

YottaMark Non-Assertion Statement for HarvestMark® VoiceCode™ Technology

The VoiceCode Technology has been developed to reduce the cost and simplify the process of tracing cases of food products through distribution centers. The VoiceCode is a short digest of the GS1 Global Trade Identification Number (GTIN) and Lot Code (and optional date) found on a GS1-compliant case label, such as the labels used with the Produce Traceability Initiative (PTI). This VoiceCode is intended for use as one of the elements on the PTI case label.

In a typical use of the VoiceCode Technology, a pallet arrives at a distribution center with a pre-computed VoiceCode on the case labels, and the GTIN, Lot Codes and optional date for cases on the pallet are loaded into a Warehouse Management System (WMS) either by EDI/Advanced Shipping Notice or by scanning a Hybrid Pallet Tag. When a pallet is moved into a pick location, the WMS knows the GTINs and Lot Codes (and dates) present on the pallet. When picking cases from a mixed pallet, the voice picking system is supplied the VoiceCode from the WMS and simply instructs the operator to look for the VoiceCode on the label, and/or use the VoiceCode to give verbal confirmation of the cases selected by saying the two or four digit VoiceCode. This can be done without scanning the barcode on the case and greatly simplifies the task of the operator.

YottaMark is the company that develops and distributes the HarvestMark fresh food traceability solution. The VoiceCode Technology, developed by YottaMark, has been generally acknowledged to solve the PTI “Milestone 7 Problem” by removing the need to scan outbound cases from a distribution center. To help enable deployment of the PTI according to the schedule set out by the produce industry, YottaMark is making the VoiceCode Technology available to the fresh produce industry as described below.

YottaMark, Inc. irrevocably covenants that, as described in this commitment letter, it will not seek to enforce any of its present or future patent claims whose practice is required to use YottaMark’s VoiceCode Technology in implementing and executing the “Produce Traceability Initiative (PTI).” The VoiceCode Technology subject to YottaMark’s covenant includes only the following: case labeling or printing which include the VoiceCode; algorithms for calculating a VoiceCode from a GTIN, Lot Code, and optional date; and methods and computing systems for using the VoiceCode in traceability through distribution.

This covenant shall apply to all parties who use or reference the VoiceCode in implementing and executing the PTI, including providers of all software and hardware system implementations used to label cases of produce, process data in warehouse receiving, warehouse management, ERP, and inventory picking systems, retailers, distributors, shippers, growers, and packers, except for those parties who assert, threaten or seek to enforce their own or another party’s U.S. or foreign patents or patent rights against YottaMark’s use of the

VoiceCode Technology, or derivatives thereof. This statement is not an assurance that YottaMark's pending or issued patents cover all uses of the VoiceCode Technology, or that use of VoiceCode Technology would not infringe patents or other intellectual property rights of any third party.

The VoiceCode Technology is one of several products in the area of fresh food traceability and supply chain management offered by YottaMark, Inc. YottaMark's covenant as described above does not apply to products other than the VoiceCode Technology. For example, the covenant does not apply to the YottaMark Authentication Platform, item level traceability solutions, case level traceability solutions other than the VoiceCode component, product authentication, or supply chain business intelligence solutions.

HarvestMark is a registered Trademark of YottaMark, Inc. VoiceCode™ is a trademark of YottaMark, Inc.

Authorized Signature:

Date:



May 12, 2010

J. Scott Carr, President & CEO
YottaMark, Inc.