

GIGA TRONICS INC
Form 8-A12B
January 28, 2013

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 8-A

FOR REGISTRATION OF CERTAIN CLASSES OF SECURITIES
PURSUANT TO SECTION 12(b) OR (g) OF THE
SECURITIES EXCHANGE ACT OF 1934

GIGA-TRONCS INCORPORATED

(Exact name of registrant as specified in its charter)

CALIFORNIA
(State of incorporation or
organization)

94-2656341
(I.R.S. Employer
Identification No.)

4650 Norris Canyon Road, San Ramon, CA 94583
(Address of principal executive offices) (Zip Code)

Securities to be registered pursuant to Section 12(b) of the Act:

Title of each class to be so registered	Name of each exchange on which each class is to be registered
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Preferred Stock Purchase Rights	The Nasdaq Capital Market
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If this Form relates to the registration of a class of securities pursuant to Section 12(b) of the Exchange Act and is effective pursuant to General Instruction A.(c), check the following box. [☒]

If this Form relates to the registration of a class of securities pursuant to Section 12(g) of the Exchange Act and is effective pursuant to General Instruction A.(d), check the following box. [☐]

Securities Act registration statement file number to which this form relates: None.

Securities to be registered pursuant to Section 12(g) of the Act: None.

Item 1. Description of Registrant's Securities to be Registered.

The following is a brief description of the Rights. It is intended to provide a general description only and is subject to the detailed terms and conditions of a Rights Agreement (the "Rights Agreement") dated as of January 23, 2013, between the Company and American Stock Transfer & Trust Company, as Rights Agent (the "Rights Agent").

SectionCOMMON SHARE CERTIFICATES REPRESENTING RIGHTS.

1.

Until the Distribution Date (as defined in Section 2 below), (a) the Rights shall not be exercisable, (b) the Rights shall be attached to and trade only together with the Common Shares and (c) the stock certificates representing Common Shares shall also represent the Rights attached to such Common Shares. Common Share certificates issued after the Record Date and prior to the Distribution Date shall contain a notation incorporating the Rights Agreement by reference.

SectionDISTRIBUTION DATE

2.

The "Distribution Date" is the earliest of (a) the tenth business day following the date of the first public announcement that any person (other than the Company or certain related entities, and with certain additional exceptions for certain affiliated shareholders whose current aggregate holdings exceed the threshold provided such holdings do not increase materially) has become the beneficial owner of 20% or more of the then outstanding Common Shares (such person is a "20% Shareholder" and the date of such public announcement is the "20% Ownership Date"), (b) the tenth business day (or such later day as shall be designated by the Board of Directors) following the date of the commencement of, or the announcement of an intention to make, a tender offer or exchange offer, the consummation of which would cause any person to become a 20% Shareholder or (c) the first date, on or after the 20% Ownership Date, upon which the Company is acquired in a merger or other business combination in which the Company is not the surviving corporation or in which the outstanding Common Shares are changed into or exchanged for stock or assets of another person, or upon which 50% or more of the Company's consolidated assets or earning power are sold (other than in transactions in the ordinary course of business). In calculating the percentage of outstanding Common Shares that are beneficially owned by any person, such person shall be deemed to beneficially own any Common Shares issuable upon the exercise, exchange or conversion of any options, warrants or other securities beneficially owned by such person; provided, however, that such Common Shares issuable upon such exercise shall not be deemed outstanding for the purpose of calculating the percentage of Common Shares that are beneficially owned by any other person.

Upon the close of business of the Distribution Date, the Rights shall separate from the Common Shares, Right certificates shall be issued, and the Rights shall become exercisable to purchase Preferred Shares as described in Section 5 below.

SectionISSUANCE OF RIGHT CERTIFICATES

3.

As soon as practicable following the Distribution Date, separate certificates representing only Rights shall be mailed to the holders of record of Common Shares as of the close of business on the Distribution Date, and such separate Right certificates alone shall represent such Rights from and after the Distribution Date.

Section EXPIRATION OF RIGHTS

4.

The Rights shall expire on February 4, 2018, unless earlier redeemed or exchanged, unless the Distribution Date has previously occurred and the Rights have separated from the Common Shares, in which case the Rights will remain outstanding for five years.

EXERCISE OF RIGHTS

Unless the Rights have expired or been redeemed or exchanged, they may be exercised, at the option of the holders, pursuant to paragraphs (a), (b) or (c) below. No Right may be exercised more than once or pursuant to more than one of such paragraphs. From and after the first event of the type described in paragraphs (b) or (c) below, each Right that is beneficially owned by a 20% Shareholder or that was attached to a Common Share that is subject to an option beneficially owned by a 20% Shareholder shall be void.

(a) Right to Purchase Preferred Shares. From and after the close of business on the Distribution Date, each Right (other than a Right that has become void) shall be exercisable to purchase one one-hundredth of a share of Series A Junior Participating Cumulative Preferred Stock of the Company (the "Preferred Shares"), at an exercise price of \$15.00 (the "Exercise Price"). Prior to the Distribution Date, the Company may substitute for all or any portion of the Preferred Shares that would otherwise be issuable upon exercise of the Rights, cash, assets or other securities having the same aggregate value as such Preferred Shares. The Preferred Shares are nonredeemable and, unless otherwise provided in connection with the creation of a subsequent series of preferred stock, are subordinate to any other series of the Company's preferred stock whether issued before or after the issuance of the Preferred Shares. The Preferred Shares may not be issued except upon exercise of Rights. The holder of a Preferred Share is entitled to receive when, as and if declared, cash and non-cash dividends in an amount equal to the greater of (a) \$0.25 per share or (b) subject to appropriate adjustments in certain events, 100 times the dividends declared on each Common Share, other than a dividend payable only in additional Common Shares. In the event of liquidation, the holders of Preferred Shares shall be entitled to receive a liquidation payment in an amount equal to the greater of (1) \$15.00 per one-one hundredth of a Preferred Share, plus all accrued and unpaid dividends and distributions on the Preferred Shares, or (2) an amount equal to 100 times the aggregate amount to be distributed per Common Share. Each Preferred Share has 100 votes per share, voting together with the Common Shares. In the event of any merger, consolidation or other transaction in which Common Shares are exchanged, the holder of a Preferred Share shall be entitled to receive 100 times the amount received per Common Share. The rights of the Preferred Shares as to dividends, voting and liquidation preferences are protected by antidilution provisions. It is anticipated that the value of one one-hundredth of a Preferred Share should approximate not less than the value of one Common Share.

(b) Right to Purchase Common Shares of the Company. From and after the close of business on the tenth business day following the 20% Ownership Date, each Right (other than a Right that has become void) shall be exercisable to purchase, at the Exercise Price (initially \$15.00), Common Shares with a market value equal to two times the Exercise Price. If the Company does not have sufficient Common Shares available for all Rights to be exercised, the Company shall substitute for all or any portion of the Common Shares that would otherwise be issuable upon the exercise of the Rights, cash, assets or other securities having the same aggregate value as such Common Shares.

(c) Right to Purchase Common Stock of a Successor Corporation. If, on or after the 20% Ownership Date, (i) the Company is acquired in a merger or other business combination in which the Company is not the surviving corporation, (ii) the Company is the surviving corporation in a merger or other business combination in which all or part of the outstanding Common Shares are changed into or exchanged for stock or assets of another person or (iii) 50% or more of the Company's consolidated assets or earning power are sold (other than in transactions in the ordinary course of business), then each Right (other than a Right that has become void) shall thereafter be exercisable to purchase, at the Exercise Price (initially \$15.00), securities of the surviving corporation or purchaser, respectively, with an aggregate market value equal to two times the Exercise Price.

Section ADJUSTMENTS TO PREVENT DILUTION

5.

The Exercise Price, the number of outstanding Rights and the number of Preferred Shares or Common Shares issuable upon exercise of the Rights are subject to adjustment from time to time as set forth in the Rights Agreement in order to prevent dilution. With certain exceptions, no adjustment in the Exercise Price shall be required until cumulative adjustments require an adjustment of at least 1%.

Section CASH PAID INSTEAD OF ISSUING FRACTIONAL SECURITIES

6.

No fractional securities shall be issued upon exercise of a Right (other than fractions of Preferred Shares that are integral multiples of one one-hundredth of a Preferred Share and that may, at the election of the Company, be evidenced by depositary receipts) and in lieu thereof, an adjustment in cash shall be made based on the market price of such securities on the last trading date prior to the date of exercise.

Section REDEMPTION

7.

At any time prior to the earlier of (a) the tenth business day (or such later day as shall be designated by the Board of Directors) following the date of the commencement of, or the announcement of an intention to make, a tender offer or exchange offer, the consummation of which would cause any person to become a 20% Shareholder, (b) the tenth business day after the 20% Ownership Date or (c) the first event of the type giving rise to exercise rights under Section 5(c) above, the Board of Directors may, at its option, direct the Company to redeem the Rights in whole, but not in part, at a price of \$.001 per Right (the "Redemption Price"), and the Company shall so redeem the Rights. Immediately upon such action by the Board of Directors (the date of such action is the "Redemption Date"), the right of the holders of Rights thereafter shall be to receive the Redemption Price.

Section EXCHANGE

8.

At any time after the 20% Ownership Date and prior to the first date thereafter upon which a 20% Shareholder shall be the beneficial owner of 50% or more of the outstanding Common Shares, the Board of Directors may, at its option, direct the Company to exchange all, but not less than all, of the then outstanding Rights for Common Shares at an exchange ratio per Right equal to that number of Common Shares which, as of the date of the Board of Directors' action, has a current market price equal to the difference between the Exercise Price and the current market price of the shares that would otherwise be issuable upon exercise of a Right on such date (the "Exchange Ratio"), and the Company shall so exchange the Rights. Immediately upon such action by the Board of Directors, the right to exercise Rights shall terminate and the only right of the holders of Rights thereafter shall be to receive a number of Common Shares equal to the Exchange Ratio.

Section NO SHAREHOLDER RIGHTS PRIOR TO EXERCISE

9.

Until a Right is exercised, the holder thereof, as such, shall have no rights as a Shareholder of the Company (other than rights resulting from such holder's ownership of Common Shares), including, without limitation, the right to vote or to receive dividends.

Section AMENDMENT OF RIGHTS AGREEMENT

10.

The Board of Directors may, from time to time, without the approval of any holder of Rights, direct the Company and the Rights Agent to supplement or amend any provision of the Rights Agreement in any manner, whether or not such supplement or amendment is adverse to any holder of Rights, and the Company and the Rights Agent shall so supplement or amend such provision; provided, however, that from and after the earliest of (a) the tenth business day (or such later day as shall be designated by the Board of Directors) following the date of the commencement of, or the announcement of an intention to make, a tender offer or exchange offer, the consummation of which would cause any person to become a 20% Shareholder, (b) the 20% Ownership Date, (c) the first event of the type giving rise to exercise rights under Section 5(c) above, or (d) the Redemption Date, the Rights Agreement shall not be supplemented or amended in any manner that would materially and adversely affect any holder of outstanding Rights other than a 20% Shareholder.

A copy of the Rights Agreement has been filed with the Securities and Exchange Commission as an Exhibit to this Registration Statement on Form 8-A. A copy of the Rights Agreement is available free of charge from the Company. This summary description of the Rights does not purport to be complete and is qualified in its entirety by reference to the Rights Agreement, which is hereby incorporated herein by reference.

Item 2. Exhibits.

The exhibit list called for by this Item is incorporated by reference to the exhibit index filed as part of this registration statement.

SIGNATURE

Pursuant to the requirements of Section 12 of the Securities Exchange Act of 1934, the registrant has duly caused this amendment to registration statement to be signed on its behalf by the undersigned, thereto duly authorized.

GIGA-TRONICS INCORPORATED

Dated: January 25, 2013

By: /s/ FRANK D. ROMEJKO
Frank D. Romejko
Vice President of Finance
Interim Chief Financial Officer

Exhibit

Number Exhibit Index

- 3.1 Articles of Incorporation of the Company (incorporated herein by reference to Exhibit 3.1 to Form 10-KSB for the fiscal year ended March 27, 1999 as filed with the Securities and Exchange Commission).
- 3.2 Amended and Restated By-Laws of the Company (incorporated herein by reference to Exhibit 3.2 to Form 10-K for the fiscal year ended March 29, 2008 as filed with the Securities and Exchange Commission).
- 3.3 Certificate of Determination specifying the terms of the Series A Junior Participating Preferred Stock (included in Exhibit 4.1).
- 4.1 Rights Agreement between the Company and American Stock Transfer & Trust Company, LLC dated as of January 23, 2013, which includes as Exhibit A the form of Certificate of Determination for the Series A Junior Participating Preferred Stock, as Exhibit B the Form of Rights Certificate and as Exhibit C a Summary of Rights to Purchase Shares of Preferred Stock (incorporated herein by reference to Exhibit 4.1 of the Company's Current Report on Form 8-K, filed with the Securities and Exchange Commission on January 25, 2013).