

From: Trusilo, Kelly

Sent: 11/10/2015 1:25:33 PM

To: TTAB EFiling

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Subject: U.S. TRADEMARK APPLICATION NO. 86301489 - INFOR FACTORY TRACK - 119645-00102 - Request for Reconsideration Denied - Return to TTAB - Message 1 of 4

Attachment Information:

Count: 18

Files: 1-1.jpg, 1-2.jpg, 1-3.jpg, 1-4.jpg, 1-5.jpg, 2-01.jpg, 2-02.jpg, 2-03.jpg, 2-04.jpg, 2-05.jpg, 2-06.jpg, 2-07.jpg, 2-08.jpg, 2-09.jpg, 2-10.jpg, 2-11.jpg, 2-12.jpg, 86301489.doc

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

U.S. APPLICATION SERIAL NO. 86301489

MARK: INFOR FACTORY TRACK



CORRESPONDENT ADDRESS:

ZACHARY A ARIA

BLANK ROME LLP

1 LOGAN SQUARE 8TH FLOOR

PHILADELPHIA, PA 19103-6998

GENERAL TRADEMARK INFORMATION:

<http://www.uspto.gov/trademarks/index.jsp>

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APPLICANT: Infor (US), Inc.

CORRESPONDENT'S REFERENCE/DOCKET NO:

119645-00102

CORRESPONDENT E-MAIL ADDRESS:

Aria@BlankRome.com

REQUEST FOR RECONSIDERATION DENIED

ISSUE/MAILING DATE: 11/10/2015

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 requirement made final in the Office action dated April 28, 2015 is maintained

and continue to be final: DISCLAIMER OF THE WORDING "FACTORY TRACK". See TMEP §§715.03(a)(ii)(B), 715.04(a).

In the present case, applicant's request has not resolved 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.

Applicant has provided three additional registrations in the Request for Reconsideration, from two registrants, in order to show that the term "TRACK" is not descriptive in relation to software. However, in all three of these registrations, the term "TRACK" is part of a unitary term with distinctive matter, thereby, negating the possibility of a disclaimer, or finding of descriptiveness, in these cases.

The registrations attached to the final office action dated April 28, 2015 show that there is clear evidence on the register of the descriptive treatment of both words "factory" and "track" with regard to similar goods and services to applicant in this case. Since applicant has not shown a novel or unique meaning in the combination of these two words, evidence submitted of the descriptive nature as individual terms, also shows that they are descriptive when used together.

As shown by applicant's website, the mark "INFOR FACTORY TRACK" is being used for software which "provides end-to-end manufacturing automation, along with warehouse mobility, traceability, and tools for tracking labor and time." (See *applicant's website attached*). The consumers of applicant's software and software services will certainly immediately understand the meaning of the wording "factory track" to refer to software used in factories to track time and inventory. Attached are "Top Warehouse Management Software Products" showing multiple listings of factory and warehouse management software described as "incorporating advanced inventory tracking" and "[c]loud based solution for warehouse management. [f]eatures include real-time monitoring, flexible integration, and inventory tracking." Also attached are multiple screenshots of websites offering factory or warehouse tracking software for inventory, and personnel tracking software for businesses. (See *attached from capterra.com, tecsys.com, hrpayrollsystems.net, trackersuite.net, trackeroffice.com*). This evidence is useful to show that consumers of applicant's manufacturing software products would understand the nature and use of applicant's goods upon encountering the mark because this wording is already in use in the field of products applicant is providing.

Further, applicant argues that “factory track” is unitary. A disclaimer of both terms is required. Applicant also argues that the unitary phrase “factory track” engenders a distinct commercial impression independent of the definitions of the individual words. However, applicant did not provide the novel, distinct commercial impression engendered apart from the definitions of the individual words. Additionally, applicant argues that the use of the wording “factory” and “track” together as a unitary phrase did not exist previously and was coined by applicant. This is irrelevant to a determination as to whether the wording is descriptive in relation to the goods and services. The fact that an applicant may be the first or only user of a merely descriptive designation does not necessarily render a word or term incongruous or distinctive; as in this case, the evidence shows that the terms “factory” and “track” separately and together are merely descriptive. See *In re Phoseon Tech., Inc.*, 103 USPQ2d 1822, 1826 (TTAB 2012); *In re Sun Microsystems, Inc.*, 59 USPQ2d 1084, 1087 (TTAB 2001); TMEP §1209.03(c).

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).

/Kelly Trusilo/

Trademark Examining Attorney

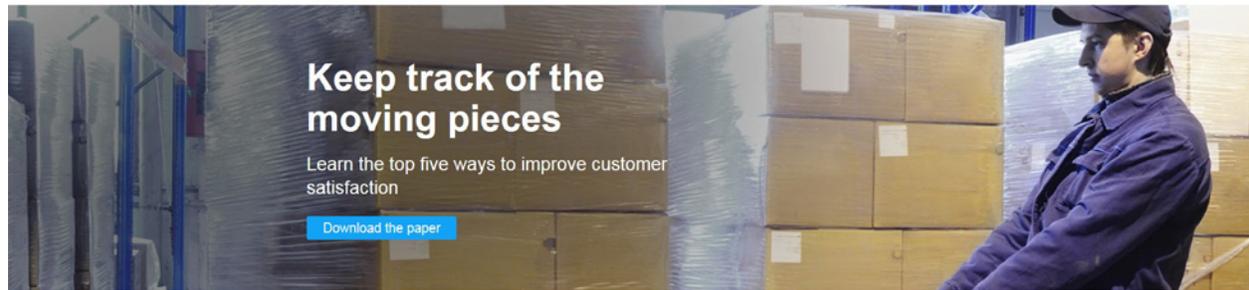
Law Office 107

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Infor Factory Track
Supply Chain Management

Core features Technology & UX Resources



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Automate and simplify plant floor and inventory operations

Infor Factory Track™ provides end-to-end manufacturing automation, along with warehouse mobility, traceability, and tools for tracking labor and time. Designed to help you streamline production and speed inventory operations,



Factory Track is purpose-built to integrate with Infor's industrial manufacturing solutions. You get the visibility and insight to understand true costs, improve cycle times, and respond to customer expectations for on-time delivery. The result? Materials get properly inventoried; production stays on schedule; and labor costs are kept under control.



Unique capabilities

Infor Factory Track helps manufacturers synchronize enterprise plans with plant activities, bridging the gap from idea to execution.



End-to-end manufacturing automation

From receiving raw materials to scheduling work center operations, and labor time and attendance.



Warehouse mobility, tracking and traceability

So you can minimize the risk of errors, unit and lot-controlled items can be tracked and traced with ease. This attention to unit and component detail means you get greater control over versions, high tech components, and fast-changing product specifications.

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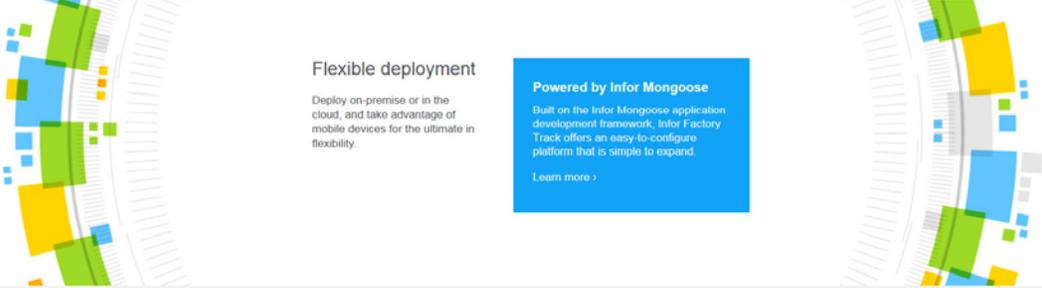


Labor time and attendance

With over 200 configurable sources as employees go about their daily routines, without disrupting manufacturing activities. These capabilities allow Factory Track to adapt to the unique labor tracking requirements of any facility—large or small, manufacturer or fabricator.

[Learn more >](#)





Flexible deployment

Deploy on-premise or in the cloud, and take advantage of mobile devices for the ultimate in flexibility.

Powered by Infor Mongoose

Built on the Infor Mongoose application development framework, Infor Factory Track offers an easy-to-configure platform that is simple to expand.

[Learn more >](#)

Highlights and core features

Barcode handling	Punch to payroll automation
Inbound logistics	Container handling

Track and trace	Labor data collection
Job material transactions	Support for projects
Overtime rules	

Easy and enjoyable to use

Software should look as good as it works. Otherwise, nobody's going to use it. Infor Factory Track engages every individual, across all teams, with a user experience that's designed to help users work faster and smarter.

[View screens](#)



Resources



Overview video

See how Infor Factory Track helps bridge the gap from plant to enterprise.

[See all resources >](#)



Aberdeen whitepaper

Analysts discuss why visibility and alignment—including shop floor visibility—are important to a successful lean strategy.

 [Infor Time Track](#)

 [Infor Warehouse Mobility](#)

 [Infor Factory Track - Shop Floor Module](#)

 [Infor Factory Track - Warehouse Mobility Overview](#)



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*Specialized by industry.
Engineered for speed.*



Top Warehouse Management Software Products

2,000+ businesses use Capterra each week to find the right software.

 <p>TradeGecko by TradeGecko ★★★★☆ (18 reviews) TradeGecko is a user friendly online inventory management software, providing wholesale and retail with first-rate warehouse management. Manage multiple currencies, warehouses, and tax types with TradeGecko's powerful inventory and order fulfillment platform. Enjoy flawless accounting integration with Xero & Quickbooks and synchronize multiple e-commerce channels (Shopify, WooCommerce, Amazon, Magento, Bigcommerce), topped off with shipping platform integration (StarShipit, ShipStation). View Profile</p> <input type="button" value="Visit Website"/>	Filter Results (217) Number of Users [Please select a value...] Deployment <input type="checkbox"/> Web-Based <input type="checkbox"/> Installed Features <input type="checkbox"/> 3PL Management <input type="checkbox"/> Accounting Management <input type="checkbox"/> Barcoding / RFID <input type="checkbox"/> Billing & Invoicing <input type="checkbox"/> Category Customization <input type="checkbox"/> Channel Management <input type="checkbox"/> Collaborative Inventory Control <input type="checkbox"/> Demand Planning <input type="checkbox"/> Inventory Management <input type="checkbox"/> Location Control <input type="checkbox"/> Manifesting <input type="checkbox"/> Order Management <input type="checkbox"/> Purchasing <input type="checkbox"/> Quality Control
 <p>Fishbowl Inventory by Fishbowl Inventory ★★★★☆ (16 reviews) Fishbowl Inventory is the #1 requested add-on for QuickBooks. Fishbowl allows small and mid-sized companies to stay with the QuickBooks platform for accounting while incorporating advanced inventory tracking. Multiple locations, part detail tracking, manufacturing, credit card integration, UPS/ FedEx integration, LIFO/FIFO/Standard accounting methods, landed costs, consignment, and a COMPLETE wireless bar-coding system for warehouses. EDI, shopping cart, merchant services—the list goes on. View Profile</p> <input type="button" value="Visit Website"/>	
 <p>iTracker 3PL WMS by iTracker Software</p> <input type="button" value="Visit Website"/>	

 by Traker Systems
★★★★★ (1 review)

iTracker 3PL Web Based Software is the most powerful and affordable in the market today! iTracker will handle all your inventory, billing and shipping needs. Customize your charges to suit each customer or product and effortlessly send your invoices to QuickBooks. With your low, flat monthly fee you receive unlimited customers and customer access, unlimited users, live Technical Support and no contract is required. RF Scanning and UPS/FedEx/USPS Shipping modules and e-commerce is also available. [View Profile](#)

 **Finale Inventory**
by Finale Inventory
★★★★★ (18 reviews)

Finale Inventory is the #1 cloud-based inventory management system—easy to understand, affordable, and adaptable to the needs of your business. You can access Finale from a web browser or mobile device from anywhere, so employees in different locations all have a consistent view of your records. Finale supports barcoding, Quickbooks, serial numbers, custom reports, multi-channel e-commerce, ShipStation inventory management, Amazon, eBay, product kitting / product bundling, lot id and more. [View Profile](#)

 **EnterpriseIQ Warehouse Management**
by IQMS
★★★★☆ (5 reviews)

EnterpriseIQ Shop Floor goes beyond just barcode scanning and inventory management to combine all aspects warehouse optimization. Reduce and eliminate common inventory mistakes with standard, serialized, foreign labels to move, verify, track and trace with our WMS. Connect directly to shop floor equipment and get real-time updates to the ERP/MES. Link SPC data directly from the warehouse to provide accurate quality feedback. Optimize your shop floor with EnterpriseIQ. [View Profile](#)

 **TECSYS Warehouse Management**
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by **TECSYS**

TECSYS warehouse management software solutions, with revolutionary Visual Logistics, and voice technologies, make it easier than ever for companies to gain control over warehousing costs and increase profitability. TECSYS WMS significantly improves throughput volumes, order turnaround times, and customer service levels. It is complemented by world-class distribution management software, transportation management software, delivery management software, business intelligence and analytics. [View Profile](#)



by **NetSuite**

★★★★☆ (16 reviews)

NetSuite's inventory and warehouse management software allows you to consolidate your inventory systems into a single, integrated warehouse inventory control solution. With NetSuite's inventory control software, you can efficiently manage every stage of the product lifecycle, as well as your different lines of business. You'll be able to manage inventory levels and get stronger control of inventory operations. [View Profile](#)

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by **CoreWarehouse**

Core e-business solutions

Core e-business solutions provides businesses across the country with a complete order to ship solution. Our 3PL, SaaS cloud based WMS solutions and products are designed to provide seamless interactivity between order management, picking, and warehouse operations. All of our products feature real time access to the information you need, when and where you need it. For over 25 years, Core has provided a wide array of 3PL, SaaS WMS systems for 3PLs, warehouses, and transportation companies. [View Profile](#)

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by **CP Tech**

★★★★☆ (2 reviews)

DistributionPlus distribution software is an integrated ERP system that is designed with all of the tools to help wholesale distribution companies manage business. Functions such as accounting, quotes, orders, purchase orders, inventory management, warehouse management, and shipping & logistics interests.

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management, warehouse management, and shipping & Logistics integrate seamlessly with each other. DistributionPlus offers integrated ecommerce, document management, CRM, and EDI for added functionality. [View Profile](#)



ASCTrac

by ASC Software

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ASCTrac WMS is a modular software solution designed to support all functions within manufacturing, warehouse distribution, and 3rd party (3PL) operations. ASCTrac WMS is a true standalone application that can also be interfaced to any financial system for a collaborative solution. ASCTrac's modular design allows it to work for small, medium, and large companies. From order entry, through pick, pack, ship operations, all the way to delivery - ASCTrac covers the whole Supply Chain cycle. [View Profile](#)

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LogFire Cloud WMS

by LogFire

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LogFire's digital fulfillment network increases inventory accuracy, store service level agreements and overall fulfillment rates by close to 100% by generating real-time perpetual inventory signals, providing a single view of inventory availability through their entire fulfillment network. [View Profile](#)

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Masterworks

by Beckard Associates

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★★★★☆ (33 reviews)

Warehouse Management, ERP and Wholesale Distribution Software for companies of 10 to 100 users. Do you run a warehouse with shipments across the country? Do you support major retail chain operators or direct to customer shipments on eCommerce? Then this system is for you. MasterWorks ERP software is a suite of integrated software tools that manage warehouse operations, accounting, customer relationships and EDI communications. [View Profile](#)



Anywhere Warehouse Management

by I enter Technologies

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by Lenor Technologies

Providing cloud based solutions that increase your visibility, efficiency, and profitability. The Anywhere Warehouse Management System has a range of integrated modules that together provide a total supply chain management solution. Developed and hosted by Lenor Technologies, the Lenor architecture provides an open, parameter driven solution that can be integrated with your client systems. Your success is our success! [View Profile](#)



Infor SCM for Logistics

by Infor

Infor Supply Chain Management for Logistics Service Providers integrates warehouse management, labor management, 3PL billing, transportation management, and other critical capabilities that logistics service providers need to better manage and move information so they operate an efficient and agile enterprise. Supply Chain Execution automates and simplifies complex warehouse and transportation management processes so logistics service providers can deliver more value to their customers. [View Profile](#)

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VeraCore Fulfillment Solution

by VeraCore Software Solutions

★★★★★ (3 reviews)

The VeraCore Fulfillment Solution was developed with your business in mind. In fact, VeraCore is designed to be at the core of your fulfillment business. More than just pick and pack software, VeraCore combines a robust order management system with a powerful warehouse management system to handle every aspect of the order fulfillment process. [View Profile](#)

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3PL Warehouse Manager

by 3PL Central

★★★★☆ (18 reviews)

A 100% web-based 3PL WMS solution specifically created for third party warehouses and logistics companies starting at \$495 per month. [View Profile](#)

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- **Snappii Mobile Apps**
by Snappii Apps
★★★★★ (12 reviews)
Snappii offers 60+ live business apps in 26 industries for every business. Get the mobile app for your business in days, not months. [View Profile](#)
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by Rosmiman Software Corporation
★★★★☆ (11 reviews)
Rosmiman IWMS is a Facility Management & Real Estate Management software, characterized by its robustness and high reliability. [View Profile](#)
- **3PLink**
by Camelot 3PL Software
★★★★☆ (7 reviews)
Fully integrated Warehouse Management, Service Billing and Accounting System for the third party logistics industry. [View Profile](#)
- **SkuVault**
by Agile Harbor
★★★★★ (6 reviews)
Optimize & drive smart decisions today! Cutting-edge Inventory Management Software that reduce mis-picks, mis-ships, & out of stocks. [View Profile](#)
- **GroovePacker**
by Groove Industries
★★★★★ (4 reviews)
GroovePacker prevents shipping / packing errors by prompting fulfillment staff to scan & verify each order item as it's packed. [View Profile](#)

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Lead Commerce

by Lead Commerce

★★★★ (4 reviews)

Lead Commerce Warehouse Management software is a powerful software platform delivered from the cloud. [View Profile](#)

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Inventory Pro

by Computerized Inventory Systems Specialists

★★★★ (4 reviews)

Manage all aspects of manufacturing and distribution including inventory, purchasing, shipping/order processing, work orders, etc. [View Profile](#)

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Passport Inventory

by ASAP Systems

★★★★ (3 reviews)

Passport Inventory provides a configurable, integrated barcode inventory control solution for managing warehouses, stock rooms, etc. [View Profile](#)

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CoreIMS

by Core Partners

★★★★ (2 reviews)

Cost-effective inventory management system for small to medium warehouses. [View Profile](#)

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Without Wire Warehouse

by Appolis

★★★★ (2 reviews)

Wireless warehouse application for shipping and receiving leveraging the latest Microsoft .NET technologies. [View Profile](#)

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- **Astro WMS**
by Consafe Logistics
★★★★★ (1 review)
A modular system with inventory management, order processing, and shipment monitoring for warehouses and distribution centers. [View Profile](#)
- **CRISTAL WMS**
by CRISTAL Solutions
★★★★★ (1 review)
Incorporates RF module, kitting, quality assurance and 3PL logistic services billing for a low cost, quality WMS solution. [View Profile](#)
- **LoMag**
by LONGINT
★★★★★ (1 review)
All-in-one warehouse and inventory management solution geared towards any size company. It is simple to use and has intuitive interface. [View Profile](#)
- **Optimiser WMS**
by Optima Warehouse Solutions
★★★★★ (1 review)
Windows based, user friendly warehouse management software for general goods warehouses and third party warehousing. [View Profile](#)
- **Peoplevox WMS**
by Peoplevox
★★★★★ (1 review)
Peoplevox is the leading software-as-a-service warehouse management system provider for eCommerce. [View Profile](#)

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RF Pathways WMS

by Automation Associates

★★★★★ (1 review)

Configurable, standards based, open architecture WMS designed for time sensitive, mission-critical, high SKU volume. [View Profile](#)



Shipedge

by Shipedge

★★★★★ (1 review)

Cloud-based warehouse management system with an omnichannel order management system all-in-one solution for third party logistics-3pl. [View Profile](#)



WMS

by Brilliant Info Systems

★★★★★ (1 review)

Inventory control, shipping and receiving, order fulfillment, and more in a scalable & expandable WMS solution. [View Profile](#)



Stocker Warehouse Manager

by Pulsestar Software

★★★★☆ (1 review)

Stocker WMS provides complete inventory management helping minimize stock holding, reduce waste, with FIFO and LIFO product rotation. [View Profile](#)



Accellos WMS

by HighJump

★★★★☆ (1 review)

Boost productivity, reduce costs, shorten order fulfillment times and increase customer satisfaction. [View Profile](#)

[Back to Top](#)

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 **ATEC-WM** [View Profile](#)
by AdvanTec Information Systems
★ ★ ★ ★ ☆ (1 review)
Standalone bar code enabled warehouse and inventory management. [View Profile](#)

 **Da Vinci Supply Chain Business Suite** [View Profile](#)
by Wolin Design Group
★ ★ ★ ★ ☆ (1 review)
Built for third-party logistics. Customizable to power any size company in any industry. [View Profile](#)

 **4Sight Warehouse Management** [View Profile](#)
by 4Front Engineered Solutions
Cloud based solution for warehouse management. Features include real-time monitoring, flexible integration, and inventory tracking. [View Profile](#)

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by Argos Software
Users range from distribution & storage to fulfillment warehouses responsible for a high volume of small orders. [View Profile](#)

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by Access Group
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 **AdvantaPro** [View Profile](#)

[Back to Top](#)

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Real-time inventory management software can streamline and organize business. Connect with QuickDooks for total business management. [View Profile](#)
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by Synaro [View Profile](#)
Multi-channel retailing solution that enhances business productivity and creates powerful integration between channels. [View Profile](#)
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by DMSI [View Profile](#)
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by Minerva Associates [View Profile](#)
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by Infotech Systems [View Profile](#)
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by Acaltech Solutions [View Profile](#)
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by DecisionPoint Systems [View Profile](#)
Mobile-based platform that provides inventory tracking, invoicing, payments, and back office integration on the go. [View Profile](#)
- **Apriso**
by Apriso [View Profile](#)
A collaborative manufacturing and supply chain execution system. [View Profile](#)
- **ASSIST4 Warehouse Management**
by AEB [View Profile](#)
Manage warehouses and distribution centers: goods receipt control, site management, inventory monitoring and slotting optimization. [View Profile](#)
- **Aurora**
by Smart Warehouse Systems [View Profile](#)
Warehouse management software that can be run either as a single-user PC system or as a network system on a number of PCs. [View Profile](#)
- **Autostore**
by Central Systems & Automation [View Profile](#)
Web-enabled WMS suite of tools for the supply chain and logistics industries. Provides material flow control, load planning, etc. [View Profile](#)
- **Avectous**
by Avectous [View Profile](#)
Proprietary Warehouse Management, Order Management, Channel Management

[↑ Back to Top](#)

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