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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/071,169	03/24/2011	Niall R. Lynam	DON09 P-1695	3469
28101	7590	11/16/2011	EXAMINER	
VAN DYKE, GARDNER, LINN & BURKHART, LLP SUITE 207 2851 CHARLEVOIX DRIVE, S.E. GRAND RAPIDS, MI 49546			AMARI, ALESSANDRO V	
			ART UNIT	PAPER NUMBER
			2872	
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			11/16/2011	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 89A (Rev. 04/02)

<b>Office Action Summary</b>	<b>Application No.</b> 13/071,169	<b>Applicant(s)</b> LYNAM, NIAL R.	
	<b>Examiner</b> ALESSANDRO AMARI	<b>Art Unit</b> 2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1)  Responsive to communication(s) filed on 06 September 2011.
- 2a)  This action is **FINAL**.
- 2b)  This action is non-final.
- 3)  An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 5)  Claim(s) 1-26 is/are pending in the application.
- 5a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 6)  Claim(s) \_\_\_\_ is/are allowed.
- 7)  Claim(s) 1-26 is/are rejected.
- 8)  Claim(s) \_\_\_\_ is/are objected to.
- 9)  Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 10)  The specification is objected to by the Examiner.
- 11)  The drawing(s) filed on \_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 13)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \*    c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)  Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5)  Notice of Informal Patent Application
- 6)  Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Terminal Disclaimer***

The terminal disclaimer filed on 6 September 2011 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US 7934843 has been reviewed and is accepted. The terminal disclaimer has been recorded.

### ***Double Patenting***

Claims 1-26 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-27 of copending Application No. 13/071,174. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claim combinations recite essentially the same subject matter and claim 1 in the instant invention is broader than claim 1 in 13/071,174.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### ***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 1-26 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 claim 1, Lynam discloses (see Figures 3-9) an exterior sideview mirror system suitable for use on an automobile, said exterior sideview mirror system comprising: an exterior sideview mirror assembly (12) adapted for attachment to a side of an automobile; said exterior sideview mirror assembly including a reflective element (30) having a rearward field of view when attached to the side of the automobile; said reflective element attached to an electrically-operated actuator (36) of said exterior sideview mirror assembly and movable by said actuator in order to position said rearward field of view to a driver-desired position when said exterior sideview mirror assembly is attached to the side of the automobile as described in paragraph [0036]; wherein said reflective element comprises a plano-auxiliary reflective element assembly, said piano-auxiliary reflective element assembly comprising a plano reflective element having unit magnification and a separate auxiliary reflective element having a

curvature as described in paragraph [0015] and as shown in Figures 5A-5H; said plano reflective element and said auxiliary reflective element of said piano-auxiliary reflective element assembly mounted adjacently at said piano-auxiliary reflective element assembly in a side-by-side relationship and not superimposed with one reflective element on top of the other reflective element as shown in Figures 5a-5H; said plano reflective element and said auxiliary reflective element supported at a backing plate element (60, 160), said backing plate element mounting to said actuator such that movement of said backing plate element of said piano-auxiliary reflective element assembly by said actuator simultaneously and similarly moves said plano reflective element and said auxiliary reflective element as described in paragraph [0042]; said auxiliary reflective element having a wide-angle field of view encompassing a blind spot in the side lane adjacent the side of the automobile to which said exterior sideview mirror assembly is attached as described in paragraph [0058]; said backing plate element having a first support portion supporting said plano reflective element and a second support portion supporting said auxiliary reflective element as shown in Figures 3 and 6; wherein said auxiliary reflective element is positioned at an outboard portion of said piano-auxiliary reflective element assembly when said exterior sideview mirror assembly is mounted to the side of the automobile as shown in Figures 5A-5H and as described in paragraph [0057]; wherein said backing plate element comprises a polymeric substrate that is formed as a single element by injection molding of a polymeric resin as described in paragraph [0050]; wherein said backing plate element is capable of supporting said plano reflective element and said auxiliary reflective element

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