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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
95/001,793	10/25/2011	D536,881 S	Majestic Mirror	2838
26389	7590	01/20/2012	EXAMINER	
CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC 1420 FIFTH AVENUE SUITE 2800 SEATTLE, WA 98101-2347			CALABRESE, MARY ANN	
			ART UNIT	PAPER NUMBER
			2913	
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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.



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THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS

Date:

ESPINOSA / TRUEBA PL

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MIAMI, FL 33129

**Transmittal of Communication to Third Party Requester
Inter Partes Reexamination**

REEXAMINATION CONTROL NO. : 95001793

PATENT NO. : D536881

TECHNOLOGY CENTER : 3999

ART UNIT : 2900

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above identified Reexamination proceeding. 37 CFR 1.903.

Prior to the filing of a Notice of Appeal, each time the patent owner responds to this communication, the third party requester of the inter partes reexamination may once file written comments within a period of 30 days from the date of service of the patent owner's response. This 30-day time period is statutory (35 U.S.C. 314(b)(2)), and, as such, it cannot be extended. See also 37 CFR 1.947.

If an ex parte reexamination has been merged with the inter partes reexamination, no responsive submission by any ex parte third party requester is permitted.

All correspondence relating to this inter partes reexamination proceeding should be directed to the Central Reexamination Unit at the mail, FAX, or hand-carry addresses given at the end of the communication enclosed with this transmittal.

PTOL-2070(Rev.07-04)

**ORDER GRANTING/DENYING
REQUEST FOR INTER PARTES
REEXAMINATION**

Control No.

95/001,793

Examiner

MARY ANN CALABRESE

Patent Under Reexamination

D536,881 S ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address. --

The request for *inter partes* reexamination has been considered. Identification of the claims, the references relied on, and the rationale supporting the determination are attached.

Attachment(s): PTO-892 PTO/SB/08 Other: _____

1. The request for *inter partes* reexamination is GRANTED.

An Office action is attached with this order.

An Office action will follow in due course.

2. The request for *inter partes* reexamination is DENIED.

This decision is not appealable. 35 U.S.C. 312(c). Requester may seek review of a denial by petition to the Director of the USPTO within ONE MONTH from the mailing date hereof. 37 CFR 1.927. EXTENSIONS OF TIME ONLY UNDER 37 CFR 1.183. In due course, a refund under 37 CFR 1.26(c) will be made to requester.

All correspondence relating to this *inter partes* reexamination proceeding should be directed to the **Central Reexamination Unit** at the mail, FAX, or hand-carry addresses given at the end of this Order.

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DECISION GRANTING INTER PARTES REEXAMINATION

The information presented in the request shows that there is a reasonable likelihood that the requester would prevail with respect to the single claim of United States Design Patent No. D536,881 to Mischel, Jr. et al (hereafter the '881 patent) in the present request for *inter partes* reexamination. The following references were cited in the request:

1. ELECTRIC MIRROR, LLC Brochure for FUSION backlit mirror, an unframed vertically orientated rectangular mirror with a rectangular light bar along each of its vertical edges. (Exhibit F)
2. Web Archive printout for www.electricmirror.com showing that brochures were available since July 25, 2003 (Exhibit J)
3. ELECTRIC MIRROR, LLC Brochure for MASTERPIECE backlit mirror, a framed, horizontally oriented rectangular mirror with an outlined rectangular light bar along its inner edge. (Exhibit I)
4. ASCO LIGHTS, web pages showing AQUA backlit mirror, an unframed vertically orientated rectangular mirror with a rectangular light bar along each of the vertical edges. (Exhibit L)
5. Web archive printout for www.ascolights.co.uk (Exhibit M)
6. Excerpts from September 2002 Decor Moulding & Supply company catalog, several samples of mouldings which are three sided having a flat front, angled sides and flat tops. (Exhibit C)
7. Excerpts from 2003 Supplement to Decor Moulding & Supply catalog, several samples of mouldings which are three sided having a flat front, angled sides and flat tops. (Exhibit D)
8. Excerpts from August 2002 Studio Moulding, Inc. catalog, several samples of mouldings which are three sided having a flat front, angled sides and flat tops. (Exhibit E)
9. ELECTRIC MIRROR, LLC Brochure for STEEL PLEASURE backlit mirror, a vertically oriented rectangular framed mirror with a rectangular light bars along each of the vertical sides of the frame. (Exhibit G)
10. ELECTRIC MIRROR, LLC Brochure for MOMENTUM backlit mirror, a framed, vertically oriented rectangular mirror with an outlined rectangular light bars along its inner edge. (Exhibit H)

The above shows that there is a reasonable likelihood that the requester would prevail based solely on patents and/or printed publications already cited/considered in an earlier concluded examination/reexamination of the patent being reexamined.

On September 16, 2011 the America Invents Act (AIA) revised the reexamination statute by eliminating "a substantial new question of patentability affecting any claim of the patent concerned is raised by the request" and substitutes the new test that "the information presented in the request shows that there is a reasonable likelihood the requester will prevail with respect to at least one of the claims challenged in the

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request." Therefore, "the existence of a reasonable likelihood that the requester would prevail is not precluded by the fact that a patent or printed publication was previously cited by or to the Office or considered by the Office."

A. The third party requester asserts that a reasonable likelihood exists that the requester would prevail with respect to single claim in the '881 patent as being obvious over the 2003 Fusion Brochure ("Fusion") in view of the published 2002 Decor Moulding & Supply company catalog ("2002 Decor Moulding Catalog").

The single claim of the '881 Design Patent is directed to a vertically orientated rectangular mirror with a rectangular light bars along each of its vertical edges having a frame surrounding it. The Fusion mirror discloses a vertically orientated rectangular mirror with a rectangular light bar along each of its vertical edges and a small thin frame around it. The requester points out that the line drawings at the bottom of the second page of the Fusion reference show a thin frame surrounding the lighted mirror and that a person of ordinary skill in the art could readily observe the line drawings and see the depiction of a mirror having a frame. The requester further points out that the 2002 Decor Moulding Catalog teaches the use of frame moulding with mirrors and that the 2002 Decor Moulding Catalog include many frame mouldings having the same structure as the '881 patent, in particular the Fire and Ice designs.

Upon careful consideration of the above, a reasonable likelihood that the requester would prevail with respect to single claim in the '881 patent is raised by the appearance of the above combination of the cited Fusion mirror and 2002 Décor Moulding references.

B. The third party requester further asserts that a reasonable likelihood exists that the requester would prevail with respect to single claim in the '881 as being obvious over the 2003 Fusion Brochure ("Fusion") in view of the published 2003 supplement to the Decor Moulding & Supply Company catalog. For the same reasons described above in connection with the 2002 catalog, the requester states that the claim of the '881 Design Patent is invalid in view of the 2003 Supplement. The 2003 supplement discloses frame moulding for use on mirrors that has the same structural components as that illustrated in the '881 Design Patent, in particular the frame sections labeled 9516, 9517 and 9588.

Upon careful consideration of the above, a reasonable likelihood that the requester would prevail with respect to single claim in the '881 Design Patent is raised by the appearance of the combination of the above cited Fusion mirror and 2003 Décor Moulding Supplement references.

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C. The third party requester also asserts that a reasonable likelihood exists that the requester would prevail with respect to single claim in the '881 Design Patent as being obvious over Electric Mirror's 2003 Lighted Mirror Brochures in view of the published August 2002 Studio Moulding, Inc. Catalog.

The third party requester incorporates by reference the teachings and legal argument set forth above in Section V (A) of the request with respect to the primary Electric Mirror brochures available in 2003, particularly the Fusion mirror. The requester further points out that the 2002 Studio Moulding Catalog teaches the exact frame design found on the lighted mirror of the '881 Design Patent. In particular, the NaturalWood designs 355-134 and 355-159 found on pages A-13 and A-14, the Gold & Silver designs 40422 and 40432 found on pages G-15 and G-16, the Gold & Silver Sagacious design 25525 found on pages G-25 and G-26, the Matt Black design 25501 found on pages H-5 and H-6, and Matt Black design 25501 found on page 3 of the Studio Grand Box Program are identical to that claimed in the '881 Design Patent.

Upon careful consideration of the above, a reasonable likelihood that the requester would prevail with respect to single claim in the '881 Design Patent is raised by the appearance of the above combination of the cited Fusion mirror and 2003 Décor Moulding Supplement references.

D. The third party requester further asserts that a reasonable likelihood exists that the requester would prevail with respect to single claim of the single claim in the '881 Design Patent as being obvious over the 2004 ACQUA backlit mirror ("Acqua") in view of the published 2002 Decor Moulding Catalog.

Asco Lights, a company in the United Kingdom, published an advertisement showing the Aqua back lit mirror having two parallel lighted bars on either side of the mirror identical to the arrangement of the lighted bars illustrated in the '881 Design Patent and that the Acqua prior art reference, in combination with the 2002 Decor Moulding & Supply company catalog, shows there is a reasonable likelihood exists that the requester will prevail with respect to the single claim challenged in this request.

The Examiner agrees that there is a reasonable likelihood that the requester will prevail with respect to the single claim in the '881 Design Patent is raised by the appearance of the above combination of the cited ACQUA backlit mirror and 2002 Décor Moulding Catalog.

E. The third party requester asserts that a reasonable likelihood that the requester would prevail with respect to the single claim in the '881 Design Patent raised as being obvious over the 2004 ACQUA backlit mirror in view of the published 2003 Supplement to the Decor Moulding catalog.

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The Asco Lights advertisement showing its Acqua backlit mirror having two parallel lighted bars on either side of the mirror identical to the arrangement of the lighted bars illustrated in the '881 Design Patent. The Requester points out that the 2003 Supplement to the Decor Moulding & Supply company catalog discloses frame moulding for use on mirrors that have the same structural components as that illustrated in the '881 Design Patent.

Upon careful consideration of the above, a reasonable likelihood that the requester would prevail with respect to single claim in the '881 Design Patent is raised by the appearance of the above combination of the cited Aqua backlit mirror and 2003 Décor Moulding Supplement references.

F. The third party requester asserts that a reasonable likelihood that the requester would prevail with respect to single claim in the '881 Design Patent is raised as being obvious over the 2004 Acqua backlit mirror in view of the published 2002 Studio Moulding, Inc. catalog.

The Requester incorporates by reference its argument therein related to the design of the parallel lights and points out that the Studio Moulding Catalog also teaches the exact frame design found on the lighted mirror of the '881 Design Patent. In particular, the NaturalWood designs 355-134 and 355-159 found on pages A-13 and A-14, the Gold & Silver designs 40422 and 40432 found on pages G-15 and G16, the Gold & Silver Sagacious design 25525 found on pages G-25 and G-26, the Matt Black design 25501 found on pages H-5 and H-6, and Matt Black design 25501 found on page 3 of the Studio Grand Box Program.

Upon careful consideration of the above, a reasonable likelihood that the requester would prevail with respect to single claim in the '881 Design Patent is raised by the appearance of the above combination of the cited Aqua backlit mirror and 2002 Studio Moulding, Inc. catalog references.

NEWLY FOUND ART CITED BY THE EXAMINER

Sheet Glass Wall Mirrors and Sheet Glass Door Mirrors - items 4 – 6 page 1359 - Sears Spring THROUGH Summer 1967 Catalog, shows for sale an unframed mirror and an identical mirror with a frame.

The newly cited Sheet Glass Wall Mirrors and Sheet Glass Door Mirrors in combination with the previously cited publications, particularly the Fusion mirror and Decor Moulding Fire and Ice collection raises a reasonable likelihood that the requester would prevail with respect to single claim in the '881 Design Patent.

Extensions of time under 37 CFR 1.136(a) will not be permitted in these proceedings because the provisions of 37 CFR 1.136 apply only to "an applicant" and not to parties in a reexamination proceedings. Additionally, 35 U.S.C. 314 (c) requires that inter *partes* reexamination proceedings "will be conducted with

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Any inquiry concerning this communication or earlier communications from the examiner, or as to the status of this proceeding, should be directed to the Central Reexamination Unit at telephone number (571) 272-7705.

/MARY ANN CALABRESE/
Primary Examiner, Art Unit 2913

Conferee
/Adir Aronovich/
Primary Examiner, AU 2917

Conferee
/Robert M. Spear/
Supervisory Patent Examiner, AU 2915

ASSIGNMENT APPROVED



DIRECTOR, CRU.