

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re *Inter Partes* Review of:)
U.S. Patent No. 8,128,244)
Issued: March 6, 2012)
Application No.: 13/071,169)

For: **Exterior Sideview Mirror System**

FILED VIA E2E

**CORRECTED PETITION FOR *INTER PARTES* REVIEW
OF U.S. PATENT NO. 8,128,244**

TABLE OF CONTENTS

I.	Introduction.....	1
II.	Mandatory Notices under 37 C.F.R. § 42.8.....	2
	A. Real Parties-In-Interest.....	2
	B. Related Matters.....	3
	C. Grounds For Standing	3
	D. Lead And Backup Counsel And Service Information	3
	E. Fee For <i>Inter Partes</i> Review	4
III.	Identification Of Challenges (37 C.F.R. § 42.104(B)).....	4
IV.	Background.....	5
	A. The '244 Patent (Ex. 1001)	5
	B. The Person Of Ordinary Skill In The Art (“POSA”).....	6
	C. Claim Construction	6
	1. “side-by-side”.....	7
V.	Magna’s ’026 Publication Is Prior Art Under §§ 102(a) And (e)	8
VI.	The ’244 Patent Is Entitled To An Effective Filing Date No Earlier Than August 5, 2010, So The ’026 Publication Is Also § 102(b) Prior Art	9
	A. Background Law	10
	B. Background Facts	10
	1. Magna previously prosecuted, and abandoned, a two-mirror design in the ’712 patent family	10
	2. Magna impermissibly used the ’843 patent’s application to revive prosecution of the abandoned ’712 patent family	11

3.	Magna’s defective attempt to antedate the prior art and effectively claim priority to the ’712 patent family.....	14
4.	The examiner legally erred by finding the declaration sufficient to antedate the prior-art ’026 publication	19
C.	The ’244 Patent Is Not Entitled To The Filing Date Of Earlier-Filed Applications Because The Relevant Portions Of The ’451 And ’712 Patents Were Not Incorporated By Reference.....	21
D.	The ’244 Patent’s Claims Are Not Supported By The ’666 Application Regardless Of The Extent Of Incorporation By Reference.....	26
1.	The written description requirement in 35 U.S.C. § 120.....	26
2.	The ’666 application lacks written description support for the ’244 patent’s claims even if the ’712 and ’451 patents were incorporated in their entireties	27
VII.	Ground 1: Claims 1-26 are Anticipated by the ’026 Publication (Ex. 1011).....	35
A.	Independent Claim 1	36
1.	Preamble, [a], [b] Exterior sideview mirror assembly.....	37
2.	[d] Plano-auxiliary assembly	38
3.	[q] Reflective Element Substrates.....	38
4.	[e], [i] Mounted adjacently, outboard	39
5.	[c] Electrically-operated actuator.....	40
6.	[f] Backing plate mounted to actuator	40
7.	[h], [k], [l], [m] Support portions and capable of supporting.....	41
8.	[j] Polymeric substrate	42
9.	[g], [p] Planar and auxiliary field of view, blind spot	42

10.	[n] Different, angled rearward field of view	42
11.	[o] Angled second support portion	43
12.	[s] Generally coplanar.....	43
13.	[r], [t], [u], [v], [w], [x] Demarcation	43
B.	Claim 2: Three-Degree Angle	44
C.	Claims 3-5: Outwardly And/Or Downwardly.....	44
D.	Claim 6: Adhesive attachment and bent glass substrate	44
E.	Claims 7-9, 15, 16: Multiradius, Spheric, And Aspheric Shapes	45
F.	Claims 10, 19: Substrate.....	45
G.	Claim 11: Curved Portion	45
H.	Claim 12: Demarcation Partitions	46
I.	Claim 13: Auxiliary Mirror Heater	46
J.	Claim 14: Subtended Angle	46
K.	Claim 17: Relative Sizes	46
L.	Claim 18: 1 to 24 Feet Behind	47
M.	Claim 20, 21, 22: Electro-Optic Or Fixed Reflective Element.....	47
N.	Independent Claim 23	47
	1. Elements [a]-[q]	48
	2. [r] Curved substrate.....	48
	3. [s] Joint space.....	48
O.	Claim 24	49
P.	Independent Claim 25	49
	1. Elements [a]-[q]	49

2.	[r] Spherically bent glass substrate	49
3.	[s] Outwardly and downwardly	50
4.	[t], [u] Total field of view	50
Q.	Claim 26 – Glass Substrate	50
VIII.	Ground 2: Claims 23-26 Would Have Been Obvious Over Henion (Ex. 1012), Platzer (Ex. 1013), and Catlin (Ex. 1034)	51
A.	Overview	51
B.	The Asserted Prior Art	51
1.	International Pub. No. WO 2001/44013 (Ex. 1012, “Henion”)	52
2.	International Pub. No. WO 2001/81956 (Ex. 1013, “Platzer”)	52
3.	U.S. Pat. No. 5,721,646 (Ex. 1034, “Catlin”)	52
C.	Motivation To Combine	53
D.	Claim 23	54
1.	Preamble, [a], [b] Exterior sideview mirror assembly	54
2.	[c] Electrically-operated actuator	55
3.	[d] Plano-auxiliary assembly	55
4.	[e] Mounted adjacently, side-by-side, and not superimposed	56
5.	[f] Backing plate mounted to actuator	58
6.	[g], [p] Planar and auxiliary mirror field of view, blind spot	59
7.	[h], [k], [l], [m] Support portions and capable of supporting	60
8.	[i] Auxiliary mirror outboard	61

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.