

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. SACV 20-101 JVS (DFMx) Date January 6, 2021

Title Zadro Products, Inc. v. Feit Electric Co., Inc.

Present: The **James V. Selna, U.S. District Court Judge**
Honorable

Lisa Bredahl

Not Present

Deputy Clerk

Court Reporter

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Not Present

Not Present

Proceedings: [IN CHAMBERS] Order Regarding Claim Construction

Plaintiff Zadro Products, Inc. (“Zadro”) and Defendant Feit Electric Company (“Feit”) have submitted opening and responsive claim construction briefs for twelve terms in two patents.¹ Zadro Op. Br., ECF No. 86; Feit Op. Br., ECF No. 85; Zadro Resp. Br., ECF No. 98; Feit Resp. Br., ECF No. 97. The parties also filed a joint claim construction and prehearing statement. Joint Statement, ECF No. 75.

The Court construes the claim terms identified herein.

I. LEGAL STANDARD

Claim construction is “exclusively within the province of the court.” Markman v. W. Instruments, Inc., 517 U.S. 370, 372 (1996). Such construction “must begin and remain centered on” the claim language itself. Interactive Gift Express, Inc. v. Compuserve, Inc., 256 F.3d 1323, 1331 (Fed. Cir. 2001). But extrinsic evidence may also be consulted “if needed to assist in determining the meaning or scope of technical terms in the claims.” Pall Corp. v. Micron Separations, Inc., 66 F.3d 1211, 1216 (Fed. Cir. 1995).

In construing the claim language, the Court begins with the principle that “the words of a claim are generally given their ordinary and customary meaning.” Phillips v. AWH Corp., 415 F.3d 1303, 1312 (Fed. Cir. 2005) (en banc) (internal quotation marks

¹ U.S. Patent Nos. 8,162,502 (the “502 patent”) and U.S. Patent No. 8,356,908 (the “908 patent”) (together, the “Patents at Issue”).

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omitted). This ordinary and customary meaning “is the meaning that the [claim] term would have to a person of ordinary skill in the art in question at the time of the invention, *i.e.*, as of the effective filing date of the patent application.” *Id.* at 1313. “[T]he person of ordinary skill in the art is deemed to read the claim term not only in the context of the particular claim in which the disputed term appears, but in the context of the entire patent, including the specification.” *Id.*

“In some cases, the ordinary meaning of claim language as understood by a person of skill in the art may be readily apparent even to lay judges, and claim construction in such cases involves little more than the application of the widely accepted meaning of commonly understood words. In such circumstances general purpose dictionaries may be helpful.” *Id.* at 1314 (internal citation omitted). In other cases, “determining the ordinary and customary meaning of the claim requires examination of terms that have a particular meaning in a field of art.” *Id.* Then “the court looks to those sources available to the public that show what a person of skill in the art would have understood disputed claim language to mean.” *Id.* (internal quotation marks omitted). These sources include “the words of the claims themselves, the remainder of the specification, the prosecution history, and extrinsic evidence concerning relevant scientific principles, the meaning of technical terms, and the state of the art.” *Id.* (internal quotation marks omitted). “The specification “is always highly relevant to the claim construction analysis. Usually, it is dispositive; it is the single best guide to the meaning of a disputed term.” Continental Circuits LLC v. Intel Corp., 915 F.3d 788, 796 (Fed. Cir. 2019) (quoting Phillips, 415 F.3d at 796).

But it is improper to read limitations from the specification into the claim. Callicrate v. Wadsworth Mfg., Inc., 427 F.3d 1361, 1368 (Fed. Cir. 2005) (“[I]f we once begin to include elements not mentioned in the claim, in order to limit such claim . . . we should never know where to stop.”) (quoting Phillips, 415 F.3d at 1312). A court does “not import limitations into claims from examples or embodiments appearing only in a patent’s written description, even when a specification describes very specific embodiments of the invention or even describes only a single embodiment, unless the specification makes clear that ‘the patentee . . . intends for the claims and the embodiments in the specification to be strictly coextensive.’” JVW Enters., Inc. v. Interact Accessories, Inc., 424 F.3d 1324, 1335 (Fed. Cir. 2005) (internal citations

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omitted) (emphasis added).

II. THE PATENTS AT ISSUE

The Patents at Issue both relate to “lighted, continuously rotatable, dual-magnification mirrors.” Zadro Op. Br. at 2. Each of the mirrors is located within what is called a “mirror frame.” ’502 Patent, ECF No. 75-1, at 2: 32-41; ’908 Patent, ECF No. 75-2, at 2:33-37. This frame consists of multiple layers of material. ’502 Patent at Figure 9; ’908 Patent at Figure 9. Most important are two components of the mirror frame. First, each mirror frame consists of a “mirror plate” that contains an outwardly facing reflective surface and an adjacent light transmissive region. ’502 Patent at 3:24-30; ’908 Patent at 2:58-64. The light transmissive region exists to allow light from sources within the mirror frame to pass out and illuminate the user’s face. ’502 Patent at 3:24-30; ’908 Patent at 2:58-64.

The lights are powered by electricity that passes into the mirror frame via what are referred to as “pivot joints,” around which the mirror vertically rotates. ’502 Patent at 2:36-41; ’908 Patent at 2:42-47. The electricity in turn reaches the pivot joints by wires that extend from the base and up through two yoke arms that have at their ends the pivot joints. ’502 Patent at 3:8-11; ’908 Patent at 3:40-43.

A. The ’502 Patent

The ’502 Patent discloses “[a] mirror for facilitating appearance related functions includ[ing] a circular ring-shaped frame holding therein back-to-back reflective mirror plates having different magnification factors, e.g. 1x and 5x, each plate having a circular central imaging reflective area.” ’502 Patent, ECF No. 75-1, at Abstract. Notably, the ’502 Patent specifically incorporates the use of what are called “continuously rotatable electrically conductive pivot joints” to convey electricity from the yoke arms to the mirror frame. *Id.* at 8:44-45.

The relevant claims are recited below. Claim 1 provides:

A mirror comprising:

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- a. a mirror assembly including a mirror frame holding therein at least a first imaging reflective mirror plate, said first reflective mirror plate having an axially outwardly facing imaging light reflective surface and a light transmissive region adjacent to said light reflective surface,
- b. an electrically energizable illumination source located within said frame axially inwardly² of said light transmissive region of said first reflective mirror plate,
- c. a yoke having a pair of opposed arms for rotatably supporting there between said mirror frame, and
- d. an electrical power coupling mechanism for providing electrical power to said illumination source, said electrical power coupling mechanism including a pair of laterally opposed continuously rotatable electrically conductive pivot joints, each of said continuously rotatable electrically conductive pivot joints comprising in combination an electrically conductive pin which protrudes from one of said frame and a said yoke arm, an electrically conductive cup which rotatably supports said pin located in the other of said yoke arm and said frame, an electrical conductor disposed between one of said pin and cup and said illumination source, and an electrical conductor disposed between the other end of said cup and said pin and an output terminal of an electrical power source.

Id. at 8:29-54 (emphasis added). Claim 9 recites:

A mirror comprising:

- a. a mirror assembly including a mirror frame holding therein at least a first imaging light reflective mirror plate, said first reflective mirror plate having a central axially outwardly facing imaging reflective surface and a light transmissive region adjacent to said imaging reflective surface,

² Words in bold indicate a separate claim term that is itself found within another claim term, which is underlined.

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- b. an electrically energizable illumination source located within said frame axially inwardly of an axially inner facing side of said reflective mirror plate, said illumination source having light emitting regions effective in directing light rays through said light transmissive regions of said first reflective mirror plate,
- c. a yoke having a pair of opposed arms for rotatably supporting there between said mirror frame,
- d. an electrical power coupling mechanism for providing electrical power to said illumination source, said electrical power coupling mechanism including a pair of laterally opposed continuously rotatable electrically conductive pivot joints, each of which comprises in combination an electrically conductive pin that protrudes from one of said frame and a said yoke arm, an electrically conductive cup which supports said pin located in the other of said yoke and said frame, an internal electrical conductor disposed between one of said pin and cup and said illumination source, and an external electrical conductor disposed between the other of said cup and said pin and through a said yoke arm towards an output terminal of an electrical power source,
- e. a support base containing therein an electrical power supply, and
- f. a support structure disposed between said base and said yoke, said support structure having disposed therein a hollow tubular passageway for receiving there through a first external electrical conductor through said first yoke arm and a second external electrical conductor through said second yoke arm, said first and second external conductors being electrically conductively connectable to first and second output terminal is of said power supply.

Id. at 9:14-53 (emphasis added). Claim 22 provides:

A mirror comprising:

- a. a mirror assembly including a mirror frame holding therein at least a first imaging reflective mirror plate, said first reflective mirror plate having an axially outwardly facing imaging light reflective surface

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- b. and a light transmissive region adjacent to said light reflective surface, an electrically energizable illumination source located within said frame axially inwardly of said light transmissive region of said first reflective mirror plate,
- c. a yoke having a pair of opposed support arms for rotatably supporting there between said mirror frame, and
- d. an electrical power coupling mechanism for providing electrical power to said illumination source through said yoke arms, said electrical power coupling mechanism including at least a first continuously rotatable electrically conductive pivot joint disposed between a first side of said mirror frame and a first one of said pair of opposed support arms.

Id. at 43-60 (emphasis added).

B. The '908 Patent

The '908 Patent discloses “[a] mirror includ[ing] a frame holding back-to-back a pair of reflective mirror plates having different magnification factors, each plate having a reflective central area and an outer concentric light-transmissive window area.” ’908 Patent, ECF No. 75-2, at Abstract. Notably, the ’908 Patent includes embodiments that use internal light reflective surfaces referred to as “light reflective members” for redirecting light projected backwards from the light source out through the light transmissive region. Id. at 10:58-65. The light source also is described as being “arcuately curved.” Id. at 10:11-15.

The relevant claims are recited below. Claim 28 provides:

A mirror comprising:

- a. a mirror assembly including a mirror frame holding therein at least a first reflective mirror plate, said first reflective mirror plate having a central axially outwardly facing imaging light reflective surface, said mirror assembly including a light transmissive region adjacent to said imaging reflective surface,

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- b. an electrically energizable illumination source located within said frame axially inwardly of said light transmissive region of said first reflective mirror plate, said illumination source including an elongated, thin, narrow strip made of a flexible material bent into an arcuately curved beam having a plurality of longitudinally spaced apart light sources protruding from a curved surface of said beam,
- c. a first **light reflective member** located axially inwardly of said light sources, said first **light reflective member** having a **light reflective surface facing said light transmissive region** of said first reflective mirror plate,
- d. a second reflective mirror plate having a central axially outwardly facing imaging light reflective surface and a light transmissive region adjacent to said imaging light reflective surface, said second mirror plate being located on a side of said illumination source axially opposed to that of said first reflective mirror plate, and
- e. wherein at least one of said light transmissive regions is part of one of said first and second mirror plates.

Id. at 18:27-54 (emphasis added). Claim 29 recites:

The mirror of claim 28 further including at least a first light reflective member located axially inwardly of said illumination source, said first **light reflective member** having a **light reflective surface facing said light transmissive region** of said first reflective mirror plate.

Id. at 18:55-59 (emphasis added). Claim 30 recites:

The mirror of claim 29 wherein said first **light reflective member** is located on a reverse, axially inwardly located surface of said second reflective mirror plate.

Id. at 18:60-62 (emphasis added).

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III. DISCUSSION

The parties brief for construction twelve terms. “[I]t is well established that district courts have the authority only to construe those terms they deem likely to lead to a dispositive outcome.” Eon CorpIP Holdings, LLC v. Aruba Networks LLC, 62 F. Supp. 3d 942, 953 (N.D. Cal. 2014). The parties have identified Terms 1 through 10 as being the most significant to resolution of the case. See Joint Statement at 21-23. Not included in that list is Term 11 (“light reflective member”), a term that is itself included in Terms 6 through 9. The Court thus will interpret Terms 1 through 11, and not interpret Term 12.

The Court organizes its discussion of these eleven terms into three categories. In the first category are terms that can be construed without influencing the construction of other terms. In the second category are the term “axially inwardly” and those terms that include “axially inwardly” and no other term. Finally, in the third bucket are the term “light reflective member” and those terms that include the phrase “light reflective member.” The Court also includes in this final category Term 2, which is contained within Term 9, a term that includes the phrase “light reflective member.” The Court therefore organizes its analysis according to these three buckets.

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A. *Standalone Terms*

1. *Term 1: “continuously rotatable electrically conductive pivot joint” (’502 Patent, Claims 1-9, 18, 22-23)*

Zadro’s Construction	Feit’s Construction	Court’s Construction
Plain and ordinary meaning; no construction required (excludes a pivot point made hollow for the purpose of permitting wiring to pass through)	A joint which permits continuous rotation and permits the passage of electric current through the joint. This is a structural limitation, not limited to a pin and cup structure.	“a connector, the components of which can conduct electricity and about which the mirror frame can continuously rotate”

The parties’ primary disagreement is about whether this term encompasses a hollow structure through which wiring can pass. Zadro argues that “pivot joint” cannot extend to “a pivot point made hollow for the purpose of permitting wiring to pass through.” Zadro Op. Br. at 22 (emphasis added). This is because the ’502 Patent was issued over prior art that disclosed hollow “pivot points.” *Id.* For support, Zadro cites the ruling in *Zadro Products, Inc. v. SDI Technologies, Inc.*, 2019 WL 10252726 (D. Del. June 19, 2019), where Judge Bryson concluded that U.S. Patent No. 5,997,149 (the “’149 Patent”), which was cited in the prosecution of the ’502 Patent, disclosed “pivot points . . . made hollow for the purpose of permitting [] wiring to pass therethrough.” 2019 WL 10252726, at *9. As a result, Judge Bryson concluded that the term “continuously rotatable electrically conductive pivot joint” could not be limited to a “pin and cup structure” but rather should be given its plain and ordinary meaning. *Id.* Notably, Judge Bryson did not expressly limit the term “continuously rotatable electrically conductive pivot joint” to a structure that does not allow wire to pass through it. *Id.* Rather, Judge Bryson gave the term its “plain and ordinary meaning.” *Id.*

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Feit characterizes Zadro’s argument as an attempt to impermissibly read a negative limitation into the claims. See Feit Op. Br. at 19-21; Feit Resp. Br. at 18-22. But the Court believes that the dispute here is about the boundaries of a positive limitation, rather than a negative limitation. The claim language does not “recite an express exclusion of material,” as a negative limitation generally must do. Nike, Inc. v. Adidas AG, 812 F.3d 1326, 1347-48 (Fed. Cir. 2016), overruled on other grounds by Aqua Products, Inc. v. Matal, 872 F.3d 1290 (Fed. Cir. 2017).

The Court therefore turns to consider the plain meaning of the term’s words. A “joint” is a “place or part where two things or parts are joined or united.” Webster’s Third New International Dictionary, ECF No. 75-4, at 1219 (1981); see also “Joint,” Merriam-Webster’s Dictionary (last visited December 15, 2020)³ (“a place where two things or parts are joined”). This definition suggests that the claim could include a hollow pivot joint through which wiring passes. After all, the “joint” can be said to generally join together the yoke and the mirror frame even if there were a wire passing through it. Although Zadro makes reference to the ’502 Patent’s use of the phrase “pivot point,” see Zadro Resp. Br. at 23, the specification and prosecution do not provide any guidance on the distinction between a pivot “joint” and a pivot “point.”

In the Court’s view, the most compelling evidence for Zadro’s position is the use of the modifier “electrically conductive.” Zadro argues that the use of this modifier means that the pivot joint itself must conduct electricity, which does not extend to merely a wire passing through the pivot joint. Zadro Resp. Br. at 21. The prosecution history supports this understanding. See Continental Circuits, 915 F.3d at 796 (“Like the specification, the prosecution history provides evidence of how the [United States Patent and Trademark Office (“PTO”)] and the inventor understood the patent.”) (quoting Phillips, 415 F.3d at 1315). In a May 27, 2009 response to the PTO, the applicant argued that the ’149 Patent discloses the use of “two laterally opposed pivot joints . . . that are not electrically conductive.” ’502 Patent Prosecution Record, ECF No. 75-14, at 76. The examiner proceeded to allow the claims without contesting this characterization. See SDI, 2019 WL 10252726, at *9. The “pivot points . . . made hollow for the purpose of

³ <https://www.merriam-webster.com/dictionary/joint>.

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permitting [] wiring to pass therethrough” that were disclosed in the ’149 Patent were therefore understood to not be “electrically conductive.” *Id.* (citing ’149 Patent at 5:5-6). The Court therefore believes that Zadro’s understanding of the term is proper.

Feit’s arguments to the contrary are unavailing. Feit first argues that the ’502 Patent’s stated purpose of eliminating the “possibility of twisting or breaking electrical illumination wires which power the illumination source within the mirror frame” suggest that there could be wires passing through the pivot joint. Feit. Op. Br. at 20 (citing ’502 Patent at 4:26-33). But that stated goal does not imply that there would be wires passing through the pivot joint; if anything, that intention would be easily fulfilled by obviating the need for wires to pass through the joint. That way, there would be no wires to twist when the mirror were rotated.

Feit next contends that Zadro’s practicing products include a wire passing through the pivot joint. Feit Resp. Br. at 20-22 (citing ECF Nos. 92-9 at 16-20; 92-10 at 14-21; 92-11 at 15-19; 92-13 at 17-21; 92-14 at 14-25; 92-15 at 13-15). But in all of the pictures that Feit cites, the Court only discerns wires that attach to the pivot joint, not wires that pass through the pivot joint into the yoke.

Finally, Feit points to the use of the “conduit” to describe the pivot joint during the ’502 Patent’s prosecution as an indication that the pivot joint can allow a wire to pass through. Feit Op. Br. at 20 (citing ’502 Patent Prosecution Record at 77). But there is no indication that the use of the word “conduit” was intended to refer to a “hollow tunnel” as Feit argues. *See id.* Indeed, a conduit is defined as “a means of transmitting or distributing.” “Conduit,” Merriam-Webster Dictionary (last visited December 15, 2020).⁴ This meaning is broad enough to encompass a joint, the components of which can conduct electricity and thereby allow for the transmission of electricity.

The Court does agree with Feit, however, that Zadro’s understanding of the term to not extend to a structure through which wiring can pass is not a plain and ordinary meaning for the term. *See* Feit Resp. Br. at 19. The Court therefore adopts the following

⁴<https://www.merriam-webster.com/dictionary/conduit>.

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construction: “a connector, the components of which can conduct electricity and about which the mirror frame can continuously rotate.” The Court believes this phrasing encompasses the Court’s understanding of the term not extending to a structure through which wiring may pass and the parties’ agreement that the mirror frame is what rotates about the pivot joint. See Feit Resp. Br. at 19; Zadro Resp. Br. at 21.

2. *Term 10: “arcuately curved beam” (’908 patent claims 28-32)*

Zadro’s Construction	Feit’s Construction	Court’s Construction
No construction required. Otherwise, plain and ordinary meaning: “beam having one or more curved surfaces”	“bow-shaped curved beam”	“a beam curved along a bow-shaped path”

In construing this term, the parties’ dispute the meaning of the word “arcuately.” Arcuate is defined as “[h]aving the form a bow; curved.” American Heritage College Dictionary, ECF No. 75-21, at 71 (3d ed. 1997). In essence, Feit argues that “arcuately” should be defined in a way that emphasizes the word “bow,” while Zadro contends that arcuately is properly understood as extending to all “curved” objects.

“[C]laims are interpreted with an eye toward giving effect to all terms in the claim.” Bicon, Inc. v. Straumann Co., 441 F.3d 945, 950 (Fed. Cir. 2006). Notably, “arcuately” already modifies the word “curved,” and therefore “arcuately” has to do more than describe that the beam is “curved.” Zadro’s interpretation fails to provide any additional meaning. After all, an object could not be “curved” if it did not have at least one curved surface.

Feit’s construction, by contrast, does provide additional meaning by emphasizing how the curve must be “bow-shaped.” This notably does limit the term to exclude other types of curves, such as the curve of a coil. The Court believes that Feit’s construction

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must be adjusted, however. “Arcuately” is an adverb. “Bow-shaped,” the word that Feit uses in its construction, is an adjective. “Arcuately curved” is therefore properly construed as “curved along a bow-shaped path.” This construction also corresponds to the use of the word “arcuately” in the specification. For example, Claim 6 of the ’908 Patent covers “[t]he mirror of claim 1 wherein said arcuately curved beam is bent into a hoop shape.” ’908 Patent at 16:23-24. The fact that the arcuately curved beam in this claim is described as having a resultant shape of a hoop suggests an “arcuately curved beam” does not have to be “bow-shaped” in the end. Rather, the curve itself must arc along a bow-shaped path until the curved object reaches the final desired shape.

Zadro contends that adopting a construction that uses the word “bow” will result in a further litigation about what the shape of a bow is. Zadro Op. Br. at 25. But the Court agrees with Feit that “bow” has a well understood meaning. Feit Resp. Br. at 24; see “Bow,” Merriam-Webster Dictionary (last visited December 14, 2020) (“something bent into a simple curve or arc”). The Court therefore adopts the construction “a beam curved along a bow-shaped path.”

B. “Axially Inwardly” Terms

1. *Term 3: “axially inwardly” (’502 Patent, Claims 1-9, 18, 22-23; ’908 Patent, Claims 28-32)*

Zadro’s Construction	Feit’s Construction	Court’s Construction
Plain and ordinary meaning: “farther into the mirror frame along the axis that runs normal through the center of the mirror frame”	“further into the mirror frame relative to the structure referenced in the claim language”	“farther into the mirror frame along a line that passes through the object being used as a reference point and that is parallel to the axis passing through the centroids of the mirror plates”

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The Court begins by analyzing the ordinary meaning the claim term. Phillips, 415 F.3d at 1312. While the meaning of “inwardly” is readily apparent, the meaning of the word “axially” is more ambiguous. “Axially” is defined as “in the direction or line of the axis.” Webster’s New World College Dictionary, ECF No. 75-9, at 100 (4th ed. 2001). This definition requires the Court consider two questions. First, where is “the axis”? Second, what does it mean to be inward “in the direction or line of” that axis?

“Axis” has several definitions, the most relevant of which is “a real of imaginary straight line around which the parts of a thing, system, etc. are symmetrically or evenly arranged or composed.” Id.⁵ This definition of course requires the Court to determine where this “imaginary straight line” passes through the mirror frame. The Court agrees with Zadro that the imaginary straight line would logically pass through the centroids of the objects that are “axially” compared. A “centroid” is defined as an object’s “center of mass,” which can be a point in space. Webster’s Ninth New Collegiate Dictionary, ECF No. 75-12, at 221. This corresponds to how the axis is the line around which a thing is “symmetrically or evenly arranged or composed.” In the Asserted Patents, “axially” is used in contrast with the modifier “radially.” See Zadro Resp. Br. at 1-2. “Radially” refers to “moving along a radius.” Radial, Merriam-Webster Dictionary (last visited December 11, 2020).⁶ Thus, the axis is a line that passes through the centroids of the objects and that is perpendicular to the face of the mirror plate, along which the radii lie.

Having determined where the “axis” is, however, the Court must next determine what it means to move “in the direction or line” of the axis. This is the core of the parties’ disagreement, which can be summarized as follows. Assume that there is an Object A that is “axially inward” to Object B. According to Feit, this means that a line that is parallel to

⁵ See Oxford American English Dictionary, ECF No. 75-11, at 85 (2001) (defining axis as “an imaginary straight line passing through the center of a symmetrical solid, and about which a plane figure can be conceived as rotating to generate a solid”); McGraw-Hill Dictionary of Scientific and Technical Terms, ECF No. 75-10, at 179 (6th ed. 2003) (defining axis as “[a] line of symmetry for a geometric figure”); see also Spitz Technologies Corp. v. Nobel Biocare USA LLC, 2017 WL 11450018, at *5 (C.D. Cal. Dec. 18, 2017).

⁶ <https://www.merriam-webster.com/dictionary/radially>.

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the central axis described above must pass through Objects A and B, with Object A more towards the center of the mirror frame than Object B.⁷ By contrast, Zadro argues that Object A and Object B must only be compared along the axis that passes through their centroids; so long as Object A's centroid is more towards the center of the mirror frame than Object B's centroid, then Object A is "axially inward." Zadro Resp. Br. at 5-6. In other words, Feit argues that its definition must be adopted to account for "radial positioning requirements" that exist in the claims. See Feit Resp. Br. at 6.

The Court agrees with Feit's understanding of the term. Feit's most persuasive evidence is a comparison of Claims 1(b) and 9(b)⁸ of the '502 Patent. See Feit Op. Br. at 14-15; Feit Resp. Br. at 6-7. As relevant, Claim 1(b) describes "an electrically energizable illumination source located within said frame axially inwardly of said light transmissive region of said first reflective mirror plate." '502 Patent at 8:35-37 (emphasis added). Claim 9(b), by contrast, describes "an electrically energizable illumination source located within said frame axially inwardly of an axially inner facing side of said reflective mirror plate." Id. at 9:21-23 (emphasis added).

How are the "light transmissive region" and the "axially inner facing side" positioned relative to each other? Notably, each Claim begins with describing a "mirror plate having an axially outwardly facing imaging light reflective surface and a light transmissive region adjacent to said light reflective surface." Id. at 8:32-34 (Claim 1); 9:17-20 (Claim 9 reading the same except for the addition of the word "central" after "having an"). As such, the "light transmissive region" referenced in Claim 1(b) is necessarily along the same plane as the "axially inner facing side" referenced in Claim 9(b).⁹

⁷ Feit uses as a "perpendicular ray" to illustrate this test. See, e.g., Feit Op. Br. at 10.

⁸ The Court uses the terms "Claim 1(b)" and "Claim 9(b)" as shorthand to refer to Claim 1, element b and Claim 9, element b, respectively.

⁹ The Court assumes for purposes of this analysis that thickness of the mirror plate is negligible for purposes of determining the relative positioning of objects in the mirror frame.

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Under the doctrine of claim differentiation, “[t]here is presumed to be a difference in meaning and scope when different words or phrases are used in separate claims.” Inline Plastics Corp. v. EastPak, LLC, 799 F.3d 1364, 1371 (Fed. Cir. 2015) (quoting Tandon Corp. v. United States International Trade Commission, 831 F.2d 1017, 1023 (Fed. Cir. 1987)). Zadro argued during the hearing that claim differentiation does not apply where the two claims to be distinguished are both independent claims. But, the Federal Circuit has not stated that claim differentiation cannot apply to two independent claims. Rather, the Federal Circuit has stated that claim differentiation might not apply when there are two independent claims. In such a situation, the Federal Circuit has said that other factors, such as whether the two independent claims otherwise are identical in scope, might counsel against application of claim differentiation. See Indacon, Inc. v. Facebook, Inc., 824 F.3d 1352, 1358 (Fed. Cir. 2016) (“[W]e have declined to apply the doctrine of claim differentiation where, as here, the claims are not otherwise identical in scope.”). The Court does not find these other considerations to be a barrier to applying claim differentiation. Zadro argued during the hearing that the rule in Indacon applies because Claim 9, unlike Claim 1, includes limitations (e) and (f) relating to a support structure for the mirror, meaning that the two claims are not identical in scope. But the support structure has no bearing on the construction of the mirror frame, which the Court determines to be otherwise the same except for Claims 1(b) and 9(b). See ’502 Patent at 8:30-54, 9:15-42. As such, in all relevant aspects, the claims are the same in scope.

If the Court adopts Zadro’s construction, then Claim 1(b) and Claim 9(b), despite using different wording, would have the same meaning. This is because the “light transmissive region” and the “inner facing side,” as two regions of the same structure, both have centroids at the same point along the central axis. By contrast, Feit’s construction would result in different meanings for the two claims. Claim 9(b) would cover a structure in which the illumination source is located directly adjacent to any point on the reflective mirror plate. Claim 1(b) would be limited to embodiments where the illumination source is directly adjacent to the light transmissive region.¹⁰

¹⁰ Zadro argued at the hearing that if claim differentiation applies, then the Court must adopt Zadro’s construction because of differences between Claims 33 and 34 of the ’908 Patent. See ’908 Patent at 19:4-21. But there are two problems with this argument. First, Claims 33 and 34 do not use the term “axially inwardly” and instead only use the adjective “axially,” making the claims less instructive.

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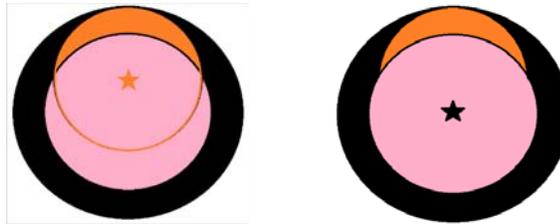
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Zadro argues that Feit is mistaken because the light transmissive region might not completely surround the reflective surface, but merely has to be adjacent in some capacity to the reflective surface.¹¹ This means that the light transmissive region and the reflective mirror plate might not have the same centroid. To illustrate, Zadro presents the following hypothetical embodiment, in which the pink refers to the reflective surface, the orange refers to the light transmissive area, and the black refers to an opaque area:



See Zadro Resp. Br. at 12-13. Zadro argues that this diagram demonstrates that the centroids of the light transmissive area (the orange star) and the reflective mirror plate (the black star) do not have to be the same. *Id.* But this does not respond to Feit's argument. It is indeed true that the above two centroids are in different locations – though the Court notes that the orange centroid should actually be further up so it is at the center of mass of the orange shaded area. But, each of these centroids would still be

Second, it is illogical for the Court to look to the later-issued of two related patents to understand the meaning of the earlier-issued patent. A person with ordinary skill in the art would not know to look for a later-issued patent to understand a patent that was already issued, meaning that the person would not understand the proper construction of the earlier-issued patent. Indeed, that person would not even be able to look at the later-issued patent to understand the meaning of terms in the earlier-issued patent during the period between which the two patents are issued. A patent cannot rely on another patent issued in the future to clarify its meaning.

¹¹ Zadro states that the light transmissive region must be adjacent to the mirror plate. Zadro Resp. Br. at 12. That is incorrect for the light transmissive region is part of the mirror plate. See '502 Patent at 9:17-20. This error likely comes from Feit also saying that the second surface compared to the illumination source in Term 5 is the mirror plate instead of the reflective surface of the mirror plate. See Feit Op. Br. at 15. The Court assumes that both Zadro and Feit intend to refer to the reflective surface instead.

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located the same distance into the mirror frame with respect to the central axis passing through the centroids of the mirror plates. Consequently, when comparing whether another object is “axially inward” of either the reflective surface or the light transmissive area, the answer would always be the same. As only Feit’s construction would result in a difference in meaning or scope between the two claims, the Court agrees that Feit’s construction is more appropriate.

Other evidence from the specification supports this conclusion. For example, the illumination source is described as being “at an optimum distance from the inner edge of the peripheral light transmissive window bands . . . of [the] mirror” ’502 Patent at 8:20-21. This suggests that the radial positioning of the illumination source matters, even though the Claims describe the illumination source’s location only as being “axially internal” to other objects. As such, the positioning of the illumination source cannot be reduced to just the positioning of its centroid.

Zadro’s remaining arguments in response to Feit’s interpretation are unavailing. Zadro dismisses Feit’s construction as being imprecise because we do not know the exact meaning of words like “lie,” “between,” “outside,” and “behind.” See Zadro Resp. Br. at 6. While the Court agrees that Feit’s description of its understanding of the term “axially internally” is not the clearest, the meaning of Feit’s construction is still clear. Moreover, as Zadro itself notes, “claim construction does not always – or even usually – lead to absolute certainty.” Diamond Coating Technologies, LLC v. Hyundai Motor America, 2014 WL 5698445, at *5 (C.D. Cal. Aug. 25, 2014). The Court therefore rejects this argument.

Zadro also contends that Feit’s construction reads the term “axially” out of the claim language. See Zadro Op. Br. at 7-8; Zadro Resp. Br. at 5. But, as the Court noted earlier, Feit’s construction of “axially inward” still is distinguishable from “radially inward.” While “radially inward” refers to moving further in the direction of the centroids and the middle of the mirror plate, “axially inward” refers to moving in a direction normal to the face of the mirror plate in the direction of the center of the mirror frame.

Zadro next argues that Feit’s construction would make the claim terms not cover the embodiment illustrated in Figures 9A and 10 of the ’502 Patent. Zadro Resp. Br. at

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11-12. But this embodiment would indeed be covered by Claim 9. While Zadro states that the parallel ray would need to pass through the light transmissive region, under Claim 9 the parallel ray would instead only need to pass through the “axially inner facing side” of the mirror plate.

Finally, Zadro contends that only its construction would be faithful to the construction given to the patent in SDI, 2019 WL 10252726. Zadro Resp. Br. at 6-7, 16. But SDI did not address the dispute between the present parties. Rather, Judge Bryson addressed in that case whether the illumination source within the mirror frame had to be considered the “the innermost point along the axis, from which nothing can be ‘axially inward.’” See SDI, 2019 WL 10252726, at *18. Judge Bryson proceeded to construe “axially inwardly of the mirror plate” as “moving along the axis toward the inside of the mirror plate.” Id. But this construction does not resolve the dispute between the parties, which seeks to clarify what it means to “move along the axis.” The Court therefore concludes that the construction in SDI benefits either party.

Given the preceding analysis, the Court adopts Feit’s understanding of the term “axially inwardly.” The Court, however, does not consider Feit’s proposed construction to be sufficiently clear. The Court therefore adopts the construction “farther into the mirror frame along a line that passes through the object being used as a reference point and that is parallel to the axis passing through the centroids of the mirror plates.” The Court believes that this construction clarifies both that the two objects must be radially aligned and that the dimension along which the objects must be compared is parallel to the axis that connects the centroids of the mirror plates.

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2. *Term 4: “electrically energizable illumination source located within said frame axially inwardly of said light transmissive region of said first reflective mirror plate” (’502 patent claims 1-9, 18, 22-23; ’908 patent claims 28-32)*

Zadro’s Construction	Feit’s Construction	Court’s Construction
Plain and ordinary meaning: “electrically energizable illumination source located within said frame and having a centroid located farther into the mirror frame than the centroid of said light transmissive region of said first reflective mirror plate”	The electrically energizable illumination source must be positioned within the periphery of the mirror plate and within the mirror frame such that a perpendicular ray extending from a point on the light transmissive region of the first reflective mirror plate and further into the mirror frame intersects the electrically energizable illumination source.	“An electrically energizable illumination source located farther into the mirror frame along a line that passes through the light transmissive region of said first reflective mirror plate and that is parallel to the axis passing through the centroids of the mirror plates.”

The Court now turns to other terms that use the phrase “axially inwardly.” The parties do not dispute the meaning of any of the words in Term 4 except for “axially inwardly.” See Zadro Resp. Br. at 11-17; Feit Resp. Br. at 3-12. The Court therefore adopts its construction of the term “axially inwardly” and applies it to the structures relevant here: the “electrically energizable illumination source” and the “light transmissive region.” The Court therefore holds that Term 4 be construed as “an electrically energizable illumination source located farther into the mirror frame along a line that passes through the light transmissive region of said first reflective mirror plate and that is parallel to the axis passing through the centroids of the mirror plates.”

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3. *Term 5: “electrically energizable illumination source located within said frame axially inwardly of an axially inner facing side of said reflective mirror plate” (’502 patent claims 9)*

Zadro’s Construction	Feit’s Construction	Court’s Construction
Plain and ordinary meaning: “electrically energizable illumination source located within said frame and having a centroid located farther into the mirror frame than the centroid of the side of said reflective mirror plate that faces the inside of the mirror frame”	The electrically energizable illumination source must be positioned within the periphery of the mirror plate and within the mirror frame such that a perpendicular ray extending from a point on an axially inner facing side of said reflective mirror plate and further into the mirror frame intersects the electrically energizable illumination source.	“An electrically energizable illumination source located farther into the mirror frame along a line that passes through said first reflective mirror plate and that is parallel to the axis passing through the centroids of the mirror plates.”

The parties do not dispute the meaning of any word in Term 5 besides “axially inwardly,” just as the parties did not for any word in Term 4. See Zadro Resp. Br. at 11-16; Feit Resp. Br. at 3-12. The Court therefore adopts its construction of the term “axially inwardly” and applies it to the structures relevant here: the “electrically energizable illumination source” and the “reflective mirror plate.” The Court therefore holds that Term 5 be construed as “an electrically energizable illumination source located farther into the mirror frame along a line that passes through said first reflective mirror plate and that is parallel to the axis passing through the centroids of the mirror plates.”

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C. *“Light Reflective Member” Terms*

1. *Term 11: “light reflective member” (’908 Patent, Claims 28-32)*

Zadro’s Construction	Feit’s Construction	Court’s Construction
<p><u>Plain and ordinary meaning</u>: no construction required.</p> <p><u>Alternatively</u>: member capable of reflecting light</p>	<p>The claimed “light reflective member” must be effective in reflecting light emitted by the light sources obliquely toward the opposite light transmissive region. The claimed “light reflective member” is not also “light transmissive.”</p>	<p><u>Plain and ordinary meaning</u>: no construction required.</p>

Most of the parties’ disagreement focuses on the modifier “light reflective.” “Reflective” is defined as “capable of reflecting light, images, or sound waves.” Webster’s Ninth New Collegiate Dictionary at 1254. The use of “light reflective” as a modifier would therefore distinguish the member from those able to reflect images or sound waves. The Court therefore agrees that the plain and ordinary meaning of this term is clear and no construction is necessary.

Feit makes several arguments for why “light reflective member” should be construed. First, Feit argues that the light reflective member must be effective in reflecting “light obliquely from the illumination source toward the opposite light transmissive region of the mirror plate(s)” because that is the purpose outlined in the specification. Feit Op. Br. at 23. But it is improper to read limitations from the specification into the claim. Callicrate, 427 F.3d at 1368 (“[I]f we once begin to include elements not mentioned in the claim, in order to limit such claim . . . we should never know where to stop.”) (quoting Phillips, 415 F.3d at 1312). Indeed, the ’908 Patent’s claims are explicit where the positioning of the light reflective member is important. See, e.g., ’908 Patent at 18:55-59 (Claim 29 specifying that the “first light reflective member

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hav[e] a light reflective surface facing [the] light transmissive region of [the] first reflective mirror plate”). It is therefore improper and unnecessary to so construe “light reflective member.”

Feit’s argument that the “light reflective member” cannot also be “light transmissive,” Feit Op. Br. at 23; Feit Resp. Br. at 16-18, fails for the same reason. While materials such as “aluminized Mylar can be used to form the light reflective member, see ’502 Patent at 7:16-30, that does not suggest that the Claim is only restricted to light reflective members that allow no light to pass through.

Feit also argues that the light reflective member must be a distinct structure. See Feit Op. Br. at 18, 23. But Feit fails to provide a definition suggesting that a member can only be a separate structure, contrary to what other courts have found. See, e.g., 180s, Inc. v. Gordini U.S.A., Inc., 699 F. Supp. 2d 714, 720 (D. Md. 2010) (defining a “member” as “a ‘part’”); Rhino Associates., L.P. v. Berg Manufacturing & Sales Corp., 482 F. Supp. 2d 537, 546 (M.D. Pa. 2007) (“distinct parts of a whole, not necessarily separate individual parts”); Engineered Products Co. v. Donaldson Co., 165 F. Supp. 2d 836, 876 (N.D. Iowa 2001) (“a piece or part of something else”); see also “Member,” Merriam-Webster Dictionary (last visited December 14, 2020) (“a part of a whole”).¹² The Court therefore concludes that the term “light reflective member” should be give its plain and ordinary meaning and does not require construction.

¹² <https://www.merriam-webster.com/dictionary/member>.

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2. *Term 6: “light reflective member located axially inwardly of said light sources” (’908 patent claims 28-32)*

Zadro’s Construction	Feit’s Construction	Court’s Construction
Plain and ordinary meaning: “light reflective member having a centroid located farther into the mirror frame than the centroid of said light sources (from the perspective of the first reflective mirror plate)”	The light reflective member must be positioned such that a perpendicular ray extending from a point on said light sources and further into the mirror frame intersects the light reflective member.	“A light reflective member located farther into the mirror frame along a line that passes through said light sources and that is parallel to the axis passing through the centroids of the mirror plates.”

The Court now turns to other terms that include the phrase “light reflective member.” Term 6 includes the phrases “light reflective member” and “axially inwardly.” The parties’ dispute about Term 6 focuses primarily on the meaning of “axially inwardly.” See Zadro Resp. Br. at 9; Feit Resp. Br. at 11-14. The Court therefore adopts its construction of “axially inwardly” and gives “light reflective member” its plain and ordinary meaning without construing it. The Court therefore holds that Term 6 be construed as “a light reflective member located farther into the mirror frame along a line that passes through said light sources and that is parallel to the axis passing through the centroids of the mirror plates.”

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3. *Term 7: “light reflective member located axially inwardly of said illumination source” (’908 patent claims 29-32)*

Zadro’s Construction	Feit’s Construction	Court’s Construction
Plain and ordinary meaning: “light reflective member having a centroid located farther into the mirror frame than the centroid of said illumination source”	The light reflective member must be positioned such that a perpendicular ray extending from a point on said illumination source and further into the mirror frame intersects the light reflective member.	“A light reflective member located farther into the mirror frame along a line that passes through said illumination source and that is parallel to the axis passing through the centroids of the mirror plates.”

Term 7 also includes both “light reflective member” and “axially inwardly.” The parties’ dispute about Term 7 similarly focuses primarily on the meaning of “axially inwardly.” See Zadro Resp. Br. at 6-8; Feit Resp. Br. at 11-14. The Court therefore adopts its construction of “axially inwardly” and gives “light reflective member” its plain and ordinary meaning without construing it. The Court therefore holds that Term 7 be construed as “a light reflective member located farther into the mirror frame along a line that passes through said illumination source and that is parallel to the axis passing through the centroids of the mirror plates.”

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4. *Term 8: “light reflective member is located on a reverse, axially inwardly located surface of said [] reflective mirror plate” (’908 patent claims 30, 32)*

Zadro’s Construction	Feit’s Construction	Court’s Construction
Plain and ordinary meaning: “light reflective member is located on a surface of said [] reflective mirror plate having a centroid located farther into the mirror frame than the centroid of the outwardly facing imaging light reflective surface of said [] reflective mirror plate”	The light reflective member must be positioned on the reverse side of said reflective mirror plate, such that a perpendicular ray extending from a point on the reflective mirror plate and further into the mirror frame intersects the light reflective member.	“A light reflective member located on a surface of said reflective mirror plate that is farther into the mirror frame along a line that passes through the centroids of the mirror plates.”

Like Terms 6 and 7, Term 8 includes both “light reflective member” and “axially inwardly.” The parties’ dispute about Term 8 focuses on arguments about the meaning of “axially inwardly” and “light reflective member” that the Court has already addressed. See Zadro Resp. Br. at 9-11; Feit Resp. Br. at 14. The Court therefore adopts its construction of “axially inwardly” and gives “light reflective member” its plain and ordinary meaning without construing it. The Court therefore holds that Term 8 be construed as “a light reflective member located on a surface of said reflective mirror plate that is farther into the mirror frame along a line that passes through the centroids of the mirror plates.”

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5. *Term 9: “light reflective member having a light reflective surface facing said light transmissive region” (’908 patent claims 28-32)*

Zadro’s Construction	Feit’s Construction	Court’s Construction
“light reflective member having a light reflective surface, whose surface is oriented toward said light transmissive region”	“Light reflective member whose light reflective surface is oriented toward and directly across from said light transmissive region such that light may travel directly from the light reflective surface to the light transmissive region.”	“light reflective member having a light reflective surface, whose surface is oriented toward said light transmissive region”

The parties’ disagreement as to Term 9 relates primarily to whether the word “facing” implies that the “light reflective member” must be directly opposite the light transmissive region. Feit argues that such a construction of the word “facing” would be consistent with the specification and figures presented in the ’908 Patent. Feit Op. Br. at 22. The predominant concern that Feit has is that Zadro’s construction of the term would allow for the light reflective surface to be obstructed, leading to no light being reflected through the transmissive region at all. See Feit Resp. Br. at 15.

The Court concludes that there is no basis for Feit’s restrictive holding. Feit provides the following definition of “to face”: “To be turned or placed with the front toward a specified direction.” American Heritage College Dictionary at 488. This definition would seem to align with Zadro’s broader construction of “facing” to mean “oriented toward.” The definition includes no restriction suggesting that the object must be “directly across” from what it is facing. Nor does the Court believe that the specification and figures support its view. Indeed, Figure 9(A) of the ’908 Patent seems to position the light reflective surface (numbered 89 and 90) so that they are radially inward from the light transmissive regions (numbered 71 and 72).

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Finally, the Court agrees with Judge Bryson’s conclusion in SDI that a light reflective surface that is facing a light transmissive region would achieve the ’908 Patent’s stated purpose of ensuring that light is reflected towards the light transmissive region. SDI, 2019 WL 10252726, at *16. The Court therefore adopts Zadro’s construction of the two terms.

6. *Term 2: “light reflective surface facing said light transmissive region” (’908 Patent, Claims 28-32)*

Zadros’ Construction	Feit’s Construction	Court’s Construction
“light reflective surface, whose surface is oriented toward said light transmissive region”	Feit incorporates by reference its construction of Term 9, which contains Term 2.	“light reflective surface, whose surface is oriented toward said light transmissive region”

As Feit’s construction of Term 2 incorporates by reference its construction of Term 9, the Court adopts for Term 2 its construction for Term 9. The Court therefore construes “light reflective surface facing said light transmissive region” as “light reflective surface, whose surface is oriented toward said light transmissive region.”

IV. CONCLUSION

For the foregoing reasons, the Court so construes the claim terms as follows:

Term	Court’s Construction
“continuously rotatable electrically conductive pivot joint”	“a connector, the components of which can conduct electricity and about which the mirror frame can continuously rotate”
“arcuately curved beam”	“a beam curved along a bow-shaped path”

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<p>“axially inwardly”</p>	<p>“farther into the mirror frame along a line that passes through the object being used as a reference point and that is parallel to the axis passing through the centroids of the mirror plates”</p>
<p>“electrically energizable illumination source located within said frame axially inwardly of said light transmissive region of said first reflective mirror plate”</p>	<p>“an electrically energizable illumination source located farther into the mirror frame along a line that passes through the light transmissive region of said first reflective mirror plate and that is parallel to the axis passing through the centroids of the mirror plates”</p>
<p>“electrically energizable illumination source located within said frame axially inwardly of an axially inner facing side of said reflective mirror plate”</p>	<p>“an electrically energizable illumination source located farther into the mirror frame along a line that passes through said first reflective mirror plate and that is parallel to the axis passing through the centroids of the mirror plates”</p>
<p>“light reflective member”</p>	<p>Plain and ordinary meaning: no construction required.</p>
<p>“light reflective member located axially inwardly of said light sources”</p>	<p>“a light reflective member located farther into the mirror frame along a line that passes through said light sources and that is parallel to the axis passing through the centroids of the mirror plates”</p>
<p>“light reflective member located axially inwardly of said illumination source”</p>	<p>“a light reflective member located farther into the mirror frame along a line that passes through said illumination source and that is parallel to the axis passing through the centroids of the mirror plates”</p>
<p>“light reflective member is located on a reverse, axially inwardly located surface of said [] reflective mirror plate”</p>	<p>“a light reflective member located on a surface of said reflective mirror plate that is farther into the mirror frame along a line that passes through the centroids of the mirror plates”</p>

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“light reflective member having a light reflective surface facing said light transmissive region”	“light reflective member having a light reflective surface, whose surface is oriented toward said light transmissive region”
“light reflective surface facing said light transmissive region”	“light reflective surface, whose surface is oriented toward said light transmissive region”

IT IS SO ORDERED.

Initials of Preparer _____ : _____ 0
lmb _____