

ESTTA Tracking number: **ESTTA1162784**

Filing date: **09/29/2021**

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	The Chamberlain Group LLC (formerly The Chamberlain Group, Inc._
Granted to Date of previous extension	09/29/2021
Address	300 WINDSOR DRIVE OAK BROOK, IL 60523 UNITED STATES
Party who filed Extension of time to oppose	The Chamberlain Group, Inc.
Relationship to party who filed Extension of time to oppose	Opposer changed their entity from a Connecticut corporation to a Delaware limited liability company

Attorney information	EDWARD E. CLAIR FITCH, EVEN, TABIN & FLANNERY, LLP 120 S. LASALLE STREET SUITE 2100 CHICAGO, IL 60603 UNITED STATES Primary Email: trademark@fitcheven.com Secondary Email(s): eclair@fitcheven.com 312-577-7000
Docket Number	6341-153024

Applicant Information

Application No.	90320870	Publication date	06/01/2021
Opposition Filing Date	09/29/2021	Opposition Period Ends	09/29/2021
Applicant	Dong Xianjun ROOM 403, UNIT 4, BUILDING 274 LIAOHE STREET, SHUANGTA DISTRICT CHAOYANG, LIAONING, 122000 CHINA		

Goods/Services Affected by Opposition


Class 009. First Use: 2020/11/13 First Use In Commerce: 2020/11/13 All goods and services in the class are opposed, namely: Batteries; Blank USB flash drives; Camera hardware systems for IP (Internet protocol) video surveillance; Computer mouse; Computer peripher-

als and parts thereof; Conversion lenses for cameras; Electric cables and wires; Electric sensors; Electrical sockets; Electronic data recorders; Electronic key fobs being remote control apparatus; Fuse clips and panel-mounted fuse holders for use with electronic glass and ceramic fuses; Liquid crystal displays; Mounts and mounting brackets adapted for televisions; Multifunction electronic devices for use in copying, printing, scanning, video capturing and/or transmitting documents and images; Photographic projectors; Portable media players; Protective face masks for the prevention of accident or injury; Stands adapted for laptop, tablet computers; Tape measures; Computer keyboards

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
Dilution by tarnishment	Trademark Act Sections 2 and 43(c)

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	5697764	Application Date	07/29/2016
Registration Date	03/12/2019	Foreign Priority Date	NONE
Word Mark	ARQ		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2016/00/00 First Use In Commerce: 2016/00/00 Remote controls for controlling door and gate operators, lights and lighting systems; electronic transmitters for controlling door and gate operators, lights and lighting systems; computer application software for mobile communication and computing devices and vehicle infotainment centers for communicating with garagedoor and gate operators, lights and lighting systems; downloadable mobile applications and computer application software for mobile devices, namely, mobile phones and tablet computers, and vehicle infotainment systems for accessing and controlling door and gate operators, lights and lighting systems		

Attachments	87120943#TMSN.png(bytes) 6341-153024 Opposition.pdf(673180 bytes)
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Signature	/Edward E. Clair/
Name	EDWARD E. CLAIR
Date	09/29/2021

6341-153024

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

The Chamberlain Group LLC,)
)
Opposer,)
)
v.)
)
Dong Xianjun)
)
Applicant.)
<hr style="width: 25%; margin-left: 0;"/>	
Serial No.: 90320870)
Filed: November 16, 2020)
Mark: ERQ)
Published: June 1, 2021)

NOTICE OF OPPOSITION

The Chamberlain Group LLC, (formerly The Chamberlain Group, Inc.), a Delaware limited liability company, located and doing business at 300 Windsor Dr., Oak Brook, Illinois 60523 (“Chamberlain”), believes that it will be damaged by registration of the ERQ trademark Application No. 90320870, and opposes the same on the following grounds:

COUNT I - TRADEMARK INFRINGEMENT

I. In Application Serial No. 90320870 Dong Xianjun, (“Applicant”), is seeking to obtain registration on the Principal Register for the mark ERQ for use on “Batteries; Blank USB flash drives; Camera hardware systems for IP (Internet protocol) video surveillance; Computer mouse; Computer peripherals and parts thereof; Conversion lenses for cameras; Electric cables and wires; Electric sensors; Electrical sockets; Electronic data recorders; Electronic key fobs being remote control apparatus; Fuse clips and panel-mounted fuse holders for use with electronic glass and ceramic fuses; Liquid crystal displays; Mounts and mounting brackets adapted for televisions; Multifunction electronic devices for use in copying, printing, scanning, video capturing and/or transmitting documents and images; Photographic projectors; Portable media players; Protective

face masks for the prevention of accident or injury; Stands adapted for laptop, tablet computers; Tape measures; Computer keyboards“, in International Class 9;

2. Since at least as early as 2016, Chamberlain adopted and began using the mark ARQ for transmitter units and remote controls for controlling door and gate operators, lights and lighting systems, light switches, electronic sockets, electronic locks and cameras, power controllers, electronic actuators, communication hubs, computer hardware and software systems for remotely monitoring and controlling devices within a building, facility, grounds or designated area, computer application software for mobile communication and computing devices and vehicle infotainment centers for monitoring and controlling garage door and gate operators, lights and lighting systems, light switches, electronic sockets, electronic locks and cameras.

3. On March 12, 2019, the United States Patent & Trademark Office registered on the Principal Register and issued Registration No. 5697764 for the mark ARQ for use on “Remote controls for controlling door and gate operators, lights and lighting systems; electronic transmitters for controlling door and gate operators, lights and lighting systems; computer application software for mobile communication and computing devices and vehicle infotainment centers for communicating with garage door and gate operators, lights and lighting systems; downloadable mobile applications and computer application software for mobile devices, namely, mobile phones and tablet computers, and vehicle infotainment systems for accessing and controlling door and gate operators, lights and lighting systems”. A current printout of information from the USPTO electronic database records showing the current status and title of Registration No. 5697764 appears in Exhibit A. Said Registration is presently valid and subsisting and is now owned by Chamberlain and is *prima facie* evidence of Chamberlain's exclusive right to use said mark in commerce on the goods.

4. Chamberlain is the owner of all right, title and interest in the foregoing Federal trademark registration.

5. Opposer features, promotes, and offers its ARQ products in connection with Opposer's MyQ brand smart home hub and products. Opposer owns U.S. Registration Nos. 4165481, 4638156, 4666227 for MyQ for products that include:

Power Controllers; Remote controls for doors or gates; Electronic security devices, namely, electronic controls for granting access and egress through doors or gates; Radio receiver units, radio transmitter units, keypads and card readers; Access control systems for providing, and restricting access to electronically monitored and secured enclosures; Facilities management software, namely, software to control building access and security systems; Home, office and industrial automation systems comprising wireless and wired controllers, controlled devices, and software for lighting, security, safety and other home, office and industrial monitoring and control applications; Lighting controls; computer hardware; Computer hardware and software system for remotely monitoring controlling devices within a building, facility, grounds, or designated spatial area; Computer hardware and computer peripheral devices; Computer hardware and software systems for remotely controlling lighting devices, access devices, security devices within a building or building perimeter; Security alarm controllers; Security alarms; Security control panels; Security lights for outdoor use; Security products, namely, entry door systems comprising touch pads; Electric monitoring apparatus, namely, computer hardware and software used to transmit electronic messages and data via communications networks, among others.

6. Applicant intends to use the ERQ trademark without the consent of Chamberlain and on information and belief with the intent to trade and capitalize on the goodwill generated by Chamberlain's extensive and exclusive use of its ARQ mark.

7. Long before Applicant's adoption and use of the ERQ mark, Chamberlain was actively engaged in interstate and foreign commerce in the business of manufacturing, distributing, advertising and selling software and access control systems and related products bearing the ARQ mark.

8. Chamberlain has expended millions of dollars in advertising and promoting its products and services and has sold hundreds of thousands of dollars of products and services bearing the ARQ mark in the United States and throughout the world.

9. On information and belief, Applicant's adoption of the ERQ trademark was with full knowledge of Chamberlain's use of the ARQ Registration therefor, at the time Applicant filed Application No. 90320870 for registration of the ERQ mark.

10. On information and belief, the earliest date of actual or constructive use for the goods specified in the subject application upon which the Applicant can rely is November 13, 2020, the date of first use claimed in the subject application.

11. On information and belief, Chamberlain's priority in its ARQ Registration therefor is earlier than any priority that the Applicant can establish in its ERQ mark.

12. On information and belief, the goods for which Applicant seeks registration of the ERQ trademark are similar or related to the goods and services which Chamberlain distributes bearing the ARQ mark.

13. On information and belief, the goods for which Applicant seeks registration of the ERQ mark are likely to be sold to the same customers or channels of trade to and in which Chamberlain sells its goods bearing the ARQ trademark.

14. On information and belief, the Opposer and Applicant are competitors in many of the same markets.

15. Based on the foregoing and upon information and belief, Applicant's intended adoption, use, distribution, offer for sale, and sale of goods bearing the ERQ mark are likely to cause confusion, mistake or deception as to the origin of the goods among the relevant consuming public such that the public is likely to believe that Applicant's products originate with Chamberlain, are licensed by Chamberlain, or are sponsored, authorized, endorsed, or are otherwise related to Chamberlain.

COUNT II - FEDERAL TRADEMARK DILUTION

16. Paragraphs 1-15 are incorporated by reference herein.

17. Chamberlain has expended substantial monies in marketing, advertising and promoting its ARQ trademark on its goods.

18. Chamberlain possesses extremely valuable goodwill in the ARQ trademark by reason of its extensive use, marketing, publicity, advertising and geographic extent of its use and promotion. This goodwill was established long prior to the filing of this Application Serial No. 90320870.

EXHIBIT A



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Record 1 out of 1[TSDR](#)[ASSIGN Status](#)[TTAB Status](#)*(Use the "Back" button of the Internet Browser to return to TESS)***ARQ****Word Mark** ARQ**Goods and Services** IC 009. US 021 023 026 036 038. G & S: Remote controls for controlling door and gate operators, lights and lighting systems; electronic transmitters for controlling door and gate operators, lights and lighting systems; computer application software for mobile communication and computing devices and vehicle infotainment centers for communicating with garage door and gate operators, lights and lighting systems; downloadable mobile applications and computer application software for mobile devices, namely, mobile phones and tablet computers, and vehicle infotainment systems for accessing and controlling door and gate operators, lights and lighting systems. FIRST USE: 20160000. FIRST USE IN COMMERCE: 20160000**Standard Characters Claimed****Mark Drawing Code** (4) STANDARD CHARACTER MARK**Serial Number** 87120943**Filing Date** July 29, 2016**Current Basis** 1A**Original Filing Basis** 1B**Published for Opposition** April 25, 2017**Registration Number** **5697764****Registration Date** March 12, 2019**Owner** (REGISTRANT) The Chamberlain Group, Inc. CORPORATION CONNECTICUT 845 Larch Avenue Elmhurst ILLINOIS 60126**Attorney of Record** Edward E. Clair**Type of Mark** TRADEMARK**Register** PRINCIPAL**Live/Dead Indicator** LIVE[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [TOP](#) [HELP](#)



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No assignment has been recorded at the USPTO

For Serial Number: 87120943

If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350. v.2.6
Web interface last modified: August 25, 2017 v.2.6

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