

ESTTA Tracking number: **ESTTA558989**

Filing date: **09/11/2013**

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	Epiq Systems, Inc.
Granted to Date of previous extension	09/11/2013
Address	501 Kansas Avenue Kansas City, KS 66105 UNITED STATES
Correspondence information	Carla Calcagno Calcagno Law PLLC 2300 M Street Suite 800 Washington, D.C., DC 20037 UNITED STATES cccalcagno@gmail.com, carla.calcagno@calcagnolaw.com

**Applicant Information**

Application No	79126617	Publication date	05/14/2013
Opposition Filing Date	09/11/2013	Opposition Period Ends	09/11/2013
International Registration No.	1151138	International Registration Date	01/15/2013
Applicant	Koninklijke Philips Electronics N.V. High Tech Campus 5 NL-5656 AE Eindhoven NETHERLANDS		

**Goods/Services Affected by Opposition**

Class 010. All goods and services in the class are opposed, namely: Medical apparatus and instruments, in particular ultrasound diagnostic apparatus for medical use
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**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
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**Marks Cited by Opposer as Basis for Opposition**

U.S. Registration No.	4030404	Application Date	03/19/2010
Registration Date	09/27/2011	Foreign Priority Date	NONE
Word Mark	EPIQ SYSTEMS		

Design Mark	
Description of Mark	The mark consists of the words "EPIQ SYSTEMS" in stylized form, with the word "EPIQ" appearing above the word "SYSTEMS".
Goods/Services	<p>Class 009. First use: First Use: 2006/00/00 First Use In Commerce: 2006/00/00 Computer hardware and software used to collect, host, analyze, filter, create, store, track, manage, convert, de-duplicate, process, review, cluster and produce, databases, images, e-mail, files and other documents and data required for legal and governmental investigations, ediscovery and litigation, and to locate, track, create, produce, and manage, legal claims, legal claimants, legal reports, legal mailings and notifications, all directed to the legal and fiduciary services industries</p> <p>Class 035. First use: First Use: 2006/00/00 First Use In Commerce: 2006/00/00 Collecting, compiling and systematizing information into computer databases and database management of same; preparing financial reports for others, namely, preparing statements of affairs for others in the bankruptcy and corporate restructuring fields</p> <p>Class 042. First use: First Use: 2006/00/00 First Use In Commerce: 2006/00/00 Consulting for others in the fields of selecting, implementing and using computer hardware and software systems, and consulting in the field of technical support services, namely, troubleshooting in the nature of diagnosing computer hardware and software problems, directed to the legal and fiduciary services industries</p> <p>Class 045. First use: First Use: 2006/00/00 First Use In Commerce: 2006/00/00 Litigation support services in the nature of case and document management services for others in the legal and fiduciary services industries, namely, acting as claims, class action, database, document, and settlement administrators in lawsuits, bankruptcy and corporate restructuring cases, mass tort litigation, internal corporate and governmental investigations; preparing and developing class action notices and class action notice plans; creating debtor and creditor schedules for litigation purposes; providing on-line computer databases in the field of litigation, ediscovery and legal information</p>

U.S. Registration No.	4030403	Application Date	03/19/2010
Registration Date	09/27/2011	Foreign Priority Date	NONE
Word Mark	EPIQ		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 2006/00/00 First Use In Commerce: 2006/00/00 Computer hardware and software used to collect, host, analyze, filter, create, store, track, manage, convert, de-duplicate, process, review, cluster and produce, databases, images, e-mail, files and other documents and data required for legal and governmental investigations, ediscovery and litigation, and to locate, track, create, produce, and manage, legal claims, legal claimants, legal reports, legal mailings and notifications, all directed to the legal and fiduciary services industries</p> <p>Class 035. First use: First Use: 2006/00/00 First Use In Commerce: 2006/00/00 Collecting, compiling and systematizing information into computer databases and database management of same; preparing financial reports for others, namely, preparing statements of affairs for others in the bankruptcy and corporate restructuring fields</p> <p>Class 042. First use: First Use: 2006/00/00 First Use In Commerce: 2006/00/00</p>		

	<p>Consulting for others in the fields of selecting, implementing and using computer hardware and software systems, and consulting in the field of technical support services, namely, troubleshooting in the nature of diagnosing computer hardware and software problems, directed to the legal and fiduciary services industries</p> <p>Class 045. First use: First Use: 2006/00/00 First Use In Commerce: 2006/00/00 Litigation support services in the nature of case and document management services for others in the legal and fiduciary services industries, namely, acting as claims, class action, database, document, and settlement administrators in lawsuits, bankruptcy and corporate restructuring cases, mass tort litigation, internal corporate and governmental investigations; preparing, and developing, class action notices and class action notice plans; creating debtor and creditor schedules for litigation purposes; providing on-line computer databases in the field of litigation, ediscovery and legal information</p>
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U.S. Registration No.	4108988	Application Date	04/06/2007
Registration Date	03/06/2012	Foreign Priority Date	NONE
Word Mark	EPIQ		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 2000/00/00 First Use In Commerce: 2000/00/00 Computer hardware and software used to collect, host, analyze, filter, create, store, track, manage, convert, de-duplicate, process, review, cluster and produce, databases, images, e-mail, files and other documents and data required for legal and governmental investigations, ediscovery and litigation, and to locate, track, create, produce, and manage, legal claims, legal claimants, legal reports, legal mailings and notifications, all directed to the legal and fiduciary services industries</p> <p>Class 035. First use: First Use: 2000/00/00 First Use In Commerce: 2000/00/00 Computerized legal databases and management of same; Case and document management services for others in the legal and fiduciary services industries, namely, acting as claims, class action, database, document, and settlement administrators in lawsuits, bankruptcy and corporate restructuring cases, mass tort litigation, internal corporate and governmental investigations; preparing developing and disseminating class action notices and notice plans and creating debtor and creditor schedules and statements of affairs for others in the bankruptcy and corporate restructuring fields</p> <p>Class 042. First use: First Use: 2000/00/00 First Use In Commerce: 2000/00/00 Consulting for others in the fields of selecting, implementing and using computer hardware and software systems, and in the field of technical support therefore, directed to the legal and fiduciary services industries; computer software design and development; design, creation, implementation and maintenance of web sites for others directed to the legal and fiduciary services industries</p>		

U.S. Registration No.	4099224	Application Date	04/06/2007
Registration Date	02/14/2012	Foreign Priority Date	NONE
Word Mark	EPIQ SYSTEMS		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	<p>Class 009. First use: First Use: 2000/00/00 First Use In Commerce: 2000/00/00  Computer hardware and software used to collect, host, analyze, filter, create, store, track, manage, convert, de-duplicate, process, review, cluster and produce, databases, images, e-mail, files and other documents and data required for legal and governmental investigations, ediscovery and litigation, and to locate, track, create, produce, and manage, legal claims, legal claimants, legal reports, legal mailings and notifications, all directed to the legal and fiduciary services industries</p> <p>Class 035. First use: First Use: 2000/00/00 First Use In Commerce: 2000/00/00  Computerized legal databases and management of same; Case and document management services for others in the legal and fiduciary services industries, namely, acting as claims, class action, database, document, and settlement administrators in lawsuits, bankruptcy and corporate restructuring cases, mass tort litigation, internal corporate and governmental investigations; preparing developing and disseminating class action notices and notice plans and creating debtor and creditor schedules and statements of affairs for others in the bankruptcy and corporate restructuring fields</p> <p>Class 042. First use: First Use: 2000/00/00 First Use In Commerce: 2000/00/00  Consulting for others in the fields of selecting, implementing and using computer hardware and software systems, and in the field of technical support therefor, directed to the legal and fiduciary services industries; computer software design and development; design, creation, implementation and maintenance of web sites for others directed to the legal and fiduciary services industries</p>

Attachments	Opposition Phillips by Epiq.pdf(72713 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	/Carla C. Calcagno/
Name	Carla Calcagno
Date	09/11/2013

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

Epiq Systems, Inc.	)	
Opposer	)	Opposition No.:_____
v.	)	Trademark: EPIQ
Koninklijke Philips Electronics N.V.	)	App. No. 79/126,617
Applicant	)	
	)	

**NOTICE OF OPPOSITION**

Epiq Systems, Inc. a Missouri corporation having a place of business at 501 Kansas Avenue, Kansas City, Kansas 66105, believes it will be damaged by the registration of Application No. 79/126,617 filed for the mark EPIQ for goods described as:

Medical apparatus and instruments, in particular ultrasound diagnostic apparatus for medical use.

(hereafter “Applicant’s goods”) and hereby opposes the same under the provisions of 15 U.S.C. 1053.

As grounds for its Notice for Opposition, Opposer alleges the following:

1. Opposer, Epiq Systems, Inc., is in the business of offering, selling, leasing and/or providing a wide range of computerized technology, software, hardware, and consulting and support services (hereafter “Opposer’s goods and services”).

2. Since well prior to Applicant's effective filing date and any alleged first use date of the mark EPIQ by Applicant, Opposer has offered its goods and services in connection with the company names Epiq and Epiq Systems, Inc. and the EPIQ and EPIQ SYSTEMS marks (hereafter collectively the "EPIQ name and marks"), throughout, inter alia, the United States.

3. Since well prior to Applicant's effective filing date and any alleged first use date of the mark EPIQ by Applicant, Opposer has extensively and continuously used, advertised and promoted its EPIQ name and marks throughout, inter alia, the United States. Among other things, Opposer promotes itself through the offering and distribution of a wide variety of collateral products and services, including sponsorships of events, throughout, inter alia the United States.

4. Since well prior to Applicant's effective filing date and any alleged first use date of the mark EPIQ by Applicant, Opposer has extensively and continuously used, advertised and promoted a family of MATRIX marks, including the marks LEGALMATRIX, LOANMATRIX, DOCUMATRIX, CREDITORMATRIX, CLAIMSMATRIX, DEBTORMATRIX, AND EDATAMATRIX, for a wide variety of computerized technology based solutions throughout, inter alia, the United States. This MATRIX family of marks is often used in close association with the EPIQ name and marks. Opposer's MATRIX marks have been used and promoted together in such a manner as to create public recognition thereof as distinctive of Opposer's goods and services. Further, at one time, Opposer through its predecessor in interest used the mark "nMatrix," which mark acquired valuable reputation throughout, inter alia, the United States.

5. Since well prior to Applicant's effective filing date and any alleged first use date of the mark EPIQ by Applicant, Opposer's EPIQ name and marks have been used and promoted

together in such a manner as to create public recognition thereof as distinctive of Opposer's goods and services.

6. Opposer displays its EPIQ name and marks, with and without the term SYSTEMS, in the



following logo: as shown in blue at [www.epiqsystems.com](http://www.epiqsystems.com).

7. As a result of the quality of its products and services and its extensive advertising and promotion of its products and services, Opposer's EPIQ name and marks and logo have achieved extensive recognition in, inter alia, the United States.

8. Opposer is the owner of the following registrations for its EPIQ marks for the goods and services listed in the registration certificates, which are incorporated herein by reference :

<u>MARK</u>	<u>REGISTRATION NO.</u>
EPIQ SYSTEMS	4,030,404
EPIQ	4,030,403
EPIQ	4,108,988
EPIQ SYSTEMS	4,099,224

These registrations are valid and subsisting.

9. On information and belief, based on the allegations in its application, the owner of the opposed application is Koninklijke Philips Electronics N.V.

10. On January 15, 2013, Applicant filed a request for an extension of protection of the mark EPIQ into the United States. The application claimed no priority filing date and the effective filing date of the request for extension of protection is January 15, 2013.

11. In its request for extension of protection, Applicant claimed no first use of the opposed mark in the United States or in commerce with the United States.

12. Upon information and belief, no valid use of any mark consisting of or including the term EPIQ was made by or on behalf of Applicant in the United States or in commerce with the United States earlier than January 15, 2013.

13. Upon information and belief, January 15, 2013 is the earliest priority date which Applicant may claim in this case.

14. Upon information and belief, no valid use of any mark consisting of or including the term EPIQ was made by or on behalf of Applicant in the United States or in commerce with the United States earlier than September 4, 2013.

15. Upon information and belief, September 4, 2013 is the earliest priority date which Applicant may claim in this case.

16. Upon information and belief, Applicant was aware of Opposer's United States registrations of the EPIQ marks pleaded in this opposition prior to adopting the mark EPIQ.

17. Upon information and belief, Applicant was aware of Opposer's use in the United States of the EPIQ name and marks pleaded in this opposition prior to adopting the mark EPIQ.

18. The opposed application published on May 14, 2013 for the following goods:

Medical apparatus and instruments, in particular ultrasound diagnostic apparatus for medical use.

19. In advertising disseminated by or on behalf of Applicant, Applicant refers to EPIQ as containing its "most powerful architecture."

20. In advertising disseminated by or on behalf of Applicant, Applicant refers to "EPIQ PERFORMANCE" and "EPIQ INTELLIGENCE."

21. In advertising disseminated by or on behalf of Applicant, Applicant displays the word EPIQ in a shade of blue very similar to the color blue used by Opposer.



22. In advertising disseminated by or on behalf of Applicant, in relation to its EPIQ products, Applicant refers to its “xMatrix technology.”

23. Upon information and belief, Applicant was aware of Opposer’s use of the MATRIX family of marks, and of the color blue to display its EPIQ marks and name prior to filing the opposed application.

24. Applicant’s alleged EPIQ mark so closely resembles Opposer’s previously used and registered EPIQ name and marks that when used in connection with the goods and services of the parties, as to be likely to cause confusion, or to cause mistake, or to deceive. Among other things, the relevant public will likely believe, mistakenly, that Applicant and/or its technology incorporated within its EPIQ products is sponsored by, associated with, or affiliated with Opposer and/or its products. Under 15 U.S.C. 1052(d), Opposer is and will continue to be damaged by the registration of Applicant’s mark.

Wherefore, Opposer requests that judgment be entered against Applicant, that the Notice of Opposition be sustained, and that the Commissioner order the refusal of the opposed Application in its entirety or that the Commissioner take other such actions as she deems appropriate.

Respectfully submitted,

EPIQ SYSTEMS, INC.

Date: September 11, 2013

By: /Carla C. Calcagno/  
Carla C. Calcagno, Esq.  
Janet G. Ricciuti, Esq.  
Attorneys for Opposer  
CALCAGNO LAW, P.L.L.C.  
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Washington D.C. 20037  
Phone: (202) 973-2880

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that on September 11, 2013 a true and accurate copy of the foregoing Notice of Opposition was served on Defendant by mailing a copy thereof through the United States Postal Service, first class mail, with sufficient postage, to the Defendant at the following address:

KONINKLIJKE PHILIPS ELECTRONICS N.V. c/o  
PHILIPS INTELLECTUAL PROPERTY & STANDARD  
HIGH TECH CAMPUS 44  
NL-5600 AE EINDHOVEN,  
NETHERLANDS

*/Carla Calcagno/*