PTO/SB/17 (12-97)

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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:

Pyles et al

Date:

March 15, 2000

Filed:

October 28, 199

Docket No.:

EPIXINC-4

Application No.:

09/181,738

Art Unit:

2816/

For:

PEDOMETER

Examiner:

M. Wambach

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Washington, D.C. 20231

Date Date

Signature

Jeffry W. Smith, Reg. No. 33455

Name of applicant, assignee or Registered Representative

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Assistant Commissioner for Patents Washington, D.C. 20231

Dear Sir:

In accordance with 37 C.F.R. §1.56, applicant wishes to call the attention of the Examiner to the following documents:

Other Documents

SPORTSLINE PRODUCTS, "Fitness Pedometer 360", web page, 1pg. SPORTSLINE PRODUCTS, Fitness Pedometer 360 packaging labels, 5 pgs.

Copies of these documents are submitted herewith along with Form PTO/SB08B.

Applicant respectfully requests that these documents be expressly considered during the prosecution of this application and made of record herein and appear among the "documents cited" on any patent to issue herefrom.

This disclosure is being made pursuant to 37 C.F.R. §1.97(c)(2) and is accompanied by the fee set forth in 37 C.F.R. §1.17(p). If this fee is deficient in any manner, please charge Account No. 15-0660. A duplicate of this paper is filed herewith.

Respectfully submitted,

Jeffry W. Smith, Reg. No. 33455

Attorney for Applicant Lathrop & Clark LLP

740 Regent Street, Suite 400

P. O. Box 1507

Madison, Wisconsin 53701

(608) 257-7766

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Jeffry W. Smith, Reg. No. 3345

Name of applicant, assignee or Registered Representative

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Attorney for Applicant Lathrop & Clark LLP

740 Regent Street, Suite 400

P. O. Box 1507

Madison, Wisconsin 53701

(608) 257-7766

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INFORMATION DISCLOSURE			CL OCUPE	Filing Date	October 28, 1998
				First Named Inventor	Nathan Pyles
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(Use as many sheets as necessary)			ecessary)	Examiner Name	M. Wambach
Sheet	1	Of	1	Attorney Docket Number	EPIXINC-4

		OTHER PRIOR ART - NON PATENT LITERATURE DOCUMENTS			
Examiner Initials*	Cite No.1	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T ²		
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^{*}EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹Unique citation designation number. ²Applicant is to place a check mark here if English language translation is attached

In The United States Patent And Trademark Office Applicant: Pyles et al. March 15, 2000 Date Filed: October 28, 1998 Docket No .: **EPIXINC-4** App. No.: 09/181,738 Art Unit: For: PEDOMETER. Examiner: M. Wambach ertificate of Mailing I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Box Non-Fee Amendment, Assistant Commissioner for Patents, Washington, D.C. 20231 NAME A BANG DEPOSITE 00000002 150640 09181738 204,90 03 /Signature Jeffry W. Smith, Reg. No. 33455 Name of applicant, assignee or Registered Representative

Amendment

BOX NON-FEE AMENDMENT Assistant Commissioner for Patents Washington, D.C. 20231

Dear Sir:

This is in response to a January 28, 2000 Official Action. In view of the following amendments and remarks reconsideration and allowance of the application are requested.

In the Claims

Please cancel claims 1, 2, 3, 4, 7, 8, 9, 10, and 11 without prejudice.

Please amend the following claims as indicated.

5. (Amended.) A pedometer comprising

a step counter mountable on a user first body portion;

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a transmitter in communication with the step counter to generate a signal

corresponding to each step and transmit the signal; and

a receiver mountable on a user second body portion to receive the signal transmitted

from the transmitter and use the signal to calculate a distance traveled

[The pedometer of claim 1], wherein the transmitter transmits the signal a wireless distance in the range of [thirty] zero to thirty-six inches.

6. (Amended.) A pedometer comprising:

a step counter mountable on a user first body portion;

a transmitter in communication with the step counter to generate a signal

corresponding to each step and transmit the signal; and

a receiver mountable on a user second body portion to receive the signal transmitted

from the transmitter and use the signal to calculate a distance traveled

[The pedometer of claim 1], wherein the receiver is mountable on a user's wrist.

22. (Amended.) A pedometer comprising:

a step counter mountable on a user first body portion:

a transmitter in communication with the step counter to generate a signal corresponding to each step and transmit the signal;

a receiver mountable on a user second body portion to receive the signal transmitted from the transmitter and use the signal to calculate a distance traveled;

a heart rate monitor; and

a second transmitter in communication with the heart rate monitor to transmit a signal corresponding to a heart rate monitored by the heart rate monitor to the receiver and display the calculated heart rate

[The pedometer of claim 9], wherein the heart rate monitor and the [step counter]

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transmitter, are mounted in a single chest-mount housing.

13. (Amended.) A pedometer comprising:

a step counter mountable on a user first body portion;

a transmitter in communication with the step counter to generate a signal

corresponding to each step and transmit the signal; and

a receiver mountable on a user second body portion to receive the signal transmitted

from the transmitter and use the signal to calculate a distance traveled

[The pedometer of claim 1], wherein the pedometer includes a data processor programmed to calculate [a] the distance traveled by multiplying the number of strides taken by a stride length that varies according to [the] a rate at which strides are taken.

17. (Amended.) A pedometer comprising:

a step counter;

a transmitter in communication with the step counter to generate a step count signal

corresponding to each step and transmit the step count signal; and

a receiver mountable on a user ody portion to receive the step count signal

transmitted from the transmitter and calculate a distance from a number of strides

measured by the step counter; and

a data processor programmed to calculate a distance traveled by multiplying the number of strides taken by a stride length that varies according to [the] a rate at which strides are taken.

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(Amended.) The pedometer of claim 17, wherein the [transmission] step count signal is digitally coded.

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(Amended.) The pedometer of claim 17, [where in] wherein the transmitter transmits the signal a wireless distance in the range of [thirty] zero to thirty-six inches.

(Amended.) The pedometer of claim W, and further comprising:

a heart rate monitor; and

a second transmitter in communication with the heart rate monitor to transmit a heart rate signal corresponding to a heart rate [calculated] monitored by the heart rate monitor to the receiver and display the calculated heart rate.

(Amended.) The pedometer of claim 25, wherein the heart rate signal is at a different frequency than the [pedometer] step count signal.

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13 28. (Amended.) The pedometer of claim 25, wherein the heart rate monitor and the step counter are mounted in a single chest-mount housing.

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(Amended.) A pedometer programmed to calculate an actual stride length of a user by performing the steps of:

timing a user first run of a predetermined distance to obtain a user first run time;

dividing the first run distance by the [stride count] total number of strides to obtain a base stride length;

dividing the stride count by the first run time to obtain a base stride rate;

counting strides in a period of time during a user second run to obtain an actual stride

calculating the actual stride length using the formula:

counting [the] a total number of strides in the user first run;

Actual Stride Length = Base Stride Length + Base Stride Length *(((Actual Stride

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Therefore

Rate - Base Stride Rate)N)/Base Stride Rate);

where N is in the range of between 1 and 3;

calculates the actual stride length [distance] using a formula that correlates a specific stride length to a specific stride rate.

5. (Amended.) The pedometer of claim 52, wherein the [receiver processes the step count signal and displays] pedometer is further programmed to calculate and display [the] a distance traveled on a viewing screen.

7. (Amended.) A pedometer programmed to calculate an actual stride length of a user by performing the steps of:

timing a user first run of a predetermined <u>first run</u> distance <u>to obtain a first run time</u>; counting [the] <u>a</u> total number of strides in the user first run;

dividing the first run distance by the [stride count] total number of strides in the user first run to obtain a first run [base] stride length and a base stride length;

dividing the first run stride count by the first run time to obtain a first run [base] stride rate and a base stride rate;

timing a user second run of a predetermined second run distance to obtain a second run time;

counting [the] a total number of strides in the user second run;

dividing the second run distance by the <u>total number of strides in the user</u> second run [stride count] to obtain a second [base] <u>run</u> stride length;

dividing the total number of strides in the second run [stride count] by the second run time to obtain a second [base] run stride rate;

timing a user third run of a predetermined third run distance to obtain a third run time; counting [the] a total number of strides in the user third run;

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dividing the third run distance by the total number of strides in the user third run [stride count] to obtain a third [base] run stride length;

dividing the total number of strides in the third run [stride count] by the third run time to obtain a third run [base] stride rate;

counting strides in a period of time during a user fourth run to obtain an actual stride rate; calculating the actual stride length using the formula:

Actual Stride Length = Base Stride Length + Base Stride Length *(((Actual Stride Rate - Base Stride Rate)N)/Base Stride Rate);

where N is calculated by the formula ((Second Run Stride Length multiplied by First Run Stride Rate) - (First Run Stride Length multiplied by First Run Stride Rate)) / (First Run Stride Length multiplied by (Second Run Stride Rate - First Run Stride Rate)) when the Actual Stride Rate is greater than the First Run Stride Rate, and where N is calculated by the formula ((Third Run Stride Length multiplied by First Run Stride Rate) - (First Run Stride Length multiplied by First Run Stride Rate)) / (First Run Stride Length multiplied by (Third Run Stride Rate - First Run Stride Rate)) when the Actual Stride Rate is less than or equal to the First Run Stride Rate.

37-4. (Amended.) A method for calculating an actual stride length comprising the steps

of:

timing a first user run of a predetermined distance to obtain a first run time;
counting a total number of strides in the [user] first user run to obtain a stride count;
dividing the first run time by the stride count to obtain a Base Stride Length;
dividing the stride count by the first run time to obtain a Base Stride Rate;
counting strides in a pre-determined period during a user second run to
obtain an Actual Stride Rate;

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Contract

calculating the actual stride length using the formula:

Actual Stride Length = Base Stride Length + Base Stride Length *(((Actual Stride Rate - Base Stride Rate)N)/Base Stride Rate); wherein N is between one and three.

Remarks

Claims 1, 2, 3, 4, 7, 8, 9, 10, and 11 were all rejected under 35 U.S.C. §102 or §103. Applicants believe these claims are allowable over the cited art, but have canceled these claims to expedite prosecution of the application. The remaining claims were rejected under 35 U.S.C. §112, for the specific reasons cited on page 2 of the action.

Applicants have amended either the specific claims listed in the §112 rejection or the independent claims from which the rejected claims depend. It is believed that all of the §112 issues were addressed, but if the examiner disagrees, the undersigned counsel for Applicants is available for a telephone interview to expedite prosecution of this application.

Claims 5, 6, 9, and 13 all depended directly or indirectly from independent claim 1, now canceled. In claim 1 as originally filed, the last line included the phrase "calculate a distance measured by the step counter" to describe the function of the receiver after receiving a signal from the transmitter. In fact, the step counter does not "measure" anything. Step counters only count steps. In the invention as claimed herein, the receiver does the calculating based on the signal received from the step counter. Thus, in claims 5, 6, 9, and 13, the language of base claim 1 has been amended to make clear that the receiver calculates a distance traveled based, at least in part, on the signal received from the step counter.

Similarly, claim 12 depended from intervening base claim 9, which included the phrase "a heart rate calculated by the heart rate monitor." The heart rate monitor does not "calculate" a heart rate. Rather, the heart rate monitor recited in claim 9 simply "monitors" or counts heart beats. The receiver then calculates and displays the heart rate. Thus, the claim 9 language added to claim 12 has been amended to clarify this point. Claim 25 includes a similar amendment.

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In addition, claims 5 and 21 were amended to make the transmission range from zero to thirty-six inches. This reflects the broadest range supported by the specification at page 4, lines 23-29. So long as the signal is transmitted no more than the thirty to thirty-six inch range, it avoids interference with other Rf or digital devices. Given this, the two portions of the device can be mounted on different body parts without interference from external signals. Thus, zero inches is the smallest distance and thirty-six inches is the largest distance of transmission for this preferred embodiment as recited in claims 5 and 21.

Next, claim 37 was amended to accommodate the examiner's proposed changes to this claim. In addition, the "first run stride length" was given the dual name of "base stride length", and "first stride rate" was given the dual name "base stride rate". These terms are necessary to provide the necessary antecedent basis for the formula recited at the end of the claim.

The claims that were allowable if rewritten to overcome the §112 rejection and put into independent claim format have been amended to include all of the limitations of their respective base claims. Thus, all remaining claims are in condition for allowance. No new matter is believed to be added by this amendment.

Further, submitted herewith is a Supplemental Information Disclosure Statement citing a web page and instructions for a pedometer that is now commercially available. Applicants have no information indicating that this is prior art to the present application, but in the interest of full disclosure bring it to the examiner's attention. It is noteworthy that the instructions describe the pedometer as able to distinguish a walking stride length from a running stride length, and to calculate a "steps per minute". (Page 4, "Speed Function".) Significantly, however, this pedometer can only measure distance based on a uniform stride length. These instructions specifically state, "It is important to walk or run or hike consistently. If you vary your walking pace, your stride length will vary and your distance traveled will be [different]." (Page 3, "Your Stride Length".) Further, the user's stride length must be measured and then input into this pedometer's "memory". It does not measure stride length automatically. (Page 3, "How to

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Measure Your Stride".) Thus, even if this pedometer were prior art, it has no bearing on the allowability of the claims, particularly those relating to variable stride lengths.

Conclusion

For the foregoing reasons, Applicants submit that this case is in condition for allowance and respectfully request that the application be passed to issue.

Respectfully submitted,

Jeffry W. Smith, Reg. No. 33455

Attorney for Applicant Lathrop & Clark LLP

740 Regent Street, Suite 400

P.O. Box 1507

Madison, Wisconsin 53701-1507

(608) 257-7766

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ļ .	Typed or printed name	Jeffrv W	. Smith, Reg.	No. 33455	
	Signature Topque	<u> </u>		Date Much 21, 2002	



PATENT APPLICATION

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail

in an envelope addressed to: Assistant Commissioner for Patents Washington, D.C. 20231

Jeffry W. Smith, Reg. No. 33455 Name of Applicant, assignce or Registered Representative

Applicant:

Pyles et al.

Docket No .:

EPIXINC-4

Date:

March 21, 2000

Application No.:

09/181,738

Filed:

October 28, 1998 '

Art Unit:

2816

Examiner:

M. Wambach

TECHNOLOGY CENTER 2800

For:

PEDOMETER

Assistant Commissioner for Patents Washington, D.C. 20231

Dear Sirs:

In accordance with 37 C.F.R. §1.56, Applicants wish to call the attention of the Examiner to the following documents:

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

United States Patents

U.S. Patent No. 5,033,013

Issue Date 07-16-1991 Patentee Kato et al.

Foreign Patent Documents

Patent No. EP 0 119 009 A1

Issue Date 09-02-1983 Patentee Frederick

Other Documents

PCT/ISA/210 - International Search Report received March 20, 2000, 4 pgs.

Copies of these documents are submitted herewith along with Form PTO/SB 08A and PTO/SB 08B.

Applicants respectfully request that these documents be expressly considered during the prosecution of this application and made of record herein and appear among the "documents cited" on any patent to issue herefrom.

Respectfully submitted,

Jeffry W. Smith, Reg. No. 33455

Attorney for Applicant LATHROP & CLARK LLP 740 Regent Street, Suite 400

P.O. Box 1507

Madison, Wisconsin 53701-1507

(608) 257-7766

PTO/SB/08A (10-96)

Appr for use through 10/31/99. OMB 0651-0031

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Patent and Trademark Cuffice: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Substitute	f f	n 1449A	/PTO			Applicat	ion Number		09/181,738	3	
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^{*}EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

¹Unique citation designation number. ²See attached Kinds of U.S. Patent Documents. ³Enter Office that issued the document, by the two-letter code (WIPO Standard St.3). ⁴For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁵Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST, 16 if possible. ⁶Applicant is to place a check mark here if English language Translation is attached.

PTO/SB/08B (10-96)

Appr for use through 10/31/99, OMB 0651-0031

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Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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Substitute for form 1449B/PTO				Application Number	09/181,738	
INFORMATION DISCLOSURE				Filing Date	October 28, 1998	
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	(Use as many sheets as necessary)			Examiner Name	M. Wambach	
Sheet	2	Of	2	Attorney Docket Number	EPIXINC-4	100,000

		OTHER PRIOR ART - NON PATENT LITERATURE DOCUMENTS	-
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^{*}EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹Unique citation designation number. ²Applicant is to place a check mark here if English language translation is attached

	f 1995, no persons are re			PTO/SB(2) 12-97 d for use through 9/30/00. OMB 0651-003- Office: U.S. DEPARTMENT OF COMMERCE rmation unless it displays a valid OMB control	
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	Application Number 09/181	.,738
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FORM	First Named Inventor Nathan	Pyles
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PATENT APPLICATION

In the United States Patent and Trademark Office

Applicant:

Pyles et al.

Docket No.:

EPIXINC-4

Date:

April 4, 2000

Application No.:

09/181,738

Filed:

October 28, 1998

Art Unit:

2816

Examiner:

M. Wambach

For:

PEDOMETER



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On Apr: 1 4

Jeffry W. Smith, Reg. No. 33455 Name of Applicant, assignee or Registered Representative

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Assistant Commissioner for Patents Washington, D.C. 20231

Dear Sirs:

In accordance with 37 C.F.R. §1.56, Applicants wish to call the attention of the Examiner to the following documents:

United States Patents

RECEIVED

U.S. Patent No.	Issue Date	<u>Patentee</u>
4,144,568	03-13-1979	Hiller et al.
4,220,996	09-02-1980	Searcy
4,387,437	06-07-1983	Lowrey et al.
4,460,823	07-17-1984	Ruehlemann
4,466,204	08-21-1984	Wu
4,560,861	12-24-1985	Kato et al.
4,566,461	01-28-1986	Lubell et al.
4,578,769	03-25-1986	Frederick
4,703,445	10-27-1987	Dassler
4,763,287	08-09-1988	Gerhaeuser et al.

APR 1 1 2000 TECHNOLOGY CENTER 2800

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4,830,021	05-16-1989	Thornton
4,962,469	10-09-1990	Ono et al.
5,065,414	11-12-1991	Endou et al.
5,164,967	11-17-1992	Endo et al.
5,485,402	01-16-1996	Smith et al.
5,720,200	02-24-1998	Anderson et al.
5,724,265	03-03-1998	Hutchings
5,899,963	05-04-1999	Hutchings
5,976,083	11-02-1999	Richardson et al.
6,018,705	01-25-2000	Gaudet et al.

Copies of these documents are submitted herewith along with Form PTO/SB 08A.

This supplemental information disclosure statement shall be considered under 37 C.F.R. §1.97(c)(1) because no final action is believed to have been mailed before the mailing of this statement. Further, to the knowledge of the undersigned after making reasonable inquiry, no fee is believed to be owed because no item contained herein was known to any individual designated in §1.56(c) more than three months prior to the filing of this supplemental information disclosure statement.

Applicants respectfully request that these documents be expressly considered during the prosecution of this application and made of record herein and appear among the "documents cited" on any patent to issue herefrom.

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Respectfully submitted,

TECHNOLOGY CENTER 2800

Jeffry W. Smith, Reg. No. 33455

Attorney for Applicant

LATHROP & CLARK LLP

740 Regent Street, Suite 400

P.O. Box 1507

Madison, Wisconsin 53701-1507

(608) 257-7766

PTO/SB/08A (10-96)

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¹Unique citation designation number. ²See attached Kinds of U.S. Patent Documents. ³Enter Office that issued the document, by the two-letter code (WIPO Standard St.3). ⁴For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁵Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. ⁶Applicant is to place a check mark here if English language Translation is attached.

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UNITED STATES PATENT AND TRADEMARK

OFFICE

At Fax Number:

(703) 308-7722

From:

Jeffry W. Smith

Date:

June 19, 2000

Time:

Our Reference:

EPIXINC-4

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		Application Number	09/181,738
TRANSMITT	AL	Filing Date	October 28, 1998
FORM		First Named Inventor	Nathan Pyles
(To be used for all correspondence	after initial filing)	Group Art Unit	2816
2		Examiner Name	M. Wambach
Total Number of Pages in This Subm	ission	Attorney Docket Number	EPIXINC-4
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Response to Missing Parts/ Incomplete Application	Remarks		
Response to Missing Parts Under 37 CFR 1.52 or 1.53			
		ICANT, ATTORNEY, OR AGEN	
	fry W. Smi	th, Reg. No. 3	3455
Signature	100 mm		
Date	CERTIFIC	ATE OF FACSIMILE	
I hereby certify that this corresponden Wambach, United States Patent and	ce is being transmitte	ed herewith via facsimile to	
Typed or printed name	Jeffry W	. Smith, Reg.	No. 33455
Signature Chiff	JUS-th	900	Date June 12 2000

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PAGE

3/6

PATENT APPLICATION

In the United States Patent and Trademark Office

Applicant:

Pyles et al.

Docket No .:

EPIXINC-4

Date:

June 19, 2000

Application No.:

09/181,738

Filed:

October 28, 1998

Art Unit:

2816

Examiner:

M. Wambach

For: PEDOMETER

Certificate of Mailing I hereby certify that this correspondence is being transmitted herewith via facsimile to: Examiner M. Wambach, United States Patent and Trademark Office, at (703) 308-7722

Jeffry W. Smith, Reg. No. 33455 Name of Applicant, assignce or Registered Representative

AMENDMENT

Attn: Examiner M. Wambach Assistant Commissioner for Patents

Washington, D.C. 20231

Dear Sir:

In response to the telephone interviews on June 12 and 15, 2000 with Examiner

Wambach, Applicant submits the following amendments and remarks.

In the Claims

Please cancel claims 5, 6, and 14

Please amend claims 15 and 17 as follows:

FITBIT, Ex. 1006 Page 29 2/13. (Twice Amended.) A pedometer comprising:

a step counter mountable on a user first body portion;

a transmitter in communication with the step counter to generate a signal

corresponding to each step and transmit the signal; and

a receiver mountable on a user second body portion to receive the signal transmitted

from the transmitter and use the signal to calculate a distance traveled,

wherein the pedometer includes a data processor programmed to calculate the

distance traveled by multiplying the number of strides taken by a stride length that

varies according to a rate at which strides are taken by:

timing a user first run of a predetermined distance;

counting the total number of strides in the user first run:

dividing the first run distance by the stride count to obtain a base stride length:

dividing the stride count by the first run time to obtain a base stride rate;

counting strides in a period of time during a user second run to obtain an actual

stride rate:

calculating the actual stride length using the formula:

Actual Stride Length = Base Stride Length + Base Stride Length *(((Actual Stride

Rate - Base Stride Rate)N)/Base Stride Rate);

where N is in the range of between 1 and 3.



1. (Twice Amended.) A pedometer comprising:

a step counter;

a transmitter in communication with the step counter to generate a step count signal corresponding to each step and transmit the step count signal; and a receiver mountable on a user body portion to receive the step count signal transmitted from the transmitter [and calculate a distance from a number of strides measured by the step counter]; and

De Salar

a data processor programmed to [calculate a distance traveled by multiplying the number of strides taken by a stride length that varies according to a rate at which strides are taken] use the step count signal to: calculate a stride rate and a stride length from a plurality of walks or runs each over a known distance to generate a range of corresponding stride rates and stride lengths.

and in subsequent walks or runs, calculate an actual stride rate from the number of strides counted by the step counter over a unit of time, compare the actual stride rate with the range of corresponding generated stride rates and stride lengths, and therefrom, calculate an actual stride length to be used in calculating an actual distance traveled.

Remarks

The undersigned counsel for Applicant wishes to thank Examiner Wambach for the courteous and productive telephone interviews of June 12 and 15, 2000. In the June 12, 2000 interview, Examiner Wambach indicated that *Kato*, U.S. Patent No. 5,033,013 and *Hutchings*, U.S. Patent Nos. 5,724,265 and 5,899,963 disclosed a correspondence between stride rate and stride length. Consequently, any claims based on this broad concept were not allowable, but

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PAGE 6/6

claim, reciting a specific algorithm for deriving a range of stride lengths or a pedometer in combination with a heart rate monitor are allowable.

On June 15, 2000, the undersigned counsel for Applicant telephone Examiner Wambach indicating that a distinction between the art of record and the present pedometer invention is the use of data input from runs or walks over known distances to establish a range of stride rate versus stride length data that can be used in subsequent runs or walks to derive actual stride lengths from actual stride rates. Therefore, claim 17 has been amended to include language addressing this novel and non-obvious concept. This is not new matter, rather it simply describes the broad concept discussed throughout the application of using trial runs/walks to obtain a range of data to be used for use in subsequent runs or walks.

Claims 5, 6, and 14 have been canceled.

Claim 13 was combined with what is believed to be its allowable dependent claim 14.

Thus, amended claim 13, and its respective dependent claims are allowable.

Conclusion

Applicant submits that the present application with its remaining claims is in allowable form and in condition for allowance. Applicant respectfully requests that this application be passed to issue.

Respectfully submitted,

Jeffry W. Smith, Reg. No. 33455

Attorney for Applicant LATHROP & CLARK LLP 740 Regent Street, Suite 400

P.O. Box 1507

Madison, Wisconsin 53701-1507

(608) 257-7766

	Application No. 09/181,738	Applicant(s) Pyles	*
Interview Summary	Examiner Margaret War	mbach	Group Art Unit 2816	
All participants (applicant, applicant's representative, PTC) personnel):			
(1) Margaret Wambach	(3)			- n i
(2) Jeffry Smith	(4)		1 6	
Date of Interview Jun 12 and 15, 2000			X	
			presentative).	
Exhibit shown or demonstration conducted:	Ⅺ No. If yes, brief d	escription:		
Agreement 🛛 was reached. 🗌 was not reached.				
Claim(s) discussed: <u>5, 6, 13, and 17</u>				
Identification of prior art discussed: Kato and Hutchings				
Inventive subject matter from the disclosure was discussed prior art. Mr Smith was also notified that the web pages not included.		55395		
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(A fuller description, if necessary, and a copy of the amer the claims allowable must be attached. Also, where no c is available, a summary thereof must be attached.)				
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FILING DATE APPLICATION NO. FIRST NAMED INVENTOR ATTORNEY DOCKET NO. 09/181.738 10/28/98 **PYLES** EPIXINC-4 EXAMINER 020455 MMC1/0621 LATHROP & CLARK LLP HANGACH M PAPER NUMBER 740 REGENT STREET SUITE 400 P.O. BOX 1507 MADISON WI 53701-1507 DATE MAILED:

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Commissioner of Patents and Trademarks

06/21/00

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PTO-90C (Rev. 2/95)

U.S. G.P.O. 2000 ; 455-168/25266

	Application No. 09/181,738	Applicant(s) Pyles
Notice of Allowability	Examiner Margaret Wan	Group Art Unit Bach 2816
All claims being allowable, PROSECUTION ON THE M herewith (or previously mailed), a Notice of Allowance mailed in due course.		
☐ This communication is responsive to Amdt B (6/15	9/00) and tele. interviews	(6/12 & 6/15/00)
∑ The allowed claim(s) is/are 12, 13, and 15-45		
☐ The drawings filed on are ac	cceptable.	
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received in this national stage application from	om the International Burea	u (PCT Rule 17.2(a)).
*Certified copies not received:		
Acknowledgement is made of a claim for domestic	priority under 35 U.S.C.	§ 119(e).
A SHORTENED STATUTORY PERIOD FOR RESPONSE THREE MONTHS FROM THE "DATE MAILED" of this ABANDONMENT of this application. Extensions of the	Office action. Failure to	timely comply will result in
☐ Note the attached EXAMINER'S AMENDMENT or I that the oath or declaration is deficient. A SUBSTI		
Applicant MUST submit NEW FORMAL DRAWING	S	
Decause the originally filed drawings were declar	ared by applicant to be inf	ormal.
\boxtimes including changes required by the Notice of Dra to Paper No. <u>6</u> .	ftsperson's Patent Drawin	ng Review, PTO-948, attached hereto or
 including changes required by the proposed draw approved by the examiner. 	wing correction filed on _	, which has been
including changes required by the attached Exa	miner's Amendment/Com	ment.
Identifying indicia such as the application number (drawings. The drawings should be filed as a separ Draftsperson.		
☐ Note the attached Examiner's comment regarding	REQUIREMENT FOR THE	DEPOSIT OF BIOLOGICAL MATERIAL.
Any response to this letter should include, in the upper CODE/SERIAL NUMBER). If applicant has received a Nand DATE of the NOTICE OF ALLOWANCE should als	Notice of Allowance and Is	
Attachment(s)		March + Ro Wa V.
☐ Notice of References Cited, PTO-892	78	Margaret Rose Warmbox
☑ Information Disclosure Statement(s), PTO-1449	, Paper No(s). <u>4</u>	(Pro
■ Notice of Draftsperson's Patent Drawing Review	v, PTO-948	
☐ Notice of Informal Patent Application, PTO-152		Margaret R. Warnbach
		Primary Examiner
☐ Examiner's Amendment/Comment	(KAZ) POSTANO SOSSONINI JA SOSSANOVA MONIN	
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FITBIT, Ex. 1006 Page 35

Part of Paper No.



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NOTICE OF ALLOWANCE AND ISSUE FEE DUE

020455 MMC1/0621 LATHROP & CLARK LLP 740 REGENT STREET SUITE 400 F.O. BOX 1507 MADISON WI 53701-1507

APPLICATION NO.	FILING DATE	TOTAL CLAIMS	EXAMIN	ER AND GROUP ART UNIT		DATE MAILED
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VENTION	CLASS-SUBCLASS	BATCH NO.	APPLN, TYPE	SMALL ENTITY FEE	DUE	DATE DUE

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED.

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FORM		First Named Inventor	Nathan Pyles		
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(To be used for all correspondence a	after initial filing)	Examiner Name	M. Wambacho		
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Amendment / Response	Drawing(s)		Appeal Communication to Board Of		
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108	760	208	380		sue filing			138	1,510	138	1,510	Petition to institute a public use proceeding	
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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control Complete if Known Application Number 09/181,738 **FEE TRANSMITTAL** Filing Date October 28, 1998 First Named Inventor Nathan Pyles 2816 Group Art Unit Note: Effective October 1, 1997,
Patent fees are subject to annual revision
TOTAL AMOUNT OF PAYMENT | \$130.00 M. Wambach AUG 1 4 2000 Examiner Name KNOWM Attorney Docket Number METHOD OF PAYMENT (check one) FEE CALCULATION (Continue The Commissioner is hereby authorized to charge indicated fees and credit any over payments to: 3. ADDITIONAL FEES TO DEMARK OF X Deposit Account Large Entity Small Entity 15-0660 Fee Code Fee (\$) Fee (\$) Number Fee Paid Code 105 205 130 65 Surcharge - late filling fee or oath Deposit Account Name Lathrop & Clark 127 227 25 50 Surcharge - late provisional filing fee or cover sheet Charge the Issue Fee Set in 37 CFR 1.18 at the Mailing of the Notice of Allowance Charge Any Additional Fee 139 130 139 130 Non-English specification X Required Under 37 CFR 1.16 and 1.17 147 2,520 2,520 For filing a request for reexamination Requesting publication of SIR prior to Examiner action 112 920* Payment Enclosed: M ⊠^{Check} Money Order 1,840 Other 113 1,840 Requesting publication of SIR after FEE CALCULATION 215 115 110 55 Extension for reply within first month 1. FILING FEE 116 380 216 190 Extension for reply within second month Large Entity Small Entity 117 870 217 435 Extension for repty within third month Fee Description Fee Paid Fee Code Fee Code Fee (\$) 118 1,360 218 680 Extension for reply within fourth (S) 128 1850 228 925 Extension for reply within fifth month 345 Utility filing fee 201 101 690 119 300 219 150 Notice of Appeal 310 206 155 Design filing fee 106 120 300 220 150 Filing a brief in support of an appeal 207 107 480 240 Plant filing fee 121 260 221 130 Request for oral hearing 208 380 Reissue filing fee 138 1,510 108 760 138 1,510 Petition to Institute a public use Provisional filing fee 114 150 214 75 140 110 240 55 Petition to revive - unavoidable SUBTOTAL (1) 141 1,210 241 605 Fee from below 2. CLAIMS Fee Paid 142 1,210 242 605 Utility issue fee (or reissue) \$0.00 0 11 **Total Claims** -20= 143 430 243 215 Design issue fee \$0.00 -3= 41 580 244 290 Independent Claims 0 144 Plant issue fee 122 130 122 130 Petitions to the Commissioner \$0.00 Multiple Dependent Claims 123 50 123 50 Petitions related to provisional 126 240 126 240 Submission of Information Large Entity Small Entity Disclosure Statement Fee (\$) Fee Code Fee Fee Description 581 40 581 40 Recording each patent assignment per properti properties) Code 203 246 Filing a submission after fina rejection (37 CFR 1.129(a)) 103 18 Claims in excess of 20 146 760 380 For each additional Invention to be examined (37 CFR 1.129(b)) 102 78 202 39 Independent Claims in excess of 3 760 380 204 Multiple dependent claims 104 260 130 \$130.00 109 209 Reissue independent claims over Other fee (specify) Petition fee under §1.17(i) for IDS 78 39 original patent Reissue claims in excess of 20 and over original patent 210 9 110 18 Other fee (specify)

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Jeffry W. Smith

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Date

SUBMITTED BY

Typed or Printed Name

Signature

SUBTOTAL (3)

Reg. Number

Deposit Account User ID

Complete (if applicable)

\$130.00

PATENT APPLICATION

In the United States Patent and Trademark Office

Applicant:

Pyles et al.

Docket No.:

KNOWMO-2

Date:

August 11, 2000

Application No.:

09/181,738

Filed:

October 28, 1998

Art Unit:

2816

Examiner:

M. Wambach

For: PEDOMETER

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Washington, D.C. 20231

On Aug. 11, 2000

Jeffry W. Smith, Reg. No. 33455 Name of Applicant, assignee or Registered Representative

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Attn: Group Director

Assistant Commissioner for Patents Washington, D.C. 20231

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TECHNOLOGY CENTER 2800

Dear Sir:

The Information Disclosure Statement submitted herewith is being filed after a Notice of Allowance under §1.311, but before the payment of the issue fee.

In accordance with the requirements of 37 C.F.R. §1.97(d):

- A. Accompanying this transmittal is a Statement, as specified in 37 C.F.R. §1.97(e).
- Applicants hereby petition for the consideration of the accompanying Information
 Disclosure Statement. 37 C.F.R. §1.97(d)(2).

C. Applicants submit the Petition fee set forth in §1.17(i) in the amount of \$130.00.

If any additional fees are due, please charge Account No. 15-0660. A duplicate copy of this document is enclosed.

Respectfully submitted,

Jeffry W. Smith, Reg. No. 33455

Attorney for Applicant

LATHROP & CLARK LLP

740 Regent Street, Suite 400

P.O. Box 1507

Madison, Wisconsin 53701-1507

(608) 257-7766

PATENT APPLICATION

In the United States Patent and Trademark Office

Applicant:

Pyles et al.

Docket No.:

KNOWMO-2

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August 11, 2000

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09/181,738

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Signature

Jeffry W. Smith, Reg. No. 33455 Name of Applicant, assignee or Registered Representative

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Attorney for Applicant

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On Aug 11, 2000

Signature ____

Jeffry W. Smith, Reg. No. 33455 Name of Applicant, assignee or Registered Representative

STATEMENT FOR INFORMATION DISCLOSURE UNDER 37 C.F.R. §1.97(e)

Assistant Commissioner for Patents Washington, D.C. 20231

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Dear Sir:

This Statement is being made for the Information Disclosure Statement accompanying this Statement.

I, Jeffry W. Smith, the person signing below state:

That each item of information contained in the Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the Information Disclosure Statement. 37 C.F.R. §1.97(e)(1).

AND

That no item of information contained in the Information Disclosure Statement was cited in a communication from a foreign application and to the knowledge of the person signing the Statement after making reasonable inquiry, was known to any individual designated in §1.56(c) more than three months prior to the filing of the Information Disclosure Statement. 37 C.F.R. §1.97(e)(2).

Respectfully submitted,

Jeffry W. Smith, Reg. No. 33455

Attorney for Applicant

LATHROP & CLARK LLP 740 Regent Street, Suite 400

P.O. Box 1507

Madison, Wisconsin 53701-1507

(608) 257-7766

H13

PATENT APPLICATION

In the United States Patent and Trademark Office

Applicant:

Pyles et al.

Docket No.:

KNOWMO-2

Date:

August 11, 2000

Application No.:

09/181,738

Filed:

October 28, 1998

Art Unit:

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Examiner:

M. Wambach

For: PEDOMETER

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On aug. 11 2000 Signature Juffy () So th

> Jeffry W. Smith, Reg. No. 33455 Name of Applicant, assignee or Registered Representative

INFORMATION DISCLOSURE STATEMENT

Assistant Commissioner for Patents Washington, D.C. 20231

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TECHNOLOGY CENTER 2800

Dear Sir:

In accordance with 37 C.F.R. §1.56, Applicants wish to call the attention of the Examiner to the following document:

PCT/IPEA/408, Written Opinion received August 7, 2000, 5 pgs. The references cited in the PCT's Written Opinion are already of record.

A copy of this document is being submitted herewith along with Form PTO/SB 08b.

This Information Disclosure Statement is accompanied by a Transmittal of Information Disclosure Statement under 37 C.F.R. §1.97(d); a Statement under 37 C.F.R. §1.97(e); and the appropriate \$130.00 Petition fee.

Applicants respectfully request that these documents be expressly considered during the prosecution of this application and made of record herein and appear among the "documents cited" on any patent to issue herefrom.

Respectfully submitted,

Jeffry W. Smith, Reg. No. 33455

Attorney for Applicant

LATHROP & CLARK LLP 740 Regent Street, Suite 400

P.O. Box 1507

Madison, Wisconsin 53701-1507

(608) 257-7766

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	(Use as man	y sheets as ne	ecessary)	Examiner Name	M. Wambach	
Sheet	A T	Of	1	Attorney Docket Number	KNOWMO-2	

	6	OTHER PRIOR ART - NON PATENT LITERATURE DOCUMENTS	
Examiner Initials*	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T²
MW		PCT/IPEA/408, Written Opinion received August 7, 2000, 5 pgs.	

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Signature Wanbach Considered 19/2/00	Examiner Signature		Date Considered	10/2/00	
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^{*}EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹Unique citation designation number. ²Applicant is to place a check mark here if English language translation is attached

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53701-1507	5 2		Jamix. g	ansen	(Depositor's name) (Signature) (Date)
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•	53701-1507 FILING DATE	FILING DATE TOTAL CLAI 10/28/98 033	FILING DATE TOTAL CLAIMS 10/28/98 033 WAMBACH.	Tami A. Janse Our S. September 19, FILING DATE TOTAL CLAIMS EXAMINER AND GROUP ART	Tami A. Jansen January January

MMC1/0621

PEDOMETER TITLE OF INVENTION

ATT	Y'S DOCKET NO.	CLASS-SUBCLASS	BATCH NO.	APPLN, TYPE	SM	ALL ENTITY	FEE DUE	DATE ĐUE
2	EPIXINC-4	377-024.	200 03	9 UTIL	ITY	YES	\$605.00	09/21/00
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Inclusion the PTO filing an a (A) NAMI (B) RESI	of assignee data is only agor is being submitted under assignment. E OF ASSIGNEE Knic DENCE: (CITY & STATE Coneck the appropriate assign	Lake Mills, Wis	has been previous of this form is NOT edge-in-Mo sconsin	ly submitted to a subsititue for tion	Issu Adv 4b. The fol DEPO: (ENCL K issu	ance Order · # of flowing fees or de SIT ACCOUNT N OSE AN EXTRA	Copies 10 ficiency in these fee UMBER 15-1 COPY OF THIS FO	s should be charged to: 0660
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MADISON WI	53701-1507		Tami A. Jans	sen	(Depositor's name)	
				Jamix.	Jansen	J (Signature)
<u> </u>				September 1	9, 2000	(Date)
APPLICATION NO.	FILING DATE	TOTAL CLAI	MS E	XAMINER AND GROUP	ART UNIT	DATE MAILED
09/181.738	10/28/98	033	WAMBACH.	М	2816	06/21/00
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PEDOMETER TITLE OF INVENTION

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2	EPIXINC-4	377-024.	200 03	9 UTII	LITY	YES	\$605.00	09/21/00
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Commissioner of Patents and Trademarks

PTO-90C (Rev. 2/95)

1- File Copy

S 450		Application No. 09/181,738	Applicant	Pyles	•
Notice of Allowabilit	<u> </u>	Examiner Margaret Wa	mbach	Group Art Unit 2816	
All claims being allowable, PROSECUTION herewith (or previously mailed), a Notice of mailed in due course.					
$oldsymbol{X}$ This communication is responsive to $oldsymbol{L}$	D.S. (8/14/00)				
X The allowed claim(s) is/are <u>12, 13, and</u>	1 15-45		2344525000 A SANGORA A SAN	Transferon St. 15	
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X Applicant MUST submit NEW FORMAL	DRAWINGS				
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⊠ including changes required by the Note to Paper No. 6 .	otice of Drafts	person's Patent Draw	ing Review	, PTO-948, atta	ched hereto or
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including changes required by the at	rtached Examir	ner's Amendment/Cor	nment.		
Identifying indicia such as the application drawings. The drawings should be filed Draftsperson.					
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Any response to this letter should include, CODE/SERIAL NUMBER). If applicant has r and DATE of the NOTICE OF ALLOWANCE	received a Noti	ice of Allowance and	Issue Fee C	Due, the ISSUE E	BATCH NUMBER
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PTO/SB/08B (10-96) Approved for use through 10/31/99. OMB 0651-0031 ,side this box ightarrow ightharpoonsPatent and Trademark Office: U.S. DEPARTMENT OF COMMERCE aduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control or form 1449B/PTO Application Number 09/181,738 Filing Date October 28, 1998 NFORMATION DISCLOSURE First Named Inventor Nathan Pyles STATEMENT BY APPLICANT Group Art Unit 2816 Examiner Name M. Wambach (Use as many sheets as necessary) Sheet Of Attorney Docket Number KNOWMO-2

		OTHER PRIOR ART - NON PATENT LITERATURE DOCUMENTS	
Examiner Initials*	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T ²
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Examiner Signature	Wambach	Date Considered	10/2/00	
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*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹Unique citation designation number. ²Applicant is to place a check mark here if English language translation is attached

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OIPE	Under the Paperwork Reduction	on Aut of 1995,	no persons	are require	ed to respond to a collection of	f informa	ation unless it displays a valid OMB contr
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	Fee Transmittal Form Fee Attached Amendment / Respons After Final Affidavits/declarate Extension of Time Re	nse ion(s) equest	Ch	etition Round Accomp Convert	lated Papers ting Slip (PTO/SB/69) panying Petition a Provisional Application omey, Revocation orrespondence Address	Ø	After Allowance Communication Group Appeal Communication to Board Appeals and Interferences Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) Proprietary Information Status Letter Additional Enclosure(s) (Please identify below):
	Information Disclosur Statement Certified Copy of Prior Document(s)	e	□ _{Re}	quest for	Statement Refund		PTOL-85B Transmittal to Official Draftsman
	Response to Missing Incomplete Application Response to Missing Under 37 CFR 1.52	ing Parts or 1.53	Remark		CANT, ATTORNEY, OR A	GENT	3
	Firm				th, Reg. No.	3345	5
	or Individual name					**	
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	Date	Fry.	Tins	her 19	i, 2000		
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A Section 1	I hereby certify that this cor first class mail in an envelo 20231 on this date:						
20 m	Typed or printed name	0	Jef	fry W	. Smith, Reg.	No	. 33455
Ī	Signature	OFF	m/L)	5	15	Date	2 denta18 2002

SEP 2 5 2000 TO

Patent Application

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:

Nathan Pyles

Date:

September 19, 2000

#1541

Date Filed:

October 28, 1998

Docket No.:

KNOWMO-2

Serial Number:

09/181,738

Art Unit:

2816

For:

PEDOMETER

Examiner:

M. WAMBACH

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents,

Washington, D.C. 20231

Date

Signature

Jeffry W. Smith, Reg. No.33455

Name of applicant, assignee or Registered Representative

TRANSMITTAL OF FORMAL DRAWINGS

Attention: Official Draftsman
Assistant Commissioner for Patents

Washington, D.C. 20231

Dear Sir:

Enclosed for filing with respect to the above-referenced application, please find 1 sheet of new formal drawings having (1) figure to be substituted for the drawings presently on file in this application. It is believed that the drawings submitted are in conformance with the requirements set forth in 37 C.F.R. §1.84. These new formal drawings are transmitted in conformance with the requirement for new drawings set out in the Notice of Allowability on this application that

was mailed on June 21, 2000. Applicant believes no new matter has been added by these formal drawings.

It is requested that applicant's undersigned attorney be notified of any further or additional requirements with respect to the enclosed formal drawings.

Respectfully submitted,

Teffry W. Smith, Reg. No. 33455

Attorney for Applicant Lathrop & Clark LLP 740 Regent Street, Suite 400

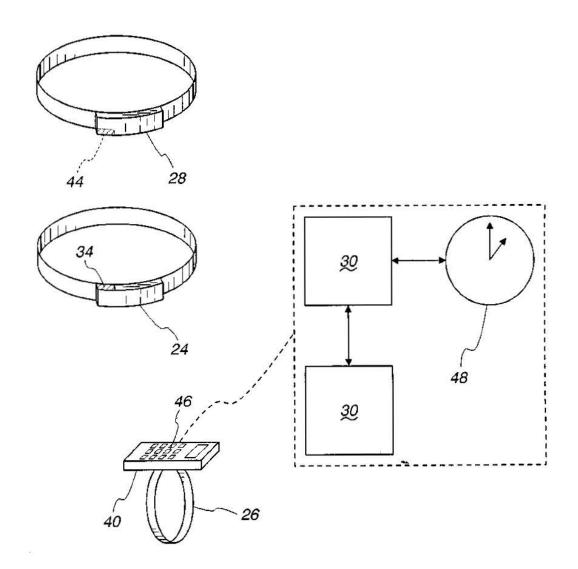
P.O. Box 1507

Madison, Wisconsin 53701-1507 (608) 257-7766

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	PATENT		TION FEE [Effective Octo			ION RECO	RD	09/12	11/3	3 <i>8</i>	% %2.22.5
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PALM INTRANET

Patent Number:

Issue Date: 00/00/0000

Unmatched Petition: NO

Status Date: 01/27/2000

Application Received: 10/28/1998

Attorney Docket Number: EPIXINC-4

Charge to Name: No Charge to Name

Search or Patent# Search

Examiner Name: WAMBACH, MARGARET

Day : Monday Date: 4/17/2000 Time: 12:27:06

Serial Number Information

Serial Number: 09/181738

Filing Date: 10/28/1998

Examiner Number: 65001

Group Art Unit : 2816

Class/Subclass: 377/024.200

Date of Abandonment: 00/00/0000

Interference Number:

Location Date: 03/24/2000

Lost Case: NO

Status: 041 / NON-FINAL ACTION MAILED

Location: 28G4/TC-2800 CLERICAL TEAM 4, CP4 8C24

Charge to Location:/

Station location: TC-6 Docekt 4

Search Another: Serial#

Title of Invention : PEDOMETER

Serial Contents Attorney/Agent Info Continuity Data

Foreign Data

Inventors

Add

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LATHROP & CLARK LLP 740 REGENT STREET, SUITE 40	ACTION DES	o to Writter		
P.O.BOX 1507	<i>Up</i>	nion Due	WRIT LEATHROWN & CLAR	K LLP
MADISON WI 53701-1507	DOGKETE	D =	APCT Rule 66)	mile.
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EPIXINC-9			within TWO months from the above date of mailing	5325
International application No.	International filing date	(day/month/year)	Priority date (day/month/year)	E I
PCT/US99/25314	28 OCTOBER 1999		28 OCTOBER 1998	
International Patent Classification (IPC)	or both national classific	ation and IPC		\dashv
IPC(7): GOIC 21/00 and US CL: 377	/24.2			
Applicant				
Epix, Inc.			The contract of the second	
I. This written opinion is the first	(first, etc.)	drawn by this Intern	ational Preliminary Examining Authority	2 0
2. This opinion contains indications re-	lating to the following it	ems:		
X Basis of the opinion			en and the second of the secon	
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II Priority		90 90 90 90 90 90 90 90 90 90 90 90 90 9		
III Non-establishment of	opinion with regard to	novelty, inventive st	ep or industrial applicability	
IV Lack of unity of inve	ention			
	under Rule 66.2(a)(ii) within such states		, inventive step or industrial applicability	•
VI Certain documents ci	ted			
	international application			
	54 4 8 8 8 8			
VIII Certain observations	on the international appl	ication	ā	
3. The applicant is hereby invited to re-	eply to this opinion.			
	idicated above. The appl n extension., see Rule 6		e expiration of that time limit, request the	is
	tten reply, accompanied, e language of the amend		by amendments, according to Rule 66.3. 6.8 and 66.9.	
For the examiner's c		nendments and/or ar	guments, see Rule 66.4 bis.	
	nmunication with the ext nal preliminary examina		6. stablished on the basis of this opinion.	
The final date by which the internat examination report must be establish	tional preliminary	0.7000.000.000.000.000.000.000.000.000.		
	7.5			
Name and mailing address of the IPEA/	US	Authorized office	1 1	
Commissioner of Patents and Trader Box PCT	narks	MARGARET	ROSE WAYBELL-4	
Washington, D.C. 20231		Telephone No.		
Facsimile No. (703) 305-3230		A crophone 140.	(703) 308 875	

Form PCT/IPEA/408 (cover sheet) (July 1998)*

PA From the	TENT COOPE	RATION TRI	EATY DE G G T V E AUG - 7 2000
NTERNATIONAL PRELIMINARY EXAM	MINING AUTHORITY	y *	DCT
To: JEFFRY W. SMITH LATHROP & CLARK LLP 740 REGENT STREET, SUITE 40 P.O.BOX 1507 MADISON WI 53701-1507	00	* 11 2	LATHROP & CLARK LL WRITTEN OPINION (PCT Rule 66)
Ged G	*	Date of Mailing	0.000
		(day/month/year)	n i AUGZUUU
Applicant's or agent's file reference EPIXINC-9			within TWO months
International application No.	International filing date	1	Priority date (day/month/year)
PCT/US99/25314	28 OCTOBER 1999		28 OCTOBER 1998
International Patent Classification (IPC) (IPC): GOIC 21/00 and US Cl.: 377		cation and IPC	
Applicant Epix, Inc.			
IV Lack of unity of inve V X Reasoned statement u citations and explanat VI Certain documents cit VII Certain defects in the	opinion with regard to ention under Rule 66.2(a)(ii) witions supporting such stated	novelty, inventive ste ith regard to novelty, atement	p or industrial applicability inventive step or industrial applicability;
VIII Certain observations	on the international app	lication	
3. The applicant is hereby invited to re	a n a	•••	
	dicated above. The app n extension., see Rule 6		expiration of that time limit, request this
How? By submitting a write For the form and the	tten reply, accompanied e language of the amend	, where appropriate, b iments, see Rules 66.	y amendments, according to Rule 66.3. 8 and 66.9.
For the examiner's o	portunity to submit ame obligation to consider an imunication with the ex	nendments and/or arg	uments, see Rule 66.4 bis.
			tablished on the basis of this opinion.
 The final date by which the internat examination report must be establis 	ional preliminary thed according to Rule	69.2 is: 28 FEBRUA	RY 2001
Managed matter address of a 1994 (116	Australia	
Name and mailing address of the IPEA/A Commissioner of Patents and Trader Box PCT Washington, D.C. 20231 Facsimile No. (703) 305-3230 Form PCT/IPEA/408 (cover sheet) (July	narks	Authorized officer MARGARET I	(703) 308 875

WRITTEN OPINION

International application No.

PCT/US99/2531/

I. Basis of the opinion	
1. With regard to the elements of the international application:*	
X the international application as originally filed	
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 With regard to any nucleotide and/or amino acid sequence disclosed in drawn on the basis of the sequence listing; 	the international application, the written opinion was
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contained in the international application in printed form.	The state of the s
in filed together with the international application in computer re	eadable form.
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The statement that the subsequently furnished written sequence li international application as filed has been furnished.	sting does not go beyond the disclosure in the
The statement that the information recorded in computer readable for been furnished.	rm is identical to the writen sequence listing has
4. X The amendments have resulted in the cancellation of:	**
X the description, pages NONE	
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5 This opinion has been drawn as if (some of) the amendments had not beyond the disclosure as filed, as indicated in the Supplemental Box	전 1.1 N H : 1 N H : 1 N H : 1 N H : 1 N H : 1 N H : 1 N H : 1 N H : 1 N H : 1 N H : 1 N H : 1 N H : 1 N H : 1 N
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Form PCT/IPEA/408 (Box I) (July 1998)*

WRITTEN OPINION

International application No.
PCT/US99/25314

statement			
Novelty (N)	Claims	14-16, 28-54	YE
*	Claims	1-13 and 17-27	NO
Inventive Step (IS)	Claims	14, 16, 28-54	YE
	Claims	1-13 and 17-27	NO
Industrial Applicability (IA)	Claims	1-54	үг
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Form PCT/IPEA/408 (Box V) (July 1998)★

WRITTEN OPINION	ī	%:		PCT/US99/25314
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Continuation of: Boxes I - VIII				Sheet 10
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Form PCT/iPEA/408 (Supplemental Box) (July 1998)*

PATENT COOPERATION TREAT.

PCT

INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference EPIXINC-9	FOR FURTHER SE ACTION	e Notification of orm PCT/ISA/22	Transmittal of Inter 0) as well as, where	national Search Report applicable, item 5 below.
International application No.	International filing date (day/n	nonth/year)	(Earliest) Priority I	Date (day/month/year)
PCT/US 99/25314	28/10/1999	9	28	/10/1998
Applicant	4			
EPIX, INC. et al.	4 d			
This international Search Report has be according to Article 18. A copy is being	en prepared by this international stransmitted to the international St	Searching Authorite	ority and is transmit	ed to the applicant
This International Search Report consist X It is also accompanied by	s of a total of3 y a copy of each prior art docume	_ sheets. ent cited in this r	eport.	
1. Basis of the report				
 With regard to the language, the language in which it was filed, u 	e international search was carried nless otherwise indicated under t	d out on the basi his item.	s of the internationa	i application in the
the international search Authority (Rule 23.1(b)).	was carried out on the basis of a	translation of the	e international applic	cation fumished to this
was carried out on the basis of t	nd/or amino acid sequence dis he sequence listing : ional application in written form.	closed in the inte	emational applicatio	n, the International search
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	to this Authority in computer read	inle form		
the statement that the si	beequently furnished written seq as filed has been furnished.		ee not go beyond th	e disclosure in the
the statement that the in furnished	formation recorded in computer r	readable form is	dentical to the writte	en sequence listing has been
2. Certain claims were fo	und unsearchable (See Box I).			
3. Unity of invention is la	c king (see Box II).			
4. With regard to the title,	65 25			
X the text is approved as a	ubmitted by the applicant.			
the text has been estable	shed by this Authority to read as	follows:		
	·			
5. With regard to the abstract,			***	
the text has been estable	ubmitted by the applicant. shed, according to Rule 38.2(b), e date of mailing of this internation	by this Authority onal search repo	as it appears in Bo it, submit comment	x III. The applicant may, s to this Authority.
6. The figure of the drawings to be put	diehed with the abstract is Figure	No.	1	
as suggested by the app	licant.			None of the figures.
because the applicant fa				
because this figure bette	r characterizes the invention.			

Form PCT/ISA/210 (first sheet) (July 1998)

INTERNATIONAL SEARCH REPORT

ternational Application No PCT/US 99/25314

A CLASS IPC 7	IFICATION OF SUBJECT MATTER G01C22/00		
According t	to International Patent Classification (IPC) or to both national	classification and IPC	
B. FIELDS	SEARCHED	247 347 50	
Minhoun d IPC 7	councritation searched (classification system followed by cla G01C	sedification symbols)	
	ation searched other than minimum documentation to the exte		
Sectronic d	ists base consulted during the international search (name of	data base and, where practical, search terms used	0
C. DOCUM	ENTS CONSIDERED TO BE RELEVANT		Si Si
Category *	Citation of document, with indication, where appropriate, o	f the relevant passages	Relevant to claim No.
X	US 5 033 013 A (KATO YASUJI 16 July 1991 (1991-07-16) column 7, line 25 - line 30 column 8, line 21 - line 28	ET AL)	1-3,5-7, 13, 17-19, 21-23,49
A	abstract		14,29, 32,35, 37,44
		-/-	
X Fuit	ner documents are listed in the continuation of box C.	Patent family members are listed	in annex.
• Special car	tegories of cited documents:		
"A" docume consid	ent defining the general state of the art which is not ered to be of particular relevance locument but published on or after the international	"T" later document published after the linte or priority date and not in conflict with cited to understand the principle or the invention "X" document of particular relevance; the cannot be considered novel or cannot	the application but sory underlying the salmed invention be considered to
which in citation "O" docume other n	nt which may throw doubts on priority claim(s) or is cited to establish the publication date of another in or other special reason (as specified) ent referring to an oral disclosure, use, exhibition or neans or the published prior to the international filing date but	involve an inventive step when the do "Y" document of particular relevance; the o cannot be considered to involve an in- document is combined with one or no ments, such combination being obviou in the art.	laimed invention rentive step when the re other such docu-
leter th	an the priority date claimed	"&" document member of the same patent	lamily
	actual completion of the International search March 2000	Date of mailing of the International sec	urch report
	nailing address of the ISA European Patent Office, P.B. 5816 Patentfaan 2	Authorized officer	
	NL - 2280 HV Rijswijk Tel. (+31-70) 340-2040, Tx. 31 851 epo ni, Fax: (+31-70) 340-3018	Hunt, J	

Form PCT/I8A/210 (second sheet) (July 1992)

page 1 of 2

INTERNATIONAL SEARCH REPORT

ternational Application No
PCT/US 99/25314

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ategory *	ction) DOCUMENTS CONSIDERED TO BE RELEVANT Citation of document, with indication, where appropriate, of the relevant passages	Refevant to daim No.
X A ,	EP 0 119 009 A (NIKE INTERNATIONAL LTD) 19 September 1984 (1984-09-19) page 6	1,2,5-7, 13 14,17, 18, 21-23,
,	page 10 page 11	27,49
X	US 4 371 945 A (KARR LAWRENCE J ET AL) 1 February 1983 (1983-02-01) cited in the application column 4, line 33 -column 5, line 26	1,2,6-8, 17
X A	US 5 583 776 A (LEVI ROBERT W ET AL) 10 December 1996 (1996-12-10) column 6, line 6 - line 42; claim 14; figures 5,7 abstract	49,53,54 32,35, 44,50
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Form PCT/ISA/210 (continuetion of second sheet) (July 1992

page 2 of 2

INT' PNATIONAL SEARCH REPORT

mation on patent family members

.ternational Application No PCT/US 99/25314

Patent document cited in search repor	t	Publication date	1	Patent family member(s)		Publication date
US 5033013	A	16-07-1991	JP	62032936	A	12-02-1987
EP 0119009	Α	19-09-1984	US CA JP	4578769 1218455 59171564	A	25-03-1986 24-02-1987 28-09-1984
US 4371945	A	01-02-1983	NONE			
US 5583776	A	10-12-1996	NONE			

Form PCT/ISA/210 (patent family ennex) (July 1992)

Sportline Products

Page 1 of 1

web page

FITNESS PEDOMETER 360

The best double line display pedometer for walking, hiking and/or jogging. Accurately measures your distance, steps (including steps per minute and miles per hour), calories, speed, and time actually spent exercising. Seven (7) day memory keeps your activity for the past 7 days -- all instantly recallable. Time of day clock keeps you on time. Scan feature shows you all your information without having to push a button. Automatically shuts "off" when there's no activity, "on" when there is.





Features:

- New European design, easy-to-read flipcase design
- Displays distance traveled, steps, mph, steps per minute, and calories burned
- Distance measured to 1/100 of a mile (.01), steps to 10,000
- Distance and stride sets in mile (ML) and kilometers (KM)
- "Scan" feature automatically cycles through all functions and displays distance, steps, timer, calories, mph, steps per min., and time-of-day
- Individual stride adjustment for walking and running
- Automatic built-in sensitivity adjustment
- Large double display
- Push-button mode and selection buttons
- KM or MILE selectable

Price: \$39.95

2 Year Warranty

177



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Cricados

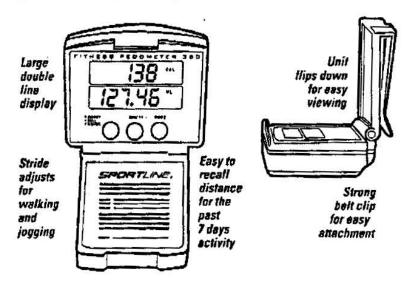
FITNESS PEDOMETER 360

WHAT ABOUT WALKING? Walking is one of the best forms of exercise. It burns calories, and it is easy on your joints. You can walk anywhere inside a mall, around your neighborhood, or up the side of a mountain. Walking can help you reduce your stress, make your muscles stronger, lower your blood pressure and cholesterol levels, prevent Type 2 diabetes, reduce your risk of heart disease, control your appetite and lose weight, feel and look better. Walking preat way to get fit, especially if

FIT ESS PEDOMETE 360

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Inside Cover





BETAILED INSTRUCTION ENCLOSED



YEAR WARRANTY



GUARTZ



LASER TUNED



MADE IN TAIWAN

SPORTLINE.

SPORTLINE INC., 847 MEGLINCEY LANE. CAMPBELL, CA 95000

AFTER WARRANTY If the warrancy period has aspired and the unit is returned to Sportine for servicing, enclose 22.50 for possage and handling. Send your unit assured to but Service Department issed below. If you are located obtaids the United States either return the unit by insured mail or to the dealer? distributor where purenassed.

7

SPORTLINE 350 FITNESS

OMETER INSTRUCTIONS

Your new pedometer has been designed for your easy use and the accurate measurement of the distance you travel (travel distance records up to 7 days in memory), the steps you take, the calories "burned" while you walk or run, how long you exercise, what speed you walk or run, conversion of distance measurement from mile (MIL) to kilometer (KM) or kilometer to mile, and auto power on/off. Also included is a convenient Time-of-Day clock with 12 hour or 24 hour format to tell you what time it is. The unit will also measure your distance in miles/kilometers and fractions of miles/kilometers.

EXPLANATION OF SYMBOLS

Bulton A - RESET, H(HR), A (UP), KMMIL Button B • MIN (MINUTES) ▼ (DOWN)

Button C . MODE

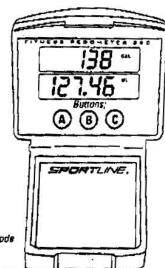
Display (upper window) STEP · You are in Step mode TIMER - You are in Count Up Timer mode CAL - You are in Calorie mode KM/H, MIL/H - You are in Speed per hour mode STEP/M - You are in Step per Minute mode DDO - You are in total Mileage/Kilomater mode Nathing or P. You are in Time of Day with 12 hour or 24 hour format Clock made

Display (lower window)

WALK- You are in Walk & Run mode RUN - You are in Run /Stride measurement mode WALK & RUN - You are in Walk & Run stride setting mode

▲ - Pedometer is counting successfully � - You are in auto power OFF mode Numbers of distance traveled in MIL or KM (7 days records).

Note: Remove bettery isolation strip from bettery compartment to "power up" your unit.



UNIQUE SCAN FEATURE

Your pedometer has a very unique scanning feature. After you turn on the pedometer the display will be in STEP mode. Fress "C" button once or repeateury to show the step mode, it will be MIL/H, STEP/M and 'time of Day modes. When you return back to the STEP mode, it will be "blinking". You are now in the Auto-Scan mode. Now the display will automatically show the blinking". You are now in the Auto-Scan mode. Now the display will automatically show the rill be in STEP mode. Press "C" button once or repeatedly to show TIMER, CAL. KMH or blinking words "STEP, TIMER, CAL, KM/H or MIL/H, STEP/M and Clock". The pedameter will now rotate through each one of these displays for 3 seconds sequentially as long as the auto-scan function is activated... or until you press the "C" button once more for new data setting or viawina.

HOW TO OPERATE YOUR NEW PEDOMETER

You will need to give your pedometer some information for it to operate properly. In the sections below you will see how to enter your personal STRIDE LENGTH (for welking, hiking), your WEIGHT (for calories), and TIME OF DAY. Once this information has been entered into the unit. yau're ready to go!

YOUR STRIDE LENGTH (Your stride length and how to measure it)

This pedometer automatically records your exercise distance based upon your walking or running or hiking movements. The maximum distance reading is \$99.99 miles/kilometers. The numbers to the right of the decimal point are fractions of a mile (just like your car's odometer) right down to 1/100 of a mile or kilometer. It is important to walk or run or hike consistently. If you vary your walking pace, your stride length will vary and your distance traveled will be diffe-rent.

HOW TO MEASURE YOUR STRIDE

In order to measure your exercise distance accurately, you must anter your stride langth into the Pedometer's "memory" so it knows how much distance you cover with each step you take. (Stride length is the length of each one of your steps, measured either from heel to heel or tae to toe). It's easy to find your stride length?

 Walk 10 steps. 2. Measure the distance. 3. Divide by 10 the distance covered to arrive at your stride length. 4. Example: Distance covered in 10 steps = 30 feet. Steps taken to cover the distance (10 steps), 30 feet divided by 10 steps = 3 feet, stride length = 3 feet,

FOR JOGGERS OR HIKERS

Follow the directions above, except jog or hike for 10 steps.

HOW TO ENTER YOUR "WALK" STRIDE LENGTH INTO THE PEDOMETER

1. Press the MODE button "C" on the display panel to STEP mode, and hold for 2 seconds to get to the WALK stride length setting mode. 2. Press button "A" + "B" for setting your WALK stride length information, every press of button "A" will increase 1 inch or 1 cm. Every press of button "B" will decrease 1 inch or 1 cm in the reverse order. 3. After you set your WALK stride langth

information, the numbers of the stride length on the display will blink for confirmation and go > STEP mode automatically alter 5 seconds.

HOW TO ENTER YOUR "RUN" STRIDE LENGTH INTO THE PEDWAETER

1. Press the MODE button "C"on the display panel to STEP mode, and hold for 2 seconds to WALK stride length selling mode, press MODE button "C" once again to get RUN stride length setting mode. 2. Press button "A" + "B" for setting your RUN stride length information (the

HOW TO SET CALORIE COUNTER

1. Press the MODE button "C" and the display panel until you see CALORIE mode.
2. Press MODE button "C" and hold for 2 seconds to get WEIGHT setting mode.
3. Press button "A"+"B" to set your weight information. Every press on button "A" increases the weight by 10 LB (pounds) or 4.5 KG (kilograms). Every press of button "B" decreases the weight by 10 LB (pounds) or 4.5 KG (kilograms). 4. Once you set the proper weight, the display will blink for 5 seconds end then the display will skip back to CALORIE mode.

HOW TO SET TIME DF DAY

1. Press the MODE button "C" on the display panel repeatedly to reach CLOCK mode.

2. Press button "C" once and hold for 2 seconds to get 12 or 24 hour time setting mode. Press either button "A" or "B" ouce to set 12 hour time format or 24 hour time format. 3. Press MODE button "C" once to get into CLOCK setting. Press button "A" for hour setting and "B" button for minute setting. After completing the setting, display will automatically go back to CLOCK mode after 5 seconds.

TO START YOUR EXERCISE

I. Press "C" until the upper display will show STEP mode. Z. The display will show 00000 in the STEP mode in the upper display window lift numbers appear in either display, RESET the display by pressing "A" for 2 seconds), and 0.00 MiL or KM for distance on lower display window. 3. Select WALK, RUN or WALK/RUN made by pressing "C" button and holding it for 2 seconds for WALK, then pressing again quickly for RUN, pressing again for WALK/RUN, (Note: The WALK/RUN mode senses when you walk and uses the WALK stride, and uses the RUN stride when you run.) When you get the mode you want, simply wait for display to stop blinking. Begin vour exercise

TO RESET YOUR PEDOMETER

Press the RESET button "A" and hold for 2 seconds. The upper display and lower display will be reset to zero except the CLOCK mode and the previous 7 days distance travel records. TO RESET THE 7 DAY MEMORY, press and hold "A" for 5 seconds. All the digits will show, Release "A". The memory will clear. However, this will also change MIL to KM, or KM to MIL. Simply press and hold "A" for 5 seconds again to change back to your preferred (KM or MIL) distance measurement.

MILE / KILOMETER CONVERSION

To change from MILE to KILOMETER, press and hold RESET button "A" for 5 seconds. This will change STRIDE setting measurament from feet to cm (centimeters) as well.

HOW TO USE THE TIMER COUNTER

This pedometer accurately measures the time you spend exercising. When you stop, the timer stops. When you exercise, the timer runs. Press MODE button "C"on the display panel until you get to the TIMER made for viewing the record of your exercise time.

DISTANCE COUNTER FUNCTION

This feature allows you to count the distance you traval during an exercise period, or all day if you wish. Your target should be to walk or jog 4 miles each day. Try it.

1. Press the MODE button "C" to get to STEP mode. 2. Press RESET button "A" and hold for 2

seconds and begin walking, running or hiking. The display will show 00000 and will begin to record your steps and distance.

DISTANCE WITH 7 DAY MEMORY & ODOMETER FUNCTION

This feature allows you to view the record of any day in miles or kilometers for 7 days. Starting from the 8th day, new data will automatically replace the memory of the 1st day recorded, and the 9th day will replace the 2nd day recorded... and so forth. Press and release button "A" to view each consecutive day's memory, and press button "B" to view each previous day's memory and total distance traveled "ODO" (like your car's adometer). Please note: You can complete your viewing of the 7 days activities and total distance before you return to the main pedameter functions OR press "C" once to return to the main pedameter functions.

SPEED FUNCTION

This feature allows you to know what speed you travel per hour and how many steps per min-

1. SPEED/HOUR: Press MODE button "C" repeatedly to locate SPEED made to view speed function. The display will show MIL/H (mile per hour) or KM/H (kilometer per hour).

2. STEP/MINUTE: Press MODE button "C" once to advance to the next display STEP/M Istep/minute) made to view step per minute function.

AUTO POWER ON/OFF

To save hatters nower this unit will sutometically "no to cloop" when no nativity has been doten

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NCE COUNTER FUNCTION

7. sture allows you to count the distance you travel dur. I exercise period, or all day if you wish. Your target should be to walk or jog 4 miles each day. Iry it.

1. Press the MODE button "C" to get to STEP mode. 2 Press RESET button "A" and hold for 2 seconds and begin walking, running or hiking. The display will show 00000 and will begin to record your steps and distance.

DISTANCE WITH 7 DAY MEMORY & OCOMETER FUNCTION

This feature allows you to view the record of any day in miles or kilometers for I days. Starting from the 8th day, new data will automatically replace the memory of the 1st day recorded, and the 9th day will replace the 2nd day recorded... and so forth. Press and release button "A" to view each consecutive day's memory, and press button B to view each previous day's memory and total distance traveled "ODO" (like your car's odometer). Please note: You can complete your viewing of the 7 days activities and total distance before you return to the main padomater functions OR press "C" once to return to the main pedometer functions.

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AUTO POWER ON/OFF

To save battery power, this unit will automatically "go to sleep" when no activity has been detected, for four (4) minutes. The lower display will show & whenever unit is not in use.

HOW TO WEAR YOUR PEDOMETER

Your pedameter clips easily to your trausers or shorts. For best results keep the unit in line with the "crease line" of your trousers. SENSITIVITY ADJUSTMENT

Everyone's welking style is different. This pedameter has an automatic sensitivity adjuster that compensates for the different welking, running or jogging styles, BATTERY REPLACEMENT

- 1. The battery hetch is on the side of your padometer. Slide open the battery door with your finger to access the battery Z. Replace battery with LR-44 type when display dims. 3. Reset the pedometer and reenter the WEIGHT/STRIDE length and CLOCK information. OTHER INFORMATION
- 1. Treat your padometer with care and it will work most efficiently. 2. Pedometer is NOT waterproof, so keep it dry.

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