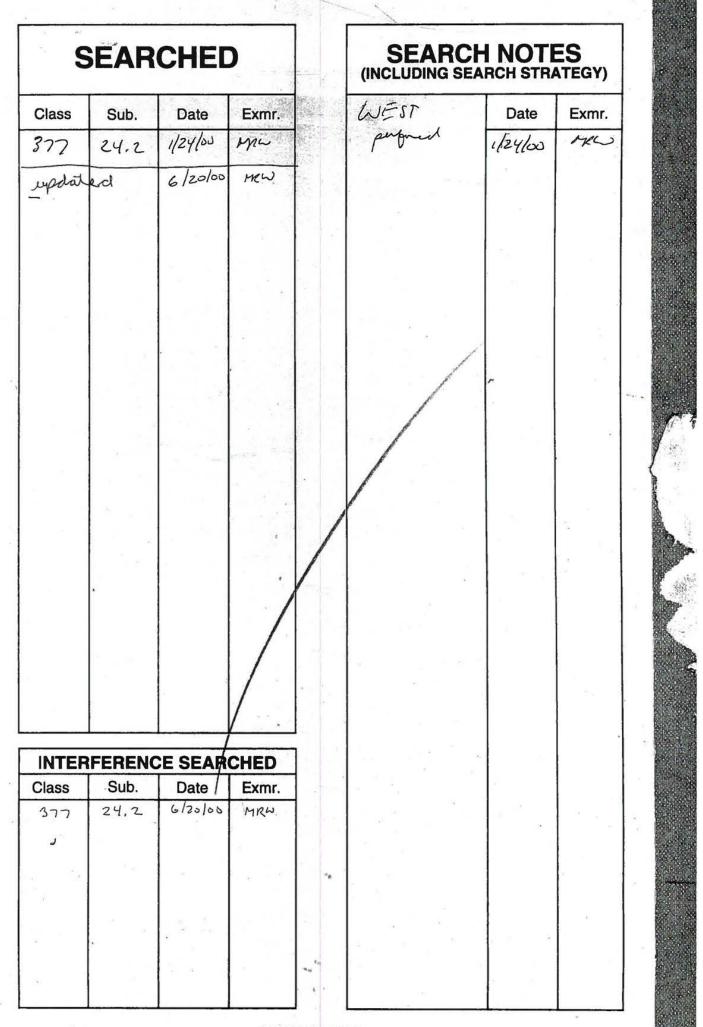
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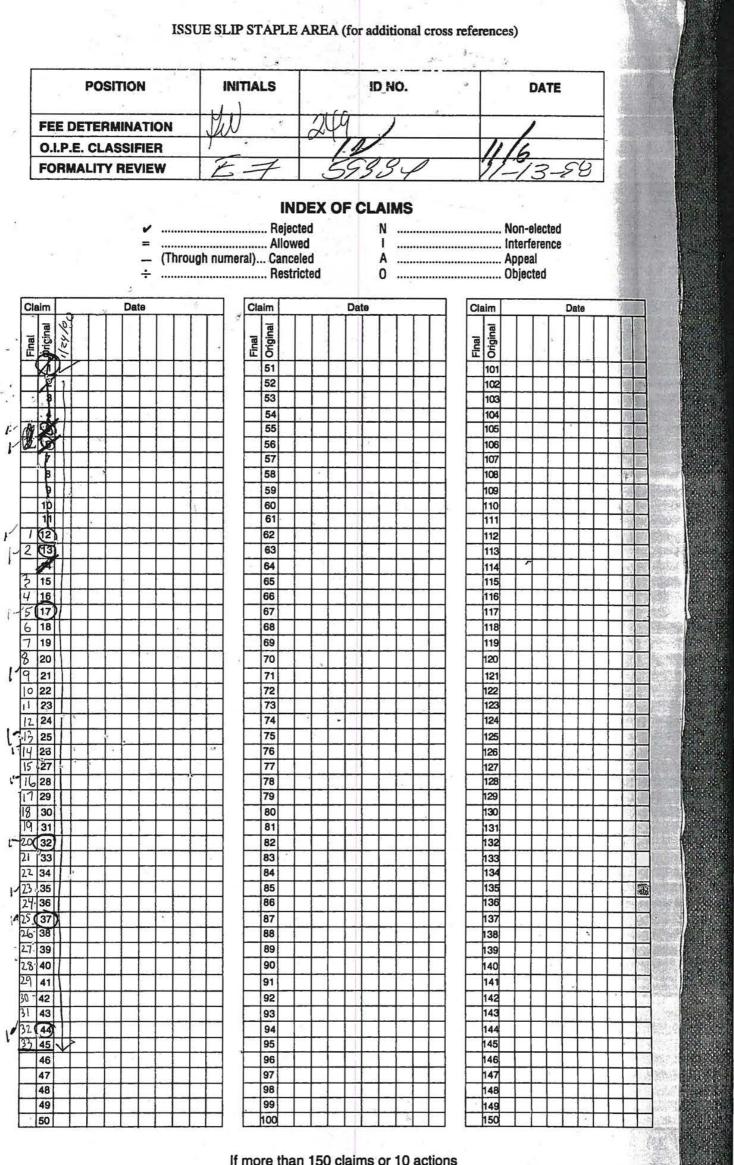
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# ABSTRACT OF THE DISCLOSURE

The pedometer having improved accuracy by calculating actual stride lengths of a user based on relative stride rates. The pedometer includes a waist or leg mounted stride counter, a transmitter for transmitting data to a wrist-mounted display unit, and a data processor for calculating necessary base units and actual stride rates and lengths. The pedometer can also interact with a heart monitoring device.

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#### PEDOMETER

Nathan Pyles Joel M. Macht Chen Shui-Jung

#### FIELD AND BACKGROUND OF THE INVENTION

The present invention relates generally to pedometers having a waist mounted stride-counting device and transmitter, and a wrist-mounted receiver and display. The invention also relates to a distance calculation device that calculates a distance walked or run based on an algorithm that converts a base stride length and a base stride rate to an actual stride length for use in calculating the distance traveled.

Pedometers are known which include devices or algorithms for determining the distance a person travels on foot. For example, U.S. Patent 4,371,945 discloses an electronic pedometer that calculates distance by electronically measuring the length of each stride taken by a user. Stride length is measured by ultrasonic waves generated by an ultrasonic module strapped to one leg and an ultrasonic detector worn on the other leg. A program compensates for a variety of measurement errors and the results are displayed on a wrist-mounted display after being transmitted by VHF waves from the leg to the wrist.

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U.S. Patent 4,771,394 discloses a computer shoe with a heel-mounted electronic device with an inertia footstrike counter, a timer, a sound generating device, a battery, and a gate array for counting time and footstrikes to calculate distance and running time as a function of stride time. Although recognizing the important relationship of stride length and foot speed, the shoe in this patent requires data from at least 15 test runs or walks and the data must be user-entered in pairs of footstrikes and elapsed time to cover a pre-determined distance. Further, user adjustments of time must be performed to accommodate start and stop times, and the number of counted footstrikes is increased one percent to overcome inherent errors in the inertia step counter. The shoe-mounted device is subject to damage from impact, dirt, and water, and requires a stay-at-home computer with which to interface. There is no means disclosed to transmit data to a wrist-mounted display device or an "on-board" computing device that provides "real time" data to a runner.

U.S. Patent 4,855,942 discloses a pedometer and calorie measuring device that includes a wrist-mounted step counter and a fixed stride length to calculate distance traveled. Wrist-mounted step counters are known to be inaccurate because they assume a step for every arm movement. Even with error correction, such a device will provide less accurate step counts than a leg or waist-mounted counter. Further, fixed stride lengths do not take into account the fact that stride length varies with rate of movement.

U.S. Patent 5,117,444 discloses a pedometer and calibration method with two calibration modes. First, a user travels a predetermined "half-distance" for the device to count and store the number of strides in that distance. Next, the user travels a second distance with the step counter comparing actual steps to the steps in memory and a current trip memory are incremented by a tenth of a "whole unit" distance. There is no correlation between stride length and stride rate which requires the user to re-calibrate the device when walking as opposed to running.

U.S. Patent 5,475,725 discloses a pulse meter with pedometer function to determine pace and pulse rate of a user. The meter uses pulse wave base data compared to actual pulse wave data rates.

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U.S. Patent 5,476,427 discloses a pace display device utilizing a base rate for

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traveling pre-set distances in successive trails. The device calculates step counts and rates, and compares actual step count rates to display data to a user for comparison of present running rates to previous rates.

Thus, there is a need for a simple, but highly accurate, pedometer that displays distance traveled, pace, speed, heart rate, and other important information on an easily read wrist-mounted device.

#### SUMMARY OF THE INVENTION

The present invention overcomes problems and shortcomings in the prior art by providing a device that includes a waist, chest, or leg-mounted stride counting device, a transmitter, and a wrist-mounted receiver/display device that provides highly accurate travel distances and other information. The device includes a computer that stores base stride length and rate data from traveling a pre-determined distance and compares that to actual stride rate data to calculate actual distance traveled, speed, and pace. The invention recognizes the interdependency of stride length and stride rate and uses that relationship to provide superior distancecalculating accuracy.

The invention also provides for improved display of relevant data on a wristmounted display that receives digital signals from devices worn on other body parts such as legs, waist, and chest. Transmitters that can send coded signals are desirable because they will not interfere with similar devices worn by other users in the vicinity.

The accuracy of the device is enhanced by the use of an algorithm that adjusts a base stride length based on actual stride rates. The algorithm is defined as: Actual Stride Length = Base Stride Length + Base Stride Length \*(((Actual Stride Rate -Base Stride Rate) N)/Base Stride Rate); where N is either an average value or a derived value from a plurality of samples.

The invention also includes a method for calculating an actual stride length including steps of: timing a first user 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 during a user's second run to obtain an actual stride rate; calculating the actual stride length using the formula: Actual Stride

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Length = Base Stride Length + Base Stride Length

\*(((Actual Stride Rate - Base Stride Rate )N)/Base Stride Rate); wherein N is an average value or a derived value.

The average value method can be refined by comparing Base Stride Rate to Actual Stride Rate to determine a percentage difference; and using N=1 when the Actual Stride Rate  $\leq$  Base Stride Rate \* 1.02 and using N=3 when Actual Stride Rate > Base Stride Rate \* 1.02. A preferred embodiment uses a plurality of sample runs over known distances to derive an accurate N value for each individual.

BRIEF DESCRIPTION OF THE DRAWINGS

Fig. 1 is a schematic diagram of a pedometer in accordance with the present invention.

#### DETAILED DESCRIPTION OF THE DRAWINGS

As illustrated in Fig. 1, the present invention is directed to an improved pedometer 20 including: a waist, chest, or leg mounted stride counter 24, and a wrist or waist mounted display unit 26. An optional chest-mounted heart monitor 28 can be included. All of the device components are mounted in suitable housings. The pedometer 20 includes a data processor 30 that is mounted in the same housing as either the step counter 24 or the display unit 26.

The step counter 24 is an inertia device that counts the number of steps a user takes. The number of steps is transmitted to a data archive 32 either directly or via a transmitter 34. The data archive 32 is mounted in the housing with the step counter 24 or the display 26.

The transmitter 34 is mounted in the step counter housing and is preferably an Rf telemetric signal transmitter with a 30 inches to 36 inches transmission range. Alternately, the transmitter is a wireless or wired digital transmitter with a coding function to limit or eliminate interference with other similar devices. The wireless transmission range is set between 30 inches and 36 inches to provide adequate range to transmit signals from a user's waist to wrist, but not so far as to cause interference with other Rf or digital devices in the vicinity.

The transmitter 34 transmits either raw data or calculated distances, pace, etc. to a wrist-mounted display unit receiver 40. The receiver 40 relays a raw data signal

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to the data processor 30 or a calculated data signal directly to the display panel 42, such as an LCD or LED.

Similarly, the heart rate monitor 28 includes a transmitter 44 that transmits heart rate data to the display unit 26. The heart monitor transmitter 44 can transmit at the same or a different frequency as the stride counter 24, and to the same or a different receiver in the display unit 26. The heart rate transmitter 44 is preferably Rf, but can be digital for the reasons stated above. The range of the heart rate transmitter 44 should also be between 30 inches and 36 inches to ensure effective communication with the receiver while limiting outside interference.

The data processor 30 can also include a programmable logic controller, a personal computer, a programmable read-only memory, or other suitable processor. The data processor 30 includes a data archive 32 to store historic data on stride length and pace to be used in an algorithm for calculating actual distances, speed, and rate for real-time conversion of data to useful information for a user.

The data processor 30 can also include closed loop or fuzzy logic programming to continually or periodically replace the base stride rate and length with recently calculated stride rates and lengths so that long term conditioning trends are accommodated in the base stride archive. Incorporating trend capabilities may further enhance accuracy of the distance and pace calculations.

The display unit 26 also includes an operator interface 46 such as a key pad, button, knob, etc. that enables the user to start and stop a clock 48 (or stop watch) and activate various use modes within the pedometer, such as a sampling mode and operation mode.

One option for using the pedometer 20, requires the user to operate a "sampling mode" and begin walking or running a pre-determined distance such as a mile or 1600 meters, preferably on a running track of a known size. Upon completion of the distance, a stop button on the operator interface 46 is pushed. The data processor 30 is programmed to then divide the distance by the number of strides counted to calculate an average stride length. This value is stored in the data archive 32 as the "Base Stride Length."

Also, the data processor 30 is programmed to divide the number of strides by

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the time of the run or walk as measured by the clock 48 to arrive at a "Base Stride Rate."

The data processor 30 preferably includes programming that queries the user about the distance to be run during the sampling mode. By providing options or enabling the use of any distance during the sampling mode, the pedometer 20 provides maximum flexibility for use by people of various physical conditions, or having access to courses of different known distances. Thus, a user may be queried to input a distance to be used in the sampling mode and then be given a list of options such as 400 meters, 440 yards, 1600 meters, or one mile, or be asked to simply input any distance known to the user that will be traveled during the sampling mode.

The present invention makes full use of the relationship between a faster rate of travel and longer stride lengths. In other words, the faster a user is moving, the longer will be the stride length. Over the course of the run or walk, the user's step rate and, therefore, stride length will change and the user will cover more ground when moving fast and less ground when moving slow.

Clearly, using a fixed average stride length in calculating distance traveled will result in errors using prior pedometers. This is particularly true if a user changes pace, or improves conditioning and speed to the point where the average stride length over a given run increases dramatically. The error compensators in prior devices do not adjust for changes in pace. With the old devices, a user needed to re-calibrate periodically to be close to getting an accurate reading, and could not change pace during a workout without decreasing accuracy.

To make the correction, the user activates a "Use Mode" in which the data processor 30 calculates an Actual Stride Rate based on data from the stride counter 24 and the clock 48. For example, an Actual Stride Rate can be calculated every five seconds without the user doing more than activating the "Use Mode" button, while all the calculations are performed by the data processor automatically. The percentage change between the Actual Stride Rate and the Base Stride Rate is then computed by the data processor 30 to determine an Actual Stride Length. Again, if the Actual Stride Rate is greater than the Base Stride Rate, the Actual Stride Length is longer than the Base Stride Length. If the Actual Steps Per Second is lower than

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the Base Steps Per Second, the Actual Stride Length is shorter than the Base Stride Length. The algorithm below provides a means for comparing the Actual and Base Stride rates to arrive at an accurate Actual Stride Length.

First, a comparison between the Actual Stride Rate and the Base Stride Rate is made to determine whether Actual Stride Rate is less than or equal to Base Stride Rate multiplied by 1.02. Stride Length is calculated by:

Actual Stride Length = Base Stride Length +

Base Stride Length \*(((Actual Stride Rate - Base Stride Rate)N)/Base Stride Rate)

Where: N=1 when Actual Stride Rate is less than or equal to Base Stride Rate multiplied by 1.02, and N=3 when Actual Stride Rate is greater than Base Stride Rate multiplied by 1.02, although other N values in the range of one to three can be used.

The above algorithm is accurate for heel to toe activities such as walking or jogging, but is less accurate for sprinting (toe only).

A third method of calculating actual stride length uses three separate run or walk samples at three different paces. This is the most accurate option. With this method, the N values are unique for each individual. By deriving an N value for each individual, this value more accurately reflects the actual change in stride length with a change in pace. After a proper warmup, the user completes a sample run or walk on the track at a normal pace. This first sample S1, will establish the Base Stride and the Base Steps Per Second.

S1 SAMPLE:

S1 Stride = Base Stride = Distance / Number of Steps

S1 Steps Per Second or S1 Steps Per Second = Base Steps Per Second = Number of Steps Per Second

Following completion of the first run or walk at normal pace, the user runs or walks the same course and the same distance at a faster run or walking pace, but not a sprinting pace. The user should not run on his toes, but maintain the normal heel to toe jogging style. This is the S2 sample. The purpose of the S2 sample is to calculate an N2 value for each individual which reflects the effect an increase in Steps Per Second has on this individual's stride length. Some individual's steps will lengthen

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more than others as Steps Per Second increases, and by finding the value for N2, this relative increase can be quantified for a more accurate and customized algorithm for each individual.

S2 SAMPLE:

To find the N2 value, which will be used by the algorithm when Actual Steps Per Second > Base Steps Per Second

N2 = ((S2 Stride \* S1 Steps Per Second) - (S1 Stride \* S1 Steps Per Second)) / (S1 Stride (S2 Steps Per Second - S1 Steps Per Second))

This value can be calculated since the distance is known, and both a Fast Stride Length (S2 Stride) and a Fast Steps Per Second (S2 Steps Per Second) can be calculated from the second sample.

Following completion of the fast run or walk, the user runs the same course and the same distance at a slower than normal run or walking pace. This pace cannot exceed the first sample pace. This is the S3 sample. The purpose of the S3 sample is to calculate an N3 value for each individual which reflects the effect a decrease in Steps Per Second has on this individual's stride length. Some individual's steps will shorten more than others as Steps Per Second decreases, and by finding the value for N3, this relative decrease can be quantified for a more accurate and customized algorithm for each individual.

20 S3 SAMPLE:

If:

To find the N3 value, which will be used by the algorithm when Actual Steps Per Second < Base Steps Per Second.

N3=((S3 Stride \* S1 Steps Per Second) - (S1 Stride \* S1 Steps Per Second)) / (S1 Stride (S2 Steps Per Second - S1 Steps Per Second))

This value can be calculated since the distance is known and both a "Slow" Stride Length (S3 Stride) and a "Slow" Steps Per Second (S3 Steps Per Second) can be calculated from the third sample.

Once these three samples are completed and the information automatically calculated and stored in the data processor 30, then the following formula can be used for the most accurate measurements of speed and distance.

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Actual Steps Per Second is less than or equal to Base Steps Per

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Then:

Stride Length = Base Stride + Base Stride\*(((Actual Steps Per Second - Base Steps Per Second)N)/Base Steps Per Second)

And N = N3 (Stored Value)

If: Actual Steps Per Second > Base Steps Per Second Then:

Stride Length = Base Stride + Base Stride\*(((Actual Steps Per Second - Base Steps Per Second)N)/Base Steps Per Second)

And N = N2 (Stored Value)

This third option for calculating stride length, and subsequently distance, speed, and pace, is a far more accurate method than a fixed stride length pedometer. This device and method are also practical, convenient, and has a relatively low manufacturing cost. If an individual's running or walking style is progressing with training and practice (as seen by significantly improved times), then it may be beneficial for them to recalibrate their device by repeating the three samples every 3 to 6 months. If there are no significant improvements in time, then recalibration is not necessary.

It is noted that any single stride length or pace discussed above can in fact be an average of a plurality of stride lengths or rates from test runs to further refine accuracy in the calculations of actual stride data.

Other variations on this device could also incorporate an altimeter which measures changes in elevation. The stride length could then be adjusted (shortened) when elevation is increasing, and lengthened when elevation is decreasing. This adjustment could be done with an average value, as we used in setting option 2, or with a derived value by running or walking over a known distance on a hilly course. This device can use two batteries so that the calibration data is not lost when the batteries are replaced one at a time.

Once the actual stride length is calculated for a given period of time, the value can be multiplied by the number of strides in that period to obtain a total distance for that period to be stored in a data archive file for that particular walk or run and added

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to other actual stride lengths or distances for other periods in which stride length was calculated. When the run or walk is completed, the user engages the operator interface 46 to indicate that a total distance is to be displayed on the display unit. Preferably, there is continual display of the distance traveled.

As a result of accurately calculating distance traveled, the pedometer 20 also has the capability of calculating speed in miles per hour, for example or pace in minutes per mile, including average speed and pace over the course of that particular walk or run. Further, the pedometer 20 can include a port for coupling to a separate personal computer or computing device to create larger training histories, trends, etc.

Additional features can include stop watches, day, date and time displays, as well as, heart rate displays as discussed above. Also, it will be understood that all distances and time periods used above can be varied in length and units of measure (English, metric, seconds, minutes, hours, etc.).

The foregoing detailed description is provided for clearness of understanding only and no unnecessary limitations therefrom should be read into the following claims.

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# CLAIMS

1. 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 calculate a distance measured by the step counter.

2. The pedometer of claim 1, wherein the transmitter and the receiver 10 communicate via wireless transmission.

3. The pedometer of claim 1, wherein the transmitter and the receiver communicate via a wire.

4. The pedometer of claim 1, wherein the transmission signal is digitally coded.

5. The pedometer of claim 1, where in the transmitter transmits the signal a wireless distance in the range of thirty to thirty-six inches.

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

7. The pedometer of claim 1, wherein the receiver processes the step count signal and displays the distance traveled on a viewing screen.

8. The pedometer of claim 1, wherein the step counter is mountable on a

user's leg.

9. The pedometer of claim 1, and further comprising: a heart rate monitor; and

a second transmitter in communication with the heart rate monitor to transm<sup>\*\*</sup> a signal corresponding to a heart rate calculated by the heart rate monitor to the receiver and display the calculated heart rate.

10. The pedometer of claim 9, wherein the heart rate signal is at a different frequency than the pedometer signal.

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11. The pedometer of claim 9, wherein the heart rate monitor is mountable to a user's third/body portion.

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D.b	N	Star 12. The pedometer of claim 9, wherein the heart rate and the step counter	
Jun	A	transmitter are mounted in a single chest-mount housing.	
ait		13. The pedometer of claim 1, wherein the pedometer includes a data	
01	Λ.	processor programmed to calculate a distance traveled by multiplying the number of	
/	5	by strides taken by a stride length that varies according to the rate at which strides are taken.	
÷		14. The pedometer of claim 13, wherein the data processor is	
		programmed to calculate an actual stride length of a user by performing the steps of:	
		timing a user first run of a predetermined distance;	
	10	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;	
ngır.		counting strides in a period of time during a user second run to obtain an	¥
	15	actual stride rate	
The second second	{	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);	
n er fr		where N is in the range of between 1 and 3. The pedemeter of claim $\frac{2}{3}$ wherein the pedemeter is further	
E G	20	$\mathbf{X}$ The pedometer of claim $\mathbf{X}$ , wherein the pedometer is further programmed to perform the steps of:	
		comparing the actual stride rate to the base stride rate; and	
		calculating the actual stride length using N=1 when the actual stride rate is	
		less than or equal to the base stride rate multiplied by 1.02.	.4
	25	No. The pedometer of claim K, wherein the pedometer is further	
		programmed to perform the steps of:	
4 - 42 -		comparing the actual stride rate to the base stride rate; and	
Χ.		calculating the actual stride length using $N=3$ when the actual stride rate is	
		greater than the base stride rate multiplied by 1.02.	
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		13	

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Sut	17. A pedometer comprising: a step counter;	i
as	a transmitter in communication with the step counter to generate a signal	
62	corresponding to each step and transmit the signal; and	
5	a receiver mountable on a user body portion to receive the signal	
	transmitted from the transmitter and calculate a distance 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	
10	the rate at which strides are taken.	
	8. The pedometer of claim N, wherein the transmitter and the receiver	
	communicate via wireless transmission.	
	$\mathbf{N}$ . The pedometer of claim $\mathbf{N}$ , wherein the transmitter and the receiver	
	communicate via a wire.	
15	20. The pedometer of claim 17, wherein the transmission signal is digitally coded.	
	21. The pedometer of claim 17, where in the transmitter transmits the	
Ξ.	signal a wireless distance in the range of thirty to thirty-six inches.	
	$10_{2}$ . The pedometer of claim $\frac{5}{2}$ , wherein the receiver is mountable on a	
口 [1] [1] 20	user's wrist.	
ц Ц	The pedometer of claim $\mathbb{N}$ , wherein the receiver processes the step	Ť
D	count signal and displays the distance trayeled on a viewing screen.	
	12- 84. The pedometer of claim N, wherein the step counter is mountable on	
<u>.</u>	a user's leg.	· · · · ·
25	25. The pedometer of claim 17, and further comprising:	1
Yun /	a heart rate monitor; and	
$\binom{3}{6^5}$	a second transmitter in communication with the heart rate monitor to transmit	
~ /	a signal corresponding to a heart rate calculated by the heart rate	
4	monitor to the receiver and display the calculated heart rate.	
30	26. The pedometer of claim 25, wherein the heart rate signal is at a	2
	different frequency than the pedometer signal.	

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# 27. The pedometer of claim 25, wherein the heart rate monitor is mountable to a user's third body portion.

28. The pedometer of claim 25, wherein the heart rate and the step counter are mounted in a single mest-mount housing.

29. The pedometer of claim  $\Im$ , wherein the data processor is programmed to calculate an the distance traveled actual stride length of a user by performing the steps of:

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);

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

\$ The pedometer of claim  $\aleph$ , wherein the pedometer is further programmed to perform the steps of:

comparing the actual stride rate to the base stride rate; and

calculating the actual stride length using N=1 when the actual stride rate is

19 less than or equal to the base stride rate multiplied by 1.02.

 $\mathfrak{N}$ . The pedometer of claim  $\mathfrak{N}$ , wherein the pedometer is further

programmed to perform the steps of:

comparing the actual stride rate to the base stride rate; and

calculating the actual stride length using N=3 when the actual stride rate is greater than the base stride rate multiplied by 1.02.

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A pedometer programmed to calculate an actual stride length of a user 32. by performing the steps of: 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: 10 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. 2 The pedometer of claim 32, wherein the pedometer is further programmed to perform the steps of: 15 comparing the actual stride rate to the base stride rate; and calculating the actual stride length using N=1 when the actual stride rate is less than or equal to the base stride rate multiplied by 1.02. 22 The pedometer of claim 38, wherein the pedometer is further programmed to perform the steps of: 20 comparing the actual stride rate to the base stride rate; and calculating the actual stride length using N=3 when the actual stride rate is greater than the base stride rate multiplied by 1.02. 35. The pedometer of claim 32, wherein the receiver processes the step count signal and displays the distance traveled on a viewing screen. 36. The pedometer of claim 22, and further comprising a heart rate monitor mounted in a chest-mount housing.

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37. 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;

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

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

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

timing a user second run of a predetermined distance; /

counting the total number of strides in the user second run;

dividing the second run distance by the second run stride count to obtain a second base stride length;

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

timing a user third run of a predetermined/distance;

counting the total number of strides in the user third run;

dividing the third run distance by the third run stride count to obtain a third base stride length;

dividing 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

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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. 25 The pedometer of claim  $\mathcal{N}$ , wherein:

the first run base stride length is an average stride length calculated from a plurality of test runs; and

the first run base stride rate is an average base stride rate calculated from the

plurality of test runs. 27

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The pedometer of claim 37, wherein: \$9.

the second run base stride length is an average stride length calculated from a plurality of test runs; and

the second run base stride rate is an average base stride rate calculated from

28 the plurality of test runs.

40. The pedometer of claim 37, wherein:

the third run base stride-length is an average stride length calculated from a plurality of test runs; and

the third run base stride rate is an average base stride rate calculated from the

plurality of test runs. 25

29 The pedometer of claim \$7, wherein the second run is at a faster pace than the first walk or run and the third run is at a slower pace than the first walk or

30 The pedometer of claim  $\mathcal{H}$ , and further comprising: 42.

a data processor mountable on a user body portion to calculate the actual stride length; and

a run data display device in communication with the data processor and

mountable on a user body portion. 31

43. The pedometer of claim  $\overline{N}$ , and further comprising a heart rate monitor mounted in a chest-mount housing.

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44. A method for calculating an actual stride length comprising the steps

timing a first user run of a predetermined distance; counting a total number of strides in the user first run; dividing the first run time by the strine 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;

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.

**45**. The method of claim **4** and further comprising the steps of comparing Base Stride Rate to Actual Stride Rate to determine a percentage difference; and using N=1 when the difference is less than two percent and using N=3 when the difference is greater than or equal to two percent.

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### Docket No .: EPIXINC-4

# DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name. I believe I am the original, first and sole inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled: PEDOMETER, the specification of which

[X] is attached hereto.

[]

was filed on \_\_\_\_\_\_ as Application No.\_\_\_\_\_ and was amended on \_\_\_\_\_\_ (if applicable).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I do not know and do not believe that the same was ever known or used in the United States of America before my invention thereof, or patented or described in any printed publication in any country before my invention thereof or more than one year prior to this application, that the same was not in public use or on sale in the United States of America more than one year prior to this application, that the invention has not been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months prior to this application, that I acknowledge my duty to disclose information of which I am aware which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, §1.56(a), and that no application for patent or inventor's certificate on this invention has been filed in any country foreign to the United States of America prior to this application by me or my legal representatives or assigns, except as follows: None.

I hereby claim foreign priority benefits under Title 35, United States Code, §119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

Prior Foreign App	lication(s)			Prior Clair		
None. (Number)	(Country)	(Day/Month/Year Filed)	[]	[] Yes	No	
(Number)	(Country)	(Day/Month/Year Filed)	[]	[] Yes	No	

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

None.(Application<br/>Serial Number)(filing date)(Status--patented,<br/>pending, abandoned)(Application<br/>Serial Number)(filing date)(Status--patented,<br/>pending, abandoned)

And I hereby appoint the practitioners associated with the Customer Number provided below to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith, and direct that all correspondence be addressed to that Customer Number:

Customer Number: 020,455

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of sole Inventor

Nathan Pyles

Inventor's Signature

Date Residence Citizenship Post Office Address

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Full name of sole Inventor

Joel M. Macht

Inventor's Signature

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. . . . . . . . . . . . . . . .

# Full name of sole Inventor

Chen Shui-Jung

Inventor's Signature

Taipei, Taiwan Republic of China

Residence Citizenship Post Office Address

Date

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### PTO/SB/17 (12-97)

Approved for use through 09/30/00. OMB 0651-0032 Patent and Trademark Office: 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.

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					First Name			Pyles, et al.		
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TomTom Exhibit 1010, Page 31 of 128

PATENT APPLICATION IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Pyles, et al.

Filed: Simultaneously herewith

For: Pedometer

Docket No.: EPIXINC-4

BOX PATENT APPLICATION Assistant Commissioner for Patents Washington, D.C. 20231

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"Express Mail" Mailing Label No.: EM164411845US Date of Deposit: October 28,1998

I hereby certify that these attached documents

- Response postcard
- \* Check in the amount of \$752.00
- \* PTO/SB/17 (1p) and 1 copy
- \* Specification and Claims (19 pages) and informal drawing (1 sheet) and unexecuted Declaration and Power of Attorney (4 pp)
- \* PTO/SB/05 (1p)

are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 35 C.F.R. §1.10 on the date indicated above and is addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

(Jeff W. Smith, Reg. No. 33455)

Enclosed for filing please find the above-referenced new patent application. Please indicate receipt of this application by returning the attached postcard with the official Patent and Trademark Office receipt and serial number stamped thereon.

Respectfully submitted,

Jeffry W. Smith, Reg. No. 33455 Attorney for Applicant Lathrop & Clark P.O. Box 1507 Madison, Wisconsin 53701-1507 (608) 257-7766

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09/181,738 PRINT OF DRAWINGS 377/24.2 Wambach -1 1 30 32 28 26 B6B201 - BEZTRIOD { 40 24 3 F16. 1 ی<sub>ا</sub>ر ۱۱)

S DEPARTMENT and Trademark Office COMMISSIONER OF PATENTS AND TRADEMARKS ashington, D.C. 20231 FILING/RECEIPT DAT ST NAMED APPLICANT ATTORNEY DOCKET NO./TITLE APPLICATION NUMBER 09/181.73810/28/498 M EP1 XINC-4 0242/1117 020455 LATHROP **GLARK** WFT) M 122 W WASHINGTON AVENUE P 0 BOX 1507 MADISON WE 53701-1507 2816 DATE MAILED: 11/17/98 NOTICE TO FILE MISSING PARTS OF APPLICATION Filing Date Granted An Application Number and Fillng Date have been assigned to this application. The items indicated below, however, are missing. Applicant is given TWO MONTHS FROM THE DATE OF THIS NOTICE within which to file all required items and pay fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a). If any of items 1 or 3 through 5 are indicated as missing, the SURCHARGE set forth in 37 CFR 1.16(e) of D \$65.00 for a small entity in compliance with 37 CFR 1.27, or 5130.00 for a non-small entity, must also be timely submitted in reply to this NOTICE to avoid abandonment. If all required items on this form are filed within the period set above, the total amount owed by applicant as a  $\Box$  small entity (statement filed)  $\square$  non-small entity is 2 / 2□ 1. The statutory basic filing fee is: missing. insufficient. П Applicant must submit \$ to complete the basic filing fee and/or file a small entity statement claiming such status (37 CFR 1.27). 2. Additional claim fees of \$ Including any multiple dependent claim fees, are required. independent claims over 3. dependent claims over 20. for for multiple dependent claim surcharge. Applicant must either submit the additional claim fees or cancel additional claims for which fees are due. 3. The eath or declaration: is missing or unexecuted. does not cover the newly submitted items. Ø does not identify the application to which it applies. does not include the city and state or foreign country of applicant's residence. An oath or declaration in compliance with 37 CFR 1. 63, including residence information and identifying the application by the above Application Number and Filing Date is required. 4. The signature(s) to the oath or declaration is/are by a person other than inventor or person qualified under 37 CFR 1.42, 1.43 or 1.47. A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required. 5. The signature of the following joint inventor(s) is missing from the oath or declaration: An oath or declaration in compliance with 37 CFR 1.63 listing the names of all inventors and signed by the orbited inventor(s), identifying this application by the above Application Number and Filing Date, is required. 6. A \$50.00 processing fee is required since your check-was returned without payment (37 CFR 1.21(m)). □ 7. Your filing receipt was mailed in error because your check was returned without payment, 8. The application does not comply with the Sequence Rules. See attached \*Notice to Comply with Sequence Rules 37 CFR 1.821-1.825. 9. OTHER: Direct the reply and any questions about this hotice to "Attention, Box Missing Parts." A copy of this notice MUST be returned with the reply. Customer Service Center Initial Patent Examination Division (703) 308-1202 PART 3- OFFICE COPY 3 (REV.9-97)



Patent Application IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Pyles et al.

Date Filed: October 28, 1998

Application Number: 09/181,738

Date:	May 4, 1999
Docket No.:	EPIXINC-4
Art Unit:	2816

For:

PEDOMETER

	Certificate of Mailing
	eby certify that this correspondence is being deposited with the nited States Postal Service as first class mail in an envelope addressed to: Attention: Box Missing Parts Assistant Commissioner for Patents, Washington, D.C. 20231
	on May 4, 1999
	Date
	Appry W. Smith
	Jeffry W. Smith, Req. No. 33455
1	Name of applicant, assignee or Registered Representative

TRANSMITTAL OF MISSING PARTS OF APPLICATION UNDER 37 C.F.R. §1.53

Attention: Box Missing Parts Assistant Commissioner for Patents Washington, D.C. 20231

Dear Sir:

In response to the Notice of Missing Parts mailed November 17,1998, enclosed are the following items for filing in the above-referenced U.S. Patent application:

1

1. A Declaration and Power of Attorney, executed by the applicant on March 21,

### Applicant: Nathan Pyles Application No.: 09/181,738 Art Unit: 2816

1999; May 3, 1999; and May 3, 1999.

2. Form PTO-1533 Notice to File Missing Parts.

3. A check in the amount of \$500.00 to cover the filing fee (37 C.F.R. §1.16(a) et seq.), the surcharge set forth in 37 C.F.R. §1.16(e), and extension of time under 37 CFR 1.136(a).

4. Verified Statement Claiming Small Entity Status--Small Business Concern, executed on March 21, 1999.

5. Petition for Extension of Time Under 37 CFR 1.136(a).

The Commissioner is hereby authorized to charge payment of any additional fees associated with this communication or credit any overpayment to Deposit Account No. 15-0660. A duplicate copy of this document is enclosed.

Having now complied with all of the requirements of 37 C.F.R. §1.53, applicant respectfully requests that this application be placed upon the files for examination.

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

files.htp

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### Docket No.: EPIXINC-4

### DECLARATION AND POWER OF ATTORNEY a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name. I believe I am the original, first and sole inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled: PEDOMETER, the specification of which

[ ] is attached hereto.

[X] was filed on <u>October 28</u>, <u>1998 as Application No. 09/181,738</u> and was amended on \_\_\_\_\_ (if applicable).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I do not know and do not believe that the same was ever known or used in the United States of America before my invention thereof, or patented or described in any printed publication in any country before my invention thereof or more than one year prior to this application, that the same was not in public use or on sale in the United States of America more than one year prior to this application, that the invention has not been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months prior to this application, that I acknowledge my duty to disclose information of which I am aware which is material to the examination of this application for patent or inventor's certificate on this invention has been filed in any country foreign to the United States of America yield States of America on the subject of an explication of which I am aware which is material to the examination of this application for patent or inventor's certificate on this invention has been filed in any country foreign to the United States of America prior to this application by me or my legal representatives or assigns, except as follows: None.

I hereby claim foreign priority benefits under Title 35, United States Code, §119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

Prior Foreign App	lication(s)	*		Prior Clair	-
None. (Number)	(Country)	(Day/Month/Year Filed)	[]	[] Yes	No
(Number)	(Country)	(Day/Month/Year Filed)	[]	[] Yes	No

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

None.		
(Application	(filing date)	(Statuspatented,
Serial Number)		pending, abandoned)
(Application	(filing date)	(Statuspatented,
Serial Number)	2	pending, abandoned)

And I hereby appoint the practitioners associated with the Customer Number provided below to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith, and direct that all correspondence be addressed to that Customer Number:

Customer Number: 020,455

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Joel M. Macht

Full name of sole Inventor

Inventor's Signature

Residence Citizenship Post Office Address

Date

Lake Mills, Wisconsin United States of America 529 College Street, Lake Mills, Wisconsin 53551

Full name of sole Inventor

Inventor's Signature

Date Residence Citizenship Post Office Address

fail M. Mas 5-3-99

Ree**g**eville, Wisconsin United States of America 106 North Avenue, Reeceville, Wisconsin 53579 -

Nathan Pyles

### Full name of sole Inventor

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Chen Shui-Jung

Inventor's Signature

Afra Cur - Juney. . . . . . 3/21. / 9.9.

Date Residence Citizenship Post Office Address

Taipei, Taiwan Republic of China 2 F No. 349, Wu Shin Street, Taipei, Taiwan

# TomTom Exhibit 1010, Page 41 of 128

PTO/SB/10 (12-97) Approved for use through 9/30/00. OMB 0651-0031 Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE Number.

Applicant, Patentee, or Identifier: Nathan Pyles Application or Patent No.: 09/181,738 Filed or Issued: October 28, 1998 Title: Pedometer I hereby state that I am
Title: Pedometer
RADEWAT
an official of the small business concern empowered to act on behalf of the concern Identified below:
NAME OF SMALL BUSINESS CONCERN Epix, Inc.
ADDRESS OF SMALL BUSINESS CONCERN 621 D East Lake Street, Lake Mills, Wisconsin 53551
I hereby state that the above identified small business concern qualifies as a small business concern as defined in 13 CFR Part 121 for purposes of paying reduced fees to the United States Patent and Trademark Office, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time, or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.
I hereby state that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention described in:
☑ the specification filed herewith with title as listed above.
□ the application identified above.
□ the patent identified above.
If the rights held by the above identified small business concern are not exclusive, each individual, concern, or organization having rights in the invention must file separate statements as to their status as small entities, and no rights to the invention are held by any person, other than the inventor, who would not qualify as an independent inventor under 37 CFR 1.9(c) if that person made the invention, or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d), or a nonprofit organization under 37 CFR 1.9(e).
Each person, concern, or organization having any rights in the invention is listed below:
no such person, concern, or organization exists.
each such person, concern, or organization is listed below.
Separate statements are required from each named person, concern or organization having rights to the invention stating their status as small entities (37 CFR 1.27).
I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate (37 CFR 1.28(b)).
NAME OF PERSON SIGNING Nathan Pyles
TITLE OF PERSON IF OTHER THAN OWNER President
ADDRESS OF PERSON SIGNING 529 College Street, Lake Mills, Wisconsin 53551-1412
SIGNATURE DATE DATE
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. Ar 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 1 Patents, Washington, DC 20231.

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107	480	207	240	Plant filing fee		121	260	221	130	Request for oral hearing	g	
108	760	208	380	Reissue filing fee		138	1,510	138	1,510	Petition to institute a pe proceeding	ublic use	14
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205 UNITED STATES DEPARTMENT OF COMMERCE Patent and Trademark Office Address: COMMISSIONER OF PATENTS AND TRADEMARKS Washington, D.C. 20231 FIRST NAMED APPLICANT ATTORNEY DOCKET NO./TITLE CATION NUMBER FILING/RECEIPT DATE 111199 N EPIXINC-4 PYLES 10/28/98 09/181.73811 Insing Parts Due in the second 0242/1117 020455 LATHROP CLARK NOT ASSIGNED 122 W WASHINGTON AVENUE 11/23/95 2816 P O BOX 1507 the MADISON WI 53701-1507 DATE MAILED: 11/17/98 NOTICE TO FILE MISSING PARTS OF APPLICATION Filing Date Granted An Application Number and Filing Date have been assigned to this application. The items indicated below, however, are missing. Applicant is given TWO MONTHS FROM THE DATE OF THIS NOTICE within which to file all required items and pay fees required below to avoid bandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a). If any of items 1 or 3 through 5 are indicated as missing, the SURCHARGE set forth in 37 CFR 1.16(e) of \$65.00 for a small entity in compliance with 37 CFR 1.27, or \$130.00 for a non-small entity, must also be timely submitted in reply to this NOTICE to avoid abandonment. If all required items on this form are filed within the period set above, the total amount owed by applicant as a  $\Box$  small entity (statement filed) applicant as a  $\Box$  small entity is 2 / 2. 1. The statutory basic filing fee is: 出るの調節 □ missing. □ insufficient. Applicant must submit \$ \_\_\_\_\_ such status (37 CFR 1.27). to complete the basic filing fee and/or file a small entity statement claiming 2. Additional claim fees of \$ , including any multiple dependent claim fees, are required. independent claims over 3. for for -dependent claims over 20. for multiple dependent claim surcharge. Applicant must either submit the additional claim fees or cancel additional claims for which fees are due. The oath or declaration: The cath or pectaration: is missing or unexecuted. does not identify the application to which it applies. does not include the city and state or foreign country of applicant's residence. An oath or declaration in compliance with 37 CFR 1. 63, including residence information and identifying the application by the above Application-Number and Filling Date is required. 4. The signature(s) to the path or declaration is/are by a person other than inventor or person qualified under 37 CFR 1.42, 1.43 br 1.47. A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required. 5. The signature of the following joint inventor(s) is missing from the oath or declaration: An oath or declaration in compliance with 37 CFR 1.63 listing the names of all inventors and signed by the omitted inventor(s), identifying this application by the above Application Number and Filing Date, is required. 09181738 58 7. Your filing receipt was mailed in error because your check was returned without payment.
 8. The application does not comply with the Sequence Rules. See attached "Notice to Comply with Sequence Rules 37 CFR 1.821-1.825." 9. OTHER: Direct the reply and any questions about this notice to "Attention: Box Missing Parts A copy of this notice MUST be returned with the reply. **TTRAN1** Customer Service Center Initial Patent Examination Division (703) 308-1202 1999 FC:205 2 PART 2 - COPY TO BE RETURNED WITH RESPONSE FORM PTO-1533 (REV.9 97)

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#### PATENT APPLICATION

### IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:Pyles, et al.Date:February 16, 1999Filed:October 28, 1998Docket No.:EPIXINC-4Application No.:09/181,738Art Unit:2816For:PEDOMETER

Jeffr

### **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

Name of applicant, assignee or Registered Representative

14

Smith, Reg. No. 33455

Assistant Commissioner for Patents

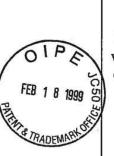
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Dear Sir:

Washington, D.C. 20231

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

2816



INFORMATION DISCLOSURE STATEMENT RECEIVED

ED STATES P.

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		14.1	
U.S. Patent No.	Issue Date		Patentee
4,053,755	10-11-1977		Sherrill
4,223,211	09-16-1980		Allsen et al.
4,334,190	06-08-1982		Sochaczevski
4,337,529	06-29-1982		Morokawa
4,371,945	02-01-1983		Karr et al.
4,510,704	04-16-1985		Johnson
4,651,446	03-24-1987		Yukawa et al.
4,741,001	04-26-1988		Ма
4,771,394	09-13-1988		Cavanagh
4,855,942	08-08-1989		Bianco
5,117,444	05-26-1992		Sutton et al.
5,475,725	12-12-1995		Nakamura
5,476,427	12-19-1995		Fujima
5,490,816	02-13-1996		Sakumoto
5,516,334	05-14-1996		Easton
5,526,290	06-11-1996		Kanzaki

## United States Patents

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

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.

Respectfully submitted,

By: 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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PTO/SB/08A (10-96)

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Please type a plus sign (+) inside this box ightarrow fb Patent and Trademark Office: 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 plumb Application Number Substitute for form 1449A/PTO 09/181.738 Filing Date October 28, 1998 INFORMATION DISCLOSURE First Named Inventor Nathan Pyles STATEMENT BY APPLICANT Group Art Unit 2816 (Use as many sheets as necessary) Examiner Name Wambach Attorney Docket Number Sheet Of 1 EPIXINC-4 1 U.S. PATENT DOCUMENTS Cite No.1 Name of Patentee or Applicant of Cited Date of Publication of Pages, Columns, Lines, Where Relevant Passages or Relevant Examiner U.S. Patent Document Initials Cited Document Number Kind Code<sup>2</sup> Document Figures Appear MM-DD-YYYY (If known) MRW 10-11-1977 4,053,755 Sherrill Men 4,223,211 Alisen et al. 09-16-1980 mu 06-08-1982 4,334,190 Sochaczevsk 5.175 4,337,529 Morokawa 06-29-1982 4,371,945 mins Karr et al. 02-01-1983 Mnu Johnson 4,510,704 04-16-1985 £4999 4,651,446 Yukawa et al 03-24-1987 MAL 4,741,001 Ma 04-26-1988 The states Cavanagh 4,771,394 09-13-1988 Bianco 08-08-1989 4,855,942 MW Sutton et al. 5,117,444 05-26-1992 M 5,475,725 Nakamura 12-12-1995 mu 5,476,427 Fujima 12-19-1995 m 02-13-1996 5,490,816 Sakumoto 05-14-1996 5,516,334 Easton Mr mu 5,526,290 Kanzaki 06-11-1996 FOREIGN PATENT DOCUMENTS Foreign Patent Document Name of Pate Date of Publication of Pages, Columns, Lines, Cite No.1 Where Relevant Passages Examiner Office<sup>3</sup> Number<sup>4</sup> Kind Code<sup>5</sup> Applicant of C **Cited Document** initials\* Document MM-DD-YYYY or Relevant Figures Appear T<sup>6</sup> (If known) RECEIVED FEB 2.2 1999 1/24 /58011P 2100 Mar Examiner Date オル Considered Signature 6 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.

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

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#### PATENT PPLICATION

December 17, 1999

**EPIXINC-4** 

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#### **TED STATES PATENT AND TRADEMARK OFFICE**

Applicant:	Pyles, et al.	Date:
Filed:	October 28, 1998	Docket No.:
Application No.:	09/181,738	Art Unit:
For:	PEDOMETER	Examiner:
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### SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Assistant Commissioner for Patents Washington, D.C. 20231

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Dear Sir:

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



<u>U.S. Patent No.</u> <u>Issue Date</u> 5,583,776 12-10-1996 <u>Patentee</u> Levi et al.

A copy of this document is submitted herewith along with Form PTO/SB08A.

It is believed that no fee is owed for this disclosure under 37 C.F.R. 1.97(b)(3), because Applicants have not received and are not aware of a mailed office action on the merits.

If an action was mailed prior to the filing date hereof, the information disclosed herein is submitted after the mailing of a first office action and before the mailing of a final action. Thus, Applicants note, under 37 C.F.R.  $\S1.97(e)(2)$ , that no item of information disclosed herein was cited by a foreign patent office in a counterpart application, and to the knowledge of the undersigned after making a reasonable inquiry, no item of information contained herein was known to any individual designated in  $\S1.56(c)$  more than three months prior to the filing of this information disclosure statement. Thus, it is believed no fee is owed for this filing. Nonetheless, if a fee is owed, the Office is hereby authorized to charge Account No. 15-0660. A duplicate copy of this document is enclosed.

Applicants respectfully request that this document 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 (608) 257-7766 RECEIVED DEC 2 3 1999 TECHNOLOGY CENTER 2800

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#### PATENT APPLICATION

# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Pyles, et al.	Date:	December 17, 1999
Filed:	October 28, 1998	Docket No.:	EPIXINC-4
Application No.:	09/181,738	Art Unit:	2816
For:	PEDOMETER	Examiner:	
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<u>Jeffry W. Smith, Reg. No. 33455</u> Name of applicant, assignee or Registered Representative

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Respectfully submitted,

By

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

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### **DETAILED ACTION**

#### Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-45 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are replete with terms which lack a clear antecedent basis. Numerous instances of this problem will be specifically pointed out; however, applicant is required to proofread and correct all instances.

In claims 4, 20"the transmission signal", in claim 7, 23 "the step count signal", in claims 10, 26, "the heart rate signal" and "the pedometer signal", in claims 12, 28, "the heart rate" and "the step counter", in claim 17, "the number of strides" and "the rate", claim 32, "the total number of strides", "the stride count" and "the first run time", claim 35, "the receiver", "the step count signal" and "the distance", claim 37, "the total number of strides", "the first run distance", "the stride count" "the first run stride count", "the first run time" and "the First Run Stride Rate" (all of the problems of claim 37 are repeated with regard to the second - fourth run), and claim 44, "the user first run", "the first run time" and "the stride count" lack a clear antecedent basis.

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Also in claim 12, applicant's intended meaning cannot be discerned from the references of "the heart rate" which is located in a housing.

### Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. Claims 1, 3, 4, 6, 7, 9, 10 and 11 are rejected under 35 U.S.C. 102(a) as being anticipated by Sham et al..

Sham teaches a pedometer including a step counter (32), a transmitter (the wiring between 32 and 34) which transmits a digitally coded step signal . and a receiver (30), referring to Figure 3. It is inherent that the receiver is "mountable" to a second body portion insofar as the term itself only means that it is possible to mount the receiver elsewhere. Secondly, the term "body portion" is so broad that the limitation is met merely by having the receiver and transmitter at different locations within the same housing (therefor affixed to different body portions.)

Moreover, Sham discloses a wrist watch arrangement on column 3, lines 43-45 as recited in claim 6. Sham discloses a processor and viewing screen (34 and 18) as recited in claim 7. As recited in claim 9, a heart rate monitor and a second transmitter (10 and 31) are also taught. Insofar as the heart rate signal is a wireless signal and the pedometer signal, assuming applicant

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means the signal from the step counter, is from a wire, these signals would inherently be of different frequencies, as recited in claim 10. The heart rate monitor is mounted to the user's chest and thus, claim 11 is also met.

### Claim Rejections - 35 USC § 103

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

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

6. Claims 2 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sham et

al..

The difference between Sham and claims 2 and 8 lies in the substitution of a wireless transmitter for a wire and a leg band for an arm or waist band. The first difference is not of patentable merit because the use of wireless transmitters is widespread in the art. Insofar as Sham does in fact employ a wireless transmitter for the heart monitor, and Sham would have the motivation of reducing the weight of box 14 by locating the step counter at a remote location, the motivation exists to employ that a wireless transmitter for the step counter. In terms of the leg band, it is merely commonsensical that anything which could be strapped to an arm or waist could also be strapped to a leg. In fact, Sham clearly wishes to leave the designer the latitude to make

Page 4

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such decisions because of the statement on column 3, line 44 that the device could be secured "in other ways."

### Allowable Subject Matter

7. Claims 5, 12-16, 18-31, 33-36, 38-43 and 45 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 17, 32, 37 and 44 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, set forth in this Office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Wambach whose telephone number is (703) 308-4875. The examiner can normally be reached on Monday-Thursday from 6:30 to 5p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tim Callahan, can be reached on (703) 308-4876. The fax phone number for this Group is (703) 308-7722.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.  $\mathcal{M}_{aux}$  the  $\mathcal{L}_{aux}$ 

Margasthow Warter

Margaret R. Wambach Primary Examiner

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TomTom Exhibit 1010, Page 65 of 128

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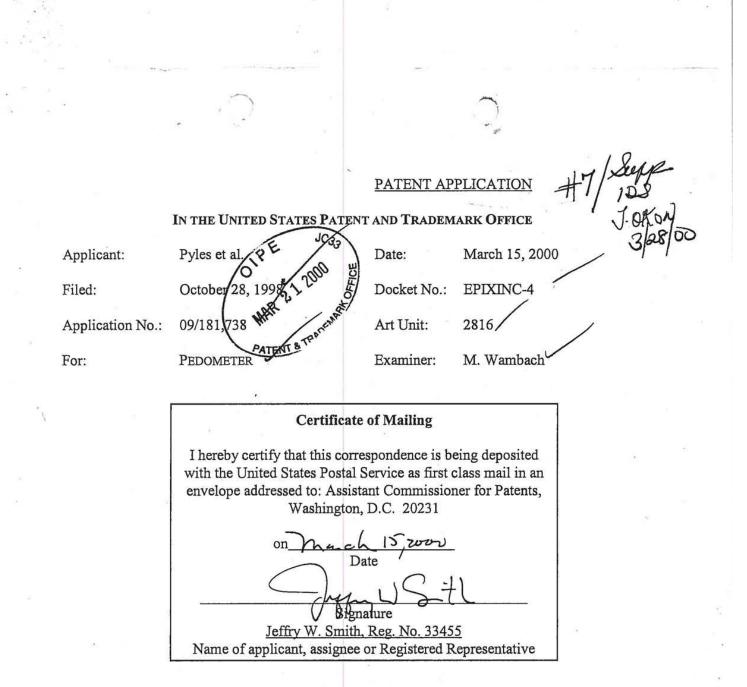
U.S. DEPARTMENT OF COMMERCE - Patent and Trademark Office

81 Application No

## NOTICE OF DRAFTSPERSON'S PATENT DRAWING REVIEW

The drawing(s) filed (insert date) 10/29/40 are: A. approved by the Draftsperson under 37 CFR 1.84 or 1.152. B. objected to by the Draftsperson under 37 CFR 1.84 or 1.152 for the reasons indicated below. The Examiner will require submission of new, corrected drawings when necessary. Corrected drawing must be sumitted according to the instructions on the back of this notice.

	ALL DISCONTRACTORS
1. DRAWINGS. 37 CFR 1.84(a): Acceptable categories of drawings:	
Black ink. Color.	Words do not appear on a horizontal, left-to-right fashion
Color drawings are not acceptable until petiton is granted.	when page is either upright or turned so that the top
Fig(s)	becomes the right side, except for graphs. Fig(s)
Pencil and non black ink not permitted. Fig(s)	9. SCALE. 37 CFR 1.84(k)
PHOTOGRAPHS. 37 CFR 1.84 (b)	Scale not large enough to show mechanism without
1 full-tone set is required. Fig(s)	crowding when drawing is reduced in size to two-thirds in
Photographs not properly mounted (must use brystol board or	reproduction.
photographic double-weight paper). Fig(s)	Fig(s)
	10: CHARACTER OF LINES, NUMBERS, & LETTERS.
B. TYPE OF PAPER. 37 CFR 1.84(e)	37 CPR 1.84(i)
Paper not flexible, strong, white, and durable.	Lines, numbers & letters not uniformly thick and well
Fig(s)	defined, clean, durable, and black (poor line quality).
Erasures, alterations, overwritings, interlineations,	Fig(s)
	11. SHADING. 37 CFR 1.84(m)
Mylar, velum paper is not acceptable (too thin).	Solid black areas pale. Fig(s)
	Solid black shading not permitted. Fig(s)
Fig(s)	
SIZE OF PAPER. 37 CFR 1.84(f): Acceptable sizes:	Shade lines, pale, rough and blurred. Fig(s)
	12. NUMBERS, LETTERS, & REFERENCE CHARACTERS.
21.6 cm by 27.9 cm (8 1/2 x 11 inches)	37 CFR 1.84(p)
All drawing sheets not the same size.	Numbers and reference characters not plain and legible.
Sheet(s)	Fig(s)
Drawings sheets not an acceptable size. Fig(s)	Figure legends are poor. Fig(s)
MARGINS. 37 CFR 1.84(g): Acceptable margins:	Numbers and reference characters not oriented in the
The second s	
Top 2.5 cm Left 2.5cm Right 1.5 cm Bottom 1.0 cm	Fig(s)
SIZE: A4 Size	English alphabet not used. 37 CFR 1.84(p)(2)
Top 2.5 cm Left 2.5 cm Right 1.5 cm Bottom 1.0 cm	Figs
SIZE: 8 1/2 x 11	Numbers, letters and reference characters must be at least
Margins not acceptable. Fig(s)	.32 cm (1/8 inch) in height. 37 CFR 1.84(p)(3)
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	13. LEAD LINES. 37 CFR 1.84(q)
. VIEWS. 37 CFR 1.84(h)	Lead lines cross each other. Fig(s)
REMINDER: Specification may require revision to	—— Lead lines missing. Fig(s)
	<ol> <li>NUMBERING OF SHEETS OF DRAWINGS. 37 CFR 1.84(t)</li> </ol>
Partial views. 37 CFR 1.84(h)(2)	Sheets not numbered consecutively, and in Arabic numerals
Brackets needed to show figure as one entity.	beginning with number 1. Sheet(s)
	15. NUMBERING OF VIEWS. 37 CFR 1.84(u)
Views not labeled separately or properly.	Views not numbered consecutively, and in Arabic numerals,
Fig(s)	beginning with number 1. Fig(s)
	16. CORRECTIONS. 37 CFR 1.84(w)
Fig(s)	Corrections not made from prior PTO-948
. SECTIONAL VIEWS. 37 CFR 1.84 (h)(3)	dated
Hatching not indicated for sectional portions of an object.	17. DESIGN DRAWINGS. 37 CFR 1.152
Fig(s)	Surface shading shown not appropriate. Fig(s)
Sectional designation should be noted with Arabic or	Solid black shading not used for color contrast.
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#### 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:

1

#### 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,

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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

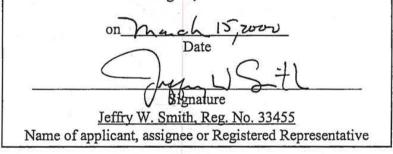
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#### PATENT APPLICATION IN THE UNITED STATES PATENT AND TRADEMARK OFFICE March 15, 2000 Applicant: Pyles et al. JC3 Date: October 28, 19 **EPIXINC-4** Filed: cket No .: 09/181,738 Application No.: Eft Unit: 2816 For: PEDOMETER Examiner: M. Wambach

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#### 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:

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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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				Filing Date	October 28, 1998
INFORMATION DISCLOSURE				First Named Inventor	Nathan Pyles
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Sheet	1	Of	1	Attorney Docket Number	EPIXINC-4

		OTHER PRIOR ART - NON PATENT LITERATURE DOCUMENTS	
Examiner Initials*	Cite No. <sup>1</sup>	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
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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.

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

1

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Affidavits/declaration(s)		a Provisional Application	Status Letter
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Under the Paperwork Reduction Act of 1995, no persons are required to the required to the reduction Ac JCSS number Complete If Known MAR 21 2000 FEE TRANSMITTAL 09/181,738 Application Number Forg Date October 28, 1998 Syst Named Inventor Nathan Pyles Note: Effective October 1, 1997, Patent fees are subject to annual reasion TOTAL AMOUNT OF PAYMENT \$240.00 Group Art Unit 2816 M. Wambach Examiner Name EPIXINC-4 Attorney Docket Number METHOD OF PAYMENT (check one) FEE CALCULATION (Continued) The Commissioner is hereby authorized to charge indicated fees and credit any over payments to: 1. ADDITIONAL FEES  $\boxtimes$ Large Entity Deposit Account Number Small Entity 15-0660 Fee Fee Fee Description Fee Paid Code Code (\$) (\$) 105 130 205 Surcharge - late filing fee or oath 65 Deposit Account Name Lathrop & Clark Surcharge - late provisional filing fee or cover sheet 127 50 227 25 Charge Any Additional Fee Required Under 37 CFR 1.16 and Charge the Issue Fee Set in 37 CFR 1.18 at the Mailing of the Notice of Allowance 139 130 139 130 Non-English specification X П 2,520 147 147 2,520 For filing a request for reexamination 17 Requesting publication of SIR prior to Examiner action 112 920\* 112 920\* 2.  $\boxtimes$ Payment Enclosed: ⊠<sup>Check</sup> Money Order Other 113 1,840 113 1,840\* Requesting publication of SIR after Examiner action FEE CALCULATION 115 110 215 55 Extension for reply within first month 1. FILING FEE Extension for reply within second 190 116 380 216 month Large Entity Small Entity 117 870 217 435 Extension for reply within third month Fee Code Fee Paid Fee Fee Description 118 1.360 218 680 Extension for reply within fourth Fee Fee Code month (\$) (\$) 128 1850 228 925 Extension for reply within fifth month 101 690 201 345 Utility filing fee 119 300 219 150 Notice of Appeal 106 310 206 155 Design filing fee 120 300 220 150 Filing a brief in support of an appeal 107 480 207 240 Plant filing fee 121 260 221 130 Request for oral hearing Petition to Institute a public use proceeding 108 760 208 380 Reissue filing fee 138 1,510 138 1,510 Provisional filing fee 150 214 140 110 55 114 75 240 Petition to revive - unavoidable SUBTOTAL (1) \$0.00 1,210 605 141 241 Petition to revive - unintentional Fee from below 2. CLAIMS Extra Fee Paid 142 1,210 242 605 Utility issue fee (or reissue) 0 **Total Claims** -20= X 11 \$0.00 143 430 243 215 Design issue fee Independent Claims -3= 0 X 41 = \$0.00 144 580 244 290 Plant issue fee 122 130 122 130 Petitions to the Commissioner Petitions related to provisional applications Multiple Dependent Claims 135 \$0.00 123 50 50 123 126 240 126 240 Submission of Information Disclosure \$240.00 Large Entity Small Entity Statement Fee Description 40 Recording each patent assignment Fee Code Fee Code Fee 581 40 581 Fee per property (times number of properties) (\$) Filing a submission after final rejection (37 CFR 1.129(a)) 103 18 203 9 Claims in excess of 20 146 760 246 380 For each additional invention examined (37 CFR 1.129(b)) 102 78 202 39 Independent Claims in excess of 3 149 760 249 380 104 204 260 130 Multiple dependent claims 109 78 209 39 Reissue Independent claims over Other fee (specify) original patent Reissue claims in excess of 20 and over original patent 110 18 210 9 Other fee (specify) SUBTOTAL (2) \$0.00 SUBTOTAL (3) \$240.00 \*Reduced by Basic Filing Fee Paid SUBMITTED BY Complete (if applicable) Typed or Printed Name Jeffry W. Smith 33455 Reg. Number March 15 2000 Deposit Account User ID Date Signature

In The United States Patent And Trademark Office Applicant: March 15, 2000 Pyles et al. Date: October 28, 1998 Docket No .: EPIXINC Date Filed: 2816 09/181,738 Art Unit: App. No.: For: Examiner: M. Wambach PEDOMETER. 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: Box Non-Fee Amendment, 'Assistant Commissioner for Patents, Washington, D.C. 20231 15 Date 04/17/2000 VBROWN2 00000002 150600 09181738 01 FC:102 234.00 CH 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 comprisin R a step counter mountable on a user fy dy portion; 03/23/2000 MSHIFERA 00000032 09181738 01 FC:126 240.00 OP

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<u>a transmitter in communication with the step counter to generate a signal</u> <u>corresponding to each step and transmit the signal; and</u> <u>a receiver mountable on a user second body portion to receive the signal transmitted</u> <u>from the transmitter and use the signal to calculate a distance traveled</u> [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.) <u>A pedometer comprisive</u>:

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.

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2. (Amended.) <u>A pedometer comprising:</u>

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 plaim 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.) <u>A pedometer comprising:</u>
<u>a step counter mountable on a user first body portion;</u>
<u>a transmitter in communication with the step counter to generate a signal</u>
<u>corresponding to each step and transmit the signal; and</u>
<u>a receiver mountable on a user second body portion to receive the signal transmitted</u>
<u>from the transmitter and use the signal to calculate a distance traveled</u>
[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 <u>step count</u> signal corresponding to each step and transmit the <u>step count</u> 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] <u>a</u> rate at which strides are taken.

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820. (Amended.) The pedometer of claim 12, wherein the [transmission] step count signal is digitally coded.

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A. (Amended.) The pedometer of claim  $\mathcal{H}$ , [where in] <u>wherein</u> the transmitter transmits the signal a wireless distance in the range of [thirty] <u>zero</u> to thirty-six inches.

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

a heart rate monitor; and

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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.

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

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

2. (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;

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

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 rate;

calculating the actual stride length using the formula:

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

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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.

20 35. (Amended.) The pedometer of claim 32, wherein the [receiver processes the step count signal and displays] pedometer is further programmed to calculate and display [the] <u>a</u> distance traveled on a viewing screen.

 $\sqrt{7}$ . (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 <u>second run</u> distance <u>to obtain a second run</u> <u>time;</u>

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

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

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

3-34. (Amended.) A method for calculating an actual stride length comprising the steps

of:

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timing a first user run of a predetermined distance <u>to obtain a first run time</u>; counting a total number of strides in the [user] first <u>user</u> run <u>to obtain a stride count</u>; 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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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. Applicant: Pyles et al. Application No.: 09/181,738 Art Unit: 2816

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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TomTom Exhibit 1010, Page 81 of 128

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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,

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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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MAR 2 7	2000 H	PATENT APPLICATE	ON #9/SupIDS
Applicant:	Pyles et al.	Г	Contificate of Mailing
Docket No.:	EPIXINC-4		Certificate of Mailing
Date:	March 21, 2000		I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:
Application No.:	09/181,738		Assistant Commissioner for Patents Washington, D.C. 20231
Filed:	October 28, 1998	RECEIVEL	On March 21, 2000
Art Unit:	2816 . M	AR 2 9 2000	Signature Jufful St. Jeffry W. Smith, Reg. No. 33455
Examiner:	M. Wambach	NOLOGY CENTER 2800	Name of Applicant, assignee or Registered Representative
For:	Pedometer		

#### SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Assistant Commissioner for Patents Washington, D.C. 20231

Dear Sirs:

U.S. Patent No.

5,033,013

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

# Issue DatePatentee07-16-1991Kato et al.

#### Foreign Patent Documents

<u>Patent No.</u> <u>Iss</u> EP 0 119 009 A1 09

<u>Issue Date</u> 09-02-1983 <u>Patentee</u> 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.

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

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Substitute for form 1449B/PTO				Application Number	09/181,738	
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(Use as many sheets as necessary)				Examiner Name	M. Wambach	
Sheet	2	Of	2	Attorney Docket Number	EPIXINC-4	

		OTHER PRIOR ART - NON P	ATENT LITERATURE DOCUMENTS	
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<sup>1</sup>Unique citation designation number. <sup>2</sup>Applicant is to place a check mark here if English language translation is attached

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#### PATENT COOPERATION TREA

## PCT

#### INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference EPIXINC-9	FOR FURTHER see Notification (Form PCT/ISA/	of Transmittal of International Search Report 220) as well as, where applicable, item 5 below.
nternational application No.	International filing date (day/month/year)	(Earliest) Priority Date (day/month/year)
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This International Search Report const X It is also accompanied	ists of a total of3sheets, by a copy of each prior art document cited in this	a report.
1. Basis of the report		
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# INTERNATIONAL SEARCH REPORT

ternational Application No PCT/US 99/25314

## A. CLASSIFICATION OF SUBJECT MATTER IPC 7 G01C22/00

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED Minimum documentation and IPC 7 G01C earched (classification system followed by classification symbols)

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Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the International search (name of data base and, where practical, search terms used)

### C. DOCUMENTS CONSIDERED TO BE RELEVANT Category \* Citation of document, with indication, where appropriate, of the relevant passages Relevant to claim No. US 5 033 013 A (KATO YASUJI ET AL) 16 July 1991 (1991-07-16) X 1-3,5-7, 13, 17-19, 21-23,49 column 7, line 25 - line 30 column 8, line 21 - line 28 abstract 14,29, 32,35, 37,44 A X Further documents are listed in the continuation of box C. X Patent family members are listed in annex. Special categories of cited documents : "T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention "A" document defining the general state of the art which is not considered to be of particular relevance Invention "X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone "Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such document is combined with one or more other such documents, such combination being obvious to a person skilled in the art. "E" earlier document but published on or after the international filing date "L" document which may throw doubts on priority cialm(s) or which is cited to establish the publication date of another citation or other special reason (as specified) "O" document referring to an oral disclosure, use, exhibition or other means "P" document published prior to the international filing date but later than the priority date claimed "&" document member of the same patent family Date of the actual completion of the international search Date of mailing of the international search report 6 March 2000 13/03/2000 Name and mailing address of the ISA Authorized officer European Patent Office, P.B. 5818 Patentiaan 2 NL - 2280 HV Rijewijk Tel. (+31-70) 340-2040, Tx. 31 651 epo nl, Fax: (+31-70) 340-3018 Hunt, J Form PCT/ISA/210 (second sheet) (July 1992)

page 1 of 2

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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, 27,49
1.11	page 10 page 11		
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	US 5 583 776 A (LEVI ROBERT W ET AL) 10 December 1996 (1996-12-10)		49,53,54
A	column 6, line 6 - line 42; claim 14; figures 5,7 abstract		32,35, 44,50
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m PCT/I8A/21	0 (continuation of second sheet) (July 1992)		

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## TomTom Exhibit 1010, Page 89 of 128

	122	dernational Application No PCT/US 99/25314			
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PTO/SB/21 (12-97) ved for use through 9/30/00. OMB 0651-0031 K Office: U.S. DEPARTMENT OF COMMERCE se type a plus sign (+) inside this Patent and Trac ation unless it displays a valid OMB control Under the Paperwork Reduction Act of 1995, no p nd to a col SIPE Application Number 09/181,738 TRANSMITTAL Filing Date October 28, 1998 MAR 2 7 2000 FORM First Named Inventor Nathan Pyles Group Art Unit To be used for all correspondence after initial filing) 2816 BADE Examiner Name M. Wambach Total Number of Pages in This Submission Attorney Docket Number EPIXINC-4 Fee Transmittal Form Assignment Papers After Allowance Communication (For an Application) То Group Fee Attached Drawing(s) Appeal Communication to Board Amendment / Response Of Licensing-related Papers Appeals and Interferences Petition Routing Silp (PTO/SB/69) Appeal Communication to Group After Final And Accompanying Petition (Appeal Notice, Brief, Reply Brief) To Convert a Provisional Affidavits/deciaration(s) Proprietary information Application Extension of Time Request Power of Attorney, Revocation Status Letter Change of Correspondence Address Additional Enclosure(s) Express Abandonment Request (Please identify below): Terminal Disclaimer Small Entity Statement PTO/SB 08A and PTO/SB 08B Information Disclosure with 3 documents Request for Refund Statement Certified Copy of Priority Document(s) The Commissioner is hereby authorized to charge any additional fees that may be required with respect to this Remarks Response to Missing Parts/ communication, or credit any overpayment, to Deposit Incomplete Application Account No. 15-0660. Response to Missing Parts Under 37 CFR 1.52 or 1.53 SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT Firm or Individual name effry W. Smith, Reg. No. 33455 ZW Signature -th Date 21,2000 CERTIFICATE OF MAILING i hereby certify that this correspondence is being deposited with the United States Postai Service as first class ope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on this date: Typed or printed name Jeffry W. Smith, Reg. 33455 No. Sitt March 21, 2000 Jogy a Date Signature

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Docket No.:	EPIXINC-4	I hereby certify that this correspondence
Date:	April 4, 2000	is being deposited with the United States Postal Service as first class mail in an envelope addressed to:
Application No.:	09/181,738	Assistant Commissioner for Patents Washington, D.C. 20231
Filed:	October 28, 1998	On Apr: 1 4, 2000
Art Unit:	2816	Signature James L. Smith, Reg. No. 33455
Examiner:	M. Wambach	Name of Applicant, assignee or Registered Representative
For:	PEDOMETER	

#### 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

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APR 1 1 2000 TECHNOLOGY CENTER 2800

U.S. Patent No.	Issue Date
4,144,568	03-13-1979
4,220,996	09-02-1980
4,387,437	06-07-1983
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Patentee Hiller et al. Searcy Lowrey et al. Ruehlemann Wu Kato et al. Lubell et al. Frederick Dassler

Gerhaeuser et al.

## TomTom Exhibit 1010, Page 93 of 128

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4,830,021	05-16-1989
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5,720,200	02-24-1998
5,724,265	03-03-1998
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5,976,083	11-02-1999
6,018,705	01-25-2000

Thornton Ono et al. Endou et al. Endo et al. Smith et al. Anderson et al. Hutchings Hutchings Richardson et al. 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,

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Jeffly 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) roved for use through 10/31/99. OMB 0651-003 ark Office: U.S. DEPARTMENT OF COMMERCE Please type a plus sign (+) inside this box → ⊕ Under the Paperwork Reductient Act of 1995 Patent and ays a valid OMB co mation unless it dist Substitute for form 1449A/PTO Application Number 09/181,738 Filing Date October 28, 1998 INFORMATION DISCLOSURE First Named Inventor Nathan Pyles STATEMENT BY APPLICANT Group Art Unit 2816 Examiner Name M. Wambach (Use as many sheets as necessary) Of Attorney Docket Number EPIXINC-4 Sheet 1 1 U.S. PATENT DOCUMENTS Examiner Cite U.S. Patent Document Name of Patentee or Date of Publication Pages, Columns, Lines, Initials\* No.1 Applicant of Cited of Cited Document Where Relevant Passages or Number Kind Code<sup>2</sup> MM-DD-YYYY Document **Relevant Figures Appear** (If known) MRW 4,144,568 Hiller et al. 03-13-1979 MRU 09-02-1980 4.220.996 Searcy MRW 4,387,437 Lowrey et al. 06-07-1983 MRW 4,460,823 Ruehlemann 07-17-1984 PRW 4,466,204 Wu 08-21-1984 MRU 4,560,861 Kato et al. 12-24-1985 Mah ubell et al. 4,566,461 01-28-1986 Mnu Prederick 4,578,769 03-25-1986 MU Dat 10-27-1987 4.703.445 er MRW Getaeuser et al. 4,763,287 08-09-1988 891 mw 4,830,021 nton 05-16-1989 MRW ATENT& T 4,962,469 Ono et al. 10-09-1990 the 5,065,414 Endou et al. 11-12-1991 mw 11-17-1992 5,164,967 Endo et al. MAW 5,485,402 Smith et al. 01-16-1996 ma 5,720,200 Anderson et al. 02-24-1998 MRW Hutchings 03-03-1998 5,724,265 M 05-04-1999 5.899.963 Hutchings MRC 5,976,083 Richardson et al. 11-02-1999 PRU 6,018,705 Gaudet et al. 01-25-2000 FOREIGN PATENT DOCUMENTS Foreign Patent Document Name of Patentee or Date of Publication of Pages, Columns, Lines, Where Relevant Examiner Cite Applicant of Cited Cited Document Office<sup>3</sup> Number<sup>4</sup> Kind Code<sup>5</sup> TB Initials\* No.1 Document MM-DD-YYYY Passages or Relevant (If known) Figures Appear Examine Date War 6/BLOS Sach Signature Considered

\*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.

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

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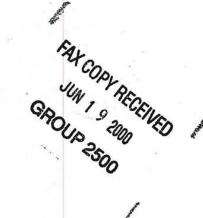
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PAGE 3/6

#### PATENT APPLICATION

In the United States Patent and Trademark Office

Applicant:Pyles et al.Docket No.:EPIXINC-4Date:June 19, 2000Application No.:09/181,738Filed:October 28, 1998Art Unit:2816Examiner:M. WambachFor: PEDOMETER



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Signatu

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

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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 1

Please amend claims 15 and 17 as follows:

#### JUN-19-00 14:54 FROM:LATHROP & CLARK

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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

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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.

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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

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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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#### TomTom Exhibit 1010, Page 100 of 128

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PAGE 6/6

clause, 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

mber.		Application Number	09/181,738
TRANSMITTAL		Filing Date	October 28, 1998
FORM		First Named Inventor	Nathan Pyles
		Group Art Unit	2816
(To be used for all correspondence after initial filing)		Examiner Name	M. Wambach
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Jeffry W. Smith June 19, 2000

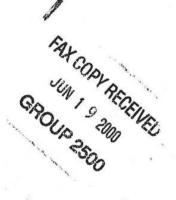
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	Application No.	Applicant(s)		
Interview Summary	09/181,738		Pyles Group Art Unit	
interview Summary	Examiner Margaret Wa		2816 *	
Il participants (applicant, applicant's representative,	PTO personnel):			
) Margaret Wambach	(3)			<b>۱</b>
) Jeffry Smith	(4)		X	M
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UNITED STATES DEPARTMENT OF COMMERCE Patent and Trademark Office Address: COMMISSIONER OF PATENTS AND TRADEMARKS Washington, D.C. 20231

AR APPLICATION NO. FILING DATE FIRST NAMED INVENTOR ATTORNEY DOCKET NO. 09/181.738 10/28/98 PYLES N EPIXINC-4 EXAMINER Γ 020455 MMC1/0621 LATHROP & CLARK LLP HANHACH M PAPER NUMBER 740 REGENT STREET SUITE 400 P.O. BOX 1507 MADISON WI 53701-1507 0 DATE MAILED:

06/21/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

PTO-90C (Rev. 2/95) U.S. G.P.O. 2000 ; 465-188/25266

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IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due. PATENT AND TRADEMARK OFFICE COPY

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Applicant MUST submit NEW FORMAL DRAWINGS			ALGOINED.		
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Information Disclosure Statement(s), PTO-1449,				2.4	
□ Notice of Draftsperson's Patent Drawing Review	r, PTO-948				
Notice of Informal Patent Application, PTO-152			Margaret R.		
Interview Summary, PTO-413			Primary Ex	aminer	
Examiner's Amenoment/Comment     Examiner's Comment Regarding Requirement for	Deposit of Biological	Material			
Examiner's Statement of Reasons for Allowance		arendi			
tent and Trademark Office					

### PATENT APPLICATION

In the United States Patent and Trademark Office

Applicant: Pyles et al.

Docket No .:

Date:

Filed:

09/181,738 Application No.: October 28, 1998

KNOWMO-2

August 11, 2000

Art Unit: 2816

M. Wambach Examiner:

For: PEDOMETER



**Certificate of Mailing** I hereby certify that this corresponder is being deposited with the United States Postal Service as first class mail in an envelope addressed to: sistant Commissioner for Patents Washington, D.C. 20231 On aug

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

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INFORMATION DISCLOSURE STATEMENT

## RECEIVED

ALIG 2 3 2000

TECHNOLOGY CENTER 2800

Assistant Commissioner for Patents Washington, D.C. 20231

. ...

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.

2

Respectfully submitted,

Jeffy<sup>I</sup>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

#### TomTom Exhibit 1010, Page 109 of 128

#### PATENT APPLICATION

In the United States Patent and Trademark Office

Applicant:	Pyles et al.	
Docket No.:	KNOWMO-2	Certificate of Mailing I hereby certify that this
Date:	August 11, 2000	correspondence is being deposited with the United States Postal
Application No.:	09/181,738 01PE	Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents,
Filed:	October 28, 1998 AUG 1 4 2000 8	Washington, D.C. 20231
Art Unit:	2816	Signature Jogg W Soll
Examiner:	M. Wambach	Jeffry W. Smith, Reg. No. 33455
For: PEDOMETER		Name of Applicant, assignee or Registered Representative

TRANSMITTAL OF INFORMATION DISCLOSURE STATEMENT AFTER Mailing Date of Final Action or Notice of Allowance

BUT BEFORE PAYMENT OF ISSUE FEE (37 C.F.R. §1.97(d))

Attn: Group Director Assistant Commissioner for Patents Washington, D.C. 20231

# RECEIVED

ALIC 2 3 2000 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).
- B. Applicants hereby petition for the consideration of the accompanying Information
   Disclosure Statement. 37 C.F.R. §1.97(d)(2).

08/16/2000 JADD01 00000035 09181738

01 FC:122

130.00 DP

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.

2

Respectfully submitted,

the

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

#### TomTom Exhibit 1010, Page 111 of 128

PTO/SB/08B (10-96)

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

Please type a plus sign (+) Inside this box  $\rightarrow \blacksquare$  Patent and Trademark Office: 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.

Substitut	Substitute for form 1449B/PTO		Application Number	09/181,738			
INFORMATION DISCLOSURE		Filing Date	October 28, 1998	010	)		
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SIA	ALEMEN	I BY AP	PLICANT	Group Art Unit	2816	ATE 14 2000 C	3
	(Use as many	sheets as ne	ecessary)	Examiner Name	M. Wambach	En of	
Sheet	1	Of	1	Attorney Docket Number	KNOWMO-2	SMARK OFFIC	

		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 <sup>2</sup>			
MW		PCT/IPEA/408, Written Opinion received August 7, 2000, 5 pgs.				
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Examiner Signature	Wambach	Date Considered	10/z/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.

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

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.

rom the	INTING AUTHORITY 10/1/00 AUG - 7 2000
To: JEFFRY W. SMITH LATHROP & CLARK LLP 740 REGENT STREET, SUITE 400 P.O.BOX 1507 MADISON WI 53701-1507	ACTION Resp. to Written
Applicant's or agent's file reference EPIXINC-9	REPLY DUE within TWO months from the above date of mailing
International application No. PCT/US99/25314	International filing date (day/month/year)       Priority date (day/month/year)         28 OCTOBER 1999       28 OCTOBER 1998
International Patent Classification (IPC) o IPC(7): GOIC 21/00 and US Cl.: 377/	or both national classification and IPC 24.2
Applicant Epix, Inc.	
<ol> <li>This written opinion is the <u>first</u></li> <li>This opinion contains indications relations</li> <li>I X Basis of the opinion</li> </ol>	(first, etc.) drawn by this International Preliminary Examining Authority. ating to the following items:
<ul> <li>2. This opinion contains indications relative in the internation of the internat</li></ul>	ating to the following items: opinion with regard to novelty, inventive step or industrial applicability ntion nder Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; ions supporting such statement ed international application on the international application ply to this opinion. dicated above. The applicant may, before the expiration of that time limit, request this extension, see Rule 66.2(d). ten reply, accompanied, where appropriate, by amendments, according to Rule 66.3. language of the amendments, see Rule 66.4. bligation to consider amendments, see Rule 66.4. Diligation to consider amendments, see Rule 66.6. al preliminary examination report will be established on the basis of this opinion. ional preliminary hed according to Rule 69.2 is: <u>28 FEBRUARY 2001</u>

om the TERNATIONAL PRELIMINARY EXAN	TENT COOPE	RATION TRI	EATY DECEVE
Fo: JEFFRY W. SMITH LATHROP & CLARK LLP 740 REGENT STREET, SUITE 4 P.O.BOX 1507 MADISON WI 53701-1507			PCATHROP & CLARK LI WRITTEN OPINION (PCT Rule 66)
		Date of Mailing (day/month/year)	1 AUG2000
Applicant's or agent's file reference EPIXINC-9			within TWO months rom the above date of mailing
International application No. PCT/US99/25314	International filing dat 28 OCTOBER 199		Priority date (day/month/year) 28 OCTOBER 1998
International Patent Classification (IPC) IPC(7): GO1C 21/00 and US Cl.: 37	or both national classifi 7/24.2	cation and IPC	
Applicant Epix, Inc. 1. This written opinion is the <u>first</u>			utional Preliminary Examining Authority.
<ol> <li>This opinion contains indications re</li> <li>I X Basis of the opinion</li> <li>II Priority</li> </ol>		items:	
IV Lack of unity of inv	ention		p or industrial applicability
IV       Lack of unity of involution         V       Reasoned statement	ention under Rule 66.2(a)(ii) w ations supporting such s	with regard to novelty,	p or industrial applicability inventive step or industrial applicability;
IV       Lack of unity of involution         V       Reasoned statement citations and explanate         VI       Certain documents c         VII       Certain defects in the	ention under Rule 66.2(a)(ii) w ations supporting such s itted e international application	with regard to novelty, tatement	
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IV       Lack of unity of inv.         V       Reasoned statement citations and explanate         VI       Certain documents c         VII       Certain defects in the         VIII       Certain observations         3. The applicant is hereby invited to r         When?       See the time limit in Authority to grant a         How?       By submitting a wr	ention under Rule 66.2(a)(ii) w ations supporting such s ited e international application on the international app reply to this opinion. Indicated above. The app an extension., see Rule ( itten reply, accompanied	vith regard to novelty, tatement on olication <del>56.2(d).</del> 1, where appropriate, b	inventive step or industrial applicability; • expiration of that time limit, request this by amendments, according to Rule 66.3.
IV       Lack of unity of inv.         V       Reasoned statement citations and explant         VI       Certain documents c         VII       Certain defects in the         VIII       Certain observations         3. The applicant is hereby invited to r         When?       See the time limit in         Authority to grant a         How?       By submitting a wr         For the form and th         Also       For an additional op         For the examiner's         For an informal cor	ention under Rule 66.2(a)(ii) w ations supporting such s ited e international application on the international app reply to this opinion. Indicated above. The app an extension., see Rule ( itten reply, accompanied te language of the amen poprunity to submit ami obligation to consider an immunication with the ex- onal preliminary	with regard to novelty, tatement on olication <del>blicant may, before the 56.2(d).</del> I, where appropriate, to dments, see Rules 66. endments, see Rules 66. andments and/or arg taminer, see Rule 66.6 ation report will be es	inventive step or industrial applicability; • expiration of that time limit, request this by amendments, according to Rule 66.3. 8 and 66.9. 6.4. uments, see Rule 66.4 <i>bis</i> . 5. tablished on the basis of this opinion.

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	1 200			Sec. 2.
Novelty (N)	Claims	14-16, 28-54		YES
	Claims	1-13 and 17-27		NO
Inventive Step (IS)	Claims	14, 16, 28-54		YES
	Claims	1-13 and 17-27		NO
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Industrial Applicability (IA)	Claims	1-54		YES
mousural Applicability (IA)		NONE		NO
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citations and explanations			e stational and a stational and	
Claims 1-13, 17-28 lack novelty under PCT A	Article 33(2) as	being anticipated by	Hutchins.	
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to a rate at which strides are taken. Claims 14-16 and 29-54 meet the criteria set suggest use of data input from runs or walks				
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		Application Number	09/181,738
TRANSM	ITTAL	Filing Date	October 28, 1998
FOR	M	First Named Inventor	Nathan Pyles
		Group Art Unit	2816
(To be used for all correspon	dence after initial filing)	Examiner Name	M. Wambache
Total Number of Pages in This	Submission	Attorney Docket Number	KNOWMO-2
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Date	Aug. 11, 2000	<u>ی</u>	
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yped or printed name	Jeffry W. S	Smith, Reg. No. 3345:	5
Signature	dellant		Date Aug 11, 2021

TomTom Exhibit 1010, Page 118 of 128

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#### Approved for use through 09/30/00. OMB 0651-0032 Patent and Trademark Office: 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. number. Complete if Known FEE TRANSMITTAL Application Number 09/181,738 9901P Filing Date October 28. First Named Inventor Nathan P 2816 65 Group Art Unit 1 4 2000 AUG Note: Effective October 1, 1997, Patent fees are subject to annual revision JNT OF PAYMENT \$130.00 Examiner Name M. Wamt TOTAL AMOUNT OF PAYMENT KNOWM Attorney Docket Number METHOD OF PAYMENT (check one) FEE CALCULATION (Continued) RADEMARK The Commissioner is hereby authorized to charge indicated fees and credit any over payments to: 1. 3. ADDITIONAL FEES X Deposit Account Number Large Entity Small Entity 15-0660 Fee (\$) Fee (\$) Fee Code Fee Code Fee Pald Fee Description 205 105 130 65 Surcharge - late filing fee or oath Deposit Account Name Lathrop & Clark Surcharge - late provisional filing fee or cover sheet 127 227 25 50 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 1.17 147 147 2,520 2,520 For filing a request for reexamination 920\* 112 920' 112 Requesting publication of SIR prior to Payment Enclosed: 2 X Examiner action ⊠<sup>Check</sup> Other Requesting publication of SIR after Order O 113 1,840\* 113 1,840\* Examiner action FEE CALCULATION Extension for reply within first month 115 110 215 55 1. FILING FEE 116 380 216 190 Extension for reply within second month Large Entity Small Entity 117 870 217 435 Extension for reply within third mo Fee (\$) Extension for reply within fourth Fee Paid Fee Description 118 1,360 218 680 Fee Code Fee Code Fee (\$) month 128 1850 228 925 Extension for reply within fifth month 101 690 201 345 Utility filing fee 119 300 219 150 4 Notice of Appeal 106 310 206 155 Design filing fee 120 300 220 150 Filing a brief in support of an appeal 107 480 207 240 Plant filing fee 121 260 221 130 Request for oral hearing 108 760 208 380 Reissue filing fee 138 1,510 138 1,510 Petition to Institute a public use proceeding Provisional filing fee 214 75 114 150 140 240 55 Petition to revive - unavoidable 110 SUBTOTAL (1) \$0.00 141 1.210 241 605 Petition to revive - unintentional Fee from below 2. CLAIMS Fee Paid Extra 142 1,210 242 605 Utility Issue fee (or reissue) Totai Claims -20= X 11 \$0.00 143 430 243 215 Design Issue fee 0 \$0.00 -3= 0 x 41 = 144 244 290 Independent Claims 580 Plant Issue fee 122 130 Petitions to the Commissioner 122 130 Multiple Dependent Claims 135 \$0.00 123 123 50 Petitions related to provisional 50 applications 126 240 126 240 Submission of Information Disclosure Statement Large Entity Small Entity Fee (\$) Recording each patent assignment Fee Fee Description 581 40 581 40 Fee Code Fee Code properties) arty (times number of per pro Filing a submission after fina rejection (37 CFR 1.129(a)) 103 18 203 9 Ciaims in excess of 20 146 760 246 380 For each additional Invention examined (37 CFR 1.129(b)) 78 202 Independent Claims in excess of 3 102 39 149 760 249 380 104 260 204 130 Multiple dependent claims Reissue independent claims over \$130.00 109 209 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 210 110 18 9 Other fee (specify) SUBTOTAL (3) SUBTOTAL (2) \$0.00 \$130.00 Reduced by Basic Filing Fee Pald SUBMITTED BY Complete (if applicable) Jeffry W. Smith 33455 Typed or Printed Name Reg. Number \$ Date Deposit Account User ID 11,2000 Signature

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UNITED STATES DEPARTMENT OF COMMERCE Patent and Trademark Office Address: COMMISSIONER OF PATENTS AND TRADEMARKS Washington, D.C. 20231

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.O. BOX 1507 ADISON WI 53701-150	7	ART UNIT 2816	PAPER NUMBER
		DATE MAILED:	10/17/00
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Please find below and/or attached an Office communication concerning this application or proceeding.

**Commissioner of Patents and Trademarks** 

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Notice of Allowability	Examiner	1	Group Art Unit	
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The allowed claim(s) is/are <u>12, 13, and 15-45</u>			1	•
] The drawings filed on are acce	ptable.			
Acknowledgement is made of a claim for foreign prior	rity under 35 U.S.C. §	119(a)-(d).		
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C received in this national stage application from		au (PCT Rule '	7.2(a)).	
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Applicant MUST submit NEW FORMAL DRAWINGS	TE UATH ON DECEN			
$\Box$ because the originally filed drawings were declared	by applicant to be in	formal.		
Including changes required by the Notice of Drafts to Paper No. 6.	person's Patent Drawi	ng Review, P	O-948, attac	ned hereto or
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Identifying indicia such as the application number (see drawings. The drawings should be filed as a separate Draftsperson.				
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TomTom Exhibit 1010, Page 121 of 128

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Patent Application IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

September 19, 2000 Applicant: Nathan Pyles Date: KNOWMO-2 Date Filed: October 28, 1998 Docket No .: Art Unit: 2816 Serial Number: 09/181,738 M. WAMBACH Examiner: For: PEDOMETER

Certificate	of Mailing
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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

Signature Je W Smith, Req. No.33455 Name of applicant, assignee or Registered Representative

TRANSMITTAL OF FORMAL DRAWINGS

Attention: Official Draftsman Assistant Commissioner for Patents Washington, D.C. 20231

IP

RADEMAS

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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

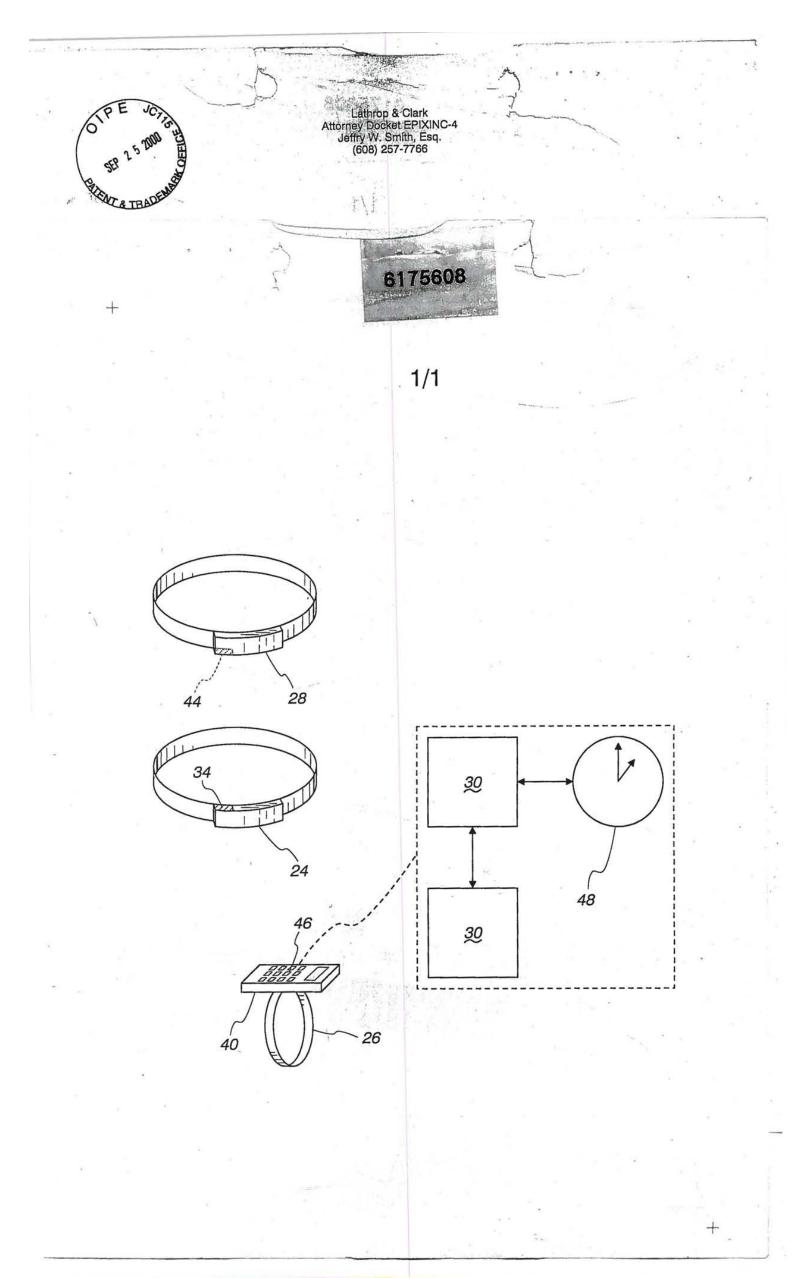
was mailed on June 21, 2000. Applicant believes no new matter has been added by these formal drawings.

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,

Lefffy/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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