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Sent: 10/8/2015 4:11:51 PM

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Subject: U.S. TRADEMARK APPLICATION NO. 86492323 - ZENEK - N/A - Request for Reconsideration Denied - Return to TTAB

\*\*\*\*\*

Attachment Information:

Count: 29

Files: bose-1-1.jpg, bose-1-2.jpg, bose-auto-1.jpg, bose-auto-2.jpg, bose-auto-3.jpg, sony-sp-1.jpg, sony-sp-2.jpg, sony-sp-3.jpg, sony-sp-4.jpg, sony-veh-1.jpg, sony-veh-2.jpg, sony-veh-3.jpg, sony-veh-4.jpg, sony-veh-5.jpg, sony-comp-1.jpg, sony-comp-2.jpg, sony-comp-3.jpg, sony-comp-4.jpg, sony-comp-5.jpg, pio-vehicl-1.jpg, pio-vehicl-2.jpg, pio-vehicl-3.jpg, pio-comp-1.jpg, pio-comp-2.jpg, pio-home-1.jpg, pio-home-2.jpg, pio-home-3.jpg, pio-home-4.jpg, 86492323.doc

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

**U.S. APPLICATION SERIAL NO.** 86492323

**MARK:** ZENEK



**CORRESPONDENT ADDRESS:**

MATTHEW H SWYERS

THE TRADEMARK COMPANY PLLC

344 MAPLE AVE W PMB 151

VIENNA, VA 22180-5612

**GENERAL TRADEMARK INFORMATION:**

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

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**APPLICANT:** HUONG HAI SCIENCE AND TECHNOLOGY INC

**CORRESPONDENT'S REFERENCE/DOCKET NO:**

N/A

**CORRESPONDENT E-MAIL ADDRESS:**

mswyers@thetrademarkcompany.com

**REQUEST FOR RECONSIDERATION DENIED**

**ISSUE/MAILING DATE:** 10/8/2015

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 refusal due to a likelihood of confusion with the mark in U.S. Registration No.

4503699 made final in the Office action dated June 9, 2015 is maintained and continues to be final. See TMEP §§715.03(a)(ii)(B), 715.04(a).

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

Applicant's request consists solely of the addition of the wording "all of the foregoing not for mounting on vehicles" to the identification of goods. While this wording undoubtedly limits the present application, it does not obviate confusion with the cited reference. As noted in the final Office action of June 9, 2015, applicant's reading of the identification of goods in the cited reference to be limited only to goods to be mounted on vehicles is erroneous and improperly narrow. All doubt must be resolved in favor of the registrant in an ex parte proceeding. TMEP §1207.01(d)(i); see *Hewlett-Packard Co. v. Packard Press, Inc.*, 281 F.3d 1261, 1265, 62 USPQ2d 1001, 1003 (Fed. Cir. 2002). The identification in question includes the wording "are also intended for..." Thus, it is improper to read this as an exclusory limitation, as if registrant meant it as such the identification would read "all the aforesaid apparatus intended for mounting on vehicles." The presence term "also" implies that there is something other than an intent for mounting on vehicles, however there is no other specific limitation listed. As such, the more appropriate reading of the identification is to read this language not as limiting, but as calling out a specific example of what the identification includes.

However, even assuming that the registration should be read to be limited solely to goods to be mounted in or on vehicles, there still exists a likelihood of confusion. Attached is evidence from Bose®, Sony®, Toshiba®, and Pioneer® demonstrating that the providers of speakers provide both speakers for mounting in vehicles and those that are not, and Sony® offers cell phones and computers under the same marks as speakers. As such, these providers serve as examples that the goods remain similar in function even if one were to be intended for vehicle use and the other not. 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).

### **Comments**

If applicant has questions about its application, please telephone the assigned trademark examining attorney.

/Nicholas A. Coleman/

Examining Attorney

Law Office 115

Phone: (571) 272-4917

Email: [nicholas.coleman@uspto.gov](mailto:nicholas.coleman@uspto.gov)

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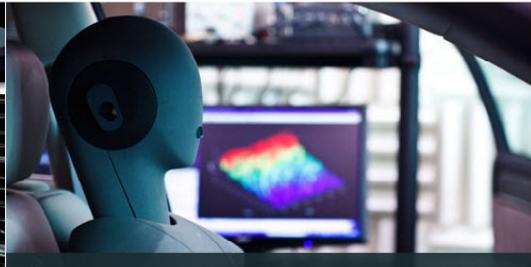
You rely on your vehicle to get you where you need to go, every day. But is that what truly moves you? That's where better sound comes in—to elevate your driving experience. Each Bose sound system is crafted to transport you to a special place.

Where will better sound take you?

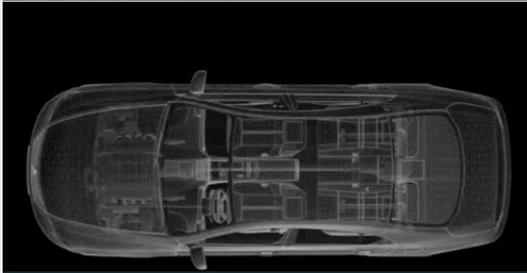
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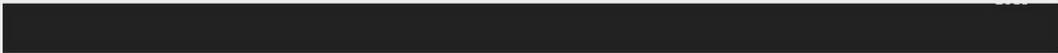
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TELEVISIONS & HOME THEATER

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- S-Force PRO front surround sound

\$449.99<sup>1</sup>



**2.1 ch Soundbar with Bluetooth**  
HT-CT380

(10)

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- One-touch listening with Bluetooth and NFC
- S-Force PRO front surround sound

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**2.1 ch Soundbar with Bluetooth**  
HT-CT180

- 100 W total power output
- One-touch listening with Bluetooth and NFC
- ClearAudio+ optimizes sound settings

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**2.1 ch TV Base Speaker with Bluetooth**  
HT-XT100

- 80 W total power output
- One-touch listening with Bluetooth and NFC
- ClearAudio+ optimizes sound settings

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7.1 ch Soundbar with Bluetooth  
HT-ST5

(31)

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- One-touch listening with Bluetooth and NFC
- S-Force PRO Front Surround Sound

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2.1 ch Soundbar with Bluetooth  
HT-CT770

(35)

- 330 W total power output
- One-touch listening with Bluetooth and NFC
- ClearAudio+ optimizes sound settings

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2.1 ch Soundbar with Bluetooth  
HT-CT370

(78)

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- One-touch listening with Bluetooth and NFC
- ClearAudio+ optimizes sound settings

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HT-CT80

(1)

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- One-touch listening with Bluetooth and NFC
- ClearAudio+ optimizes sound settings

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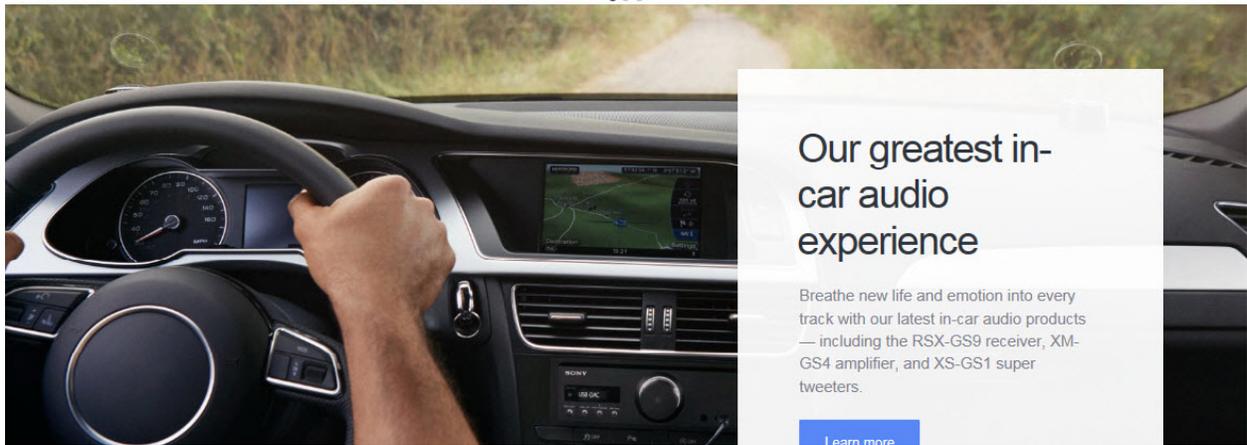
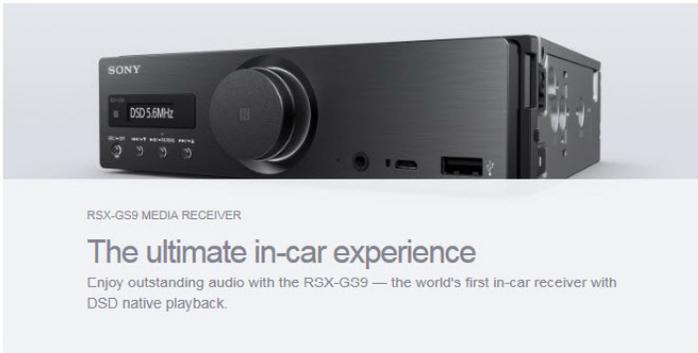
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A photograph taken from the driver's perspective inside a car. The road ahead is visible through the windshield, with several vehicles and pedestrians. The car's dashboard and a Sony car stereo unit are visible in the foreground. A hand is holding a smartphone in the center-right of the frame, displaying a music application interface with album art and playback controls. The text "Spin It" is visible on the phone screen.

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Whether you are hitting the open road or just smoothing your commute, Sony's innovative audio systems make it easy and convenient to control your music on the go.

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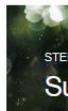
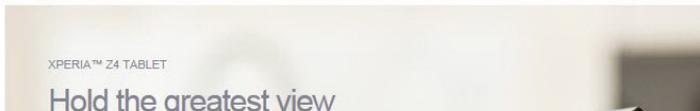
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