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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Visiocrp Australia Pty Ltd.,)
)
Plaintiff)
)
v.)
)
Power Vision LLC)
)
Defendant.)

Case: 2:08-cv-10968
Judge: Cox, Sean F
Referral MJ: Hluchaniuk, Michael J.
Filed: 03-06-2008 At 02:12 PM
CMP VISIOCRUP AUSTRALIA PTY LTD V POWER
VISION LLC (EW)

Reising, Ethington, Barnes, Kisselle, P.C.
Attorneys for Plaintiff
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COMPLAINT FOR DECLARATORY JUDGMENT

Plaintiff, Visiocrp Australia Pty Ltd., by and through its attorneys, Reising, Ethington, Barnes, Kisselle, P.C., states as follows: This is a complaint for declaratory judgment of its rights under the Defendant's patent..

NATURE OF ACTION

1. These claims seek a declaratory judgment of patent non-infringement and invalidity pursuant to 28 U.S.C. § 2201 and the patent laws of the United States, 35 U.S.C. § 1, *et seq.*

THE PARTIES

2. Plaintiff Visiocrp Australia Pty Ltd. (“Visiocrp Australia”) is an Australian company with a principal place of business located at Sherriffs Road, Lonsdale, South Australia 5160, PO Box 37, Australia.

3. Plaintiff Visiocrp Australia has a business office in Michigan at 6850 Middlebelt Road, Suite B, Romulus, Michigan, 48174.

4. Upon information and belief, Defendant Power Vision LLC (“Power Vision”) is an Oregon limited liability company with its principal place of business in Pendleton, Oregon.

JURISDICTION AND VENUE

5. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 2201-02 and 1338(a).

6. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b) and 1400(b).

COUNT I DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF U.S. PATENT 5,864,438

7. Defendant Power Vision is the owner of record of United States Patent 5,864,438 (the “ ’438 patent”). (Exhibit A)

8. Defendant Power Vision has asserted the '438 patent against two separate entities, Schefenacker Vision Systems USA, Inc. and Schefenacker PLC in United States District Court for the District of Oregon, Pendleton Division. Defendant Power Vision filed a complaint for patent infringement and was assigned case number CV'07-1684. Defendant Power Vision claims these two parties are allegedly making, using, selling, and offering for sale purportedly infringing product.

9. Upon information and belief, Defendant Power Vision has yet to serve either named defendant of the above-mentioned complaint.

10. Plaintiff Visiocrp Australia makes the products that Defendant Power Vision accuses, but Visiocrp Australia has not infringed, and does not continue to infringe, any valid claim of the '438 patent.

11. By virtue of the Complaint filed by Defendant Power Vision in above-mentioned action and by requests to accept service for the named defendants therein, there is an actual and justiciable controversy between Plaintiff Visiocrp Australia and Defendant Power Vision concerning the non-infringement of the '438 patent. A judicial declaration of non-infringement is necessary and appropriate in order to resolve this controversy.

**COUNT II
DECLARATORY JUDGMENT OF
INVALIDITY OF U.S. PATENT 5,864,438**

12. Upon information and belief, the invention that is the subject of the '438 patent was described in publications in this and foreign countries more than one year prior to the filing date of the application that resulted in the issuance of the '438 patent.

13. Upon information and belief, each claim of the '438 patent is invalid for failure to meet the requirements of the patent laws of the United States, including particularly 35 U.S.C. §§ 102, 103 and / or 112.

14. By virtue of the Complaint filed by Defendant Power Vision in the above-mentioned action and by requests to accept service for the named defendants therein, there is an actual and justiciable controversy between Plaintiff Visiocrp Australia and Defendant Power Vision concerning the non-infringement of the '438 patent. A judicial

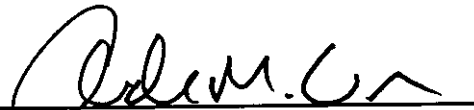
declaration of non-infringement is necessary and appropriate in order to resolve this controversy.

WHEREFORE, Plaintiff Visiocrp Australia respectfully requests that this Court:

- A. Declare and adjudge the '438 patent non-infringed by Plaintiff Visiocrp Australia;
- C. Declare and adjudge the '438 patent invalid;
- D. Declare this case exceptional under 35 U.S.C. § 285 and award Plaintiff Visiocrp Australia its reasonable attorneys' fees, expenses and costs incurred in this action with respect to Defendant Power Vision's claims of patent infringement; and
- E. Award Plaintiff Visiocrp Australia such other and further relief as this Court deems just and appropriate.

Respectfully Submitted,

REISING, ETHINGTON, BARNES, KISSELLE, P.C.

By: 
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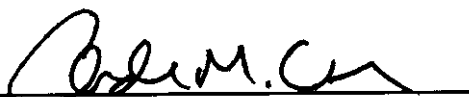
Dated: March 6, 2008

JURY DEMAND

Plaintiff Visiocrp Australia hereby requests a trial by jury of all issues so triable.

Respectfully Submitted,

REISING, ETHINGTON, BARNES, KISSELLE, P.C.

By: 

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Dated: March 6, 2008

EXHIBIT A

United States Patent [19]

[11] **Patent Number:** **5,864,438**

Pace

[45] **Date of Patent:** ***Jan. 26, 1999**

- [54] **EXTENSIBLE VEHICLE MIRROR**
- [75] **Inventor:** **Dusty R. Pace**, Pendleton, Oreg.
- [73] **Assignee:** **Power Vision, LLC**, Pendleton, Oreg.
- [*] **Notice:** The term of this patent shall not extend beyond the expiration date of Pat. No. 5,572,376.
- [21] **Appl. No.:** **707,633**
- [22] **Filed:** **Sep. 5, 1996**

4,558,930	12/1985	Deedreek	359/841
4,613,107	9/1986	Vitaloni	248/481
4,758,078	7/1988	Bracamonte	359/841
4,786,157	11/1988	Mori et al.	359/877
4,911,545	3/1990	Miller	359/841
4,921,337	5/1990	Hou	359/841
4,936,670	6/1990	Yoo	359/877
4,998,812	3/1991	Hou	359/841
5,007,724	4/1991	Hou	359/841
5,052,792	10/1991	McDonough	359/865
5,226,034	7/1993	Nagayama et al.	359/877
5,339,192	8/1994	Cho	359/877
5,375,014	12/1994	Fujie et al.	359/841

Related U.S. Application Data

- [63] Continuation of Ser. No. 299,480, Aug. 31, 1994, Pat. No. 5,572,376.
- [51] **Int. Cl.⁶** **G02B 5/08**; G02B 7/18; G02B 7/182
- [52] **U.S. Cl.** **359/841**; 359/842; 359/843; 359/844; 359/877
- [58] **Field of Search** 359/841, 842, 359/843, 844, 877

References Cited

U.S. PATENT DOCUMENTS

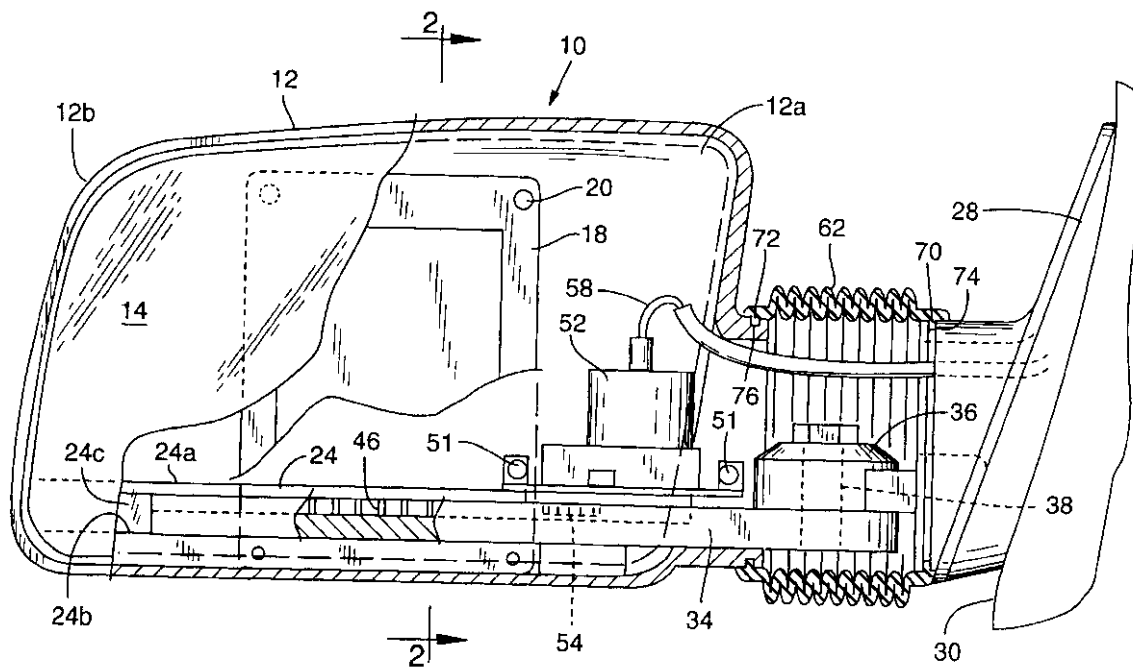
3,820,877	6/1974	Moyer	359/841
4,165,156	8/1979	O'Connell	359/841
4,466,594	8/1984	Sharp	248/484

Primary Examiner—Cassandra C. Spyrou
Assistant Examiner—Mohammad Sikder
Attorney, Agent, or Firm—Klarquist Sparkman Campbell Leigh & Whinston, LLP

[57] **ABSTRACT**

As extensible mirror apparatus for a vehicle including an elongate arm having a rack gear thereon, a mirror housing mounted for moving longitudinally along the arm, and a driving motor and spur gear enclosed within the mirror housing operable to drive such along the arm for extending and retracting the mirror. An extensible and retractable flexible boot provides a cover between the vehicle and mirror housing for portions of apparatus which otherwise would be exposed upon extension of the mirror.

20 Claims, 3 Drawing Sheets



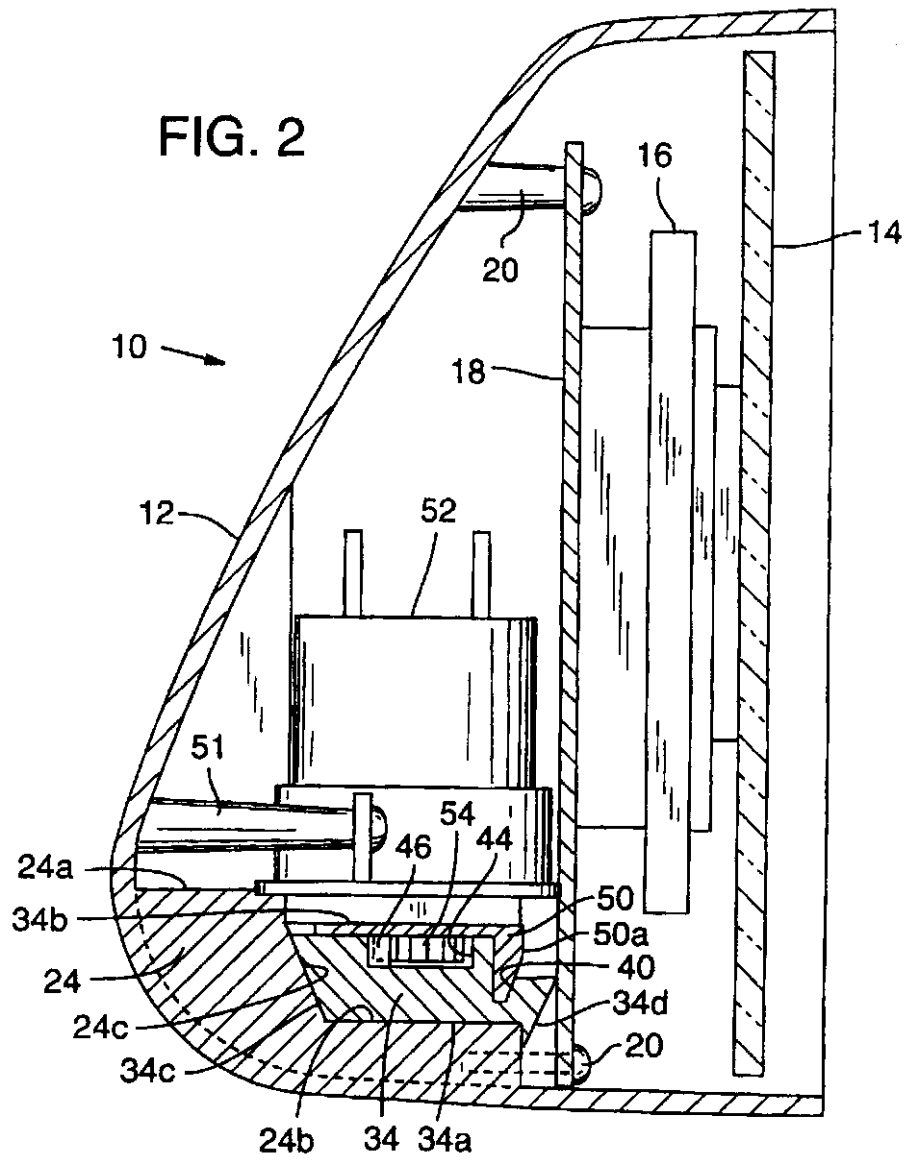
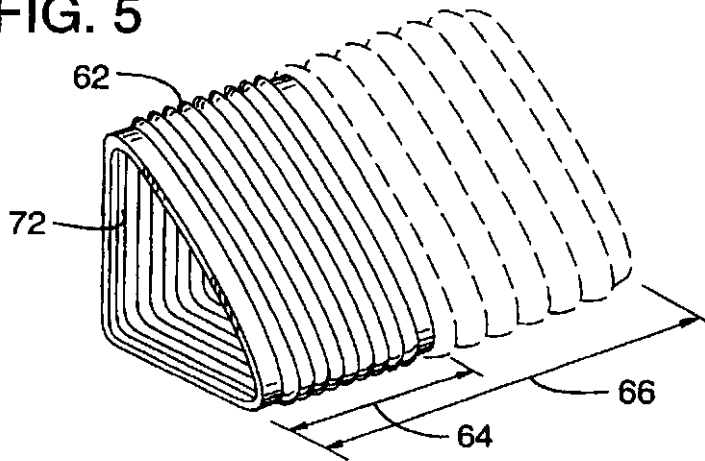


FIG. 5



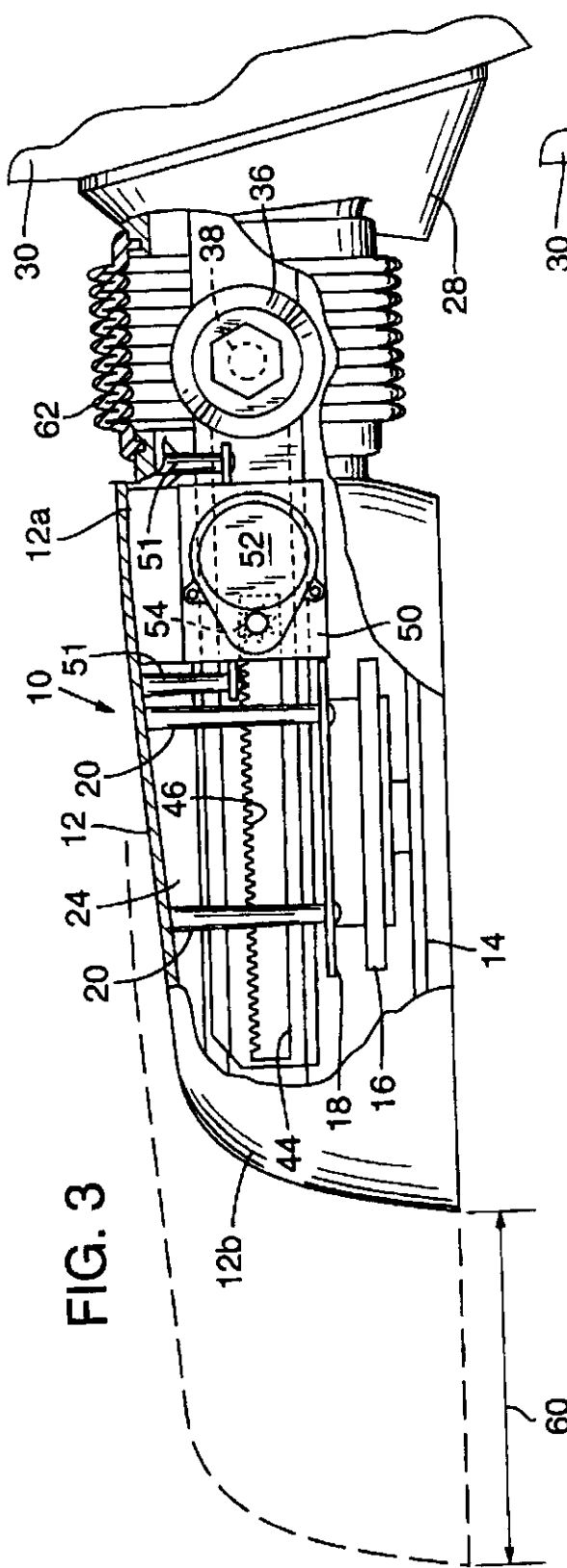


FIG. 3

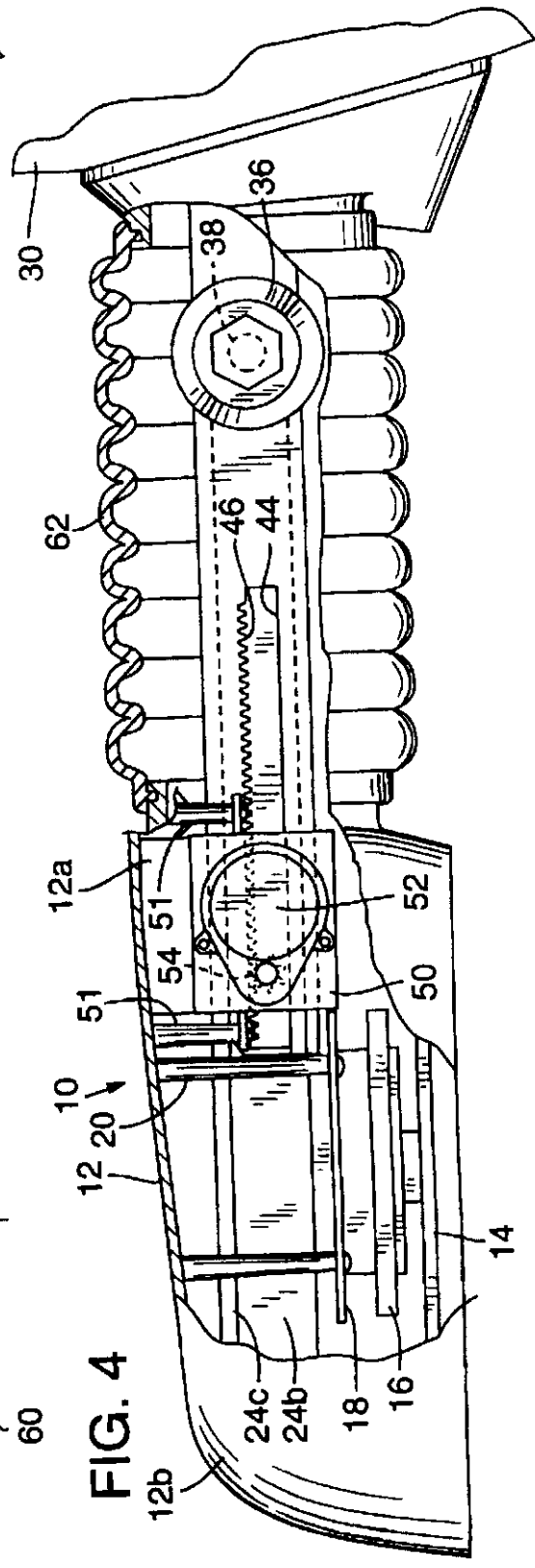


FIG. 4

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EXTENSIBLE VEHICLE MIRROR

This is a continuation of U.S. patent application Ser. No. 299,480 filed Aug. 31, 1994, now U.S. Pat. No. 5,572,376.

BACKGROUND AND SUMMARY OF THE INVENTION

This invention relates to a vehicle mirror, and more particularly to a mirror which may be extended and retracted under power laterally to the side of a vehicle.

Side view mirrors are well known for vehicles. Often they have the capacity for remote control adjustment in relation to the tilt and angle thereof to be adjusted for convenient viewing from inside the vehicle. It may be advantageous also to have a mirror which usually is disposed in a retracted position closely adjacent the vehicle, and in specific instances may be extended laterally outwardly therefrom. Such would be helpful to see around trailing objects, such as towed trailers.

Extensible mirrors have been known in the past, but these have not always been successful. Prior devices known to applicant generally have had an operating motor secured to the vehicle, with an operating rod or shaft extending outwardly therefrom which is turned to cause the mirror to extend and retract. Others, such as U.S. Pat. No. 4,558,930 to Deedreek have used a form of rack gear driven by a spur gear, but such have had exposed parts which are subject to being affected by the elements, dirt, etc. which may be imposed upon the device.

Applicant has devised a unique extensible vehicle mirror utilizing a reliable rack and pinion gear drive system which should overcome problems which occur in previously known devices.

A general object of the present invention is to provide a novel extensible vehicle mirror which is simple and economical to manufacture and install, yet which is efficient in operation.

More specifically, an object of the present invention is to provide an extensible vehicle mirror in which an elongate arm is adapted to be mounted on and extend laterally outwardly from a vehicle, the arm having a rack gear extending therealong, with a bracket mounted on and movable longitudinally of the arm toward and away from the vehicle. A mirror and a motor are mounted on and movable with the bracket and a drive gear is connected to the motor for engaging the rack gear to move the mirror longitudinally along the arm upon operation of the motor.

A further object of the present invention is to provide such a novel extensible mirror in which a mirror housing mounted on the movable bracket encloses the bracket, mirror, motor and drive gear to protect them from the elements.

Another object is to provide a novel extensible mirror in which an elongate arm on which the mirror housing, bracket and motor are mounted has a slot defined therein with gear teeth along one side to produce a rack gear to provide a stable support arm and a portion of the drive means for the mirror in the integral arm element.

Yet another object of the present invention is to provide such an extensible vehicle mirror in which a flexible extensible-contractible boot interconnects the movable housing and an adapter connected to the vehicle, such that the boot maintains a protective covering over the arm and other elements of the mirror which otherwise would be exposed upon extension of the mirror.

These and other objects and advantages will become more fully apparent as the following description is read in conjunction with the drawings.

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DRAWINGS

FIG. 1 is a front elevational view of an extensible vehicle mirror apparatus according to an embodiment of the present invention with portions broken away for illustrative purposes.

FIG. 2 is an enlarged cross-sectional view taken generally along the line 2--2 in FIG. 1.

FIG. 3 is a top plan view on a reduced scale of the extensible mirror apparatus in a retracted position with portions broken away to illustrate internal parts.

FIG. 4 is a top plan view similar to FIG. 3, with the mirror extended.

FIG. 5 is a perspective view of an extensible-contractible boot used in the invention.

DETAILED DESCRIPTION OF PREFERRED EMBODIMENT OF THE INVENTION

Referring first to FIGS. 1, 2 and 3, at 10 is indicated generally an extensible-retractable mirror apparatus according to an embodiment of the invention. The mirror includes a formed plastic housing 12 in which a substantially planar rear view mirror 14 is mounted. Mirror 14 may be of a remotely adjustable style with operator mechanism shown generally at 16 which may be remotely actuated from inside the vehicle to change the angular orientation of the face of the mirror for convenient viewing as is known. The operator mechanism 16, in turn, is secured to an upright mounting plate 18 which is mounted through a series of support pins, or posts, 20 to the interior of housing 12.

The inside of housing 12 is formed with a support shelf portion indicated generally at 24 (see FIG. 2). This support shelf portion extends substantially the full length of the interior of housing 12. It has a substantially horizontally disposed upper shelf region 24a and a substantially horizontally disposed lower shelf region 24b. An angularly disposed joining wall portion 24c extends between shelf portions 24a, 24b.

Referring to FIGS. 1, 3 and 4, an adapter, or connector element, 28 is illustrated secured to a side portion 30 of a vehicle. The connection between such an adapter and a vehicle is well known in the art and will not be described in detail herein.

Extending laterally outwardly from adapter 28 and thus laterally outwardly from side portion 30 of the vehicle, is an elongate arm 34 having a longitudinal axis. The inner end of arm 34, nearest adapter 28 is pivotally connected to adapter 28 through a swivel connector 36. The swivel connector has an upright pin 38 extending therethrough to provide a vertical pivot axis about which arm 34 may swing relative to adapter 28. Such swivel connections for side mirrors of vehicles are known, and thus will not be described in detail here.

The elongate arm 34 has a cross-sectional configuration as illustrated in FIG. 2. Arm 34 has a bottom surface 34a and a top surface 34b substantially parallel thereto. Bottom surface 34a and lower shelf portion 24b of shelf portion of the housing rest in sliding relation to each other. An angularly disposed side surface 34c slidably engages joining wall portion 24c of the support shelf portion. A downwardly projecting lip 34d engages an outer side edge of shelf portion 24. An elongate groove indicated generally at 40 extends longitudinally of arm 34.

An elongate slot 44 is defined in and extends longitudinally of arm 34. A plurality of gear teeth 46 are defined along one side of slot 44 to provide a rack gear extending longitudinally of arm 34 within slot 44.

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A bracket, or mounting element, **50** overlies arm **34** and is secured by support posts, or pins, **51** to housing **12**. As is best seen in FIG. 2, bracket **50** has a downwardly depending leg portion **50a** which is slidably received and runs in groove **40** in arm **34**. Remainder portions of bracket **50** ride slidably along the top of arm **34**.

Secured to the top of bracket **50** is an electric motor **52**. A horizontally disposed spur gear **54**, also referred to herein as a drive gear, is operatively connected to motor **52**, depends below the upper surface of bracket **50**, into slot **44** and engages rack gear teeth **46**. Operation of motor **52** turns spur gear **54** about a vertical axis which, in turn, drives bracket **50**, housing **12**, and mirror **14** longitudinally along arm **34**. The motor is reversible to cause the mirror to be extended or retracted relative to the vehicle, as desired. The reflective face of mirror **14** occupies a plane substantially parallel to the longitudinal axis of arm **34** and this movement is substantially parallel to the face of the mirror.

An electrical power conduit, or wire **58** connects motor **52** to a power supply on the vehicle. When power is supplied to motor **52** to drive the spur gear **54** in a clockwise direction as illustrated in FIGS. 3 and 4, housing **12**, bracket **50**, motor **52**, and mirror **14** are moved longitudinally outwardly along arm **34** and away from vehicle **30** from the fully retracted position closest to adapter **28** and vehicle **30** illustrated in FIG. 3 toward the fully extended position farthest from adapter **28** and vehicle **30** illustrated in FIG. 4. Conversely, when power is provided to turn motor **52** in the reverse direction, the housing, mirror, bracket, etc., are returned from the extended position illustrated in FIG. 4 toward the retracted position illustrated in FIG. 3. The extent of extension and retraction permitted is indicated generally by the dimension **60** in FIG. 3.

In other words selected rotation of drive gear **54** by motor **52** is operable to move the bracket, mirror, and motor longitudinally of arm **34**, substantially parallel to the face of mirror **14**, laterally inwardly and outwardly relative to the adapter and vehicle to selected positions relative to the vehicle. The selected position may be fully retracted, fully extended, or at any selected position between fully extended and fully retracted.

An accordion-style, flexible elastomeric extensible-contractible boot **62** extends between adapter **28** and housing **12**. The boot is illustrated generally in perspective view in FIG. 5 in solid outline in its retracted configuration, and extended in the dashed outline portion. The retracted dimension is indicated generally at **64** and the extended dimension at **66**.

Referring to FIGS. 1, 3 and 4, it will be seen that adaptor **28** has an annular groove, or depression, **70** formed therein and housing **12** has an annular groove, or depression, **72**. Boot **62** has annular inwardly directed projections **74**, **76** at its opposite ends, respectively. Projections **74**, **76** frictionally fit in grooves **70**, **72** respectively to provide protection over the space between the housing and adaptor.

It will be noted that housing **12** has an inner end portion **12a** nearest adaptor **28**, and an outer end portion **12b** spaced outwardly therefrom. The bracket **50**, motor **52** and spur gear **54** are mounted within the inner end portion of the housing.

With mirror **14**, bracket **50**, motor **52**, and spur gear **54** are all held within housing **12** and thus are generally protected from the elements. Swivel connector **36** is in a position intermediate housing **12** and adaptor **28**. The purpose of boot **62** is to provide a covering for the swivel connector and that portion of the arm which otherwise would be exposed upon movement of the housing away from the vehicle.

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Operation of the present invention is such that when the mirror **14** in its retracted position, as illustrated in FIGS. 1 and 3, it is in a position close to the vehicle as would be found for the usual side view mirror. Should it be necessary to extend the mirror to be able to clear vision for towed or other impediments to rear vision, it is a simple matter to supply power to motor **52** to cause rotation of spur gear **54** driving the housing, motor, bracket, and mirror **14** laterally outwardly from the adaptor and vehicle to the position illustrated in FIG. 4 spaced further from the vehicle. Since the motor and gear remain enclosed within housing **12** they continue to be protected from the elements and provide direct driving force to move the housing along the rack gear **46** of arm **34**. Flexible boot **62** provides an enclosure for portions of the apparatus which otherwise would be exposed upon extension of the mirror.

While a preferred embodiment to the invention has been described herein, it should be apparent that variations and modifications are possible without departing from the spirit of the invention.

What is claimed is:

1. An extensible mirror apparatus for a vehicle comprising an elongate arm having a longitudinal axis adapted to be mounted on and extend laterally outwardly from the vehicle,
 - a rack gear extending longitudinally along said arm,
 - a bracket mounted on and movable longitudinally of said arm, laterally inwardly and outwardly from the vehicle, between fully extended and fully retracted positions.
 - a mirror and a motor mounted on and movable with said bracket, and
 - a drive gear drivably connected to said motor and engaging said rack gear operable to move said bracket, mirror and motor longitudinally along said arm laterally inwardly and outwardly to selected positions relative to the vehicle between said fully extended and fully retracted positions upon operation of said motor.
2. The apparatus of claim 1, which further comprises a housing mounted on and movable with said bracket in which housing said bracket, mirror, motor and drive gear are mounted.
3. The apparatus of claim 1, which further comprises a power supply conduit extending from said motor toward the vehicle.
4. The apparatus at claim 1, wherein the face of said mirror occupies a plane substantially parallel to the longitudinal axis of said arm and operation of the motor moves said bracket, mirror and motor along a path parallel to said longitudinal axis.
5. The apparatus of claim 1, which further comprises a mounting element adapted to be attached to the vehicle and said arm is supported on and extends outwardly from said mounting element.
6. The apparatus of claim 5, which further comprises a swivel connector and said arm is operatively connected to said mounting element through said swivel connector.
7. The apparatus of claim 1, wherein said arm has an elongate slot formed therein extending longitudinally of the arm and one edge of said slot has gear teeth formed thereon to provide said rack gear.
8. The apparatus of claim 7, wherein said drive gear extends into said slot to engage said gear teeth.
9. The apparatus of claim 1, which further comprises a housing mounted on and movable with said bracket in which housing said bracket, mirror, motor and drive gear are mounted, said housing having an inner end portion adapted

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to be positioned nearest the vehicle and an outer end spaced outwardly therefrom, and said bracket and motor are enclosed in said inner end portion of said housing.

10. The apparatus of claim 9, which further comprises an extensible-contractible flexible boot extending between said housing and the vehicle covering the portion of the arm which otherwise would be exposed upon movement of said housing away from the vehicle.

11. An extensible mirror apparatus for a vehicle comprising

- an adapter for attaching to a vehicle,
- an elongate arm having a longitudinal axis supported on and extending laterally outwardly from the adapter,
- a rack gear extending longitudinally along said arm,
- a bracket mounted on and movable longitudinally of said arm toward and away from the adapter between a fully retracted position adjacent the adapter and a fully extended position spaced a greater distance from the adapter,
- a mirror and a motor mounted on and movable with said bracket, and
- a drive gear drivingly connected to said motor and engaging said rack gear operable to move said bracket, mirror and motor longitudinally along said arm to selected positions between said fully retracted and fully extended positions upon operation of said motor.

12. The apparatus of claim 11, wherein said bracket is slidably mounted on said arm for movement longitudinally therealong.

13. The apparatus of claim 11, which further comprises a housing mounted on and movable with said bracket in which housing said bracket, mirror, motor and drive gear are mounted.

14. The apparatus of claim 13, which further comprises an extensible-contractible flexible boot extending between said housing and the adapter covering the portion of the arm which otherwise would be exposed upon movement of said housing away from the adapter.

15. The apparatus of claim 11, which further comprises a swivel connector and said arm is operatively connected to said adapter through said swivel connector.

16. The apparatus of claim 11, wherein said arm has an elongate slot formed therein extending longitudinally of the arm and one edge of said slot has gear teeth formed thereon to provide said rack gear.

17. The apparatus of claim 16, wherein said drive gear extends into said slot to engage said gear teeth.

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18. The apparatus of claim 11, which further comprises a housing mounted on and movable with said bracket in which housing said bracket, mirror, motor and drive gear are mounted, said housing having an inner end portion positioned nearest the adapter and an outer end spaced outwardly therefrom, and said bracket and motor are enclosed in said inner end portion of said housing.

19. The apparatus of claim 18, which further comprises an extensible-contractible flexible boot extending between said housing and the adapter covering the portion of the arm which otherwise would be exposed upon movement of said housing away from the vehicle.

20. An extensible mirror apparatus for a vehicle comprising

- an adapter for attaching to a vehicle,
- a swivel connector mounted on said adapter,
- an elongate arm mounted on the swivel connector and extending laterally outwardly from the swivel connector and adapter, said arm having an elongate slot formed therein extending longitudinally of the arm,
- a series of gear teeth formed in said slot defining a rack gear extending longitudinally along said arm,
- a bracket slidably mounted on and movable longitudinally of said arm toward and away from the adapter between a fully retracted position adjacent the adapter and a fully extended position spaced a greater distance from the adapter,
- a housing mounted on said bracket and movable therewith having an inner end portion nearest the adapter and an outer end portion space outwardly therefrom,
- a mirror and a motor mounted on and movable with said bracket, said bracket and motor being enclosed in the inner end portion of said housing,
- a drive gear drivingly connected to said motor and engaging said rack gear operable to move said bracket, housing, mirror and motor longitudinally along said arm to selected positions between said fully retracted and fully extended positions upon operation of said motor, and
- an extensible-contractible boot extending between said housing and the adapter covering the portion of the arm which otherwise would be exposed upon movement of the housing away from the adapter.

* * * * *

JS 44 (Rev. 11/04)

CIVIL COVER SHEET County in which this action arose _____

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS
 Visiocorp Australia Pty Ltd.

(b) County of Residence of First Listed Plaintiff Wayne
 (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)
 Andrew M. Grove (P48868); David J. Simonelli (P47221); Richard W. Reising, Ethington, et al. P.O. Box 4390, Troy, MI 48099 Ph: 248 689 3500

DEFENDANTS
 Power Vision LLC

County of Residence of First Listed Defendant Umatilla, Oregon
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)
 Hoffmann (P42352);

II. BASIS OF JURISDICTION (Select One Box Only)

1 U.S. Government Plaintiff

3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant

4 Diversity (Indicate Citizenship of Parties in Item III)

III.

Case: 2:08-cv-10968
 Judge: Cox, Sean F
 Referral MJ: Hluchaniuk, Michael J.
 Filed: 03-06-2008 At 02:12 PM
 CMP VISIACORP AUSTRALIA PTY LTD V POWER VISION LLC (EW)

ant) DEF 4
 5
 6

Foreign Country _____

IV. NATURE OF SUIT (Select One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
				<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Select One Box Only)

1 Original Proceeding

2 Removed from State Court

3 Remanded from Appellate Court

4 Reinstated or Reopened

5 Transferred from another district (specify) _____

6 Multidistrict Litigation

7 Appeal to District Judge from Magistrate Judgment

Cite the U.S. Civil Statute under which you are filing. (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. § 2201; 35 U.S.C. § 1

VI. CAUSE OF ACTION
 Brief description of cause:
Declaratory judgment of patent non-infringement and invalidity

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ _____

DECLARE PATENT INVALID **JURY DEMAND:** Yes No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE Sullivan Dist. Oregon DOCKET NUMBER 2:07-cv-01684-SU

DATE 3-6-08 SIGNATURE OF ATTORNEY OF RECORD Andrew M. Grove

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

Yes
 No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

Yes
 No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

Notes :
