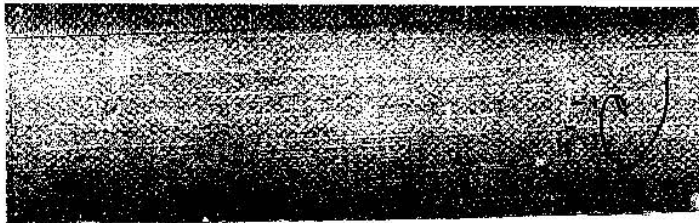


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jc518 U.S. PTO
09/18/738



377	24.2	Class	Subclass
ISSUE CLASSIFICATION			



PATENT NUMBER 6175608
6175608

U.S. UTILITY PATENT APPLICATION

O.I.P.E.	PATENT DATE JAN 16 2001
SCANNED <i>302</i> O.A. <i>AM</i>	

SECTOR	CLASS 377	SUBCLASS 24.2	ART UNIT 2816	EXAMINER <i>Margaret R. Wambach</i>
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(Attached in pocket on right inside flap)

PREPARED AND APPROVED FOR ISSUE

ISSUING CLASSIFICATION					
ORIGINAL			CROSS REFERENCE(S)		
CLASS	SUBCLASS		CLASS	SUBCLASS (ONE SUBCLASS PER BLOCK)	
377	24.2				
INTERNATIONAL CLASSIFICATION					
G01C	21 / .00		NONE		

<input type="checkbox"/> TERMINAL DISCLAIMER	DRAWINGS			CLAIMS ALLOWED	
	Sheets Drwg. 1	Figs. Drwg. 1	Print Fig. 1	Total Claims 33	Print Claim for O.G. 1
<input type="checkbox"/> a) The term of this patent subsequent to _____ (date) has been disclaimed. <input type="checkbox"/> b) The term of this patent shall not extend beyond the expiration date of U.S. Patent. No. _____	 (Assistant Examiner) _____ (Date) _____			NOTICE OF ALLOWANCE MAILED	
	Margaret R. Wambach Primary Examiner <i>Margaret R. Wambach</i> 6/22/00 (Primary Examiner) (Date)			ISSUE FEE BID Amount Due 605.00 Date Paid 9/25/00	
<input type="checkbox"/> c) The terminal _____ months of this patent have been disclaimed.	 (Legal Instruments Examiner) _____ (Date) _____			ISSUE BATCH NUMBER 039	
WARNING: The information disclosed herein may be restricted. Unauthorized disclosure may be prohibited by the United States Code Title 35, Sections 122, 181 and 368. Possession outside the U.S. Patent & Trademark Office is restricted to authorized employees and contractors only.					

Form PTO-436A (Rev. 6/99)

Formal drawings (____ sheets) Issue Fee

(LABEL AREA)

(FACE)

Wahoo, Exhibit 1006

PATENT APPLICATION



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CONTENTS

INITIALS

NOV 0 9 8 4 5

Date received (Incl. C. of M.) or Date Mailed

Date received (Incl. C. of M.) or Date Mailed

1. Application 1 papers.

2. In R's Deck

11/17/98

42.

3. Deck Fee

5-10-99

43.

4. FDS

2-18-99

44.

5. Suppl. FDS

12-22-99

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6. Fee (3 months)

1-28-00

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7. Suppl. FDS

3/21/00

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8. Admt. A

03/21/00

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9. Suppl. FDS

3/27/00

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10. Suppl. FDS

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11. Admt. B

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12. PTO 913

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16. 12/17/00 (initial drawing) LI (initial set)

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ISSUE SLIP STAPLE AREA (for additional cross references)

POSITION	INITIALS	ID NO.	DATE
FEE DETERMINATION	<i>EW</i>	<i>249</i>	
O.I.P.E. CLASSIFIER		<i>EW</i>	<i>11/6</i>
FORMALITY REVIEW	<i>EF</i>	<i>59984</i>	<i>11-13-58</i>

INDEX OF CLAIMS

- ✓ Rejected
- = Allowed
- (Through numeral)... Canceled
- ÷ Restricted
- N Non-elected
- I Interference
- A Appeal
- O Objected

Claim	Date
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If more than 150 claims or 10 actions
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SEARCHED

Class	Sub.	Date	Exmr.
377	24.2	1/24/00	MRW
<u>updated</u>		6/20/00	MRW

**SEARCH NOTES
(INCLUDING SEARCH STRATEGY)**

	Date	Exmr.
WEST performed	1/24/00	MRW

INTERFERENCE SEARCHED

Class	Sub.	Date	Exmr.
377	24.2	6/20/00	MRW

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PATENT APPLICATION SERIAL NO. _____

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE
FEE RECORD SHEET

11/03/1998 GMSHING 00000027 150660 09181738

01 FC:101	38.00 CH	752.00 OP
02 FC:102	164.00 CH	
03 FC:103	550.00 CH	

Printed 10/28/2000

SERIAL NUMBER	FILING DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO
09/181,738	10/28/1998	377	2816	EPIXINC-4

APPLICANT
 NATHAN PYLES, LAKE MILLS, WISCONSIN; JOEL M MACHT, REECEVILLE,
 WISCONSIN; CHEN-SHUI JUNG, TAIPEI, TAIWAN.

CONTINUING DOMESTIC DATA***
 VERIFIED

371 (NAT'L STAGE) DATA***
 VERIFIED

FOREIGN APPLICATIONS***
 VERIFIED

FOREIGN FILING LICENSE GRANTED 11/13/1998 SMALL ENTITY

Foreign priority claimed 35 USC 119 (a-d) conditions met	<input type="radio"/> yes <input type="radio"/> no <input type="radio"/> yes <input type="radio"/> no <input type="radio"/> Met after Allowance	STATE OR COUNTRY	SHEETS DRAWINGS	TOTAL CLAIMS	INDEPENDENT CLAIMS
Verified and acknowledged	Examiner's Name Initials	TWK U.L.	1	45	5

ADDRESS
 LATHROP & CLARK LLP
 740 REGENT STREET SUITE 400
 P.O. BOX 1507
 MADISON , WI 53701-1507

TITLE
 PEDOMETER

FILING FEE RECEIVED \$*1569	FEES: Authority has been given in Paper No. _____ to charge/credit DEPOSIT ACCOUNT NO. _____ for the following:	<input type="radio"/> All Fees <input type="radio"/> 1.16 Fees (Filing) <input type="radio"/> 1.17 Fees (Processing Ext. of Time) <input type="radio"/> 1.18 Fees (Issue) <input type="radio"/> Other _____ <input type="radio"/> Credit
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10/28/98
 3595 U.S. PTO

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Approved for use through 09/30/00. OMB 0651-0032
 Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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UTILITY PATENT APPLICATION TRANSMITTAL (Only for new nonprovisional applications under 37 CFR 1.53(b))		Attorney Docket No.	EPIXINC-4	Total Pages	
		First Named Inventor or Application Identifier			
		Nathan Pyles			
		Express Mail Label No.	EM164411845US		
APPLICATION ELEMENTS		ADDRESS TO: Assistant Commissioner for Patents Box Patent Application Washington, DC 20231			
See MPEP chapter 600 concerning utility patent application contents.					
1.	<input checked="" type="checkbox"/> Fee Transmittal Form (submit an original, and a duplicate for fee processing)	6.	<input type="checkbox"/> Microfiche Computer Program (Appendix)		
2.	<input checked="" type="checkbox"/> Specification [Total Pages 19] (preferred arrangement set forth below) - Descriptive title of the Invention - Cross References to Related Applications - Statement Regarding Fed sponsored R&D - Reference to Microfiche Appendix - Background of the Invention - Brief Summary of the Invention - Brief Description of the Drawings (if filed) - Detailed Description - Claim(s) - Abstract of the Disclosure	7.	Nucleotide and/or Amino Acid Sequence Submission (if applicable, all necessary) a. <input type="checkbox"/> Computer Readable Copy b. <input type="checkbox"/> Paper Copy (identical to computer copy) c. <input type="checkbox"/> Statement verifying identity of above copies		
3.	<input checked="" type="checkbox"/> Drawing(s) (356 USC 113) [Total Sheets 1]	ACCOMPANYING APPLICATION PARTS 8. <input type="checkbox"/> Assignment Papers (cover sheet & document(s)) 9. <input type="checkbox"/> 37 CFR 3.73(b) Statement (when there is an assignee) <input type="checkbox"/> Power of Attorney 10. <input type="checkbox"/> English Translation Document (if applicable) 11. <input type="checkbox"/> Information Disclosure Statement (IDS)/PTO-1449 <input type="checkbox"/> Copies of IDS Citations 12. <input type="checkbox"/> Preliminary Amendment 13. <input checked="" type="checkbox"/> Return Receipt Postcard (MPEP 503) (Should be specifically itemized) 14. <input type="checkbox"/> Small Entity Statement(s) <input type="checkbox"/> Statement filed in prior application, Status still proper and desired 15. <input type="checkbox"/> Certified Copy of Priority Document(s) (if foreign priority is claimed) 16. <input type="checkbox"/> Other: _____ _____ _____			
4.	<input type="checkbox"/> Oath or Declaration [Total Pages 4] a. <input type="checkbox"/> Newly executed (original or copy) b. <input type="checkbox"/> Copy from a prior application (37 CFR 1.63(d)) (for continuation/divisional with Box 17 completed) [Note Box 5 below] <input type="checkbox"/> i. DELETION OF INVENTOR(S) Signed statement attached deleting inventor(s) named in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b).				
5.	<input type="checkbox"/> Incorporation By Reference (useable if Box 4b is checked). The entire disclosure of the prior application, from which a copy of the oath or declaration is supplied under Box 4b, is considered as being part of the disclosure of the accompanying application and is hereby incorporated by reference therein.				
17. If a CONTINUING APPLICATION, check appropriate box and supply the requisite information: <input type="checkbox"/> Continuation <input type="checkbox"/> Divisional <input type="checkbox"/> Continuation-in-part (CIP) of prior application No.: /					
18. CORRESPONDENCE ADDRESS					
<input checked="" type="checkbox"/> Customer Number or Bar Code Label		020,455 (Insert Customer No. or Attach bar code label here)		or <input type="checkbox"/> Correspondence address below	
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Country	Telephone	Fax			

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FEE TRANSMITTAL				Complete if Known			
Note: Effective October 1, 1997, Patent fees are subject to annual revision.				Application Number			
				Filing Date			
				First Named Inventor		Pyles, et al.	
				Group Art Unit			
TOTAL AMOUNT OF PAYMENT		\$752.00		Attorney Docket Number		BPLXINC-4	
1. <input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge indicated fees and credit any over payments to: Deposit Account Number: 15-0660 Deposit Account Name: Lathrop & Clark <input checked="" type="checkbox"/> Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17				3. ADDITIONAL FEES Large Entity Small Entity Fee Code Fee (\$) Fee Code Fee (\$) Fee Description Fee Paid			
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2. CLAIMS Total Claims 45 -20= 25 X 11 = \$275.00 Independent Claims 5 -3= 2 X 41 = \$82.00 Multiple Dependent Claims X 135 = \$0.00 Large Entity Small Entity Fee Code Fee (\$) Fee Code Fee (\$) Fee Description Fee Paid				SUBTOTAL (1) \$395.00 SUBTOTAL (2) \$357.00 *Reduced by Basic Filing Fee Paid SUBTOTAL (3) \$0.00			
SUBMITTED BY Typed or Printed Name: Jeffry W. Smith Signature: <i>Jeffry W. Smith</i> Date: Oct. 19, 1998				Complete (if applicable) Reg. Number: 33455 Deposit Account User ID:			

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unavoidable</td><td></td></tr> <tr><td>141</td><td>1,320</td><td>241</td><td>660</td><td>Petition to revive - unintentional</td><td></td></tr> <tr><td>142</td><td>1,320</td><td>242</td><td>660</td><td>Utility issue fee (or reissue)</td><td></td></tr> <tr><td>143</td><td>450</td><td>243</td><td>225</td><td>Design issue fee</td><td></td></tr> <tr><td>144</td><td>670</td><td>244</td><td>335</td><td>Plant issue fee</td><td></td></tr> <tr><td>122</td><td>130</td><td>122</td><td>130</td><td>Petitions to the Commissioner</td><td></td></tr> <tr><td>123</td><td>50</td><td>123</td><td>50</td><td>Petitions related to provisional applications</td><td></td></tr> <tr><td>126</td><td>240</td><td>126</td><td>240</td><td>Submission of Information Disclosure Statement</td><td></td></tr> <tr><td>581</td><td>40</td><td>581</td><td>40</td><td>Recording each patent assignment per property (times number of properties)</td><td></td></tr> <tr><td>146</td><td>790</td><td>246</td><td>395</td><td>Filing a submission after final rejection (37 CFR 1.129(a))</td><td></td></tr> <tr><td>149</td><td>790</td><td>249</td><td>395</td><td>For each additional invention to be examined (37 CFR 1.129(b))</td><td></td></tr> <tr><td colspan="6">Other fee (specify) _____</td></tr> <tr><td colspan="6">Other fee (specify) _____</td></tr> <tr> <td colspan="4" style="text-align: right;">SUBTOTAL (1)</td> <td colspan="2" style="text-align: right;">\$395.00</td> <td colspan="2"></td> </tr> </tbody> </table>				Large Entity		Small Entity		Fee Description	Fee Paid	Fee Code	Fee (\$)	Fee Code	Fee (\$)	105	130	205	65	Surcharge - late filing fee or oath		127	50	227	25	Surcharge - late provisional filing fee or cover sheet		139	130	139	130	Non-English specification		147	2,520	147	2,520	For filing a request for reexamination		112	920*	112	920*	Requesting publication of SIR prior to Examiner action		113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action		115	110	215	55	Extension for reply within first month		116	400	216	200	Extension for reply within second month		117	950	217	475	Extension for reply within third month		118	1,510	218	755	Extension for reply within fourth month		128	2,060	228	1,030	Extension for reply within fifth month		119	310	219	155	Notice of Appeal		120	310	220	155	Filing a brief in support of an appeal		121	270	221	135	Request for oral hearing		138	1,510	138	1,510	Petition to institute a public use proceeding		140	110	240	55	Petition to revive - unavoidable		141	1,320	241	660	Petition to revive - unintentional		142	1,320	242	660	Utility issue fee (or reissue)		143	450	243	225	Design issue fee		144	670	244	335	Plant issue fee		122	130	122	130	Petitions to the Commissioner		123	50	123	50	Petitions related to provisional applications		126	240	126	240	Submission of Information Disclosure Statement		581	40	581	40	Recording each patent assignment per property (times number of properties)		146	790	246	395	Filing a submission after final rejection (37 CFR 1.129(a))		149	790	249	395	For each additional invention to be examined (37 CFR 1.129(b))		Other fee (specify) _____						Other fee (specify) _____						SUBTOTAL (1)				\$395.00			
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PATENT APPLICATION

* **IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Pyles, et al.
Filed: Simultaneously herewith
For: Pedometer
Docket No.: EPIXINC-4



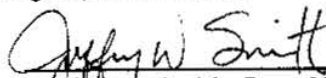
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Assistant Commissioner for Patents
Washington, D.C. 20231

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Date of Deposit: October 28, 1998

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- * 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)

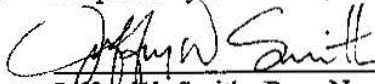
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(Jeffrey W. Smith, Reg. No. 33455)

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,



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JERRY W. SMITH

Name of Person signing

Jerry W. Smith

Signature of person mailing this document

PEDOMETER

Nathan Pyles Joel M. Macht Chen Shui-Jung

FIELD AND BACKGROUND OF THE INVENTION

5 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.

10 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
15 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.

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 distance-calculating accuracy.

The invention also provides for improved display of relevant data on a wrist-mounted 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

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

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

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

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:

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

$$N2 = ((S2 \text{ Stride} * S1 \text{ Steps Per Second}) - (S1 \text{ Stride} * S1 \text{ Steps Per Second})) / (S1 \text{ Stride} (S2 \text{ Steps Per Second} - S1 \text{ Steps Per Second}))$$

10 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:

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

$$N3 = ((S3 \text{ Stride} * S1 \text{ Steps Per Second}) - (S1 \text{ Stride} * S1 \text{ Steps Per Second})) / (S1 \text{ Stride} (S3 \text{ Steps Per Second} - S1 \text{ Steps Per Second}))$$

25 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.

30 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.

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

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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.

5 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.

10 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.

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
6 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 1, wherein the receiver is mountable on a
user's wrist.

7. The pedometer of claim 1, wherein the receiver processes the step
20 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
25 a second transmitter in communication with the heart rate monitor to transmit
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.

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

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12. The pedometer of claim 9, wherein the heart rate and the step counter transmitter are mounted in a single chest-mount housing.

13. The pedometer of claim 1, wherein the pedometer includes 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 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; 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:

$$\text{Actual Stride Length} = \text{Base Stride Length} + \text{Base Stride Length} * (((\text{Actual Stride Rate} - \text{Base Stride Rate})N) / \text{Base Stride Rate});$$

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

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15. The pedometer of claim 13, 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.

25

16. The pedometer of claim 13, 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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17. A pedometer comprising:
a step counter;
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 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

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the rate at which strides are taken.

18. The pedometer of claim 17, wherein the transmitter and the receiver communicate via wireless transmission.

19. The pedometer of claim 17, wherein the transmitter and the receiver communicate via a wire.

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20. The pedometer of claim 17, wherein the transmission signal is digitally coded.

21. The pedometer of claim 17, wherein the transmitter transmits the signal a wireless distance in the range of thirty to thirty-six inches.

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22. The pedometer of claim 17, wherein the receiver is mountable on a user's wrist.

23. The pedometer of claim 17, wherein the receiver processes the step count signal and displays the distance traveled on a viewing screen.

24. The pedometer of claim 17, wherein the step counter is mountable on a user's leg.

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25. The pedometer of claim 17, and further comprising:
a heart rate monitor; and
a second transmitter in communication with the heart rate monitor to transmit a signal corresponding to a heart rate calculated by the heart rate monitor to the receiver and display the calculated heart rate.

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26. The pedometer of claim 25, wherein the heart rate signal is at a different frequency than the pedometer signal.

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27.

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

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28.

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

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29.

The pedometer of claim N, 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;
- 10 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;
- 15 calculating the actual stride length using the formula:

$$\text{Actual Stride Length} = \text{Base Stride Length} + \text{Base Stride Length} * (((\text{Actual Stride Rate} - \text{Base Stride Rate})N) / \text{Base Stride Rate});$$

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

30.

The pedometer of claim N, 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=1 when the actual stride rate is
- 19 less than or equal to the base stride rate multiplied by 1.02.

21.

The pedometer of claim N, wherein the pedometer is further programmed to perform the steps of:

25

- 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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32. 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 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:

$$\text{Actual Stride Length} = \text{Base Stride Length} + \text{Base Stride Length} * (((\text{Actual Stride Rate} - \text{Base Stride Rate})N) / \text{Base Stride Rate});$$

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

²¹
~~33~~

The pedometer of claim ²⁰32, 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
~~34~~

The pedometer of claim ²⁰32, 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.

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35. The pedometer of claim 32, wherein the receiver processes the step count signal and displays the distance traveled on a viewing screen.

²⁴
~~36~~

The pedometer of claim ²⁰32, 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

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

5 ²⁶

Rate.

²⁵

~~38~~. The pedometer of claim ~~37~~, 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.

10 ²⁷

~~39~~. The pedometer of claim ~~37~~, wherein:

²⁵

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 the plurality of test runs.

15 ²⁸

~~40~~. The pedometer of claim ~~37~~, wherein:

²⁵

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.

20 ²⁹

~~41~~. The pedometer of claim ~~37~~, wherein the second run is at a faster pace

²⁵

than the first walk or run and the third run is at a slower pace than the first walk or run.

~~30~~

²⁵

The pedometer of claim ~~37~~, and further comprising:

25 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~~

²⁵

~~43~~. The pedometer of claim ~~37~~, and further comprising a heart rate

30 monitor mounted in a chest-mount housing.

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of

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 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;
calculating the actual stride length using the formula:

10

$$\text{Actual Stride Length} = \text{Base Stride Length} + \text{Base Stride Length} \\ *(((\text{Actual Stride Rate} - \text{Base Stride Rate})N)/\text{Base Stride Rate});$$

33

wherein N is between one and three.

32

15

45. The method of claim 44 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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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.

09481738-1022003

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

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

09101738-102899

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 Application(s)			Priority Claimed	
<u>None.</u>	<u> </u>	<u> </u>	<input type="checkbox"/>	<input type="checkbox"/>
(Number)	(Country)	(Day/Month/Year Filed)	Yes	No
<u> </u>	<u> </u>	<u> </u>	<input type="checkbox"/>	<input type="checkbox"/>
(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:

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

SECRET REF ID: A67765

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

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Citizenship United States of America

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RECEIVED

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 Inventor's Signature

 Date

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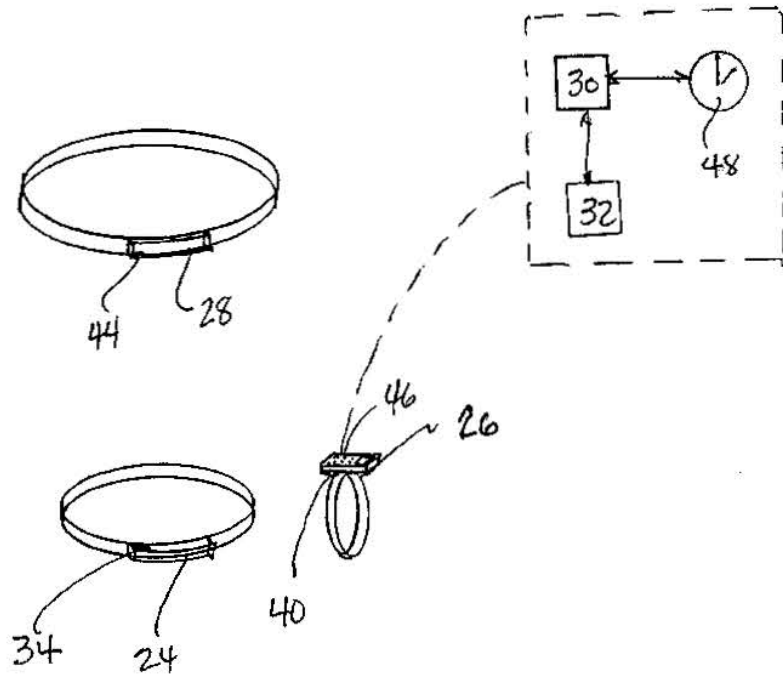


FIG. 1

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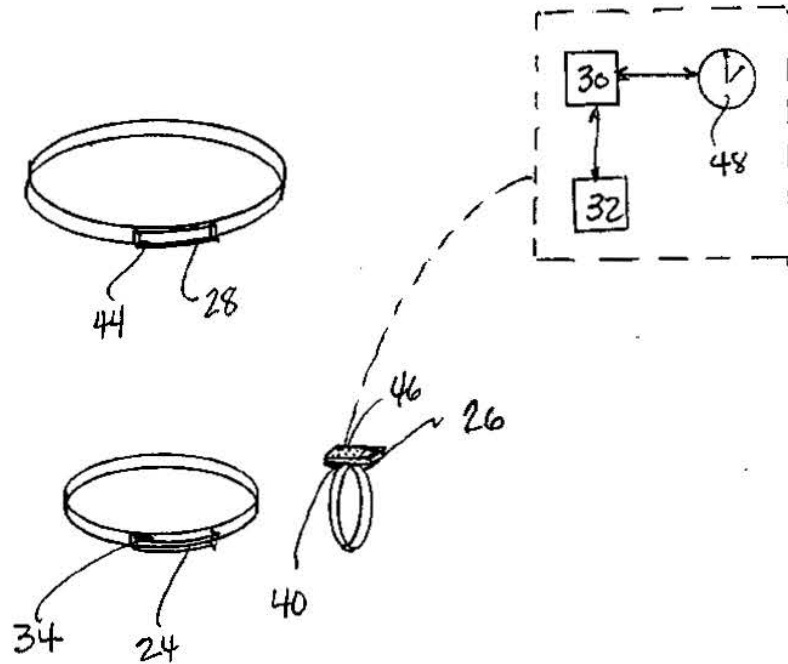


FIG. 1

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11/16

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 Washington, D.C. 20231

#2

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO./TITLE
06/10/1998	10/28/98	FILED	N LPIX100-4

ADDRESS
 EXAMINER
 U.S. DEPARTMENT OF COMMERCE
 P.O. BOX 1547
 WASHINGTON, DC 20547

0242/1117

NOT ASSIGNED

2816

DATE MAILED:

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 abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.138(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 small entity (statement filed) non-small entity is \$ 150.

- 1. The statutory basic filing fee is:
 - missing.
 - insufficient.
 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.
 - \$ _____ for _____ independent claims over 3.
 - \$ _____ 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.
- 3. The oath or declaration:
 - is missing or unexecuted.
 - does not cover the newly submitted items.
 - 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 omitted 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 notice to "Attention: Box Missing Parts."

A copy of this notice MUST be returned with the reply.

Customer Service Center
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PART 3 - OFFICE COPY

FORM PTO-1533 (REV.9-97)

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PTO/SB/21 (12-97)

App. for use through 9/30/00. OMB 0651-0031

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TRANSMITTAL FORM

TRANSMITTAL FORM	Application Number	09/181,738
	Filing Date	October 28, 1998
	First Named Inventor	Nathan Pyles
	Group Art Unit	2816
	Examiner Name	
Total Number of Pages in This Submission	Attorney Docket Number	EPIXINC-4

<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Response <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input checked="" type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input checked="" type="checkbox"/> Response to Missing Parts Under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (For an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition Routing Slip (PTO/SB/69) And Accompanying Petition <input type="checkbox"/> To Convert a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input checked="" type="checkbox"/> Small Entity Statement <input type="checkbox"/> Request for Refund	<input type="checkbox"/> After Allowance Communication To Group <input type="checkbox"/> Appeal Communication to Board Of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Additional Enclosure(s) (Please identify below):
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	Jeffrey W. Smith, Reg. No. 33455
Signature	<i>Jeffrey W. Smith</i>
Date	May 4, 1999

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 on this date:			
Typed or printed name	Jeffrey W. Smith, Reg. No. 33455		
Signature	<i>Jeffrey W. Smith</i>	Date	May 4, 1999

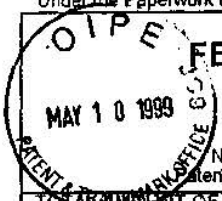
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FEE TRANSMITTAL				Complete if Known																																																																																																																																																																																																																																																																																															
<p>NOTE: Effective October 1, 1997, Patent fees are subject to annual revision.</p> <p>NET TOTAL AMOUNT OF PAYMENT: \$500.00</p> <p>METHOD OF PAYMENT (check one)</p> <p>1. <input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge indicated fees and credit any over payments to:</p> <p>Deposit Account Number: 15-0660</p> <p>Deposit Account Name: Lathrop & Clark</p> <p><input checked="" type="checkbox"/> Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17 <input type="checkbox"/> Charge the Issue Fee Set in 37 CFR 1.18 at the Mailing of the Notice of Allowance</p> <p>2. <input checked="" type="checkbox"/> Payment Enclosed: <input checked="" type="checkbox"/> Check <input type="checkbox"/> Money Order <input type="checkbox"/> Other</p> <p>FEE CALCULATION</p> <p>1. FILING FEE</p> <table border="1"> <thead> <tr> <th>Large Entity Fee Code</th> <th>Large Entity Fee (\$)</th> <th>Small Entity Fee Code</th> <th>Small Entity Fee (\$)</th> <th>Fee Description</th> <th>Fee Paid</th> </tr> </thead> <tbody> <tr><td>101</td><td>760</td><td>201</td><td>380</td><td>Utility filing fee</td><td></td></tr> <tr><td>106</td><td>310</td><td>206</td><td>155</td><td>Design filing fee</td><td></td></tr> <tr><td>107</td><td>480</td><td>207</td><td>240</td><td>Plant filing fee</td><td></td></tr> <tr><td>108</td><td>760</td><td>208</td><td>360</td><td>Reissue filing fee</td><td></td></tr> <tr><td>114</td><td>150</td><td>214</td><td>75</td><td>Provisional filing fee</td><td></td></tr> <tr><td colspan="5">SUBTOTAL (1)</td><td>\$0.00</td></tr> </tbody> </table> <p>2. CLAIMS</p> <table border="1"> <thead> <tr> <th>Total Claims</th> <th>Extra</th> <th>Fee from below</th> <th>Fee Paid</th> </tr> </thead> <tbody> <tr> <td>-20=</td> <td>0</td> <td>X 11</td> <td>= \$0.00</td> </tr> <tr> <td>Independent Claims</td> <td>-3=</td> <td>0</td> <td>X 41 = \$0.00</td> </tr> <tr> <td>Multiple Dependent Claims</td> <td></td> <td>X 135</td> <td>= \$0.00</td> </tr> </tbody> </table> <table border="1"> <thead> <tr> <th>Large Entity Fee Code</th> <th>Large Entity Fee (\$)</th> <th>Small Entity Fee Code</th> <th>Small Entity Fee (\$)</th> <th>Fee Description</th> <th>Fee Paid</th> </tr> </thead> <tbody> <tr><td>103</td><td>18</td><td>203</td><td>9</td><td>Claims in excess of 20</td><td></td></tr> <tr><td>102</td><td>78</td><td>202</td><td>39</td><td>Independent Claims in excess of 3</td><td></td></tr> <tr><td>104</td><td>260</td><td>204</td><td>130</td><td>Multiple dependent claims</td><td></td></tr> <tr><td>109</td><td>78</td><td>209</td><td>39</td><td>Reissue independent claims over original patent</td><td></td></tr> <tr><td>110</td><td>18</td><td>210</td><td>9</td><td>Reissue claims in excess of 20 and over original patent</td><td></td></tr> <tr><td colspan="5">SUBTOTAL (2)</td><td>\$0.00</td></tr> </tbody> </table> <p>3. ADDITIONAL FEES</p> <table border="1"> <thead> <tr> <th>Large Entity Fee Code</th> <th>Large Entity Fee (\$)</th> <th>Small Entity Fee Code</th> <th>Small Entity Fee (\$)</th> <th>Fee Description</th> <th>Fee Paid</th> </tr> </thead> <tbody> <tr><td>105</td><td>130</td><td>205</td><td>65</td><td>Surcharge - late filing fee or oath</td><td>\$65.00</td></tr> <tr><td>127</td><td>50</td><td>227</td><td>25</td><td>Surcharge - late provisional filing fee or cover sheet</td><td></td></tr> <tr><td>139</td><td>130</td><td>139</td><td>130</td><td>Non-English specification</td><td></td></tr> <tr><td>147</td><td>2,520</td><td>147</td><td>2,520</td><td>For filing a request for reexamination</td><td></td></tr> <tr><td>112</td><td>920*</td><td>112</td><td>920*</td><td>Requesting publication of SIR prior to Examiner action</td><td></td></tr> <tr><td>113</td><td>1,840*</td><td>113</td><td>1,840*</td><td>Requesting publication of SIR after Examiner action</td><td></td></tr> <tr><td>115</td><td>110</td><td>215</td><td>55</td><td>Extension for reply within first month</td><td></td></tr> <tr><td>116</td><td>380</td><td>216</td><td>190</td><td>Extension for reply within second month</td><td></td></tr> <tr><td>117</td><td>870</td><td>217</td><td>435</td><td>Extension for reply within third month</td><td>\$435.00</td></tr> <tr><td>118</td><td>1,360</td><td>218</td><td>680</td><td>Extension for reply within fourth month</td><td></td></tr> <tr><td>128</td><td>1,850</td><td>228</td><td>925</td><td>Extension for reply within fifth month</td><td></td></tr> <tr><td>119</td><td>300</td><td>219</td><td>150</td><td>Notice of Appeal</td><td></td></tr> <tr><td>120</td><td>300</td><td>220</td><td>150</td><td>Filing a brief in support of an appeal</td><td></td></tr> <tr><td>121</td><td>260</td><td>221</td><td>130</td><td>Request for oral hearing</td><td></td></tr> <tr><td>138</td><td>1,510</td><td>138</td><td>1,510</td><td>Petition to institute a public use proceeding</td><td></td></tr> <tr><td>140</td><td>110</td><td>240</td><td>55</td><td>Petition to revive - unavoidable</td><td></td></tr> <tr><td>141</td><td>1,210</td><td>241</td><td>605</td><td>Petition to revive - unintentional</td><td></td></tr> <tr><td>142</td><td>1,210</td><td>242</td><td>605</td><td>Utility issue fee (or reissue)</td><td></td></tr> <tr><td>143</td><td>430</td><td>243</td><td>215</td><td>Design issue fee</td><td></td></tr> <tr><td>144</td><td>580</td><td>244</td><td>290</td><td>Plant issue fee</td><td></td></tr> <tr><td>122</td><td>130</td><td>122</td><td>130</td><td>Petitions to the Commissioner</td><td></td></tr> <tr><td>123</td><td>50</td><td>123</td><td>50</td><td>Petitions related to provisional applications</td><td></td></tr> <tr><td>126</td><td>240</td><td>126</td><td>240</td><td>Submission of Information Disclosure Statement</td><td></td></tr> <tr><td>581</td><td>40</td><td>581</td><td>40</td><td>Recording each patent assignment per property (times number of properties)</td><td></td></tr> <tr><td>146</td><td>760</td><td>246</td><td>380</td><td>Filing a submission after final rejection (37 CFR 1.129(a))</td><td></td></tr> <tr><td>149</td><td>760</td><td>249</td><td>380</td><td>For each additional invention to be examined (37 CFR 1.129(b))</td><td></td></tr> <tr><td colspan="5">Other fee (specify)</td><td></td></tr> <tr><td colspan="5">Other fee (specify)</td><td></td></tr> <tr><td colspan="5">*Reduced by Basic Filing Fee Paid</td><td></td></tr> <tr><td colspan="5">SUBTOTAL (3)</td><td>\$500.00</td></tr> </tbody> </table>				Large Entity Fee Code	Large Entity Fee (\$)	Small Entity Fee Code	Small Entity Fee (\$)	Fee Description	Fee Paid	101	760	201	380	Utility filing fee		106	310	206	155	Design filing fee		107	480	207	240	Plant filing fee		108	760	208	360	Reissue filing fee		114	150	214	75	Provisional filing fee		SUBTOTAL (1)					\$0.00	Total Claims	Extra	Fee from below	Fee Paid	-20=	0	X 11	= \$0.00	Independent Claims	-3=	0	X 41 = \$0.00	Multiple Dependent Claims		X 135	= \$0.00	Large Entity Fee Code	Large Entity Fee (\$)	Small Entity Fee Code	Small Entity Fee (\$)	Fee Description	Fee Paid	103	18	203	9	Claims in excess of 20		102	78	202	39	Independent Claims in excess of 3		104	260	204	130	Multiple dependent claims		109	78	209	39	Reissue independent claims over original patent		110	18	210	9	Reissue claims in excess of 20 and over original patent		SUBTOTAL (2)					\$0.00	Large Entity Fee Code	Large Entity Fee (\$)	Small Entity Fee Code	Small Entity Fee (\$)	Fee Description	Fee Paid	105	130	205	65	Surcharge - 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First Named Inventor	Nathan Pyles																																																																																																																																																																																																																																																																																																		
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SUBMITTED BY		Complete (if applicable)	
Typed or Printed Name	Jeffrey W. Smith	Reg. Number	33455
Signature	<i>Jeffrey W. Smith</i>	Date	May 4, 1999
		Deposit Account User ID	

Approved for use through 09/30/00. OMB 0651-0032
 Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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FEE TRANSMITTAL

Note: Effective October 1, 1997, patent fees are subject to annual revision

Complete if Known

Application Number	09/181,738
Filing Date	October 28, 1998
First Named Inventor	Nathan Pyles
Group Art Unit	2818
Examiner Name	
Attorney Docket Number	EPLXINC-4

TOTAL AMOUNT OF PAYMENT \$500.00

METHOD OF PAYMENT (check one)

1. The Commissioner is hereby authorized to charge indicated fees and credit any over payments to:

Deposit Account Number: 15-0660

Deposit Account Name: Lathrop & Clark

Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17

Charge the Issue Fee Set in 37 CFR 1.18 at the Mailing of the Notice of Allowance

FEE CALCULATION (Continued)

3. ADDITIONAL FEES

Large Entity Fee Code	Large Entity Fee (\$)	Small Entity Fee Code	Small Entity Fee (\$)	Fee Description	Fee Paid
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Other fee (specify) _____					
Other fee (specify) _____					
*Reduced by Basic Filing Fee Paid				SUBTOTAL (3)	\$500.00

FEE CALCULATION

1. FILING FEE

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107	480	207	240	Plant filing fee	
108	760	208	380	Reissue filing fee	
114	150	214	75	Provisional filing fee	
SUBTOTAL (1)					\$0.00

2. CLAIMS

Total Claims	Extra	Fee from below	Fee Paid
-20=	0	X 11	= \$0.00
Independent Claims	-3=	0	X 41 = \$0.00
Multiple Dependent Claims		X 135	= \$0.00

Large Entity Fee Code	Large Entity Fee (\$)	Small Entity Fee Code	Small Entity Fee (\$)	Fee Description	Fee Paid
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109	78	209	39	Reissue independent claims over original patent	
110	18	210	9	Reissue claims in excess of 20 and over original patent	
SUBTOTAL (2)					\$0.00

SUBMITTED BY

Typed or Printed Name	Jeffrey W. Smith	Reg. Number	33455
Signature	<i>Jeffrey W. Smith</i>	Date	May 4, 1999
		Deposit Account User ID	

Complete (if applicable)

#3



Patent Application
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Pyles et al. Date: May 4, 1999
Date Filed: October 28, 1998 Docket No.: EPIXINC-4
Application Number: 09/181,738 Art Unit: 2816
For: 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: Attention: Box Missing Parts Assistant Commissioner for Patents, Washington, D.C. 20231

on May 4, 1999
Date

Jeffrey W. Smith
Signature

Jeffrey W. Smith, Reg. No. 33455
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. A Declaration and Power of Attorney, executed by the applicant on March 21,

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

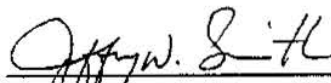
1999; May 3, 1999; and May 3, 1999.

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.

Respectfully submitted,



Jeffrey 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.htm

Patent Application
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Pyles et al. Date: May 4, 1999
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For: PEDOMETER

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Assistant Commissioner for Patents,
Washington, D.C. 20231

on May 4, 1999
Date

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

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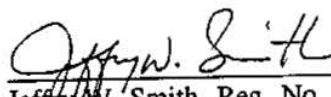
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Attorney for Applicant
Lathrop & Clark LLP
740 Regent Street, Suite 400
P.O. Box 1507
Madison, Wisconsin 53701-1507
(608) 257-7766

files.htm



Docket No.: EPIXINC-4

DECLARATION AND POWER OF ATTORNEY

I, 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

Handwritten initials "J B" and a date "10/28/98".

is attached hereto.

was filed on October 28, 1998 as Application No. 09/181,738 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 Application(s)			Priority Claimed	
<u>None.</u>	<u> </u>	<u> </u>	<input type="checkbox"/>	<input type="checkbox"/>
(Number)	(Country)	(Day/Month/Year Filed)		Yes No
<u> </u>	<u> </u>	<u> </u>	<input type="checkbox"/>	<input type="checkbox"/>
(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:

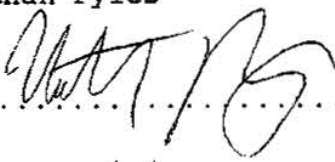
<u>None.</u>	<u> </u>	<u> </u>
(Application Serial Number)	(filing date)	(Status--patented, pending, abandoned)
<u> </u>	<u> </u>	<u> </u>
(Application Serial Number)	(filing date)	(Status--patented, pending, abandoned)

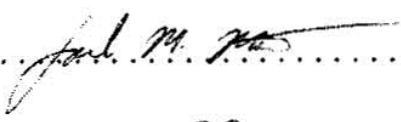
And I hereby appoint the practitioners associated with the Customer Number provided below to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith, and direct that all correspondence be addressed to that Customer Number:

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 5/3/99
Residence Lake Mills, Wisconsin
Citizenship United States of America
Post Office Address 529 College Street, Lake Mills,
Wisconsin 53551

Full name of sole Inventor Joel M. Macht
Inventor's Signature 
Date 5-3-99
Residence Reegeville, Wisconsin
Citizenship United States of America
Post Office Address 106 North Avenue, Reeceville, Wisconsin
53579

Full name of sole Inventor Chen Shui-Jung

Inventor's Signature

... *Chen Shui-Jung*

Date

... *3/21/99*

Residence

Taipei, Taiwan

Citizenship

Republic of China

Post Office Address

2 F No. 349, Wu Shin Street, Taipei,
Taiwan

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.

STATEMENT CLAIMING SMALL ENTITY STATUS (37 CFR 1.9(f) & 1.27(c))—SMALL BUSINESS CONCERN	Docket Number (Optional) EPIXINC-4
Applicant, Patentee, or Identifier: <u>Nathan Pyles</u> Application or Patent No.: <u>09/181,738</u> Filed or Issued: <u>October 28, 1998</u> Title: <u>Pedometer</u>	
I hereby state that I am <input type="checkbox"/> the owner of the small business concern identified below: <input checked="" type="checkbox"/> an official of the small business concern empowered to act on behalf of the concern identified below:	
NAME OF SMALL BUSINESS CONCERN <u>Epix, Inc.</u>	
ADDRESS OF SMALL BUSINESS CONCERN <u>621 D East Lake Street, Lake Mills, Wisconsin 53551</u>	
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: <input checked="" type="checkbox"/> the specification filed herewith with title as listed above. <input type="checkbox"/> the application identified above. <input type="checkbox"/> 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: <input type="checkbox"/> no such person, concern, or organization exists. <input type="checkbox"/> 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 <u>Nathan Pyles</u> TITLE OF PERSON IF OTHER THAN OWNER <u>President</u> ADDRESS OF PERSON SIGNING <u>529 College Street, Lake Mills, Wisconsin 53551-1412</u> SIGNATURE <u><i>Nathan Pyles</i></u> DATE <u>2/21/99</u>	

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.


PTO/SB/22 (12-97)
 Approved for use through 9/30/00. OMB 0651-0031
 Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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217

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PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)		Docket Number (Optional) EPIXINC-4
	In re Application of Nathan Pyles	
	Application Number 09/181,738	Filed October 28, 1998
	For PEDOMETER	
	Group Art Unit 2816	Examiner

This is a request under the provisions of 37 CFR 1.136(a) to extend the period of filing a response in the above identified application.

The requested extension and appropriate non-small-entity fee are as follows (check time period desired):

- One month (37 CFR 1.17(a)(1)) \$ _____
- Two months (37 CFR 1.17 (a)(2)) \$ _____
- Three months (37 CFR 1.17(a)(3)) \$870.00
- Four months (37 CFR 1.17(a)(4)) \$ _____
- Five months (37 CFR 1.17(a)(5)) \$ _____

Applicant is a small entity under 37 CFR 1.9 and 1.27, therefore the fee amount shown above is reduced by one-half, and the resulting fee is: \$435.00. A small entity statement under 37 CFR 1.27:

- is enclosed.
- has already been filed in this application.

- A check in the amount of the fee is enclosed.
- The Commissioner has already been authorized to charge fees in this application to a Deposit Account.

The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 15-0660. I have enclosed a duplicate copy of this sheet.


- I am the
- assignee of record of the entire interest.
 - applicant.
 - attorney or agent of record.
 - attorney or agent under 37 CFR 1.34(a).

Registration number if acting under 37 CFR 1.34(a) _____

May 4, 1999 Date Jeffry W. Smith Signature

Jeffry W. Smith, Reg. No. 33455
 Typed or printed name

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.

PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)		Docket Number (Optional) EPIXINC-4															
	In re Application of Nathan Pyles																
	Application Number 09/181,738	Filed October 28, 1998															
	For PEDOMETER																
	Group Art Unit 2816	Examiner															
<p>This is a request under the provisions of 37 CFR 1.136(a) to extend the period of filing a response in the above identified application.</p> <p>The requested extension and appropriate non-small-entity fee are as follows (check time period desired):</p> <table> <tr> <td><input type="checkbox"/></td> <td>One month (37 CFR 1.17(a)(1))</td> <td>\$ _____</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Two months (37 CFR 1.17 (a)(2))</td> <td>\$ _____</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Three months (37 CFR 1.17(a)(3))</td> <td>\$870.00</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Four months (37 CFR 1.17(a)(4))</td> <td>\$ _____</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Five months (37 CFR 1.17(a)(5))</td> <td>\$ _____</td> </tr> </table> <p><input checked="" type="checkbox"/> Applicant is a small entity under 37 CFR 1.9 and 1.27, therefore the fee amount shown above is reduced by one-half, and the resulting fee is: <u>\$435.00</u>. A small entity statement under 37 CFR 1.27:</p> <p><input checked="" type="checkbox"/> is enclosed. <input type="checkbox"/> has already been filed in this application.</p> <p><input checked="" type="checkbox"/> A check in the amount of the fee is enclosed. <input type="checkbox"/> The Commissioner has already been authorized to charge fees in this application to a Deposit Account.</p> <p><input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number <u>15-0660</u>. I have enclosed a duplicate copy of this sheet.</p> <p>I am the <input type="checkbox"/> assignee of record of the entire interest. <input type="checkbox"/> applicant. <input checked="" type="checkbox"/> attorney or agent of record. <input type="checkbox"/> attorney or agent under 37 CFR 1.34(a).</p> <p>Registration number if acting under 37 CFR 1.34(a) _____</p> <p><u>May 4, 1999</u> Date <u>Jeffrey W. Smith</u> Signature</p> <p><u>Jeffrey W. Smith, Req. No. 33455</u> Typed or printed name</p>			<input type="checkbox"/>	One month (37 CFR 1.17(a)(1))	\$ _____	<input type="checkbox"/>	Two months (37 CFR 1.17 (a)(2))	\$ _____	<input checked="" type="checkbox"/>	Three months (37 CFR 1.17(a)(3))	\$870.00	<input type="checkbox"/>	Four months (37 CFR 1.17(a)(4))	\$ _____	<input type="checkbox"/>	Five months (37 CFR 1.17(a)(5))	\$ _____
<input type="checkbox"/>	One month (37 CFR 1.17(a)(1))	\$ _____															
<input type="checkbox"/>	Two months (37 CFR 1.17 (a)(2))	\$ _____															
<input checked="" type="checkbox"/>	Three months (37 CFR 1.17(a)(3))	\$870.00															
<input type="checkbox"/>	Four months (37 CFR 1.17(a)(4))	\$ _____															
<input type="checkbox"/>	Five months (37 CFR 1.17(a)(5))	\$ _____															



205
 UNITED STATES DEPARTMENT OF COMMERCE
 Patent and Trademark Office
 Address: COMMISSIONER OF PATENTS AND TRADEMARKS
 Washington, D.C. 20231
 #3

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO./TITLE
09/181,738	10/28/98	PYLES	11/199 N EFIXINC-d

020485
 LA THROP CLARK
 122 N WASHINGTON AVENUE
 P O BOX 1507
 MADISON WI 53701-1507

0242/1117

NOT ASSIGNED

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 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 \$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 small entity (statement filed) non-small entity is \$ 130.

- 1. The statutory basic filing fee is:
 - missing.
 - insufficient.
 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.
 - \$ _____ for _____ independent claims over 3.
 - \$ _____ 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.
- 3. The oath or declaration:
 - is missing or unexecuted.
 - does not cover the newly submitted items.
 - 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 omitted 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 notice 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 2 - COPY TO BE RETURNED WITH RESPONSE

FORM PTO-1533 (REV.9-97)

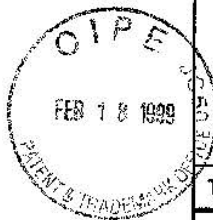
05/12/1999 TTRAK1 00000053 09181738
 65.00 OIP
 435.00 OIP
 01 FD:205
 02 FD:217

Please type a plus sign (+) inside

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

Approved for use through 9/30/00. OMB 0651-0031

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TRANSMITTAL FORM

(To be used for all correspondence after initial filing)

TRANSMITTAL FORM (To be used for all correspondence after initial filing)	Application Number	09/181,738
	Filing Date	October 28, 1998
	First Named Inventor	Nathan Pyles
	Group Art Unit	2816
	Examiner Name	
Total Number of Pages in This Submission	Attorney Docket Number	EPIXINC-4

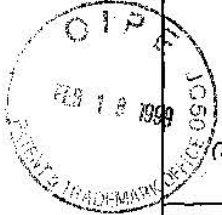
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Response <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input checked="" type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts Under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (For an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition Routing Slip (PTO/SB/69) And Accompanying Petition <input type="checkbox"/> To Convert a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Small Entity Statement <input type="checkbox"/> Request for Refund	<input type="checkbox"/> After Allowance Communication To Group <input type="checkbox"/> Appeal Communication to Board Of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Additional Enclosure(s) (Please identify below): <div style="border: 1px solid black; padding: 5px; margin-top: 5px;">PTO-SB08A with 16 references</div>
Remarks		The Commissioner is hereby authorized to charge any additional fees that may be required with respect to this communication, or credit any overpayment, to Deposit Account No. 15-0660.

RECEIVED
FEB 22 1999

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	Jeffrey W. Smith, Reg. No. 33455
Signature	<i>Jeffrey W. Smith</i>
Date	February 16, 1999

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 on this date:			
Typed or printed name	Jeffrey W. Smith, Reg. No. 33455		
Signature	<i>Jeffrey W. Smith</i>	Date	Feb. 16, 1999

Please type a plus sign (+) inside Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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TRANSMITTAL FORM

(To be used for all correspondence after initial filing)

Application Number	09/181,738
Filing Date	October 28, 1998
First Named Inventor	Nathan Pyles
Group Art Unit	2816
Examiner Name	
Attorney Docket Number	EPIXINC-4
Total Number of Pages in This Submission	

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Response <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input checked="" type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts Under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (For an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition Routing Slip (PTO/SB/69) And Accompanying Petition <input type="checkbox"/> To Convert a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Small Entity Statement <input type="checkbox"/> Request for Refund	<input type="checkbox"/> After Allowance Communication To Group <input type="checkbox"/> Appeal Communication to Board Of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Additional Enclosure(s) (Please identify below): <div style="border: 1px solid black; padding: 5px; width: fit-content;">PTO-SB08A with 16 references</div>
Remarks		The Commissioner is hereby authorized to charge any additional fees that may be required with respect to this communication, or credit any overpayment, to Deposit Account No. 15-0660.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Jeffrey W. Smith, Reg. No. 33455
Signature	<i>Jeffrey W. Smith</i>
Date	February 16, 1999

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 on this date:

Typed or printed name	Jeffrey W. Smith, Reg. No. 33455
Signature	<i>Jeffrey W. Smith</i>
Date	Feb. 16, 1999

EP 2816

#4
D. Scott
6-21-99

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Pyles, et al.	Date:	February 16, 1999
Filed:	October 28, 1998	Docket No.:	EPIXINC-4
Application No.:	09/181,738	Art Unit:	2816
For:	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: Assistant Commissioner for Patents, Washington, D.C. 20231

on February 16, 1999
Date

Jeffrey W. Smith
Signature

Jeffrey W. Smith, Reg. No. 33455

Name of applicant, assignee or Registered Representative



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:

RECEIVED
FEB 22 1999
GROUP 0310

*

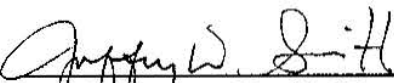
United States Patents

<u>U.S. Patent No.</u>	<u>Issue Date</u>	<u>Patentee</u>
4,053,755	10-11-1977	Sherrill
4,223,211	09-16-1980	Allsen et al.
4,334,190	06-08-1982	Sochaczewski
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	Ma
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

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: 
Jeffrey 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

SEARCHED
SERIALIZED
INDEXED
FILED

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

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Substitute for form 1449A/PTO		Application Number <u>09/181,738</u>	09/181,738
INFORMATION DISCLOSURE STATEMENT BY APPLICANT <i>(Use as many sheets as necessary)</i>		Filing Date	October 28, 1998
		First Named Inventor	Nathan Pyles
		Group Art Unit	2816
		Examiner Name	<i>Wambach</i>
Sheet 1	Of 1	Attorney Docket Number	EPIXINC-4

U.S. PATENT DOCUMENTS

Examiner Initials*	Cite No. ¹	U.S. Patent Document		Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number	Kind Code ² (If known)			
<i>PKW</i>		4,053,755		Sherrill	10-11-1977	X
<i>PKW</i>		4,223,211		Alisen et al.	09-16-1980	
<i>PKW</i>		4,334,190		Sochaczewski	06-08-1982	
<i>PKW</i>		4,337,529		Morokawa	06-29-1982	
<i>PKW</i>		4,371,945		Karr et al.	02-01-1983	
<i>PKW</i>		4,510,704		Johnson	04-16-1985	
<i>PKW</i>		4,651,446		Yukawa et al.	03-24-1987	
<i>PKW</i>		4,741,001		Ma	04-26-1988	
<i>PKW</i>		4,771,394		Cavanagh	09-13-1988	
<i>PKW</i>		4,855,942		Bianco	08-08-1989	
<i>PKW</i>		5,117,444		Sutton et al.	05-26-1992	
<i>PKW</i>		5,475,725		Nakamura	12-12-1995	
<i>PKW</i>		5,476,427		Fujima	12-19-1995	
<i>PKW</i>		5,490,816		Sakumoto	02-13-1996	
<i>PKW</i>		5,516,334		Easton	05-14-1996	
<i>PKW</i>		5,526,290		Kanzaki	06-11-1996	

FOREIGN PATENT DOCUMENTS

Examiner Initials*	Cite No. ¹	Foreign Patent Document			Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T ⁶
		Office ³	Number ⁴	Kind Code ⁵ (If known)				
Examiner Signature	<i>Magaret Walden</i>				Date Considered	<i>1/24/00</i>		

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

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

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.

GRAU 2816

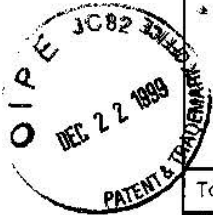
PTO/SB/21 (12-97)

App. for use through 9/30/00. OMB 0651-0031

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

Please type a plus sign (+) inside this box →

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TRANSMITTAL FORM

(To be used for all correspondence after initial filing)

Application Number	09/181,738
Filing Date	October 28, 1998
First Named Inventor	Nathan Pyles
Group Art Unit	2816
Examiner Name	
Attorney Docket Number	EPIXINC-4

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Response <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input checked="" type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts Under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (For an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition Routing Slip (PTO/SB/69) And Accompanying Petition <input type="checkbox"/> To Convert a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Small Entity Statement <input type="checkbox"/> Request for Refund	<input type="checkbox"/> After Allowance Communication To Group <input type="checkbox"/> Appeal Communication to Board Of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Additional Enclosure(s) (Please identify below): <div style="border: 1px solid black; padding: 5px; width: fit-content; margin-top: 10px;"> PTO/SB08A with 1 document RECEIVED DEC 23 1999 TECHNOLOGY CENTER 2800 </div>
Remarks		The Commissioner is hereby authorized to charge any additional fees that may be required with respect to this communication, or credit any overpayment, to Deposit Account No. 15-0660.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Jeffrey W. Smith, Reg. No. 33455	
Signature	<i>Jeffrey W. Smith</i>	
Date	December 17, 1999	

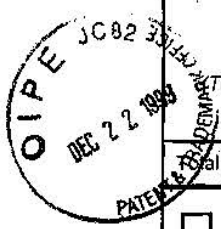
CERTIFICATE OF MAILING

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 on this date:

Typed or printed name	Jeffrey W. Smith, Reg. No. 33455	
Signature	<i>Jeffrey W. Smith</i>	Date: December 17, 1999

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Approved for use through 9/30/00. OMB 0651-0031
 Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE



TRANSMITTAL FORM

To be used for all correspondence after initial filing)	Application Number	09/181,738
	Filing Date	October 28, 1998
	First Named Inventor	Nathan Pyles
	Group Art Unit	2816
	Examiner Name	
Total Number of Pages in This Submission	Attorney Docket Number	EPIXINC-4

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Response <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input checked="" type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts / Incomplete Application <input type="checkbox"/> Response to Missing Parts Under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (For an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition Routing Slip (PTO/SB/69) And Accompanying Petition <input type="checkbox"/> To Convert a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Small Entity Statement <input type="checkbox"/> Request for Refund	<input type="checkbox"/> After Allowance Communication To Group <input type="checkbox"/> Appeal Communication to Board Of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Additional Enclosure(s) (Please identify below):
Remarks: The Commissioner is hereby authorized to charge any additional fees that may be required with respect to this communication, or credit any overpayment, to Deposit Account No. 15-0660.		PTO/SB08A with 1 document RECEIVED DEC 23 1999 TECHNOLOGY CENTER 2800

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Date	December 17, 1999

CERTIFICATE OF MAILING

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Typed or printed name	Jeffrey W. Smith, Reg. No. 33455
Signature	<i>Jeffrey W. Smith</i>
Date	December 17, 1999



#5
Dr. Scott
1-9-00

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:	

Certificate of Mailing

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on December 17, 1999
Date

Jeffrey W. Smith
Signature

Jeffrey W. Smith, Reg. No. 33455
Name of applicant, assignee or Registered Representative

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DEC 23 1999

TECHNOLOGY CENTER 2800

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

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:



United States Patents

<u>U.S. Patent No.</u>	<u>Issue Date</u>	<u>Patentee</u>
5,583,776	12-10-1996	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. §1.97(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 §1.56(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.

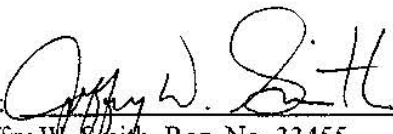
Applicants respectfully request that this document be expressly considered during the prosecution of this application and made of record herein and appear among the "documents cited" on any patent to issue herefrom.

Respectfully submitted,

RECEIVED

DEC 23 1999

TECHNOLOGY CENTER 2800

By: 
Jeffrey 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

ids2 app



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:

Certificate of Mailing

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on December 17, 1999
Date

Jeffrey W. Smith
Signature

Jeffrey W. Smith, Reg. No. 33455
Name of applicant, assignee or Registered Representative

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

RECEIVED

DEC 23 1999

Assistant Commissioner for Patents
Washington, D.C. 20231

TECHNOLOGY CENTER 2800

Dear Sir:

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U.S. Patent No. Issue Date
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Patentee
Levi et al.

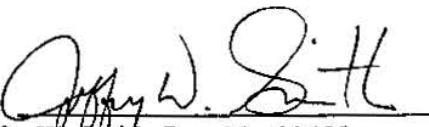
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Respectfully submitted,

By: 
Jeffrey W. Smith, Reg. No. 33455
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740 Regent Street, Suite 400
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Madison, Wisconsin 53701
(608) 257-7766

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DEC 23 1999
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ids2 app



PTO/SB/08A (10-96)
 Approved for use through 10/31/99. OMB 0651-0031

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

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Substitute for Form 1449A/PTO		Application Number	09/181,738
INFORMATION DISCLOSURE STATEMENT BY APPLICANT <i>(Use as many sheets as necessary)</i>		Filing Date	October 28, 1998 #5
		First Named Inventor	Nathan Pyles
		Group Art Unit	2816
		Examiner Name	Margaret Wambach
		Attorney Docket Number	EPIXINC-4
Sheet	1	Of	1

U.S. PATENT DOCUMENTS						
Examiner Initials*	Cite No. ¹	U.S. Patent Document		Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number	Kind Code ² (If known)			
MW	X	5,583,776	X	Levi et al.	12-10-1996	XXXX-XX-XX

FOREIGN PATENT DOCUMENTS								
Examiner Initials*	Cite No. ¹	Foreign Patent Document			Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T ⁶
		Office ³	Number ⁴	Kind Code ⁵ (If known)				

Examiner Signature	<i>MWambach</i>	Date Considered	1/24/00
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*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

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

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UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/181,738 10/28/98 PYLES N EPIXINC-4

020455
LATHROP & CLARK LLP
740 REGENT STREET SUITE 400
P.O. BOX 1507
MADISON WI 53701-1507

MM42/0128

EXAMINER

WAMBACH, M

ART UNIT

PAPER NUMBER

2816

DATE MAILED:


01/28/00

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

Commissioner of Patents and Trademarks

Office Action Summary

Application No. 09/181,738	Applicant(s) Pyles
Examiner Margaret Wambach	Group Art Unit 2816



- Responsive to communication(s) filed on _____
- This action is **FINAL**.
- Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- Claim(s) 1-45 is/are pending in the application.
Of the above, claim(s) _____ is/are withdrawn from consideration.
- Claim(s) _____ is/are allowed.
- Claim(s) 1-45 is/are rejected.
- Claim(s) _____ is/are objected to.
- Claims _____ are subject to restriction or election requirement.

Application Papers

- See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- The drawing(s) filed on _____ is/are objected to by the Examiner.
- The proposed drawing correction, filed on _____ is approved disapproved.
- The specification is objected to by the Examiner.
- The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - All Some* None of the CERTIFIED copies of the priority documents have been
 - received.
 - received in Application No. (Series Code/Serial Number) _____
 - received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- *Certified copies not received: _____
- Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- Notice of References Cited, PTO-892
- Information Disclosure Statement(s), PTO-1449, Paper No(s). 2
- Interview Summary, PTO-413
- Notice of Draftsperson's Patent Drawing Review, PTO-948
- Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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.

Application/Control Number: 09/181738

Page 3

Art Unit: 2816

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

Art Unit: 2816

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 negated 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

Art Unit: 2816

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, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

8. Claims 17, 32, 37 and 44 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd 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.



Margaret R. Wambach
Primary Examiner

Notice of References Cited

Application No. 09/181,738	Applicant Pyles
Examiner Margaret Wambach	Group Art Unit 2816
Page 1 of 1	

U.S. PATENT DOCUMENTS

	DOCUMENT NO.	DATE	NAME	CLASS	SUBCLASS
A	5,891,042	4/8/99	Sham et al.	600	483
B					
C					
D					
E					
F					
G					
H					
I					
J					
K					
L					
M					

FOREIGN PATENT DOCUMENTS

	DOCUMENT NO.	DATE	COUNTRY	NAME	CLASS	SUBCLASS
N						
O						
P						
Q						
R						
S						
T						

NON-PATENT DOCUMENTS

	DOCUMENT (Including Author, Title, Source, and Pertinent Pages)	DATE
U		
V		
W		
X		

9/18/98

NOTICE OF DRAFTSPERSON'S PATENT DRAWING REVIEW

The drawing(s) filed (insert date) 10/29/98 are:

- A. [] approved by the Draftsperson under 37 CFR 1.84 or 1.152.
B. [x] 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 submitted according to the instructions on the back of this notice.

1. DRAWINGS. 37 CFR 1.84(a): Acceptable categories of drawings. Black ink. Color. Color drawings are not acceptable until petition is granted. Fig(s)
2. PHOTOGRAPHS. 37 CFR 1.84 (b)
3. TYPE OF PAPER. 37 CFR 1.84(e)
4. SIZE OF PAPER. 37 CFR 1.84(f): Acceptable sizes:
5. MARGINS. 37 CFR 1.84(g): Acceptable margins:
6. VIEWS. 37 CFR 1.84(h)
7. SECTIONAL VIEWS. 37 CFR 1.84 (h)(3)
8. ARRANGEMENT OF VIEWS. 37 CFR 1.84(j)
9. SCALE. 37 CFR 1.84(k)
10. CHARACTER OF LINES, NUMBERS, & LETTERS. 37 CFR 1.84(j)
11. SHADING. 37 CFR 1.84(m)
12. NUMBERS, LETTERS, & REFERENCE CHARACTERS. 37 CFR 1.84(p)
13. LEAD LINES. 37 CFR 1.84(q)
14. NUMBERING OF SHEETS OF DRAWINGS. 37 CFR 1.84(t)
15. NUMBERING OF VIEWS. 37 CFR 1.84(u)
16. CORRECTIONS. 37 CFR 1.84(w)
17. DESIGN DRAWINGS. 37 CFR 1.152

COMMENTS

REVIEWER

WJS

DATE

5/25/99

TELEPHONE NO.

033058404

ATTACHMENT TO PAPER NO.

6

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

1. Correction of Informalities--37 CFR 1.85

File new drawings with the changes incorporated therein. The application number or the title of the invention, inventor's name, docket number (if any), and the name and telephone number of a person to call if the Office is unable to match the drawings to the proper application, should be placed on the back of each sheet of drawings in accordance with 37 CFR 1.84(e). Applicant may delay filing of the new drawings until receipt of the Notice of Allowability (PTOL-37). Extensions of time may be obtained under the provisions of 37 CFR 1.136. The drawing should be filed as a separate paper with a transmittal letter addressed to the Drawing Processing Branch.

2. Timing for Corrections

Applicant is required to submit **acceptable** corrected drawings within the **three-month shortened** statutory period set in the Notice of Allowability (PTOL-37). If a correction is determined to be unacceptable by the Office, applicant must arrange to have **acceptable** corrections resubmitted within the original three-month period to avoid the necessity of obtaining an extension of time and paying the extension fee. Therefore, applicant should file corrected drawings as soon as possible.

Failure to take corrective action within set (or extended) period will result in **ABANDONMENT** of the Application.

3. Corrections other than Informalities Noted by the Drawing Review Branch on the Form PTO-948

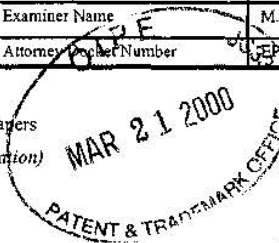
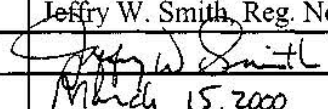
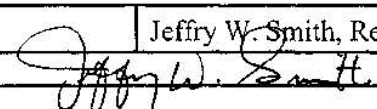
All changes to the drawings, other than informalities noted by the Drawing Review Branch, **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made, other than correction of informalities, unless the examiner has approved the proposed changes.

OP 2816A

PTO/SB/21 (12-97)
 Approved for use through 9/30/00. OMB 0651-0031
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<h1>TRANSMITTAL FORM</h1> <p>(To be used for all correspondence after initial filing)</p>		Application Number	09/181,738
		Filing Date	October 28, 1998
		First Named Inventor	Nathan Pyles
		Group Art Unit	2816
		Examiner Name	M. Wambach
Total Number of Pages in This Submission		Attorney Pocket Number	PEPIXINC-4
<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment / Response <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input checked="" type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts Under 37 CFR 1.52 or 1.53		<input type="checkbox"/> Assignment Papers (For an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition Routing Slip (PTO/SB/69) And Accompanying Petition <input type="checkbox"/> To Convert a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Small Entity Statement <input type="checkbox"/> Request for Refund	
			
		<input type="checkbox"/> After Allowance Communication To Group <input type="checkbox"/> Appeal Communication to Board Of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Additional Enclosure(s) (Please identify below):	
		PTO/SB 08b with 2 documents	
Remarks			
SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm or Individual name		Jeffry W. Smith, Reg. No. 33455	
Signature			
Date		March 15, 2000	
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 on this date:			
Typed or printed name		Jeffry W. Smith, Reg. No. 33455	
Signature			
		Date	March 15, 2000