



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.
15/968,243	05/01/2018	Raymond W. Riley	215127.02330/08-1071US12C	3580
11333	7590	08/03/2020		
Banner & Witcoff, Ltd. Attorneys for client 215127 & 315127 71 South Wacker Drive Suite 3600 Chicago, IL 60606			EXAMINER GANESAN, SUNDHARA M	
			ART UNIT	PAPER NUMBER
			3784	
			NOTIFICATION DATE	DELIVERY MODE
			08/03/2020	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

DETAILED ACTION

Notice of Pre-AIA or AIA Status

The present application is being examined under the pre-AIA first to invent provisions.

Claim Rejections - 35 USC § 103

In the event the determination of the status of the application as subject to AIA 35 U.S.C. 102 and 103 (or as subject to pre-AIA 35 U.S.C. 102 and 103) is incorrect, any correction of the statutory basis for the rejection will not be considered a new ground of rejection if the prior art relied upon, and the rationale supporting the rejection, would be the same under either status.

The following is a quotation of pre-AIA 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-11 is/are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Brown et al. (US PGPub. 2006/0252602) in view of Gravagne (US PGPub. 2006/0189440). Brown describes substantially the same invention as claimed, including: A method comprising: establishing, by a sensor device (10, Device 10 is considered a "sensor device" when giving that term its broadest reasonable interpretation because device 10 has associated sensors, such as voice recognition and biometric detection inputs (see para. 51) as well as an associated monitoring system,

Art Unit: 3784

such as a pulse monitor (see para. 52)), data communication with a piece of workout equipment (38); transmitting, by the sensor device and to the piece of workout equipment, a first set of data for operating a first function of the piece of workout equipment (Fig. 3, “machine control signal”); transmitting, by the sensor device (10) and to the piece of workout equipment, a first set of activity data corresponding to an activity performed by a user during a first time period (Fig. 5, “receive personal data”, step 128 includes receiving personal fitness profile 50 from sensor device 10).

Brown et al. is silent as to the piece of workout equipment being configured to display the first set of activity data.

Gravagne teaches that it is known in the exercise art for an exercise machine to receive profile data from a user-carried RFID card (considered a sensor device when giving that term its broadest reasonable interpretation) and display it on an exercise machine (Gravagne Fig. 2A, and Fig. 4A step 64 “Display user information”).

Before the invention was made, it would have been prima facie obvious to modify Brown et al. as taught by Gravagne to display the user profile information or other data on the exercise machine. Doing so provides the predictable result of allowing the user to easily see the information while exercising on the machine, rather than squinting to visualize data on a small portable device’s screen. Therefore, it would have been prima facie obvious to modify Brown et al. as taught by Gravagne to obtain the invention as claimed.

Regarding claim 2, Brown shows wherein the sensor device is external to the piece of workout equipment (Brown para. 52).

Regarding claim 3, Brown shows wherein the first function comprises adjusting one or more settings of the piece of workout equipment to correspond to predetermined workout (Brown para. 63).

Regarding claim 4, Brown shows wherein the first set of activity data corresponding to the activity performed by the user is transmitted in real-time (see Brown ABSTRACT).

Regarding claim 5, Brown shows wherein adjusting the one or more settings of the piece of workout equipment comprises one of: increasing a time period associated with at least one workout activity in a workout routine; or decreasing the time period associated with at least one workout activity in the workout routine (Brown para. 0046).

Regarding claim 6, Brown shows wherein adjusting one or more settings of the piece of workout equipment comprises one of: increasing a resistance level of the piece of workout equipment for at least one workout activity in a workout routine; or decreasing the resistance level of the piece of workout equipment for at least one workout activity in the workout routine (Brown para. 62-63)

Regarding claim 7, Brown shows wherein a first parameter of the one or more workout parameters comprises one of: increasing a workout speed of the piece of workout equipment; or decreasing the workout speed of the piece of workout equipment (Fig. 3, "machine control signal").

Regarding claim 8, Brown shows wherein adjusting one or more settings of the piece of workout equipment comprises one of: increasing an incline level of the piece of workout equipment; or decreasing the incline level of the piece of workout equipment (Brown para. 62).

Regarding claim 9, Brown shows wherein the first set of data comprises user identification information, and wherein the first function comprises associating activity data stored at the piece of workout equipment with the user (Brown in 50, Fig. 3).

Regarding claim 10, Brown shows wherein adjusting one or more settings of the piece of workout equipment further comprises: establishing a target activity goal (Brown para. 37 “fitness goals 52”).

Regarding claim 11, Brown shows further comprising: measuring, by the sensor device, a second set of activity data corresponding to an activity performed by the user during a second time period; and transmitting, to the piece of workout equipment and based on the second set of activity data, updated equipment information to adjust one or more settings of the piece of workout equipment (Brown para. 79 “Next, block 116 depicts a determination as to whether or not the user is meeting the program goals. For example, meeting a program goal might include that a user's heart rate has reached a target level depending on the age and weight of the user. If the user is meeting the program goals, then the process passes to block 119. If the user is not meeting the program goals, then the process passes to block 118.” And para. 52).

Claims 12-20 is/are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Brown et al. (US PGPub. 2006/0252602) in view of Gravagne (US PGPub. 2006/0189440). Brown describes substantially the same invention as claimed, including: An athletic activity tracking system comprising: a piece of workout equipment comprising a display device (machine monitor 40), a first sensor to measure an athletic performance of a user (para. 52), wherein the first sensor is programmed and adapted

Art Unit: 3784

to: establish data communication with the piece of workout equipment (38); transmit, to the piece of workout equipment, a first set of data for operating a first function of the piece of workout equipment (Fig. 3 “machine control signal”); transmit, to the piece of workout equipment a first set of activity data corresponding to an activity performed by a user during a first time period (Fig. 5, “receive personal data”, step 128 includes receiving personal fitness profile 50 from sensor device 10).)

Brown is silent as to the step of: display, via the display device, the first set of activity data.

Gravagne teaches that it is known in the exercise art for an exercise machine to receive profile data from a user-carried RFID card (considered a sensor device when giving that term its broadest reasonable interpretation) and display it on an exercise machine (Gravagne Fig. 2A, and Fig. 4A step 64 “Display user information”).

Before the invention was made, it would have been prima facie obvious to modify Brown et al. as taught by Gravagne to display the user profile information or other data on the exercise machine. Doing so provides the predictable result of allowing the user to easily see the information while exercising on the machine, rather than squinting to visualize data on a small portable device’s screen. Therefore, it would have been prima facie obvious to modify Brown et al. as taught by Gravagne to obtain the invention as claimed.

Regarding claim 13, Brown shows wherein the first function comprises adjusting one or more settings of the piece of workout equipment to correspond to predetermined workout (Brown para. 63).

Regarding claim 14, Brown shows wherein adjusting the one or more settings of the piece of workout equipment comprises one of: increasing a time period associated with at least one workout activity in a workout routine; or decreasing the time period associated with at least one workout activity in the workout routine (Brown para. 0046).

Regarding claim 15, Brown shows wherein adjusting the one or more settings of the piece of workout equipment comprises one of: increasing a resistance level of the piece of workout equipment for at least one workout activity in a workout routine; or decreasing the resistance level of the piece of workout equipment for at least one workout activity in the workout routine (Brown paras. 62-63).

Regarding claim 16, Brown shows wherein adjusting the one or more settings of the piece of workout equipment comprises one of: increasing a workout speed of the piece of workout equipment; or decreasing the workout speed of the piece of workout equipment (Brown para. 62-63).

Regarding claim 17, Brown shows wherein adjusting the one or more settings of the piece of workout equipment comprises one of: increasing an incline level of the piece of workout equipment; or decreasing the incline level of the piece of workout equipment (Brown para. 62).

Regarding claim 18, Brown shows wherein the first set of data comprises user identification information, wherein the first function comprises associating activity data stored at the piece of workout equipment with the user (Brown para. 79).

Regarding claim 19, Brown shows wherein adjusting one or more settings of the piece of workout equipment further causes the first sensor to: establish a target activity goal (Brown para. 37 “fitness goals 52”).

Regarding claim 20, wherein the first sensor is further programmed and adapted to: measure a second set of activity data corresponding to an activity performed by the user during a second time period; and transmit, to the piece of workout equipment and based on the second set of activity data, updated equipment information to adjust one or more settings of the piece of workout equipment (Brown para. 79).

Response to Arguments

Applicant's arguments filed 5/4/2020 have been fully considered but they are not persuasive. Applicant argues that Brown does not show that sensors transmit, to the piece of workout equipment, a first set of data for operating a first function of the piece of workout equipment. Examiner notes that the term “sensor device” as recited in the claims has been broadly interpreted to include the sensors associated with Brown’s computing system 10 (see rejection above). Therefore, Brown does show a sensor device transmitting a first set of data for operating a first function of the piece of workout equipment, as required by the claims. Applicant argues that Brown does not show the workout equipment displaying the first set of activity data. Examiner notes that Gravagne has been used to teach this feature.

Regarding claim 3, Applicant argues that Brown does not show an external sensor. Examiner notes that an external sensor is shown in para. 52.

Regarding claim 5, Applicant argues that Brown's machine adjusts the settings rather than being controlled by a sensor device. Examiner notes that the sensor device controls the machine settings in Brown (Fig. 3, "Machine settings"). Examiner also notes that Brown in paras. 62 and 63 describes altering machine settings in accordance with an exercise plan.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SUNDHARA M GANESAN whose telephone number is (571)272-3340. The examiner can normally be reached on 9:30AM-5:30PM.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Examiner interviews are available via telephone, in-person, and video conferencing using a USPTO supplied web-based collaboration tool. To schedule an interview, applicant is encouraged to use the USPTO Automated Interview Request (AIR) at <http://www.uspto.gov/interviewpractice>.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LoAn Thanh can be reached on (571)272-4966. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/SUNDHARA M GANESAN/
Primary Examiner, Art Unit 3784