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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte DARRYL P. De WIND

Appeal 2019-001327
Application 15/203,839
Technology Center 2800

Before JEFFREY B. ROBERTSON, MONTÉ T. SQUIRE and
JANE E. INGLESE, *Administrative Patent Judges*.

ROBERTSON, *Administrative Patent Judge*.

DECISION ON APPEAL¹

STATEMENT OF THE CASE

Appellant² appeals under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1–20. (Appeal Br. 1.) We have jurisdiction pursuant to 35 U.S.C. § 6(b).

We REVERSE.

¹ This Decision includes citations to the following documents: Specification filed July 7, 2016 (“Spec.”); Final Office Action mailed January 11, 2018 (“Final Act.”); Appeal Brief filed June 11, 2018 (“Appeal Br.”); Examiner’s Answer mailed October 5, 2018 (“Ans.”); and Reply Brief filed November 28, 2018 (“Reply Br.”).

² We use the word “Appellant” to refer to “Applicant” as defined in 37 C.F.R. § 1.42(a). Appellant identifies the real party in interest as Magna Mirrors of America, Inc. (Appeal Br. 2.)

THE INVENTION

Appellant states the invention relates to an interior rearview mirror assembly for vehicles, and in particular interior prismatic mirror assemblies. (Spec. ¶ 2.)

Claim 1 is representative and reproduced below from the Claims Appendix to the Appeal Brief:

1. An interior rearview mirror assembly for a vehicle, said interior rearview mirror assembly comprising:

a mirror casing, wherein said mirror casing comprises a principal mirror casing portion and a pivotable mirror casing portion that is pivotable relative to said principal mirror casing portion;

a prismatic reflective element disposed at said principal mirror casing portion of said mirror casing;

wherein said pivotable mirror casing portion of said mirror casing is adjustably supported at a mirror mount configured for mounting at an interior portion of a vehicle equipped with said interior rearview mirror assembly;

a toggle assembly comprising (i) a spring element coupled to said pivotable mirror casing portion and (ii) a toggle lever pivotally disposed at a lower portion of said principal mirror casing portion and coupled to said spring element; and

wherein pivotal movement of said toggle lever about a pivot axis at said lower portion of said principal mirror casing portion flexes said spring element and adjusts an angle of said principal mirror casing portion and said prismatic reflective element relative to said pivotable mirror casing portion of said mirror casing.

(Appeal Br. (Claims Appendix) 24.)

Claims 15 and 19 are also independent and similarly recite an interior rearview mirror with a mirror casing comprising a principal mirror casing

portion and a pivotable mirror casing portion that is pivotable relative to the principal mirror casing portion. (*Id.* at 26–29.)

REJECTIONS

1. The Examiner rejected claims 1–10, 13–17, 19, and 20 under 35 U.S.C. § 102(a)(1) or 102(a)(2) as anticipated by Spooner et al. (US 6,318,870 B1, issued Nov. 20, 2001, hereinafter “Spooner”).
2. The Examiner rejected claims 11, 12, and 18 under 35 U.S.C. § 103 as obvious over Spooner.

(Final Act. 2–11.)

We limit our discussion to independent claim 1, which is sufficient for disposition of this appeal.

Rejection 1

ISSUE

The Examiner found, *inter alia*, Spooner discloses an interior rearview mirror assembly for a vehicle including a principle mirror casing portion (citing Spooner, Fig. 2, 10a-mirror housing) and a pivotable mirror casing portion (citing Spooner, Fig. 2, toggle member 18 and casing grooves 10c) as recited in claim 1. (Ans. 2–3; Final Act. 3.)

Appellant argues, *inter alia*, Spooner does not disclose a pivotable mirror casing portion that pivots relative to a principal mirror casing portion, but rather Spooner discloses a toggle assembly that is separate from the mirror casing, and the mirror casing does not have a pivotable portion that pivots relative to a principal portion. (Appeal Br. 7–12; Reply Br. 2–4.)

Figure 3 depicts a rear perspective view of an interior rearview mirror assembly in accordance with the invention including mirror casing 12, having principal casing portion 19 and movable rear portion 26, where the movable rear portion 26 is pivotally connected at the principal casing portion 19 via only an upper edge 30 (see two lateral channels or slots 32 and a lower channel or slot 34 (not shown, see Fig. 4)). (Spec. ¶¶13, 20, 21.)

In contrast, Spooner discloses a mirror housing and a ball and toggle assembly, where the ball and toggle assembly is pivotally connected to the mirror housing as shown below in Figure 2 of Spooner.

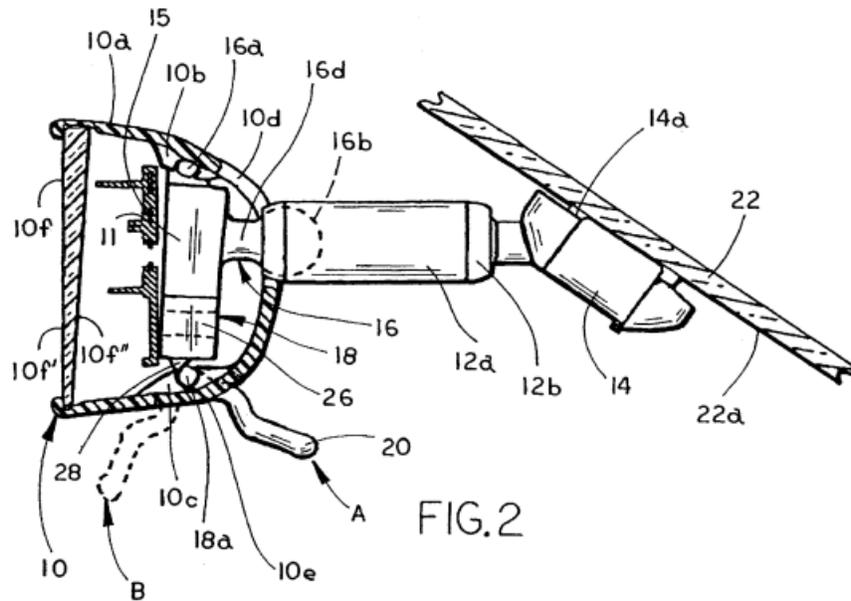


Figure 2 is a side elevation of a mirror assembly according to the invention disclosed in Spooner, including a mirror assembly 10 pivotable relative to mounting assembly 12, ball and toggle assembly 15 pivotally mounted within mirror casing 10a. The ball and toggle assembly 15 includes body member 16 and toggle member 18, where upper pivot pin or axle 16a is pivotally received at grooves or clips 10b at an upper wall of mirror casing 10a, and lower pivot pin or axle 18a is pivotally received in

grooves or clips 10c at a lower wall of mirror casing 10a. (Spooner, col. 3, ll. 44–47, col. 4, ll. 10–54, col. 5, ll. 5–11.) Spooner discloses by pivoting toggle arm 20, the toggle assembly 15 is operable to pivot casing 10a relative to arm 12a about upper pivot pin 16a. (*Id.* at col. 5, ll. 11–17.)

Thus, Spooner discloses the mirror casing and toggle assembly are separate and distinct elements. (*See* Reply Br. 2–3.) As discussed above, Spooner discloses the entire mirror assembly, including mirror casing 10a, is pivotable relative to the mounting assembly 12. Although casing grooves or clips 10c may be part of the mirror casing, Spooner does not disclose that such grooves or clips pivot relative to the rest of the casing 10a as would be required to meet claim 1. (*See* Appeal Br. 11–12.) Thus, Spooner fails to disclose “a mirror casing, wherein said mirror casing comprises a principal mirror casing portion and a pivotable mirror casing portion that is pivotable relative to said principal mirror casing portion” as recited in claim 1. In this regard, the Examiner’s position that the claims do not require the mirror casing to be a singular unitary piece (Ans. 6–7) does not cure the deficiency that the toggle member 18 and mirror casing 10a disclosed in Spooner are separate elements.

Accordingly, we reverse the Examiner’s rejection of claim 1, and claims 2–10, 13–17, 19, and 20.

Rejection 2

The Examiner’s rejection of dependent claims 11, 12, and 18 as obvious over Spooner suffers from the same deficiency as discussed above with respect to Rejection 1. As a result, we reverse the Examiner’s rejection

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of claims 11, 12, and 18 for similar reasons as discussed above with respect to Rejection 1.

DECISION

Claims Rejected	Basis	Affirmed	Reversed
1-10, 13-17, 19, and 20	§ 102(a)(1) or 102(a)(2) Spooner		1-10, 13-17, 19, and 20
11, 12, and 18	§ 103(a) Spooner		11, 12, and 18
Outcome			1-20

REVERSED