

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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TASER INTERNATIONAL, INC.  
Petitioner

v.

DIGITAL ALLY, INC.  
Patent Owner

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Case IPR \_\_\_\_\_

Patent No. 8,781,292

Issued: July 15, 2014

Filed: September 27, 2013

Reexamination Certificate: January 14, 2016

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PETITION FOR *INTER PARTES* REVIEW OF U.S. PATENT NO. 8,781,292

UNDER 35 U.S.C. §§311-319 AND 37 C.F.R. §42.100 ET SEQ.

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## **I. INTRODUCTION.**

Pursuant to 35 U.S.C. §§311-319 and 37 C.F.R. §42.100 *et seq.*, TASER International, Inc. ("TASER" or "Petitioner") petitions for *inter partes* review of claims 1, 3, 8, 18, 20-21, 24, 26-27, 29-31, 36, 38-39, 42, 43, 45-46, 48, 50-51, 54-55, and 57-58 ("challenged claims") of U.S. Patent No. 8,781,292, as amended by the *Ex Parte* Reexamination Certificate ("292 Patent") (Ex.1001). The '292 Patent has been assigned to Digital Ally, Inc. Accordingly, Digital Ally, Inc. is believed to be the "Patent Owner" in this Petition.

This Petition demonstrates a reasonable likelihood that Petitioner will prevail with respect to at least one of the claims challenged in this petition, and thus a trial for *inter partes* review must be instituted. Evidence in this Petition demonstrates the challenged claims are unpatentable under 35 U.S.C. §103. Petitioner respectfully requests the challenged claims be rejected and cancelled.

## **II. STANDING.**

Pursuant to 37 C.F.R. §42.104(a), Petitioner hereby certifies that the '292 Patent is available for *inter partes* review. The '292 Patent issued on July 15, 2014, more than nine months prior to the filing of this petition. An *ex parte* reexamination certificate for the '292 Patent also issued on January 14, 2016 (Ex.1001).

Petitioner further certifies under 37 C.F.R. §42.104(a) that it is not barred or

estopped from requesting *inter partes* review of the '292 Patent on the grounds identified below. Pursuant to 35 U.S.C. 315(b), this Petition is timely because it is being filed within one year after Patent Owner served its complaint against Petitioner in *Digital Ally, Inc. v. TASER International, Inc.*, Case No. 2:16-cv-02032-CM-JPO, now pending in the United States District Court for the District of Kansas.

### **III. FEE.**

The undersigned submitted payment by deposit account with the filing of this Petition authorizing the Office to charge fees required under C.F.R. §42.15(a).

### **IV. MANDATORY NOTICES (37 C.F.R §42.8(b)).**

#### **A. Real Party in Interest (37 C.F.R §42.8(b)(1)).**

TASER International, Inc., located at 17800 North 85th Street, Scottsdale, AZ, 85255, is the sole real party-in-interest.

#### **B. Related Proceedings (37 C.F.R §42.8(b)(2)).**

*Digital Ally, Inc. v. TASER International, Inc.*, Case No. 2:16-cv-02032-CM-JPO, now pending in the United States District Court for the District of Kansas ("Kansas Litigation") (Ex.1007, ¶26).

Patent Owner is also asserting the '292 Patent against Enforcement Video, LLC, *dba* Watchguard Video, in *Digital Ally, Inc. v. Enforcement Video, LLC d/b/a/ Watchguard Video*, Case No. 2:16-cv-02349-JTM-JPO ("Watchguard

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Litigation"), pending in the United States District Court for the District of Kansas (Ex.1008, ¶22).

Petitioner is also filing a second, concurrent petition for *inter partes* review of the '292 Patent. The second petition addresses additional claims, and focuses on different prior art. The differences between the two petitions with respect to the art presented, the challenged claims, and their respective disclosures are further discussed below in Section VIII(A), which sets forth the detailed grounds for the present Petition.

**C. Lead and Back-up Counsel (37 C.F.R §42.8(b)(3)).**

In accordance with 37 C.F.R. §§42.8(b)(3) and 42.10(a), TASER designates Brandon C. Stallman, Reg. No. 46,468, as Lead Counsel, and L. Rhys Lawson, Reg. No. 57,869, as Back-up Counsel.

**D. Service Information (37 C.F.R. §42.8(b)(4)).**

Counsel for Petitioner can be reached at Christensen O'Connor Johnson Kindness PLLC; 1201 Third Ave., Suite 3600, Seattle, Washington, 98101; Tel. (206) 682-8100; Fax (206) 224-0779. TASER consents to service by electronic mail at: brandon.stallman@cojk.com; rhys.lawson@cojk.com; litdoc@cojk.com.

**E. Power of Attorney (37 C.F.R. §42.10(b)).**

A Power of Attorney is filed concurrently with this Petition.

**V. STATEMENT OF RELIEF REQUESTED.**

Pursuant to 35 U.S.C. §311, and 37 C.F.R. §§42.22(a)(1) and 42.104(b), Petitioner respectfully requests cancellation of the challenged claims of the '292 Patent based on the following reasons.

**A. Identification of Prior Art and Challenged Claims.**

1. Ground 1: Claim 1, 3, 8, 18, 20-21, 26-27, 29-31, 36, 38-39, 42-43, 45-46, 48, 50-51, 54-55, and 57-58 are unpatentable under 35 U.S.C. §103 over U.S. Patent Publication No. 2005/0083404 to Pierce ("Pierce," Ex.1014) in view of Printed Publication entitled "Raytheon JPS Communications Raytheon Model 20/20-W" ("20/20-W Publication," Ex.1015).

**B. Supporting Evidence Relied Upon for the Challenged Claims.**

The evidence to support the above challenges and the identification of where each claim limitation is found in the prior art references is provided below. This Petition and Dr. Henry Houh's Declaration (Ex.1003) demonstrate the challenged claims are not patentable. In particular, the Petition and Declaration explain where each claim element is found in the prior art and why the claims would have been obvious to a person of ordinary skill in the art ("POSITA") when the '292 Patent was filed.

**C. Summary of Unpatentability.**

The '292 Patent generally describes multiple recording device management systems for managing the recording of event data by multiple recording devices from different vantage points. Based on Patent Owner's admitted prior art (Ex.1001, 1:29-57), the purported inventive concept of the '292 Patent claim includes a recording device manager that automatically signals a second, synced, recording device to record data of the event based on the recording status of a first, synced recording device. (Ex.1007, ¶¶9-11).

The use of a "recording device manager" in this manner was not new. Indeed, a number of prior art systems employ such methodologies to record event data from different vantage points using multiple recording devices. (Ex.1003, ¶¶125-137). As set forth in detail below, a number of third parties had previously described such technology, including the subject matter of the concurrent IPR Petition. Petitioner's own product designs and public presentations also included automatic activation of video recording devices, years before the '292 Patent's priority date (Ex.1003, ¶¶122-124).

This Petition is based on a system that teaches a "manager" that automatically transmits a record request signal to a second recording device in response to receiving a signal indicating a first recording device has been

instructed to record, as well as the other requirements of the claims. (Ex.1014; Ex.1015).

## **VI. OVERVIEW OF THE '292 PATENT.**

### **A. Effective Filing Date of the '292 Patent.**

The '292 Patent is a continuation of U.S. Patent No. 9,253,452 B2 ("452 Patent"). The '292 Patent was filed on September 27, 2013 and claims priority to the '452 Patent's August 14, 2013 filing date. Based on the record, there is no reason to believe that the priority date of any '292 Patent claims is earlier than August 14, 2013.

### **B. State of the Art as of the '292 Priority Date.**

As of this priority date, the concept of a connected system of cameras and other triggering devices was well-known, including as a result of Petitioner TASER's own disclosures. In addition to Pierce and the 20/20-W Publication (relied upon herein as invalidating references), the patent art and public record are replete with references teaching systems such as those claimed in the '292 Patent.

#### **1. Third-Party System Development, Culminating in Police Department Specifications for Automatically-Triggered Camera Systems.**

Before the '292 Patent priority date, many surveillance systems captured and stored data from multiple video cameras (or audio recorders). One commercially-available example was the ICOP 20/20 system, which was sold to law enforcement

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and involved the use of multiple automatic triggers to initiate recording, such as activating a patrol vehicle's light bar or siren. This system is the subject of the present Petition for *inter partes* review.

Other examples of prior art systems included the multi-camera setup described in the Kister reference (discussed during the '292 Patent re-examination), TASER's TACOM wireless system (further described below), and systems disclosed in various other patents and prior publications. See, for example, Blanco (Ex.1018), Park (Ex.1019), Brown (Ex.1020), Mirabile (Ex.1021), Pearlson (Ex.1022), and Lee (Ex.1023). Many of these systems focused on in-car recording systems with video cameras, along with officer-worn microphones and/or cameras. It was also well-known that one such device could trigger another, or that one trigger could synchronously start multiple video or audio recorders to capture event data from various vantage points. *Id.*

Before Patent Owner's priority date for the '292 Patent, such recording systems were so well-known that law enforcement customers were describing them in requests for proposal and detailed specifications. For example, the City of Pomona issued a Request for Proposal ("RFP") in early 2013 that specified: (1) three mounted, miniature cameras; (2) a digital video recorder; (3) a wireless microphone; (4) a monitor to provide integration with a body-worn camera system; (5) auto-activation of the mobile video system and/or officer-worn microphone; (6)

simultaneous recordings; and (7) optional metadata and time stamping. (Ex.1025 pp.5-7, 9-12, 15-16; public at least by 4/4/2013; [http://www.ci.pomona.ca.us/mm/finance/bids/S0901.6\\_Mobile\\_Video\\_Recording\\_Sys.pdf](http://www.ci.pomona.ca.us/mm/finance/bids/S0901.6_Mobile_Video_Recording_Sys.pdf); Ex.1003, ¶137). Similarly, the International Association of Chiefs of Police issued a "minimum specifications" document stating that such systems should include: (1) at least one camera and at least one microphone; (2) a device used to record Digital Multimedia Evidence and associated metadata; (3) auto-activation of audio and video recording by the Vehicle Recording wireless microphone; (4) auto-activation of a Vehicular Recording System by a police vehicle's emergency lights and/or sirens; and (5) time syncing. (Ex.1017 pp.1, 3, 6, 15-16, and 18-19; Sections 1.4.17, 1.4.51, 4.1.1., 4.2.15, 4.2.16, 4.2.22, 4.2.24, and 5.4.1-5; Ex.1003, ¶136).

All of these activities and documents predate Patent Owner's '292 Patent filing.

## **2. Petitioner TASER's Own Prior, Public Activities and Patents.**

TASER was also active in this space years before Patent Owner's priority date. In the early 2000s, TASER conceived what would become the "Axon" network of devices and applications. This was a connected device ecosystem that included automatically-triggered cameras worn by law enforcement officers. This

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system was very similar to the contemporary system that Patent Owner now accuses of infringement in the Kansas Litigation. TASER, however, publicly disclosed these same concepts years before Patent Owner filed for its '292 Patent.

TASER identified automatic activation as a potential functionality beginning as early as 2008. This included using activation triggers such as a law enforcement vehicle's light bar, or the arming of a TASER conducted electrical weapon ("CEW"), to initiate recording. TASER gave several public presentations describing its version of such a system, including CEO Rick Smith's April 28, 2009, presentation at the Evidence.com Technology Summit in Scottsdale, AZ. That presentation included the slide below, which illustrated the "TACOM" (TASER Communications) system:



The TACOM system facilitated communication between connected devices, e.g., cameras and weapons, such that when one triggering event occurred within the ecosystem, other devices were alerted and could respond accordingly. As pictured above, the cameras could be triggered by activation of a vehicle's light bar, a CEW, or even another camera. The TACOM system was described by TASER at the time as enabling time synchronization and event triggering and logging between devices, including officer-mounted cameras and TASER weapons. TASER also secured patents on its weapon-mounted "TASER Cam," which could be integrated into this device environment (see, e.g., U.S. Patent No. 7,363,742 invented by Nerheim and issued April 29, 2008), as well as patents on

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triggering and time synchronization within such an ecosystem of weapons and cameras (see, e.g., U.S. Patent No. 8,594,485 invented by Brundula and filed December 30, 2010).

The following slide, presented on July 27, 2009 at a TASER Master Instructor Conference in Fort McDowell, AZ, further illustrates the connected TACOM ecosystem, including "sync" communication between a CEW (e.g., via trigger pull), and an on-officer camera system.



In the illustrated TACOM system, the data from the CEW and on-officer camera could be communicated to a computer-based evidence system (TASER's Evidence.com system, as shown). This coordination allowed for synchronization of data recordings from connected devices when transferred to Evidence.com.

Thus, it was well-known from many sources in the art, including TASER, to provide an automatically-triggered system of synced devices for recording events, and to time stamp and coordinate the multiple data sets generated.

### **C. Summary of the '292 Patent.**

#### **1. The Patent Owner's Admitted Prior Art.**

The '292 Patent admits that recording device management systems were known prior to August 14, 2013, and had been used to coordinate recording devices to capture multiple recordings of an event. (Ex.1001, 1:29-31). An example of an admitted prior art recording device management system includes a control board that starts multiple video cameras to record video data from multiple vantage points. (Ex.1001, 1:31-33). This is said to occur by the control board simply receiving a single input, such as a button press, that is transmitted to multiple recording devices. (Ex.1001, 1:33-35).

The '292 Patent also admits the law enforcement field is growing more dependent on recording devices, such as cameras and audio recorders, to preserve evidence. (Ex.1001, 1:40-44). The '292 Patent states that prior to the filing date, officers had used dash-cams, hidden cameras, and personal recording devices worn by the officers to obtain crucial video and audio data recordings. (Ex.1001, 1:40-44). One type of vehicle recording device that can be employed by the claims

of the '292 Patent is described in prior art US Patent Publication 2009/0002491 (Ex.1001; 11:36-42; Ex.1026).

One problem in the prior art identified by Patent Owner was that current management systems did little, if anything, to react to inputs from the electronic devices or to make decisions based on statuses of the electronic devices. (Ex.1001, 1:35-37). Another problem in the prior art identified by Patent Owner was that managing current recording devices and corroborating the recorded data remained difficult and problematic, because, for example, recording devices often use different cues to start recording, or require manual operation, which can result in the devices failing to record at a crucial time. (Ex.1001, 1:44-51). These problems, as well as solutions to these problems, had been known prior to the effective filing date of the '292 Patent, as set forth above and in Section VIII below.

## **2. Technical Overview of the '292 Patent.**

The '292 Patent is said to solve the problems of the prior art by providing a computer program, method, apparatus, and system for managing multiple recording devices. (Ex.1001, 1:61-64). According to the '292 Patent, the multiple recording device management system includes a multiple recording device managing apparatus, referred to in the challenged claims as the "recording device manager." (Ex.1001, 1:65-67). The multiple recording device management system also includes a vehicle recording device, such as a video camera, synced to the

recording device manager and a personal recording device, such as a video camera, synced to the multiple recording device manager. (Ex.1001, Abstract).

The basic components of the claimed system are shown in Figure 1 reproduced below.

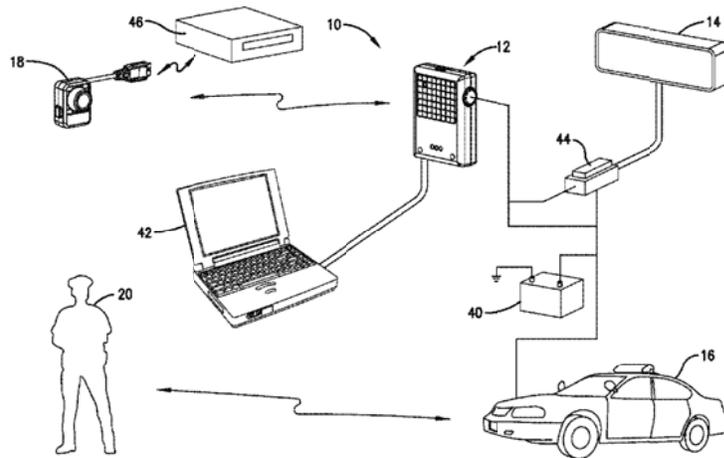


Fig.1 ('292 Patent)

With reference to Fig.1 above, the recording device manager 12 operates by first receiving a first communication signal from either the vehicle recording device 14 or the personal recording device 18 (either being "the first, synced, recording device"). The communication signal is said to indicate that the first, synced, recording device has begun recording or has received instructions by a user, such as a law enforcement officer, to record an event. In response to receiving the first communication signal, the recording device manager 12 transmits a second communication signal to the other one of the vehicle recording device 14 or

the personal recording device 18 (the other being "the second, synced, recording device"). The second communication signal instructs the second, synced recording device to begin recording the event. (Ex.1001, 2:1-8).

By automatically signaling the second, synced, recording device to record data of the event based on the recording status of the first, synced recording device, the invention is said to address the problems in the prior art associated with manually managing recording devices, thus insuring that both recording devices record data of the event. (Ex.1001, 2:1-8; Ex.1007, ¶¶10-11).

### **3. The Claims of the '292 Patent.**

Claims 1, 18, 36, and 48 of the challenged claims are independent. The remaining challenged claims are dependent on one of the respective independent claims. Claim 1 is representative of the challenged claims.

#### **D. Summary of the Prosecution History.**

Based on the claims as originally filed on September 27, 2013, a first Office Action was issued rejecting Claims 1-12 and 19-20 as being anticipated by, or obvious in view of, U.S. Patent Publication No. 2012/0189286 A1 ("Takayama"). (Ex.1005, 01/31/2014 Office Action, pp.60-67). On March 19, 2014, the Patent Owner filed a response to the USPTO that amended the claims to recite that the first recording device records a first set of record data from a first input and the second recording device records a second set of record data from a second input.

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(Ex.1005, Applicant Response of 03/19/2014, p.49). The Patent Owner argued that Takayama records "a single set of data from a single input," and that Takayama "only teaches a single video camera, whose output is then stored onto various media." (Ex.1005, Applicant Response of 03/19/2014, p.49).

In their response to Office Action, Patent Owner distinguished their invention as "record[ing] the same event ... from different vantage points and thus, would receive different sets of record data." (Ex.1005, Applicant Response of 03/19/2014, pp.49-50). Patent Owner further amended the patent claims to clarify that the claimed recording devices captured different record data. (Ex.1005, Applicant Response of 03/19/2014, pp.38-41).

As a result of the submitted amendment, the application was deemed allowable, and subsequently issued as U.S. Patent No. 8,781,292 on July 15, 2014.

**E. Summary of the *Ex Parte* Reexam.**

On August 17, 2015, the USPTO granted *ex parte* reexamination of the '292 Patent, Reexamination Request No. 90/013,489 ("'292 Reexam"). In granting the '292 Reexam, the USPTO examiner rejected all claims of the '292 Patent as anticipated or rendered obvious in view of U.S. Patent Publication No. 2008/0800705 to Kister et al. ("Kister"). (Ex.1006, Office Action of 8/17/2015, pp.238-262).

On October 16, 2015, Patent Owner responded to the USPTO examiner by amending the rejected claims and traversing the rejection in view of Kister. Specifically, Patent Owner argued the claims of the '292 Patent were not anticipated nor rendered obvious by Kister because the '292 Patent claims "receive ... an instruction initiated by a ... law enforcement officer to record" data of an event. (Ex.1006, Patent Owner Response of 10/16/2015, pp.212, 217). Patent Owner stated that "it would not have been obvious to modify Kister to include an instruction initiated by a first law enforcement officer...." (*Id.*, p.218). Patent Owner also contrasted the '292 Patent claims from Kister by stating "it would not have been obvious to modify Kister's system to include one or more recording devices mounted on or carried by a law enforcement officer." (*Id.*, p.220). Patent Owner further stated that "neither Kister nor the art of record teaches or suggests the other types of triggering events that would cause the first recording device to transmit a first communication signal to the recording device manager indicating the first recording device has begun recording." (*Id.*, pp.221-222).

As a result of the submitted amendment, a reexamination certificate issued as U.S. Patent No. 8,781,292 on January 14, 2016.

**F. Person of Ordinary Skill in the Art.**

A POSITA in the field of the '292 Patent in August, 2013, would have been someone with at least a bachelor's degree in electrical engineering or a related field (including but not limited to computer or network engineering), with two years of additional experience in the area of data communications and data storage. (Ex.1003, ¶78). The additional two years of experience could be either in an industrial setting or in an educational setting, such as in the course of obtaining an advanced degree. (Ex.1003, ¶78).

## **VII. CLAIM CONSTRUCTION.**

A claim subject to *inter partes* review ("IPR") is given its "broadest reasonable construction ("BRI") in light of the specification of the patent in which it appears." 37 C.F.R. §42.100(b). Under the BRI standard, words of the claim must be given their plain meaning, unless such meaning is inconsistent with the specification and prosecution history. *Straight Path IP Grp., Inc. v. Sipnet EU S.R.O.*, 806 F.3d 1356, 1362 (Fed.Cir.2015).

Petitioner below proposes the broadest reasonable interpretation of certain claim language, as understood by a POSITA as of the filing date of the '292 Patent. 37 C.F.R. §42.104(b)(3). Petitioner also below sets forth claim terms that were either defined in the specification or are subject to 35 U.S.C. §112(f). Petitioner submits that all remaining claim terms should be accorded their plain and ordinary meaning as understood by a POSITA. 77 Fed. Reg. 48700 (2012). Petitioner

reserves all rights regarding claim constructions presented during litigation, including the Kansas Litigation, as they do not necessarily correspond to a BRI approach. Different standards may be involved in litigation and Patent Office proceedings. *Cuozzo Speed Technologies, LLC v. Lee*, 136 S.Ct. 2131 (2016).

**A. "communicatively coupled" (Claims 1, 18, 36, and 48).**

The '292 Patent defines the term "communicatively coupled" to mean "synced." (Ex.1001, 3:26-30). The specification uses the term "synced" throughout the specification in relation to the communication link between recording devices and the recording device manager. (Ex.1001, Abstract, 3:21-48, 3:57:4:8, 4:54-65, 7:49-56, 8:63-9:3, 9:16-21, 12:34-45, 12:46-13:3, 13:19-28, 13:35-42, 13:43-51, and 14:27-42).

The '292 Patent describes "synced" in terms of both wired and wireless connections for the purpose of transmitting and receiving communication signals between known devices (e.g., Ex.1001, Fig.5, 2:48-50, 3:21-48, 4:11-26, 9:49:59, 9:60-10:6). The '292 Patent additionally describes the syncing between recording devices and the recording device manager as "device-syncing." (Ex.1001, Fig.5, 2:48-50). Moreover, the specification explains that syncing can be accomplished over a communications network, such as Wi-Fi, via use of SSIDs (Ex.1001, 13:20-

23). As such, Petitioner believes the appropriate construction for "communicatively coupled" in view of the '292 Patent specification is "synced."

In the Kansas Litigation, the Patent Owner proposed a construction of the term "communicatively coupled" to require only "a communication path between devices." (Ex.1013, p.20). Petitioner demonstrates unpatentability based on both constructions.

**B. "recording device" (All Claims).**

The term "recording device" is a means plus function limitation under 35 U.S.C. §112(f). Although "means" is not recited, the rebuttable presumption should be overcome, as the term "recording device" lacks sufficiently definite structure. This claim term uses the generic placeholder or nonce term "device." (MPEP 2181(I)). And the term "recording" that modifies the nonce word "device" is written as a present participle ("ing"), which does nothing more than to identify the function for the "device" to perform. To be sure, the function associated with the nonce term "device" is "recording." In other words, a recording device is a "device [means] for recording."

In the Kansas Litigation, the Patent Owner has proposed that "recording device" be construed as "a device that records information." (Ex.1013, p.4). Petitioner asserts this merely attempts to circumvent the functional claiming in the

'292 Patent by rewriting the claim language. Regardless, it is clear from the '292 Patent specification that whichever construction applies, "recording devices" at least include structures such as video cameras, audio recorders, and chemical analyzers, as well as a number of video camera products produced by Patent Owner, and their equivalents. (Ex.1001, 3:40-48; 11:13-19, 11:43-63; Ex.1003, ¶118).

Thus, Petitioner demonstrates unpatentability based on both constructions.

**C. "input" (All Claims).**

The corresponding structure that performs the function of "recording" must also include the recited first/second "input for receiving the [first/second] set of record data." (Ex.1001, Claims 1, 18, 36, and 48). The claims also recite that the "[first/second] recording device records the [first/second] set of record data using the [first/second] input." (Ex.1001, Claims 1, 18, 36, and 48). Importantly, the specification fails to use the term "input" in relation to a "recording device." The only discussion of "input" as it relates to the term "recording device" appears in the original prosecution history. (Ex.1005, Applicant Response of 03/19/2014, pp.49-50).

In view of the claims and the prosecution history, a POSITA would understand the corresponding structure of "input" to include a component, such as a sensor, through which information from the event is delivered into the recording

device. Video cameras, audio recorders, and chemical analyzers, as well as Patent Owner's enumerated devices, all inherently include components that can be deemed as inputs, such as sensors, "for receiving a [first/second] set of record data of the event." For example, a video camera includes an image sensor for receiving image information into the camera and an audio recorder includes an audio transducer for receiving sound information into the audio recorder. (Ex.1003, ¶¶195, 244).

**D. "recording device manager" (Claims 1 and 36).**

The term "recording device manager" is a means plus function limitation under 35 U.S.C. §112(f). Although "means" is not recited, the rebuttable presumption should be overcome as this claim term lacks sufficiently definite structure. It uses the generic placeholder or nonce term "manager," with modifiers that only address which components are to be "managed."

The function set forth in Claims 1 and 36 for "manager" is "managing the synced recording devices by receiving communication signals from the first recording device, and transmitting communication signals to the second recording device in response to receiving the first communications." (Ex.1001, Claims 1, 36). The '292 Patent explains the functions of the recording device manager throughout the specification. (Ex.1001, Abstract, 5:56-67, 4:27-53; 8:31-45; 14:43-58).

The '292 Patent sets forth the corresponding structure that performs the function of "managing" throughout the specification. (Ex.1001, 8:31-45, 9:37-10:6, 10:23-46). According to the '292 Patent, the "recording device manager 12 includes ... a receiver 30 for receiving from either the vehicle recording device 14 or the personal recording device 18 information, including a signal, that such recording device has started recording; a transmitter 32 for transmitting a signal; ... and a controller 36 for performing algorithms, managing data, and generating signals and receiving information indicative of triggering events." (Ex.1001, 8:31-41).

In one embodiment, the '292 Patent specification describes the controller as including "electronic circuitry, a processing element, a memory element, computer hardware, and computer software ... for performing algorithms for managing the recording devices 14, 18, as described below." (Ex.1001, 9:42-48). The '292 Patent explains the structure of the receiver and the transmitter in terms of wireless or wired circuitry or connectors that receive communication signals and transmit communication signals, respectively. (Ex.1001, 9:60-10:6). The '292 Patent also sets forth the algorithms performed by the controller for carrying out the claimed function. (Ex.1001, Abstract, 5:56-67, 4:27-53; 8:31-45; 14:43-58).

As properly construed, the corresponding structure for this claim limitation (as described in the specification and equivalents thereof) is a receiver, a

transmitter, and a special purpose controller programmed to perform the disclosed algorithm. (Ex.1003, ¶118).

**E. "insures" (All Claims).**

In the Kansas Litigation, Petitioner and the Patent Owner have agreed to a construction of "insures" as meaning "make certain or sure." (Ex.1012, p.6). The Patent Owner contends in the Kansas Litigation that the recording device manager can meet this limitation by simply transmitting a second communication signal to the second recording device instructing the second recording device to record (Ex.1013, pp.19-20).

Under a BRI approach, Petitioner will apply the Patent Owner's position on "insures" for purposes of this Petition, and demonstrate unpatentability on that basis. Petitioner will also demonstrate where the applied references teach additional features that actually "make certain or sure," should the Board require more than the interpretation advocated by the Patent Owner to meet this claim term. In the context of the Kansas Litigation, Petitioner does not concede that merely transmitting a signal to a recording device instructing it to record "makes certain or sure" that the second device is actually recording.

**F. "metadata" (Claim 21, 38, 39, 42, 51, 54).**

In the Kansas Litigation, Petitioner and the Patent Owner have agreed to a construction of "metadata" as meaning "data about a data recording, including but not limited to a timestamp, location, user, device serial number, number of recording devices, or trigger type." (Ex.1012, p.6).

Petitioner accepts this construction of the term "metadata" for purposes of this Petition, and demonstrates unpatentability based on this construction.

**VIII. DETAILED EXPLANATION OF GROUNDS FOR OBVIOUSNESS.**

Provided below is a detailed discussion of why the challenged claims of the '292 Patent are rendered obvious. Indeed, the '292 Patent claims recite nothing more than predictable design choices that use known components and techniques according to their well-understood and established functions.

The showing as set forth below establishes a reasonable likelihood of prevailing as to each ground of invalidity with respect to the challenged claims as to that ground. This showing is supported by the Declaration of Dr. Henry Houh. (Ex.1003).

**A. Ground 1: Obviousness of Claims 1, 3, 8, 18, 20-21, 24, 26-27, 29-31, 36, 38-39, 42-43, 45-46, 48, 50-51, 54-55, and 57-58 under 35 U.S.C. §103(a) in View of Pierce and the 20/20-W Publication.**

**1. Pierce (Ex.1014).**

Pierce published on April 21, 2005, before the earliest possible priority date claimed by the '292 Patent. Pierce thus qualifies as prior art under §102(a)(1). Pierce was not cited during prosecution of the '292 Patent or its reexamination proceeding.

Pierce was assigned to ICOP Digital, of Overland Park, Kansas. (Ex.1024). Pierce is directed to a data acquisition system, referred to as the ICOP 20/20 (Ex.1014, Fig.4a) for use with a law enforcement vehicle, and discloses techniques for both manually and automatically triggering recordings of a police incident by a number of wired or wireless cameras and microphones, as well as radar and LIDAR speed guns. (Ex.1014, ¶¶0035, 0083, 0084). Pierce addresses the same problems of prior art systems as raised by the Patent Owner. In that regard, Pierce explains that while prior art in-car video systems are "generally useful," it "is often difficult for officers to operate the electronic apparatus during high-speed pursuits, domestic disturbances, and other high-stress and high-activity situations." (Ex.1014, ¶0004). Similar to the problems set forth in the '292 Patent, Pierce states these in-car video systems "are often underutilized and valuable data, including video data and speed data, is often not recorded." (Ex.1014, ¶0004). Pierce further

explains that there "is an increasing demand for apparatus (sic) that monitor and record the activity of police officers and/or suspects during arrests, altercations, vehicle searches, and traffic stops." (Ex.1014, ¶0006).

To address these problems, Pierce teaches automatic activation of, for example, a number of wired or wireless cameras, microphones, and speed measuring apparatus, as a result of a triggering event, such as when the officer activates the wireless microphone to initiate recording of the wireless microphone. (Ex.1014, ¶¶0066, 0068, 0084). The acquisition of video and audio data from the cameras and microphones as well as traffic speed and vehicle data from the patrol vehicle is managed by a dash mounted central unit. The wired or wireless cameras and microphones include both the vehicle mounted and officer-carried/mounted types. (Ex.1014, ¶¶0052, 0057, 0061-0062). As a result, the data acquisition system of Pierce automatically obtains data of the incident from different vantage points.

## **2. 20/20-W Publication (Ex.1015).**

The 20/20-W Publication was published via the website [http://icop.com/documents/ICV\\_Whitepaper.FEB2010.pdf](http://icop.com/documents/ICV_Whitepaper.FEB2010.pdf), as early as November 25, 2010 (Ex.1016, p.130). As explained on page 1 of Exhibit 1016 and with reference to page 130 of Exhibit 1016, the 20/20-W Publication (entitled ICV\_Whitepaper.FEB2010.pdf on ICOP's web site (<http://icop.com>)) was

available to the public on November 25, 2010, at 7:26 am (and 31 sec.), which is before the earliest possible priority date claimed by the '292 Patent. The 20/20-W Publication thus qualifies as prior art under §102(a)(1). The 20/20-W Publication was not cited during prosecution of the '292 patent or its reexamination proceeding.

The 20/20-W Publication describes, among other things, the Raytheon Model 20-20-W digital in-car video system, which is based on the ICOP 20/20 system. (See also Ex.1014, Fig.4a). The 20/20-W Publication begins by describing a car crash scenario between a citizen and an officer, in which a digital in-car system with automatic activation would include an automatically triggered video recording that "proved conclusively that Officer Smith entered the intersection under a green light", as well as an automatically triggered audio recording from a wireless microphone that "proved that the officer retained a professional demeanor despite the undeserved verbal tirade from the driver." (Ex.1015, p.4).

The 20/20-W system includes up to three cameras that record video, an ICOP EXTREME™ wireless microphone capable of being carried by an officer, an internal microphone mounted inside the patrol vehicle, and a control unit. (Ex.1015, p.8). The system is said to "allow... video and audio recording from within a police vehicle, and audio from outside the vehicle, captured by the wireless microphone clipped to the officer's belt." (Ex.1015, p.4).

The 20/20-W system can be activated manually by an on/off record switch on the control unit, by activating the vehicle siren or lights, and by remote activation of the audio transmitter (i.e., the wireless microphone). (Ex.1015, pp.4, 9). Activation of the wireless microphone also causes the internal microphone to record sound data within the vehicle on a separate channel from the wireless microphone. (Ex.1015, pp.17-18). By default, the 20/20-W system records from three audio sources. (Ex.1015, p.8).

**3. Reasons to Combine the Teachings of Pierce and the 20/20-W Publication.**

Pierce stresses the need for the acquisition and storage of multiple forms of data (e.g., video, audio, traffic speed, vehicle data, etc.) about a police-related event in order, e.g., to combat "incidents of police brutality and false allegations of police brutality." (Ex.1014, ¶¶0004-0006). If not already disclosed in or suggested by Pierce, an improvement taught by the 20/20-W Publication is to cause at least one additional data recorder to begin recording when the wireless microphone is activated. (Ex.1015, pp.17-18). By providing such automatically-triggered recording, the 20/20-W system disclosed in the 20/20-W Publication records as much data as possible from the scene of a police-related incident, and indexes this critical evidence for later use.

It would have been obvious to a POSITA to modify the programming of the controller of Pierce to include the additional functionality disclosed in the 20/20-W Publication. (Ex.1003, ¶¶160-162). Both Pierce and the 20/20-W Publication are directed to similar ICOP 20/20 systems designed and produced by ICOP Digital. (Ex.1014, "ICOP 20/20" labeled device shown in Fig.4a; Ex.1015, "ICOP 20/20-W" labeled device shown on p.6). Modifying Pierce's controller to include the additional functionality of the 20/20-W system would have been obvious to a POSITA and would yield predictable results. (Ex.1003, ¶¶160-162). Indeed, combining the teachings of Pierce and the 20/20-W Publication in this manner is nothing more than combining "prior art elements according to known methods to yield predictable results" and/or the "[u]se of known technique[s] to improve similar devices (methods, or products) in the same way." *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 417-22 (2007); MPEP §2143(A,C). This is particularly the case where "[a] person of ordinary skill is also a person of ordinary creativity, not an automaton." *KSR*, 550 U.S. at 421.

#### **4. Distinction from Second IPR Petition.**

As referenced above, TASER has concurrently filed a second petition for *inter partes* review regarding certain claims in the '292 Patent. The grounds in the present Petition (Pierce in view of the 20/20-W Publication) are arguably stronger than the grounds in the second petition (based on the "Vasavada" reference),

because Pierce in view of the 20/20-W Publication more clearly discuss data being recorded on a first computer-readable medium (Limitation 1[E] below), or on a second computer-readable medium (Limitation 1[H] below). The Pierce and 20/20-W Publication also discuss at length the same kind of vehicle-based systems that Patent Owner describes in the '292 Patent examples (such the DVM-500 car-based system) as being incorporated in its invention.

However, the Pierce and 20/20-W Publication-based grounds in the present Petition are arguably weaker than the Vasavada-based grounds in the second petition because Vasavada more explicitly discloses the triggering of a second data recorder, e.g., a camera, to record. The Vasavada reference also focuses on multiple officer-mounted cameras, as opposed to the Pierce and 20/20-W Publication system (which involves one officer-mounted camera, along with other data recorders (such as a microphone) and a number of vehicle-mounted data recorders (such as cameras, microphones, radar/LIDAR guns, etc.)). Also, unlike both Vasavada and Pierce, the 20/20-W Publication used in the present Petition is not a patent application or publication, and is thus not self-authenticating.

The two petitions further address distinct claim sets based on different references. For example, the second, concurrently-filed petition contains grounds for invalidating claim 12 of the '292 Patent in light of the "Kashiwa" reference, as well as Vasavada-based grounds for invalidating claims 28, 32, 47 and 59. The

present Petition does not challenge claims 12, 28, 32, 47 or 59, but does challenge claims 3, 27, 29, 31, 43, 46, 55, and 58, which are not addressed in the second petition.

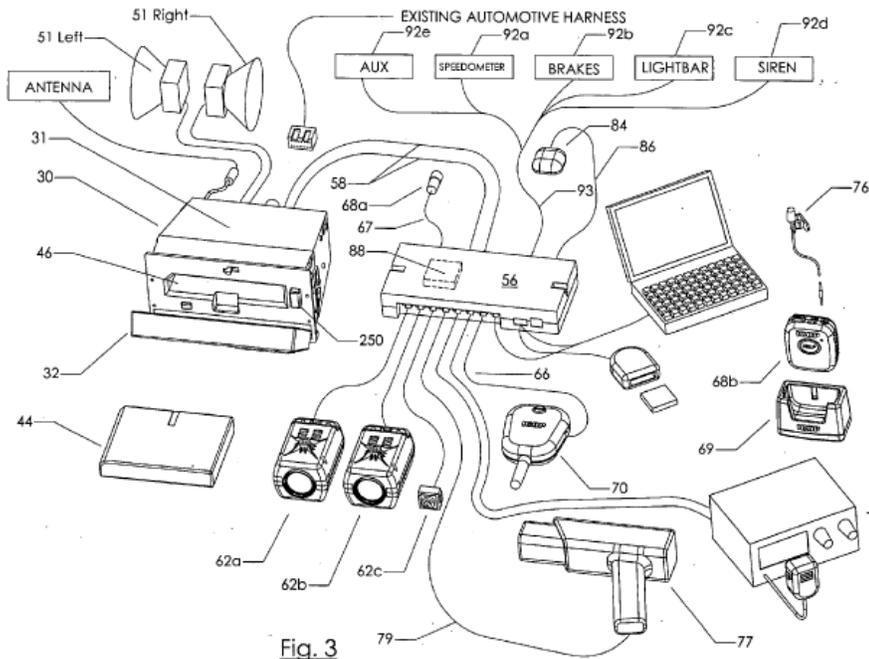
**B. Claim-by-Claim Analysis.**

**1. Independent Claim 1 is Rendered Obvious in view of Pierce and the 20/20-W Publication.**

A detailed description of how Pierce and the 20/20-W Publication together render obvious Claim 1 will now be provided.

**a. Limitation 1[A] – "A multiple recording device management system, comprising" (Ex.1001, Claim 1; Ex.1003, ¶80).**

Pierce is directed to a data acquisition and display system, also referred to as an audio/video recording apparatus, for use in a conventional police car. (Ex.1014, ¶0035). Pierce discloses in Fig.3 (below) a system that includes a central unit 30 that controls, coordinates or "manages" the acquisition and storage of police-related data from multiple recording devices, including a portable wireless microphone 68b, patrol car mounted cameras 62a, 62b, 62c, a patrol car mounted speed gun 77, a patrol car mounted microphone 68a, and a portable camera (not shown). (Ex.1014; Fig.3, ¶¶0039, 0052, 0057, 0062, 0069, Claim 23).



In sum, Pierce discloses a system that manages the acquisition and storage of police-related data between a plurality of recording devices, thereby teaching the recited "multiple recording device management system." (See also Ex.1003, ¶165).

- b. Limitation 1[B] – "a recording device manager including at least one receiver and at least one transmitter" (Ex.1001, Claim 1; Ex.1003, ¶80).**

The term "recording device manager" was construed above in Section VII(C) under 35 U.S.C. §112(f). As properly construed, the corresponding structure for this claim limitation (as described in the specification and equivalents thereof) is a receiver, a transmitter, and a special purpose controller programmed to perform the disclosed algorithms that carry out the claimed functions.

Pierce discloses, for example, a "central unit 30 [that] houses a central processing unit or controller 31, which is programmable to coordinate operation of the data acquisition and display system 10." (Ex.1014, ¶0039). According to Pierce the "central unit 30 ... includes a number of communication connections, ports or jacks 54, such as, for example, USB ports, coaxial cable ports, phone jacks, RCA cable ports, etc." (Ex.1014, ¶0051, Fig.6, below). Pierce further discloses in Fig.3 (shown in Section VIII(B)(1)(a) above) that the communication ports 54 of the central unit 30 connect the controller 31 to a number of data recorders, including video cameras 62a, 62b, an in-car or internal microphone 68a, an external wireless microphone 68b, and a speed measuring apparatus 77, such as a radar or LIDAR gun. (Ex.1014, ¶¶0051, 0062, 0069, Fig.3). According to Pierce, the communication ports 54 both receive data from a number of data recorders and transmit control signals, e.g., pan/zoom, on/off, record, activation signals, etc. (Ex.1014, ¶¶0044, 0059, 0067, Fig.3; Ex.1003, ¶¶180-183). As such, the communication ports 54 satisfy the requirements of a "transmitter" and a "receiver" as claimed. (Ex.1003, ¶179).

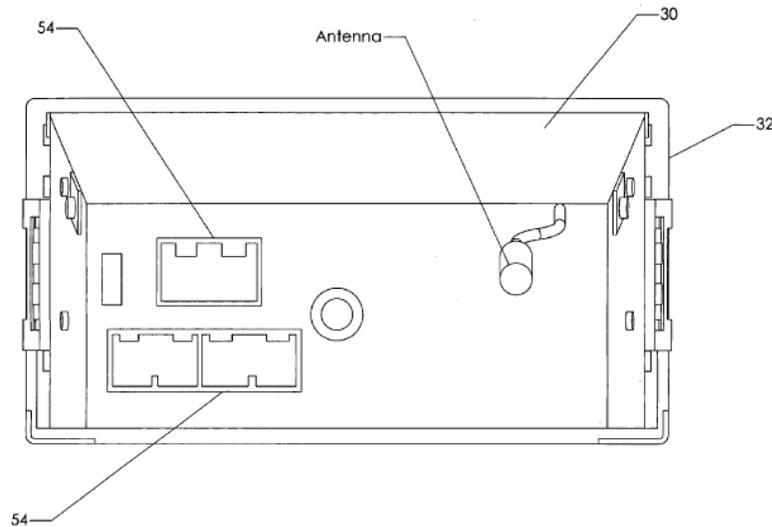


Fig. 6

In sum, Pierce discloses a central unit 30 that includes a receiver (e.g., "communication ports 54"), a transmitter (e.g., "communication ports 54"), and a special purpose controller (e.g., "controller 31"), that performs various functions of the system 10. (Ex.1003, ¶179).

These various functions of the system include, e.g., storing data from a primary data recorder when that data recorder is instructed to record. (Ex.1014, ¶¶0056, 0066, 0070). In each case, the special purpose controller causes the recorded data from the primary data recorder to be "indexed and coordinated" with a secondary recorded data, such as video data, audio, location data, vehicle data, etc. Additionally, at least during "EVENT recording" the controller 31 causes a secondary data recorder, such as the internal microphone 68a or the camera 62a, to

record the secondary recorded data in response to record activation of the wireless microphone 68b. (Ex.1014, ¶¶0044, 0068, 0084). To cause the internal microphone or speed gun to record, the controller 31 transmits activation signals thereto. (Ex.1014, ¶¶0044, 0070, 0084-0085; Ex.1003, ¶¶173, 234).

To the extent Pierce alone is found not to expressly disclose the function of "transmitting the second signal in response to receiving the first communication signal," it would have been obvious to a POSITA to modify Pierce's system in view of the 20/20-W Publication in order to trigger the internal microphone 68a to begin recording in response to activation of the wireless microphone 68b. (Ex.1003, ¶¶175-177, 237-238). It would be further obvious to trigger other data recorders, such as the camera 62 to begin recording in response to activation of the wireless microphone 68b. (Ex.1003, ¶¶177-179, 237-238).

For example, Pierce stresses the need to record as much data about a police-related event as possible in order, e.g., to combat "incidents of police brutality and false allegations of police brutality." (Ex.1014, ¶¶0004-0006), and discloses a system of devices to record such data, including multiple instances where one type of data (e.g., sound data) is "coordinated and indexed" with other types of data (e.g., video data, or sound data from other devices so that this data can be "useful for evidentiary purposes and for investigative purposes." (Ex.1014, ¶¶0004-0006, 0056, 0061, 0068-0069, 0084).

The 20/20-W Publication (Ex.1015) generally describes a data recording system called the 20/20-W, which is very similar to the system of Pierce. (Ex.1003, ¶160). The system of the 20/20-W Publication triggers, e.g., the internal microphone to record when the wireless microphone is activated to record. (Ex.1015, pp.17-18). In particular, the 20/20-W Publication explains that "the recording system is activated by any of the following: ... (r)emotely by activating the audio transmitter [wireless microphone]," "(t)he internal microphone actively records whenever the system is on the record mode," and "(a)udio from the interior microphone and the remote audio transmitter(s) record on separate channels." (Ex.1015, pp.9, 17-18; See also Ex.1015, p.8: "All ICOP Solutions record from three audio sources by default.").

The 20/20-W Publication also teaches that depression of the HELP button "activates video and audio recordings if not previously activated." (Ex.1015, p.17). Moreover, the 20/20-W Publication teaches that radar data from a radar unit is automatically recorded with the video data. (Ex.1015, p.9).

As such, the 20/20-W Publication teaches a system in which the controller causes activation of a second recording device, e.g., internal microphone 68a, car mounted camera, etc., in response to receiving sound data (i.e., the first communication signal) from the wireless microphone 68b (e.g., the first recording device). (Ex.1003, ¶¶175-176).

It would have been obvious to a POSITA to modify the controller 31 of Pierce to include the additional controller programming of the 20/20-W Publication's system so that Pierce's system can record, e.g., the audio data of the event from the internal microphone 68a or video data of the event from the vehicle-mounted camera, in response to activation and recording of sound data from the wireless microphone 68b. (Ex.1003, ¶177). This would allow Pierce the ability to record and store police-related data from underutilized data recorders so that a complete evidentiary record can be established in order to combat "incidents of police brutality and false allegations of police brutality." (Ex.1014, ¶¶0004-0006). Indeed, combining the teaching of the 20/20-W Publication and Pierce in this manner (Ex.1003, ¶177) is nothing more than combining "prior art elements according to known methods to yield predictable results" and/or the "[u]se of known technique[s] to improve similar devices (methods, or products) in the same way." *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 417-22 (2007); MPEP §2143(A,C). This combination would not require undue experimentation. (Ex.1003, ¶177).

If it is found that the recording device manager is not a means-plus-function limitation, Pierce nevertheless satisfies the claimed limitations of the recording device manager, including the at least one receiver and at least one transmitter..

Indeed, Pierce discloses a central unit 30 composed of the programmed controller 31 and at least the communication ports 54. (Ex.1014, ¶¶0039, 0051).

**c. Limitation 1[C] "a first recording device communicatively coupled with the recording device manager." (Ex.1001, Claim 1; Ex.1003, ¶80).**

The term "recording device" was construed above in Section VII(B) under 35 U.S.C. §112(f). Regarding both the function and corresponding structure of "recording device," Pierce discloses, for example, an "audio recording apparatus or microphones 68." According to Pierce, "(a) first or internal microphone 68a (Fig.3) is positioned inside vehicle V to ... record a passenger's voice." (Ex.1014, ¶0061). Pierce also discloses "a second cordless or external microphone 68b (e.g., a walky-talky, a two-way radio, etc.)." (Ex.1014, ¶0062). Pierce explains, for example, that "the microphone 68b transmits sound data in a known manner to one of the nonphysical-connection-based in-car transceiver #70 connected to communication port 54a on the junction box 56." (Ex.1014, ¶0062).

Therefore, Pierce discloses a wireless microphone 68b that matches both the function and corresponding structure of the recited "first recording device." (Ex.1003, ¶¶190-196). If not identical to the audio recorder disclosed in the '292 specification, the wireless microphone of Pierce is nevertheless an equivalent for performing the function of "recording" sound from the event. (Ex.1003, ¶198).

If it is found that the first recording device is not a means-plus-function limitation, Pierce's microphone nevertheless satisfies the claim limitation of the first recording device. (Ex.1014, ¶0062). Indeed, the wireless microphone records sound data and transmits the recorded sound data to the in-car controller for storage on the recording media. (*Id.*).

Regarding the remaining requirements of limitation 1[C], Pierce explains that the wireless microphone communicates with the central unit 30. For example, according to Pierce, "(s)ound data from the second microphone 68*b* is transmitted across one of 1040 channels ... back to the in-car transceiver #70, ... to the controller 31." (Ex.1014, ¶0066). As such, a communication path between devices (i.e., the microphone 68*b* and the central unit 30) is established. (Ex.1003, ¶200).

Pierce also explains that "the second microphone 68*b* can also receive sound data from other sources (e.g., from a headquarters, a dispatcher, another officer, or the internal microphone 68*a*, etc.) in a conventional manner," (Ex.1014, ¶0067). By receiving signals from the controller, along with transmitting signals to the controller, the wireless microphone 68*b* communicates with the controller in a bi-directional manner. Pierce further explains that the wireless microphone 68*b* is synchronized with the transceiver 70, which is wired to the communication ports via lines 58, 66, and junction box 56. For example, Pierce states that "second

microphone 68b includes two LED's that display battery condition, synchronization and communication indications ...." (Ex.1014, ¶0064, see also Ex.1015, p.17).

As such, the wireless microphone 68b (e.g., the first recording device) is synced or "communicatively coupled" with the central unit 30 (i.e., the recording device manager). (Ex.1003, ¶200).

- d. Limitation 1[D] – "wherein said at least one receiver is configured to receive a first communication signal from the first recording device indicating the first recording device has received an instruction initiated by a first law enforcement officer to record a first set of record data related to an event" (Ex.1001, Claim 1; Ex.1003, ¶80).**

As described above in Section VIII(B)(1)(b), the structure of the "recording device manager" includes "communication ports 54." Pierce, for example, discloses that the central unit 30 receives signals and sound data from the wireless microphone 68b via the communication ports 54. (Ex.1014, ¶0066). As explained by Pierce, the controller 31 receives sound data from the wireless microphone when the RECORD button 72a is depressed. (Ex.1014, ¶0066). Likewise, the controller receives sound data from the wireless microphone when the HELP button 72a is depressed. (Ex.1014, ¶0068; Ex.1003, ¶¶152, 172 (concluding that the CALL button in Pierce ¶0084 is the HELP button described in Pierce ¶0068).

In sum, the communication ports 54 of the central unit 30 receives a first communication signal from the wireless microphone 68b when, e.g., the RECORD button 72a or HELP button 72b is depressed by the officer. (Ex.1003, ¶173). This first communication signal, which includes sound data recorded by the wireless microphone, is stored by the controller 31 at the recording media 44. As such, the wireless microphone's transmitted signal (e.g., recorded sound data) received by the communication ports 54 as a result of depression of the RECORD button or HELP button 72b "indicat(es) the first recording device has received an instruction initiated by a first law enforcement officer to record a first set of record data related to an event." (Ex.1003, ¶205).

To the extent Pierce fails to expressly disclose recording of sound data during the HELP button's activation of the distress call, Pierce, as modified by the system of 20/20-W Publication, discloses a system that "records from three audio sources by default" and "activates video and audio recordings (when the HELP button is depressed) if not previously activated." (Ex.1015, pp.8-9, 17-18; Ex.1003, ¶¶170, 176). A POSITA would be also motivated to modify Pierce to automatically trigger video and audio recordings when the HELP button is depressed in order to record critical evidentiary data when a police officer would be less likely to remember to consciously activate the recordings (i.e., when under a distressing event.) (Ex.1003, ¶206).

- e. **Limitation 1[E] – "wherein the first recording device includes a first input for receiving the first set of record data, and wherein the received first set of record data is recorded on a first computer-readable medium associated with the first recording device." (Ex.1001, Claim 1; Ex.1003, ¶80).**

As set forth in Section VIII(B)(1)(c) above, the structure of the first recording device is a wireless microphone 68b. (Ex.1014, ¶¶0061, 0062). To record sound data, the wireless microphone 68b of Pierce must include a component, such as an audio transducer, that receives sound information and generates the recorded sound data corresponding thereto. (Ex.1003, ¶210). The recorded sound data is transmitted to the transmission unit of the microphone 68b for transmission to transceiver 70, and onto the controller 31. (Ex.1014, ¶0062).

Pierce further discloses that the sound data recorded by the microphone is then stored on a recording media 44. (Ex.1014, ¶0066). Pierce explains that the "recording media 44 (e.g., a digital memory unit) ... includes any number of devices that enable fast random access to digitally recorded data." (Ex.1014, ¶0046). As a result, Pierce teaches that the first set of sound record data received by the audio transducer (i.e., the input) of the wireless microphone 68b (i.e., first recording device) is recorded on the recording media 44 (i.e., computer readable medium). (Ex.1003, ¶¶212-214).

**f. Limitation 1[F] – "a second recording device communicatively coupled with the recording device manager." (Ex.1001, Claim 1; Ex.1003, ¶80).**

The term "recording device" was construed above in Section VII(B) under 35 U.S.C. §112(f). In addition to the wireless microphone 68a (i.e., the first recording device as set forth in Section VIII(B(1)(c) above), Pierce discloses, for example, a car-mounted internal microphone 68a, car-mounted video cameras 62, and radar and LIDAR speed guns 77 throughout its disclosure for performing the function of "recording" data. (Ex.1003, ¶¶218-220).

Regarding both the function and corresponding structure of the second "recording device," Pierce discloses, for example, an audio recording apparatus or microphone 68a to record a passenger's voice (Ex.1014, ¶0061), first and second video cameras 62a and 62b capable of recording video images (Ex.1014, ¶0053) and a speed measuring apparatus 77 (e.g., a radar-based gun or a laser-based speed gun) operable to record the speed of target vehicles (Ex.1014, ¶0069). (Ex.1003, ¶¶223, 227). If not identical to the audio recorder, video camera, and radar or LIDAR scanner disclosed in the '292 specification, the microphone 68a, the patrol car mounted camera 62a, 62b, and the speed measuring apparatus 77 of Pierce, respectively, are nevertheless an equivalent for performing the function of "recording" sound, video, and speed. (Ex.1003, ¶228).

If it is found that the second recording device is not a means-plus-function limitation, Pierce's cameras, internal microphone, and speed measuring apparatus nevertheless satisfy the claim limitation of the second recording device. (Ex.1014, ¶¶0053, 0061, and 0069; Ex.1003, ¶229). In short, all of these machines are capable of recording data.

Regarding the remaining requirement of limitation 1[F], Pierce discloses in Fig.3 that a communication path between devices (i.e., between the central unit 30 and the cameras 62a, 62b, the internal microphone 68a, and the speed measuring apparatus 77) is established. (Ex.1014, Fig.3).

Pierce additionally discloses that data recorders, such as the internal microphone or video camera, are connected in a bi-directional manner to the central unit. For example, according to Pierce, control signals are transmitted from the controller 31 to the cameras 62, the microphone 68a, and the speed measuring apparatus 77. (Ex.1014, ¶¶0044, 0070). And recorded data, such as video, sound, and vehicle speed, is transmitted to the controller 31 for storage on recording media 44. (Ex.1014, ¶¶0056, 0061, 0069).

As such, the first camera 62a, the internal microphone 68a, and the speed measuring apparatus 77 (separately, e.g., the second recording device) are all

synced or "communicatively coupled" with the central unit (i.e., the recording device manager). (Ex.1003, ¶231).

- g. Limitation 1[G] – "wherein said at least one transmitter is configured to transmit a second communication signal to the second recording device instructing the second recording device to begin recording a second set of record data related to the event." (Ex.1001, Claim 1; Ex.1003, ¶80).**

As described in Section VIII(B)(1)(b) above, the central unit 30 (i.e., the recording device manager) includes communication ports 54 that transmit signals to various data recorders of the system. (Ex.1014, ¶¶0044, 0067, 0070, 0085). Importantly, these transmitted signals include activation signals transmitted to the internal microphone 68a and to the speed gun 77 to record (Ex.1014, ¶¶0044, 0070, 0085; Ex.1003, ¶¶173, 234), and at least control signals (pan/zoom) transmitted to the camera 62a (Ex.1014, ¶0044; Ex.1003, ¶183). Moreover, Pierce explains that in response to an officer's activation of the wireless microphone 68b via the HELP button, the controller causes the first camera 62a, the internal microphone 68a, and the speed measuring apparatus 77 to all begin recording data. (Ex.1014, ¶¶0068, 0084, Ex.1003, ¶¶152, 172 (concluding that the CALL button in Pierce ¶0084 is the HELP button described in Pierce ¶0068). Likewise, the internal microphone of the 20/20-W Publication's system actively records whenever the system is in the record mode, including when the wireless transmitter is triggered to record.

(Ex.1015, pp.9, 17; Ex.1003, ¶175). Because the special purpose controller 31 causes these devices to record, Pierce, as modified by the 20/20-W Publication, teaches a transmitter (i.e., communication ports 54) that transmits a second communication signal to the internal microphone 68a, to the speed measuring apparatus 77, and to the camera 62a instructing such devices to begin recording. (Ex.1003, ¶¶234-235).

To the extent Pierce alone, or as modified by the 20/20-W Publication, is found not to expressly disclose the transmission of the second communication signal to the internal microphone 68a, the forward facing camera 62a, or the speed measuring apparatus 77, instructing these data recorders to begin recording, it would have been an obvious variant for a POSITA to modify the Pierce/20/20-W's system to transmit a second communication signal to the second recording device to activate, for example, the camera 62a, microphone 68a, or speed measuring apparatus 77 to begin recording. (Ex.1003, ¶¶236-238).

Since the recording of video data by the camera 62a, sound data by the microphone 68a, and speed data from the speed measuring apparatus 77 is clearly taught by the Pierce and the 20/20-W Publication systems in response to depression of the HELP button (or RECORD) button, such triggering of the camera 62a, microphone 68a, or speed measuring apparatus 77 to record by having the controller 31 transmit an activation signal thereto would be obvious to try.

Indeed, there are only a finite number of predictable solutions to activate the camera 62a, the microphone 68a, or speed measuring apparatus 77 to begin recording. (Ex.1003, ¶¶237-238). Thus, using ordinary creativity and knowledge, it would have been an obvious design choice to a POSITA to activate Pierce's camera 62a, microphone 68a, or speed measuring apparatus 77 to record using a communication signal transmitted to the camera 62a, microphone 68a, or speed measuring apparatus 77, as this is a known, predictable solution for activating the camera or microphone to record. (Ex.1003, ¶¶237-238). Such a solution would not have required undue experimentation. (Ex.1003, ¶237).

Moreover, to the extent that Pierce does disclose an activation signal transmitted to the microphone to activate the device to record (Ex.1003, 237), it would have been obvious to a POSITA that activating the camera in this same manner would be nothing more than the "[u]se of known technique[s] to improve similar devices (methods, or products) in the same way." *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 417-22 (2007); MPEP §2143(A,C). This is particularly the case where "[a] person of ordinary skill is also a person of ordinary creativity, not an automaton." *KSR*, 550 U.S. at 421.

- h. Limitation 1[H] – "wherein the second recording device includes a second input for receiving the second set of record data, and wherein the received second set of record data is recorded on a second computer-readable medium associated with the second recording device." (Ex.1001, Claim 1; Ex.1003, ¶80).**

As set forth in Section VIII(B)(1)(e) above, the structure of the second recording device is either a wired or wireless video camera, such as camera 62a, an internal microphone 68a, or a speed measuring apparatus 77. (Ex.1014, ¶¶0052, 0061-0062, 0069, Ex.1003, ¶¶218, 220, 223). Pierce discloses that the camera 62a can be a digital video camera, and thus, includes an image sensor, such as a CCD or CMOS sensor, that receives visual information (i.e., visual record data) and records video data based on such input of visual information. (Ex.1014, ¶0053; Ex.1003, ¶244). Similarly, the internal microphone 68a includes an audio transducer and the radar or LIDAR speed gun includes a radar or LIDAR sensor, which receive sound information (i.e., sound record data) and speed information (i.e., speed record data), respectively, and records such data based on such input of information. (Ex.1014, ¶¶0061-62, 0069; Ex.1003, ¶244).

The recorded data (i.e., video record data, sound record data, and speed record data) is transmitted to the controller 31 for storing on the recording media 44. (Ex.1014, ¶¶0056, 0061). Pierce further explains that the "recording media 44 (e.g., a digital memory unit) includes any number of devices that enable

fast random access to digitally recorded data" (Ex.1014, ¶0046). As further explained by Pierce, "dual channel recording is provided by the present invention" (Ex.1014, ¶0055), and "the controller 31 is programmed to record video data on two channels from two cameras. (Ex.1014, ¶0058). The 20/20-W Publication also explains that "audio from the interior microphone and the remote audio transmitter(s) [wireless microphones] record on separate channels." (Ex.1015, p.18).

As a result, Pierce alone or modified by the 20/20-W Publication discloses that the second set of record data from the camera 62a, the internal microphone 68a, or the speed gun 77 is recorded on a second recording medium (i.e., computer readable medium). (Ex.1003, ¶¶246-248).

- i. Limitation 1[I] – "wherein the first recording device is different from the second recording device, such that the first set of record data recorded by the first recording device is different than the second set of record data recorded by the second recording device." (Ex.1001, Claim 1; Ex.1003, ¶80).**

As set forth in Figs.1 and 3, Pierce depicts a front viewing camera, an internal microphone, a wireless microphone carried by an officer, and a vehicle mounted speed gun all as separate or disparate devices. (Ex.1014, Figs.1, 3). As a result, data collected from the camera 62a, internal microphone 68a, and speed gun 77 (separately, i.e., the second recording device) will be different from data

collected by the wireless microphone 68b (i.e., the first recording device).  
(Ex.1014, Figs.1, 3; Ex.1003, ¶252).

- j. Limitation 1[J] – "wherein the second communication signal is transmitted to the second recording device in response to the at least one receiver of the recording device manager receiving the first communication signal from the first recording device indicating the first recording device has received said instruction initiated by the first law enforcement officer to record, such that the recording device manager insures the first recording device records the first set of record data using the first input, and the second recording device records the second set of record data using the second input." (Ex.1001, Claim 1; Ex.1003, ¶81).**

As set forth in Section VIII(B)(1)(d), Pierce discloses that depression of, e.g., the HELP button (or the RECORD button) on the wireless microphone 68a is an instruction for the wireless microphone to record. When, e.g., the RECORD button is depressed, sound data is transmitted to the controller and recorded onto the recording media. (Ex.1014, ¶0066). Reception of the sound data, or first communication signal, is an indication that the wireless microphone has received an instruction to record. (Ex.1003, ¶¶205, 254). This same result occurs when the HELP button is depressed. (Ex.1003, ¶¶152, 172 (concluding that the CALL button in Pierce ¶0084 is the HELP button described in Pierce ¶0068).

As set forth in Section VIII(B)(1)(g), Pierce alone or as modified by the 20/20-W Publication discloses, for example, that an activation signal, or second

communication signal, is sent from the controller 31 to the internal microphone controller 68a, instructing the internal microphone 68a to begin recording. (Ex.1014, ¶¶0044, 0085; Ex.1015, pp.9, 17; Ex.1003, ¶¶173, 234). Pierce alone or together with the 20/20-W Publication also discloses an activation signal, or second communication signal, that can be sent from the controller 31 to the cameras 62a, 62b and the speed measuring apparatus 77, instructing these devices to begin recording. (Ex.1014, ¶¶0084, 0068, 0070; Ex.1015, pp.9, 17; Ex.1003, ¶¶152, 172, 174-178234).

As set forth in Section VIII(B)(1)(b) and VIII(B)(1)(d), Pierce alone or together with the 20/20-W Publication discloses that the second communication signal is transmitted to the second recording devices (e.g., the internal microphone 68a or speed measuring apparatus 77) in response to the first communication signal being received by the controller 31 via the communication ports 54. (Ex.1014, ¶¶0044, 0068, 0070, 0084, 0085; Ex.1003, ¶¶152, 172, 174-178). The second communication signal is transmitted to the second (communicatively coupled) recording devices (e.g., internal microphone 68a, speed measuring apparatus 77, camera 62a) in response to the first communication signal from the first (communicatively coupled) recording device (i.e., the wireless microphone 68b. (Ex.1003, ¶¶172-178, 234-238). Under the construction of what is necessary to "insure" advanced by the Patent Owner in the Kansas Litigation and applied here

in this Petition, the central unit (i.e. the recording device manager) thus insures that both the first and second recording devices record data of the event. The wireless microphone 68b and the internal microphone 68a, speed measuring apparatus 77, and camera 62a are also each set up and synced via wired or wireless connections with the central unit 30 of the Pierce system prior to use, which further insures that each recording device records data of the event. (See, e.g., Section VIII(B)(1)(c) and Section VIII(B)(1)(f) above; Ex.1003, ¶256).

- k. Limitation 1[K] – "wherein one of the first recording device and the second recording device is configured to be mounted on or carried by one of the first law enforcement officer and a second law enforcement officer" (Ex.1001, Claim 1; Ex.1003, ¶80).**

Pierce discloses that the wireless microphone 68b (i.e., the first recording device as set forth in Section VIII(B)(1)(c) above) is configured to be carried by a user, such as a law enforcement officer. According to Pierce, "the second microphone 68b also includes a belt clip 74 and a corded microphone 76. During operation, the operator can clip the belt clip 74 on his belt and can clip the optional corded microphone 76 to his collar or lapel for convenient handsfree operation." (Ex.1014, ¶0065; see also ¶0062; Ex.1003, ¶¶258-261).

**2. Independent Claim 18 is Obvious in view of Pierce and the 20/20-W Publication.**

A detailed description of how Pierce and the 20/20-W Publication render Claim 18 obvious will now be provided.

- a. Limitation 18[A] – A non-transitory computer readable storage medium having a computer program stored thereon for managing multiple recording devices, wherein the computer program instructs at least one processor to perform the following steps. (Ex.1001, Claim 1; Ex.1003, ¶83)**

The preamble of Claim 18 recites "managing multiple recording devices." (Ex.1001, Claim 1; Ex.1003, ¶¶80, 83). The only difference between the preamble of Claim 18 and Claim 1 is that Claim 1 is a system claim while Claim 18 is a computer readable medium claim. Claim type aside, there is no substantive difference in the preambles. Thus, for the same reasons set forth in Section VIII(B)(1)(a) regarding limitation 1[A], Pierce discloses limitation 18[A] of Claim 18.

Any differences that may be present between the preambles are disclosed in Pierce. For example, Pierce discloses that the controller (disclosed above in Section VIII(B)(1)(b) as performing the functions of the recording device manager), "is programmable to coordinate operation of the data acquisition and display system 10." (Ex.1014, ¶0039).

- b. Limitation 18[B] – receive, by a recording device manager, a first communication signal from a first recording device indicating the first has received an instruction initiated by a first law enforcement officer to record a first set of record data related to an event. (Ex.1001, Claim 18; Ex.1003, ¶83).**

As set forth above in Section VIII(B)(1)(d), the central unit (i.e., the recording device manager) receives the recorded sound data from the wireless microphone 68b. (Ex.1014, ¶¶0068, 0084). Thus, the central unit's controller 31, executing program instructions, receives the first communication signal from a first recording device. The first communication signal indicates that the first recording device has received an instruction initiated by a first law enforcement officer to record a first set of record data related to an event. (Ex.1003, ¶¶172, 205). See also Section VIII(B)(1)(d).

- c. Limitation 18[C] – wherein the first recording device. (Ex.1001, Claim 18; Ex.1003, ¶83).**

Limitation 18[C] is identical to limitation 1[E] of Claim 1. (Ex.1001, compare Claim 1 with Claim 18; Ex.1003, ¶¶80, 83). To the extent that limitation 18[C] has patentable weight, based on Claim 18 being directed to a non-transitory computer readable storage medium, Pierce discloses limitation 18[C] of Claim 18 for at least the same reasons as set forth in Section VIII(B)(1)(e) regarding limitation 1[E].

- d. Limitation 18[D] – transmit, by the recording device manager, a second communication signal to a second recording device instructing the second recording device to begin recording a second set of record data related to the event. (Ex.1001, Claim 18; Ex.1003, ¶83).**

As set forth above in VIII(B)(1)(g), Pierce alone or as modified by the 20/20-W Publication discloses that the central unit (i.e., the recording device manager) transmits a second communication signal to the internal microphone 68a, the speed measuring apparatus 77, and/or the camera 62a. (Ex.1014, ¶¶0044, 0068, 0070, 0084-0085; Ex.1015, pp.9, 17-18; Ex.1003, ¶¶173, 234, 236-238). Thus, the central unit's controller 31, executing program instructions, transmits the second communication signal to the second recording device. (*Id.*) The second communication signal instructs the second recording device to begin recording a second set of record data related to the event. (*Id.*)

- e. Limitation 18[E] – wherein the second recording device. (Ex.1001, Claim 18; Ex.1003, ¶83).**

Limitation 18[E] is identical to limitation 1[H] of Claim 1. (Ex.1001, compare Claim 1 with Claim 18; Ex.1003, ¶¶80, 83). To the extent that limitation 18[E] has patentable weight, based on Claim 18 being directed to a non-transitory computer readable storage medium, Pierce discloses limitation 18[E] of Claim 18 for at least the same reasons as set forth in Section VIII(B)(1)(h) regarding limitation 1[H].

**f. Limitation 18[F] – first recording device is different. (Ex.1001, Claim 18; Ex.1003, ¶83).**

Limitation 18[F] is identical to limitation 1[I] of Claim 1. (Ex.1001, compare Claim 1 with Claim 18; Ex.1003, ¶¶80, 83). To the extent that limitation 18[F] has patentable weight, based on Claim 18 being directed to a non-transitory computer readable storage medium, Pierce discloses limitation 18[F] of Claim 18 for the same reasons set forth in Section VIII(B)(1)(i) regarding Claim 1[I].

**g. Limitation 18[G] – wherein the second communication signal. (Ex.1001, Claim 18; Ex.1003, ¶83)**

Limitation 18[G] is identical to limitation 1[J] of Claim 1, aside from minor grammatical differences. (Ex.1001, compare Claim 1 with Claim 18; Ex.1003, ¶¶80, 83). For the same reasons set forth in Section VIII(B)(1)(j) regarding Claim 1[J], Pierce discloses limitation 18[G] of Claim 18.

**h. Limitation 18[H] – wherein one of the first recording device. (Ex.1001, Claim 18; Ex.1003, ¶83).**

Limitation 18[H] is identical to limitation 1[K] of Claim 1. (Ex.1001, compare Claim 1 with Claim 18; Ex.1003, ¶¶80, 83). To the extent that limitation 18[H] has patentable weight, based on Claim 18 being directed to a non-transitory computer readable storage medium, Pierce discloses limitation 18[H] of Claim 18 for the same reasons as set forth in Section VIII(B)(1)(k) regarding limitation 1[K].

**3. Independent Claim 36 is Rendered Obvious by Pierce in View of the 20/20-W Publication.**

A detailed description of how Pierce and the 20/20-W Publication render Claim 36 obvious will now be provided.

**a. Limitation 36[A] – A multiple recording device management system.**

The preamble of Claim 36 is identical to the preamble of Claim 1. (Ex.1001, compare Claim 1 and Claim 36; Ex.1003, ¶¶80, 92). For the same reasons set forth in Section VIII(B)(1)(a) regarding limitation 1[A], Pierce discloses the preamble of Claim 36.

**b. Limitation 36[B] – a recording device manager.**

Limitation 36[B] is identical to limitation 1[B] of Claim 1. (Ex.1001, compare Claim 1 with Claim 36; Ex.1003, ¶¶80, 92). For the same reasons set forth in Section VIII(B)(1)(b) regarding limitation 1[B], Pierce discloses limitation 36[B] of Claim 36.

**c. Limitation 36[C] – a first recording device.**

Limitation 36[C] is identical to limitation 1[C] of Claim 1. (Ex.1001, compare Claim 1 with Claim 36; Ex.1003, ¶¶80, 92). For the same reasons set forth in Section VIII(B)(1)(c) regarding limitation 1[C], Pierce discloses limitation 36[C] of Claim 36.

**d. Limitation 36[D] – said at least one receiver.**

Limitation 36[D] is almost identical to limitation 1[D] of Claim 1. (Ex.1001, Claim 36; Ex.1003, ¶92). The primary difference is that 36[D] recites "a first communication signal from the first recording device indicating the first recording device has begun recording, in response to a triggering event, a first set of record data related to an event." (Ex.1001, Claim 36; Ex.1003, ¶96). For the same reasons set forth in Section VIII(B)(1)(d) regarding limitation 1[D], Pierce discloses each feature of limitation 36[D] of Claim 36.

In particular, Pierce alone or as modified by the 20/20-W Publication teaches an officer's activation of the wireless microphone by depressing a button (i.e., a triggering event initiated by a first law enforcement officer to record). (Ex.1014, ¶¶0066, 0068, 0084, Ex.1003, ¶¶172, 205). Additionally, the sound data that is received by the receiver indicates that the wireless microphone "has begun recording." (*Id.*).

- e. **Limitation 36[E] – wherein said triggering event is selected from the group consisting of an instruction initiated by a first law enforcement officer for the first recording device to record; an activation, by the first law enforcement officer, of a data recording device communicatively coupled with the recording device manager; activation of a law enforcement vehicle's siren; activation of said law enforcement vehicle's signal lights; activation of said law enforcement vehicle's spotlight; and a vehicle crash event. (Ex.1001, Claim 1; Ex.1003, ¶92).**

As set forth in Section VIII(B)(1)(d), Pierce alone, or as modified by the 20/20-W Publication, teaches an officer's activation of the wireless microphone by depressing a button (i.e., a triggering event initiated by a first law enforcement officer to record). (Ex.1014, ¶¶0066, 0068, 0084; Ex.1015, pp.9, 17; Ex.1003, ¶¶172, 205).

- f. **Limitation 36[F] – wherein the first recording device.**

Limitation 36[F] is identical to limitation 1[E] of Claim 1. (Ex.1001, compare Claim 1 with Claim 36; Ex.1003, ¶¶80, 92). For the same reasons set forth in Section VIII(B)(1)(e) regarding limitation 1[E], Pierce discloses limitation 36[F] of Claim 36.

- g. **Limitation 36[G] – a second recording device.**

Limitation 36[G] is identical to limitation 1[F] of Claim 1. (Ex.1001, compare Claim 1 with Claim 36; Ex.1003, ¶¶80, 92). For the same reasons set

forth in Section VIII(B)(1)(f) regarding limitation 1[F], Pierce discloses limitation 36[G] of Claim 36.

**h. Limitation 36[H] – said at least one transmitter.**

Limitation 36[H] is identical to limitation 1[G] of Claim 1. (Ex.1001, compare Claim 1 with Claim 36; Ex.1003, ¶¶80, 92). For the same reasons set forth in Section VIII(B)(1)(g) regarding limitation 1[G], Pierce discloses limitation 36[H] of Claim 36.

**i. Limitation 36[I] – wherein the second recording device.**

Limitation 36[I] is identical to limitation 1[H] of Claim 1. (Ex.1001, compare Claim 1 with Claim 36; Ex.1003, ¶101). For the same reasons set forth in Section VIII(B)(1)(h) regarding limitation 1[H], Pierce discloses limitation 36[I] of Claim 36.

**j. Limitation 36[J] – wherein the first recording device is different.**

Limitation 36[J] is identical to limitation 1[I] of Claim 1. (Ex.1001, compare Claim 1 with Claim 36; Ex.1003, ¶¶80, 92). For the same reasons set forth in Section VIII(B)(1)(i) regarding limitation 1[I], Pierce discloses limitation 36[J] of Claim 36.

**k. Limitation 36[K] – wherein the second communication signal.**

Limitation 36[K] is almost identical to limitation 1[J] of Claim 1. (Ex.1001, Claim 36; Ex.1003, ¶96). The primary difference is that limitation 36[K] recites "the first recording device has begun recording in response to said triggering event." (Ex.1001, Claim 36). For the same reasons set forth in Section VIII(B)(1)(j) regarding limitation 1[J], Pierce discloses limitation 36[K] of Claim 36. In particular, Pierce discloses that the wireless microphone begins recording in response to a triggering event, such as depressing the RECORD or HELP button. (Ex.1014, 0066, 0068, 0084; Ex.1003, ¶¶172, 205).

**l. Limitation 36[L] – "wherein at least one of.**

Limitation 36[L] is identical to limitation 1[K] of Claim 1. (Ex.1001, compare Claim 1 with Claim 36; Ex.1003, ¶¶80, 92). For the same reasons set forth in Section VIII(B)(1)(k) regarding limitation 1[K], Pierce discloses limitation 36[L] of Claim 36.

**4. Independent Claim 48 is Rendered Obvious by Pierce in View of the 20/20-W Publication.**

A detailed description of how Pierce and the 20/20-W Publication render Claim 48 obvious will now be provided.

**a. Limitation 48[A] – A non-transitory computer readable storage medium having a computer program stored thereon for managing multiple recording**

**devices, wherein the computer program instructs at least one processor to perform the following steps.**

The preamble of Claim 48 recites "managing multiple recording devices." (Ex.1001, Claim 1; Ex.1003, ¶99). The only difference between the preamble of Claim 48 and Claim 1 is that Claim 1 is a system claim while Claim 48 is a computer readable medium claim. Claim type aside, there is no substantive difference in the preambles. Thus, for the same reasons set forth in Section VIII(B)(1)(a) regarding limitation 1[A], Pierce discloses limitation 48[A] of Claim 36.

Any differences that may be present between the preambles are disclosed in Pierce. For example, Pierce discloses that the controller (disclosed above in Section VIII(B)(1)(b) as performing the functions of the recording device manager), "is programmable to coordinate operation of the data acquisition and display system 10."

**b. Limitation 48[B] – receive, by a recording device manager.**

Limitation 48[B] is almost identical to Claim 18[B]. (Ex.1001, Claim 48; Ex.1003, ¶99). The only difference is a "triggering event."

As set forth above in Section VIII(B)(1)(d), the central unit (i.e., the recording device manager) receives the recorded sound data from the wireless microphone 68b. (Ex.1014, ¶¶0066, 0068, 0084; Ex.1003, ¶¶172, 205). Thus, the

central unit's controller 31, executing program instructions, receives the first communication signal from a first recording device. (*Id.*) The first communication signal indicates that the first recording device has received an instruction initiated by a first law enforcement officer to record a first set of record data related to an event. (*Id.*)

**c. Limitation 48[C] – wherein said triggering event.**

Limitation 48[C] is identical to limitation 36[E] of Claim 36. (Ex.1001, compare Claim 48 with Claim 36; Ex.1003, ¶¶80, 99). For the same reasons set forth in Section VIII(B)(3)(e) regarding limitation 36[E], Pierce discloses limitation 48[C] of Claim 48.

**d. Limitation 48[D] – wherein the first recording device.**

Limitation 48[D] is identical to limitation 1[E] of Claim 1. (Ex.1001, compare Claim 1 with Claim 48; Ex.1003, ¶¶80, 99). To the extent that limitation 48[D] has patentable weight, based on Claim 48 being directed to a non-transitory computer readable storage medium, Pierce discloses limitation 48[D] of Claim 48 for at least the same reasons as set forth in Section VIII(B)(1)(e) regarding limitation 1[E].

**e. Limitation 48[E] – transmit, by the recording device manager.**

Limitation 48[E] is identical to Claim 18[D]. (Ex.1001, compare Claim 18 with Claim 48; Ex.1003, ¶¶83, 99). Thus, Pierce discloses limitation 48[E] of Claim 48 for at least the same reasons as set forth in Section VIII(B)(3)(d) regarding limitation 1[E].

**f. Limitation 48[F] – wherein the second recording device.**

Limitation 48[F] is identical to limitation 1[H] of Claim 1. (Ex.1001, compare Claim 1 with Claim 48; Ex.1003, ¶¶80, 99). To the extent that limitation 48[F] has patentable weight, based on Claim 48 being directed to a non-transitory computer readable storage medium, Pierce discloses limitation 48[F] of Claim 48 for at least the same reasons as set forth in Section VIII(B)(1)(h) regarding limitation 1[H].

**g. Limitation 48[G] – wherein the first recording device is different.**

Limitation 48[G] is identical to limitation 1[I] of Claim 1. (Ex.1001, Compare Claim 1 with Claim 48; Ex.1003, ¶¶80, 99). To the extent that limitation 48[G] has patentable weight, based on Claim 48 being directed to a non-transitory computer readable storage medium, Pierce discloses limitation 48[G] of Claim 48

for at least the same reasons as set forth in Section VIII(B)(1)(i) regarding limitation 1[I].

**h. Limitation 48[H] – wherein the second communication signal.**

Limitation 48[H] is nearly identical to limitation 36[K] of Claim 36, except that Limitation 48[H] does not recite "the at least one receiver." (Ex.1001, compare Claim 36 with Claim 48; Ex.1003, ¶¶92, 99). For the same reasons set forth in Section VIII(B)(3)(k) regarding limitation 36[K], Pierce discloses limitation 48[H] of Claim 48.

**i. Limitation 48[I] – wherein one of the first recording device.**

Limitation 48[I] is identical to limitation 1[K] of Claim 1. (Ex.1001, compare Claim 1 with Claim 48; Ex.1003, ¶¶80, 99). To the extent that limitation 48[I] has patentable weight, based on Claim 48 being directed to a non-transitory computer readable storage medium, Pierce discloses limitation 48[I] of Claim 48 for at least the same reasons as set forth in Section VIII(B)(1)(k) regarding limitation 1[K].

**5. Dependent Claim 3 is Obvious in View of Pierce and the 20/20-W Publication.**

Pierce and the 20/20-W Publication render obvious Claim 3, which adds to Claim 1 a requirement that "wherein the recording device manager includes at least

one universal serial bus (USB) port for connecting the recording device manager to an external computer." (Ex.1001, Claim 3; Ex.1003, ¶82). Pierce discloses the additional limitation set forth in Claim 3. In particular, Pierce discloses that one of the communication ports 54 can be a USB port. (Ex.1014, ¶0051; Ex.1003, ¶263).

**6. Dependent Claims 8, 20, 42, and 54 are Obvious in View of Pierce and the 20/20-W Publication.**

Pierce and the 20/20-W Publication render obvious Claims 8, 20, 42, and 54, which add to Claims 1, 18, 36, and 48, respectively, a requirement that "wherein one of the first set of record data and the second set of record data is selected from the group consisting of video images, audio recordings, and metadata." (Ex.1001, Claims 8, 20, 42, 54; Ex.1003, ¶83). Pierce discloses the additional limitations set forth in Claims 8, 20, 42, and 54.

Specifically, Pierce discloses audio recordings from the wireless microphone 68b and video images from the camera 62a. (Ex.1014, ¶¶0052, 0061-0062). Metadata is also disclosed in Pierce. (Ex.1014, ¶¶0049, 0072; Ex.1003, ¶¶265-266).

**7. Dependent Claims 21, 39, and 51 are Obvious in View of Pierce and the 20/20-W Publication.**

Pierce and the 20/20-W Publication render obvious Claims 21, 39, and 51, which add to Claims 18, 36, and 48, respectively, a requirement that "wherein one of said first set of record data and said second set of record data is metadata

associated with the event." (Ex.1001, Claims 21, 39, 51; Ex.1003, ¶¶85, 94, 101).

Pierce discloses the additional limitations set forth in Claims 21, 39, and 51.

Pierce discloses that vehicle data, time stamps, location data, etc., can be recorded and indexed with other data. (Ex.1014, ¶¶0072, 0076, Ex.1003, ¶¶265-266). Thus, Pierce alone, or as modified by the 20/20-W Publication, satisfies the limitations of Claims 21, 39, and 51. Additionally, the 20/20-W Publication treats the traffic speed data from a radar unit, such as radar gun 77, as metadata. (Ex.1015, p.9). Thus, when the radar gun is the second recording device, Pierce as modified by the 20/20-W Publication again satisfies the limitations of Claims 21, 39, and 51.

**8. Dependent Claims 24, 29, 43, 55 are Obvious in View of Pierce and the 20/20-W Publication.**

Pierce and the 20/20-W Publication render obvious Claims 24, 29, 43, and 55, which add to Claims 1, 18, 36, and 48, respectively, a requirement that "wherein one of the first recording device and the second recording device is associated with a GPS receiver and is configured to store location data derived from the GPS receiver and associated with the event." (Ex.1001, Claims 24, 29, 43, 55; Ex.1003, ¶¶86, 89, 96, 103).

Pierce discloses the additional limitations set forth in Claims 24, 29, 43, and 55. In particular, Pierce discloses a GPS engine 88 that generates location data.

(Ex.1014, ¶0072). According to Pierce, the controller 31 and the recording media 44 coordinate and index the location data with other recorded data, such as sound data from the microphones 68 and video data from the cameras 62. (Ex.1014, ¶0072; Ex.1003, ¶288).

**9. Dependent Claims 27, 31, and 46 and 58 are Obvious in View of Pierce and the 20/20-W Publication.**

Pierce and the 20/20-W Publication render obvious Claims 27, 31, and 46 and 58, which add to Claims 18, 1, 36, and 48, respectively, a requirement that "wherein another of the first recording device and the second recording device is configured to be mounted in a law enforcement vehicle." (Ex.1001, Claims 27, 31, 46, and 58; Ex.1003, ¶¶88, 91, 98, 105). Pierce discloses the additional limitations set forth in Claims 27, 31, 46, 58.

As set forth in Section 1[K] above, Pierce discloses that the first recording device is a wireless microphone that can be carried by or mounted to a user, such as a law enforcement officer. (Ex.1014, ¶¶0062, 0065). Pierce also discloses that the second recording devices, such as the video camera 62a, the internal microphone 68a, and the speed measuring apparatus 77, are mounted in the patrol car. (Ex.1014, ¶¶0053, 0061, 0069, Fig.1; Ex.1003, ¶¶292-293).

**10. Dependent Claims 38 and 50 are Obvious in View of Pierce and the 20/20-W Publication.**

Pierce and the 20/20-W Publication render obvious Claims 38 and 50, which add to Claims 36 and 48, respectively, a first requirement that "wherein said triggering event is said activation, by the first law enforcement officer, of said data recording device communicatively coupled with the recording device manager" and a second requirement that "wherein data recorded by said data recording device is metadata associated with the event." (Ex.1001, Claims 38, 50; Ex.1003, ¶¶93, 100). Pierce discloses the additional limitations set forth in Claims 38 and 50.

Regarding the first requirement, Pierce discloses that the trigger can be from an Officer depressing a button on the wireless microphone, as set forth in Section VIII(B)(1)(d). (See also Ex.1003, ¶¶172, 205).

Regarding the second requirement, Pierce discloses that the first or second set of record data can be metadata. See discussion of Claim 21. (See also Ex.1003, ¶¶265-266).

**11. Dependent Claims 26, 30, 45 and 57 are Obvious in View of Pierce and the 20/20-W Publication.**

Pierce and the 20/20-W Publication render obvious Claims 26, 30, 45 and 57, which add to Claims 18, 1, 36, and 48, respectively, a requirement that "wherein the one of the first recording device and the second recording device

configured to be mounted on or carried by the one of the first law enforcement officer and the second law enforcement officer is configured to be worn on a shirt of the one of the first law enforcement officer and the second law enforcement officer." (Ex.1001, Claims 26, 30, 45, 57; Ex.1003, ¶¶87, 90, 97, 104). Pierce alone and as modified by the 20/20-W Publication disclose the additional limitations set forth in Claims 26, 30, 45 and 57.

According to Pierce, "the second microphone 68b also includes a belt clip 74 and a corded microphone 76. During operation, the operator can clip the belt clip 74 on his belt and can clip the optional corded microphone 76 to his collar or lapel for convenient handsfree operation." (Ex.1014, ¶¶0062, 0065; Ex.1003, ¶¶258-259). The 20/20-W Publication also discloses that the wireless microphone can be attached to or carried in the shirt pocket. (Ex.1015, p.18).

## **IX. CONCLUSION.**

In light of the above prior art and the information provided in this petition, there is a reasonable likelihood that Petitioner would prevail in its challenge of patentability of at least one of the claims challenged in the petition. It is therefore requested that a Trial for *inter partes* review of the '292 Patent be instituted and Claims 1, 3, 8, 18, 20-21, 24, 26-27, 29-31, 36, 38-39, 42-43, 45-46, 48, 50-51, 54-55, and 57-58 be canceled as unpatentable.

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Dated this 1st day of December, 2016.

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**X. APPENDIX OF EXHIBITS.**

- Ex.1001 U.S. Patent No. 8,781,292 B1, with Reexamination Certificate ("292 Patent")
- Ex.1002 U.S. Patent No. 9,253,452 ("452 Patent")
- Ex.1003 Declaration of Dr. Henry Houh
- Ex.1004 Curriculum Vitae of Dr. Henry Houh
- Ex.1005 Original File History of the '292 Patent
- Ex.1006 Reexamination File History of '292 Patent
- Ex.1007 Patent Owner's Complaint in *Digital Ally, Inc. v. TASER International, Inc.*, Case No. 2:16-cv-02032-CM-JPO ("Kansas Litigation")
- Ex.1008 Patent Owner's Complaint in *Digital Ally, Inc. v. Enforcement Video, LLC d/b/a/ Watchguard Video*, Case No. 2:16-cv-02349-JTM-JPO ("Watchguard Litigation")
- Ex.1009 U.S. Patent Publication No. 2007/0274705 ("Kashiwa")
- Ex.1010 [Purposefully Left Blank]
- Ex.1011 Plaintiff's Opening Brief in Support of Claim Construction
- Ex.1012 Defendant's Opening Brief in Support of Claim Construction
- Ex.1013 Plaintiff's Reply Brief in Support of Claim Construction
- Ex.1014 U.S. Patent Publication No. 2005/0083404 ("Pierce")
- Ex.1015 Raytheon JPS Communications Raytheon 20/20-W ("20/20-W Publication")

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- Ex.1016 Affidavit of Christopher Butler of Internet Archive attesting to the public availability of the 20/20-W Publication on November 25, 2010
- Ex.1017 International Association of Chiefs of Police Digital Video System Minimum Specifications 11/21/2008.
- Ex.1018 U.S. Patent No. 8,446,469 ("Blanco")
- Ex.1019 Korean Patent Publication 1050897 ("Park"), with Certified Translation
- Ex.1020 US Patent Publication 2005/0101334 ("Brown")
- Ex.1021 US Patent No. 6,950,122 ("Mirabile")
- Ex.1022 PCT Publication WO 2004/036926 ("Pearlson")
- Ex.1023 US Patent Publication 2006/0274166 ("Lee")
- Ex.1024 Transmittal Sheet and Assignment of US Application No. 10/926,721, to ICOP Digital
- Ex.1025 City of Pomona Request for Proposal ("RFP") for Mobile Video Recording System for Police Vehicles
- Ex.1026 US Patent Publication 2009/0002491 to Haler ("Haler")

**XI. CERTIFICATE OF WORD COUNT.**

Pursuant to 37 C.F.R. §42.24, the undersigned attorney for the Petitioner, TASER International, Inc. ("TASER"), declares that Sections I-III and IV(E)-IX of this Petition, exclusive of Mandatory Notices under 37 C.F.R. §42.8, Table of Contents, Certificate of Service, Certificate of Word Count, and Appendix of Exhibits has a total of 13,912 words, according to the word count tool in Microsoft Word™.

By: /Brandon C. Stallman/  
Brandon C. Stallman, Reg. No. 46,468  
Lead Counsel for Petitioner

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**XII. CERTIFICATE OF SERVICE.**

Pursuant to 37 C.F.R. §42.8(e) and 42.105(b), the undersigned hereby certifies that on December 1, 2016, a complete and entire copy of this Petition for *Inter Partes* Review, including Exhibits 1001-1026, has been served via U.S. Priority Mail Express upon the following Patent Owner of record by serving the correspondence address of record as follows:

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