

EXHIBIT J

Application No.: 12/211,033

Docket No.: 00125/002005 (2051/14C4)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Roger J. Quy

Examiner: Shirley Xueying Jian

Application No.: 12/211,033

Confirmation No.: 7693

Filed: September 15, 2008

Art Unit: 3769

For: METHOD AND APPARATUS FOR
MONITORING EXERCISE WITH WIRELESS
INTERNET CONNECTIVITY

Via EFS Web
Commissioner for Patents
P.O. Box 1450
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<p style="text-align: center;">Certificate of Electronic Transmission <u>Under 37 C.F.R. §1.8</u></p> <p>I hereby certify that this correspondence and any document referenced herein are being electronically filed with the USPTO via EFS-Web on March 12, 2012.</p> <p style="text-align: center;"><u>Michelle Wolf</u> (Printed Name of Person Sending Correspondence)</p> <p style="text-align: center;"><u>/Michelle Wolf/</u> (Signature)</p>

Dear Sir:

APPEAL BRIEF UNDER 37 C.F.R. §41.37

As set forth in the Notice of Appeal submitted October 27, 2011 and further to the Notice of Panel Decision mailed January 10, 2012, Appellant appeals the decision of the Examiner mailed August 30, 2011 (“Final Office Action”) in the above-identified application.

Appellant respectfully petitions under 37 C.F.R. 1.136(a) for a one-month extension of time to respond. The U.S. Patent and Trademark Office is authorized to charge the Appeal Fee under 37 C.F.R. 41.20(b)(1) (\$310), the fee for a one-month extension of time under 37 C.F.R. 1.17(a)(1) (\$75), and to charge any other fees deemed owing, and/or to credit any overpayments made regarding the application at large to Deposit Account 50-1047.

Appellant respectfully requests that the Board of Patent Appeals and Interferences reverse the Examiner’s rejections.

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I. REAL PARTY IN INTEREST

Q-TEC Systems LLC is the assignee of the present invention and the real party in interest.

II. RELATED APPEALS AND INTERFERENCES

No prior and pending appeals, judicial proceedings or interferences which may be related to, directly affect or be directly affected by, or have a bearing on the Board's decision in the pending appeal are known to the Appellant.

III. STATUS OF CLAIMS

The claims in the application are Claims 1-4 and 6-21. Claim 5 was previously canceled. Claims 1-4 and 6-21 are finally rejected and on appeal.

IV. STATUS OF AMENDMENTS

A Final Office Action was mailed on August 30, 2011, rejecting Claims 1-4 and 6-21. In response thereto, a Notice of Appeal was filed on October 28, 2011. No amendments have been filed.

V. SUMMARY OF CLAIMED SUBJECT MATTER

A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification, follows. Claims 1 and 14 are the independent claims presently pending.

Independent Claim 1 is directed to a method for interactive exercise monitoring, the method comprising the steps of:

- a. coupling a web-enabled wireless phone to a device which provides exercise-related information (see Fig. 2; WWD 12; HMD 11; paragraph [0015], lines 1-5 (corresponding to page 4, lines 22-26); paragraph [0016], lines 1-7 (corresponding to page 5, lines 1-7) paragraph [0019], lines 1-2 (corresponding to page 5, lines 19-20); paragraph [0020], lines 1-4 (corresponding to page 5, lines 25-28));

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- b. rendering a user interface on the web-enabled wireless phone (see Fig. 2; WWD 12; screen 41; paragraph [0049], lines 5-8 (corresponding to page 10, lines 17-18));
- c. receiving data indicating a physiologic status of a subject (see Fig. 6; steps 216, 218, 240, 220, 222; paragraph [0076], lines 1-5 (corresponding to page 16, lines 11-15); paragraph [0077], lines 1-3 (corresponding to page 16, lines 16-18); paragraph [0078], lines 1-4 (corresponding to page 16, lines 19-22));
- d. receiving data indicating an amount of exercise performed by the subject (see Fig. 6; steps 216, 218, 240, 220, 222; paragraph [0076], lines 1-5 (corresponding to page 16, lines 11-15); paragraph [0077], lines 1-3 (corresponding to page 16, lines 16-18); paragraph [0078], lines 1-4 (corresponding to page 16, lines 19-22));
- e. wherein at least one of the data indicating a physiologic status of a subject or the data indicating an amount of exercise performed by the subject is received from the device which provides exercise-related information, and wherein the data indicating a physiologic status of a subject is received at least partially while the subject is exercising (see paragraph [0013], lines 2-4 (corresponding to page 4, lines 13-15); paragraph [0016], lines 1-3 (corresponding to page 5, lines 1-3));
- f. sending the exercise-related information to an internet server via a wireless network (see Fig. 1, WHMA 10, POP 19, antenna 15, server 17, Internet 21; paragraph [0047], lines 1-7 (corresponding to page 10, lines 1-7); paragraph [0055], lines 1-6 (corresponding to page 11, line 29 to page 12, line 5));
- g. receiving a calculated response from the server, the response associated with a calculation performed by the server based on the exercise-related information (see Fig. 3; paragraph [0058], lines 1-5 (corresponding to page 12, lines 23-27); and
- h. running an application in the web-enabled wireless phone for receiving the exercise-related information and displaying the response (see paragraph [0065], lines 1-2 (corresponding to page 14, lines 8-9); Fig. 5, step 128; paragraph [0069], lines 8-9 (corresponding to page 15, lines 5-6); Fig. 6, step 228; paragraph [0080], lines 4-5 (corresponding to page 17, lines 1-2)).

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Independent Claim 8 is directed to a non-transitory computer-readable medium, containing an application for performing an interactive method of exercise monitoring, the application physically residing on a server, the method comprising the steps of:

- a. receiving exercise-related information from a web-enabled wireless phone, wherein the exercise-related information includes data indicating a physiologic status of a subject and data indicating an amount of exercise performed by the subject, and wherein the data indicating a physiologic status of a subject is received at least partially while the subject is exercising (see Fig. 6; steps 216, 218, 240, 220, 222; paragraph [0076], lines 1-5 (corresponding to page 16, lines 11-15); paragraph [0077], lines 1-3 (corresponding to page 16, lines 16-18); paragraph [0078], lines 1-4 (corresponding to page 16, lines 19-22));
- b. calculating a response based on the exercise-related information (see Fig. 4, server 22; paragraph [0058], lines 1-2 (corresponding to page 12, lines 23-24); Fig. 6, step 226; paragraph [0080], lines 1-2 (corresponding to page 16, lines 26-27));
- c. transmitting the calculated response to the web-enabled wireless phone (see Fig. 6, step 228; paragraph [0080], lines 4-5 (corresponding to page 17, lines 1-2)).

VI. GROUNDS OF REJECTION TO BE REVIEWED UPON APPEAL

A. Whether Claims 1-4 and 6-21 are erroneously rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,790,178 (Mault) (which includes a further ground of rejection to be reviewed – whether the Declaration under 37 C.F.R. 1.131 submitted by Appellant was erroneously rejected).

B. Whether Claims 1-4, 7-10, 12-16 and 20-21 are erroneously rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,059,692 (Hickman) in view of U.S. Patent No. 6,353,839 (King).

C. Whether Claims 11 and 17-19 are erroneously rejected under 35 U.S.C. 103(a) as being unpatentable over Hickman in view of King and further in view of U.S. Patent No. 6,524,189 (Rautila).

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