

ESTTA Tracking number: **ESTTA369265**

Filing date: **09/20/2010**

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 parties oppose registration of the indicated application.

Opposers Information

Name	Legrand North America
Granted to Date of previous extension	09/19/2010
Address	60 Woodlawn Street West Hartford, CT 06110 UNITED STATES

Name	Legrand Home Systems, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	301 Fulling Mill Road Suite G Middletown, PA 17507 UNITED STATES		

Attorney information	Mark D. Giarratana, Esq. McCarter & English, LLP 185 Asylum Street, CityPlace I Hartford, CT 06103-3495 UNITED STATES mgiarratana@mccarter.com, jwhitney@mccarter.com, eaures@mccarter.com Phone:860-275-6700
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Applicant Information

Application No	77864153	Publication date	03/23/2010
Opposition Filing Date	09/20/2010	Opposition Period Ends	09/19/2010
Applicant	QUORUMLABS, INC. 47200 BAYSIDE PKWY. FREMONT, CA 94538 UNITED STATES		

Goods/Services Affected by Opposition

Class 009.

All goods and services in the class are opposed, namely: Computer software and hardware for managing computers and computing resources, storage, processors, network servers, and network switches for data protection and disaster recovery; Computer software for administration of computer local area networks; Computer software for administration of computer networks; Computer software for computer system and application development, deployment and management; Computer software for controlling and managing access server applications; Computer software platforms for use in managing computers and computing resources, storage, processors, network servers, and network switches for data protection and disaster recovery; Computer software to automate data warehousing

Grounds for Opposition

Other	Due to Opposers' common law rights in its mark, Opposers' request that the Board deny registration of Applicant's mark on grounds of priority and likelihood of confusion
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Attachments	OnQ_Notice_Opposition.pdf (4 pages)(174906 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	/mdg/
Name	Mark D. Giarratana, Esq.
Date	09/20/2010

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

Legrand North America, Inc., and Legrand Home Systems, Inc.)	Application No. 77/864,153
)	
Opposer,)	Mark: ONQ
)	
v.)	Opposition No. _____
)	
Quorumlabs, Inc.,)	
)	
Applicant.)	
)	

NOTICE OF OPPOSITION

Legrand North America, Inc., (“LNA”), a Delaware corporation, having a principal place of business at 60 Woodlawn Street, West Hartford, Connecticut 06110, and its affiliate Legrand Home Systems, Inc., (“LHS”), a Delaware corporation, having a principal place of business at 301 Fulling Mill Road, Suit G, Middletown, PA 17507, (hereinafter collectively referred to as “Opposer”), believes it will be damaged by the registration of the mark “ONQ” that is the subject of U.S. Trademark Application No. 77/864,153 (the “Application”) and hereby opposes registration of same under Section 13 of the Trademark Act, 15 U.S.C. § 1063.

In support of its opposition, Opposer, by its attorneys, states as follows:

1. Applicant filed the Application on November 3, 2009, based on an intent to use the mark ONQ in connection with “computer software and hardware for managing computers and computing resources, storage, processors, network servers, and network switches for data protection and disaster recovery; computer software for administration of computer local area networks; computer software for administration of computer networks; computer software for computer system and application development, deployment and management; computer software for controlling and managing access server application’s computer software platforms for use in managing computers and computing resources, storage, processors, network servers, and network switches for data protection and disaster recovery; computer software to automate data

warehousing” in Int. Class 9 (collectively, “Applicant’s Goods”), and the Application was published for opposition on March 23, 2010.

2. Opposer timely filed a request for a thirty day extension of the deadline for opposing the Application, a request for a further sixty day extension of the deadline for opposing the Application, and a request for a further sixty day upon consent extension of the deadline for opposing the Application, and therefore the extended deadline for filing this Notice of Opposition is today.

3. LNA and LHS are affiliated companies, and therefore are in privity with one another with respect to the extension requests filed by LNA as per TMBP § 303.05(b).

4. Opposer has been continuously using its mark ON-Q (“Opposer’s ON-Q Mark”) since July 31, 1995 in connection with a wide variety of goods, including the following: residential and commercial building automation systems and components including electrical wiring, coaxial cables, connection devices, receptacles, terminator blocks, lighting controls and switches, cameras, intercom systems and intercom console units, routers, switches, network interface modules, video modules and accessories, voice modules and accessories, wireless access points, data modules, user interfaces, data networking, wall plates and ports, audio equipment, audio systems, audio remotes, LCD consoles, keypads, and infrastructure components including enclosures, connectors, power management products, tools, and accessories (“Opposer’s Goods”). Accordingly, Opposer has priority in and to the ON-Q Mark vis-à-vis Applicant.

5. By reason of the extensive promotion, advertising, and provision of high-quality products manufactured and distributed by Opposer in conjunction with Opposer’s ON-Q Mark, the public and the trade have come to recognize products offered in conjunction with this mark as signifying Opposer and its products.

6. Opposer has acquired a valuable interest in Opposer’s ON-Q Mark and would have such interest injured or put in jeopardy by Applicant’s registration of the ONQ mark in connection with Applicant’s Goods.

7. Applicant’s designation ONQ is virtually identical to Opposer’s ON-Q Mark and Applicant’s Goods overlap with and/or are closely related to Opposer’s Goods, which are

promoted and sold or offered for sale in the same or similar channels of trade as those in which Opposer's goods bearing the Opposer's ON-Q Mark are promoted and sold. The Applicant's mark so closely resembles the Opposer's ON-Q Mark as to be likely to be confused therewith and mistaken therefor. Applicant's ONQ mark is deceptively similar to Opposer's ON-Q Mark so as to cause confusion and lead to deception as to the origin of Applicant's goods bearing the Applicant's mark. Further, Opposer, through its Ortronics subsidiary, sells network infrastructure products. Thus consumers have come to recognize Opposer as a source of these goods, which makes confusion between Opposer's ON-Q Mark and Applicant's mark even more likely.

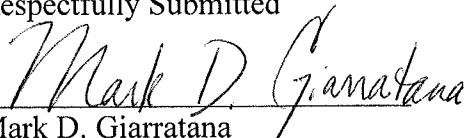
8. Applicant's use and registration of the ONQ mark in connection with Applicant's Goods would therefore cause Opposer injury and damage, because such use and registration would be likely to cause confusion or mistake and otherwise would interfere with Opposer's ability to use Opposer's ON-Q Mark to identify itself as the source of its goods.

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

WHEREFORE, Opposer respectfully requests that the Board deny registration of Applicant's ONQ mark sought through the Application and is requested under 15 U.S.C. § 1063.

Date: September 20, 2010

Respectfully Submitted



Mark D. Giarratana

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Attorney for Opposer

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that this Notice of Opposition is being filed with the Trademark Trial and Appeal Board, Commissioner for Trademarks, P.O. Box 1451, Alexandria, Virginia, 22313-1451, by using the ESTTA electronic filing system, this 20th day of September, 2010.


Erin M. Aures

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Notice of Opposition has been served on Applicant's Attorney of record, Steven C. Sereboff, at Socal IP Law Group LLC, 310 North Westlake Blvd. Suite 120 Westlake Village, CA 91362-3788, via first class mail and email ssereboff@socalip.com, this 20th day of September 2010.


Erin M. Aures