

ESTTA Tracking number: **ESTTA713399**

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

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

Proceeding	91225113
Party	Plaintiff RE/MAX, LLC
Correspondence Address	ASHLEY KRAUSE RE/MAX LLC 5075 S SYRACUSE ST DENVER, CO 80237-2712 UNITED STATES
Submission	Other Motions/Papers
Filer's Name	Ashley Krause
Filer's e-mail	akrause@remax.com, tmcorrespondence@remax.com
Signature	/ashleykrause/
Date	12/08/2015
Attachments	Notice of Inability to Serve Applicant.pdf(4139475 bytes )

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

RE/MAX, LLC,

Opposer,

v.

SHENZHEN REMAX CO., LIMITED,

Applicant.

Opposition No. 91225113

Mark: **R REMAX & Design**

Serial No. 86/602,454

Filing Date: 04/20/2015

Publication Date: 11/03/2015

**NOTICE OF INABILITY TO SERVE APPLICANT**

Pursuant to 37 C.F.R. § 2.101(b) and TBMP § 309.02(c)(1), Opposer RE/MAX, LLC (“Opposer”) hereby submits notification to the Board of the inability to serve Applicant at the correspondence address of record.

On November 12, 2015, Opposer filed its Notice of Opposition (the “Notice”), which pertained both to U.S. Service Mark Application No. 86/602,454 (the “Opposed Application”) and U.S. Service Mark Application No. 79/157,528 (the “Related Application”).<sup>1</sup> On that same date, Opposer attempted to serve the Notice on Applicant at the following addresses via Federal Express:

for the Opposed Application: Huaning Road  
Bao’an District  
Shenzhen 518109  
China

for the Related Application: Liang Gong  
10685-B Hazelhurst Dr.  
#14729  
Houston, TX 77043

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<sup>1</sup> Applicant filed the Notice early within the Opposed Application’s 30-day opposition period, which ended December 3, 2015.

On November 18, 2015, Opposer was notified by Federal Express that its initial attempt to deliver the Notice to the address set forth above for the Opposed Application (the “Chinese Address”) had been unsuccessful. At that time, Opposer noted the following Change of Correspondence Address filed by Applicant on November 9, 2015 for the Opposed Application:

6640 Lusk Blvd.  
Suite A205A  
San Diego, CA 92121

(the “California Address”). Opposer then attempted to serve the Notice via Federal Express on the California Address.<sup>2</sup> Copies of Opposer’s Certificate of Service and Supplemental Certificate of Service for the Notice, both of which were filed with the United States Patent and Trademark Office, are attached hereto as Exhibit A for reference. Out of an abundance of caution, Opposer allowed Federal Express to continue to attempt to deliver the Notice to the Chinese Address, even though that address was no longer the correspondence address of record for the Opposed Application.

On November 13, 2015, Opposer was notified by Federal Express that it had delivered the Notice to the Houston, Texas address set forth above for the Related Application. *See* Exhibit B (Federal Express tracking information for the service copy of the Notice for the Related Application).<sup>3</sup>

Despite the California Address having been made the correspondence address for the Applicant only two weeks prior, Federal Express was unable to deliver the Notice to the California Address and noted in the tracking file for the shipment that either the recipient had

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<sup>2</sup> Prior to mailing, Federal Express recommended to Opposer that the Suite number should be set forth on the mailing as “A205”, rather than “A205A.” Opposer was advised by Federal Express that following that approach would not negatively affect delivery of the Notice.

<sup>3</sup> The Board did not accept the opposition filed against the Related Application, however, service of the opposition on Liang Gong as correspondent of record for the Related Application is notable because the Related Application and the Opposed Application are both owned by Applicant.

moved or was not available, or the business at that address had closed. *See* Exhibit C (Federal Express tracking information for the delivery attempts on the California Address, including Federal Express envelope with labels bearing dates and times of attempted deliveries). On November 30, 2015, Opposer received delivery from Federal Express of the returned service copy of the Notice for the California Address. *See* Exhibit C (Federal Express tracking information for the returned service copy).

As of the date of this filing, Federal Express is still in the process of attempting to deliver the Notice to Applicant in China. *See* Exhibit D (Federal Express tracking information for the delivery attempts in China). *Id.* After Federal Express was unable to deliver the Notice to the Chinese Address, Opposer provided the following alternate Chinese addresses to Federal Express, for further attempts to deliver the Notice to Applicant:

1/F, B1 Building  
Mingjung Industrial Park  
Huarong Rd., Baoan Area  
Shenzhen 518109  
China

3/F, Factory Block B1  
Mingjun Industrial Park  
Huarong Rd., Baoan Area  
Shenzhen 518109  
China

In addition, Opposer provided to Federal Express the following telephone numbers believed by Opposer to pertain to Applicant: 0086-755-27212309 and 0086-189-11367799. If Opposer receives confirmation from Federal Express that it has been able to deliver the Notice to one of these addresses, Opposer will provide an update to the Board.

For the convenience of the Board, Opposer provides the following summary of its efforts to serve the Notice:

Address	Source of Address	Status/Result
6640 Lusk Blvd. Suite A205A San Diego, CA 92121	Change of Correspondence Address filed for Opposed Application	Undeliverable
Huaning Road Bao'an District Shenzhen 518109 China	Original Correspondent of Record for Opposed Application	Undeliverable
Liang Gong 10685-B Hazelhurst Dr. #14729 Houston, TX 77043	Original Correspondent of Record for Related Application	Delivered
1/F, B1 Building Mingjung Industrial Park Huarong Rd., Baoan Area Shenzhen 518109 China	Website located at <a href="http://www.iremax.hk">www.iremax.hk</a> , believed to be associated with Applicant.	Undeliverable
3/F, Factory Block B1 Mingjun Industrial Park Huarong Rd., Baoan Area Shenzhen 518109 China	State Administration for Industry & Commerce of the People's Republic of China	Attempting Delivery

Except as set forth above, Opposer is not aware of any new or additional address information for the Applicant or Correspondent of Record. In addition, Opposer is not attempting to send this Notice of Inability to Serve Applicant to either the California Address or the Chinese Address (since doing so appears likely to be futile based on Opposer's prior service efforts). However, Opposer is sending a courtesy copy of this notice via overnight courier to Liang Gong, the current correspondent of record for the Related Application.

Opposer believes it not only has met, but exceeded, its service obligations and hereby respectfully requests that the Board proceed with effecting service of the Notice on Applicant pursuant to TBMP § 309.02(c)(1).

Respectfully submitted this 8th day of December, 2015.

RE/MAX, LLC

By:  \_\_\_\_\_

Adam Lindquist Scoville  
Ashley Krause  
RE/MAX, LLC  
5075 S. Syracuse St.  
Denver, CO 80237  
(303) 770-5531  
ascoville@remax.com  
[akrause@remax.com](mailto:akrause@remax.com)  
tmcorrespondence@remax.com  
ATTORNEYS FOR OPPOSER

# Exhibit A

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 12th day of November, 2015, service of the foregoing Notice of Opposition was effected by the method set forth below, addressed as follows:

Shenzhen Reamx Co., LTD  
Huaning Road, Bao'an District, Shenzhen  
Shenzhen 518109  
China  
*Service via Federal Express*

Liang Gong  
10685-B Hazelhurst Dr.  
# 14729  
Houston, TX 77043  
*Service via Federal Express*

CORRESPONDENTS OF RECORD

Ashley Krause

**SUPPLEMENTAL CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 18th day of November, 2015, service of the foregoing Notice of Opposition was effected by the method set forth below, addressed as follows:

SHENZHEN REAMX CO.,LTD  
Suite A205A, 6640 Lusk Blvd.  
San Diego, California 92121  
United States  
*Service via Federal Express*

CORRESPONDENT OF RECORD

Ashley Krause

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Trademarks, P.O. Box 1451, Alexandria, Virginia 22313-1451 on the date shown below:

Ashley Krause  
(Typed or Printed Name of Person Signing Certificate)

Ashley Krause  
(Signature)

11/18/15

# Exhibit B

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Ship

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FedEx Office<sup>®</sup> Login**IMPORTANT!****A FedEx Express National Service Disruption is in effect.** [Learn More](#)FedEx<sup>®</sup> Tracking

774967991667

Ship date:

Thu 11/12/2015

Denver, CO US

Actual delivery:

Fri 11/13/2015 9:26 am

HOUSTON, TX US

**Delivered**

Signed for by: C.CLAUDIA

## Travel History

Date/Time	Activity	Location
- 11/13/2015 - Friday		
9:26 am	Delivered	HOUSTON, TX
8:13 am	On FedEx vehicle for delivery	HOUSTON, TX
7:22 am	At local FedEx facility	HOUSTON, TX
4:40 am	At destination sort facility	HOUSTON, TX
3:56 am	Departed FedEx location	FORT WORTH, TX
12:21 am	Arrived at FedEx location	FORT WORTH, TX
- 11/12/2015 - Thursday		
7:32 pm	Left FedEx origin facility	ENGLEWOOD, CO
5:08 pm	Picked up	ENGLEWOOD, CO
5:04 pm	Shipment information sent to FedEx	

## Shipment Facts

<b>Tracking number</b>	774967991667	<b>Service</b>	FedEx Priority Overnight
<b>Weight</b>	1 lbs / 0.45 kgs	<b>Delivered To</b>	Shipping/Receiving
<b>Total pieces</b>	1	<b>Total shipment weight</b>	1 lbs / 0.45 kgs
<b>Department number</b>	951	<b>Shipper reference</b>	951
<b>Packaging</b>	FedEx Envelope	<b>Special handling section</b>	Deliver Weekday



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# Exhibit C

**775008252159**

Ship date:

**Wed 11/18/2015**

Scheduled delivery:

**Pending**

Denver, CO US



SAN DIEGO, CA US

**! Unable to deliver shipment, returned to shipper**

**Recommended action:**

No action is required. The package is being returned to the shipper.

**No scheduled delivery date available at this time.****Travel History**

Date/Time	Activity	Location
- 11/25/2015 - Wednesday		
11:35 am	Returning package to shipper Return tracking number 655826050216	SAN DIEGO, CA
- 11/24/2015 - Tuesday		
10:01 am	At local FedEx facility	SAN DIEGO, CA
- 11/23/2015 - Monday		
6:13 pm	At local FedEx facility	SAN DIEGO, CA
10:10 am	Delivery exception Incorrect address - Recipient moved	SAN DIEGO, CA
6:52 am	On FedEx vehicle for delivery	SAN DIEGO, CA
6:37 am	At local FedEx facility	SAN DIEGO, CA
- 11/20/2015 - Friday		
5:45 pm	At local FedEx facility	SAN DIEGO, CA
1:25 pm	Delivery exception Customer not available or business closed	SAN DIEGO, CA
10:35 am	Delivery exception Customer not available or business closed	SAN DIEGO, CA
7:40 am	On FedEx vehicle for delivery	SAN DIEGO, CA
6:44 am	At local FedEx facility	SAN DIEGO, CA
- 11/19/2015 - Thursday		
10:51 am	At local FedEx facility	SAN DIEGO, CA
10:00 am	Delivery exception Customer not available or business closed	SAN DIEGO, CA
8:27 am	On FedEx vehicle for delivery	SAN DIEGO, CA
7:15 am	At local FedEx facility	SAN DIEGO, CA
5:45 am	At destination sort facility	SAN DIEGO, CA
4:14 am	Departed FedEx location	MEMPHIS, TN
12:22 am	Arrived at FedEx location	MEMPHIS, TN



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**655826050216**

Ship date:

**Wed 11/25/2015**

Actual delivery:

**Mon 11/30/2015 9:33 am**

San Diego, CA US

**Delivered**

DENVER, CO US

Signed for by: V.JOHNSON

## Travel History

Date/Time	Activity	Location
- 11/30/2015 - Monday		
9:33 am	Delivered	DENVER, CO
8:05 am	On FedEx vehicle for delivery	ENGLEWOOD, CO
7:30 am	At local FedEx facility	ENGLEWOOD, CO
- 11/28/2015 - Saturday		
7:55 am	At local FedEx facility Package not due for delivery	ENGLEWOOD, CO
5:32 am	At destination sort facility	DENVER, CO
4:15 am	Departed FedEx location	MEMPHIS, TN
- 11/27/2015 - Friday		
12:31 pm	Arrived at FedEx location	MEMPHIS, TN
- 11/25/2015 - Wednesday		
7:15 pm	Left FedEx origin facility	SAN DIEGO, CA
2:37 pm	Shipment information sent to FedEx	
1:47 pm	Picked up	SAN DIEGO, CA

## Shipment Facts

<b>Tracking number</b>	655826050216	<b>Service</b>	FedEx Express Saver
<b>Weight</b>	1 lbs / 0.45 kgs	<b>Delivered To</b>	Shipping/Receiving
<b>Total pieces</b>	1	<b>Total shipment weight</b>	1 lbs / 0.45 kgs
<b>Purchase order number</b>	775008252159	<b>Department number</b>	RETURNS
<b>Shipper reference</b>	RETURNS	<b>Packaging</b>	Your Packaging
<b>Special handling section</b>	Deliver Weekday		

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<https://www.fedex.com/shipping/html/en/PrintFrame.html>

ORIGIN ID: APAA (303) 796-3620  
KERRY PIETRASIEWICZ  
REMAX  
5075 S. SYRACUSE ST.

SHIP DATE: 18NOV15  
ACTWGT: 0.50 LB  
CAD: 108170740/INET3670

DENVER, CO 80237  
UNITED STATES US

BILL SENDER

TO SHENZHEN REAMX CO LTD  
SHENZHEN REAMX CO LTD  
6640 LUSK BLVD.  
SUITE A205  
SAN DIEGO CA 92121

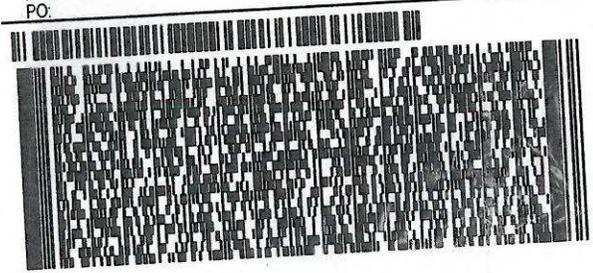
(303) 796-3620

REF: 951

INV:  
PO:

DEPT: 951

539.123F5681D0

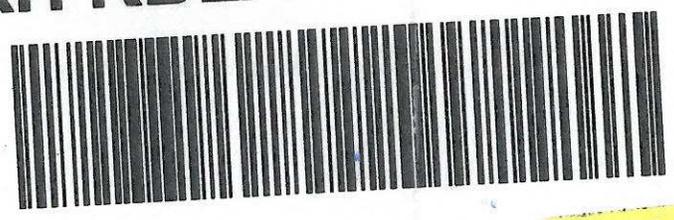


THU - 19 NOV 10:30A  
PRIORITY OVERNIGHT

TRK# 7750 0825 2159  
0201

## XH RBLA

92121  
CA-US SAN



Extremely Urgent

\*REMOVE LABEL BEFORE DELIVERY\*  
117465 M-0025 01/01 RRD

Peel here



◀ Insert shipping document here.

ORIGIN: D:APAA (303) 796-3620  
KERRY PIETRASIEWICZ  
REMAX  
5075 S. SYRACUSE ST.  
DENVER, CO 80237  
UNITED STATES US

SHIP DATE: 18NOV15  
ACT:WGT: 9.50 LB  
CAD: 108170740/NET3670  
BILL SENDER

TO SHENZHEN REAMX CO LTD  
SHENZHEN REAMX CO LTD  
6640 LUSK BLVD.  
SUITE A205  
SAN DIEGO CA 92121

PO: DEPT: 961  
INV: (303) 796-3620  
REF: 961



J163016091001uv

TRK# 7750 0825 2159  
0201

THU - 19 NOV 10:30A  
PRIORITY OVERNIGHT

XH RBLA  
92121  
CA-US SAN



539J2B/F56/G1D0

**After printing this label:**

1. Use the 'Print' button on this page to print your label to your laser or inkjet printer.
2. Fold the printed page along the horizontal line.
3. Place label in shipping pouch and affix it to your shipment so that the barcode portion of the label can be read and scanned.

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# Exhibit D

**774968245713**

Ship date:

**Thu 11/12/2015**

Scheduled delivery:

**Pending**

DENVER, CO US

**In transit**

SHEN ZHEN CN

At FedEx destination facility  
SHENZHEN, CN**No scheduled delivery date available at this time.**

## Travel History

Date/Time	Activity	Location
- 11/23/2015 - Monday		
10:56 pm	At local FedEx facility	SHENZHEN CN
- 11/21/2015 - Saturday		
9:51 pm	At local FedEx facility	SHENZHEN CN
- 11/20/2015 - Friday		
11:30 pm	At local FedEx facility	SHENZHEN CN
5:26 pm	Delivery exception Incorrect address	SHENZHEN CN
9:23 am	On FedEx vehicle for delivery	SHENZHEN CN
9:21 am	At local FedEx facility	SHENZHEN CN
- 11/19/2015 - Thursday		
11:21 pm	At local FedEx facility	SHENZHEN CN
4:00 pm	Delivery exception Customer not available or business closed	SHENZHEN CN
3:45 pm	On FedEx vehicle for delivery	SHENZHEN CN
2:05 pm	At local FedEx facility	SHENZHEN CN
- 11/18/2015 - Wednesday		
11:17 pm	At local FedEx facility	SHENZHEN CN
- 11/17/2015 - Tuesday		
10:44 pm	At local FedEx facility	SHENZHEN CN
- 11/16/2015 - Monday		
10:00 pm	At local FedEx facility	SHENZHEN CN
10:00 am	Delivery exception Incorrect address	SHENZHEN CN
9:19 am	On FedEx vehicle for delivery	SHENZHEN CN
8:36 am	At local FedEx facility	SHENZHEN CN
2:02 am	At destination sort facility	GUANGZHOU CN
- 11/15/2015 - Sunday		
5:24 pm	Departed FedEx location	GUANGZHOU CN
5:24 pm	In transit	GUANGZHOU CN



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