

ESTTA Tracking number: **ESTTA189756**

Filing date: **01/30/2008**

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	Andersen Corporation
Granted to Date of previous extension	01/30/2008
Address	100 Fourth Avenue North Bayport, MN 55003 UNITED STATES
Attorney information	Scott W. Johnston Merchant & Gould P.C. P.O. Box 2910 Minneapolis, MN 55402-0910 UNITED STATES sjohnston@merchantgould.com, slindemeier@merchantgould.com, dockmpls@merchantgould.com Phone:(612) 332-5300

**Applicant Information**

Application No	77140815	Publication date	10/02/2007
Opposition Filing Date	01/30/2008	Opposition Period Ends	01/30/2008
Applicant	American Home Craft, Inc. Suite 412 10211 Pacific Mesa Blvd. San Diego, CA 92121 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 019. All goods and services in the class are opposed, namely: vinyl windows and vinyl siding
---

**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
--------------------------------------	----------------------------

**Marks Cited by Opposer as Basis for Opposition**

U.S. Registration No.	2077925	Application Date	05/18/1995
Registration Date	07/08/1997	Foreign Priority Date	NONE
Word Mark	RENEWAL BY ANDERSEN		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	Class 037. First use: First Use: 1995/07/18 First Use In Commerce: 1995/11/01 installation of windows Class 042. First use: First Use: 1995/07/18 First Use In Commerce: 1995/11/01 retail store services featuring windows, doors and replacement windows

U.S. Registration No.	2243149	Application Date	09/25/1996
Registration Date	05/04/1999	Foreign Priority Date	NONE
Word Mark	RENEWAL BY ANDERSEN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 019. First use: First Use: 1998/06/00 First Use In Commerce: 1998/06/00 non-metal windows Class 035. First use: First Use: 1998/02/00 First Use In Commerce: 1998/02/00 retail store services featuring windows, doors and replacement windows Class 037. First use: First Use: 1998/02/00 First Use In Commerce: 1998/02/00 installation of windows		

U.S. Registration No.	2332422	Application Date	04/09/1999
Registration Date	03/21/2000	Foreign Priority Date	NONE
Word Mark	RENEWAL BY ANDERSEN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 019. First use: First Use: 1998/06/00 First Use In Commerce: 1998/06/00 Non-metal windows and components thereof		

U.S. Registration No.	2338186	Application Date	03/16/1999
Registration Date	04/04/2000	Foreign Priority Date	NONE
Word Mark	RENEWAL BY ANDERSEN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1997/03/00 First Use In Commerce: 1997/03/00 Retail store services featuring windows and doors Class 037. First use: First Use: 1997/03/00 First Use In Commerce: 1997/03/00 installation of windows and doors		

U.S. Application No.	77196682	Application Date	06/04/2007
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	RENEWAL BY ANDERSEN WINDOW REPLACEMENT AN ANDERSEN COMPANY
Design Mark	
Description of Mark	The mark consists of the words"RENEWAL BY ANDERSEN WINDOW REPLACEMENT AN ANDERSEN COMPANY" with the image of a man holding a window with images of a house and trees in the background.
Goods/Services	Class 019. First use: Non-metal windows and components thereof Class 035. First use: Retail store services featuring doors, replacement windows Class 037. First use: Installation of windows and doors

Attachments	75171844#TMSN.gif ( 1 page )( bytes ) 75679734#TMSN.gif ( 1 page )( bytes ) 75661299#TMSN.gif ( 1 page )( bytes ) 77196682#TMSN.jpeg ( 1 page )( bytes ) 2008 01 30 Notice of Opposition 77140815.PDF ( 7 pages )(62422 bytes )
-------------	---

### 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	/SWJ/
Name	Scott W. Johnston
Date	01/30/2008

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

Andersen Corporation,	)	Opposition No. _____
	)	
Opposer,	)	Mark: HOMERENEW
	)	
v.	)	Serial No.: 77/140,815
	)	
American Home Craft, Inc.,	)	Filing Date: March 26, 2007
	)	
Applicant.	)	Published: October 2, 2007
_____	)	

**NOTICE OF OPPOSITION**




Andersen Corporation, a Minnesota corporation doing business at 100 Fourth Avenue North, Bayport, Minnesota, 55003-1096 (hereinafter "Opposer"), believes it will be damaged by the registration of the mark HOMERENEW shown in application Serial No. 77/140,815, filed March 26, 2007, by American Home Craft, Inc. (hereinafter "Applicant"), and hereby opposes registration of the mark pursuant to a previously filed extension of time to oppose. The grounds for opposition are as follows:

1. By the application herein opposed, Applicant is seeking to obtain under the provisions of the Trademark Act of 1946 as amended, registration on the Principal Register of the trademark HOMERENEW for "vinyl windows and vinyl siding," in International Class 19.

2. Applicant's mark published for opposition on October 2, 2007. Opposer filed and the Board approved an extension of time to oppose Applicant's mark until January 30, 2008. This Notice of Opposition is timely filed.

3. Opposer is in the business of manufacturing and selling windows, doors, and commercial and residential building materials. Since at least as early as 1998, Opposer has been using its RENEWAL and RENEWAL BY ANDERSEN marks in connection with the promotion and sale of replacement windows and patio doors.

4. Opposer owns numerous registrations and one pending application for its RENEWAL marks, including the following (collectively referred to herein as Opposer's RENEWAL marks'')

Mark	Reg. No./ Reg. Date	Filing Date	Use Date (at least as early as)	Goods
RENEWAL BY ANDERSEN	2,077,925 July 8, 1997	May 18, 1995	Nov. 1, 1995	Installation of windows (Class 37); retail store services featuring windows, doors and replacement windows (Class 42).
	2,243,149 May 4, 1999	Sept. 25, 1996	June 1998	Non-metal windows (Class 19); retail store services featuring windows, doors and replacement windows (Class 35); installation of windows (Class 37).
RENEWAL BY ANDERSEN	2,332,422 Mar. 21, 2000	April 9, 1999	June 1998	Non-metal windows and components thereof (Class 19).
	2,338,186 April 4, 2000	Mar. 16, 1999	Mar. 1997	Retail store services featuring windows and doors (Class 35); installation of windows and doors (Class 37).
	Serial No. 77/196,682	June 4, 2007		Non-metal windows and components thereof (Class 19); retail store services featuring doors, replacement windows (Class 35); installation of windows and doors (Class 37).

5. The registrations listed in the above table have not been canceled, are valid, and are now in full force and effect.

6. The following registrations are incontestable under Section 15 of the Lanham Act, 15 U.S.C. § 1065: 2,077,925; 2,243,149; 2,332,422 and 2,338,186. Consequently, these registrations are conclusive evidence of the validity of the registered marks and of the registration of the marks, of Opposer's ownership of the marks, and of Opposer's exclusive right to use the registered marks in commerce under Section 33 of the Lanham Act, 15 U.S.C. § 1115.

7. Opposer has advertised and promoted its RENEWAL marks extensively. Opposer has also made substantial sales of products under said marks. As a result of such use and promotion, Opposer's RENEWAL marks have developed and represent valuable goodwill inuring to the benefit of Opposer.

8. Opposer's RENEWAL marks are famous within the meaning of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c), and became famous before Applicant commenced use of Applicant's HOMERENEW mark.

9. Opposer has priority with respect to the marks at issue in this opposition. Opposer adopted and commenced use of the term RENEWAL BY ANDERSEN as a trademark long before Applicant adopted the HOMERENEW mark. Opposer's usage of the RENEWAL marks commenced at least as early as 1995, twelve (12) years prior to Applicant's filing date of its application. Opposer's earliest registration issued nearly ten (10) years prior to the filing date of Applicant's application.

10. Applicant's trademark application for HOMERENEW is based on Applicant's intent to use this mark. Upon information and belief, Applicant has not commenced use of the HOMERENEW mark for vinyl windows or vinyl siding.

11. Upon information and belief, Applicant had knowledge of the fact that Opposer used the terms RENEWAL and RENEWAL BY ANDERSEN as trademarks before it adopted the HOMERENEW mark for windows and siding.

12. Applicant's HOMERENEW mark is confusingly and deceptively similar to Opposer's previously used and duly registered RENEWAL marks.

13. The goods and services sold by Opposer under its RENEWAL marks are closely related to the goods listed in Applicant's application for registration of the HOMERENEW mark. In fact, both parties' marks cover some of the identical goods, namely, windows. In addition, both parties' products are used in the home remodeling and restoration field. Opposer's RENEWAL BY ANDERSEN stores and products are directed in large part to individuals and contractors involved in residential home remodeling, restoration and maintenance. Upon information and belief, Applicant's products are also directed to this market. It is quite likely that the same customers would purchase and utilize both Opposer's RENEWAL products and services in connection with their windows and doors, and Applicant's HOMERENEW products in connection with their windows and siding.

14. Upon information and belief, Opposer's and Applicant's products are promoted and sold in similar channels of trade to the same consumers or class of consumers. Upon information and belief, Applicant's products are promoted and sold to residential consumers, the same group of consumers to whom Opposer's products are promoted and sold.

15. Applicant's mark, HOMERENEW, is similar in appearance, sound, connotation and commercial impression to Opposer's RENEWAL marks. Given that Applicant's windows and siding are for the home, the "RENEW" portion of Applicant's mark is the more distinctive and dominant portion of the mark.

16. Due to the similarity between Applicant's claimed mark, HOMERENEW, and Opposer's previously used and duly registered RENEWAL marks, the identical nature of the goods of the respective parties, customers and potential customers are likely to believe that

Applicant's products originate from Opposer, resulting in a likelihood of confusion in the marketplace, and damage to Opposer.

17. The use and registration by Applicant of the mark HOMERENEW for Applicant's goods is likely to cause confusion or to cause mistake or deception in the trade, and among purchasers and potential purchasers, with Opposer's previously used and duly registered RENEWAL marks, again resulting in damage to Opposer.

18. Because of the identical nature of the goods, and the similarity of the marks, use and registration of the term HOMERENEW by Applicant is likely to cause confusion, mistake, or deception that Applicant's goods are those of Opposer, or are otherwise endorsed, sponsored, or approved by Opposer for use with Opposer's products causing further damage to Opposer.

19. Applicant's use and registration of the HOMERENEW mark is likely to dilute the distinctive quality of Opposer's famous RENEWAL marks, again resulting in damage to Opposer.

20. If Applicant is granted registration of the mark herein opposed, it would thereby obtain at least a *prima facie* exclusive right to the use of its alleged mark. Such registration would be a source of further damage and injury to Opposer.

21. Registration of the mark shown in Application Serial No. 77/140,815 will result in damage to Opposer under the provisions of Section 2 of the U.S. Trademark Act, 15 U.S.C. Section 1052, pursuant to the allegations stated above.

WHEREFORE, Opposer requests that the registration sought by Applicant in Application Serial No. 77/140,815 be refused and that this Notice of Opposition be sustained.



Please direct all correspondence to:

Scott W. Johnston  
MERCHANT & GOULD P.C.  
P.O. Box 2910  
Minneapolis, MN 55402-0910

Opposer herein appoints John A. Clifford, Reg. No. 30,247; Gregory C. Golla; Andrew S. Ehard; Scott W. Johnston, Reg. No. 39,721; Heather J. Kliebenstein; Danielle I. Mattessich; Scott M. Oslick; Christopher J. Schulte and William D. Schultz, and all other attorneys of the firm of Merchant & Gould P.C., its attorneys to transact all business in the U.S. Patent and Trademark Office relating to this matter with full power of substitution.

Respectfully submitted,

ANDERSEN CORPORATION

By its Attorney,




Date: 1-30-08

Scott W. Johnston  
MERCHANT & GOULD P.C.  
80 South Eighth Street, Suite 3200  
Minneapolis, Minnesota 55402-2215  
(612) 332-5300

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing NOTICE OF OPPOSITION was served upon the following attorney of record for Applicant by First Class Mail, postage prepaid, this 30th day of January, 2008:

Sanford Astor  
Lewis Brisbois Bisgaard & Smith LLP  
221 North Figueroa Street, Suite 1200  
Los Angeles, CA 90012

  
\_\_\_\_\_  
Scott W. Johnston