

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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AXON ENTERPRISE, INC.,  
Petitioner,

v.

DIGITAL ALLY, INC.,  
Patent Owner.

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Case PGR2018-00052  
Patent 9,712,730 B2

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

CHUNG, *Administrative Patent Judge*.

DECISION  
Denying Institution of Post-Grant Review  
*35 U.S.C. § 324(a)*

## I. INTRODUCTION

Axon Enterprise Inc. (“Petitioner”) filed a Petition (Paper 1, “Pet.”) requesting a post-grant review of claims 1–24 (the “challenged claims”) of U.S. Patent 9,712,730 B2 (Ex. 1001, “the ’730 patent”). Digital Ally, Inc. (“Patent Owner”) filed a Preliminary Response (Paper 7, “Prelim. Resp.”). We have authority to determine whether to institute a post-grant review. 35 U.S.C. § 324; 37 C.F.R. § 42.4(a).

The standard for instituting a post-grant review is set forth in 35 U.S.C. § 324(a), which provides that a post-grant review may not be instituted unless “the information presented in the petition . . . , if such information is not rebutted, would demonstrate that it is more likely than not that at least 1 of the claims challenged in the petition is unpatentable.” Upon consideration of the Petition and the Preliminary Response, we conclude that the information presented in the Petition does *not* demonstrate that it is more likely than not at least one of the challenged claims is unpatentable. Accordingly, we do not institute a post-grant review.

## II. BACKGROUND

### *A. Related Proceedings*

Petitioner indicates that there are no other proceedings involving the ’730 patent. Pet. 92. Similarly, Patent Owner indicates that the ’730 patent is not currently a subject of any related matters. Paper 5, 2.

*B. The '730 Patent*

The '730 patent relates to a portable video and imaging system comprising a camera and a video recording device. Ex. 1001, Abstract. Figure 1 of the '730 patent is reproduced below.

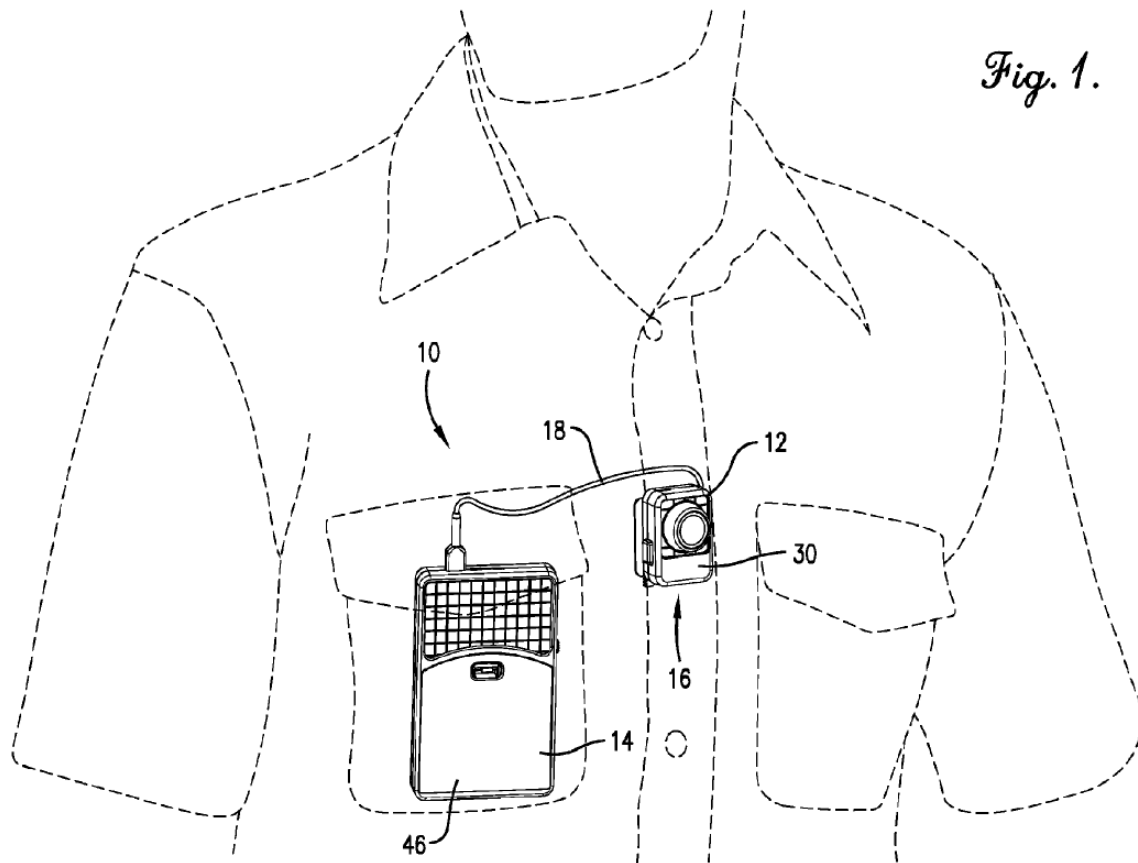
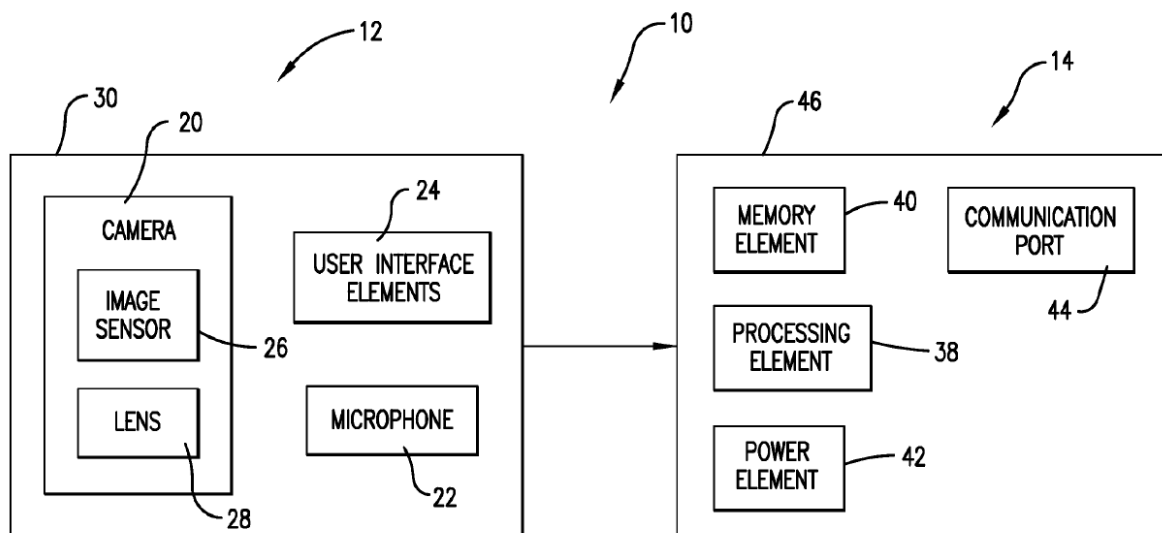


Figure 1 depicts an embodiment of the '730 patent in the form of a portable video and imaging system mounted on a user's body. *Id.* at 2:41–43. As shown in Figure 1 above, digital video recording system 10 comprises camera component 12, recording component 14, and mounting assembly 16. *Id.* at 4:39–42.

According to the '730 patent, the camera component and the recording component are physically separate but “communicatively coupled” to each other. *Id.* at 2:22–24, Abstract. As shown in Figure 1, camera component 12 and recording component 14 are “communicatively coupled” via cabling 18. *Id.* at 5:4–6. In an alternative embodiment, camera component 12 and recording component 14 are “communicatively coupled” wirelessly such that instructions or data can be transmitted between the components as wireless signals over communication networks, such as Wi-Fi links. *Id.* at 5:8–14.

Figure 30 of the '730 patent is reproduced below.



*Fig. 30.*

Figure 30 is a schematic of camera component 12 and recording component 14 in an embodiment of the '730 patent. *Id.* at 3:50–51. As shown in Figure 30, recording component 14 includes processing element

38, memory element 40, and at least one communication port 44. *Id.* at 7:10–13.

Processing element 38 may “generally execute, process, or run instructions, code, software, firmware, programs, applications, apps, processes, services, daemons, or the like.” *Id.* at 7:20–23. In addition, memory element 40 may store “the instructions, code, software, firmware, programs, applications, apps, services, daemons, or the like” that are executed by processing element 40. *Id.* at 7:34–37.

Communication port 44 may be in communication with processing element 38 and memory element 40, and generally allows recording component 14 to communicate with camera component 12 over a communications network. *Id.* at 7:51–56. In an embodiment, communication port 44 is a mini-USB port to connect cabling 18 for transmission of data from camera component 12 to recording component 14. *Id.* at 7:59–64.

As shown in Figure 30 above, camera component 12 includes camera 20, microphone 22, and user interface elements 24 for providing input or instructions to camera 20. *Id.* at 5:35–38. In an embodiment, user interface elements 24 comprises first input 32, which is a power on/off switch, and second input 34. *Id.* at 6:17–21.

Second input 34 controls recording and marking of an event. *Id.* at 6:35–36. For example, a user can instruct recording of video by actuating second input 34. *Id.* at 6:36–39. During recording of an event, the user can also “mark” the captured video by actuating second input 34. *Id.* at 6:40–41. According to the ’730 patent, “marking” of the captured video provides an

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