UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/446,937	04/13/2012	Aurel Coza	2483.2290000/MWR/RDC	1018

63504 7590 09/29/2020

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

EXAMINER
FERNANDES, PATRICK M

ART UNIT	PAPER NUMBER
3791	

NOTIFICATION DATE	DELIVERY MODE
09/29/2020	ELECTRONIC

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.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

e-office@sternekessler.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte AUREL COZA, CHRISTIAN DIBENEDETTO, and JEFFREY ALLEN

Appeal 2020-000365
Application 13/446,937
Technology Center 3700

Before JOHN C. KERINS, DANIEL S. SONG, BRETT C. MARTIN, *Administrative Patent Judges.*

MARTIN, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant[1] appeals from the Examiner's decision to reject claims 1–24, 26–29, and 106–109, which are the only claims pending in the application. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

---

[1] We use the word Appellant to refer to "applicant" as defined in 37 C.F.R. § 1.42. Appellant identifies the real party in interest as adidas AG. Appeal Br. 3.

CLAIMED SUBJECT MATTER

The claims are directed "to methods and systems for monitoring the movement of the body of an individual engaged in an athletic activity or the movement of a piece of athletic equipment used by the individual during athletic activity." Spec. ¶ 2. Claim 1, reproduced below, is illustrative of the claimed subject matter:

> 1. An athletic activity monitoring method for use with a sensor module that is physically coupled to an object during an athletic activity conducted by a user, the athletic activity monitoring method comprising:
>
> the sensor module detecting movement of the object at a first time;
>
> the sensor module determining that the movement of the object corresponds to a predetermined activation movement, wherein the determination that the movement of the object corresponds to a predetermined activation movement occurs when a raw data value satisfies a threshold data value at the first time;
>
> the sensor module entering an active state in response to the determination that the movement of the object corresponds to the predetermined activation movement; and
>
> upon the sensor module entering the active state, detecting movement of the object at a second time,
>
> wherein the detecting movement of the object at one of the first time and the second time comprises determining a change in the location of the object with respect to a magnetic vector of the object, and
>
> wherein the sensor module in the active state determines a correlation between the movement of the object and an activity metric at the second time by reference to a data structure having magnetic field data.

REFERENCES

The prior art relied upon by the Examiner is:

Name	Reference	Date
Rakijas	US 6,269,324 B1	July 31, 2001
Liberty	US 2005/0174324 A1	Aug. 11, 2005
Crowley	US 2009/0210078 A1	Aug. 20, 2009
Solinsky	US 2010/0070193 A1	Mar. 18, 2010
Edis	US 2010/0144414 A1	June 10, 2010
Czompo	US 2010/0304754 A1	Dec. 2, 2010
Fu	US 2010/0305480 A1	Dec. 2, 2010
Mayor	US 2010/0307016 A1	Dec. 9, 2010
Jangle	US 2011/0066383 A1	Mar. 17, 2011
Chen	US 2011/0077865 A1	Mar. 31, 2011

REJECTIONS

Claims 1–6, 8, 11–13, and 16–21 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Jangle, Chen, Czompo, and Rakijas. Ans. 4.

Claims 7, 9, 14, and 108 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Jangle, Chen, Czompo, Rakijas, and Solinsky. Ans. 7.

Claim 10 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Jangle, Chen, Czompo, Rakijas, and Mayor. Ans. 8.

Claim 15 stands rejected under 35 U.S.C. § 103 as being unpatentable over Jangle, Chen, Czompo, Rakijas, and Crowley. Ans. 9.

Claim 22 stands rejected under 35 U.S.C. § 103 as being unpatentable over Jangle, Chen, Czompo, Rakijas, and Liberty. Ans. 9.

Claims 23, 24, 26, 28, 29, 106, and 107 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Jangle, Crowley, Edis, Chen, and Fu. Ans. 10.

Claim 27 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Jangle, Crowley, Edis, Chen, Fu, and Solinsky. Ans. 12.

Claim 109 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Jangle, Crowley, Edis, Chen, Fu, Solinsky, Rakijas, and Czompo. Ans. 12.

OPINION

Obviousness

Rakijas

Regarding the rejection of claim 1, Appellant argues "that Rakijas uses magnetic field vectors to determine changes in the background magnetic field, but does not determine a 'magnetic vector of the object.'" Reply Br. 3. According to the Examiner, "[i]f vector magnetometers are used to detect magnetic vector changes of an object it would therefore be a 'magnetic vector of the object' in some manner." Ans. 14. Although the Examiner is correct in a sense, this interpretation misconstrues the language of the claim.

Claim 1 recites that the method is "for use with a sensor module that is physically coupled to an object during an athletic activity." Given this recitation, the claim clearly pertains to determining the vector based upon the sensor that is actually attached to the object. Furthermore, the Specification discloses only embodiments that include direct tracking of the object with a sensor contained thereon. As such the Examiner's interpretation is inconsistent with the Specification.

As to Rakijas itself, Appellant makes an apt analogy:

> At base, Rakijas's system can be compared to a group of wave height sensors distributed across a lake. When a boat passes by and creates a wake, the sensors register that the water height rises. Using all the sensor data, the path of the boat through the

> area can be mapped. But, a vector of the boat is not created. Just like how the boat's position is monitored but no boat vector is created, Rakijas tracks magnetic field data but does not create – or suggest the creation of – a magnetic vector of the object.

Reply Br. 4. Because Rakijas detects changes in the background magnetic field rather than actually sensing changes in the object itself, we do not sustain the rejection of claim 1 or any of the claims dependent therefrom.

Fu

As to claim 23, Appellant argues that the Examiner has misconstrued the term "profile data" to include Fu's decision criteria. Reply Br. 5. As Appellant points out, "the Examiner appears to ignore the fact that while the profile data is different from the plurality of reference motions, the two are 'associated,' as recited in the claim." *Id.* Appellant further notes that "Fu's method may change the decision criteria from plus/minus 1 to plus/minus .5," but "Applicants[']s method changes the underlying data." Appeal Br. 19.

The Examiner responds by stating "that Appellant has never defined profile data in the claims to be as specific as . . . Appellant intends." Ans. 16. Although this may be true, in that the term "profile data" appears only in the claims, the claims do make clear that the profile data and the reference motions are related. Furthermore, Fu discloses changing the manner in which the data is judged as explained above by Appellant. Fu expands or contracts the range of acceptable data, but does not alter the underlying data itself. Altering decision criteria is not the same as altering the actual data related to the reference motions themselves. Appellant's invention seeks to more accurately describe the reference motions vis-à-vis the profile data whereas Fu merely alters the decision criteria to accept larger or smaller ranges of data. These are not the same concepts and therefore we agree with

Appellant that the Examiner erred in construing the term "profile data." As such, we do not sustain the Examiner's rejection of claim 23 or the claims dependent therefrom.

CONCLUSION

The Examiner's rejections are REVERSED.

More specifically,

DECISION SUMMARY

In summary:

Claims Rejected	**35 U.S.C. §**	**Reference(s)/Basis**	**Affirmed**	**Reversed**
1–6, 8, 11–13, 16–21	103	Jangle, Chen, Czompo, Rakijas		1–6, 8, 11–13, 16–21
7, 9, 14, 108	103	Jangle, Chen, Czompo, Rakijas, Solinsky		7, 9, 14, 108
10	103	Jangle, Chen, Czompo, Rakijas, Mayor		10
15	103	Jangle, Chen, Czompo, Rakijas, Crowley		15
22	103	Jangle, Chen, Czompo, Rakijas, Liberty		22
23, 24, 26, 28, 29, 106, 107	103	Jangle, Crowley, Edis, Chen, Fu		23, 24, 26, 28, 29, 106, 107
27	103	Jangle, Crowley, Edis, Chen, Fu, Solinsky		27
109	103	Jangle, Crowley, Edis, Chen, Fu, Solinsky, Rakijas, Czompo		109
Overall Outcome				**1–24, 26–29, 106–109**

REVERSED