

ESTTA Tracking number: **ESTTA689185**

Filing date: **08/12/2015**

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	Trex Company, Inc.
Granted to Date of previous extension	08/12/2015
Address	160 Exeter Drive Winchester, VA 22603 UNITED STATES

Attorney information	Rebecca A. Finkenbinder McNees Wallace & Nurick LLC 100 Pine Street, P.O. Box 1166 Harrisburg, PA 17108-1166 UNITED STATES trademarks@mwn.com, rfinkenbinder@mwn.com Phone:717-581-2308
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Applicant Information

Application No	86100482	Publication date	04/14/2015
Opposition Filing Date	08/12/2015	Opposition Period Ends	08/12/2015
Applicant	CertainTeed Corporation 750 E. Swedesford Road Valley Forge, PA 194820101 UNITED STATES		

Goods/Services Affected by Opposition

Class 019. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Non-metal building materials, namely, trim boards, profiles and PVC sheets

Grounds for Opposition

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

U.S. Registration No.	4172922	Application Date	07/20/2011
Registration Date	07/10/2012	Foreign Priority Date	NONE
Word Mark	ENHANCE		

Design Mark	ENHANCE
Description of Mark	NONE
Goods/Services	Class 019. First use: First Use: 2011/10/19 First Use In Commerce: 2011/10/19 Composite building materials comprising wood fiber and polymer, namely, decking, railing and porch products

Attachments	85376445#TMSN.png(bytes) A4629770.PDF(35978 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	/Rebecca A. Finkenbinder/
Name	Rebecca A. Finkenbinder
Date	08/12/2015

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

In re Application of
CertainTeed Corporation

Serial No. : 86/100,482
Mark : INHANCED and Design
Goods : International Class 19
Filing Date : October 24, 2013
Published : Official Gazette
April 14, 2015

Trex Company, Inc., :
Opposer :
v. : Opposition No.
CertainTeed Corporation, :
Applicant : Filed Electronically

BOX TTAB FEE
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

1. Trex Company, Inc. ("Opposer"), a Delaware corporation, having a principal place of business at 160 Exeter Drive, Winchester, Virginia 22603, believes and alleges that it will be damaged by the registration of the mark INHANCED and Design, Serial No. 86/100,482, and hereby opposes the same.

2. Applicant, CertainTeed Corporation ("Applicant"), is a Delaware Corporation with its principal place of business at 750 E. Swedesford Road, Valley Forge, Pennsylvania 19482.

As grounds for opposition, Opposer alleges that:

3. Applicant seeks to register the mark, INHANCED and Design ("Applicant's Mark"), for use with "non-metal building materials, namely, trim boards, profiles and PVC sheets" ("Applicant's Goods") in International Class 19, having filed a federal intent-to-use application on October 24, 2013, Serial No. 86/100,482 ("Application").

4. Opposer is the owner of a federal registration for the ENHANCE word mark for "composite building materials comprising wood fiber and polymer, namely, decking, railing and porch products" ("Opposer's Goods") in International Class 19, Reg. No. 4,172,922, dated July 10, 2011, with a date of first use in commerce of October 19, 2011.

5. Since at least as early as October 19, 2011, Opposer has used and is now using the mark ENHANCE with composite decking, railing and porch products.

6. Opposer's use of the ENHANCE mark has been valid and continuous since its date of first use.

7. Opposer's ENHANCE mark is symbolic of extensive goodwill and consumer recognition established by Opposer through continued use and expenditure of time, effort and money in advertising and promotion, and serves as an identifier for the composite decking, railing and porch products offered by Opposer.

8. Opposer's use of the ENHANCE mark predates Applicant's filing date of the Application.

9. Opposer's ENHANCE mark and the word portion of Applicant's proposed INHANCED mark are near phonetic equivalents.

10. The Examining Attorney assigned to review Applicant's Mark initially agreed, and refused such mark on the basis of a likelihood of confusion with Opposer's ENHANCE mark, concluding the marks "contain the similar sounding literal terms INHANCED and ENHANCE," and are "essentially phonetic equivalents" and "confusingly similar."

11. Applicant's Goods and Opposer's Goods are non-metal building materials in International Class 19.

12. Applicant's Goods are highly related and, upon information and belief, are complementary to Opposer's Goods.

13. The Examining Attorney assigned to review Applicant's Mark initially agreed, and refused such mark on the basis of a likelihood of confusion with Opposer's ENHANCE mark, concluding the "parties provide similar building products," and such "goods are related."

14. Opposer believes the consumers to whom Applicant intends to market its non-metal building products under Applicant's Mark are the same as those to whom Opposer markets its composite building products under Opposer's ENHANCE mark.

15. The Examining Attorney assigned to review Applicant's Mark initially agreed, and refused such mark on the basis of a likelihood of confusion with Opposer's ENHANCE mark, concluding that, because the identification of the parties' goods are not restricted, it is presumed that they "travel in all normal channels of trade, and are available to the same class of purchasers."

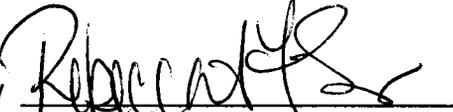
16. In view of the similarity and relatedness of the respective marks and goods offered by the respective parties, Applicant's Mark so resembles Opposer's ENHANCE mark, which has been previously used in the United States and not abandoned, as to be likely to cause confusion, or to cause mistake, or to deceive.

17. Opposer is, or will be, damaged by the registration of Applicant's Mark for Applicant's Goods, since, by virtue of such registration, (1) Applicant's use of the mark is

likely to cause confusion, to cause mistake or to deceive the consuming public as to the source, sponsorship or affiliation of Applicant's Goods; and (2) doubts would be raised as to the exclusive right of Opposer to use Opposer's ENHANCE mark.

WHEREFORE, Opposer Trex Company, Inc. respectfully requests that this opposition be sustained, that application 86/100,482 be refused, and that the U.S. Patent & Trademark Office refuse to register Applicant's Mark.

McNEES WALLACE & NURICK LLC

By 

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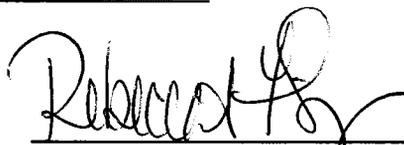
Attorneys for Opposer
Trex Company, Inc.

Dated: August 12, 2015

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this date a true and correct copy of the **Notice of Opposition** was mailed via First Class Mail, postage prepaid, and via email to:

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Rebecca A. Finkenbinder
Of Counsel for Opposer
Trex Company, Inc.

Dated: August 12, 2015