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Subject: U.S. TRADEMARK APPLICATION NO. 79142478 - IREZQ - AWAP-2-53359 - Request for
Reconsideration Denied - Return to TTAB - Message 1 of 10

Attachment Information:

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Files: asus-1.jpg, asus-2.jpg, asus-3.jpg, asus-4.jpg, asus2-1.jpg, asus2-2.jpg, wolfcam-01.jpg, wolfcam-02.jpg, wolfcam-03.jpg, wolfcam-04.jpg, wolfcam-05.jpg, wolfcam-06.jpg, wolfcam-07.jpg, 79142478.doc

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

U.S. APPLICATION SERIAL NO. 79142478

MARK: IREZQ



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APPLICANT: iRezQ AB

CORRESPONDENT'S REFERENCE/DOCKET NO:

AWAP-2-53359

CORRESPONDENT E-MAIL ADDRESS:

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REQUEST FOR RECONSIDERATION DENIED

ISSUE/MAILING DATE: 4/18/2015

INTERNATIONAL REGISTRATION NO. 1191963

The trademark examining attorney has carefully reviewed applicant's request for reconsideration and is denying the request for the reasons stated below. See 37 C.F.R. §2.63(b)(3); TMEP §§715.03(a)(ii)(B), 715.04(a). The following refusal made final in the Office action dated September 17, 2014 is maintained

and continue to be final: Refusal under Section 2(d)- Likelihood of Confusion. See TMEP §§715.03(a)(ii)(B), 715.04(a).

In the present case, applicant's request has not resolved all the outstanding issue, nor does it raise a new issue or provide any new or compelling evidence with regard to the outstanding issue in the final Office action. In addition, applicant's analysis and arguments are not persuasive nor do they shed new light on the issues. Accordingly, the request is denied.

If applicant has already filed a timely notice of appeal with the Trademark Trial and Appeal Board, the Board will be notified to resume the appeal. See TMEP §715.04(a).

If no appeal has been filed and time remains in the six-month response period to the final Office action, applicant has the remainder of the response period to (1) comply with and/or overcome any outstanding final requirement(s) and/or refusal(s), and/or (2) file a notice of appeal to the Board. TMEP §715.03(a)(ii)(B); see 37 C.F.R. §2.63(b)(1)-(3). The filing of a request for reconsideration does not stay or extend the time for filing an appeal. 37 C.F.R. §2.63(b)(3); see TMEP §§715.03, 715.03(a)(ii)(B), (c).

Refusal under Section 2(d)- Likelihood of Confusion – Refusal Maintained and Continues to be FINAL

For the reasons set forth below, the refusal under Trademark Act Section 2(d) is maintained and continues FINAL with respect to U.S. Registration No. 3526573. See 15 U.S.C. §1052(d); 37 C.F.R. §2.64(a).

Trademark Act Section 2(d) bars registration of an applied-for mark that so resembles a registered mark that it is likely that a potential consumer would be confused, mistaken, or deceived as to the source of the goods of the applicant and registrant. See 15 U.S.C. §1052(d). In the seminal decision *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973), the court listed the principal factors to be considered when determining whether there is a likelihood of confusion under Section 2(d). See TMEP §1207.01. However, not all the factors are necessarily relevant or of equal weight, and any one of the factors may control in a given case, depending upon the evidence of record. *Citigroup Inc. v. Capital City Bank Grp., Inc.*, 637 F.3d 1344, 1355, 98 USPQ2d 1253, 1260 (Fed. Cir. 2011); *In re Majestic Distilling Co.*, 315 F.3d 1311, 1315, 65 USPQ2d 1201, 1204 (Fed. Cir. 2003); see *In re E. I. du Pont de Nemours & Co.*, 476 F.2d at 1361-62, 177 USPQ at 567.

In this case, the following factors are the most relevant: similarity of the marks, similarity and nature of the goods, and similarity of the trade channels of the goods. See *In re Viterra Inc.*, 671 F.3d 1358, 1361-62, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012); *In re Dakin's Miniatures Inc.*, 59 USPQ2d 1593, 1595-96 (TTAB 1999); TMEP §§1207.01 *et seq.*

Similarity of Marks

Applicant's mark is IREZQ (in standard character form.)

The mark in U.S. Registration No. 3526573 is IREZ (in design form.)

In this case, the wording "IREZ" in the applied-for mark is identical to the wording "IREZ" in the cited registered mark. The additional letter "Q" in the applied-for mark and the design element in the cited registered mark is not sufficient to prevent confusion between the marks. See *In re Nat'l Data Corp.*, 753 F.2d 1056, 1058, 224 USPQ 749, 750-51 (Fed. Cir. 1985); TMEP §1207(b)(viii).

In its response, the applicant argued that the marks must be considered as a whole and that the applied-for mark is unique because it ends in the letter "Q". Further, the applicant argued the marks convey different commercial impressions.

In its request for reconsideration, the applicant again argues that the cited registered mark "IREZ" is intended to mean "iris" because of the eye design in the mark, and thus has a different connotation than the applied-for mark "IREZQ". The examining attorney respectfully disagrees for the reasons set forth below.

Marks must be compared in their entireties and should not be dissected; however, a trademark examining attorney may weigh the individual components of a mark to determine its overall commercial impression. *In re Chatam Int'l Inc.*, 380 F.3d 1340, 1342, 71 USPQ2d 1944, 1946-47 (Fed. Cir. 2004); *In re Nat'l Data Corp.*, 753 F.2d 1056, 1058, 224 USPQ 749, 751 (Fed. Cir. 1985) ("[I]n articulating reasons for reaching a conclusion on the issue of confusion, there is nothing improper in stating that, for rational reasons, more or less weight has been given to a particular feature of a mark"); *In re Kysela Pere et*

Fils, Ltd., 98 USPQ2d 1261, 1267 (TTAB 2011). In its response, the applicant argued that considering the marks as a whole, the applied-for mark conveys the idea of an “iris,” while the applied-for can be inferred to mean “rescue.” While marks are generally considered as a whole, the examiner has weighed the dominant portions of the marks for the reasons below.

First, when comparing marks, the test is not whether the marks can be distinguished in a side-by-side comparison, but rather whether the marks are sufficiently similar in their entireties that confusion as to the source of the goods offered under applicant’s and registrant’s marks is likely to result. *Midwestern Pet Foods, Inc. v. Societe des Produits Nestle S.A.*, 685 F.3d 1046, 1053, 103 USPQ2d 1435, 1440 (Fed. Cir. 2012); *Edom Labs., Inc. v. Lichter*, 102 USPQ2d 1546, 1551 (TTAB 2012); TMEP §1207.01(b). The focus is on the recollection of the average purchaser, who normally retains a general rather than specific impression of trademarks. *L’Oreal S.A. v. Marcon*, 102 USPQ2d 1434, 1438 (TTAB 2012); *Sealed Air Corp. v. Scott Paper Co.*, 190 USPQ 106, 108 (TTAB 1975); TMEP §1207.01(b).

Marks may be confusingly similar in appearance where there are similar terms or phrases or similar parts of terms or phrases appearing in both applicant’s and registrant’s mark. See *Crocker Nat’l Bank v. Canadian Imperial Bank of Commerce*, 228 USPQ 689 (TTAB 1986), *aff’d sub nom. Canadian Imperial Bank of Commerce v. Wells Fargo Bank, Nat’l Ass’n*, 811 F.2d 1490, 1 USPQ2d 1813 (Fed. Cir. 1987) (COMMASH and COMMUNICASH); *In re Phillips-Van Heusen Corp.*, 228 USPQ 949 (TTAB 1986) (21 CLUB and “21” CLUB (stylized)); *In re Corning Glass Works*, 229 USPQ 65 (TTAB 1985) (CONFIRM and CONFIRMCELLS); *In re Collegian Sportswear Inc.*, 224 USPQ 174 (TTAB 1984) (COLLEGIAN OF CALIFORNIA and COLLEGIENNE); *In re Pellerin Milnor Corp.*, 221 USPQ 558 (TTAB 1983) (MILTRON and MILLTRONICS); *In re BASF A.G.*, 189 USPQ 424 (TTAB 1975) (LUTEXAL and LUTEX); TMEP §1207.01(b)(ii)-(iii). In this case, the applied-for mark is entirely comprised of the wording “IREZQ” and the cited registered mark contains the wording “IREZ”. Thus, marks are confusingly similar in appearance because they contain nearly identical wording, except for one letter that appears at the end of the applied-for mark.

Second, although marks are compared in their entireties, one feature of a mark may be more significant or dominant in creating a commercial impression. See *In re Viterra Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012); *In re Nat’l Data Corp.*, 753 F.2d 1056, 1058, 224 USPQ 749, 751 (Fed. Cir. 1985); TMEP §1207.01(b)(viii), (c)(ii). Greater weight is often given to this dominant feature when determining whether marks are confusingly similar. See *In re Nat’l Data Corp.*, 753 F.2d at 1058, 224 USPQ at 751.

Further, consumers are generally more inclined to focus on the first word, prefix or syllable in any trademark. See *Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondée En 1772*, 396 F. 3d 1369, 1372, 73 USPQ2d 1689, 1692 (Fed. Cir. 2005); see also *Mattel Inc. v. Funline Merch. Co.*, 81 USPQ2d 1372, 1374-75 (TTAB 2006); *Presto Prods., Inc. v. Nice-Pak Prods., Inc.*, 9 USPQ2d 1895, 1897 (TTAB 1988) (“it is often the first part of a mark which is most likely to be impressed upon the mind of a purchaser and remembered” when making purchasing decisions).

For a composite mark containing both words and a design, the word portion may be more likely to be impressed upon a purchaser’s memory and to be used when requesting the goods. *In re Dakin’s Miniatures, Inc.*, 59 USPQ2d 1593, 1596 (TTAB 1999); TMEP §1207.01(c)(ii); see *In re Viterra Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908, 1911 (Fed. Cir. 2012) (citing *CBS Inc. v. Morrow*, 708 F. 2d 1579, 1581-82, 218 USPQ 198, 200 (Fed. Cir 1983)). Thus, although such marks must be compared in their entireties, the word portion is often considered the dominant feature and is accorded greater weight in determining whether marks are confusingly similar, even where the word portion has been disclaimed. *In re Viterra Inc.*, 671 F.3d at 1366, 101 USPQ2d at 1911 (Fed. Cir. 2012) (citing *Giant Food, Inc. v. Nation’s Foodservice, Inc.*, 710 F.2d 1565, 1570-71, 218 USPQ2d 390, 395 (Fed. Cir. 1983)).

In this case, the first syllable in the applied-for mark is “IREZ”, and is thus the portion of the mark that consumers are inclined to focus on. Furthermore, despite the presence of a design element in the cited registered mark, it is the word portion of a mark that consumer’s recall when requesting goods. In its response, the applicant argued that the letter “Q” is a memorable aspect of the applied-for mark, and thus the wording “IREZ” in the applied-for mark should not be considered the dominant portion of the mark; however, case law shows that consumers are more likely to remember the first portion of marks. While the additional “Q” in the applied-for mark does change the appearance and sound of the applied-for mark, it is not sufficiently distinctive to be the dominant portion of the mark.

It follows that the dominant portion of the applied-for mark is “IREZ” and the dominant portion of the cited registered mark is “IREZ”.

Third, consumer confusion has been held likely for marks that do not physically sound or look alike but that convey the same idea, stimulate the same mental reaction, or may have the same overall meaning. *Proctor & Gamble Co. v. Conway*, 419 F.2d 1332, 1336, 164 USPQ 301, 304 (C.C.P.A. 1970) (holding MISTER STAIN likely to be confused with MR. CLEAN on competing cleaning products); see *Ralston Purina Co. v. Old Ranchers Canning Co.*, 199 USPQ 125 (TTAB 1978) (holding TUNA O’ THE FARM for canned chicken likely to be confused with CHICKEN OF THE SEA for canned tuna); *Downtowner Corp. v. Uptowner Inns, Inc.*, 178 USPQ 105 (TTAB 1973) (holding UPTOWNER for motor inn and restaurant

services likely to be confused with DOWNTOWNER for the same services); TMEP §1207.01(b). In its response, the applicant argued that the cited registered mark evokes the idea of an “iris” and that the applied-for mark can be construed as “rescue” or “I rescue.” While the examining attorney maintains the position that the marks do look and sound alike, the examining attorney also believes the marks do not convey different commercial impressions based on the additional letter “Q” because there is no indication in the cited registration that “IREZ” is intended to mean “iris” and there is no clear indication that “IREZQ” is intended to mean “I rescue” in the applied-for mark. In its request for reconsideration, the applicant argued that because the design in the cited registered represents an “eye” that the logical conclusion is that “IREZ” means “iris”; however, the examining attorney notes there is no significance of wording statement, translation statement or any other miscellaneous statement concluding “IREZ” means “iris.” Further, a search in OneLook turns up zero results for the wording “IREZ” and “IREZQ”, showing these two terms do not have any well-known meanings.

Fourth, a mark in typed or standard characters may be displayed in any lettering style; the rights reside in the wording or other literal element and not in any particular display or rendition. *See In re Viterro Inc.*, 671 F.3d 1358, 1363, 101 USPQ2d 1905, 1909 (Fed. Cir. 2012); *In re Mighty Leaf Tea*, 601 F.3d 1342, 1348, 94 USPQ2d 1257, 1260 (Fed. Cir. 2010); 37 C.F.R. §2.52(a); TMEP §1207.01(c)(iii). Thus, a mark presented in stylized characters and/or with a design element generally will not avoid likelihood of confusion with a mark in typed or standard characters because the marks could be presented in the same manner of display. *See, e.g., In re Viterro Inc.*, 671 F.3d at 1363, 101 USPQ2d at 1909; *Squirtco v. Tomy Corp.*, 697 F.2d 1038, 1041, 216 USPQ 937, 939 (Fed. Cir. 1983) (stating that “the argument concerning a difference in type style is not viable where one party asserts rights in no particular display”). In this case, the applied-for mark is in standard character form. Thus, either the applicant can display its respective mark in any style, which can cause the marks to be confusingly similar if the applied-for mark and registered mark are displayed in identical or similar fashions.

Fifth, similarity in sound alone may be sufficient to support a finding that the marks are confusingly similar. *In re White Swan Ltd.*, 8 USPQ2d 1534, 1535 (TTAB 1988); *see In re 1st USA Realty Prof'ls, Inc.*, 84 USPQ2d 1581, 1586 (TTAB 2007); TMEP §1207.01(b)(iv). Slight differences in the sound of similar marks will not avoid a likelihood of confusion. *In re Energy Telecomm. & Elec. Ass'n*, 222 USPQ 350, 351 (TTAB 1983); *see In re Viterro Inc.*, 671 F.3d 1358, 1367, 101 USPQ2d 1905, 1912 (Fed. Cir. 2012). In this case, the slight difference in sound of the additional letter “Q” in the applied-for mark is not sufficient to prevent confusion between the marks.

Lastly, applicant has submitted a list of registrations in its first response. However, the mere submission of a list of registrations or a copy of a private company search report does not make such registrations part of the record. *In re Promo Ink*, 78 USPQ2d 1301, 1304 (TTAB 2006); TBMP §1208.02; TMEP §710.03.

To make third party registrations part of the record, an applicant must submit copies of the registrations, or the *complete* electronic equivalent from the USPTO's automated systems, prior to appeal. *In re Jump Designs LLC*, 80 USPQ2d 1370, 1372-73 (TTAB 2006); *In re Ruffin Gaming*, 66 USPQ2d, 1924, 1925 n.3 (TTAB 2002); TBMP §1208.02; TMEP §710.03.

In its request for reconsideration, the applicant argued that the search results page from the TESS database was sufficient to incorporate the third-party registration into the record and that is impractical to add the registrations to the record; however, the list submitted is not a complete electronic equivalent and the applicant did not attach any copies of any registration for exemplary purposes. Thus, none of the third-party registrations are made of record.

In sum, applicant's mark is nearly visually and phonetically identical to the dominant portion of the mark in U.S. Registration No. 3526573. While the registered mark contains a design element and the applied-for mark contains the additional letter "Q", the overall commercial impression remains nearly identical.

Relatedness of Goods

Applicant's goods ***as amended*** are "Computer software and application software for controlling the operation of audio devices, mobile phones, and the transmission of data, for use in the fields of safety, and prevention of personal injuries, and protection of property; computer software and application software to detect vehicle and personal locations; computer software and application software for provision of traffic information; downloadable databases in the fields of safety, and prevention of personal injuries, and protection of property; temperature sensors; optical sensors; movement sensors; acceleration sensors; humidity sensors; alarm sensors."

The goods in U.S. Registration No. 3526573 are "Video cameras; Webcams; Computer programs for driving, operating and interfacing video cameras with computers; Computer peripherals; Wireless computer peripherals."

In its response, the applicant argued that the recitation of goods are different in the application and registration, and thus are not related for likelihood of confusion purposes.

In its request for reconsideration, the applicant voluntarily amended its identification of goods and deleted “video” devices and “healthcare” from the identification to obviate a likelihood of confusion in this case. The examining attorney respectfully disagrees that the deletion of “video” and “healthcare” from the identification of goods renders the goods commercially unrelated for the reasons set forth below.

As case law, internet evidence, and third-party registrations show, goods such as applicant’s sensors and computer software in the field of the fields of safety, healthcare, prevention of personal injuries, and/or protection of property, traffic information and personal location, and registrant’s computer peripherals are commercially related, even though the goods are not identical.

First, the goods of the parties need not be identical or even competitive to find a likelihood of confusion. *See On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d 1080, 1086, 56 USPQ2d 1471, 1475 (Fed. Cir. 2000); *Recot, Inc. v. Becton*, 214 F.3d 1322, 1329, 54 USPQ2d 1894, 1898 (Fed. Cir. 2000) (“[E]ven if the goods in question are different from, and thus not related to, one another in kind, the same goods can be related in the mind of the consuming public as to the origin of the goods.”); TMEP §1207.01(a)(i).

The respective goods need only be related in some manner or the conditions surrounding their marketing be such that they will be encountered by the same consumers under circumstances that would lead to the mistaken belief that the goods originate from the same source. *Gen. Mills Inc. v. Fage Dairy Processing Indus.*, 100 USPQ2d 1584, 1597 (TTAB 2012); TMEP §1207.01(a)(i); *see On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d at 1086, 56 USPQ2d at 1475; *In re Martin’s Famous Pastry Shoppe, Inc.*, 748 F.2d 1565, 1566-68, 223 USPQ 1289, 1290 (Fed. Cir. 1984).

Second, where the marks of the respective parties are identical or virtually identical, the relationship between the relevant goods need not be as close to support a finding of likelihood of confusion. *See In re Shell Oil Co.*, 992 F.2d 1204, 1207, 26 USPQ2d 1687, 1689 (Fed. Cir. 1993); *In re Davey Prods. Pty Ltd.*, 92 USPQ2d 1198, 1202 (TTAB 2009); *In re Thor Tech, Inc.*, 90 USPQ2d 1634, 1636 (TTAB 2009); TMEP §1207.01(a).

Third, the Trademark Trial and Appeal Board has held that computer hardware products are related to computer software products, such that their marketing under the same or similar marks may be likely to cause source confusion. *See In re Emulex Corp.*, 6 USPQ2d 1312 (TTAB 1987) (holding JAVELIN for computer peripheral software storage unit likely to be confused with JAVELIN for “prerecorded computer programs in machine readable form”); *In re TIE/Commc’ns, Inc.*, 5 USPQ2d 1457 (TTAB 1987)

(holding DATA STAR likely to cause confusion when used in connection with both registrant's "computer programs recorded on magnetic media" and applicant's "voice/data communications terminals and parts thereof"); *In re Digital Research Inc.*, 4 USPQ2d 1242 (TTAB 1987) (holding CONCURRENT PC-DOS likely to be confused with CONCURRENT TECHNOLOGIES CORPORATION for "printed electronic circuit boards"); *In re Epic Sys. Corp.*, 228 USPQ 213 (TTAB 1985) (holding EPIC for computer software for use in health care facilities likely to be confused with EPIC DATA for "electronic data collection terminals and electronic data collection units"); *In re Teradata Corp.*, 223 USPQ 361 (TTAB 1984) (holding Y NET for computer hardware likely to be confused with XYNET for computer software); *In re Compagnie Internationale Pour L'Informatique-Cii Honeywell Bull*, 223 USPQ 363 (TTAB 1984) (holding QUESTAR for computer hardware likely to be confused with QUESTAN for computer programs); *In re Graphics Tech. Corp.*, 222 USPQ 179 (TTAB 1984) (holding AGILE for computer programs likely to be confused with AGILE for computer data terminals); *Alpha Indus., Inc. v. Alpha Microsystems*, 220 USPQ 67 (TTAB 1983) (holding ALPHA MICRO for digital computer equipment and programs likely to be confused with ALPHA MICROWAVE for microwave components and sub assemblies); *see also Octocom Sys., Inc. v. Houston Computer Servs., Inc.*, 918 F.2d 937, 16 USPQ2d 1783 (Fed. Cir. 1990) (affirming TTAB decision on summary judgment that found computer modems and computer programs highly related); *cf. In re Quadram Corp.*, 228 USPQ 863 (TTAB 1985).

Additionally, the previously attached Internet evidence consisted of excerpts from web sites. This evidence established that the same entity commonly manufactures/produces/provides the relevant goods and markets the goods under the same mark, the relevant goods are sold or provided through the same trade channels and used by the same classes of consumers in the same fields of use and the goods are similar or complementary in terms of purpose or function.

Specifically, the previously attached evidence from the Newport web site showed that the humidity sensors are used with web cameras. Additionally, the previously attached evidence from the Best Buy and Heart Rate Monitors web sites showed that the GARMIN mark is used on computer peripherals and weather sensors. Also, the previously attached information from the EarthCam web site showed that the same entity that produces software in the field of traffic information also provides video cameras and web cameras. Lastly, the previously attached evidence from the Mobiscope web site showed that the same entity that provides video cameras and web cameras also provides software for the protection of property.

Further, the examining attorney has attached new evidence showing that the goods in the amended identification remain commercially related to the registrant's goods. Specifically, the attached evidence from the ASUS web site shows that the ASUS mark is used on motion sensors and cameras as well computer peripherals, such as computer mice. Similarly, the attached evidence from the Wolfcom web site shows that the same source provides cameras as well as software for management of video assets,

photos, audio files, documents and file sharing with GPS functions. Additionally, the attached evidence from the Valor System web site shows that the same source provides cameras as well as software with GPS functions. Further, the attached evidence from the VIEVU web site shows the VIEVU mark used on cameras as well as software for use in the fields of safety, and prevention of personal injuries, and protection of property and cameras. In addition, the attached evidence from the BodyCam web site shows that the same source provides cameras as well as software for use in the fields of safety, and prevention of personal injuries, and protection of property.

Also, the attached evidence from the ADT web site shows that the ADT mark is used on alarm sensors and temperature sensors as well as webcams. Similarly, the attached evidence from the Flir web site shows the FLIR mark used on video cameras as well software for provision of traffic information, computer software and application software for controlling the operation of audio devices, mobile phones, and the transmission of data, for use in the fields of safety, and prevention of personal injuries, and protection of property, computer software and application software to detect vehicle and personal location and thermal and movement sensors. Also, the attached evidence from the MobileEye web site shows the same source provides a mobile application that detects vehicles as well as computer programs for driving, operating and interfacing video cameras with computers. Next, the newly attached evidence from the Nedap web site shows that the SENSIT mark is used on a wide variety of sensors for detecting vehicles as well as software for the transmission of data and wireless computer peripherals. Lastly, the attached evidence from the Baumer web site shows that the same source that provides cameras also provides vision sensors.

Therefore, applicant's and registrant's goods are considered related for likelihood of confusion purposes. *See, e.g., In re Davey Prods. Pty Ltd.*, 92 USPQ2d 1198, 1202-04 (TTAB 2009); *In re Toshiba Med. Sys. Corp.*, 91 USPQ2d 1266, 1268-69, 1271-72 (TTAB 2009).

Evidence obtained from the Internet may be used to support a determination under Trademark Act Section 2(d) that goods are related. *See, e.g., In re G.B.I. Tile & Stone, Inc.*, 92 USPQ2d 1366, 1371 (TTAB 2009); *In re Paper Doll Promotions, Inc.*, 84 USPQ2d 1660, 1668 (TTAB 2007).

Furthermore, the trademark examining attorney previously attached evidence from the USPTO's X-Search database consisting of a number of third-party marks registered for use in connection with the same or similar goods as those of both applicant and registrant in this case. This evidence shows that the goods listed therein, namely, web cameras, computer peripherals, software and sensors, are of a kind that may emanate from a single source under a single mark. *See In re Anderson*, 101 USPQ2d 1912, 1919

(TTAB 2012); *In re Albert Trostel & Sons Co.*, 29 USPQ2d 1783, 1785-86 (TTAB 1993); *In re Mucky Duck Mustard Co.*, 6 USPQ2d 1467, 1470 n.6 (TTAB 1988); TMEP §1207.01(d)(iii).

In sum, applicant's mark and registrant's mark are virtually identical and the goods are commercially related and likely to be encountered together in the marketplace by consumers. Therefore, consumers are likely to be confused and mistakenly believe that the products originate from a common source. Therefore, the refusal to register the applied-for mark under Section 2(d) of the Lanham Act is maintained and continues to be FINAL.

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Xtion PRO

Use Xtion PRO developer solution to make motion-sensing applications and games

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1. **Gesture detection:** The Xtion PRO development solution tracks people's hand motions without any delay, which turns your hand into a controller. It allows you to push, click, circle, wave and much more—perfect for use controlling a user interface. Based off this function, it can be widely developed into various types of applications.
2. **Whole body detection:** The Xtion PRO development solution allows developers to track a users' whole body movement, which makes it ideal for whole body gaming, while also supporting multiple player recognition.





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The Xtion PRO development solution allows developers to apply the latest motion-sensing technology in various applications and industries to stand out from the competition. For example, Electronic Garden is an ideal application for this technology and can be used widely for marketing, guidance or tourism and so on. Physical rehabilitation is also a good field for body detection applications. There are a number of fields that could benefit from motion-based technology, such as education, medical, conferences, games and many more.

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 <p>GX1000 Eagle Eye Mouse Born to rule them all!</p> <p><input type="checkbox"/> Add to comparison list</p>	 <p>GX950 Shift into precision gaming!</p> <p><input type="checkbox"/> Add to comparison list</p>	 <p>GX850 Take it into Overdrive</p> <p><input type="checkbox"/> Add to comparison list</p>	 <p>ROG Sica Compact ambidextrous mouse with enhanced click resistance</p> <p><input type="checkbox"/> Add to comparison list</p>
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 <p>STRIX CLAW DARK EDITION Right-handed ergonomic optical gaming mouse crafted for first-person shooting gamers</p> <p><input type="checkbox"/> Add to comparison list</p>	 <p>ROG Gladius Ergonomic 6400dpi professional gaming mouse with customizable click resistance</p> <p><input type="checkbox"/> Add to comparison list</p>	 <p>STRIX TACTIC PRO Ultra-durable, illuminated, mechanical gaming keyboard employing Cherry MX switches and engineered for superior responsiveness</p> <p><input type="checkbox"/> Add to comparison list</p>	 <p>STRIX CLAW Right-handed ergonomic optical gaming mouse crafted for first-person shooting gamers</p> <p><input type="checkbox"/> Add to comparison list</p>
 <p>GX810 Gear up for laser-guided precision</p> <p><input type="checkbox"/> Add to comparison list</p>	 <p>GX900 Shift into precision gaming!</p> <p><input type="checkbox"/> Add to comparison list</p>		

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The Wolfcom 3rd Eye Police Body Camera

"If a Picture is worth a thousand words, Audio & Video documentation is worth Millions of dollars saved in litigation"

One Unit Does It All



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Is your Wolfcom a Fake?
[Click here to find out.](#)

Make the Right Decision
[Read our Body Camera Comparison Chart](#)



video, view list of camera models, sample photos taken with camera, view file, frame by frame and picture by picture.
H.264 / AVC (Advance Video Coding) is an industry standard for video compression, the process of converting digital video into a format that takes up less capacity when it is stored or transmitted.
See [Police Sample Videos Here](#)

Other Police Cameras:	GC4000 - Grady
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Note* We are the 1st company in the world to have a 1080P H.264 video resolution and 17 hours of video recording for a body worn camera

16 Megapixel Digital Camera with GPS

Photograph Evidence On The Spot with GPS Geotag

Arriving at the scene of an accident or crime the Wolfcom 3rd eye enables the officer to quickly take pictures. With built-in 32 GB memory the Wolfcom 3rd eye can store thousands of high quality images instantly. With Built-in GPS Geotag, every photo will have Time, Date, and GPS coordinates stamped onto each and every image file. The Wolfcom 3rd Eye also allows the user to take photos while recording video simultaneously. Night vision can also be activated during camera mode allowing the officer to take photos in the dark. The camera can also be set for 2-shot burst and 3-shot burst. With **8x Digital Zoom**, the officer can also zoom in to take close-up photos of an object.

Take Over 20,000 Photos	Yes
Wolfcom Digital Zoom	Yes
Other Police Cameras	No

Note* We are the 1st company in the world to have a 16 Megapixel camera that take up to 20,000 photos for a body worn camera

Audio Voice Recorder

Record Victims or Witnesses Statements. Record Suspect Interrogations.

The Wolfcom 3rd Eye also has a voice recording option for recording sound when no video is needed. Perfect for recording victims or witnesses statements, especially when they are camera shy. During questioning, an officer can simply detach the unit from his body, switch the Wolfcom 3rd Eye to Voice Recorder mode and hold the unit like a microphone in front of the person being questioned. The unit can store over 500 hours of audio recordings.



Records Over 500 Hours of Audio

Note* We are the 1st company in the world to have a Voice Recorder built into a speaker Microphone

Use As a PVR Body Camera with GPS

Use The Wolfcom 3rd Eye As A Personal Video Recorder

Wear it low on your belt or up near your chest. The Wolfcom 3rd Eye has multiple mounting options that lets you choose whats best for you. Your officers will be able to record video, take photos, and record conversations, all at a push of a button. Documenting crimes scenes, vandalism, witness and victims statements, property damage, etc, can now be accomplished with one single unit.



Note* We are the 1st company in the world to integrate GPS into a body worn camera system

2 Way Radio Integration with GPS

Wolfcom Management Software
HD Protech Management Software

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[Wolfcom Video](#)



Replaces Your Speaker Mic. So You Have No Extra Equipment To Carry

The Wolfcom 3rd Eye can also be connected to your 2-way radio replacing your current lapel speaker mic. This means no extra equipment to carry or worry about. The Wolfcom 3rd Eye does not use battery power from your radio and the speaker mic will still function even if the Wolfcom 3rd Eye runs out of power or is turned off.

With Covert Ear Piece Connectivity, you'll be able to discreetly monitor radio traffic without alarming the public or giving away your position during tense situations. The earpiece plugs right into the radio cable and screws securely in place.



Use It With Your 2-Way Radio

Use as an In-Car Camera System with GPS

With 120 Degree Field of View You'll Capture Everything

The Wolfcom 3rd Eye can also be used as an In-Car camera video recorder. During Video recording, GPS coordinates are stamped onto every video file. When reviewing videos on our software you'll be able to see the route of the video simultaneously on a map next to it and as the video moves so does the dot on the map. This is valuable when reviewing video of a foot or car chase as you'll be able to see the exact route taken as footage of the chase unfolds before you.

Unlike other Police In-Car Video Cameras the Wolfcom 3rd Eye features a rotating camera mount that allows the officer to reach up and turn the camera completely around to film the back seat. This feature is important when video documentation of a suspect in custody in the back seat is necessary. With our low light night vision technology, the Wolfcom 3rd eye will capture everything day or night.

[See Police Sample Videos Here](#)



Unlike 360 Degree Rotating Camera
Turn the camera around to record the suspect in the back seat

 **Note* We are the 1st company in the world to have this feature for a body worn camera**

Night Vision

Night Vision Capability in Both Video and Digital Camera Mode

The Wolfcom 3rd Eye is the very first police body camera featuring infrared LEDs for lowlight and night time situations. The switch to activate the night vision LEDs are located at the front of the unit making it easy to switch on in stressful conditions. Night vision can be toggled on or off with ease in both video and camera mode. The Wolfcom 3rd Eye Police body camera also allows the user to take photos while recording Video simultaneously.

[See Police Sample Videos Here](#)

 **Note* We are the 1st company in the world to have Night Vision on a body worn camera**



Vis to 15 Ft. in Pitch Black Darkness

2 User Password

One for the Admin and one for the User

The New Wolfcom 1.5 version will now have two user password protection which means that an administrator will have complete control over how the body cameras is used and can set user permissions and access. Admins can also decide whether or not officers



Try the Police Body Camera Wolfcom 3E for free!
Test Units Provided free for evaluation for 30 days to Qualifying Public or Dept. Agencies. Contact us for more information

Main Features:

- 1080P HD Recording
- Records up to 60 FPS
- 120 Degree Wide Angle Lens
- GPS Geo Tag
- NightVision
- Voice Recorder
- Password Protect
- 16 Megapixel Camera
- Instant Playback

permissions and access. Admin can also decide whether or not officers can play back, delete, download files, or change settings. With the 1.5 version, user settings can be made so that an officer can download files but not delete files. It also can be configured so that an officer can or cannot play back files. The admin can also choose if an officer can change any settings themselves or if they need the admin's approval to change a setting. With the wolfcom 3rd Eye version 1.5, every option is now configurable.



Note* We are the 1st company in the world to have a 2 user password feature for a body worn camera

Add Badge Numbers to Video and Photo Files

Officer Badge number can now be stamped onto evidence files

Now law enforcement agencies that purchase the Wolfcom 3rd Eye will have the ability to enter an officer's badge number onto the unit. The badge number will be displayed in 2 locations. On the bottom of the display screen and also on every video and photo file. All video and photos taken with the Wolfcom 3rd Eye will have the Date, Time, Badge Number, and GPS coordinates stamped onto it. It will accept up to 8 Alpha-Numeric characters.



Note* We are the 1st company in the world to have this feature for a body worn camera

Tag and Lock Important Video, Photo, & Audio Files

A user can now tag and lock important files for easy access and security

For example, a police officer may have hundreds of photos, videos, and audio files recorded and stored on his body camera but have no way of tagging or marking what's important to him. What usually would happen is accidental erasure of important evidence. With Wolfcom's 1.5 version an officer can now tag and lock important files for easy access later and to prevent accidental deletion of that file.



Note* We are the 1st company in the world to have this feature for a body worn camera

Invert Recording

Record Right side up when the unit is upside down



Instant Playback
Screen Capture
32 GB Memory
6 hour Battery Life
Zoom on Playback
WaterProof IPX3 Rating



Police Camera Training Video



Record right side up when the unit is upside down

Because the Wolfcom 3rd Eye can be integrated into a two-way radio replacing an officer's lapel mic, some police officers prefer to wear their lapel mics across their back over the shoulders with the lapel mic hanging upside down. This will usually result in upside down video. However with the new 1.5 version, the Wolfcom 3rd Eye can now be configured to record video right side up when the unit is hanging upside down.



Note* We are the 1st company in the world to have this feature for a body worn camera

Audio Mute When Recording Video

Record only Video with no Sound

Some States or Territories like Puerto Rico and Massachusetts have laws that prohibits an Officer from recording audio but allow video to be recorded. With the Wolfcom 3rd Eye, an Officer can deactivate audio recording so that only video is being recorded. He can mute the microphone with a push of a button even during video recording without interrupting the video or set it so that Audio Recording is off permanently. When activating the Wolfcom 3rd Eye only Video will be recorded.



Note* We are the 1st company in the world to have this feature for a body worn camera

3rd Eye Visual Tactical Advantage

Peek Around Corners Without Getting Your Head Blown Off
"Better to expose your 3rd Eye than your two real eyes"

The Wolfcom 3rd Eye Police & Military body camera can also be used by an officer to peek around corners or into a dark room or attic giving him a safe tactical advantage without exposing his body to harm. An officer can also use the 3rd Eye to record video or snap a photo for later analysis of the situation. Video or photo images from the 3rd Eye's perspective will provide officers with precious intelligence such as how many suspects, hostages, weapons, and types of weapons. Including the layout of the room or area. Our low light capability and Infrared technology allows the officer to see who and what is waiting for him in the dark.



Note* We are the 1st company in the world to have this feature for a body worn camera

[See Police Sample Videos Here](#)

Safely Search Attics and Crawl Spaces



Spaces

No need to send up a K9 or lose your head

How many times have you had to search an attic or crawl space for a suspect? An Officer can use the Wolfcom 3rd Eye to safely look over walls, into dark attics and crawl spaces without exposing himself to harm. Using our special attachment, just attach the Wolfcom Police body camera onto the end of a baton or broomstick, activate Night Vision recording and let your 3rd Eye do the work for you.



Note* We are the 1st company in the world to have this feature for a body worn camera

Location Tagging During A Pursuit

Remembers Where Drugs or Weapons Were Tossed

During a foot chase or vehicle pursuit, an officer has a million things going on in his mind. The last thing he wants to do is to take his eyes off the suspect. With the Wolfcom 3rd Eye GPS Geotag function the officer can press the Snap Shot button to record the exact location that an item was tossed out by a suspect. After the pursuit is over, if the officer cannot remember the location where the items were tossed, he can then bring up the GPS coordinates to pinpoint the exact location.



Note* We are the 1st company in the world to have this feature for a body worn camera

Evidence Gathering with GPS

Use The Wolfcom 3rd Eye To Document Crime Scenes, Vandalism and More

With the Wolfcom 3rd Eye an officer can instantly snap photos of crucial evidence from crime scenes, victim injuries, vandalism, property damage, car accidents, burglaries, drugs, weapons, etc. Every photo will have GPS coordinates stamped onto every image file along with date and time.



Why you should not use your phone to take photos or video? Crimes scene photos or videos taken with an officer personal mobile phone may be confiscated and used as evidence. Personal photos of the officer may be used to discredit as well as embarrassed the officer and/or department.

Note* We are the 1st company in the world to have this feature for a body worn camera

Wolfcom Management Software with GPS Direct Technology-

The Dot On The Map Moves With The Video

The Wolfcom 3rd Eye is the very first police body camera system that incorporates GPS Geotag that stamps the longitude and latitude coordinates onto every video and picture file, frame by frame and picture by picture. When reviewing videos on our Management Software, you'll be able to see the route of the video simultaneously on a map next to it and as the video moves so does the dot on the map. This is

