ESTTA Tracking number: **ESTTA835937**

Filing date: **07/27/2017**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92064459
Party	Defendant TASER International, Inc.
Correspondence Address	RYAN T SANTURRI ALLEN DYER DOPPELT MILBRATH & GILCHRIST PA 255 SOUTH ORANGE AVENUE, SUITE 1401 ORLANDO, FL 32801 UNITED STATES Email: rsanturri@addmg.com
Submission	Motion to Reopen
Filer's Name	Ryan T. Santurri
Filer's email	rsanturri@allendyer.com, mleavy@allendyer.com
Signature	/Ryan T. Santurri/
Date	07/27/2017
Attachments	Motion To Resume Proceedings and Dismiss Cancellation.pdf(10181 bytes) Ex_1_Pt_1_AmendedComplaint.pdf(272229 bytes) Ex1_Pt_2_AmendedComplaintExs.pdf(5981749 bytes) Ex_2_Order.pdf(135568 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Phazzer Electronics, Inc.

Petitioner,

v.

Cancellation Action No.: 92064459
Involving U.S. Registration No. 4,423,789

TASER International, Inc.,

Registrant.

REGISTRANT'S MOTION TO RESUME PROCEEDINGS AND DISMISS CANCELLATION WITH PREJUDICE

Registrant TASER International, Inc. ("Registrant") hereby requests that the Board resume proceedings and order the instant Cancellation dismissed with prejudice. In support thereof, Registrant states as follows:

1. This Cancellation is predicated on Petitioner Phazzer Electronics, Inc.'s ("Petitioner") claim that U.S. Trade Dress Registration No. 4,423,789 (the "'789 Registration") is invalid because the trade dress is allegedly functional and lacks secondary meaning, as well as because the '789 Registration was purportedly fraudulently obtained. (TTABVUE Dkt. No. 1, Counts 1-3).

2. The subject Cancellation is currently suspended pending the outcome of a lawsuit between Registrant and Petitioner. (*See* TTABVUE Dkt. No. 4, Ex. A, true and correct copy of Complaint; Ex. 1, true and correct copy of Amended Complaint [1](the "Lawsuit")). The Lawsuit includes a claim that Petitioner infringed the '789 Registration, which necessarily requires a finding that the '789 Registration is valid. (*See* TTABVUE Dkt. No. 4, Ex. A, ¶ 34 referencing the

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[1] Registrant filed an Amended Complaint against Petitioner, amongst others, on February 24, 2017 after the initial suspension of the proceedings on October 28, 2016. (*See* Exhibit 1; TTABVUE Dkt. No. 7). However, the allegations against Petitioner with respect to the '789 Registration remained substantively the same.

'789 Registration as the "TASER Trademark" and Count Three for infringement of the TASER Trademark; Exhibit 1, true and correct copy of Amended Complaint, ¶ 36 referencing the '789 Registration as the "TASER Trademark" and Count Three for infringement of the TASER Trademark).

3. On July 21, 2017, an Order was issued in the Lawsuit finding that the '789 Registration is "valid and enforceable, not generic, functional, or merely descriptive, and infringed" by Petitioner. (Ex. 2, true and correct copy of July 21, 2017 Order (the "Order"), p. 13, ¶ 1). The Order further prohibits Petitioner from "challeng[ing] or continu[ing] to challenge the validity or enforceability of the '789 Registration in any manner in any forum, including the USPTO." (Ex. 1, p. 14, ¶ 4).

4. Accordingly, as the '789 Registration has been held valid and infringed and Petitioner is prohibited from continuing with this Cancellation, Registrant respectfully requests that the Board issue an order dismissing the Cancellation with prejudice. *See* TBMP § 510.02(b); *see also New Orleans Louisiana Saints LLC and NFL Properties LLC v. Who Dat?, Inc.,* 99 USPQ2d 1550 (TTAB 2011). Such favorable action is earnestly solicited.

Respectfully submitted this July 27, 2017.

/s/Ryan T. Santurri
Ryan T. Santurri, Esquire
Florida Bar No. 015698
rsanturri@allendyer.com
Brock Hankins, Esquire
Florida Bar No. 112531
bhankins@allendyer.com
Allen, Dyer, Doppelt & Gilchrist P.A.
255 South Orange Avenue, Suite 1401
Orlando, FL 32801
Telephone: (407) 841-2330
Facsimile: (407) 841-2343
Attorneys for Registrant TASER International, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing has been served by email on July 27, 2017 to:

Adam R. Stephenson
Adam R. Stephenson, LTD.
40 W. Baseline Rd., Ste 101
Tempe, AZ 85283
Tel: 480.264.6075
Fax: 480.718.8336
ipdocket@iptech.law
adam@iptech.law

/s/ Ryan T. Santurri
Ryan T. Santurri, Esq.

Exhibit 1

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

TASER INTERNATIONAL, INC.,

Plaintiff,

v.

CASE NO. 6:16-cv-00366-PGB-KRS

PHAZZER ELECTRONICS, INC., and SANG MIN INTERNATIONAL CO., LTD., and DOUBLE DRAGON DEVELOPMENT AND TRADING CORPORATION,

JURY TRIAL REQUESTED
INJUNCTIVE RELIEF REQUESTED

Defendants.
_____/

AMENDED COMPLAINT

Plaintiff TASER International, Inc. ("TASER"), by and through its undersigned attorneys, files this amended complaint against Defendants Phazzer Electronics, Inc., Sang Min International Co., Ltd., and Double Dragon Development and Trading Corporation, and alleges as follows:

JURISDICTION AND VENUE

1. This is a civil action arising under 35 U.S.C. § 271 for patent infringement and 15 U.S.C. § 1114 *et seq.* for false advertising and trademark infringement.

2. This Court has jurisdiction over the patent, trademark and false advertising claims pursuant to 28 U.S.C. §§ 1331 and 1338, and supplemental jurisdiction over the common law trademark and unfair competition claims pursuant to 28 U.S.C. § 1367(a).

3. Jurisdiction is also proper because the matter in controversy exceeds $75,000.00 exclusive of interests, fees and costs, and the named Plaintiff and Defendants are citizens of different states or countries. 28 U.S.C. § 1332(d)(2)(A).

4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because a substantial part of the events giving rise to the claim occurred within this judicial district, and because Defendants have marketed and sold the products at issue in this action within this judicial district, and either maintain their principal place of business in this judicial district or have done business within this judicial district.

PARTIES

5. Plaintiff TASER is a Delaware corporation with its principal place of business at 17800 N. 85th Street, Scottsdale, Arizona 85255.

6. Defendant Phazzer Electronics, Inc. ("Phazzer") is a Delaware corporation with its principal place of business at 808 N. Hoagland Boulevard, Kissimmee, Osceola County, Florida.

7. Upon information and belief, Defendant Sang Min International Co., Ltd. ("Sang Min") is a corporation organized and existing in the Republic of China with its principal place of business at No. 339 Cheng Kung Rd., Feng Yuan District, Tai Chung, Taiwan 420.

8. Upon information and belief, Defendant Double Dragon Development and Trading Corporation (“Double Dragon”) is a corporation organized and existing in the Republic of China with its principal place of business at No. 88, Hsiang-Shuen 1st Street, Bei-Tuen Dist., Tai Chung, Taiwan 40661.

9. Upon information and belief, Double Dragon also does business under the following names: Double Dragon Corp.; Double Dragon Development and Manufacturing; and Phazzer Electronics Inc. Taiwan.

NATURE OF THE DISPUTE

10. TASER manufactures and sells conducted electrical weapons ("CEWs") commonly known as "stun guns."

11. Beginning in the first quarter of 2003, TASER has continuously manufactured and

sold the model X26™ CEW.

12. The TASER model X26 CEW utilizes a compressed gas cartridge to propel two probes, also referred to as darts, at high velocity toward a target. Each of the two probes is connected by a thin insulated wire to a battery-powered high voltage circuit located within the CEW. Upon impact of the two probes with the target, a complete electrical circuit is established and a low current electrical charge flows through the target.

13. The TASER model X26 CEW is designed to use electrical stimuli to interfere with the signals sent by the command and control systems of the body to temporarily impair the subject's ability to control his own body.

14. The TASER model X26 CEW is sold only to law enforcement and professional security personnel. A similar model, the X26C CEW, is sold to the consumer market.

15. The TASER model X26 CEW has been well received in the marketplace, resulting in delivery of tens of thousands of units since its introduction in 2003.

16. TASER is the largest supplier of dart firing CEWs. TASER CEWs are used by more than 17,800 law enforcement agencies in 107 countries. Every TASER CEW is manufactured in Arizona.

17. TASER is the sole owner of US utility patent 7,234,262 (“the '262 Patent”) by assignment from the sole inventor as recorded in the United States Patent and Trademark Office at reel 016843 frame 0004. The '262 Patent was granted to TASER on June 26, 2007. A copy of the '262 Patent is attached as Exhibit A and incorporated herein by reference.

18. Upon information and belief, Phazzer, Sang Min and Double Dragon entered an agreement regarding the manufacture and sale of CEWs, including for importation and sale in Florida.

19. Upon information and belief, Sang Min manufactures and sells CEWs that fall within the claims of the '262 Patent.

20. Upon information and belief, Double Dragon manufactures and sells CEWs that fall within the claims of the '262 Patent.

21. Upon information and belief, CEWs manufactured by Sang Min and/or Double Dragon are sold to Phazzer for resale in the U.S.

22. Upon information and belief, Phazzer is a U.S. distributor for Double Dragon and/or Sang Min, which sell CEWs to Phazzer knowing they will be resold in the U.S.

23. Phazzer and TASER offer competitive CEWs for sale.

24. Since about April 2010, Phazzer has offered for sale in the United States a CEW marketed as the "Enforcer." The Enforcer is a hand-held weapon that launches two darts to stun a target.

25. Phazzer hosts a website on the Internet accessible to Internet users without user registration or a password. The Phazzer websites have included the following URLs http://www.phazzer.com ("Phazzer Corporate Website") and http://www.phazerstore.com ("Phazzer E-commerce Website").

26. Phazzer websites have published and disseminated technical specifications of the Enforcer CEW (Exhibit B), a comparison between the Enforcer CEW and the TASER X26 CEW (Exhibit C) ("Enforcer-TASER Comparison"), and a manual for the Phazzer Enforcer CEW (Exhibit D) Copies of Exhibits B-D are attached and incorporated herein by reference.

27. Upon information and belief, Phazzer has imported, offered for sale, and sold the Enforcer CEW to customers in Florida and elsewhere in the U.S. Such importation, offers for sale, and sales of the Phazzer Enforcer infringe at least claim 13 of TASER's '262 Patent. On

information and belief, other claims of the 262 Patent are also infringed.

28. Phazzer's websites have also included a support page that provides access to various manuals, including the Phazzer Dataport Manual (Exhibit E). The Phazzer Dataport Manual describes the type of data stored by the Enforcer CEW and transferred from the Enforcer CEW to a computer. A copy of Exhibit E is attached and incorporated herein by reference.

29. On information and belief, Phazzer's Enforcer CEWs include non-volatile memory that stores information regarding the weapon's past use. The stored information appears to record the date and time of each operation of the trigger and the duration of the stimulus signal provided by the Enforcer.

30. On information and belief, Sang Min and Double Dragon have manufactured and imported the Phazzer Enforcer CEW with Sang Min's and Double Dragon's knowledge of the '262 Patent.

31. Phazzer advertising claims are understood within the relevant market as comparing Phazzer's CEWs with the well-known TASER CEWs.

32. The Enforcer-TASER Comparison document (Exhibit C) makes statements that are not true. The feature entitled "Battery Operation: Strength of Charge Readout" states, "The TASER® X26 battery digital readout must be continuously monitored while in use to assure maximum discharging has not been reached." This statement is false.

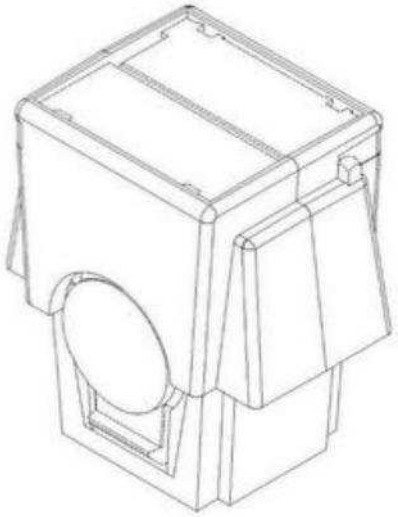
33. The feature entitled "Battery Operation: Monitoring Capabilities" in the Enforcer-TASER Comparison document states, "Most agencies' policies require replacement once the battery reaches 70% or less. So in summary each agency pays X amount of money to use only 30% of a Taser battery." This statement is false.

34. The feature entitled "Operation Simplicity: Ease of Use and Control" in the

Enforcer-TASER Comparison document states, "TASER® utilizes digital readout to monitor power operation and must be monitored by the officer during operation. This extra mental juggling to operate the Taser exposes officers to potential loss of sight of the perpetrator." This statement is false.

35. The feature entitled "Operation Simplicity: Ease of Use and Control" in the Enforcer-TASER Comparison document states, "TASER® offers illuminator selector button with 4 switch positions to operate the CID, the laser and flashlight both on and off in sequence leaving a substantial margin for error by drawing the officer's attention away from the perpetrator." This statement is false.

36. TASER is the owner of a federal trademark registration, Registration No. 4,423,789, issued by the United States Patent and Trademark Office on October 29, 2013, for the non-functional shape, as shown below, of cartridges used to launch darts ("TASER Trademark"). The registration certificate is attached as Exhibit F and incorporated herein by reference.



37. The TASER Trademark has been used since January 31, 1995. The TASER Trademark distinguishes TASER's cartridges and is well known to users and purchasers of CEWs as identifying TASER merchandise.

38. On information and belief, Sang Min and/or Double Dragon manufacture CEW cartridges for Phazzer that bear a confusingly similar shape to the TASER Trademark, including the cartridge depicted below. Phazzer imports these cartridges into the United States, and offers for sale and sells the cartridges in interstate commerce.

39. Phazzer presently sells through the Phazzer E-commerce Website several versions of cartridges that each bear a confusingly similar shape to the shape of the TASER Trademark.

40. The cartridges imported, distributed, offered for sale, and sold by Phazzer are not manufactured by TASER. Defendants are not associated or connected with TASER or licensed, authorized, sponsored, endorsed, or approved by TASER in any way.

41. TASER used the TASER Trademark extensively and continuously before Defendants began using confusingly similar imitations of TASER's cartridges.

42. The cartridges sold by Phazzer are similar to and compete with goods sold by TASER. The goods sold by the parties are sold through overlapping channels of trade.

43. Defendants' use of confusingly similar imitations of the TASER Trademark is likely to deceive, confuse, and mislead prospective purchasers into believing that cartridges sold by Phazzer are manufactured by, authorized by, or in some manner associated with TASER. They are not. The likelihood of confusion, mistake, and deception engendered by Defendants'

misappropriation of the TASER Trademark is causing and will continue to cause irreparable harm to the goodwill symbolized by the TASER Trademark and the reputation for quality that the TASER Trademark represents.

44. Defendants' activities are likely to cause confusion before, during, and after the time of purchase because purchasers, prospective purchasers, and others viewing Phazzer's cartridges are likely to mistakenly attribute Phazzer's cartridges to TASER.

45. On information and belief, Defendants knowingly, willfully, intentionally, and maliciously adopted and used confusingly similar imitations of the TASER Trademark.

COUNT ONE

INFRINGEMENT OF THE '262 PATENT

(All Defendants)

46. TASER realleges and incorporates by reference paragraphs 1-45 of this Complaint inclusive, as though fully set forth herein.

47. Count One arises under 35 U.S.C. § 271.

48. Through their manufacture, use, sale, offer for sale and importation of the Phazzer Enforcer, Defendants directly infringe the '262 Patent, whether literally or under the Doctrine of Equivalents.

49. Upon information and belief, Defendants are aware of the '262 Patent and know that Phazzer has no substantial, noninfringing use.

50. Defendants' manufacture, use, sale, offer for sale and importation of the Phazzer Enforcer constitutes contributory infringement of the '262 Patent.

51. Defendants' infringement was without license from TASER and was willful and deliberate.

52. On information and belief, Defendants' acts of infringement damaged and will

continue to damage TASER, causing irreparable harm, for which there is no adequate remedy at law. Such unlawful acts and damage will continue to occur unless enjoined by this Court.

53. Defendants' acts of infringement have been carried out deliberately and willfully entitling TASER to treble damages under 35 U.S.C. § 284. This is an exceptional case entitling TASER to an award of attorneys' fees under 35 U.S.C. § 285.

COUNT TWO

FALSE ADVERTISING UNDER 15 U.S.C. § 1125

(Phazzer)

54. TASER realleges and incorporates by reference paragraphs 1 through 45 of this Complaint inclusive, as though fully set forth herein.

55. Count Two arises under 15 U.S.C. § 1125(a).

56. Phazzer has made and incorporated false statements of fact into its commercial advertisements for the Enforcer CEW product and has communicated publicly false statements about TASER and its products.

57. The statements made by Phazzer on its website and in its advertising were made for the purpose of influencing consumers to buy Phazzer's goods.

58. The false statements of fact either have actually deceived or have a tendency to deceive a substantial segment of Phazzer's audience. Such deception is material in that it is likely to influence purchasing decisions.

59. Phazzer has caused its false statements to enter interstate commerce. As a result of Phazzer's conduct, TASER has been or is likely to be injured as a result of Phazzer's false statements in violation of Section 43(a) of the Lanham Act, 15 U.S.C. §1125(a).

COUNT THREE

TRADEMARK INFRINGEMENT

(All Defendants)

60. TASER realleges and incorporates by reference paragraphs 1 through 45 of this Complaint inclusive, as though fully set forth herein.

61. Defendants' use of confusingly similar imitations of the TASER Trademark is likely to cause confusion, deception, and mistake by creating the false and misleading impression that Phazzer cartridges are manufactured or distributed by TASER, are associated or connected with TASER, or have the sponsorship, endorsement, or approval of TASER.

62. Defendants have used marks confusingly similar to TASER's federally registered mark in violation of 15 U.S.C. § 1114. Defendants' activities have caused and, unless enjoined by this Court, will continue to cause a likelihood of confusion and deception of members of the trade and public, and will injure TASER's goodwill and reputation as symbolized by the federally registered TASER Trademark, for which TASER has no adequate remedy at law.

63. Defendants' actions demonstrate an intentional, willful, and malicious intent to trade on the goodwill associated with the TASER Trademark to TASER's irreparable Injury.

64. Defendants have caused and are likely to continue to cause substantial injury to the public and to TASER, such that TASER is entitled to injunctive relief and to recover TASER's profits, actual damages, enhanced profits, and damages, costs, and reasonable attorneys' fees under 15 U.S.C. §§ 1114- 1117.

COUNT FOUR

COMMON LAW TRADEMARK INFRINGEMENT

AND UNFAIR COMPETITION

(All Defendants)

65. TASER realleges and incorporates by reference paragraphs 1 through 45 of this Complaint inclusive, as though fully set forth herein.

66. Defendants' acts constitute common law trademark infringement and unfair competition, and have created and will continue to create a likelihood of confusion to the irreparable injury of TASER unless restrained by this Court. TASER has no adequate remedy at law for this injury.

67. On information and belief, Defendants have acted with full knowledge of TASER's use of, and statutory and common-law rights to, the TASER Trademark and without regard to the likelihood of confusion of the public created by their activities.

68. Defendants' actions demonstrate an intentional, willful, and malicious intent to trade on the goodwill associated with the TASER Trademark to the great and irreparable injury of TASER.

69. As a result of Defendants' acts, TASER has been damaged in an amount not yet determined or ascertainable. At a minimum, however, TASER is entitled to injunctive relief, to an accounting of Defendants' profits, to damages, and to costs.

70. Further, because Defendants' intentional misconduct or gross negligence is a substantial cause of TASER's loss, injury or damage, TASER is entitled to punitive damages.

PRAYER FOR RELIEF

WHEREFORE, TASER respectfully requests that this Court enter judgment in its favor and against Defendants as follows:

1. For a declaration that the Phazzer Enforcer CEW is within the scope of the claims of the '262 Patent;

2. For a permanent injunction prohibiting infringement, including making, using, importing, offering for sale, and selling the Phazzer Enforcer CEW, as provided by 35 U.S.C. § 283;

3. For a permanent injunction prohibiting Phazzer's false advertising practices;

4. For a permanent injunction prohibiting infringement, including making, using, importing, offering for sale, and selling Phazzer cartridges that infringe on TASER's Trademark;

5. For an order stating that Defendants shall file a written report with the Court, under oath, setting forth their compliance with all injunctive relief granted;

6. For compensatory damages together with interest and costs for patent infringement as provided by 35 U.S.C. § 284;

7. For compensatory damages in an amount sufficient to compensate TASER for the injuries proximately caused by Defendants' conduct;

8. For treble damages as provided by 35 U.S.C. § 284 and 15 U.S.C. § 1117(a) for Defendants' willful and deliberate infringement and Phazzer's false advertising;

9. For attorneys' fees and costs pursuant to applicable law, including, without limitation, 35 U.S.C. § 285 and 15 U.S.C. § 1117(a).

10. For an order stating that Defendants shall completely and immediately furnish all information in their possession, custody or control that relates in any way to responses to Phazzer's sales and offers of sale of the Enforcer CEW in the United States and Florida; and

11. For such other and further relief as the Court deems just and proper.

JURY DEMAND

TASER reserves its right to have all issues that are triable by a jury so decided in this case.

Respectfully submitted this February 24, 2017.

/s/Ryan T. Santurri
Ryan T. Santurri, Esquire
Florida Bar No. 015698
rsanturri@addmg.com
Brian R. Gilchrist, P.A.
Florida Bar No. 774065
bgilchrist@addmg.com
Allen, Dyer, Doppelt, Milbrath & Gilchrist P.A.
255 South Orange Avenue
Suite 1401
Orlando, FL 32801
Telephone: (407) 841-2330
Facsimile: (407) 841-2343
Attorney for TASER International, Inc.

D. Lawrence Letham, Esquire (pro hac vice)
Arizona Bar No. 024727
Letham Law Firm LLC
9588 E. Southern Avenue #51390
Mesa, AZ 85208
Telephone: (602) 904-5402
Facsimile: 480-905-2027
LLetham@LethamLF.com
Attorney for TASER International, Inc.

Pamela B. Petersen, Esquire (pro hac vice)
Arizona Bar No. 011512
TASER International, Inc.
17800 N. 85th Street
Scottsdale, AZ 85255-9603
Telephone: (623) 326-6016

Facsimile: (480) 905-2027
ppetersen@taser.com
Secondary: legal@taser.com
Attorney for TASER International, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 24, 2017, I electronically filed the foregoing using the Management/Electronic Case Filing ("CM/ECF") system, which will send a Notice of Electronic Filing to the following CM/ECF participants:

D. Lawrence Letham
Letham Law Firm LLC
9588 E. Southern Avenue #51390
Mesa, AZ 85208
lletham@lethamlf.com

William Cleveland Acree, II
QUINTAIROS, PRIETO, WOOD & BOYER, P.A.
255 S. Orange Ave., Suite 900
Orlando, Florida 32801
cacree@qpwblaw.com

Pamela B. Petersen
TASER International, Inc.
17800 N. 85th Street
Scottsdale, AZ 85255-9603
ppetersen@taser.com

David A. Fifner
Cameron, Hodges, Coleman, LaPointe & Wright P.A.
111 N. Magnolia Ave., Suite 1350
Orlando, FL 32801
dfifner@cameronhodges.com

/s/Ryan T. Santurri
Ryan T. Santurri, FL Bar #0015698

INDEX OF EXHIBITS

Exhibit A: U.S. Patent 7,234,262
Exhibit B: Enforcer CEW Technical Specifications
Exhibit C: Comparison between the Enforcer CEW and the TASER X-26 CEW Enforcer
Exhibit D: CEW Manual
Exhibit E: Phazzer Dataport Manual
Exhibit F: TASER trademark registration certificate

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Middle District of Florida

TASER INTERNATIONAL, INC.

Plaintiff(s)

v.

PHAZZER ELECTRONICS, INC., and SANG MIN INTERNATIONAL CO., LTD., and DOUBLE DRAGON DEVELOPMENT AND TRADING CORPORATION,

Defendant(s)

Civil Action No. 6:16cv00366-PGB-KRS

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* DOUBLE DRAGON DEVELOPMENT AND TRADING CORPORATION
No. 88, Hsiang-Shuen 1st Street
Bei-Tuen Dist., Tai Chung
Taiwan 40661

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____
Signature of Clerk or Deputy Clerk

Civil Action No. 6:16cv00366-PGB-KRS

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____

was received by me on *(date)* _____ .

❒ I personally served the summons on the individual at *(place)* _____

_____ on *(date)* _____ ; or

❒ I left the summons at the individual's residence or usual place of abode with *(name)* _____

_____ , a person of suitable age and discretion who resides there,

on *(date)* _____ , and mailed a copy to the individual's last known address; or

❒ I served the summons on *(name of individual)* _____ , who is

designated by law to accept service of process on behalf of *(name of organization)* _____

_____ on *(date)* _____ ; or

❒ I returned the summons unexecuted because _____ ; or

❒ Other *(specify):*

My fees are $ _____ for travel and $ _____ for services, for a total of $ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

_____

Server's signature

_____

Printed name and title

_____

Server's address

Additional information regarding attempted service, etc:

EXHIBIT “A”

US007234262B2

(12) **United States Patent**
Smith

(10) **Patent No.: US 7,234,262 B2**
(45) **Date of Patent: Jun. 26, 2007**

(54) **ELECTRICAL WEAPON HAVING CONTROLLER FOR TIMED CURRENT THROUGH TARGET AND DATE/TIME RECORDING**

(75) Inventor: **Patrick W. Smith**, Scottsdale, AZ (US)

(73) Assignee: **TASER International, Inc.**, Scottsdale, AZ (US)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 27 days.

(21) Appl. No.: **11/164,710**

(22) Filed: **Dec. 2, 2005**

(65) **Prior Publication Data**

US 2007/0097592 A1 May 3, 2007

Related U.S. Application Data

(60) Division of application No. 10/673,901, filed on Sep. 28, 2003, now Pat. No. 7,075,770, which is a continuation of application No. 10/016,082, filed on Dec. 12, 2001, now Pat. No. 6,636,412, which is a continuation of application No. 09/398,388, filed on Sep. 17, 1999, now abandoned.

(51) **Int. Cl.**
F42B 12/02 (2006.01)

(52) **U.S. Cl.** **42/84**; 361/232; 463/47.3; 89/1.11; 102/502

(58) **Field of Classification Search** 42/1.08, 42/84; 316/232; 89/1.11; 463/47.3; 102/502; 361/232
See application file for complete search history.

(56) **References Cited**

U.S. PATENT DOCUMENTS

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2005/0039628	A1 *	2/2005	Carman	102/502

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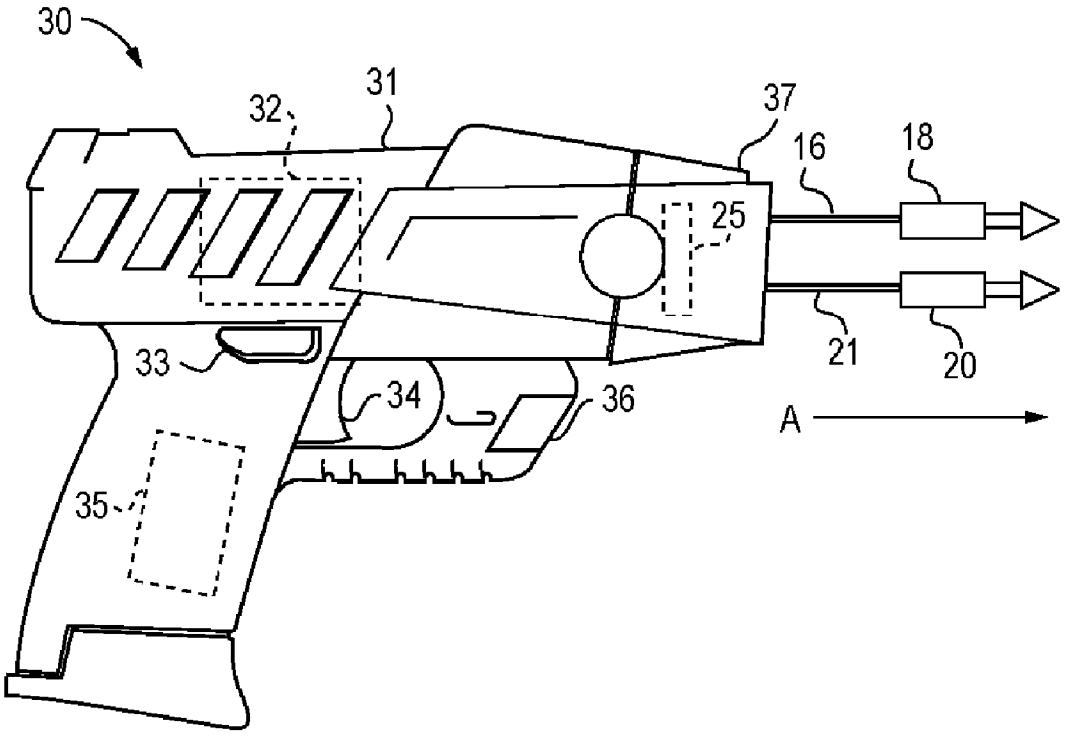
Primary Examiner—J. Woodrow Eldred
(74) *Attorney, Agent, or Firm*—William R. Bachand

(57) **ABSTRACT**

An apparatus for interfering with locomotion by a human or animal target includes a microprocessor programmed to track date and time, to initiate and maintain for a period an electrical current, and to record tracked date and time for each initiation of the current. The current, when conducted through the target, interferes with use by the target of the skeletal muscles of the target during the period.

18 Claims, 9 Drawing Sheets



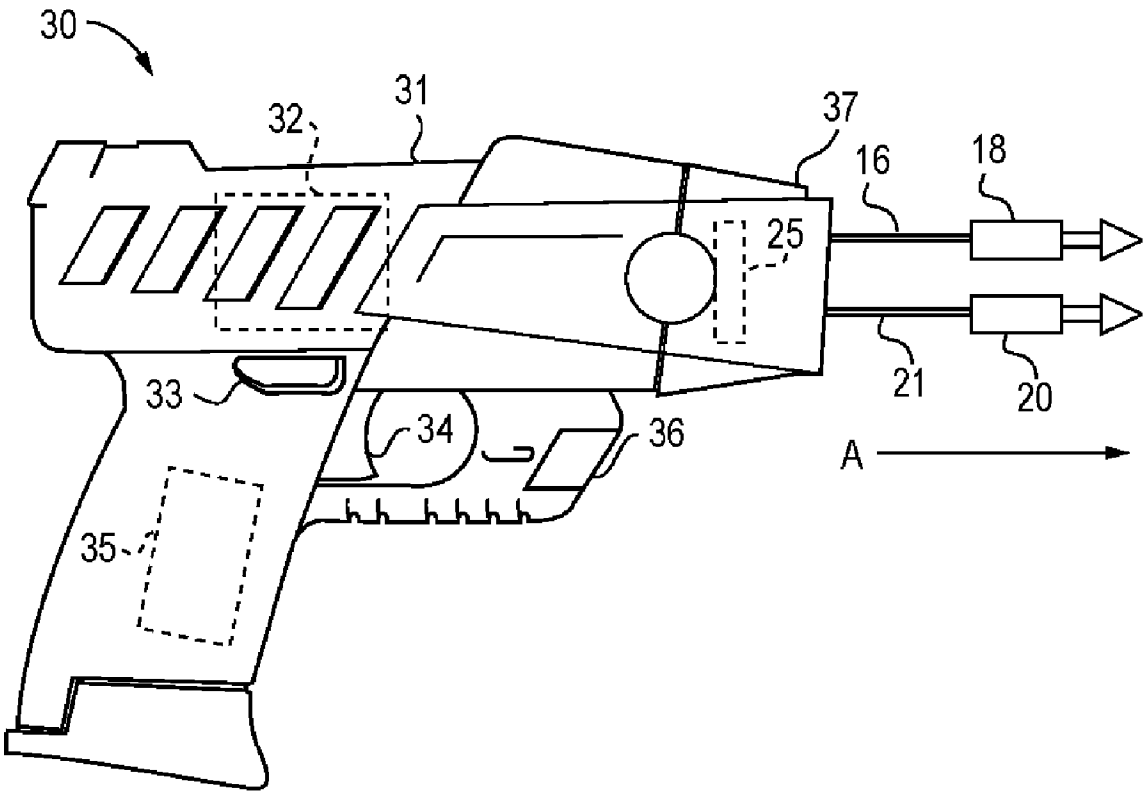


FIG. 1

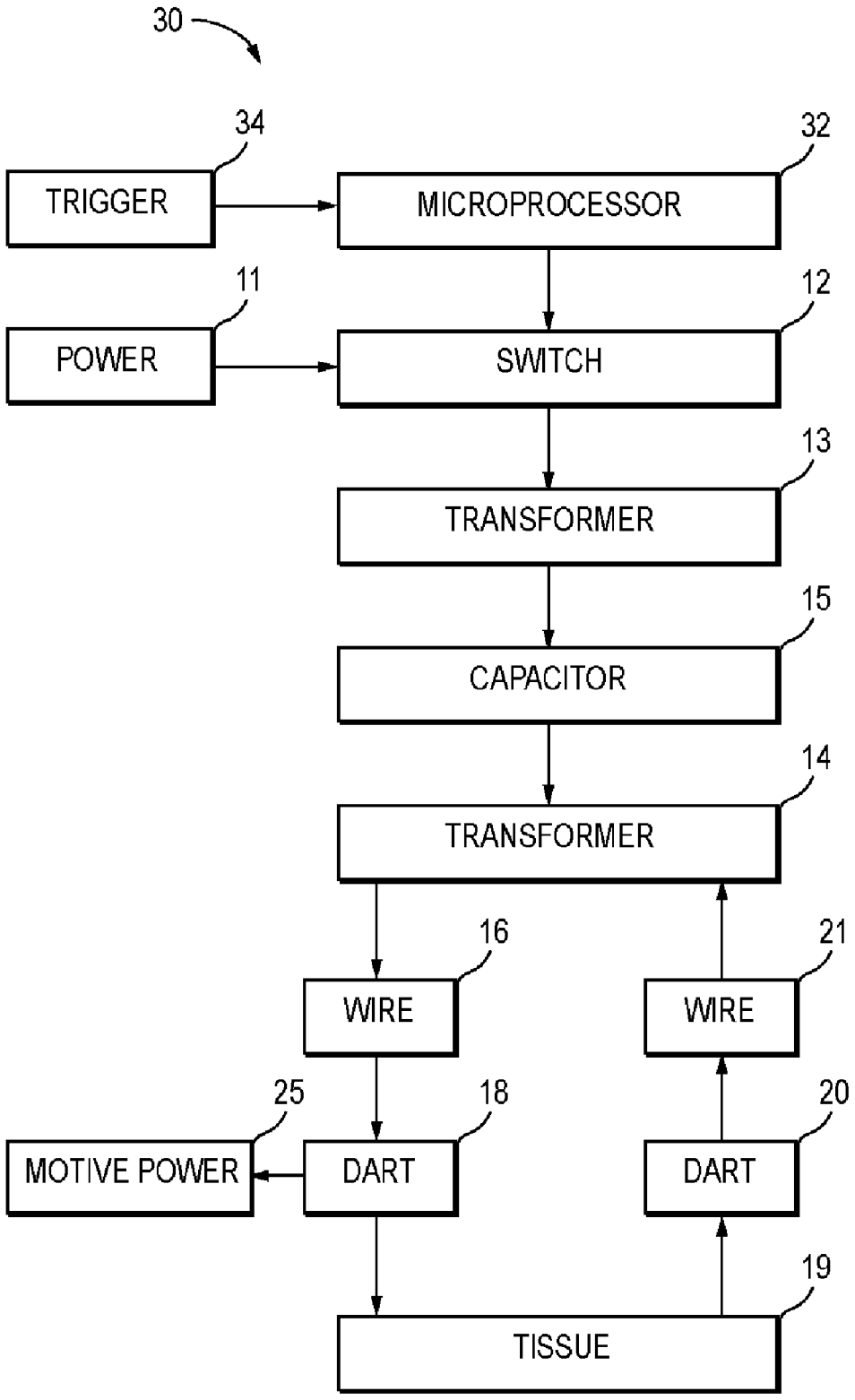

30
34
TRIGGER
32
MICROPROCESSOR
11
POWER
12
SWITCH
13
TRANSFORMER
15
CAPACITOR
14
TRANSFORMER
16
WIRE
21
WIRE
25
MOTIVE POWER
18
DART
20
DART
19
TISSUE

FIG. 2

BRAND	PULSE AMPLITUDE (mA RMS)	PULSE WIDTH (μSEC)
JAYCOR SS	42.0	1.00
ZFORCE I	29.0	1.60
Z FORCE III	31.9	1.69
ZFORCE IV	25.3	1.81
TP65kV	26.8	2.07
TP120kV	25.7	3.03
MYOTRON	64.7	3.20
Om120kV	38.2	6.17
Om150kV	29.6	7.13
Om SB	29.8	7.52
INVENTION	162.48	13.00

FIG. 3

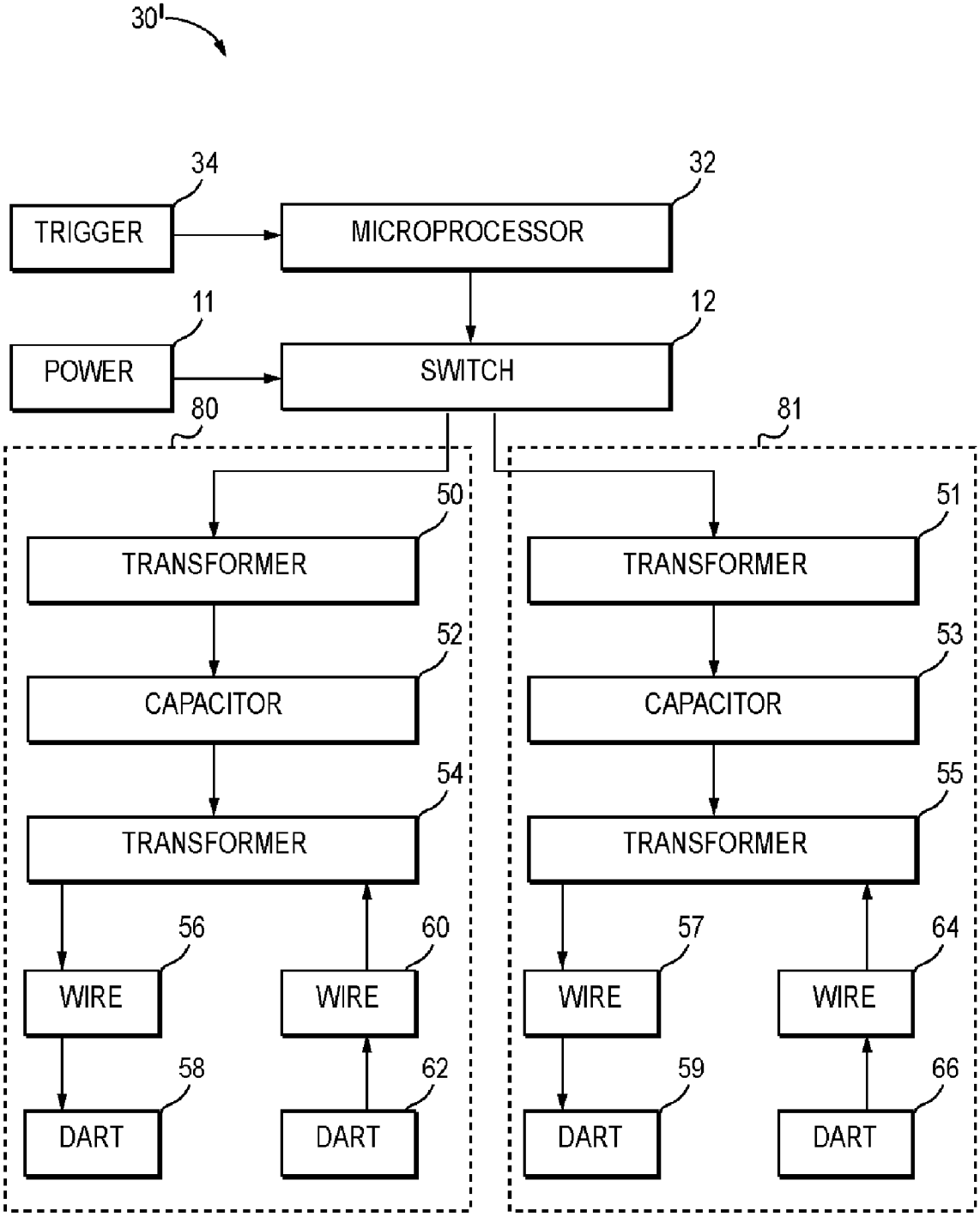

30
34
TRIGGER
32
MICROPROCESSOR
11
POWER
12
SWITCH
80
81
50
TRANSFORMER
51
TRANSFORMER
52
CAPACITOR
53
CAPACITOR
54
TRANSFORMER
55
TRANSFORMER
56
WIRE
60
WIRE
57
WIRE
64
WIRE
58
DART
62
DART
59
DART
66
DART

FIG. 4A

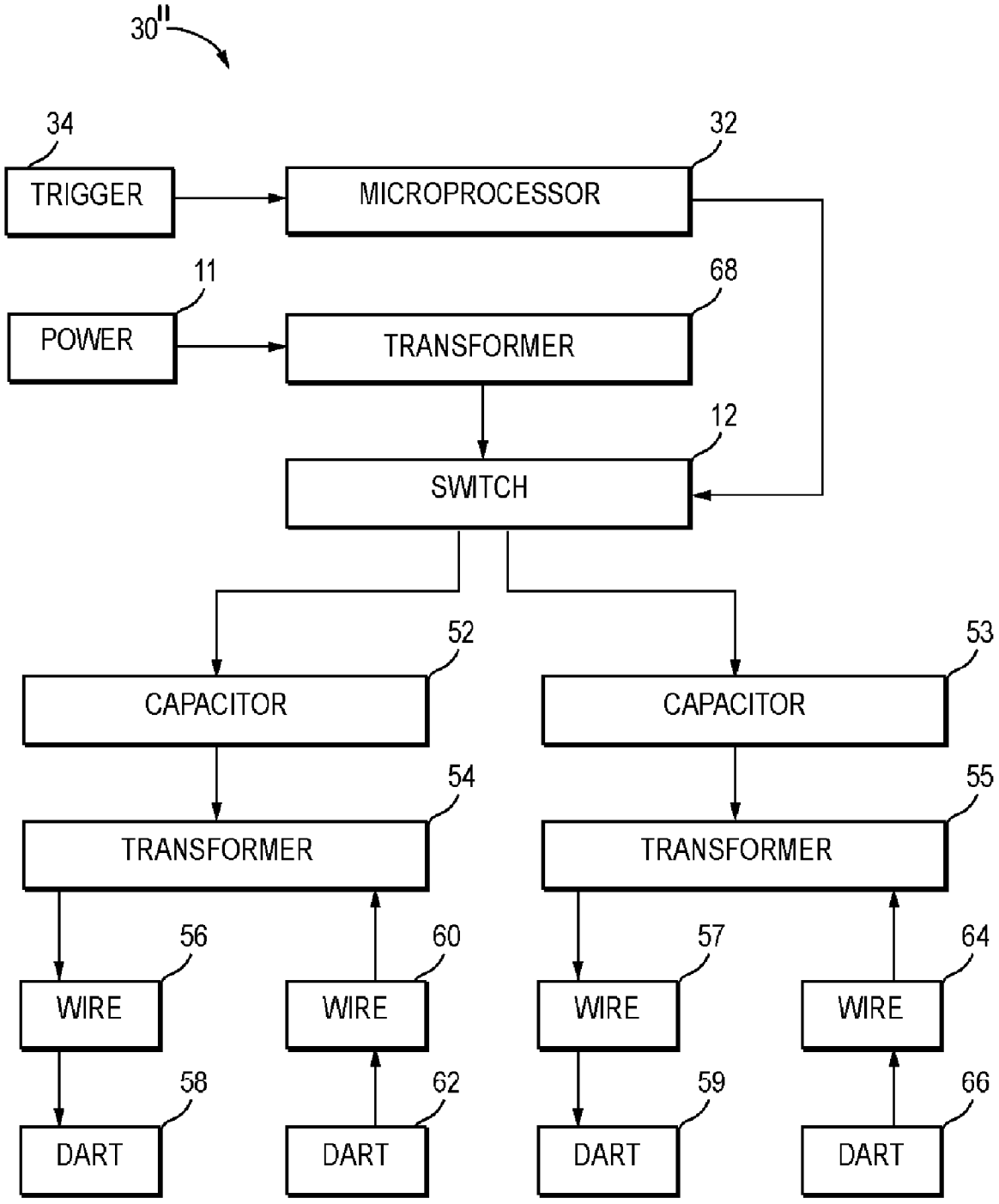

30
34
TRIGGER
32
MICROPROCESSOR
11
POWER
68
TRANSFORMER
12
SWITCH
52
CAPACITOR
53
CAPACITOR
54
TRANSFORMER
55
TRANSFORMER
56
WIRE
60
WIRE
57
WIRE
64
WIRE
58
DART
62
DART
59
DART
66
DART

FIG. 4B

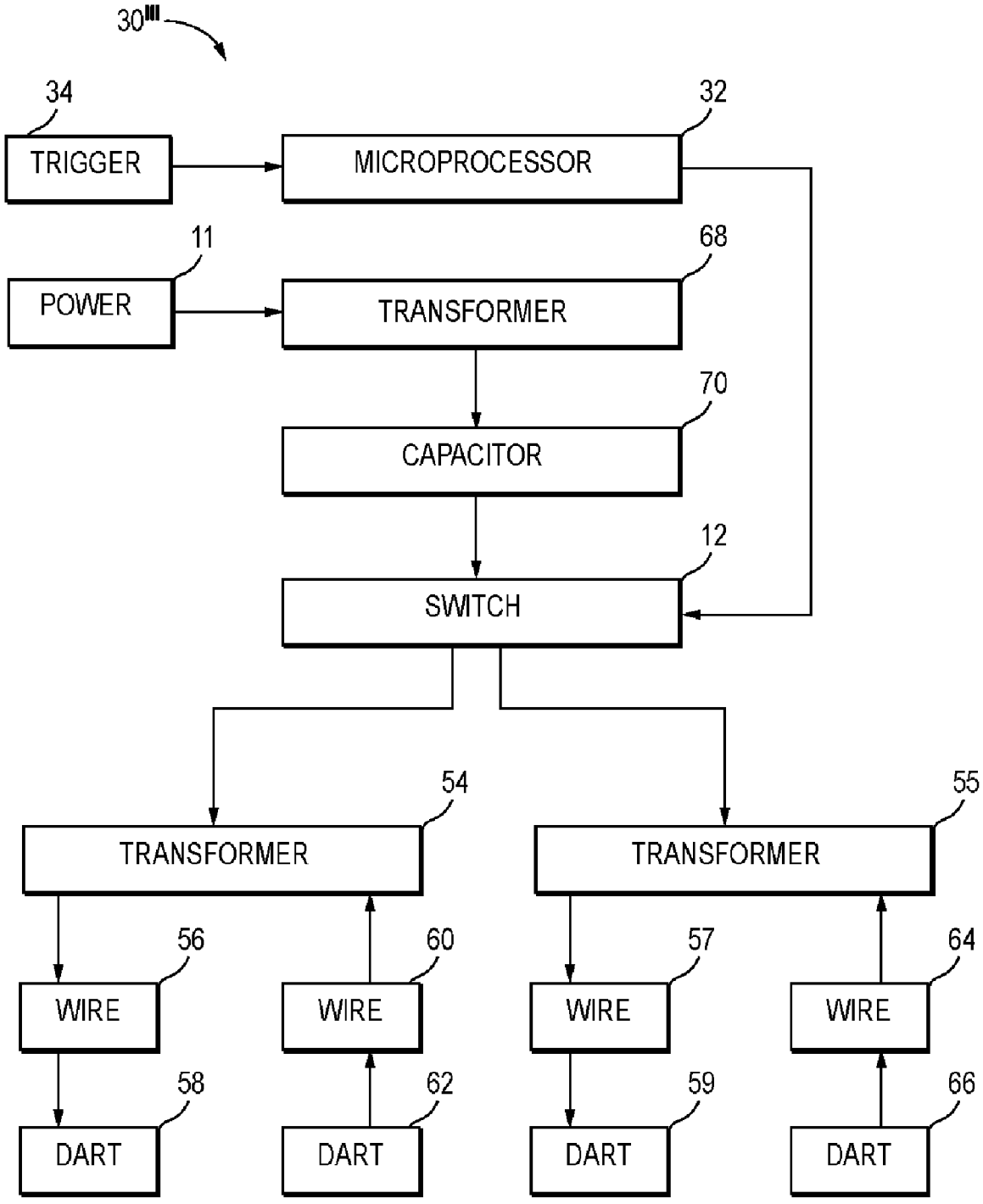

30
34
TRIGGER
32
MICROPROCESSOR
11
POWER
68
TRANSFORMER
70
CAPACITOR
12
SWITCH
54
TRANSFORMER
55
TRANSFORMER
56
WIRE
60
WIRE
57
WIRE
64
WIRE
58
DART
62
DART
59
DART
66
DART

FIG. 4C

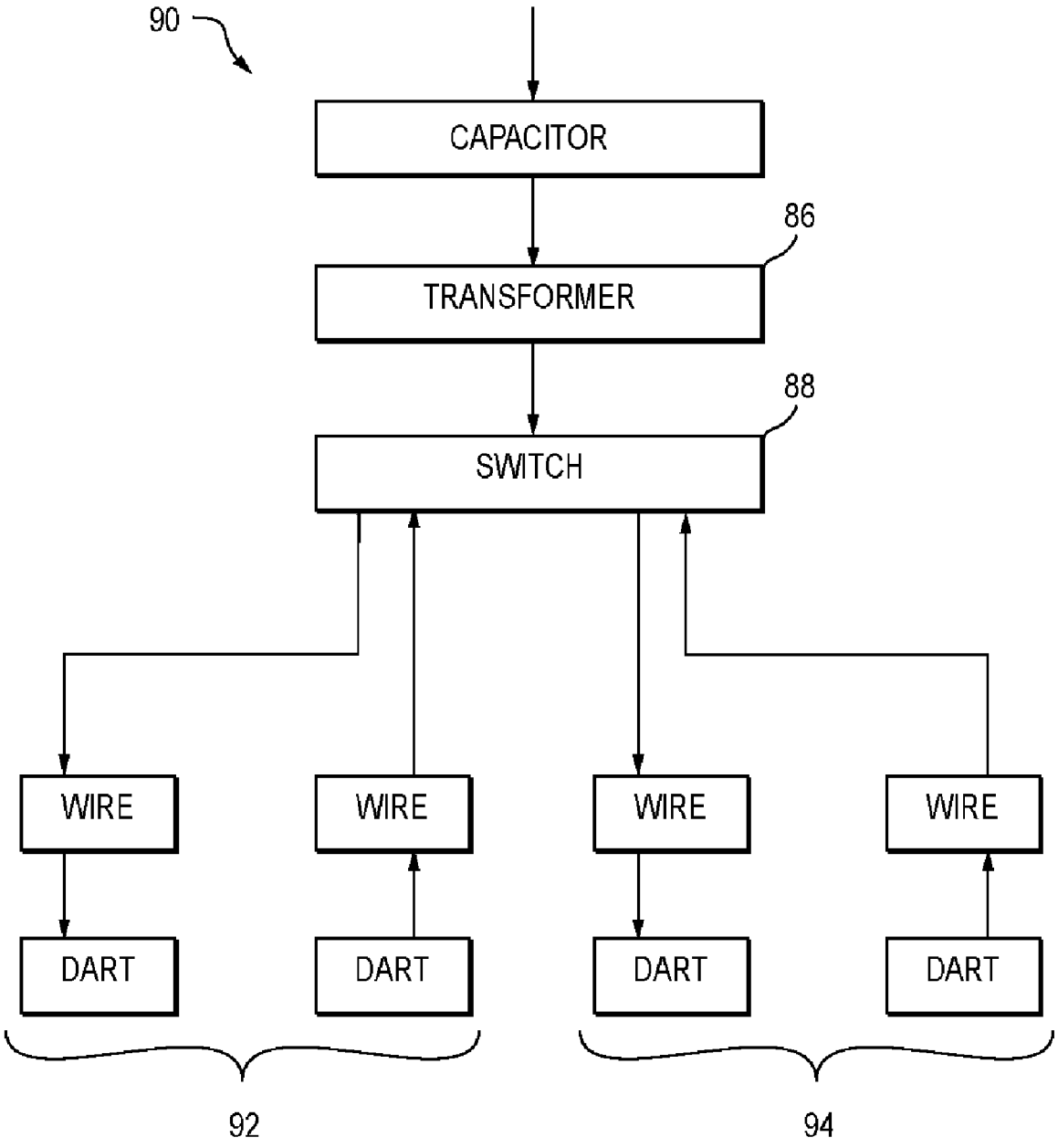


FIG. 5
(PRIOR ART)

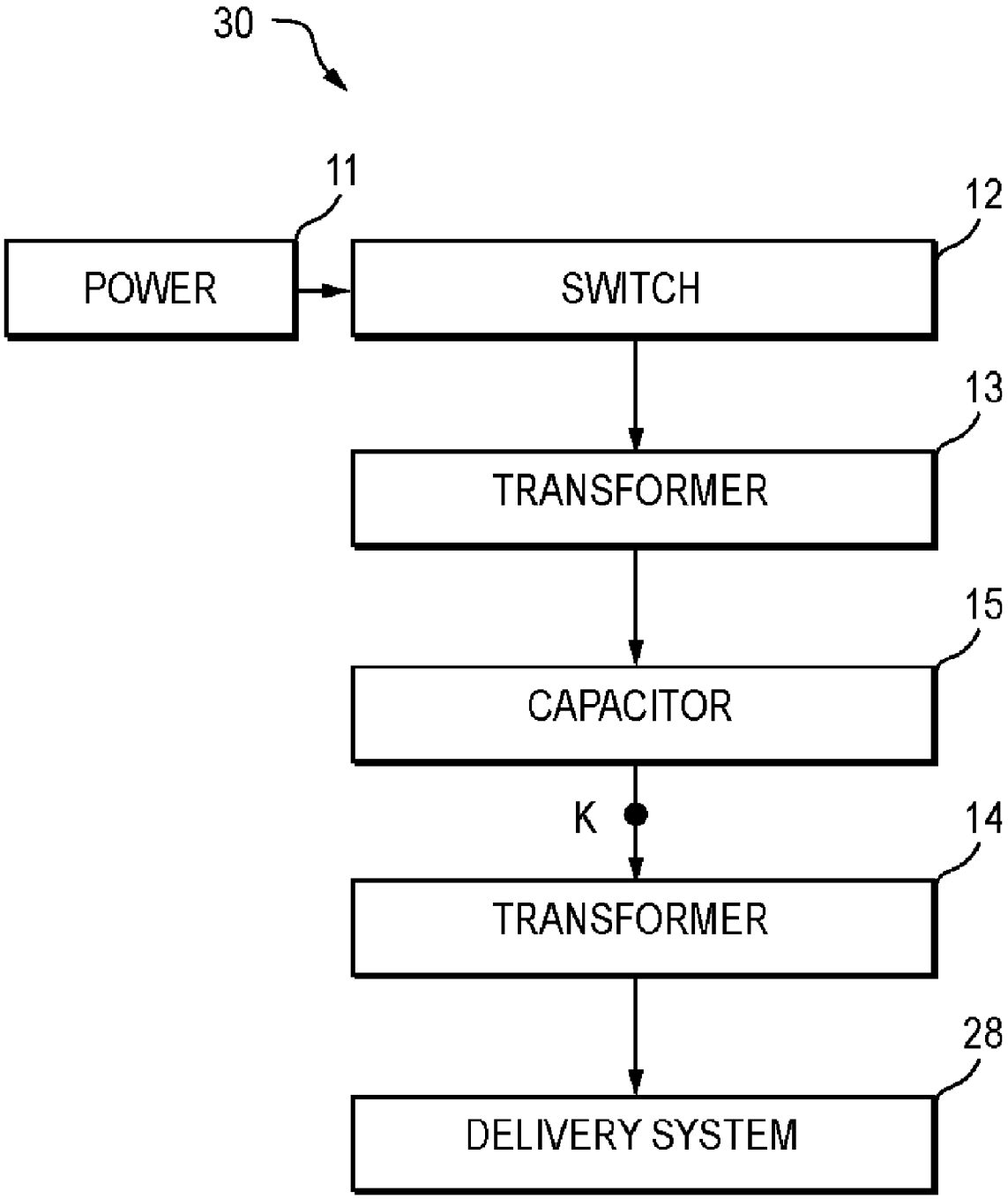

30
11
12
POWER
SWITCH
13
TRANSFORMER
15
CAPACITOR
K
14
TRANSFORMER
28
DELIVERY SYSTEM

FIG. 6A

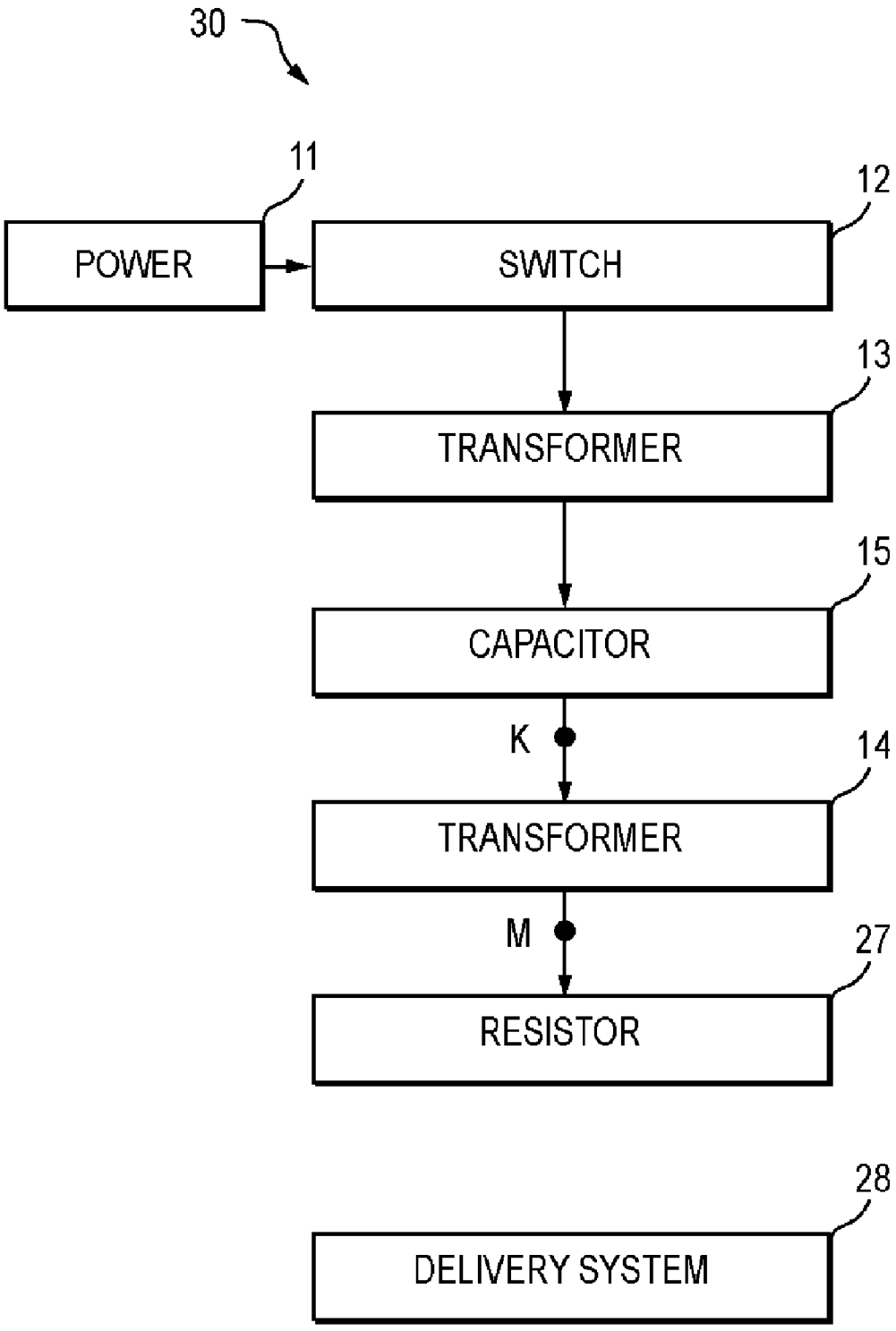

30
11
12
POWER
SWITCH
13
TRANSFORMER
15
CAPACITOR
K
14
TRANSFORMER
M
27
RESISTOR
28
DELIVERY SYSTEM

FIG. 6B

ELECTRICAL WEAPON HAVING CONTROLLER FOR TIMED CURRENT THROUGH TARGET AND DATE/TIME RECORDING

CROSS-REFERENCE TO RELATED APPLICATIONS

This application is a divisional application of application Ser. No. 10/673,901, filed Sep. 28, 2003 now U.S. Pat. No. 7,075,770 which is a continuation of application Ser. No. 10/016,082, filed Dec. 12, 2001 now U.S. Pat. No. 6,636,412, which is a continuation of application Ser. No. 09/398,388, filed Sep. 17, 1999, now abandoned.

FIELD OF THE INVENTION

This invention relates to apparatus and methods for preventing the locomotion of a human being or animal. More particularly, the invention relates to apparatus and methods for assuring, with a high degree of certainty, that a police officer or other law enforcement agent can prevent an attacker or other violent individual from reaching and inflicting bodily harm on the police officer.

BACKGROUND OF THE INVENTION

The use of electricity to disable human beings and other living targets is well known. In the middle 1800's, electricity was directed through a harpoon to electrocute a whale. Electrocution also came into use as a method of carrying out a death sentence resulting from the commission by a prisoner of a serious crime. Various methods of applying lethal electrical pulses are well documented. A weapon for applying non-lethal electrical pulses to disable an attacker is also known. The conventional weapon launches a first dart and a second dart. Each dart remains connected to the weapon by an electrically conductive guide wire. The darts strike an individual. Electrical pulses from the weapon travel to the first dart, from the first dart through the individual's body, into the second dart, and return to the weapon via the electrically conductive wire attached to the second dart. The electrical pulses occur at a rate of from 2 to 10 pulses per second, are each about 20 kilovolts, and each deliver from 0.01 to 0.5 joule. U.S. Pat. No. 4,253,132 issued in 1981 describes such a dart weapon. That patent also suggests that pulses in the range of 0.01 to 0.5 joule induce involuntary muscular contractions.

Since about 1981, it has also been known that a certain minor percentage of individuals struck with a conventional dart weapon are not immobilized and can "walk through" the electrical pulses and continue an attack, despite being struck with darts from the weapon. The ability of some individuals to "walk through" the electrical pulses was thought to be an anomaly and usually was not taken seriously because the weapon was effective with and stopped most individuals, and because the weapon when used appeared to "knock down" an individual or animal or appeared to cause the individual or animal to fall. The weapon would also sometimes appear to cause the skin of a human being or animal to twitch. Consequently, it was assumed that the human being or animal was truly physically incapacitated.

I have discovered that an individual can be readily trained to "walk through" 0.01 to 0.5 joule pulses delivered by a conventional dart weapon. I have been involved in training over 20 individuals. In each case the individual was, by focusing on a goal, able to ignore and overcome any discomfort from the dart weapon and to continue to walk, run, or attack. The individual did not lose his or her locomotion. In addition, several cases have been reported where the failure of a conventional dart weapon led to the death of an individual because police officers had to resort to lethal force when the dart weapon failed to stop the individual. It appears that conventional dart weapons cause an individual to fall down by activating sensory neurons and by producing in an individual a psychological reaction which strongly suggests to the individual that he or she is being incapacitated. The discovery that an individual can overcome a conventional dart weapon and continue his or her locomotion suggests possible dire consequences because many police officers in possession of conventional dart weapons mistakenly assume that these weapons are effective against most or many individuals.

Accordingly, it would be highly desirable to provide an improved apparatus and method which would, with a high degree of certainty, enable a police officer or other individual to incapacitate an attacker.

SUMMARY OF THE INVENTION

An apparatus, according to various aspects of the present invention interferes with locomotion by a living target. The apparatus includes a circuit to track date and time, to initiate and maintain for a period an electrical current, and to record tracked date and time for each initiation of the current. The current, when conducted through the target, interferes with use by the target of the skeletal muscles of the target during the period.

Another apparatus, according to various aspects of the present invention interferes with locomotion by a living target. The apparatus operates a cartridge. The apparatus includes a trigger and a circuit. The trigger provides a first signal responsive to operation of the trigger. The circuit includes a memory, keeps track of current time of day, keeps track of current date, receives the first signal to determine a first time, and responds to the first signal by recording current date and current time of day in the memory. The circuit further responds to the first signal by applying power to a signal generator, by keeping track of a period of time from the first time, and by disabling the signal generator upon lapse of the period. The signal generator activates the cartridge to propel an electrode of the cartridge toward the target. A current from the signal generator via the electrode and through the target interferes with use by the target of the skeletal muscles of the target during the period.

BRIEF DESCRIPTION OF THE DRAWING

Embodiments of the present invention will now be further described with reference to the drawing, wherein like designations denote like elements, and:

FIG. **1** illustrates a dart weapon constructed in accordance with various aspects of the present invention;

FIG. **2** is a block flow diagram of components of the dart weapon of FIG. **1**;

FIG. **3** is a chart comparing prior art weapons to an embodiment of the present invention;

FIGS. **4**A, **4**B, and **4**C are block flow diagrams illustrating other embodiments of the present invention;

FIG. **5** is a block flow diagram of a prior art weapon; and

FIGS. **6**A and **6**B are block flow diagrams according to various aspects of the present invention.

DETAILED DESCRIPTION OF PREFERRED EMBODIMENTS

The drawing shows presently preferred embodiments of the invention for the purpose of illustrating the invention and not by way of limitation of the scope of the appended claims to the invention. FIG. **1** illustrates a dart weapon **30** constructed in accordance with the principles of the invention that includes housing **31**, trigger **34** mounted in housing **31**, microprocessor **32** mounted in housing **31**, safety **33** mounted in housing **31** battery or batteries **35** mounted in housing **31**, laser sight **36** mounted in housing **31**, and cartridge **37** removably mounted to housing **31**.

Cartridge **37** includes at least a first electrically conductive dart **18** and a second electrically conductive dart **20**. Each dart **18** (**20**) is connected to cartridge **37** by an elongate electrically conductive wire **16** (**21**). Each wire **16** (**21**) typically is coiled in cartridge **37** and unwinds and straightens as dart **18** (**20**) travels through the air in the direction of arrow A toward a target. The length of each wire **16** (**21**) can vary but is typically 20 to 30 feet. Two or more cartridges **37** can be mounted on weapon **30**.

Cartridge **37** also includes a powder charge **25**, compressed air, or other motive power means for firing each dart **18** (**20**) through the air in the direction of arrow A toward a target. The powder charge, compressed air, or other motive power means utilized to fire a dart is well known in the art and will not be discussed in detail herein. Cartridge **37** is activated and the darts **18** and **20** are fired by manually sliding safety **33** in a selected direction to release safety **33** and then squeezing trigger **34**. As will be described, the means for generating the electrical pulses which travel into wires **16** and **21** and darts **18** and **20** are also activated by squeezing trigger **34**. Releasing safety **33** also activates or turns "on" laser sight **36** such that at least one laser beam projects outwardly in the direction of arrow A and impinges on the desired target.

Microprocessor **32** preferably includes memory and includes a sensor attached to trigger **34** or to some other desired portion of dart weapon **30** to generate for the memory in microprocessor **32** a signal each time trigger **34** is squeezed and weapon **30** is fired. Each time trigger **34** is squeezed and weapon **30** is fired, the memory in microprocessor **32** retains a record of the date and time the weapon was fired.

In FIG. **2**, power **11** is provided by nine-volt battery **35**. Power **11** can be provided by any desired apparatus or means. Switch **12** ordinarily is "off". When trigger **34** is squeezed to fire weapon **30**, a signal is generated which is received by microprocessor **32**. Microprocessor **32** sends a signal to switch **12** to turn switch **12** "on" for about 7 seconds. Any mechanical or other means can be utilized in place of microprocessor **32** to operate switch **12**. Switch **12** can be mechanical, constructed from semiconductor materials, or constricted from any other desired materials. When switch **12** is turned "on", it allows power **11** to travel to transformer **13**.

Transformer **13** receives electricity from power **11** and produces a signal which causes 2,000 volts to be transmitted to capacitor **15**. Once the voltage across capacitor **15** reaches 2,000 volts, it is able to discharge an electrical pulse into transformer **14**. The pulse front capacitor **15** is a 0.80 to 10 joule pulse, and has a pulse width of 9 to 100 microseconds. Capacitor **15** produces 2 to 40, preferably about 5 to 15, pulses per second. A 0.88 microfarad capacitor is presently preferred, although the size of capacitor **15** can vary as desired. The voltage across capacitor **15** can vary as desired as long as the capacitor produces a pulse having 0.90 to 10 joules, preferably 1.5 to 5.0 joules.

Transformer **14** receives each pulse from capacitor **15** and produces a 50,000 volt pulse. The voltage of the pulse from transformer **14** can vary as desired as long as each pulse from transformer **14** has from 0.75 to 9 joules, preferably 1.0 to 3.0 joules, of energy, has a pulse width in the range of 10 to 100 microseconds, and has a current I_{RMS} calculated as follows:

$$I_{RMS}=\sqrt{(I_{PEAK})^2 \cdot \text{PulseWidth} \cdot \text{Rate}}$$

This current is in the range of 100 to 500 milliamps. The pulse widths and currents of conventional dart weapons and non-dart electric weapons (commonly referred to as "stun guns") and of a dart weapon of the present invention are set forth in FIG. **3**.

In the practice of the invention, it is critical to produce contractions of skeletal muscles sufficient to prevent the voluntary use of the muscles for normal locomotion of an individual's body. Twitching of the skill does not, as earlier noted, necessarily indicate that contractions of the skeletal muscles necessary to prevent locomotion are taking place. Producing contractions of smooth muscle is not sufficient in the practice of the invention. Contractions must instead be produced in striated skeletal muscles. Further, the contractions in the skeletal muscles must be sufficient to prevent voluntary use of the skeletal muscles by the individual (i.e., the muscles must lock up and not be operable). The electrical pulses produced by prior art dart weapons do not prevent the use of the skeletal muscles and do not prevent locomotion of an individual. It is not the object of the invention to cause all the skeletal muscles of an individual to lock up, but only some portion of the skeletal muscles.

Based on tests to date, the discomfort and loss of locomotion caused when skeletal muscles lock up in response to pulses produced by the apparatus of the invention is almost always sufficient to halt the locomotion of an individual. In actual tests, over 20 volunteers were each given the task of advancing to a target at least 5 feet away and of simulating an attack. Each test was repeated using the invention described herein. After being hit with darts from the weapon of the invention, each volunteer was immediately immobilized and dropped to the ground. None of the volunteers was able to advance toward or reach the target.

The profile of pulses used in prior art electric weapons is deficient in several respects. First, the energy produced by the pulses is in the range of 0.01 to 0.5 joule. This is outside the range of 0.9 to 10 joules required in each pulse produced in the apparatus of the invention. Second, the width of each pulse in prior art apparatus is about 1 to 7.5 microseconds. The pulse width in the apparatus of the invention must be 9 to 100 microseconds. Third, the current in each pulse produced by prior art apparatus is in the range of about 20 to 65 milliamps. The current in each pulse produced in the apparatus of the invention must be in the range of 100 to 500 milliamps. The pulses delivered to a target produce actual contractions of skeletal muscles sufficient to prevent use of the muscles by the individual subjected to the pulses.

If contractions of skeletal muscles are not produced, the apparatus of the invention is not functioning in the manner desired. If there are no contractions of the skeletal muscles, the individual can "walk through", or be trained to "walk through", being hit with darts which conduct electricity through the individual's body. If contractions of skeletal muscles are produced, but do not prevent voluntary use of the muscles by the individual subjected to the pulses, then

the invention is not functioning as desired. If contractions of the skeletal muscles do not prevent voluntary use of the muscles by the individual, then the individual can "walk through", or be trained to "walk through", being hit with darts which conduct electricity through the individual's body.

In operation, again referring to FIG. **2**, trigger **34** is pressed to send a signal to microprocessor **32**. Microprocessor **32** turns "on" switch **12**. Power **11** flows through transformer **13**, capacitor **15**, and transformer **14** in the manner discussed. The output from transformer **14** goes into wire **16** and dart **18**. Once the current flow reaches dart **18**, current from dart **18** is directed to motive power means **25** (i.e., black powder) to activate motive power means **25** to propel darts **18** and **20** through the air in the direction of arrow A to the individual who is the target. Darts **18** and **20** are fired simultaneously. When darts **18** and **20** contact the clothing of the individual near the individual's body or contact the individual's body, pulses from dart **18** travel into tissue **19** of the individual's body, from tissue **19** into dart **20**, from dart **20** into wire **21**, and through wire **21** to transformer **14**. Pulses are delivered from dart **18** into tissue **19** for about 6 to 7 seconds. The pulses cause contraction of skeletal muscles and make the muscles inoperable, preventing use of the muscles in locomotion of the individual's skeleton.

In various embodiments of the invention, a dart weapon includes at least two cartridges. In the embodiment of FIG. **4**A, dart weapon **30'** includes cartridges **80** and **81**. Cartridge **80** includes transformer **50**, capacitor **52**, transformer **54**, wire **56** connected to transformer **54**, first dart **58** connected to wire **56**, wire **60**, and dart **62** operatively associated with wire **56** and dart **58** and electrically coupled to transformer **54**. Darts **58** and **62** are fired simultaneously. Dart **58** delivers electrical pulses to tissue (not shown) of an individual's body. Dart **62** receives electricity from the tissue and returns the electricity to the weapon via wire **60**. Dart **58** is connected to motive power means (not shown) in cartridge **80** in much the same manner that dart **18** is connected to motive power means **25** in FIG. **2**.

Cartridge **81** includes transformer **51**, capacitor **53**, transformer **55**, wire **57** connected to transformer **55**, dart **59** connected to wire **57**, wire **64**, and dart **66**, operatively associated with wire **57** and dart **59**, and electrically coupled to transformer **55**. Darts **59** and **66** are fired simultaneously. Dart **59** delivers electrical pulses to tissue (not shown) of an individual's body. Dart **66** receives electricity from the tissue and returns the electricity to the weapon **30'** via wire **64**. Dart **59** is connected to motive power means in cartridge **81** in much the same manner that dart **18** is connected to motive power means **25** in FIG. **2**.

When trigger **34** is depressed a first time, microprocessor **32** sends out a signal which causes switch **12** to route power to transformer **50** such that darts **58** and **62** are fired simultaneously into contact with a target individual's body and pulses are delivered into the target individual's body through dart **58**. When trigger **34** is depressed a second time, microprocessor **32** sends out a signal which causes switch **12** to route power to transformer **51** such that darts **59** and **66** are fired simultaneously into contact with a target individual's body and pulses are delivered into the target individual's body through dart **59**.

if desired, microprocessor **32** can be programmed such that switch **12** permits power **11** to flow simultaneously both to transformer **50** and to transformer **51** such that darts **58**, **62**, **59**, and **66** are fired simultaneously. Consequently, another embodiment of the invention of FIG. **4**A enables both pairs of darts to be fired either sequentially or simultaneously.

In the embodiment of the invention of FIG. **4**B, one transformer **68** is utilized and switch **19** is coupled between transformer **68** and capacitors **52** and **53**. In this embodiment, microprocessor **32** (or any other desired mechanical or other means) controls switch **12** so that when trigger **34** is squeezed to fire weapon **30"**, power **11** flowing through transformer **68** is directed by switch **12**: (a) to capacitor **52** to fire darts **58** and **62**; (b) to capacitor **53** to fire darts **59** and **66**; or (c) simultaneously to capacitors **52** and **53** to fire darts **58**, **62**, **59**, and **66** simultaneously.

In the embodiment of the invention of FIG. **4**C, one transformer **68** and one capacitor **70** are utilized, and switch **12** is coupled between capacitor **70** and transformers **54** and **55**. In this embodiment, microprocessor **32** controls switch **12** so that when trigger **34** is squeezed to fire weapon **30'"**, power **11** flowing through transformer **68** and through capacitor **70** is directed by switch **12**: (a) to transformer **54** to fire darts **58** and **62**; (b) to transformer **55** to fire darts **59** and **66**; or (c) simultaneously to transformers **54** and **55** to fire darts **58**, **62**, **59**, and **66** simultaneously.

A particular advantage of the switching arrangements just discussed with reference to FIGS. **4**A, **4**B, and **4**C is that the voltage being switched is much less than in prior art dart weapons. In a prior art dart weapon **90** of FIG. **5** transformer **86** and switch **88** are used. Switch **88** routes output from transformer **86** either to a first dart pair **92** or a second dart pair **94**. Routing 50,000 volts is difficult, and in some cases both dart pairs **92** and **94** fire at the same time even though the 50,000 volts is routed to only one of the dart pairs.

An apparatus according to various aspects of the present invention is used for preventing locomotion by a living target by causing repeated involuntary contractions of skeletal muscles of the target. Referring to FIG. **6**A, the apparatus includes: a housing; a first conducting unit; a second conducting unit; a power supply; and a delivery system **28**. The first conducting unit transmits electrical energy in pulses from the first conducting unit to the target. The second conducting unit transmits electrical energy from the target to the apparatus. The power supply generates energy and includes capacitor **15** and transformer **14**. Capacitor **15** delivers energy in pulses from capacitor **15** to transformer **14**. Capacitor **15** produces and delivers (at K) to transformer **14** from 0.75 to 10 joules in each pulse from capacitor **15**. Transformer **14** delivers electrical energy in pulses to the first conducting unit. Delivery system **28** contacts the target with at least a portion of each of the first and second conducting units such that pulses delivered from the first conducting unit to the target travel through at least a portion of the skeletal muscles to the second conducting unit, and produce contractions in the portion of the skeletal muscles which prevents the use by the target of the portion of the skeletal muscles.

An apparatus according to various aspects of the present invention is used for preventing locomotion by a living target by causing repeated involuntary contractions of skeletal muscles of the target. Referring to FIG. **6**B, the apparatus includes: a housing; a first conducting unit; a second conducting unit; a power supply, and a delivery system **28**. The first conducting unit transmits electrical energy in pulses from the first conducting unit to the target. The

second conducting unit transmits electrical energy from the target to the apparatus. The power supply produces electrical pulses which, if passed through a 1000 ohm resistor **27**, each would have a pulse width (at M) greater than about 10 microseconds and a current in excess of 100 milliamps. The delivery system **28** contacts the target with at least a portion of each of the first and second conducting units such that pulses delivered from the first conducting unit to the target travel through at least a portion of the skeletal muscles to the second conducting unit and produce contractions in the portion of the skeletal muscles which prevents the use by the target of the portion of the skeletal muscles.

A method, according to various aspects of the present invention, is used for preventing locomotion by a living target by causing repeated involuntary contractions of skeletal muscles of the target. The method includes providing an apparatus and operating the activation system of the apparatus. The apparatus includes the apparatus discussed above with reference to FIG. **6**A and further includes an activation system operable to activate the power supply, the first conducting unit, the second conducting unit, and the delivery system. The activation system is operated to contact the target with the first conducting unit and the second conducting unit, to deliver from the capacitor **15** to the transformer **14** pulses (at K) each containing 0.75 to 10 joules, and to deliver from the transformer to the first conducting unit electrical energy in pulses.

The foregoing description discusses preferred embodiments of the present invention which may be changed or modified without departing from the scope of the present invention as defined in the claims. While for the sale of clarity of description, several specific embodiments of the invention have been described, the scope of the invention is intended to be measured by the claims as set forth below.

What is claimed is:

1. A dart weapon for interfering with locomotion by a human being or animal target, the weapon for use with each of a plurality of replaceable cartridges, each cartridge having at least one wire-tethered dart and a propellant that propels the dart, the weapon comprising:

a receiver that receives a particular cartridge of the plurality of cartridges;

a power supply coupled to the receiver for conducting a high voltage pulsed current from the power supply through the wire-tethered dart of the particular cartridge; and

a microprocessor programmed

(1) to track date and time,

(2) to activate via the power supply the propellant of the particular cartridge,

(3) to maintain for a period the current from the power supply, and

(4) to record tracked date and time in accordance with activation of the propellant of the particular cartridge and in accordance with respective activation of each other cartridge of the plurality received by the receiver, wherein the current, through the target, interferes with use by the target of the skeletal muscles of the target during the period.

2. The weapon of claim **1** further comprising a trigger, wherein the microprocessor is further programmed to respond to operation of the trigger to activate the propellant.

3. The weapon of claim **1** wherein the period of time extends about 7 seconds.

4. The weapon of claim **1** wherein the current comprises from 2 to 40 pulses per second during the period.

5. The weapon of claim **1** wherein:

the receiver further receives a second cartridge while the particular cartridge is received;

the weapon further comprises a trigger;

the microprocessor is further programmed

(1) to respond to a first operation of the trigger to activate the propellant of the particular cartridge,

(2) to respond to a second operation of the trigger to activate the propellant of the second cartridge; and

(3) to record tracked date and time in accordance with activation of the second cartridge.

6. A dart weapon for interfering with use by a human being or animal target of skeletal muscles of the target, the weapon operative with a provided cartridge, the device comprising:

a trigger that provides a first signal responsive to operation of the trigger; and

a circuit, comprising a memory, that

(1) keeps track of current time of day,

(2) keeps track of current date,

(3) receives the first signal to determine a first time, and

(4) responds to the first signal by recording current date and current time of day in the memory, by applying power to a signal generator, by keeping track of a period of time from the first time, and by disabling the signal generator upon lapse of the period, wherein

the signal generator activates the cartridge to propel a wire-tethered dart of the cartridge toward the target; and

a current from the signal generator via the wire-tethered dart and through the target interferes with use by the target of the skeletal muscles of the target during the period.

7. The weapon of claim **6** wherein the period of time extends about 7 seconds.

8. The weapon of claim **6** wherein the current comprises from 2 to 40 pulses per second during the period.

9. A dart weapon for interfering with locomotion by a human being or animal target, the apparatus comprising:

means for providing a high voltage pulsed current through the target via a provided wire-tethered dart launched from the weapon;

means for recording date and time of day for each occasion that the weapon was operated to provide the current; and

means for discontinuing provision of the current in accordance with lapse of a predefined period.

10. The weapon of claim **9** wherein a microprocessor with memory implements the means for recording and the means for discontinuing.

11. The weapon of claim **9** wherein the period of time extends about 7 seconds.

12. The weapon of claim **9** wherein the current comprises from 2 to 40 pulses per second during the period.

13. An apparatus for causing involuntary contractions of skeletal muscles of a human or animal target, the apparatus comprising:

a circuit having a microprocessor that is

(1) programmed to track date and time,

(2) programmed to initiate a high voltage pulsed current from the circuit, and

(3) programmed to record tracked date and time in accordance with each initiation of the current, wherein

the current launches a provided wire-tethered dart toward the target to conduct the current through the target and, when passing through the target, causes involuntary contractions of skeletal muscles of the target.

14. The apparatus of claim **13** wherein the microprocessor is further programmed to determine a period, and programmed to terminate the current after lapse of the period.

15. The apparatus of claim **14** wherein the period extends about 7 seconds.

16. The apparatus of claim **14** wherein the current comprises from 2 to 40 pulses per second during the period.

17. The apparatus of claim **13** further comprising a trigger, wherein the microprocessor initiates the current in response to operation of the trigger.

18. The apparatus of claim **13** further comprising the wire-tethered dart.

* * * * *

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,234,262 B2
APPLICATION NO. : 11/164710
DATED : June 26, 2007
INVENTOR(S) : Patrick W. Smith

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In column 3, line 55, delete "constricted" and insert -- constructed --, therefor.

In column 4, line 20, delete "skill" and insert -- skin --, therefor.

In column 6, line 9, delete "switch 19" and insert -- switch 12 --, therefor.

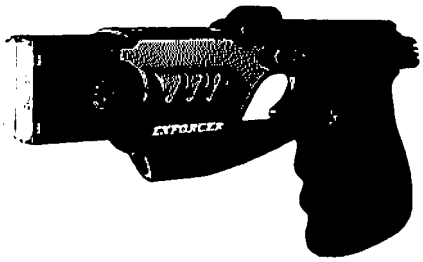
In column 7, line 31, delete "sale" and insert -- sake --, therefor.

Signed and Sealed this
Fourth Day of October, 2011

David J. Kappos

David J. Kappos
Director of the United States Patent and Trademark Office

EXHIBIT “B”

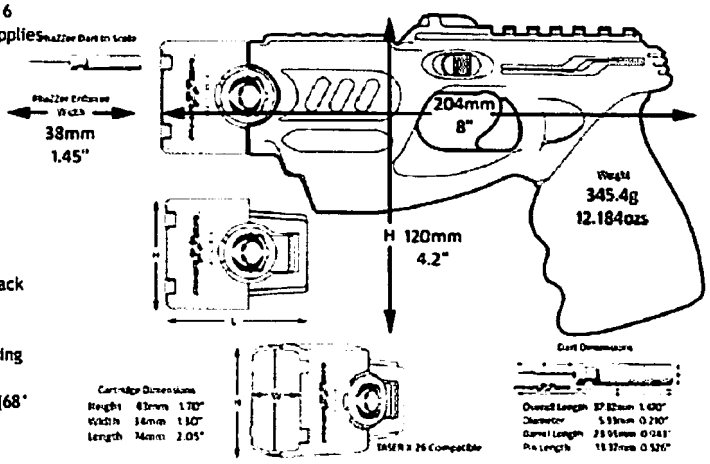


THE LAW ENFORCEMENT GRADE CEW OFFERING ENHANCED FEATURES OVER THE TASER X26.

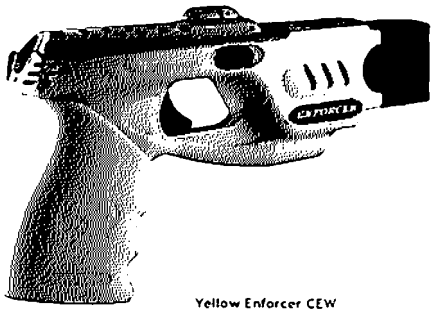
TECHNICAL SPECIFICATIONS

All performance statistics are identical to a TASER X-26 except for the 6 degree dart separation, therefore all TASER Biomedical data equally applies to the Enforcer.

- Pulse Rate: 19-22 (PPS) pulses per second
- Pulse Duration: 120 < Microseconds
- Peak Voltage: 55,000 > Volts (V)
- Loaded voltage 1,100 to 1,400 < (V) across body nominally
- Current: 0.0023 to 0.0026 Ampere (A) 2.5mA avg.
- Joules: .095 < = dependent on body resistance
- Pulse wave: Complex pulse
- Housing: ABS High Impact Plastic
- Power Source: 7.2v Ion Lithium Rechargeable/Replaceable Battery Pack
- Integrated 3W, 160 Lumen, High Intensity L.E.D. Light
- Integrated Laser (Used for target acquisition)
- Electrical charge can penetrate up to two cumulative inches of clothing
- Temperature operating range nominal: 32° F (0° C) to 120°F (49°C)
- Extreme temperature range storage non-use: 0° F (-18°C) to 155°F (68° C)
- Humidity 80% < (non-condensing)
- Dimensions (Without Cartridge) 15cm (L) x 9cm (H) x 3cm (W)



WEAPON & HANDLE COLOR OPTIONS



Yellow Enforcer CEW

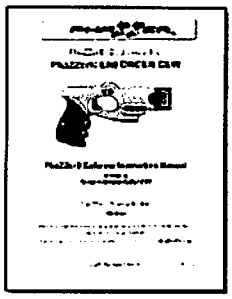
Yellow Grip

Black Enforcer CEW

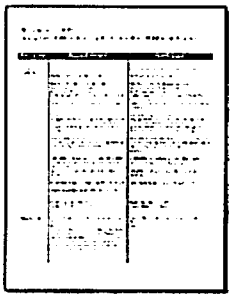
Black Grip

Also available in Pink

WANT MORE INFORMATION?



Download PhaZZer Enforcer Handbook

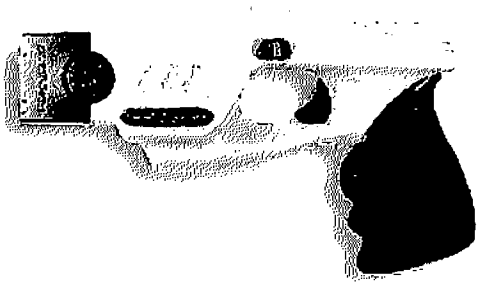
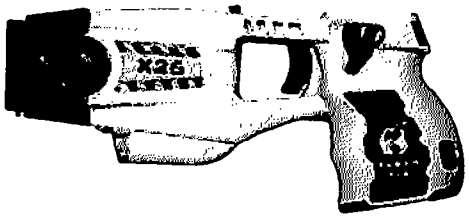
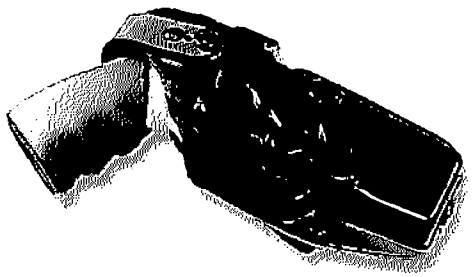
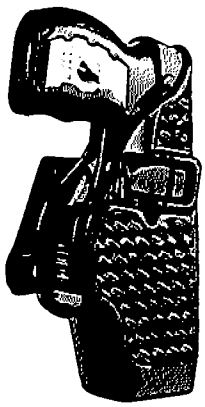


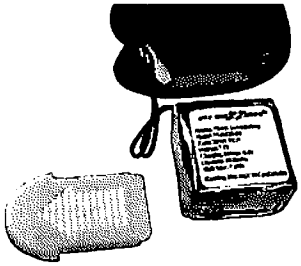
PhaZZer VS TASER Comparison

EXHIBIT “C”

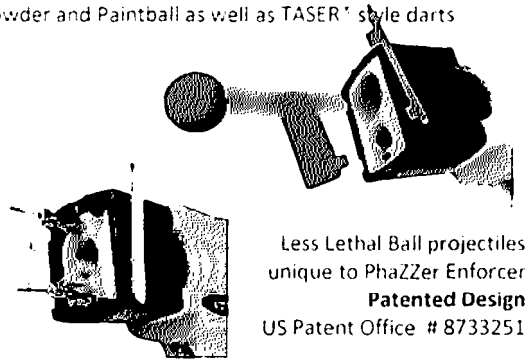
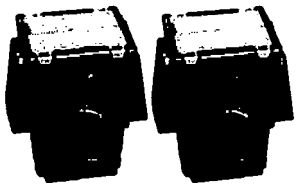
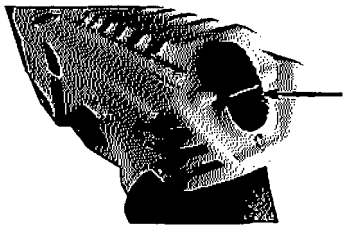
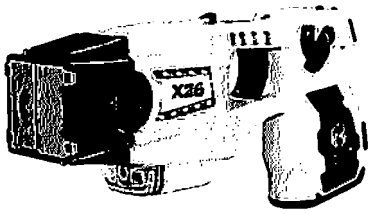
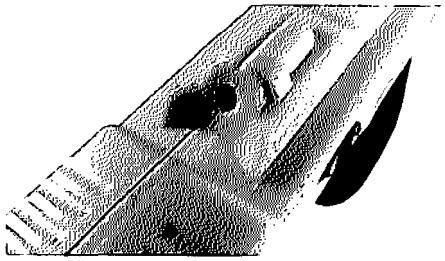
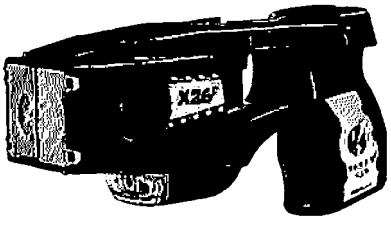
PhaZZer® vs. TASER®
Comparison of Weapons/Outputs, Ammunition, Holsters and Camera

Comparison	Phazzer Enforcer ®	TASER X-26 ®
Technical Specifications	*Note: All Outputs Are +20% depending on variables*	Note: All Outputs Are +20% depending on variables
	PhaZZer Enforcer Output Characteristics:	**TASER X-26 Output Characteristics:**
	Pulse Rate: 19-22 (PPS) pulses per second **Pulse Duration:** 120 < Microseconds **Peak Voltage:** 55,000 > Volts (V) **Loaded Voltage** 1,100 to 1,400 (V) across body nominally	**Pulse Rate:** 19 +1/-2.5 (PPS) pulses per second **Pulse Duration:** 105-155 Microseconds **Peak Voltage:** 50,000 > Volts (V) **Loaded Voltage:** peak main phase 1,400 to 2,520 (1,500 to 2,250) V (volts)
	Current: 0.0021 to 0.0026 Ampere (A) 2.3mA Average	**Current:** @ 19 PPS from main phase 0.0015 to 0.0024 (0.0021 to 0.0026) A
	Wave Form: Shaped Pulse **Energy per Pulse Joules:** .095 J (joules) < = dependent on body resistance, temperature and battery level. Electrical charge can penetrate up to two cumulative inches of clothing.	**Wave Form:** Complex Shaped Pulse **Energy per Pulse:** 0.095 to 0.125 [0.096 to 0.122] J (joules) 19 +1/-2.5 PPS. Low temperature and low battery can significantly reduce the pulse rate. Electrical charge can penetrate up to two cumulative inches of clothing.
	Power Source: 7.2v Ion Lithium Rechargeable/Replaceable Battery Pack. **Approximately 3000 (5 second) discharges per battery.**	**Power Source:** Digital Power Magazine (DPM) A battery of two 3-volt cells giving **Approximately 195 (5 second) discharges** or approximately 100 (5 second) discharges with Taser Cam attached.
	Light Source: Integrated 3W, 160 Lumen, **High Intensity** L.E.D. Light. Autonomous from Laser Activation and Ambidextrous. **Laser:** Integrated 650nM Red Laser (Used for target acquisition)	**Light Source:** Low Intensity L.E.D. Light. Simultaneous activation with Laser but is Ambidextrous. **Laser:** Integrated 650nM Red Laser (Used for target acquisition)
	Temperature Range Recommended: 32° F (0° C) to 120°F (49°C) **Extreme Temperature Range:** 0° F (-18°C) to 155°F (68°C)	**Temperature Range:** -4 °F [-20 °C] to 122 °F [50 °C]
	Relative Humidity: 15% to 80% **Housing:** ABS High Impact Plastic	**Relative Humidity:** 15% to 80% **Housing:** High Impact Polymer
Colors Available	Yellow All with choice of Black or Yellow rubber grip Black Pink Virtually any client color choice – Anybody color injection molded to specific client order providing 500+ units ordered in one single delivery or production-run – This includes MilSpec Green, High Visibility Orange and any color-chart pick providing Phazzer gets an accurate Pantone or CMYK specification to work to.	Yellow All with choices of two colors of handgrip insert Black Clear

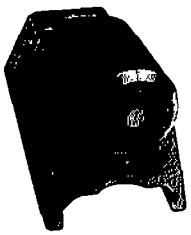
Physical Dimensions	**Dimensions (Without Cartridge):** 15cm (L) x 9cm (H) x 3cm (W) **Ammunition Cartridge Dimensions:** 2.5cm (L) x 2.5cm (H) x 3.5cm (W) **Weight w/ Cartridge:** 12 oz. (350 g)	**Dimensions (Without Cartridge):** Length (L) 6.00" [15.24 cm] Height (H) 3.20" [8.13 cm] Width (W) 1.300 [3.30 cm] **Ammunition Cartridge Dimensions:** 2.5cm (L) x 2.5cm (H) x 3.5cm (W) **Weight w/Cartridge:** 9 oz. (254 g)
Hand Grip	 Three finger groove with impact/shock resistant rubber sleeve for greater control and comfort. Far better hand grip dimensions and control	 Two finger groove without rubber sleeve
Holster	PhaZZer Blade Tech Level 2 Retention Duty Belt Holster Level 2 Secure Retention Thermo Molded Body – protects cartridge when attached Designed for the Phazzer Enforcer CEW Compatible with or without the Phazzer RailCam Two-Piece riveted Outer Shell that is Closed on Three Sides with a Singular Active Safety Lock (Disengaged with the Thumb) Easy re-holster feels like the CEW is pulled back into the holster providing a solid snap and lock Duty Belt size 2 - 3/4 Inch belt loops Can be mounted opposite side for cross draw configurations Left and Right Handed options available Hand Made in the USA MOLLE Compatible Military and Law Enforcement Grade  Alternative Options: Grade A Made in USA Leather Duty Belt Holster Options Available in smooth or basket weave Coming soon Exoskeleton designed to fit the Enforcer CEW only with Level III retention.	Taser Black Hawk X26 SERPA Automatically engages safety when re-holstering Holster bottom is configured to block the probes in case of accidental activation Trigger and trigger guard are completely enclosed inside holster Belt loop fits most duty belts Extended coverage protects polycarbonate digital readout window Redesigned to hold new TASER® X26 cartridge carrier (sold separately) Rigid holster body delivers improved retention Protects cartridge in holster Available in Matte Black Various Leather Duty Belt Holster Options Available 

Battery	Enforcer Battery is a 7.2 volt dual ion lithium rechargeable/replaceable system. Green indicator light located below the safety switch which will change to red when the battery level is depleted by 40% leaving 60% power remaining throughout a given shift. Data information storage uses nonvolatile memory and will not be lost or corrupted if powered down or battery is removed! 	Lithium DIGITAL POWER MAGAZINE (DPM) OR XDPM has onboard memory chip that maintains a record of the remaining power. Non-rechargeable 
Battery Gold Contacts	This is not an issue with the Enforcer because the battery plugs in with an insulated socket rather than having open or exposed electrical contacts. PhaZZer battery pack has absolutely NO short circuit potential 	Caution: Do not store the DPM anywhere that the gold contacts on the top of the DPM may touch metal objects. If the DPM is short-circuited, the DPM will malfunction and the energy lost during the short circuit will not be registered or tracked in the DPM. 
Battery Operation: Programming Issues	The Enforcer memory can be stored at all times if the battery is left out of the device or detached for over 48 hours. However, the time/date stamp clock will need to be reset after reinstall of new battery or temporary removal of existing battery.	The TASER X26 must be stored with the DPM/XDPM inserted at all times. If the DPM/XDPM is left out of the device for an extended period of time, software in the X26 may be damaged resulting in possible failure of the device and the date/time may be reset
Battery Operation: Removing the DPM or Moving the Safety Switch	This is not an issue with the Enforcer as the battery is completely separate from the memory system built into the weapon.	Removing the DPM or moving the safety switch to the up (ARMED) position during the programming cycle will result in corruption of the data and the X26 will have to be returned to the factory for reprogramming.
Battery Operation: Environmental Comparisons	PhaZZer® battery systems are far more environmentally friendly due to the fact that it is a fully rechargeable battery. One PhaZZer® battery will allow for approx. 3,000. five second firings for the lifecycle.	These digital batteries are not environmentally friendly (Federal Government is trying and pushing to Go Green) TASER® has between 150-200 shots per battery depending on function usage i.e., LED flashlight, arc test firing & deployment.

Battery Operation: Strength of Charge Readout	This is not an issue with the Enforcer as the battery is monitored by a single LED indicator, giving quick view of acceptable charge: and allowing the operator to have full attention placed on the perpetrator and not on a digital display.	The TASER® X26 battery digital readout must be continuously monitored while in use to assure maximum discharging has not been reached. Additionally, the readout can be incorrect if a short circuit takes place, i.e. an officer may have a dead battery and not even know it
Battery Operation: Monitoring Capabilities	The Enforcer will give an immediate battery condition check with the green LED on the rear of weapon handgrip in view for the officer using the weapon when ready to fire. If the Green LED turns red while testing or firing, the Enforcer will still, at this point, have a 60% operational charge thus providing plenty of notice during the remainder of the officer's shift.	The DPM or the XDPM are not rechargeable. The DIGITAL POWER MAGAZINE (DPM) OR XDPM has an onboard memory chip that maintains a record of the remaining power. Most agencies' policies require replacement once the battery reaches 70% or less. So in summary each agency pays X amount of money to use only 30% of a Taser battery.
Battery Operation: Chargeability	The PhaZZer® Enforcer rechargeable/replaceable battery allows for approximately 3,000 (5 second discharges). AC Adapter charger that comes with the Enforcer automatically shuts off when the battery is fully charged.	The DPM requires replacement and disposal after 195 (5 second discharges). http://www.taser.com/products/military/accessories
Ammunition:	PhaZZer® offers greater versatility and various options for more than one less-lethal or non-lethal ammunition option. Options are: electronic dart cartridges at various distances, pepper ball, rubber impact bullet, pepper powder, paint mark ball, as well as dart training cartridges at various distances. (USPTO Patent on all non dart alternative ammunitions) PhaZZer® Ammunition is classified as "non-firearm based ammunition" as defined in the GCA by U.S. Department of Justice Bureau of Alcohol, Tobacco, Firearms and Explosives (Nitrogen Propelled)	TASER® X-26 offers electronic dart cartridges at various distances as well as training dart cartridges at various distances. NO DIRECT EQUIVALANT AVAILABLE to compete against the PhaZZer Enforcer Patented Cartridge designs however PhaZZer's special load ammunition will fit TASER X-26 and M-26 Weapon Systems. All TASER® Ammunition is classified as "non-firearm based ammunition" as defined in the GCA by U.S. Department of Justice Bureau of Alcohol, Tobacco, Firearms and Explosives (Nitrogen Propelled)
Ammunition Types and Compatibility	All PhaZZer® ammunition cartridges will effectively deploy from the TASER® X26 ECD and have been confirmed to not hamper operational effectiveness of the weapon nor cause any damage whatsoever. PhaZZer® will NOT void its warranty if alternative brand ammunition is used in our weapon. PhaZZer® vs. Taser Ammunition Compatibility Test (Govt. Access only): http://www.youtube.com/watch?v=X7VmPmDvXg4	All TASER® X26 & M26 ammunition cartridges will effectively deploy from the PhaZZer® Enforcer and all other PhaZZer® CEW does not hamper operational effectiveness of the weapon. TASER® has announced that they will void the warranty if non TASER® brand ammunition is used in any Taser weapon.

Ammunition Continued.....	PhaZZer cartridges include a selection of unique new designs including hard Rubber Ball, Pepper Ball, Pepper Powder and Paintball as well as TASER® style darts  Less Lethal Ball projectiles unique to PhaZZer Enforcer **Patented Design** US Patent Office # 8733251	TASER® X-26 cartridges - Only Dart projectiles 
Built in LED Light:	PhaZZer® Enforcer offers an ambidextrous switch access for high intensity 160 lumen 30+ meter beam light. This eliminates the need to use a flashlight in dark areas leaving the officer's other hand free to keep on his sidearm as a backup. Light is autonomous to the Laser Activation.	TASER® X-26 & M-26 models have a substantially lower intensity light. Simultaneous activation of Laser and Light.
Operation **Simplicity: Ease of Use and Control**	The Enforcer with its simplicity is compared to the reliable Revolver of the old West. Simple quick LED visual indicator of PhaZZer® battery condition allows the officer to maintain complete sight on the perpetrator while operating the PhaZZer®. PhaZZer® Enforcer does not require digital operation or monitoring of controls as does Taser. PhaZZer® offers simple draw, safety on, point and deploy operation with ambidextrous LED light access compared to Tasers digital operation. PhaZZer® Enforcer offers a three finger hand grip for greater comfort and control of the CEW. 	TASER® utilizes digital readout to monitor power operation and must be monitored by the officer during operation. This extra mental juggling to operate the Taser exposes officers to potential loss of sight of the perpetrator. TASER® offers illuminator selector button with 4 switch positions to operate the CID, the laser and flashlight both on and off in sequence leaving a substantial margin for error by drawing the officer's attention away from the perpetrator. TASER® X26 offers a two finger grip. 
Laser Sight	PhaZZer® Enforcer has 650nm red diode. 	TASER® X26C has a 650nm red diode. 

Safety Shut Down Technology:	PhaZZer® Enforcer has implemented and is in the process of Patenting a "safety shutdown technology circuit" which effectively shuts the weapon down if aggregate exposure to the body exceeds 15 seconds. This precautionary safety circuit allows for three separate full 5 second trigger applications before the CEW is disarmed. The Operator can recycle the safety back switch if additional force is reasonable and necessary. Most up to date medical studies have indicated that the 15 second rule established by the AAEM is the new benchmark for safety when using a CEW into a live target in a 24 hour period. This PhaZZer® designed safety shut down circuit can be overridden by the operator if he/she feels the need to use additional force by simply recycling the safety switch. This will limit liability to the L.E.O. and agency, creating better awareness for using excessive force to the officer, and save lives if training guidelines are followed.	No automatic shutdown technology feature. The trigger activates a 5-second cycle continuously per trigger pull up to the point of battery depletion. No fail safe to regulate compliance with the AAEM rule on prolonged duration warning of 15 seconds or more exposure of shock application into the human body in 24 hour period. The cycle can only be stopped by placing the safety lever in the safe position or minimizing the number of trigger pulls based on user discretion. In the heat of the moment, it is unlikely that the user is counting the number of exposures.
Data port Features & Functions:	PhaZZer® Enforcer data port system contains an assigned operator selectable identification number that is programmable via a 924 MHz wireless USB interface. No need for cable connections or removal of the battery. All initial setup, programing and downloads are completed via wireless, enabling several Enforcers on the bench at one time to be programed, thus saving time for larger agencies and allows for ease of operation. This also avoids possible corruption of data due to battery removal and/or shorting of battery connections that could lead to misfire or complete failure of deployment. Wireless download software is supported by Windows® 98se, NT, 2000, XP, Vista and Windows 7® both 32 and 64 bit compatible: • Data collected is in standard format and able to load directly into Microsoft Excel, Word or any other formats that allow integration of data. • Enforcer data can also be uploaded to other secure data storage platforms for court retrieval evidence if necessary • Software supports time and date stamp, duration of applied CEW force and serial number identification of CEW weapon used and recorded • Software has security levels for administrative access use only, or standard operation and maintenance support • More than 999 units can be listed on one single agency data base with individual serial number identification of CEW's in inventory • Wireless interface device utilizes standard PC 2.0 USB connection for Data download and initial program setup 	TASER® X-26 data port download kit is a cabling hard wire connection system requiring the digital power magazine to be romoved prior to operation and downloads. The Dataport Download Cable is specifically designed to plug into the TASER® X-26 ECD via the battery and connects to a PC using USB port. This cable allows for the upload of firing data from the X26E ECD to Evidence.com via Online SYNC or download of firing data to a local computer via Offline SYNC software is supported by Windows® 98se, NT, 2000, XP, Vista and Windows 7® both 32 and 64 bit compatible • Data collected is in standard format and able to load directly into Microsoft Excel, Word or any other formats that allow integration of data • TASER® X-26 data can be uploaded to Evidence.com or any other secure data storage for court retrieval evidence if necessary • Software supports time and date stamp, duration of applied CEW force and serial number identification of CEW weapon used and recorded • Software has security levels for administrative access use only, or standard operation and maintenance support • Multiple units can be listed on one single agencies database with individual serial number identification of CEW's in inventory • Utilizes standard PC 2.0 USB connection for Data download and initial program setup.

Standard Warranty & Extended Warranty Options:	• Warrants free from defect in workmanship and materials for a period of 1 year from date of receipt • Failure to provide ALL required warranty return information will NOT result in any further delay for replacement item • PhaZZer™ manufactured accessories are covered under a 1 year warranty from the date of receipt • Broken blast doors on ammunition cartridges ARE covered under warranty • Optional extended warranty may be purchased during POS or anytime during the standard 1-year warranty period • The extended warranty does not cover battery replacement • The replacement product will have the remaining warranty period of the original product or 90 days from the date of replacement whichever period is longer • PhaZZer™ does not void its warranty if a non- PhaZZer™ manufactured cartridge is used in any/all PhaZZer™ CEWs. • PhaZZer™ extended 2-year warranty comes at a cost of $95; whereas, TASER™ charges $80 for a 1-year warranty.	• Warrants free from defect in workmanship and materials for a period of 1 year from date of receipt • Failure to provide ALL required warranty return information may result in a delay of 12 weeks or more for replacement item • TASER™-manufactured accessories are covered under a limited 90-DAY warranty from the date of receipt • Broken blast doors on ammo cartridges are NOT covered under warranty • Optional extended warranty for X26 may only be purchased during the 1-year limited warranty period, however X2 optional extended warranty may be purchased at POS • The extended warranty does not cover battery replacement • A replacement product will have the remaining warranty period of the original product or 90 days from the date of replacement or repair, whichever period is longer • Taser warranty does not apply with use of non-TASER™ cartridges not manufactured by TASER
Standard Warranty Repair Service: **Ammunition Warranty**	• NONE • **No waiting period for warranty repair service, PhaZZer™ will replace defective unit with a brand new or refurbished unit within 48 hours of received defective product return.** PhaZZer™ offers a full five year replacement warranty from the date of production on all ammunition cartridges in the case it is defective for any reason. The production date is identified in the serial number located on the bottom of each cartridge. PhaZZer™ suggests that potential customers check with country, state, and local laws pertaining to possession and usage of CEWs.	• Warranty repair service requires 7-10 day processing • Failure to provide required warranty return information may result in a delay of 12 weeks or more for repaired item return.
Evidence Gathering	Phazzer RailCam police and law enforcement video system is an audio-video recording camera with its own internal rechargeable battery capable of external recharge from either 12v vehicle or mains (110v to 240v AV 50Hz) power supply via USB 2.0 cable (supplied) downloading directly into laptop or desk PC. Phazzer RailCam slides onto the top rail of any Phazzer Enforcer securely locking into position  Phazzer RailCam activates by simply pushing up for ON and the power switch is completely independent from the CEW's own ON/OFF functions with 90mins recording on a 8GB Mini SDHC card	The TASER™ CAM™ police and law enforcement video system is an audio-video recording camera integrated into a rechargeable TASER™ X26 power supply that replaces the standard Digital Power Magazine (DPM) battery pack. The TASER™ CAM™ audio video recorder is activated any time the safety is in the off position "ARMED". This allows officers to capture vital audio and video information prior to, during, and after the potential deployment of an X26 ECD. **Cannot** be operated independently from the TASER™ X 26 switch 

All PhaZZer® Enforcer ammunition is compatible with all PhaZZer® CEWs, and TASER® X26™ P & E models and M26™ models of electronic control devices. All PhaZZer® weapons & ammunitions are certified by the ATF as non-firearms due to the propellant of compressed Nitrogen (N2 1700 psi), as it is not a gunpowder based propellant. The possibilities are endless for detention facilities in their everyday needs of containment and control.

PhaZZer Electronics, Inc.
808 N. Hoagland Blvd.
Kissimmee, FL 34741
United States of America
Tel: 855-PHAZZER (742-9937)

Jason Abboud
CEO/General Counsel
Legal@phazzer.com
Direct: 402-734-7800
Skype: jdabboud

Diana Barbara Robinson
Customer Service & Human Resources
barb@phazzer.com
Direct: 402-913-6035
402-669-6789
Skype: Diana.Wiggs3

Kirk French
President
Email: kirk@phazzer.com

P Robert Ladoczky Jr
National LE Sales and Training Manager
rob@phazzer.com
Direct: 407-832-3556
Skype: PhazzerRob

Steve Abboud
International Sales & Product Development
steve@phazzer.com
Direct: 402-813-0369
Skype: Phazzer1

Brandon Womack & Chief Jim Lauria
Directors of Training
PhaZZer Training Group, LLC.
139 S. McDonald St
McDonald, PA 15057
United States of America
Email: training@phazzer.com
Direct: 412 438 3050
Skype: PhazzerTraining

EXHIBIT “D”

PhaZZer® Electronics, Inc.

PhaZZer® ENFORCER CEW

PhaZZer® Enforcer Instruction Manual

Including
Optional Wireless DATA PORT

PhaZZer® Electronics Inc.

VER-2014.11.03

This manual contains necessary operational information and should be read and understood before using the PhaZZer® Enforcer.

If you have questions, please contact PhaZZer® technical support at: sales@PhaZZer.com

Table of Contents

DANGER - WARNING - DANGER - WARNING - DANGER

- Although the PHAZZER® Enforcer is a less lethal weapon and classified by the United States Department of Justice (DOJ) as a "Non-Firearm", **PLEASE TAKE NOTE OF THE FOLLOWING WARNINGS AND READ THIS MANUAL COMPLETELY PRIOR TO USE**
- The PHAZZER® Enforcer can cause extreme electrical shock.
- Do not continuously shock the assailant for more than 15 seconds in any 24 hour period as medical studies have indicated that this can cause serious bodily harm and even death.
- Avoid sensitive areas of the body when firing at the live target, including the neck, groin and face.
- The PHAZZER® Enforcer is not a toy or novelty. The PHAZZER® Enforcer is a highly advanced Less Lethal "DEFENSIVE" weapon that uses for Neuromuscular Incapacitation (NMI), and should always be out of reach from children.
- The darts in the cartridge are sharp and have a barbed like feature and pierce the skin. Never aim the PHAZZER® Enforcer higher than the torso. The darts can cause serious bodily injury to the face and eyes.
- The PHAZZER® Enforcer can cause, and is not limited to electrical shock, cuts, bruises, swelling and or burns.
- Only use the PHAZZER® Enforcer on would be attackers, do not use on innocent individuals, children, pregnant women, disabled persons or animals of any kind.
- The PHAZZER® is for self-defense and apprehension use ONLY.
- Always keep pathway in front of the PHAZZER® Enforcer clear unless targeting an assailant; keep all parts of your body away from the front of the PHAZZER® Enforcer.
- Static electricity can discharge the PHAZZER® ammunition cartridges. Avoid this all times when handling the PHAZZER® ammunition cartridges.
- Always store the PHAZZER® and the dart cartridges in a dry, secure location away from static electricity.
- Never look or point the laser directly into the eyes.
- Never point the laser at the eyes of other people or animals.
- Keep Enforcer dry at all times. Do not operate when wet or where saltwater spray is present. Light morning dew or condensation from high humidity during operation is acceptable when immediately drawing weapon from holster.
- Enforcer should never be exposed to temperatures that exceed below freezing unless carried close to body-heat, such as holstered or concealed.
- Avoid direct exposure to sunlight for long periods of time. If carried as a duty weapon keep in holster during extreme temperatures and weather conditions.
- Do not hold with freehand near blast doors at any time to avoid shock or hand injury from deployment.
- Trigger finger should not be on trigger when safety is released to the firing position until ready for deployment to avoid accidental misfire.
- Use caution around radio transmitters during operation such as mobile and handheld two-way radios. Avoid close proximity to cellular phones.
- While traveling domestically, U.S. laws prohibit carrying CEW devices by public and commercial travel methods. You must stow in check-in luggage and claim before boarding. Check with TSA before travel to confirm regulations and procedures.
- Check international laws before traveling. There are restrictions that prohibit taking CEW devices outside of the United States.

Class IIIa Laser Warning

SOURCE OF IGNITION

- The PHAZZER® Enforcer can be a possible source of ignition.
- Keep PHAZZER® Enforcer away from ALL flammable sprays, liquids, vapors, and explosive materials. Also use caution around sewer lines, methamphetamine labs and some self-defense sprays like pepper sprays that use flammable propellants such as alcohol. Alcohol can ignite during deployment.
- Do not operate around any open electrical wires to avoid coming in contact with dangerous voltages with dart wires.

THE PHAZZER® ENFORCER DESCRIPTION

The PHAZZER® Enforcer is a **Conducted Energy Weapon** (CEW) which immobilizes a target by firing two dart projectiles and delivering a safe but effective combination of voltage and amperage at 19-22 pulses per second when delivered into the body. The electric charge is delivered through a pair of conductive insulated wires. The PHAZZER® Enforcer will also deploy all other forms of PHAZZER® Ammunition cartridges and is compatible with the TASER® Ammunition in use and function. Both the TASER® Ammunition and the PHAZZER® Ammunition will function in either weapon as they have been tested as functionally compatible.

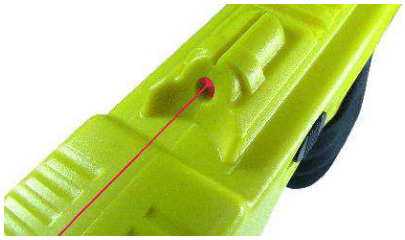
- The voltage keys in on the neural muscular system and disables voluntary muscle control, dropping the target in approximately one and one half to two seconds. It is no surprise that Conducted Energy Weapons, such as the PHAZZER®, are not only effective in protecting the user's safety, but also provides a safe alternative in apprehending rather than injuring the target.
- The PhaZZer® has been tested for safety, effectiveness and will substantially reduce the likelihood of serious harm or death if used as directed when compared to alternative methods of force. It is one of most effective alternatives to the use of more substantial force when it is unnecessary. The PHAZZER® Enforcer includes a 7.2 volt, rechargeable, ion-lithium battery pack coupled with an AC Adaptor Recharging System that can be plugged into the wall when the charge is low. The unit also includes a 21' Training Cartridge,15' Dart Pro and 8' pepper ball cartridge, nylon belt loop holster and international plug at initial purchase.
- To prolong the battery life, avoid charging the battery for longer than 6 to 8 hours.

PHAZZER® ENFORCER OFFERS A UNIQUE PRODUCT DESIGN

- The PHAZZER® Enforcer unit requires no registration as it has been classified by the ATF to be a "Non-Firearm" due to the Nitrogen Propulsion Deployment System. There are no codes for activation and thus the unit is immediately operational upon receipt.
- The PHAZZER® Enforcer unit can be recharged by inserting the battery charger when the **GREEN** indicator light turns **RED** at approximately 60% of battery capacity (Charger included with purchase). To prolong battery life, avoid charging the battery over 6 ~ 8 hours.
- The PHAZZER® includes a three finger hand grip with indentation grooves for finger placement and greater control.
- All PHAZZER® units include a Laser Sight for greater firing accuracy and a 3 watt LED high-intensity 160 lumen light for night use.
- The PHAZZER® has two Black Switches located on both sides of the unit and when activated turn on the 3 watt, 160 Lumen, high-intensity, LED light.

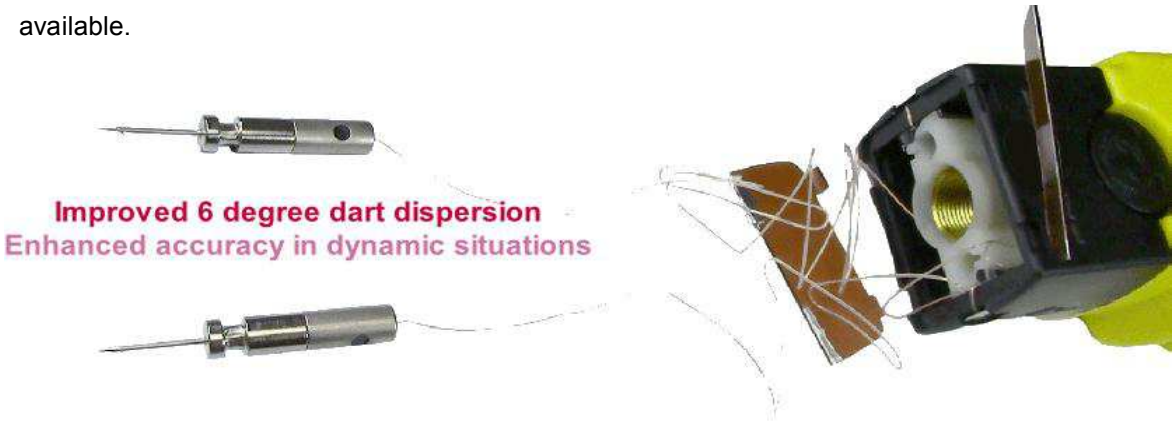
Laser & Activation Switch with LED

160 Lumen LED Flashlight



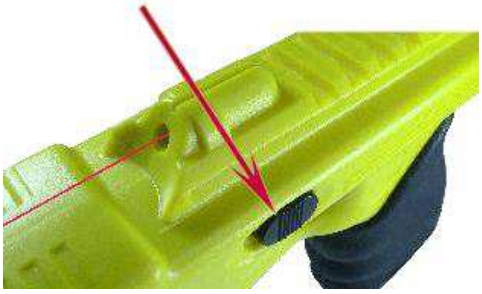
Aiming Laser on top of Enforcer

- The PHAZZER® also has a Black Power/Safety Activation Switch on the rear of the unit and when activated will instantly arm the unit and activate the laser.
- The PHAZZER® has been tested for effectiveness, safety, accuracy and consistently subdued the assailant within 1-3 seconds upon contact (depending on variables).
- All PHAZZER® units come with a One Year Manufacturer's Warranty with extended warranties available.



APPREHENDING OR DEFENDING YOURSELF WITH THE PHAZZER®

1. If you are threatened, or feel threatened from a possible assailant, double check the PHAZZER® Enforcer to make sure it is loaded with an ammunition cartridge.
2. Take the PHAZZER® Enforcer in your dominant hand as this unit is ambidextrous and will provide ease of use in either hand.
3. Prior to firing, arm the PHAZZER® Enforcer by activating the **Black** Power Safety switch located at the rear of the unit. This will activate the power and Laser Sight and arm the unit. A **GREEN** indicator light will illuminate to confirm sufficient power level and activation. NOTE: If the indicator light at the rear of the unit is **RED** indicating that the unit is at or below 60% charge capacity, the unit should be plugged into the AC adaptor and recharged for 2- 3 hours to reach maximum capacity. (The Plastic Plug insert should be placed in the Charging Receptacle once the Enforcer is fully charged and ready for use.)
4. To illuminate the target or area, push forward the Black L.E.D. switch located on either side of the Enforcer unit and the three Watt, 160 lumen High Intensity light will illuminate the area. Please note that the **Black** "Power Safety Switch" and the Black "L.E.D. Light Switches" are independent of each other and can be activated separately.



5. Prior to firing at a live target, yell out loud to the assailant; yell as clear as you can to advise the assailant that you have a PHAZZER® Enforcer and that you will deploy it.
6. If the assailant was not scared away from your warning, activate the unit and take aim at the assailant when he/she is within range. Aim at the torso and pull back the TRIGGER to deploy the loaded ammunition cartridge. Please note that the PhaZZer® Dart Pro Cartridges will deploy 3 degrees above and 3 degrees below the red diode Laser site.
7. At this point, you can set down the PHAZZER® Enforcer and run to a safe location where you can call the police, and only do this when using a dart cartridge as this will continue to shock the target continuously for 5 seconds duration. Or at your discretion, apprehend the assailant but do not allow more than 15 seconds continuous shock into the live target as any prolonged duration in excess of this amount for CEWs has shown to cause serious injury or death.

BACK UP DRIVE STUN-DEVICE

The back-up Drive Stun function is operable when the dart cartridge is not installed into the PHAZZER® Enforcer. The Drive Stun function relies primarily on the pain reflex, but if held against the assailant for several seconds can also target the neuromuscular system thereby causing the target to drop to the ground. Even in close range, using the full capabilities of the PHAZZER® dart deployment system is strongly suggested due to the separation distance of the darts. The drive stun feature can also be used after the cartridge has been deployed by driving the unit into the assailant or simultaneously as the darts are the primary point of contact.

1. Both of the PHAZZER® Enforcer's electrode darts must be in contact with the assailant's body or clothing in order to complete the circuit. Please note that if one of the darts should miss the assailant, you should drive stun to complete the circuit and cause NMI
2. After activating the **Black** Power Safety/Laser switch at the rear of the Enforcer, you will be ready for full ammunition deployment.
3. Pull back the trigger to electrify the electrodes.
4. Target the areas of assailant's body which have larger muscle mass.
   Examples include torso, back and thighs.
5. Break free and escape to a safe location and call the police or cuff and apprehend the suspect.

LOADING THE PHAZZER® ENFORCER

1. Double check the PHAZZER® is not armed and that the safety switch is in the off position. (Be sure the plastic plug is inserted into the charging receptacle.)
2. Keep your hand away from the front of the ammunition cartridge while inserting into the Enforcer in the case of accidental deployment.
3. Point the PHAZZER® Enforcer away from all parts of your body and others.
4. Hold the dart cartridge by the sides and insert the cartridge.
5. Press the dart cartridge into the front of the PHAZZER® Enforcer until you hear a pronounced click.
6. Make sure the dart cartridge is locked by pulling outward on the sides of the dart cartridge gently.

UNLOADING THE PHAZZER® ENFORCER

1. Double check that the PHAZZER® is not armed and that the safety switch is in the “off” position.
2. Point the PHAZZER® Enforcer away from all parts of your body and others.
3. Press both side buttons on cartridge simultaneously and remove.

ARC-TEST

1. Check that the PHAZZER® is not loaded with a dart cartridge. Arc test should never be performed with a dart cartridge loaded.
2. Point the PHAZZER® Enforcer away from yourself and others. Make sure none of your appendages are in front of the PHAZZER® Enforcer.
3. Arm the PHAZZER® Enforcer by activating the rear safety switch. (Be sure that the plastic plug is inserted into the charging receptacle.)
4. Pull back the trigger.
5. Listen and look at the rate of the arc jumping from the electrodes, this should be at a rapid rate. (19-22 pulses per second)
6. Disarm PHAZZER® and the test is complete.

Arc test should be done prior to inserting an ammunition cartridge. Confirm safety is in the OFF position before inserting ammunition cartridge.

PHAZZER® SPECIFICATIONS AND FEATURES

1 Output Characteristic: **NOTE - All Outputs** are ± 20% depending on variables
Pulse Rate: 19-22 pulses/per second, continuous output for 5 seconds unless deactivated by the user. Safety Shut Off Feature: Unit can be deployed for three consecutive trigger pulls or an aggregate 15 seconds into the same target prior to shutting down. The user will need to recycle the unit by turning the activation safety switch off and on again in order to fire the unit beyond the full 15 second deployment. This feature has been added due to the multiple deaths allegedly associated with prolonged duration of the TASER® use beyond 15 seconds of cumulative electric charge into the body.
2 Pulse Duration: 120 < Microseconds
3 Peak Voltage: 55,000 > Volts (V)
4 Load volts 1,100 to 1,400 < (V) across body nominally
5 Current: 0.0022 - 0.0025 Ampere (A) 2.2mA - 2.5mA < = average
6 joules: .075 < = dependent on body resistance
7 Pulse wave: Complex pulse
8 Housing: ABS High Impact Plastic
9 Power Source: 7.2v Ion Lithium Rechargeable and Replaceable Battery Pack
10 Integrated 3W, 160 Lumen, High Intensity L.E.D. Light
11 Integrated Laser (Used for target acquisition)
12 Electrical charge can penetrate up to two cumulative inches of clothing
13 Temperature operating range nominal: 32° F (0°C) to 120°F (49°C)
14 Extreme temperature range storage nonuse: 0° F (-18°C) to 155°F (68°C)
15 Humidity 80% < (non-condensing)

PHAZZER® ENFORCER INITIAL KIT

1 x Hard thermoformed molded high-impact case

1 x PhaZZer® Enforcer CEW in your choice of color

1 x Main power charger

1 x Main power socket adaptor

1 x Enforcer Pepper Powder Cartridge - Pink

1 x Enforcer 21ft Training Dart - Blue

1 x Enforcer 15ft ProDart - Yellow

Rechargeable battery inserted into Enforcer handle
Just connect the plug and socket before use

LAW ENFORCEMENT KIT

Different choices of cartridges are available for the Law Enforcement Kit. Please contact PhaZZer® sales personnel for options.

PHAZZER® ENFORCER ACCESSORIES

- PhaZZer® 21' Dart Cartridge
  LIME GREEN Blast Doors

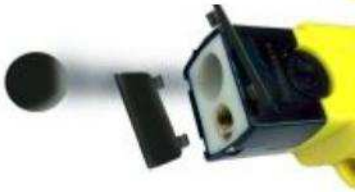
- PhaZZer® 15' Dart Cartridge
  YELLOW Blast Doors (Included in initial purchase)

- PhaZZer® Pepper Powder Cartridge
  PINK Blast Doors (Included in initial purchase)

- PhaZZer® 21' Training Cartridge
  BLUE Blast Doors (Included in initial purchase)

- PhaZZer® Pepper Ball Cartridge
  RED Blast Doors

- PhaZZer® Rubber Cartridge
  BLACK Blast Doors



PhaZZer® Mark (Paint) Ball Cartridge
GREEN Blast Doors

- PhaZZer® Enforcer AC Adaptor (Included in initial purchase).
- PhaZZer® Nylon Belt Holster (Included in initial purchase).
- PhaZZer® User/Instructor Certification Training Available (email training@PhaZZer.com)

RESTRICTED JURISDICTIONS FOR CONDUCTED ENERGY WEAPONS

States where Stun Gun & Electronic Control Devices are Restricted

Illinois
Hawaii
Massachusetts
Michigan
New Jersey
New York
Rhode Island
Wisconsin

Cities where Stun Gun & Electronic Control Devices are Restricted

Annapolis, MD
Baltimore, MD.
Baltimore County, MD
Chicago, IL
Denison/Crawford County, IA
District of Columbia
Philadelphia, PA

Countries where Stun Gun & Electronic Control Devices are Restricted

Austria
Belgium
Canada
Denmark
Hong Kong
India (Police Only)
Italy
Japan
New Zealand
Norway
Sweden
Switzerland
United Kingdom

NOTE: *PLEASE CHECK USER RESTRICTIONS WITH YOUR LOCAL LAW ENFORCEMENT*

TC100 Wireless Data Port

Download Software Instructions

Quick Install Guide

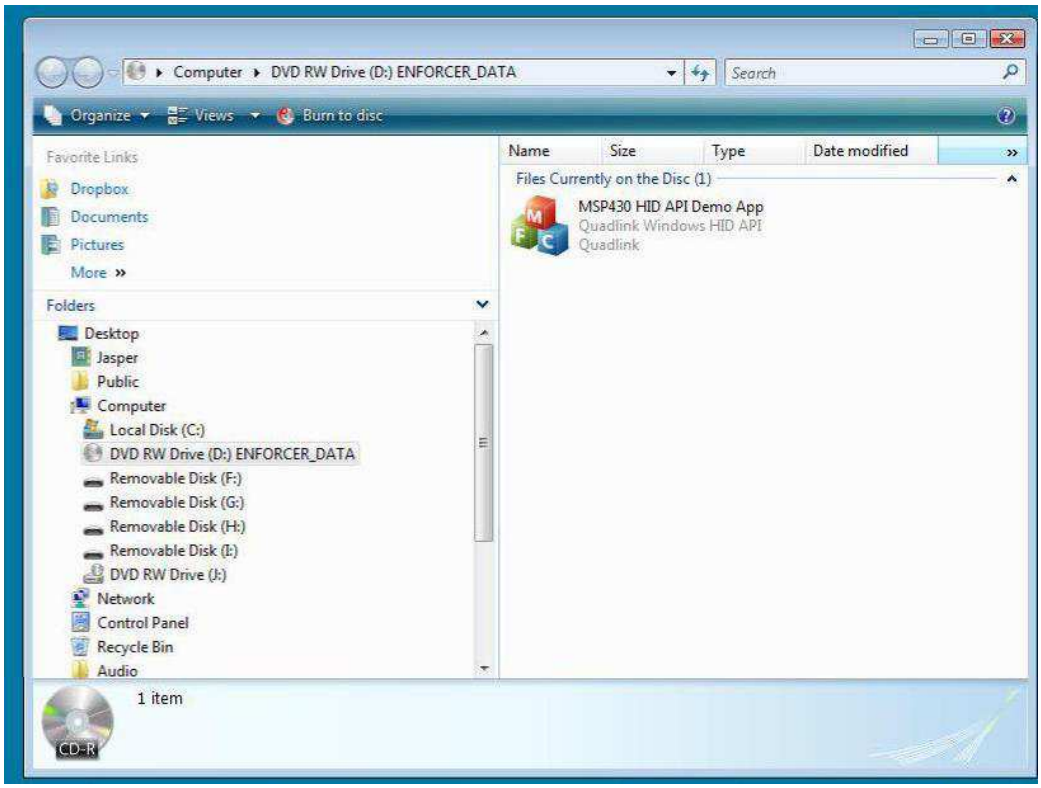
Program Install and Operation of Wireless Data Port for PhaZZer® Enforcer

For supervisor Operations see Supervisor Guide - Page 19

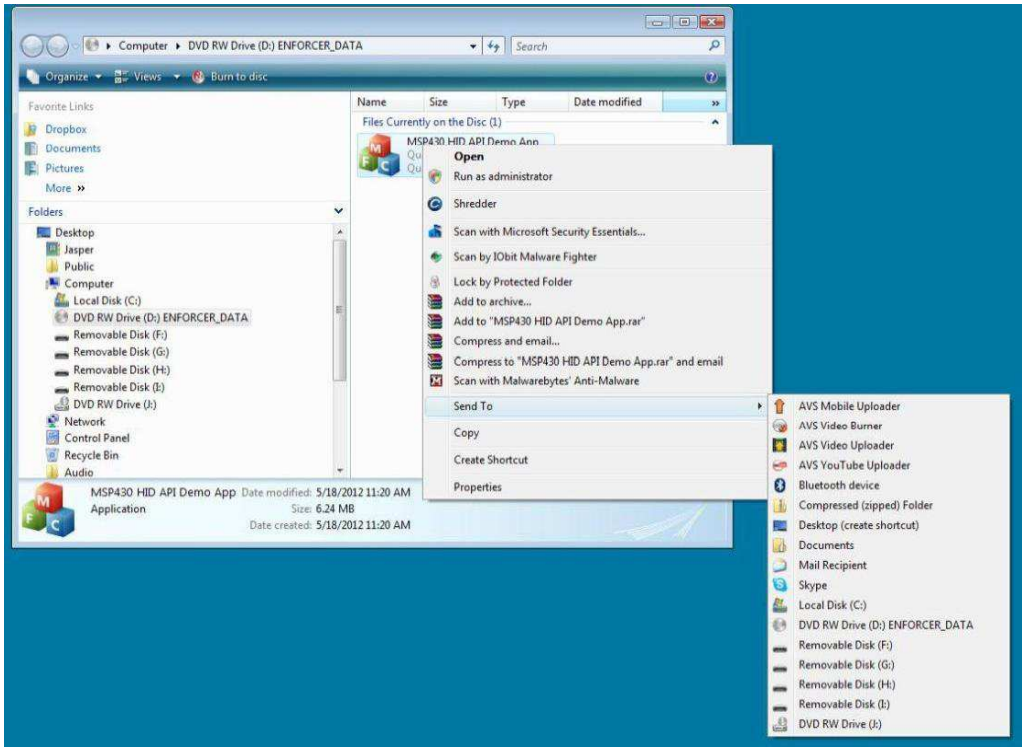
Warning - Do not plug-in USB data port before software is installed……!

Insert Data Port and install Program which is compatible with Windows Operating Systems XP, Vista and Windows 7.

Install the program: If you have any trouble loading or running the data port program, turn off any anti-virus software or Windows safety features (such as pop-up blockers) and try again.

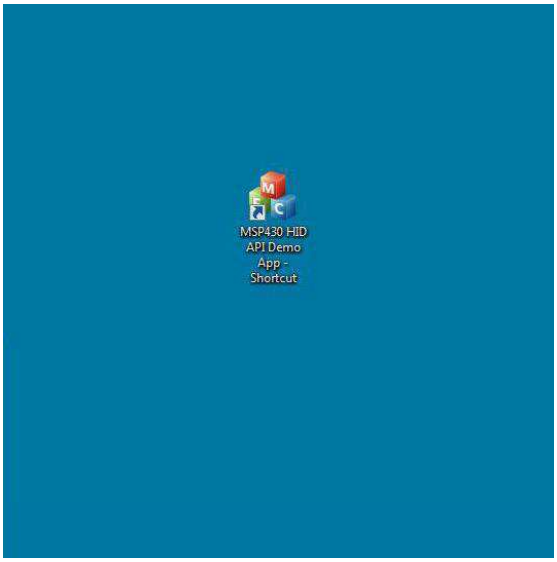


Install Software from direct link, download or flash drive onto Desktop or into Document Folder.



Install from the software link provided.

Click to open. Send to load program to Desktop or Personal Document Folder, or both. Example showing Data Port Program on Desktop.



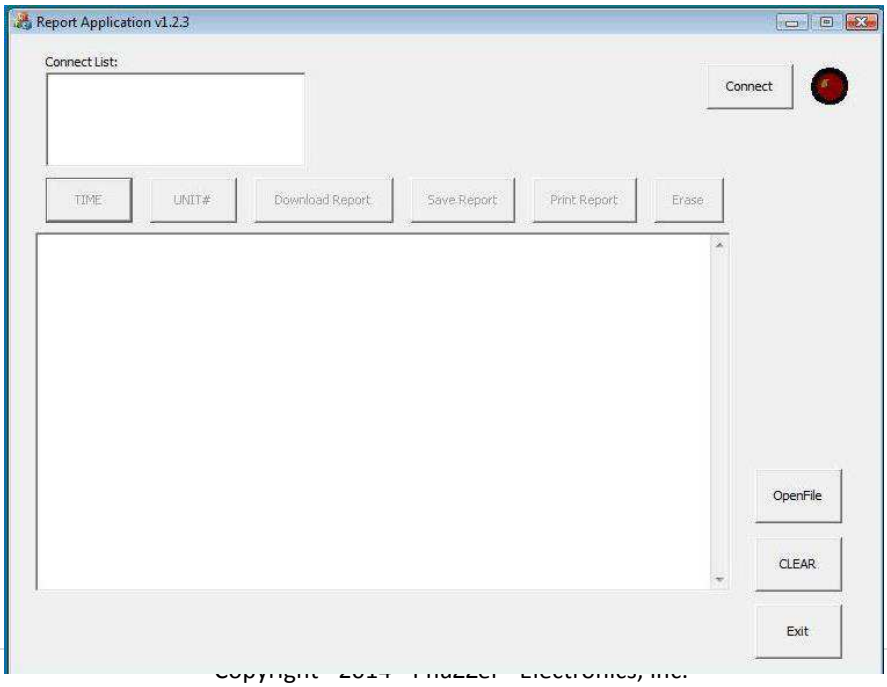
Plug-in the USB TC-100 Data Port Reader. Wait about thirty-seconds for drivers to find data port and load

You should see at bottom right the information that…..“Windows looking, finding and acknowledging install is complete”. If not, un-plug TC-100 USB Data Port Reader and reinstall.

If Windows Operating System still cannot find data port reader, then find another USB port to plug-in and operate from.

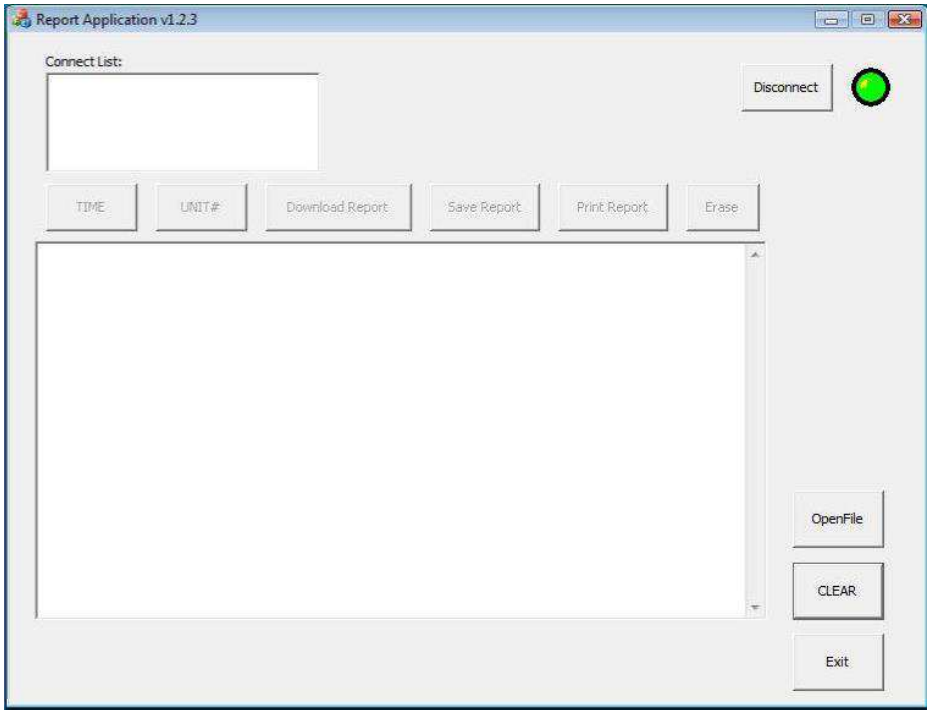
Note – A reset button is located on the Data Port Reader. This may assist in helping Windows Operating System to the reader. Only use this small ORANGE Button if the program locks-up, or cannot install properly.

Double-Click on the Icon **Data Port Program** to begin operation. See below for Icon example. The Window below will open-up to begin after clicking on Icon.



Click on CONNECT button to the left of **RED** icon for the software program to engage with Data Port Reader.

When program engages with data port reader, indicator icon will turn **GREEN**. When this **GREEN** light is lit, both the Program and Reader are working correctly and are ready for downloading data from PhaZZer® Enforcer. *See below…..*

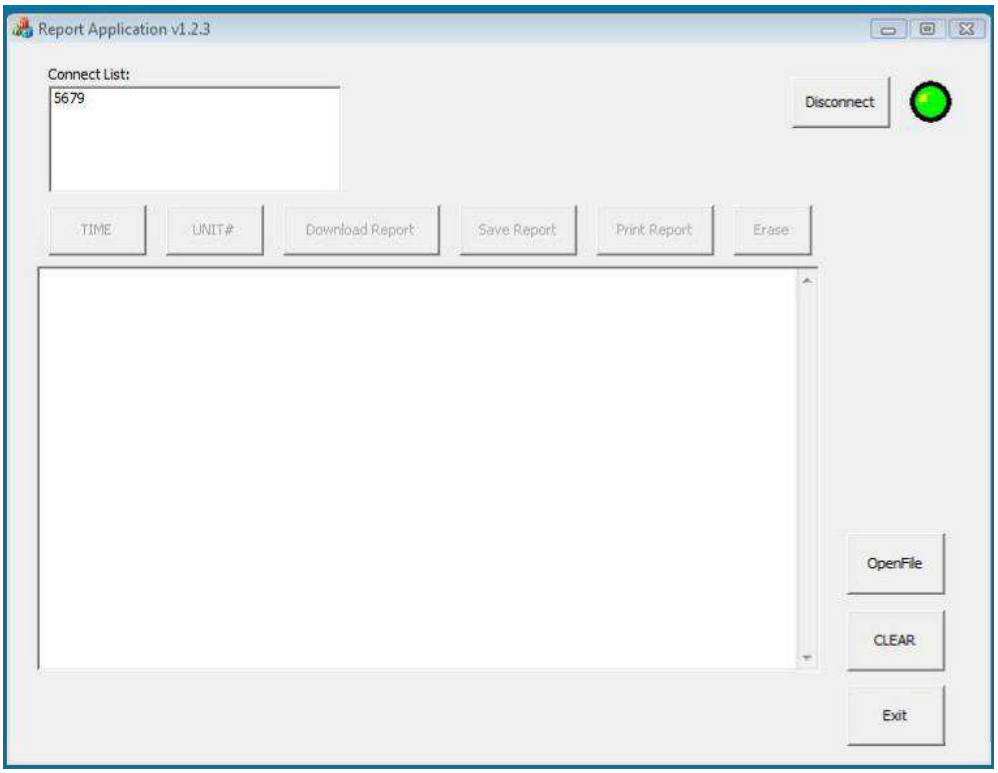


REMOVE any live cartridges attached

Turn on the PhaZZer® Enforcer and wait a full five seconds for the Data Port Reader to communicate with Enforcer and show ID number of Enforcer in "Connect List" box.

See image below showing Enforcer ON (Safety-up) and battery is charged and ready for download.

See screen-shot below identifying Enforcer Number #5679. When ID number is showing in “Connect List” box, it is an indication that the system is working and communicating with the Enforcer. If this Enforcer is new and needs to be initialized for a first time-setup, please read the PhaZZer® Enforcer Initialization Setup Instructions

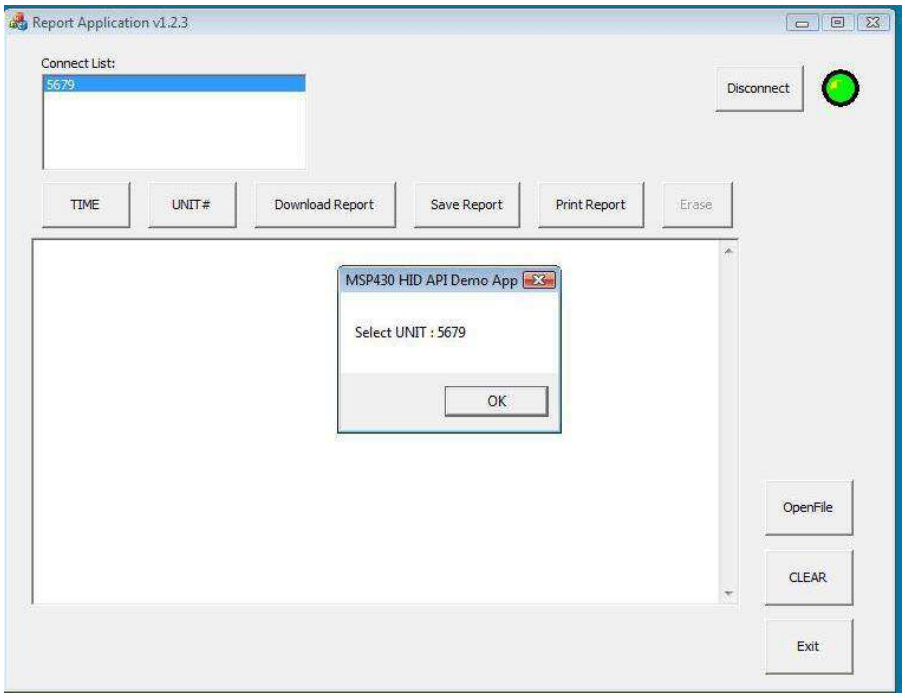


When working with files, please avoid using zeros (0) for ID tags. Use whole numbers like the example above to avoid software errors.

Battery Replacement

No stored data memory loss will occur during battery replacement or depleted battery charge. However, the timestamp in the Enforcer will be lost and needs to be reset if battery is disconnected or replaced. Observe function steps below for resetting timestamp. If during data download the timestamp is lost or incorrect, then replace the existing battery with only a PhaZZer® Enforcer recommended replacement battery.

Now double-click on [ID number] in "Connect List" box to start the first step of downloading. See below…..



Then click "OK" on [SELECT UNIT]…..using in this example Enforcer #5679 to login.

Now click on [DOWNLOAD REPORT] to view data stored from past usage of Enforcer

When connection is made the blue-highlighted ID number will flicker; indicating communication is open with Enforcer and operating.

When you click on [SAVE REPORT], it will save data to where program is stored. Example: If you placed data port program in a "Document Folder" then the stored data will be in that document location. Past data can be retrieved by clicking [OPEN FILE]. Past logged files will open up in Data Port window. If you need to copy data, you can cut and paste onto MS Word or MS Excel.

- [PRINT] Print Report will transfer data to your printer.
- [TIME] and [UNIT] buttons are for initial setup. Or changing of ID number of Enforcer.
- [OPEN FILE] will show location and files saved data from past storage.
- [CLEAR] will clear window showing downloaded data.
- [EXIT] will end connection with ID of Enforcer being read.
- [DISCONNECT] will end communication with all Enforcers being read.

Data Port Supervisor Instructions

TC100 Wireless Data Port Download Software Instructions

See below for the links relating to our Data Port Receiver.

PhaZZer® Dataport Instructions

PhaZZer® Dataport Software

*__Note__ that this is an .exe file, your browser may ask for your confirmation before saving the file. Windows may ask for your confirmation before running an unknown file for the first time. This is normal and expected.

Devices needed:

Software VER or later: 1.0.2012
PC desktop or laptop using Microsoft® operating system –XP-Vista-W7
PhaZZer® TC100 Wireless USB Data Port Interface.
New PhaZZer® Enforcer for first time program initiation.
Or PhaZZer® Enforcer already in service - Download and store evidence data.

Note about Battery Replacement

No stored data memory loss will occur during battery replacement or depleted battery charge. However, the timestamp in the Enforcer will be lost and needs to be reset if battery is disconnected or replaced. Observe function steps below for resetting timestamp. If during data download timestamp is lost or incorrect, then replace existing battery with only PhaZZer® Enforcer recommended replacement batteries.

Description of program language and application when programming or downloading evidence data from PhaZZer® Enforcer into PC:

Functions:

Double click or single click on each item below to open window for initial setup or change of information.

1. **TIME** set/get: *Display format "MM / DD / YY" ; "Hour : Min : Sec*
2. **UNIT#** *Enforcer unit number: set/get: 4 digits (0000~9999)*
   Example only: Entering 5678 PhaZZer® Enforcer weapon unit is now identified as 5678. Once this number is entered the Enforcer will be known as 5678 from this time forward after number is entered. Any number between 1 and 9999 can be used. Note: All four digits need to be entered even if only using number one. Example: 5678
   Up to One-thousand PhaZZer® Enforcers can be tracked and logged separately on one PhaZZer® UI-TC100 wireless downloading system.
   Note: Avoid using zeros and only use whole number to minimize software errors.
   Connect list: *Double click UNIT# to connect with this device.*
3. **Download report:** *Show the "DATA" on the edittext.*
4. **Save Report:** *Save the edittext data in a file.*
5. **Print Report:** *Print the edittext data.*
6. **Erase:** *Delete DATA.* Use caution not to accidentally erase critical DATA evidence!
   Only Supervisor access should be allowed to erase data after 800 entries of stored Enforcer deployment usage. (Authorized operator can enter password as acting Supervisor.)
7. **OpenFile:** *Open the saved file to show on the edittext.*
8. **CLEAR:** *Clear the edittext data.*
9. **Exit:** *Exit the application.*
10. **Warning:** *Warning showing "Data is now full"* - Save all data evidence into specified file of your choice. **Caution:** By not saving data after warning, full operation of PhaZZer® Enforcers ability to function as a **CEW** will be locked out, till all data is saved" on the edit text. For Officers safety all download sequences should be observed.
11. **Login in as Super-user:** *"Ctrl+N" to enable "super-user mode" and enter password* to login.
12. **Connect USB:** *Enable TC100 (Wireless Reader) plugged in PC USB for operation.*

UI PC Program Operation for PhaZZer®
TC100 download from PhaZZer® Enforcer

Main navigation dialog selections after opening program:

1. *Main dialog*
2. *Time dialog*
3. *UNIT dialog*
4. *Password dialog.*

1. MAIN dialog:

Connect list: Shows the PhaZZer® Enforcer ID of available Enforcer(s) now connected Potential of Enforcer online: 0-9999

Edit text: Will show the evidence DATA information when selected.

"**TIME"** button: Enable time dialog

"**UNIT#"** button: Enable UNIT dialog

"Download Report" button: Show the "DATA" on the edittext.

"Save Report" button: Save the edittext data in a pre-selected file.

"Print Report" button: Print the edittext data.

"Erase" button: Delete DATA. Use caution not to accidentally erase critical DATA evidenced

"OpenFile" button: Open the saved file to show on the edittext.

"CLEAR" button: Clear the edittext data.

"Exit" button: Exit the application.

"Connect USB" button: Enable TC100 (Wireless Reader) plugged in PC side USB. This will now communicate to PhaZZer® Enforcer and ready for program initiation or DATA download.

2. TIME dialog:

"MM , DD , YY" ; "Hour, Min , Sec" edittext

"GET" button: Get the time information from selected.

"SET" button: Set time information to selected

3. UNIT dialog:

"GET" button: Get ID from selected.

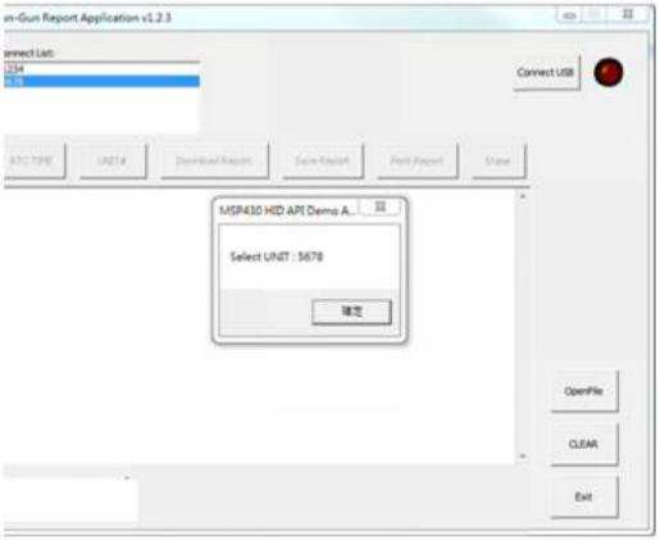
"SET" button: Set ID to select.

4. Password dialog:

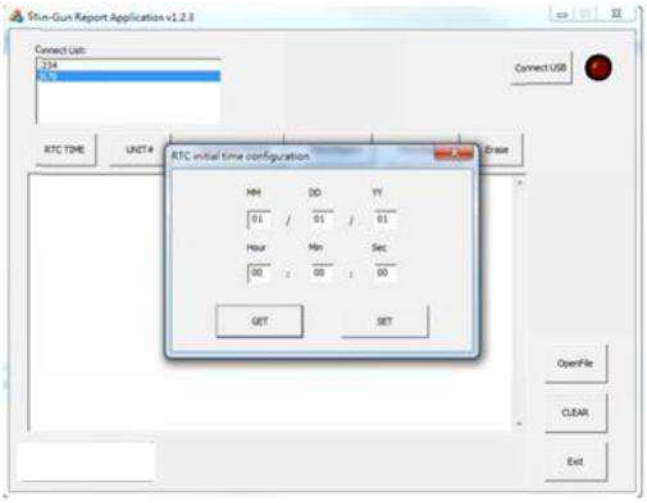
Dialog for entering password.

Screen shots of PhaZZer® UI program

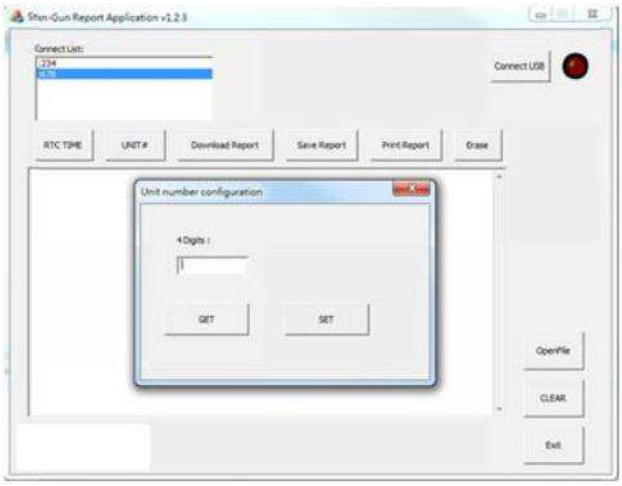
Select PhaZZer® Enforcer unit to be displayed via the TC100



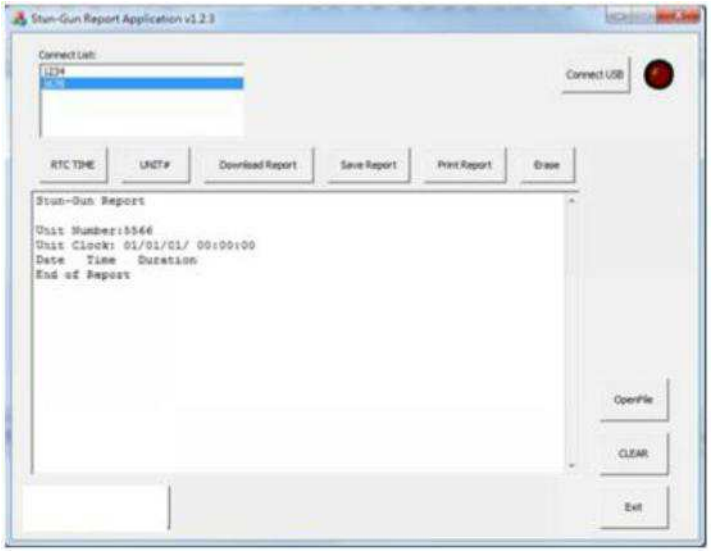
TIME Button



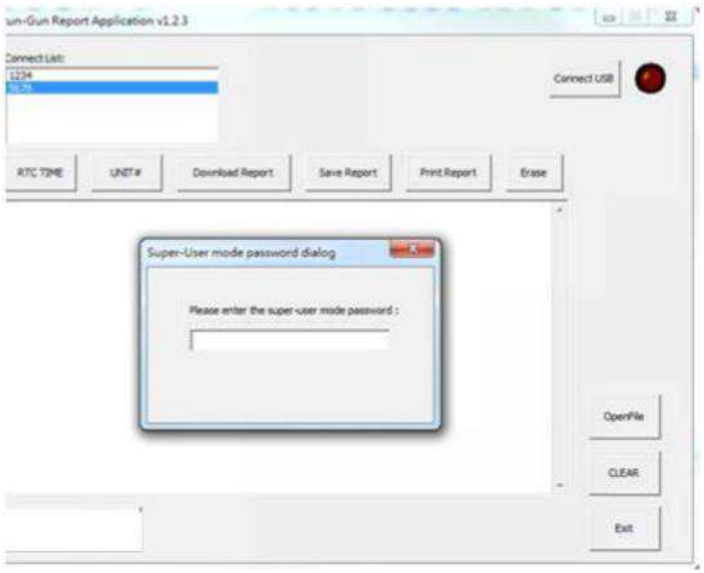
UNIT # Button



Download Report of Evidence Data



Data



Operating Instructions

This information is based on the version of software at the time of editing. If you are experiencing trouble connecting and downloading evidence data please check with PhaZZer®

Suggestions

All data evidence from PhaZZer® Enforcer should be downloaded immediately and indefinitely stored after any deployment and then secured for future reference.

Disclosure

All efforts have been made to supply correct programming instructions and editing of software. PhaZZer® Electronics cannot assume responsibility for an error that may occur while

downloading of evidence data that results in lost data, or data that cannot be retrieved.

Disclaimer

PhaZZer® TC100 USB wireless interface and the UI evidence retrieval software are for sole operation of the PhaZZer® Enforcer. This software is not intended to be used or recommended for any other product or CEW device.

Caution

During UI pre-programming or evidence retrieval from the PhaZZer® Enforcer, at any time the software flag Warning is indicating, “Data is now full” immediately retrieve evidence data and file in document folder for secure storage. If the memory is not cleared, and data storage is still full your PhaZZer® Enforcer may not function.

All efforts must be made to data download on a regular basis to assure sequential filing of deployment evidence.

EXHIBIT “E”

PhaZZer® Enforcer CEW

TC100 Wireless Data Port Download Software Instructions

Devices needed: **VER: 01-07/20/2012**

PC desktop or laptop using Microsoft® operating system.

Phazzer® TC100 Wireless USB Data Port Interface.

New Phazzer® Enforcer for fist time program initiation.

Or Phazzer® Enforcer already in service - Download and store evidence data.

Note about battery replacement:

No stored data memory loss will occur during battery replacement or depleted battery charge. However, the timestamp in the Enforcer will be lost and needs to be reset if battery is disconnected or replaced. Observe function steps below for resetting timestamp. If during data download timestamp is lost or incorrect, then replace existing battery with only Phazzer Enforcer recommended replacement batteries.

Description of program language and application when programming or downloading evidence data from Phazzer® Enforcer into PC.

Functions:

Double click or single click on each item below to open window for initial setup or change of information.

1. **TIME** set/get: *Display format "MM / DD / YY" ; "Hour : Min : Sec"*
2. **UNIT#** *Enforcer unit number: set/get: 4 digits (0000~9999)*
   Example only: Entering 5678 Phazzer® Enforcer weapon unit is now identified as 5678. Once this number is entered the Enforcer will be known as 5678 from this time forward after number is entered. Any number between 1 and 9999 can be used. Note: All four digits need to be entered even if only using number one. Example: 5678 : One-thousand Phazzer® Enforcers can be tracked and logged separately on one Phazzer® UI-TC100 wireless downloading system.
   Note: Avoid using zeros and only use whole number to minimize software errors.
3. **Connect list:** *Double click UNIT# to connect with this device.*
4. **Download report:** *Show the "DATA" on the edittext.*
5. **Save Report:** *Save the edittext data in a file.*
6. **Print Report:** *Print the edittext data.*
7. **Erase:** *Delete DATA.* Use caution not to accidentally erase critical DATA evidence! Only Supervisor access should be allowed to erase data after 800 entries of stored Enforcer deployment usage. (Authorized operator can enter password as acting Supervisor.)
8. **OpenFile:** *Open the saved file to show on the edittext.*
9. **CLEAR:** *Clear the edittext data.*
10. **Exit:** *Exit the application.*
11. **Warning:** *Warning showing "Data is now full"* - Save all data evidence into

specified file of your choice. **Caution:** By not saving data after warning, full operation of Phazzer® Enforcers ability to function as a **CEW** will be locked out, till all data is saved" on the edittext. For Officers safety all download sequences should be observed.

12. **Login in as Super-user:** *"Ctrl+N" to enable "super-user mode" and enter password* to login.
13. **Connect USB:** *Enable TC100 (Wireless Reader) plugged in PC USB for operation.*

- **UI PC program operation for Phazzer® TC100 download from Phazzer® Enforcer**

Main navigation dialog selections after opening program: 1. *Main dialog*; 2. *Time dialog;* 3. *UNIT dialog;* 4. *Password dialog.*

1. MAIN dialog:

- **Connect list:** Shows the Phazzer® Enforcer ID of available Enforcer(s) now connected – Potential of Enforcer online: 0-9999

- **Edittext:** Will show the evidence DATA information when selected.

- **"TIME"** button: Enable time dialog

- **"UNIT#"** button: Enable UNIT dialog

- **"Download Report"** button: Show the "DATA" on the edittext.

- **"Save Report"** button: Save the edittext data in a pre-selected file.

- **"Print Report"** button: Print the edittext data.

- **"Erase"** button: Delete DATA. Use caution not to accidentally erase critical DATA evidence!

- **"OpenFile"** button: Open the saved file to show on the edittext.

- **"CLEAR"** button: Clear the edittext data.

- **"Exit"** button: Exit the application.

- **"Connect USB"** button: Enable TC100 (Wireless Reader) plugged in PC side USB. This will now communicate to Phazzer® Enforcer and ready for program initiation or DATA download.

2. TIME dialog:

- "MM , DD , YY" ; "Hour, Min , Sec" edittext

- "GET" button: Get the time information from selected .

- "SET" button: Set time information to selected .

3. UNIT dialog:

- "GET" button: Get ID from selected .

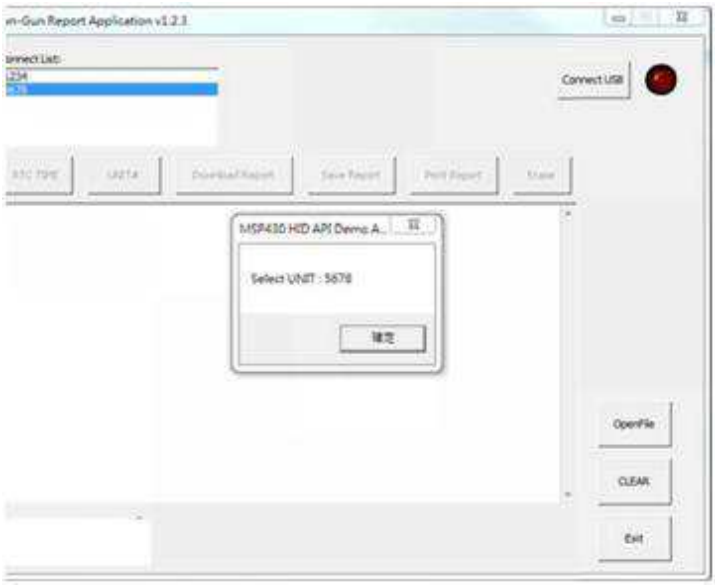
- "SET" button: Set ID to selected .

4. Password dialog:

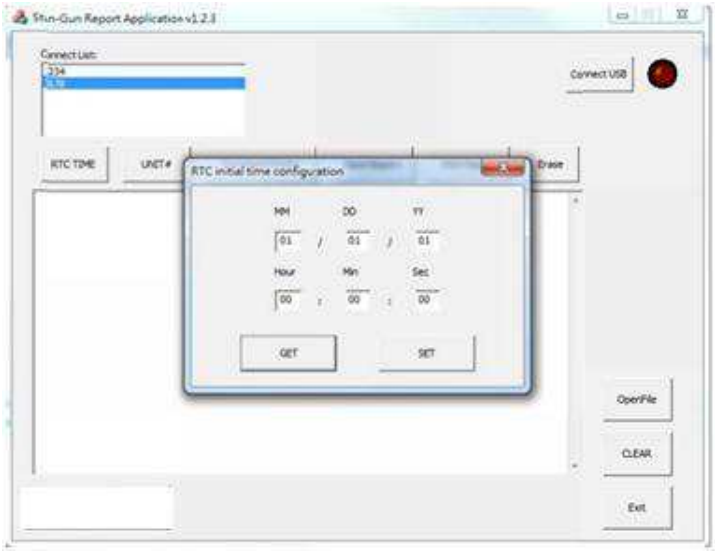
- Dialog for entering password.

Screen shot of Phazzer® UI program

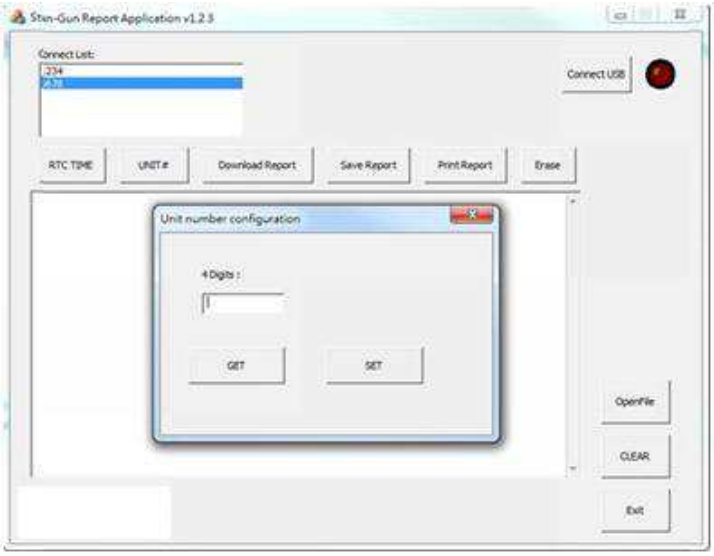
1. Select Phazzer® Enforcer unit to be displayed via the TC100



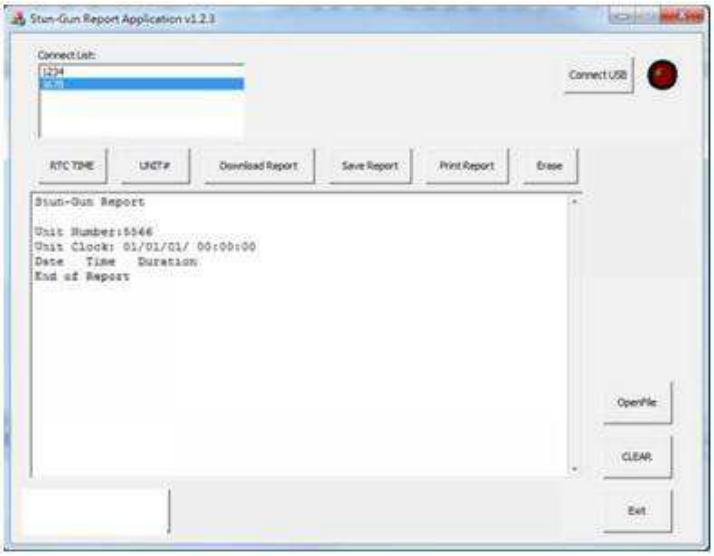
2. TIME button :

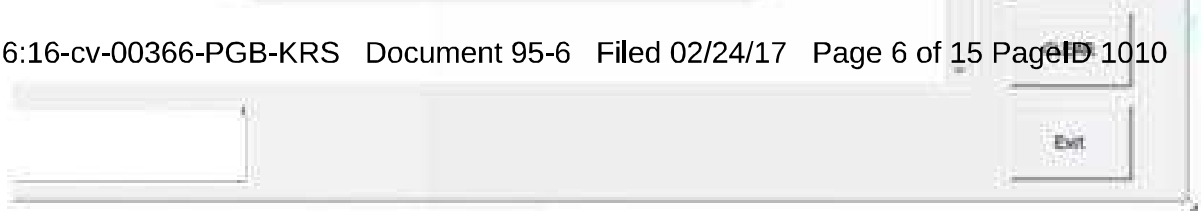


3. **UNIT# button:**

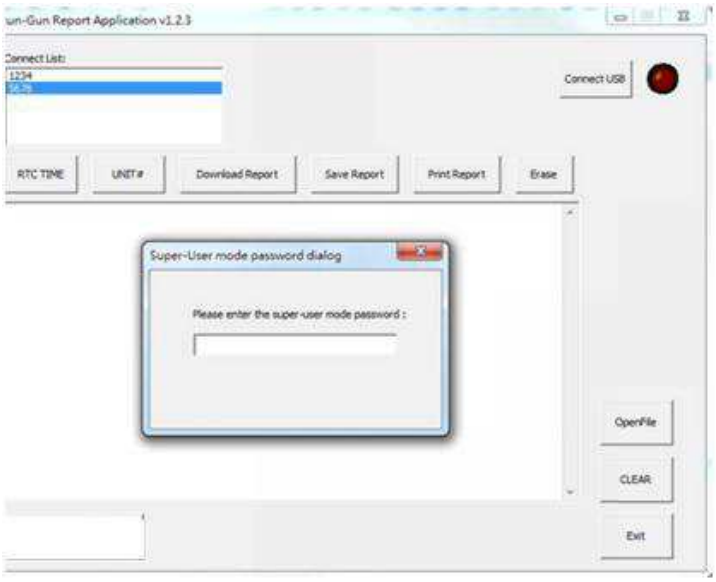


4. **Download Report of evidence Data:**





5. **Password dialog**



Instruction of operation note:
This information is based on the version of software at the time of editing. If you are experiencing trouble connecting and downloading evidence data. Please check with Phazzer® Electronics for further instruction or **UI** software version upgrades.

Suggestions:
All data evidence from Phazzer Enforcer should be downloaded immediately and indefinitely stored after any deployment and secured for future reference.

Disclosure:
All efforts have been made to supply correct programming instructions and editing of software. Phazzer Electronics cannot assume responsibility for an error that may occur while downloading of evidence data that result in lost data, or data that cannot be retrieved.

Disclaimer:
Phazzer® TC100 USB wireless interface and the **UI** evidence retrieval software are for sole operation of the Phazzer® Enforcer. No intended use is suggested or recommended for any other product or CEW device.

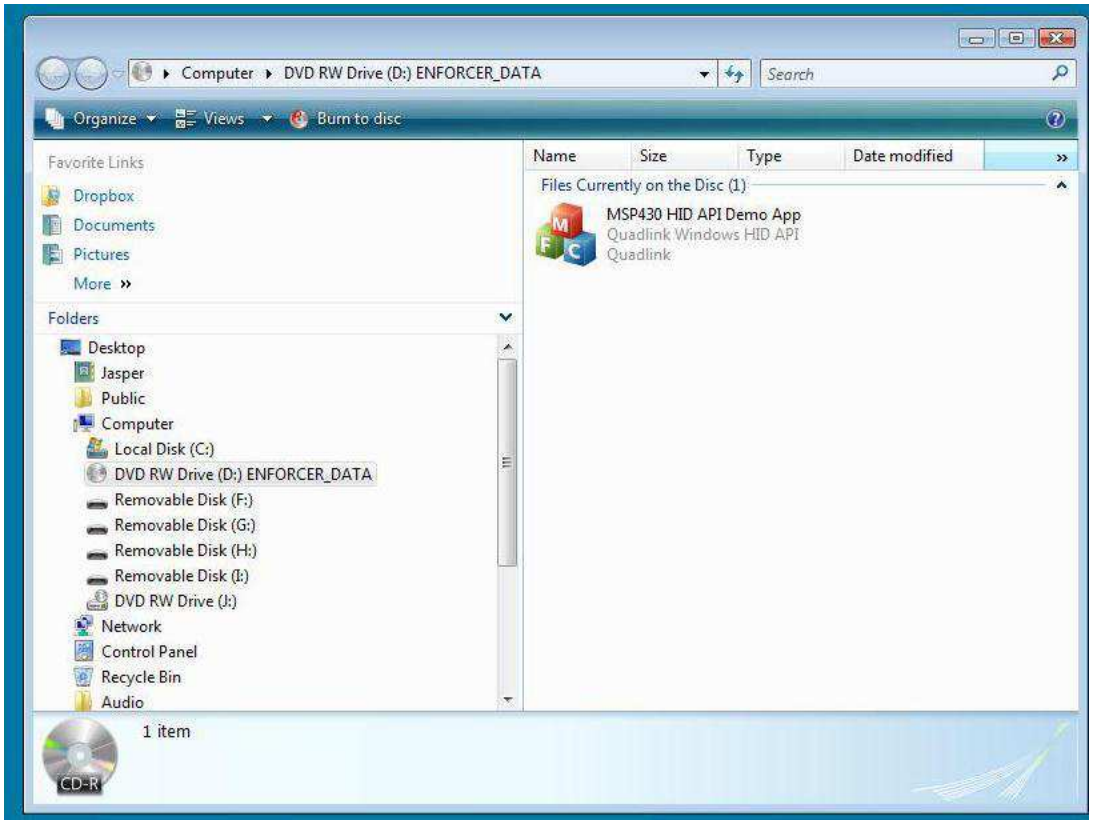
Caution
During **UI** pre-programming or evidence retrieval from the Phazzer® Enforcer, at any time the software flag Warning is indicating, “Data is now full”. Immediately retrieve evidence data and file in document folder for secure storage. If the memory is not cleared, and data storage is still full. Phazzer® Enforcer may not function. All efforts must be made to keep any and all data downloaded on a regular basis to assure proper operation.

Program Install and Operation of Wireless Data Port for PhaZZer Enforcer

Note 1: Do not plug-in USB data port before software is installed!

[A]

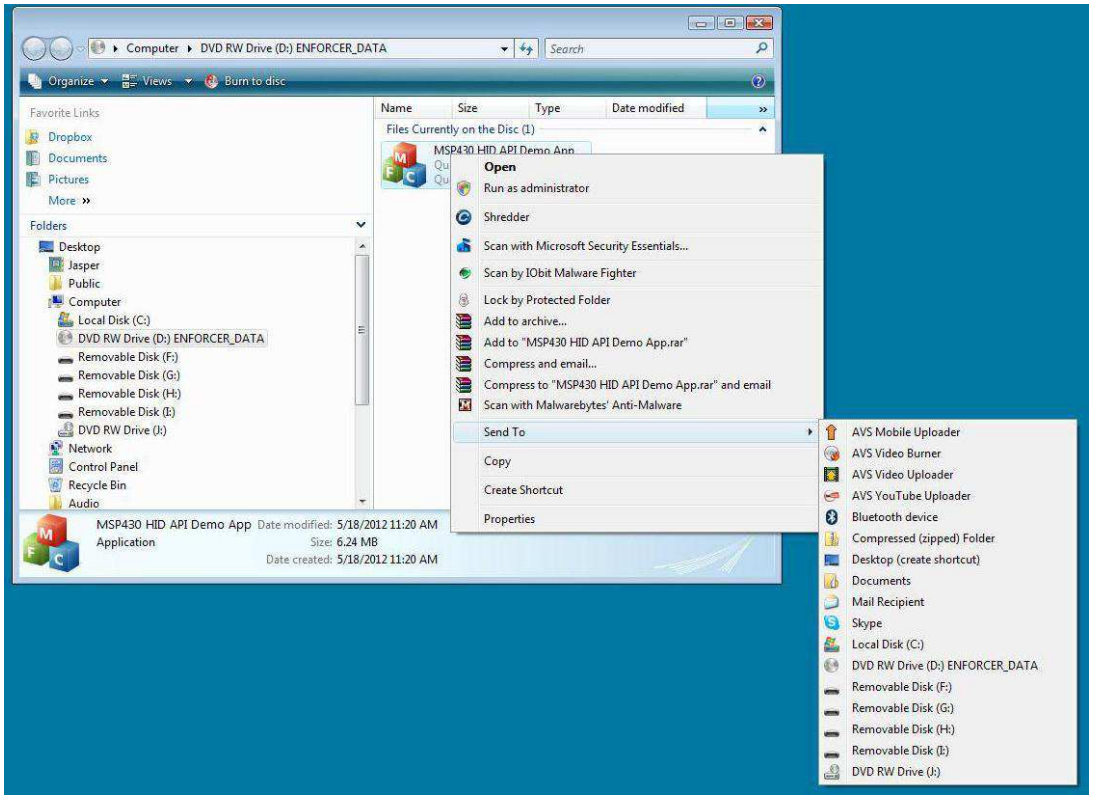
Data Port Program has been verified with Window Operating Systems XP, Vista and Windows 7. Install of program and operation did not show any signs of errors or trouble initially loading. If you have any trouble loading, or running the data port program. Turn off any anti-virus software or windows safety features (such as pop-up blockers) and try again.



[B]

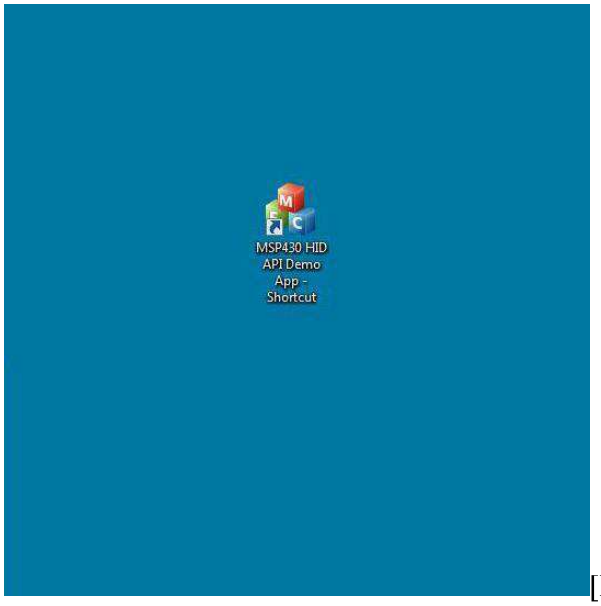
1: Install Software from CD disk onto Desktop or into Document Folder.

2: Install from CD by placing CD into disk reader / player and wait for the program to load.



[**C**]

3: Place mouse-pointer over program file and right mouse click to open. Now send / load program to where you won't to access it for later. Suggestions are Desktop or Personal Document Folder, or both.



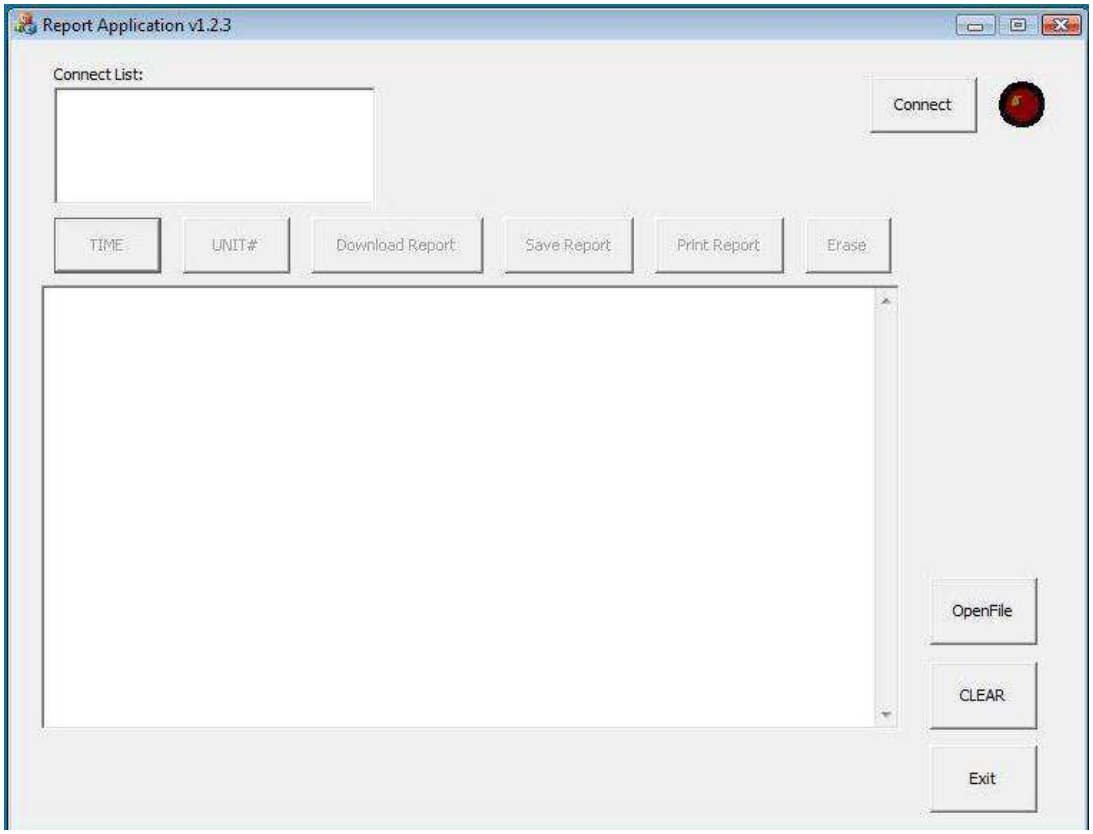
[**D**] Example showing Data Port Program on Desktop.

[**E**]

4: Now plug-in USB data port reader TC-100. Wait about thirty-seconds for drivers to find data port and load. You should see at bottom right "Windows looking, finding and acknowledging install is complete". If not, un-plug USB data port reader and reinstall once again. If Windows Operating System still cannot find data port reader, then find another USB port to plug-in and operate from.

Note 2: (orange) reset button on data port reader. This may assist in helping Windows Operating System to find data port reader. Only use if program locks-up, or cannot install properly. Otherwise this button is not necessary.

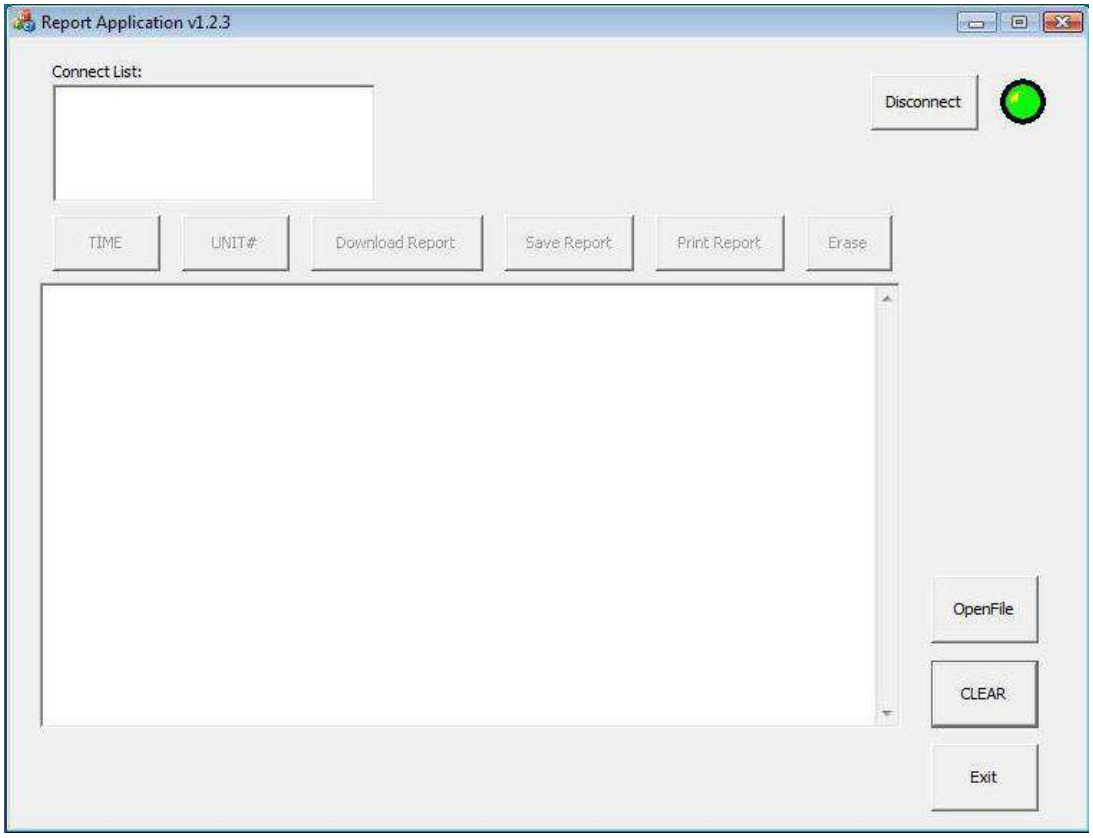
5: Now Double-click on Icon (Data Port Program) to begin operation. See [**D**] for Icon example.
Window below will open-up to begin after clicking on Icon. See [**F**]



[**F**]

6: Click on [CONNECT] button left of RED light for program to engage with data port reader.

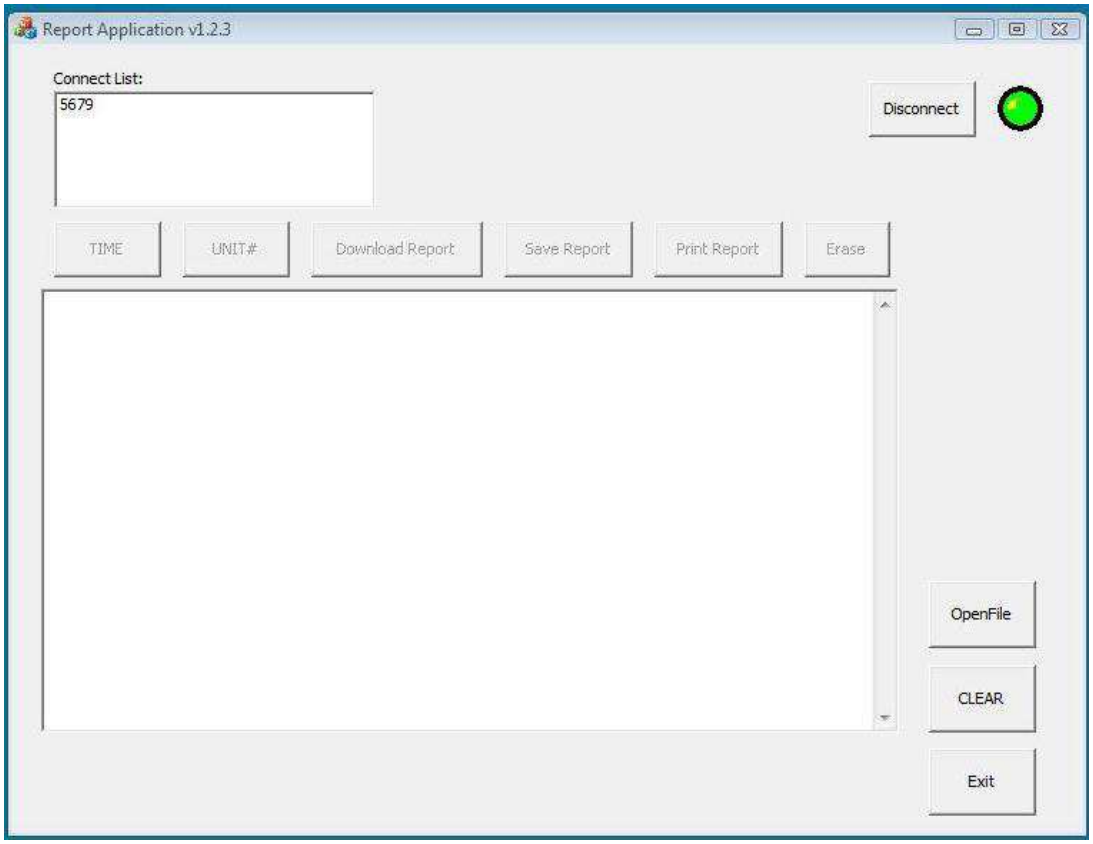
7: When program engages with data port reader, indicator light will turn "GREEN". When green light is lit, program and reader are working correctly and is ready for downloading data from PhaZZer Enforcer. See [**G**]



[**G**]

8: Turn on PhaZZer Enforcer and wait five-seconds for data port reader to communicate with Enforcer and show ID number of Enforcer in "Connect List" box. See [**I**].

[**H**] Showing Enforcer is on (Safety-up) and battery is charge and ready for download.



[**I**]

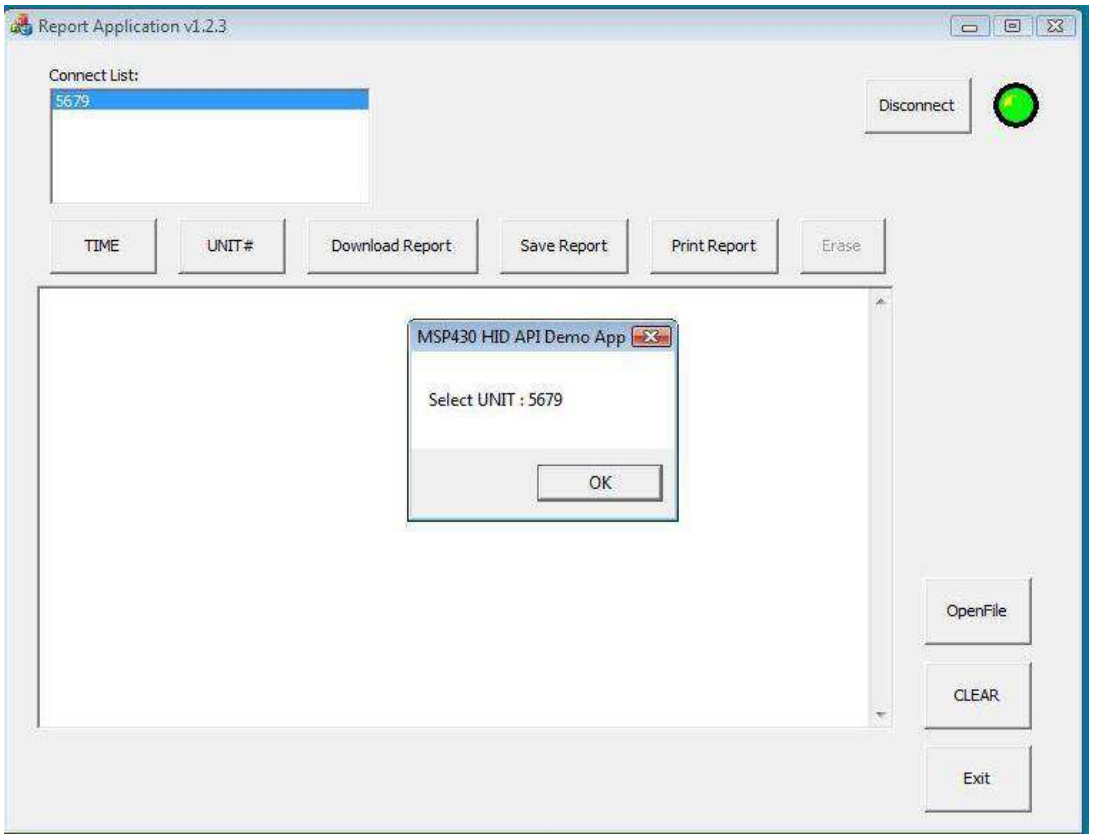
Note 3: Example being given has already been previously tagged with identification number #5679.
When ID number is showing in "Connect List" box, it is an indication that the system is working and communicating with the Enforcer. If Enforcer is new and needs initialized for a first time-setup. See - *Phazzer Enforcer Initialization Setup Instructions*.

Note 4: Avoid using zeros for ID tags. Use whole number like example giving to avoid software errors.

Note 5: Battery replacement:

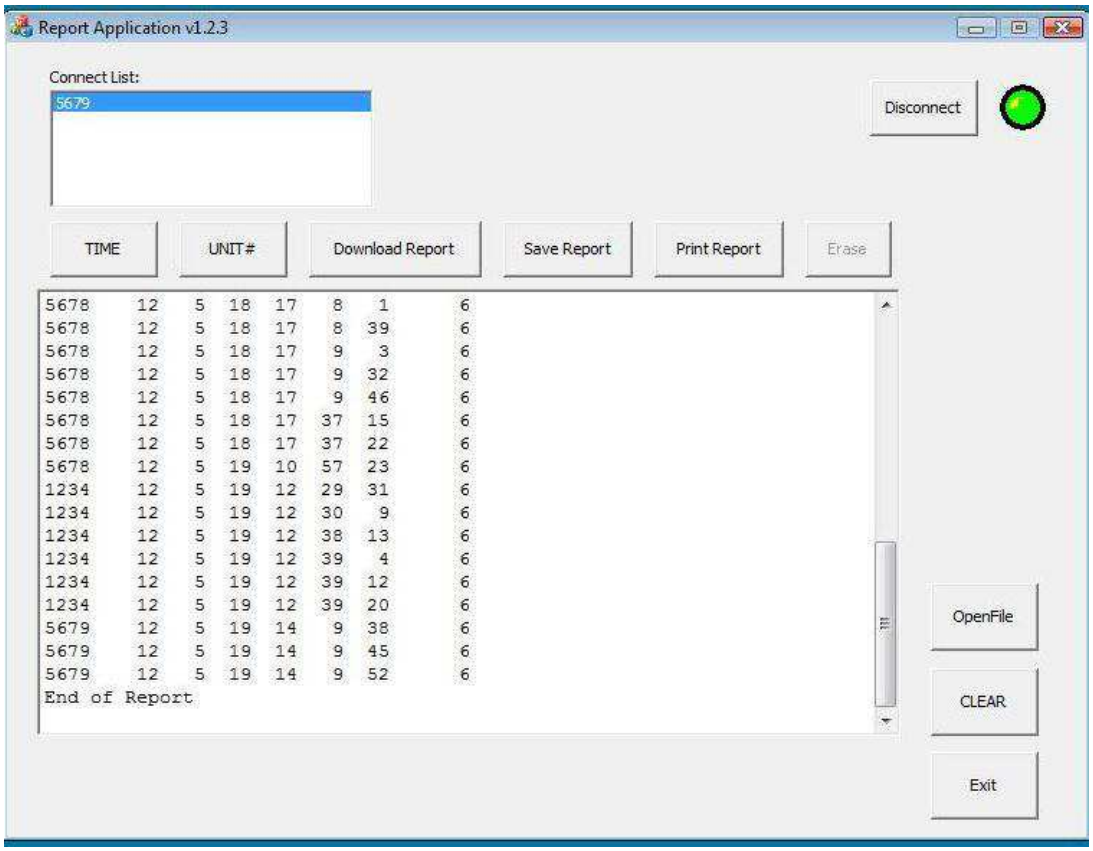
No stored data memory loss will occur during battery replacement or depleted battery charge. However, the timestamp in the Enforcer will be lost and needs to be reset if battery is disconnected or replaced. Observe function steps below for resetting timestamp. If during data download timestamp is lost or incorrect, then replace existing battery with only Phazzer Enforcer recommended replacement batteries.

9: Now double-click on [ID number] in "Connect List" box to start the first step of downloading. See [**J**]



[J]

10: Then click "OK" on [SELECT UNIT] #5679 to login.



[K]

11: Now click on [DOWNLOAD REPORT] to view data stored from past usage of Enforcer.
Note 6: When connection is made the blue-highlighted ID number will flicker; indicating communication is open with Enforcer and operating.

- When you click on [SAVE REPORT], it will save data to where program is stored. Example: If you placed data port program in a "Document Folder" then the stored data will be in that document location. Past data can be retrieved by clicking [OPEN FILE]. Past logged files will open up in Data Port window. If you need to copy data, you can cut and paste onto MS Word or MS Excel.

- [PRINT] Print Report will transfer data to your printer.

- [TIME] and [UNIT] buttons are for initial setup. Or changing of ID number of Enforcer.

- [OPEN FILE] Will show location and files saved data from past storage.

- [CLEAR] will clear window showing downloaded data.

- [EXIT] will end connection with ID of Enforcer being read.

- [DISCONNECT] will end communication with all Enforcers being read.

Information below in red is my test run. I will make a report of my test run and issue it.

<u>Data examples from past storage:</u>

Unit Number: 5679
Unit Clock: 12/5/26/ 8:15:48

Unit	Date		Time		Duration
1234	0	1	1 0	0 5	6
1234	12	5	18 16	9 28	6
1234	12	5	18 16	9 36	6
1234	12	5	18 16	9 43	6
5678	12	5	18 16	15 50	6
5678	12	5	18 16	16 25	6
5678	12	5	18 16	24 21	6
5678	12	5	18 16	24 30	6
5678	12	5	18 16	24 38	6
5678	12	5	18 16	45 47	6
5678	12	5	18 16	45 55	6
5678	12	5	18 16	46 2	6
5678	12	5	18 16	46 11	6
5678	12	5	18 16	47 39	6
5678	12	5	18 16	47 46	6
5678	12	5	18 16	47 53	6
5678	12	5	18 16	48 2	6
5678	12	5	18 16	57 22	6

5678	12	5	18	16	57	29	6
5678	12	5	18	16	57	35	6
5678	12	5	18	16	57	44	6
5678	12	5	18	17	7	38	6
5678	12	5	18	17	8	1	6
5678	12	5	18	17	8	39	6
5678	12	5	18	17	9	3	6
5678	12	5	18	17	9	32	6
5678	12	5	18	17	9	46	6
5678	12	5	18	17	37	15	6
5678	12	5	18	17	37	22	6
5678	12	5	19	10	57	23	6
1234	12	5	19	12	29	31	6
1234	12	5	19	12	30	9	6
1234	12	5	19	12	38	13	6
1234	12	5	19	12	39	4	6
1234	12	5	19	12	39	12	6
1234	12	5	19	12	39	20	6
5679	12	5	19	14	9	38	6
5679	12	5	19	14	9	45	6
5679	12	5	19	14	9	52	6
5679	12	5	26	6	55	43	6
5679	12	5	26	7	41	21	6
5679	12	5	26	7	41	37	6
5679	12	5	26	7	41	47	6
5679	12	5	26	7	44	8	6
5679	12	5	26	7	46	12	6
5679	12	5	26	7	46	19	6
5679	12	5	26	7	46	24	6

1. What is a data port.
Optional data port is for downloading and storing any recorded incident deployment information of the Phazzer Enforcer, to permanently document any electrical discharge trigger pulls of the Phazzer Enforcer in a timestamp format.

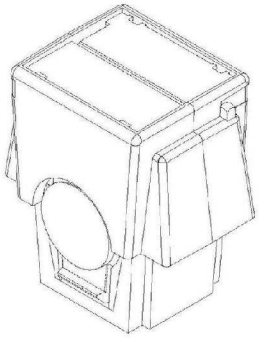
2. Why do we need it.
Recorded information can be stored and used as evidence-containing electro-dart energizes time duration data, as well as the time and date of use information. This storable retrievable information is useful for permanent evidence documentation of the Phazzer Enforcer that may be necessary for possible future legal implication requiring court actions.

3. Why is ours superior or different.
Phazzer Enforcer data port download operation offers wireless data transfer without cable operation. This wireless concept over other manufactures enables quick and easy access to stored information in the Phazzer Enforcer. One Phazzer Enforcer USB data port transceiver can download one thousand Phazzer Enforcers one at a time, or in multiple successions, thus saving time by viewing all Phazzer Enforcer data information within a thirty-foot radio range of the USB transceiver plug into a PC computer. Wireless data transfer also offers time and cost savings by avoiding disassembly and reassembly of battery compartments required by other competing CEW weapons during routine maintenance, safety checks and initial startup and identification registration. This disassembly of the battery compartment required by other manufactures can corrupt the operating program and stored data that is known to render their CEW inoperable and require service.

EXHIBIT “F”

United States of America

United States Patent and Trademark Office



Reg. No. 4,423,789

Registered Oct. 29, 2013

Int. Cl.: 13

TRADEMARK

PRINCIPAL REGISTER

TASER INTERNATIONAL, INC. (ARIZONA CORPORATION)
17800 NORTH 85TH STREET
SCOTTSDALE, AZ 85255

FOR: LAUNCHING DEVICES COMPRISING PROJECTILES IN THE NATURE OF WIRE TETHERED DARTS FOR USE WITH ELECTRONIC CONTROL DEVICES USED AS WEAPONS, IN CLASS 13 (U.S. CLS. 2 AND 9).

FIRST USE 1-31-1995; IN COMMERCE 1-31-1995.

THE MARK CONSISTS OF A THREE DIMENSIONAL CONFIGURATION OF GOODS WHICH INCLUDES AS PRINCIPAL FEATURES AN ANGLED, SUBSTANTIALLY RECTANGULAR FRONT PORTION THAT TAPERS DOWNWARD AT AN ANGLE SO THAT THE WIDTH OF THE FRONT PORTION GRADUALLY DECREASES IN SIZE FROM TOP TO BOTTOM, A CIRCULAR SHAPE ON THE FRONT CENTER, AND A SIDE SILHOUETTE HAVING A TRAPEZOIDAL SHAPE, HAVING LARGER FRONT THAN REAR VERTICAL DIMENSIONS, AND FLARING OUTWARD FROM TOP TO BOTTOM SO THAT THE SIDE SILHOUETTE EXTENDS AND FLARES GRADUALLY FARTHER OUTWARD FROM THE BASE BETWEEN THE TOP AND BOTTOM PORTIONS. THE DOORS APPEARING ON THE TOP, THE RECTANGULAR SHAPE BELOW THE CIRCLE, AND AN ELECTRICAL CONTACT NEAR THE TOP ARE DEPICTED WITH BROKEN LINES AS THESE ONLY SERVE TO SHOW THE POSITION OR PLACEMENT OF THE MARK.

SEC. 2(F).

SER. NO. 85-497,825, FILED 12-16-2011.

DEBORAH LOBO, EXAMINING ATTORNEY

UNITED STATES PATENT AND TRADEMARK OFFICE · DEPARTMENT OF COMMERCE

Deputy Director of the United States Patent and Trademark Office

REQUIREMENTS TO MAINTAIN YOUR FEDERAL TRADEMARK REGISTRATION

WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.

Requirements in the First Ten Years*
What and When to File:

First Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. *See* 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

Second Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.* *See* 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*
What and When to File:

You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or reminder of these filing requirements.

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the USPTO. The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. *See* 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. *See* 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see http://www.wipo.int/madrid/en/.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at http://www.uspto.gov.

Exhibit 2

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

TASER INTERNATIONAL, INC.,

Plaintiff,

v. Case No: 6:16-cv-366-Orl-40KRS

PHAZZER ELECTRONICS, INC.,

Defendant.
_____/

ORDER

This cause comes before the Court on Plaintiff's, Taser International, Inc. ("Taser"), Motion for Sanctions. (Doc. 174). Defendant, Phazzer Electronics, Inc. ("Phazzer") responded in opposition to the motion. (Doc. 178). After consideration and review, the Court finds that sanctions are appropriate in this case and grants Plaintiff's Motion for Sanctions and for a Permanent Injunction.

I. BACKGROUND

Plaintiff Taser International, Inc. filed this action for patent and trademark infringement, false advertising, and unfair competition against Defendant Phazzer on March 2, 2016. (Doc. 1). Taser filed its Amended Complaint on February 13, 2017, asserting the same causes of action. (Doc. 95). Since the outset of this litigation, Phazzer has engaged in a pattern of bad faith conduct designed and intended to delay, stall, and increase the cost of this litigation. Defendant Phazzer has repeatedly disregarded the Orders of this Court, and no sanction short of entry of a default judgment in favor of Taser, along with an award of compensatory and treble damages, an award of reasonable attorneys' fees and costs, and injunctive relief is adequate to address these violations.

A. Phazzer's Abusive Litigation Practices

On December 27, 2016, Taser filed a motion to compel the production of documents by Phazzer. (Doc. 72). Notwithstanding the execution of a confidentiality agreement, Phazzer refused to produce documents relevant to the design, manufacture, and sale of the allegedly infringing products. (*Id.*). Magistrate Judge Spaulding thereafter directed Phazzer to supplement its response to the motion to compel by "stating succinctly on a request-by-request basis whether it has possession, custody, or control over any documents responsive to each discovery request," and ordered Phazzer to submit a privilege log to support each privilege asserted. (Doc. 75). Taser filed a second motion to compel documents on February 20, 2017.[1] (Doc. 94). The Plaintiff asserted that the Defendant failed to produce documents reflecting sales of the allegedly infringing products, and produced a single page summary of sales along with heavily redacted invoices that made it impossible for Taser to identify customers. (*Id.*). Eight-days later, the Magistrate Judge entered an Order granting the motion to compel documents responsive to certain requests.[2] (Doc. 98).

On March 6, 2017, six-days after the Magistrate Judge entered the order granting the second motion to compel, Plaintiff filed its third motion to compel documents. (Doc. 99). Taser averred that "[a]lthough this case has been ongoing for nearly a year, TASER still has not received the most basic information regarding the details and relationships between Phazzer and its manufacturer/suppliers/distributors of the accused . . . [infringing] product." (*Id.*). Plaintiff did report, however, that Phazzer produced fifteen (15)

[1] The Amended Case Management and Scheduling Order established September 27, 2017, as the deadline for fact discovery. (Doc. 91, p. 3).
[2] An amended order was entered on February 20, 2017. (Doc. 112).

documents that identify a joint relationship between Phazzer, Double Dragon Development and Trading Corporation, and Sang Min. (*Id.*). The translated document was attached to the motion to compel and demonstrates a joint relationship contrary to Phazzer's prior representations about their relationship. (Doc. 99-1). Accordingly, Taser propounded requests for production designed to ascertain the extent of the relationship between Phazzer and the nonparties. (Doc. 99, pp. 3-4). The requests were served January 19, 2017, and Phazzer did not object nor did they respond to the discovery requests. (*Id.* at p. 4). The Magistrate Judge granted Plaintiff's Third Motion to Compel. (Doc. 120). This time the Court Ordered Phazzer's counsel and corporate representative to verify the discovery response. (*Id.* at pp. 2-3).

On May 19, 2017, Taser requested a discovery conference before the Court to resolve disputes as to deposition scheduling. (Doc. 135). The Plaintiff represented to the Court that "[e]very one of the handful of critical witnesses associated with Phazzer, a small, closely-held company, are represented to be on vacation, out of the country, in surgery, or convalescing." (*Id.* at p. 1). As of the filing of the motion for a discovery conference, Taser had been attempting to schedule depositions for five (5) months. (*Id.*). A discovery conference was set for May 26, 2017. (Docs. 136, 137). The Court instructed the parties to confer in advance of the discovery conference to agree upon the identity and availability of potential deponents. (Doc. 137). On June 15, 2017, the Magistrate Judge entered an Order setting dates for the deposition of Phazzer's Rule 30(b)(6) representative, and the depositions of five fact witnesses. (Doc. 152). The Court further ordered the parties and their counsel to attend the Technology Tutorial scheduled before the undersigned on June 19, 2017. (*Id.* at p. 2). The parties were cautioned that failure to

comply with that Order may result in the imposition of sanctions, including entry of default judgement against the Defendant. (*Id.*). The day the Court entered that Order, counsel for Phazzer moved to withdraw, (Doc. 153), and the Court denied the motion. (Doc. 155).

On June 19, 2017, the undersigned presided over the technology tutorial and observed that the corporate representative for Phazzer was not in attendance, in clear violation of Magistrate Judge Spaulding's Order. (Doc. 158). On June 21, 2017, counsel for Taser reported to the Court that Defendant Phazzer Electronics, Inc.'s corporate representative failed to appear at the scheduled deposition. (Doc. 161). Likewise, neither Mr. Brandon Womack nor Jason Abboud, a licensed attorney, appeared for their scheduled depositions. (*Id.*). On June 22, 2017, Magistrate Judge Spaulding scheduled a hearing to address the Renewed Motion to Withdraw as Counsel filed by Phazzer's attorney. (Doc. 164). The Court specifically ordered that a representative of Phazzer Electronics must attend the hearing, cautioning that "**[f]ailure to comply with this Order may result in imposition of sanctions, including entry of a default or default judgment against the offending party or counsel.**" (*Id.* at p. 2) (emphasis in original). No representative from Phazzer Electronics attended the hearing in clear violation of the Court's Order. (Doc. 172).

In addition to the flagrant discovery abuse and contemptuous behavior exhibited by Phazzer, the Plaintiff details in their Motion for Sanctions the numerous attempts by Phazzer to derail this litigation by repeatedly attempting to stay the proceedings, (Doc. 174, p. 3), and by filing a last minute emergency motion for a protective order. (*Id.*).

Similarly, Phazzer objected to the Plaintiff's discovery requests based on its proceedings with the USPTO, despite the Court ruling that these objections were

meritless.[3] Phazzer also objected to discovery on the basis of Local Rule 3.05(c)(2)(B), even after the Court denied this objection in its Order granting Taser's first Motion to Compel. (Doc. 98). All of this misconduct rightly caused Magistrate Judge Spaulding, in denying Defendant's motion to stay the case, to remark that "it appears that Phazzer, with the assistance of its counsel, is attempting in bad faith to further delay this litigation." The undersigned agrees with Judge Spaulding's assessment of the Defendant's intentional obstructionist behavior.

II. LEGAL STANDARD

Rule 37 allows district court judges broad discretion to fashion appropriate sanctions for the violation of discovery orders. *Malautea v. Suzuki Motor Co.*, 987 F.2d 1536, 1542 (11th Cir. 1993). This Rule allows for sanctions when a party fails to comply with a discovery order or fails to attend its own deposition. *See* Fed. R. Civ. P. 37(b)(2)(A), (d)(1)(A)(i). For both of these offenses, the Rule authorizes a variety of sanctions, such as, striking pleadings, rendering a default judgment, and holding the disobeying party in contempt of court. *Id.* at 37(b)(2)(A)(iii), (vi), (vii); 37(d)(3). *See also United States v. Certain Real Prop. Located at Route 1, Bryant*, 126 F.3d 1314, 1317 (11th Cir. 1997). Furthermore, Rule 37 provides that "the court must order the disobedient party, attorney advising that party, or both to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the failure was substantially justified or other circumstances make an award of expenses unjust." Fed. R. Civ. P. 37(b)(2)(C), (d)(3); *See also Alyeska Pipeline Serv. Co. v. Wilderness Soc'y*, 421 U.S. 240, 258 (1975). The Supreme Court

[3] For Phazzer's motions to stay the case, see Docs. 41, 44, 57, 104, 139 and 150. For Phazzer's meritless objections to the discovery requests, see Docs. 20, 45, 57 and 104.

has also held that the intent behind Rule 37 sanctions is both "to penalize those whose conduct may be deemed to warrant such a sanction, [and] to deter those who might be tempted to such conduct in the absence of such a deterrent." *Roadway Exp., Inc. v. Piper*, 447 U.S. 752, 763–64 (1980) (quoting *National Hockey League v. Metropolitan Hockey Club, Inc.*, 427 U.S. 639,643 (1976) (per curiam). This deterrence is necessary because "it is not the court's function to drag a party kicking and screaming through discovery." *Telectron, Inc. v. Overhead Door Corp.*, 116 F.R.D. 107, 134 (S.D. Fla. 1987).

Specifically, the sanction of default is seen as a "last resort" but a party's "willfull or bad faith disregard" for discovery orders may call for this type of sanction especially in cases where the party failed to comply with a court order compelling discovery and warning that the failure to comply might result in a default judgment. *See Certain Real Prop. Located at Route 1*, 126 F.3d at 1317–18; *See also BankAtlantic v. Blythe Eastman Paine Webber, Inc.*, 12 F.3d 1045, 1050 (11th Cir. 1994). Bad faith may be found through "delaying or disrupting the litigation or hampering enforcement of a court order." *Eagle Hosp. Physicians, LLC V. SRG Consulting, Inc.*, 561 F.3d 1298, 1306 (11th Cir. 2009). The Court finds that Defendant Phazzer engaged in the above-described misconduct with the subjective intent to abuse the judicial process. *Purchasing Power, LLC v. Bluestem Brands, Inc.*, 851 F.3d 1218, 1223-24 (11th Cir. 2017) ("The key to unlocking a court's inherent power is a finding of bad faith.").

B. Sanctions

Based upon the Defendant's egregious conduct, which was undertaken in bad faith, **IT IS ORDERED AND ADJUDGED AS FOLLOWS:**

1. The Court Strikes Phazzer's pending Motion to Dismiss the Amended Complaint (Doc. 104), filed on March 10, 2017;

2. The Court hereby enters default in favor Taser and against Phazzer on all claims set forth in the Amended Complaint. (Doc. 95);

3. The Court awards compensatory damages in an amount to be determined in accordance with an expedited briefing and hearing schedule;

4. The Court will award treble damages for Defendant's willful infringement of the '262 patent and willful false advertisement once the compensatory damages have been established;[4]

5. The Court awards Taser International, Inc. its attorneys' fees and costs pursuant to 35 U.S.C. § 285, 15 U.S.C. § 1117(a), as sanctions for Phazzer's bad faith conduct, in an amount to be determined in accordance with an expedited briefing and hearing schedule, and

6. The Court enters an immediate permanent injunction discussed more fully below.

The Court finds the imposition of these sanctions to be necessary to adequately punish Phazzer for its wanton and repetitive disregard of this Court's orders and as a

[4] Taser's Amended Complaint alleges Phazzer's infringement of the '262 Patent was willful. *Halo Electronics, Inc. v. Pulse Electronics, Inc,* 136 S. Ct. 1923 (2016) (Enhanced damages under patent law "should generally be reserved for egregious cases typified by willful misconduct."). Similarly, Taser alleged that Phazzer intentionally engaged in false advertising. *Vector Products, Inc. v. Hartford Fire Ins.*, 397 F.3d 1316 (11th Cir. 2005) (Treble damages under the Lanham Act requires proof of intent or knowledge of falsity.). Plaintiff's allegations are accepted as true by virtue of the default judgment. Hence, treble damages are warranted in this case.

consequence of its willful abuse of the discovery process. The imposition of lesser sanctions would underrepresent the seriousness of the offensive conduct.

C. Permanent Injunction

A party seeking a permanent injunction must demonstrate:

> (1) that is has suffered an irreparable injury;
>
> (2) that remedies available at law, such as monetary damages, are inadequate to compensate for that injury;
>
> (3) that, considering the balance of hardships between plaintiff and defendant, a remedy in equity is warranted; and
>
> (4) that the public interest would not be disserved by a permanent injunction.

Apple Inc. v. Samsung Electrs Co., 809 F.3d 633, 639 (Fed. Cir. 2015). Historically, the courts have "granted injunctive relief upon a finding of infringement in the vast majority of patent cases." *Id.* (citing *eBay Inc. v. MercExchange, L.L.C.*, 547 U.S. 388, 395 (2006)). In the instant case, the entry of default against Phazzer establishes the existence of an irreparable injury; that is, the default satisfies the first *eBay* factor by showing a "causal nexus relates the alleged harm to the alleged infringement." *Id.* (citing *Apple Inc*, 695 F.3d at 1374). The Court finds monetary damages are inadequate to compensate for the infringement of the Taser patent, and considering the balance of harms between Taser and the infringing party—Phazzer—a permanent injunction is warranted. Simply put, an infringing party has no right to continue its wrongful acts, absent a compelling public interest which is absent in this case.

1. *Scope of the Permanent Injunction: nonparties*

Generally, due process prohibits an injunction that enjoins persons who have not participated in the suit and have acted independent of the parties of the suit. *See Additive*

Controls & Measurement Sys., Inc. v. Flowdata, Inc., 96 F.3d 1390, 1394-95 (Fed. Cir. 1998) (*"Adcon I"*). Federal Rule of Civil Procedure 65(d) provides an exception to this prohibition, allowing courts to enter an injunction which binds the following:

> (A) the parties;
>
> (B) the parties' officers, agents, servants, employees, and attorneys; and
>
> (C) other persons who are in active concert or participation with anyone described in Rule 65(d)(2)(A) or (B).

The plain text of subsection (d) limits its application to non-parties who either "abet the [enjoined] defendant, or are legally identified with him." *Additive Controls & Measurement Sys., Inc., v. Flowdata, Inc.*, 154 F.3d 1345, 1351 (Fed. Cir. 1998) (*"Adconir"*). When the nonparty is not in legal privity with the party subject to the permanent injunction, the court must find by clear and convincing evidence that the nonparty "acted in concert" with the party "in a scheme to allow … [the party] to continue: activities "in violation of the injunction" *Travelhost, Inc. v. Blandford*, 68 F.3d 958, 962 (5th Cir. 1995). Therefore, Rule 65(d) provides that nonparties in can be bound by an injunction or face contempt for assisting a named party's violation of an injunction. *Adcon I*, 96 F.3d at 1395.

In *Forest Laboratories, Inc. v. Ivax Pharmaceuticals, Inc.*, 501 F.3d 1263, 1272 (Fed. Cir. 2007), the Court ruled the district court properly included a commercial manufacturer of an accused generic drug in its injunction order against the planned seller of the drug who submitted the infringing product, since by manufacturing the infringing drug with knowledge of the patent, the manufacturer would be inducing infringement of the patent. The Court reasoned that "[a]n inquiry into induced infringement focuses on the party accused of inducement as the prime mover in the chain of events leading to infringement . . . . Under the standards for inducement which we apply to 35 U.S.C.A. §

271(b), . . . it was thus not inappropriate for the district court to include [the manufacturer] within the scope of the injunction."[5] A manufacture is but one example of an entity which acts in concert with the enjoined party. While this Court lacks the authority to specifically name Double Dragon Development and Trading Corporation, Sang Min International Company, LTD, and Scott Hensler in the injunction, it is clear that nonparties who assist the enjoined party in violating the injunction may be held in contempt by this Court.

2. *The Enjoined Conduct and Products*

Taser brought suit, in part, to address the infringement of its patent 7,234,262 ("the '262' patent"). (Doc. 95, ¶ 17). Taser averred in its Amended Complaint that the Phazzer Enforcer infringes at least claim 13 of the '262 Patent.[6] (*Id.* ¶ 27). The crux of Taser's infringement allegations is that "Phazzer's Enforcer CEWs include non-volatile memory that stores information regarding the weapon's past use. The stored information appears to record the date and time of each operation of the trigger and the duration of the stimulus signal provided by the Enforcer." (*Id*. at ¶ 29). Claim 13 of the '262 Patent states:

> An apparatus for causing involuntary contractions of skeletal muscles of a human or animal target, the apparatus comprising:
>
> A circuit having a microprocessor that is
>
> (1) programmed to track date and time;
>
> (2) programmed to initiate a high voltage pulsed current from the circuit, and
>
> (3) programmed to record tracked date and time in accordance with each initiation of the current, wherein

[5] In *Forest Laboratories, Inc.*, the manufacturer was a named party who had appeared in the litigation which allowed the court to name the manufacturer in the injunction.
[6] Taser further alleged "upon information and belief" that Phazzer product also infringed "other claims of the 262 Patent," without specifying the infringed claims. (Doc. 95, ¶ 27).

> the current launches a provided wire-tethered dart toward the target to conduct the current through the target and, when passing through the target, causes involuntary contractions of skeletal muscles of the target.

(Doc. 95-2, Column 8, Line 58 through Column 9, Line 13).

3. *The Permanent Injunction*

In that a default judgment has been entered in favor of Plaintiff, the Court finds that the Phazzer Enforcer CEW violates claim 13 of the '262 patent. Therefore, **IT IS ORDERED AND ADJUDGED THAT**:

1. Taser's U.S. Patent No. 7,234,262, titled "Electrical Weapon Having Controller for Timed Current Through Target and Date/Time Recording" issued June 26, 2007, is deemed valid, enforceable, and infringed by Phazzer. Specifically, the Phazzer Enforcer CEW violates claim 13 of the '262 patent.

2. Phazzer and its officers, agents, servants, employees, and attorneys; and any other persons who are in active concert or participation with Phazzer or its officers, agents, servants, employees, or attorneys, are hereby enjoined from:

a. Making or causing to be made,

b. Using or causing to be used,

c. Offering for sale, or causing to be offered for sale,

d. Selling or causing to be sold,

e. Donating or causing to be donated,

f. distributing or causing to be distributed,

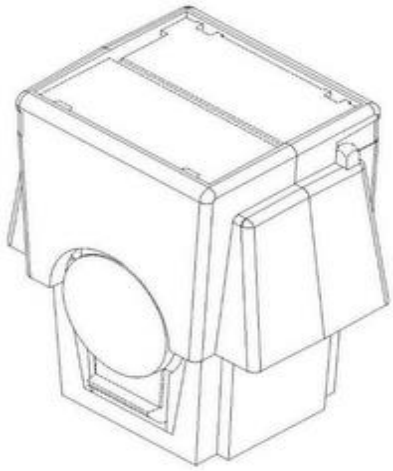
g. Importing or causing to be imported,

h. Exporting or causing to be exported

the Phazzer Enforcer CEW, and any other conducted electrical weapon ("CEW") or device which infringed upon claim 13 of the '262 Patent, and any device not colorably different from the Enforcer CEW. The effect of this injunction shall continue through October 14, 2019, the expiration of the '262 Patent.

D. Permanent Injunction Trademark – '789 Registration

Taser is the owner of a federal trademark registration. Registration No. 4,423,789, issued by the United States Patent and Trademark Office on October 29, 2013, for the non-functional shape, as show below, of cartridges used to launch darts ("Taser Trademark"). (Doc. 95, ¶ 36).



Taser averred in their Amended Complaint that Sang Min and/or Double Dragon manufacture CEW cartridges for Phazzer that bear a confusingly similar shape to the Taser Trademark. (*Id.* ¶ 38). Furthermore, Phazzer sells via E-commerce several versions of cartridges that bear a confusingly similar shape to the shape of the Taser Trademark. (*Id.* ¶ 39). Such conduct by Phazzer is likely to deceive, confuse, and mislead prospective purchasers into believing that cartridges sold by Phazzer are manufactured by, authorized by, or are associated with Taser, resulting in irreparable harm to the

goodwill symbolized by the Taser Trademark and Taser's reputation for quality. (*Id.* at ¶ 43).

Accordingly, the Court finds that a permanent injunction is warranted, because Taser has suffered irreparable injury, remedies available at law to include monetary damages are inadequate to compensate for the injury, and the balance of hardships leads the Court to conclude that a remedy in equity is warranted. The public interest would not be disserved by a permanent injunction, because law enforcement agencies are able to fulfill their need to non-lethal weapons by purchasing such devices from Taser, as opposed to being the recipient of an infringing device.

Therefore, **IT IS ORDERED AND ADJUDGED THAT:**

1. Taser's U.S. Trademark Registration No. 4,423,789, issued on October 29, 2013, for the non-functional shape of cartridges used to launch darts, is deemed valid and enforceable, not generic, functional, or merely descriptive, and infringed by Phazzer.

2. Phazzer and its officers, agents, servants, employees, and attorneys; and any other persons who are in active concert or participation with Phazzer or its officers, agents, servants, employees, or attorneys, are hereby enjoined from:

a. Making or causing to be made,

b. Using or causing to be used,

c. Offering for sale, or causing to be offered for sale,

d. Selling or causing to be sold,

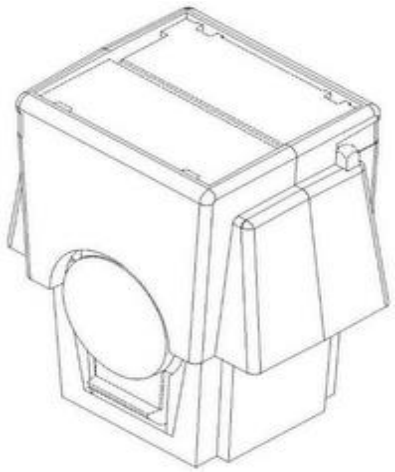
e. Donating or causing to be donated,

f. distributing or causing to be distributed,

g. Importing or causing to be imported,

h. Exporting or causing to be exported

Phazzer product numbers 1-DC15, 1-DC21, 1-DC25, 1-DC21-SIDT, 1-PB30, 1-PB8F, 1-PB15943, 1-RB30, 1-PA30, 1-LOWIMPT2015, or any other CEW cartridge that is confusingly similar or not more than a colorable imitation of the cartridge shown in the '789 Registration and below:



3. Phazzer cartridges currently marketed and sold as compatible with TASER® brand CEWs embody the protected appearance, are confusingly similar, and constitute infringing products enjoined under this Order.

4. Phazzer shall not challenge or continue to challenge the validity or enforceability of the '789 Registration in any manner in any forum, including the USTPO.

5. Phazzer is further enjoined from directing or causing any of its employees, officers, agents, servants, and attorneys, and other persons who are in active concert or participation with Phazzer's employees, officers, agents, servants, and attorneys, to perform any prohibited act set forth in paragraph 2, page 11 of this order (pertaining to the '262 Patent), paragraph 2, page 13 of this order (pertaining to the '789 Registration), or paragraph 4 above that Phazzer cannot itself perform under this injunction.

6. This Court retains jurisdiction to enforce the injunctions set forth herein, to include the commencement of contempt proceedings if warranted.

DONE AND ORDERED in Orlando, Florida, on July 21, 2017.

PAUL G. BYRON
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record
Unrepresented Parties