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APPLICATION NO.	ISSUE DATE	PATENT NO.	ATTORNEY DOCKET NO.	CONFIRMATION NO.
15/727,984	03/19/2019	10232220	215127.02314/140194US03CO	1084

11333 7590 02/27/2019
Banner & Witcoff, Ltd.
Attorneys for client 215127 & 315127
71 South Wacker Drive
Suite 3600
Chicago, IL 60606

ISSUE NOTIFICATION

The projected patent number and issue date are specified above.

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment is 0 day(s). Any patent to issue from the above-identified application will include an indication of the adjustment on the front page.

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Application Assistance Unit (AAU) of the Office of Data Management (ODM) at (571)-272-4200.

APPLICANT(s) (Please see PAIR WEB site <http://pair.uspto.gov> for additional applicants):

Michael T. Hoffman, Portland, OR;
NIKE, Inc., Beaverton, OR;
Kwamina Crankson, Portland, OR;
Jason Nims, Portland, OR;
Michael Levi Orenstein, Portland, OR;
Kristen Laina White, Portland, OR;

The United States represents the largest, most dynamic marketplace in the world and is an unparalleled location for business investment, innovation, and commercialization of new technologies. The USA offers tremendous resources and advantages for those who invest and manufacture goods here. Through SelectUSA, our nation works to encourage and facilitate business investment. To learn more about why the USA is the best country in the world to develop technology, manufacture products, and grow your business, visit SelectUSA.gov.

Doc Code: DIST.E.FILE Document Description: Electronic Terminal Disclaimer - Filed		PTO/SB/26 U.S. Patent and Trademark Office Department of Commerce
Electronic Petition Request	TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING REJECTION OVER A "PRIOR" PATENT	
Application Number	15727984	
Filing Date	09-Oct-2017	
First Named Inventor	Michael Hoffman	
Attorney Docket Number	215127.02314/140194US03CO	
Title of Invention	Monitoring Fitness Using a Mobile Device	
☒ Filing of terminal disclaimer does not obviate requirement for response under 37 CFR 1.111 to outstanding Office Action ☒ This electronic Terminal Disclaimer is not being used for a Joint Research Agreement.		
Owner	Percent Interest	
NIKE, Inc.	100%	
The owner(s) with percent interest listed above in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of prior patent number(s) 9808670 as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns. In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later: - expires for failure to pay a maintenance fee; - is held unenforceable; - is found invalid by a court of competent jurisdiction; - is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321; - has all claims canceled by a reexamination certificate; - is reissued; or - is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer. ☒ Terminal disclaimer fee under 37 CFR 1.20(d) is included with Electronic Terminal Disclaimer request.		

☐ I certify, in accordance with 37 CFR 1.4(d)(4), that the terminal disclaimer fee under 37 CFR 1.20(d) required for this terminal disclaimer has already been paid in the above-identified application.	
Applicant claims the following fee status: ☐ Small Entity ☐ Micro Entity ☒ Regular Undiscounted	
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.	
THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES I certify, in accordance with 37 CFR 1.4(d)(4) that I am: ☒ An attorney or agent registered to practice before the Patent and Trademark Office who is of record in this application Registration Number <u>74794</u> ☐ A sole inventor ☐ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors as evidenced by the power of attorney in the application ☐ A joint inventor; all of whom are signing this request	
Signature	/Lyssa-Michelle Morris/
Name	Lyssa-Michelle Morris

*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).
 Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

Electronic Patent Application Fee Transmittal

Application Number:	15727984			
Filing Date:	09-Oct-2017			
Title of Invention:	Monitoring Fitness Using a Mobile Device			
First Named Inventor/Applicant Name:	Michael T. Hoffman			
Filer:	Lyssa-Michelle Morris/Jennifer Brady			
Attorney Docket Number:	215127.02314/140194US03CO			
Filed as Large Entity				
Filing Fees for Utility under 35 USC 111(a)				
Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Basic Filing:				
STATUTORY OR TERMINAL DISCLAIMER	1814	1	160	160
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
Patent-Appeals-and-Interference:				
Post-Allowance-and-Post-Issuance:				

Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Extension-of-Time:				
Miscellaneous:				
Total in USD (\$)				160

Doc Code: DISQ.E.FILE

Document Description: Electronic Terminal Disclaimer – Approved

Application No.: 15727984

Filing Date: 09-Oct-2017

Applicant/Patent under Reexamination: Hoffman

Electronic Terminal Disclaimer filed on May 23, 2018

☒ APPROVED

This patent is subject to a terminal disclaimer

☐ DISAPPROVED

Approved/Disapproved by: Electronic Terminal Disclaimer automatically approved by EFS-Web

U.S. Patent and Trademark Office

Electronic Acknowledgement Receipt

EFS ID:	32698802
Application Number:	15727984
International Application Number:	
Confirmation Number:	1084
Title of Invention:	Monitoring Fitness Using a Mobile Device
First Named Inventor/Applicant Name:	Michael T. Hoffman
Customer Number:	11333
Filer:	Lyssa-Michelle Morris/Jennifer Brady
Filer Authorized By:	Lyssa-Michelle Morris
Attorney Docket Number:	215127.02314/140194US03CO
Receipt Date:	23-MAY-2018
Filing Date:	09-OCT-2017
Time Stamp:	11:50:50
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	DA
Payment was successfully received in RAM	\$ 160
RAM confirmation Number	052318INTEFSW00009121190733
Deposit Account	190733
Authorized User	Rajit Kapur

The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows:

37 CFR 1.16 (National application filing, search, and examination fees)

37 CFR 1.17 (Patent application and reexamination processing fees)

37 CFR 1.19 (Document supply fees)
 37 CFR 1.20 (Post Issuance fees)
 37 CFR 1.21 (Miscellaneous fees and charges)

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Terminal Disclaimer-Filed (Electronic)	eTerminal-Disclaimer.pdf	33393	no	2
			a8fe219d3b3d4b0c7c40e976c58f84d3ad82d68e		

Warnings:

Information:

2	Fee Worksheet (SB06)	fee-info.pdf	30545	no	2
			7e4ed851d5e480d9f5bf46c6fe42413a765d4689		

Warnings:

Information:

Total Files Size (in bytes): 63938

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111

If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Michael T. Hoffman et al.

Date: May 23, 2018

Application No.: 15/727,984

Confirmation No.: 1084

Filed: October 9, 2017

Art Unit: 3716

For: Monitoring Fitness Using a Mobile Device

Examiner: P. E. Elisca

AMENDMENT IN RESPONSE TO NON-FINAL OFFICE ACTION

Mail Stop: Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Commissioner:

INTRODUCTORY COMMENTS

In response to the Office Action dated March 21, 2018, in connection with the above-identified U.S. patent application, Applicant submits the following:

Amendments to the Claims, which are reflected in the listing of claims which begins on page 2 of this paper.

Remarks/Arguments, which begin on page 6 of this paper.

If any fees are required or if an overpayment is made, the Commissioner is authorized to debit or credit our Deposit Account No. 19-0733, accordingly.

Electronic Acknowledgement Receipt

EFS ID:	32710038
Application Number:	15727984
International Application Number:	
Confirmation Number:	1084
Title of Invention:	Monitoring Fitness Using a Mobile Device
First Named Inventor/Applicant Name:	Michael T. Hoffman
Customer Number:	11333
Filer:	Lyssa-Michelle Morris
Filer Authorized By:	
Attorney Docket Number:	215127.02314/140194US03CO
Receipt Date:	23-MAY-2018
Filing Date:	09-OCT-2017
Time Stamp:	19:59:51
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	no
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File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1		21512702314_Amendment_17755070_1.pdf	128582 7073660a1a9c54890367e17080fa949d3b62fa09	yes	6

Multipart Description/PDF files in .zip description			
Document Description	Start	End	
Applicant Arguments/Remarks Made in an Amendment	6	6	
Claims	2	5	
Amendment/Req. Reconsideration-After Non-Final Reject	1	1	

Warnings:

Information:

Total Files Size (in bytes):	128582
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This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371
If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office
If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

REMARKS

The Non-Final Office Action of March 21, 2018, has been carefully reviewed and these remarks are responsive thereto. Reconsideration and allowance of the instant application are respectfully requested.

Claims 1-20 are pending in the application, with Claims 1 and 11 presented as independent claims. Claims 1, 3-7, 9, 11, 16-18, and 20 have been amended. No new matter has been introduced by these amendments.

Double Patenting Rejection

Claims 1-20 are rejected on the ground of non-statutory double patenting as being unpatentable over Claims 1-20 of U.S. Patent No. 9,808,670. Notwithstanding the merits of this rejection, to obviate this rejection and expedite prosecution, Applicant submits, herewith, a Terminal Disclaimer.

CONCLUSION

All issues having been addressed, Applicant respectfully submits that the instant application is in condition for allowance, and respectfully solicits prompt notification of the same. However, if for any reasons the Examiner believes the application is not in condition for allowance or there are any questions, the Examiner is requested to contact the undersigned at (202) 824-3239.

Dated: May 23, 2018

Respectfully submitted,

By: /Lyssa-Michelle Morris/
Lyssa-Michelle Morris
Registration No.: 74,794

BANNER & WITCOFF, LTD.
1100 13th St. NW, STE 1200
Washington, DC 20005
(202) 824-3000

CLAIM AMENDMENTS

This listing of claims will replace all prior versions and listings of claims in the application:

1. (Currently Amended) A method comprising:
receiving, from an athletic activity monitoring system, athletic activity data recorded during an athletic activity performed by a first user, the athletic activity data including route information;
generating, ~~on a network page of a social networking site,~~ an athletic activity entry associated with the athletic activity ~~on a network page of a social networking site,~~ wherein the athletic activity entry and the network page ~~is are~~ viewable by a second user; and
generating, within the athletic activity entry ~~and based on the route information,~~ a map indicating a route of the first user ~~based on the route information,~~ wherein a performance of the first user during the athletic activity is identified in the map, and wherein the route information is downloadable to the second user and is configured to specify a workout route for the second user.
2. (Original) The method of claim 1, further comprising determining whether an activity condition of the athletic activity meets a first sharing threshold,
wherein the athletic activity entry is generated responsive to determining that the activity condition meets the first sharing threshold.
3. (Currently Amended) The method of claim 1, wherein the specified workout ~~routine~~ route for the second user includes route settings based on the route information associated with the athletic activity performed by the first user.
4. (Currently Amended) The method of claim 1, further comprising:
receiving a second user selection to begin the specified workout ~~routine~~ route;
receiving second athletic activity data recorded during a second athletic activity performed by the second user following the specified workout ~~routine~~ route and route information associated with the second athletic activity; and

~~generating, on the network page, a second athletic activity entry associated with the second athletic activity on the network page.~~

5. (Currently Amended) The method of claim 4, further comprising generating, within the second athletic activity entry, a second map corresponding to the route information of the first user and the route information of the second user,

wherein a performance of the first user during the athletic activity and a performance of the second user during the second athletic activity ~~is~~are identified in the map.

6. (Currently Amended) The method of claim 1, wherein the map is generated responsive to receiving a map selection from the ~~at least one other~~ second user, and

wherein the map is configured to be interactively navigable.

7. (Currently Amended) The method of claim 1, further comprising providing a sharing option configured to control whether the athletic activity entry will be shared with the second user,

~~wherein sharing includes transmitting workout information associated with the athletic activity entry to the social networking site,~~

wherein the sharing option is further configured to control sharing of workout information associated with the athletic activity entry in accordance with a first set of one or more conditions under which sharing is permitted, wherein sharing comprises transmitting the workout information to the social networking site.

8. (Original) The method of claim 7, further comprising providing a tag option to tag a summary of one or more metrics from the athletic activity entry with an identifier of the second user in response to receiving a first user selection to share workout information associated with the athletic activity entry to the social networking site.

9. (Currently Amended) The method of claim 8, further comprising transmitting the workout information to ~~a~~the social networking site, wherein the workout information includes a map identifying a route used by the first user to perform the athletic activity.

10. (Original) The method of claim 1, further comprising including a first interactive element in the athletic activity entry, the first interactive element configured to direct the second user to a non-location oriented activity summary interface.

11. (Currently Amended) An apparatus comprising:
a processor; and
a non-transitory₂ computer-readable medium storing computer₋₋₋readable instructions that, when executed, cause the apparatus to:
record athletic activity performed by a user;
receive a sharing option selection configured to allow the recorded athletic activity ~~is to be~~ shared; and
in response to receiving the sharing option, transmitting workout information associated with the recorded athletic activity to a network page of a social networking site viewable by one or more other users.

12. (Original) The apparatus of claim 11, wherein the apparatus is further caused to tag a summary of one or more metrics from the recorded athletic activity with identifiers of one or more other users.

13. (Original) The apparatus of claim 11, wherein the apparatus is further caused to include a message prompt on the network page, the message prompt configured to receive a message to be presented to the one or more other users on the social networking site.

14. (Original) The apparatus of claim 11, wherein the apparatus is further caused to:
receive a request to deactivate sharing of the workout information; and

transmit a modification request to remove the workout information from the social networking site.

15. (Original) The apparatus of claim 11, wherein the workout information includes map information identifying a route used by the user to perform the athletic activity.

16. (Currently Amended) The apparatus of claim 15, wherein the map information includes an image of a map identifying a route used by the ~~first~~-user in performing the athletic activity.

17. (Currently Amended) The apparatus of claim 15, wherein the map information includes a link to a network site displaying a map identifying a location at which the athletic activity was performed by the ~~first~~-user.

18. (Currently Amended) The apparatus of claim 15, wherein the map information includes route information downloadable to ~~another user's~~ an athletic activity monitoring device of another user for use by the other user to perform athletic activity according to a route defined by the route information.

19. (Original) The apparatus of claim 11, wherein the apparatus is further caused to generate a social network message on the network page based on a location at which the athletic activity was performed by the user.

20. (Currently Amended) The apparatus of claim 19, wherein transmitting the workout information includes modifying the social network message based on a received user edit.



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
15/727,984	10/09/2017	Michael T. Hoffman	215127.02314/140194US03CO	1084

11333 7590 03/21/2018
Banner & Witcoff, Ltd.
Attorneys for client 215127 & 315127
10 South Wacker Drive
Suite 3000
Chicago, IL 60606

EXAMINER

ELISCA, PIERRE E

ART UNIT	PAPER NUMBER
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3716

NOTIFICATION DATE	DELIVERY MODE
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03/21/2018

ELECTRONIC

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.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTO-11333@bannerwitcoff.com
nike_docketing@cardinal-ip.com

Office Action Summary	Application No. 15/727,984	Applicant(s) HOFFMAN ET AL.	
	Examiner PIERRE E. ELISCA	Art Unit 3716	AIA (First Inventor to File) Status No

-- 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 MONTHS 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 10/09/2017.
☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on _____.
- 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) 1-20 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) 1-20 is/are rejected.
- 8) ☐ Claim(s) _____ is/are objected to.
- 9) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

* If any claims have been determined allowable, you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information, please see http://www.uspto.gov/patents/init_events/pph/index.jsp or send an inquiry to PPHfeedback@uspto.gov.

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).

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

Certified copies:

- a) ☐ All b) ☐ Some** c) ☐ None of the:
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) ☒ Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/SB/08b)
Paper No(s)/Mail Date _____
- 3) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 4) ☐ Other: _____

DETAILED ACTION

1. The present application is being examined under the pre-AIA first to invent provisions.
2. Claims 1-20 are currently pending and have been examined.
3. This communication is to response to Application No. 15/727,984 filed on 10/09/2017.
4. This application is a continuation of U.S. application No. 15/360,512 filed on 12/19//2011 now U.S Patent 9,808,670 See MPEP 201.07. In accordance with MPEP 609.02 A.2 and MPEP 2001.06 (b) (last paragraph), the Examiner has reviewed and considered the prior art cited in the Parent Application. Also in accordance with MPEP 2001.06 (b) (last paragraph), all documents cited or considered 'of record' in the Parent Application are now considered cited or 'of record' in this application. Additionally, Applicant(s) are reminded that a listing of the information cited or 'of record' in the Patent Application need not be resubmitted in this application unless Applicants desire the information to be printed on a patent issuing from this application. See MPEP 609.02 A. 2. Finally, Applicants are reminded that the prosecution history of the Patent Application is relevant in this application.

Information Disclosure Statement

5. IDS filed on 11/21/2017 and 12/06/2017 are considered.

Double Patenting

6. 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. See *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) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

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 1-20 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Pat. No.9,808,670. Although the conflicting claims are not identical, they are not patentably distinct from each other. Accordingly, it would have been obvious to those in possession of the

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invention defined by claims 1-20 to observe that the limitations described in claims 1-20 are already incorporated in claims 1-20 of U.S. Pat. No.9,808,670. Therefore, one of ordinary skill in the art would have realized that by omitting the limitations of: "select an athletic activity descriptor object based on the received athletic activity data, wherein the athletic activity descriptor object describes a type of action performed by the user during the athletic activity; determine an activity condition based on the received athletic activity data; determine whether the activity condition meets a first sharing threshold" is an obvious expedient since the remaining elements perform the same functions as before. In re Karlson, 136 USPQ 184 (CCPA 1963).

Conclusion

7. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to PIERRE E. ELISCA whose telephone number is (571)272-6706 and email address: pierre.elisca@uspto.gov. The Examiner can normally be reached on 6:00AM to 4:30PM, Monday - Thursday. Hotelier.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Dmitri Suhol can be reached on 571 272 4430. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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