UNITED STATES PATENT AND TRADEMARK OFFICE

_____

BEFORE THE PATENT TRIAL AND APPEAL BOARD

_____

AXON ENTERPRISE, INC.,
Petitioner,

v.

DIGITAL ALLY, INC.,
Patent Owner.

_____

Case IPR2017-00515
Patent 9,253,452 B2

_____

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

CHUNG, *Administrative Patent Judge*.

DECISION
Denying Institution of *Inter Partes* Review
35 U.S.C. § 314(a) and 37 C.F.R. § 42.108

I. BACKGROUND

A. *Introduction*

Axon Enterprise, Inc. ("Petitioner")[1] filed a Petition (Paper 1, "Pet.") requesting *inter partes* review of claims 10–17 and 20 of U.S. Patent No. 9,253,452 B2 (Ex. 1001, "the '452 patent"). Digital Ally, Inc. ("Patent Owner") filed a Preliminary Response (Paper 8, "Prelim. Resp."). We have authority to determine whether to institute an *inter partes* review. 35 U.S.C. § 314(b); 37 C.F.R. § 42.4(a).

The standard for instituting an *inter partes* review is set forth in 35 U.S.C. § 314(a), which provides that an *inter partes* review may not be instituted unless the information presented in the Petition "shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition." Upon consideration of the Petition and the Preliminary Response, we conclude that the information presented in the Petition does not establish a reasonable likelihood that Petitioner would prevail in showing the unpatentability of any of the challenged claims on the grounds set forth in the Petition. Accordingly, we deny Petitioner's request to institute an *inter partes* review of claims 10–17 and 20.

B. *Related Proceedings*

The parties indicate that the '452 patent is the subject of the following patent infringement cases: *Digital Ally, Inc. v. TASER International, Inc.*, Case No. 2:16-cv-02032-CM-JPO, and *Digital Ally, Inc. v. Enforcement*

---

[1] Petitioner indicates that, since the filing of the Petition, it has changed its name from TASER International, Inc. to Axon Enterprise, Inc. Paper 9, 1.

Video, LLC, Case No. 2:16-cv-02349-JTM-JPO, each pending in the United States District Court for the District of Kansas. Pet. 2–3; Prelim. Resp. 1; Paper 5, 2. The '452 patent is also the subject of a co-pending petition for *inter partes* review filed by Petitioner in IPR2017-00775. Additionally, we instituted *inter partes* review of certain claims of U.S. Patent No. 8,781,292 B1, which is a continuation for the '452 patent, in IPR2017-00375.

II. THE '452 PATENT

A. Background

As a description of related art, the '452 patent describes that recording device management systems are used to coordinate recording devices to capture multiple recordings of an event. Ex. 1001, 1:18–20. For example, a user could press a button on a control board to start multiple video cameras. *Id.* at 1:20–24. According to the '425 patent, such systems did little if anything to react to inputs from electronic devices, to make decisions based on statuses of electronic devices, or to corroborate the recorded data from distinct devices. *Id.* at 1:22–28.

Also as background, the '452 patent describes that law enforcement often used recording devices to record evidence. *Id.* at 1:29–31. These devices often used different cues to start recording, or required manual operation. *Id.* at 1:35–38. Known drawbacks of such systems included lack of corroboration or other forensic verification, and time to correlate this evidence. *Id.* at 4:40–46.

B. Described Invention

The '452 patent describes an embodiment in the form of an intermediate recording device managing apparatus ("recording device

manager") for use in a multiple recording device system. *Id.* at 1:54–56. The recording device manager receives a first communication signal from a first recording device that the first recording device has started recording, and transmits a second communication signal to a second recording device instructing the second recording device to begin recording. *Id.* at 1:56–62. Thus, the recording device manager insures multiple recording devices record an event. *Id.* at 1:63–64.

In another embodiment, an intermediate recording device managing apparatus comprises an internal clock and a controller. *Id.* at 1:65–2:1. The controller obtains time readings from the internal clock and creates time stamps. *Id.* at 2:1–3. The controller transmits the time stamps to synced recording devices for corroborating recordings. *Id.* at 2:3–4.

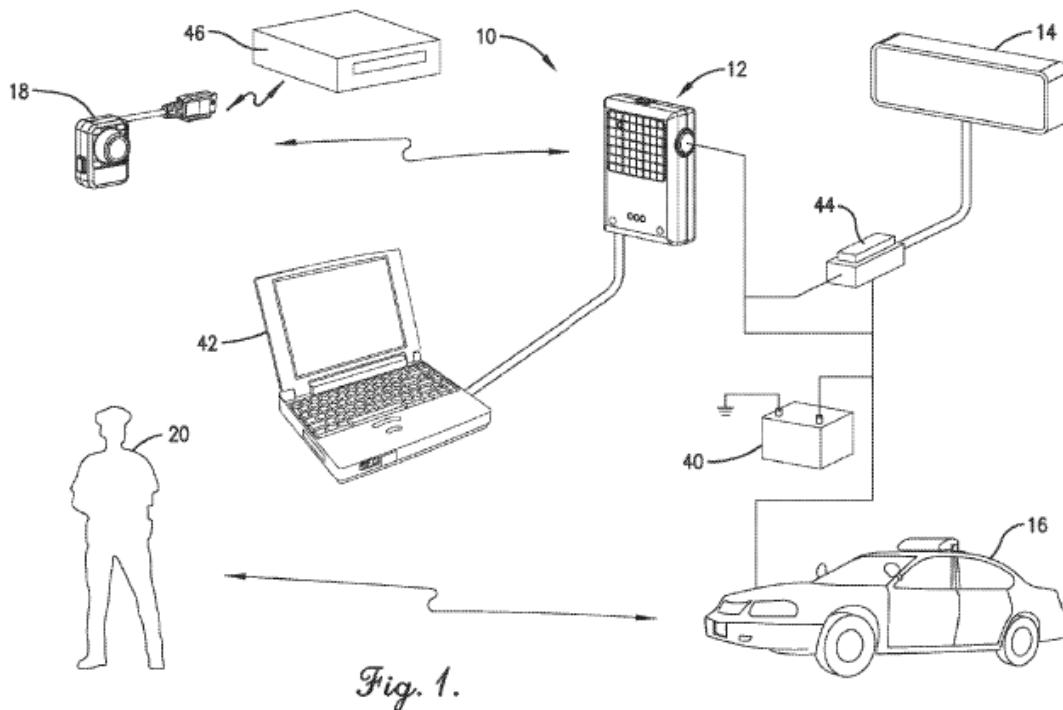Figure 1 of the '452 patent is reproduced below.

Fig. 1.

Figure 1 is a schematic plan view of a multiple recording device management system. *Id.* at 2:21–26. System 10 includes intermediate vehicle video recording device 14 mounted in police vehicle 16 and personal video recording device 18 carried by police officer 20, each wirelessly synced to recording device manager 12. *Id.* at 3:10–20. Multiple personal recording devices 18 can be synced with manager 12. *Id.* at 3:36–38, 4:20–24. Recording device manager 12 also may generate time stamps and unique serial numbers for a data recording, and create or collect metadata and transmit such time stamps, unique serial number, and metadata to recording devices 14, 18 for corroborating the recorded data. *Id.* at 3:25–30.

In an embodiment, when recording device manager 12 receives a signal from a first recording device (e.g., personal recording device 18) that it has begun recording, either due to an instruction to record or a triggering event, recording device manager 12 signals a second recording device (e.g., vehicle recording device 14) to begin recording.[2] *Id.* at 4:29–43.

In another embodiment, recording device manager 12, upon receiving a signal indicating a triggering event, broadcasts a signal to recording devices 14 and 18, instructing both of them to begin recording. *Id.* at 14:41–48. Examples of a trigger event include the officer turning on the police vehicle sirens, police lights, or spotlight. *Id.* at 14:46–48. In yet another aspect of the invention, the time stamp and serial number are sent to recording devices 14 and 18 when the recording devices begin recording for a particular data recording event. *Id.* at 6:57–60. By beginning to record

---

[2] Either recording device (14, 18) may be the first or second recording device.

DOCKET ALARM

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.

fastcase®
Smarter legal research.