

**UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
OFFICE OF ADMINISTRATIVE LAW JUDGES**

In the Matter of

Axon Enterprise, Inc.,  
a corporation,

and

Safariland, LLC,  
a partnership,

Respondents.

Docket No. 9389

**NON-PARTY PANASONIC i-PRO SENSING SOLUTIONS CORPORATION OF  
AMERICA’S UNOPPOSED MOTION FOR *IN CAMERA* TREATMENT**

Pursuant to 16 C.F.R. § 3.45(b), non-party Panasonic i-PRO Sensing Solutions Corporation of America (“PIPSA”) respectfully moves for *in camera* treatment of eight competitively sensitive business documents (“Confidential Documents”) produced by PIPSA and Panasonic Corporation of North America (“Panasonic”)<sup>1</sup> in response to subpoenas *duces tecum* served by respondent Axon Enterprise, Inc. (“Axon”) and the Federal Trade Commission (“FTC”), as well as portions of two declarations (the “Declarations”) submitted to the FTC by PIPSA as part of the FTC’s investigation in this matter.

Counsel for Axon and counsel for the FTC notified counsel for PIPSA and counsel for Panasonic that they intend to introduce the Confidential Documents and Declarations into evidence at the administrative trial of this matter. *See* Pastore Email to PIPSA [9-11-20],

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<sup>1</sup> PIPSA was formerly part of Panasonic but became an independent entity in October 2019. In connection with this transaction, Panasonic and PIPSA executed a transition services agreement whereby Panasonic maintained possession and managed certain records belonging to PIPSA. Panasonic was also sent a subpoena for its records and it produced certain records in its possession that belong to PIPSA. Accordingly, PIPSA’s motion covers all documents belonging to it, whether in the possession of PIPSA or Panasonic.

attached hereto as Exhibit A; Pastore Email to Panasonic [9-11-20], attached hereto as Exhibit B; Bryan Email to PIPSA [9-12-20], attached hereto as Exhibit C; Bryan Email to Panasonic [9-12-20], attached hereto as Exhibit D.)

The Confidential Documents contain confidential business information, including customer lists, bid data, sales data, pricing information, strategic business plans. PIPSA would suffer serious competitive injury if these documents were publicly disclosed. In support of this motion, PIPSA relies upon the declaration of Jack Marks, Director of Corporate Planning & I.T. Infrastructure, which is attached hereto as Exhibit E. PIPSA’s counsel notified counsel for the FTC and counsel for Axon that it intended to file this motion, and neither party objects.

**I. The Documents for Which Protection Is Sought**

At the time that the subpoenas were served, Axon and FTC provided a copy of the January 6, 2020 protective order (the “Order”) that was entered in this case. Pursuant to the Order, PIPSA identified certain documents that contained confidential material, as that term is defined by the Order, and marked those documents as confidential at the time of production. Each of the documents for which PIPSA seeks *in camera* treatment have been previously marked as confidential or were produced in redacted form. PIPSA seeks *in camera* treatment of the following documents, copies of which are attached:

Tr. Ex. Number	Date	BegBates	EndBates	Description	Motion Ex.
PX50016	4/5/19	PIPSA0000359	PIPSA0000387	Presentation: Executive Meeting Group PSI Security	F
PX50057	2/7/19	PIPSA0000159	PIPSA0000179	Presentation: Executive Meeting Group PSI Security	G
PX50130	9/6/19	PIPSA0000490	PIPSA0000518	Presentation: Executive PSI	H

				Meeting Security Group	
PX50133		Panasonic_000004	Panasonic_000004	Spreadsheet: BWC Sales-Out Summary (Distributor Reseller)	I
PX50134		PIPSA0000091	PIPSA0000091	Document: Document Infor PIPSA0000091 – Confidential/xlsx	J
PX60004	9/17/19	PX60004-001	PX60004-004	Document: Declaration of Paul Bazzano made pursuant to 28 U.S.C. § 1746	K
PX61001	3/20/20	PX61001-001	PX61001-002	Declaration of Paul Bazzano made pursuant to 28 U.S.C. § 1746	L
		Panasonic_000001	Panasonic_000001		M
		Panasonic 000003	Panasonic 000003		N
		PIPSA0000531	PIPSA0000531		O

## II. Disclosure of the Confidential Documents Would Cause Serious Injury to PIPSA

“There can be no question that the confidential records of businesses involved in Commission proceedings should be protected insofar as possible.” *H.P. Hood & Sons, Inc.*, 58 F.T.C. 1184, 1184 (1961). Under Rule 3.45(b), *in camera* treatment of documents is appropriate if “public disclosure will likely result in a clearly defined, serious injury to the person, partnership, or corporation requesting *in camera* treatment.” 16 C.F.R. § 3.45(b). In determining whether documents and information are sufficiently secret and material that disclosure would result in serious competitive injury, several factors should be considered: (1) the extent to which the information is known outside the business; (2) the extent to which it is known by employees and others involved in the business; (3) the extent of measures taken to guard the secrecy of the information; (4) the value of the information to the business and its competitors; (5) the amount of effort or money expended in developing the information; and (6) the ease or difficulty with

which the information could be acquired or duplicated by others. *In re Bristol-Myers Co.*, 90 F.T.C. 455, 456-457 (1977); *see* 16 C.F.R. § 3.45(b).

Each of these documents contain information that, if placed in the public domain, would result in significant competitive injury. Exhibits F, G, and H, which are each Executive Group Meeting PowerPoint presentations from 2019, contain non-public information relating to sales, margins, projections, strategic market assessments, market challenges and risks, and potential opportunities. (Marks Decl. [Ex. E], at ¶4.) If this information were released to the public, competitors would learn PIPSA long-term market strategies and self-assessment of its strengths and weaknesses, thereby permitting them to unfairly compete with PIPSA. PIPSA accordingly requests that these documents be maintained *in camera* for a period of 5 years. (*Id.*)

Exhibits I, J, M, N, and O are each spreadsheets that identify and detail PIPSA's customers, sales history, pricing, competitively sensitive comments regarding customer strategy and product performance, and bidding results and expectations. (*Id.* at ¶6.) If this information were released to the public, competitors could learn non-public information about PIPSA's bidding strategies, product strengths and weaknesses, pricing, and the identity of customers that are not known or publicly available. (*Id.*) PIPSA accordingly requests that these documents be maintained *in camera* for a period of five years.

Exhibits K-L are declarations from a former PIPSA employee. At the time these declarations were provided, portions were redacted to ensure the confidentiality of certain information relating to PIPSA's product development and sales and marketing strategy. PIPSA has been able to establish a presence in the market using these and similar strategies, and it could suffer competitive harm in the event that any of this information were disclosed. (*Id.* at ¶7.)

PIPSA accordingly requests that the unredacted versions of Exhibits K and L be maintained *in camera* for a period of five years.

The *Bristol-Myers* factors weigh in favor of *in camera* treatment of the Confidential Documents. PIPSA strictly adheres to a comprehensive information security policy that includes policies concerning passwords, physical access, network security, and cryptographic controls. (*Id.* at ¶5.) PIPSA safeguards the confidentiality of the Confidential Documents and the confidential information in the Declarations. (*Id.* at ¶8.) The Confidential Documents contain competitively sensitive business information, including pricing information, bid data, customer lists, and internal strategies and business plans. PIPSA does not share this information with competitors or customers because of its commercial sensitivity. Moreover, PIPSA expended substantial resources, both in time and expenses, to generate this information, and disclosing it to PIPSA's competitors would put PIPSA at a disadvantage in the market. (*Id.*)

Further, PIPSA's standing as a third party lends additional weight to its request for *in camera* treatment of its confidential business records. Third-party documents should be treated with special attentiveness in connection with requests for *in camera* treatment. *See In re Kaiser Aluminum & Chem. Corp.*, 103 F.T.C. 500, 500 (1984) ("As a policy matter, extensions of confidential or *in camera* treatment in appropriate cases involving third party bystanders encourages cooperation with future adjudicative discovery requests."). PIPSA complied with discovery requests from the FTC and Axon with the understanding that the Confidential Documents would remain confidential. The serious competitive injury that PIPSA would suffer from disclosure outweighs any interest in disclosing PIPSA's confidential business information to the public. *See id.* at 500 (granting *in camera* treatment in part because the "public

understanding of this proceeding does not depend on access to these data submitted by these third party firms”).

Thus, *in camera* treatment of the Confidential Documents is warranted, and five years is a reasonable period to maintain the confidentiality of sensitive business information relating to pricing, strategy, and customer data belonging to a third-party competitor who is not a party to this transaction or proceeding.

### III. Conclusion

For all the foregoing reasons and those set forth in the Marks Declaration (Ex. E), PIPSA respectfully requests that this motion be granted and that the Confidential Documents be afforded *in camera* treatment for a period of five years.

Dated: September 23, 2020

Respectfully submitted,

/s/ Matthew David Ridings

Matthew David Ridings  
Mark Randal Butscha, Jr.  
**THOMPSON HINE LLP**

3900 Key Center  
127 Public Square  
Cleveland, Ohio 44114  
Phone: 216.566.5500  
Fax: 216.566.5800

[Matt.Ridings@ThompsonHine.com](mailto:Matt.Ridings@ThompsonHine.com)

[Mark.Butscha@ThompsonHine.com](mailto:Mark.Butscha@ThompsonHine.com)

*Counsel for Non-party Panasonic i-PRO  
Sensing Solutions Corporation of America*

## STATEMENT REGARDING MEET AND CONFER

The undersigned certifies that counsel for PIPSA notified counsel for the parties that it would be seeking *in camera* treatment of the Confidential Documents. Both counsel for the FTC and counsel for Axon indicated they would not object to PIPSA's motion.

Dated: September 23, 2020

/s/ Matthew David Ridings

Matthew David Ridings  
Mark Randal Butscha, Jr.  
**THOMPSON HINE LLP**  
3900 Key Center  
127 Public Square  
Cleveland, Ohio 44114  
Phone: 216.566.5500  
Fax: 216.566.5800  
[Matt.Ridings@ThompsonHine.com](mailto:Matt.Ridings@ThompsonHine.com)  
[Mark.Butscha@ThompsonHine.com](mailto:Mark.Butscha@ThompsonHine.com)

## CERTIFICATE OF SERVICE

I hereby certify that on September 23, 2020, I filed a copy of the foregoing motion and related materials electronically using the FTC's e-filing system. I also served a copy of the foregoing motion and related materials to the following via electronic mail:

D. Michael Chappell  
Chief Administrative Law Judge  
oalj@ftc.gov

Secretary's Office  
electronicfilings@ftc.gov

Complaint Counsel:

Merrick Pastore, Esq.  
Federal Trade Commission  
mpastore@ftc.gov

Respondent's Counsel:

Julie E. McEvoy  
Michael H. Knight  
Louis K. Fisher  
Jeremy P. Morrison  
Debra R. Belott  
Aaron M. Healey  
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ahealey@jonesday.com

/s/ Matthew David Ridings  
Matthew David Ridings



**UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
OFFICE OF ADMINISTRATIVE LAW JUDGES**

<p>In the Matter of</p> <p style="text-align: center;">Axon Enterprise, Inc., a corporation,</p> <p style="text-align: center;">and</p> <p style="text-align: center;">Safariland, LLC, a partnership,</p> <p style="text-align: center;">Respondents.</p>	<p>Docket No. 9389</p>
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**[PROPOSED] ORDER**

Upon consideration of non-party Panasonic i-PRO Sensing Solutions Corporation of America’s motion for *in camera* treatment, it is HEREBY ORDERED that the following documents shall be afforded *in camera* treatment for five years from the date of this Order in their entirety:

Ex. Number	Date	BegBates	EndBates	Description
PX50016	4/5/19	PIPSA0000359	PIPSA0000387	Presentation: Executive PSI Meeting Security Group
PX50057	2/7/19	PIPSA0000159	PIPSA0000179	Presentation: Executive PSI Meeting Security Group
PX50130	9/6/19	PIPSA0000490	PIPSA0000518	Presentation: Executive PSI Meeting Security Group
PX50133		Panasonic_000004	Panasonic_000004	Spreadsheet: BWC Sales-Out Summary (Distributor – Reseller)
PX50134		PIPSA0000091	PIPSA0000091	Document: Document Infor PIPSA0000091 – Confidential/xlsx
PX60004	9/17/19	PX60004-001	PX60004-004	Document: Declaration of Paul Bazzano made

				pursuant to 28 U.S.C. § 1746
PX61001	3/20/20	PX61001-001	PX61001-002	Declaration of Paul Bazzano made pursuant to 28 U.S.C. § 1746
		Panasonic 000001	Panasonic 000001	
		Panasonic 000003	Panasonic 000003	
		PIPSA0000531	PIPSA0000531	

**ORDERED:**

Date: \_\_\_\_\_

---

D. Michael Chappell  
Chief Administrative Law Judge

# Exhibit A

**From:** Pastore, Merrick <mpastore@ftc.gov>  
**Sent:** Friday, September 11, 2020 3:00 PM  
**To:** Ridings, Matthew; Butscha Jr., Mark  
**Cc:** Ansaldo, Alexander; Verwilt, Hana; Glover, Christian  
**Subject:** In Re Axon Docket No. 9389 In Camera Notice— PIPSA  
**Attachments:** 2020.07.10 Second Revised Scheduling Order.pdf; 2020.01.30 Scheduling Order.pdf; Attachment A\_PIPSA.pdf

**CAUTION EXTERNAL EMAIL**

Dear Matt and Mark:

Pursuant to the January 30 and July 10 Scheduling Orders in In the Matter of Axon Enterprise, Inc., Docket No. 9389 (attached for your reference), we are providing notice that Complaint Counsel intends to offer the documents listed on Attachment A into evidence in the administrative trial set to begin October 13, 2020. All exhibits admitted into evidence become part of the public record unless Administrative Law Judge D. Michael Chappell grants *in camera* status.

For documents or testimony that include sensitive or confidential information that you do not want on the public record, you must file a motion by **September 23, 2020** seeking *in camera* status or other confidentiality protections pursuant to 16 C.F.R. §§ 3.45 and 4.10(g). Judge Chappell may order that materials, whether admitted or not as evidence, be placed *in camera* only after finding that their public disclosure will likely result in a clearly-defined, serious injury to the person, partnership, or corporation requesting *in camera* treatment. Motions for *in camera* treatment of evidence to be introduced at trial must meet the strict standards set forth in 16 C.F.R. § 3.45 and explained in *In re Dura Lube Corp.*, 1999 FTC LEXIS 255 (Dec. 23, 1999); *In re Hoechst Marion Roussel, Inc.*, 2000 FTC LEXIS 157 (Nov. 22, 2000); and *In re Basic Research, Inc.*, 2006 FTC LEXIS 14 (Jan. 25, 2006).

Pursuant to Additional Provision 13 of the Scheduling Order, motions for *in camera* treatment also must be supported by a declaration or affidavit by a person qualified to explain the confidential nature of the material, *In re North Texas Specialty Physicians*, 2004 FTC LEXIS 66 (April 23, 2004), and one copy of the documents for which *in camera* treatment is sought must be provided to the Administrative Law Judge.

You can find examples of previously filed motions for *in camera* treatment and Judge Chappell's corresponding orders in the July and August 2018 portions of the following docket: <https://www.ftc.gov/enforcement/cases-proceedings/171-0231/otto-bock-healthcarefreedom-innovations>

Sincerely,

Merrick Pastore  
Attorney  
Mergers II, Bureau of Competition  
Federal Trade Commission  
400 7<sup>th</sup> Street SW, Washington, DC 20024  
202.326.2244 | mpastore@ftc.gov

**Attachment A**

PUBLIC RECORD Notice

<b>Ex. Number</b>	<b>Date</b>	<b>BegBates</b>	<b>EndBates</b>	<b>Description</b>
PX50016	4/5/2019	PIPSA0000359	PIPSA0000387	Presentation: Executive PSI Meeting Security Group
PX50057	2/7/2019	PIPSA0000159	PIPSA0000179	Presentation: Executive PSI Meeting Security Group
PX50130	9/6/2019	PIPSA0000490	PIPSA0000518	Presentation: Executive PSI Meeting Security Group
PX50134	00/00/0000	PIPSA0000091	PIPSA0000091	Document: Document Info PIPSA0000091 - Confidential.xlsx

# Exhibit B

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**From:** Pastore, Merrick <mpastore@ftc.gov>  
**Sent:** Friday, September 11, 2020 2:54 PM  
**To:** Swendsboe, Krystal; Obermeier, Stephen  
**Cc:** Ansaldo, Alexander; Glover, Christian; Verwilt, Hana  
**Subject:** In Re Axon Docket No. 9389 In Camera Notice— Panasonic Corp of North America  
**Attachments:** Attachment A\_Panasonic North America.pdf; 2020.01.30 Scheduling Order.pdf;  
2020.07.10 Second Revised Scheduling Order.pdf

Dear Stephen and Krystal:

Pursuant to the January 30 and July 10 Scheduling Orders in In the Matter of Axon Enterprise, Inc., Docket No. 9389 (attached for your reference), we are providing notice that Complaint Counsel intends to offer the documents listed on Attachment A into evidence in the administrative trial set to begin October 13, 2020. All exhibits admitted into evidence become part of the public record unless Administrative Law Judge D. Michael Chappell grants *in camera* status.

For documents or testimony that include sensitive or confidential information that you do not want on the public record, you must file a motion by **September 23, 2020** seeking *in camera* status or other confidentiality protections pursuant to 16 C.F.R. §§ 3.45 and 4.10(g). Judge Chappell may order that materials, whether admitted or not as evidence, be placed *in camera* only after finding that their public disclosure will likely result in a clearly-defined, serious injury to the person, partnership, or corporation requesting *in camera* treatment. Motions for *in camera* treatment of evidence to be introduced at trial must meet the strict standards set forth in 16 C.F.R. § 3.45 and explained in *In re Dura Lube Corp.*, 1999 FTC LEXIS 255 (Dec. 23, 1999); *In re Hoechst Marion Roussel, Inc.*, 2000 FTC LEXIS 157 (Nov. 22, 2000); and *In re Basic Research, Inc.*, 2006 FTC LEXIS 14 (Jan. 25, 2006).

Pursuant to Additional Provision 13 of the Scheduling Order, motions for *in camera* treatment also must be supported by a declaration or affidavit by a person qualified to explain the confidential nature of the material, *In re North Texas Specialty Physicians*, 2004 FTC LEXIS 66 (April 23, 2004), and one copy of the documents for which *in camera* treatment is sought must be provided to the Administrative Law Judge.

You can find examples of previously filed motions for *in camera* treatment and Judge Chappell's corresponding orders in the July and August 2018 portions of the following docket: <https://www.ftc.gov/enforcement/cases-proceedings/171-0231/otto-bock-healthcarefreedom-innovations>

Sincerely,

Merrick Pastore  
Attorney  
Mergers II, Bureau of Competition  
Federal Trade Commission  
400 7<sup>th</sup> Street SW, Washington, DC 20024  
202.326.2244 | mpastore@ftc.gov

















**Attachment A**

PUBLIC RECORD Notice

Ex. Number	Date	BegBates	EndBates	Description









# Attachment A

PUBLIC RECORD

<b>Ex. Number</b>	<b>Date</b>	<b>BegBates</b>	<b>EndBates</b>	<b>Description</b>

# Attachment A

PUBLIC RECORD Notice

Ex. Number	Date	BegBates	EndBates	Description

# Exhibit C

**From:** Bryan, Kelsey S. <kbryan@jonesday.com>  
**Sent:** Saturday, September 12, 2020 12:40 AM  
**To:** Ridings, Matthew; Butscha Jr., Mark  
**Cc:** Baumann, Jordan M.; Liddell, Ryan T.  
**Subject:** In re Axon Enterprise Inc., Dkt. No. 9389 - Notice of Intent to Offer Documents  
**Attachments:** Panasonic i-Pro Attachment A.pdf

**CAUTION EXTERNAL EMAIL**

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Counsel,

I am writing to provide formal notice, pursuant to Rule 3.45(b) of the Commission's Rules of Practice, 16 C.F.R. § 3.45(b), that Axon intends to offer into evidence in the administrative trial in the above-captioned matter the documents and testimony referenced in the attached document (Attachment A). Please use the below link to access the documents referenced in Attachment A. The administrative trial is scheduled to begin on October 13, 2020.

All exhibits and testimony admitted into evidence become part of the public record unless in camera status is granted by Administrative Law Judge D. Michael Chappell. For documents or testimony which include sensitive or confidential information that you do not want on the public record, you must file a motion seeking in camera status or other confidentiality protections pursuant to 16 C.F.R. §§ 3.45, 4.10(g). Motions for in camera treatment must meet the strict standard set forth in 16 C.F.R. § 3.45, which provides that "[t]he Administrative Law Judge shall order that such material, whether admitted or rejected, be placed in camera only after finding that its public disclosure will likely result in a clearly defined, serious injury to the person, partnership, or corporation requesting in camera treatment or after finding that the material constitutes sensitive personal information." 16 C.F.R. § 3.45. The strict standard is further explained in *In re Otto Bock Healthcare N. Am.*, 2018 WL 3491602 at \*1 (July 2, 2018) and *In re 1-800 Contacts, Inc.*, 2017 FTC LEXIS 55 (April 4, 2017). Motions for in camera treatment must be supported by a declaration or affidavit by a person qualified to explain the confidential nature of the documents. *In re 1-800 Contacts, Inc.*, 2017 FTC LEXIS 55 (April 4, 2017); *In re North Texas Specialty Physicians* 2004 FTC LEXIS 109, \*3-4 (April 23, 2004). You must also provide one copy of the documents for which in camera treatment is sought to the Administrative Law Judge.

Under the current Scheduling Order dated July 10, 2020, the deadline for filing motions seeking in camera treatment of proposed trial exhibits is September 30, 2020.

Feel free to contact me if you have any questions.

Best,  
Kelsey

Kelsey S. Bryan  
Associate

**JONES DAY® - One Firm Worldwide®**

555 South Flower Street  
Fiftieth Floor  
Los Angeles, CA 90071  
Office +1.213.243.2541

## Download Files

Available until: **17 September 2020**

**Download File: 25.a Panasonic i-Pro (PIPSA).zip**

5.73 MBytes, Fingerprint: 6eb4ae1d77d14928af410322e766df58

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Panasonic i-PRO Sensing Solutions Corporation of America

Attachment A

<b>Beginning Bates No.</b>	<b>End Bates No.</b>
PIPSA0000060	PIPSA0000080
PIPSA0000091	PIPSA0000091
PIPSA0000531	PIPSA0000531
PX61001-001	PX61001-002



# Exhibit D

**From:** Bryan, Kelsey S. <kbryan@jonesday.com>  
**Sent:** Saturday, September 12, 2020 12:32 AM  
**To:** Obermeier, Stephen  
**Cc:** Healey, Aaron M.; Belott, Debra R.; McEvoy, Julie E.; Baumann, Jordan M.; Liddell, Ryan T.  
**Subject:** In re Axon Enterprise Inc., Dkt. No. 9389 - Notice of Intent to Offer Documents  
**Attachments:** Panasonic NA Attachment A.pdf; Panasonic i-Pro Attachment A.pdf

**External Email**

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Counsel,

I am writing to provide formal notice, pursuant to Rule 3.45(b) of the Commission's Rules of Practice, 16 C.F.R. § 3.45(b), that Axon intends to offer into evidence in the administrative trial in the above-captioned matter the documents and testimony referenced in the attached document (Attachment A). Please use the below link to access the documents referenced in Attachment A. The administrative trial is scheduled to begin on October 13, 2020.

All exhibits and testimony admitted into evidence become part of the public record unless in camera status is granted by Administrative Law Judge D. Michael Chappell. For documents or testimony which include sensitive or confidential information that you do not want on the public record, you must file a motion seeking in camera status or other confidentiality protections pursuant to 16 C.F.R. §§ 3.45, 4.10(g). Motions for in camera treatment must meet the strict standard set forth in 16 C.F.R. § 3.45, which provides that "[t]he Administrative Law Judge shall order that such material, whether admitted or rejected, be placed in camera only after finding that its public disclosure will likely result in a clearly defined, serious injury to the person, partnership, or corporation requesting in camera treatment or after finding that the material constitutes sensitive personal information." 16 C.F.R. § 3.45. The strict standard is further explained in *In re Otto Bock Healthcare N. Am.*, 2018 WL 3491602 at \*1 (July 2, 2018) and *In re 1-800 Contacts, Inc.*, 2017 FTC LEXIS 55 (April 4, 2017). Motions for in camera treatment must be supported by a declaration or affidavit by a person qualified to explain the confidential nature of the documents. *In re 1-800 Contacts, Inc.*, 2017 FTC LEXIS 55 (April 4, 2017); *In re North Texas Specialty Physicians* 2004 FTC LEXIS 109, \*3-4 (April 23, 2004). You must also provide one copy of the documents for which in camera treatment is sought to the Administrative Law Judge.

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Feel free to contact me if you have any questions.

Best,  
Kelsey

Kelsey S. Bryan  
Associate  
**JONES DAY® - One Firm Worldwide®**  
555 South Flower Street  
Fiftieth Floor  
Los Angeles, CA 90071  
Office +1.213.243.2541

## Download Files

Available until: **17 September 2020**

**Download File: 25.a Panasonic i-Pro (PIPSA).zip**

5.73 MBytes, Fingerprint: 6eb4ae1d77d14928af410322e766df58

**Download File: 25.b Panasonic NA.zip**

2.93 MBytes, Fingerprint: 440babc2cafa09fa7e58277b8cb728ee

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Panasonic Corporation of North America

Attachment A

<b>Beginning Bates No.</b>	<b>End Bates No.</b>
Panasonic_000001	Panasonic_000001
Panasonic_000003	Panasonic_000003
PX60004-001	PX60004-004

Panasonic i-PRO Sensing Solutions Corporation of America

Attachment A

<b>Beginning Bates No.</b>	<b>End Bates No.</b>
PIPSA0000060	PIPSA0000080
PIPSA0000091	PIPSA0000091
PIPSA0000531	PIPSA0000531
PX61001-001	PX61001-002

# Exhibit E

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of

Axon Enterprise, Inc.,  
a corporation,

and

Safariland, LLC,  
a partnership,

Respondents.

Docket No. 9389

**DECLARATION OF JACK MARKS IN SUPPORT OF  
NON-PARTY PANASONIC i-PRO SENSING SOLUTIONS CORPORATION OF  
AMERICA'S UNOPPOSED MOTION FOR *IN CAMERA* TREATMENT**

I, Jack Marks, hereby declare as follows:

1. I am the Director of Corporate Planning & I.T. Infrastructure for non-party Panasonic i-Pro Sensing Solutions Corporation of America ("PIPSA") and I submit this declaration in support of non-party PIPSA's Unopposed Motion for *In Camera* Treatment (the "Motion").
2. Given my position at PIPSA and my knowledge of its business, I am personally familiar with the contents of the documents identified in the Motion, the level of confidentiality associated with the documents and information contained therein, and the competitive harm that would likely befall PIPSA in the event that the information in these documents were made public. I oversaw the collection of documents response to the subpoenas that PIPSA received in this case and, in producing these documents, relied on the protective order and the FTC's rules that the confidentiality of commercially sensitive information would be maintained in this

matter. I believe that the public disclosure of these documents would cause serious competitive injury to PIPSA.

3. PIPSA is an independent company with significant experience in imaging, surveillance, and image analysis, including the supply and management of body-worn cameras and digital evidence management systems (“DEMS”). These two products are an important part of PIPSA’s business and, accordingly, I am familiar with our competitors in this market and the state of competition.

4. PIPSA has been able to compete in the market for body-worn cameras and DEMS because of its strategic investment in research and development, strategic planning, and its pricing decisions. The documents attached to the Motion as Exhibits F-H are executive-level presentations that contain forward-looking strategic plans, margin data, critical assessments of the strengths and weaknesses of PIPSA’s products, assessments of potential customers and the estimated likelihood of PIPSA’s success in supplying these customers. This information would be extremely valuable to PIPSA’s competitors and could be used by its competitors to unfairly target PIPSA and exploit its own confidential information. Much of this information is available only to high-level employees within PIPSA on a need-to-know basis and is not widely distributed within the company.

5. PIPSA protects its confidential business information by strict adherence to a comprehensive information security policy, including policies regarding user access management, computer passwords, cryptographic controls, physical and environmental security, operational security procedures, network security, and communications security.

6. The documents attached to the Motion as Exhibits I, J, M, N, and O detail PIPSA’s bid history, customer list, pricing, margin, customer analysis, product analysis, and bid



assessment. This collection of documents represents a comprehensive history of customers, data, margin, and bid history was collected over a period of years and required substantial effort and expense on the part of PIPSA. Because PIPSA is no longer part of Panasonic and is not a publicly traded company, the financial data, pricing, and bid records would be extremely difficult, if not impossible, for a competitor to access and/or aggregate. PIPSA's product margins and internal analyses of its customers and products do not exist outside the company. These internal analyses are created as part of PIPSA's service and product improvement process as part of a larger effort to be more competitive in the sale of body worn cameras and DEMS. If this analysis were made public, however, the opposite result would occur and PIPSA's competitors could use this information to damage PIPSA's ability to compete. PIPSA agreed to produce this information only because of its understanding that the confidential information produced by PIPSA would remain confidential. In reliance upon the FTC's rules, processes, procedures, and the protective order entered into this case, I produced these highly sensitive documents in compliance with the subpoenas PIPSA received.

7. Exhibits K-L are declarations from a former PIPSA employee. The declarations contain certain confidential information about PIPSA's research and development and market strategy. The release of this information to the public would compromise the competitive strategy that PIPSA has adopted, as well as allowing competitors to glean information about PIPSA's research and development efforts and capabilities.

8. All of the information and documents discussed above are the subject of considerable effort and expense by PIPSA to keep confidential. This information is critical to PIPSA's body worn camera and DEMS business and would cause significant and potentially irreparable harm to PIPSA if it were disclosed.

I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on September 23, 2020.



A handwritten signature in black ink, appearing to read 'Jack Marks', is written over a horizontal line. The signature is stylized and extends to the right of the line.

Jack Marks

# Exhibit F

**Confidential – Redacted in Entirety**

# Exhibit G

**Confidential – Redacted in Entirety**

# Exhibit H

**Confidential – Redacted in Entirety**



# Exhibit I

**Confidential – Redacted in Entirety**

# Exhibit J

**Confidential – Redacted in Entirety**

# Exhibit K

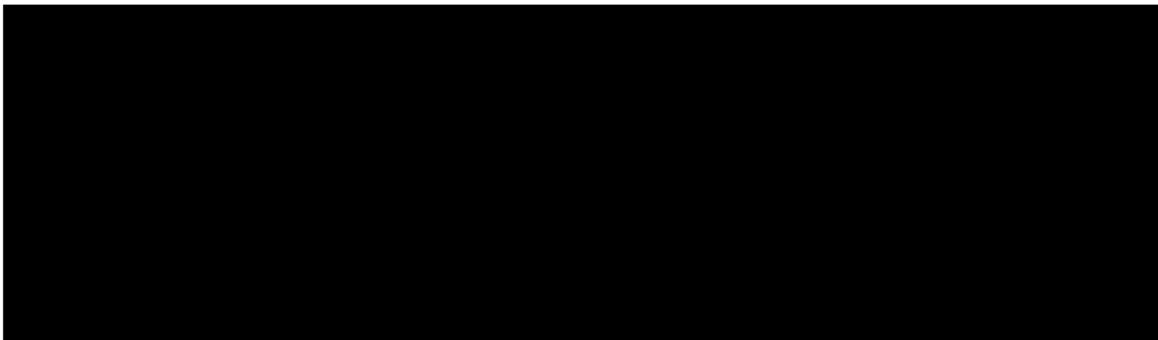
**DECLARATION OF PAUL BAZZANO PURSUANT TO 28 U.S.C. § 1746**

I, Paul Bazzano, declare and state as follows:

1. I am the Director of Sales and Marketing for Public Safety Solutions at Panasonic Corporation of North America (“Panasonic”). I have been employed by Panasonic for approximately two years. In my position, I oversee sales and marketing for Panasonic’s body worn cameras and digital evidence management systems products. As part of my responsibilities, I need to be knowledgeable about competitors, and I monitor the state of competition in the body worn camera space. I have worked in the public safety industry for several years, and previously worked in law enforcement for twenty years.
2. Panasonic is a private company based in Newark, NJ, and is a subsidiary of Panasonic Corporation of Japan, a publicly held Japanese company with headquarters in Osaka, Japan. In 2018, Panasonic Corporation of Japan had total revenue of approximately \$70.9 billion. Panasonic does business in a variety of areas, including consumer electronics, automotive and B2B solutions, and has sold body worn cameras and associated products for approximately 6 years. Panasonic’s 2018 body worn camera, in-car camera and digital evidence management system revenue [REDACTED] of which can be attributed to body worn cameras and requisite digital evidence management systems. Panasonic sells its body worn cameras, digital evidence management systems, and associated services as a bundled product.
3. Panasonic currently manufactures a single body worn camera model, the MK3. The MK3 integrates with both Panasonic’s digital evidence management software and its in-car video system. Body worn cameras intended for law enforcement use must be rugged and reliable in all conditions, and feature triggering mechanisms such as auto activation. The MK3 was designed with significant input from law enforcement personnel, and is priced higher than offerings from our competitors, including Axon and VieVu.
4. Recently, Panasonic has made significant investments in its digital evidence management system. It is currently rolling out a new system called Unified Digital Evidence (“UDE”) to replace its legacy on-premise system, Unified Evidence Management System (“UEMS”), and expects to have UDE commercially available by fall 2019. Panasonic developed UDE over a period of [REDACTED]. UDE offers cloud, on-premise and hybrid storage solutions, and works better for larger enterprise customers, as it allows customers to easily share videos, import other types of evidence, and manage large amounts of data. [REDACTED] UDE runs on Microsoft’s Azure government cloud network.

5. While Panasonic has engaged with potential customers regarding the UDE, no customer has taken any definitive steps towards purchasing the system, because it is not yet on the market. Panasonic has engaged with both Panasonic customers and customers using competing digital evidence management systems.
6. Because body worn camera customers are extremely risk-averse, references are critically important, especially for new products. Axon already has greater brand recognition in the law enforcement community due to their Taser line of conducted electrical weapons. Although Panasonic is a large and well-known company, we do not have a similar reputation in law enforcement circles, and are thus at a disadvantage when attempting to convince prospective customers to adopt our systems.
7. Panasonic also sells in-car camera systems to law enforcement customers. Generally, customers that do a majority of their policing close to their squad cars, such as highway patrols, tend to prefer in-car cameras. For many police departments, it comes down to price, and Panasonic's in-car systems are more expensive than its body worn cameras.
8. Panasonic stores all of its customers' data in the United States, following the FBI's Criminal Justice Information Services ("CJIS") security guidelines for data storage. In my experience, almost all body worn camera customers expect CJIS-compliant vendors.

9.



10.



Whereas Axons sells directly to customers, Panasonic uses a network of authorized resellers and distributors. These third party resellers tend to be regional and generally lack the ability to support large customers. For this reason and others, such as Axon's brand recognition, established cloud digital evidence offering, and immense resources dedicated to its body worn camera business, Panasonic frequently finds itself unable to compete with Axon for bids for larger customers.

11. While there is still white space in the market for tier 2 and tier 3 customers, based on my sales team's experience in the market, Axon has a dominant position among tier 1

customers, and an especially dominant position among the largest agencies. I believe that Axon's acquisition of VieVu and its absorption of the NYPD contract, among others, has strengthened this position.

12. Panasonic's digital evidence management system is an open system with free access to metadata. If a customer wishes to migrate its data to another provider, Panasonic would provide that data and metadata in a readily accessible format.
13. On the other hand, Axon's business model has potentially high switching costs and data storage fees. If a customer decides to switch providers and wants to move their videos and metadata off Axon's platform, Panasonic believes that Axon makes the migration process difficult by charging fees to release metadata. Based on conversations between Panasonic sales representatives and existing Axon customers, Panasonic believes that some Axon customers do not even consider switching suppliers because of the costs imposed by Axon and the difficulty involved in transferring stored video from Axon's service. As a result, Panasonic has lost opportunities to compete for large contracts – [REDACTED] [REDACTED] informed us that while they found our body worn camera and digital evidence management solution of interest, they were ultimately unwilling to switch from Axon in part due to the costs and risks involved with data migration.
14. Indeed, the only instance in which a customer left Axon for Panasonic was a small sheriff's office, and rather than migrating their data to Panasonic's system, this customer just continued to run Axon's digital evidence management system in parallel with the Panasonic system until the evidence retention period expired for the evidence on Axon's system. This strategy becomes exponentially more difficult and costly with large customers, as these departments generate massive amounts of video data and metadata. In addition, the strategy is not practical for most large, urban police departments because major metropolitan areas typically have much longer data retention periods, sometimes as long as several decades. Panasonic is eager to assist a potential customer with data migration, but can only bear so much cost.
15. Panasonic has witnessed instances where technical specifications calling for features and functions specific to Axon's offerings were written into RFPs to favor Axon, or to justify a sole source contract with Axon. Panasonic believes that this in part is a function of Axon's reach and capability in the body worn camera market.
16. Due to the massive amount of data on their digital evidence management system, Axon may have a significant competitive advantage in terms of analytics, artificial intelligence, and machine learning capabilities. Having access to a large amount of data, given customer approval, allows Axon to develop and train its analytical and A.I. tools more effectively.



For example, when developing an automatic redaction tool, Axon is able to use real data to train the tool to identify faces or vehicles, if they get approval to do so from their customers. Training with real data is much more effective than training with simulated data, which others, including Panasonic, must do. This data advantage makes it very difficult for Panasonic to catch up with Axon's software capabilities.

17. I understand from public sources that Axon has a significant amount of data on Microsoft's Azure Cloud, and that Axon may be Azure's largest customer. I also understand from my team's dealings with Microsoft that Azure offers discounts based on the volume of data stored on their server. Panasonic estimates that Axon pays significantly less than what Panasonic pays for data storage on the Azure cloud on a per-gigabyte basis.
18. Panasonic recently agreed to spin off its security business, which includes its body worn camera and digital evidence management offerings, to the Japan-based private equity firm Polaris Capital Group. Under the pending agreement, Panasonic and Polaris will form a new security company, with Panasonic retaining 20% ownership and Polaris the other 80%. The new company will have the rights to sell Panasonic products and use the Panasonic brand name for [REDACTED]. It is my understanding that, prior to this transaction, Polaris did not have any existing body worn camera business.
19. This declaration is being provided to the Federal Trade Commission following information requested by the Federal Trade Commission and in lieu of testimony pursuant to a subpoena. I hereby request that my identity, my company's identity, and the contents of this declaration be kept highly confidential and exempt from public disclosure as provided by applicable law.

Pursuant to 28 U.S.C. § 1746, I declare under the penalty of perjury that, to the best of my knowledge, the foregoing is true and correct.

Executed this 17 day of Sept., 2019:

  
Paul Bazzano

# Exhibit L

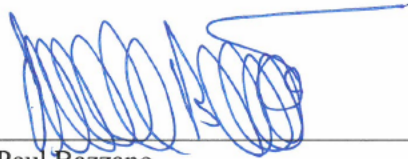
**DECLARATION OF PAUL BAZZANO PURSUANT TO 28 U.S.C. § 1746**

I, Paul Bazzano, declare and state as follows:

1. I was previously Director of Sales and Marketing for Public Safety Solutions at Panasonic Corporation of North America (“Panasonic”). While in that role, on September 19, 2019, I provided a declaration to the Federal Trade Commission (“FTC”). The statements I made in that declaration are, to the best of my knowledge, true and correct.
2. As of the fall of 2019, Panasonic was a competitor for body worn camera systems (“BWCs”), composed of body worn cameras and Digital Evidence Management Systems (“DEMS”). I have no reason to believe that since my departure Panasonic is any less competitive for body worn camera systems. While Axon may have had more sales of body worn camera systems, which are composed of both cameras and DEMS, Panasonic competed against Axon. Axon is the largest supplier of body cameras because as the body camera market was developing, from 2010 to 2015, Axon was one of the few suppliers with a strong competitive offering. Over time, as other competitors entered and invested in the space, Axon’s share decreased slightly.
3. During the two years that I was at Panasonic, from 2017 to 2019, the body worn camera market grew increasingly competitive. A small number of suppliers of body worn camera systems grew their presence and competed for police agency accounts. In particular, companies that were already offering police solutions leveraged their existing customer base with their DEMS software. The software component of body worn camera systems became more important than the camera and the marketplace became even more competitive.
4. While I was at Panasonic, continuing investments were made in Panasonic’s DEMS offering to better compete as a body camera and DEMS provider. Panasonic developed its new Unified Digital Evidence (“UDE”) system [REDACTED] after my departure from Panasonic. When I was at Panasonic, I expected that UDE would better position Panasonic to compete in the coming years.
5. While there may be differences between police agencies based on size, a small number of body worn camera and DEMS competitors that supply the top 100 or so municipalities are capable of supplying and successful delivering to any size account. [REDACTED]
6. While, as I noted in my declaration to the FTC, Panasonic had difficulty winning large police agencies over Axon, Panasonic (or more accurately its authorized resellers and distributors) did bid and compete for large accounts. Other body camera suppliers also compete for large police agencies.

7. Customer references can be important to police agencies, as noted in my FTC declaration. [REDACTED]
8. Agency RFPs increasingly ask for both in-car and BWC bids, and competitors that can offer both products have an advantage.
9. At the time of Axon's acquisition of Viewu in 2018, I did not see Viewu as a competitor in most of the opportunities that Panasonic pursued. Prior to the acquisition, there was rumor that Viewu was struggling financially. I am aware that a Viewu camera caught fire while in-use on an NYC police officer.
10. Following Axon's acquisition of Viewu competition intensified, particularly as competition began to focus on software rather than cameras.

Executed on this 20 day of March, 2020:



Paul Bazzano

# Exhibit M

**Confidential – Redacted in Entirety**

# Exhibit N

**Confidential – Redacted in Entirety**



# Exhibit O

**Confidential – Redacted in Entirety**