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

Applicant: Johns Manville Corporation

International Class: 35

Serial No.: 78/285,049

Published for Opposition: January 25, 2005

Official Gazette: Page TM 549

Filed: August 8, 2003

Mark: SILENTHOME

Attorney Docket No.: WEYE62722

Services: providing product information, customized to assist home builders, in the field of thermal and acoustical insulation and other construction materials in International Class 35

WEYERHAEUSER COMPANY, a Washington corporation,

Opposition No. _____

Opposer,

NOTICE OF OPPOSITION

v.

JOHNS MANVILLE CORPORATION, a Delaware corporation,

Applicant.

NOTICE OF OPPOSITION

Seattle, Washington 98101

03/31/2005 ZCLIFT01 00000066 78285049

March 21, 2005

01 FC:6402

300.00 OP



TO THE COMMISSIONER FOR TRADEMARKS
TRADEMARK TRIAL AND APPEAL BOARD:

03-24-2005

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #32

Weyerhaeuser Company, a corporation of the State of Washington, having a place of business at 33663 Weyerhaeuser Way South, Federal Way, Washington 98003 (hereinafter "Opposer"), believes that it will be damaged by registration of the mark shown by Application Serial No. 78/285,049, filed August 8, 2003, and published for opposition in the *Official Gazette*

1 of January 25, 2005, and hereby opposes the same.

2 As grounds for the opposition, Opposer alleges as follows:

3 1. On information and belief, Johns Manville Corporation is a Delaware corporation
4 having a place of business at 717 Seventeenth Street, Denver, Colorado 80202 (hereinafter
5 "Applicant");

6 2. Continuously since long prior to any date upon which Applicant can rely, Opposer
7 has used the trademarks SILENT, SILENT FLOOR, and SILENT FLOOR TRUS JOIST in
8 association with structural joists, beams, headers, trusses, columns, and structural framing.

9 3. Opposer is the owner of U.S. Trademark Registration No. 2,734,107 for the mark
10 SILENT for use in association with structural wood-based products, namely, structural joists,
11 beams, headers, trusses, and columns in International Class 19. Said registration issued July 8,
12 2003, and is valid and subsisting.

13 4. Opposer is the owner of U.S. Trademark Registration No. 1,552,890 for the mark
14 SILENT FLOOR for use in association with structural support joists in International Class 19.
15 Said registration issued August 22, 1989, and asserts a date of first use of October 30, 1987. Said
16 registration is valid, subsisting, and incontestable.

17 5. Opposer is the owner of U.S. Trademark Registration No. 2,828,166 for the mark
18 SILENT FLOOR TRUS JOIST and Design for use in association with structural wood-based
19 products, namely, structural joists, beams, headers, trusses, and columns in International
20 Class 19. Said registration issued March 30, 2004, and is valid and subsisting.

21 6. Opposer will be damaged by the registration sought by Applicant insofar as the
22 registration will be *prima facie* evidence of the validity of the registration, Applicant's ownership
23 of the mark claimed by U.S. Application Serial No. 78/285,049, and Applicant's exclusive right
24 to use the mark claimed by U.S. Application Serial No. 78/285,049 in association with the
25 services claimed by said application when, in fact, Applicant is not entitled to such rights by
26 virtue of Opposer's prior and continuous use of the marks shown by U.S. Trademark Registration
27

1 Nos. 2,734,107; 1,552,890; and 2,828,166.

2 7. The mark shown by U.S. Application Serial No. 78/285,049, when used in
3 association with the services claimed by said application, so resembles Opposer's marks SILENT,
4 SILENT FLOOR, and SILENT FLOOR TRUS JOIST, and so resembles the marks shown by
5 U.S. Trademark Registration Nos. 2,734,107; 1,552,890; and 2,828,166, as to be likely to cause
6 confusion, or to cause mistake or to deceive within the meaning of Section 2(d) of the Lanham
7 Act, 15 U.S.C. § 1052(d).

8 8. Based upon the foregoing, registration of the mark shown by U.S. Application
9 Serial No. 78/285,049 is likely to cause injury and damage to Opposer.

10 WHEREFORE, Opposer respectfully requests that the registration of the mark shown by
11 U.S. Application Serial No. 78/285,049 be denied pursuant to Section 2(d) of the Lanham Act,
12 15 U.S.C. § 1052(d), and that this opposition be sustained.

13 Accompanying the duplicate signed copies of this Notice of Opposition is our Check
14 No. 162232 for the required filing fee in the amount of \$300.00 (\$300.00 per class). Please
15 charge any excess fees to Deposit Account No. 03-1740 of Opposer's counsel noted below.

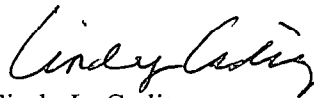
16 Please direct all correspondence to Cindy L. Caditz of Christensen O'Connor Johnson
17 Kindness^{PLLC} at the following address:

18 Cindy L. Caditz, Esq.
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2 Respectfully submitted,

3 CHRISTENSEN O'CONNOR
4 JOHNSON KINDNESS^{PLLC}

5 

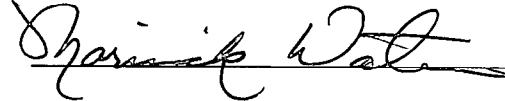
6 Cindy L. Caditz
7 Attorneys for Opposer

8 **CERTIFICATE OF MAILING**

9 I hereby certify that this NOTICE OF OPPOSITION to U.S. Trademark Application
10 Serial No. 78/285,049 for the mark SILENTHOME is being deposited with the U.S. Postal
11 Service in a sealed envelope as first class mail with postage thereon fully prepaid and addressed
12 to BOX TTAB FEE, Trademark Trial and Appeal Board, U.S. Patent and Trademark Office, P.O.
Box 1451, Alexandria, VA 22313-1451, on the below date.

13 Date:

March 21, 2005



14 CLC:ejh/mmw