

ESTTA Tracking number: **ESTTA735393**

Filing date: **03/23/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

**Opposer Information**

Name	Fullpower Technologies, Inc.
Granted to Date of previous extension	03/23/2016
Address	1200 Pacific Avenue, Suite 300 Santa Cruz, CA 95060 UNITED STATES

Attorney information	Lori S. Kozak Fox Rothschild LLP 997 Lenox Drive, Building 3 Lawrenceville, NJ 08648 UNITED STATES ipdocket@foxrothschild.com, lkozak@foxrothschild.com, gtat@foxrothschild.com Phone:310.598.4156
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**Applicant Information**

Application No	85184655	Publication date	11/24/2015
Opposition Filing Date	03/23/2016	Opposition Period Ends	03/23/2016
Applicant	DATALOGIC ADC, INC. 959 TERRY STREET EUGENE, OR 97402 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 009. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Computer software and computer hardware for switching between different modes of operation, all for use with optical, electronic, RFID, and magnetic data readers; Computer software and computer hardware all for use with a motion sensor that automatically switches between fixed-stand mode operation and handheld mode operation
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**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution by blurring	Trademark Act section 43(c)
Dilution by tarnishment	Trademark Act section 43(c)

**Marks Cited by Opposer as Basis for Opposition**

U.S. Registration No.	3944679	Application Date	04/08/2008
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Registration Date	04/12/2011	Foreign Priority Date	NONE
Word Mark	MOTIONX		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 2008/07/10 First Use In Commerce: 2008/07/10  Computer software for use in health and fitness applications, namely, for monitoring a person's body motion, distance covered on foot, and similar health indicators; computer software for use in wireless and cellular applications for monitoring a person's body motion, distance covered on foot, and similar health indicators; computer software for connecting to and exchanging information over local-area, wide area, enterprise and global communications networks; computer software for transmitting and receiving data, information, audio and video files and messages between computers and personal electronic devices, such as cellular telephones, personal digital assistants and handheld computers; headphones; headsets for telephones, mobile phones, MP3 players, personal digital assistants, and handheld electronic devices; headsets for use with computers; computer game software; computer game programs; pedometers, computer software for use in wireless and cellular applications, namely, electronic game software and software for wireless content delivery; computer software for use in reading movement data from inertial sensors and translating it into usable movement information that initiates certain actions on personal devices, such as cellular phones and mp3 players; user interface for use in connection with personal electronic devices; computer software for use in operating and controlling personal electronic devices, such as cellular phones, personal digital assistants, and MP3 players</p> <p>Class 042. First use: First Use: 2008/07/10 First Use In Commerce: 2008/07/10  Providing temporary use of online, nondownloadable software for use in health and fitness applications, namely, for monitoring a person's body motion, distance covered on foot, and similar health indicators; providing temporary use of online, nondownloadable computer software for use in wireless and cellular applications for monitoring a person's body motion, distance covered on foot, and similar health indicators; providing temporary use of online, nondownloadable software used in creating, enhancing, modifying, transmitting, receiving, exchanging, storing and synchronizing information, and files, multimedia files, ephotos, photographic and graphic files and images; providing temporary use of online, nondownloadable software for use in connecting to and exchanging information over local area, wide area, enterprise and global communications networks, namely, for uploading to and downloading ephotos and digital images from computers for exchanging information over global communications networks; computer services, namely, remote and on-site management of electronic messaging systems and applications for others; life science and biotech services, namely, development of new technologies for others; customization of software; computer consulting services; providing temporary use of on-line nondownloadable computer software for use in reading movement data from inertial sensors and translating it into usable movement information that initiates certain actions</p>		

	on personal devices, such as cellular phones and mp3 players		
U.S. Registration No.	4653059	Application Date	12/08/2009
Registration Date	12/09/2014	Foreign Priority Date	NONE
Word Mark	MOTIONX-BAND		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 2014/07/28 First Use In Commerce: 2014/07/28  Electronic receivers and transmitters for capturing electronic fitness data; computer hardware and software for monitoring a person's body motion, distance covered on foot, calories expended, blood pressure, blood sugar, body fat, sleep patterns and similar health indicators; accelerometers; electronic memories; computer hardware and software for creating, enhancing, modifying, transmitting, receiving, exchanging, storing and synchronizing data, information, messages, audio data and files, multimedia files, GPS hardware and software; computer software for connecting to and exchanging information over local area, wide area, enterprise and global communications networks; computer software for transmitting and receiving data, information, audio and video files and messages between computers and personal electronic devices, such as cellular telephones, personal digital assistants and handheld computers; computer hardware and software for use in life-sciences, health and fitness and biotech applications; computer hardware for use in wireless and cellular applications; computer hardware and software for storing and transmitting health and personal information; wristbands and jewelry incorporating computer hardware and software for monitoring and transmitting health and fitness data</p> <p>Class 041. First use: First Use: 2014/07/25 First Use In Commerce: 2014/07/25  Providing exercise and fitness information and consultation; providing online fitness coaching and exercise programs</p> <p>Class 042. First use: First Use: 2014/07/25 First Use In Commerce: 2014/07/25  Computer consulting services; computer programming services; customization of software; life science and biotech services, namely, development of new technologies for others</p> <p>Class 044. First use: First Use: 2014/07/25 First Use In Commerce: 2014/07/25  Providing health information and consultation in the field of sleep</p>		
U.S. Registration No.	3838807	Application Date	04/21/2009
Registration Date	08/24/2010	Foreign Priority Date	NONE
Word Mark	MOTIONX FIND-N-GO		

Design Mark	MOTIONX FIND-N-GO
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 2010/06/11 First Use In Commerce: 2010/06/11 GPS software, computer software for usewith global positioning systems

Attachments	77443176#TMSN.png( bytes ) 77889083#TMSN.png( bytes ) 77718894#TMSN.png( bytes ) Notice of Opposition - MOTIONIX.PDF(4640111 bytes )
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### Certificate of Service

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Signature	/Lori S. Kozak/
Name	Lori S. Kozak
Date	03/23/2016

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Fullpower Technologies, Inc.	)	Trademark Application
	)	Serial No. 85/184655
Opposer,	)	
	)	Filed: November 24, 2010
v.	)	
	)	Mark: MOTIONIX
Datalogic ADC, Inc.	)	
	)	Published: November 24, 2015
Applicant	)	

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

**NOTICE OF OPPOSITION**

Fullpower Technologies, Inc., by and through its undersigned attorneys, believes that it will be damaged by the registration of the mark shown in U.S. Trademark Application Serial No. 85/184655 for the mark MOTIONIX in International Class 9 and hereby opposes the same. As grounds for opposition, it is alleged that:

1. Upon information and belief, Applicant Datalogic ADC, Inc. (hereinafter "Applicant"), is a Delaware corporation with an address of 959 Terry Street, Eugene, Oregon 97402.
2. Upon information and belief, Applicant seeks to register the mark MOTIONIX for goods described as "computer software and computer hardware for switching between different modes of operation, all for use with optical, electronic, RFID and magnetic data readers; computer software and computer hardware all for use with a motion sensor that automatically switches between fixed-stand mode operation and hand-held mode operation" in International Class 9 (hereinafter "Opposed Goods").

3. Upon information and belief, the subject application was filed on November 24, 2010, and was published for opposition on November 24, 2015.
4. Opposer Fullpower Technologies, Inc. (hereinafter "Opposer") is a Delaware corporation with an address of 1200 Pacific Avenue, Suite 300, Santa Cruz, California 95060.
5. Opposer is the owner of several U.S. trademark registrations for marks that consist of or contain the term MOTIONX, including:

Mark	Reg. No.	Class/Goods/Services
MOTIONX	3944679	<p><b>Class 9:</b> Computer software for use in health and fitness applications, namely, for monitoring a person's body motion, distance covered on foot, and similar health indicators; computer software for use in wireless and cellular applications for monitoring a person's body motion, distance covered on foot, and similar health indicators; computer software for connecting to and exchanging information over local area, wide area, enterprise and global communications networks; computer software for transmitting and receiving data, information, audio and video files and messages between computers and personal electronic devices, such as cellular telephones, personal digital assistants and handheld computers; headphones; headsets for telephones, mobile phones, MP3 players, personal digital assistants, and handheld electronic devices; headsets for use with computers; computer game software; computer game programs; pedometers, computer software for use in wireless and cellular applications, namely, electronic game software and software for wireless content delivery; computer software for use in reading movement data from inertial sensors and translating it into usable movement information that initiates certain actions on personal devices, such as cellular phones and mp3 players; user interface for use in connection with personal electronic devices; computer software for use in operating and controlling personal electronic devices, such as cellular phones, personal digital assistants, and MP3 players</p> <p><b>Class 42:</b> Providing temporary use of online, nondownloadable software for use in health and fitness applications, namely, for monitoring a person's body motion, distance covered on foot, and similar health indicators; providing temporary use of online, nondownloadable computer software for use in wireless and cellular applications for monitoring a person's body motion, distance covered on foot, and similar health indicators; providing temporary use of online, nondownloadable software used in creating, enhancing, modifying, transmitting, receiving, exchanging, storing and synchronizing information, and files, multimedia files, ephotos,</p>

		<p>photographic and graphic files and images; providing temporary use of online, nondownloadable software for use in connecting to and exchanging information over local area, wide area, enterprise and global communications networks, namely, for uploading to and downloading ephotos and digital images from computers for exchanging information over global communications networks; computer services, namely, remote and on-site management of electronic messaging systems and applications for others; life science and biotech services, namely, development of new technologies for others; customization of software; computer consulting services; providing temporary use of on-line nondownloadable computer software for use in reading movement data from inertial sensors and translating it into usable movement information that initiates certain actions on personal devices, such as cellular phones and mp3 players</p>
<b>MOTIONX-BAND</b>	4653059	<p><b>Class 9:</b> Electronic receivers and transmitters for capturing electronic fitness data; computer hardware and software for monitoring a person's body motion, distance covered on foot, calories expended, blood pressure, blood sugar, body fat, sleep patterns and similar health indicators; accelerometers; electronic memories; computer hardware and software for creating, enhancing, modifying, transmitting, receiving, exchanging, storing and synchronizing data, information, messages, audio data and files, multimedia files, GPS hardware and software; computer software for connecting to and exchanging information over local area, wide area, enterprise and global communications networks; computer software for transmitting and receiving data, information, audio and video files and messages between computers and personal electronic devices, such as cellular telephones, personal digital assistants and handheld computers; computer hardware and software for use in life-sciences, health and fitness and biotech applications; computer hardware for use in wireless and cellular applications; computer hardware and software for storing and transmitting health and personal information; wristbands and jewelry incorporating computer hardware and software for monitoring and transmitting health and fitness data</p> <p><b>Class 41:</b> Providing exercise and fitness information and consultation; providing online fitness coaching and exercise programs.</p> <p><b>Class 42:</b> Computer consulting services; computer programming services; customization of software; life science and biotech services, namely, development of new technologies for others.</p> <p><b>Class 44:</b> Providing health information and consultation in the field of sleep</p>
<b>MOTIONX FIND-N-GO</b>	3838807	<p><b>Class 9:</b> GPS software, computer software for use with global positioning systems</p>

Please see attached as **Exhibit A** printouts from the U.S. Patent & Trademark Office (“USPTO”) online TESS and TSDR databases.

6. Opposer actively uses its MOTIONX trademark in connection with computer software, hardware and technology platforms that include sensors, motion recognition software, electronic receivers and transmitters, communications software and related goods and services.
7. Opposer’s use of the mark MOTIONX predates any date which may be lawfully claimed by Applicant.
8. Opposer’s MOTIONX trademark is registered on the Principal Register and such registration constitutes *prima facie* evidence of the validity of the mark, the registration therefor, Opposer’s ownership of the mark, and Opposer’s exclusive rights to use the mark in commerce.
9. As a result of the high quality of Opposer’s products and services, and the widespread promotion thereof under Opposer’s MOTIONX trademark, Opposer’s goods and services have met with substantial success and consumer recognition in the marketplace. Opposer’s MOTIONX mark has become a symbol of Opposer, its quality goods and services, and its goodwill.
10. The mark in Application Serial No. 85/184655, MOTIONIX, is very similar to Opposer’s MOTIONX trademark.
11. The Opposed Goods and Opposer’s goods and services directly overlap and are otherwise highly related.

12. Applicant's use of the highly similar mark in connection with the Opposed Goods is likely to result in confusion, mistake, and/or deception in that the public will wrongly assume that Opposer has approved of Applicant, is affiliated with Applicant, or has otherwise sanctioned, sponsored or licensed the goods and services of Applicant.
13. Applicant's use of the mark MOTIONIX in connection with the Opposed Goods is likely to cause confusion with Opposer's MOTIONIX trademark as used in connection with Opposer's good and services.
14. Opposer would be damaged by the registration of the mark MOTIONIX by Applicant as the registration will result in confusion, mistake, and/or deception, and Applicant will be able to trade on Opposer's goodwill and reputation.
15. The registration of Applicant's mark will cause the dilution of the distinctive quality of Opposer's trademark, to Opposer's irreparable damage.

WHEREFORE, Opposer prays that this opposition be granted and that Applicant's Application Serial No. 85/184655 for the mark MOTIONIX be abandoned.

Respectfully submitted,

Dated: *March 23, 2016*



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Attorneys for Opposer  
Fullpower Technologies, Inc.

# EXHIBIT A



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# MOTIONX

**Word Mark** MOTIONX

**Goods and Services** IC 009. US 021 023 026 036 038. G & S: Computer software for use in health and fitness applications, namely, for monitoring a person's body motion, distance covered on foot, and similar health indicators; computer software for use in wireless and cellular applications for monitoring a person's body motion, distance covered on foot, and similar health indicators; computer software for connecting to and exchanging information over local area, wide area, enterprise and global communications networks; computer software for transmitting and receiving data, information, audio and video files and messages between computers and personal electronic devices, such as cellular telephones, personal digital assistants and handheld computers; headphones; headsets for telephones, mobile phones, MP3 players, personal digital assistants, and handheld electronic devices; headsets for use with computers; computer game software; computer game programs; pedometers, computer software for use in wireless and cellular applications, namely, electronic game software and software for wireless content delivery; computer software for use in reading movement data from inertial sensors and translating it into usable movement information that initiates certain actions on personal devices, such as cellular phones and mp3 players; user interface for use in connection with personal electronic devices; computer software for use in operating and controlling personal electronic devices, such as cellular phones, personal digital assistants, and MP3 players. FIRST USE: 20080710. FIRST USE IN COMMERCE: 20080710

IC 042. US 100 101. G & S: Providing temporary use of online, nondownloadable software for use in health and fitness applications, namely, for monitoring a person's body motion, distance covered on foot, and similar health indicators; providing temporary use of online, nondownloadable computer software for use in wireless and cellular applications for monitoring a person's body motion, distance covered on foot, and similar health indicators; providing temporary use of online, nondownloadable software used in creating, enhancing, modifying, transmitting, receiving, exchanging, storing and synchronizing information, and files, multimedia files, ephotos, photographic and graphic files and images; providing temporary use of online, nondownloadable software for use in connecting to and exchanging information over local area, wide area, enterprise and global communications networks, namely, for uploading to and downloading ephotos and digital images from computers for exchanging information over global communications networks; computer services, namely, remote and on-site

management of electronic messaging systems and applications for others; life science and biotech services, namely, development of new technologies for others; customization of software; computer consulting services; providing temporary use of on-line nondownloadable computer software for use in reading movement data from inertial sensors and translating it into usable movement information that initiates certain actions on personal devices, such as cellular phones and mp3 players. FIRST USE: 20080710. FIRST USE IN COMMERCE: 20080710

**Standard Characters Claimed****Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Serial Number**

77443176

**Filing Date**

April 8, 2008

**Current Basis**

1A

**Original Filing Basis**

1B

**Published for Opposition**

November 25, 2008

**Registration Number**

3944679

**Registration Date**

April 12, 2011

**Owner**

(REGISTRANT) Fullpower Technologies, Inc. CORPORATION DELAWARE 1200 Pacific Avenue, Suite 300 Santa Cruz CALIFORNIA 95060

**Attorney of Record**

Lori S. Kozak

**Type of Mark**

TRADEMARK. SERVICE MARK

**Register**

PRINCIPAL

**Live/Dead Indicator**

LIVE

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Mark: MOTIONX

# MOTIONX

US Serial Number: 77443176

Application Filing Date: Apr. 08, 2011

US Registration Number: 3944679

Registration Date: Apr. 12, 2011

Register: Principal

Mark Type: Trademark, Service Mark

Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Status Date: Apr. 12, 2011

Publication Date: Nov. 25, 2008

Notice of Allowance Date: Feb. 17, 2008

## Mark Information

Mark Literal Elements: MOTIONX

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

## Goods and Services

### Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*...\* identify additional (new) wording in the goods/services.

**For:** Computer software for use in health and fitness applications, namely, for monitoring a person's heart rate and similar health indicators; computer software for use in wireless and cellular applications for distance covered on foot, and similar health indicators; computer software for connecting to and transmitting data over a wide area, enterprise and global communications networks; computer software for transmitting and receiving audio and video files and messages between computers and personal electronic devices, such as cell phones, PDAs, and handheld computers; headphones; headsets for telephones, mobile phones, MP3 players, and handheld electronic devices; headsets for use with computers; computer game software; and computer software for use in wireless and cellular applications, namely, electronic game software for use in reading movement data from inertial sensors and translating the data into a graphical representation.



**Attorney/Correspondence Information****Attorney of Record**

Attorney Name: Lori S. Kozak

Docket Number: 007538.TC

**Correspondent**

Correspondent: LORI S. KOZAK

Name/Address: Fox Rothschild LLP

997 Lenox Drive, Building 3

Lawrenceville, NEW JERSEY UNITED STATES 08648-2311

Phone: 310.598.4156

Fax: 310.556.9

Correspondent e-mail: [ipdocket@foxrothschild.com](mailto:ipdocket@foxrothschild.com)

Correspondent e-mail Yes

[lkozak@foxrothschild.com](mailto:lkozak@foxrothschild.com)

Authorized:

[gtat@foxrothschild.com](mailto:gtat@foxrothschild.com)**Domestic Representative - Not Found****Prosecution History**

<b>Date</b>	<b>Description</b>	<b>Proceeding Number</b>
Oct. 09, 2015	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Apr. 12, 2011	REGISTERED-PRINCIPAL REGISTER	
Mar. 11, 2011	NOTICE OF ACCEPTANCE OF STATEMENT OF USE MAILED	
Mar. 10, 2011	LAW OFFICE REGISTRATION REVIEW COMPLETED	68123
Mar. 09, 2011	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Mar. 08, 2011	STATEMENT OF USE PROCESSING COMPLETE	66230
Feb. 17, 2011	USE AMENDMENT FILED	66230
Feb. 17, 2011	TEAS STATEMENT OF USE RECEIVED	
Aug. 18, 2010	NOTICE OF APPROVAL OF EXTENSION REQUEST MAILED	
Aug. 17, 2010	EXTENSION 3 GRANTED	66230
Aug. 10, 2010	EXTENSION 3 FILED	66230
Aug. 10, 2010	TEAS EXTENSION RECEIVED	
Mar. 17, 2010	NOTICE OF APPROVAL OF EXTENSION REQUEST MAILED	
Mar. 16, 2010	EXTENSION 2 GRANTED	66230
Feb. 10, 2010	EXTENSION 2 FILED	66230
Mar. 16, 2010	CASE ASSIGNED TO INTENT TO USE PARALEGAL	66230

Feb. 10, 2010	TEAS EXTENSION RECEIVED	
Aug. 06, 2009	EXTENSION 1 GRANTED	98765
Aug. 06, 2009	EXTENSION 1 FILED	98765
Aug. 06, 2009	TEAS EXTENSION RECEIVED	
Feb. 17, 2009	NOA MAILED - SOU REQUIRED FROM APPLICANT	
Nov. 25, 2008	PUBLISHED FOR OPPOSITION	
Nov. 05, 2008	NOTICE OF PUBLICATION	
Oct. 23, 2008	LAW OFFICE PUBLICATION REVIEW COMPLETED	68123
Oct. 23, 2008	ASSIGNED TO LIE	68123
Oct. 11, 2008	APPROVED FOR PUB - PRINCIPAL REGISTER	
Oct. 10, 2008	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Oct. 09, 2008	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Oct. 09, 2008	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Jul. 28, 2008	PRIORITY ACTION MAILED	
Jul. 25, 2008	PRIORITY ACTION WRITTEN	81877
Jul. 21, 2008	ASSIGNED TO EXAMINER	81877
Apr. 12, 2008	NOTICE OF PSEUDO MARK MAILED	
Apr. 11, 2008	NEW APPLICATION ENTERED IN TRAM	

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# MOTIONX-BAND

**Word Mark** MOTIONX-BAND

**Goods and Services**

IC 009. US 021 023 026 036 038. G & S: Electronic receivers and transmitters for capturing electronic fitness data; computer hardware and software for monitoring a person's body motion, distance covered on foot, calories expended, blood pressure, blood sugar, body fat, sleep patterns and similar health indicators; accelerometers; electronic memories; computer hardware and software for creating, enhancing, modifying, transmitting, receiving, exchanging, storing and synchronizing data, information, messages, audio data and files, multimedia files, GPS hardware and software; computer software for connecting to and exchanging information over local area, wide area, enterprise and global communications networks; computer software for transmitting and receiving data, information, audio and video files and messages between computers and personal electronic devices, such as cellular telephones, personal digital assistants and handheld computers; computer hardware and software for use in life-sciences, health and fitness and biotech applications; computer hardware for use in wireless and cellular applications; computer hardware and software for storing and transmitting health and personal information; wristbands and jewelry incorporating computer hardware and software for monitoring and transmitting health and fitness data. FIRST USE: 20140728. FIRST USE IN COMMERCE: 20140728

IC 041. US 100 101 107. G & S: Providing exercise and fitness information and consultation; providing online fitness coaching and exercise programs. FIRST USE: 20140725. FIRST USE IN COMMERCE: 20140725

IC 042. US 100 101. G & S: Computer consulting services; computer programming services; customization of software; life science and biotech services, namely, development of new technologies for others. FIRST USE: 20140725. FIRST USE IN COMMERCE: 20140725

IC 044. US 100 101. G & S: Providing health information and consultation in the field of sleep. FIRST USE: 20140725. FIRST USE IN COMMERCE: 20140725

**Standard Characters Claimed**

**Mark Drawing Code** (4) STANDARD CHARACTER MARK  
**Serial Number** 77889083  
**Filing Date** December 8, 2009  
**Current Basis** 1A  
**Original Filing Basis** 1B  
**Published for Opposition** May 31, 2011  
**Registration Number** 4653059  
**Registration Date** December 9, 2014  
**Owner** (REGISTRANT) Fullpower Technologies, Inc. CORPORATION DELAWARE 1200 Pacific Avenue, Suite 300 Santa Cruz CALIFORNIA 95060  
**Attorney of Record** Lori S. Kozak  
**Description of Mark** Color is not claimed as a feature of the mark.  
**Type of Mark** TRADEMARK. SERVICE MARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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**Mark:** MOTIONX-BAND

## MOTIONX-BAND

**US Serial Number:** 77889083

**Application Filing Date:** Dec. 08, 2011

**US Registration Number:** 4653059

**Registration Date:** Dec. 09, 2011

**Register:** Principal

**Mark Type:** Trademark, Service Mark

**Status:** Registered. The registration date is used to determine when post-registration maintenance documents are due.

**Status Date:** Dec. 09, 2014

**Publication Date:** May 31, 2011

**Notice of Allowance Date:** Jul. 26, 2011

### Mark Information

**Mark Literal Elements:** MOTIONX-BAND

**Standard Character Claim:** Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

**Mark Drawing Type:** 4 - STANDARD CHARACTER MARK

**Color(s) Claimed:** Color is not claimed as a feature of the mark.

### Goods and Services

#### Note:

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- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*...\* identify additional (new) wording in the goods/services.

**For:** Electronic receivers and transmitters for capturing electronic fitness data; computer hardware and software for creating, receiving, exchanging, storing and synchronizing data, information, messages, audio data and video data; accelerometers; electronic memories; computer hardware and software for creating, receiving, exchanging, storing and synchronizing data, information, messages, audio data and video data; computer software for connecting to and exchanging information over local area, wide area and communications networks; computer software for transmitting and receiving data, information, and messages between computers and personal electronic devices, such as cellular telephones, personal digital

computer hardware and software for use in life-sciences, health and fitness and biotech applica  
wireless and cellular applications; computer hardware and software for storing and transmitting  
wristbands and jewelry incorporating computer hardware and software for monitoring and trans

**International Class(es):** 009 - Primary Class

**U.S Class(es):** 021, 023,

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** Jul. 28, 2014

**Use in Commerce:** Jul. 28, 20

**For:** Providing exercise and fitness information and consultation; providing online fitness coaching at

**International Class(es):** 041 - Primary Class

**U.S Class(es):** 100, 101,

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** Jul. 25, 2014

**Use in Commerce:** Jul. 25, 20

**For:** Computer consulting services; computer programming services; customization of software; life s  
development of new technologies for others

**International Class(es):** 042 - Primary Class

**U.S Class(es):** 100, 101

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** Jul. 25, 2014

**Use in Commerce:** Jul. 25, 20

**For:** Providing health information and consultation in the field of sleep

**International Class(es):** 044 - Primary Class

**U.S Class(es):** 100, 101

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** Jul. 25, 2014

**Use in Commerce:** Jul. 25, 20

**Basis Information (Case Level)**

**Filed Use:** No

**Currently Use:** Yes

**Filed ITU:** Yes

**Currently ITU:** No

**Filed 44D:** No

**Currently 44D:** No

**Filed 44E:** No

**Currently 44E:** No

**Filed 66A:** No

**Currently 66A:** No

**Filed No Basis:** No

**Currently No Basis:** No

**Current Owner(s) Information**

**Owner Name:** Fullpower Technologies, Inc.

**Owner Address:** 1200 Pacific Avenue, Suite 300  
 Santa Cruz, CALIFORNIA UNITED STATES 95060

**Legal Entity Type:** CORPORATION

**State or Country Where Organized:** DELAWARE

**Attorney/Correspondence Information**

**Attorney of Record**

**Attorney Name:** Lori S. Kozak

**Docket Number:** 007538.TC

**Correspondent**

**Correspondent:** LORI S. KOZAK

**Name/Address:** Fox Rothschild LLP  
 997 Lenox Drive, Building 3  
 Lawrenceville, NEW JERSEY UNITED STATES 08648-2311

**Phone:** 310.598.4156

**Fax:** 310.556.9

**Correspondent e-mail:** [ipdocket@foxrothschild.com](mailto:ipdocket@foxrothschild.com)  
[lkozak@foxrothschild.com](mailto:lkozak@foxrothschild.com)  
[gtat@foxrothschild.com](mailto:gtat@foxrothschild.com)

**Correspondent e-mail Authorized:** Yes

**Domestic Representative - Not Found**

**Prosecution History**

<b>Date</b>	<b>Description</b>	<b>Proceeding Number</b>
Oct. 09, 2015	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Dec. 09, 2014	REGISTERED-PRINCIPAL REGISTER	
Nov. 04, 2014	NOTICE OF ACCEPTANCE OF STATEMENT OF USE MAILED	
Nov. 03, 2014	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Sep. 15, 2014	NON-FINAL ACTION MAILED	
Sep. 12, 2014	SU - NON-FINAL ACTION - WRITTEN	78478
Aug. 12, 2014	STATEMENT OF USE PROCESSING COMPLETE	66230
Jul. 28, 2014	USE AMENDMENT FILED	66230
Jul. 28, 2014	TEAS STATEMENT OF USE RECEIVED	
Jan. 22, 2014	NOTICE OF APPROVAL OF EXTENSION REQUEST MAILED	
Jan. 21, 2014	EXTENSION 5 GRANTED	66230
Jan. 07, 2014	EXTENSION 5 FILED	66230
Jan. 07, 2014	TEAS EXTENSION RECEIVED	

Jul. 26, 2013	NOTICE OF APPROVAL OF EXTENSION REQUEST MAILED	
Jul. 25, 2013	EXTENSION 4 GRANTED	66230
Jul. 23, 2013	EXTENSION 4 FILED	66230
Jul. 23, 2013	TEAS EXTENSION RECEIVED	
Jan. 22, 2013	NOTICE OF APPROVAL OF EXTENSION REQUEST MAILED	
Jan. 21, 2013	EXTENSION 3 GRANTED	66230
Jan. 08, 2013	EXTENSION 3 FILED	66230
Jan. 08, 2013	TEAS EXTENSION RECEIVED	
Aug. 10, 2012	NOTICE OF APPROVAL OF EXTENSION REQUEST MAILED	
Aug. 09, 2012	EXTENSION 2 GRANTED	66230
Jul. 24, 2012	EXTENSION 2 FILED	66230
Aug. 09, 2012	CASE ASSIGNED TO INTENT TO USE PARALEGAL	66230
Jul. 24, 2012	TEAS EXTENSION RECEIVED	
Jan. 13, 2012	NOTICE OF APPROVAL OF EXTENSION REQUEST MAILED	
Jan. 11, 2012	EXTENSION 1 GRANTED	98765
Jan. 11, 2012	EXTENSION 1 FILED	98765
Jan. 11, 2012	TEAS EXTENSION RECEIVED	
Jul. 26, 2011	NOA MAILED - SOU REQUIRED FROM APPLICANT	
May 31, 2011	PUBLISHED FOR OPPOSITION	
May 11, 2011	NOTICE OF PUBLICATION	
Apr. 25, 2011	LAW OFFICE PUBLICATION REVIEW COMPLETED	68123
Apr. 25, 2011	ASSIGNED TO LIE	68123
Apr. 11, 2011	APPROVED FOR PUB - PRINCIPAL REGISTER	
Apr. 05, 2011	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Apr. 04, 2011	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Apr. 04, 2011	TEAS REQUEST FOR RECONSIDERATION RECEIVED	
Oct. 12, 2010	FINAL REFUSAL MAILED	
Oct. 12, 2010	FINAL REFUSAL WRITTEN	78478
Sep. 08, 2010		88889

	TEAS/EMAIL CORRESPONDENCE ENTERED	
Sep. 07, 2010	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Sep. 07, 2010	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Mar. 11, 2010	NON-FINAL ACTION MAILED	
Mar. 10, 2010	NON-FINAL ACTION WRITTEN	78478
Mar. 10, 2010	ASSIGNED TO EXAMINER	78478
Dec. 16, 2009	NOTICE OF PSEUDO MARK MAILED	
Dec. 15, 2009	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Dec. 11, 2009	NEW APPLICATION ENTERED IN TRAM	

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# MOTIONX FIND-N-GO

<b>Word Mark</b>	MOTIONX FIND-N-GO
<b>Goods and Services</b>	IC 009. US 021 023 026 036 038. G & S: GPS software, computer software for use with global positioning systems. FIRST USE: 20100611. FIRST USE IN COMMERCE: 20100611
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Trademark Search Facility Classification Code</b>	LETS-1 N A single letter, multiples of a single letter or in combination with a design NOTATION-SYMBOLS Notation Symbols such as Non-Latin characters,punctuation and mathematical signs,zodiac signs,prescription marks
<b>Serial Number</b>	77718894
<b>Filing Date</b>	April 21, 2009
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	March 2, 2010
<b>Registration Number</b>	3838807
<b>Registration Date</b>	August 24, 2010
<b>Owner</b>	(REGISTRANT) Fullpower Technologies, Inc. CORPORATION DELAWARE 1200 Pacific Avenue, Suite 300 Santa Cruz CALIFORNIA 95060
<b>Attorney of Record</b>	Lori S. Kozak

**Type of Mark**    TRADEMARK  
**Register**        PRINCIPAL  
**Live/Dead  
Indicator**        LIVE

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**Mark:** MOTIONX FIND-N-GO

## MOTIONX FIND-N-GO

**US Serial Number:** 77718894

**Application Filing Date:** Apr. 21, 2010

**US Registration Number:** 3838807

**Registration Date:** Aug. 24, 2010

**Register:** Principal

**Mark Type:** Trademark

**Status:** Registered. The registration date is used to determine when post-registration maintenance documents are due.

**Status Date:** Aug. 24, 2010

**Publication Date:** Mar. 02, 2010

**Notice of Allowance Date:** May 25, 2010

### Mark Information

**Mark Literal Elements:** MOTIONX FIND-N-GO

**Standard Character Claim:** Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

**Mark Drawing Type:** 4 - STANDARD CHARACTER MARK

### Goods and Services

**Note:**

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*..\* identify additional (new) wording in the goods/services.

**For:** GPS software, computer software for use with global positioning systems

**International Class(es):** 009 - Primary Class

**U.S Class(es):** 021, 023, 024

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** Jun. 11, 2010

**Use in Commerce:** Jun. 11, 2010

**Basis Information (Case Level)**

Filed Use: No	Currently Use: Yes
Filed ITU: Yes	Currently ITU: No
Filed 44D: No	Currently 44D: No
Filed 44E: No	Currently 44E: No
Filed 66A: No	Currently 66A: No
Filed No Basis: No	Currently No Basis: No

**Current Owner(s) Information**

Owner Name: Fullpower Technologies, Inc.  
 Owner Address: 1200 Pacific Avenue, Suite 300  
 Santa Cruz, CALIFORNIA UNITED STATES 95060  
 Legal Entity Type: CORPORATION  
 State or Country Where Organized: DELAWARE

**Attorney/Correspondence Information**

**Attorney of Record**

Attorney Name: Lori S. Kozak  
 Docket Number: 007538.TC

**Correspondent**

Correspondent Name/Address: LORI S. KOZAK  
 Fox Rothschild LLP  
 997 Lenox Drive, Building 3  
 Lawrenceville, NEW JERSEY UNITED STATES 08648-2311  
 Phone: 310.598.4156  
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 Correspondent e-mail: [ipdocket@foxrothschild.com](mailto:ipdocket@foxrothschild.com)  
[lkozak@foxrothschild.com](mailto:lkozak@foxrothschild.com)  
[gtat@foxrothschild.com](mailto:gtat@foxrothschild.com)  
 Correspondent e-mail Authorized: Yes

Domestic Representative - Not Found

**Prosecution History**

<b>Date</b>	<b>Description</b>	<b>Proceeding Number</b>
Oct. 09, 2015	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Aug. 24, 2010	REGISTERED-PRINCIPAL REGISTER	
Jul. 22, 2010	NOTICE OF ACCEPTANCE OF STATEMENT OF USE MAILED	
Jul. 21, 2010	LAW OFFICE REGISTRATION REVIEW COMPLETED	74221

Jul. 21, 2010	ASSIGNED TO LIE	74221
Jul. 06, 2010	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Jul. 06, 2010	ASSIGNED TO EXAMINER	62920
Jul. 02, 2010	STATEMENT OF USE PROCESSING COMPLETE	76985
Jun. 11, 2010	USE AMENDMENT FILED	76985
Jul. 02, 2010	CASE ASSIGNED TO INTENT TO USE PARALEGAL	76985
Jun. 11, 2010	TEAS STATEMENT OF USE RECEIVED	
May 25, 2010	NOA MAILED - SOU REQUIRED FROM APPLICANT	
Mar. 02, 2010	PUBLISHED FOR OPPOSITION	
Feb. 10, 2010	NOTICE OF PUBLICATION	
Jan. 28, 2010	LAW OFFICE PUBLICATION REVIEW COMPLETED	74215
Jan. 28, 2010	ASSIGNED TO LIE	74215
Jan. 05, 2010	APPROVED FOR PUB - PRINCIPAL REGISTER	
Dec. 17, 2009	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Dec. 16, 2009	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Dec. 16, 2009	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Jul. 14, 2009	NON-FINAL ACTION MAILED	
Jul. 13, 2009	NON-FINAL ACTION WRITTEN	86335
Jul. 10, 2009	ASSIGNED TO EXAMINER	86335
Apr. 25, 2009	NOTICE OF PSEUDO MARK MAILED	
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Apr. 24, 2009	NEW APPLICATION ENTERED IN TRAM	

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PROOF OF SERVICE

I, Garbo Tat, hereby declare that I am employed by the law firm of FOX ROTHSCHILD LLP, Princeton Pike Corporate Center, 997 Lenox Drive, Bldg. 3, Lawrenceville, New Jersey 08648-2311; that I am over 18 years of age and not a party to the within action; and that I served the following document: NOTICE OF OPPOSITION this 23rd day of March, 2016, by causing a true copy to be sent to Applicant's attorney by First Class Mail:

Steven E. Klein  
STOEL RIVES LLP  
900 SW Fifth Avenue, Suite 2600  
Portland, OR 97204

Date: March 23, 2016

Name: Garbo Tat

