

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MAGNA MIRRORS OF AMERICA, INC.,

Plaintiff,

Case Nos. 05-74444
and 08-10697

vs.

GUARDIAN INDUSTRIES CORP.,
GUARDIAN AUTOMOTIVE CORPORATION,
GUARDIAN AUTOMOTIVE PRODUCTS, INC.,
GUARDIAN INDUSTRIES DISTRIBUTION
CENTER, INC., and GUARDIAN GLASS COMPANY,

Hon. Arthur Tarnow
Magistrate Judge S. Pepe

Defendants.

HOWARD & HOWARD ATTORNEYS PLLC By: Jeffrey A. Sadowski (P28163) Dean W. Amburn (P46427) Kristopher K. Hulliberger (P66903) Attorneys for Plaintiff/Counter-Defendant 450 West Fourth Street Royal Oak, MI 48067 (248) 645-1483 khulliberger@howardandhoward.com	KIRKLAND & ELLIS LLP By: Bryan S. Hales (Bar No. 6243060 (IL)) Attorneys for Defendants/Counter-Plaintiffs 200 East Randolph Drive Chicago, IL 60601 (312) 861-2000 bhales@kirkland.com
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SECOND AMENDED COMPLAINT AND JURY DEMAND

For its Second Amended Complaint against Guardian Industries Corp., Guardian Automotive Corporation, Guardian Automotive Products, Inc., Guardian Industries Distribution Center, Inc., and Guardian Glass Company (the Defendants are hereinafter collectively referred to as “Guardian”), the Plaintiff, Magna Mirrors of America, Inc. (“Magna Mirrors”), alleges as follows:

THE PARTIES

1. Magna Mirrors is a corporation organized and existing under the laws of the State of Michigan, having a registered address of 30600 Telegraph Road, Bingham Farms, Michigan, 48025. Magna Mirrors is doing business under the registered assumed names of “Donnelly Corporation” and “Magna Donnelly.”

2. Guardian Industries Corp. is a corporation organized and existing under the laws of the State of Delaware, and having a place of business at 2300 Harmon Road, Auburn Hills, Michigan 49326.

3. Guardian Automotive Corporation is a corporation organized and existing under the laws of the State of Michigan, and having a place of business at 2300 Harmon Road, Auburn Hills, Michigan 48326.

4. Guardian Automotive Products, Inc. is a corporation organized and existing under the laws of the State of Delaware, and having a place of business at 2300 Harmon Road, Auburn Hills, Michigan 48326.

5. Guardian Industries Distribution Center, Inc. is a corporation organized and existing under the laws of the State of Michigan, and having a place of business at 2300 Harmon Road, Auburn Hills, Michigan 48326.

6. Guardian Glass Company is an Ohio corporation having a place of business at 600 Lakeview Plaza Boulevard, Suite A, Worthington, Ohio 43085.

7. Guardian Industries Corp. is a parent corporation to Guardian Automotive Corporation, Guardian Automotive Products, Inc., Guardian Industries Distribution Center, Inc. and Guardian Glass Company.

8. Guardian Industries Corp., Guardian Automotive Corporation, Guardian Automotive Products, Inc., Guardian Industries Distribution Center, Inc., and Guardian Glass Company, upon information and belief, work collectively to develop, manufacture, market and/or sell glass products, including glass products directed toward the automobile industry.

JURISDICTION AND VENUE

9. Guardian, upon information and belief, is doing business within the State of Michigan and within the Eastern District of Michigan, and is engaged in continuous and systematic business within the Eastern District of Michigan, including, but not limited to, the commission of acts of infringement as hereinafter stated.

10. The cause of action for patent infringement arises under the Patent Laws of the United States, Title 35 U.S.C. §§101 and 271, and this Court has jurisdiction of this claim pursuant to §§1331, 1338, and 2201 *et seq.*

11. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400.

COUNT 1 INFRINGEMENT OF UNITED STATES PATENT NO. 5,551,197 (VIOLATION OF 35 U.S.C. §§ 101 AND 271)

12. Magna Mirrors repeats and re-alleges each and every allegation contained in the above paragraphs as if fully set forth herein.

13. On September 3, 1996, United States Letters Patent No. 5,551,197, entitled “Flush-Mounted Articulated/Hinged Window Assembly”, was duly and legally issued by the United States Patents and Trademark Office. On August 19, 2008, a Reexamination Certificate was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of United States Patent No. 5,551,197 and Reexamination Certificate are attached hereto as **Exhibit A** (hereinafter the “‘197 Patent”).

14. Magna Mirrors is the current Assignee of all right, title, and interest in the '197 Patent, including the right to bring and maintain this action with respect to the '197 Patent.

15. Guardian has, upon information and belief, in the past been and still is infringing the '197 Patent by making, importing, using, selling, and/or offering for sale in and to the United States products incorporating hinged vehicle windows embodying the patented inventions of the '197 Patent.

16. Use by third parties of the aforesaid hinged vehicle windows obtained from or through Guardian, upon information and belief, infringes the '197 Patent. Upon information and belief, with knowledge and/or reckless disregard amounting to knowledge of the infringement of the '197 Patent by the aforesaid products obtained from or through Guardian, Guardian has provided hinged vehicle windows to at least one third party for use in infringement of the '197 Patent.

17. Upon information and belief, Guardian makes, imports, sells, and/or offers to sell hinged vehicle windows and/or components thereof with knowledge and/or reckless disregard amounting to knowledge that said products and/or components thereof constitute a material part of the inventions of the '197 Patent and that are especially made or especially adapted for use in infringement of the '197 Patent, and said hinged vehicle windows and/or components thereof are not a staple article or commodity of commerce suitable for substantial non-infringing use. The actions of Guardian constitute contributory infringement of the '197 Patent.

18. Despite any statement to the contrary, and upon information and belief, Guardian will continue to infringe, contributorily infringe, and induce infringement of the '197 Patent unless enjoined by the Court.

19. Upon information and belief, Guardian's infringement, contributory infringement, and inducement of infringement have been willful

20. Upon information and belief, Guardian's infringement, contributory infringement, and inducement of infringement have resulted in damage to Magna Mirrors and will continue to do so unless enjoined by this Court.

21. Magna Mirrors has no adequate remedy at law and is, therefore, entitled to a permanent injunction prohibiting further infringement by Guardian.

22. Guardian's manufacture, use, sale, offer to sell, and/or distribution of these products that infringe, contributorily infringe, and induce infringement of the '197 Patent have caused Magna Mirrors to suffer damages in an amount not yet determined, but will be proven at trial.

23. Magna Mirrors, therefore, seeks judgment as set forth herein.

COUNT 2
INFRINGEMENT OF UNITED STATES PATENT NO. 5,853,895
(VIOLATION OF 35 U.S.C. §§ 101 AND 271)

24. Magna Mirrors repeats and re-alleges each and every allegation contained in the above paragraphs as if fully set forth herein.

25. On December 29, 1998, United States Patent No. 5,853,895, entitled "Bonded Vehicular Glass Assemblies Utilizing Two-Component Urethanes, and Related Methods of Bonding", was duly and legally issued by the United States Patent and Trademark Office. On February 24, 2009, a Reexamination Certificate was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of United States Patent No. 5,853,895 and Reexamination Certificate are attached hereto as **Exhibit B** (hereinafter the "'895 Patent.")

26. Magna Mirrors is the current Assignee of all right, title, and interest in the '895 Patent, including the right to bring and maintain this action with respect to the '895 Patent.

27. Guardian has, upon information and belief, in the past been and still is infringing the '895 Patent by making, importing, using, selling, and/or offering for sale in and to the United States products incorporating hinged vehicle windows embodying the patented inventions of the '895 Patent.

28. Use by third parties of the aforesaid hinged vehicle windows obtained from or through Guardian, upon information and belief, infringes the '895 Patent. Upon information and belief, with knowledge and/or reckless disregard amounting to knowledge of the infringement of the '895 Patent by the aforesaid products obtained from or through Guardian, Guardian has provided hinged vehicle windows to at least one third party for use in infringement of the '895 Patent.

29. Upon information and belief, Guardian makes, imports, sells, and/or offers to sell hinged vehicle windows and/or components thereof with knowledge and/or reckless disregard amounting to knowledge that said products and/or components thereof constitute a material part of the inventions of the '895 Patent and that are especially made or especially adapted for use in infringement of the '895 Patent, and said hinged vehicle windows and/or components thereof are not a staple article or commodity of commerce suitable for substantial non-infringing use. The actions of Guardian constitute contributory infringement of the '895 Patent.

30. Despite any statement to the contrary, and upon information and belief, Guardian will continue to infringe, contributorily infringe, and induce infringement of the '895 Patent unless enjoined by the Court.

31. Upon information and belief, Guardian's infringement, contributory infringement, and inducement of infringement have been willful.

32. Upon information and belief, Guardian's infringement, contributory infringement, and inducement of infringement have resulted in damage to Magna Mirrors and will continue to do so unless enjoined by this Court.

33. Magna Mirrors has no adequate remedy at law and is, therefore, entitled to a permanent injunction prohibiting further infringement by Guardian.

34. Guardian's manufacture, use, sale, offer to sell, and/or distribution of these products that infringe, contributorily infringe, and induce infringement of the '895 Patent have caused Magna Mirrors to suffer damages in an amount not yet determined, but will be proven at trial.

35. Magna Mirrors, therefore, seeks judgment as set forth herein.

COUNT 3
INFRINGEMENT OF UNITED STATES PATENT NO. 5,966,874
(VIOLATION OF 35 U.S.C. §§ 101 AND 271)

36. Magna Mirrors repeats and re-alleges each and every allegation contained in the above paragraphs as if fully set forth herein.

37. On October 19, 1999, United States Patent No. 5,966,874, entitled "Hinged Window Assembly", was duly and legally issued by the United States Patent and Trademark Office. On June 24, 2008, a Reexamination Certificate was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of United States Patent No. 5,966,874 and Reexamination Certificate are attached hereto as **Exhibit C** (hereinafter the "'874 Patent").

38. Magna Mirrors is the current Assignee of all right, title, and interest in the '874 Patent, including the right to bring and maintain this action with respect to the '874 Patent.

39. Guardian has, upon information and belief, in the past been and still is infringing the '874 Patent by making, importing, using, selling, and/or offering for sale in and to the United States products incorporating hinged vehicle windows embodying the patented inventions of the '874 Patent.

40. Use by third parties of the aforesaid hinged vehicle windows obtained from or through Guardian, upon information and belief, infringes the '874 Patent. Upon information and belief, with knowledge and/or reckless disregard amounting to knowledge of the infringement of the '874 Patent by the aforesaid products obtained from or through Guardian, Guardian has provided hinged vehicle windows to at least one third party for use in infringement of the '874 Patent.

41. Upon information and belief, Guardian makes, imports, sells, and/or offers to sell hinged vehicle windows and/or components thereof with knowledge and/or reckless disregard amounting to knowledge that said products and/or components thereof constitute a material part of the inventions of the '874 Patent and that are especially made or especially adapted for use in infringement of the '874 Patent, and said hinged vehicle windows and/or components thereof are not a staple article or commodity of commerce suitable for substantial non-infringing use. The actions of Guardian constitute contributory infringement of the '874 Patent.

42. Despite any statement to the contrary, and upon information and belief, Guardian will continue to infringe, contributorily infringe, and induce infringement of the '874 Patent unless enjoined by the Court.

43. Upon information and belief, Guardian's infringement, contributory infringement, and inducement of infringement have been willful.

44. Upon information and belief, Guardian's infringement, contributory infringement, and inducement of infringement have resulted in damage to Magna Mirrors and will continue to do so unless enjoined by this Court.

45. Magna Mirrors has no adequate remedy at law and is, therefore, entitled to a permanent injunction prohibiting further infringement by Guardian.

46. Guardian's manufacture, use, sale, offer to sell, and/or distribution of these products that infringe, contributorily infringe, and induce infringement of the '874 Patent have caused Magna Mirrors to suffer damages in an amount not yet determined, but will be proven at trial.

47. Magna Mirrors, therefore, seeks judgment as set forth herein.

COUNT 4
INFRINGEMENT OF UNITED STATES PATENT NO. 6,068,719
(VIOLATION OF 35 U.S.C. §§ 101 AND 271)

48. Magna Mirrors repeats and re-alleges each and every allegation contained in the above paragraphs as if fully set forth herein.

49. On May 30, 2000, United States Patent No. 6,068,719, entitled "Methods of Bonding Vehicular Glass Assemblies Utilizing Two Component Urethanes", was duly and legally issued by the United States Patent and Trademark Office. On February 17, 2009, a Reexamination Certificate was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of United States Patent No. 6,068,719 and Reexamination Certificate are attached hereto as **Exhibit D** (hereinafter the "'719 Patent").

50. Magna Mirrors is the current Assignee of all right, title, and interest in the '719 Patent, including the right to bring and maintain this action with respect to the '719 Patent.

51. Guardian has, upon information and belief, in the past been and still is infringing the '719 Patent by making, importing, using, selling, and/or offering for sale in and to the United States products incorporating hinged vehicle windows embodying the patented inventions of the '719 Patent.

52. Use by third parties of the aforesaid hinged vehicle windows obtained from or through Guardian, upon information and belief, infringes the '719 Patent. Upon information and belief, with knowledge and/or reckless disregard amounting to knowledge of the infringement of the '719 Patent by the aforesaid products obtained from or through Guardian, Guardian has provided hinged vehicle windows to at least one third party for use in infringement of the '719 Patent.

53. Upon information and belief, Guardian makes, imports, sells, and/or offers to sell hinged vehicle windows and/or components thereof with knowledge and/or reckless disregard amounting to knowledge that said products and/or components thereof constitute a material part of the inventions of the '719 Patent and that are especially made or especially adapted for use in infringement of the '719 Patent, and said hinged vehicle windows and/or components thereof are not a staple article or commodity of commerce suitable for substantial non-infringing use. The actions of Guardian constitute contributory infringement of the '719 Patent.

54. Despite any statement to the contrary, and upon information and belief, Guardian will continue to infringe, contributorily infringe, and induce infringement of the '719 Patent unless enjoined by the Court.

55. Upon information and belief, Guardian's infringement, contributory infringement, and inducement of infringement have been willful.

56. Upon information and belief, Guardian's infringement, contributory infringement, and inducement of infringement have resulted in damage to Magna Mirrors and will continue to do so unless enjoined by this Court.

57. Magna Mirrors has no adequate remedy at law and is, therefore, entitled to a permanent injunction prohibiting further infringement by Guardian.

58. Guardian's manufacture, use, sale, offer to sell, and/or distribution of these products that infringe, contributorily infringe, and induce infringement of the '719 Patent have caused Magna Mirrors to suffer damages in an amount not yet determined, but will be proven at trial.

59. Magna Mirrors, therefore, seeks judgment as set forth herein.

COUNT 5
INFRINGEMENT OF UNITED STATES PATENT NO. 6,128,860
(VIOLATION OF 35 U.S.C. §§ 101 AND 271)

60. Magna Mirrors repeats and re-alleges each and every allegation contained in the above paragraphs as if fully set forth herein.

61. On October 10, 2000, United States Patent No. 6,128,860, entitled "Articulated Window Panel for Vehicles", was duly and legally issued by the United States Patent and Trademark Office. On August 26, 2008, a Reexamination Certificate was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of United States Patent No. 6,128,860 and Reexamination Certificate are attached hereto as **Exhibit E** (hereinafter the "'860 Patent").

62. Magna Mirrors is the current Assignee of all right, title, and interest in the '860 Patent, including the right to bring and maintain this action with respect to the '860 Patent.

63. Guardian has, upon information and belief, in the past been and still is infringing the '860 Patent by making, importing, using, selling, and/or offering for sale in and to the United States products incorporating hinged vehicle windows embodying the patented inventions of the '860 Patent.

64. Use by third parties of the aforesaid hinged vehicle windows obtained from or through Guardian, upon information and belief, infringes the '860 Patent. Upon information and belief, with knowledge and/or reckless disregard amounting to knowledge of the infringement of the '860 Patent by the aforesaid products obtained from or through Guardian, Guardian has provided hinged vehicle windows to at least one third party for use in infringement of the '860 Patent.

65. Upon information and belief, Guardian makes, imports, sells, and/or offers to sell hinged vehicle windows and/or components thereof with knowledge and/or reckless disregard amounting to knowledge that said products and/or components thereof constitute a material part of the inventions of the '860 Patent and that are especially made or especially adapted for use in infringement of the '860 Patent, and said hinged vehicle windows and/or components thereof are not a staple article or commodity of commerce suitable for substantial non-infringing use. The actions of Guardian constitute contributory infringement of the '860 Patent.

66. Despite any statement to the contrary, and upon information and belief, Guardian will continue to infringe, contributorily infringe, and induce infringement of the '860 Patent unless enjoined by the Court.

67. Upon information and belief, Guardian's infringement, contributory infringement, and inducement of infringement have been willful.

68. Upon information and belief, Guardian's infringement, contributory infringement, and inducement of infringement have resulted in damage to Magna Mirrors and will continue to do so unless enjoined by this Court.

69. Magna Mirrors has no adequate remedy at law and is, therefore, entitled to a permanent injunction prohibiting further infringement by Guardian.

70. Guardian's manufacture, use, sale, offer to sell, and/or distribution of these products that infringe, contributorily infringe, and induce infringement of the '860 Patent have caused Magna Mirrors to suffer damages in an amount not yet determined, but will be proven at trial.

71. Magna Mirrors, therefore, seeks judgment as set forth herein.

COUNT 6
INFRINGEMENT OF UNITED STATES PATENT NO. 6,298,606
(VIOLATION OF 35 U.S.C. §§ 101 AND 271)

72. Magna Mirrors repeats and re-alleges each and every allegation contained in the above paragraphs as if fully set forth herein.

73. On October 9, 2001, United States Patent No. 6,298,606, entitled "Method for Making Articulated Window Assembly for Vehicles", was duly and legally issued by the United States Patent and Trademark Office. On July 29, 2008, a Reexamination Certificate was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of United States Patent No. 6,298,606 and Reexamination Certificate are attached hereto as **Exhibit F** (hereinafter the "'606 Patent").

74. Magna Mirrors is the current Assignee of all right, title, and interest in the '606 Patent, including the right to bring and maintain this action with respect to the '606 Patent.

75. Guardian has, upon information and belief, in the past been and still is infringing the '606 Patent by making, importing, using, selling, and/or offering for sale in and to the United States products incorporating hinged vehicle windows embodying the patented inventions of the '606 Patent.

76. Use by third parties of the aforesaid hinged vehicle windows obtained from or through Guardian, upon information and belief, infringes the '606 Patent. Upon information and belief, with knowledge and/or reckless disregard amounting to knowledge of the infringement of the '606 Patent by the aforesaid products obtained from or through Guardian, Guardian has provided hinged vehicle windows to at least one third party for use in infringement of the '606 Patent.

77. Upon information and belief, Guardian makes, imports, sells, and/or offers to sell hinged vehicle windows and/or components thereof with knowledge and/or reckless disregard amounting to knowledge that said products and/or components thereof constitute a material part of the inventions of the '606 Patent and that are especially made or especially adapted for use in infringement of the '606 Patent, and said hinged vehicle windows and/or components thereof are not a staple article or commodity of commerce suitable for substantial non-infringing use. The actions of Guardian constitute contributory infringement of the '606 Patent.

78. Despite any statement to the contrary, and upon information and belief, Guardian will continue to infringe, contributorily infringe, and induce infringement of the '606 Patent unless enjoined by the Court.

79. Upon information and belief, Guardian's infringement, contributory infringement, and inducement of infringement have been willful.

80. Upon information and belief, Guardian's infringement, contributory infringement, and inducement of infringement have resulted in damage to Magna Mirrors and will continue to do so unless enjoined by this Court.

81. Magna Mirrors has no adequate remedy at law and is, therefore, entitled to a permanent injunction prohibiting further infringement by Guardian.

82. Guardian's manufacture, use, sale, offer to sell, and/or distribution of these products that infringe, contributorily infringe, and induce infringement of the '606 Patent have caused Magna Mirrors to suffer damages in an amount not yet determined, but will be proven at trial.

83. Magna Mirrors, therefore, seeks judgment as set forth herein.

COUNT 7
INFRINGEMENT OF UNITED STATES PATENT NO. 6,319,344
(VIOLATION OF 35 U.S.C. §§ 101 AND 271)

84. Magna Mirrors repeats and re-alleges each and every allegation contained in the above paragraphs as if fully set forth herein.

85. On November 20, 2001, United States Patent No. 6,319,344, entitled "Bonded Vehicular Glass Assemblies Utilizing Two Component Adhesives", was duly and legally issued by the United States Patent and Trademark Office. On August 26, 2008, a Reexamination Certificate was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of United States Patent No. 6,319,344 and Reexamination Certificate are attached hereto as **Exhibit G** (hereinafter the "'344 Patent").

86. Magna Mirrors is the current Assignee of all right, title, and interest in the '344 Patent, including the right to bring and maintain this action with respect to the '344 Patent.

87. Guardian has, upon information and belief, in the past been and still is infringing the '344 Patent by making, importing, using, selling, and/or offering for sale in and to the United States products incorporating hinged vehicle windows embodying the patented inventions of the '344 Patent.

88. Use by third parties of the aforesaid hinged vehicle windows obtained from or through Guardian, upon information and belief, infringes the '344 Patent. Upon information and belief, with knowledge and/or reckless disregard amounting to knowledge of the infringement of the '344 Patent by the aforesaid products obtained from or through Guardian, Guardian has provided hinged vehicle windows to at least one third party for use in infringement of the '344 Patent.

89. Upon information and belief, Guardian makes, imports, sells, and/or offers to sell hinged vehicle windows and/or components thereof with knowledge and/or reckless disregard amounting to knowledge that said products and/or components thereof constitute a material part of the inventions of the '344 Patent and that are especially made or especially adapted for use in infringement of the '344 Patent, and said hinged vehicle windows and/or components thereof are not a staple article or commodity of commerce suitable for substantial non-infringing use. The actions of Guardian constitute contributory infringement of the '344 Patent.

90. Despite any statement to the contrary, and upon information and belief, Guardian will continue to infringe, contributorily infringe, and induce infringement of the '344 Patent unless enjoined by the Court.

91. Upon information and belief, Guardian's infringement, contributory infringement, and inducement of infringement have been willful.

92. Upon information and belief, Guardian's infringement, contributory infringement, and inducement of infringement have resulted in damage to Magna Mirrors and will continue to do so unless enjoined by this Court.

93. Magna Mirrors has no adequate remedy at law and is, therefore, entitled to a permanent injunction prohibiting further infringement by Guardian.

94. Guardian's manufacture, use, sale, offer to sell, and/or distribution of these products that infringe, contributorily infringe, and induce infringement of the '344 Patent have caused Magna Mirrors to suffer damages in an amount not yet determined, but will be proven at trial.

95. Magna Mirrors, therefore, seeks judgment as set forth herein.

COUNT 8
INFRINGEMENT OF UNITED STATES PATENT NO. 7,332,225
(VIOLATION OF 35 U.S.C. §§ 101 AND 271)

96. Magna Mirrors repeats and re-alleges each and every allegation contained in the above paragraphs as if fully set forth herein.

97. On February 19, 2008, United States Letters Patent No. 7,332,225, entitled "Bonded Vehicular Glass Assemblies Utilizing Two-Component Urethane Adhesive", was duly and legally issued by the United States Patents and Trademark Office. A true and correct copy of United States Patent No. 7,332,225 is attached hereto as **Exhibit H** (hereinafter the "'225 Patent").

98. Magna Mirrors is the current Assignee of all right, title, and interest in the '225 Patent, including the right to bring and maintain this action with respect to the '225 Patent.

99. Guardian has, upon information and belief, in the past been and still is infringing the '225 Patent by making, importing, using, selling, and/or offering for sale in and to the United States products incorporating hinged vehicle windows embodying the patented inventions of the '225 Patent.

100. Use by third parties of the aforesaid hinged vehicle windows obtained from or through Guardian, upon information and belief, infringes the '225 Patent. Upon information and belief, with knowledge and/or reckless disregard amounting to knowledge of the infringement of the '225 Patent by the aforesaid products obtained from or through Guardian, Guardian has provided hinged vehicle windows to at least one third party for use in infringement of the '225 Patent.

101. Upon information and belief, Guardian makes, imports, sells, and/or offers to sell hinged vehicle windows and/or components thereof with knowledge and/or reckless disregard amounting to knowledge that said products and/or components thereof constitute a material part of the inventions of the '225 Patent and that are especially made or especially adapted for use in infringement of the '225 Patent, and said hinged vehicle windows and/or components thereof are not a staple article or commodity of commerce suitable for substantial non-infringing use. The actions of Guardian constitute contributory infringement of the '225 Patent.

102. Despite any statement to the contrary, and upon information and belief, Guardian will continue to infringe, contributorily infringe, and induce infringement of the '225 Patent unless enjoined by the Court.

103. Upon information and belief, Guardian's infringement, contributory infringement, and inducement of infringement have been willful.

104. Upon information and belief, Guardian's infringement, contributory infringement, and inducement of infringement have resulted in damage to Magna Mirrors and will continue to do so unless enjoined by this Court.

105. Magna Mirrors has no adequate remedy at law and is, therefore, entitled to a permanent injunction prohibiting further infringement by Guardian.

106. Guardian's manufacture, use, sale, offer to sell, and/or distribution of these products that infringe, contributorily infringe, and induce infringement of the '225 Patent have caused Magna Mirrors to suffer damages in an amount not yet determined, but will be proven at trial.

107. Magna Mirrors, therefore, seeks judgment as set forth herein.

COUNT 9
INFRINGEMENT OF UNITED STATES PATENT NO. 7,588,652
(VIOLATION OF 35 U.S.C. §§ 101 AND 271)

108. Magna Mirrors repeats and re-alleges each and every allegation contained in the above paragraphs as if fully set forth herein.

109. On September 15, 2009, United States Letters Patent No. 7,588,652, entitled "Method for Making an Articulatable Vehicular Window Assembly", was duly and legally issued by the United States Patents and Trademark Office. A true and correct copy of United States Patent No. 7,588,652 is attached hereto as **Exhibit I** (hereinafter the "'652 Patent").

110. Magna Mirrors is the current Assignee of all right, title, and interest in the '652 Patent, including the right to bring and maintain this action with respect to the '652 Patent.

111. Guardian has, upon information and belief, in the past been and still is infringing the '652 Patent by making, importing, using, selling, and/or offering for sale in and to the

United States products incorporating hinged vehicle windows embodying the patented inventions of the '652 Patent.

112. Use by third parties of the aforesaid hinged vehicle windows obtained from or through Guardian, upon information and belief, infringes the '652 Patent. Upon information and belief, with knowledge and/or reckless disregard amounting to knowledge of the infringement of the '652 Patent by the aforesaid products obtained from or through Guardian, Guardian has provided hinged vehicle windows to at least one third party for use in infringement of the '652 Patent.

113. Upon information and belief, Guardian makes, imports, sells, and/or offers to sell hinged vehicle windows and/or components thereof with knowledge and/or reckless disregard amounting to knowledge that said products and/or components thereof constitute a material part of the inventions of the '652 Patent and that are especially made or especially adapted for use in infringement of the '652 Patent, and said hinged vehicle windows and/or components thereof are not a staple article or commodity of commerce suitable for substantial non-infringing use. The actions of Guardian constitute contributory infringement of the '652 Patent.

114. Despite any statement to the contrary, and upon information and belief, Guardian will continue to infringe, contributorily infringe, and induce infringement of the '652 Patent unless enjoined by the Court.

115. Upon information and belief, Guardian's infringement, contributory infringement, and inducement of infringement have been willful.

116. Upon information and belief, Guardian's infringement, contributory infringement, and inducement of infringement have resulted in damage to Magna Mirrors and will continue to do so unless enjoined by this Court.

117. Magna Mirrors has no adequate remedy at law and is, therefore, entitled to a permanent injunction prohibiting further infringement by Guardian.

118. Guardian's manufacture, use, sale, offer to sell, and/or distribution of these products that infringe, contributorily infringe, and induce infringement of the '652 Patent have caused Magna Mirrors to suffer damages in an amount not yet determined, but will be proven at trial.

119. Magna Mirrors, therefore, seeks judgment as set forth herein.

WHEREFORE, Magna Mirrors demands that judgment be entered in its favor against Guardian as follows:

- A. Permanently enjoining Guardian, and their officers, agents, employees, attorneys, and all those persons in privity or in active concert or participation with them, from further manufacture, importation, sale, offer for sale, and/or use of any and all products which infringe, contributorily infringe, or induce infringement of the '197 Patent, '895 Patent, '874 Patent, '719 Patent, '860 Patent, '606 Patent, '344 Patent, '225 Patent and '652 Patent (collectively, the "Patents-In-Suit").
- B. Permanently enjoining Guardian, and their officers, agents, employees, attorneys, and all those persons in privity or in active concert or participation with them, from further acts of infringement of the Patents-in-Suit.

- C. Ordering an accounting.
- D. Awarding damages in an amount to be determined at trial, but adequate to compensate Magna Mirrors for Guardian's infringement, contributory infringement, and inducement of infringement of the Patents-in-Suit.
- E. Increasing the damages up to three times the amount found or assessed for Guardian's willful acts of infringement.
- F. Awarding prejudgment interest and costs.
- G. Finding this to be an exceptional case and awarding reasonable attorneys' fees to Magna Mirrors.
- H. Such other and further relief as this Court deems necessary and appropriate.

JURY DEMAND

Plaintiff requests a jury for all issues triable by jury in this action.

Respectfully submitted,

HOWARD & HOWARD ATTORNEYS PLLC

By: /s/ Kristopher K. Hulliberger
Jeffrey A. Sadowski (P28163)
Dean W. Amburn (P46427)
Kristopher K. Hulliberger (P66903)
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Dated: November 25, 2009

CERTIFICATE OF SERVICE

I hereby certify that on November 25, 2009, I electronically filed the foregoing pleading, Second Amended Complaint and Jury Demand, with the Clerk of the Court using the ECF system. The ECF System will send notification of such filing to the following attorneys:

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