

ESTTA Tracking number: **ESTTA157204**

Filing date: **08/16/2007**

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	Epic Systems Corporation		
Entity	Corporation	Citizenship	Wisconsin
Address	1979 Milky Way Verona, WI 53593 UNITED STATES		

Attorney information	Anthony A. Tomaselli Quarles & Brady LLP 33 East Main St. Suite 900 Madison, WI 53703-3095 UNITED STATES aat@quarles.com, jwilbert@quarles.com, ms7@quarles.com Phone:608-251-5000		
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**Applicant Information**

Application No	77072781	Publication date	07/31/2007
Opposition Filing Date	08/16/2007	Opposition Period Ends	08/30/2007
Applicant	EpicTide, Inc. Suite 209 9500 Koger Blvd. St. Petersburg, FL 33702 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 045. First Use: 2004/10/15 First Use In Commerce: 2005/01/01 All goods and services in the class are opposed, namely: Consulting services in the field of maintaining the security and integrity of databases; electronic monitoring services for security purposes in the field of business, specifically, regulatory compliance; monitoring of computer systems for security purposes; monitoring security systems
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**Grounds for Opposition**

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

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

U.S. Registration No.	1791373	Application Date	07/28/1992
Registration Date	09/07/1993	Foreign Priority Date	NONE
Word Mark	EPIC		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 1979/03/00 First Use In Commerce: 1980/02/00 computer programs and accompanying users' manuals sold as a unit for the health care and public health fields

U.S. Registration No.	1925126	Application Date	02/14/1994
Registration Date	10/10/1995	Foreign Priority Date	NONE
Word Mark	EPICCARE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1993/11/25 First Use In Commerce: 1993/11/25 computer programs and accompanying manuals sold as a unit for use by healthcare providers to access and maintain medical records		

U.S. Registration No.	2246406	Application Date	09/10/1996
Registration Date	05/18/1999	Foreign Priority Date	NONE
Word Mark	EPICENTER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1998/04/00 First Use In Commerce: 1998/04/00 computer programs and accompanying user manuals sold as a unit for use in the health care industry for master patient indexing, and for coordinating, linking, indexing, accessing or integrating clinical, health care or related data among, across, from or to similar or disparate computer systems		

U.S. Registration No.	2406751	Application Date	04/01/1998
Registration Date	11/21/2000	Foreign Priority Date	NONE
Word Mark	EPICWEB		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1998/10/15 First Use In Commerce: 1998/10/15 COMPUTER SOFTWARE AND ACCOMPANYING MANUALS SOLD AS A UNIT FOR USE IN THE HEALTHCARE FIELD, NAMELY, PROVIDING REMOTE ACCESS TO HEALTHCARE SYSTEMS, INCLUDING, MEDICAL RECORDS, PATIENT ACCOUNTING, SCHEDULING, MANAGED CARE, ADMISSIONS, DISCHARGE, AND TRANSFER, LABORATORY, AND MEDICAL DATA REPOSITORY		

U.S. Registration No.	2567678	Application Date	08/19/1997
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Registration Date	05/07/2002	Foreign Priority Date	NONE
Word Mark	EPICLINK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2000/11/17 First Use In Commerce: 2000/11/17 computer software and accompanying manuals sold as a unit for use in the healthcare field, namely, providing remote access to health care systems, including, medical records, patient accounting, scheduling, managed care, admissions, discharge, and transfer, laboratory, and medical data repository		

U.S. Registration No.	2757024	Application Date	08/13/2001
Registration Date	08/26/2003	Foreign Priority Date	NONE
Word Mark	EPICONHAND		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2001/03/02 First Use In Commerce: 2001/05/26 computer software for accessing, entering, and updating medical information, and accompanying manuals sold as a unit		

Related Proceedings	Epic Systems Corp. v. EpicTide, Inc. Case No. 07-C-393-S Western District of Wisconsin
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Attachments	75460684#TMSN.gif ( 1 page )( bytes ) 75343425#TMSN.gif ( 1 page )( bytes ) 76299092#TMSN.gif ( 1 page )( bytes ) epictide opposition.pdf ( 3 pages )(99245 bytes )
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Signature	/s/ Johanna M. Wilbert
Name	Johanna M. Wilbert
Date	08/16/2007

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

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In the Matter of Application Serial No. 77/072,781  
Mark: EpicTide  
Published in the *Official Gazette* on July 31, 2007

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EPIC SYSTEMS CORPORATION,

Opposer,

v.

Opposition No. \_\_\_\_\_

EPICTIDE, INC.,

Applicant.

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**NOTICE OF OPPOSITION**

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Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3514.

Opposer Epic Systems Corporation ("Epic") believes that it would be damaged by registration of the mark shown in Application Serial No. 77/072,781, and hereby opposes same.

As grounds of opposition, Epic alleges that:

1. Opposer Epic is a Wisconsin corporation with its principal place of business at 1979 Milky Way, Verona, WI 53593.
2. Epic is the owner of trademarks used in connection with computer programs and accompanying users' manuals sold as a unit for the health care and public health fields. Such marks include EPIC, Registration No. 1,791,373, EPICCARE, Registration No. 1,925,126, EPICENTER, Registration No. 2,246,406, EPICWEB, Registration No. 2,406,751, EPICLINK, Registration No. 2,567,678, and EPICONHAND, Registration No. 2,757,024.

3. Application Serial No. 77/072,781 is a trademark application filed by Applicant on December 28, 2006, for registration of the mark EPICTIDE for “[c]onsulting services in the field of maintaining the security and integrity of databases; electronic monitoring services for security purposes in the field of business, specifically, regulatory compliance; monitoring of computer systems for security purposes; monitoring security systems” in International Class 045.

4. Since long prior to the date on which Applicant filed the above application and since long prior to Applicant's first use of its mark, Epic has used and continues to use the marks EPIC, EPICCARE, EPICENTER, EPICWEB, EPICLINK, and EPICONHAND in interstate commerce in connection with computer programs for the health care and public health fields.

5. Epic’s marks have been extensively used and advertised in interstate commerce to identify Epic and its products, and Epic has developed and owns valuable property rights and goodwill in said marks.

6. Applicant has used the EPICTIDE mark in connection with consulting services and electronic monitoring services designed for computer programs and database applications produced by Opposer, specifically Applicant has advertised that it provides privacy auditing for Epic databases.

7. Applicant’s proposed mark EPICTIDE so resembles Epic’s marks as to be likely to cause confusion and to cause mistake and to deceive when used in connection with the Applicant’s goods and/or services. Specifically, and without limitation, members of the public seeing Applicant’s mark are likely to believe or assume that Applicant’s EPICTIDE mark identifies goods that are provided by, or otherwise associated with or sponsored by, Epic.

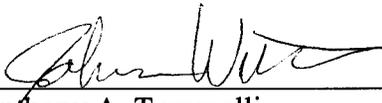
8. By reason of the foregoing, registration of Applicant’s mark will result in irreparable injury to Epic and to its rights in its marks.

WHEREFORE, Epic prays that this opposition be sustained and that registration of Applicant's mark be refused.

Dated: August 16, 2007.

Respectfully submitted,

EPIC SYSTEMS CORPORATION

By:   
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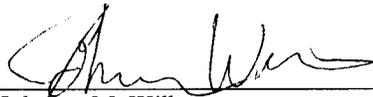
Direct Inquires to:  
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Certificate of Transmittal: I hereby certify that this Notice of Opposition is being electronically transmitted in PDF format to the Trademark Trial and Appeal Board through the Electronic System for Trademark Trials and Appeals (ESTTA) on the date indicated below.

I hereby further certify that a copy of the above Notice of Opposition is being deposited with the United States Postal Service on the date set forth below as first class mail in an envelope addressed to:

KURT J. LONG  
EPICTIDE, INC.  
9500 KOGER BLVD N STE 209  
ST PETERSBURG, FL 33702-2466

Date: August 16, 2007

  
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Johanna M. Wilbert