

ESTTA Tracking number: **ESTTA1122280**

Filing date: **03/23/2021**

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	BlackBerry Limited
Granted to Date of previous extension	04/07/2021
Address	2200 UNIVERSITY AVENUE EAST WATERLOO, ONT N2K0A7 CANADA
Attorney information	G. ROXANNE ELINGS DAVIS WRIGHT TREMAINE LLP 1251 AVENUE OF THE AMERICAS, 21ST FL. NEW YORK, NY 10020 UNITED STATES Primary Email: blackberry@dwt.com Secondary Email(s): roxanneelings@dwt.com, orrinfalby@dwt.com, emilyborich@dwt.com, faithrobinson@dwt.com, koriturrubiate@dwt.com, BlackBerryRecords@dwt.com (212) 489-8230
Docket Number	101994.805

Applicant Information

Application No.	90062388	Publication date	12/08/2020
Opposition Filing Date	03/23/2021	Opposition Period Ends	04/07/2021
Applicant	Qumulex, Inc. 9059 TECHNOLOGY LANE FISHERS, IN 46038 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 and camera hardware systems for video surveillance; downloadable software in the nature of a mobile application for accessing, configuring, managing, and controlling video surveillance
Class 042. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Platform as a service (PAAS) featuring computer software platform for accessing, configuring, managing, and controlling video surveillance; providing online non-downloadable computer software for accessing configuring, managing, and controlling video surveillance

Grounds for Opposition

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

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2542411	Application Date	04/27/2000
Registration Date	02/26/2002	Foreign Priority Date	NONE
Word Mark	QNX		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 1983/03/00 First Use In Commerce: 1983/03/00 Computer operating systems software, namely, software controlling the operation of a computer and the execution of programs; computer software which facilitates the creation and execution of visual programs, namely, execution of graphical user interfaces; software development software, namely, computer software development tools; networking software, namely, software for connecting computer networks, for distributed computing on local area networks, and for use in the transfer of information between computers; web browsers; computer software for use in the transfer of information and the conduct of commercial transactions across local, national and worldwide information networks; multimedia software, namely, computer software to enhance the audio-visual capabilities of multimedia applications, namely, for the integration of text, audio, graphics, still images and moving pictures; and instructional books and guides sold as a unit with the software referred to above; downloadable electronic publications, namely, book guides and manuals featuring software, computer programming and education</p> <p>Class 016. First use: First Use: 1983/03/00 First Use In Commerce: 1983/03/00 Printed books, guides and manuals related to software, computer programming and education in the field of computers and computer software</p> <p>Class 041. First use: First Use: 1996/09/00 First Use In Commerce: 1996/09/00 Computer education training services, namely conducting classes of instruction for employees and users of operating system software in the field of computer programming</p> <p>Class 042. First use: First Use: 1990/00/00 First Use In Commerce: 1990/00/00 Computer software design and development for others; computer consultations; computer programming for others; computer software design for others</p>		

U.S. Application No.	88716136	Application Date	12/05/2019
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	QNX		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 0 First Use In Commerce: 0		

	<p>Design and development of computer software; Providing temporary use of non-downloadable computer software for measuring, assessing, identifying, detecting, analyzing, preventing, and responding to cybersecurity threats, attacks, risks, and vulnerabilities; custom software design and development of real-time embedded computer systems for use with automobiles, medical devices, military defense systems, industrial process control and automation systems and manufacturing robotics; providing online non-downloadable computer software development tools, namely, computer software development platforms for development of embedded computer systems; design, development and software maintenance of computer systems and software for operation and control of autonomous-driving vehicles; providing temporary use of online non-downloadable software for operation and control of autonomous-driving vehicles; providing temporary use of online non-downloadable software development platforms for developing software applications for use in the automotive and transportation sectors, namely, telematics, Advanced Driver Assistance Systems comprising electronic sensors, cameras, software and hardware that monitor a motor vehicle and its various systems for the purpose of the provisioning of automated driver assistance, and speed control equipment, instrument clusters, namely, automotive head-up display, automotive navigation systems, vehicle dashboard gauges, engine sound enhancement, hands-free vehicle control systems, infotainment systems, and autonomous driving vehicles; providing temporary use of online non-downloadable software development platforms for developing software applications for medical devices; providing temporary use of non-downloadable software applications, software development platforms and software development tools that enable software developers to program and users to build and configure software applications that work in conjunction with such non-downloadable software applications, and platforms and development tools and to transfer, share, format, manipulate and integrate data, information and such developer software applications, platforms and development tools-working in conjunction with and between such non-downloadable software applications, and platforms and development tools and third party services; providing temporary use of online non-downloadable software applications, software development platforms, software developer kits (sdks) and software development tools that enable software developers to design, test, deploy, manage, and monitor endpoint devices; computer software services, namely, development, maintenance, repair, installation, troubleshooting of problems, support in the nature of diagnosing problems, upgrade and updating, authoring, provision of information, consultation, design and customization of computer software and middleware; computer security consultancy</p>
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Attachments	QX U.S. Ser. No. 90062388 - Notice of Opposition.pdf(26007 bytes)
Signature	/GRE/
Name	G. ROXANNE ELINGS
Date	03/23/2021

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

In the matter of Application No. 90062388

Mark: **QX**

Published in the *Official Gazette* on: December 8, 2020

BlackBerry Limited,

Opposer

v.

Qumulex, Inc.,

Applicant.

Opposition No.:

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

P.O. Box 1451

Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

BlackBerry Limited (hereinafter referred to as “BlackBerry” or “Opposer”) believes that it will be damaged by registration of the above-identified trademark and hereby opposes the registration thereof: As grounds thereof, Opposer is alleged as follows:

FACTS

Applicant’s Mark

1. Upon information and belief, Qumulex, Inc. (“Applicant”) is a corporation organized and existing under the laws of the State of Indiana, having a place of business located at 9059 Technology Lane, Fishers, IN 46038.

2. On or about July 20, 2020, Applicant filed Trademark Application Serial No. 90062388 (the “Application”), pursuant to Section 1(b) of the Lanham Act, 15 U.S.C. § 1051(b), to register the trademark QX in standard character format on the Principal Register (“Applicant’s Mark”).

3. On or about December 8, 2020, Applicant's Mark was published for opposition in the *Official Trademark Gazette* in connection with the following specification of goods and services ("Applicant's Goods and Services"):

Class 9: Computer hardware and camera hardware systems for video surveillance; downloadable software in the nature of a mobile application for accessing, configuring, managing, and controlling video surveillance.

Class 42: Platform as a service (PAAS) featuring computer software platform for accessing, configuring, managing, and controlling video surveillance; providing online non-downloadable computer software for accessing configuring, managing, and controlling video surveillance.

Opposer's Marks and Business

4. BlackBerry is a corporation duly organized and existing under the laws of the Province of Ontario, Canada, having a place of business at 2200 University Avenue East, Waterloo, Ontario N2K 0A7, Canada.

5. BlackBerry, including its predecessors-in-interest, is a global leader in the research, development, design, manufacture, promotion and marketing of innovative technology and software solutions. BlackBerry's reputation and distinctive image has been consistently developed across an expanding number of innovative technology solutions and international markets. Today, BlackBerry is a leading developer of, *inter alia*, innovative computer software, cyber security solutions, computer/device/Internet security and connectivity solutions; embedded software, operating systems and middleware; cloud computing software; software for use in managing device-to-device, device-to-cloud and cloud-to-device communications; computer software for machine-to-machine (M2M) communication; Internet of Things (IoT) communication integration; software development platforms; Enterprise Mobility Management; Mobile Device Management; Mobile Applications Management; and automation and process control solutions (collectively "BlackBerry's Goods/Services").

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