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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Application of:

Spud Fries

Application No.: 12/345,678

Filed: April 3, 2009

For: Systems, Methods, and Devices
for Monitoring, Incenting, and
Rewarding Exercise

Examiner: William Gravy

Group Art Unit: 1000

Attorney Docket No.: 502453

AMENDMENT

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Examiner Gravy:

This Amendment is in response to the Office Action mailed April 10, 2009. This Amendment is timely because it is being submitted within the period for reply which expires April 17, 2009. Please enter and consider the following:

AMENDMENTS TO THE CLAIMS

This listing of claims will replace all prior versions, and listings, of claims in the application:

LISTING OF CLAIMS

1. (Original) A system for controlling electricity flow, said system including:
 - an activity measuring device including a sensor, wherein said sensor determines physical activity data representing a quantity of detected physical activity of a user;
 - a control system, wherein said control system includes physical activity goal data representing a predetermined quantity of physical activity, wherein said control system receives said physical activity data from said activity measuring device, wherein said control system compares said physical activity data to said physical activity goal data, wherein, when said quantity of physical activity represented by said physical activity data exceeds said quantity of physical activity represented by said physical activity goal data, said control system generates access data including a predetermined power access time, and stores said access data in a memory; and
 - an electricity lockout system including a user interface accepting a user code from said user, wherein said electricity lockout system transmits said user code to said control system, wherein said control system compares said user code to a pre-established list of power access codes, wherein, when said user code matches a code in said list of power access codes, said control system retrieves said access data from

said memory and transmits said access data to said electricity lockout system, wherein said electricity lockout system receives said access data and retrieves said power access time from said access data, wherein said electricity lockout system allows electricity to flow from an attached power source to an attached electronic device for the quantity of time represented by said power access time.

activity

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2. (Original) The system of claim 1, wherein said activity measuring device is a pedometer.
3. (Original) The system of claim 1, wherein said computing device receives said activity data from said activity measuring device through a Universal Serial Bus connection port.
4. (Original) The system of claim 1, wherein said electricity lockout system transmits said user code to said control system through a communication link.
5. (Original) The system of claim 4, wherein said communication link is a Bluetooth dongle.
6. (Original) The system of claim 4, wherein said communication link is an IEEE 802.11 wireless radio.

7. (Original) An electricity lockout system, said system including:
- a communication link communicating with a control system;
 - a user interface receiving a user code from a user;
 - a central processing unit, wherein said central processing unit is in electronic communication with said communication link, wherein said central processing unit is in electronic communication with said user interface, wherein said central processing unit receives said user code from said user interface, wherein said central processing unit transmits said user code through said communication link to said control system, wherein said central processing unit receives access data including a power access time when said control system determines that said user code matches a power access code in a list of predetermined power access codes stored on said control system; and
 - a power access control device, wherein said power access control device receives said power access time from said central processing unit, wherein said power access control device allows electricity to flow from an attached power source to an attached electronic device for the quantity of time represented by said power access time.
8. (Original) The system of claim 7, wherein said central processing unit is a microprocessor.

9. (Original) The system of claim 7, wherein said communication link is a Bluetooth radio.
10. (Original) The system of claim 7, wherein said user interface includes a liquid crystal display screen and a plurality of buttons.
11. (Original) The system of claim 10, wherein said buttons are touch-sensitive buttons.
12. (Original) The system of claim 10, wherein said buttons are mechanical buttons.

13. (Currently Amended) An activity-measuring device, said activity-measuring device including:
 - a sensor that detects the number of steps taken by a user while said user is wearing said sensor;
 - a computer readable medium electrically connected to said sensor, wherein said computer readable medium stores physical activity data, wherein said physical activity data represents said number of steps; and
 - a rechargeable battery providing electrical power to said sensor and said computer readable medium, wherein said rechargeable battery is charged by a control system

connected to a power source when said control system is connected to said activity-measuring device,

wherein said physical activity data is transferred to said control system when said control system is connected to said activity-measuring device.

14. (Original) The device of claim 13, wherein said computer readable medium is a solid-state hard drive.

15. (Original) The device of claim 13, wherein said computer readable medium is a Flash memory.

16. (Canceled)



17. (Canceled)

18. (Original) The device of claim 13, wherein said power source is a standard wall electrical outlet.

19. (Currently Amended)
method including:

A method for controlling electricity flow, said

preventing electricity from flowing from a power source to an electronic device, wherein said preventing is performed by a power access control device, wherein said power source is electrically connected to said power access control device, wherein said electronic device is electrically connected to said power access control device through an electricity lockout system;

receiving, by said power access control device, access data from a control system, wherein said access data includes a power access time, wherein said power access time represents a quantity of time, wherein said receiving is performed by said electricity lockout system;

allowing electricity to flow through said electricity lockout system from said power source to said electronic device, wherein said allowing is performed by said power access control device;

measuring total time data using said power access control device, wherein said total time data represents the total quantity of time electricity has been flowing through said electricity lockout system from said power source to said electronic device;

terminating the electricity flow through said electricity lockout system from said power source to said electronic device when said quantity of time represented by said total time data exceeds said quantity of time represented by said power access time, wherein said terminating is performed by said power access control device.

20. (Original) The method of claim 19, wherein said receiving is performed using a communication link.

21. (Original) The method of claim 20, wherein said communication link is a Bluetooth radio.

22. (Canceled)

23. (Currently Amended) A method for controlling electricity flow, said method including:
preventing electricity from flowing from a power source to an electronic device, wherein said preventing is performed by a power access control device, wherein said power source is electrically connected to said power access control device, wherein said electronic device is electrically connected to said power access control device through an electricity lockout system;
receiving, by said power access control device, access data from a control system, wherein said access data includes a power access wattage, wherein said power access wattage represents a quantity of watts, ~~wherein said receiving is performed by said electricity lockout system;~~

allowing electricity to flow ~~through said electricity lockout system~~ from said power source to said electronic device, wherein said allowing is performed by said power access control device;

measuring total wattage data using said power access control device, wherein said total wattage data represents the total quantity of watts that have been flowing ~~through said electricity lockout system~~ from said power source to said electronic device;

terminating the electricity flow ~~through said electricity lockout system~~ from said power source to said electronic device when said quantity of watts represented by said total wattage data exceeds said quantity of watts represented by said power access wattage, wherein said terminating is performed by said power access control device.

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REMARKS

The present application includes claims 1-23. Claims 1-23 were rejected. By this Amendment, claims 16, 17, and 22 have been canceled, and claims 13, 19, and 23 have been amended.

Claims 19-23 were rejected under 25 U.S.C. § 101 as being directed to non-statutory subject matter.

Claims 13-18 were rejected under 35 U.S.C. §102(b) as being anticipated by Baker, U.S. Pat. App. Pub. No. 2008/0147502.

Claims 1-12 and 19-23 were rejected under 35 U.S.C. § 102(b) as being anticipated by Cheng (“Managed Exercise Monitoring: a Novel Application of Wireless On-Body Inertial Sensing”).

Claims 1-23 were rejected under 35 U.S.C. §103(a) as being unpatentable over Baker, U.S. Pat. App. Pub. No. 2008/0147502, in view of Cheng (“Managed Exercise Monitoring: a Novel Application of Wireless On-Body Inertial Sensing”).

The Applicant now turns to the rejection of claims 19-23 under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Claims 19-23 include independent claims 19 and 23. 35 U.S.C. § 101 requires a claim to be directed at a “process, machine, manufacture, or composition of matter.” Considering method claims in particular, In Re Bilski, No. 2007-1130 (Fed. Cir. Oct. 30, 2008), held that a method claim is patent-

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eligible under 35 U.S.C. § 101, if it is “tied to another statutory class . . . such as a particular apparatus.” Each step of independent method claims 19 and 23, as amended, is performed by a “power access control device.” As such, the methods claimed in claims 19 and 23, as amended, are tied to another statutory class, specifically a particular apparatus, and are respectfully submitted as being directed to statutory subject matter. Additionally, claims 20 and 21 depend from claim 19, and thus include all the limitations of claim 19. Consequently, claims 20 and 21 are also respectfully submitted as being directed to statutory subject matter.

Unref.

The Examiner is not familiar w/ Baker citation

The Applicant now turns to the rejection of claims 13-18 under 35 U.S.C. § 102(b) as being anticipated by Baker. For a patent application publication, such as Baker, to qualify as prior art in the present case for the purposes of 35 U.S.C. § 102(b), the patent application publication must have been published “more than one year prior to the date of application for patent.” ^{*respectful*} 35 U.S.C. § 102(b). In this case, the date of application for the patent application at issue (“Fries Application”) is April 3, 2009. The publication date of Baker was June 19, 2008, meaning that Baker was published less than one year prior to the priority date of the Fries Application. As such, Baker cannot be cited as prior art against the Fries Application under § 102(b), and the Applicant respectfully submits that the rejection of claims 13-18 under 35 U.S.C. § 102(b) as being anticipated by Baker should be withdrawn.



However, even if Baker ^{were} ~~is~~ prior art under 35 U.S.C. § 102(b), the Applicant contends that Baker does not anticipate claims 13-18. In Paragraphs 0020 and 0026–0027, Baker teaches an activity monitoring device that records data representing evidence that a user has performed a quantity of physical activity while wearing the activity monitoring device. In the aforementioned paragraphs, Baker also teaches that the activity monitoring device may be configured to transmit the recorded data to a computer system, through either a wireless or a wired connection to the computer system. Baker does not explicitly teach a power source that provides electrical power to the activity monitoring device, but since the activity monitoring device is portable, it is assumed that it utilizes some type of battery.

Baker does not teach the practice of charging the activity monitoring device's battery using the computer system when the activity monitoring device is connected to the computer system. As mentioned above, Baker simply teaches an activity monitoring device capable of recording and transmitting data representative of physical activity of a user to a computer system.

As amended, claim 13 recites “[a]n activity-measuring device, said activity-measuring device including: . . . a rechargeable battery . . . wherein said rechargeable battery is charged by a control system connected to a power source when said control system is connected to said activity-measuring device.” As mentioned above, Baker does not teach charging the battery of an activity monitoring device when the activity monitoring device is connected to a control system. Consequently, claim 13 is

respectfully submitted to be free of Baker and allowable. Additionally, claims 14, 15, and 18 depend from claim 13, and thus include all the limitations of claim 13.

Consequently, claims 14, 15, and 18 are also respectfully submitted to be allowable.

The Applicant now turns to the rejection of claims 1-12 and 19-23 under 35 U.S.C. § 102(b) as being anticipated by Cheng. To qualify as prior art in the present case for the purposes of 35 U.S.C. § 102(b), the Cheng paper must have been published "more than one year prior to the date of application for patent." 35 U.S.C. § 102(b). In this case, the date of application for the Fries Application is April 3, 2009. The publication date of Cheng is not listed. As such, ~~Cheng cannot be cited as prior art against the Fries Application under § 102(b), and the Applicant respectfully submits that the rejection of claims 1-12 and 19-23 under 35 U.S.C. § 102(b) as being anticipated by Cheng should be withdrawn.~~

However, even if Cheng is prior art under 35 U.S.C. § 102(b), the Applicant contends that Cheng does not anticipate claims 1-12 and 19-23. Cheng teaches a wireless on-body inertial sensor system used to analyze and assess the quality of exercise performed by a user. The system includes an on-body inertial sensor and a home server. The on-body inertial sensor collects data representing physical activity of the user, and includes an IEEE 802.11 standard wireless radio that is used to send the collected data to a home server in real time.

Consequently, Cheng is not met by Baker and is not anticipated by Cheng. Cheng is not prior art under 102(b).

Cheng does not teach controlling electricity flow from a power source to an electronic device; it simply teaches measuring data using an on-body sensor, and sending the data to a home server, which records the data.

Claims 1-12 and 19-23 include independent claims 1, 7, 19, and 23. Claim 1 recites “an electricity lockout system . . . wherein said electricity lockout system allows electricity to flow from an attached power source to an attached electronic device” for a predetermined amount of time. As mentioned above, Cheng does not teach controlling the flow of electricity from a power source to an electronic device. Consequently, claim 1 is respectfully submitted to be free of Cheng and allowable. Additionally, claims 2-6 depend from claim 1, and thus include all the limitations of claim 1. Consequently, claims 2-6 are also respectfully submitted to be free of Cheng and allowable.

Claim 7 recites “a power access control device, wherein said power access control device . . . allows electricity to flow from an attached power source to an attached electronic device for” a predetermined amount of time. As mentioned above, Cheng does not teach controlling the flow of electricity from a power source to an electronic device. Consequently, claim 7 is respectfully submitted to be free of Cheng and allowable. Additionally, claims 8-12 depend from claim 7, and thus include all the limitations of claim 7. Consequently, claims 8-12 are also respectfully submitted to be allowable.

As amended, claims 19 and 23 recite “allowing electricity to flow from said power source to said electronic device.” As mentioned above, Cheng does not teach controlling electricity flow by allowing electricity to flow from a power source to an

All comments in office action

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electronic device. Consequently, claims 19 and 23 are respectfully submitted to be free of Cheng and allowable. Additionally, claims 20-21 depend from claim 19, and thus include all the limitations of claim 19. Consequently, claims 20-21 are respectfully submitted to be allowable.

The Applicant now turns to the rejection of claims 1-23 under 35 U.S.C. § 103(a) as being unpatentable over Baker in further view of Cheng. As discussed above, the Applicant respectfully submits that neither Baker nor Cheng is prior art under 35 U.S.C. § 102(b). A rejection under § 103(a) requires a combination of least two references that qualify as prior art under § 102. As such, the Applicant respectfully requests that the rejection of claims 1-23 under 35 U.S.C. § 103(a) be withdrawn. ✓

However, even if Baker and Cheng qualify as prior art under 35 U.S.C. § 102(b), the Applicant contends that claims 1-23 are not unpatentable over Baker in view of Cheng. As previously mentioned, Baker teaches an activity monitoring device that records data representing a user's physical activity, and transfers that data to a computer system. In Paragraph 0025, Baker also teaches rewarding the user with a predetermined monetary sum when the user completes a predetermined amount of exercise. As mentioned above, Cheng teaches an activity monitoring device that submits various types of data representing physical activity in real-time to a home server, which stores the data.

Neither Cheng nor Baker teaches an activity monitoring device that utilizes a rechargeable battery that is charged when the activity monitoring device is connected to a

control system. Neither Cheng nor Baker teaches controlling electricity flow from a power source to an electronic device.

Claims 1-23 include independent claims 1, 7, 13, 19, and 23. Claim 1 recites “an electricity lockout system . . . wherein said electricity lockout system allows electricity to flow from an attached power source to an attached electronic device” for a predetermined amount of time. As mentioned above, neither Cheng nor Baker teaches a system controlling the flow of electricity from a power source to an electronic device. Consequently, claim 1 is respectfully submitted to be free of Baker in view of Cheng, and allowable. Additionally, claims 2-6 depend from claim 1, and thus include all the limitations of claim 1. Consequently, claims 2-6 are also respectfully submitted to be allowable.

Claim 7 recites “a power access control device, wherein said power access control device . . . allows electricity to flow from an attached power source to an attached electronic device for” a predetermined amount of time. As mentioned above, neither Cheng nor Baker teaches a device controlling the flow of electricity from a power source to an electronic device. Consequently, claim 7 is respectfully submitted to be free of Baker in view of Cheng, and allowable. Additionally, claims 8-12 depend from claim 7, and thus include all the limitations of claim 7. Consequently, claims 8-12 are also respectfully submitted to be allowable.

As amended, claim 13 recites “[a]n activity-measuring device, said activity-measuring device including: . . . a rechargeable battery . . . wherein said rechargeable

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battery is charged by a control system connected to a power source when said control system is connected to said activity-measuring device.” As mentioned above, neither Cheng nor Baker teaches charging the battery of an activity monitoring device when the activity monitoring device is connected to a control system. Consequently, claim 13 is respectfully submitted to be free of Baker in view of Cheng, and allowable. Additionally, claims 14, 15, and 18 depend from claim 13, and thus include all the limitations of claim 13. Consequently, claims 14, 15, and 18 are also respectfully submitted to be allowable.

As amended, claims 19 and 23 recite “allowing electricity to flow from said power source to said electronic device.” As mentioned above, neither Baker nor Cheng teaches controlling electricity flow by allowing electricity to flow from a power source to an electronic device. Consequently, claims 19 and 23 are respectfully submitted to be free of Cheng and allowable. Additionally, claims 20-21 depend from claim 19, and thus include all the limitations of claim 19. Consequently, claims 20-21 are respectfully submitted to be allowable.

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CONCLUSION

If the Examiner has any questions or the Applicant can be of any assistance, the Examiner is invited and encouraged to contact the Applicant at the number below.

The Commissioner is authorized to charge any necessary fees or credit any overpayment to the Deposit Account of Pat, Ent, & Win, Account No. 10-0000.

Respectfully submitted,

Date: April 17, 2009

Amn

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