



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

12/911,274	10/25/2010	Niall R. Lynam	DON09 P-1651	9837
------------	------------	----------------	--------------	------

28101 7590 10/31/2011
 VAN DYKE, GARDNER, LINN & BURKHART, LLP
 SUITE 207
 2851 CHARLEVOIX DRIVE, S.E.
 GRAND RAPIDS, MI 49546

EXAMINER

AMARI, ALESSANDRO V

ART UNIT	PAPER NUMBER
----------	--------------

2872

MAIL DATE	DELIVERY MODE
-----------	---------------

10/31/2011	PAPER
------------	-------

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL 80A (Rev. 04/02)

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Group IV in the reply filed on 1 August 2011 is acknowledged.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to

be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 20, 26, 43-45, 49-51, 52 and 59 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 15, 25 and 26 of U.S. Patent No. 7934843. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 20, 26, 43-45, 49-51, 52 and 59 recite essentially the same subject matter as claims 1, 15, 25 and 26 in US 7934843 except for a mirror housing and a spherical or single radius of curvature of the curved mirror element which are known in the art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize a mirror housing and have the auxiliary non-plano curved element be defined by a spherical radius of curvature so as to provide for protection from the elements and to provide for an improved field of view to the user.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 20-29, 39-42, 46-48, and 52-65 are rejected under 35 U.S.C. 102(e) as being anticipated by Lynam et al (hereafter "Lynam") US 2002/0072026.

The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

In regard to claims 20 and 26, Lynam discloses (see Figures 1-3, 5, 6, 8, 14) an exterior sideview mirror assembly suitable for vehicular use, said exterior sideview mirror assembly comprising: a mirror housing (40) defining a primary opening; a single mirror backing plate element (60) within said mirror housing and disposed adjacent to said primary opening; said single mirror backing plate element movable by an electrically-operable actuator (36) as described in paragraph [0042]; a main plano mirror element (50) fixedly secured to and supported by said single mirror backing plate element and disposed within said primary opening for providing a view rearward of a vehicle equipped with said exterior sideview mirror assembly through a first primary field of view as described in paragraphs [0041] and [0042]; an auxiliary non-piano curved mirror element (55) fixedly secured to and supported by said single mirror backing plate element and disposed adjacent to said main plano mirror element as described in

Explore Litigation Insights

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

Real-Time Litigation Alerts



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

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

Advanced Docket Research



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

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

Analytics At Your Fingertips



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

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

API

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

LAW FIRMS

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

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

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.