

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

AXON ENTERPRISE, INC.,  
Petitioner,

v.

DIGITAL ALLY, INC.,  
Patent Owner.

---

Case IPR2017-00375  
Patent 8,781,292 B1

---

Record of Oral Hearing  
Held: February 23, 2018

---

Before PHILLIP J. KAUFFMAN, MINN CHUNG, and ROBERT L.  
KINDER, *Administrative Patent Judges*.

Case IPR2017-00375  
Patent 8,781,292 B1

APPEARANCES:

ON BEHALF OF THE PETITIONER:

MICHAEL D. SPECHT, ESQUIRE  
RICHARD M. BEMBEN, ESQUIRE  
Sterne Kessler Goldstein & Fox  
1100 New York Avenue, N.W.  
Washington, D.C. 20005

ON BEHALF OF PATENT OWNER:

JENNIFER C. BAILEY, ESQUIRE  
ROBIN A. SNADER, Ph.D.  
Erise IP  
7015 College Boulevard  
Suite 700  
Overland Park, Kansas 66211

The above-entitled matter came on for hearing on Friday, February 23, 2018, commencing at 2:04 p.m., at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

P R O C E E D I N G S

- - - - -

1  
2  
3 JUDGE KAUFFMAN: Good afternoon. I'm Judge Kauffman.  
4 I'm joining you from my duty station in Pennsylvania. Also joining you  
5 remotely is Judge Chung from his duty station in California and with you  
6 in the courtroom today is Judge Kinder.

7 I guess, first, I'd like to say I'm sorry that we're starting late and  
8 I appreciate your patience.

9 Patent Owner, could you please come to the podium and  
10 introduce yourself and anyone else that you'd like to introduce for today.

11 MS. BAILEY: Yes, Your Honor. My name is Jennifer Bailey  
12 and with me is my colleague, Robin Snader, and we're from the law firm  
13 of Erise IP.

14 JUDGE KAUFFMAN: Thank you, Ms. Bailey. And did you  
15 give a business card to the court reporter?

16 MS. BAILEY: Yes, Your Honor, I did.

17 JUDGE KAUFFMAN: And how much time would you like to  
18 reserve for rebuttal on the Motion to Amend?

19 MS. BAILEY: 10 minutes, please.

20 JUDGE KAUFFMAN: All right. Judge Kinder will keep the  
21 clock for you there in the room so that you're able to see it. Thank you,  
22 Ms. Bailey.

23 And, Petitioner, would you please come and introduce yourself  
24 and anyone else from your group that you'd like to.

1 MR. SPECHT: Yes, Your Honor. This is Michael Specht. I'm  
2 a partner with Sterne Kessler Goldstein & Fox here on behalf of Axon  
3 Enterprise, the Petitioner. With me today is Richard Bemben also from  
4 our firm and backup counsel in this matter and we are also pleased to  
5 have with us Pam Petersen, a representative from Axon Enterprise.

6 JUDGE KAUFFMAN: Thank you. And how much time  
7 would you like to reserve?

8 MR. SPECHT: I would like to reserve 35 minutes, Your  
9 Honor.

10 JUDGE KAUFFMAN: And did you give a business card to the  
11 court reporter?

12 MR. SPECHT: I did, Your Honor.

13 JUDGE KAUFFMAN: Thank you.

14 I do want to let you know that I can see the courtroom and so  
15 can Judge Chung, but I cannot see the visuals that you have. We each  
16 have your demonstrative exhibits and a file that allows us to see  
17 everything, but if you would just please be careful to say I'm on slide 5 or  
18 I'm on slide 7. That also gives us a better transcript for the record and is  
19 helpful when we're writing the final decision.

20 I note that there were no objections to demonstratives, so there's  
21 no need for us to talk about that. At this proceeding please do not object  
22 to the other party if there is something you really need to talk about.  
23 Once they're done, please be recognized and we can talk about what you  
24 need to talk about.

1 I tend to ask a lot of questions. Please don't be thrown by that.  
2 We just want to make the best decision we can and there are certain  
3 things that I want to know more about.

4 I do have one question I'd like both parties to hear so you can  
5 think about it and comment on it when it is your turn to speak. It looks to  
6 me like the Patent Owner argues that speed sensor 92a must operate by  
7 continuously recording because it needs to compare speed to a threshold  
8 speed, and that's in the Patent Owner Response at pages 27 through 30. I  
9 don't think that the Petition relied on speed sensor 92a as the second  
10 recording device and so that argument looks unresponsive to me and I'd  
11 like a comment from either party about that, please.

12 For the court reporter, I do want to let you know we're going to  
13 talk about Pierce today, P I E R C E, and the other reference that you'll  
14 hear numerous times will 20/20-W. Two other proper names you may  
15 hear are Dr. Houh -- I hope I'm pronouncing that correctly -- H O U H,  
16 and Dr. Madisetti, M A D I S E T T I.

17 And with that, I believe that we are ready for Petitioner to start  
18 and I think that the clock should be set for 25 minutes. Judge Kinder, if  
19 you would just, please, let him know when you have the clock ready to  
20 go.

21 JUDGE KINDER: Right. Just to confirm, you wanted 25 and  
22 reserve 35?

23 MR. SPECHT: That's correct.

24 JUDGE KINDER: Okay. The clock is ready whenever you are  
25 ready to begin.

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.