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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/694,135	01/26/2010	Philippe Kahn	8689P027C	5414

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EXAMINER

COSIMANO, EDWARD R

ART UNIT PAPER NUMBER

2863

MAIL DATE DELIVERY MODE

01/12/2011

PAPER

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

The time period for reply, if any, is set in the attached communication.

<b>SUPPLEMENTAL Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	12/694,135	KAHN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Edward R. Cosimano	2857	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to the amendment filed 19 October 2010.
2.  The allowed claim(s) is/are 21-31.
3.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All    b)  Some\*    c)  None    of the:
    1.  Certified copies of the priority documents have been received.
    2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_ .
    3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

**Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
6.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |   |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application                       |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____ . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date _____    | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                     |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance    |
|  | 9. <input checked="" type="checkbox"/> Other <u>Approved Drawing Correction.</u>        |

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1. EXAMINER'S COMMENT

1.1 When preparing this Office action the Examiner considers the instant application to include:

A) the Oath/Declaration which was filed on 26 January 2010 and that is acceptable to the Examiner;

B) the content of the Abstract which was filed on 26 January 2010 and that is acceptable to the Examiner;

C) figures 1, 2, 3, 4, 5, 6, 7, 8 & 9 of the set of drawings containing 9 sheets of 9 figures comprising figure 2 as presented in the set of drawings filed on 26 January 2010 and figures 1, 3, 4, 5, 6, 7, 8 & 9 as presented in the set of drawings filed on 19 October 2010 where the content of figures 1, 2, 3, 4, 5, 6, 7, 8 & 9 of the above set of drawings is acceptable to the Examiner;

D) the written description as filed on 26 January 2010 and amended on 26 January 2010 and by the Examiner's amendment of 24 September 2010; and

E) the set of amended claims as filed on 26 January 2010; and

F) the NON-Publication request filed on 26 January 2010.

2. BENEFIT OF AN EARLIER FILING DATE

2.1 Applicant's claim for the benefit of an earlier filing date pursuant to 35 U.S.C. 120 is acknowledged.

3. PRIOR ART FROM EARLIER APPLICATIONS

3.1 The Examiner has considered the prior art cited in the applications for which Applicant has claimed the benefit of an earlier filing date pursuant to 35 U.S.C. 120.

3.1.1 If Applicant wishes any of the prior art that was cited in each of the base applications but that has not been cited during the prosecution of the instant application to appear on any Patent granted on the instant application, then Applicant must provide a properly completed PTO-1449 containing proper citations of the prior art that Applicant wishes to appear on any Patent that may be granted on the instant application.

3. REASONS FOR ALLOWANCE

3.1 The following is a statement of reasons for the indication of allowable subject matter:

A) the prior art, for example:

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(1) either Richardson et al (5,976,083 or 6,135,951) or Ebeling et al (6,145,389) or Tsuji (2005/0232388 or 2005/0238132 or 7,169,084 or 7,297,088) or Darley (6,611,789 or 2007/0061105 or 2007/0208531 or 2010/0057398) or Park et al (2007/0067094) disclose a machine/process that provides the useful and beneficial function of monitoring the physical fitness activities of an user. To monitor the physical fitness activities of the user, an accelerometer is used in order to monitor the acceleration of the user during a physical fitness activity of the user. The measured acceleration of the user during a physical fitness activity is then suitably processed by being analyzed or evaluated in order to: (1a) detect any variation in the measured acceleration that would represent a particular physical fitness activity of the user; and (1b) to make a more accurate determination of the user's steps or strides in order to determine an accurate measurement of the user's step or stride distance for a particular physical fitness activity. In this manner the total distance that has been traveled by the user during a particular physical fitness activity may more accurately be determined based on the user's step or stride and the total distance traveled by the user during a step or stride. Where in either Darley (6,611,789 or 2007/0061105 or 2007/0208531 or 2010/0057398) when a step is not detected with in a predetermined period/interval of time and then wakes the pedometer up when a step is detected.

(2) either Sakuria et al (6,369,794) or Kubo et al (2002/0089425 or 6,700,499) or Ladetto et al (2003/0018430 or 6,826,477) disclose a machine/process that provides the useful and beneficial function of determining an user's action or motion in which the time variation of a measured acceleration, representing the user's action or motion, is evaluated or analyzed in order to determine the user's action or motion.

(3) either Seo et al (2006/0020177 or 7,334,472) disclose a machine/process that provides the useful and beneficial function of placing an acceleration based pedometer machine/process into a sleep or low power mode in which the sampling frequency is changed, when a step is not detected with in a predetermined period/interval of time and then wakes the pedometer up when a step is detected.

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B) however, the prior art does not fairly teach or suggest in regard to claim 21 a process in claim 21 that provides the useful and beneficial function of placing a mobile device in a sleep or low activity mode by providing actions in claim 21 that perform at least the functions of:

(1) using an inertial sensor within the mobile device in order to detect motion of the mobile device;

(2) using the mobile device in order to determine if the motion that has been detected by the inertial sensor has a signature that is indicative of an user activity that the mobile device is configured to monitor; and

(3) entering the mobile device into a sleep mode when the motion that has been detected by the inertial sensor does not has a signature that is indicative of an user activity that the mobile device is configured to monitor.

Claims 22-24, which depend from claim 21, are allowable over the prior art for the same reason.

C) however, the prior art does not fairly teach or suggest in regard to claim 25 a process in claim 25 that provides the useful and beneficial function of setting an appropriate step cadence window for a mobile device by providing actions in claim 25 that perform at least the functions of:

(1) receiving from an accelerometer within the mobile device acceleration data/information that meets a stepping criteria;

(2) incrementing a step count by using the acceleration data/information that meets a stepping criteria; and

(3) setting a step cadence window in order for the mobile device to monitor the next step to be:

(3a) a default step cadence window when the step count is below a step count threshold; or

(3b) a default step cadence window when the step cadence of the current user does not match the step cadence profile of an user profile; and

(3c) a dynamic step cadence window when the step count is at or above the step count threshold.

Claims 26-31, which depend from claim 25, are allowable over the prior art for the same reason.

#### 4. RELEVANT ART OF INTEREST

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