

IN THE PATENT AND TRADEMARK OFFICE

In re patent application of: Jason WERSLAND Serial No. 16/869,402 Filed: May 7, 2020 Title: PERCUSSIVE THERAPY DEVICE	Confirmation No. 4812 Group Art Unit: 3785 Examiner: Stuart, Colin W. Customer No. 24,574 Docket No. 76840-5077
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AMENDMENT

Please amend the above-identified application, without prejudice, as follows:

Amendments to the Claims begin on page 2 of this paper.

Amendments to the Specification begin on page 9 of this paper.

Amendments to the Drawings begin on page 10 of this paper.

Remarks begin on page 11 of this paper.

AMENDMENTS TO THE CLAIMS

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

What is claimed is:

1. (currently amended) A percussive therapy device comprising:

a housing, wherein the housing includes first, second and third handle portions and a head portion that cooperate to define a handle opening, wherein the first handle portion defines a first axis, the second handle portion defines a second axis and the third handle portion defines a third axis, wherein the first, second and third axes cooperate to form a triangle, such that a user can grasp any of the first, second or third handle portions independently to use the percussive therapy device, and wherein the motor is positioned in the head portion of the housing,

an electrical source,

a motor positioned in the housing,

a switch for activating the motor, and

a push rod assembly operatively connected to the motor and configured to reciprocate in response to activation of the motor.

2. (currently amended) The percussive therapy device of claim 1 ~~wherein the housing includes first, second and third handle portions and a head portion that cooperate to define a handle opening, wherein the first handle portion defines a first axis, the second handle portion defines a second axis and the third handle portion defines a third axis, wherein the first, second and third axes cooperate to form a triangle, such that a user can grasp any of the first, second or third handle portions independently to use the percussive therapy device, wherein the motor is~~

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~~positioned in the head portion of the housing, and~~ wherein at least a portion of the push rod assembly extends outside of the head portion.

3. (currently amended) The percussive therapy device of claim [[2]] 1 wherein the first handle portion is generally straight, wherein the second handle portion is generally straight, and wherein the third handle portion is generally straight.

4. (original) The percussive therapy device of claim 1 further comprising a wireless connection device.

5. (original) The percussive therapy device of claim 1 wherein the electrical source is a rechargeable battery, and wherein the percussive massage device further comprising a wireless charging receiver that is in electrical communication with the battery.

6. (original) The percussive therapy device of claim 1 further comprising a touchscreen.

7. (currently amended) ~~The percussive therapy device of claim 1~~ A percussive therapy device comprising:

a housing,

an electrical source,

a motor positioned in the housing, wherein the motor is a brushless motor, ~~wherein~~

a motor mount [[is]] positioned in the housing, wherein the motor mount includes a first side wall that includes opposing inner and outer major surfaces, and a second side wall that

includes opposing inner and outer major surfaces, wherein a motor mount interior is defined between the inner major surfaces of the first and second side walls, wherein the motor is secured to the outer major surface of the first side wall ~~motor mount~~, and wherein the ~~motor mount~~ second side wall is secured to the housing, wherein the first side wall defines a first side wall axis, wherein the motor includes a motor shaft that defines a motor shaft axis and extends through a protrusion opening defined in the first side wall of the motor mount and into the motor mount interior, wherein the motor shaft axis extends generally parallel to the first side wall axis, wherein the first side wall axis is normal to the outer major surface of the first side wall, and wherein at least a portion of the push rod assembly is positioned in the motor mount interior,

a switch for activating the motor, and

a push rod assembly operatively connected to the motor and configured to reciprocate in response to activation of the motor.

8-16. canceled

17. (currently amended) The percussive therapy device of claim [[2]] 1 wherein the electrical source is a battery that is positioned in the second handle portion, and wherein a wireless charging receiver that is in electrical communication with the battery is positioned in the third handle portion.

18. (currently amended) The percussive therapy device of claim [[9]] 7 wherein the push rod assembly extends through a push rod opening defined in the motor mount and out of the motor mount interior, and wherein the push rod assembly extends in a direction generally perpendicular to the motor shaft.

19. (currently amended) The percussive therapy device of claim ~~[[8]]~~ 7 wherein the first side wall includes at least a first flange extending outwardly therefrom, wherein the first flange is positioned adjacent a first protrusion on the motor.

20. (previously presented) The percussive therapy device of claim 19 wherein the first side wall includes second and third flanges extending outwardly therefrom, wherein the second and third flanges are positioned adjacent second and third protrusions on the motor.

21. (currently amended) The percussive therapy device of claim ~~1~~ 1 ~~further comprising~~ wherein the percussive therapy device is configured to provide haptic feedback.

22. (currently amended) The percussive therapy device of claim 1 ~~[[2]]~~ wherein the first handle portion includes a first handle portion interior edge and defines a first handle portion length, wherein the first handle portion length is long enough that when a user grasps the first handle portion with a hand at least a portion of three fingers extend through the handle opening and contact the first handle portion interior edge, wherein the second handle portion includes a second handle portion interior edge and defines a second handle portion length, wherein the second handle portion length is long enough that when a user grasps the second handle portion with a hand at least a portion of three fingers extend through the handle opening and contact the second handle portion interior edge, wherein the third handle portion includes a third handle portion interior edge and defines a third handle portion length, wherein the third handle portion length is long enough that when a user grasps the third handle portion with a hand at least a portion of three fingers extend through the handle opening and contact the third handle portion interior edge.

23. (previously presented) The percussive therapy device of claim 22 wherein at least two of the first handle portion, second handle portion and third handle portion are generally straight.

24. (currently amended) A method of using a percussive massage device, the method comprising the steps of:

obtaining the percussive massage device, wherein the percussive massage device includes a housing that includes first, second and third handle portions that cooperate to at least partially define a handle opening, an electrical source, a motor positioned in the housing, a switch for activating the motor, and a push rod assembly operatively connected to the motor and configured to reciprocate in response to activation of the motor, wherein the first handle portion defines a first axis, the second handle portion defines a second axis and the third handle portion defines a third axis, wherein the first handle portion includes a first handle portion interior edge and defines a first handle portion length, wherein the first handle portion length is long enough that when a user grasps the first handle portion with a hand at least a portion of three fingers extend through the handle opening and contact the first handle portion interior edge, wherein the second handle portion includes a second handle portion interior edge and defines a second handle portion length, wherein the second handle portion length is long enough that when a user grasps the second handle portion with a hand at least a portion of three fingers extend through the handle opening and contact the second handle portion interior edge, wherein the third handle portion includes a third handle portion interior edge and defines a third handle portion length, wherein the third handle portion length is long enough that when a user grasps the third handle portion with a hand at least a portion of three fingers extend through the handle opening and contact the third handle portion interior edge,

activating the motor using the switch,

grasping the first handle portion using a first hand,

massaging a first body part,

reorienting the percussive massage device, grasping the second handle portion using the first hand and massaging the first body part or a second body part, and

reorienting the percussive massage device, grasping the third handle portion using the first hand and massaging the first body part, the second body part or a third body part.

25. canceled.

26. (currently amended) The method of claim [[25]] 24 wherein the housing includes a head portion, and wherein the motor is positioned in the head portion.

27. (currently amended) The method of claim [[26]] 24 wherein at least two of the first handle portion, second handle portion and third handle portion are generally straight.

28. (previously presented) The method of claim 24 wherein the first handle portion, second handle portion and third handle portion are generally straight.

29. (new) The method of claim 24 wherein the housing defines a housing length, wherein at least a portion of the handle opening extends forwardly of half the housing length.

30. (new) The method of claim 24 wherein a transverse plane that bifurcates the housing extends through the handle opening.

31. (new) The method of claim 24 further comprising a fourth interior surface that at least partially defines the handle portion, wherein the first handle portion interior surface, second handle portion interior surface, third handle portion interior surface and fourth interior surface cooperate to define a quadrilateral.

32. (new) The percussive therapy device of claim 23 further comprising a fourth interior surface that at least partially defines the handle portion, wherein the first handle portion interior surface, second handle portion interior surface, third handle portion interior surface and fourth interior surface cooperate to define a quadrilateral.

33. (new) A percussive therapy device comprising:
a housing,
an electrical source,
a motor positioned in the housing, wherein the motor is a brushless motor,
a motor mount positioned in the housing, wherein the motor mount includes a first side wall that includes opposing inner and outer major surfaces, and a second side wall that includes opposing inner and outer major surfaces, wherein a motor mount interior is defined between the inner major surfaces of the first and second side walls, and wherein the motor is directly secured to the outer major surface of the first side wall and wherein the second side wall is secured to the housing,
a switch for activating the motor, and
a push rod assembly operatively connected to the motor and configured to reciprocate in response to activation of the motor.

AMENDMENTS TO THE SPECIFICATION

A substitute specification is attached (including clean and marked up copies). No new matter has been added.

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AMENDMENTS TO THE DRAWINGS

Replacement drawing sheets 3/50, 10/50, 31/50 and 42/50 are included. FIGS. 2, 8, 33, 43A have been amended. No new matter has been added.

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REMARKS

In this amendment, claims 1-3, 7, 17-19, 21, 22, 24, 26 and 27 have been amended, claims 8, 9 and 25 have been cancelled and claims 29-33 have been added. Accordingly, claims 1-7, 17-24 and 26-33 remain pending in the present application.

INTERVIEW

Applicant thanks the Examiner for extending the courtesy of an interview on August 20, 2020. During the interview, proposed claim amendments and arguments were discussed. The Examiner indicated that the proposed amendments to claim 24 overcame the current rejections and proposed two different additional amendments to claim 7. Claim 7 has been amended to include the "normal" language discussed during the interview. Claim 33 has been added and includes the "directly secured" language discussed during the interview. Applicant awaits the results of any additional search.

ALLOWABLE SUBJECT MATTER

Applicant notes that, other than the Double Patenting rejection, claims 2-3, 17 and 22-23 were not rejected over any prior art. The patentable features of claim 2 have been added to claim 1.

DRAWINGS

The drawings have been objected to. Reference characters "116" and "117" have both been used to designate the pinion shaft. Correction has been made in the specification, thereby mooting the objection.

References characters "101" and "402" have both been used to designate the housing. All instances of the housing in the specification have been changed to "101" and the drawings have been amended.

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Reference characters "230" and "310" have both been used to designate the pushrod and the reciprocator. "310" is the reciprocator and "230" is the first rod portion. The specification has been amended to address this, thereby mooting the objection. FIG. 8 has been amended to change the "310" lead line to an arrow.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 47, 700. "47" has been added to FIG. 2. All instances of "700," which refers to the "percussive therapy device with force meter" have been changed to "400", thereby mooting the objection.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 228. "228" is supposed to be "226." Correction has been made in FIG. 8, thereby mooting the objection.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "230" has been used to designate all of the first rod portion, the reciprocator, and the pushrod and reference character "231" has been used to designate both the protrusion and the first rod portion. All instances of "230" in the specification now refer to the "first rod portion" and "231" refers to the protrusion, thereby mooting the objection.

The drawings are objected to because para. 00125 discloses a compliant dampening block with reference 402; however, 402 in para. 33 does not appear to show a dampening block nor does there appear to be such a dampening block shown in the drawings. The specification has been amended to remove "402" with respect to the "compliant dampening blocks", thereby mooting the objection.

No new matter has been added.

SPECIFICATION

The specification has been objected to. Para. 00123 recites the phrase "opening 222b that_receives" to which the underscore mark is objected to. This has been amended.

Para. 00119 recites the phrase "and comfort of using the _device" to which the underscore mark is objected to. This has been amended.

Para. 00120 recites the phrase "second handle portion 145 f(the second handle portion length)." to which the 'f(the' term appears to be a typographical error. This has been amended.

Para. 00125 recites the phrase "In some _embodiments" to which the underscore mark is objected to. This has been amended.

Para. 00129 recites the phrase "and the adapter member _226" to which the underscore mark is objected to. This has been amended.

Para. 00159 recites that "1.8 volts is divided into 60 0.3-volt increments" and this is objected to as this appears it should be 0.03-volt increments. This has been amended. It should be noted that, as stated in the specification, the 0.03 volt increments are only exemplary. This figure is not limiting.

Para. 00166 is objected to as it recites "3-volt increments" and as discussed above this does not appear to be the value of the increments. This has been amended.

Para. 00183 recites the phrase "using the lookup table. [END OF 5063]" which is objected to for what appears to be extraneous/typographical language. This has been amended.

Para. 00200 refers to a "Fig. 39", "Fig. 40", and "Fig. 41" when disclosing various grips of the device; however, it appears from the disclosure that these figures should be —Fig. 38--, --Fig. 39--, and —Fig. 40--, respectively. This has been amended.

Para. 00205 recites the phrase "As shown in Fig. 41, a "base" grip may be utilized" which is objected to as Fig. 41 does not appear to show a base grip. "FIG. 41" has been amended to "FIG. 40".

Para. 00238 refers to a "Fig. 46" (two instances) in reference to a touch screen on a mobile device and this is objected to as Fig. 46 does not show a touch screen on a mobile device and furthermore, there is no "Fig. 46" but rather Figs. 46A-D. "FIG. 46" has been amended to "FIG. 47".

No new matter has been added.

REJECTIONS UNDER 35 U.S.C. § 112

The Examiner has rejected claims 2-3, 17 and 21-23 as being indefinite. The features of claim 2 have been added to claim 1, thereby mooting the rejection.

Claim 21 has been amended pursuant to the Examiner's suggestion.

DOUBLE PATENTING

The Examiner has rejected the claims for double patenting. Claim 1 was provisionally rejected for "same invention" type double patenting. Claim 1 has been amended, thereby mooting the rejection.

Claims 1-9, 17, 18 and 21-27 were rejected on the ground of nonstatutory double patenting as being unpatentable over certain claims of U.S. Patent No. 10,702,448 either alone or in combination with other prior art. A terminal disclaimer is submitted herewith to obviate the rejection.

Claims 1 and 24 were rejected on the ground of nonstatutory double patenting as being unpatentable over claims 1 and 15 of U.S. Patent No. 10,357,425. However, after the current amendments the Examiner indicated that this rejection is moot.

Claims 1 was also provisionally rejected on the ground of nonstatutory double patenting as being unpatentable over certain claims of copending application no. 16/869,389. Claim 1 has been amended, thereby mooting the rejection.

REJECTIONS UNDER 35 U.S.C. §103

The Examiner has rejected claim 1 as unpatentable over Rix (US 7,927,259), in view of Haas (2005/0126018); claim 4 as unpatentable over Rix, Haas and Marton (US 10,314,762); claim 6 as unpatentable over Rix, Haas and Roberts (US 2015/0119771); claims 7-8 and 19-20 as unpatentable over Rix, Haas, Standbridge (US 2012/02532425) and Kehoe (US 2013/0014968); claims 7-9 and 18 as unpatentable over Rix, Haas, Standbridge and Naughton (US

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2010/0162579); claim 24 as unpatentable over Rix, Haas, Pepe (US 2017/0304145) and Calvert (US 7,041,072); and claims 24-27 as unpatentable over Rix, Haas, Neumeier (US 2005/0252011) and Calvert. Please see the Office Action for the specific rejections.

As discussed above in the Interview section, independent claim 7 has been amended and independent claim 33 has been added as discussed during the August 20, 2020 interview.

Further, as discussed above in the Interview section, independent claim 24 and its dependents are allowable over the cited art.

For the all the reasons stated above, applicant respectfully requests withdrawal of the rejections.

REQUEST FOR TELEPHONE CONFERENCE

If after considering this Amendment, the Examiner believes that the claims are not allowable, Applicant requests that the Examiner please contact their authorized representative identified below by phone prior to issuing any further Office action for the purpose of hopefully resolving any such issue.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending patentably define the subject invention over the prior art of record and are in condition for allowance and such action is earnestly solicited at the earliest possible date.

It is believed that no additional fee is due for submitting this response. However, in the event a fee is required, the Commissioner is authorized to charge any amounts due or credit any overpayments in connection with this matter to Deposit Account No. 10-0440.

Respectfully submitted,

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