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LENOVO - JVL C/O LESLIE A. VAN LEEUWEN 6123 PEBBLE GARDEN CT. AUSTIN, TX 78739			GOLRIZ, ARYA	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte GARY D. CUDAK, NATHAN J. PETERSON, AMY L. ROSE,
JENNIFER J. LEE-BARON, BRYAN L. YOUNG, and JOHN S. CROWE¹

Appeal 2019-003146
Application 14/971,524
Technology Center 2400

Before RICHARD M. LEBOVITZ, JASON V. MORGAN,
and JOHN A. EVANS, *Administrative Patent Judges*.

EVANS, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of Claims 1, 2, 5–9, 12–16, and 20. Appeal Br.

1. We have jurisdiction over the pending claims under 35 U.S.C. § 6(b).

We REVERSE.

¹ We use the word “Appellant” to refer to “Applicants” as defined in 37 C.F.R. § 1.42(a). The Appeal Brief identifies Lenovo (Singapore) Pte. Ltd., as the real party in interest. Appeal Br. 2.

Invention

The invention is directed to a method for authenticating a user of a device. *See* Abstract. Claims 1, 8, and 15 are independent. Illustrative Claim 1 is reproduced below.

1. A method comprising:

selecting a plurality of content categories;

presenting, to a user of a device, a plurality of sets of content items identified as being familiar to an actual user of the device and a plurality of sets of comparable items that are identified as being unfamiliar to the actual user of the device,

wherein each set of the content items and the comparable items corresponds to a same one of the plurality of categories;

receiving a plurality of responses at the device from the user after the presenting;

identifying a number of correct responses from the plurality of responses,

wherein the authenticating is based on a number of correct responses; and

authenticating the user based on the number of correct responses.

Prior Art

Name²	Reference	Date
Pering	US 2004/0093527 A1	May 13, 3004
Lowry	US 2013/0036461 A1	Feb. 7, 2013
Chaudhury	US 8,856,541 B1	Oct. 7, 2014

Rejections³ at Issue⁴

1. Claims 1, 2, 5, 6, 8, 9, 12, 13, 15, 16, 19, and 20 stand rejected under 35 U.S.C. § 103 as obvious over Pering and Lowry. Final Act. 4–9.
2. Claims 7 and 14 stand rejected under 35 U.S.C. § 103 as obvious over Pering, Lowry, and Chaudhury. Final Act. 9–10.

ANALYSIS

We have reviewed Appellant’s arguments in the Briefs, the Examiner’s rejection, and the Examiner’s response to Appellant’s arguments. Appellant’s arguments have persuaded us of error.

² All citations herein to the references are by reference to the first named inventor only.

³ The present application is being examined under the first inventor to file provisions of the AIA. Final Act 2.

⁴ Throughout this Decision, we refer to the Appeal Brief (“Appeal Br.”) filed July 30, 2018, the Reply Brief (“Reply Br.”) filed March 11, 2019, the Final Office Action (“Final Act.”) mailed February 27, 2018, the Examiner’s Answer mailed January 10, 2019, and the Specification (“Spec.”) filed December 16, 2015.

CLAIMS 1, 2, 5, 6, 8, 9, 12, 13, 15, 16, 19, AND 20: OBVIOUSNESS
OVER PERING AND LOWRY.

Claim 1 recites, *inter alia*:

presenting, to a user of a device, a plurality of sets of content items identified as being familiar to an actual user of the device and a plurality of sets of comparable items that are identified as being unfamiliar to the actual user of the device.

Claims App'x.

In the Final Action, the Examiner finds Pering teaches this limitation. Final Act. 4 (quoting Pering, ¶ 35) (“At block 110, the photograph authentication module selects multiple photographs from the set of decoy photographs, and one or more photographs from the user’s photograph collection, and causes the display of these photographs on the display of the un-trusted public access terminal.”).

Appellant contends neither Pering, nor Lowry, teach selecting a plurality of content categories. Appeal Br. 6. Appellant defines images, i.e., photographs, as a category. See Appeal Br. 7 (citing Spec., ¶ 28).

In the Answer, the Examiner cites alternative embodiments to find Pering discloses selecting a plurality of categories:

At block 108, the module selects a set of other photographs from the photograph database to be used as decoy photographs. In one embodiment, the decoy photographs may be selected at random from the set of all photographs in the database other than the user’s own photographs.

Ans. 4 (quoting Pering, ¶ 34).

At block 110, the photograph authentication module selects multiple photographs from the set of decoy photographs, and one or more photographs from the user’s photograph

collection, and causes the display of these photographs on the display of the un-trusted public access terminal.

Ans. 4–5 (quoting Pering, ¶ 35).

In another embodiment, familiar sounds rather than familiar photographs may be used. An aural equivalent to the visually-dependent photographic authentication would make the technique feasible for blind users or for users in visually “difficult” environments. For example, snippets from a user’s music collection or recordings from a user’s “personal audio recorder” device might provide a collection of easily recognizable sound bites to be used.

Ans. 5 (quoting Pering, ¶ 39).

The Examiner finds “Pering does not disclose: . . . wherein each set of the content items and the comparable items corresponds to a same one of the plurality of categories,” but finds Lowry discloses this limitation. Final Act. 5–6 (citing Lowry, ¶¶ 11, 16). The Examiner further finds: “Lowry was further cited to be combined with Pering to disclose that the content items and comparable items correspond to the selected category.” Ans. 5.

Appellant “defines ‘category’ as being ‘images, music, documents or portions of documents, movies or other media, a full or partial list of installed applications on the device, a listing of frequently accessed applications, or a listing of partial contact information, etc.’” Appeal Br. 7 (quoting Spec., ¶ 28). In view of this definition, Appellant argues Lowry teaches only a single category of content items, i.e., “images.” Appeal Br. 6–7. Appellant argues Pering teaches a first embodiment where only a single category is taught, i.e., “photographs.” Reply Br. 2 (citing Pering, ¶¶ 34, 35) (cited by the Examiner). Appellant argues Pering teaches an alternative embodiment where only a different, single category is taught, i.e., “sounds.” *Id.*

We find the prior art teaches alternative embodiments wherein only a single category is presented to a user. We find that the Examiner did not meet the burden of establishing that the cited prior art teaches or suggests “presenting, to a user of a device, a plurality of sets of content items,” as recited in independent Claim 1 and as commensurately recited in independent Claims 8 and 15. In view of the foregoing, we decline to sustain the rejection of Claims 1, 2, 5, 6, 8, 9, 12, 13, 15, 16, 19, and 20.

CLAIMS 7 AND 14: OBVIOUSNESS OVER PERING, LOWRY, AND CHAUDHURY.

Appellant contends the dependent claims are allowable in view of the dependence from the independent claims. Appeal Br. 7.

The Examiner does not apply Chaudhury to teach the disputed limitation. *See Ans.*

In view of the foregoing, we decline to sustain the rejection of Claims 7 and 14.

CONCLUSION

In summary:

Claims Rejected	35 U.S.C. §	References	Affirmed	Reversed
1, 2, 5, 6, 8, 9, 12, 13, 15, 16, 19, 20	103	Pering, Lowry		1, 2, 5, 6, 8, 9, 12, 13, 15, 16, 19, 20
7, 14	103	Pering, Lowry, Chaudhury		7, 14
Overall				1, 2, 5–9, 12–16, 20

REVERSED