

09/17/12

**To: USPTO Attorney Nakia Henry**

**Subject: Response to refusal of U.S. T.M. APPLICATION NO. 85480792 - EXPRESS**

**APPLICATION SERIAL NO. 85480792**

**MARK: EXPRESS**

Registration of the applied-for mark- "Express" for "Devices capable of storing/producing/computing, transmitting, receiving, data/signals including sound, images/video, and text, namely: **transceivers**, personal computers, lap-tops, tablet computers, tablet mobile phones, telephones, cellular/mobile telephones, sold as integrated components and separate components. Accessories for the aforementioned goods, namely, internal and external components, namely, antennas, battery chargers, batteries, hands-free headsets, vehicle mountings, housings/face plates, carrying cases/pouches/holsters

Thank You for your Office Action dated 03/17/12; your Office Action review was very comprehensive, and I need more time to research the marks which were cited in the Office Action, however I have a preliminary response and I have made notes next to the marks which were cited; the following marks:

U.S. Registration No.3922364 "Channel Express" for "transceivers"[owned by Ranger Electronic Communications](We filed a Letter Of Protest against this mark, which was granted, this mark should of never been allowed to be register, however, this mark is for a button on a CB Radio, we have removed transceivers from this application list of goods)

3950050 "ExpressMaps" for the relevant goods, computers [owned by Spot Image](This mark is for a satellite map website, however it appears they have never used the mark.

3916159 "Xpressradio" for the relevant goods, namely mobile telephones and accessories for mobile telephones, namely batteries, battery chargers, headsets [owned by Nokia](We filed a Letter Of Protest against this mark, which was granted, this mark should of never been allowed to be register, however it appears they have never used the mark.

79048130 "Rittal Express" plus a design for the relevant goods, namely "adapted housings for the accommodation of electrical installations, in the fields of computers for [putting] up electrical installations[owned by Rittal GmbH](This mark is for large locker size cabinets for electronics, and not housings/covers/face plates for mobile devices)

3524420 "Nasuba Express"[owned by LCS Media] (This mark has a list of "everything under the sun" electronics except mobile phones and tablets, however it appears they have never used the mark.

2931609 "Express Fast Charger" and 3430696 "Express" [owned by ESRMCO Corp.] (These marks are for Industrial heavy equipment batteries and chargers for large equipment such as fork-lifts, and not mobile phones and tablets)

3681466 "Think Express" and 3681462 "Express"[both owned by International Business Machines] (These marks are for Mainframe Business Computers, and not mobile phones and tablets)

3476179 "Express Gate" [owned by Asustek Computer Inc.](This mark is for an software that is for access to internet and e-mail and not mobile phones and tablets)

2496915 "Neax Express" for the relevant goods "computers"

[owned by NEC Infrontia Corp](This mark was cancelled on 05/12/12/2112)

1529489 “Bowler Express” with a design for the relevant goods, namely computers [Computer Sports Systems, Inc.](This mark is for Bowling Alley systems, and not mobile phones and tablets)

1606164 “Callxpress” for the relevant goods, computers[Applied Voice & Speech](This mark is for mainframe voicemail systems, and not mobile phones and tablets)

Here, the proposed mark is “Express” and the registrants’ marks contain Express or variations of Express which are phoenetically similar but they also contain additional terms which “stand out”, which will likely obviate the similarity between the marks and eliminate likelihood of confusion.

In “Channel Express” (Channel stands out more than Express)

“ExpressMaps” (Maps stands out)

“Xpressradio” (Radio stands out)

“Rittal Express”(Rittal stands out)

“Nasuba Express”(Nasuba stands out)

“Express Fast Charger” (Fast charger stands out)

“Express Gate”(Gate stands out)

“Micro Express”(Micro stands out)

“Bowler Express”(Bowler stands out)

“Callxpress”(Call stands out)

The effective filing date of pending Application Serial No. 85409403 precedes applicant’s filing date, however, our chief Trademark Registration 3026855 pre-dates application 85409403, we filed a letter of protest which was granted, application 85409403 should of never been approved according to many trademark rules. We are in the process of negotiating a resolution with this applicant, to include a voluntary abandonment of their registration.

Applicant adopts the following identification of goods:

Class 009: Devices capable of storing and producing and computing, transmitting, receiving, data and signals including sound, images and video, and text, namely: personal computers, lap-tops, tablet computers, tablet mobile phones, telephones, cellular and mobile telephones, sold as integrated components and separate components. Accessories for the aforementioned goods, namely, internal and external components, namely, antennas, battery chargers, batteries, hands-free headsets, vehicle mountings, housings: **decorative** face plates, carrying cases and pouches

Respectfully submitted, thanks,

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Founder

Express

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