

ESTTA Tracking number: **ESTTA709058**

Filing date: **11/17/2015**

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	Integrated Embedded, DBA Barr Group
Granted to Date of previous extension	11/18/2015
Address	20251 Century Blvd., Suite 330 Germantown, MD 20874 UNITED STATES

Attorney information	Steven War McNeely, Hare & War LLP 5335 Wisconsin Ave, NW Suite 440 Washington, DC 20015 UNITED STATES steve@miplaw.com Phone:(202) 536-5877
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### Applicant Information

Application No	86133501	Publication date	07/21/2015
Opposition Filing Date	11/17/2015	Opposition Period Ends	11/18/2015
Applicant	LCR Embedded Systems, Inc. 9 South Forest Avenue Norristown, PA 19401 UNITED STATES		

### Goods/Services Affected by Opposition

Class 009. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Computer hardware; standard and custom computer chassis; computer hardware in the nature of backplanes; computer system and subsystem enclosures; electronic circuit assemblies; electrical power distribution units
Class 037. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: CUSTOM ELECTRONIC SYSTEMS MODIFICATION;UPGRADING OF COMPUTER HARDWARE
Class 042. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: CUSTOM ELECTRONIC AND COMPUTER SYSTEMS ENGINEERING AND DESIGN; UPGRADING OF COMPUTER SOFTWARE; TESTING OF COMPUTER HARDWARE INCLUDING CHASSIS, BACKPLANES AND COMPUTER SYSTEMS AND ENCLOSURES, ELECTRONIC AND MOTOR CONTROLS, ELECTRONIC CIRCUIT ASSEMBLIES AND ELECTRONIC POWER DISTRIBUTION UNITS TO ASSURE COMPLIANCE WITH COMPUTER INDUSTRY STANDARDS INCLUDING DEPARTMENT OF DEFENSE (DOD) MILITARY SPECIFICATIONS AND ANSI/VITA AND PICMG STANDARDS

### Applicant Information

Application No	86144278	Publication date	07/21/2015
Opposition Filing Date	11/17/2015	Opposition Period Ends	
Applicant	LCR Embedded Systems, Inc. 9 South Forest Avenue Norristown, PA 19401 UNITED STATES		

### Goods/Services Affected by Opposition

Class 009. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Computer hardware; standard and custom computer chassis; computer hardware in the nature of backplanes; computer system and subsystem enclosures; electronic circuit assemblies; electrical power distribution units
Class 037. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: CUSTOM ELECTRONIC SYSTEMS MODIFICATION;UPGRADING OF COMPUTER HARDWARE
Class 042. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: CUSTOM ELECTRONIC AND COMPUTER SYSTEMS ENGINEERING AND DESIGN; UPGRADING OF COMPUTER SOFTWARE; TESTING OF COMPUTER HARDWARE INCLUDING CHASSIS, BACKPLANES AND COMPUTER SYSTEMS AND ENCLOSURES, ELECTRONIC AND MOTOR CONTROLS, ELECTRONIC CIRCUIT ASSEMBLIES AND ELECTRONIC POWER DISTRIBUTION UNITS TO ASSURE COMPLIANCE WITH COMPUTER INDUSTRY STANDARDS INCLUDING DEPARTMENT OF DEFENSE (DOD) MILITARY SPECIFICATIONS AND ANSI/VITA AND PICMG STANDARDS

### Grounds for Opposition

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

### Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	86164410	Application Date	01/13/2014
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	THE EMBEDDED SYSTEMS EXPERTS		
Design Mark	 <p style="text-align: center;"><b>THE EMBEDDED SYSTEMS EXPERTS</b></p>		
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 2007/12/05 First Use In Commerce: 2007/12/05 Design of computer hardware, integrated circuits, communications hardware and software and computer networks for others		

	Class 045. First use: First Use: 2007/12/05 First Use In Commerce: 2007/12/05 Expert witness services in legal matters in the field of design of computer hardware, integrated circuits, communications hardware and software and computer networks for others
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Attachments	86164410#TMSN.png( bytes ) Signed Opposition to LCR's tm applications.pdf(348049 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	/Steven War/
Name	Steven War
Date	11/17/2015

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

In the Matter of Application No. 86/133,501  
Date of Application: December 3, 2013  
Mark: LCR EMBEDDED SYSTEMS, INC.  
Original and Current Filing Basis: 1B  
Published: July 21, 2015

In the Matter of Application No. 86/144,278  
Date of Application: December 16, 2013  
Mark: LCR EMBEDDED SYSTEMS  
Published: July 21, 2015

INTEGRATED EMBEDDED, LLC DBA Barr  
Group,

Opposer,

v.

LCR Embedded Systems, Inc.,

Applicant.

NOTICE OF OPPOSITION

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

Integrated Embedded, LLC, a Maryland corporation, doing business as Barr Group (hereinafter "Opposer"), located at 20251 Century Blvd, Suite 330, Germantown, MD 20874, believes that it will be damaged by: (1) the registration of the mark LCR EMBEDDED SYSTEMS, INC shown in U.S. Trademark Application Serial No. 86/133,501 filed on December 3, 2013 under 15 U.S. Code §1051(b) ("intent to use" application) by LCR Embedded Systems, Inc. (hereinafter "Applicant") in International Classes 009, 037, and 042 and (2) the registration of the mark LCR EMBEDDED SYSTEMS shown in U.S. Trademark Application Serial No. 86/144,278 filed on December 16, 2013 under 15 U.S. Code §1051(b) ("intent to use" application) by Applicant in International Classes 009, 037 and 042 and hereby opposes the registrations of each of these marks.

The grounds for the oppositions are as follows:

1. Opposer Integrated Embedded, DBA Barr Group, is the world's most-trusted independent engineering consulting and training company with a focus specifically on embedded systems design. Barr Group offers its customers consulting services, training services, expert witnesses, and product design services.
2. Since at least as early as December 5, 2007, Opposer and/or its licensee, have adopted and continuously used the mark THE EMBEDDED SYSTEMS EXPERTS in interstate commerce for various services within the following International Classes:
  - a. 042 – design of computer hardware, integrated circuits, communications hardware and software and computer networks for others;
  - b. 045-expert witness services in legal matters in the field of design of computer hardware, integrated circuits, communications hardware and software and computer networks for others.
3. For nearly eight years, and well prior to Applicant's intent to use applications were filed, Opposer had adopted and has continually used THE EMBEDDED SYSTEMS EXPERTS. Opposer has sold and marketed its services throughout the United States by various trade channels, including for example, through banners and graphics on the various websites on the Internet, e-mail newsletters sent by Embedded.com, Ganssle Group, and others, Opposer's own website and e-mail newsletters and social media sites including, LinkedIn and Twitter.
4. Opposer is the owner of the U.S. Trademark Application Serial No. 86/164,410 for THE EMBEDDED SYSTEMS EXPERTS which was filed under 15 U.S. Code §1051(a) ("actual use" application) by Opposer on January 13, 2014 in International Classes 042

for “[d]esign of computer hardware, integrated circuits, communications hardware and software and computer networks for others” and 045 for “expert witness services in legal matters in the field of design of computer hardware, integrated circuits, communications hardware and software and computer networks for others.”

5. As a result of Opposer’s continuous, widespread, notorious interstate use of it’s THE EMBEDDED SYSTEMS EXPERTS service mark, and the maintenance of high quality standards for the services sold under Opposer’s mark, particularly with respect to “[d]esign of computer hardware, integrated circuits, communications hardware and software and computer networks for others” and “[e]xpert witness services in legal matters in the field of design of computer hardware, integrated circuits, communications hardware and software and computer networks for others,” the purchasing public has come to know, rely upon, and recognize the services of Opposer by such mark.
6. For nearly eight years in the United States, Opposer has acquired extensive goodwill in connection with Opposer’s THE EMBEDDED SYSTEMS EXPERTS service mark as a distinctive indication of origin in Opposer, as a consequence of which Opposer has established valuable goodwill and exclusive rights in said mark at common law.
7. On January 13, 2014, Opposer filed United States Trademark Application Serial No. 86/164,410 under 15 U.S. Code §1051(a) (“actual use” application) in connection with: “[d]esign of computer hardware, integrated circuits, communications hardware and software and computer networks for others” in IC 042 and “[e]xpert witness services in legal matters in the field of design of computer hardware, integrated circuits, communications hardware and software and computer networks for others” in IC 045.

8. The Trademark Examiner assigned to review Opposer's Application Serial No. 86/164,410 has refused Opposer's application for the mark THE EMBEDDED SYSTEMS EXPERTS on the grounds that she has located "marks in prior-filed pending applications [that] may present a bar to registration of [Opposer's] mark." According to the Trademark Examiner "[t]he filing dates of pending U.S. Application Serial Nos. 86133501 and 86144278 precede [Opposer's] filing date. . . . If one or more of the marks in the referenced applications register, [Opposer's] mark may be refused registration under Trademark Act Section 2(d) because of a likelihood of confusion with the registered mark(s). See 15 U.S.C. §1052(d); 37 C.F.R. §2.83; TMEP §§1208 *et seq.* Therefore, upon receipt of [Opposer's] response to this Office action, action on this application may be suspended pending final disposition of the earlier-filed referenced applications."
9. On October 28, 2014, the Trademark Examiner assigned to Opposer's Application Serial No. 86/164,410 did, in fact, suspend Opposer's application pending final disposition of Applicant's Trademark Application Serial Nos. 86/133,501 and 86/144,278.
10. As such, Opposer has already been harmed by Applicant's applications, would be further harmed if Applicant's applications were registered, and shall continue to be damaged by such registrations to the extent that it would bar Opposer from registration of its service mark THE EMBEDDED SYSTEMS EXPERTS shown in its Application Serial No. 86/164,410.
11. On information and belief, Applicant LCR Embedded Systems, Inc. is the record owner of U.S. Trademark Application Serial No. 86/133,501 for the mark LCR EMBEDDED SYSTEMS, INC. which was published on July 21, 2015.

12. There is no issue as to priority of use. Well prior to the filing date of Applicant's U.S. Trademark Application Serial No. 86/133,501 under Section 1(b) as an "intent to use" application, Opposer and its licensee adopted, commenced use and is still using Opposer's THE EMBEDDED SYSTEMS EXPERTS service mark in interstate commerce in connection with design of computer hardware and related services as mentioned above.
13. The services offered and sold by Opposer and its licensee under THE EMBEDDED SYSTEMS EXPERTS service mark and the goods and services described in Applicant's Trademark Application Serial No. 86/133,501 are likely to be offered and/or sold to the same or overlapping classes of purchasers. Therefore purchasers and prospective purchasers and others are likely to be confused, mistaken or deceived into the belief, contrary to fact, that the goods and services described in Applicants Trademark Application Serial No. 86/133,501 emanate from and/or are in some way related to Opposer thereby damaging Opposer.
14. Concurrent use of the marks by Applicant and Opposer may result in irreparable damage to Opposer's reputation and goodwill, if the goods and/or services offered and or sold by the Applicant are inferior, since purchasers are likely to attribute the source of Applicant's goods and services to the Opposer.
15. Upon information and belief, Applicant has never made any proper use of the LCR EMBEDDED SYSTEMS, INC. mark shown in Trademark Application Serial No. 86/133,501 as a trademark in the United States, particularly with any of the goods or services identified therein. As such, Applicant does not qualify to have the mark registered.

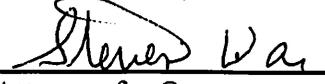
16. On information and belief, Applicant LCR Embedded Systems, Inc. is the record owner of U.S. Trademark Application Serial No. 86/144,278 for the mark LCR EMBEDDED SYSTEMS which was published on July 21, 2015.
17. There is no issue as to priority of use. Well prior to the filing date of Applicant's U.S. Trademark Application Serial No. 86/144,278 under Section 1(b) as an "intent to use" application, Opposer and its licensee adopted, commenced use and is still using Opposer's THE EMBEDDED SYSTEMS EXPERTS service mark in interstate commerce in connection with design of computer hardware and related services as mentioned above.
18. The services offered and sold by Opposer and its licensee under THE EMBEDDED SYSTEMS EXPERTS service mark and the goods and services described in Applicant's Trademark Application Serial No. 86/144,278 are likely to be offered and/or sold to the same or overlapping classes of purchasers. Therefore purchasers and prospective purchasers and others are likely to be confused, mistaken or deceived into the belief, contrary to fact, that the goods and services described in Applicant's trademark application 86/144,278 emanate from and/or are in some way related to Opposer thereby damaging Opposer.
19. Concurrent use of the marks by Applicant and Opposer may result in irreparable damage to Opposer's reputation and goodwill, if the goods and/or services offered and or sold by the Applicant are inferior, since purchasers are likely to attribute the source of Applicant's goods and services to the Opposer.
20. Upon information and belief, Applicant has never made any proper use of the LCR EMBEDDED SYSTEMS mark shown in Trademark Application Serial No. 86/144,278

as a trademark in the United States, particularly with any of the goods or services identified therein. As such, Applicant does not qualify to have the mark registered.

WHEREFORE, Opposer respectfully requests that registration of the marks shown in Applicant's U.S. Trademark Applications Serial Nos. 86/133,501 and/or 86/144,278 published on July 21, 2015 be refused and that this Opposition be sustained in favor of Opposer.

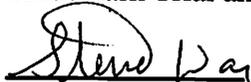
The fee of \$300.00 per International Class required by Section 2.6(a)(16) is enclosed herewith.

Dated: November 17, 2015

Steven War  
McNeely, Hare & War LLP  
5335 Wisconsin Ave, NW, Suite 440  
Washington, DC 20015  
Telephone (202) 536-5877  
Facsimile (202) 478-1813  
  
Attorney for Opposer  
Integrated Embedded, LLC dba Barr Group

Certification:

I hereby certify that this Notice of Opposition is being electronically deposited with the Trademark Trial and Appeal Board on the date shown below.



Dated November 17, 2015