrofit and upgrade pre-constructed homes and dwellings with the latest smart home and green technology. In your oppositions your issues seem to be with garage designs, custom roofs and exterior siding and painting designs, custom designs for bath and bedrooms, custom interior designs, and real estate development; none of which we have any intention of pursuing. The class we had attempted to file under was under the "green" classifications.

We have no intention of using the name "Smart Home Renovations" in a manner that would compete in any of your offered services. We actually derived our name from the industry where within such companies as Smarthome and FutureSmart companies do commerce in. Which by the way the Company "Smarthome" is a consumer electronic company specializing in home automation products, which was started in 1992 by Joe Dada and David Tan, which predates your use of the word by as much as 9 years.

In any case we have no intention of competing with you in your industry we are actually pursuing an apparently dissimilar one altogether.

If you have any suggestion to remove any foreboding of us using this name in light of the facts please let us know.

Thank you for taking this into consideration.

Rudi Weyand
619-954-8233

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Smarthome

From Wikipedia, the free encyclopedia

Smarthome is a consumer electronics company specializing in home automation products, information, how-to videos and industry information.

It was created in 1992 by Joe Dada III, founder and CEO. It is based in Irvine, California.

Contents

- 1 History
- 2 Company growth
- 3 References
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History

In 1992, Joe Dada and David Tan launched Smarthome.com, a subsidiary of SmartLabs, Inc. a fast-growing Internet-based supplier of "smart home" products. ^[1]

Using private funding from a series of friend and family donations, savings, and small loans from the bank, Dada was able to publish the first Smarthome catalog in 1992. **In February, 1995, SmartLabs' Smarthome** launched one of the first e-commerce sites on the Web. By the end of the summer in 1995, Smarthome.com had a full-functioning e-basket and search engine, which it continues to build upon today. The company currently has about 100 employees and offers more than 5,000 items for the customized automation of the home via their website, catalog and retail store in Irvine, CA. ^[2]

Smarthome, Inc. offers electronic home improvement devices such as X10 lighting and control systems, security devices, switches and home automation controllers. ^[3]

Dada and his team of engineers and designers have created a new standard of home control called INSTEON, a two-way system which controls devices using both powerline and radio frequencies (RF). ^[4]

According to Popular Mechanics' magazine article, Insteon is not only "an effective system for connecting lighting switches and loads without extra wiring, but it also forms the basis for a more sophisticated home automation network." ^[5]

Smarthome
SMARTHOME
 Home Automation Superstore

Type	Private
Industry	Consumer electronics retail
Founded	1992
Headquarters	Irvine, California
Employees	100
Website	www.Smarthome.com (http://www.Smarthome.com/)

Company growth

Smarthome started with 12 employees and a “shipping room”, which consisted of Dada’s living room coffee table, and has grown to 100 employees and a 60,000-square-foot (5,600 m²) facility. Co-founding Smarthome in 1992 as well as being the Chairman and CEO, Dada recently reorganized SmartLabs, Inc. into three companies: Smarthome Direct, which includes Smarthome.com; SmartLabs Design, creators of home control products; and SmartLabs Technology, the pioneering architects of INSTEON.^[6]

Today, Smarthome prints more than four million catalogs per year and services customers in more than 130 countries.^[7]

References

- ¹ ^ "SMARTHOME.COM: Co-founder Joe Dada Presents at VentureNet'99" (<http://www.prnewswire.com/cgi-bin/stories.pl?ACCT=104&STORY=/www/story/06-02-1999/0000954401&EDATE=>) (html). PR Newswire. <http://www.prnewswire.com/cgi-bin/stories.pl?ACCT=104&STORY=/www/story/06-02-1999/0000954401&EDATE=>. Retrieved 2008-10-06.
- ² ^ "Corporate Fact Sheet" (<http://www.smarthome.com/corporatefactsheet.html>) (html). Smarthome.com. <http://www.smarthome.com/corporatefactsheet.html>. Retrieved 2008-10-07.
- ³ ^ "Popular Mechanics Article" (http://www.popularmechanics.com/home_journal/home_improvement/4301977.html) (html). Popular Mechanics. http://www.popularmechanics.com/home_journal/home_improvement/4301977.html. Retrieved 2009-04-23.
- ⁴ ^ "CEN Interview: Joe Dada, CEO, Smarthome" (<http://gadgets.consumerelectronicsnet.com/articles/viewarticle.jsp?id=36751>) (html). Digital Media Online. <http://gadgets.consumerelectronicsnet.com/articles/viewarticle.jsp?id=36751>. Retrieved 2008-10-06.
- ⁵ ^ "Popular Mechanics Article" (http://www.popularmechanics.com/home_journal/home_improvement/4301977.html) (html). Popular Mechanics. http://www.popularmechanics.com/home_journal/home_improvement/4301977.html. Retrieved 2009-04-23.
- ⁶ ^ "Interview with a leader in Home Automation: Joe Dada, CEO Smartlabs Inc." (<http://www.gizmosforgeeks.com/2006/02/12/interview-with-a-leader-in-home-automation-joe-dada-ceo-smartlabs-inc/>) (html). Gizmos for Geeks. <http://www.gizmosforgeeks.com/2006/02/12/interview-with-a-leader-in-home-automation-joe-dada-ceo-smartlabs-inc/>. Retrieved 2008-10-07.
- ⁷ ^ "Corporate Fact Sheet" (<http://www.smarthome.com/corporatefactsheet.html>) (html). Smarthome.com. <http://www.smarthome.com/corporatefactsheet.html>. Retrieved 2008-10-07.

External links

- Smarthome Official website (<http://www.Smarthome.com/>)
- Official Smarthome Blog (<http://blog.smarthome.com/>)
- Smarthome Forum (<http://www.techmall.com/>)
- Smarthome Wiki (http://wiki.smarthome.com/index.php?title=Main_Page/)
- SmartLabs, Inc. (<http://www.smartlabsinc.com/>)
- Smarthome Dealer Website (<http://www.smarthomepro.com/>)
- INSTEON Smart Grid (<http://www.insteonsmartgrid.com/>)

Retrieved from "http://en.wikipedia.org/wiki/Smarthome"

Categories: Home automation | Consumer electronics retailers | Technological company stubs

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smart homes technology

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www.BoitOnline.com

Smart Home Automation

Smart Home Systems That Integrate All **Home** Functions
www.Control4.com

Green Homes by Pardee

Living**Smart Homes** Offer Ingenious Touches And Green Features For Less
www.Living**SmartHomes**.com

SE Lighting Controls

Schneider Electric provides lighting & whole-home controls.
www.schneider-electric.us/

Home Automation

Reviews on **Home** Automation & Locations of **Home** Automation
Kudzu.com/San_Diego_Electricians

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- Bill Gates

Smart Home Technology Internet Refrigerator, Home Theater Screen

In other words, this **technology** is convenient because **smart homes** think for themselves.
www.powerlinecommunications.net/smarthomes.htm - Cached

Smart homes - Technology - smh.com.au

Adam Turner looks at how to future-proof your home with the latest **technology** - on any budget. - ... The whole culture of digital **smart home technology** is to let the home grow as the **technology** grows."
www.smh.com.au/news/technology/smart-homes/2006/01/31/1

smart home automation, automated homes, smart home technology

smart home automation, automated home, **smart home technology**, **smart homes**, automated **homes**, intelligent **homes**, house automation software, building automation systems ... intelligent **homes**...
www.smart3.co.uk/ - Cached

Smart Homes and Assistive Technology

Enabling disabled people through appropriate design of **technology** to facilitate their life. **Smart homes**, home automation, domotics ... The **technology** becomes their lifeline and as such, ... **SMART** Thinking...
www.gdewsbury.ukideas.com/smart_homes_and_assistive_tec - Cached

Smart homes - Technology - theage.com.au

Adam Turner looks at how to future-proof your home with the latest **technology** - on any budget. - ... The whole culture of digital **smart home technology** is to let the home grow as the **technology** grows."
www.theage.com.au/news/technology/smart-homes/2006/01/3...

HiddenWires - Clipsal unveils C-Bus MKII monochrome touchscreen for

9

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
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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	SmartCenter Garage		
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	SmartConstruction		
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		
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		
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

5

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,

Opposition No.:

NOTICE OF OPPOSITION

Opposers,

v.

Rudi Weyand, DBA SMART HOME RENOVATIONS,

Applicant.

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).

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

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

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

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

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

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

Respectfully submitted,


Teresa J. Wiant
Attorney for Opposers

CERTIFICATE OF FILING

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

Date: June 29, 2010


Teresa J. Wiant

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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