

Axon Wins Patent Suit Shutting Down 3rd Consecutive CEW Infringer Permanent Injunction Bars Sale of Phazzer Enforcer CEWs and Dart Cartridges Willful Infringement Damages and Sanctions Awarded by Federal Court

SCOTTSDALE, Ariz., July 24, 2017 /PRNewswire/ -- Axon (Nasdaq: AAXN), formerly TASER International, the global leader in less lethal conducted electrical weapon (CEW) technologies, today announced the entry of a broad permanent injunction against Florida-based Phazzer Electronics, Inc. banning sales of the infringing Phazzer Enforcer CEWs and dart cartridges. The injunction entered Friday by the U.S. District Court for the Middle District of Florida prohibits Phazzer and its officers, agents, employees, and anyone else acting in concert with them, from making, using, offering for sale, selling, distributing, importing or exporting Phazzer CEWs and associated cartridges. Phazzer is further enjoined from dumping its infringing inventory by "donating" CEWs to law enforcement, and from false advertising and comparison to TASER® brand products.

The Court's Order has clear international consequences since both Phazzer and its U.S. distributors are barred from exporting CEWs or cartridges to fill foreign orders. The injunction also makes clear that nonparties who assist Phazzer in violating the injunction, including specifically Taiwanese CEW manufacturer Sang Min International and Double Dragon Development and Trading Corporation, may be held in contempt of court.

"This is a huge win for us," said Doug Klint, Axon General Counsel. "We aggressively defend our intellectual property rights and have a proven track record of success in litigating these cases. We successfully prosecuted infringement cases with Stinger Systems and Karbon Arms before Phazzer. Willful infringement of our weapons technology will never be tolerated, and we will not allow competitors to trade on TASER's goodwill and reputation for quality," Klint said.

TASER obtained a judgment and permanent injunction against Stinger Systems' infringing S-200 CEW in 2010, and against Karbon Arms' infringing MPID CEW in 2014, putting both companies out of business. Phazzer is now also apparently "insolvent," according to documents publicly filed by its counsel.

In imposing severe sanctions against Phazzer, including an award of Axon's attorneys' fees and costs, the Court found that Phazzer "engaged in a pattern of bad faith conduct designed and intended to delay, stall, and increase the cost of this litigation," and that Phazzer repeatedly disregarded Court Orders thereby exhibiting "contemptuous", "egregious", "flagrant" and "intentional obstructionist behavior" resulting in willful "abuse [of] the judicial process." "It is truly stunning," Klint said, "that a company which seeks to do business with law enforcement would show such disdain to the Court and our system of justice."

Axon's patent (U.S. No. 7,234,262) at issue in the litigation (Case No. 6:16-cv-00366-PGB-KRS) relates to the CEW's data recording of date and time of each trigger operation and duration of the stimulus. The Court found that patent was "valid, enforceable, and infringed by Phazzer." The injunction will remain in effect until the patent expires, and includes any CEW or device not colorably different from the Phazzer Enforcer CEW.

The Axon trademark that is the subject of the injunction is Federal Registration No. 4,423,789, relating to the non-functional shape of TASER CEW cartridges used to launch the darts. The Court found the trademark "valid and enforceable, not generic, functional, or merely descriptive, and infringed by Phazzer." The permanent injunction covers all Phazzer CEW dart cartridges that are confusingly similar to, or not more than a colorable imitation of, TASER CEW cartridges, and expressly includes Phazzer product numbers 1-DC15, 1-DC21, 1-DC25, 1-DC21-SIDT, 1-PB30, 1-PB8F, 1-PB15943, 1-RB30, 1-PA30, and 1-LOWIMPT2015.

The Court expressly found that Phazzer cartridges currently marketed and sold as compatible with TASER brand CEWs embody the protected appearance and constitute infringing products enjoined under its Order. Phazzer was also ordered by the Court "not [to] challenge or continue to challenge the validity or enforceability of the '789 Registration in any manner in any forum, including the USPTO." Accordingly, Phazzer's pending USPTO cancellation action, which was stayed while the litigation ran its course, will be dismissed.

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