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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
13/336,018	12/23/2011	Niall R. Lynam	DON09 P-1800	7833
	7590 05/17/2012 Burkhort & Flore, LLD	EXAMINER		
Gardner, Linn, Burkhart & Flory, LLP 2851 Charlevoix Dr.			AMARI, ALESSANDRO V	
SE, Suite 207 Grand Rapids, MI 49546			ART UNIT	PAPER NUMBER
crime radpidet i			2872	
			MAIL DATE	DELIVERY MODE
			05/17/2012	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.

		Application No.	Applicant(s)
		13/336,018	LYNAM, NIALL R.
	Office Action Summary	Examiner	Art Unit
		ALESSANDRO AMARI	2872
Period fo	The MAILING DATE of this commun or Reply	ication appears on the cover sheet wi	th the correspondence address
- Exter after - If NC - Failu Any r	ORTENED STATUTORY PERIOD FO CHEVER IS LONGER, FROM THE M nsions of time may be available under the provisions SIX (6) MONTHS from the mailing date of this common period for reply is specified above, the maximum sta- ter to reply within the set or extended period for reply reply received by the Office later than three months a endepted the set of 2010 FO 2010 (1) (1)	AILING DATE OF THIS COMMUNIC of 37 CFR 1.136(a). In no event, however, may a re unication. tutory period will apply and will expire SIX (6) MON' will, by statute, cause the application to become AB	CATION. eply be timely filed THS from the mailing date of this communication. ANDONED (35 U.S.C. § 133).
Status	ed patent term adjustment. See 37 CFR 1.704(b).		
1)🖂	Responsive to communication(s) file	d on 21 March 2012.	
		2b) This action is non-final.	
			ement set forth during the interview on
		nd election have been incorporated in	
4)	Since this application is in condition	for allowance except for formal matte	ers, prosecution as to the merits is
	closed in accordance with the practic	ce under Ex parte Quayle, 1935 C.D	. 11, 453 O.G. 213.
Dispositi	ion of Claims		
6) 7) 8)	Claim(s) <u>1-6,16-40</u> is/are pending in 5a) Of the above claim(s) <u>16-18,25-2</u> Claim(s) <u>is/are allowed</u> . Claim(s) <u>1-6,19-24 and 28-35</u> is/are Claim(s) <u>is/are objected to</u> . Claim(s) <u>are subject to restrice</u>	7 <u>and 36-40</u> is/are withdrawn from c rejected.	onsideration.
Applicati	ion Papers		
	The specification is objected to by the The drawing(s) filed on <u>01 February</u> .		phiected to by the Examiner
11)	Applicant may not request that any object		. Second and second second second
	Replacement drawing sheet(s) including		
12)	The oath or declaration is objected to		
Priority u	Inder 35 U.S.C. § 119		
	2. Certified copies of the priority	documents have been received. documents have been received in Ap	pplication No
* 0	3. Copies of the certified copies application from the Internatio See the attached detailed Office actio	nal Bureau (PCT Rule 17.2(a)).	an mananan dari sakan ta kutu sakan tada su mitan mena dan kanalan tabu terseta.
c		in for a list of the certified copies not i	10001VCU.
Attachmen			
	e of References Cited (PTO-892) e of Draftsperson's Patent Drawing Review (P		summary (PTO-413) s)/Mail Date
3) 🛛 Inform	mation Disclosure Statement(s) (PTO/SB/08) rr No(s)/Mail Date <u>2/9/2012</u> .		formal Patent Application
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### DETAILED ACTION

### Election/Restrictions

Applicant's election of Invention I (claims 1-6, 19-24 and 28-35) in the reply filed on 21 March 2012 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Claims 16-18, 25-27 and 36-40 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Invention, there being no allowable generic or linking claim.

#### **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

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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 1-6, 19-24 and 28-34 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 6, 10, 13, 15, 16 and 24 of U.S. Patent No. 8,128,243. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the instant invention are broader and claim essentially the same subject matter as that of US 8,128,243.

### 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 -

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(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

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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 1-6, 19-24 and 28-35 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 1, 19 and 28, Lynam discloses (see Fig. 2, 3) an exterior rearview mirror assembly for a motor vehicle, said exterior rearview mirror assembly comprising: a bracket (38) fixedly secured to the motor vehicle as described in paragraph [0041]; a mirror casing (40) secured to said bracket, said mirror casing defining a primary opening; a single mirror support (60) movably secured within said mirror casing disposed adjacent said primary opening; a primary mirror (50) fixedly secured to said single mirror support and disposed within said primary opening for providing a view rearward of the motor vehicle through a primary field of view as described in [0046]; a spotting mirror (55) fixedly secured to said single mirror support and disposed adjacent said primary field of view as described in [0046]; a spotting mirror (55) fixedly secured to said single mirror support and disposed adjacent said primary mirror such that said spotting mirror provides a second field of view rearward of the motor vehicle as described in [0083],

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