

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Attorney Docket No. 215127.01662

In re U.S. Patent Application of Michael D. Prstojeovich, et al.	)	
	)	
	)	Examiner: Paula J. Stice
Application No. 13/531,072	)	
	)	Group Art Unit: 3766
Filed: June 22, 2012	)	
	)	Confirmation No. 7563
For: Adaptive Watch	)	
	)	

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Commissioner for Patents
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RESPONSE TO OFFICE ACTION

This paper is responsive to the Office Action mailed June 13, 2013. The Examiner has set a three-month period for response thus making this response due on or before **September 13, 2013**. The Commissioner is hereby authorized to charge such fee or credit any overpayment of fees to Deposit Account No. 19-0733.

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

Amendments to the Claims are reflected in the listing of claims which begins on page 3 of this paper.

Remarks/Arguments begin on page 7 of this paper.

Amendments to the Specification:

Please replace paragraph [01] with the following amended paragraph:

[01] This application is a continuation of U.S. Patent Application No. 12/498,197 filed July 6, 2009, now US Patent No. 8,224,429 which is a divisional application of and claims priority to co-pending U.S. Patent Application Number 11/690,766, now abandoned, which was filed in the U.S. Patent and Trademark Office on March 23, 2007 and is entitled “Adaptive Watch,” which is a divisional application of U.S. Patent Application Number 10/417,796, which was filed in the U.S. Patent and Trademark Office on April 17, 2003 and is entitled “Adaptive Watch.” Each of these patent applications is entirely incorporated herein by reference.

Amendments to the Claims

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

Listing of Claims

1. (Currently Amended) An apparatus comprising:
a processor; and
a memory storing instructions that, when executed by the processor, cause the apparatus at least to:
 - prompt a user to exercise at a plurality of successive exertion levels, wherein an exertion level is based on a level of physical fitness of a user ~~multiple exertion levels~~;
 - determine a plurality of heart rate zones based on first heart rate measurements received from a sensor while the user exercises at the ~~multiple~~ plurality of successive exertion levels;
 - generate a prompt instructing a user to exercise while maintaining heart rate within a particular one of the plurality of heart rate zones;
 - process second heart rate measurements received from the sensor subsequent to generating the prompt; and
 - determine whether the second heart rate measurements are within the particular heart rate zone.
2. (Original) The apparatus of claim 1, wherein the first heart rate measurements and the second heart rate measurements are received in a plurality of encoded messages.
3. (Original) The apparatus of claim 2, wherein the instructions, when executed by the processor, cause the apparatus to decode the encoded messages using identification data of the sensor.
4. (Original) The apparatus of claim 2, wherein the encoded messages comprise identification information of the sensor.

5. (Original) The apparatus of claim 1, wherein the instructions, when executed by the processor, cause the apparatus to receive a message from a speed sensor, wherein the message comprises speed information measured by the speed sensor.
6. (Original) The apparatus of claim 5, wherein the instructions, when executed by the processor, cause the apparatus to designate a time channel for communicating with the speed sensor.
7. (Original) The apparatus of claim 1, wherein the instructions, when executed by the processor, cause the apparatus to receive a message from a distance sensor, wherein the message comprises distance information measured by the distance sensor.
8. (Original) The apparatus of claim 7, wherein the instructions, when executed by the processor, cause the apparatus to designate a time channel for communicating with the distance sensor.
9. (Original) The apparatus of claim 1, wherein the instructions, when executed by the processor, cause the apparatus to determine that a message is from the sensor based upon a time at which the message is received.
10. (Original) The apparatus of claim 1, wherein the instructions, when executed by the processor, cause the apparatus to distinguish between messages from the sensor and a second sensor based on times at which respective ones of the messages are received.
11. (Original) The apparatus of claim 1, wherein the instructions, when executed by the processor, cause the apparatus to distinguish between messages from the sensor and a second sensor based on frequencies at which respective ones of the messages are received.
12. (Currently Amended) A method comprising:
prompting a user to exercise at a plurality of successive exertion levels, wherein an exertion level is based on a level of physical fitness of a user ~~multiple exertion levels;~~

determining, by a processor, a plurality of heart rate zones based on first heart rate measurements received from a sensor while the user exercises at the ~~multiple~~ plurality of successive exertion levels;

generate, by the processor, a prompt instructing a user to exercise while maintaining heart rate within a particular one of the plurality of heart rate zones;

process, by the processor, second heart rate measurements received from the sensor subsequent to generating the prompt; and

determine, by the processor, whether the second heart rate measurements are within the particular heart rate zone.

13. (Original) The method of claim 12, further comprising decoding a plurality of encoded messages using identification data of the sensor, wherein the first heart rate measurements and the second heart rate measurements are received in respective ones of the plurality of encoded messages.

14. (Original) The method of claim 12, further comprising designating a time channel for communicating with the sensor.

15. (Original) The method of claim 12, further comprising distinguishing between messages from the sensor and a second sensor based on times at which respective ones of the messages are received.

16. (Original) The method of claim 12, further comprising distinguishing between messages from the sensor and a second sensor based on frequencies at which respective ones of the messages are received.

17. (Currently Amended) A non-transitory computer readable medium storing executable instructions that, when executed, cause a computing system at least to:

prompt a user to exercise at a plurality of successive exertion levels, wherein an exertion level is based on a level of physical fitness of a user ~~multiple exertion levels;~~

determine a plurality of heart rate zones based on first heart rate measurements received from a sensor while the user exercises at the ~~multiple~~ plurality of successive exertion levels;

generate a prompt instructing a user to exercise while maintaining heart rate within a particular one of the plurality of heart rate zones;

process second heart rate measurements received from the sensor subsequent to generating the prompt; and

determine whether the second heart rate measurements are within the particular heart rate zone.

18. (Original) The computer readable medium of claim 17, wherein the executable instructions, when executed, cause the computing system to decode a plurality of encoded messages using identification data of the sensor, wherein the first heart rate measurements and the second heart rate measurements are received in respective ones of the plurality of encoded messages.

19. (Original) The computer readable medium of claim 17, wherein the executable instructions, when executed, cause the computing system to designate a time channel for communicating with the sensor.

20. (Original) The computer readable medium of claim 17, wherein the executable instructions, when executed, cause the computing system to perform at least one of:
distinguish between messages from the sensor and a second sensor based on times at which respective ones of the messages are received; and
distinguish between messages from the sensor and a second sensor based on frequencies at which respective ones of the messages are received.

REMARKS

The Office Action (“Action”) mailed June 13, 2013 has been reviewed and the comments therein were carefully considered by the Applicant. By way of this Amendment, claims 1, 12, and 17 have been amended. Support for these amendments can be found at least at paragraphs [71], [73], and [75] of the application, therefore, no new matter has been added by these amendments. Applicants respectfully submit that claims 1-20 are in condition for allowance and respectfully request notification of the same.

Objections

The specification of the disclosure is objected to because of a minor informality. Applicants thank the Examiner for noticing this. The specification has been amended in paragraph [01] to include cross-reference data, as requested in the Action. Accordingly, Applicants respectfully request reconsideration and withdrawal of the objection to the specification.

Claim Rejections Under 35 U.S.C. § 112

Claims 1-20 were rejected under 35 U.S.C. § 112(b) second paragraph, as being indefinite for failing to point out and distinctly claim the subject matter for which the applicant regards as the invention.

Applicants have amended claims 1, 12, and 17 to clarify that a user is prompted to exercise at “a plurality of *successive* exertion levels” (emphasis added). Accordingly, Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. § 112(b) rejection of claims 1-20.

Claim Rejections Under 35 U.S.C. § 102

Claims 1, 12 and 17 stand rejected under 35 U.S.C. 102(b) as being anticipated by Lubell et al. US 4,566,461, hereinafter “Lubell.” The Applicants respectfully traverse.

Lubell does not disclose “prompt[ing] a user to exercise at a plurality of successive exertion levels, wherein an exertion level is based on a level of physical fitness of a user, as recited in amended claim 1, and supported at least at paragraphs [71] (see “EASY” level of

exertion), [73] (see “MEDIUM” level of exertion), and [75] (see “HARD” level of exertion) of the instant application. In contrast, and as cited in the “Response to Arguments” section of the Action, Lubell is directed to a *prescribed* exercise test. *See Lubell, column 8, lines 23-60.* In other words, Lubell automatically executes a predefined exercise test protocol that is not based on a level of physical fitness of a user.

Lubell’s prescribed exercise test will incrementally increase a running speed from 4 miles per hour, with a test subject increasing his/ her speed in response to *predetermined* “pacing tones.” *See Lubell, column 8, lines 43-49.* Accordingly, Lubell exercise test protocol is not based on a level of physical fitness of a user. For example, Lubell’s prescribed 4 miles per hour *starting* speed may, for some users, be considered difficult to achieve, or may, in other instances, be beyond the capabilities of some users. In such instances, these users would not be able to increase their speeds in response to predetermined “pacing tones.” Therefore, because Lubell’s exercise test protocol is predetermined, it is not adaptive to the physical fitness of a user.

Accordingly, nowhere does Lubell disclose, teach, or suggest a prompt for a user to exercise “at a plurality of successive exertion levels, wherein an exertion level is based on a level of physical fitness of a user,” and Lubell does not anticipate amended claim 1. Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. 102(b) rejections of claim 1.

Claims 12 and 17 have been amended to include similar amendments as claim 1. Accordingly, for at least the reasons discussed above, Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. 102(b) rejections of claim 12 and 17 also.

Claim Rejections Under 35 U.S.C. § 103

Claims 2-5, 13 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lubell et al. in view of Yoshimura et al. US 2003/0073911.

Claims 2-5, 13 and 18 depend from either claims 1, 12, or 17, and contain all the elements thereof. Moreover, Yoshimura fails to remedy the deficiencies identified with respect to Lubell. Thus, for the reasons stated above, Lubell in view of Yoshimura does not teach, disclose, or suggest the subject matter claims 2-5, 13 and 18 recite for at least the same reasons

as claims 1, 12 and 17, in addition to the unique combination of features claims 2-5, 13 and 18 recite.

Claims 6-11, 14-16 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lubell et al. in view of Yoshimura et al. and further in view of Flach et al. US 2001/0023315.

Claims 6-11, 14-16 and 19-20 depend from either claims 1, 12, or 17, and contain all the elements thereof. Moreover, Flach fails to remedy the deficiencies identified with respect to Lubell in view of Yoshimura. Thus, for the reasons stated above, Lubell, in view of Yoshimura, and further in view of Flach, does not teach, disclose, or suggest the subject matter claims 6-11, 14-16 and 19-20 recite for at least the same reasons as claims 1, 12 and 17, in addition to the unique combination of features claims 6-11, 14-16 and 19-20 recite.

CONCLUSION

Applicant respectfully submits that the pending claims are in condition for allowance. Favorable reconsideration of this application is respectfully requested. The Examiner is invited to contact the undersigned should it be deemed necessary to facilitate prosecution of the application.

Respectfully submitted,

Date: August 13, 2013

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