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**UNITED STATES DISTRICT COURT**  
**FOR THE STATE OF NEVADA**

FACETEC, INC., a Delaware corporation,  
Plaintiff,

v.

iPROOV LTD, a United Kingdom limited  
liability company,  
Defendant.

iPROOV LTD, a United Kingdom limited  
liability company,  
Counter-Claimant,

v.

FACETEC, INC., a Delaware corporation,  
Counter-Defendant.

Case No. 2:21-02252-RFB-BNW

**iPROOV LTD'S NON-INFRINGEMENT,  
INVALIDITY, AND UNENFORCEABILITY  
CONTENTIONS PURSUANT TO LOCAL  
PATENT RULE 1-8**

1 Pursuant to Local Patent Rule 1-8, Defendant and Counter-Claimant iProov Ltd. (“iProov”) 2 hereby makes the following disclosures of non-infringement, invalidity, and unenforceability 3 contentions to Plaintiff and Counter-Defendant FaceTec, Inc. (“FaceTec”) based on the information 4 presently available. iProov reserves the right to modify, amend, or supplement this Disclosure of 5 Non-Infringement, Invalidity, and Unenforceability Contentions, as provided by the Federal Rules 6 of Civil Procedure and local rules, as additional information becomes available.

7 Based on FaceTec’s Disclosure of Asserted Claims and Infringement Contentions 8 (“Infringement Contentions”), served on August 18, 2022, iProov understands that FaceTec is 9 alleging infringement of U.S. Patent Nos. 10,776,471 (“the ’471 Patent”) and 11,157,606 (“the ’606 10 Patent”) (collectively “the FaceTec Asserted Patents”) and in particular, claims 10, 13, 14, 15, 16, 11 and 19 of the ’471 Patent and claims 1, 4-9, and 19-20 of the ’606 Patent (collectively “the FaceTec 12 Asserted Claims”). For purposes of these contentions, iProov addresses only the FaceTec Asserted 13 Claims. iProov reserves the right to amend or supplement this disclosure as necessary in view of 14 any changes or amendments made, for any reason, to Plaintiff’s infringement theories, infringement 15 contentions, or FaceTec Asserted Claims, including to Plaintiff’s asserted priority and/or invention 16 date(s).

17 **I. NON-INFRINGEMENT CONTENTIONS [LPR 1-8(A)]**

18 FaceTec’s infringement allegations are deficient and fail to set forth in particularity how 19 each element of the FaceTec Asserted Claims is allegedly met by the Accused Products. As a 20 result, FaceTec has failed to show how any iProov product infringes directly or indirectly any of 21 the FaceTec Asserted Claims.

22 For example, FaceTec’s infringement charts simply state (without support) that users are 23 prompted to change distances based on assumptions (*see, e.g.* “assuming the user changed the 24 distance...”). For key claim elements, FaceTec also makes the broad assertion that iProov 25 generically uses a “neural network,” references undisclosed “testing,” and then assumes (without 26 support) that (1) expected distortion and differences are calculated and then (2) authentication 27 occurs when expectations are met. FaceTec does not even show that the iProov system measures 28 distances and instead makes the unsupported statement that the Accused Instrumentality “requires

1 no change (facial or otherwise) other than a change in distance...". The source code for the  
2 Accused Products demonstrates that the actual operation is different than FaceTec alleges. For  
3 example, the iProov system does not prompt users to change distance and could authenticate a user  
4 without the change in distance contemplated by the FaceTec Asserted Claims. FaceTec also fails  
5 to address the differences in operation between mobile and desktop/laptop applications.

6 Based upon information presently available, iProov therefore disputes that it performs at  
7 least the following bolded claim elements:

8 **'471 Patent:**

9 10. A method for authenticating three-dimensionality of a user via a user's  
10 camera equipped computing device, the method, during an authentication session  
11 comprising:

12 capturing at least one first image of the user taken with the camera of the  
13 computing device **at a first location which is a first distance from the user;**

14 processing the at least one first image or a portion to create first data;

15 **moving the camera from the first location to a second location, the**  
16 **second location being a second distance from the user, or the user moving from**  
17 **the first location to the second location to change the distance between the user**  
18 **and the camera from the first distance to a second distance;**

19 capturing at least one second image of the user taken with the camera of the  
20 computing device **at the second distance from the user, the second distance**  
21 **being different than the first distance;**

22 processing the at least one second image or a portion thereof to create  
23 second data;

24 comparing the first data to the second data to **determine whether expected**  
25 **distortion exist** between the first data and the second data which indicated three-  
26 dimensionality of the user;

27 **authenticating the user when the differences between the first data and**  
28 **the second data have expected distortion resulting from movement of the**

1 camera from the first location to the second location or movement of the user  
2 from the first location to the second location, which causes the change in  
3 distance between the user and the camera.

4 13. The method according to claim 10, wherein the computing device is  
5 configured to display one or more prompts on a screen of the computing device to  
6 guide the user to capture the at least one first image at the first distance and  
7 the at least on second image at the second distance.

8 14. The method according to claim 13, wherein the one or more prompts  
9 are ovals on the screen within which the face of the user is placed to capture the  
10 at least one first image and the at least one second image.

11 15. The method according to claim 10, wherein the computing device is a  
12 hand-held device, and the user holds the device at the first and second distances  
13 to capture the at least one first image and the at least one second image.

14 16. The method according to claim 10, wherein the first data and the  
15 second data comprise biometric data.

16 19. The method according to claim 10, wherein the user's face is held steady  
17 and the camera moves from the first location to the second location.

18 **'606 Patent:**

19 1. A method for verifying three-dimensionality of a user's face using images  
20 of the user's face captured using a camera equipped computing device, the method  
21 comprising:

22 capturing at least one first image of the user taken with the camera of the  
23 computing device at a first distance from the user;

24 processing the at least one first image to obtain first biometric data from the  
25 at least one first image;

26 capturing at least one second image of the user taken with the camera of the  
27 computing device at a second distance from the user, the second distance being  
28 different than the first distance;



1           processing the at least one second image to obtain second biometric data  
2           based on the at least one second image;

3           **comparing the first biometric data with the second biometric data to**  
4           **determine whether the first biometric data matches the second biometric data;**

5           **comparing the first biometric data to second biometric data to**  
6           **determine whether differences between the at least one first image and the at**  
7           **least one second image match expected differences resulting from movement**  
8           **of the camera or the user which changed the distance between the user and**  
9           **camera from the first distance to the second distance;**

10          **determining that the user's face is three-dimensional when:**

11          **the first biometric data does not match the second biometric data; and**

12          **the second biometric data has the expected differences as compared to**  
13          **the first biometric data resulting from the change in distance between the user**  
14          **and the camera when capturing the at least one first image and the at least one**  
15          **second image.**

16          4. The method according to claim 1, wherein the computing device is  
17          configured to **display one or more prompts on a screen of the computing device**  
18          **to guide the user to capture the at least one first image at the first distance and**  
19          **the at least on second image at the second distance.**

20          5. The method according to claim 4, wherein the **one or more prompts are**  
21          **ovals sized on the screen** within which the face of the user is placed to capture the  
22          at least one first image and the at least one second image at the first and second  
23          distances.

24          6. The method according to claim 4, wherein the computing device is a  
25          hand-held device, and **the user holds the computing device at the first distance**  
26          **and the second distance to capture the at least one first image and the at least**  
27          **one second image.**

28          7. The method according to claim 6, wherein the computing device

1 comprises a laptop or desktop computer and, with the computing device stationary,  
2 the **user moves from the first distance to the second distance to capture the at**  
3 **least one first image and the at least one second image.**

4 8. The method according to claim 1, further comprising displaying **an**  
5 **image on a screen of the computing device while capturing** the at least one first  
6 and/or the at least one second image.

7 9. The method according to claim 1, wherein **the first biometric data and**  
8 **the second biometric data** are transmitted over a network to a server.

9 19. A method for verifying three-dimensionality of a user's face using  
10 images of the user's face captured using a camera equipped computing device, the  
11 method comprising:

12 receiving first biometric data generated from at least one first image of the  
13 user taken with the camera of the computing device **located at a first distance**  
14 **from the user;**

15 receiving second biometric data generated from at least one second image  
16 of the user taken with the camera of the computing device **located at a second**  
17 **distance from the user, the second distance being different than the first**  
18 **distance;**

19 **comparing the first biometric data with the second biometric data to**  
20 **determine whether the first biometric data matches the second biometric data;**

21 **comparing the first biometric data with second biometric data to**  
22 **determine whether differences between the at least one first image and the at**  
23 **least one second image match expected differences resulting from movement**  
24 **of the camera or the user which changes the distance between the user and**  
25 **camera for capture of the one or more first images at the first distance and**  
26 **capture of the one or more second images at the second distance;**

27 **determining that the user's face is three-dimensional when:**

28 **the first biometric data is not identical to the second biometric data;**

1 and

2 the second biometric data has expected differences as compared to the  
3 first biometric data, the expected differences resulting from the change in  
4 distance between the user and the camera when the at least one first image was  
5 captured at the first distance and the at least one second image was captured  
6 at the second distance.

7 20. The method of claim 19, wherein the **receiving of the first biometric**  
8 **data and the second biometric data** occurs at a server and the first biometric data  
9 and the second biometric data are received over one or more of a LAN, WAN, or  
10 Internet type network.

11 With respect to indirect infringement, FaceTec has not shown that iProov either induces or  
12 contributes to the direct infringement by others. iProov's products have substantial non-infringing  
13 uses. For example, they can be used in a way that does not require images at different distances.  
14 iProov also does not encourage its customers or users to practice the elements of the FaceTec  
15 Asserted Claims. For example, FaceTec fails to show encouragement to take images at different  
16 distances. At a minimum, iProov could not indirectly infringe prior to its awareness of the FaceTec  
17 patents.

## 18 **II. INVALIDITY CONTENTIONS [LPR 1-8(B-G)]**

19 These Preliminary Invalidity Contentions are based on iProov's current knowledge and  
20 understanding of the Facetec Asserted Patents and the prior art, along with iProov's understanding  
21 of Plaintiff's infringement allegations and apparent claim interpretations based on those allegations,  
22 as set forth in Facetec's Infringement Contentions, served on August 18, 2022. iProov provides  
23 these Preliminary Invalidity Contentions despite the deficiencies in Plaintiff's Infringement  
24 Contentions. These Preliminary Invalidity Contentions should not be construed as a waiver by  
25 iProov of any objections to Plaintiff's Infringement Contentions or as an admission that the  
26 Infringement Contentions were adequate or that Plaintiff's apparent claim interpretations therein  
27 are correct, have merit, or should be adopted. Additionally, and as further explained below, where  
28 these Preliminary Invalidity Contentions disclose that a prior art reference meets a claim limitation,

1 such position may be based on Plaintiff's apparent claim interpretations in its Infringement  
2 Contentions; iProov does not necessarily agree that such interpretations are correct, have merit, or  
3 should be adopted.

4 iProov's investigation of the FaceTec Asserted Patents, their file histories, and the prior art  
5 is ongoing, and iProov expressly reserves the right to supplement these Preliminary Invalidity  
6 Contentions based on further discovery and in a manner consistent with the Federal Rules of Civil  
7 Procedure, and the Local Rules, or otherwise in accordance with any order or direction of this Court  
8 or agreement of the parties. iProov's ongoing investigation includes, but is not limited to, serving  
9 subpoenas on prior artists, publishers, inventors, assignees, and owners regarding prior art, seeking  
10 additional information related to the references and prior art systems disclosed in these Preliminary  
11 Invalidity Contentions, and seeking additional information regarding Plaintiff's Infringement  
12 Contentions and the products and services accused of infringing therein. Additionally, iProov has  
13 not yet had the benefit of taking the deposition of the named inventors or those that worked with  
14 the named inventors, or of the named inventors, authors, and entities listed on any references or  
15 systems identified in these Preliminary Invalidity Contentions.

16 iProov reserves the right to rely on additional prior art; further analysis of prior art;  
17 application of prior art to new or different claims; depositions and discovery from prior art sources  
18 and authors; analysis of prior art products; combinations of references; expert opinion and/or  
19 testimony; evidence supporting invalidity of any asserted claim; and any additional relevant  
20 information that may result from its further investigation and discovery. Additionally, iProov  
21 reserves the right to rely on additional information, testimony, and/or analysis concerning operation  
22 of prior art systems. Moreover, iProov reserves the right to revise its ultimate contentions  
23 concerning the invalidity of the FaceTec Asserted Claims, which may change depending upon the  
24 Court's construction of the FaceTec Asserted Claims, any findings as to the priority or invention  
25 date of the FaceTec Asserted Claims, and/or positions that Plaintiff or its expert witness(es) may  
26 take concerning claim construction, infringement, and/or invalidity issues.

27 Prior art not included in this disclosure, whether known or unknown to iProov, may become  
28 relevant. In particular, iProov is currently unaware of the extent, if any, to which Plaintiff will

1 contend that limitations of the FaceTec Asserted Claims are not disclosed in the prior art identified  
2 by iProov, or will contend that any of the identified references do not qualify as prior art.

3 Further, Plaintiff has not produced prior art known to it, including regarding any known  
4 prior art products. As discovery in this action provides iProov with additional information, iProov  
5 may serve subpoenas on third parties believed to have knowledge, documentation, and/or  
6 corroborating evidence relating to invalidity and/or prior art. It is therefore likely that iProov will  
7 discover additional prior art pertinent to the invalidity of the FaceTec Asserted Claims and iProov  
8 reserves the right to supplement these contentions after becoming aware of additional prior art or  
9 information. iProov further reserves the right to introduce and use such supplemental materials at  
10 trial.

11 iProov's claim charts in Exhibits 471-A through 471-I and 606-A through 606-I cite  
12 particular teachings and disclosures of the prior art as applied to features of the FaceTec Asserted  
13 Claims. However, persons having ordinary skill in the art may view an item of prior art generally  
14 in the context of other publications, literature, products, and understanding. Accordingly, the cited  
15 portions are only exemplary, and iProov reserves the right to rely on uncited portions of the prior  
16 art references and on other publications and expert testimony as aids in understanding and  
17 interpreting the cited portions, as providing context thereto, and as additional evidence that a claim  
18 limitation is known or disclosed. Citations to figures are inclusive of all discussion of those figures.  
19 iProov further reserves the right to rely on uncited portions of the prior art references, other  
20 publications, documents explicitly or implicitly incorporated by reference, and testimony, to  
21 establish bases for combinations of certain cited references that render the FaceTec Asserted Claims  
22 obvious. Further, for any combination, iProov reserves the right to rely additionally on information  
23 generally known to those skilled in the art and/or common sense.

24 The references discussed herein and in the claim charts in Exhibits 471-A through 471-I  
25 and 606-A through 606-I, or elsewhere identified, may disclose the elements of the FaceTec  
26 Asserted Claims explicitly and/or inherently, and/or they may be relied upon to show the state of  
27 the art in the relevant timeframe. The exemplary obviousness combinations are provided in the  
28

1 alternative to iProov's anticipation contentions and are not to be construed to suggest that any  
2 reference included in the combinations is not itself anticipatory.

3 iProov further intends to rely on inventor admissions concerning the scope of the FaceTec  
4 Asserted Claims or of the prior art relevant to the FaceTec Asserted Claims found in, inter alia: the  
5 patent prosecution history and/or reexamination history for the Asserted Patent and related patents  
6 and/or patent applications; any deposition testimony of a named inventor of the Asserted Patent;  
7 and the papers filed and any evidence submitted by Plaintiff in conjunction with this litigation.  
8 iProov reserves the right to contend that the FaceTec Asserted Claims are invalid for failure to  
9 name the correct inventor(s), and/or to contend that Plaintiff lacks standing to bring this litigation  
10 with respect to such patents.

11 Depending on the Court's construction of the FaceTec Asserted Claims, and/or positions  
12 that Plaintiff or its expert witness(es) may take concerning claim interpretation, infringement,  
13 and/or invalidity issues, the charted prior art references in Exhibits 471-A through 471-I and 606-  
14 A through 606-I, or otherwise identified herein, may be of greater or lesser relevance, and different  
15 combinations of these references may be implicated. Given this uncertainty, the charts may reflect  
16 alternative applications of the prior art against the FaceTec Asserted Claims. Nothing stated herein  
17 shall be construed as an admission or a waiver of any particular construction of any claim term.

18 In addition to these Preliminary Invalidity Contentions and prior art identified herein,  
19 iProov hereby relies on and incorporates by reference in their entirety and expressly reserves the  
20 right to rely upon invalidity expert reports, including all invalidity positions, invalidity charts and  
21 all prior art cited therein, as well as invalidity contentions presented by any present or former  
22 defendant in any of Plaintiff's or its predecessors' lawsuits or by potential or actual licensees to the  
23 FaceTec Asserted Patents, including any reexamination or other post-grant review including PTAB  
24 and foreign proceedings, involving the FaceTec Asserted Patents, any patents that claim priority  
25 to, claim priority from, or are the basis for a claim of priority in the FaceTec Asserted Patents, or  
26 any foreign counterparts (collectively, "related patents").

27 **a. PRIORITY DATE**

28 In its Infringement Contentions, Plaintiff asserts that each FaceTec Asserted Claim is

1 entitled to a priority date of at least Aug. 28, 2015. Reference to an “asserted priority date” should  
2 not be construed to mean that iProov agrees that the FaceTec Asserted Claims are in fact entitled  
3 to such priority date, or that Plaintiff has provided proper notice as to its contentions for a priority  
4 date.

5 For a patent to gain the benefit of the filing date of an earlier application, “each application  
6 in the chain leading back to the earlier application must comply with the written description  
7 requirement of 35 U.S.C. 112.” *Zenon Environmental, Inc. v. U.S. Filter Corp.*, 506 F.3d 1370,  
8 1378 (Fed. Cir. 2007). iProov reserves the right to challenge the priority date depending on how  
9 FaceTec seeks to interpret its claims in applying them for infringement and distinguishing prior art  
10 for invalidity. As one example, iProov reserves the right to challenge the priority date of the ‘606  
11 Patent based on the new material added in the parent to the ‘606 Patent (U.S. Patent No. 10,614,204,  
12 filed February 20, 2018). *See, e.g.* Figure 14 and 33:15-39:23. FaceTec’s interpretation of the  
13 FaceTec Asserted Claims may result in additional flaws in FaceTec’s priority date should FaceTec  
14 attempt to capture subject matter that was not disclosed until a later date. Thus, iProov reserves the  
15 right to challenge the priority date of the FaceTec Asserted Claims.

16 To the extent Plaintiff later alleges that any activities occurred before August 28, 2015 for  
17 the FaceTec Asserted Claims, including any belated reliance on the filing of provisional  
18 applications, iProov reserves the right to supplement these Preliminary Invalidity Contentions to  
19 address any such contention, including by identifying and/or charting additional prior art that may  
20 become relevant in view of such assertion. Likewise, to the extent Plaintiff successfully establishes  
21 an invention date before any of the prior art references relied on by iProov, then those references  
22 serve as evidence of secondary considerations of obviousness, particularly, contemporaneous  
23 invention by others. To the extent Plaintiff alleges that any prior art relied on in these Preliminary  
24 Invalidity Contentions does not actually qualify as prior art to the FaceTec Asserted Patents, iProov  
25 reserves the right to rebut those allegations (*e.g.*, by demonstrating an earlier critical date for the  
26 challenged prior art and/or a later priority date and/or date of invention for a particular FaceTec  
27 Asserted Claim). iProov also reserves the right to rely on additional documents, information, and  
28 evidence to demonstrate public availability by a certain date of a prior art reference or to rebut any

1 efforts by Plaintiff to allege any reference was not publicly available by a certain date or otherwise  
2 available as prior art.

3 **b. CLAIM CONSTRUCTION**

4 To the extent that these Preliminary Invalidity Contentions rely on or otherwise embody  
5 particular constructions of terms or phrases in the FaceTec Asserted Claims, iProov is not  
6 conceding to any such constructions as proper constructions of those terms or phrases at this time.  
7 The Court has established separate deadlines for the parties' proposed claim constructions in this  
8 litigation, and iProov will disclose its proposed constructions accordingly. For purposes of these  
9 Preliminary Invalidity Contentions, iProov may adopt alternative claim construction positions. In  
10 particular, portions of these Preliminary Invalidity Contentions, including the claim charts attached  
11 as exhibits, may be based on the underlying claim constructions and/or interpretations in Plaintiff's  
12 Infringement Contentions, to the extent such constructions and/or interpretations are understood by  
13 iProov. iProov does not concede that any such constructions or interpretations by Plaintiff are  
14 proper, and expressly reserves the right to contest any such constructions.

15 Throughout the attached Exhibits, iProov provides examples of where references disclose  
16 subject matter recited in preambles, without regard to whether the preambles are properly  
17 considered to be limitations of the FaceTec Asserted Claims. iProov reserves the right to argue, at  
18 the appropriate stage of this case, that the preambles are or are not limitations. Further, the fact that  
19 iProov provides examples of any limitation does not mean that iProov believes that the limitation  
20 is defined, or otherwise enabled, or comports with the requirements of the patent statute, including,  
21 but not limited to, 35 U.S.C. § 112.

22 Nothing disclosed herein is an admission or acknowledgement that any of iProov's products  
23 or services infringes any of the FaceTec Asserted Claims. iProov reserves the right to supplement,  
24 modify, or otherwise amend these Preliminary Invalidity Contentions, including based on the  
25 Court's claim construction rulings or opinions or the parties' positions or arguments taken in  
26 connection with the claim construction process. Moreover, iProov reserves the right to rely on any  
27 disclosures in the accompanying production as it believes necessary in view of positions Plaintiff  
28 may take with respect to the scope and meaning of the FaceTec Asserted Claims.



1                   **c. IDENTIFICATION OF PRIOR ART [LPR 1-8(B)]<sup>1</sup>**

2                   In addition to the references cited on the face of the FaceTec Asserted Patents and related  
3 patents, the admitted prior art references in the specifications of the FaceTec Asserted Patents and  
4 related patents, the prosecution histories of the FaceTec Asserted Patents and related patents, the  
5 references cited in any reexaminations, reissue proceedings, or other post-grant proceedings in the  
6 U.S. Patent Office of the FaceTec Asserted Patents and related patents, and the references cited in  
7 any invalidity contentions or expert reports submitted in any action or proceedings involving the  
8 FaceTec Asserted Patents or related patents, iProov below identifies the following prior art that  
9 anticipates each asserted claim and/or renders it obvious. The identification of any patent or patent  
10 publication shall be deemed to include any counterpart patent or application filed, published, or  
11 issued anywhere in the world.

12                  iProov has set forth in detail in the accompanying claim charts and discussion below the  
13 particular claims that are anticipated under 35 U.S.C. § 102 and/or rendered obvious under 35  
14 U.S.C. § 103 by the particular reference.

15                   **i. PRIOR ART PATENTS AND PATENT APPLICATION PUBLICATIONS**

16

| Patent / Publication No. | Origin        | Date of Issue / Publication <sup>2</sup> |
|--------------------------|---------------|------------------------------------------|
| 7,840,034                | United States | 11/23/2010                               |
| 8,290,220                | United States | 10/16/2012                               |
| 8,630,493                | United States | 01/14/2014                               |
| 8,705,812                | United States | 04/22/2014                               |
| 8,798,336                | United States | 08/05/2014                               |
| 8,856,541                | United States | 10/07/2014                               |
| 8,966,613                | United States | 02/24/2015                               |
| 8,970,348                | United States | 03/03/2015                               |
| 8,977,010                | United States | 03/10/2015                               |

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25                  <sup>1</sup> iProov also hereby identifies any systems or products that embody the technology described  
in any patent or publication identified in these Preliminary Invalidity Contentions. iProov  
reserves the right to rely on any documents or other evidence regarding any such systems.

26                  <sup>2</sup> The dates in this column are the latest dates on which the patents or publications were  
27 publicly available. iProov reserves the right to rely on the U.S. patents and publications in this  
28 list under 35 U.S.C. § 102(a) based on their earlier filing dates. iProov reserves the right to  
identify earlier dates for any references in this list should such dates be ascertained through  
discovery.

| Patent / Publication No. | Origin        | Date of Issue / Publication <sup>2</sup> |
|--------------------------|---------------|------------------------------------------|
| 8,984,622                | United States | 03/17/2015                               |
| 9,075,975                | United States | 07/07/2015                               |
| 9,230,158                | United States | 01/05/2016                               |
| 9,330,322                | United States | 05/03/2016                               |
| 9,408,076                | United States | 08/02/2016                               |
| 9,412,169                | United States | 08/09/2016                               |
| 9,510,196                | United States | 11/29/2016                               |
| 9,524,421                | United States | 12/20/2016                               |
| 9,600,649                | United States | 03/21/2017                               |
| 9,607,138                | United States | 03/28/2017                               |
| 9,652,663                | United States | 05/16/2017                               |
| 9,690,998                | United States | 06/27/2017                               |
| 9,971,920                | United States | 05/15/2018                               |
| 10,049,287               | United States | 08/14/2018                               |
| 10,042,993               | United States | 08/07/2018                               |
| 10,169,672               | United States | 01/01/2019                               |
| 10,755,084               | United States | 08/25/2020                               |
| 2007/0009139 A1          | United States | 01/11/2007                               |
| 2008/0192980 A1          | United States | 08/14/2008                               |
| 2008/0304716 A1          | United States | 12/11/2008                               |
| 2011/0299741 A1          | United States | 12/08/2011                               |
| 2014/0310764 A1          | United States | 10/16/2014                               |
| 2014/0309880 A1          | United States | 10/16/2014                               |
| 2014/0366113 A1          | United States | 12/11/2014                               |
| 2019/0342329 A1          | United States | 11/07/2019                               |

## ii. PRIOR ART PUBLICATIONS

| Title, Author(s), and Publisher                                                              | Date of Publication <sup>34</sup> |
|----------------------------------------------------------------------------------------------|-----------------------------------|
| <i>A Matter of Perspective</i> , John Cornicello, Cornicello Photography, www.cornicello.com | 05/08/2007                        |

<sup>3</sup> The dates in this column are the latest dates, based on iProov's current investigation, on which the publications were publicly available. iProov reserves the right to identify earlier dates should such dates be ascertained through discovery.

<sup>4</sup> To the extent Plaintiff disagrees with any of these identified dates of publication, iProov is available to meet and confer.

| Title, Author(s), and Publisher                                                                                                                                                                                                                                                  | Date of Publication <sup>34</sup> |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|
| <i>An Efficient Algorithm for Motion Detection Based Facial Expression Recognition Using Optical Flow</i> , Ahmad R. Naghsh-Nilchi, and Mohammad Roshanzamir, World Academy of Science, Engineering and Technology International Journal of Computer and Information Engineering | 2008                              |
| <i>Face Distortion is Not Due to Lens Distortion</i> , Daniel H. Baker, Daniel's Visionarium A blog about visual perception                                                                                                                                                      | 05/05/2022                        |
| <i>Impact of Focal Length on Portraits</i> , Bill Waldman, www.ontakingpictures.com                                                                                                                                                                                              | 08/09/2010                        |
| <i>Non-intrusive Liveness Detection by Face Images</i> , Klaus Kollreider, Hartwig Fronthaler, Josef Bigun, Image and Vision Computing                                                                                                                                           | 05/22/2007                        |
| <i>Moving Face Spoofing Detection via 3D Projective Invariants</i> , Maria De Marsico, Michele Nappi, Daniel Riccio, Jean-Luc Dugelay, Institute of Electrical and Electronic Engineers (IEEE)                                                                                   | 2012                              |
| <i>Face Liveness Detection Using 3D Structure Recovered from a Single Camera</i> , Tao Wang, Jianwei Yang, Zhen Lei, Shengcai Liao, Stan Z. Li, Institute of Electrical and Electronic Engineers (IEEE)                                                                          | 2013                              |
| <i>Perspective in Portraits</i> , Nathan Yan, Digital Photography DeCal                                                                                                                                                                                                          | 2007                              |
| <i>Evaluating Liveness by Face Images and the Structure Tensor</i> , Klaus Kollreider, Hartwig Fronthaler and Josef Bigun, Institute of Electrical and Electronic Engineers (IEEE)                                                                                               | 2005                              |
| <i>Securing Sensitive Data Stored on Smartphones</i> , Mark Wilson and Lei Chen, Institute of Electrical and Electronic Engineers (IEEE)                                                                                                                                         | 2012                              |
| <i>Face Liveness Detection Using Variable Focusing</i> , Sooyeon Kim, Sunjin Yu, Kwangtaek Kim, Yuseok Ban, and Sangyoun Lee, Institute of Electrical and Electronic Engineers (IEEE)                                                                                            | 2013                              |

### iii. PRIOR ART SALES/PUBLIC USES

iProov hereby identifies any systems or products that embody the technology described in any patent or publication identified above in Sections II.c.i and II.c.ii, including and sales or public uses by any assignee or patentee of the FaceTec Asserted Patents or the named inventors.

Additionally, iProov reserves the right to supplement its disclosure of prior art sales and public uses of the claimed invention as discovery progresses.

### d. GROUNDS FOR INVALIDITY [LPR 1-8(C)]

The primary prior art references for the FaceTec Asserted Patents on which iProov presently

1 relies based on investigation to date are identified below. The exhibits to these Preliminary  
2 Invalidity Contentions contain claim charts for the primary prior art references. Obviousness  
3 combinations of the primary prior art references are separately identified throughout these  
4 Preliminary Invalidity Contentions.

5 iProov's reliance on each prior art reference identified throughout these Preliminary  
6 Invalidity Contentions (whether primary references or secondary references) includes the reference  
7 itself, anything incorporated by the reference, any system embodying the reference, and any  
8 testimony by those with knowledge of the reference, such as named authors and inventors.<sup>5</sup> All  
9 such documents and information shall be considered one prior art reference to the extent they  
10 describe a single prior art system or solution, or the closely related work of a single prior art author.  
11 In addition to the specific references below, iProov reserves the right to rely on all admitted prior  
12 art in the FaceTec Asserted Patents and its file history, as well as anything admitted as known in  
13 the prior art by the patent owner, or which may lead to the additional discovery of prior art. iProov  
14 reserves the right to supplement these Preliminary Invalidity Contentions as discovery reveals  
15 further information about prior use and/or prior public knowledge of products, methods, or systems  
16 that iProov has reason to believe anticipate or render obvious one or more FaceTec Asserted  
17 Claims. During discovery, iProov plans on issuing subpoenas to third parties and therefore reserves  
18 the right to identify and rely on additional prior art in the possession of such parties. iProov further  
19 reserves the right to identify and rely on additional prior art in Plaintiff's possession, custody, or  
20 control that has not yet been produced or identified to iProov, including prior art identified and/or  
21 produced in prior litigations or in post-grant proceedings at the U.S. Patent and Trademark Office.

#### 22 **i. PRIMARY REFERENCES**

23 The following primary references, alone or in combination with any other reference(s)  
24 identified in this section or elsewhere in these Preliminary Invalidity Contentions, render invalid  
25 one or more of the FaceTec Asserted Claims.

##### 26 **1. U.S. PATENT NO. 8,798,336 ("NECHYBA")**

27 <sup>5</sup> For example, for each patent identified as a prior art reference in these Preliminary  
28 Invalidity Contentions, iProov reserves the right to rely on the patent itself and/or any system that  
practices or embodies the patent to demonstrate invalidity.

1 U.S. Patent No. 8,798,336 was filed on September 23, 2013 and granted August 5, 2014.  
2 Nechyba qualifies as prior art to the FaceTec Asserted Patents under at least 35 U.S.C. §§ 102(a)(1),  
3 102(a)(2). Nechyba anticipates and/or renders obvious (in combination with the knowledge of a  
4 person of ordinary skill in the art) all FaceTec Asserted Claims. The claim charts attached as  
5 **Exhibits 471-A and 606-A** provides representative, non-limiting examples of where Nechyba  
6 discloses, either expressly or inherently, each element, thereby anticipating those claims. To the  
7 extent Plaintiff asserts that Nechyba does not anticipate any FaceTec Asserted Claim, such FaceTec  
8 Asserted Claim would have been obvious in view of Nechyba alone and/or in view of the  
9 knowledge of a person of ordinary skill in the art. Additionally, it would have been obvious to  
10 combine or modify Nechyba with concepts from other prior art, including any of the other primary  
11 references, secondary references, and/or in view of the knowledge of a person of ordinary skill in  
12 the art, including as explained herein, to achieve the claimed inventions.

## 13 **2. U.S. PATENT NO. 9.230,158 (“RAMASWAMY”)**

14 U.S. Patent No. 9.230,158 was filed on December 18, 2012, and granted January 5, 2016.  
15 Ramaswamy qualifies as prior art to the FaceTec Asserted Patents under at least 35 U.S.C. §§  
16 102(a)(2). Ramaswamy anticipates and/or renders obvious (in combination with the knowledge of  
17 a person of ordinary skill in the art) all FaceTec Asserted Claims. The claim charts attached as  
18 **Exhibits 471-B and 606-B** provides representative, non-limiting examples of where Ramaswamy  
19 discloses, either expressly or inherently, each element, thereby anticipating those claims. To the  
20 extent Plaintiff asserts that Ramaswamy does not anticipate any FaceTec Asserted Claim, such  
21 FaceTec Asserted Claim would have been obvious in view of Ramaswamy alone and/or in view of  
22 the knowledge of a person of ordinary skill in the art. Additionally, it would have been obvious to  
23 combine or modify Ramaswamy with concepts from other prior art, including any of the other  
24 primary references, secondary references, and/or in view of the knowledge of a person of ordinary  
25 skill in the art, including as explained herein, to achieve the claimed inventions.

## 26 **3. U.S. PATENT PUB. NO. 2011/0299741 (“ZHANG”)**

27 U.S. Patent Pub. No. 2011/0299741 was filed on June 8, 2010, and published December 8,  
28 2011. Zhang qualifies as prior art to the FaceTec Asserted Patents under at least 35 U.S.C. §§

1 102(a)(1), 102(a)(2). Zhang anticipates and/or renders obvious (in combination with the knowledge  
2 of a person of ordinary skill in the art) all FaceTec Asserted Claims. The claim charts attached as  
3 **Exhibits 471-C and 606-C** provides representative, non-limiting examples of where Zhang  
4 discloses, either expressly or inherently, each element, thereby anticipating those claims. To the  
5 extent Plaintiff asserts that Zhang does not anticipate any FaceTec Asserted Claim, such FaceTec  
6 Asserted Claim would have been obvious in view of Zhang alone and/or in view of the knowledge  
7 of a person of ordinary skill in the art. Additionally, it would have been obvious to combine or  
8 modify Zhang with concepts from other prior art, including any of the other primary references,  
9 secondary references, and/or in view of the knowledge of a person of ordinary skill in the art,  
10 including as explained herein, to achieve the claimed inventions.

#### 11 **4. U.S. PATENT NO. 8,977,010 (“FRISCHHOLZ”)**

12 U.S. Patent No. 8,977,010 was filed on October 19, 2012, and granted March 10, 2015.  
13 Frischholz qualifies as prior art to the FaceTec Asserted Patents under at least 35 U.S.C. §§  
14 102(a)(1), 102(a)(2). Frischholz anticipates and/or renders obvious (in combination with the  
15 knowledge of a person of ordinary skill in the art) all FaceTec Asserted Claims. The claim charts  
16 attached as **Exhibits 471-D and 606-D** provides representative, non-limiting examples of where  
17 Frischholz discloses, either expressly or inherently, each element, thereby anticipating those claims.  
18 To the extent Plaintiff asserts that Frischholz does not anticipate any FaceTec Asserted Claim, such  
19 FaceTec Asserted Claim would have been obvious in view of Frischholz alone and/or in view of  
20 the knowledge of a person of ordinary skill in the art. Additionally, it would have been obvious to  
21 combine or modify Frischholz with concepts from other prior art, including any of the other primary  
22 references, secondary references, and/or in view of the knowledge of a person of ordinary skill in  
23 the art, including as explained herein, to achieve the claimed inventions.

#### 24 **5. U.S. PATENT APPLICATION PUB. NO. 2008/0192980 (“PARK”)**

25 U.S. Patent Application Pub. No. 2008/0192980 was filed on August 13, 2007 and  
26 published on August 14, 2008. Park qualifies as prior art to the FaceTec Asserted Patents under at  
27 least 35 U.S.C. §§ 102(a)(1), 102(a)(2). Park anticipates and/or renders obvious (in combination  
28 with the knowledge of a person of ordinary skill in the art) all FaceTec Asserted Claims. The claim

1 charts attached as **Exhibits 471-E and 606-E** provides representative, non-limiting examples of  
2 where Park discloses, either expressly or inherently, each element, thereby anticipating those  
3 claims. To the extent Plaintiff asserts that Park does not anticipate any FaceTec Asserted Claim,  
4 such FaceTec Asserted Claim would have been obvious in view of Park alone and/or in view of the  
5 knowledge of a person of ordinary skill in the art. Additionally, it would have been obvious to  
6 combine or modify Park with concepts from other prior art, including any of the other primary  
7 references, secondary references, and/or in view of the knowledge of a person of ordinary skill in  
8 the art, including as explained herein, to achieve the claimed inventions.

#### 9 **6. U.S. PATENT NO. 10,755,084 (“GANONG”)**

10 U.S. Patent No. 10,755,084 was filed on November 6, 2018 and claims priority to an  
11 application filed December 31, 2007. Ganong qualifies as prior art to the FaceTec Asserted Patents  
12 under at least 35 U.S.C. §§ 102(a)(1), 102(a)(2). Ganong anticipates and/or renders obvious (in  
13 combination with the knowledge of a person of ordinary skill in the art) all FaceTec Asserted  
14 Claims. The claim charts attached as **Exhibits 471-F and 606-F** provides representative, non-  
15 limiting examples of where Ganong discloses, either expressly or inherently, each element, thereby  
16 anticipating those claims. To the extent Plaintiff asserts that Ganong does not anticipate any  
17 FaceTec Asserted Claim, such FaceTec Asserted Claim would have been obvious in view of  
18 Ganong alone and/or in view of the knowledge of a person of ordinary skill in the art. Additionally,  
19 it would have been obvious to combine or modify Ganong with concepts from other prior art,  
20 including any of the other primary references, secondary references, and/or in view of the  
21 knowledge of a person of ordinary skill in the art, including as explained herein, to achieve the  
22 claimed inventions.

#### 23 **7. U.S. PATENT NO. 9,412,169 (“BUD”)**

24 U.S. Patent No. 9,412,169 B2 to Bud, et al., (“’169”) granted August 9, 2016, qualifies as  
25 prior art to the FaceTec Asserted Patents under at least 35 U.S.C. §§ 102(a) because it is a patent  
26 that was filed before the effective filing date of the FaceTec Asserted Patents, depending on the  
27 effective filing date proven for each of the asserted claims. The ‘169 Patent was (1) published May  
28 26, 2016 (US 2016/0148384), which is before the filing date of the ‘606 Patent’s parent application

(U.S. Patent No. 10,614,204) and Provisional Application (No. 62,460,670) as well as the ‘471 Patent’s parent application (U.S. Patent No. 10,262,126); (2) filed August 28, 2015 (which is the same date the ‘606 Patent’s C-I-P grand-parent application and the ‘471 Patent’s grand-parent application (U.S. Patent No. 9,953,149)); and (3) claims priority to a provisional filed November 21, 2014, which is before any relevant disclosures in the provisional applications related to the FaceTec Asserted Patents. Bud anticipates and/or renders obvious (in combination with the knowledge of a person of ordinary skill in the art) all FaceTec Asserted Claims. The claim charts attached as **Exhibits 471-G and 606-G** provides representative, non-limiting examples of where Bud discloses, either expressly or inherently, each element, thereby anticipating those claims. To the extent Plaintiff asserts that Bud does not anticipate any FaceTec Asserted Claim, such FaceTec Asserted Claim would have been obvious in view of Bud alone and/or in view of the knowledge of a person of ordinary skill in the art. Additionally, it would have been obvious to combine or modify Bud with concepts from other prior art, including any of the other primary references, secondary references, and/or in view of the knowledge of a person of ordinary skill in the art, including as explained herein, to achieve the claimed inventions.

## 8. MARISCO

“Moving Face Spoofing Detection via 3D Projective Invariants” by Marsico et al. (“Marsico”) qualifies as prior art under at least 35 U.S.C. § 102(a)(1) because it is a printed publication that was publicly available before the effective filing date of U.S. Patent No. 11,157,606 (“the ‘606 Patent”). Marisco anticipates and/or renders obvious (in combination with the knowledge of a person of ordinary skill in the art) all FaceTec Asserted Claims. The claim charts attached as **Exhibits 471-H and 606-H** provides representative, non-limiting examples of where Marisco discloses, either expressly or inherently, each element, thereby anticipating those claims. To the extent Plaintiff asserts that Marisco does not anticipate any FaceTec Asserted Claim, such FaceTec Asserted Claim would have been obvious in view of Marisco alone and/or in view of the knowledge of a person of ordinary skill in the art. Additionally, it would have been obvious to combine or modify Marisco with concepts from other prior art, including any of the other primary references, secondary references, and/or in view of the knowledge of a person of ordinary skill in



1 the art, including as explained herein, to achieve the claimed inventions.

2 **9. U.S. PATENT NO. 9,330,322 (“FERREN”)**

3 U.S. Patent No. 9,330,322 was filed on October 5, 2016, and granted May 3, 2016. Ferren  
4 qualifies as prior art to the FaceTec Asserted Patents under at least 35 U.S.C. § 102(a)(2). Ferren  
5 anticipates and/or renders obvious (in combination with the knowledge of a person of ordinary skill  
6 in the art) all FaceTec Asserted Claims. The claim charts attached as **Exhibits 471-I and 606-I**  
7 provides representative, non-limiting examples of where Ferren discloses, either expressly or  
8 inherently, each element, thereby anticipating those claims. To the extent Plaintiff asserts that  
9 Ferren does not anticipate any FaceTec Asserted Claim, such FaceTec Asserted Claim would have  
10 been obvious in view of Ferren alone and/or in view of the knowledge of a person of ordinary skill  
11 in the art. Additionally, it would have been obvious to combine or modify Ferren with concepts  
12 from other prior art, including any of the other primary references, secondary references, and/or in  
13 view of the knowledge of a person of ordinary skill in the art, including as explained herein, to  
14 achieve the claimed inventions.

15 **ii. ADDITIONAL REFERENCES**

16 Additional prior art references (“secondary references”) are relevant to the invalidity of the  
17 FaceTec Asserted Claims. To the extent a primary reference does not disclose or render obvious  
18 one or more of the elements of the FaceTec Asserted Claims, a person of ordinary skill in the art  
19 would be motivated to combine the primary reference with any other primary reference(s) that  
20 discloses that limitation or with one or more of these secondary references.

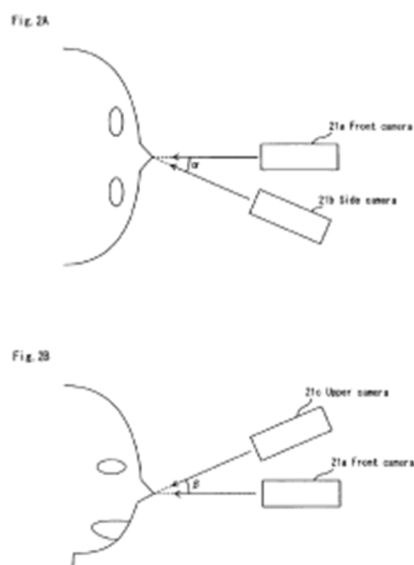
21 The secondary references include:

22 **1. U.S. PATENT PUB. NO. 2008/0304716 (“HIROSE”)**

23 Hirose discloses a face recognition device that captures the face of a person from different  
24 directions and uses these images to identify the person by comparing facial data with individual  
25 identification data previously stored in the device that meets many of the limitations of the FaceTec  
26 Asserted Claims. The relevant portions of Hirose include:

27  
28 “A face recognition device of the present invention comprises a plurality of imaging  
devices capable of simultaneously capturing the face of a person from directions

different from one another, and a storage device, the device further comprising: a depression/protrusion data determination device determining data indicating difference of areas of portions in a predetermined color, as depression/protrusion data indicating facial depression/protrusion features of the person, by calculating the difference of the areas based on comparison of images including the face captured from two directions, the images being simultaneously captured using the plurality of imaging devices; and an identification device identifying the person by comparing the depression/protrusion data of the person determined by the depression/protrusion data determination device with individual identification data previously stored in the storage device to be the reference of comparison with the depression/protrusion data.” [Abstract]



[Figs. 2A and 2B]

“(1) A face recognition device provided with a plurality of imaging devices capable of simultaneously capturing the face of a person from directions different from one another, and a storage device, the device comprising:

a depression/protrusion data determination device determining data indicating difference of areas of portions in a predetermined color, as depression/protrusion data indicating facial depression/protrusion features of the person, by calculating the difference of the areas based on comparison of images including the face captured from two directions, the images being simultaneously captured using the plurality of imaging devices; and

an identification device identifying the person by comparing the depression/protrusion data of the person determined by the depression/protrusion data determination device with individual identification data previously stored in the storage device to be the reference of comparison with the depression/protrusion data.

1 According to the invention of (1), a plurality of images indicating the face of a  
2 person simultaneously captured from directions different from one another are  
3 obtained using the plurality of imaging devices. Then, the difference of areas of the  
4 portions in the predetermined color (the shadow portions generated due to the  
5 depression/protrusion on the face) is calculated, and the data indicating the  
6 difference of areas is determined as the depression/protrusion data indicating the  
7 facial depression/protrusion of the person.

8 Thereafter, the determined depression/protrusion data is compared with the  
9 previously registered individual identification data to be the reference of  
10 comparison, so as to identify the person.” [0016-0019]

11 “(3) A face recognition device comprising: a plurality of cameras capable of  
12 simultaneously capturing the face of a person from directions different from one  
13 another; an arithmetic processing device; and a storage device,

14 wherein  
15 the arithmetic processing device is to execute the processing of

16 (A) determining data indicating difference of areas of portions in a predetermined  
17 color, as depression/protrusion data indicating facial depression/protrusion features  
18 of the person, by calculating the difference of the areas based on comparison of  
19 images including the face captured from two directions, the images being  
20 simultaneously captured using the plurality of camera, and

21 (B) identifying the person by comparing the depression/protrusion data of the person  
22 determined in the processing (A) with individual identification data previously  
23 stored in the storage device to be the reference of comparison with the  
24 depression/protrusion data.

25 According to the invention of (3), a plurality of images indicating the face of the  
26 person simultaneously captured from directions different from one another are  
27 obtained using the plurality of cameras. Then, the difference of areas of the portions  
28 in the predetermined color (the shadow portions generated due to the  
depression/protrusion on the face) is calculated, and the data indicating the  
difference of areas is determined as the depression/protrusion data indicating the  
facial depression/protrusion of the person.” [0033-0038]

“Further, in the invention of (3), the data stored as the individual identification data  
is data showing the difference of areas of the shadow portions in the case where  
images of the face of the person are simultaneously captured from directions  
different from one another and does not have a large volume as image data.  
Therefore, since the volume of data to be stored is small, even individual  
identification data of a large number of people can be stored in a small volume.”  
[0041]

“The face recognition device according to the present embodiment is provided with  
three cameras which capture the face of a person from directions different from one  
another. It is possible to three-dimensionally recognize the facial features by

capturing images of the face of the person from different directions using the plurality of cameras.” [0060]

“Hereinafter, the direction from which the front camera 21 a captures images is also referred to as a “front direction”. Further, the direction from which the side camera 21 b captures images is also referred to as a “lateral direction”. Furthermore, the direction from which the upper camera 21 c captures images is also referred to as an “upper direction”.

The lamp 22 is for applying light to the face of the person when the three cameras capture images.

In the present embodiment, the front camera 21 a, the side camera 21 b, and the upper camera 21 c capture images of the face of the person while the lamp 22 is applying light to the face of the person.

Further, the three cameras capture images at the same time.

The front camera 21 a, the side camera 21 b, and the upper camera 21 c function as the imaging devices in the present invention.” [0074-0078]

“As described above, according to the face recognition device relating to the present embodiment, three images indicating the face of the person simultaneously captured from directions different from one another by the front camera 21 a, the side camera 21 b, and the upper camera 21 c. Then, the difference of areas of the portion (the shadow portion generated due to the depression/protrusion on the face) in the predetermined color is calculated; and the data indicating the difference of areas is determined as the depression/protrusion data indicating the features of the depressed/protruding parts of the face of the person.

The person is then determined by comparing the determined depression/protrusion data and the individual identification data to be the reference of comparison with the depression/protrusion data.

As described above, in the face recognition device according to the present embodiment, it is possible to promptly conduct identification without taking time in processing, since the comparatively simple processing of obtaining the difference of the predetermined areas, not the complicated processing of extracting specific facial features such as the eyes, nose, and mouth, is conducted.

Further, in the face recognition device according to the present embodiment, the data stored as the individual identification data is data showing the difference of areas of the shadow portions in the case where images of the face of the person are simultaneously captured from directions different from one another and does not have a large volume as image data. Therefore, since the volume of data to be stored is small, even individual identification data of a large number of people can be stored in a small volume.

Further, in the face recognition device according to the present embodiment, data indicating the facial depression/protrusion features is used in identification. Namely, face recognition is conducted based on the three-dimensional features of the face.

1 The three-dimensional features of the face indicate the irregularities of face parts,  
2 and are unique to each person. Namely, since the depression/protrusion on the face  
3 represents the facial features of a person extremely well, comparatively highly  
4 accurate identification can be realized according to the face recognition device  
relating to the present embodiment, even though a simple method is used therein.

5 Further, the depression/protrusion data in the present embodiment comprises  
6 information relating to the two types of difference of areas, namely, two types of  
7 information including information on the difference between the area of the portion  
8 in the predetermined color in the image data obtained by the front camera 21 a and  
9 the area of the portion in the predetermined color in the image data obtained by the  
10 side camera 21 b, and information on the difference between the area of the portion  
in the predetermined color in the image data obtained by the front camera 21 a and  
the area of the portion in the predetermined color in the image data obtained by the  
upper camera 21 c. Therefore, as compared to the case of using one type of  
difference of the areas, more accurate depression/protrusion data can be obtained.”  
[0124-0130]

## 11 2. U.S. PATENT NO. 9,690,998 (“NEGI”)

12 Negi discloses a face recognition device that captures the face of a person from different  
13 directions and uses these images to identify the person by comparing facial data with individual  
14 identification data previously stored in the device that meets many of the limitations of the FaceTec  
15 Asserted Claims. The relevant portions of Negi include:  
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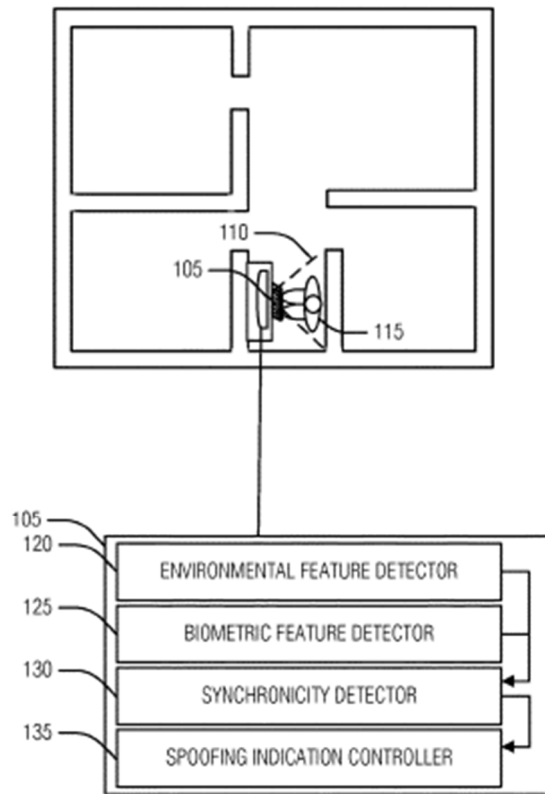
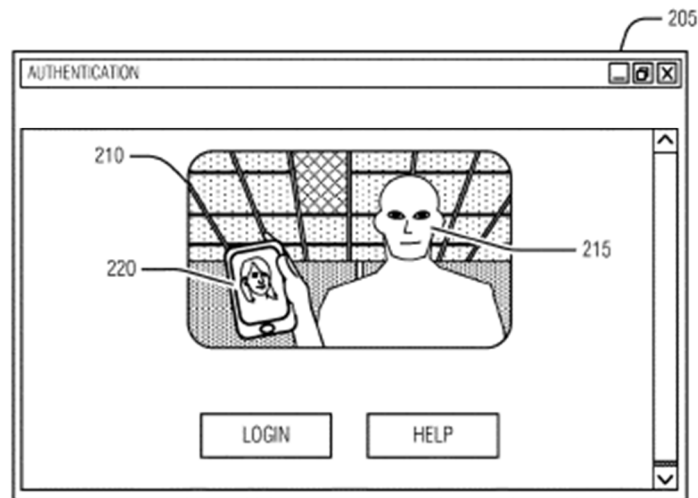


FIG. 1



[Fig. 2]

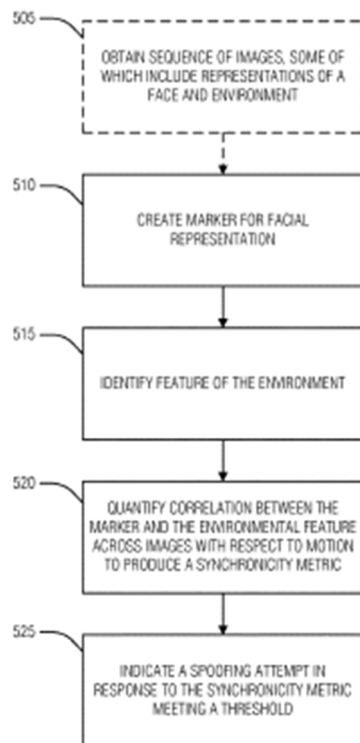


FIG. 5

1 “Systems and techniques for facial spoofing detection in image based biometrics are  
2 described herein. A marker may be created for a representation of a face in a first  
3 plurality of images of a sequence of images. The marker corresponds to a facial  
4 feature of the face. An environmental feature of an environment of the face may be  
5 identified across a second plurality of images of the sequence of images. A  
6 correlation between the marker and the environmental feature in the sequence of  
7 images may be quantified to produce a synchronicity metric. A spoofing attempt  
8 may be indicated in response to the synchronicity metric meeting a threshold.”  
9 [Abstract]

10 “To prevent facial spoofing, two types of anti-spoofing techniques may be employed  
11 (alone or in combination): 1) asking users to perform certain tasks (e.g., invoking  
12 dynamic user involvement that may be hard to predict to complicate spoofing); or  
13 2) analyzing the context (e.g., environment) of the image capture to determine  
14 whether the captured image represents a “live” user. Both techniques may  
15 distinguish between a live user and a facsimile, but merely asking for more user  
16 input may present some user experience challenges (e.g., how to represent the quest,  
17 difficulty for user's to follow the request, excessive time in performing the requests,  
18 etc.). Analyzing the context in which the image was captured, however, may avoid  
19 the user experience challenges associated with a more interactive technique.” [2:9-  
20 23]

21 “The described components and techniques provide facial spoofing protection  
22 without involving a challenge-response user action by analyzing the facial image  
23 capture context. For example, the context of image acquisition may include  
24 analyzing relative motion of a face and environmental features (e.g., the  
25 background) across a sequence of images. Thus, if the captured representation of  
26 the face includes movements that synchronize with background features (e.g., edges  
27 of a mobile device), it may be determined that the face is a spoof attempt. Further,  
28 tell-tale contours of known device edges (e.g., the body, screen, etc.) may be  
determined and further implicate spoofing when, for example, the face is bounded  
by the edges of a digital device.” [2:24-36]

“An example of facial capture context may include one or more of the following  
features to perform facial spoofing detection in image based biometrics.” [2:37-39]

“If face is not included inside the moving frame, it could be a live user holding or  
using a phone (e.g., off to the side) for valid reasons (e.g., reasons other than making  
a spoofing attempt). However, edge movement may still be monitored to track  
device movement within the sequence of images. This may be beneficial when video  
quality is low and the edges may not be detectable in every frame. Thus, the position  
of the device edges may be inferred in a frame in which they are not detectable or  
positively detected, for example, by noting where they were last detected. In this  
scenario, a face appearing in an area that is within an inferred frame (e.g., because  
the edges aren't detected in the frame with the face) may still be called out as a  
spoofing attempt. As noted above, edges, or other features, that move together may  
be tracked to infer the position of moving entities from previous captured images to  
captured images where the entity cannot be found. Synchronized movement may be



1 tracked with respect to any of rotational, scaling, or translational movement. In an  
2 example, capturing these moving features and inferring their position in captured  
3 images in which they do not appear is referred to as capturing partial moving  
features.” [2:60-3:22]

4 “The spoofing indication criteria may include the following: 1) if a face is present  
5 and inside a detected device (e.g., edge contours of known device), then indicate  
6 spoofing unless, in an example, the eyes and device edges do not all move together;  
7 2) If the face is present but not inside the device, then determine whether face  
8 movements synchronize with other environmental features—This may allow  
9 detection of background image features when, for example, the device is held too  
10 close to the camera to view the device edges—and indicate a spoofing attempt when  
11 the eyes and detectable moving edges all move together (e.g., within a threshold);  
3) If the face is not present and at least two device edges move together, then tag as  
the two devices edges as partial moving edges and infer a boundary of a device  
display in following captured image when the edges are not visible in the following  
captured image, and indicate spoofing if future detected face is within the inferred  
boundary of the device.” [3:26-43]

12 “The sequence of images may include a first plurality of images containing a  
13 representation of the user's face, and a second plurality of images in the sequence of  
images including a representation of an environment of the face.” [3:57-63]

14 “The biometric feature detector 125 may analyze the sequence of images and  
15 identify the representation of the user's face in the first plurality of images. In an  
16 example, the biometric feature detector 125 may create a marker for the  
17 representation of the face. The maker corresponds to a feature of the face—examples  
may include the eyes, nose, mouth, ears, or points defined by these features, such as  
a centroid of the eyes, a line that intersects the center of each eye, etc.” [4:41-49]

18 “FIG. 2 illustrates an example of image capture interface 200 for facial spoofing  
19 detection in image based biometrics, according to an embodiment. The interface 200  
20 may include a dialog 205 user interface. The dialog 205 may include the sequence  
21 of images in a viewing port 210. As shown, the viewing port 210 includes an image  
in the sequence of images containing a representation of the user's face 215 as well  
as a device 220 with another representation of a face.

22 FIG. 3 illustrates an example of image analysis 300 for facial spoofing detection in  
23 image based biometrics, according to an embodiment. The image illustrated in FIG.  
24 2 may be analyzed to discern relative motion of environmental features and the  
25 representations of the faces. As illustrated, dashed lines are non-moving edges,  
26 dotted lines are curved lines in the image, and solid lines are moving edges. The  
27 analysis 300 may detect the represented faces and create the marker 305 for the live  
28 face and the maker 310 for the spoofed face. Further, the analysis 300 may determine  
that the edges 315 are moving together and enclose an area. Thus, from the analysis  
300, it may be determined that the marker 310 is within the moving edges 315, and  
thus such a face is a possible spoofing attempt that should be flagged or otherwise  
fail to authenticate the user. In contrast, the marker 305 is not within the edges 315

1 and so cannot be so easily assessed as a spoofing attempt. However, if the marker  
2 305 moves synchronously to the moving edges 315, it may be determined that  
3 everything in the image is a facsimile of the user's environment—although in the  
4 illustrated example, this is unlikely because some of the edges are not moving  
5 relative to the moving edges 315.

6 The example illustrated in FIG. 3 includes both live and spoofed faces. It should be  
7 noted that the detection of a spoofed face alone will result in spoofing attempt  
8 indication. Further, when both live and other faces (e.g., pictures) are present, the  
9 discrimination between the two may limit the candidate faces for authentication by  
10 simply eliminating the other faces.” [5:47-6:17]

11 “At optional operation 505, a sequence of images from a camera may be obtained.  
12 In an example, a raw sequence of images may be obtained first. The raw sequence  
13 of images may be modified to create the sequence of images. In an example, the  
14 modification may include a change to at least one of gain, exposure, or gamma to  
15 enhance edge detection. In an example, the modification may include applying a  
16 noise filter to the sequence of raw images to produce the sequence of images. The  
17 sequence may include a first plurality of images including a representation of a face  
18 and a second plurality of images includes a representation of an environment of the  
19 face. In an example, the sequence of images may include at least thirty images.”  
20 [6:55-67]

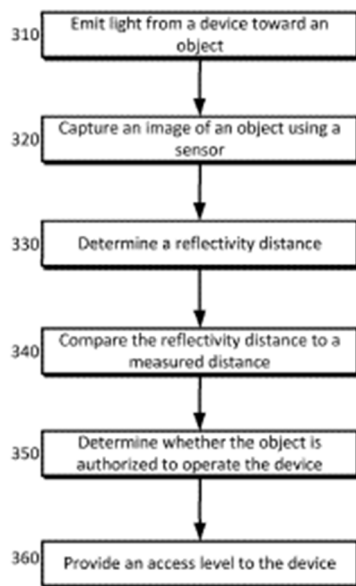
21 “At operation 510, a marker for the representation of the face may be created. The  
22 marker may correspond to a facial feature identifiable in the representation of the  
23 face. In an example, the marker may be selected such that changes in the marker  
24 between images in first plurality of images indicate changes in movements of the  
25 representation of the face. In an example, the marker includes a line drawn between  
26 the eyes of the facial representation.” [7:1-8]

27 “At operation 520, a correlation between the marker and the environmental feature  
28 may be quantified with respect to motion across the sequence of images to produce  
a synchronicity metric. In an example, where the marker is outside the convex hull,  
the synchronicity metric is reduced. In an example, the first plurality of images does  
not include a member of the second plurality of images, the missing member  
precedes in time the first plurality of images and includes a determined resting spot  
for the moving edges that outlining an area, and the marker is within the area for an  
image in which the moving edges are not detected following the member, the marker  
is determined to be within the convex hull for the synchronicity metric. Thus, the  
device position is inferred from prior data and the face is determined to originate  
from the device even though the device (or its edges) is not detectable in the specific  
image in which the facial representation was found. In an example, the marker is  
sought within a display area of a known device, increasing the synchronicity metric  
if found there, and decreasing the synchronicity metric otherwise. Thus, the method  
500 may discriminate between an image displayed by the device and possibly an  
image reflected by a case, bezel, or other non-display portion of the device.” [7:31-  
54]

### 3. U.S. PATENT NO. 9,524,421 (“ROSS”)

Ross discloses a face recognition device that captures the face of a person from different directions and uses these images to identify the person by comparing facial data with individual identification data previously stored in the device that meets many of the limitations of the FaceTec Asserted Claims. The relevant portions of Ross include:

**FIG. 3**



“Facial recognition can be used to determine whether or not a user has access privileges to a device such as a smartphone. It may be possible to spoof an authenticated user's image using a picture of the user. Implementations disclosed herein utilize time of flight and/or reflectivity measurements of an authenticated user to compare to such values obtained for an image of an object. If the time of flight distance and/or reflectivity distance for the object match a measured distance, then the person (i.e., object) may be granted access to the device.” [Abstract]

“Disclosed is an anti-spoofing technology that incorporates a light emitting source. The light may reflect off an external object and return to the device where it may be captured (e.g., by a photometric sensor) and analyzed for the time of flight of the light and reflectivity. In some configurations, the measurements for time of flight and/or reflectivity may complement a distance detected based on landmarks of a person's face. Distance measurements may be obtained for an object based on one or more of reflectivity, time of flight, and between two or more landmarks. For example, facial recognition may be used to determine that the object appears similar to the authorized user; however, one or more distance measurements based on

1 reflectivity, time of flight, and/or two or more landmarks may not match within a  
2 confidence interval (e.g., the distance based on reflectivity may be significantly  
3 different from the time of flight distance).” [2:52-67]

4 “In an implementation, an example of which is provided in FIG. 3, a profile of a  
5 first face may be obtained. For example, a profile of the first face may be generated  
6 during an enrollment process or phase. An enrollment phase may refer to when a  
7 user first associates the user's identity (e.g., user name, email, other accounts such  
8 as cloud storage, credit card, user name, password, etc.) with a device. The first face  
9 may correspond to a user authorized to operate the device. The profile may refer to  
10 one or more images corresponding to a face of an authorized user and/or a  
11 mathematical representation of the face of a user authorized to operate the device.  
12 Representations of the first face may be used subsequently as a component of facial  
13 recognition algorithms. The profile may include, for example, reflectivity data, time  
14 of flight data, and/or landmarks of the first face of a user authorized to operate the  
15 device. Reflectivity and/or time of flight data associated with the first face may be  
16 expressed as a range of values and/or in terms of a distance measurement. The  
17 profile may include measurements related to identified areas (e.g., landmarks) of the  
18 user's face, such as the distance between the user's eyes. Facial recognition software  
19 may store other features necessary to uniquely identify the user's face to the profile  
20 such as a color intensity, a histogram of gradients, or a template as described below.  
21 The profile may include time of flight data for identified features of the user's face  
22 for example.” [4:14-39]

23 “In some configurations, a profile for the object may be generated. The object profile  
24 may include a mathematical representation of the object, reflectivity data, time of  
25 flight data, and/or landmarks identified in the object, similar to the profile obtained  
26 of a user authorized to operate a device. In some instances, facial recognition  
27 algorithms may be applied to the image captured by the device and may identify a  
28 second face in the image of the object (e.g., a face of a user other than the authorized  
29 user). A first face profile may be obtained as described earlier. The profile of the  
30 object may be compared to the profile of the first face of a user authorized to operate  
31 the device. A comparison of the object profile to the first face profile may be an  
32 initial test to determine whether or not a user is authorized to operate a device. A  
33 picture of the first face may be sufficient to fool the device into thinking that the  
34 actual user is attempting to gain access to the device. The measured distance may  
35 be determined and compared to the reflectivity distance and/or time of flight  
36 distance. The comparison at this stage may indicate a discrepancy caused by the use  
37 of a picture of the first face instead of the actual user to whom the first face belongs.  
38 Thus, the object may be denied access to the device.” [6:12-33]

39 “In some configurations, the time of flight data may be plotted against the  
40 reflectivity for both the object and the first face (see, for example, FIG. 5). Use of a  
41 picture, for example, that contains an image of an authorized user to gain access to  
42 the device would have a distinct profile compared to that of the first face. For  
43 example, a time of flight for light reflected from a picture would be relatively  
44 uniform depending on the angle at which the picture is oriented relative toward to  
45 the light sensor. In contrast, the time of flight for light reflected from a person's face

1 would have a distinct profile. For example, light reflected from a person's nose  
2 would have a lower time of flight compared to light reflected from a person's ears.  
3 The reflectivity of a piece of paper containing an image of an authorized user may  
4 absorb and scatter and/or reflect light in a manner that is different from that of the  
5 user's actual face. For example, the reflectivity for one, some, or all particular points  
6 on the sheet of paper may be the same as, or within a relatively small range of that  
7 of one or more other points on the sheet of paper. In contrast, the reflectivity of a  
8 person's face may vary from one point to the next. Plotting the reflectivity versus  
9 the time of flight in the example of a sheet of paper containing an image of the first  
10 face may reveal a narrowly defined pattern whereas a person's face may have a more  
11 distributed appearance in the plot.” [6:34-58]

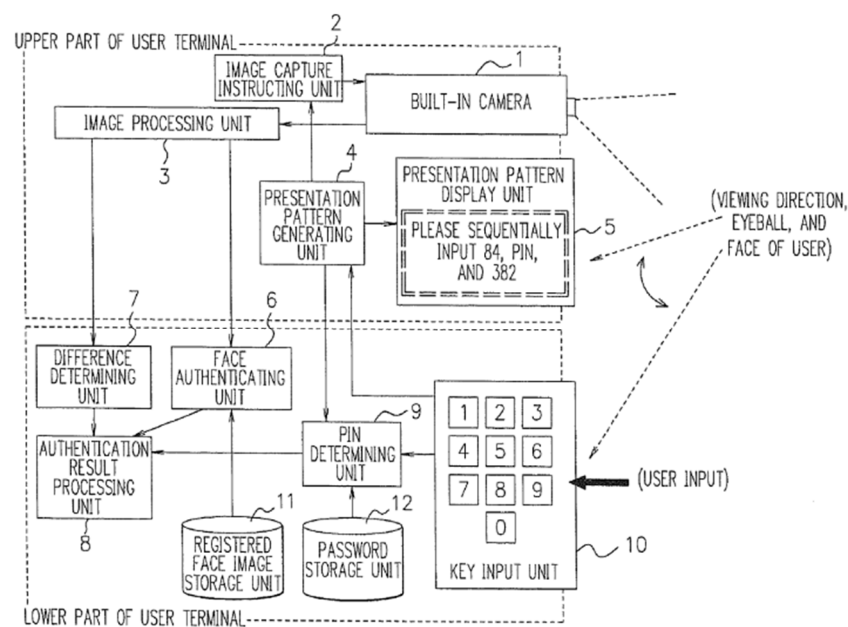
12 “To unlock the device using facial recognition technology, a user (such as  
13 authorized user) may provide an authentication image that represents at least a  
14 portion of his/her face. In some examples, the user may actively cause a camera of  
15 the device to capture the authentication image. The device may then compare the  
16 captured authentication image with the enrollment image, and determine whether or  
17 not the images are sufficiently similar to each other for facial recognition purposes.  
18 For example, the device may utilize one or more facial recognition programs to  
19 compare metrics associated with the authentication image to metrics associated with  
20 the enrollment image. Some examples of metrics may include distances between  
21 facial elements (pupil-to-pupil, mouth width, etc.), contours of various facial  
22 features, pixilation corresponding to skin tone or texture, hair and/or eye color, and  
23 many others. Facial recognition programs running on computing device may  
24 perform the comparison using one or more well-known recognition algorithms, such  
25 as geometric and/or photometric approaches, three-dimensional (3D) modeling and  
26 recognition techniques, principal component analysis using Eigenfaces, linear  
27 discriminate analysis, elastic bunch graph matching, pattern matching, and dynamic  
28 link matching, to name just a few. Based on comparison-based values, such as pre-  
programmed acceptable margins of error, facial recognition programs running on  
the device may determine whether or not the authentication image and the  
enrollment image are sufficiently similar to one another for facial recognition. In  
instances where the facial recognition programs grant a match, the user may  
successfully unlock the device. Conversely, if the facial recognition programs deny  
a match, the user may be unable to unlock the device and the device may continue  
to operate in locked mode.” [7:49-8:14]

“The device may identify areas of the image that are associated with the eyes of the  
authorized user as landmarks. The greater the number of pixels between the eyes,  
the closer the object maybe positioned to the device such as where a person has  
positioned a picture of a user in front of a camera in an attempt to spoof an authorized  
user's face. The device may compare the distance between the object and the device  
to an expected distance, and reject the unlock attempt if the detected distance and  
the expected distance do not match. For example, when the device detects that the  
number of pixels between the eyes exceeds a preprogrammed threshold (e.g., 10  
centimeters), the device may identify this as an attempt to “fool” the facial  
recognition programs running on the device by obtaining access to the device based

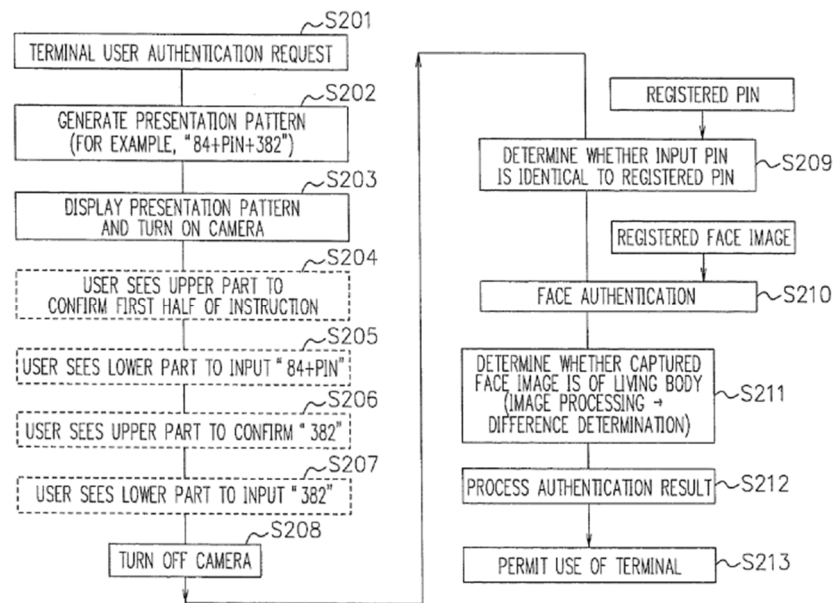
upon an image of an authorized user's face instead of the user's actual face.” [8:23-38]

#### 4. U.S. PATENT NO. 8,290,220 (“UCHIDA”)

Uchida discloses a face authentication device that captures the face of a user as the user moves their face to different positions and uses these images to determine if the captured images are of a live person that meets many of the limitations of the FaceTec Asserted Claims. The relevant portions of Uchida include:



[Fig. 1]



[Fig. 2]

“The present invention relates to a face authentication technique for identifying a user using personal information equipment, such as a mobile phone.” [1:7-9]

“In an example of authentication method using biometric features, such as a face of an authenticated user, a face pattern of an authorized user is captured by a camera of a terminal beforehand, and then registered in the terminal. At user authentication, the face of the user who attempts to use the terminal is captured by the camera. When similarity between the captured face image and the registered face image is sufficiently high, the user is determined as an authorized user, and the user authentication succeeds.” [1:32-40]

“In order to achieve the exemplary object, according to an exemplary of the invention, a face authenticating apparatus includes: allowing a presentation pattern display unit that is provided at a different position from a key input unit to display an instruction for a user to input a key pattern during face authentication; allowing an image capturing unit to capture a face of a user and/or a movement of a portion of the face of the user during a portion of or the entire time from when the presentation pattern display unit displays the instruction to when the key input is completed; and determining whether the captured face image is of a living body.” [2:26-36]

“The image capture instructing unit 2 controls the built-in camera 1 to capture a moving picture of the user's face in the view during the time from when the instruction is displayed on the presentation pattern display unit 5 to when the user completes the input of information to the key input unit 10, and then the image processing unit 3 processes the captured image. In this process, the moving picture is divided into a plurality of frames captured in the temporal direction, and a portion of or the entire frame image group is used for face authentication and the biometric verification of the face.” [3:25-34]

1 “When the similarity between the captured face image and the registered face image  
2 is higher than a threshold value, the face authentication succeeds, and the result is  
3 notified to the authentication result processing unit 8.

4 In a biometric verification process of the difference determining unit 7, a plurality  
5 of frame images captured in the temporal direction are compared to each other, and  
6 a difference therebetween is evaluated to determine whether the face of a living body  
7 is captured, or a photograph or a planar moving picture is captured.” [3:41-50]

8 “When the PINs are identical to each other, face authentication by the face  
9 authenticating unit succeeds, and the difference determining unit determines that the  
10 face of a living body is captured, the authentication result processing unit unlocks  
11 the user terminal to allow the use of the terminal.” [3:56-60]

12 “The difference determining unit 7 performs a position adjustment process for  
13 compensating for the relative movement between the camera and the face on a  
14 plurality of frames of face images, cuts out a face image portion from the frame, and  
15 determines the similarity between the plurality of frames with regard to the center  
16 of the face image including the eyes, the nose, and the mouth (S211). If a cumulative  
17 value of similarity scores including detailed portions of the images between the  
18 frames, particularly, the positions of the eyeball of the eye is larger than a threshold  
19 value, it is determined that a still picture, such as a photograph, is presented. On the  
20 other hand, if the cumulative value of the similarity scores is smaller than the  
21 threshold value and it is determined that the detailed portions including, for example,  
22 the positions of the eyeball after the position adjustment process and the cut-out  
23 process are significantly different from each other, the difference determining unit  
24 7 determines that the face of a living body is captured by the camera.

25 In the process of determining the face of a living body, the following method may  
26 be used: the positional relationship between a plurality of feature points in each  
27 frame that are defined by a plurality of organs, such as the outer corners and the  
28 inner corners of both eyes, the top and both sides of the nose, both ends of the mouth,  
and the center of the lip, is calculated, thereby calculating correlation between these  
feature points of the frames. When the positional relationship between the feature  
points in many frames has high correlation, the organs are not relatively moved, and  
thus it is possible to determine that a photograph is presented.” [4:66-5:29]

“As described above, while the user alternately views the presentation pattern  
display unit 5 and the key input unit 10, the presentation pattern display unit 5 may  
display an instruction ‘Please see built-in camera’ to allow the user to face the built-  
in camera 1. In this way, it is possible to stably capture a full face image suitable for  
face authentication, and make the face of the user move in the vertical direction. As  
a result, it is possible to improve accuracy in determining the face of a living body.”  
[6:7-15]

“Although the exemplary embodiments of the invention have been described above,  
the invention is not limited thereto, but various modifications and changes of the  
invention can be made without departing from the scope and spirit of the invention.



For example, an apparatus may read and execute a program for implementing the functions of the user terminals according to the above-described exemplary embodiments to perform the functions. The program may be transmitted to another computer system through a computer readable recording medium, such as a CD-ROM or a magneto-optical disk, or by carrier waves through the Internet or a telephone line, which is a transmission medium.” [6:61-7:5]

“In the above-described exemplary embodiments, the system structure in which each function of the user terminal is implemented by one computer system is used, but the invention is not limited thereto. Each function of the user terminal may be implemented by a plurality of apparatuses.

The invention can be generally applied to a mobile phone or portable information communication equipment including a camera function.” [7:6-13]

## 5. FACE LIVENESS DETECTION USING 3D STRUCTURE RECOVERED FROM A SINGLE CAMERA (“WANG”)

Wang discloses a method of face liveness detection that uses facial structures over several images that meets many of the limitations of the FaceTec Asserted Claims. The relevant portions of Wang include:

“In this paper, we propose a novel face liveness detection approach to counter spoofing attacks by recovering sparse 3D facial structure. Given a face video or several images captured from more than two viewpoints, we detect facial landmarks and select key frames. Then, the sparse 3D facial structure can be recovered from the selected key frames. Finally, an Support Vector Machine (SVM) classifier is trained to distinguish the genuine and fake faces. Compared with the previous works, the proposed method has the following advantages. First, it gives perfect liveness detection results, which meets the security requirement of face biometric systems. Second, it is independent on cameras or systems, which works well on different devices” [Pg. 1]



Figure 1. A comparison of recovered sparse 3D facial structures between genuine and photo face. There are significant differences between structures recovered from genuine and photo face.

[Fig. 1]

1 “The challenge-response is a human-computer interaction (HCI) method. The users  
2 are asked to response to the specific facial actions given by computer so that the  
3 genuine and fake faces can be classified. Eye blinking [12, 16], head rotation [2, 8],  
4 and mouth movement [8] are the most commonly used facial actions. The challenge-  
5 response methods achieve good results for face liveness detection. However, the  
6 users are asked to be highly cooperative with the system, which limits its application  
7 in practice.” [Pg. 1]

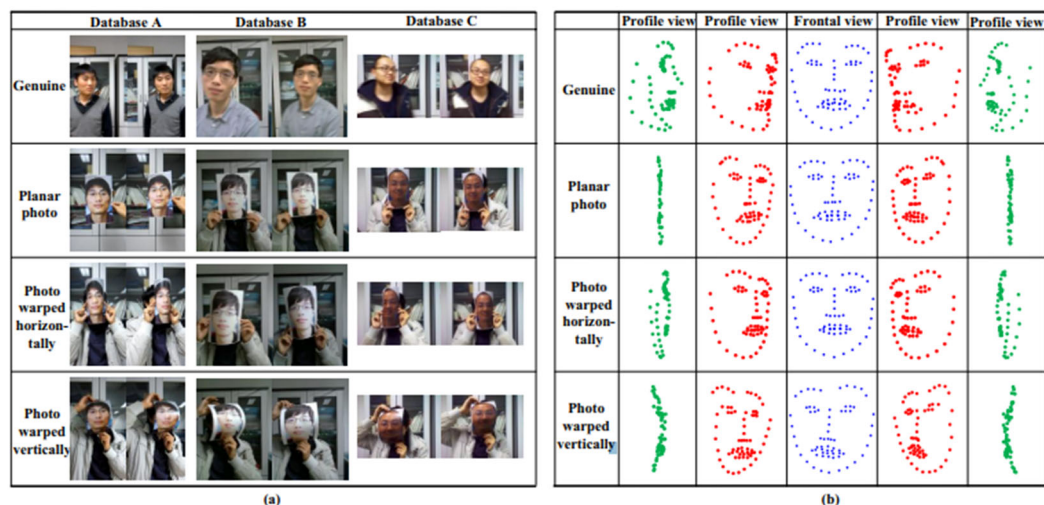
8 “In this paper, we propose a novel face liveness detection method by analyzing the  
9 sparse structure information in 3D space. As shown in Fig. 1, structures recovered  
10 from genuine faces usually contain sufficient 3D structure information, while  
11 structures recovered from photos are usually planar in depth. We firstly recover the  
12 sparse 3D facial structure with the input images and then an SVM classifier is trained  
13 based on the 3D structures from the genuine and fake faces. Different from the  
14 reflectance based methods, the proposed method is device independent and can  
15 work well with various inputs as long as two images from different viewpoints are  
16 provided.” [Pg. 2]

17 “The face images with different viewpoints can be captured from a fixed camera  
18 with face moving or reversed.” [Pg. 2]

19 “In our work, key frames are defined as those frames which are propitious to recover  
20 facial structure. We rely on graph similarity to incrementally extract key frames  
21 from an input sequence which are more likely to be those captured in various  
22 viewpoints in practice. In the case that a certain relative motion between the face  
23 and the camera happens, it is obvious that locations of facial landmarks in the image  
24 will be various along with the motion. That is, different viewpoints will lead to  
25 different distributions of facial landmarks. Based on this relation, we compute the  
26 distribution distance of landmarks to evaluate the difference of viewpoints between  
27 current frame and existing key frames in pool.” [Pg. 2]

28 “[W]e describe our algorithm for initial facial structure recovery based on facial  
landmarks from two face images with different viewpoints. Let  $q = \{q_1, q_2, \dots, q_N\}$   
be the facial landmarks in one image and  $q' = \{q'_1, q'_2, \dots, q'_N\}$  in another image,  
where  $q_i$  denotes a 2D point in the image,  $N$  is the number of facial landmarks for a  
face ( $N=68$  in our experiment).” [Pg. 2]

“After we recover the sparse 3D structure, we first align these structures and then  
structure features are extracted for classification. In this work, we use a predefined  
3D facial structure as a reference to align a recovered structure using a coarse-to-  
fine way. ... After alignment, the 3D coordinates of sparse structure are  
concatenated to form a feature vector. The SVM classifier is then trained based on  
the features to classify the genuine and fake face samples.” [Pg. 4]



“Figure 2. (a) sample frames of a subject from database A, B and C respectively. In each database, we warp the photos horizontally and vertically. These two kind of warping approximate the real face structure much. (b) recovered structures from genuine face, planar photo, photo warped horizontally and photo warped vertically, respectively.” [Fig. 2]

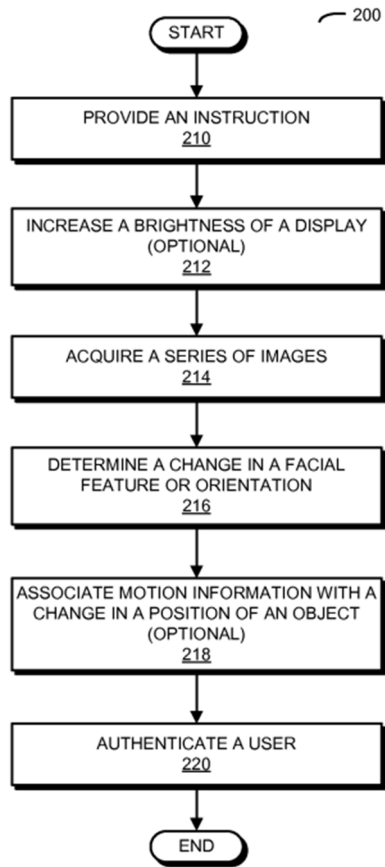
“In this paper, a sparse 3D structure based face liveness detection method is proposed. Given at least two face images captured from different viewpoints, the 3D sparse facial structure can be recovered. Based on this, the genuine and fake faces like printed photos can be classified. Different from the popular texture based method, the proposed method is device independent and thus more applicable in practice. Moreover, the requirements of two images from different viewpoints is easy to be met in real application and the proposed method has great potential to be deployed with the existing face recognition system.” [Pg. 6]

## 6. U.S. PATENT NO. 9,408,076 (“CHEN”)

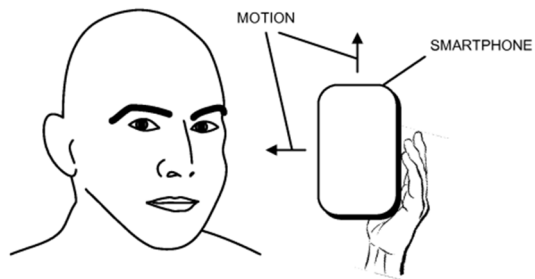
Chen discloses a method of authentication that measures changes in facial angles across a series of images that meets many of the limitations of the FaceTec Asserted Claims. The relevant portions of Chen include:

“During a technique for authenticating a user using a portable electronic device (such as a smartphone) while preventing successful 2D media attacks and virtual-camera attacks, the portable electronic device provides an instruction to a user to move the portable electronic device relative to the user's face. Then, using an imaging sensor in the portable electronic device, the portable electronic device acquires, a series of images while the portable electronic device is at different positions or orientations relative to the user's face, where the series of images include at least two images relative to a symmetry axis of the user's face (such as the midline). Moreover, the portable electronic device determines a change in a sign of a nose angle in at least the two images. Next, the portable electronic device

1 authenticates the user based on at least one of the series of images using a facial-  
2 recognition technique.” [Abstract]



17 **FIG. 2**



23 **FIG. 3**

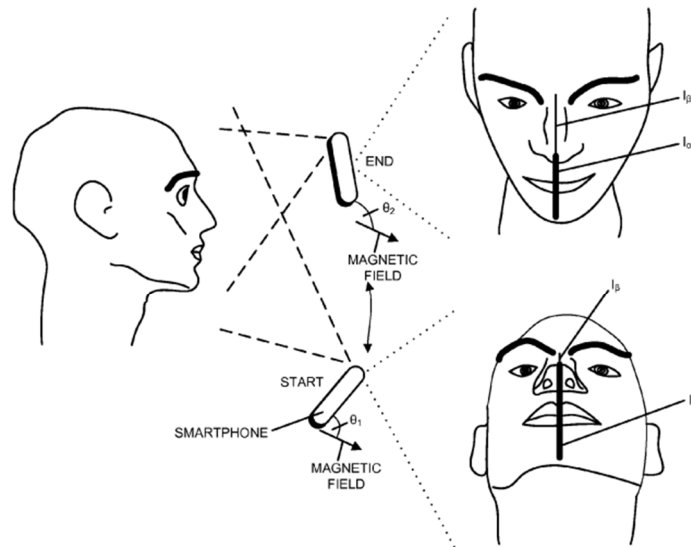


FIG. 5

“Portable electronic devices, such as smartphones and tablets, are increasingly popular computing platforms. Moreover, the ubiquity and enhanced functionality of portable electronic devices has resulted in an ever-increasing suite of applications for use with portable electronic devices, including mobile-payment applications. Consequently, securing valuable information on portable electronic devices is increasingly important.” [1:24-31]

“The described embodiments relate to a portable electronic device. This portable electronic device includes: an imaging sensor (such as a front-facing camera) that acquires one or more images; a processor; and memory that stores a program module that is executed by the processor. During execution of the program module, the portable electronic device provides an instruction to a user to move the portable electronic device relative to a face of the user. Then, the portable electronic device acquires, using the imaging sensor, a series of images while the portable electronic device is at different positions relative to the face of the user, where the series of images include at least two images relative to a symmetry axis of the face of the user. Moreover, the portable electronic device determines a change in a sign of a nose angle in at least the two images. Next, the portable electronic device authenticates the user based on at least one of the series of images using a facial-recognition technique.” [2:28-44]

“Furthermore, the portable electronic device may include a motion sensor (such as an accelerometer, a gyroscope, an inertial motion sensor, a compass and/or a magnetometer) that measures motion information. Prior to the authenticating, the portable electronic device may associate the motion information with a change in a position of an object in the series of images. For example, the change in the position may be based on differences in pixels in the series of images. Note that the motion information may include vibrations and rotations of the portable electronic device. In some embodiments, the associating involves correlating the motion information and the change in the position of the object.” [2:45-56]

1 “Furthermore, the symmetry axis may include a midline of the face of the user.  
2 Consequently, the instruction to move the portable electronic device may specify at  
3 least a horizontal component of the movement.” [2:62-65]

4 “Additionally, the determining the change in the sign of the nose angle may involve:  
5 identifying regions that include a nose in the face of the user in at least the two  
6 images; determining edges of the nose in the regions using an edge-detection  
7 technique; and calculating the nose angle based on the determined edges.” [3:4-9]

8 “During a technique for authenticating a user using a portable electronic device  
9 (such as a smartphone) while preventing successful 2D media attacks and virtual-  
10 camera attacks, the portable electronic device provides an instruction to a user to  
11 move the portable electronic device relative to the user's face. Then, using an  
12 imaging sensor in the portable electronic device, the portable electronic device  
13 acquires, a series of images while the portable electronic device is at different  
14 positions or orientations relative to the user's face, where the series of images  
15 include at least two images relative to a symmetry axis of the user's face (such as  
16 the midline). Moreover, the portable electronic device determines a change in a sign  
17 of a nose angle in at least the two images. Next, the portable electronic device  
18 authenticates the user based on at least one of the series of images using a facial-  
19 recognition technique.” [3:64-4:12]

20 “We now describe the authentication technique. Smartphones are typically equipped  
21 with multiple sensors, including: one or more motion sensors (such as an  
22 accelerometer, a gyroscope, an inertial motion sensor, a compass and/or a  
23 magnetometer), an imaging sensor (such as a camera) a proximity sensor, an  
24 ambient light sensor, a sound sensor (such as a microphone) and/or a ‘positioning  
25 sensor’ (via the Global Positioning System). Existing facial-authentication  
26 techniques use a camera to capture an image or a video of the user's face, and then  
27 compare it with one or more pre-defined templates.” [4:33-43]

28 “FIG. 2 presents embodiments of a flow diagram illustrating method 200 for  
authenticating a user, which may be performed by a portable electronic device, such  
as electronic device 500 (FIG. 6). During operation, the portable electronic device  
provides an instruction to the user to move the portable electronic device (operation  
210) relative to a face of the user. For example, the instruction may be displayed on  
a screen or a verbal command may be issued using a speaker.” [5:23-30]

“Then, using an imaging sensor in the portable electronic device (such as a front-  
facing camera having at least a 1-2 megapixel resolution), the portable electronic  
device acquires a series of images (operation 214) while the portable electronic  
device is at different positions (or orientations) relative to the face of the user, where  
the series of images include at least two images (such as two photographs or a video  
with multiple images) relative to a symmetry axis of the face of the user.” [5:31-39]

“Moreover, the portable electronic device determines a change in a facial feature or  
orientation (operation 216) in at least the two images, such as a change in a sign of  
a nose angle. For example, the determining (operation 216) may involve: identifying

1 regions that include a nose in the face of the user in at least the two images;  
2 determining edges of the nose in the regions using an edge-detection technique; and  
3 calculating the nose angle based on the determined edges.” [5:49-56]

4 “Next, the portable electronic device authenticates the user (operation 220) based  
5 on at least one of the series of images using a facial-recognition technique.” [5:57-  
6 59]

7 “In particular, as soon as the authentication starts (at time T0), the front-facing  
8 camera may begin to capture video and may perform face detection (e.g., using Haar  
9 Cascade). Once the face area is greater than or equal to a threshold (such as 40% of  
10 the area of the video frame), the front-facing camera may start recording video (at  
11 time T1). The area of the face may be approximated by the area of the face-detection  
12 output (which may be rectangular). At the same time (Ts), the authentication  
13 technique may start sampling the readings of accelerometers. If no face is detected,  
14 the authentication technique may show a prompt and ask the user to move the  
15 smartphone closer to their face.” [8:5-16]

16 “The feature of the user's face that may be used to determine the geometry of their  
17 face may be the ratio of the distance from the center of the eye to the nose tip ( $l\beta$ )  
18 and the distance from the nose tip to the chin ( $l\alpha$ ). As shown in FIG. 5, which  
19 presents a drawing illustrating a change in nose angle in two images,  $l\alpha$  can be  
20 determined by drawing a line from the tip of the user's nose to their chin, while  $l\beta$   
21 can be found by drawing a line from the center of the user's eyes to the tip of their  
22 nose.” [12:9-16]

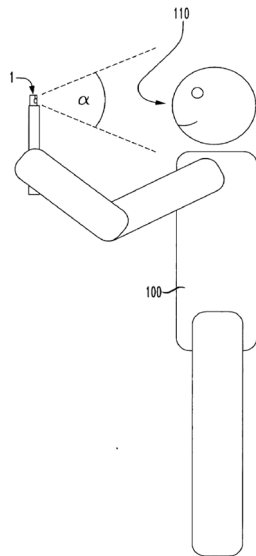
23 “We now describe embodiments of an electronic device. FIG. 6 presents a block  
24 diagram illustrating an electronic device 600. This electronic device includes  
25 processing subsystem 610, memory subsystem 612, networking subsystem 614 and  
26 sensor subsystem 630. Processing subsystem 610 includes one or more devices  
27 configured to perform computational operations. For example, processing  
28 subsystem 610 can include one or more microprocessors, application-specific  
integrated circuits (ASICs), microcontrollers, programmable-logic devices, and/or  
one or more digital signal processors (DSPs).” [12:52-62]

“Electronic device 600 can be (or can be included in) any electronic device with at  
least one network interface. For example, electronic device 600 can be (or can be  
included in): a desktop computer, a laptop computer, a subnotebook/netbook, a  
server, a tablet computer, a smartphone, a cellular telephone, a smart watch, a  
consumer-electronic device, a portable computing device, and/or another electronic  
device.” [14:10-16]

## 7. U.S. PATENT NO. 2007/0009139 (“LANDSCHAFT”)

1           Landschaft discloses a method of facial recognition on a handheld electronic device using  
2 biometric data that meets many of the limitations of the FaceTec Asserted Claims. The relevant  
3 portions of Landschaft include:

4           *FIG. 2*



14           *FIG. 3*

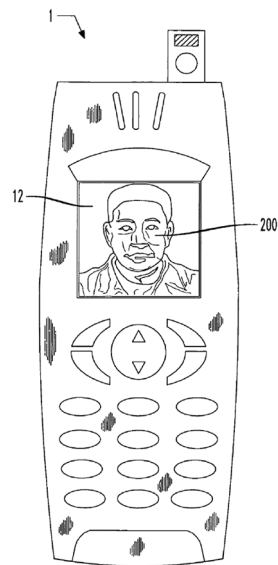




FIG. 4

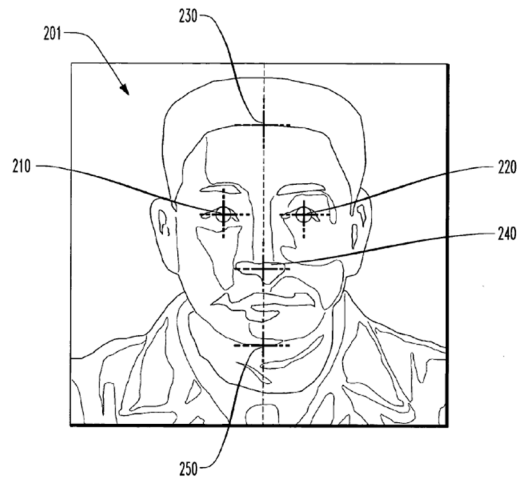
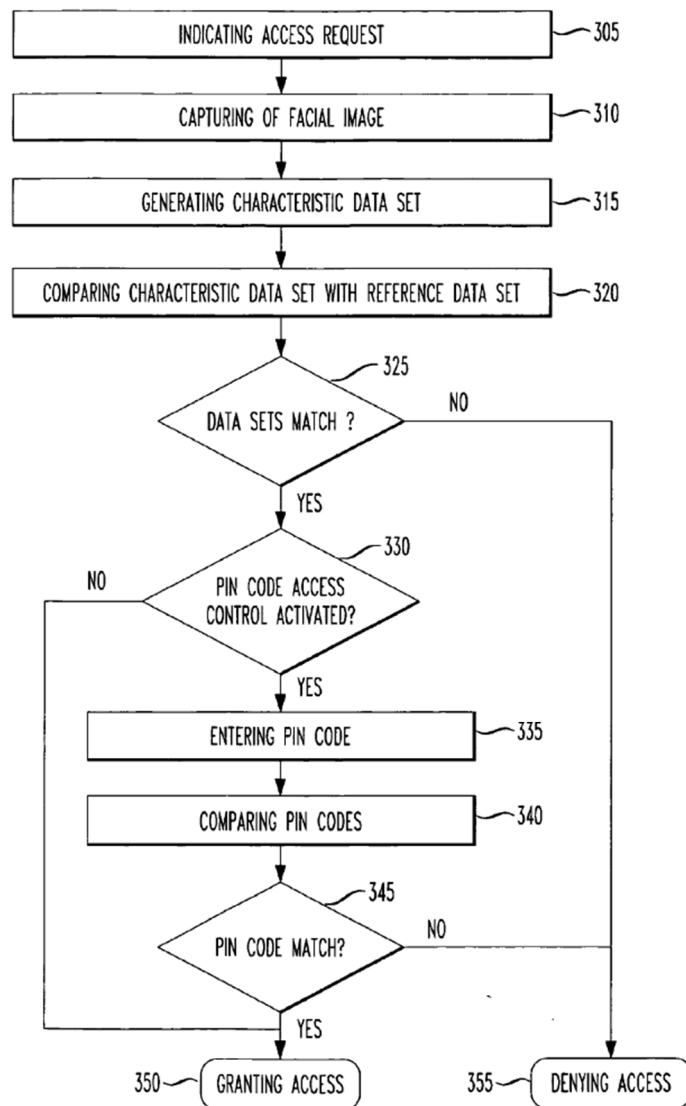


FIG. 5



1 “The present invention is directed, in general, to a security device for a handheld  
2 electronic device and, more specifically, to a facial recognition device that provides  
conditional user access to a handheld electronic device.” [0001]

3 “Thus the present invention provides a method to restrict access to the functions of  
4 a handheld electronic device by comparing certain biometric functions of an  
5 authorized user with the biometric functions of a party attempting to access  
6 functions of the electronic device. This invention is particularly useful for restricting  
7 access to such devices as mobile phones, laptop and notebook computers, personal  
digital assistants (PDAs), as well as any other handheld electronic device to which  
access is limited to specific parties.” [0010]

8 “In still another embodiment, biometric user data and biometric reference data calls  
9 for processing a facial image by determining a position or arrangement, or both  
together, of salient points of the facial image. Where a camera is integrated into a  
10 handheld electronic device, another embodiment provides for the device to instruct  
a party requesting access to repeat the capture of the biometric user data by using a  
11 different view of the facial image. This permits a greater degree of certainty in  
permitting access to electronic device functions by permitting redundant checks.”  
12 [0013]

13 “The invention presents a method for restricting access to the functions of a  
14 handheld electronic device, in particular a mobile communication device such as a  
mobile phone. The invention provides for the provision of biometric reference data  
15 of an authorized user or authorized users, as the case may be, of a handheld  
electronic device. When a party requests access to the functions of such a handheld  
16 electronic device, certain biometric user data of the party requesting access is  
captured and compared with the biometric reference data. Access to the device can  
17 then be controlled based on such comparison. For example, in the case of a laptop  
computer where children have also have access, unlimited access can be provided  
18 to adults and restricted access can be provided to children.” [0026]

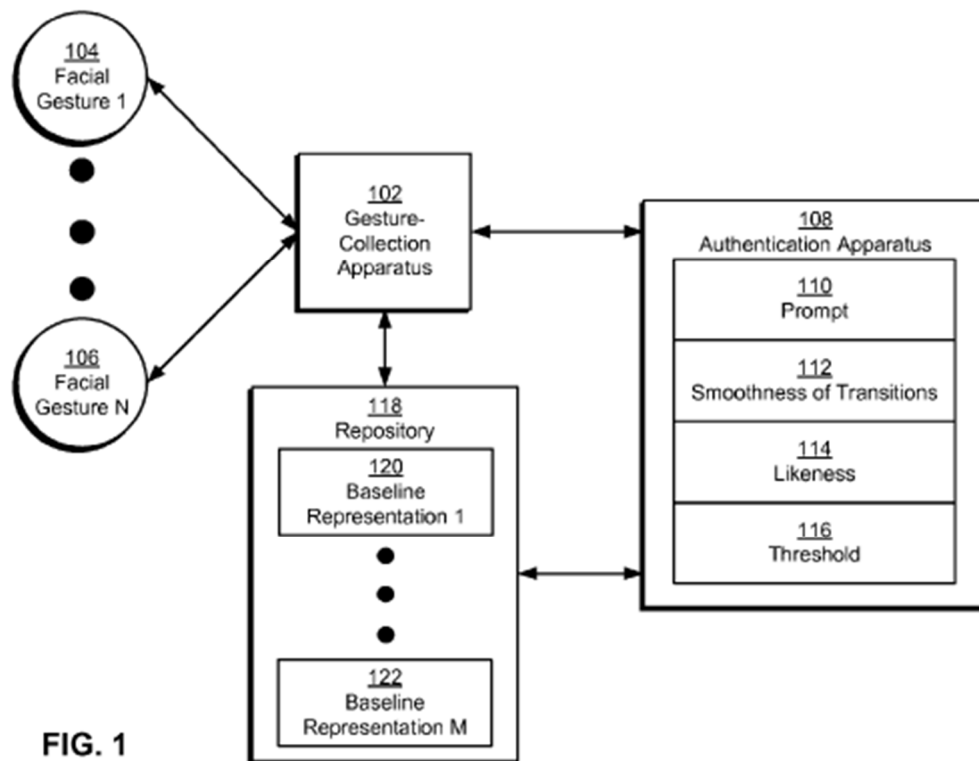
19 “It is envisioned, in one embodiment of the invention, that a user of a handheld  
20 electronic device will be required to provide facial biometric user data each time the  
device is turned on. An advantageous embodiment of the present invention provides  
21 for a built-in camera to capture an image of the user's face to provide the biometric  
user data. The salient points of the user's face comprise the biometric user data that  
22 will be compared with the salient points of the user's face stored in the device as  
biometric reference data.” [0029]

23  
24 “To generate a characteristic data set based on facial characteristics that  
25 unequivocally identifies a party requesting access, in one embodiment of the  
invention the biometric data consists of a facial image data determining by the  
26 position or arrangement, or both, of salient points of the facial image such as the  
position of the eyes, ears, mouth, etc. or points on the boundary line of the face. Of  
27 course, when capturing biometric user data of a party attempting to access the  
device, the position and orientation of the party's face relative to the camera is  
28 important. It is possible that a comparison of the biometric user data derived from

the captured facial image in certain circumstances will not match the biometric reference data, although the party requesting access is an authorized user and the stored biometric reference data is perfectly valid. In such case, an embodiment of the present invention provides for the handheld electronic device to generate a request for the party seeking access to repeat the step of capturing his or her facial image after adjusting the position and orientation of the party's face relative to the camera.” [0030]

## 8. U.S. PATENT NO. 8,970,348 (“EVANS”)

Evans discloses a system that authenticates users with facial gestures that meets many of the limitations of the FaceTec Asserted Claims. The relevant portions of Evans include:



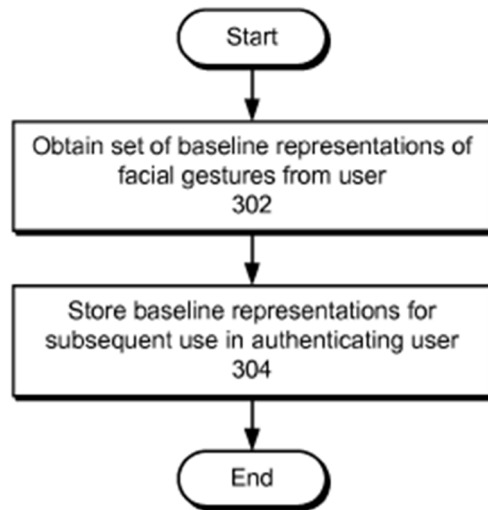


**FIG. 3**

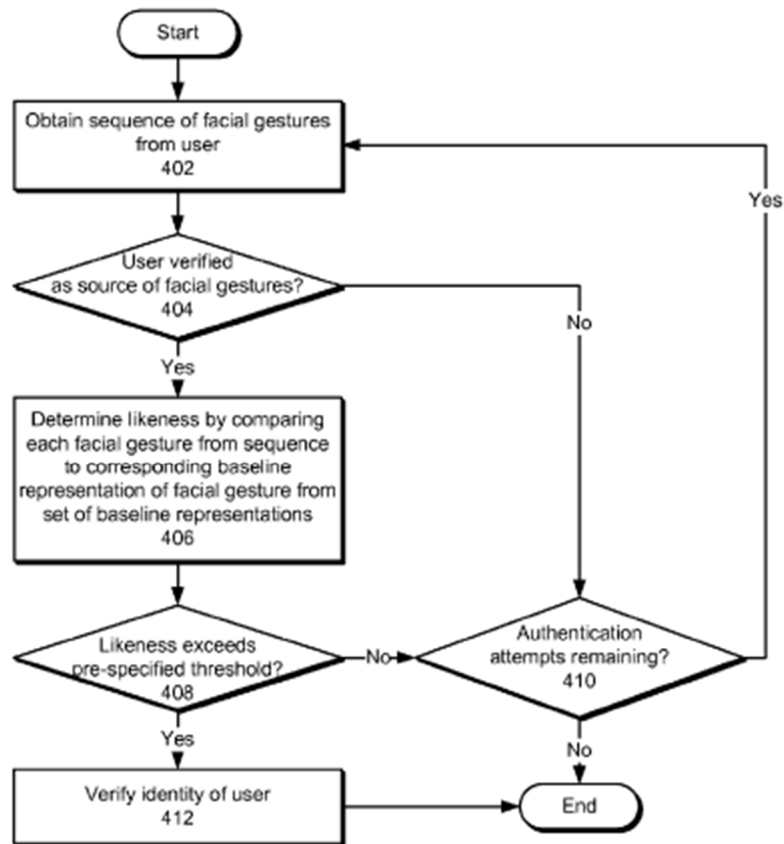


**FIG. 4**

1 “In some embodiments, obtaining the sequence of facial gestures from the user  
2 involves at least one of prompting the user to provide each facial gesture from the  
3 sequence of facial gestures, and obtaining the sequence of facial gestures from the  
user without specifying the facial gestures in the sequence to the user.” [2:4-9]

4 “In some embodiments, if the likeness falls below the pre-specified threshold,  
5 authenticating the user based on the likeness of the sequence to the set of baseline  
6 representations further involves attempting to verify the identity of the user using  
7 one or more new sequences of facial gestures until a limit to the number of  
authentication attempts for authenticating the user using the facial gestures is  
reached.” [2:19-25]

8 “The disclosed embodiments provide a method and system for authenticating a user.  
9 As shown in FIG. 1, the system includes a gesture-collection apparatus 102 and an  
10 authentication apparatus 108. Gesture-collection apparatus 102 and authentication  
11 apparatus 108 may enable the authentication of a user using a sequence of facial  
12 gestures (e.g., facial gesture 1 104, facial gesture n 106) from the user, such as blank  
expressions, smiles, frowns, winks, blinks, grimaces, custom facial gestures, and/or  
facial movements (e.g., nods, head shakes, head tilts, etc.).” [3:23-32]

13 “In particular, gesture-collection apparatus 102 and authentication apparatus 108  
14 may use multiple facial gestures to establish the user's identity prior to granting the  
15 user access to services, features, and/or resources associated with the user's identity.  
16 For example, the system of FIG. 1 may require authentication of the user before  
17 enabling access to a physical location (e.g., a building, a vault, etc.), a user account  
18 (e.g., email account, online banking system, social network, etc.), and/or an  
19 electronic device (e.g., mobile phone, personal computer, laptop computer, tablet  
20 computer, portable media player, etc.). To facilitate accurate and/or secure  
authentication of the user, the facial gestures may be accompanied by one or more  
other identifiers and/or authentication factors for the user and/or user account, such  
as a username, full name, fingerprint, voice, and/or badge. On the other hand,  
authentication of the user may be streamlined by requiring only the sequence of  
facial gestures from the user.” [3:33-49]

21 “Authentication apparatus 108 may manage the collection of facial gestures by  
22 gesture-collection apparatus 102, as well as the authentication of the user using the  
23 facial gestures. First, authentication apparatus 108 may provide a prompt 110 for  
24 each facial gesture from the sequence of facial gestures. For example, authentication  
25 apparatus 108 may select a sequence of three random facial gestures to be provided  
26 by the user. Authentication apparatus 108 may then provide the selected facial  
gestures to the user (e.g., through a display and/or user interface associated with  
gesture-collection apparatus 102) by displaying the facial gestures within a list, or  
by waiting for the user to provide each facial gesture in the sequence before  
requesting the next facial gesture in the sequence.” [4:4-18]

27 “In one or more embodiments, authentication apparatus 108 determines likeness 114  
28 by comparing each facial gesture from the sequence of facial gestures to a  
corresponding baseline representation of the facial gesture from the baseline

1 representations in repository 118. For example, each baseline representation may  
2 include a set of attributes associated with the corresponding facial gesture (e.g.,  
3 shape of mouth, shape of eyes, location of pupils, dimensions of nose, spacing of  
4 facial features, etc.). Likeness 114 may thus be calculated by obtaining the same  
5 attributes from each facial gesture in the sequence and determining the level of  
6 similarity between the attributes from the facial gesture and the attributes from the  
7 corresponding baseline representation. If multiple instances and/or versions of the  
8 baseline representation are available (e.g., as provided by the user during collection  
9 of the baseline representations), likeness 114 may be calculated as the level of  
10 similarity between the facial gesture and one or more relevant instances and/or  
11 versions. For example, if three versions of the baseline representation are found in  
12 repository 118, a numeric value of similarity between the facial gesture and each  
13 baseline representation may be calculated, and the numeric value that indicates the  
14 highest level of similarity between the facial gesture and the corresponding baseline  
15 representation may be used as likeness 114. Alternatively, likeness 114 may be  
16 calculated as the average of the three numeric values.” [5:33-58]

11 “Initially, a sequence of facial gestures is obtained from the user (operation 402).  
12 The user may be prompted to provide each facial gesture from the sequence, or the  
13 sequence may be obtained from the user without specifying the facial gestures in the  
14 sequence to the user. For example, the user may be shown a description of each  
15 facial gesture (e.g., “blank expression,” “smile,” “frown,” “blink,” “grimace,”  
16 “crossed eyes,” “nod,” “headshake,” etc.) in the sequence before the user provides  
17 the facial gestures. On the other hand, the user may be prompted for a “password”  
18 containing a sequence of facial expressions that is known only to the user.” [7:60-  
19 8:3]

## 17 9. U.S. PATENT PUB. NO. 2019/0342329 (“TURGEMAN”)

18 Turgeman discloses a system, method, and device of detecting the identity and  
19 authenticating a user that meets many of the limitations of the FaceTec Asserted Claims. The  
20 relevant portions of Turgeman include:

21 “System, method, and device of detecting identity of a user and authenticating a  
22 user; as well as detecting a possible attacker or impostor, and differentiating among  
23 users of an electronic device or of a computerized service. A mobile or portable  
24 electronic device is utilized to capture a self-taken image or video of a user, which  
25 is utilized as a user-authentication factor. The accelerometer and gyroscope or  
26 device-orientation sensor of the mobile device, sense and measure spatial and  
27 physical device properties during, before or after the submission of the self-taken  
28 image or video. Based on such spatial and physical device properties, in combination  
with computer-vision analysis of the content shown in the self-taken image or video,  
the system determines liveness of the user and freshness of the submitted self-taken  
image or video, and differentiates between a legitimate user and an attacker.”  
[Abstract]

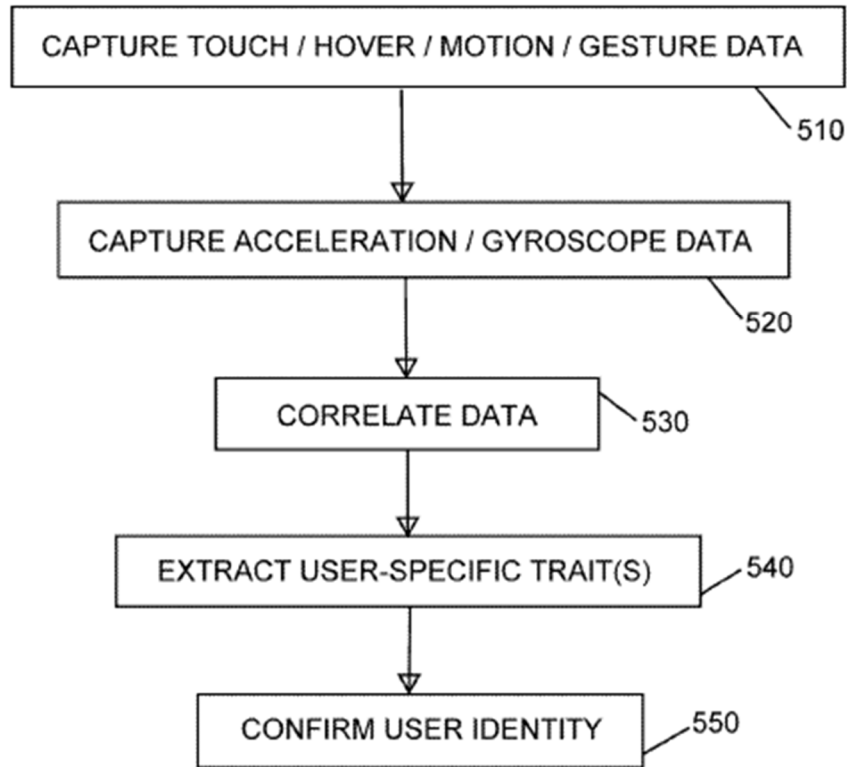


Fig. 5

“Some embodiments of the invention comprise a system, a method, and a device of detecting identity of a user and authenticating a user; as well as detecting a possible attacker or impostor, and differentiating among users of an electronic device or of a computerized service.” [0034]

“For example, a mobile or portable electronic device is utilized to capture a self-taken image of a user, which is utilized as a user-authentication factor. The accelerometer and gyroscope of the mobile device, sense and measure geo-spatial device properties during, before or after the submission of the self-image authentication factor; and based on such geo-spatial device properties, the system determines liveness of the user, freshness of the submitted self-image, and possibly differentiates between a legitimate user and an attacker.” [0035]

“In accordance with the present invention, for example, the method may comprise: storing a reference value of the user-specific trait, indicative of said user; in a subsequent usage session of the mobile electronic device, generating a current value of the user-specific trait correlating between touch data and acceleration data; and based on a comparison between the current value of the user-specific trait and the reference value of the user-specific trait, determining whether or not a current user

1 of the mobile electronic device is an authorized user of the mobile electronic  
2 device.” [0045]

3 “In accordance with the present invention, for example, estimating the user-specific  
4 behavioral trait of said user comprises one or more of: determining that said user  
5 typically moves the mobile electronic device at a particular direction while  
6 performing a touch gesture; determining that said user typically rotates the mobile  
7 electronic device while performing a touch gesture; determining that said user  
8 typically slants the mobile electronic device at a particular angle while performing  
9 a touch gesture.” [0058]

10 “The terms “mobile device” or “mobile electronic device” as used herein may  
11 include, for example, a smartphone, a cellular phone, a mobile phone, a tablet, a  
12 handheld device, a portable electronic device, a portable gaming device, a portable  
13 audio/video player, a smart-watch, a digital watch, a digital wrist-watch, an  
14 Augmented Reality (AR) or Virtual Reality (VR) device or glasses or helmet or  
15 headset (e.g., similar to Google Glass, or similar to Oculus Rift), a fitness band or  
16 fitness watch, a laptop computer, a tablet computer, a notebook computer, a netbook  
17 computer, an electronic device which comprises at least an accelerometer and a  
18 touch-screen, or the like.” [0070]

19 “Some embodiments of the present invention may enable the system to ensure  
20 and/or to confirm “Liveness” of the user, of an image or video of the user, or a self-  
21 image or self-video of the user, that are submitted by a user or by an electronic  
22 device having a camera or imager, for purposes of user authentication or user  
23 identity determination, or for purposes of authorizing or blocking access of a user to  
24 a local or remote computerized service and/or to the electronic device itself; and/or  
25 to prevent, avoid, eliminate, block and/or mitigate a problem or a fraud-attempt in  
26 which an attacker or a non-legitimate user or an impostor attempts to perform  
27 “spoofing” by submitting to the system (or the electronic device itself, or to a local  
28 or remote authentication module) a non-fresh image or video, or a non-freshly-taken  
image or video, or a previously-recorded image or video or self-image or self-video,  
or a recording or a capturing of the user or of an image of the user of a video of the  
user, or of a play-back or a replay or a re-broadcast attempt that attempts to re-  
submit to the authentication module a previously-captured image or video or an  
attempt to submit an image or video that lack Liveness and/or that lack Freshness;  
as well as to provide Liveness Detection and/or Freshness Detection for such user-  
authentication system.

It is also clarified that although portions of the discussion herein may relate, for  
demonstrative purposes, to utilization of an image or an image-stream or a video-  
sequence for user-authentication purposes, the present invention may also be used  
in conjunction with user-authentication systems and methods and modules that  
utilize other biometric traits and/or user-specific traits, for example, user speech,  
user utterance, user audio sample, user audible sounds or words, a combination of  
audio and video, a combination of audio and an image, a combination of audio and  
a set of images, a fingerprint of a user, a combination of fingerprint with image



1 and/or video and/or audio, and/or other suitable biometric features and/or  
2 combination of biometric features.” [0152-0153]

3 “In accordance with the present invention, a freshly-captured image or a video or a  
4 photograph of the user may be utilized for user-authentication purposes, in order to  
5 authenticate the user to a local device, a remote device, a local service and/or a  
6 remote service. For example, a system may firstly or initially capture or receive or  
7 obtain a Trusted Image of the user; for example, an image or a video of the user that  
8 the user takes in the presence of a third party (e.g., in the presence of a bank clerk,  
9 when the computerized service is a banking website or a banking application), or an  
10 image or a video of the user that the user takes upon initial creation of a user account,  
11 or upon opening a new account, or during a session that is known to be authenticated  
(e.g., during a usage session that was authorized via a two-step authentication  
process or via a two-factor authentication process). The Trusted Image, or other such  
“Reference Image”, may be securely stored locally (e.g., in the electronic device,  
smartphone, tablet, laptop computer, or the like), and/or may be securely stored  
remotely (e.g., in a remote server, web server, application server, “cloud computing”  
server, or the like).

12 Subsequently, when the user requests to re-access that service or that electronic  
13 device, the user is requested to capture a Fresh Image of himself, via an imager or a  
14 camera of an electronic device being utilized by the user (e.g., smartphone, tablet).  
15 The Fresh Image is compared to the Trusted Image, or is analyzed in relation to it.  
If the two images are generally matching each other, then the user is authenticated;  
otherwise, the authentication attempt is blocked or rejected.” [0155-0156]

16 “In some embodiments, the user may be required to perform one or more gestures  
17 or modifications or actions, as part of the authentication process, in order to “prove”  
18 to the authentication system that the user is indeed capturing a Fresh Image using  
19 the camera, and not, for example, pointing the camera of the device towards a  
20 previously-taken image of the user; for example, in order to stop an attacker who  
21 obtains a still image of the legitimate user, and then attempts to merely point the  
22 camera of the electronic device towards such still image. For example, the system  
23 may request the user to Blink one eye, or two eyes, or to perform a sequence of Eye  
Blinks, or to perform other gestures (e.g., touch his nose with one finger), in order  
to utilize image analysis and/or video analysis processes, to ensure that the captured  
image(s) or video indeed depict the required gestures or actions; thereby preventing  
an attacker from merely pointing the camera towards a still image, or towards a  
previously-captured image or video of the legitimate user.” [0157]

24 “The present invention may strengthen the user-authentication process, by including  
25 in the authentication process also a sub-process in which the system takes into  
26 account “spatial properties” of the device, such as, accelerometer data, gyroscope  
27 data, device orientation data, device positioning data, device movement data, device  
28 tilt data (e.g., is the device generally horizontal, or generally vertical, or slanted at  
approximately 30 degrees), device traits that characterize the device when the user  
captures an image or a video, and/or user-specific traits that characterize the user  
when he captures an image or a video for authentication purposes; and/or the

1 modification or the change in values of such “spatial properties”; and/or such traits  
2 and such data (or, the change in values of such spatial properties) during a time  
3 period (e.g., 1 or 2 or 3 or 5 or 10 or K seconds) immediately prior to capturing the  
4 image or video for authentication purposes; and/or such traits and such data during  
a time period (e.g., 1 or 2 or 3 or 5 or 10 or K seconds) immediately after capturing  
the image or video for authentication purposes.” [0160]

5 “In a second demonstrative example, the system may determine that user Adam,  
6 who from time to time authenticates by using a self-taken image of himself, typically  
7 or always captures his own image by (a) lifting his smartphone to be at  
8 approximately chest level, and (b) tilting his smartphone to be at an angle of  
9 approximately 45 degrees relative to the ground. However, in a subsequent user-  
10 authentication attempt, the system may monitor the device traits, and may determine  
11 that (A) the device is lifted to be at eye level, and/or (B) the device is capturing the  
12 image while the device is generally perpendicular to the ground. The system may  
13 determine that these fresh traits that characterize the fresh capturing of the self-  
image or self-video, do not match the historic or previous traits that characterized  
the capturing of the image or video in prior authentication sessions, or in when a  
Trusted or a Reference image (or video) was captured; thereby enabling the system  
to determine or to estimate that an attacker is attempting to authenticate, and not the  
legitimate user.” [0163]

14 “In a third example, the electronic device may request the user to take a self-image,  
15 and may actually capture a stream or set of images or a video sequence (e.g.,  
16 including images before, during and after the moment in which the user pushes a  
17 “snapshot” button). The electronic device may determine that the sequence of  
multiple frames or multiple images, does not show any “shaking movement”;  
whereas accelerometer data and/or gyroscope data indicate that the device was  
“shaken” or “shaking” during that time period or a portion thereof.” [0164]

18 “The method and system of the present invention may be utilized with a variety of  
19 devices, and/or for authenticating a user to a variety of purposes; for example, for  
20 accessing a smartphone or tablet or smart-watch or laptop computer or desktop  
21 computer; for accessing an Internet of Things (IoT) device or appliance, or an  
22 Internet connected appliance or device; for accessing a website or a web-based  
23 service, a mobile application, an “app”, a computerized service, a “cloud  
24 computing” service, a remote service, a secured service that requires authentication  
25 (e.g., email account, web-mail account, social network account, online banking  
26 account, online brokerage account); for accessing or traversing or entering or exiting  
27 a physical gate or door or entrance or exit (e.g., of a building, an office, a vehicle);  
28 for igniting or starting or driving a vehicle; and/or for other suitable tasks or systems  
in which user authentication is utilized as a condition for granting or blocking  
access.” [0172]

“Some embodiments of the present invention may perform, utilize, determine and/or  
estimate, for example, relation or correlation or other association between: (a) one  
or more behavioral parameters or traits, or one or more device-specific traits or user-  
specific traits that may be sensed or measured or estimated when (or during, or

1 before, or after) the user handles or operates the electronic device (e.g., acceleration  
2 of the electronic device, information sensed by accelerometer(s) and/or  
3 gyroscope(s) of the electronic device, slanting or tilting of the electronic device, or  
4 the like), or user-specific behavioral traits (e.g., user Adam typically lifts his  
5 smartphone vertically before capturing a self-image; user Bob typically spins his  
6 smartphone counter-clockwise immediately before or immediately after taking a  
7 self-image); and, (b) the actual content of the biometric user-identifying or user-  
8 authenticating trait, such as, self-image or image of the user, self-video or vide of  
9 the user, audio or speech or voice of the user, fingerprint of the user, or the like.”  
10 [0173]

11 “The terms “self-taken item” or “self-taken visual item” or “self-taken camera-  
12 acquired item” or “self-taken visual acquisition item” or “self-taken visual  
13 acquisition input”, as used herein, may include a self-taken image (“selfie” image)  
14 and/or a self-taken photograph and or a self-taken video (“selfie” video) and/or a  
15 self-taken batch-of-images and/or a self-taken group of video frames, or other visual  
16 or camera-based input that may be utilized for signing-in or logging-in or face-based  
17 sign in or user authentication.” [0201]

18 “In accordance with the present invention, a user authentication unit or module or  
19 device may capture (via one or more cameras) a selfie image or a selfie video, or a  
20 set or series of selfie images or frames, which are then utilized for authenticating the  
21 user; and also for determining whether the submitted or captured image or video is  
22 a “fresh” one or a freshly-captured one or a recently-captured one, rather than being  
23 a previously-captured or previously-submitted item (e.g., captured or submitted a  
24 minute or an hour or a day or a year prior to the current authentication attempt); and  
25 also for determining Liveness, namely, that the captured image or video reflect  
26 therein a live human user, rather than (for example) being an image (or a video) of  
27 a two-dimensional printed photograph of a person.” [0202]

28 “In a second set of examples, the user authentication unit, which may be located  
within the electronic device and/or may be part of a remote server, receives a  
submitted selfie image or selfie video. The content analyzer unit performs computer  
vision analysis of the content shown, and detects that the submitted four-seconds  
video (or, that the submitted 4 or 9 or 50 consecutive frames that were taken during  
the selfie acquisition) shows the user and/or its background in a manner that  
indicates that the capturing device was slightly shaking or moving or was instable  
or non-steady or non-idle, such that the submitted video (or group of images) reflects  
at least some shaking or movement of the hand of the user that allegedly took the  
video or images. For example, content analysis of the submitted video, or of the  
submitted set of images, shows the user's head being located at slightly different  
positions within the frame(s) or video or image(s); for example, an image of a  
“head” appears in the center frame #1, and then appears at an offset of one pixel to  
the right of the center in frame #2, and then appears at an offset of three pixels to  
the left of the center in frame #3, and so forth, reflecting some displacement from  
one frame to another frame. This is usual or regular in a true acquisition of a four-  
second selfie video; as even the most proficient human user would typically cause

1 some shaking or vibration or movement or instability or non-steadiness of the  
2 electronic device during the acquisition period.” [0205]

3 **10. U.S. PATENT NO. 9,510,196 (“SENSHARMA”)**

4 Sensharma discloses a method and apparatus for authenticating a user on a mobile device  
5 that meets many of the limitations of the FaceTec Asserted Claims. The relevant portions of  
6 Sensharma include:

7  
8 “Disclosed is a method and apparatus for authenticating a user on a mobile device.  
9 The method may include initiating authentication of the user for access to the mobile  
10 device, where access to the mobile device is granted upon successful authentication  
11 of the user by the mobile device. The method may also include performing face  
12 recognition analysis on an image of a face of the user to determine an identity of the  
13 user. Furthermore, the method may also include determining whether a first pulse  
14 information and a second pulse information associated with the user indicate a pulse  
15 match. The method may also include authenticating the user for access to the mobile  
16 device when a pulse match is determined and the determined identity of the user has  
17 permission to access the mobile device.” [Abstract]  
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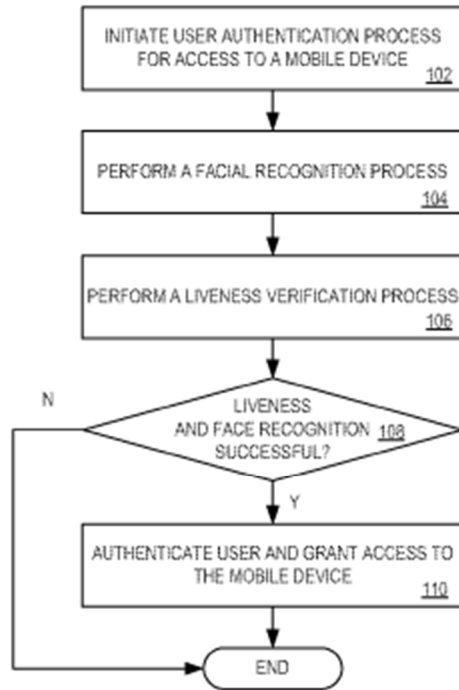


FIG. 1

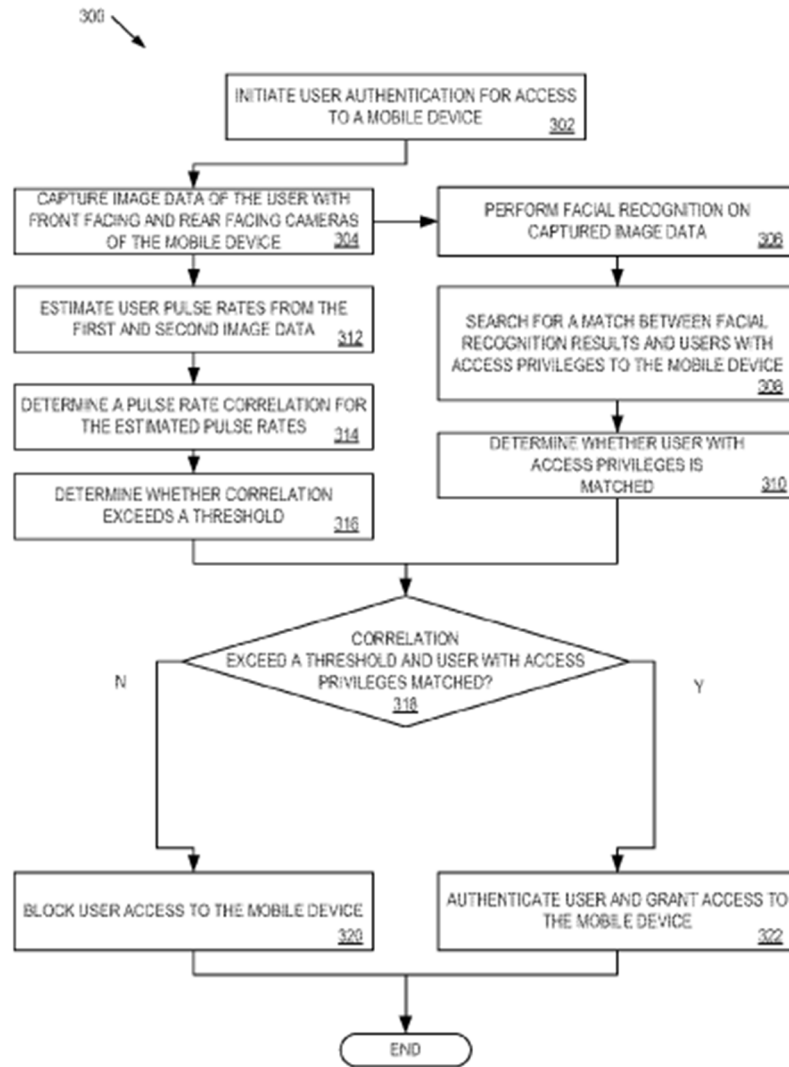


FIG. 3

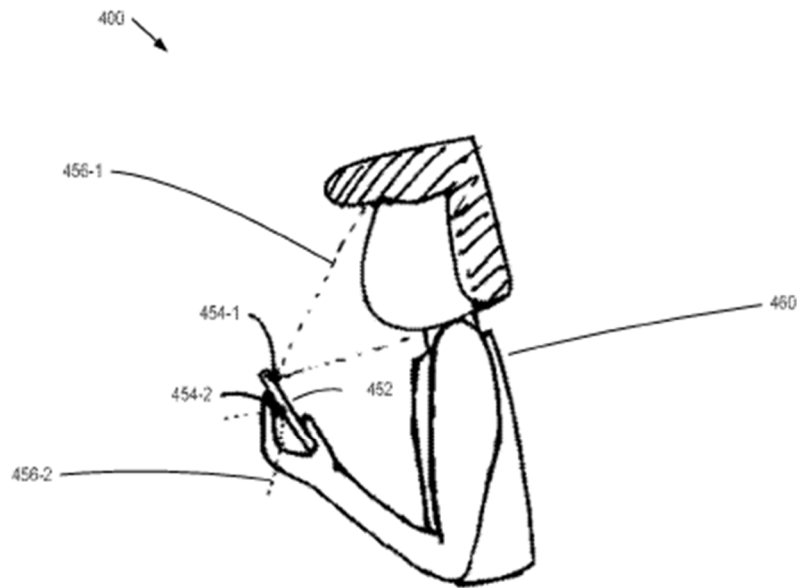


FIG. 4

“Referring to FIG. 1, processing logic begins by initiating a user authentication process for access to a mobile device (processing block 102). In one embodiment, mobile device is a mobile computing device, such as a mobile telephone, personal digital assistant, tablet computer, etc. capable of sending and receiving wireless communications over a cellular and/or wireless communication network. For example, the user authentication process is initiated when a user seeks to access a locked or protected mobile device, such as when user 460 illustrated in FIG. 4 seeks to be authenticated for purposes of accessing mobile device 452.” [2:11-21]

“Processing logic performs a facial recognition process as part of user authentication to the mobile device (processing block 104). In one embodiment, in response to the user authentication process being initiated, processing logic activates one or more image capture mechanisms, such as digital cameras 454-1 and 454-2 of the mobile device 452 (see FIG. 4), for capturing digital image data. As discussed herein, digital image data may include digital video data as well as still digital video image data. In one embodiment, the image capture mechanisms may include a front-facing camera 454-1 on the mobile device as well as a rear-facing camera 454-2 on the mobile device, although additional cameras may also be utilized. The captured image data attempts to capture an image of a face 456-1 of the user 460 seeking authentication to the mobile device. Once an image of a user's face is captured,

1 processing logic extracts facial features from the image data, and compares those  
2 features against a facial recognition database of authorized users. When the  
3 extracted facial features match facial features of an authorized user in the database,  
4 the facial recognition process has found that the captured image data corresponds to  
5 an authorized user of the mobile device.” [2:22-43]

6 “In one embodiment, and as discussed in greater detail below, processing logic  
7 performs the liveness verification process by estimating user pulse rates from the  
8 first and second digital video data, and attempting to correlate the pulse rates. When  
9 the pulse rates can be correlated by processing logic, then processing logic can  
10 conclude that the image captured by the front-facing camera 454-1 and the rear-  
11 facing camera 454-2 are capturing live images of the same person.” [2:65-3:10]

12 “Further, it should be appreciated that some or all of the functions, engines or  
13 modules described herein may be performed by mobile device 210 itself and/or  
14 some or all of the functions, engines or modules described herein may be performed  
15 by another system connected through I/O controller 225 or network interface 204  
16 (wirelessly or wired) to mobile device 210. Thus, some and/or all of the functions  
17 may be performed by another system and the results or intermediate calculations  
18 may be transferred back to mobile device 210. In some embodiments, such other  
19 device may comprise a server (not shown). In some embodiments, the other device  
20 is configured to predetermine the results, for example, based on a known  
21 configuration of the mobile device 210.” [4:47-60]

22 “Processing logic captures image data of the user with a front-facing camera and a  
23 rear-facing camera of the mobile device (processing block 304). In one embodiment,  
24 captured image data is digital video data captured by the cameras. Processing logic  
25 performs one or more facial recognition processes on the captured image data  
26 (processing block 306). As discussed above, the facial recognition processes may  
27 include locating an image of a face depicted in the image data, and extracting visual  
28 features from the located face image. In the embodiments discussed herein, any  
number of facial features may be extracted, such as features corresponding to the  
eyes, nose, mouth, jaw, ears, cheekbones, etc., and their relative positions to one  
another. Processing logic then searches for a match between the facial recognition  
results and facial recognition features associated with users that have access  
privileges to the mobile device (processing block 308). The match is determined by  
processing logic by comparing a feature set associated with the face located in the  
image, with feature sets of the authorized users of the mobile device. From the  
comparison, processing logic determines a likelihood that the feature set associated  
with the face located in the image matches an authorized user's feature set to  
determine whether a user with access privileges is matched (processing block 310).  
When this likelihood exceeds a threshold likelihood, the face located in the digital  
video data matches an authorized user. When the likelihood does not exceed the  
threshold, the face is determined not to match an authorized user. In one  
embodiment, in the event that processing logic determines that the face does not  
match an authorized user (processing block 318), processing logic may proceed  
immediately to block 320 to block user access to the mobile device.” [7:15-47]



“The teachings herein may be incorporated into (for example, implemented within or performed by) a variety of apparatuses or devices. For example, one or more aspects taught herein may be incorporated into a phone (such as a cellular phone), a personal data assistant (PDA), a tablet, a mobile computer, a laptop computer, an entertainment device (e.g., a music or video device), a headset (e.g., headphones, an earpiece, etc.), a medical device (e.g., a biometric sensor, a heart rate monitor, a pedometer, an Electrocardiography (EKG) device, etc.), a user I/O device, a computer, a server, a point-of-sale device, a set-top box, or any other suitable device.” [8:40-51]

# **11. U.S. PATENT PUB. NO. 2014/0310764(“TIPPETT”)**

Tippett discloses an approach for authenticating a user through gestures that meets many of the limitations of the FaceTec Asserted Claims. The relevant portions of Tippett include:

“An approach is provided for authenticating and/or identifying a user through gestures. A plurality of media data sets of a user performing a sequence of gestures are captured. The media data sets are analyzed to determine the sequence of gestures. Authentication of the user is performed based on the sequence of gestures.” [Abstract]

**FIG. 1**

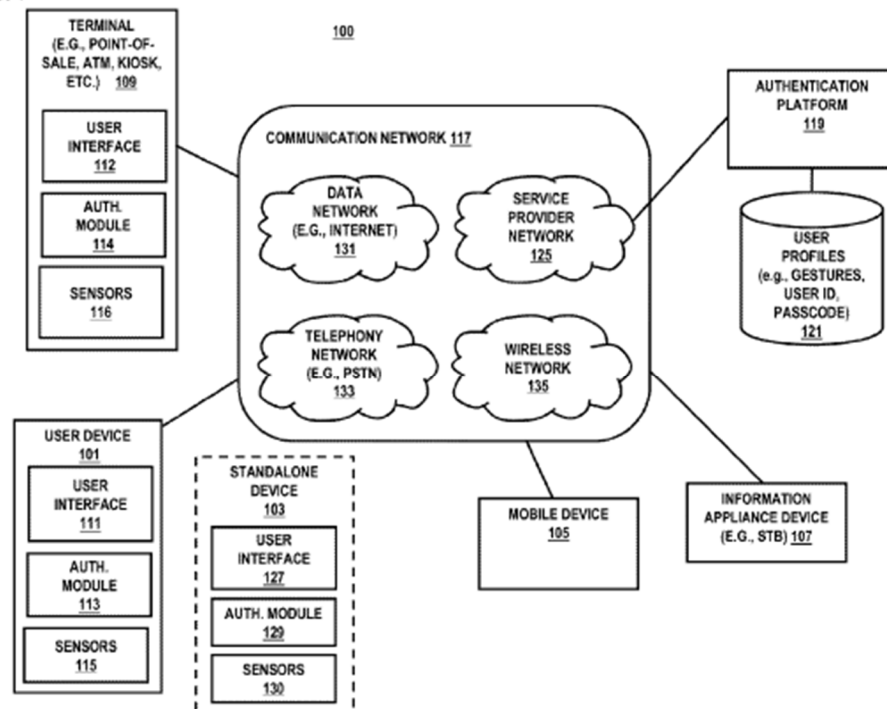


FIG. 2

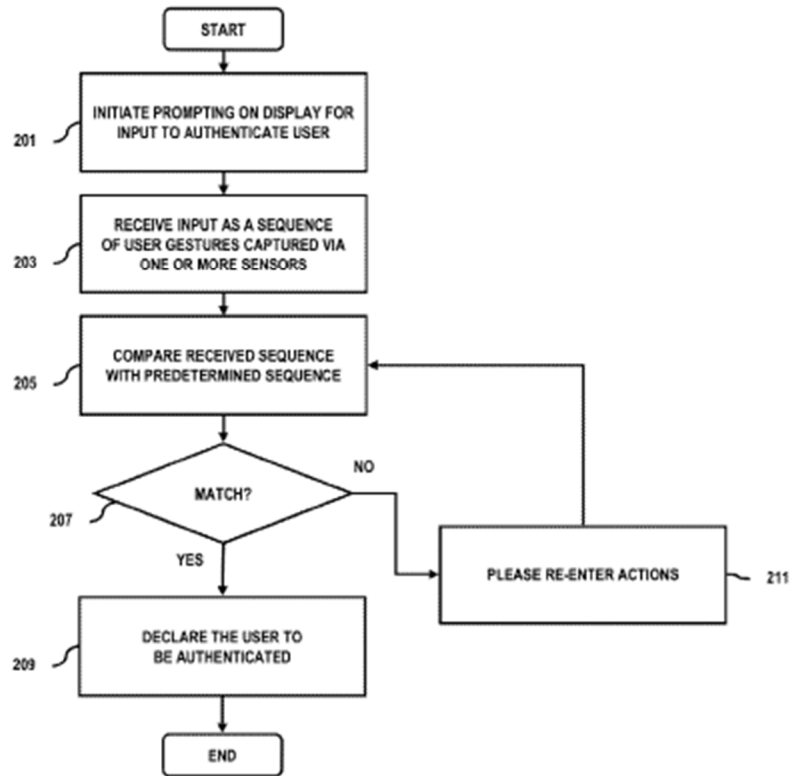
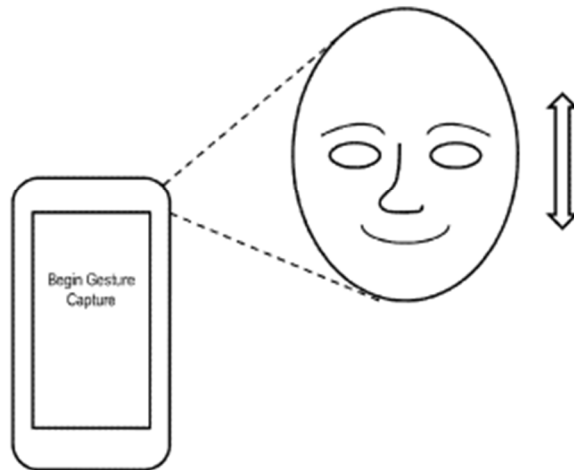


FIG. 5A



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FIG. 5B

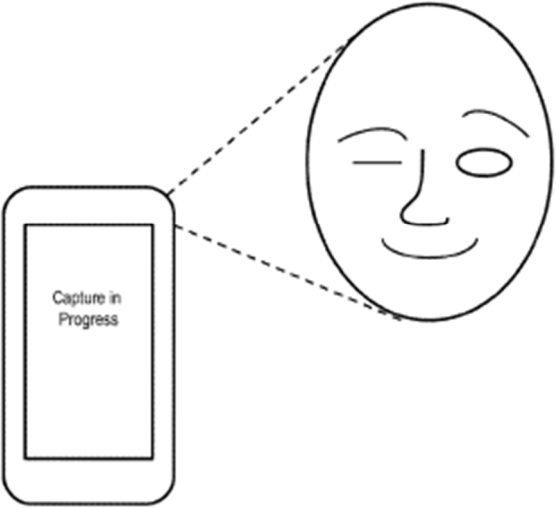


FIG. 5C

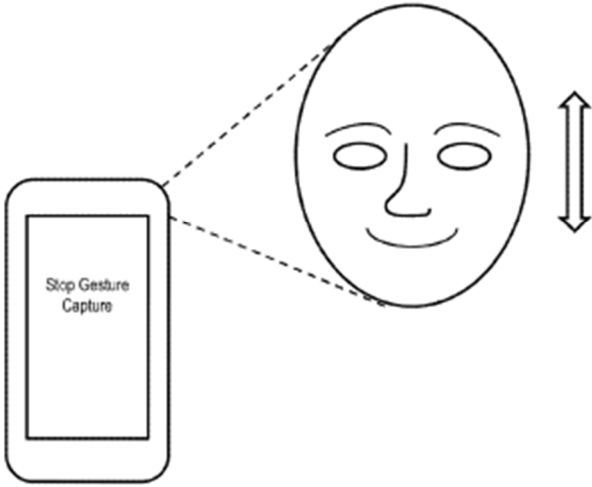


FIG. 5D

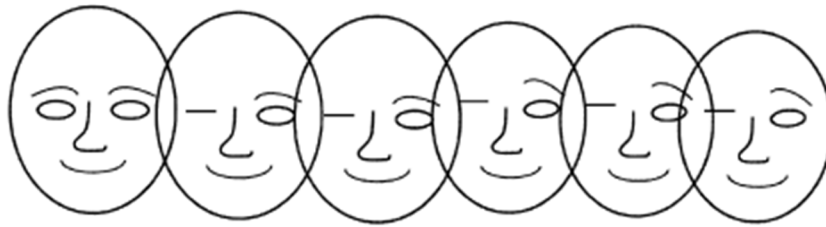
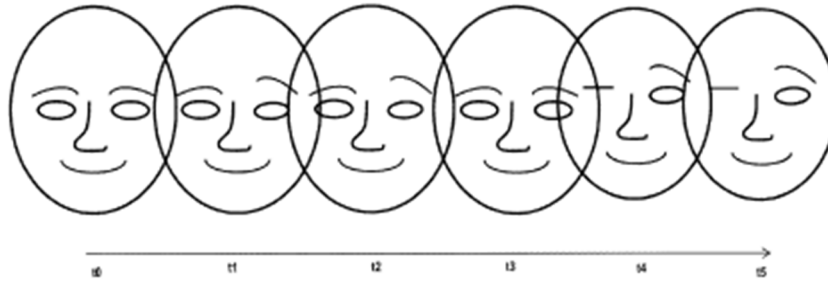


FIG. 5E



“Gestures can include movement of the hands, face, eyes, lips, nose, arms, shoulders, legs, feet, hip, or other parts of the body.” [0018]

“The sensors 115 can be independent devices or incorporated into the user device 101. The sensors 115 may include an accelerometer, a gyroscope, a compass, a GPS device, microphones, touch screens, light sensors, or combinations thereof. The sensors 115 can be a head/ear phone, a wrist device, a pointing device, or a head mounted display. By way of example, the user wears a head mounted display with sensors to determine the position, the orientation and movement of the user's head. The user can wear a device around a belt, a wrist, a knee, an angle, etc., to determine the position, the orientation and movement of the user's hip, hand, leg, foot, etc. The device gives an indication of the direction and movement of a subject of interest in a 3D space.

The authentication platform 119 maintains a user profile database 121 that is configured to store user-specific gestures along with the user identification (ID) of subscribers to the authentication service, according to one embodiment. Users may establish one or more sub-profiles including reference gestures as well as other authentication credentials such as usernames, passwords, codes, personal identification numbers (PINs), and etc. relating to user authentication as well as user accounts and preferences. While user profiles repository 121 is depicted as an extension of service provider network 125, it is contemplated that user profiles repository 121 can be integrated into, collocated at, or otherwise in communication with any of the components or facilities of system 100.” [0034-0035]

“In step 201, a prompt is provided on the display of the user device 101 indicating to the user that gesture authentication is needed. For example, the request may be prompted when a user attempts to log into a system. On presenting the prompt, the user device 101 can activate its camera (e.g., a front-facing camera) to begin

capturing images of the user. The user device 101 then receives the authentication input as a sequence of images or video of the user making one or more gestures (e.g., facial gestures) (step 203).” [0042]

## 12. U.S. PATENT NO. 10,169,672 (“LANGLEY”)

Langley discloses a method of verifying the validity of biometric data that involves directing lighting and illumination that meets many of the limitations of the FaceTec Asserted Claims. The relevant portions of Langley include:

“A method of host-directed illumination for verifying the validity of biometric data of a user is provided that includes capturing biometric data from a user with an authentication device during authentication and directing illumination of the biometric data from a host authentication system during the capturing operation. Moreover, the method includes comparing illumination characteristics of the captured biometric data against illumination characteristics expected to result from the directing operation, and determining that the user is a live user when the illumination characteristics of the captured biometric data match the illumination characteristics expected to result from the directing operation.” [Abstract]

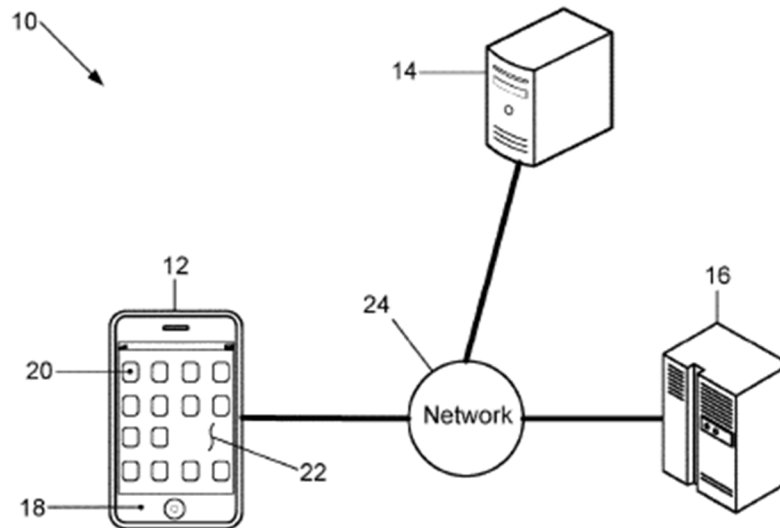


FIG. 1

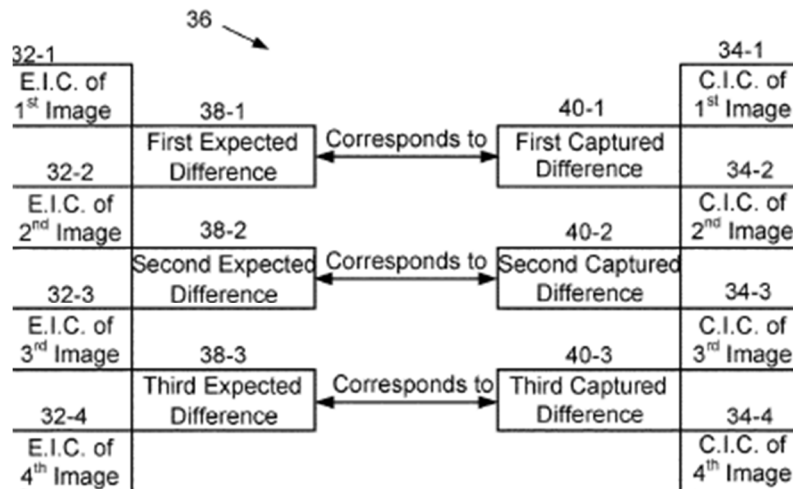


FIG. 4

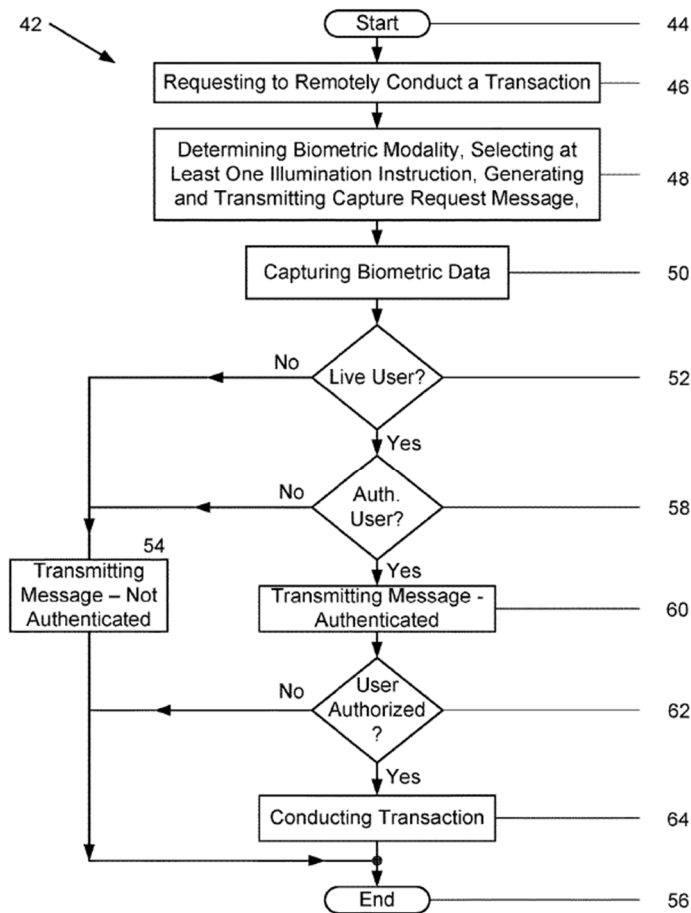


FIG. 5

“In one aspect, a method of host-directed illumination for verifying the validity of biometric data of a user is provided that includes capturing biometric data from a user with an authentication device during authentication, and directing illumination of the biometric data during the capturing operation from a host authentication

1 system. Moreover, the method includes comparing illumination characteristics of  
2 the captured biometric data against illumination characteristics expected to result  
3 from the directing operation, and determining that the user is a live user when the  
4 illumination characteristics of the captured biometric data match the illumination  
5 characteristics expected to result from the directing operation.” [2:18-30]

6 “In another aspect, a computer system for verifying the validity of biometric data  
7 presented by a user during authentication transactions is provided. The computer  
8 system includes a service provider system associated with a business engaged in  
9 controlling access to resources and that contains a data base. The service provider  
10 system is configured to control access to resources relating to users enrolled therein  
11 and to conduct transactions. Moreover, the computer system includes a host  
12 authentication system that includes an authentication database. The host  
13 authentication system is configured to communicate with the service provider  
14 system over a network, to randomly select instructions stored therein to be executed  
15 while capturing biometric data, to store at least enrollment biometric data of a  
16 plurality of users, to determine the liveness of a user requesting to conduct a  
17 transaction requiring access to the resources stored in the service provider system,  
18 and to authenticate users determined to be live users.” [2:31-48]

19 “The biometric data is captured as a sequence of photographic images that each  
20 include a captured biometric data component and captured illumination  
21 characteristics. Furthermore, the computer program causes the authentication  
22 computer system to transmit the captured biometric data to the host authentication  
23 system, and to compare each of the captured illumination characteristics against  
24 corresponding expected illumination characteristics. When the captured  
25 illumination characteristics match the corresponding expected illumination  
26 characteristic the computer program causes the authentication computer system to  
27 determine that the user is a live user.” [3:8-20]

28 “FIG. 1 is an expanded block diagram of an exemplary embodiment of a system  
architecture of an Authentication Computer (AC) System 10 for verifying the  
validity of biometric data presented by a user during authentication transactions.  
More specifically, the AC system 10 includes a Remote Authentication (RA) Device  
12, a Service Provider (SP) System 14, and a Host Authentication Computer (HAC)  
System 16.

The RA device 12 is a smart phone that at least stores applications therein, displays  
at least one of text and images, receives and executes specific instructions regarding  
illumination during authentication, and captures authentication data from a user.”  
[3:45-56]

“Although the RA device 12 is a smart phone, the RA device 12 may alternatively  
be any device capable of at least displaying at least one of text and images, and  
capturing and transmitting data. Such other devices include, but are not limited to,  
a portable cellular phone, a tablet computer, a laptop computer, any type of portable  
communications device having wireless capabilities such as a personal digital  
assistant (PDA), and a personal computer.” [4:20-27]

1 “The RA device 12 is configured to communicate with at least the SP system 14 and  
2 the HAC system 16 over a communications network 24. The communications  
3 network 24 is a 3G communications network. Alternatively, the communications  
4 network 24 may be any wireless network including, but not limited to, Wi-Fi, Global  
5 System for Mobile (GSM), Enhanced Data for GSM Evolution (EDGE), and any  
6 combination of a local area network (LAN), a wide area network (WAN) and the  
Internet. ... The SP system 14 is a computer including components such as, but not  
limited to, a database server, an application server, a directory server, a web server,  
and a disk storage unit that may be used to store any kind of data.” [4:28-54]

7 “The SP system 14 is a computer including components such as, but not limited to,  
8 a database server, an application server, a directory server, a web server, and a disk  
9 storage unit that may be used to store any kind of data. The disk storage unit may  
10 store at least one database. The SP system 14 is configured to at least communicate  
11 with the RA device 12 and the HAC system 16 over the network 24, and control  
12 access to resources. Resources as described herein include anything that may be  
13 protected against access by unauthorized users.” [4:51-60]

14 “The HAC system 16 includes components such as, but not limited to, a web server,  
15 a database server, an application server, a directory server and a disk storage unit  
16 that may be used to store any kind of data. The disk storage unit may store at least  
one database such as, but not limited to, an authentication database. The HAC  
system 16 also includes a database management server and an authentication server.  
The database management server may be used to facilitate transferring data to and  
from the disk storage device. The authentication server performs matching of any  
feature or information associated with individuals to authenticate the identity of  
individuals as described herein.

17 The HAC system 16 is configured to communicate with the RA device 12 and the  
18 SP system 14 over the network 24.” [6:15-32]

19 “The authentication data is biometric data that corresponds to any biometric  
20 modality desired to be used as the basis of authenticating a user requesting  
21 authentication. Such biometric modalities include, but are not limited to, face,  
22 finger, iris, and palm, and any combination of face, finger, iris and palm. The  
23 biometric data may take any form such as, but not limited to, photographic images.  
24 The enrollment data record of each authorized user stored in the HAC system 16  
25 includes at least enrollment biometric data, a unique user identifier, and the service  
26 provider user identifier of the respective authorized user. Enrollment biometric data  
27 is biometric data obtained from the user during enrollment. The unique user  
28 identifier and service provider user identifier are alphanumeric text strings of any  
length and are different. By virtue of being stored in the same enrollment data  
record, the enrollment biometric data, the unique user identifier, and the service  
provider user identifier of each authorized user are associated with each other.  
Alternatively, such data may be stored in separate records with links to each other.  
Biographic data may also be included in the enrollment data records.” [6:30-50]



1 “The HAC system 16 may also perform functions such as, but not limited to, storing  
2 a plurality of illumination instructions and expected illumination characteristics, and  
3 randomly selecting illumination instructions to be executed while capturing  
4 biometric data during authentication transactions. The randomly selected  
5 illumination instructions each require executing an action during authentication that  
6 effects illumination characteristics of the biometric modality presented for capture  
as a photographic image. Because each illumination instruction is randomly  
selected, illumination of the biometric modality during authentication is not known  
in advance to an imposter and thus appears unpredictable.” [6:51-63]

7 “Moreover, the HAC system 16 may perform functions such as, but not limited to,  
8 generating illumination characteristics, and recognizing a distinctive pattern of an  
9 illumination characteristic generated as a result of executing any of the illumination  
10 instructions. An illumination instruction executed while capturing biometric data  
11 during authentication generates a captured illumination characteristic (CIC), and an  
12 illumination instruction executed while collecting the enrollment biometric data  
generates an expected illumination characteristic (EIC). The expected illumination  
characteristic (EIC) is the illumination characteristic expected to be generated as a  
result of executing the selected illumination instructions while capturing biometric  
data during authentication.” [7:3-16]

13 “The HAC system 16 may also use differences in illumination characteristics to  
14 determine the liveness of a user. For example, the HAC system 16 may determine  
15 the CICs and EICs of captured biometric data, and compare the CICs against the  
16 EICs to determine whether they match. When the CICs and the EICs match, a user  
17 is determined to be live. Alternatively, the HAC system 16 may determine the  
18 difference between sequential CICs and the difference between sequential EICs, and  
19 compare corresponding differences of the CICs and EICs to ensure that temporal  
20 changes of the CICs agree with those of the EICs. Thus, it should be understood that  
21 the HAC system 16 may compare temporal changes in the CICs against temporal  
22 changes in the EICs to ensure that temporal changes of the CICs agree with those of  
23 the EICs. When the temporal changes of the CICs agree with those of the EICs, a  
24 user is determined to be live. It should be appreciated that the HAC system 16 may  
25 determine the illumination characteristics in any manner and may compare the  
26 illumination characteristics in any manner that facilitates determining the liveness  
27 of a user.” [7:58-8:10]

28 “Additionally, the listing 26 includes a fourth instruction 28 for altering the  
orientation of the presented biometric modality. Such an instruction is an indirect  
method of changing the illumination of the biometric modality being captured, as it  
alters the relative position of the biometric modality and incidental sources of  
ambient illumination that may be present during authentication. For example,  
instructions that require altering an orientation of a presented biometric modality  
over time may require the user to alter his facial orientation in each photographic  
image while biometric data of his face is captured in a sequence of photographic  
images. Such facial orientations include voluntary movements such as, but not  
limited to, turning the head to the right, turning the head to the left, looking up, and  
looking down. Alternatively, the fourth instruction may require altering the

1 orientation of the presented biometric modality by moving the presented biometric  
2 modality data relative to the at least one illumination device. For example, the  
3 presented biometric modality data may be moved from a first to a second position  
relative to the at least one illumination device.” [9:55-10:8]

4 “FIG. 3 is a diagram 30 illustrating EICs 32-1 to 32-4 and corresponding CICs 34-  
5 1 to 34-4 for a sequence of four photographic images captured over time during  
6 authentication. Corresponding illumination characteristics of each photographic  
7 image may be compared to determine the liveness of a user. For example, the EIC  
8 32-1 for a first photographic image may be compared against the CIC 34-1 of the  
9 first photographic image. When a difference between the corresponding  
10 illumination characteristics 32-1 and 34-1 is within an acceptable tolerance, the EIC  
11 32-1 is considered to match the CIC 34-1. When the corresponding illumination for  
12 each image in the sequence matches within an acceptable tolerance the user is  
determined to be live. Alternatively the corresponding illumination characteristics  
CIC, EIC of any number of images may be required to match in order to determine  
that a user is live. For example, the corresponding illumination characteristics CIC,  
EIC of three out of four images may be required to match within the expected  
tolerance to determine that a user is live.” [11:1-20]

### 13 13. U.S. PATENT NO. 9,652,663 (“LAU”)

14 Lau discloses a method and system for authenticating a user to a computing device using  
15 facial data and components extracted from captured images that meets many of the limitations of  
16 the FaceTec Asserted Claims. The relevant portions of Lau include:

17  
18 “Exemplary methods, apparatus, and systems are disclosed for authenticating a user  
19 to computing device. In one exemplary embodiment, an indication of a request by a  
20 user to unlock a mobile device in a locked state is received. One or more images of  
21 the face of the user are captured. Facial components of the user from the one or more  
22 captured images are extracted. A determination is made as to whether the user is an  
23 authorized user or a non-authorized user based at least in part on a comparison of  
24 the facial components of the user extracted from the one or more captured images  
25 to facial components of the authorized user from one or more authentication images  
26 of the authorized stored on the mobile device. If the user is determined to be the  
27 authorized user, the mobile device unlocked; otherwise, the mobile device is  
28 maintained in its locked state.” [Abstract]

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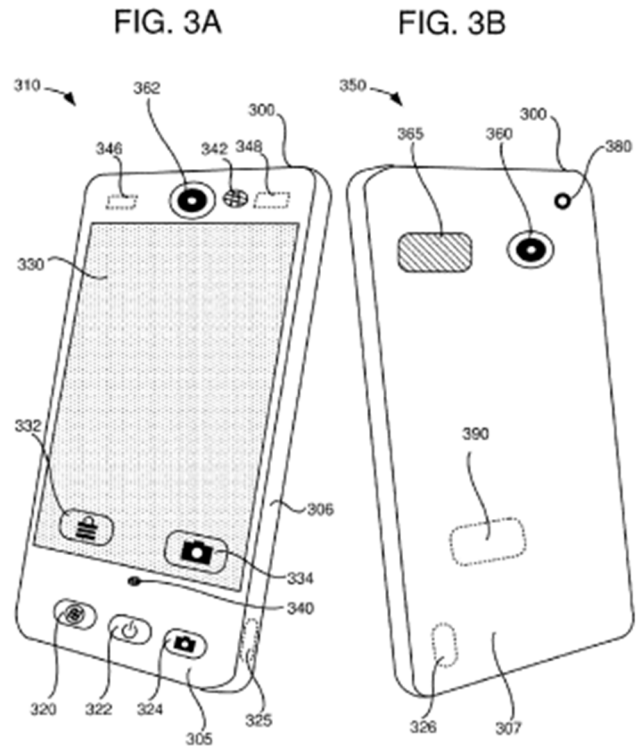
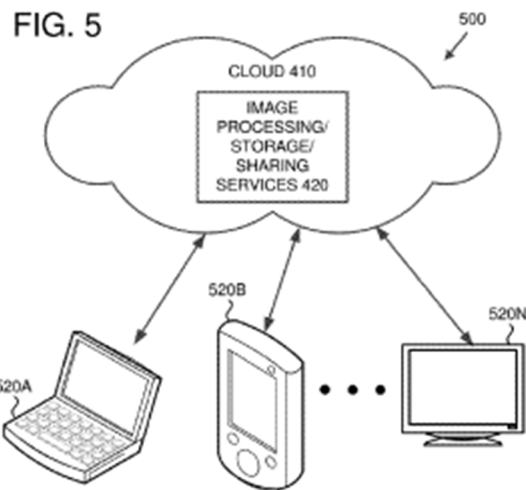
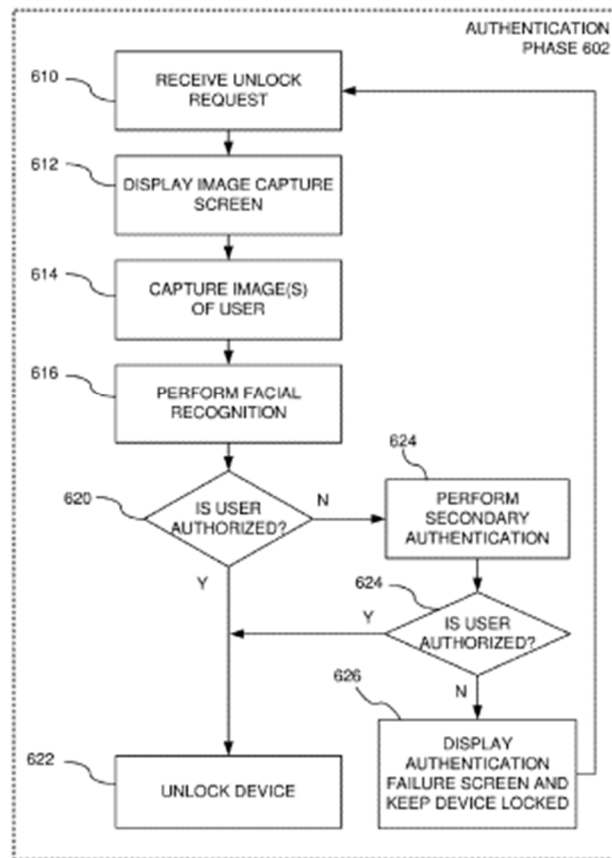
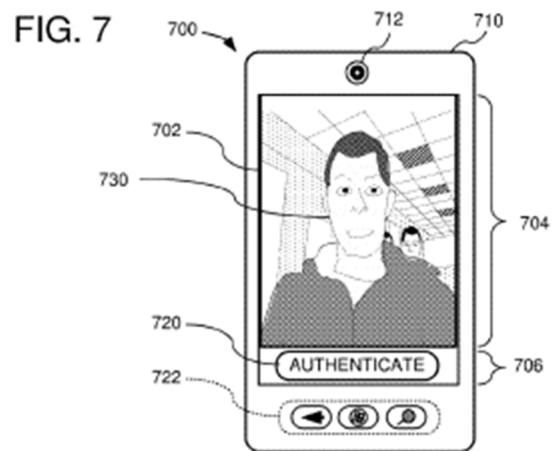
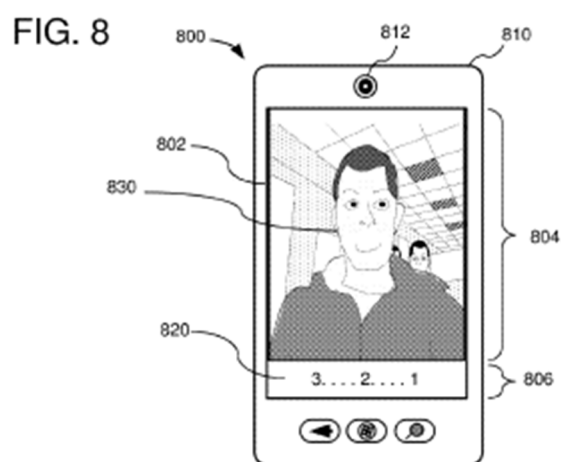


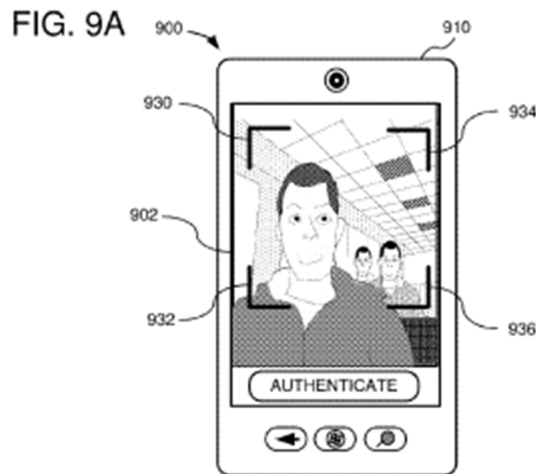
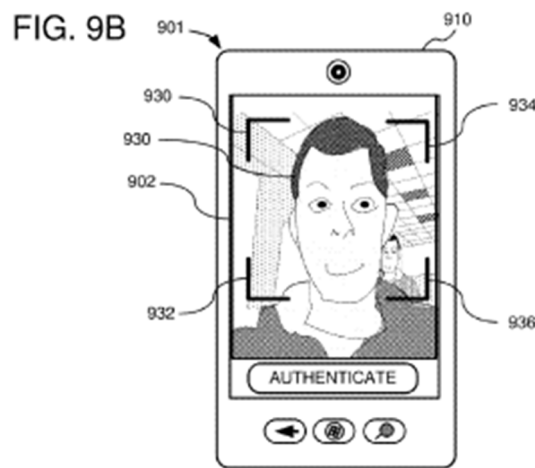
FIG. 6

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“In one exemplary embodiment disclosed herein, an indication of a request by a user to unlock a mobile device in a locked state is received. One or more images of the face of the user are captured. Facial components of the user are extracted from the one or more captured images. A determination is made as to whether the user is an authorized user based at least in part on a comparison of the facial components of the user extracted from the one or more captured images to facial components of the authorized user from one or more authentication images of the authorized user stored on the mobile device. The mobile device is unlocked if the user is determined to be the authorized user, but maintained in its locked state if the user is determined not to be the authorized user. In certain implementations, the one or more authentication images include a first authentication image of the authorized user in a first lighting condition and a second authentication image of the authorized user in a second lighting condition, the second lighting condition being different than the first light condition. In some implementations, the one or more authentication images include an authentication image of the authorized user where the face of the authorized user is illuminated primarily by a screen of the mobile device. In certain implementations, the act of capturing the one or more images includes prompting the user to make a facial expression or head motion, and the one or more authentication images include at least one authentication image of the user making the facial expression or head motion. In some implementations, the one or more

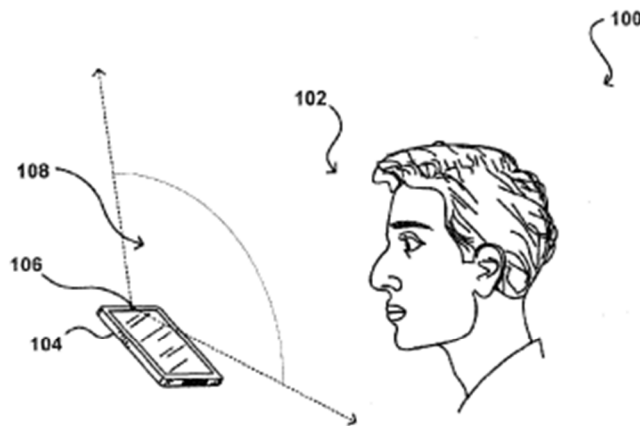
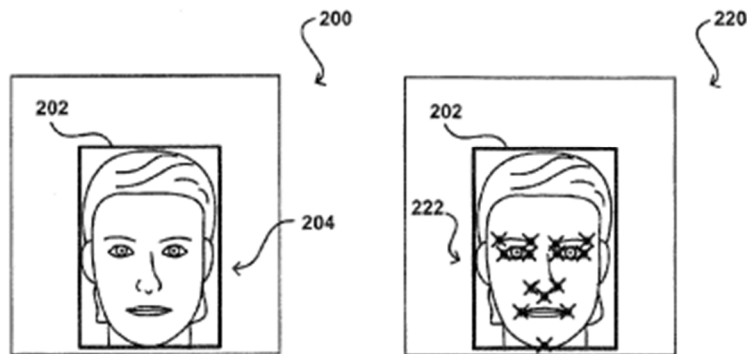
1 captured images are pre-processed to compensate for lighting conditions in which  
2 the one or more images are captured (e.g., by performing one or more of white  
3 balancing, global exposure compensation, local exposure compensation, or  
4 downsampling of the one or more captured images). In certain implementations, the  
5 comparison is performed by generating feature descriptors representative of the  
6 facial components of the user in the one or more captured images and determining  
7 a difference between the feature descriptors of the user in the one or more captured  
8 images and respective facial descriptors of the authorized user generated from the  
9 one or more authentication images. In other implementations, the comparison is  
10 performed by generating a graph-based representation of the facial components of  
11 the user in the one or more captured images and determining a difference between  
12 the graph-based representation of the facial components of the user and respective  
13 graph-based representations of the authorized user generated from the one or more  
14 authentication images. In such implementations, the graph-based representation of  
15 the facial components of the user is indicative of appearances and relative geometric  
16 relationships of the facial components of the user. In some implementations, the act  
17 of determining whether the user is an authorized user comprises, if the facial  
18 components of the user extracted from the one or more captured images match the  
19 facial components of the authorized user from the one or more authentication  
20 images, generating an indication that the user is authorized; and, if the facial  
21 components of the user extracted from the one or more captured images do not  
22 match the facial components of the authorized user from the one or more  
23 authentication images, causing a secondary authentication method to be performed  
24 on the mobile device. In certain implementations, the act of capturing the one or  
25 more images of the face of the user comprises capturing two or more images of the  
26 face of the user in succession, and the act of determining whether the user is an  
27 authorized user comprises is based at least in part on a comparison of the facial  
28 components of the user extracted from the two or more captured images to the facial  
components of the authorized user from the two or more authentication images  
stored on the mobile device.” [1:64-2:65]

19 “FIG. 2 is a schematic block diagram depicting a detailed example of a mobile  
20 computing device 200 capable of implementing the techniques and solutions  
21 described herein. The mobile device 200 includes a variety of optional hardware and  
22 software components. In general, a component in the mobile device can  
23 communicate with any other component of the device, although not all connections  
24 are shown, for ease of illustration. The mobile device can be any of a variety of  
25 computing devices (e.g., cell phone, smartphone, handheld computer, laptop  
26 computer, notebook computer, tablet device, netbook, media player, Personal  
27 Digital Assistant (“PDA”), camera, video camera, or other such devices) and can  
28 allow wireless two-way communications with one or more mobile communications  
networks 204, such as a Wi-Fi, cellular, or satellite network.” [8:25-39]

#### 14. U.S. PATENT NO. 8,984,622 (“BALDWIN ’622”)

1 Baldwin '622 discloses a method of authenticating a user of a computing device using facial  
2 recognition algorithms and detecting live users to avoid spoofing that meets many of the limitations  
3 of the FaceTec Asserted Claims. The relevant portions of Baldwin '622 include:

4  
5 “A user of a computing device can be authenticated using image information  
6 captured by at least one camera of the computing device. In addition to analyzing  
7 the image information using a facial recognition algorithm, for example, variations  
8 in color of a portion of the captured image information corresponding to a user's  
9 face can be monitored over a period of time. The variations can be analyzed to  
10 determine whether the captured image information likely corresponds to an actual  
11 human user instead of a representation (e.g., photo) of a human user, such as where  
12 the chroma variations in at least a red channel occur with an oscillation frequency  
13 and amplitude consistent with changes due to a pulse or heartbeat.” [Abstract]





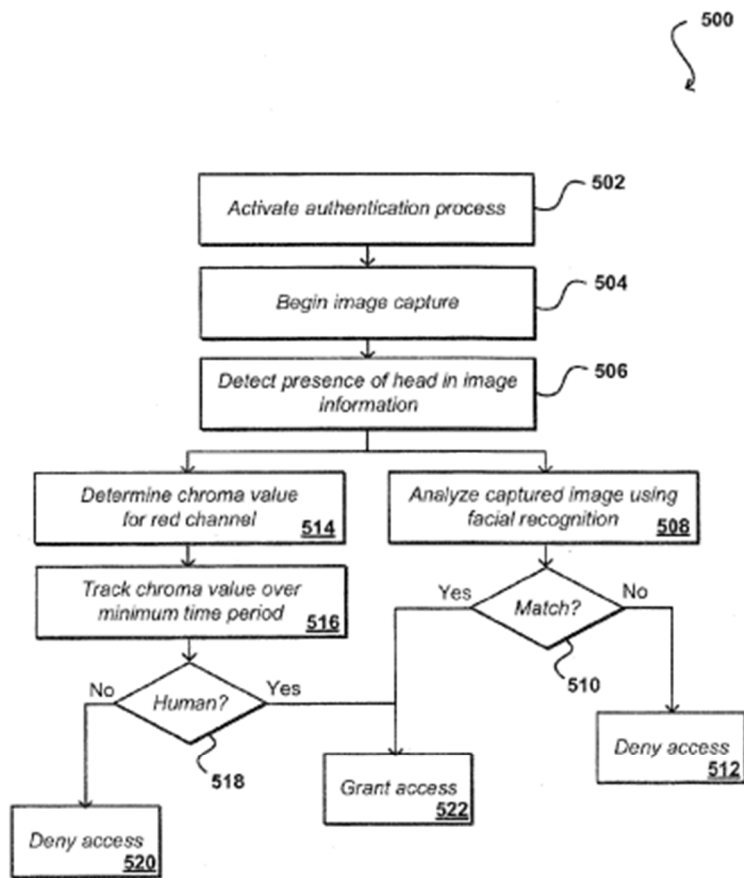


FIG. 5

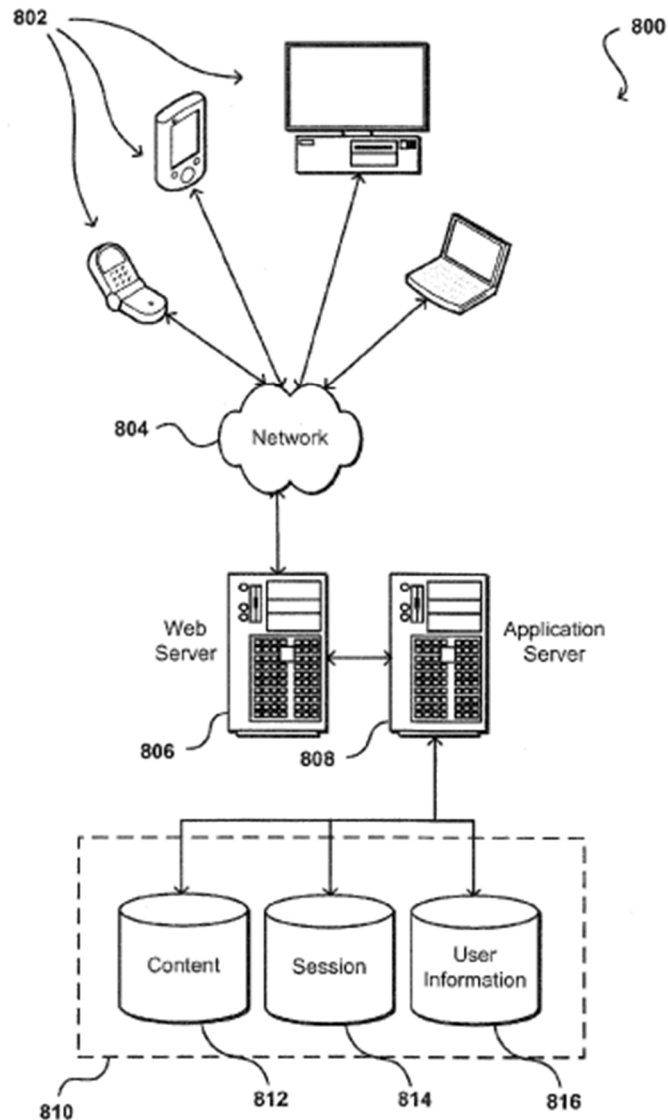


FIG. 8

“In particular, various embodiments utilize image information to not only identify a user, but also verify that the user is actually a physical person and not a false representation of that user. For example, a computing device can capture one or more frames of video information to use with a facial recognition process, in order to attempt to verify an identity of a current user of the device. The computing device also can capture and analyze video over a period of time sufficient to encompass one or more cycles of a human pulse or heartbeat. The location of the user's head in the captured video can be determined, and color values of a portion of the video corresponding to the head can be analyzed for variations corresponding to the fluctuations in a human face for a human pulse.” [1:63-2:9]

“The camera 106 in this example is positioned on the device such that the person 102 likely will be at least partially included in the field of view 108 when the person

1 is interacting with the device, such as by looking and/or interacting with a display  
2 screen of the device. It should be understood, however, that there can be additional  
3 and/or alternative cameras placed in similar or alternative locations in accordance  
4 with various embodiments, and that information from any or all of these cameras  
5 can be analyzed as appropriate.” [2:38-46]

6 “A head or face detection algorithm can be used in some embodiments to attempt to  
7 locate a portion 202 of the image 200 that corresponds to the approximate head  
8 location in the image. The head or face detection algorithm can include any  
9 appropriate algorithm known or used for such purposes, such as a template matching  
10 algorithm, a neural network algorithm, a Fisher linear discriminant algorithm, a  
11 maximal rejection classifier algorithm, a support vector machine algorithm, an edge  
12 filtering algorithm, an edge detection algorithm, and the like. The ability to locate  
13 the head position in an image can reduce the amount of resources otherwise needed  
14 to perform in facial recognition, as the analysis can be performed only on the portion  
15 of the image corresponding to the head position. Further, in some embodiments  
16 facial recognition might not be performed unless a head or face can first be detected  
17 in the captured image.” [3:10-26]

18 “In this example, the detected head portion can be analyzed using one or more facial  
19 recognition algorithms to attempt to identify the person contained in the image. As  
20 illustrated in FIG. 2( b), this can include identifying unique or distinguishing points  
21 222, landmarks, geometric shapes or distances, or other such features on the face,  
22 which can be compared or mapped against information stored for an authorized user  
23 of the device. Example facial recognition algorithms can include, for example, a  
24 linear discriminate analysis algorithm, a Fisherface algorithm, a Hidden Markov  
25 model-based algorithm, a principal component analysis algorithm, and a neuronal  
26 motivated dynamic link matching algorithm, among others. The image should be of  
27 sufficient resolution, clarity, and focus, for example, enabling the algorithms to  
28 adequately match the image to information stored for the user. As known, a facial  
recognition algorithm can take an amount of time to analyze an image, such that  
other processes can be executed during the analysis.” [3:27-44]

“Once the facial region to be analyzed is determined, and tracked or updated over  
time in the video information, one or more color analysis algorithms can attempt to  
detect certain variations in that region over time. For example, the image portions  
340, 360 of FIGS. 3( c) and 3(d), respectively, show (with an exaggerated  
difference) that there can be variations in the color of a person's face over time, due  
to changes in blood flow corresponding to the human pulse, which can be detected  
by a camera of the computing device. In this particular example, the changes will  
primarily be detected in a red channel, such as in the chroma (color purity), intensity,  
or saturation of red colors in the image portions. It should be understood, however,  
that variations can similarly be detected in other color channels or portion as well.  
For example, as blood is pushed through the human face as a result of a pulse or  
heartbeat, the face will appear slightly redder. During other periods, the face will  
appear somewhat less red. By monitoring for changes in color corresponding in time  
to a period of a human pulse, and in amount of variance to that of human skin, a

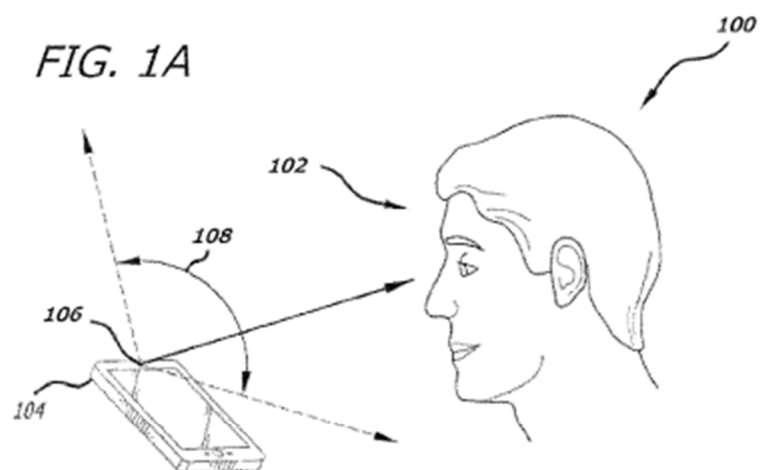
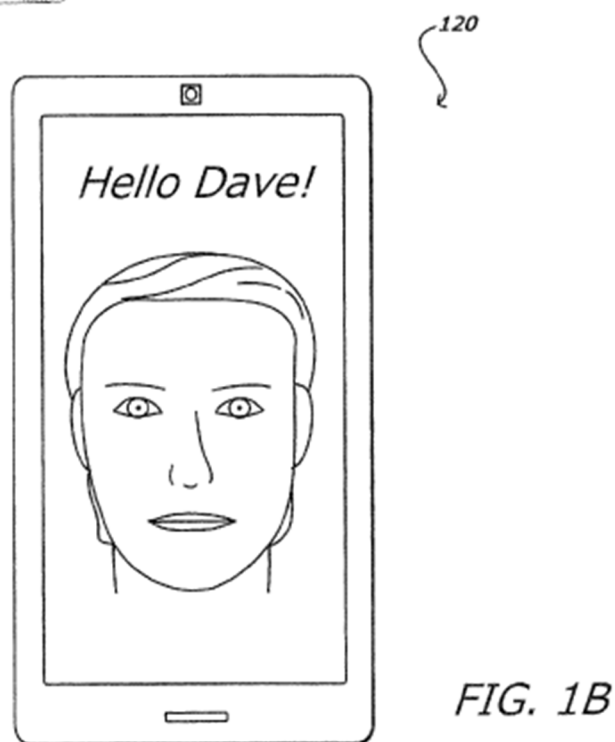
1 determination can be made as to whether the face in the image likely corresponds to  
2 an actual user and not a photograph or other such representation.” [4:4-25]

3 **15. U.S. PATENT NO. 9,607,138 (“BALDWIN ’138”)**

4 Baldwin ’138 discloses a method utilizing image information to identify a user and verify  
5 that the user is a live person that meets many of the limitations of the FaceTec Asserted Claims.  
6 The relevant portions of Baldwin ’138 include:

7  
8 “Approaches utilize image information to not only identify a user, but also verify  
9 that the user is actually a physical person and not a false representation of that user.  
10 For example, a computing device can utilize image information with a facial  
11 recognition process in order to verify an identity of a current user of the device. A  
12 fingerprint or other verification metric can be generated from the image information  
13 and can be used to verify that the user is actually a physical human user instead of a  
14 representation (e.g., photo) of a human user. The fingerprint can include a number  
15 of cues, such as a shape of the face, a stereo disparity signature of the face, facial  
16 feature movement, as well as a presence of a human pulse. The cues can be  
17 combined and utilized for authenticating a user into the device as well as for  
18 verifying that the user is actually a physical person and not a false representation of  
19 that user.” [Abstract]  
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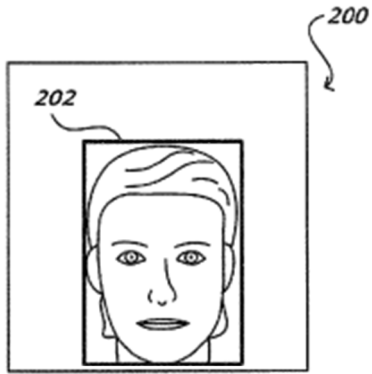


FIG. 2A

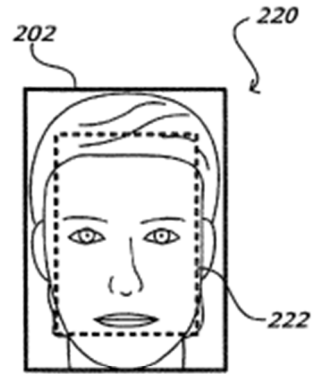


FIG. 2B

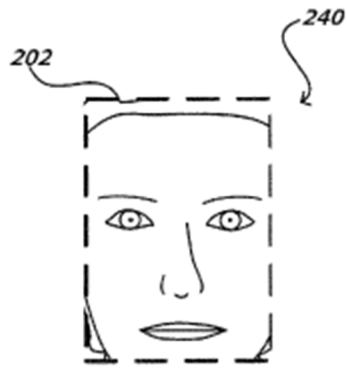


FIG. 2C

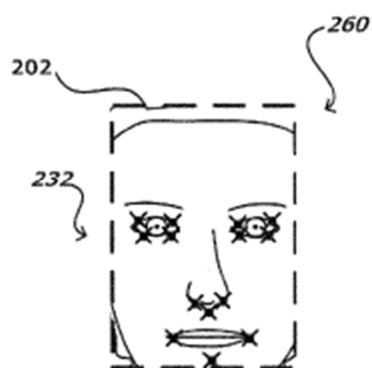


FIG. 2D

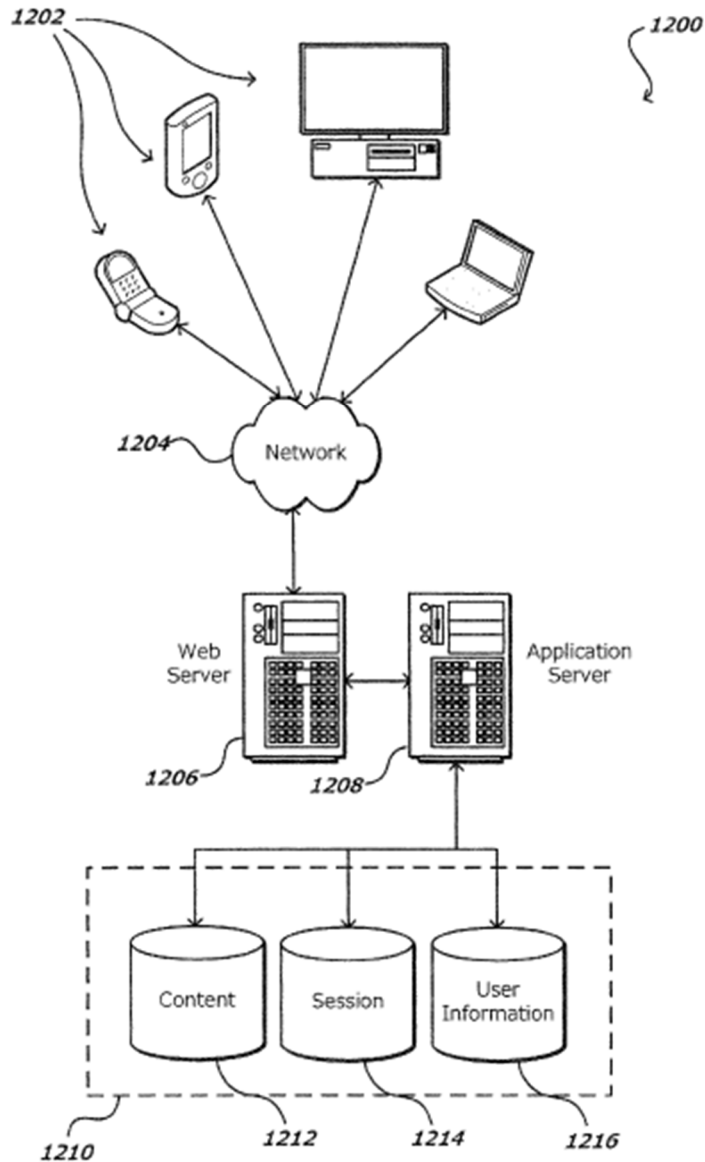


**FIG. 12**

“FIG. 1A illustrates an example situation 100 wherein a person 102 is attempting to gain access to a computing device 104. The computing device 104 in this example includes at least one image capture element 106 that is operable to capture image information over a range of angles 108, or field of view, with respect to the device. Although a portable computing device (e.g., a cell phone, an electronic book reader, or tablet computer) is shown, it should be understood that any electronic device capable of receiving and processing input, or at least capable of rendering and/or displaying visual content, can be used in accordance with various embodiments discussed herein. Example devices can also include, for example, desktop computers, notebook computers, personal data assistants, smart phones, video

gaming consoles, television set top boxes, wearable computers (e.g., smart glasses, smart watches, etc.), and portable media players.

The camera 106 in this example is positioned on the device such that the person 102 likely will be at least partially included in the field of view 108 when the person is interacting with the device, such as by looking and/or interacting with a display screen of the device. It should be understood, however, that there can be additional and/or alternative cameras placed in similar or alternative locations in accordance with various embodiments, and that information from any or all of these cameras can be analyzed as appropriate. For example, a computing device might have a high resolution still camera that is able to capture images useful for performing facial recognition, and might have a lower resolution video camera that can be useful for performing pulse detection. In other embodiments, a single camera might be used to capture image information for both types of analysis, while still other embodiments might utilize stereo cameras or other elements to determine distance information or perform three dimensional modeling, among other such aspects. As mentioned, some devices might have digital still cameras that are able to capture single images at specific points in time, or digital video cameras that are able to continuously capture image information, which can be referred to as a set of frames in at least some embodiments. In some embodiments, a series of still images can be captured over a period of time and analyzed for purposes of color variation and pulse detection instead of video information. Also, for a process such as image recognition to be relatively accurate, the image being analyzed may have to meet some minimum criteria. This can include, for example, adequate lighting and contrast, but can also include factors such as quality of focus and spatial resolution. Accordingly, a device can include additional elements as well, such as illumination elements and focusing optics as discussed elsewhere herein.” [3:40-4:23]

“FIG. 3A illustrates an example wherein the approximate position and orientation of the head of a user 302 has been determined and a virtual “box” 320 is placed around the user's head using one or more of the various user detection processes discussed herein. A similar or different approach can also be used to determine an approximate location and area 322 of each of the user's eyes (or in some cases the eyes in tandem) and mouth or other facial features. By determining the location of the user's eyes and mouth as part of facial detection, advantages may be obtained as it can be more likely that the image determined to be the user's face actually includes the user's face, and it can be determined that the user is in front of the device. Further, the relative movement of the user's eyes and mouth can be easier to detect than the overall movement of the user's face when the user is performing motions such as nodding or shaking the head back and forth. Further still, the relative movement of the user's eyes and mouth can be used to verify that the face represented in the image(s) undergoing the recognition process corresponds to an actual human face, and not a representation of a human face. As described, movement of the user's eyes and mouth can be determined by capturing video information and/or a series of images over a period of time sufficient to determine movement of such facial features of the user.” [6:36-60]

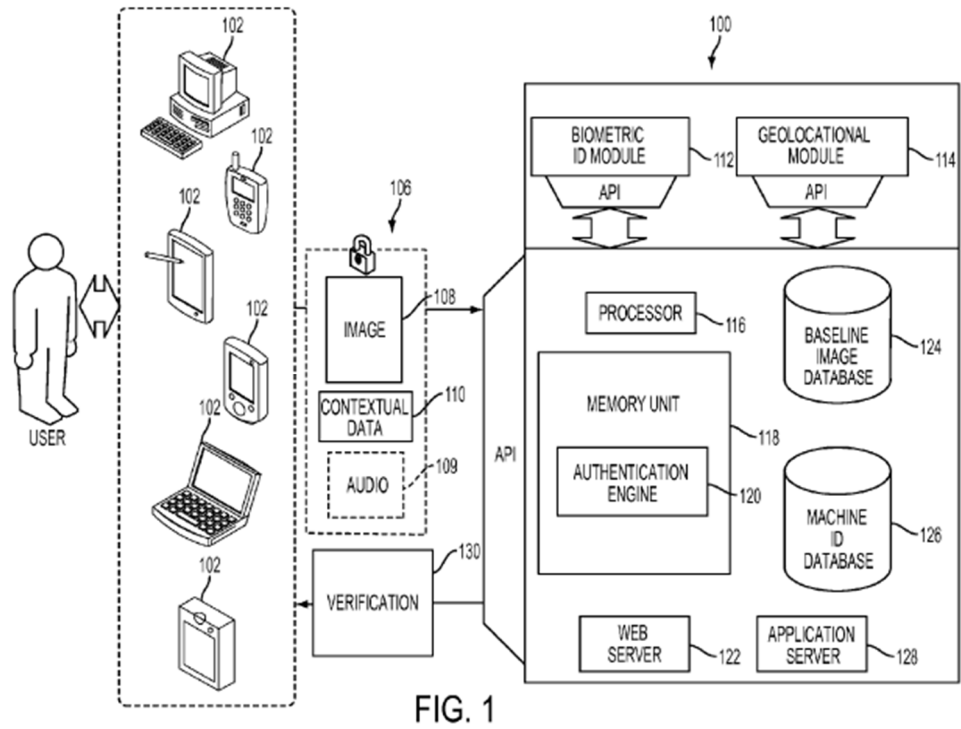
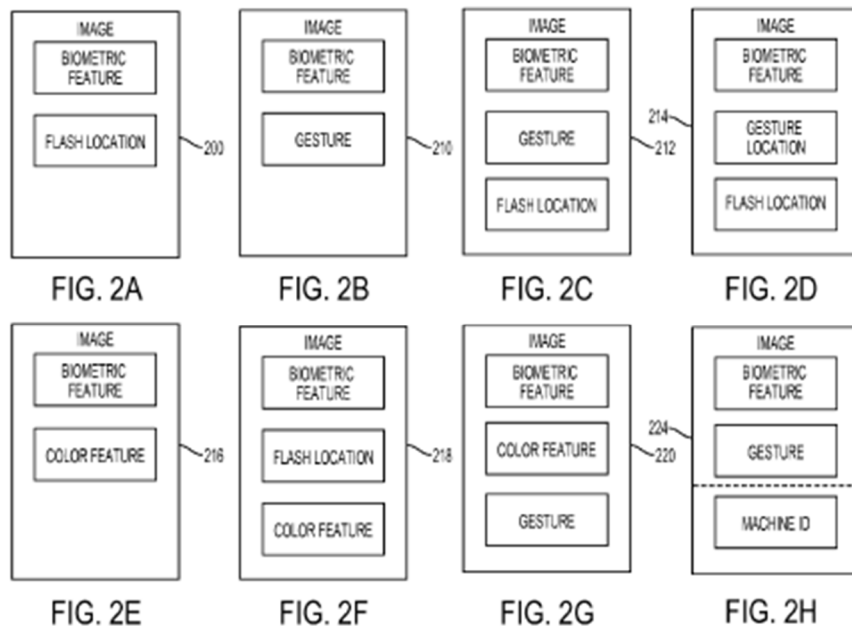


1 “Various other approaches can also be used to verify that the face represented in the  
2 image(s) undergoing the recognition process corresponds to an actual human face,  
3 and not a representation of a human face. For example, FIG. 3B illustrates an  
4 example wherein various features on a user's face are identified and assigned a point  
5 324 in the image. The system thus can detect various aspects of user facial features  
6 and can determine changes such as movement or change in shape or expression.  
7 Such an approach can provide advantages over the general approach of FIG. 3A in  
8 certain situations, as various points along a facial feature can be determined, such  
9 as the end points and at least one center point of a user's mouth. Accordingly,  
10 expressions such as a smile or frown can be captured even though the overall  
11 position of the user's mouth or face did not move and the expressions can be used to  
12 verify that the face represented in the image(s) undergoing the recognition process  
13 corresponds to an actual human face, and not a representation of a human face. For  
14 example, once the facial features of a user are detected, relative motion or changes  
15 in facial expression can be tracked and utilized as input to verify that the face  
16 represented in the image(s) undergoing the recognition process corresponds to an  
17 actual human face, and not a representation of a human face.” [6:61-7:17]

#### 12 **16. U.S. PATENT NO. 9,600,649 (“PARRY”)**

13 Parry discloses an authentication method that requires users to perform a certain gesture or  
14 act that meets many of the limitations of the FaceTec Asserted Claims. The relevant portions of  
15 Parry include:

16 “An authentication method requires receiving an order from a server to perform an  
17 act which is then verified by the server for liveness. The act may comprise shining  
18 a color on an object such as the face of the user, holding a flash at a particular  
19 location or a combination of these and other similar acts.” [Abstract]



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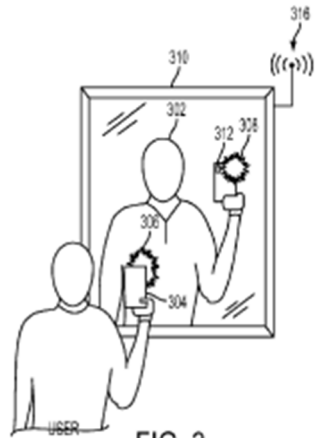


FIG. 3

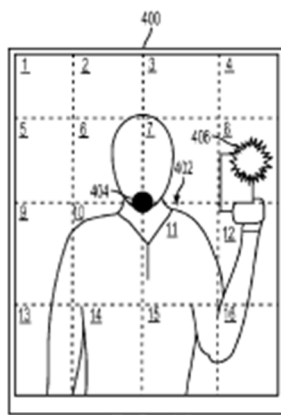


FIG. 4A

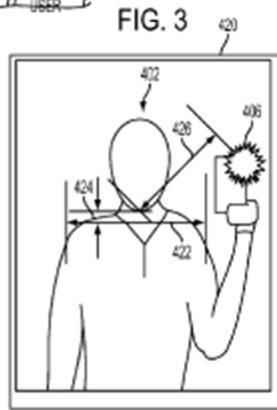


FIG. 4B

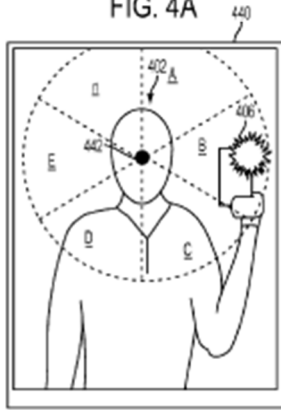
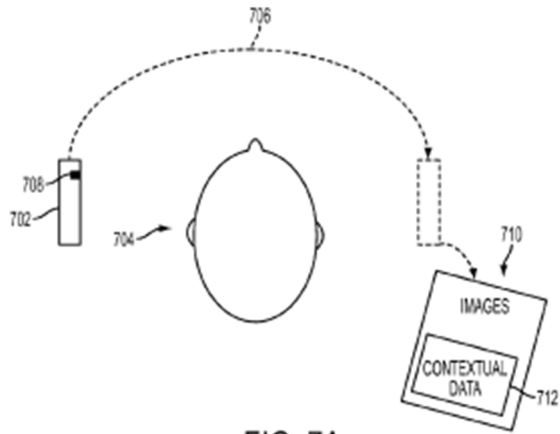
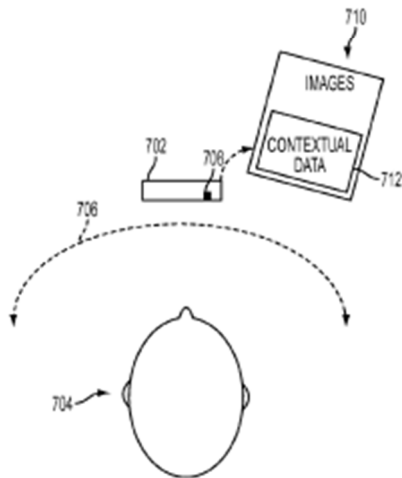


FIG. 4C

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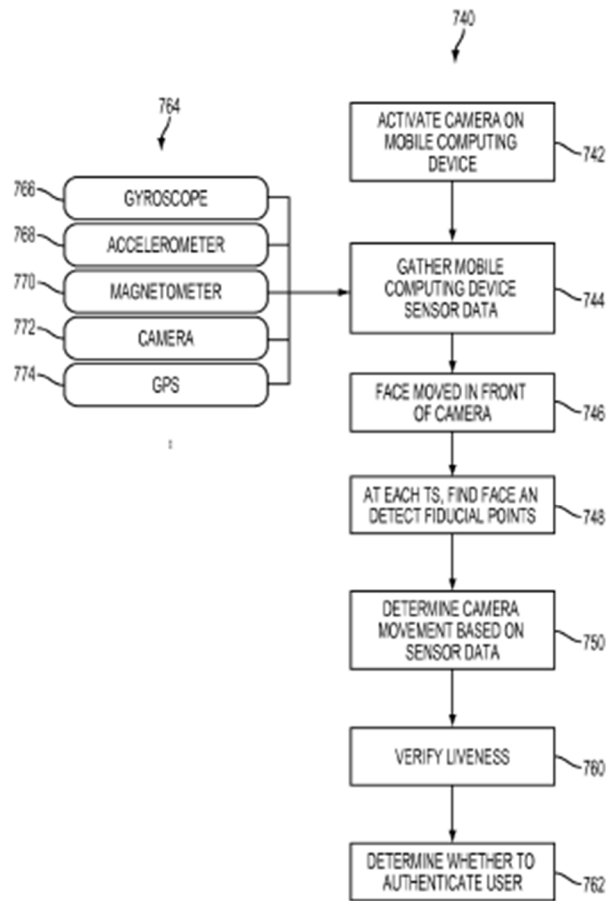


FIG. 7C

“Generally, the presently disclosed systems and methods may authenticate a user before giving the user access to a mobile computer device, access to an application on a computer device, access to a building or other structure, access to a web portal, access to any other type of computing device, access to data, or access to any other secured virtual or physical destination. The authentication can be based on a combination of biometric analysis and contextual data analysis, with the contextual data based on a user device of the user seeking authentication. Therefore, the presently disclosed systems and methods generally bind man and machine to effectuate the authentication paradigms described in more detail below.” [4:31-43]

“Referring now to FIG. 1, one example embodiment of the present disclosure may comprise an authentication computing system 100 that receives and processes identity-based information to execute user authorization. The authentication computing system 100 may be provided using any suitable processor-based device or system, such as a personal computer, laptop, server, mainframe, or a collection (e.g., network) of multiple computers, for example. The authentication computing system 100 may include one or more processors 116 and one or more computer memory units 118.” [4:58-5:1]

1 “As shown in FIG. 1, the authentication computing system 100 may include several  
2 computer servers and databases. For example, the authentication computing system  
3 100 may include one or more web servers 122 and application servers 128. For  
4 convenience, only one web server 122 and one application server 128 are shown in  
5 FIG. 1, although it should be recognized that this disclosure is not so limited. The  
6 web server 122 may provide a graphical web user interface through which users of  
7 the system may interact with the authentication computing system 100. The web  
8 server 122 may accept requests, such as HTTP requests, from clients (such as web  
9 browsers on the device 102), and serve the clients responses, such as HTTP  
10 responses, along with optional data content, such as web pages (e.g., HTML  
11 documents) and linked objects (such as images, etc.).” [7:47-61]

12 “FIG. 7A depicts an example moving image scan in accordance with one non-  
13 limiting embodiment. A user device 702 includes an onboard camera 708 that may  
14 collect video and/or still images. As part of an authentication process the user 704  
15 sweeps the user device 702 in a path 706 while the camera 708 collects image data.  
16 While the path 706 is shown as an arc, a variety of paths may be used, such as saw-  
17 tooth paths, v-shaped paths, linear paths, and so forth. FIG. 7B depicts an example  
18 moving image scan where the user 704 sweeps their head side to side in a path 706  
19 while the camera 708 collects the image data. In other embodiments, the user may  
20 be required to nod their head up and down, move their head in a circular pattern, or  
21 otherwise execute a particular head and/or body movement. In any event, during or  
22 subsequent to the sweep, images 710 may be provided to an authentication  
23 computing system, such as the authentication computing system 100 shown in FIG.  
24 1. The images 710 may include contextual data 712, which may include speed data,  
25 orientation data, machine ID, GPS data, and so forth. The images 710 and the  
26 contextual data 712 may be transmitted to the authentication computing system in  
27 an encrypted network packet, similar to the encrypted network packet 106 shown in  
28 FIG. 1. The authentication computing system can analyze the images 710 and the  
contextual data 712 to determine if the user 704 should be authenticated. For  
example, the images 710 may be compared to images in a baseline image database  
124 (FIG. 1).” [18:17-44]

## 20 17. U.S. PATENT NO. 8,705,812 (“KARAKOTSIOS”)

21 Karakotsios discloses systems and methods to enable a computing device to select one or  
22 more frames from captured video to be used for facial recognition that meets many of the limitations  
23 of the FaceTec Asserted Claims. The relevant portions of Karakotsios include:  
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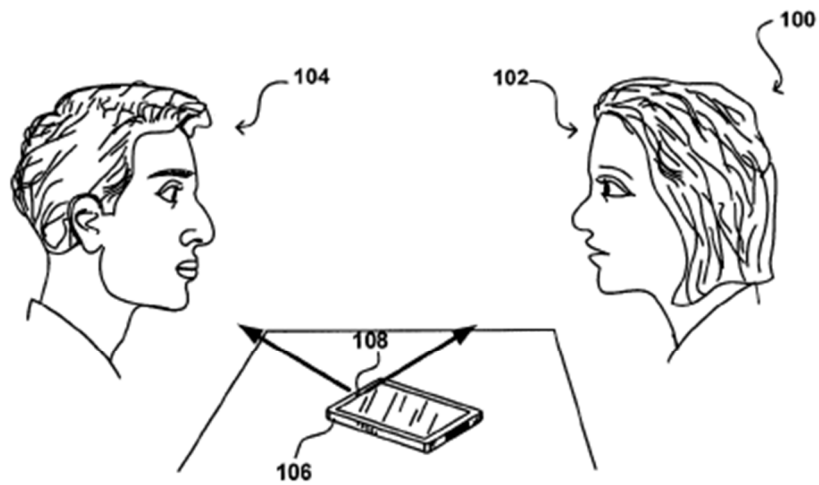


FIG. 1



FIG. 2(a)



FIG. 2(b)

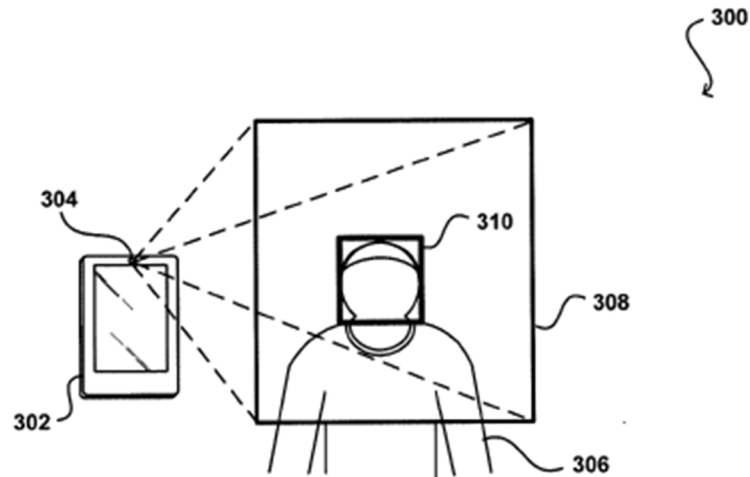


FIG. 3(a)

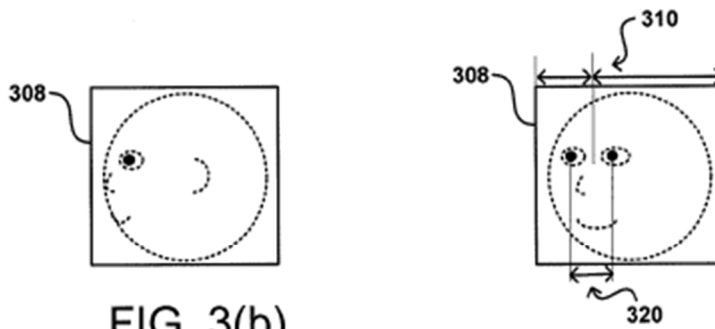


FIG. 3(b)

FIG. 3(c)

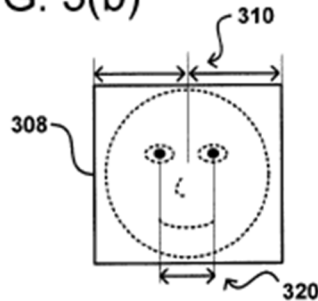


FIG. 3(d)

“In one embodiment, a video feed is continually analyzed using a head or face detection algorithm. In other embodiments, the video feed and/or analysis might be started in response to a specific action or event, such as a motion detector or light sensor detecting motion nearby or an accelerometer detecting motion of a computing device. Once a face or head is detected, the device can utilize a relative orientation-determining algorithm to attempt to determine whether the person corresponding to the detected face is facing substantially towards the camera. In response to a determination that the person is facing substantially towards the camera, a corresponding frame of the video can be selected for processing, such as to perform



1 facial recognition on the portion of the image frame corresponding to the user's  
2 head.” [2:3-16]

3 “Different computing devices can have different types of image capture element.  
4 For example, some devices might have digital still cameras that are able to capture  
5 single images at specific points in time, or digital video cameras that are able to  
6 continuously capture image information, which can be referred to as a set of frames  
7 in at least some embodiments. For a process such as image recognition to be  
8 relatively accurate, the image being analyzed typically has to meet some minimum  
9 criteria. This can include, for example, adequate lighting and contrast, but can also  
10 include factors such as the direction the person is facing in the image and the quality  
11 of focus of the image. For example, FIG. 2( a) illustrates an example image 200  
12 wherein the person in the image is facing at an angle with respect to the image, or is  
13 not at an orientation where the user is facing substantially towards the image capture  
14 element. Such orientation can occur when, for example, images are captured at  
15 random or otherwise without prior analysis of the orientation. Similar issues can  
16 arise when selecting a frame from a video stream unless there is some processing of  
17 the video stream. To analyze each frame of video, or capture a large number of still  
18 images, can require a significant amount of processing, which can be undesirable in  
19 particular for portable devices which typically have limited available resources and  
20 battery life. Capturing an image with the person at an angle as in FIG. 2( a), however,  
21 can result in an image that cannot accurately be analyzed using a conventional facial  
22 recognition algorithm, as such algorithms typically require the user to be facing  
23 substantially towards the image capture element when the image is captured, to  
24 within a limited range such as plus or minus twenty degrees from normal.

25 Similarly, the image in FIG. 2( b) might not produce accurate results for a facial  
26 recognition process due at least in part to an amount of motion blur in the image  
27 202. Blur can result, for example, from motion of the user during the image capture,  
28 or motion of the device while capturing the image. Blur can also occur due to other  
factors, such as improper focusing of the imaging element, or lenses associated with  
the element. Any of a number of other issues can exist as well that can prevent  
randomly selected images from being able to be accurately processed by a facial  
recognition or other image processing algorithm.” [3:22-63]

## 21 18. U.S. PATENT NO. 8,630,493 (“GOKTURK”)

22 Gokturk discloses systems that facilitate and enhance image recognition processes that meet  
23 many of the limitations of the FaceTec Asserted Claims. The relevant portions of Gokturk include:  
24

25 “Embodiments described herein facilitate or enhance the implementation of image  
26 recognition processes which can perform recognition on images to identify objects  
27 and/or faces by class or by people.” [Abstract]  
28

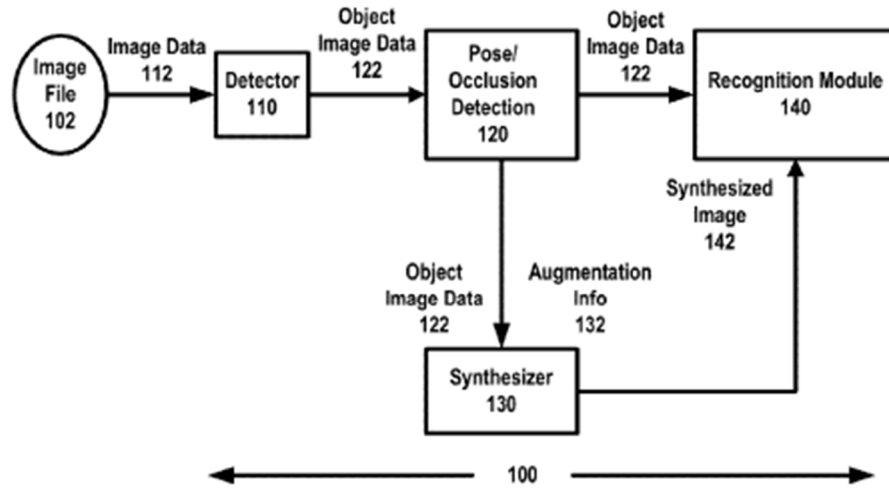


**FIG. 1A**

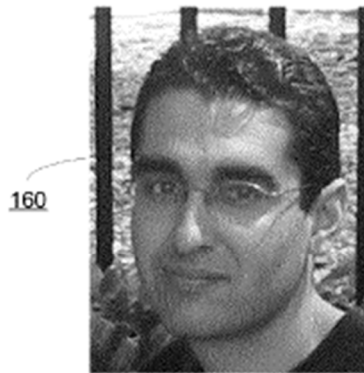


**FIG. 1B**

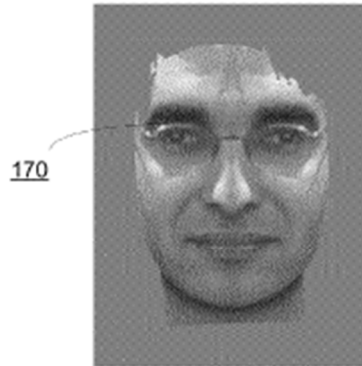


**FIG. 1C**

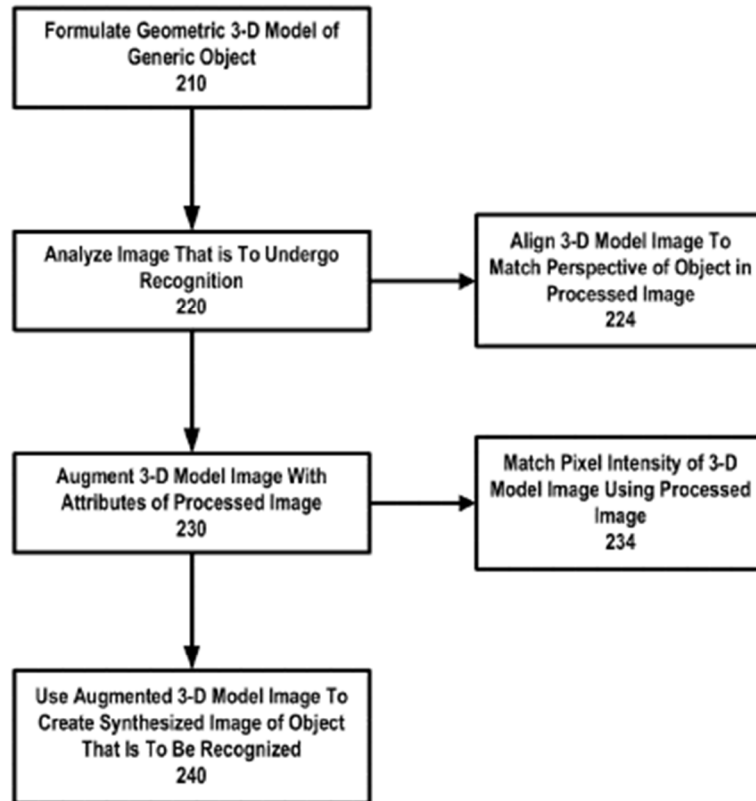


**FIG. 2**

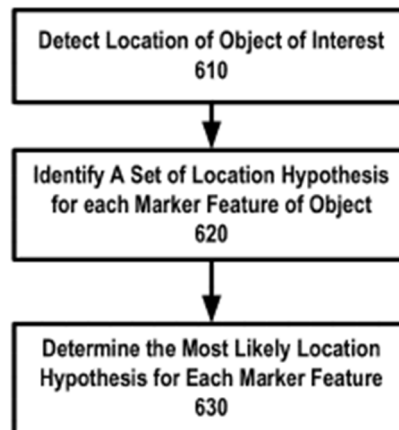


**FIG. 6**

1 “According to another embodiment, image recognition includes determining a  
2 region of an image where an object that is to be recognized is likely located. The  
3 object of interest may be known to have specific set of features, which may be  
4 defined in variety of ways (e.g. geometric constraints) through two or three  
5 dimensional models. For each of a plurality of features of the object of interest, a set  
6 of hypotheses regions of the image may be determined. These hypotheses regions  
7 may correspond to likely locations of that feature in the object that is to be  
8 recognized. A most likely location of at least some of the plurality of features using  
9 may then be determined using the set of one or more hypothesis regions for all of  
10 the plurality of features.” [2:47-59]

11 “In step 220, the image that is to undergo recognition is analyzed to determine pose  
12 and position of the object of interest. Given a non-frontal face photograph, one  
13 embodiment provides a computer-implemented algorithm that analyzes the image  
14 in order to recover information indicating a rotation or position of the object in the  
15 image relative to the camera. For example, with regard to facial recognition, such  
16 an algorithm may first seek to recover the rotation and position of the face three-  
17 dimensionally, from the perspective of the camera lens. This can be formulated as  
18 the task of “virtually” orienting and positioning the three-dimensional model in  
19 space in such a way that the simulated projection of rays from the model to the  
20 camera best match the face in the photograph. For example, the ray departing from  
21 the tip of the nose of the three-dimensional model may intersect the camera image  
22 plane at the tip of nose of the face in the photograph. The relationship between the  
23 points of the three-dimensional model in space and the image points of the face in  
24 the photograph can be described by a mathematical camera model, such as  
25 orthographic or full perspective projection.” [6:58-7:10]

26 “According to one embodiment, sub-step 224 (of step 220) provides that attributes  
27 of position and orientation may be determined from use of projective three-  
28 dimensional models. In one embodiment, an unknown orientation and position of  
the object (such as a face) in three-dimensional space can be specified in terms of a  
rotation matrix, and a translation vector. These unknown parameters can be  
computed by establishing a set of correspondences between the three-dimensional  
model points and the image points. For example, an image registration algorithm  
(such as described with one or more embodiments of FIG. 6) can identify specific  
object or facial key-points in the image source 102. In the case where the object is a  
face, the points may correspond to the corners of the eyes and mouth, and the tip of  
the nose. Since the positions of these key-points on the three-dimensional model are  
established in advance, the unknown rotation matrix and translation vector can be  
computed by solving the system of equations resulting from the camera projection  
model. For example, closed-form, linear least-square minimization methods or  
iterative, gradient descent techniques can be applied for such task. In another  
embodiment, the pose estimation problem can be formulated as a classical vision  
tracking problem, where optical flow computation between the original image and  
the synthesized image is calculated in order to solve for pose and appearance at the  
same time.” [7:11-35]

19. U.S. PATENT NO. 8,966,613 (“HORVITZ”)

Horvitz discloses systems, methods, and computer storage media for identifying, authorizing, and/or authenticating a user to a device that meet many of the limitations of the FaceTec Asserted Claims. The relevant portions of Horvitz include:

“Embodiments of the present invention relate to systems, methods, and computer storage media for identifying, authenticating, and authorizing a user to a device. A dynamic image, such as a video captured by a depth camera, is received. The dynamic image provides data from which geometric information of a portion of a user may be identified as well as motion information of a portion of the user may be identified. Consequently, a geometric attribute is identified from the geometric information. A motion attribute may also be identified from the motion information. The geometric attribute is compared to one or more geometric attributes associated with authorized users. Additionally, the motion attribute may be compared to one or more motion attributes associated with the authorized users. A determination may be made that the user is an authorized user. As such the user is authorized to utilize functions of the device.” [Abstract]

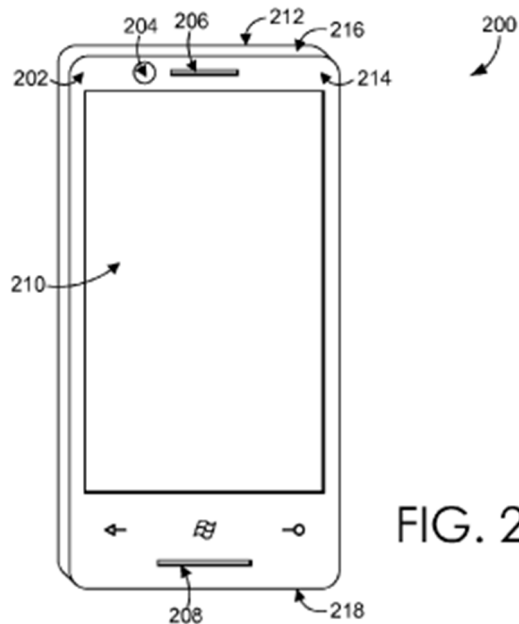


FIG. 2

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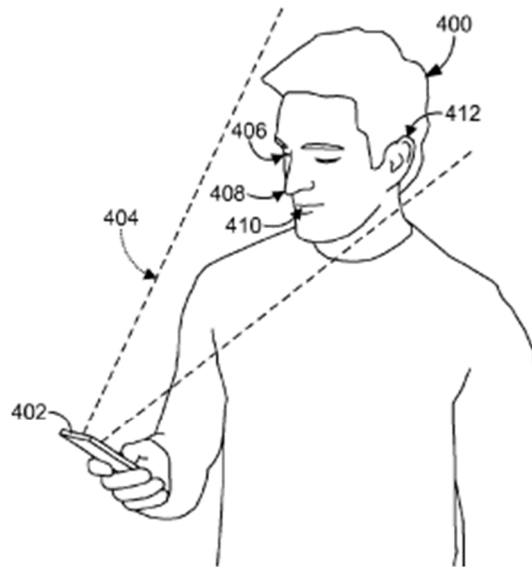


FIG. 4

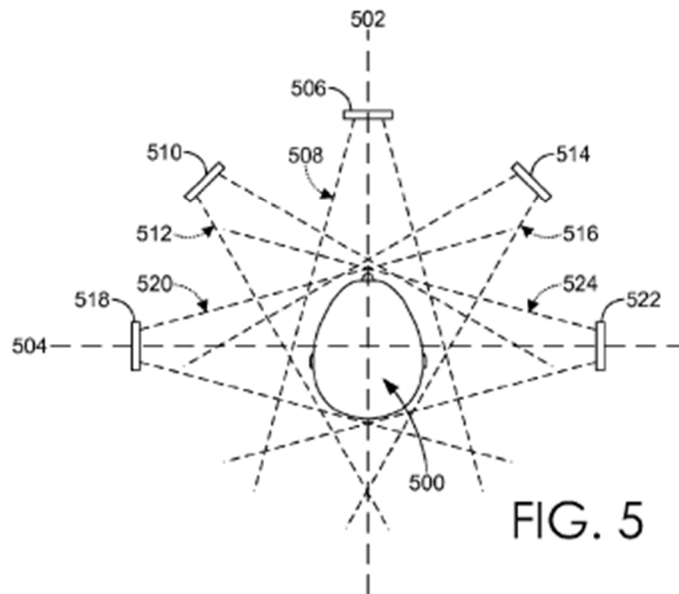


FIG. 5

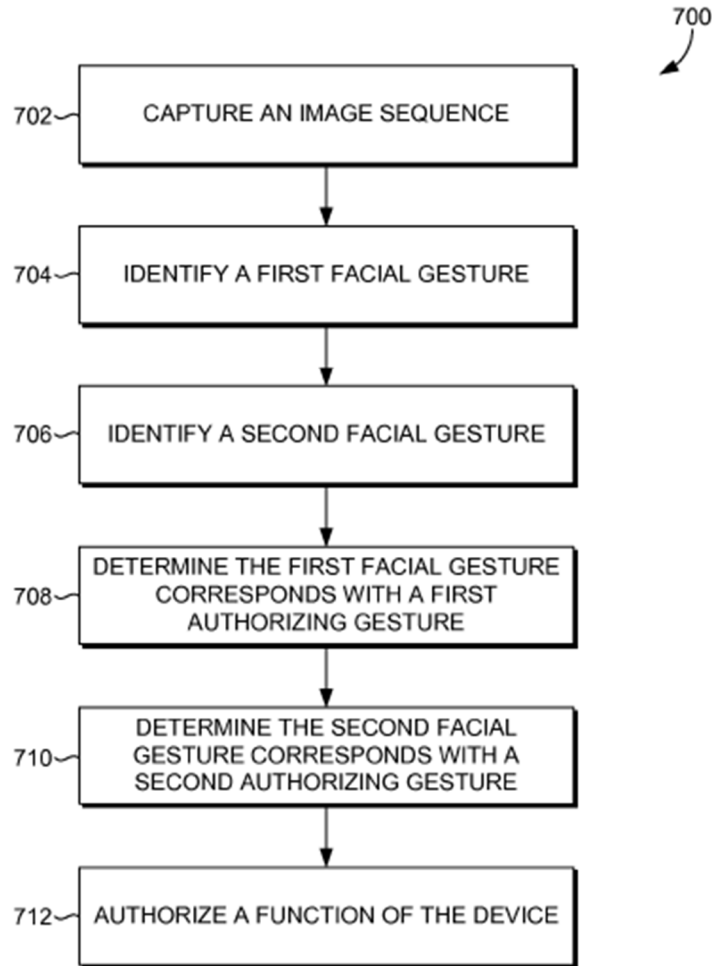


FIG. 7

“Accordingly, in one aspect, the present invention provides a method in a computing environment utilizing a processor and memory for authenticating a user to a device. The method is comprised of receiving a dynamic image. The dynamic image is comprised of geometric information of a portion of the user and motion information of a portion of the user. The method is further comprised of identifying, with the processor, a first attribute from the geometric information and a second attribute from the motion information. The method also is comprised of comparing, with the processor, the first attribute from the geometric information and the second attribute from the motion information to one or more attributes associated with an authorized entity. Additionally, the method is comprised of authorizing the user to utilize one or more functions of the device.” [2:42-56]

“In another aspect, the present invention provides a handheld device for authenticating a user to the handheld device. The handheld device is comprised of a

processor, a depth camera, and computer storage media having computer-executable instructions embodied thereon, that when executed by the processor, cause the handheld device to perform a method. The method is comprised of capturing, with the depth camera, a series of images of at least a portion of a head of the user; identifying a first attribute within the series of images; determining the user is an authorized user of the device based, at least in part, on the first attribute; and providing a first functionality of the device to the user in response to determining the user is an authorized user.” [2:57-3:2]

“Motion information that may be captured in a dynamic image may include, but is not limited to, one or more points on an observed object as it transitions from a first point at a first time to a second point at a second time. For example, a user's pupil may provide a point, that when tracked over time, provides an indication of movement of an eye. Motion may also be captured through a transition of a particular geometry from a first state to a second state. Together, geometric information and motion information may provide tools for identifying a particular gesture performed by a particular user. For example, geometric information may be utilized to identify a particular person through facial recognition techniques. The motion information (in possible conjunction of geometric information) allows for a predefined gesture, sequence of gestures, and/or various speeds of gesture(s) to occur in three-dimensional space. Therefore, it is contemplated that a device is able to reduce a number of false positive authorizations through a paired analysis of geometric information and motion information.” [7:21-39]

“In use, it is contemplated that a dynamic image is captured of the user 400, which allows for a facial recognition utilizing three-dimensional input. In addition to capturing information useable for a facial recognition-type process, it is contemplated that the dynamic aspect of the dynamic image provides motion information that is useable for identifying unique muscular-skeletal interactions of the user. Further, the dynamic image provides motion information that is useable for identifying one or more gestures performed by the user. For example, it is contemplated that a user performs a series of gestures that are captured in three-dimensional space. The sequence of gestures may be a predefined sequence that is useable by the user to access one or more functions of a device. Further, because a three-dimensional image (including depth information) is utilized in this example, replicating the gesture by a different entity is substantially more difficult. Therefore, three-dimensional image information may be useable for authenticating a user based on both three-dimensional geometric characteristics of one or more features, but also by motion of one or more portions of the user.” [9:12-31]

“FIG. 5 depicts a top-down perspective of a user 500 with a plurality of field of views from which a device may capture a dynamic image, in accordance with aspects of the present invention. Exemplary axes are depicted, such as a z-axis 502 and an x-axis 504. A y-axis, which is not depicted, may extend into the figure through an intersection of the z-axis 502 and the x-axis 504. While the plurality of devices are depicted at an approximate equidistance (e.g., depth) from the user 500, it is understood that a device may be moved in any direction at any orientation of



any axis in three-dimensional space. An advantage of utilizing a depth camera is the ability to capture a dynamic image from a variety of locations to evaluate a common feature. For example, a traditional two-dimensional image may not be effective for capturing a useable facial recognition image if the captured image is not oriented within a few degrees of a source image. However, inclusion of depth information allows geometric attributes to be identified from a variety of angles. Similarly, motion attributes may be identified from a variety of angles.” [9:53-10:4]

## 20. U.S. PATENT NO. 10,049,287 (“HOLZ”)

Holz discloses a computer authentication system that determines whether the captured image is an actual person that meets many of the limitations of the FaceTec Asserted Claims. The relevant portions of Holz include:

**FIG. 1**

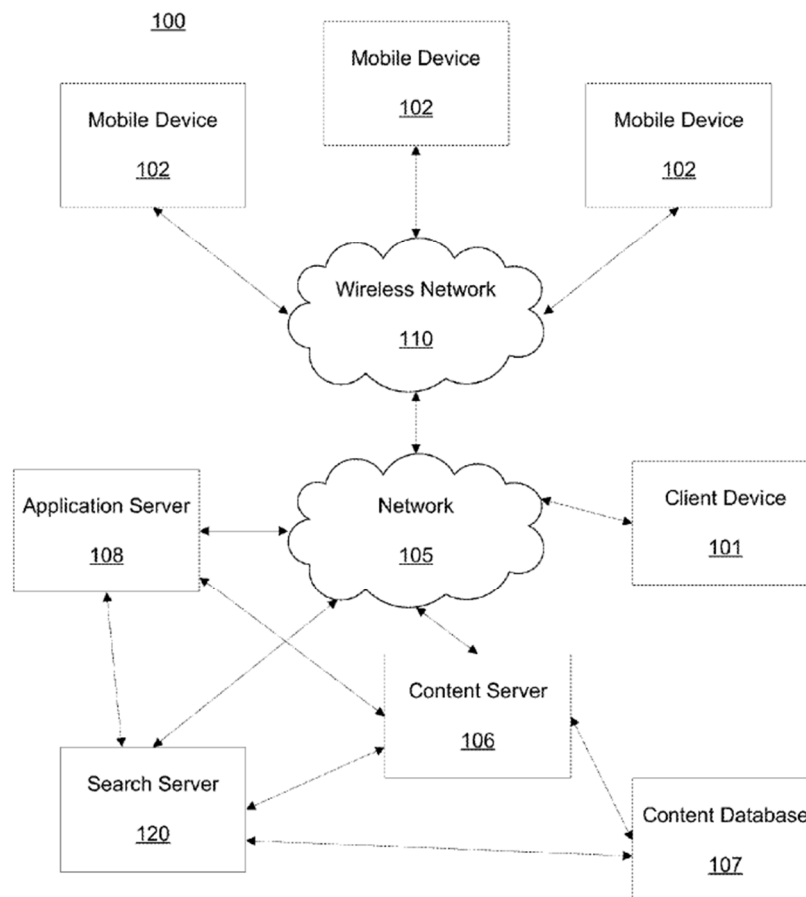


**FIG. 4A**

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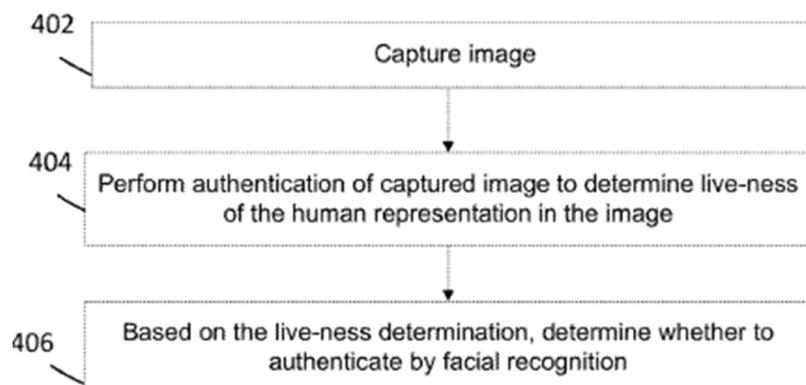
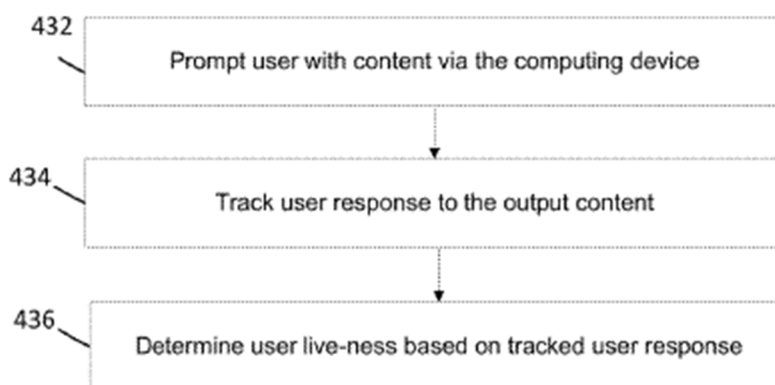


**FIG. 4D**

430



“For purposes of this disclosure, a client (or consumer or user) device may include a computing device capable of sending or receiving signals, such as via a wired or a wireless network. A client device may, for example, include a desktop computer or a portable device, such as a cellular telephone, a smart phone, a display pager, a radio frequency (RF) device, an infrared (IR) device an Near Field Communication (NFC) device, a Personal Digital Assistant (PDA), a handheld computer, a tablet computer, a phablet, a laptop computer, a set top box, a wearable computer, an integrated or distributed device combining various features, such as features of the forgoing devices, or the like.” [7:31-42]

“For example, the disclosed systems and methods can, according to embodiments of the present disclosure, detect inadvertent actions and reactions of a user in order to establish live-ness and physical presence of a face captured by the camera. Thus, as discussed in more detail below, the disclosed systems and method provide additional functionality to existing facial recognition systems that enables such systems to actually determine whether the image being captured and/or recorded is that of an actual person (e.g., the user's face), as opposed to a non-human

1 representation. According to some embodiments, reference to capturing a user's face  
2 can include capturing of the face as a whole, including, but not limited to, all or a  
3 subset of the other features of the face, such as, for example, the outline of the face,  
4 user's eyes, irises, features of the iris, eyebrows, lips, nose, ears, hair, brow, and the  
5 like.” [9:3-18]

6 “Certain embodiments will now be described in greater detail with reference to the  
7 figures. In general, with reference to FIG. 1, a system 100 in accordance with an  
8 embodiment of the present disclosure is shown. FIG. 1 shows components of a  
9 general environment in which the systems and methods discussed herein may be  
10 practiced. Not all the components may be required to practice the disclosure, and  
11 variations in the arrangement and type of the components may be made without  
12 departing from the spirit or scope of the disclosure. As shown, system 100 of FIG.  
13 1 includes local area networks (“LANs”)/wide area networks (“WANs”)-network  
14 105, wireless network 110, mobile devices (client devices) 102 and client device  
15 101. FIG. 1 additionally includes a variety of servers, such as content server 106,  
16 application (or “App”) server 108, and search server 120.” [9:19-34]

17 “Generally, however, mobile devices 102 may include virtually any portable  
18 computing device capable of receiving and sending a message over a network, such  
19 as network 105, wireless network 110, or the like. Mobile devices 102 may also be  
20 described generally as client devices that are configured to be portable. Thus, mobile  
21 devices 102 may include virtually any portable computing device capable of  
22 connecting to another computing device and receiving information. Such devices  
23 include multi-touch and portable devices such as, cellular telephones, smart phones,  
24 display pagers, radio frequency (RF) devices, infrared (IR) devices, Personal Digital  
25 Assistants (PDAs), handheld computers, laptop computers, wearable computers,  
26 tablet computers, phablets, integrated devices combining one or more of the  
27 preceding devices, and the like.” [9:36-51]

28 “Content server 106 can further provide a variety of services that include, but are  
not limited to, authentication services and/or identity verification services ... .”  
[12:37-39]

“According to embodiments of the present disclosure, the anti-spoofing engine 302  
is a special purpose machine or processor and could be hosted by a computing  
device, such as, but not limited to, a web server, application server, search server,  
content provider, email service provider, ad server, user's computing device, or any  
combination thereof. The database 318 can be any type of database or memory  
modified to perform as described herein, and can be associated with the anti-  
spoofing engine 302 and/or a hosting device, such as, for example, content server  
106 or application server 108. The database 318 can store user information  
including, but not limited to, user identifying information, user demographic  
information, and user biometric information, and the like.” [15:47-60]

“FIG. 4A is a Process 400 diagram illustrating steps performed in accordance with  
embodiments of the present disclosure for determining and verifying that the images  
recorded by a facial recognition system actually represent a human being. ... FIG.

1 4A begins with Step 402 where a computing device, having at least one camera,  
2 captures an image. In some embodiments, Step 402 can involve capturing a  
3 recording of an image. Thus, the captured image can be a static image rendering or  
a video recording of sequential image frames (i.e., video frames). ...

4 Step 402 can include, as understood by those of skill in the art, identification of a  
5 face, facial features, and/or head of a user within the captured image, as discussed  
6 in more detail below. For example, Step 402 can involve identifying the location of  
7 at least one eye, a mouth, nose, hair, ears, eyebrows, outline of the head, and the  
8 like, from within the captured image. As discussed above, the captured image maybe  
an image, a series of images, or a video recording, and can additionally be used for  
authentication by a facial recognition system (by the facial recognition module 304).

9 In Step 404, the anti-spoofing engine 302 then performs authentication of the  
10 captured image to determine the live-ness of the human representation in the  
captured image.” [17:28-58]

11 “FIG. 4D is a Process 430 diagram illustrating steps performed in accordance with  
12 embodiments of the present disclosure for explicitly (i.e., with a user's knowledge)  
13 triggering a user for a response that indicates that the image being captured/recorded  
14 of the user is an actual human being. ... In another non-limiting example, the  
disclosed systems and methods can prompt a user to perform a series of randomized  
actions (e.g., turning the head), asking the user to follow, with their eyes, an object  
moving on the screen, and the like, whereby the detection of such movements is  
matched to the requested action to determine if the actions match the requested  
actions. Thus, Process 430 actively prompts the user for a reaction, which requires  
the user to explicitly act and verify his/her live-ness. ...

17 In response to the prompt, Step 434 involves tracking the user's response. That is,  
18 using the camera of the computing device, the user's response is tracked and  
19 analyzed. This enables the anti-spoofing engine 302 to compile the user's  
involuntary movements that occurred immediately in response to the generated  
output. Based on the tracked user response, a determination is then made as to  
20 whether the response can be attributed to that of a human user, as opposed to a digital  
21 representation of a user used in connection with a spoofing attempt. Step 436.”  
[22:19-54]

## 22 23 **21. U.S. PATENT NO. 8,856,541 (“CHAUDHURY”)**

24 Chaudhury discloses a method for liveness detection using facial movements that meets  
25 many of the limitations of the FaceTec Asserted Claims. The relevant portions of Chaudhury  
26 include:

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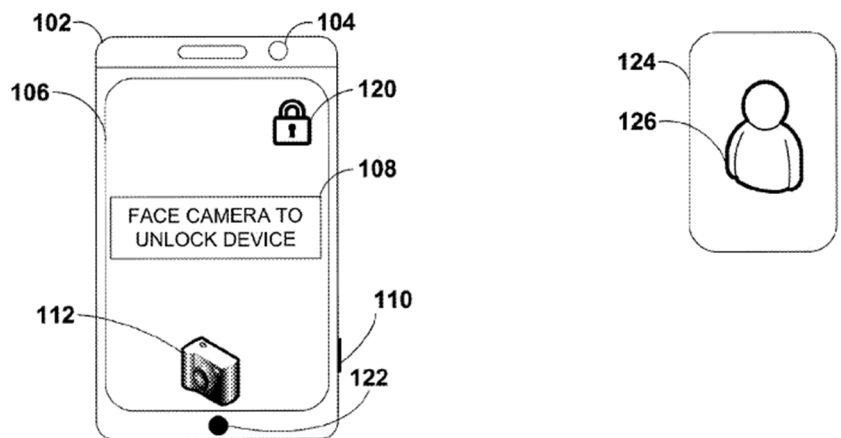


FIG. 1A

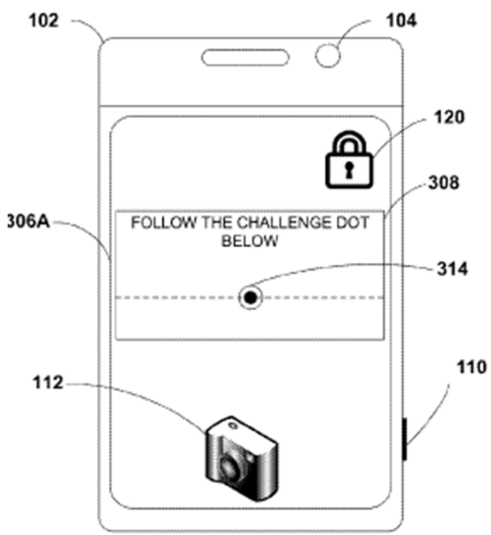


FIG. 3A

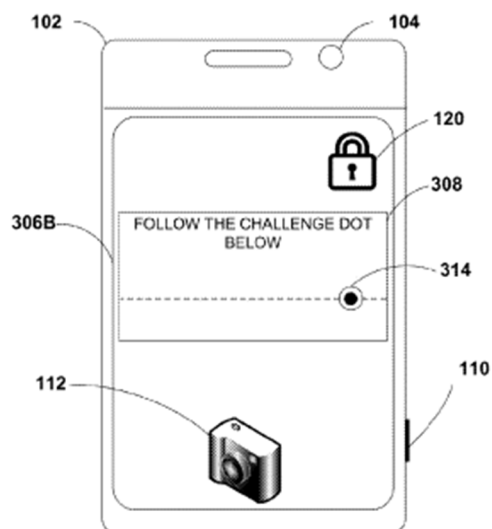


FIG. 3B

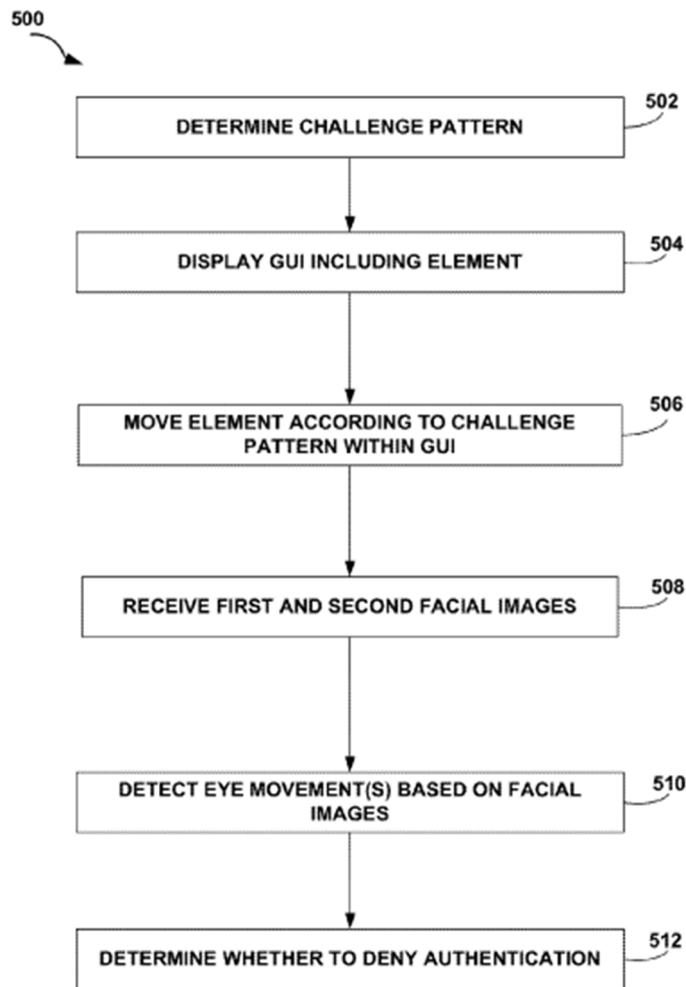


**FIG. 5**

“A user may activate or otherwise gain access to functionalities controlled by a computing device by “unlocking” the device. In some instances, a computing device may be configured to permit unlocking based on authentication information provided by the user. Authentication information may take various forms, including alphanumeric passcodes and biometric information. Examples of biometric information include fingerprints, retina scans, and facial images. A computing device may authenticate a facial image input using facial recognition technology.” [1:5-15]

“In one example, a method includes determining, by a computing device, a challenge pattern against which to match an authentication input to detect liveness, displaying, using a display device coupled to the computing device, a graphical user interface including an element, and moving the element according to the challenge pattern within the graphical user interface. The method may further include receiving, from an image capture device coupled to the computing device, at least a first image of a face of a user and a second image of the face of the user, and detecting, by the computing device, one or more eye movements based at least in

1 part on the first image of the face of the user and the second image of the face of the  
2 user. The method may further include determining whether to deny authentication  
3 to the user with respect to accessing one or more functionalities controlled by the  
computing device.” [1:19-34]

4 “In general, this disclosure is directed to techniques for preventing erroneous  
5 authentication caused by spoofing attempts. A computing device may implement  
6 one or more anti-spoofing (or anti-playback) programs that detect suspected  
7 spoofing attempts, and prevent erroneous authentication due to the spoofing  
8 attempts. In some examples, the anti-spoofing techniques may include capturing  
9 multiple facial images of a user, and analyzing the facial images for indications of  
10 liveness. Liveness may be indicated by various gestures, such as movement of the  
eyes. In accordance with the techniques of this disclosure, the anti-spoofing  
programs may, in various implementations, detect eye movements and compare the  
nature of the detected eye movements to a predetermined set of movements.” [3:26-  
39]

11 “FIG. 1A illustrates computing device 102 that may capture facial images associated  
12 with a user (e.g., authorized user 126), analyze the captured facial image for possible  
13 spoofing, and determine whether to allow or deny authentication based on the  
14 analysis. Computing device 102 may include, be, or be part of one or more of a  
15 variety of types of devices, such as a mobile phone (including a smartphone), tablet  
computer, netbook, laptop, desktop, personal digital assistant (“PDA”), set-top box,  
television, biometric door lock, watch, vehicle ignition, and presence verification  
device, among others.” [4:37-47]

16 “More specifically, authorized user 126 may set up a facial recognition application  
17 or embedded process of computing device 102 by storing an enrollment image that  
18 represents the face of authorized user 126. Authorized user 126 may cause a camera  
19 of computing device 102 to capture the authentication using camera lens 104.  
20 Computing device 102 may store the enrollment image to one or more storage  
devices of computing device 102, and/or to a remote location, commonly known as  
‘cloud storage.’” [5:24-33]

21 “Computing device 102 may then compare the captured authentication image with  
22 the enrollment image, and determine whether or not the images are sufficiently  
23 similar to each other for facial recognition purposes. For example, computing device  
24 102 may utilize one or more facial recognition programs to compare metrics  
25 associated with the authentication image to metrics associated with the enrollment  
image. Some examples of metrics may include distances between facial elements  
(pupil-to-pupil, mouth width, etc.), contours of various facial features, pixilation  
corresponding to skin tone or texture, hair and/or eye color, and many others.” [5:56-  
66]

26 “In some implementations, to determine whether or not an object of a facial image  
27 captured using a camera of computing device 102 is a live person, computing device  
28 102 may detect whether a series of facial images display a movement of the eyes.  
For instance, computing device 102 may use the front-facing camera coupled to

1 camera lens 104 to capture video data corresponding to the object of the captured  
2 facial image. ... For example, computing device 102 may extract distinct frames of  
3 the captured video data, and utilize the frames as a first image, second image, and  
so on of the face of the user.” [6:42-55]

4 “In examples, computing device 102 may display, as part of GUI 106, one or more  
5 elements that instruct the user to perform the challenge pattern. In one  
6 implementation, computing device 102 may display, in conjunction with unlock  
7 prompt 108 or subsequent to removing unlock prompt 108, instructions for  
8 performing the challenge pattern.” [7:53-58]

9 “Although described largely with respect to unlocking a device, the techniques of  
10 this disclosure may be implemented in several different use cases. As some  
11 examples, the facial recognition and liveness detection techniques may be  
12 implemented on a remote server, to provide access to a user attempting to log in to  
13 an email account or social network account.” [9:43-49]

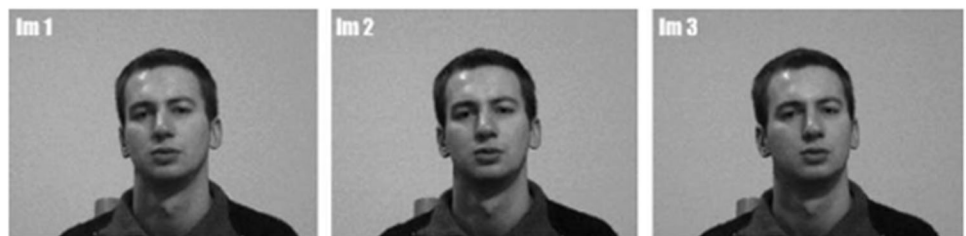
14 “FIGS. 3A-3B are conceptual diagrams illustrating example graphical user  
15 interfaces (GUIs) 306A-306B that a computing device may display to prompt a user  
16 to perform an eye movement pattern, in accordance with one or more aspects of this  
17 disclosure.” [16:59-63]

18 “In turn, computing device 102 may capture multiple images (e.g., as frames of  
19 video) using a camera coupled to camera lens 104.” [17:31-33]

## 20 22. NON-INTRUSIVE LIVENESS DETECTION BY FACE IMAGES

### 21 (“KOLLREIDER”)

22 Kollreider discloses a liveness detection method using optical flow and biometric  
23 information that meets many of the limitations of the FaceTec Asserted Claims. The relevant  
24 portions of Kollreider include:



25 Fig. 1. Example face image sequence: differently moving center and side face parts suggest the “live” presence of a person.  
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27  
28



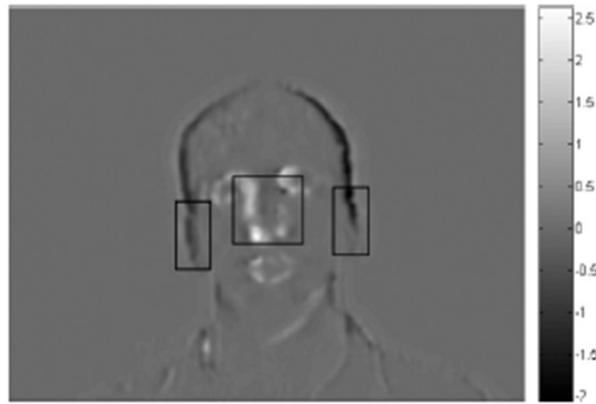


Fig. 2. Horizontal OFL (Gabor-based [5]) at the center frame of the image sequence in Fig. 1. Rectangles indicate the focused regions when comparing different face parts' motion.

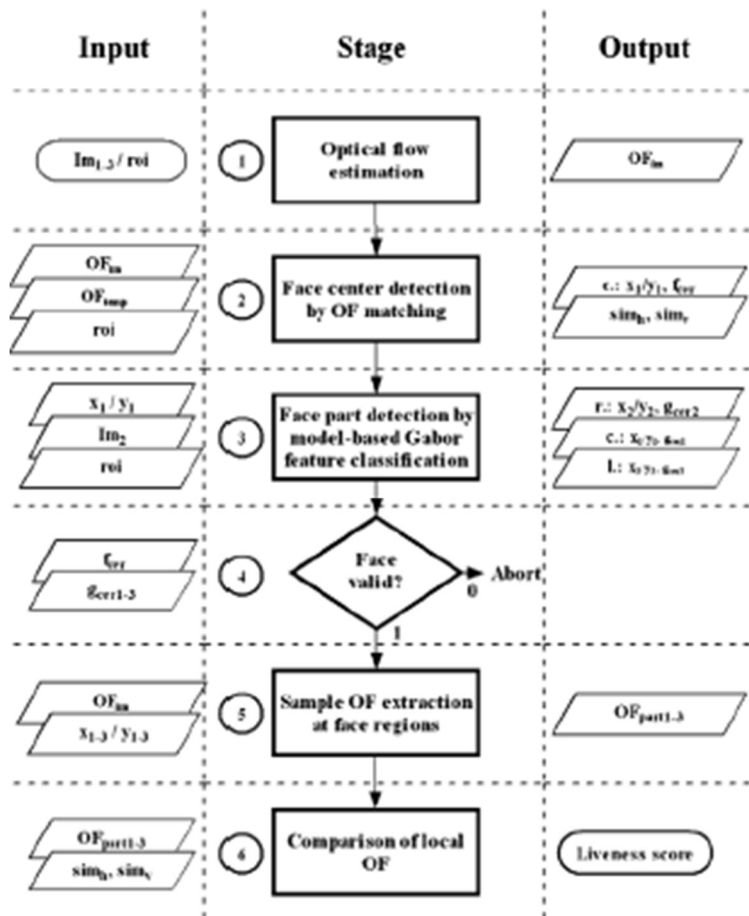


Fig. 8. Flow chart detailing the liveness detection.

“A technique evaluating liveness in face image sequences is presented. To ensure the actual presence of a live face in contrast to a photograph (playback attack), is a significant problem in face authentication to the extent that anti-spoofing measures are highly desirable. The purpose of the proposed system is to assist in a biometric authentication framework, by adding liveness awareness in a non-intrusive manner. Analyzing the trajectories of certain parts of a live face reveals valuable information

1 to discriminate it against a spoofed one. The proposed system uses a lightweight  
2 novel optical flow, which is especially applicable in face motion estimation based  
3 on the structure tensor and inputs of a few frames. For reliable face part detection,  
4 the system utilizes a model-based local Gabor decomposition and SVM experts,  
5 where selected points from a retinotopic grid are used to form regional face models.  
6 Also the estimated optical flow is exploited to detect a face part. The whole  
7 procedure, starting with three images as input and finishing in a liveness score, is  
8 executed in near real-time without special purpose hardware. Experimental results  
9 on the proposed system are presented on both a public database and spoofing attack  
10 simulations.” [Abstract]

11 “In our approach, we combine face part detection and optical flow estimation to  
12 determine a liveness score. The typical trajectory of certain face parts in case of a  
13 live face sequence is exploited to discriminate it against a spoofed one. We use the  
14 optical flow of lines, [5], (OFL) which is inspired by optical flow approaches  
15 capable to differ between motion of points and motion of lines (e.g. Tensor approach  
16 [6]). As the name suggests, it is specialized on motion of lines only. Requiring only  
17 2–3 images, the OFL approach is a lightweight energy based OF method, which can  
18 be realized by using 2D Gabor filters [5,7–9]. However, in this study we implement  
19 the OFL by employing 1D Gaussians and their derivatives. A review of optical flow  
20 techniques is given in [10].” [Pg. 1]

21 “Our method analyzes a face image sequence captured by one camera and delivers  
22 a probability, whether it detected a face and whether it is live. The basic idea relies  
23 on the assumption that a 3D face generates a special 2D motion which is higher at  
24 central face parts (e.g. nose) compared to the outer face regions (e.g. ears). Ideally,  
25 in terms of liveness detection, the outer and the inner parts move additionally in  
26 opposite directions.” [Pg. 2]

27 “In other words, parts nearer to the camera move differently to parts which are  
28 further away in a live face. The experimental results, we report below, support that  
29 a small rotational movement of the head is natural and unintentional human  
30 behavior. On the contrary, a translated photograph generates constant motion at  
31 various face regions. In order to exploit these characteristics, we utilize optical flow  
32 estimation and face part detection. For the latter we employ a model-based Gabor  
33 decomposition [13], but we also present an intuitive approach by OF pattern  
34 matching. Knowing the face parts’ position and comparing how fast they are moving  
35 relative to each other and into which directions, enables us to discriminate a live  
36 face against a photograph.” [Pg. 2]

37 “In what follows are the input images referred to as  $Im_l$ , with  $l = 1, 2, 3$ . First, a  
38 region-of-interest image  $roi$  is derived by setting a threshold to the intensity  
39 differences between each of two subsequent images.” [Pg. 4]

40 “4. Face part detection. We wish to track the three facial regions eyes/nose, left and  
41 right ear. To reliably detect these face parts we combine optical flow pattern  
42 matching and a model-based Gabor feature classification. The assumption of having

a moving face is exploited to speed up its parts' detection by taking the region-of-interest image roi into account.” [Pg. 5]

“4.1. Optical flow pattern matching. The face center can be approximated by reusing information from the optical flow estimation, because the region around the eyes and the nose shows a characteristic flow pattern. A template containing the flow information of an average face center is created offline. The face center’s position and the directions it moves into, are retrieved by matching this template in specific ways with the optical flow image OFim ... of any sequence.” [Pg. 5]

“Depending on the primary movement, the ratios cr and cl compare the real or the imaginary part of OFpart1 with OFpart2 and OFpart3, respectively. A ratio between the center and a side motion having an absolute value greater than 1, indicates liveness. In the ideal case, we expect the face center part moving in an opposite direction compared to the sides, which is indicated by negative ratios. By including this observation, the liveness score is divided into a velocity dependent and a direction dependent part. The final liveness score is then constructed ... . The score is a value in [0, 1], where 0 indicates no liveness and 1 represents the maximum liveness.” [Pgs. 7-8]

### 23. U.S. PATENT NO. 2014/0366113 (“LECUN”)

LeCun discloses a method of biometric authentication using an individual’s palm that meets many of the limitations of the FaceTec Asserted Claims. The relevant portions of LeCun include:

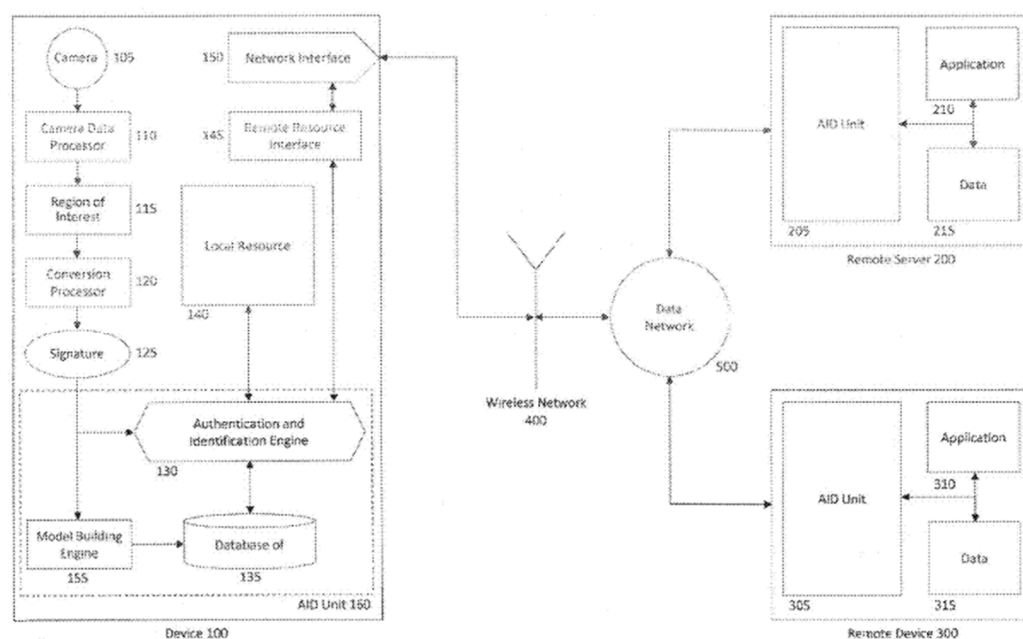


FIGURE 1

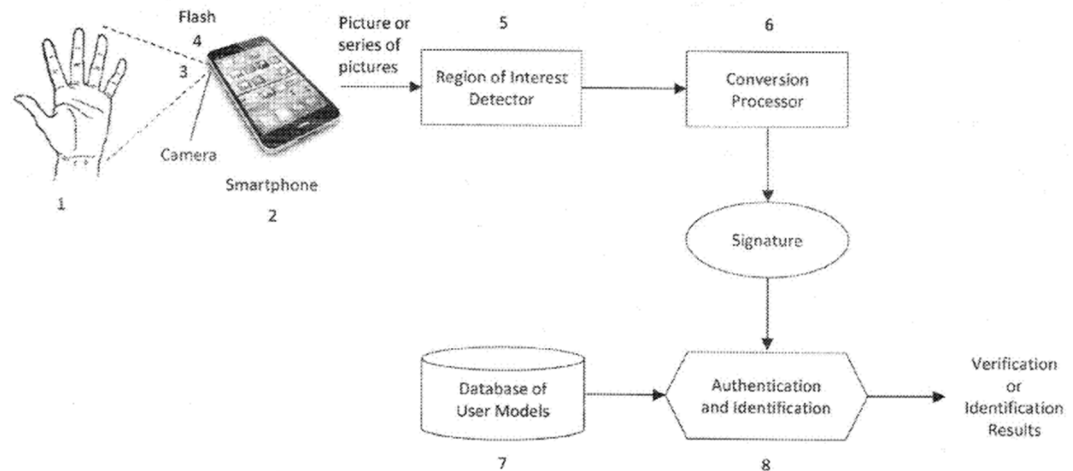


FIGURE 2

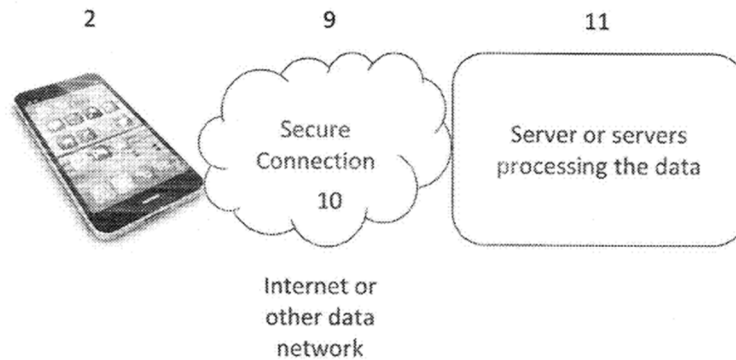


FIGURE 3

“One important issue that arises in the context of mobile devices and their widespread use in connection with so much functionality and their need to interact with so many different resources is the need to control access to each of these resources so that only those individuals or devices that should be authorized to access the applicable resources are actually able to do so.” [0007]

“In one embodiment of the present invention, users of such camera-equipped devices (hereinafter referred to at times as “smartphones” for convenience, although the devices are to be understood as including all devices with a camera capability, including both mobile devices and stationary devices, such as desktop computers) who are required to identify or authenticate themselves as a condition of obtaining access to one or more resources take one or a series of photos of their palm or both palms using the smartphone camera. The system of the present invention then

1 employs computer vision technology to analyze the palm print image and either  
2 verify that the palm print signature matches the user's model in a database (user  
3 authentication) or find the matching user model among many models in a database  
(user identification).” [0013]

4 “Device 100 can be any device that contains a camera capable of taking high quality  
5 photographs. Preferably, the camera of Device 100 also contains a flash element  
6 capable of being selectively and rapidly activated and deactivated for illuminating  
7 the area to be photographed. Examples of such Devices 100 include smartphones,  
8 tablet computers, notebooks, and any other device that can be carried by a user and  
that provides a computing platform that allows for the functionality of the present  
invention to be operative, as well as desktop computers or a variety of stationary  
embedded devices.” [0023]

9 “By way of example only, the present invention permits users of Device 100 or  
10 Device 100 itself to be authenticated or identified by remote servers and applications  
and other resources residing on remote servers. As illustrated in FIG. 1, Remote  
11 Server 200 can communicate with Device 100 via the communication path discussed  
above. In this manner and as controlled by Remote Resource Interface 145 residing  
12 on Device 100, AID Unit 205 residing on Remote Server 200 can request and  
13 receive authentication and identification data from Device 100 for comparison with  
known and validated user models residing on or accessible by Remote Server 200  
14 ... .” [0033]

15 “In the case of authentication, the user presents an identity in the form of a user ID  
or user name and the system of the present invention verifies that the user is indeed  
16 who he or she claims to be. The system then compares the signature derived from  
an image or images of the user's palm with the corresponding model in the database  
17 of user models. If they match, the user is authenticated. If they do not match, the  
18 user is rejected.” [0036]

19 “Further methods for detecting a real hand include 3-D modeling of the hand. In this  
20 case, the system of the present invention may prompt the user to turn his or her hand  
while a series of multiple pictures are taken. A true 3-D object will reveal different  
21 parts of the hand with each successive image while a 2-D object will always show  
the exact same part of the hand, just with varying degrees of distortion. This lets the  
22 system of the present invention distinguish between a printed photograph and a real  
hand. Similarly, instead of rotating the hand, the user can be prompted to close the  
23 hand to a first or open it from a first while the series of pictures is taken. Other  
24 methods of distinguishing a real hand from the photograph of a hand are also  
possible.” [0048]

25 **24. U.S. PATENT NO. 7,840,034 (“TAKAHASHI”)**  
26  
27  
28

Takahashi discloses a method and system of biometric authentication with a user's fingerprints that meets many of the limitations of the FaceTec Asserted Claims. The relevant portions of Takahashi include:

FIG. 1

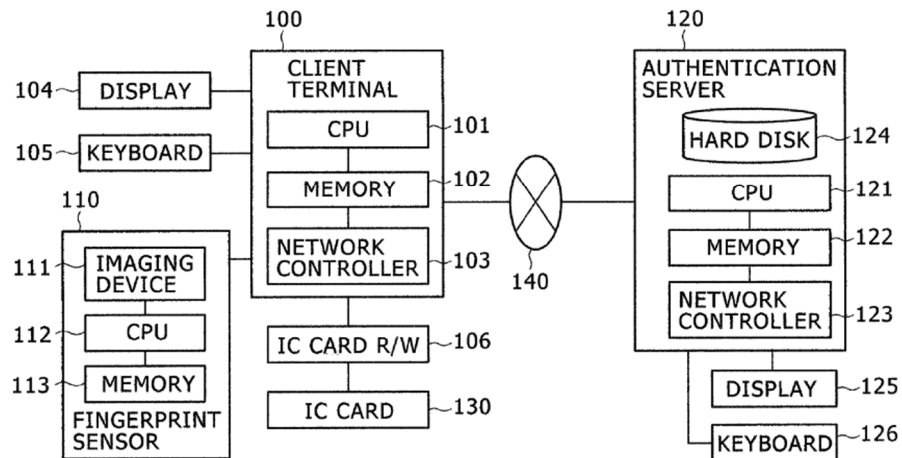
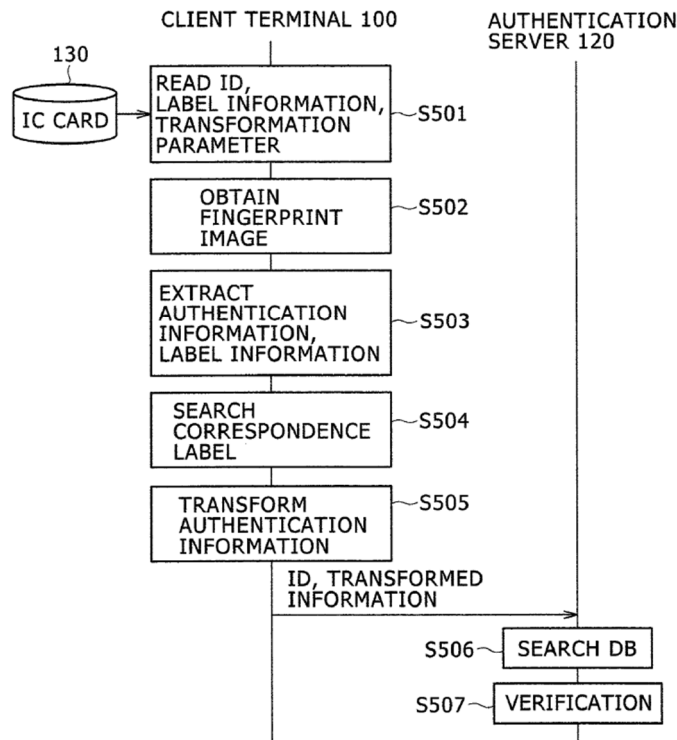


FIG. 5



1 “An authentication system using fingerprint information obtains a fingerprint image  
2 of a user to extract and register a feature quantity upon registration. This registration  
3 information is called a template. Upon authentication, the system newly obtains a  
4 fingerprint image from the user to extract a feature quantity, and verifies this against  
5 the template to verify the identity of the user. In a system in which a client and a  
6 server are connected via a network, a typical example is that a template is maintained  
7 by the server in the case of authenticating a user on the client side. The client obtains  
8 the user's fingerprint upon authentication, extracts a feature quantity, and transmits  
9 the feature quantity to the server. The server verifies the feature quantity against the  
10 template to authenticate the user.” [1:19-32]

11 “A biometric authentication method according to the present invention is a method  
12 for authenticating a user by obtaining and registering biometric information of the  
13 user into a memory of a verification unit in advance, and by verifying the registered  
14 biometric information against biometric information obtained by a feature-point  
15 transformation unit.” [3:15-20]

16 “In the embodiment, a description will be given of an example of a cancelable  
17 fingerprint authentication system of a server-client type that performs authentication  
18 with the fingerprint feature quantity kept confidential to the server.” [6:13-16]

19 “FIG. 1 shows a hardware configuration to which a fingerprint authentication  
20 system is applied according to an embodiment of the invention. The fingerprint  
21 authentication system includes a client terminal 100 used for providing a service to  
22 a user, and an authentication server 120 for confirming whether the user who  
23 receives the service is a normal person. The client terminal 100 and the  
24 authentication server 120 are connected via a network 140. In this system, an IC  
25 card 130 carried by the user is used. For example, when the authentication system  
26 is applied to an Internet banking service, there are connected a PC (personal  
27 computer) that the user has in home as the client terminal 100 and a server machine  
28 that the bank manages as the authentication server 120, via the network 140 such as  
the Internet.” [6:17-30]

“The client terminal 100, for example a typical PC, includes a CPU 101, a memory  
102, and a network controller 103 in a body thereof to which a display 104, a  
keyboard 105, an IC card R/W 106, a fingerprint sensor 110 and the like are  
connected.” [6:31-35]

## 23 25. U.S. PATENT PUB. NO. US 2014/0309880 (“RICCI”)

24 Ricci discloses a vehicle security system that includes facial recognition prompts in the  
25 vehicle console to unlock certain features and make personal profiles available that meets many of  
26 the limitations of the FaceTec Asserted Claims. The relevant portions of Ricci include:  
27  
28

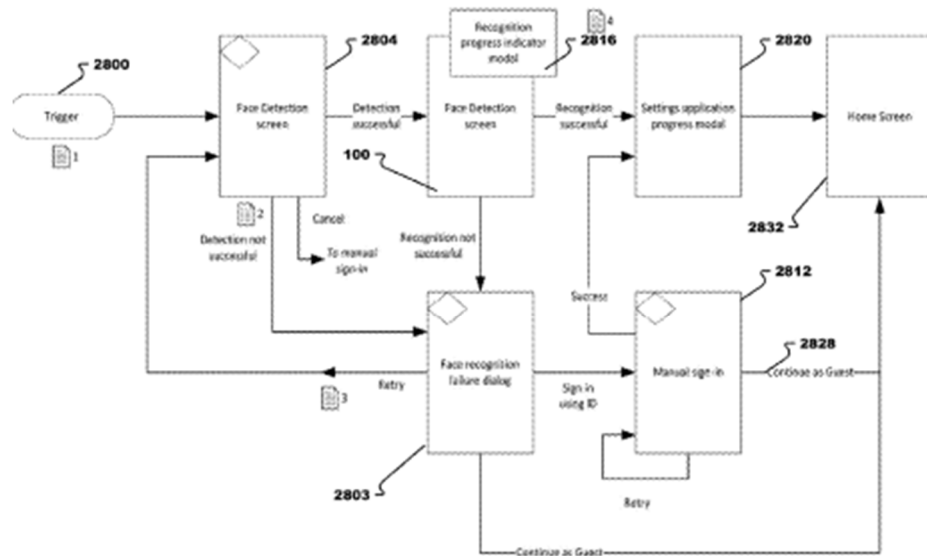


**FIG. 28**

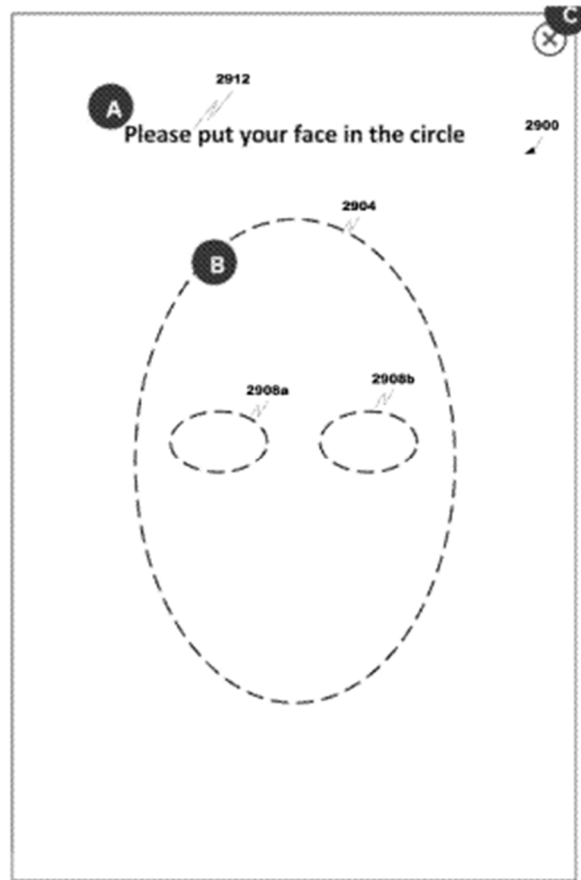


**FIG. 29**



1 “Another application of the vehicle control system 204 for authentication by facial  
2 recognition is shown in FIGS. 28-29.” [0830]

3 “In step 2800, the vehicle control system 204 detects a stimulus or trigger event.”  
4 [0831]

5 “In step 2804, the vehicle control system 204 provides, via the device or user  
6 interface 212, 248, user interface (s)/input interface(s) 324 and/or I/O module 312,  
7 the user with a face detection screen, such as that shown in FIG. 29. As shown in  
8 FIG. 29, the face detection screen 2900 is a dashed outline 2904 of a human face  
9 having eye holes 2908 a and b to enable the user to align his or her face with the  
10 screen for a higher quality video image of the user's face. This screen 2900 prompts  
11 the user to align his or her face such that the facial recognition camera can obtain a  
12 good image. The screen can show the video feed from the facial recognition camera  
13 with the dashed outline as an overlay. The dashed outline is intended to assist users  
14 situate his or her image properly in the camera's field of view. An instruction line  
15 2912 can appear at the top of the screen 2900.” [0832]

16 “When an acceptable facial image is not obtained so that facial recognition cannot  
17 be performed, the vehicle control system 204 proceeds 2803 to a manual sign-in step  
18 (discussed below) and provides the user with a face recognition failure notification  
19 dialog over the screen 2900 of the device or user interface 212, 248, user interface  
20 (s)/input interface(s) 324 and/or I/O module 312 in step 2812. If a proper facial  
21 image is obtained, the vehicle control system 204, in step 2816, searches through a  
22 repository of stored facial images to find a match and, during the mapping, provides  
23 the user with a recognition progress indicator modal on the screen 2900.” [0833]

24 “When recognition is not successful or no match is found, the vehicle control system  
25 204 proceeds to step 2812 and the manual sign-in step discussed below.” [0834]

26 “When recognition is successful and a match is found, the vehicle control system  
27 204 proceeds to step 2820 and applies the personal settings of the user, such as any  
28 or all of the settings referenced above.” [0835]

“When the credentials are received and successfully authenticated, the vehicle  
control system 204 in step 2820 applies the personal settings of the user.” [0838]

## 26. SECURING SENSITIVE DATA STORED ON SMARTPHONES (“WILSON”)

Wilson discloses biometric security features used to lock smartphones, including face  
recognition, that meet many of the limitations of the FaceTec Asserted Claims. The relevant  
portions of Wilson include:

### 3.1 Face Alignment

Face alignment is an extremely important factor when employing any face recognition security measure because human faces have so many variations and viewing angles. This issue is most notable in unmonitored video surveillance in which face recognition software must analyze a dynamic image and match that image to a known face. Due to constant motion of a person's body, poor resolution, side-views and profiles, and changes in appearance such as facial hair, sunglasses, etc., the recognition device may provide false negatives or false positives when matching an identity with a face.

Face recognition is dramatically improved when faces are analyzed with known parameters, including: fixed distance, centered in front of the camera or scanner, known expression, eyes open, and non-moving [5][11]. Naturally, images such as mug shots or passport photos in which these parameters are strictly controlled offer the highest accuracy of face recognition with the actual identity of a particular person.

Facial alignment is an easily solved problem on the modern smartphone. When entering the pass code or security pattern, the user generally looks at the screen and touches the appropriate places to unlock the smartphone. Many of today's smartphones are installed with forward-facing cameras to allow for video conferencing; this same camera could be used to capture an image of the user's face for recognition purposes. By using the forward-facing camera, the user would be able to see himself on the screen and guarantee the image was centered for proper recognition. The image would also be taken from a fixed distance (arm's length, or shorter) that would be approximately the same each time the user unlocked his smartphone.

[pg. 3]

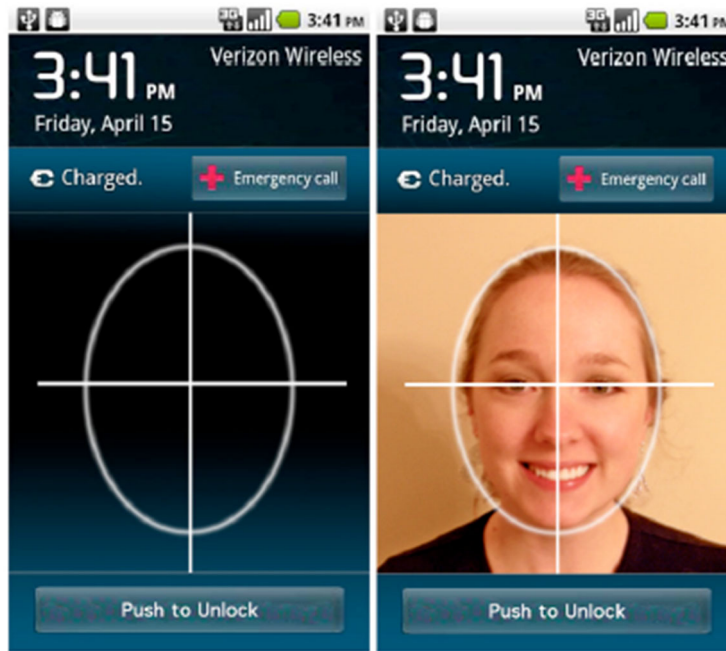


Figure 2. Example of the face capture crosshair (left) and proper face positioning in the crosshair (right)

“By properly positioning the user’s face in the crosshair, the common problem of face alignment would be corrected because a consistent image of the face would be taken each time. In order to center the user’s face within the oval and the eyes along the horizontal line, the smartphone would capture an image that had extremely similar proportions each time. This would solve the obvious problems of side-views and profiles, and the distance from where the image was taken in relation to the camera.” [Pg. 4]

“After capturing the user’s image, the smartphone would analyze it and compare it to a previous image taken to verify that it is the same authorized user. The comparison method could be performed using two different methods; the captured image could be compared to an image of the designated user upon initially setting up the security measure on his smartphone, or images of successful attempts to unlock his smartphone would be saved and used for comparison. The latter option would compare each subsequent captured image to a previously authorized image allowing the user’s images to somewhat evolve and change slightly over time. This option would allow for minor facial changes, such as: five o’clock shadow, healing injuries, and possibly conservative haircuts. This would also allow for the smartphone to only save one captured image at a time, reducing the amount of hard drive space necessary to run the software.” [Pg. 4]

27. U.S. PATENT NO. 10,042,993 (“BEIGI”)

Beigi discloses a system in which a person uses a mobile phone or other handheld computer with multifactor authentication, including facial recognition, to make purchases that meets many of the limitations of the FaceTec Asserted Claims. The relevant portions of Beigi include:



FIG. 1 Registration

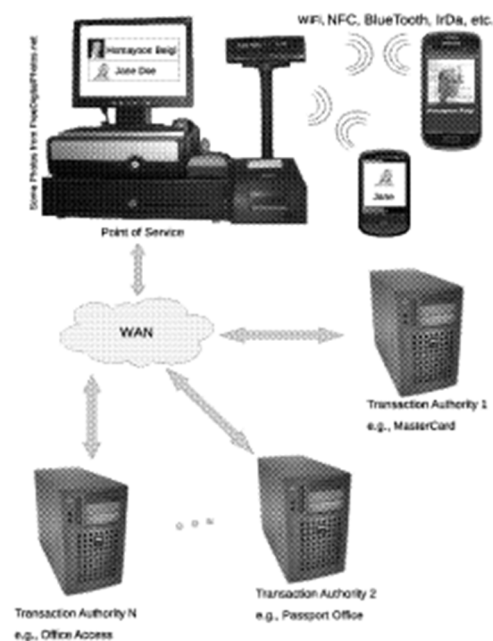


FIG. 16 POS Sales Transaction



FIG. 17 Electronic Commerce Transaction



FIG. 18 Passport or Office Entry Transaction

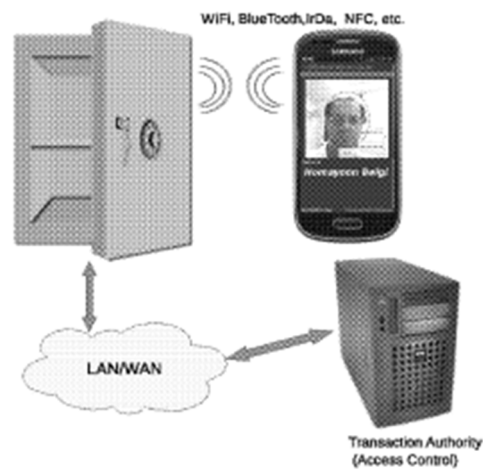


FIG. 19 Vault Access Transaction

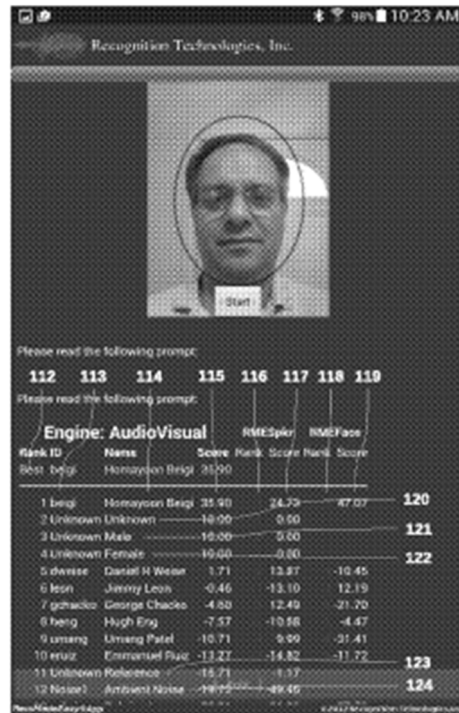


FIG. 22 Fusion Results for Speaker and Face Recognition



FIG. 25 Access Control – Enrollment Beginning

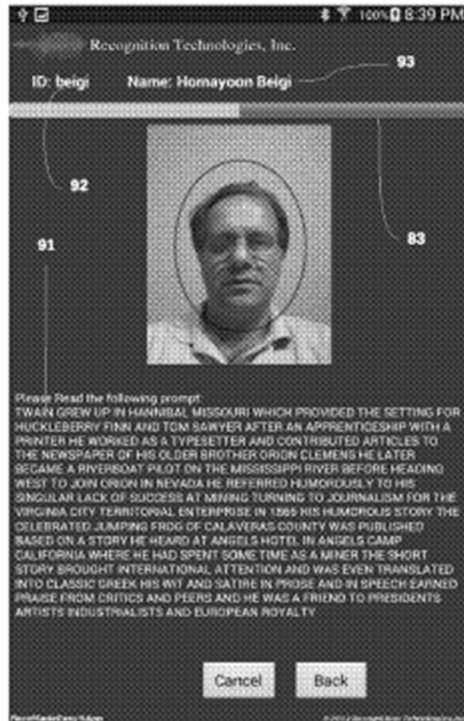


FIG. 26 Access Control – Enrollment Video Capture Progress

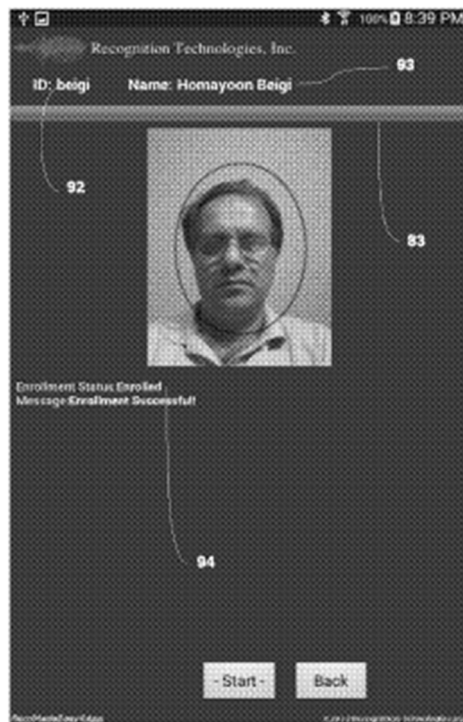


FIG. 27 Access Control – Enrollment Successful

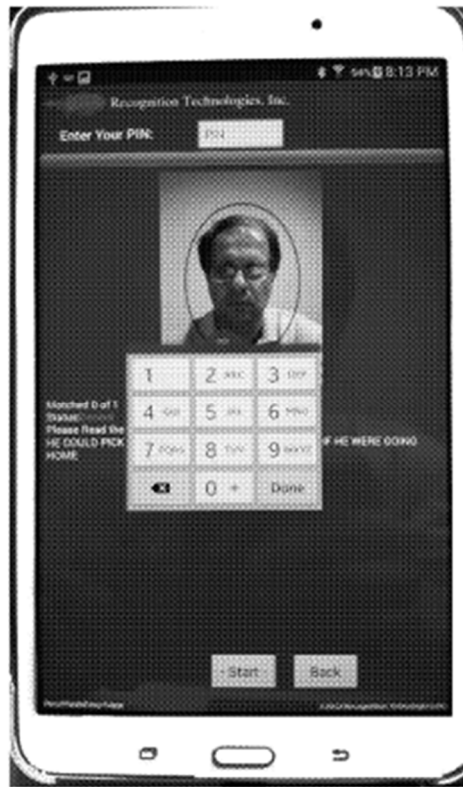


FIG. 29 Access Control Device

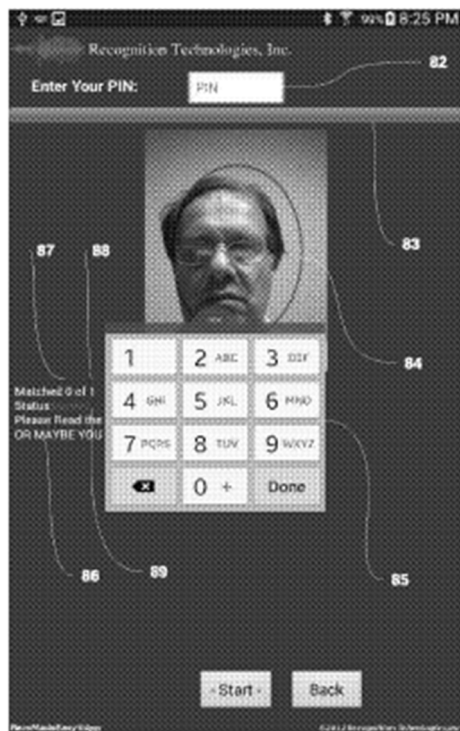
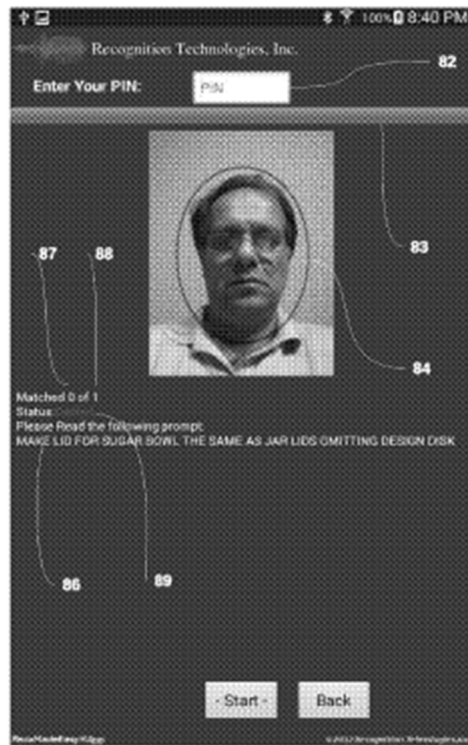
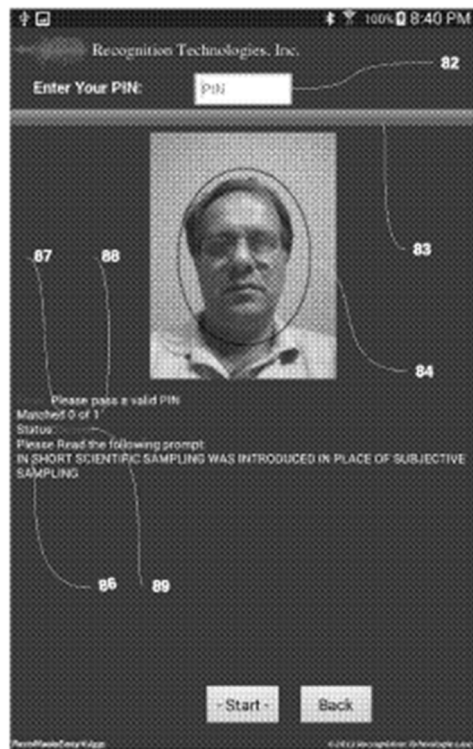


FIG. 30 Access Control PIN Entry





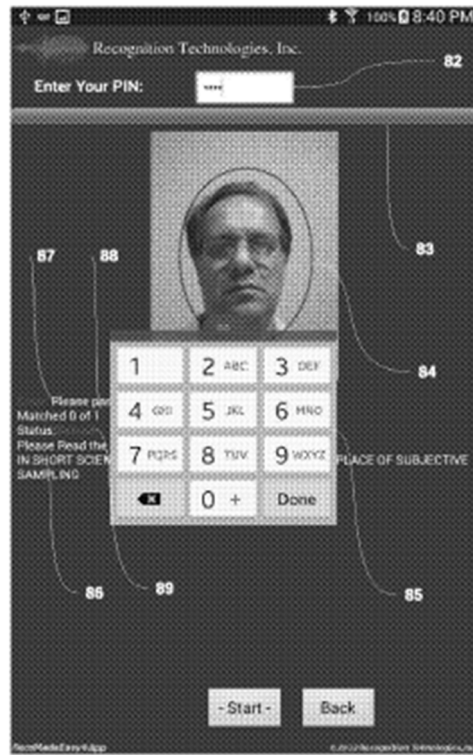


FIG. 34 Access Control – Enter PIN

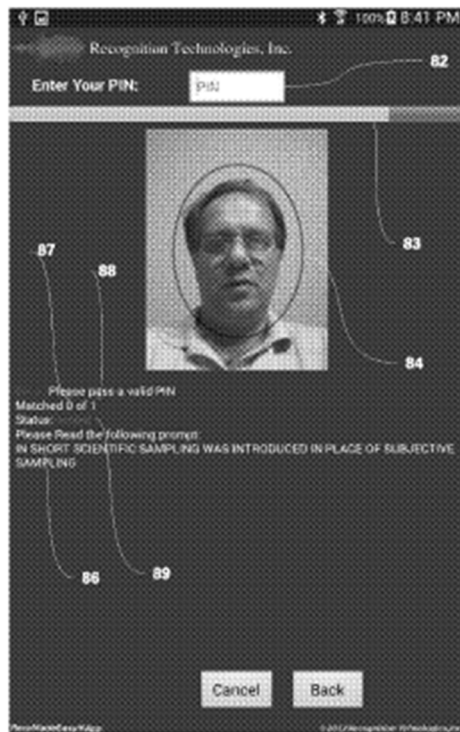


FIG. 35 Access Control – Video Capture Progress

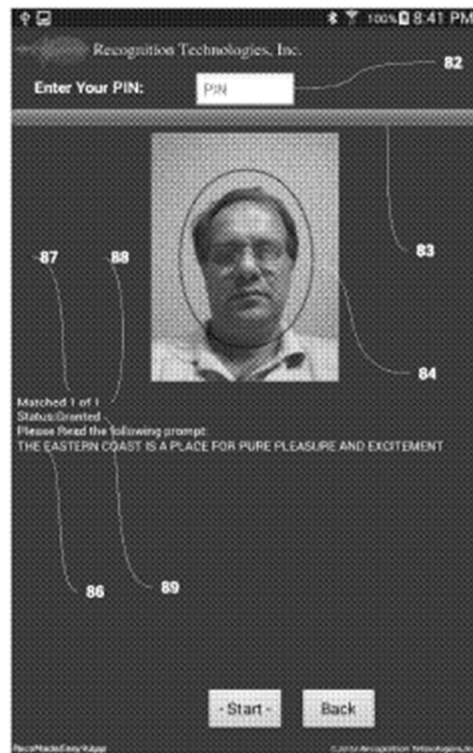


FIG. 36 Access Control – Access Granted

“FIG. 1 describes the process of registering the essential authentication data such as the digest (hash) of the subscriber ID, biometric models, and the binary code of the software being run with certificate authorities. This is the process that takes place once, either when the user has first activates the device or once for each new security level and access credential which is added.” [4:25-31]

“Liveness Factor: As described in and Section, this may be a reaction to a random prompt. For example, this can be the reading of a displayed random prompt, a valid response to a displayed random question, a facial or hand gesture such as the blinking of a specific eye, a number of times, or the performance of a hand or body gesture such as the snapping of a finger, holding up a number of fingers with a requested orientation, the turning of the face in a special way instructed by the application, etc. Each liveness test is a mode of this factor type and one or more of them may be used.” [16:61-67]

#### “1.2.1.1.3 Prompted Facial Gestures (Factors 3+4)

The face of the person is used as discussed above, in the form of a biometric (Section 1.3.4). However, the recognition system is capable of recognizing different facial gestures by using a standard description associated with each gesture. The system randomly prompts the user to perform different gestures. In this case, the point is to ensure liveness and that the system is not being supplied with a pre-recorded or artificially generated series of facial images.” [18:16-24]

#### “1.3.1.2 Liveness Challenge

1 It is important to make sure that the user of the device is not using a prerecorded  
2 message captured from the authorized user of the phone to spoof (see [6]) the  
3 speaker recognition engine. To do this, a challenge may be used that would test the  
4 liveness of the individual using the phone. Basically, these are some methods for  
5 doing such a liveness test.

6 A phrase is prompted or a question is asked. The user responds to the question or  
7 repeats the phrase. The audio is used to do the verification.

8 In this case, the response to the challenge may be combined with the phrase so that  
9 the content of the phrase being said may be decoded using a speech recognizer and  
10 the content may be matched against the expected the challenge response.” [21:55-  
11 22:3]

## 12 **28. A LIVENESS DETECTION METHOD FOR FACE RECOGNITION BASED ON** 13 **OPTICAL FLOW FIELD (“BAO”)**

14 Bao (Wei Bao, Hong Li, Nan Li, and Wei Jiang, A liveness detection method for face  
15 recognition based on optical flow field, In Image Analysis and Signal Processing, 2009, IASP 2009,  
16 International Conference on, pages 233 –236, April 2009), discloses a liveness detection system  
17 that meets many of the limitations of the FaceTec Asserted Claims. Multiple images are taken  
18 ("sampling rate of 30 frames per second"), the images are analyzed ("[t]he system made a  
19 calculation every 10 frames and then produced a report"), and a calculation of the differences  
20 between two optical flow fields "D" is compared to a threshold "T" to determine liveness. One of  
21 the known "basic types" of motion represented by an optical flow field is "moving forward or  
22 backward". *See also Bao*, Fig. 1c.

## 23 **29. FACE LIVENESS DETECTION USING VARIABLE FOCUSING (“KIM”)**

24 Kim (Sooyeon Kim, Sunjin Yu, Kwangtaek Kim, Yuseok Ban, Sangyoun Lee, Face  
25 liveness detection using variable focusing, Biometrics (ICB), 2013 International Conference on,  
26 On page(s): 1 – 6, 2013) discloses a face liveness detection system using variable focusing that  
27 meets many of the limitations of the FaceTec Asserted Claims. The system "utilizes the variation  
28 of pixel values by focusing between two images sequentially taken in different focuses." Kim notes  
the "obvious difference in focus values between real and fake faces when two sequential images  
(in/out-focus) are collected from each subject" and by focusing on facial components such as a nose

1 and ears, "[i]n case of real faces, focused regions are clear and others are blurred due to depth  
2 information." In addition, Kim notes that "in order to make high out-focusing effect, depth of field  
3 (DOF) should be narrow and one way to achieve that is "to decrease the distance between the  
4 camera and the subject."

### 5 **iii. STATE OF THE ART AND OBVIOUSNESS**

6 The primary references identified above, as further described in the Exhibits, each discloses,  
7 either expressly or inherently, every element of the FaceTec Asserted Claims, thereby anticipating  
8 those claims. Additionally, each of the primary references alone (including in combination with  
9 the knowledge of a person of ordinary skill in the art) renders obvious the FaceTec Asserted Claims.  
10 To the extent Plaintiff contends that any primary reference does not anticipate or render obvious  
11 the FaceTec Asserted Claims as set forth above, it would have been obvious to combine or modify  
12 the primary references with concepts from other prior art, as explained throughout these  
13 Preliminary Invalidity Contentions. In particular, for each limitation of the FaceTec Asserted  
14 Claims that Plaintiff contends is not met by a particular primary reference, iProov contends that the  
15 limitation (and claim as a whole) would have been obvious based on a combination of that particular  
16 reference with one or more of (1) any other primary or secondary reference disclosing that  
17 limitation, (2) any reference identified in these Preliminary Invalidity Contentions as disclosing  
18 that limitation, (3) any statements made in the intrinsic record of the FaceTec Asserted Patents,  
19 and/or (4) the knowledge of one of ordinary skill in the art (as explained in additional detail below).

20 iProov does not yet have the benefit of Plaintiff's positions regarding the prior art, including  
21 what element(s), if any, Plaintiff contends are not disclosed by each prior art reference, whether  
22 Plaintiff contends that a reference is not in fact prior art, and whether Plaintiff contends that a  
23 person of ordinary skill in the art would not be motivated to combine specific references. iProov  
24 reserves the right to supplement these obviousness positions (including identifying additional prior  
25 art combinations and the associated reasons to combine) in view of such positions and/or as  
26 discovery in the case, including expert discovery, progresses.

27 The information discussed in the prior art raised in these Preliminary Invalidity Contentions  
28 forms the background knowledge of a person of ordinary skill in the art at the time the FaceTec

1 Asserted Patents was filed and would have been used in determining whether and how to combine  
2 references to achieve the claimed invention(s), as discussed herein.<sup>6</sup> Indeed, the existence, nature,  
3 and content of each prior art reference, including the prior art references cited herein, provide  
4 further evidence regarding the knowledge of a person of ordinary skill in the art at the relevant  
5 time. iProov expressly reserves the right to rely on each of the prior art references, systems,  
6 concepts, and technologies discussed in these Preliminary Invalidity Contentions, including to  
7 demonstrate that a particular claim element was known at the time of the FaceTec Asserted Patents  
8 to a person of ordinary skill in the art, to show that the differences between a claimed invention and  
9 a prior art reference would have been obvious to a person of ordinary skill in the art, and to establish  
10 that a person of ordinary skill in the art would have been motivated to combine teachings of one or  
11 more references to achieve a claimed invention.

#### 12 **iv. MOTIVATIONS FOR MAKING COMBINATIONS OF PRIOR ART**

13 iProov believes that no showing of a specific motivation to combine prior art is required to  
14 combine the references disclosed in the attached charts; there was a reason to make each  
15 combination, each combination of art would have produced no unexpected results, and each  
16 combination at most would simply represent a known alternative to one of ordinary skill in the art.  
17 *See KSR Int'l Co. v. Teleflex, Inc.*, 550 U.S. 398, 414–18 (2007) (rejecting the Federal Circuit's  
18 "rigid" application of the teaching, suggestion, or motivation to combine test instead espousing an  
19 "expansive and flexible" approach). Indeed, the Supreme Court held that a person of ordinary skill  
20 in the art is "a person of ordinary creativity, not an automaton" and "in many cases a person of  
21 ordinary skill in the art will be able to fit the teachings of multiple patents together like a pieces of  
22 a puzzle." *Id.* at 420–21.

23 Nevertheless, in addition to the information contained elsewhere in these contentions,  
24 iProov identifies additional motivations and reasons to combine the cited art. A person of ordinary  
25 skill in the art would have been motivated to combine the primary and additional prior art references  
26

---

27 <sup>6</sup> *See Randall Mfg. v. Rea*, 733 F.3d 1355, 1362 (Fed. Cir. 2013) (stating that "the knowledge  
28 [of a person of ordinary skill in the art] is part of the store of public knowledge that must be  
consulted when considering whether a claimed invention would have been obvious").

1 as set forth above. Multiple teachings, suggestions, and/or reasons to modify any of the references  
2 and/or to combine any two or more of the references come from many sources, including the prior  
3 art (specific and as a whole), common knowledge, common sense, predictability, expectations,  
4 industry trends, design incentives or need, market demand or pressure, market forces, obvious to  
5 try, the nature of the problem faced, and/or knowledge possessed by one of ordinary skill in the  
6 art.<sup>7</sup> In addition, the patentee admits in the intrinsic record, including the specification and  
7 prosecution history of the FaceTec Asserted Patents, that many of the claimed features were  
8 conventional and known in the art (as described in further detail below).  
9

10  
11 In general, a claimed invention is unpatentable if the differences between it and the prior  
12 art “are such that the subject matter as a whole would have been obvious at the time the invention  
13 was made to a person having ordinary skill in the art.” 35 U.S.C. § 103(a); *Graham v. John Deere*  
14 *Co.*, 383 U.S. 1, 13–14 (1966). The ultimate determination of whether an invention is or is not  
15 obvious is a legal conclusion based on underlying factual inquiries including: “(1) the scope and  
16 content of the prior art; (2) the level of ordinary skill in the art; (3) the differences between the  
17 claimed invention and the prior art; and (4) objective evidence of nonobviousness.” *Miles Labs.,*  
18 *Inc. v. Shandon, Inc.*, 997 F.2d 870, 877 (Fed. Cir. 1993).

19 *KSR International Co. v. Teleflex Inc., et al.*, 550 U.S. 398 (2007) (“KSR”), reaffirmed  
20 *Graham*, holding that a claimed invention can be obvious even if there is no teaching, suggestion,  
21 or motivation for combining the prior art to produce that invention. In determining whether a claim  
22 is obvious, “[o]ften, it will be necessary for a court to look to interrelated teachings of multiple  
23 patents; the effects of demands known to the design community or present in the marketplace; and  
24 the background knowledge possessed by a person having ordinary skill in the art, all in order to  
25 determine whether there was an apparent reason to combine the known elements in the fashion  
26 claimed by the patent at issue.” *Id.* at 418. In determining whether a claim is obvious, “a court can  
27 take account of the inferences and creative steps that a person of ordinary skill in the art would

28 <sup>7</sup> iProov reserves the right to present qualified expert testimony on any or all of these items as well as testimony of fact witnesses familiar with a prior art reference or the state of the art.

1 employ.” *Id.* When prior art elements are combined according to known methods to yield  
2 predictable results, the claimed invention is obvious. *Id.* at 417. In addition, “[o]ne of the ways in  
3 which a patent's subject matter can be proved obvious is by noting that there existed at the time of  
4 the invention a known problem for which there was an obvious solution encompassed by the  
5 patent’s claims.” *Id.* at 419–20. “Under the correct analysis, any need or problem known in the  
6 field of endeavor at the time of invention and addressed by the patent can provide a reason for  
7 combining the elements in the manner claimed.” *Id.* at 420.

8 Any suggested obviousness combinations set forth herein are in the alternative to iProov’s  
9 anticipation contentions and are not to be construed to suggest that any reference included in any  
10 combination is not anticipatory in its own right or is not the basis for a single-reference obviousness  
11 defense. In particular, iProov is currently unaware of the extent, if any, to which Plaintiff will  
12 contend that certain limitations of the FaceTec Asserted Claims are not disclosed in the art  
13 identified by iProov as anticipatory. To the extent that an issue arises with respect to any such  
14 claim limitation, Defendant reserves the right to identify other references and combinations, which  
15 may make obvious the allegedly missing limitation in the disclosed system or method.

16 The rationale to combine or modify prior art references is significantly stronger when the  
17 references seek to solve the same problem, come from the same field, and correspond well. *In re*  
18 *Inland Steel Co.*, 265 F.3d 1354, 1362–64 (Fed. Cir. 2001).

19 In view of the Supreme Court’s *KSR* decision, the PTO issued, and updated, a set of  
20 Examination Guidelines. *See* Examination Guidelines for Determining Obviousness Under 35  
21 U.S.C. § 103 in view of the Supreme Court Decision in *KSR International Co. v. Teleflex, Inc.*,  
22 72 Fed. Reg. 57,526 (October 10, 2007); Examination Guidelines Update: Development in the  
23 Obviousness Inquiry After *KSR v. Teleflex*, 75 Fed. Reg. 53643-60 (September 2010); *see also*  
24 MPEP § 2141 (<https://www.uspto.gov/web/offices/pac/mpep/s2141.html>) (accessed February 22,  
25 2022). These Guidelines summarized the *KSR* decision and subsequent case law, as well as  
26 identified various rationales for finding a claim obvious, including those based on other precedents.  
27 Those rationales include:

- 28 (1) Combining prior art elements according to known methods to yield predictable results;



- (2) Simple substitution of one known element for another to obtain predictable results;
- (3) Use of known technique to improve similar devices (methods, or products) in the same way;
- (4) Applying a known technique to a known device (method, or product) ready for improvement to yield predictable results;
- (5) “Obvious to try” – choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success;
- (6) Known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations would have been predictable to one of ordinary skill in the art; and
- (7) Some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill to modify the prior art reference or to combine prior art reference teachings to arrive at the claimed invention.

iProov contends that one or more of these rationales apply in considering the obviousness of the FaceTec Asserted Claims.

To the extent that prior art identified by iProov as anticipatory are found not to anticipate the FaceTec Asserted Claims: (1) the prior art establishes that the claimed subject matter was obvious to a person of ordinary skill in the art at the time of the alleged invention; (2) the claims are nevertheless unpatentable because the FaceTec Asserted Claims contain nothing that goes beyond “ordinary innovation”; (3) no FaceTec Asserted Claim goes beyond combining known elements to achieve predictable results (particularly in the predictable art(s) of the FaceTec Asserted Patents) or does more than choose between clear alternatives known to those of skill in the art; and/or (4) the prior art renders the FaceTec Asserted Claims obvious either alone or in combination with each other or one or more of the other references identified in these Preliminary Invalidity Contentions.

#### **v. STATE OF THE ART AND MOTIVATIONS TO COMBINE**

The Exhibits to these Preliminary Invalidity Contentions illustrate the state of the art and the knowledge of a person of ordinary skill in the art at the relevant times with respect to specific

1 limitations, elements, or concepts either claimed in the FaceTec Asserted Patents or alleged to be  
2 claimed in the FaceTec Asserted Patents under Plaintiff's apparent view of the scope of the claims  
3 of the FaceTec Asserted Patents. To the extent it is asserted that a specific limitation or element  
4 discussed below is not found in a primary reference charted in one of the attached Exhibits, that  
5 missing limitation or element would have been well known to one of ordinary skill in the art, and  
6 a person of ordinary skill in the art would have been motivated to provide that missing limitation  
7 or element, based on his or her knowledge of the state of the art, as explained below and as shown  
8 in the other Exhibits. Specifically, a person of ordinary skill in the art would have been motivated  
9 to combine any of the primary references with any other primary reference(s) or any of the  
10 references discussed herein. The FaceTec Asserted Patents is nothing more than the combination  
11 of known prior art elements according to known methods to yield predictable results.

#### 12 **vi. SPECIFIC MOTIVATIONS**

13 Motivation to make the proposed combinations of prior art references and knowledge of  
14 one skilled in the art generally exists within the references themselves as well as within the  
15 knowledge of one skilled in the art in the relevant time frame. Below are exemplary specific  
16 motivations to combine references.

17 As discussed in more detail below, it would have been obvious to combine known elements  
18 from the prior art references identified above, or use known techniques from the prior art references  
19 with other prior art references. In addition, it would have been obvious to try combining the prior  
20 art references identified above because there were only a finite number of predictable solutions  
21 and/or because known work in one field or endeavor prompted variations based on predictable  
22 design incentives and/or market forces either in the same field or a different one. Many of these  
23 prior art references cite to, rely upon, incorporate, or are described as part of other prior art  
24 references, and a person of ordinary skill in the art would have been motivated to look to these  
25 various references in solving known problems in the art. To the extent the aforementioned prior  
26 art references have the same prior art author(s) and/or assignees, a person of ordinary skill in the  
27 art would have been motivated to look at other publications or contributions from the same  
28 author(s) and/or assignees.

1 As shown in the attached Exhibits, and as discussed below, each of the references identified  
2 comes from the same field—*i.e.*, user enrollment/authentication/verification based on the analysis  
3 of images. The problems sought to be solved by the identified references and systems (e.g. liveness  
4 detection) were the same ones that had already been solved in the prior art. Indeed, the FaceTec  
5 Asserted Claims recite one of a finite number of known, available alternatives to solve these known  
6 problems. The FaceTec Asserted Claims simply combine previously known methods in a way that  
7 was explicitly and implicitly taught and suggested in the prior art. Implementing the teachings of  
8 the references identified herein would achieve the same desired result of the FaceTec patents,  
9 namely the goal of authenticating the liveness and authenticity of the user to reduce spoofing. A  
10 person of ordinary skill in the art would be motivated to use the known techniques in the prior art  
11 references discussed herein to achieve this known goal, including the known techniques of taking  
12 images, prompting users to take different images, collecting information from those images,  
13 analyzing that information from both a basic photography and human feature perspective, and then  
14 applying the results to make a determination about the user. One of ordinary skill in the art would  
15 be motivated to combine references that both minimized the burden on the user as well as increase  
16 the degree of success in identifying spoofs.

## 17 **vii. GROUPS OF REFERENCES**

18 In addition to combinations of references and motivations to combine identified elsewhere  
19 herein, including within claim charts, Defendant identifies combinations and motivations to  
20 combine based on references grouped by subject matter.

21 Furthermore, the particular cited disclosures for each prior art reference addressed in the  
22 numbered subsections within this section constitute additional charts identifying where specifically  
23 in each item of prior art each applicable element of each FaceTec Asserted Claim is found. The  
24 cited disclosures identified in this section are provided in addition to the citations set forth in the  
25 claim charts submitted separately herewith.

### 26 **1. CAMERA-BASED 3D AUTHENTICATION**

27 Claims 1 and 19 of the '606 Patent and claim 10 of the '471 patent each recite capturing  
28 images to authenticate the three-dimensionality of the user's face. Nothing about these claim

1 limitations add anything novel or non-obvious over the prior art. References and products with  
2 these features were well-known, routine, conventional, and widely available before the alleged  
3 invention.

4         Authenticating the three-dimensionality of users as recited in the claims would have been  
5 obvious to a person of ordinary skill in the art at least because doing so would have involved the  
6 combination of prior art elements according to known methods to yield predictable results, the  
7 simple substitution of one known element for another to obtain predictable results, the application  
8 of a known technique to a known device ready for improvement to yield predictable results, and/or  
9 would have been obvious to try. Moreover, a person of ordinary skill in the art would have readily  
10 appreciated the well-known and widespread use of authentication and security systems that take  
11 measures to prevent spoofing.

12         Persons of ordinary skill in the art would have been motivated to combine the teachings of  
13 these references with the other references cited herein, in view of the foregoing considerations and  
14 those further reflected in the references. iProov further hereby specifically incorporates by  
15 reference, and may rely upon for purposes of showing obviousness including motivations to  
16 combine, the disclosures cited for each reference with respect to the relevant limitations as cited in  
17 the prior art claim charts submitted herewith and the disclosures and teachings further cited below.  
18 Each cited disclosure evidences a teaching that a person of ordinary skill in the art would have  
19 considered relevant, and each cited disclosure may be relied upon as evidence of a teaching,  
20 suggestion, or motivation to combine the subject matter of the disclosure with other reference  
21 disclosures. Persons of ordinary skill in the art would have been motivated to combine these  
22 teachings of these references accordingly with the other references addressed herein to the extent  
23 they are not found to disclose this feature.

24         The following references are identified within this grouping for purposes of disclosing  
25 obviousness combinations.

- 26         • Ramaswamy, as disclosed in the accompanying claim charts, set forth in elements  
27             471.10(p), 606.1(p), and 606.19(p)

- 1 • Nechyba, as disclosed in the accompanying claim charts, set forth in elements  
2 471.10(p), 606.1(p), and 606.19(p)
- 3 • Ganong, as disclosed in the accompanying claim charts, set forth in elements 471.10(p),  
4 606.1(p), and 606.19(p)
- 5 • Zhang, as disclosed in the accompanying claim charts, set forth in elements 471.10(p),  
6 606.1(p), and 606.19(p)
- 7 • Park, as disclosed in the accompanying claim charts, set forth in elements 471.10(p),  
8 606.1(p), and 606.19(p)
- 9 • Frischholz, as disclosed in the accompanying claim charts, set forth in elements  
10 471.10(p), 606.1(p), and 606.19(p)
- 11 • Marsico, as disclosed in the accompanying claim charts, set forth in elements 471.10(p),  
12 606.1(p), and 606.19(p)
- 13 • Bud, as disclosed in the accompanying claim charts, set forth in elements 471.10(p),  
14 606.1(p), and 606.19(p)
- 15 • Ferren, as disclosed in the accompanying claim charts, set forth in elements 471.10(p),  
16 606.1(p), and 606.19(p)
- 17 • Hirose, *e.g.*, Abstract, Fig. 2A, Fig. 2B, [0015], [0018], [0033], [0060], [0077-0078],  
18 (describing capturing multiple images and providing them to the face recognition device  
19 for authentication)
- 20 • Derakhshani, *e.g.*, Abstract, Fig. 4, Fig. 5, Fig. 6, 1:42-48, 2:3-25, (describing using  
21 biometric data to authenticate a user and detect liveness)
- 22 • Ross, *e.g.*, Abstract, Fig. 3, 2:52-67, 4:40-45, 7:49-8:14 (disclosing authentication  
23 measures to prevent spoofing of an authenticated user's image)
- 24 • Negi, *e.g.*, Abstract, Fig. 1, Fig. 2, Fig. 5, Fig. 6, 2:9-23, (describing techniques for  
25 detecting spoofing detection in image based biometric authentication)
- 26 • Uchida, *e.g.*, Abstract, Fig. 1, Fig. 2, 1:32-40, 3:25-34, 6:7-15, (describing capturing  
27 images of user and using biometric data to detect liveness for authentication)  
28

- Wang, *e.g.*, Abstract, Fig. 1, Fig. 2, Pg. 1, Pg. 2 (describing method of determining liveness based on 3D face structure across a sequence of images of a user)
- Chen, *e.g.*, Abstract, Fig. 2, Fig. 5, 2:8-44, 2:45-56, 3:64-4:12 (describing capturing a series of images to authenticate a user)
- Turgeman, *e.g.*, Abstract, Fig. 5, [0034], [0151-0152] (authenticating and verifying liveness of users)
- Langley, *e.g.*, Abstract, Fig. 1, Fig. 5, 3:45-56, 4:20-27. 7:3-16 (describing using biometric data for authentication and liveness detection)
- Evans, *e.g.*, Fig. 1, Fig. 3, Fig. 4, 2:19-25, (describing authenticating user using images and facial gestures)
- Sensharma, *e.g.*, Fig. 1, Fig. 3, Fig. 4, (using captured images from mobile device camera to authenticate users)
- Lau, *e.g.*, Fig. 6, Figs. 7-10, Abstract, 1:64-2:65 (comparing images taken by camera to authenticate users)
- Baldwin '622, *e.g.*, Fig. 1, Fig. 5, 1:62-2:9, 3:10-26 (describing process to verify live users and authenticate based on captured images and video)
- Horvitz, *e.g.*, Fig. 7, Abstract, 2:42-56, (describing a system to authenticate a user using captured images from a device's camera)
- Chaudhury, *e.g.*, Fig. 1A, Fig. 5, 1:5-15, 1:19-34, 4:37-47, 5:24-33, 17:31-33 (describing authentication and liveness detection based on facial movements)
- LeCun, *e.g.*, Fig. 2, [0013], [0023], [0036], [0048] (describing a method of biometric authentication with a device with a camera)

## 2. MULTIPLE IMAGES

Claims 1 and 19 of the '606 Patent and claim 10 of the '471 patent each recite capturing at least two images to authenticate the three-dimensionality of the user's face. Nothing about these claim limitations add anything novel or non-obvious over the prior art. References and products with these features were well-known, routine, conventional, and widely available before the alleged invention.

1 The capturing and use of two images as recited in the claims would have been obvious to a  
2 person of ordinary skill in the art at least because doing so would have involved the combination  
3 of prior art elements according to known methods to yield predictable results, the simple  
4 substitution of one known element for another to obtain predictable results, the application of a  
5 known technique to a known device ready for improvement to yield predictable results, and/or  
6 would have been obvious to try. Moreover, a person of ordinary skill in the art would have readily  
7 appreciated the well-known and widespread use of authentication and security systems that take or  
8 capture multiple images.

9 Persons of ordinary skill in the art would have been motivated to combine the teachings of  
10 these references with the other references cited herein, in view of the foregoing considerations and  
11 those further reflected in the references. iProov further hereby specifically incorporates by  
12 reference, and may rely upon for purposes of showing obviousness including motivations to  
13 combine, the disclosures cited for each reference with respect to the relevant limitations as cited in  
14 the prior art claim charts submitted herewith and the disclosures and teachings further cited below.  
15 Each cited disclosure evidences a teaching that a person of ordinary skill in the art would have  
16 considered relevant, and each cited disclosure may be relied upon as evidence of a teaching,  
17 suggestion, or motivation to combine the subject matter of the disclosure with other reference  
18 disclosures. Persons of ordinary skill in the art would have been motivated to combine these  
19 teachings of these references accordingly with the other references addressed herein to the extent  
20 they are not found to disclose this feature.

21 The following references are identified within this grouping for purposes of disclosing  
22 obviousness combinations.

- 23 • Ramaswamy, as disclosed in the accompanying claim charts, set forth in elements  
24 471.10(a), 471.10(d) 606.1(a), and 606.1(c)
- 25 • Nechyba, as disclosed in the accompanying claim charts, set forth in elements 471.10(a),  
26 471.10(d) 606.1(a), and 606.1(c)
- 27 • Ganong, as disclosed in the accompanying claim charts, set forth in elements 471.10(a),  
28 471.10(d) 606.1(a), and 606.1(c)

- 1       • Zhang, as disclosed in the accompanying claim charts, set forth in elements 471.10(a),  
2       471.10(d) 606.1(a), and 606.1(c)
- 3       • Park, as disclosed in the accompanying claim charts, set forth in elements 471.10(a),  
4       471.10(d) 606.1(a), and 606.1(c)
- 5       • Frischholz, as disclosed in the accompanying claim charts, set forth in elements  
6       471.10(a), 471.10(d) 606.1(a), and 606.1(c)
- 7       • Marsico, as disclosed in the accompanying claim charts, set forth in elements 471.10(a),  
8       471.10(d) 606.1(a), and 606.1(c)
- 9       • Bud, as disclosed in the accompanying claim charts, set forth in elements 471.10(a),  
10       471.10(d) 606.1(a), and 606.1(c)
- 11       • Ferren, as disclosed in the accompanying claim charts, set forth in elements 471.10(a),  
12       471.10(d) 606.1(a), and 606.1(c)
- 13       • Hirose, *e.g.*, Abstract, Fig. 2A, Fig. 2B, [0015], [0018], [0033], [0060], [0077-0078],  
14       (describing capturing multiple images and providing them to the face recognition device  
15       for authentication)
- 16       • Derakhshani, *e.g.*, Fig. 4, Fig. 5, Fig. 6, 1:42-48, 2:3-25, (describing using biometric  
17       data to authenticate a user and detect liveness)
- 18       • Negi, *e.g.*, Fig. 5, 3:23-26, 3:57-63, 6:55-67 (describing capturing a sequence of images  
19       or multiple sequences of images for authentication)
- 20       • Uchida, *e.g.*, Fig. 2, 2:26-26, 3:25-34, 3:41-50 (describing capturing images of a user as  
21       they move their face to detect liveness)
- 22       • Wang, *e.g.*, Abstract, Fig. 1, Fig. 2, Pg. 1, Pg. 2 (describing method of determining  
23       liveness based on 3D face structure across a sequence of images of a user)
- 24       • Chen, *e.g.*, Abstract, Fig. 2, Fig. 3, Fig. 5, 2:8-44, 2:45-56, 3:64-4:12, 5:31-39, 5:49-56,  
25       8:5-16 (describing capturing a series of images of a user's face from different positions  
26       to authenticate a user)
- 27       • Turgeman, *e.g.*, [0151-0152], [0156], [0164], [0202], [0205] (describing taking multiple  
28       images or a stream of images)



- Langley, *e.g.*, Fig. 4, 3:8-20, 11:1-20 (describing capturing a series of images for authentication)
- Evans, *e.g.*, 2:4-9 (using multiple images or multiple series of images to authenticate facial gestures)
- Sensharma, *e.g.*, 2:65-3:10 (capturing images from the front and rear-facing cameras)
- Lau, *e.g.*, Figs. 7-10, 1:64-67, (capturing multiple images of user when necessary for authentication)
- Baldwin '622, *e.g.*, Fig. 1, Fig. 5, 1:62-2:9 (describing process to verify live users and authenticate based on captured images and video)
- Horvitz, *e.g.*, Fig. 4, 2:42-56, 7:21-39, (describing a step of a method where dynamic images such as video are captured for authentication)
- Chaudhury, *e.g.*, Fig. 3A, Fig. 3B, Fig. 5, 1:19-34, 3:26-39, 6:42:55, 17:31-33 (describing capturing at least 2 images for authentication and liveness detection)
- LeCun, *e.g.*, Fig. 2, [0013], [0023], [0036], [0048] (describing capturing a series of pictures)

### 3. BIOMETRIC DATA

Claims 1 and 19 of the '606 Patent and claim 10 of the '471 patent each recite obtaining and using data and/or biometric data from images for security purposes. Nothing about these claim limitations add anything novel or non-obvious over the prior art. References and products with these features were well-known, routine, conventional, and widely available before the alleged invention.

Obtaining and using data (and specifically biometric data) from images for security purposes would have been obvious to a person of ordinary skill in the art at least because doing so would have involved the combination of prior art elements according to known methods to yield predictable results, the simple substitution of one known element for another to obtain predictable results, the application of a known technique to a known device ready for improvement to yield predictable results, and/or would have been obvious to try. Moreover, a person of ordinary skill in

1 the art would have readily appreciated the well-known and widespread use of authentication and  
2 security systems that use biometric data.

3 Persons of ordinary skill in the art would have been motivated to combine the teachings of  
4 these references with the other references cited herein, in view of the foregoing considerations and  
5 those further reflected in the references. iProov further hereby specifically incorporates by  
6 reference, and may rely upon for purposes of showing obviousness including motivations to  
7 combine, the disclosures cited for each reference with respect to the relevant limitations as cited in  
8 the prior art claim charts submitted herewith and the disclosures and teachings further cited below.  
9 Each cited disclosure evidences a teaching that a person of ordinary skill in the art would have  
10 considered relevant, and each cited disclosure may be relied upon as evidence of a teaching,  
11 suggestion, or motivation to combine the subject matter of the disclosure with other reference  
12 disclosures. Persons of ordinary skill in the art would have been motivated to combine these  
13 teachings of these references accordingly with the other references addressed herein to the extent  
14 they are not found to disclose this feature.

15 The following references are identified within this grouping for purposes of disclosing  
16 obviousness combinations.

- 17 • Ramaswamy, as disclosed in the accompanying claim charts, set forth in elements  
18 471.10(b), 471.10(e), 471.16, 606.1(b), 606.1(d), 606.19(a), and 606.19(b)
- 19 • Nechyba, as disclosed in the accompanying claim charts, set forth in elements  
20 471.10(b), 471.10(e), 471.16, 606.1(b), 606.1(d), 606.19(a), and 606.19(b)
- 21 • Ganong, as disclosed in the accompanying claim charts, set forth in elements 471.10(b),  
22 471.10(e), 471.16, 606.1(b), 606.1(d), 606.19(a), and 606.19(b)
- 23 • Zhang, as disclosed in the accompanying claim charts, set forth in elements 471.10(b),  
24 471.10(e), 471.16, 606.1(b), 606.1(d), 606.19(a), and 606.19(b)
- 25 • Park, as disclosed in the accompanying claim charts, set forth in elements 471.10(b),  
26 471.10(e), 471.16, 606.1(b), 606.1(d), 606.19(a), and 606.19(b)
- 27 • Frischholz, as disclosed in the accompanying claim charts, set forth in elements  
28 471.10(b), 471.10(e), 471.16, 606.1(b), 606.1(d), 606.19(a), and 606.19(b)

- 1       • Marsico, as disclosed in the accompanying claim charts, set forth in elements 471.10(b),  
2       471.10(e), 471.16, 606.1(b), 606.1(d), 606.19(a), and 606.19(b)
- 3       • Bud, as disclosed in the accompanying claim charts, set forth in elements 471.10(b),  
4       471.10(e), 471.16, 606.1(b), 606.1(d), 606.19(a), and 606.19(b)
- 5       • Ferren, as disclosed in the accompanying claim charts, set forth in elements 471.10(b),  
6       471.10(e), 471.16, 606.1(b), 606.1(d), 606.19(a), and 606.19(b)
- 7       • Hirose, *e.g.*, Abstract, Fig. 2A, Fig. 2B, [0016-0019], [0037-0039], [0041], and [0124-  
8       0130] (describing obtaining information about facial features to use in a comparison  
9       with a pre-registered identity profile)
- 10      • Derakhshani, *e.g.*, Abstract, Fig. 4, Fig. 5, Fig. 6,
- 11      • Ross, *e.g.*, 4:14-39, 6:12-34, 7:49-8:14 (obtaining facial features for comparison and  
12      authentication purposes)
- 13      • Negi, 2:37-39, 4:41-49 (describing obtaining facial information to identify user)
- 14      • Uchida, *e.g.* Fig. 2, 3:41-50, 4:66-5:29 (describing obtaining facial information for  
15      authentication and liveness detection)
- 16      • Wang, *e.g.*, Abstract, Fig. 1, Fig. 2, Pg. 1, Pg. 2, Pg. 4, Pg. 6 (describing obtaining 3D  
17      face structure information for liveness determination)
- 18      • Chen, *e.g.*, Abstract, Fig. 2, Fig. 3, Fig. 5, 2:8-44, 2:62-65, 3:4-9, 3:64-4:12, 5:49-56  
19      (describing measuring facial angles to authenticate a user)
- 20      • Landschaft, *e.g.*, Fig. 4, Fig. 5, [0010], [0026], [0030], [0040] (describing obtaining  
21      biometric information to authenticate a user)
- 22      • Turgeman, *e.g.*, [0045], [0151], (storing biometric data to identify users)
- 23      • Evans, *e.g.*, 2:19-25 (obtaining biometric data from sequences of capture images)
- 24      • Sensharma, *e.g.*, 2:65-3:10, 7:15-47 (gathering biometric data to identify a user,  
25      including pulse rate and facial recognition data)
- 26      • Langley, *e.g.*, Fig. 4, 2:18-30, 3:8-20, 6:30-50 (comparing biometric data against  
27      expected biometric data differences that are expected to result from the directed  
28      operation)

- Lau, *e.g.*, Fig. 6, 1:64-2:1 (extracting facial components from captured images for authentication)
- Baldwin '622, *e.g.*, Fig. 2(a), Fig. 2(b), 3:27-44 (describing extracting distinguishing features or facial features to compare to stored biometric data)
- Parry, *e.g.*, Figs. 2A-2H, 4:31-43 (describing uses of biometric data)
- Holz, *e.g.*, Fig. 1, Fig. 4A, Fig. 4D, 9:3-18, 17:28-58, 22:19-54 (disclosing an authentication method using biometric information of a user)

#### 4. CHANGING CAMERA LOCATION

Claim 10 of the '471 patent each recite changing the position or distance of a camera device to authenticate the three-dimensionality of the user's face. Nothing about these claim limitations add anything novel or non-obvious over the prior art. References and products with these features were well-known, routine, conventional, and widely available before the alleged invention.

Changing the position or distance of a camera device as recited in the claims would have been obvious to a person of ordinary skill in the art at least because doing so would have involved the application of a known technique to a known device ready for improvement to yield predictable results, and would have been obvious to try. Moreover, a person of ordinary skill in the art would have readily appreciated the well-known and widespread use of different camera positions, distances, and angles for taking the ideal photograph.

Persons of ordinary skill in the art would have been motivated to combine the teachings of these references with the other references cited herein, in view of the foregoing considerations and those further reflected in the references. iProov further hereby specifically incorporates by reference, and may rely upon for purposes of showing obviousness including motivations to combine, the disclosures cited for each reference with respect to the relevant limitations as cited in the prior art claim charts submitted herewith and the disclosures and teachings further cited below. Each cited disclosure evidences a teaching that a person of ordinary skill in the art would have considered relevant, and each cited disclosure may be relied upon as evidence of a teaching, suggestion, or motivation to combine the subject matter of the disclosure with other reference disclosures. Persons of ordinary skill in the art would have been motivated to combine these

1 teachings of these references accordingly with the other references addressed herein to the extent  
2 they are not found to disclose this feature.

3 The following references are identified within this grouping for purposes of disclosing  
4 obviousness combinations.

- 5 • Ramaswamy, disclosed in the accompanying claim chart as set forth in element  
6 471.10(c)
- 7 • Nechyba, disclosed in the accompanying claim chart as set forth in element 471.10(c)
- 8 • Ganong, disclosed in the accompanying claim chart as set forth in element 471.10(c)
- 9 • Zhang, disclosed in the accompanying claim chart as set forth in element 471.10(c)
- 10 • Park, disclosed in the accompanying claim chart as set forth in element 471.10(c)
- 11 • Frischholz, disclosed in the accompanying claim chart as set forth in element 471.10(c)
- 12 • Marsico, disclosed in the accompanying claim chart as set forth in element 471.10(c)
- 13 • Bud, disclosed in the accompanying claim chart as set forth in element 471.10(c)
- 14 • Ferren, disclosed in the accompanying claim chart as set forth in element 471.10(c)
- 15 • Hirose, *e.g.*, Abstract, Fig. 2A, Fig. 2B, Fig. 3, [0015], [0018], [0033], [0060], [0074],  
16 (describing using multiple camera positions and angles to capture a user's face)
- 17 • Negi, *e.g.*, 2:24-36, 7:1-8 (determining different distances between user and background  
18 objects as part of the authentication method)
- 19 • Wang, *e.g.*, Fig. 1, Fig. 2, Pg. 2, Pg. 6 (describing capturing a sequence of images of a  
20 user's face from different viewpoints either through a fixed camera/moving face or  
21 moving camera/fixed face)
- 22 • Chen, *e.g.*, Abstract, Fig. 2, Fig. 3, Fig. 5, 2:8-44, 2:45-56, 4:33-43, 5:23-30, 5:31-39  
23 (describing capturing a user's face from different positions to authenticate a user)
- 24 • Turgeman, *e.g.*, [0157], [0163], [0173], [0205] (describing moving the mobile device  
25 and taking pictures from different angles)
- 26 • Tippet, *e.g.*, [0018], [0034], [0035] (movement of user's face and/or camera to capture  
27 gestures for authentication)
- 28

- Langley, *e.g.*, 9:55-10:8 (changing orientation of user's head and changing angle of camera when authenticating)
- Baldwin '622, *e.g.*, 2:38-46 (describing use of multiple cameras at different locations and angles for capturing images)
- Parry, *e.g.*, Figs. 7A-7C, 18:7-44 (describing moving camera/device and comparing images)
- Karakotsios, *e.g.*, Figs. 3-4(b), 2:3-16 (describing functionality to determine whether a user is facing a camera)
- Gokturk, *e.g.*, Fig. 1, 6:58-7:10, 7:11-35 (describing calculating position, orientation, and pose of face using optical flow computation between original image and a synthesized image)
- Horvitz, *e.g.*, Fig. 4, Fig. 5, 7:21-39, 9:12-31, 9:53-10:4 (describing capturing motion of user's head and different angles from which the image may be captured)

## 5. COMPARING IMAGES

Claims 1 and 19 of the '606 Patent and claim 10 of the '471 patent each recite comparing multiple captured images to authenticate a user. Nothing about these claim limitations add anything novel or non-obvious over the prior art. References and products with these features were well-known, routine, conventional, and widely available before the alleged invention. The concept that different distances between a person and a camera cause distortion, or perspective distortion, was also well known in the art.<sup>8</sup>

The comparison of two images as recited in the claims would have been obvious to a person of ordinary skill in the art at least because doing so would have involved the combination of prior art elements according to known methods to yield predictable results, the simple substitution of one

<sup>8</sup> See, *e.g.*, [A Matter of Perspective](https://cornicello.com/itfigures/focal-length-and-perspective), Cornicello Photography (May 8, 2007), <https://cornicello.com/itfigures/focal-length-and-perspective>; Nathan Yan, [Assignment, Week 11: Perspective in Portraits](https://inst.eecs.berkeley.edu/~ee198-4/fa07/week11_assignment.shtml), EECS 98/198 (2007), [https://inst.eecs.berkeley.edu/~ee198-4/fa07/week11\\_assignment.shtml](https://inst.eecs.berkeley.edu/~ee198-4/fa07/week11_assignment.shtml); Bill Wadman, [Impact of Focal Length on Portraits](http://www.ontakingpictures.com/2010/08/impact_of_focal_length_on_port), On Taking Pictures (Aug. 9, 2010), [www.ontakingpictures.com/2010/08/impact\\_of\\_focal\\_length\\_on\\_port](http://www.ontakingpictures.com/2010/08/impact_of_focal_length_on_port); Daniel Baker, [Face Distortion Is Not Due To Lens Distortion](https://bakerdh.wordpress.com/2012/05/05/face-distortion-is-not-due-to-lens-distortion), Daniel's Visionarium (May 5, 2012), <https://bakerdh.wordpress.com/2012/05/05/face-distortion-is-not-due-to-lens-distortion>; [What Is Lens Distortion And How To Correct It](https://www.discoverdigitalphotography.com/2013/what-is-lens-distortion-and-how-to-correct-it), Discover Digital Photography (Mar. 6, 2013), <https://www.discoverdigitalphotography.com/2013/what-is-lens-distortion-and-how-to-correct-it>.

1 known element for another to obtain predictable results, the application of a known technique to a  
2 known device ready for improvement to yield predictable results, and/or would have been obvious  
3 to try. Moreover, a person of ordinary skill in the art would have readily appreciated the well-  
4 known and widespread use of authentication and security systems that use image comparison based  
5 facial recognition.

6 Persons of ordinary skill in the art would have been motivated to combine the teachings of  
7 these references with the other references cited herein, in view of the foregoing considerations and  
8 those further reflected in the references. iProov further hereby specifically incorporates by  
9 reference, and may rely upon for purposes of showing obviousness including motivations to  
10 combine, the disclosures cited for each reference with respect to the relevant limitations as cited in  
11 the prior art claim charts submitted herewith and the disclosures and teachings further cited below.  
12 Each cited disclosure evidences a teaching that a person of ordinary skill in the art would have  
13 considered relevant, and each cited disclosure may be relied upon as evidence of a teaching,  
14 suggestion, or motivation to combine the subject matter of the disclosure with other reference  
15 disclosures. Persons of ordinary skill in the art would have been motivated to combine these  
16 teachings of these references accordingly with the other references addressed herein to the extent  
17 they are not found to disclose this feature.

18 The following references are identified within this grouping for purposes of disclosing  
19 obviousness combinations.

- 20 • Ramaswamy, as disclosed in the accompanying claim charts, set forth in elements  
21 471.10(f), 606.1(e), 606.1(f), 609.19(c), and 606.19(d)
- 22 • Nechyba, as disclosed in the accompanying claim charts, set forth in elements 471.10(f),  
23 606.1(e), 606.1(f), 606.19(c), and 606.19(d)
- 24 • Ganong, as disclosed in the accompanying claim charts, set forth in elements 471.10(f),  
25 606.1(e), 606.1(f), 606.19(c), and 606.19(d)
- 26 • Zhang, as disclosed in the accompanying claim charts, set forth in elements 471.10(f),  
27 606.1(e), 606.1(f), 606.19(c), and 606.19(d)

- Park, as disclosed in the accompanying claim charts, set forth in elements 471.10(f), 606.1(e), 606.1(f), 606.19(c), and 606.19(d)
- Frischholz, as disclosed in the accompanying claim charts, set forth in elements 471.10(f), 606.1(e), 606.1(f), 606.19(c), and 606.19(d)
- Marsico, as disclosed in the accompanying claim charts, set forth in elements 471.10(f), 606.1(e), 606.1(f), 606.19(c), and 606.19(d)
- Bud, as disclosed in the accompanying claim charts, set forth in elements 471.10(f), 606.1(e), 606.1(f), 606.19(c), and 606.19(d)
- Ferren, as disclosed in the accompanying claim charts, set forth in elements 471.10(f), 606.1(e), 606.1(f), 606.19(c), and 606.19(d)
- Hirose, *e.g.*, Abstract, Fig. 2A, Fig. 2B, Fig. 4, [0016-0019], [0037-0039], [0041], and [0124-0130] (describing obtaining information about facial features to use in a comparison with a pre-registered identity profile)
- Ross, *e.g.*, Fig. 3, 4:14-39, 6:34-58, 8:23-38 (describing comparing a captured image with an enrollment image)
- Uchida, *e.g.*, Fig. 2, 1:32-40, 4:66-5:29 (describing comparing biometric features between captured image and a registered face image)
- Wang, *e.g.*, Abstract, Fig. 1, Fig. 2, Pg. 1, Pg. 2, Pg. 4, Pg. 6 (describing comparing face structure across images for liveness determination)
- Chen, *e.g.*, Abstract, Fig. 2, Fig. 3, Fig. 5, 2:8-44, 2:45-56, 3:64-4:12, 5:23-30, 5:31-39, 5:57-59, 12:9-16 (describing comparing a user's face from different positions to authenticate a user)
- Turgeman, *e.g.*, [0151-0152], [0156], [0205] (describing comparing sequences of images to determine liveness)
- Evans, *e.g.*, 5:33-38 (comparing each facial gesture from the sequence of facial gestures to a corresponding baseline representation of the facial gesture)
- Sensharma, *e.g.*, 7:15-47 (capturing biometric information and facial features to compare to an authenticated user profile)



- Langley, *e.g.*, Fig. 5, 7:3-16, 11:1-20 (comparing expected differences in images)
- Lau, *e.g.*, Fig. 6, Figs. 7-10, Abstract, 1:64-2:65 (comparing images taken by camera to authenticate users)
- Baldwin '622, *e.g.*, 3:27-44 (describing comparison of facial features or distinguishing points to stored information or images for facial recognition)
- Parry, *e.g.*, Figs. 7A-7C, 18:7-44 (describing moving camera/device and comparing images)
- Gokturk, *e.g.*, Fig. 1, 6:58-7:10, 7:11-35 (describing calculating position, orientation, and pose of face using optical flow computation between original image and a synthesized image)
- Chaudhury, *e.g.*, Fig. 5, 1:19-34, 5:24-33, 5:56-66 (describing comparing captured images with enrollment images)
- Kollreider, *e.g.*, Fig. 1, Fig. 2, Fig. 8, Abstract, Pg. 1, Pg. 2, Pg. 4, Pg. 5, Pg. 7-8 (describing the use of optical flow to compare image measurements with expected differences)
- LeCun, *e.g.*, Fig. 2, [0033], [0036], [0048] (describing comparing pictures taken with previously validated user models for authentication and for 3-D detection)
- Takahashi, *e.g.*, Fig. 5, 1:19-32, 3:15-20 (describing an authentication method that compares biometric information with registered information)
- Bao (disclosing that multiple images are taken ("sampling rate of 30 frames per second"), the images are analyzed ("[t]he system made a calculation every 10 frames and then produced a report"), and a calculation of the differences between two optical flow fields "D" is compared to a threshold "T" to determine liveness. One of the known "basic types" of motion represented by an optical flow field is "moving forward or backward". *See* Fig. 1c.)
- Kim (disclosing a system that "utilizes the variation of pixel values by focusing between two images sequentially taken in different focuses." Kim notes the "obvious difference in focus values between real and fake faces when two sequential images (in/out-focus)

are collected from each subject" and by focusing on facial components such as a nose and ears, "[i]n case of real faces, focused regions are clear and others are blurred due to depth information." In addition, Kim notes that "in order to make high out-focusing effect, depth of field (DOF) should be narrow and one way to achieve that is "to decrease the distance between the camera and the subject.")

## 6. AUTHENTICATION BASED ON IMAGE DIFFERENCES

Claims 1 and 19 of the '606 Patent and claim 10 of the '471 patent each recite authenticating or verifying a user based on expected differences between multiple captured images. Nothing about these claim limitations add anything novel or non-obvious over the prior art. The comparison of expected distortion or expected differences to help authenticate a user was well-known, routine, conventional, and widely available before the alleged invention, often by over a decade. The concept that different distances between a person and a camera cause distortion, or perspective distortion, was also well known in the art.<sup>9</sup> References and products with these features were well-known, routine, conventional, and widely available before the alleged invention.

The capturing of two images and authenticating based on expected differences as recited in the claims would have been obvious to a person of ordinary skill in the art at least because doing so would have involved the combination of prior art elements according to known methods to yield predictable results, the simple substitution of one known element for another to obtain predictable results, the application of a known technique to a known device ready for improvement to yield predictable results, and/or would have been obvious to try. Moreover, a person of ordinary skill in the art would have readily appreciated the well-known and widespread use of authentication and security systems that use expected or predicted differences in images.

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<sup>9</sup> See, e.g., A Matter of Perspective, Cornicello Photography (May 8, 2007), <https://cornicello.com/itfigures/focal-length-and-perspective>; Nathan Yan, Assignment, Week 11: Perspective in Portraits, EECS 98/198 (2007), [https://inst.eecs.berkeley.edu/~ee198-4/fa07/week11\\_assignment.shtml](https://inst.eecs.berkeley.edu/~ee198-4/fa07/week11_assignment.shtml); Bill Wadman, Impact of Focal Length on Portraits, On Taking Pictures (Aug. 9, 2010), [www.ontakingpictures.com/2010/08/impact\\_of\\_focal\\_length\\_on\\_port](http://www.ontakingpictures.com/2010/08/impact_of_focal_length_on_port); Daniel Baker, Face Distortion Is Not Due To Lens Distortion, Daniel's Visionarium (May 5, 2012), <https://bakerdh.wordpress.com/2012/05/05/face-distortion-is-not-due-to-lens-distortion>; What Is Lens Distortion And How To Correct It, Discover Digital Photography (Mar. 6, 2013), <https://www.discoverdigitalphotography.com/2013/what-is-lens-distortion-and-how-to-correct-it>.

Persons of ordinary skill in the art would have been motivated to combine the teachings of these references with the other references cited herein, in view of the foregoing considerations and those further reflected in the references. iProov further hereby specifically incorporates by reference, and may rely upon for purposes of showing obviousness including motivations to combine, the disclosures cited for each reference with respect to the relevant limitations as cited in the prior art claim charts submitted herewith and the disclosures and teachings further cited below. Each cited disclosure evidences a teaching that a person of ordinary skill in the art would have considered relevant, and each cited disclosure may be relied upon as evidence of a teaching, suggestion, or motivation to combine the subject matter of the disclosure with other reference disclosures. Persons of ordinary skill in the art would have been motivated to combine these teachings of these references accordingly with the other references addressed herein to the extent they are not found to disclose this feature.

The following references are identified within this grouping for purposes of disclosing obviousness combinations.

- Ramaswamy, as disclosed in the accompanying claim charts, set forth in elements 471.10(g), 606.1(g), 606.1(g)(i), 606.1(g)(ii), 606.19(e), 606.19(e)(i), and 606.19(e)(ii)
- Nechyba, as disclosed in the accompanying claim charts set forth in elements 471.10(g), 606.1(g), 606.1(g)(i), 606.1(g)(ii), 606.19(e), 606.19(e)(i), and 606.19(e)(ii)
- Ganong, as disclosed in the accompanying claim charts, set forth in elements 471.10(g), 606.1(g), 606.1(g)(i), 606.1(g)(ii), 606.19(e), 606.19(e)(i), and 606.19(e)(ii)
- Zhang, as disclosed in the accompanying claim charts, set forth in elements 471.10(g), 606.1(g), 606.1(g)(i), 606.1(g)(ii), 606.19(e), 606.19(e)(i), and 606.19(e)(ii)
- Park, as disclosed in the accompanying claim charts, set forth in elements 471.10(g), 606.1(g), 606.1(g)(i), 606.1(g)(ii), 606.19(e), 606.19(e)(i), and 606.19(e)(ii)
- Frischholz, as disclosed in the accompanying claim charts, set forth in elements 471.10(g), 606.1(g), 606.1(g)(i), 606.1(g)(ii), 606.19(e), 606.19(e)(i), and 606.19(e)(ii)
- Marsico, disclosed in the accompanying claim charts as set forth in elements 471.10(g), 606.1(g), 606.1(g)(i), 606.1(g)(ii), 606.19(e), 606.19(e)(i), and 606.19(e)(ii)

- Bud, as disclosed in the accompanying claim charts set forth in elements 471.10(g), 606.1(g), 606.1(g)(i), 606.1(g)(ii), 606.19(e), 606.19(e)(i), and 606.19(e)(ii)
- Ferren, as disclosed in the accompanying claim charts, set forth in elements 471.10(g), 606.1(g), 606.1(g)(i), 606.1(g)(ii), 606.19(e), 606.19(e)(i), and 606.19(e)(ii)
- Hirose, *e.g.*, Abstract, Fig. 2A, Fig. 2B, Fig. 4, [0016-0019], [0037-0039], [0041], and [0124-0130] (describing obtaining information about facial features to use in a comparison with a pre-registered identity profile)
- Ross, *e.g.*, 6:34-58, 8:23-38 (describing method of comparing different distances between facial features to verify authentication)
- Negi, 2:60-3:22, 3:30-43, 7:31-54 (determines whether there is a potential spoofing attack based on comparison of distances and position of features)
- Uchida, *e.g.*, Fig. 1, Fig. 2, 1:32-40, 3:41-50, 3:56-60 (describing authenticating a user based on liveness determination and a comparison with pre-registered image)
- Chen, *e.g.*, Abstract, Fig. 2, Fig. 3, Fig. 5, 2:28-44, 3:64-4:12, 4:33-43, 5:57-59 (describing method of authenticating a user based on facial angles across a sequence of images)
- Turgeman, *e.g.*, [0157], [0163], [0205] (describing authenticating users if there is differences between frames)
- Evans, *e.g.*, 5:33-58 (comparing similarity of facial gestures to stored baseline gestures and expected difference of head position)
- Langley, *e.g.*, Fig. 4, Fig. 5, 2:18-30, 3:8-20, 6:51-63, 7:3-16, 11:1-20 (comparing illumination characteristics of biometric data against illumination characteristics that are expected to result from the directed operation)
- Baldwin '622, *e.g.*, 4:4-25 (verifying that a live user is attempting to access device by comparing and tracking expected changes in color and pulse over a short period of time)
- Gokturk, *e.g.*, Fig. 2, Fig. 6, 2:47-59 (performs facial recognition by calculating expected location of features and comparing to the actual image)

- Gokturk, *e.g.*, Fig. 1, 6:58-7:10, 7:11-35 (describing calculating position, orientation, and pose of face using optical flow computation between original image and a synthesized image)
- Chaudhury, *e.g.*, Fig. 1A, Fig. 3A, Fig. 3B, Fig. 5, 1:19-34, 3:26-39, 5:56-66, 6:42-55, 16:59-63 (describing authentication and liveness detection based on eye movements across images)
- LeCun, *e.g.*, Fig. 2, [0033], [0036] (describing comparing pictures taken with previously validated user models)
- Kollreider, *e.g.*, Fig. 1, Fig. 2, Fig. 8, Abstract, Pg. 1, Pg. 2, Pg. 4, Pg. 5, Pg. 7-8 (describing the use of optical flow to compare image measurements with expected differences)
- Bao (disclosing that multiple images are taken ("sampling rate of 30 frames per second"), the images are analyzed ("[t]he system made a calculation every 10 frames and then produced a report"), and a calculation of the differences between two optical flow fields "D" is compared to a threshold "T" to determine liveness. One of the known "basic types" of motion represented by an optical flow field is "moving forward or backward". *See* Fig. 1c.)
- Kim (disclosing a system that "utilizes the variation of pixel values by focusing between two images sequentially taken in different focuses." Kim notes the "obvious difference in focus values between real and fake faces when two sequential images (in/out-focus) are collected from each subject" and by focusing on facial components such as a nose and ears, "[i]n case of real faces, focused regions are clear and others are blurred due to depth information." In addition, Kim notes that "in order to make high out-focusing effect, depth of field (DOF) should be narrow and one way to achieve that is "to decrease the distance between the camera and the subject.")

## 7. USER PROMPTS

Claim 4 of the '606 Patent and claim 13 of the '471 patent each recite displaying user prompts directing a user. Nothing about these claim limitations add anything novel or non-obvious

1 over the prior art. References and products with these features were well-known, routine,  
2 conventional, and widely available before the alleged invention.

3 The use of prompts to direct a user would have been obvious to a person of ordinary skill  
4 in the art at least because doing so would have involved the combination of prior art elements  
5 according to known methods to yield predictable results, the simple substitution of one known  
6 element for another to obtain predictable results, the application of a known technique to a known  
7 device ready for improvement to yield predictable results, and/or would have been obvious to try.  
8 Moreover, a person of ordinary skill in the art would have readily appreciated the well-known and  
9 widespread use of authentication and security systems that take or capture multiple images.

10 Persons of ordinary skill in the art would have been motivated to combine the teachings of  
11 these references with the other references cited herein, in view of the foregoing considerations and  
12 those further reflected in the references. iProov further hereby specifically incorporates by  
13 reference, and may rely upon for purposes of showing obviousness including motivations to  
14 combine, the disclosures cited for each reference with respect to the relevant limitations as cited in  
15 the prior art claim charts submitted herewith and the disclosures and teachings further cited below.  
16 Each cited disclosure evidences a teaching that a person of ordinary skill in the art would have  
17 considered relevant, and each cited disclosure may be relied upon as evidence of a teaching,  
18 suggestion, or motivation to combine the subject matter of the disclosure with other reference  
19 disclosures. Persons of ordinary skill in the art would have been motivated to combine these  
20 teachings of these references accordingly with the other references addressed herein to the extent  
21 they are not found to disclose this feature.

22 The following references are identified within this grouping for purposes of disclosing  
23 obviousness combinations.

- 24 • Ramaswamy, as disclosed in the accompanying claim charts, set forth in elements  
25 471.13 and 606.4
- 26 • Nechyba, as disclosed in the accompanying claim charts set forth in elements 471.13  
27 and 606.4

- 1       • Ganong, as disclosed in the accompanying claim charts, set forth in elements 471.13
- 2       and 606.4
- 3       • Zhang, as disclosed in the accompanying claim charts, set forth in elements 471.13 and
- 4       606.4
- 5       • Park, as disclosed in the accompanying claim charts, set forth in elements 471.13 and
- 6       606.4
- 7       • Frischholz, as disclosed in the accompanying claim charts, set forth in elements 471.13
- 8       and 606.4
- 9       • Marsico, disclosed in the accompanying claim charts as set forth in elements 471.13 and
- 10      606.4
- 11      • Bud, as disclosed in the accompanying claim charts set forth in elements 471.13 and
- 12      606.4
- 13      • Ferren, as disclosed in the accompanying claim charts, set forth in elements 471.13 and
- 14      606.4
- 15      • Uchida, *e.g.*, Fig. 2, 6:7-15 (describing the display of instructions to make the user move
- 16      their face in front of the camera)
- 17      • Chen, *e.g.*, Abstract, Fig. 2, Fig. 3, 2:28-44, 2:62-65, 3:64-4:12, 5:23-30 (describing
- 18      instructions displayed on a smartphone requiring users to move the device)
- 19      • Turgeman, *e.g.*, [0157], [0164] (prompting user to take a self image)
- 20      • Evans, *e.g.*, 2:4-9, 3:23-32, 4:4-18, 7:60-8:3 (use of user prompts to capture images)
- 21      • Tippet, *e.g.*, Fig. 5A, Fig. 5B, Fig. 5C, [0042] (providing user with a prompt to input a
- 22      facial gesture)
- 23      • Langley, *e.g.*, 6:51-63 (prompting user to perform illumination function and/or other
- 24      instructions)
- 25      • Holz, *e.g.*, Fig. 4A, Fig. 4D, 22:19-54 (disclosing an authentication method involving
- 26      prompting a user to perform certain actions such as turning head)
- 27      • Chaudhury, *e.g.*, Fig. 1A, Fig. 3A, Fig. 3B, Fig. 5, 1:19-34, 7:53-58, 16:59-63
- 28      (describing user prompts as images are captured)

- LeCun, *e.g.*, Fig. 2, [0048] (describing prompts to user to capture images)
- Ricci, *e.g.*, Fig. 28, Fig. 29, [0830-0835], [0838] (vehicle provides users with a facial recognition prompt that requires users to align head with the oval on the screen)
- Wilson, *e.g.*, Figure 2, pg. 3, pg. 4 (discussing proper facial alignment and smartphone prompts to unlock smartphones)
- Beigi, *e.g.*, Fig. 1, Figs. 16-19, Fig. 22, Figs. 25-27, Fig. 29, Fig. 30, Figs. 32-36, 4:25-31, 16:61-67, 18:16-24, 21:55-22:3 (providing prompts for user to perform an action or speak a phrase that includes an oval shaped authentication prompt on the device's screen)

## 8. OVAL PROMPTS

Claim 5 of the '606 Patent and claim 14 of the '471 patent each recite using prompts that contain an oval shape with which the user aligns his/her face. Nothing about these claim limitations add anything novel or non-obvious over the prior art. References and products with oval shaped prompts were well-known, routine, conventional, and widely available before the alleged invention.

The use of oval prompts recited in the claims would have been obvious to a person of ordinary skill in the art at least because doing so would have involved the combination of prior art elements according to known methods to yield predictable results, the simple substitution of one known element for another to obtain predictable results, the application of a known technique to a known device ready for improvement to yield predictable results, and/or would have been obvious to try. Moreover, a person of ordinary skill in the art would have readily appreciated the well-known and widespread use of authentication and security systems that take or prompt users for multiple images.

Persons of ordinary skill in the art would have been motivated to combine the teachings of these references with the other references cited herein, in view of the foregoing considerations and those further reflected in the references. iProov further hereby specifically incorporates by reference, and may rely upon for purposes of showing obviousness including motivations to combine, the disclosures cited for each reference with respect to the relevant limitations as cited in the prior art claim charts submitted herewith and the disclosures and teachings further cited below.



Each cited disclosure evidences a teaching that a person of ordinary skill in the art would have considered relevant, and each cited disclosure may be relied upon as evidence of a teaching, suggestion, or motivation to combine the subject matter of the disclosure with other reference disclosures. Persons of ordinary skill in the art would have been motivated to combine these teachings of these references accordingly with the other references addressed herein to the extent they are not found to disclose this feature.

The following references are identified within this grouping for purposes of disclosing obviousness combinations.

- Ricci, *e.g.*, Fig. 28, Fig. 29, [0830-0835], [0838] (vehicle provides users with a facial recognition prompt that requires users to align head with the oval on the screen)
- Wilson, *e.g.*, Figure 2, pg. 3, pg. 4 (discussing proper facial alignment and smartphone prompts to unlock smartphones)
- Beigi, *e.g.*, Fig. 1, Figs. 16-19, Fig. 22, Figs. 25-27, Fig. 29, Fig. 30, Figs. 32-36, 4:25-31, 16:61-67, 18:16-24, 21:55-22:3 (providing prompts for user to perform an action or speak a phrase that includes an oval shaped authentication prompt on the device's screen)

## **9. HAND-HELD DEVICES**

Claim 6 of the '606 Patent and Claim 15 of the '471 Patent each recite the use of a hand-held device. Nothing about these claim limitations add anything novel or non-obvious over the prior art. To the contrary, using authentication and security methods that work on hand-held devices was routine, conventional, and widely available before the alleged invention.

The use of a hand-held device as recited in the claims would have been obvious to a person of ordinary skill in the art at least because doing so would have involved the combination of prior art elements according to known methods to yield predictable results, the simple substitution of one known element for another to obtain predictable results, the application of a known technique to a known device ready for improvement to yield predictable results, and/or would have been obvious to try. Moreover, a person of ordinary skill in the art would have readily appreciated the well-known and widespread use and disclosure of hand-held systems and

1 devices that practice and/or embody the described features and/or functionality of a biometric  
2 authentication, and the associated benefits and advantages of its use.

3 Persons of ordinary skill in the art would have been motivated to combine the teachings of  
4 these references with the other references cited herein, in view of the foregoing considerations  
5 and those further reflected in the references. iProov further hereby specifically incorporates by  
6 reference, and may rely upon for purposes of showing obviousness including motivations to  
7 combine, the disclosures cited for each reference with respect to the relevant limitations as cited  
8 in the prior art claim charts submitted herewith and the disclosures and teachings further cited  
9 below. Each cited disclosure evidences a teaching that a person of ordinary skill in the art would  
10 have considered relevant, and each cited disclosure may be relied upon as evidence of a teaching,  
11 suggestion, or motivation to combine the subject matter of the disclosure with other reference  
12 disclosures. Persons of ordinary skill in the art would have been motivated to combine these  
13 teachings of these references accordingly with the other references addressed herein to the extent  
14 they are not found to disclose this feature.

15 The following references are identified within this grouping for purposes of disclosing  
16 obviousness combinations.

- 17 • Ramaswamy, as disclosed in the accompanying claim charts, set forth in elements  
18 471.15 and 606.6
- 19 • Nechyba, as disclosed in the accompanying claim charts set forth in elements 471.15  
20 and 606.6
- 21 • Ganong, as disclosed in the accompanying claim charts, set forth in elements 471.15  
22 and 606.6
- 23 • Zhang, as disclosed in the accompanying claim charts, set forth in elements 471.15 and  
24 606.6
- 25 • Park, as disclosed in the accompanying claim charts, set forth in elements 471.15 and  
26 606.6
- 27 • Frischholz, as disclosed in the accompanying claim charts, set forth in elements 471.15  
28 and 606.6

- 1 • Marsico, disclosed in the accompanying claim charts as set forth in elements 471.15 and  
2 606.6
- 3 • Bud, as disclosed in the accompanying claim charts, set forth in elements 471.15 and  
4 606.6
- 5 • Ferren, disclosed in the accompanying claim charts as set forth in elements 471.15 and  
6 606.6
- 7 • Ross, *e.g.*, 4:53-56 (discloses an embodiment of the invention being used on a  
8 smartphone)
- 9 • Uchida, *e.g.*, 1:7-9, 7:6-13 (disclosing that the invention may be used on a mobile  
10 phone)
- 11 • Chen, *e.g.*, Abstract, Fig. 2, Fig. 3, Fig. 5, 1:24-31, 2:28-44, 3:64-4:12, 4:33-43, 14:10-  
12 16 (disclosing an authentication method that may be implemented on a smartphone)
- 13 • Landschaft, *e.g.*, Fig. 2, Fig. 3, Fig. 4, Fig. 5, [0001], [0010], [0026], [0030], [0039],  
14 [0040] (disclosing an authentication method on a handheld electronic device such as  
15 mobile phone)
- 16 • Turgeman, *e.g.*, [0047], [0070], [0160] (describing use of mobile devices)
- 17 • Evans, *e.g.*, 3:33-49 (describing use of mobile devices)
- 18 • Sensharma, *e.g.*, 8:40-51 (using mobile devices including cell phones, PDAs, and  
19 tablets)
- 20 • Langley, *e.g.*, Fig. 1, 3:45-56, 4:20-27 (the remote authentication device is a  
21 smartphone)
- 22 • Lau, *e.g.*, 8:25-39 (use of a mobile device to implement the disclosed method)
- 23 • Parry, *e.g.*, 4:58-5:1 (describing use of computer, laptop, or server to perform  
24 authentication)
- 25 • Horvitz, *e.g.*, Fig. 2, 2:57-3:2 (portraying an exemplary hand held device)
- 26 • Holz, *e.g.*, Fig. 1, Fig. 4A, Fig. 4D, 7:31-42, 9:36-51 (disclosing an authentication  
27 method that may be implemented on mobile devices)
- 28

- Chaudhury, *e.g.*, Fig. 1A, Fig. 3A, Fig. 3B, Fig. 5, 4:37-47 (describing authentication and liveness detection method that may be implemented on a handheld device)
- LeCun, *e.g.*, Fig. 2, Fig. 3, [0007], [0013], [0023] (describing authentication method that can be implemented on mobile devices and smartphones)

#### **10. MOVEMENT OF DEVICES**

Claim 19 of the '471 Patent recites moving the device before capturing subsequent images.

Nothing about these claim limitations add anything novel or non-obvious over the prior art.

Further, moving a camera or adjusting the location of a camera is inherently obvious.

The movement of devices as recited in the claims would have been obvious to a person of ordinary skill in the art at least because doing so would have involved a routine and conventional action. Moreover, a person of ordinary skill in the art would have readily appreciated the well-known and widespread use and results of moving a device between taking pictures.

Persons of ordinary skill in the art would have been motivated to combine the teachings of these references with the other references cited herein, in view of the foregoing considerations and those further reflected in the references. iProov further hereby specifically incorporates by reference, and may rely upon for purposes of showing obviousness including motivations to combine, the disclosures cited for each reference with respect to the relevant limitations as cited in the prior art claim charts submitted herewith and the disclosures and teachings further cited below. Each cited disclosure evidences a teaching that a person of ordinary skill in the art would have considered relevant, and each cited disclosure may be relied upon as evidence of a teaching, suggestion, or motivation to combine the subject matter of the disclosure with other reference disclosures. Persons of ordinary skill in the art would have been motivated to combine these

1 teachings of these references accordingly with the other references addressed herein to the extent  
2 they are not found to disclose this feature.

3 The following references are identified within this grouping for purposes of disclosing  
4 obviousness combinations.

- 5
- 6 • Ramaswamy, as disclosed in the accompanying claim charts, set forth in elements  
7 471.19
- 8 • Nechyba, as disclosed in the accompanying claim charts set forth in elements 471.19
- 9 • Ganong, as disclosed in the accompanying claim charts, set forth in elements 471.19
- 10 • Zhang, as disclosed in the accompanying claim charts, set forth in elements 471.19
- 11 • Park, as disclosed in the accompanying claim charts, set forth in elements 471.19
- 12 • Frischholz, as disclosed in the accompanying claim charts, set forth in elements 471.19
- 13 • Marsico, disclosed in the accompanying claim charts as set forth in elements 471.19
- 14 • Bud, as disclosed in the accompanying claim charts set forth in elements 471.19
- 15 • Ferren, as disclosed in the accompanying claim charts, set forth in elements 471.19
- 16 • Ross, *e.g.*, 3:5-32, 3:59-4:13, 8:39-62 (describing calculating distances between device  
17 and objects, including distances from the user's face)
- 18 • Negi, *e.g.*, Fig. 3, 5:55-64,
- 19
- 20 • Wang, *e.g.*, Fig. 1, Fig. 2, Pg. 2, Pg. 6 (describing capturing a sequence of images of a  
21 user's face from different viewpoints either through a fixed camera/moving face or  
22 moving camera/fixed face)
- 23 • Chen, *e.g.*, Abstract, Fig. 2, Fig. 3, Fig. 5, 2:28-44, 2:45-56, 2:62-65, 3:64-4:12, 4:33-  
24 43, 5:31-39 (disclosing an authentication method requiring user to move a smartphone  
25 to different positions)
- 26
- 27
- 28

- Turgeman, *e.g.*, [0058], [0160], [0163], [0173], [0205] (describing user moving and rotating mobile device)
- Tippet, *e.g.*, [0018], [0034], [0035] (movement of user's face and/or mobile device to capture gestures for authentication)
- Karakotsios, *e.g.*, Fig. 2(a), Fig. 2(b), Figs. 3-4(b), 2:3-16, 3:22-63 (describing functionality to determine whether a user is facing a camera)
- Horvitz, *e.g.*, Fig. 4, Fig. 5, 7:21-39, 9:12-31, 9:53-10:4 (describing capturing motion of user's head and different angles from which the image may be captured)

## 11. LAPTOP OR DESKTOP COMPUTER DEVICES

Claim 7 of the '606 Patent recites using a laptop or desktop computer as the computing device that practices the invention. Nothing about these claim limitations add anything novel or non-obvious over the prior art. References and products using laptop or desktop computers were well-known, routine, conventional, and widely available before the alleged invention.

The use of a laptop or desktop computer as recited in the claims would have been obvious to a person of ordinary skill in the art because doing so would have involved the combination of prior art elements according to known methods to yield predictable results, the simple substitution of one known element for another to obtain predictable results, the application of a known technique to a known device ready for improvement to yield predictable results, and/or would have been obvious to try. Moreover, a person of ordinary skill in the art would have readily appreciated the well-known and widespread use of laptop and desktop computer devices.

Persons of ordinary skill in the art would have been motivated to combine the teachings of these references with the other references cited herein, in view of the foregoing considerations and those further reflected in the references. iProov further hereby specifically incorporates by reference, and may rely upon for purposes of showing obviousness including motivations to combine, the disclosures cited for each reference with respect to the relevant limitations as cited in the prior art claim charts submitted herewith and the disclosures and teachings further cited below. Each cited disclosure evidences a teaching that a person of ordinary skill in the art would have

1 considered relevant, and each cited disclosure may be relied upon as evidence of a teaching,  
2 suggestion, or motivation to combine the subject matter of the disclosure with other reference  
3 disclosures. Persons of ordinary skill in the art would have been motivated to combine these  
4 teachings of these references accordingly with the other references addressed herein to the extent  
5 they are not found to disclose this feature.

6 The following references are identified within this grouping for purposes of disclosing  
7 obviousness combinations.

- 8 • Nechyba, as disclosed in the accompanying claim chart set forth in element 606.7
- 9 • Ramaswamy, as disclosed in the accompanying claim chart set forth in element 606.7
- 10 • Ganong, as disclosed in the accompanying claim chart set forth in element 606.7
- 11 • Zhang, as disclosed in the accompanying claim chart set forth in element 606.7
- 12 • Park, as disclosed in the accompanying claim chart set forth in element 606.7
- 13 • Frischholz, as disclosed in the accompanying claim chart set forth in element 606.7
- 14 • Marsico, as disclosed in the accompanying claim chart set forth in element 606.7
- 15 • Bud, as disclosed in the accompanying claim chart set forth in element 606.7
- 16 • Ferren, as disclosed in the accompanying claim chart set forth in element 606.7
- 17 • Uchida, *e.g.*, 7:6-13 (disclosing that the invention may be used on a computer system)
- 18 • Chen, *e.g.*, Abstract, Fig. 2, 12:52-62, 14:10-16 (disclosing an authentication method  
19 that may be implemented on computers)
- 20 • Landschaft, *e.g.*, Fig. 5, [0001], [0010], [0026] (disclosing an authentication method  
21 that may be implemented on a laptop computer or other devices)
- 22 • Turgeman, *e.g.*, [0172] (this invention can be used on a variety of devices)
- 23 • Evans, *e.g.*, 3:33-49 (describing that this invention may be used in a personal computer  
24 or laptop computer)
- 25 • Sensharma, *e.g.*, 8:40-51 (using laptop computers to implement the invention)
- 26 • Langley, *e.g.*, Fig. 1, 4:20-27 (remote authentication device can be a laptop computer)
- 27 • Holz, *e.g.*, Fig. 1, Fig. 4A, Fig. 4D, 7:31-42, 9:36-51 (disclosing an authentication  
28 method that may be implemented on laptop computers or other devices)

- Chaudhury, *e.g.*, Fig. 1A, Fig. 3A, Fig. 3B, Fig. 5, 4:37-47 (describing authentication and liveness detection method that may be implemented on laptop or other devices)
- LeCun, *e.g.*, Fig. 2, Fig. 3, [0007], [0013], [0023] (describing authentication method that can be implemented on computers and other devices)
- Takahashi, *e.g.*, Fig. 1, 6:17-30, 6:31-35 (describing an authentication system implemented on a computer)

## 12. USER IMAGE

Claim 8 of the '606 Patent recites displaying an image on the screen of the computing device while capturing the images used. Nothing about these claim limitations add anything novel or non-obvious over the prior art.

The use of user images as recited in the claims would have been obvious to a person of ordinary skill in the art at least because doing so would have involved the combination of prior art elements according to known methods to yield predictable results, the simple substitution of one known element for another to obtain predictable results, the application of a known technique to a known device ready for improvement to yield predictable results, and/or would have been obvious to try. Moreover, a person of ordinary skill in the art would have readily appreciated the well-known and widespread use and disclosure of systems and devices that practice and/or embody the described features and/or functionality of the claimed use of expected distortion, and the associated benefits and advantages of its use.

Persons of ordinary skill in the art would have been motivated to combine the teachings of these references with the other references cited herein, in view of the foregoing considerations and those further reflected in the references. iProov further hereby specifically incorporates by reference, and may rely upon for purposes of showing obviousness including motivations to combine, the disclosures cited for each reference with respect to the relevant limitations as cited in the prior art claim charts submitted herewith and the disclosures and teachings further cited below. Each cited disclosure evidences a teaching that a person of ordinary skill in the art would have



1 considered relevant, and each cited disclosure may be relied upon as evidence of a teaching,  
2 suggestion, or motivation to combine the subject matter of the disclosure with other reference  
3 disclosures. Persons of ordinary skill in the art would have been motivated to combine these  
4 teachings of these references accordingly with the other references addressed herein to the extent  
5 they are not found to disclose this feature.  
6

7 The following references are identified within this grouping for purposes of disclosing  
8 obviousness combinations.

- 9 • Nechyba, as disclosed in the accompanying claim chart set forth in element 606.8
- 10 • Ramaswamy, as disclosed in the accompanying claim chart set forth in element 606.8
- 11 • Ganong, as disclosed in the accompanying claim chart set forth in element 606.8
- 12 • Frischholz, as disclosed in the accompanying claim chart set forth in element 606.8
- 13 • Marsico, as disclosed in the accompanying claim chart set forth in element 606.8
- 14 • Bud, as disclosed in the accompanying claim chart set forth in element 606.8
- 15 • Negi, *e.g.*, Fig. 2, 5:47-54
- 16 • Tippet, *e.g.*, Fig. 5A, Fig. 5D, Fig. 5E, (showing image of users' gestures on screen)
- 17 • Lau, *e.g.*, Figs. 7-10 (embodiments showing user's image on screen while capturing and  
18 authenticating)
- 19 • Baldwin '138, Fig. 1A, Fig. 1B, Fig. 2A, 3:40-4:23 (describing the user being in the  
20 field of view of the device when the user's image shows on the screen)
- 21 • Landschaft, *e.g.*, Fig. 3, [0039] (describing displaying a preview of the user's image on  
22 the device)

### 23 **13. SERVER-BASED SOLUTIONS**

24 Claims 9 and 20 of the '606 Patent and claim 10 of the '471 patent each recite transmitting  
25 biometric data over a network to a server. Nothing about these claim limitations add anything novel  
26 or non-obvious over the prior art. References and products with these features were well-known,  
27 routine, conventional, and widely available before the alleged invention.  
28

1       The use of a server or network to perform the authentication recited in the claims would  
2 have been obvious to a person of ordinary skill in the art at least because doing so would have  
3 involved the combination of prior art elements according to known methods to yield predictable  
4 results, the simple substitution of one known element for another to obtain predictable results, the  
5 application of a known technique to a known device ready for improvement to yield predictable  
6 results, and/or would have been obvious to try. Moreover, a person of ordinary skill in the art  
7 would have readily appreciated the well-known and widespread use of authentication and security  
8 systems that utilize network resources or servers to perform their functionality.

9       Persons of ordinary skill in the art would have been motivated to combine the teachings of  
10 these references with the other references cited herein, in view of the foregoing considerations and  
11 those further reflected in the references. iProov further hereby specifically incorporates by  
12 reference, and may rely upon for purposes of showing obviousness including motivations to  
13 combine, the disclosures cited for each reference with respect to the relevant limitations as cited in  
14 the prior art claim charts submitted herewith and the disclosures and teachings further cited below.  
15 Each cited disclosure evidences a teaching that a person of ordinary skill in the art would have  
16 considered relevant, and each cited disclosure may be relied upon as evidence of a teaching,  
17 suggestion, or motivation to combine the subject matter of the disclosure with other reference  
18 disclosures. Persons of ordinary skill in the art would have been motivated to combine these  
19 teachings of these references accordingly with the other references addressed herein to the extent  
20 they are not found to disclose this feature.

21       The following references are identified within this grouping for purposes of disclosing  
22 obviousness combinations.

- 23       • Nechyba, as disclosed in the accompanying claim chart set forth in elements 606.9 and  
24       606.20
- 25       • Ramaswamy, as disclosed in the accompanying claim chart set forth in element 606.9  
26       and 606.20
- 27       • Ganong, as disclosed in the accompanying claim chart set forth in element 606.9 and  
28       606.20

- 1       • Zhang, as disclosed in the accompanying claim chart set forth in element 606.9 and  
2       606.20
- 3       • Park, as disclosed in the accompanying claim chart set forth in element 606.9 and 606.20
- 4       • Frischholz, as disclosed in the accompanying claim chart set forth in element 606.9 and  
5       606.20
- 6       • Bud, as disclosed in the accompanying claim chart set forth in element 606.9 and 606.20
- 7       • Ferren, as disclosed in the accompanying claim chart set forth in element 606.9 and  
8       606.20
- 9       • Ross, *e.g.*, Fig. 2, 10:33-46, 10:59-11:9 (showing a network and server implementation  
10       of the authentication method described in this invention)
- 11       • Uchida, *e.g.*, 6:61-7:5, 7:6-13 (disclosing that the invention may be used on a network  
12       of computer systems)
- 13       • Chen, *e.g.*, 12:52-62, 14:10-16 (disclosing an authentication method that may be  
14       implemented on networked devices)
- 15       • Turgeman, *e.g.*, [0204] (suggested embodiment can have the authentication unit on a  
16       remote server)
- 17       • Sensharma, *e.g.*, 4:47-60 (describing some functions that are performed by another  
18       system, including remote servers)
- 19       • Langley, *e.g.*, Fig. 1, 3:45-56, 4:28-54, 4:51-60, 6:15-32 (using a remote server to  
20       control access to resources and provide data for authentication)
- 21       • Baldwin '622, *e.g.*, Fig. 8 (authenticating device connected to a web and application  
22       server to run its authentication method)
- 23       • Parry, *e.g.*, 4:58-5:1, 7:47-61 (describing use of computer, laptop, or server to perform  
24       authentication)
- 25       • Holz, *e.g.*, Fig. 1, 9:19-34, 12:37-39, 15:47-60 (disclosing an authentication method that  
26       may be implemented on a computer system including a content server)
- 27       • Chaudhury, *e.g.*, Fig. 1A, Fig. 5, 4:37-47, 5:24-33, 9:43-49 (describing authentication  
28       and liveness detection method that may be implemented with a server)

- LeCun, *e.g.*, Fig. 1, Fig. 2, Fig. 3, [0033] (describing authentication method that may be implemented with a device connected to a server)
- Takahashi, *e.g.*, Fig. 1, Fig. 5, 1:19-32, 6:13-16, 6:17-30, 6:31-35 (describing a server-client authentication system with an authentication server)

#### **viii. MOTIVATIONS BASED ON ADMITTED PRIOR ART**

iProov reserves the right to rely on any admissions in the FaceTec Asserted Patents, the prosecution history, and on any admissions by the patentee and/or the named inventors of the FaceTec Asserted Patents, including in publications published contemporaneously to the FaceTec Asserted Patents. For example, Defendant hereby expressly incorporates by reference any statements and reasons set forth in the FaceTec Asserted Patents themselves or by the Examiner during prosecution of the FaceTec Asserted Patents and/or related patent applications or by the Board in any past, pending, or future post-grant proceeding related to the FaceTec Asserted Patents and/or related patents as to why it would have been obvious to modify or combine prior art references to achieve the limitations of the FaceTec Asserted Claims.

#### **ix. SECONDARY CONSIDERATIONS**

A patentee bears the burden of production with respect to evidence of secondary considerations of non-obviousness. *ZUP, LLC v. Nash Mfg., Inc.*, 896 F.3d 1365, 1373 (Fed. Cir. 2018). As of the date of these Preliminary Invalidity Contentions, Plaintiff has not identified any secondary considerations. iProov reserves all rights to respond to any secondary considerations of non-obviousness raised by Plaintiff, including by updating and/or modifying these Preliminary Invalidity Contentions. iProov is not aware of any unexpected results (none is mentioned in the FaceTec Asserted Patents or its file history), long felt need, commercial success (or any nexus to any allegedly successful commercial embodiment), or awards for the FaceTec Asserted Patents. Indeed, as shown in these Preliminary Invalidity Contentions, dozens of other companies and individuals described, built, and/or patented the exact same concepts in the FaceTec Asserted Patents before Plaintiff ever did—often many years before. Even where others' inventions occurred at approximately the same time as the alleged invention in the FaceTec Asserted Patents, such simultaneous invention further demonstrates the obviousness of the FaceTec Asserted Patents.

1 Thus, to the extent it is determined that one or more of the references discussed in these Preliminary  
2 Invalidity Contentions is not prior art under 35 U.S.C. §§ 102(a)(1), 102(a)(2), or otherwise, iProov  
3 may still rely on such reference(s) as demonstrating the state of the art and/or simultaneous  
4 invention.

5 **e. INVALIDITY CHARTS [LPR 1-8(D)]**

6 The attached claim charts (Exhibits 471-A through 471-I and 606-A through 606-I) are  
7 based, in whole or in part, on Plaintiff's asserted theories of infringement in this case, to the extent  
8 discernible from Plaintiff's Infringement Contentions. As an initial matter, all portions of each  
9 prior art reference cited in each of the attached claim charts are relied upon to support the disclosure  
10 of each patent claim limitation, as all portions provide general support. Representative descriptions  
11 and supporting citations are nevertheless provided, but are merely exemplary; they do not  
12 necessarily reflect every instance where a particular claim term or claim limitation may be disclosed  
13 in or taught by the prior art reference. References to figures or drawings refer to the  
14 figures/drawings themselves, as well as to any accompanying text or text necessary to understand  
15 the figures or drawings. References to text refers to the text itself, as well as the accompanying  
16 figures or drawings that accompany the text. iProov reserves the right to rely on additional, or  
17 different, portions of the prior art references, other publications and expert testimony to establish  
18 what these references would have taught one of ordinary skill in the art, or in what manner they  
19 would have motivated a particular combination of references. Moreover, in certain instances,  
20 representative documents for certain prior art systems are cited, but, again, are merely exemplary;  
21 they do not necessarily reflect or include every document relating to the prior art system that exists  
22 and that discloses or teaches a particular claim term or claim limitation. iProov reserves the right  
23 to rely on any and all documents that describe or relate to prior art systems, including relying on  
24 the system itself. iProov also reserves the right to rely on the testimony of the authors, named  
25 inventors, or anyone else with knowledge of the prior art references and systems identified herein,  
26 as well as expert testimony regarding any such references or systems.

27 **f. SECTION 101 AND 112 DEFENSES [LPR 1-8(E)]**  
28

1 iProov provides the following grounds for invalidity under 35 U.S.C. §§ 101 and 112.  
2 iProov's investigation of the FaceTec Asserted Patents is ongoing, and iProov reserves the right to  
3 amend or supplement these disclosures based on further investigation and in a manner consistent  
4 with the Federal Rules of Civil Procedure, or otherwise in accordance with any order or direction  
5 of this Court or agreement of the parties. Further, Plaintiff's Infringement Contentions fail to  
6 provide sufficient detail to fully understand its proposed application of the FaceTec Asserted  
7 Claims, and iProov reserves the right to assert additional grounds for invalidity under 35 U.S.C.  
8 §§ 101 and 112 in response to Plaintiff's claim interpretations. iProov also reserves the right to  
9 supplement, modify, or otherwise amend these grounds for invalidity under 35 U.S.C. §§ 101 and  
10 112 based on the Court's claim construction rulings or opinions or the parties' positions or  
11 arguments taken in connection with the claim construction process.

12 Plaintiff has not yet provided a claim construction for many of the terms and phrases that  
13 iProov anticipates will be in dispute. iProov, therefore, cannot provide a complete list of its § 112  
14 defenses because iProov does not know whether Plaintiff will proffer a construction for certain  
15 terms and phrases that is broader than, or inconsistent with, the construction that would be  
16 supportable by the disclosure set forth in the specification.

17 To the extent the following contentions reflect constructions of claim limitations consistent  
18 with or implicit in Plaintiff's Infringement Contentions, no inference is intended nor should any be  
19 drawn that iProov agrees with Plaintiff's claim constructions, and iProov expressly reserves the  
20 right to contest such claim constructions. iProov offers these contentions in response to Plaintiff's  
21 Infringement Contentions and without prejudice to any position it may ultimately take as to any  
22 claim construction issues.

23 iProov reserves the right to provide additional explanation and/or argument for their  
24 Preliminary Invalidity Contentions under Section 101 and 112, including, for example, based on  
25 expert testimony.

26 **i. INDEFINITENESS**

27 Subsection (b) of § 112 of the Patent Act requires that a patent claim "particularly point[]  
28 out and distinctly claim[] the subject matter which the inventor or a joint inventor regards as the

invention.” 35 U.S.C. § 112(b). Claim terms that fail to inform those skilled in the art “with reasonable certainty . . . about the scope of the invention” fail the definiteness requirement. *Nautilus, Inc. v. Biosig Instruments, Inc.*, 572 U.S. 898, 901 (2014).

To the extent FaceTec proposes or discloses explicit or implicit claim construction positions or supporting arguments that reveal claim language that, in view of the intrinsic evidence, fails to provide reasonable certainty about the scope of the claimed invention, iProov reserves the right to raise the issue of indefiniteness with respect to such claim language. Furthermore, FaceTec’s infringement contentions are both deficient and based only on publicly available information. To the extent FaceTec is later permitted to raise infringement contentions that reveal a claim interpretation supporting a holding of indefiniteness, iProov reserves the right to raise the issue of indefiniteness at such time.

For example, the following claim terms may be indefinite:

| Claim Term                                                                                                                                                                                                                                                                                                                                                             | FaceTec Asserted Claims          |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|
| “A method for <b>authenticating</b> three-dimensionality of a user via a user's camera equipped computing device, the method, during an authentication session comprising”                                                                                                                                                                                             | ’471 Claim 10                    |
| “processing the at least one first image or a portion to create first <b>data</b> ”                                                                                                                                                                                                                                                                                    | ’471 Claim 10                    |
| “distance from the user” / “change the distance” / “second distance being different than the first distance”                                                                                                                                                                                                                                                           | ’471 Claim 10; ’606 Claims 1, 19 |
| “comparing the first data to the second data to determine whether <b>expected distortion</b> exist between the first data and the second data which indicated three-dimensionality of the user”                                                                                                                                                                        | ’471 Claim 10                    |
| “wherein the first data and the second data comprise <b>biometric data</b> ”                                                                                                                                                                                                                                                                                           | ’471 Claim 16                    |
| “A method for <b>verifying</b> three-dimensionality of a user's face using images of the user's face captured using a camera equipped computing device, the method comprising”                                                                                                                                                                                         | ’606 Claims 1, 19                |
| “processing the at least one first image to obtain first <b>biometric data</b> from the at least one first image”                                                                                                                                                                                                                                                      | ’606 Claims 1, 19                |
| “comparing the first <b>biometric data</b> to second biometric data to determine whether differences between the at least one first image and the at least one second image <b>match expected differences</b> resulting from movement of the camera or the user which changed the distance between the user and camera from the first distance to the second distance” | ’606 Claims 1, 19                |
| the first biometric data does <b>not match</b> the second biometric data                                                                                                                                                                                                                                                                                               | ’606 Claim 1                     |

1 the first biometric data is *not identical* to the second biometric  
2 data; and

‘606 Claim 19

3  
4 **ii. LACK OF WRITTEN DESCRIPTION AND/OR ENABLEMENT**

5 The patent statute requires a patentee to describe and enable the purported invention.  
6 *Ariad Pharms., Inc. v. Eli Lilly & Co.*, 598 F.3d 1336, 1343 (Fed. Cir. 2010) (en banc). Written  
7 description and enablement impose distinct but related requirements. *LizardTech, Inc. v. Earth*  
8 *Resource Mapping, Inc.*, 424 F.3d 1336, 1344-45 (Fed. Cir. 2005). For written description, “the  
9 test ... is whether the disclosure of the application relied upon reasonably conveys to those skilled  
10 in the art that the inventor had possession of the claimed subject matter as of the filing date.”  
11 *Ariad*, 598 F.3d at 1351. The “enablement requirement is satisfied when one skilled in the art,  
12 after reading the specification, could practice the claimed invention without undue  
13 experimentation.” *Automotive Techs. Int’l, Inc. v. BMW of N. Am., Inc.*, 501 F.3d 1274, 1282  
14 (Fed. Cir. 2007) (internal quotation omitted).

15 The description and enablement requirements are fundamental to the *quid pro quo* of the  
16 patent system, ensuring that the scope of the claims does not “overreach() the scope of the  
17 inventor’s contribution.” *Ariad*, 598 F.3d at 1353-54. Although the specification is evaluated  
18 from the perspective of a person of ordinary skill, the *specification itself* must satisfy the  
19 description and enablement requirements. Thus, regardless of the prior art’s disclosures, a  
20 specification does not satisfy the written description requirement if it “merely renders the invention  
21 obvious” to a person of ordinary skill, “amount(s) to no more than a ‘wish’ or ‘plan,’” or “simply  
22 claim(s) a desired result” without demonstrating that the patentee actually invented the full claim  
23 scope. *Id.* at 1349-52 (internal quotations omitted). Likewise, for enablement, “[i]t is the  
24 specification, not the knowledge of one skilled in the art, that must supply the novel aspects of  
25 an invention in order to constitute adequate enablement.” *Genentech, Inc. v. Novo Nordisk A/S*,  
26 108 F.3d 1361, 1366 (Fed. Cir. 1997).

27 To prevent overreaching claims, the law requires the patentee to describe and enable the  
28 “full scope” of the claims. *LizardTech*, 424 F.3d at 1344-45. For example, a patentee may not



1 describe and enable one embodiment and then capture other, “distinctly different” embodiments  
2 within the claim scope. *Automotive Techs.*, 501 F.3d at 1285 (affirming summary judgment of  
3 non-enablement because the patentee described and enabled only mechanical sensors but the  
4 generic “sensor” claims also covered electronic sensors); *Ariad*, 598 F.3d at 1358 (overturning  
5 jury verdict of no invalidity on written description grounds).

6 The FaceTec Asserted Claims fail both the written description and enablement  
7 requirements. For example, the ’471 Patent does not sufficiently describe or enable “comparing the  
8 first data to the second data to determine whether ***expected distortion*** exist between the first data  
9 and the second data which indicated three-dimensionality of the user,” as recited in claim 1. A  
10 person of ordinary skill would not have understood reading the specification how to implement a  
11 method of authentication involving “expected distortion” as the specification fails to describe what  
12 is meant by expected distortion, how data information relates to this distortion, or how  
13 determinations could be made based on this data. The term “expected distortion” is only mentioned  
14 in the specification twice in that it may be based on a mobile device and that it may be used in  
15 validating images. (See ’471 patent, 29:65–30:5 (“[T]he system may predict the expected fish-eye  
16 distortion of the images based on the mobile device used for enrollment and authentication, and  
17 based on known and trusted enrollment data. In addition or as an alternative, the known  
18 specifications of a mobile phone camera for a given model may be utilized to predict the **expected**  
19 **distortion** of the person's facial features at different distances from the lens.”), 30:11–18 (“During  
20 authentication, multiple images are captured in addition to images corresponding the close and far  
21 distances of the enrollment images and biometrics. Based on the **expected distortion** of these  
22 intermediary images according to the distanced traveled by the device, the system may validate that  
23 the change in distortion of the images is happening at the correct rate, even though only two  
24 enrollment profiles are obtained.”).)

25 Similarly, the ’606 Patent does not sufficiently describe or enable “comparing the first  
26 biometric data to second biometric data to determine whether differences between the at least one  
27 first image and the at least one second image ***match expected differences*** resulting from movement  
28 of the camera or the user which changed the distance between the user and camera from the first

1 distance to the second distance,” as recited in claims 1 and 19. The specification does not state  
2 how to determine expected differences for an user, how biometric data relates to these expected  
3 differences, or what is considered a match between the biometric data and expected differences.  
4 The specification merely states that expected differences may be based on testing. (*See* ’606 patent,  
5 36:15–22 (“The expected values or expected rate of change of an item in an image, defined by pixel  
6 location or values, may be based on testing over time such as expected location, expected  
7 displacement, expected rate of change of the item, or even **expected differences** in the rate to  
8 change which would indicate three-dimensionality (as opposed to a 2D photograph or video screen  
9 of a person).”).) A person of ordinary skill would not have understood reading the specification  
10 how to implement a method comparing biometric data to expected differences for a match.

### 11 **iii. MEANS PLUS FUNCTION CLAIMS**

12 At his time, Defendant does not identify any terms that invoke 35 U.S.C. § 112(f) in the  
13 FaceTec Asserted Claims. FaceTec’s infringement contentions are incomplete and do not provide  
14 iProov with sufficient information to fully understand the basis for FaceTec’s infringement  
15 allegations or understand FaceTec’s construction of the limitations in the FaceTec Asserted Claims.  
16 Moreover, the parties’ understanding of the terms of the FaceTec Asserted Claims may change  
17 during claim construction and other proceedings in the case. iProov reserves its right to amend or  
18 supplement its identification of terms that invoke paragraph f of 35 U.S.C. § 112 (if any) in view  
19 of these future proceedings.

### 20 **iv. INELIGIBILITY UNDER 35 U.S.C. § 101**

21 The FaceTec Asserted Claims are further invalid for failure to meet the eligibility  
22 requirements of 35 U.S.C. § 101.

23 Section 101 provides that “[w]hoever invents or discovers any new and useful process,  
24 machine, manufacture, or composition of matter, or any new and useful improvement thereof, may  
25 obtain a patent therefor, subject to the conditions and requirements of this title.” 35 U.S.C. § 101.  
26 The Supreme Court has “long held that this provision contains an important implicit exception:  
27 Laws of nature, natural phenomena, and abstract ideas are not patentable.” *Alice Corp. v. CLS*  
28 *Bank Int’l*, 134 S. Ct. 2347, 2354 (2014) (quoting *Ass’n for Molecular Pathology v. Myriad*

1 *Genetics, Inc.*, 133 S. Ct. 2107, 2116 (2013)). “[S]uch discoveries are manifestations of...nature,  
2 free to all men and reserved exclusively to none.” *Mayo Collaborative Servs. v. Prometheus Labs.,*  
3 *Inc.*, 132 S. Ct. 1289, 1293 (2012) (quotations and citations omitted). The concern that underlies  
4 “this exclusionary principle” is “one of preemption.” *Alice*, 134 S. Ct. at 2354. Thus, patents that  
5 seek to preempt others from using “the basic tools of scientific and technological work” are invalid.  
6 *Id.*

7 The Supreme Court in *Alice* set forth a two-step test “for distinguishing patents that claim  
8 laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible  
9 applications of those concepts.” *Alice*, 134 S. Ct. at 2355.

10 1. First, the Court must “determine whether the claims at issue are directed to one of  
11 those patent-ineligible concepts,” such as an abstract idea. *Id.* If the Court determines that the  
12 claims are directed to a patent-ineligible concept such as an abstract idea, then:

13 2. The Court must “consider the elements of each claim both individually and as an  
14 ordered combination to determine whether the additional elements transform the nature of the claim  
15 into a patent-eligible application.” *Id.* (citation and quotation marks omitted). The Supreme Court  
16 describes this second step “as a search for an inventive concept—*i.e.*, an element or combination  
17 of elements that is sufficient to ensure that the patent in practice amounts to significantly more than  
18 a patent upon the ineligible concept itself.” *Id.* (quotation marks and brackets omitted). For  
19 example, “[s]tating an abstract idea while adding the words ‘apply it’ is not enough for patent  
20 eligibility. Nor is limiting the use of an abstract idea ‘to a particular technological environment.’”  
21 *Id.* at 2358 (internal citations and quotations omitted).

22 Each and every Asserted Claim is invalid under 35 U.S.C. § 101 and applicable case law  
23 authority. *See, e.g., Alice*, 134 S. Ct. at 2354; *In re TLI Commc’ns LLC Patent Litig.*, 823 F.3d 607,  
24 613 (Fed. Cir. 2016); *Intellectual Ventures I LLC v. Capital One Bank (USA)*, 792 F.3d 1363, 1369  
25 (Fed. Cir. 2015); *Digitech Image Techs., LLC v. Elecs. for Imaging, Inc.*, 758 F.3d 1344, 1351 (Fed.  
26 Cir. 2014); *Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat’l Ass’n*, 776 F.3d  
27 1343, 1348 (Fed. Cir. 2014); *Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 719 (Fed. Cir. 2014);  
28 *BuySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350, 1355 (Fed. Cir. 2014); *Internet Patents Corp. v.*

1 *Active Network, Inc.*, 790 F.3d 1343, 1347-48 (Fed. Cir. 2015); *Intellectual Ventures I LLC v.*  
2 *Capital One Fin. Corp.*, 850 F.3d 1332, 1341 (Fed. Cir. 2017); *FairWarning IP, LLC v. Iatric Sys.,*  
3 *Inc.*, 839 F.3d 1089, 1093 (Fed. Cir. 2016); *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350,  
4 1354 (Fed. Cir. 2016); *Two-Way Media Ltd. v. Comcast Cable Commc'ns, LLC*, 874 F.3d 1329,  
5 1337 (Fed. Cir. 2017); *Affinity Labs of Tex., LLC v. Amazon.com Inc.*, 838 F.3d 1266, 1267-68  
6 (Fed. Cir. 2016); *BSG Tech v. Buyseasons*, 899 F.3d 1281, 1287 (Fed. Cir. Aug. 15, 2018); *SAP*  
7 *America v. InvestPic*, 898 F.3d 1161, 1166-68 (Fed. Cir. 2018); *Burnett v. Panasonic*, No. 2018-  
8 1234, 2018 WL 3434533, at \*5 (Fed. Cir. July 16, 2018); *In re Villena*, No. 2017-2069, 2018 WL  
9 4145863, at \*2 (Fed. Cir. Aug. 29, 2018); *Interval Licensing v. AOL*, 896 F.3d 1335, 1338, 1345-  
10 48 (Fed. Cir. 2018); *Intellectual Ventures I v. Symantec*, No. 2017-1814, 2018 WL 1324863, at \*1,  
11 n.1 (Fed. Cir. Mar. 15, 2018); *Zuili v. Google*, No. 2017-2161, 2018 WL 798666, at \*2 (Fed. Cir.  
12 Feb. 9, 2018); *WhitServe v. Donuts*, 809 F. App'x 929, 932 (Fed. Cir. 2020); *Elec. Commc'n Techs.*  
13 *v. ShoppersChoice.com*, 958 F.3d 1178, 2020 WL 2479692, at \*1-2 (Fed. Cir. 2020); *Dropbox v.*  
14 *Synchronoss Techs.*, 815 F. App'x 529, 533 (Fed. Cir. 2020); *Am. Axle & Mfg. v. Neapco Holdings*,  
15 967 F.3d 1285, 1295 (Fed. Cir. 2020); *Chamberlain Grp. v. Techtronic Indus.*, 935 F.3d 1341, 1348  
16 (Fed. Cir. 2019), *cert. denied*, 2020 WL 5882260 (2020); *Innovation Scis. v. Amazon.com*, 778 F.  
17 App'x 859, 863 (Fed. Cir. 2019); *Ameranth v. Domino's Pizza*, 792 F. App'x 780, 788 (Fed. Cir.  
18 2019); *ChargePoint v. SemaConnect*, 920 F.3d 759, 766 (Fed. Cir. 2019), *cert. denied*, 140 S. Ct.  
19 983 (2020); *Voter Verified v. Election Sys. & Software*, 887 F.3d 1376, 1384 (Fed. Cir. 2018);  
20 *BSG Tech v. Buyseasons*, 899 F.3d 1281, 1290 (Fed. Cir. 2018); *Glasswall Sols. v. Clearswift*, No.  
21 2018-1407, 2018 WL 6720014, at \*2 (Fed. Cir. Dec. 20, 2018); *Interval Licensing v. AOL*, 896  
22 F.3d 1335, 1346 (Fed. Cir. 2018); *Smartflash v. Apple*, 680 F. App'x 977, 983 (Fed. Cir. 2018);  
23 *Location Based Servs. v. Niantic*, 295 F. Supp. 3d 1031, 1040, 1045-49 (N.D. Cal. 2017), *aff'd* 742  
24 F. App'x 506 (Fed. Cir. 2018).

25 The FaceTec Asserted Claims fail to recite patent-eligible subject matter under § 101 and  
26 are therefore invalid.

## 27 1. ABSTRACT IDEA

28 The claims of the FaceTec Asserted Patents are invalid because they are directed to a patent-

ineligible abstract idea and fail to recite any inventive concept under *Alice Corp. v. CLS Bank International*, 134 S. Ct. 2347 (2014). Each of the FaceTec Asserted Claims is generally directed to the abstract concept of collecting/receiving information from images, comparing the collected information, and then applying a rule to the result. For example, each of the asserted independent claims have the same (1) capturing/receiving, (2) processing/comparing, and (3) authenticating/determining steps:

**'471 Patent:**

10. A method for authenticating three-dimensionality of a user via a user's camera equipped computing device, the method, during an authentication session comprising:

**capturing** at least one first image of the user taken with the camera of the computing device at a first location which is a first distance from the user;

**processing** the at least one first image or a portion to create first data;

moving the camera from the first location to a second location, the second location being a second distance from the user, or the user moving from the first location to the second location to change the distance between the user and the camera from the first distance to a second distance;

**capturing** at least one second image of the user taken with the camera of the computing device at the second distance from the user, the second distance being different than the first distance;

**processing** the at least one second image or a portion thereof to create second data;

**comparing** the first data to the second data to determine whether expected distortion exist between the first data and the second data which indicated three-dimensionality of the user;

**authenticating** the user when the differences between the first data and the second data have expected distortion resulting from movement of the camera from the first location to the second location or movement of the user from the first

location to the second location, which causes the change in distance between the user and the camera.

**'606 Patent:**

1. A method for verifying three-dimensionality of a user's face using images of the user's face captured using a camera equipped computing device, the method comprising:

**capturing** at least one first image of the user taken with the camera of the computing device at a first distance from the user;

**processing** the at least one first image to obtain first biometric data from the at least one first image;

**capturing** at least one second image of the user taken with the camera of the computing device at a second distance from the user, the second distance being different than the first distance;

**processing** the at least one second image to obtain second biometric data based on the at least one second image;

**comparing** the first biometric data with the second biometric data to determine whether the first biometric data matches the second biometric data;

**comparing** the first biometric data to second biometric data to determine whether differences between the at least one first image and the at least one second image match expected differences resulting from movement of the camera or the user which changed the distance between the user and camera from the first distance to the second distance;

**determining** that the user's face is three-dimensional when:

the first biometric data does not match the second biometric data; and

the second biometric data has the expected differences as compared to the first biometric data resulting from the change in distance between the user and the camera when capturing the at least one first image and the at least one second image.

1           19. A method for verifying three-dimensionality of a user's face using  
2 images of the user's face captured using a camera equipped computing device, the  
3 method comprising:

4           **receiving** first biometric data generated from at least one first image of the  
5 user taken with the camera of the computing device located at a first distance from  
6 the user;

7           **receiving** second biometric data generated from at least one second image  
8 of the user taken with the camera of the computing device located at a second  
9 distance from the user, the second distance being different than the first distance;

10          **comparing** the first biometric data with the second biometric data to  
11 determine whether the first biometric data matches the second biometric data;

12          **comparing** the first biometric data with second biometric data to determine  
13 whether differences between the at least one first image and the at least one second  
14 image match expected differences resulting from movement of the camera or the  
15 user which changes the distance between the user and camera for capture of the one  
16 or more first images at the first distance and capture of the one or more second  
17 images at the second distance;

18          **determining** that the user's face is three-dimensional when:

19               the first biometric data is not identical to the second biometric data; and

20               the second biometric data has expected differences as compared to the first  
21 biometric data, the expected differences resulting from the change in distance  
22 between the user and the camera when the at least one first image was captured at  
23 the first distance and the at least one second image was captured at the second  
24 distance.

25  
26          The Federal Circuit has repeatedly held that collecting information is an abstract idea. *See,*  
27 *e.g., OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1363 (Fed. Cir. 2015); *Content*  
28 *Extraction & Transmission LLC v. Wells Fargo Bank, Nat'l Ass'n*, 776 F.3d 1343, 1347 (Fed. Cir.

1 2014); *Digitech Image Techs., LLC v. Elecs. for Imaging, Inc.*, 758 F.3d 1344, 1351 (Fed. Cir.  
2 2014); *CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1370 (Fed. Cir. 2011). Further,  
3 the Federal Circuit has found “parsing and comparing data” to be an abstract idea as well. *See*  
4 *Berkheimer v. HP Inc.*, F.3d 1360, 1367 (Fed. Cir. 2018). The fact that the information collected  
5 is facial data from photos or images does not change that the invention is directed to an abstract  
6 concept. Likewise, the patent’s third step of “authenticating” as a result of the comparison has been  
7 held abstract by the Federal Circuit. *See, e.g., Universal Secure Registry LLC v. Apple Inc.*, 10  
8 F.4th 1342, 1354-55 (Fed. Cir. 2021) (“authenticating a user using both the biometric-information-  
9 derived first authentication and a second authentication information” was held to be an abstract  
10 idea); *Prism Technologies LLC v. T-Mobile USA, Inc.*, 696 Fed. Appx. 1014, 1017 (Fed. Cir. 2017)  
11 (claims involving authenticating users were held to be “directed to the abstract idea of ‘providing  
12 restricted access to resources.’”)

13 Additionally, the Federal Circuit has instructed that in a § 101 analysis, the court should  
14 identify the “focus of the claimed advance over the prior art.” *Affinity Labs of Tex., LLC v.*  
15 *DIRECTV, LLC*, 838 F.3d 1253, 1257 (Fed. Cir. 2016). The court can account for “the key  
16 distinguishing feature of the claims” reflected in the “prosecution history and the specification.”  
17 *OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1363 (Fed. Cir. 2015). Here, the key alleged  
18 point of novelty of the FaceTec Asserted Patents is merely comparing the expected differences or  
19 expected distortion caused by images being captured at different distances. This is nothing more  
20 than perspective distortion, an abstract idea well known and commonly used in photography. *See,*  
21 *e.g., A Matter of Perspective*, Cornicello Photography (May 8, 2007),  
22 <https://cornicello.com/itfigures/focal-length-and-perspective>; Nathan Yan, *Assignment, Week 11:*  
23 *Perspective in Portraits*, EECS 98/198 (2007), [https://inst.eecs.berkeley.edu/~ee198-](https://inst.eecs.berkeley.edu/~ee198-4/fa07/week11_assignment.shtml)  
24 [4/fa07/week11\\_assignment.shtml](https://inst.eecs.berkeley.edu/~ee198-4/fa07/week11_assignment.shtml); Bill Wadman, *Impact of Focal Length on Portraits*, On Taking  
25 Pictures (Aug. 9, 2010), [www.ontakingpictures.com/2010/08/impact\\_of\\_focal\\_length\\_on\\_port](http://www.ontakingpictures.com/2010/08/impact_of_focal_length_on_port);  
26 Daniel Baker, *Face Distortion Is Not Due To Lens Distortion*, Daniel’s Visionarium (May 5, 2012),  
27 <https://bakerdh.wordpress.com/2012/05/05/face-distortion-is-not-due-to-lens-distortion>; *What Is*  
28 *Lens Distortion And How To Correct It*, Discover Digital Photography (Mar. 6, 2013),



1 <https://www.discoverdigitalphotography.com/2013/what-is-lens-distortion-and-how-to-correct-it>.  
2 The claimed invention of the Asserted Patents comprises mere processes for collecting and  
3 comparing information and then applying a rule, not any particular inventive technology for  
4 performing those functions.

5 **2. CLAIM ELEMENTS ALLEGED TO BE WELL-UNDERSTOOD, ROUTINE,**  
6 **AND/OR CONVENTIONAL**

7 Defendant contends that every element of the FaceTec Asserted Claims is well-understood,  
8 routine, and/or conventional, for the reasons given in Defendant’s contentions under 35 U.S.C.  
9 §§ 102 and 103, *supra*. There is no element of any FaceTec Asserted Claim that qualifies as an  
10 inventive concept. The FaceTec Asserted Patents does not address or solve any technological  
11 problem but focuses instead on collecting information from images and comparing the collected  
12 information. Indeed, the Asserted Patents contain nothing more than result-oriented language for  
13 achieving desired functional results and recite purely functional limitations, such as “capturing,”  
14 “processing,” “comparing,” “authenticating,” and “determining.” (*See, e.g.*, ’606 Patent, cl. 1; ’471  
15 Patent, cl. 10.) The claims lack requisite technical detail describing *how* to implement these  
16 functions and this type of drafting amounts to encompassing the “principle in the abstract.” *See*  
17 *Two-Way Media*, 874 F.3d at 1337 (“The claim requires the functional results of ‘converting,’  
18 ‘routing,’ ‘controlling,’ ‘monitoring,’ and ‘accumulating records,’ but does not sufficiently  
19 describe how to achieve these results in a non-abstract way.”).

20 Moreover, when the abstraction is removed from the claims of the Asserted Patents, nothing  
21 is left other than generic computer functionality, such as comparing data. *BSG Tech LLC v.*  
22 *Buyseasons, Inc.*, 899 F.3d 1281, 1291 (Fed. Cir. 2018) (“At *Alice* step two, it is irrelevant whether  
23 [the abstract idea] may have been non-routine or unconventional as a factual matter” when the  
24 claims fail to provide “significantly more” than the abstract idea itself). None of the Asserted  
25 Patents’ claims include claim elements that “transform the nature of the claim” into a patent-eligible  
26 application. *See Alice*, 134 S. Ct. at 2355; *see also RecogniCorp, LLC v. Nintendo Co.*, 855 F.3d  
27 1322, 1328, 122 USPQ2d 1377, 1381 (Fed. Cir. 2017) (the Federal Circuit held a process for  
28 encoding/decoding facial data using image codes assigned to particular facial features held

ineligible because the process did not require a computer). The claims do not recite any inventive concept, but instead merely recite the performance of the abstract idea using previously invented generic computer features and functions. As in *Contact Extraction*, the claims of the Asserted Patents “merely recite the use of existing” technology. 776 F.3d at 1348. “There is no ‘inventive concept’ in CET’s use of a generic scanner and computer to perform well-understood, routine, and conventional activities commonly used in industry.” *Id.* The Asserted Patents’ specifications do not describe any of their claimed concepts in any technical detail, because the technology used to implement such concepts was conventional and well understood before the priority date of the FaceTec Asserted Patents..

**g. UNENFORCEABILITY [LPR 1-8(F)]**

iProov is currently not asserting that the FaceTec Asserted Patents are unenforceable due to inequitable conduct. iProov reserves the right to amend these contentions and its allegations in the litigation in light of further discovery.

**h. PTO PROCEEDINGS [LPR 1-8(G)]**

iProov has not made a determination yet as to whether it intends to petition for review or reexamination before the United States Patent and Trademark Office.

**III. DOCUMENT PRODUCTION [LPR 1-9]**

Concurrent with this disclosure, iProov is producing documents required by LPR 1-9, to the extent they exist, and will make relevant source code available for inspection upon request.

1 Dated: September 27, 2022

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1 **CERTIFICATE OF SERVICE**

2 I am a citizen of the United States and a resident of the State of California. I am  
3 employed in Santa Clara County, State of California, in the office of a member of the bar of this  
4 Court, at whose direction the service was made. I am over the age of eighteen years, and not a  
5 party to the within action. My business address is Cooley LLP, 3175 Hanover Street, Palo Alto,  
6 California 94304-1130. On the date set forth below I served the attached document in the manner  
7 described below:

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10 Cooley LLP for collection and processing of correspondence for mailing with the  
11 United States Postal Service, and I caused such envelope(s) with postage thereon  
fully prepaid to be placed in the United States Postal Service at Palo Alto,  
California.
- 12 ☐ (BY MESSENGER SERVICE) by consigning the document(s) to an authorized  
13 courier and/or process server for hand delivery on this date.
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to the offices of addressee(s) at the numbers listed below.
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prepared in PDF and then served by electronic mail to the parties listed below.

21 on the following parties in this action:

22 See attached service list.

23 Executed on September 27, 2022, at Palo Alto, California.

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Tracy Gibbs

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