

ESTTA Tracking number: **ESTTA888263**

Filing date: **04/06/2018**

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	PILZ GMBH & CO. KG
Granted to Date of previous extension	04/08/2018
Address	FELIX-WANKEL-STR. 2 OSTFILDERN, D-73760 GERMANY

Attorney information	Elizabeth K. Brock Harness, Dickey & Pierce, PLC 5445 Corporate Drive, Suite 200 Troy, MI 48098 UNITED STATES Email: ebrock@hdp.com, tjcomparoni@hdp.com, troymailroom@hdp.com Phone: (248) 641-1600
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**Applicant Information**

Application No	87462493	Publication date	10/10/2017
Opposition Filing Date	04/06/2018	Opposition Period Ends	04/08/2018
Applicant	ARC Technology Solutions 165 LEDGE ST NASHUA, NH 03060 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 009. First Use: 2015/08/11 First Use In Commerce: 2016/03/15 All goods and services in the class are opposed, namely: Computer software to monitor and control factory manufacturing processes
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**Grounds for Opposition**

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

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

U.S. Registration No.	3204951	Application Date	10/02/2003
Registration Date	02/06/2007	Foreign Priority Date	04/17/2003
Word Mark	PVIS		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 2006/07/00 First Use In Commerce: 2006/07/00 [ Computers; ] visualization systems, namely, [ analog monitors, digital display monitors, display driver circuitry, ] electronic data processing circuitry; [ operating terminals, touch-screen operating terminals; ]software for displaying graphical illustrations or data on a display; software for providing remote access to an installation; software for monitoring and diagnoses of a technical installation

Attachments	87462493 PVS Notice of Opposition 040618.pdf(599850 bytes )
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Signature	/Elizabeth K. Brock/
Name	Elizabeth K. Brock
Date	04/06/2018

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

In the Matter of Application Serial No. 87/462,493  
Published in the *Official Gazette* of October 10, 2017

PILZ GMBH & CO. KG	]	
	]	
Opposer,	]	
	]	<b>NOTICE OF OPPOSITION</b>
v.	]	Opposition No. _____
	]	
ARC Technology Solutions	]	
	]	
Applicant.	]	

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Pilz GmbH & Co. KG (“Pilz”), by and through its undersigned attorney, hereby submits its Notice of Opposition to Application Serial No. 87/462,493 for the Mark PVS (“Applicant’s Mark”) in International Class 9 (the “Application” or the “PVS Application”), owned by ARC Technology Solutions (“Applicant”). Pilz believes that it will be damaged by registration of this application, and hereby opposes the same.

As grounds in support of its Notice of Opposition, Pilz asserts as follows:

1. Pilz is a Limited Partnership organized and existing under the laws of Germany, with a principal place of business at Felix-Wankel-Str. 2, Ostfildern D-73760, Federal Republic of Germany.

2. Upon information and belief, Applicant is a limited liability company organized and existing under the laws of New Hampshire, with a principal place of business at 165 Ledge St., Nashua, New Hampshire 03060, United States of America.

3. Pilz is a world leader in automation technology, with an emphasis on safe

automation technology. As a total solutions supplier of safety and control technology, Pilz's line of products and services includes sensor technology, electronic monitoring relays, automation solutions with motion control, safety relays, programmable safety and control systems, safe bus systems, Ethernet systems and industrial wireless systems.

4. Pilz has been using the PVIS trademark in connection with software for remote and local monitoring and diagnosing technical processes since at least as early as July 2006, and continues to use the mark in connection with such products.

5. Pilz is the owner of U.S. Trademark Registration No. 3,204,951 for the PVIS trademark for "visualization systems, namely, electronic data processing circuitry; software for displaying graphical illustrations or data on a display; software for providing remote access to an installation; software for monitoring and diagnoses of a technical installation" in Class 9, and the common law rights associated therewith (the "PVIS Mark"). A copy of the Trademark Status and Document Retrieval summary, and Certificate of Registration for the foregoing registration is attached hereto as Exhibit A, and made a part hereof.

6. Applicant seeks to register the trademark PVS for "computer software to monitor and control factory manufacturing processes" in Class 9. Said trademark application was published in the October 10, 2017, edition of the *Official Gazette*.

7. The PVS Application was filed on May 24, 2017, upon a section 1(a) use based filing basis with a first use date of August 11, 2015 and a first use in commerce date of March 15, 2016. Notably, Pilz's PVIS products have been sold or shipped in U.S. commerce since a date (July 2006) significantly earlier than the filing date or first use dates of the PVS Application, and with a constructive use date of October 2, 2003 – nearly 14 years earlier than the filing date of Applicant's PVS Application.

8. Applicant's Mark is visually, aurally, and conceptually indistinguishable from Pilz's PVIS Mark. In addition, the goods listed in the PVS Application are sufficiently related to the goods offered by Pilz under the PVIS Mark as to be likely to cause confusion, or to cause mistake, or to deceive.

9. Pilz reasonably believes that consumers, upon encountering Applicant's Mark used in connection with Applicant's goods, are likely to believe that such goods emanate from, are authorized or sponsored by, or are in some other way affiliated with Pilz.

10. Applicant's Mark falsely suggests a connection or association with Pilz. When Applicant's Mark is used in connection with goods offered in the same or similar channels of trade as products sold by Pilz under the PVIS Mark, Applicant's Mark so resembles the PVIS Mark as to be likely to cause confusion and lead to deception or mistake as to the origin of Applicant's goods offered under Applicant's Mark. Consequently, Pilz believes that Applicant's use and registration of Applicant's Mark will cause consumers to draw a false conclusion about the origin, nature, or quality of Applicant's goods under circumstances where such a conclusion will be material to the consumer's deliberations regarding the purchase of such goods.

11. If Applicant is permitted to use and register Applicant's Mark for the goods specified in the application herein opposed, confusion in trade resulting in damage and injury to Pilz would result by reason of the similarity between Applicant's Mark and the PVIS Mark. Furthermore, any objection or fault found with Applicant's goods offered under Applicant's Mark would necessarily reflect upon and seriously injure the reputation that Pilz has established in its mark.

**Notice of Opposition**  
Serial No. 87/462,493  
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12. Pilz also avers that it will be damaged by the registration of the PVS Application in that Applicant's Mark will dilute the distinctiveness of Pilz's PVIS Mark.

WHEREFORE, Pilz prays that this opposition be sustained and that Applicant be denied registration of the mark PVS as identified in Application Serial No. 87/462,493 in International Class 9.

Respectfully submitted,



Elizabeth K. Brock  
Harness, Dickey & Pierce, P.L.C.  
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Troy, Michigan 48098  
Phone: (248) 641-1600  
Fax: (248) 641-0270  
Email: ebrock@hdp.com

Date: April 6, 2018

*Attorney for Opposer*  
*Pilz GmbH & Co. KG*



Generated on: This page was generated by TSDR on 2018-04-06 11:55:26 EDT

Mark: PVIS

US Serial Number: 78308683

Application Filing Date: Oct. 02, 2003

US Registration Number: 3204951

Registration Date: Feb. 06, 2007

Register: Principal

Mark Type: Trademark

TM5 Common Status Descriptor:



LIVE/REGISTRATION/Issued and Active

The trademark application has been registered with the Office.

Status: The registration has been renewed.

Status Date: Apr. 06, 2017

Publication Date: Nov. 21, 2006

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## Mark Information

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Mark Literal Elements: PVIS

Standard Character Claim: No

Mark Drawing Type: 1 - TYPESET WORD(S) /LETTER(S) /NUMBER(S)

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## Foreign Information

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Priority Claimed: Yes

Foreign Application Number: 003138518

Foreign Application Filing Date: Apr. 17, 2003

Foreign Application/Registration Country: EUROPEAN (EU) OFFICE FOR HARMONIZATION IN THE INTERNAL MARKET (OHIM)

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## Goods and Services

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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: [ Computers; ] visualization systems, namely, [ analog monitors, digital display monitors, display driver circuitry, ] electronic data processing circuitry; [ operating terminals, touch-screen operating terminals; ] software for displaying graphical illustrations or data on a display; software for providing remote access to an installation; software for monitoring and diagnoses of a technical installation

International Class(es): 009 - Primary Class

U.S Class(es): 021, 023, 026, 036, 038

Class Status: ACTIVE

Basis: 1(a)



First Use: Jul. 2006

Use in Commerce: Jul. 2006

### Basis Information (Case Level)

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

### Current Owner(s) Information

Owner Name: PILZ GMBH & CO. KG  
Owner Address: FELIX-WANKEL-STR. 2  
OSTFILDERN D-73760 GERMANY  
Legal Entity Type: LIMITED PARTNERSHIP  
State or Country Where Organized: GERMANY

### Attorney/Correspondence Information

#### Attorney of Record

Attorney Name: Elizabeth K. Brock  
Docket Number: 4965-200502  
Attorney Primary Email Address: [troy@mailroom@hdp.com](mailto:troy@mailroom@hdp.com)  
Attorney Email Authorized: Yes

#### Correspondent

Correspondent Name/Address: Elizabeth K. Brock  
Harness, Dickey, and Pierce P.L.C.  
5445 CORPORATE DRIVE  
SUITE 200  
Troy, MICHIGAN UNITED STATES 48098  
Phone: 248-641-1600  
Fax: 248-641-0270  
Correspondent e-mail: [troy@mailroom@hdp.com](mailto:troy@mailroom@hdp.com)  
Correspondent e-mail Authorized: Yes

#### Domestic Representative

Domestic Representative Name: Thomas Langer  
Phone: 212-687-2770  
Domestic Representative e-mail: [docket@cplplaw.com](mailto:docket@cplplaw.com)  
Domestic Representative e-mail Authorized: Yes

### Prosecution History

Date	Description	Proceeding Number
Apr. 06, 2017	NOTICE OF ACCEPTANCE OF SEC. 8 & 9 - E-MAILED	
Apr. 06, 2017	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	77315
Apr. 06, 2017	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	77315
Apr. 01, 2017	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	77315
Feb. 06, 2017	TEAS SECTION 8 & 9 RECEIVED	
Feb. 06, 2016	COURTESY REMINDER - SEC. 8 (10-YR)/SEC. 9 E-MAILED	
Feb. 15, 2013	NOTICE OF ACCEPTANCE OF SEC. 8 & 15 - E-MAILED	
Feb. 15, 2013	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	77315
Feb. 14, 2013	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	77315
Feb. 01, 2013	TEAS SECTION 8 & 15 RECEIVED	
Jan. 30, 2013	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Jul. 25, 2011	TEAS CHANGE OF CORRESPONDENCE RECEIVED	

Feb. 06, 2007	REGISTERED-PRINCIPAL REGISTER	
Nov. 21, 2006	PUBLISHED FOR OPPOSITION	
Nov. 01, 2006	NOTICE OF PUBLICATION	
Oct. 12, 2006	ASSIGNED TO EXAMINER	75516
Oct. 02, 2006	LAW OFFICE PUBLICATION REVIEW COMPLETED	78288
Sep. 28, 2006	ASSIGNED TO LIE	78288
Sep. 05, 2006	ASSIGNED TO LIE	65287
Aug. 29, 2006	APPROVED FOR PUB - PRINCIPAL REGISTER	
Aug. 29, 2006	USE AMENDMENT ACCEPTED	75590
Aug. 29, 2006	AMENDMENT TO USE PROCESSING COMPLETE	71466
Aug. 04, 2006	USE AMENDMENT FILED	71466
Aug. 29, 2006	TEAS/EMAIL CORRESPONDENCE ENTERED	77075
Aug. 04, 2006	CORRESPONDENCE RECEIVED IN LAW OFFICE	77075
Aug. 04, 2006	TEAS AMENDMENT OF USE RECEIVED	
Aug. 04, 2006	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Feb. 08, 2006	NON-FINAL ACTION E-MAILED	6325
Feb. 08, 2006	NON-FINAL ACTION WRITTEN	75590
Feb. 03, 2006	TEAS/EMAIL CORRESPONDENCE ENTERED	77075
Jan. 19, 2006	CORRESPONDENCE RECEIVED IN LAW OFFICE	77075
Jan. 19, 2006	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Jul. 25, 2005	INQUIRY TO SUSPENSION E-MAILED	
Jul. 25, 2005	SUSPENSION INQUIRY WRITTEN	75590
Jul. 13, 2005	LIE CHECKED SUSP - TO ATTY FOR ACTION	76568
Nov. 18, 2004	LETTER OF SUSPENSION E-MAILED	6332
Nov. 18, 2004	SUSPENSION LETTER WRITTEN	75590
Nov. 16, 2004	AMENDMENT FROM APPLICANT ENTERED	69712
Oct. 18, 2004	CORRESPONDENCE RECEIVED IN LAW OFFICE	69712
Nov. 16, 2004	ASSIGNED TO LIE	69712
Oct. 18, 2004	PAPER RECEIVED	
Apr. 20, 2004	NON-FINAL ACTION E-MAILED	6325
Apr. 18, 2004	ASSIGNED TO EXAMINER	75590
Oct. 22, 2003	APPLICANT AMENDMENT PRIOR TO EXAMINATION - ENTERED	
Oct. 22, 2003	CORRESPONDENCE RECEIVED IN LAW OFFICE	
Oct. 22, 2003	TEAS VOLUNTARY AMENDMENT RECEIVED	
Oct. 22, 2003	TEAS CHANGE OF CORRESPONDENCE RECEIVED	

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### Maintenance Filings or Post Registration Information

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**Affidavit of Continued Use:** Section 8 - Accepted

**Affidavit of Incontestability:** Section 15 - Accepted

**Renewal Date:** Feb. 06, 2017

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### TM Staff and Location Information

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TM Staff Information - None

File Location

**Current Location:** GENERIC WEB UPDATE

**Date in Location:** Apr. 06, 2017

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### Assignment Abstract Of Title Information

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**Summary**

**Total Assignments:** 1

**Registrant:** Pilz GmbH & Co.

**Assignment 1 of 1**

**Conveyance:** CHANGE OF NAME

**Reel/Frame:** [4946/0326](#)

**Pages:** 19

Date Recorded: Jan. 21, 2013

Supporting Documents: [assignment-tm-1946-0326.pdf](#)

**Assignor**

Name: [PILZ GMBH & CO.](#)  
Legal Entity Type: GESELLSCHAFT MIT BESCHRANKTER HAFTUNG  
Execution Date: Jun. 16, 2003  
State or Country Where Organized: GERMANY

**Assignee**

Name: [PILZ GMBH & CO. KG](#)  
Legal Entity Type: LIMITED PARTNERSHIP  
Address: FELIX-WANKEL-STR. 2  
OSTFILDERN D-73760, GERMANY  
State or Country Where Organized: GERMANY

**Correspondent**

Correspondent Name: HARNESS, DICKEY, AND PIERCE P.L.C.  
Correspondent Address: ELIZABETH K. BROCK  
5445 CORPORATE DRIVE, SUITE 200  
TROY, MI 48098

**Domestic Representative - Not Found**

Int. Cl.: 9

Prior U.S. Cls.: 21, 23, 26, 36 and 38

Reg. No. 3,204,951

United States Patent and Trademark Office

Registered Feb. 6, 2007

**TRADEMARK  
PRINCIPAL REGISTER**

**PVIS**

PILZ GMBH & CO. (FED REP GERMANY CORPORATION)  
FELIX-WANKEL-STR. 2  
OSTFILDERN, FED REP GERMANY D-73760

FOR: COMPUTERS; VISUALIZATION SYSTEMS, NAMELY ANALOG MONITORS, DIGITAL DISPLAY MONITORS, DISPLAY DRIVER CIRCUITRY, ELECTRONIC DATA PROCESSING CIRCUITRY; OPERATING TERMINALS; TOUCH-SCREEN OPERATING TERMINALS; SOFTWARE FOR DISPLAYING GRAPHICAL ILLUSTRATIONS OR DATA ON A DISPLAY; SOFTWARE FOR PROVIDING REMOTE ACCESS TO AN INSTALLATION;

SOFTWARE FOR MONITORING AND DIAGNOSES OF A TECHNICAL INSTALLATION, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 7-0-2006; IN COMMERCE 7-0-2006.

PRIORITY CLAIMED UNDER SEC. 44(D) ON ERPN CMNTY TM OFC APPLICATION NO. 003138518, FILED 4-17-2003.

SER. NO. 78-308,683, FILED 10-2-2003.

JEFF DEFORD, EXAMINING ATTORNEY

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