

# Note To The File

Serial Number: 90723373  
Date: 02/02/2022 3:26 pm  
Created by: David Hutchison

INTELLIFOCUS

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## Changed

- Issued Examiner's Amendment and Entered Changes

## Discussed file with Attorney/Applicant

- via Phone
- via E-Mail

**From:** Trademarks <trademarks@zebra.com>  
**Sent:** Wednesday, February 2, 2022 1:47 PM  
**To:** Hutchison, David <David.Hutchison@uspto.gov>  
**Subject:** RE: U.S. Trademark Applications Serial Nos. 907233373 and 90752390

**CAUTION:** This email has originated from a source outside of USPTO. PLEASE CONSIDER THE SOURCE before responding, clicking on links, or opening attachments.

Hi David,

My notes/comments are below in red.

Thanks so much!

Paul

**From:** Hutchison, David <[David.Hutchison@uspto.gov](mailto:David.Hutchison@uspto.gov)>  
**Sent:** Wednesday, February 2, 2022 10:57 AM  
**To:** Trademarks <[trademarks@zebra.com](mailto:trademarks@zebra.com)>

**Subject:** U.S. Trademark Applications Serial Nos. 907233373 and 90752390

[External Email]

Good morning,

Per our conversation, I am an examining attorney with the U.S. Patent and Trademark Office handling some the trademark applications for Zebra Technologies, specifically Serial Nos. 907233373 and 90752390. There are a few issues I'd like to discuss with you about the application that can be resolved with applicant's agreement. Please note the following:

90723373 (INTELLIFOCUS) – Resolvable via Examiner Amendment

- Identification of Goods: the wording "Scan engine" in the identification is indefinite as to the nature of the goods as the wording can identify a physical device or a software package for the same. Therefore, I propose the following change:
- o ~~"{Specify whether Recorded computer software OR~~ **Electronic scanner device in the nature of a** Scan engine with integrated software for controlling and regulating optical lenses, optical autofocus lenses and optical zoom lenses; circuit boards with integrated software for controlling and regulating optical lenses, optical autofocus lenses and optical zoom lenses" in International Class 009.
- o Please indicate which of the formats is applicable AND whether applicant consents to an Examiner's Amendment (**I consent to the Examiner's Amendment**)

90750007 (ZEBRA REFLEXIS) – Requires Preliminary Amendment filed by applicant

- Identification of Goods and Services: the following entries in both Classes need minor amending as follows (virtually identical entries): (**Both are accepted**)
- o Class 009
- § Downloadable computer software that uses artificial intelligence (AI) for allocation and fulfillment optimization, assortment planning and optimization, demand forecasting and replenishment, lifecycle pricing, personalization, demand forecasting and planning, order promising, intelligent pricing, trade promotion and marketing optimization. Downloadable computer software that uses machine learning, artificial intelligence and pattern detection to reduce shrink, loss and fraud for retail and consumer packaged goods companies;
- Please replace the period with a semi-colon as these are likely two separate entries

- § Downloadable computer software for sending and receiving text and picture messages, in addition to voice communications either via ~~**PTT (push to talk)**~~**push to talk (PTT)** or **private branch exchange (PBX)** integration;
  - Please amend to define PBX as well as alter the format of parenthesis in PTT to contain the acronym
  - o Class 042 (Both are accepted)
- § Providing temporary use of non-downloadable computer software that uses artificial intelligence (AI) for allocation and fulfillment optimization, assortment planning and optimization, demand forecasting and replenishment, lifecycle pricing, personalization, demand forecasting and planning, order promising, intelligent pricing, trade promotion and marketing optimization. Providing temporary use of non-downloadable computer software that uses machine learning, artificial intelligence and pattern detection to reduce shrink, loss and fraud for retail and consumer packaged goods companies;
  - Please replace the period with a semi-colon as these are likely two separate entries
- § Providing temporary use of non-downloadable computer software for sending and receiving text and picture messages, in addition to voice communications either via ~~**PTT (push to talk)**~~**push to talk (PTT)** or **private branch exchange (PBX)** integration;
  - Please amend to define PBX as well as alter the format of parenthesis in PTT to contain the acronym
- Claiming Prior Registrations

Per our conversation, Reflexis Systems, Inc., the owner of Registrations Nos. 4630950 (REFLEXIS STOREPULSE) and 6110922 (REFLEXIS), is currently wholly-owned by or otherwise in the process of merging with applicant. If the marks in the cited registrations is owned by applicant, applicant may provide evidence of ownership of the mark by satisfying one of the following, whichever option is applicable:

- (1) Record the assignment with the USPTO's Assignment Recordation Branch (ownership transfer documents such as assignments can be filed online at <http://etas.uspto.gov>) and promptly notify the trademark examining attorney that the assignment has been duly recorded;
- (2) Submit copies of documents evidencing the chain of title; or
- (3) Submit the following statement, verified with an affidavit or signed declaration under 37 C.F.R. §2.20: **"Applicant is the owner of U.S. Registration Nos. 4630950 and 6110922."** To provide this statement using the Trademark Electronic Application System (TEAS), use the ["Response to Office](#)

[Action](#)” form; answer “yes” to wizard questions #3 and #9; then, continuing on to the next portion of the form, in the “Additional Statement(s)” section, find “Active Prior Registration(s)” and insert the U.S. registration numbers in the data fields; and follow the instructions within the form for signing. **The form must be signed twice; a signature is required both in the “Declaration Signature” section and in the “Response Signature” section.** (I tried to access this but it states: “The current status for entered serial number does not allow you to submit the selected form.”)... Should I file a voluntary statement prior to publication?

TMEP §812.01; see 15 U.S.C. §1060; 37 C.F.R. §§2.193(e)(1), 3.25, 3.73(a)-(b); TMEP §502.02(a).

Recording a document with the Assignment Recordation Branch does not constitute a response to an Office action. TMEP §503.01(d).

In addition to confirmation regarding the amendment for the ‘373 application, please let me know when you have filed the preliminary amendment for the ‘007 application so I may keep an eye out for it on my end after intake has processed the amendment.

Thank you for your prompt attention to this matter.

Kindest regards,

/David A. Hutchison/

Trademark Examining Attorney

Law Office 123

United States Patent and Trademark Office

571-272-6571

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