Trials@uspto.gov
571-272-7822

Paper 10
Date: September 11, 2024

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

META PLATFORMS, INC.,
Petitioner,

v.

SITNET, LLC,
Patent Owner.

IPR2024-00528
Patent 8,249,932 B1

Before NEIL T. POWELL, KARA L. SZPONDOWSKI,
and STEPHEN E. BELISLE, *Administrative Patent Judges*.

SZPONDOWSKI, *Administrative Patent Judge*.

DECISION
Granting Institution of *Inter Partes* Review
35 U.S.C. § 314

I. INTRODUCTION

Meta Platforms, Inc. ("Petitioner") filed a Petition (Paper 1, "Pet.") to institute an *inter partes* review of claims 1–11, 22, and 23 of U.S. Patent No. 8,249,932 B1, issued on August 21, 2012 (Ex. 1001, "the '932 patent"). Petitioner concurrently filed a "Notice Ranking Petitions for *Inter Partes* Review of U.S. Patent No. 8,249,932" (Paper 2, "Notice"). SitNet, LLC ("Patent Owner") filed a Preliminary Response (Paper 7, "Prelim. Resp."). With our authorization, Petitioner filed a Preliminary Reply (Paper 8, "Prelim. Reply") and Patent Owner filed a Preliminary Sur-reply (Paper 9, "Prelim. Sur-reply").

Institution of an *inter partes* review is authorized when "the information presented in the petition . . . and any response . . . shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition." 35 U.S.C. § 314(a). Based on the current record, and for the reasons explained below, we determine that Petitioner has established a reasonable likelihood that it would prevail with respect to at least one challenged claim, and we institute an *inter partes* review.

II. BACKGROUND

A. Real Parties-in-Interest

Petitioner identifies itself as the real party-in-interest. Pet. 85. Patent Owner also identifies itself as the real party-in-interest. Paper 5, 1 (Patent Owner's Mandatory Notices).

B. Related Matters

The parties identify *SitNet LLC v. Meta Platforms, Inc.*, Case No. 1:23-cv-06389 (SDNY) ("related litigation") as a related case. Pet. 85;

Paper 5, 1. Petitioner has also concurrently filed petitions against three related patents in IPR2024-00529, IPR2024-00530, and IPR2024-00531, and has concurrently filed IPR2024-00612 challenging additional claims in the ’932 patent. Pet. 85.

C. The ’932 Patent (Ex. 1001)

The ’932 patent is titled “Targeted Advertising in a Situational Network” and is generally directed to “[a] method of presenting targeted advertising in a situational network.” Ex. 1001, codes (54), (57). The method generally describes that “[d]evices corresponding to a plurality of individuals are automatically connected to a situational network established in response to [an indication of an occurrence of a] situation.” *Id.* at code (57). In addition, “a plurality of advertisements [are received] from at least one advertising entity,” and “[a]t least one of the advertisements is provided to at least one of the individuals based on determining an affiliation of the individual to the situation.” *Id.*

The ’932 patent describes that a situational network “is created when an occurrence or expected occurrence of an event or situation . . . causes connections, also referred to as links, to be established between, within or among a set of participants.” Ex. 1001, 3:46–50. “The situational network allows the participants . . . to interact and exchange information over connections to or through a computer network . . . regarding the event or situation.” *Id.* at 3:50–53. Participants in the situational network may include external entities (e.g., weather agencies or traffic agencies) and users (i.e., individuals or members). *Id.* at 3:59–4:10. Users are connected to the situational network using devices, such as cell phones or personal computers, and the devices may be connected automatically, by requesting a

connection, or by receiving an invitation to connect. *Id.* at 4:11–22. Examples of events or situations that can initiate the formation of a situational network include weather phenomenon, emergency situations, natural disasters, weather related activities, navigation and/or travel incidents, public health crises, and social events. *Id.* at 4:34–48, 30:46–47.

In addition, "targeted advertisements . . . may be delivered to devices of users . . . connected through a [situational network] using profile and location information relating to the users . . . and determining an ad opportunity based on an affiliation between the user and the situation." Ex. 1001, 27:19–24. The "affiliation that a user has with the situation is used as a basis for delivering the targeted advertisements" and is "determined from one or more factors," including "proximity of the user to the situation, role of the user within the situation, affect of the situation on the user, affect of the situation on the property of the user, and projection of the [situational network] in which the user is included." *Id.* at 27:25–32.

D. Illustrative Claim

Independent claim 1 is reproduced below, with Petitioner's identifiers in brackets.

> 1. [1.P] A method of presenting targeted advertising in a situational network, the method comprising:
>
> [1.A] receiving a plurality of advertisements from at least one advertising entity;
>
> [1.B] obtaining an indication of an occurrence of a situation;
>
> [1.C] automatically connecting devices corresponding to a plurality of individuals to the situational network established in response to the situation;

> [1.D] causing an automatic redirection of a web browser application operating on each of the devices to a webpage containing information related to the situation; and
>
> [1.E] providing to each of the devices at least one of the plurality of advertisements for display on the webpage based on determining an affiliation of the corresponding individual to the situation, wherein the affiliation is based at least in part on an effect of the situation on the corresponding individual or their property.

Ex. 1001, 33:4–20. Claim 22 is also independent, and recites similar limitations for a system. *Id.* at 34:36–60.

E. Prior Art and Asserted Challenges to Patentability

Petitioner asserts that claims 1–11, 22, and 23 are unpatentable based on the following challenges (Pet. 7):

Claim(s) Challenged	35 U.S.C. §[1]	Basis/References
1–4, 6–11, 22, 23	103(a)	Carlson,[2] Shahine[3]
1–4, 6–11, 22, 23	103(a)	Carlson, Shahine, Lundy[4]
5	103(a)	Carlson, Shahine, Roskind[5]

[1] Because the earliest possible effective filing date of the '932 patent is before March 16, 2013, patentability is governed by the version of 35 U.S.C. § 103 preceding the Leahy-Smith America Invents Act ("AIA"), Pub L. No. 112–29, 125 Stat. 284 (2011). *See* Pet. 2.
[2] Carlson, US 2006/0282312 A1, published Dec. 14, 2006 (Ex. 1005). Petitioner contends Carlson is prior art under 35 U.S.C. § 102(e). Pet. 5.
[3] Shahine, US 8,799,073 B2, issued Aug. 5, 2014 (Ex. 1015). Petitioner contends Shahine is prior art under 35 U.S.C. § 102(e). Pet. 5.
[4] Lundy et al., US 2008/0092162 A1, filed Aug. 24, 2007, published Apr. 17, 2008 (Ex. 1006) ("Lundy"). Petitioner contends Lundy is prior art under 35 U.S.C. § 102(e), based on its claim to priority of Provisional Appl. No. 60/839,683, filed on Aug. 24, 2006. Pet. 5–6.
[5] Roskind, US 7,263,614 B2, issued Aug. 28, 2007 (Ex. 1011). Petitioner contends Roskind is prior art under 35 U.S.C. § 102(e). Pet. 5.

Claim(s) Challenged	35 U.S.C. §[1]	Basis/References
5	103(a)	Carlson, Shahine, Lundy, Roskind
1–11, 22, 23	103(a)	Amidon,[6] Walsh,[7] Shahine
8	103(a)	Amidon, Walsh, Shahine, Jones[8]

In support of its proposed challenges, Petitioner relies on the Declaration of Bernard J. Jansen, Ph.D. *See* Ex. 1003.

III. ANALYSIS

A. Legal Standards

A claim is unpatentable under 35 U.S.C. § 103(a) if "the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains." *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007). The question of obviousness is resolved on the basis of underlying factual determinations, including (1) the scope and content of the prior art; (2) any differences between the claimed subject matter and the prior art; (3) the level of skill in the art; and (4) objective evidence of nonobviousness, i.e., secondary considerations. *See Graham v. John Deere Co.*, 383 U.S. 1, 17–18 (1966).

"In an [*inter partes* review], the petitioner has the burden from the onset to show with particularity why the patent it challenges is

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[6] Amidon et al., US 8,346,864 B1, issued Jan. 1, 2013 (Ex. 1007) ("Amidon"). Petitioner contends Amidon is prior art under 35 U.S.C. § 102(e). Pet. 5.

[7] Walsh et al., US 9,195,996 B1, issued Nov. 24, 2015 (Ex. 1008) ("Walsh"). Petitioner contends Walsh is prior art under 35 U.S.C. § 102(e). Pet. 5.

[8] Jones, US 2006/0095320 A1, published May 4, 2006 (Ex. 1014). Petitioner contends Jones is prior art under 35 U.S.C. § 102(e). Pet. 5.

unpatentable." *Harmonic Inc. v. Avid Tech., Inc.*, 815 F.3d 1356, 1363 (Fed. Cir. 2016) (citing 35 U.S.C. § 312(a)(3)); *see also Intelligent BioSystems, Inc. v. Illumina Cambridge Ltd.*, 821 F.3d 1359, 1369 (Fed. Cir. 2016). At this preliminary stage, we determine whether the information presented in the Petition shows there is a reasonable likelihood that Petitioner would prevail in establishing that at least one of the challenged claims would have been obvious.

B. Level of Ordinary Skill in the Art

Petitioner contends a person of ordinary skill in the art "would have had a B.S. degree in Computer Science, Computer Engineering, or an equivalent field, as well as at least 2-3 years of academic or industry experience in computer networking and digital advertising, or comparable industry experience." Pet. 4 (citing Ex. 1003 ¶ 37).

At this stage of the proceeding, Patent Owner does not challenge Petitioner's definition. *See generally* Prelim. Resp. However, we note that Patent Owner's expert, Dr. Aviel D. Rubin, states that a person of ordinary skill in the art "would have a bachelor's degree in computer science (or an equivalent degree) with at least three years of experience in the field of computer science (or an equivalent). This level of skill is approximate, and more experience would compensate for less formal education, and vice versa." Ex. 2005 ¶ 23.

The parties' positions appear to be more or less the same. Based on the current record, we adopt Petitioner's proposed level of ordinary skill in the art for purposes of this Decision, as it is consistent with the level of ordinary skill in the art reflected by the prior art of record. We note that our Decision would be the same under either party's proposed construction.

C. Claim Construction

A claim "shall be construed using the same claim construction standard that would be used to construe the claim in a civil action under 35 U.S.C. § 282(b)." 37 C.F.R. § 42.100(b) (2024). Petitioner "believes that no claim term requires explicit construction and that all terms should be accorded their ordinary and customary meaning." Pet. 4. Patent Owner contends that the term "situational network," which appears in claims 1, 10, 11, 12, 14, and 22, requires construction. Prelim. Resp. 1.

Patent Owner contends that, in the related litigation, the parties have proposed different constructions of "situational network." Prelim. Resp. 2. According to Patent Owner, Petitioner proposed that a "situational network" is "a network ***created when an occurrence or expected occurrence of an event or situation*** causes connections to be established between, within or among a set of participants," whereas Patent Owner proposed that a "situational network" is "a network that is the subset of a larger network, comprising member nodes, ***formed in response to an event or situation***." Prelim. Resp. 2 (citing Ex. 2001, 6–10). Patent Owner states that "neither party disputes that a 'situational network' is created in response to the occurrence of an event or situation." *Id.* In the Preliminary Response, Patent Owner further provides arguments in support of its proposed interpretation of "situational network." *Id.* at 2–10.

After Petitioner filed the Preliminary Reply, the District Court in the related litigation issued a claim construction order construing the term "situational network" as "a network created in response to an event or situation." Ex. 2007, 2. The District Court rejected both Petitioner and Patent Owner's proposed constructions, adopted its own construction, and

noted that "[n]either party objected to this construction." *Id.* at 2–4. In particular, the District Court rejected Patent Owner's argument that a "situational network" must be part of a larger social network. *Id.* at 2–3. In the Preliminary Sur-reply, Patent Owner "requests the Board to consider and adopt the District Court's construction." Prelim. Sur-reply 1.

For purposes of institution, we apply the District Court's construction of "situational network," that is, "a network created in response to an event or situation." We note that this construction appears consistent with the Specification and the language of the claims. *See, e.g.*, Ex. 1001, code (57) (referring to "a situational network established in response to the situation"); 3:46–48 (stating that "a situational network 3000 is created when an occurrence or expected occurrence of an event or situation . . ."); 4:34–36 (stating that "[e]xamples of events or situations 3005 that might initiate the formation of a situational network include weather phenomenon . . ."); 33:10–11 (claim 1, reciting "the situational network established in response to the situation"), 34:42–44 (claim 22, reciting "situational network established in response to the situation"); Ex. 2007, 2–4. We emphasize that our construction of "situational network" is preliminary. To the extent that there is any objection to this construction, we encourage the parties to further develop the record during the trial.

D. Multiple Petitions

Concurrently with this Petition, Petitioner also filed a petition in IPR2024-00612 that challenges claims 12–21 of the '932 patent. *See*

IPR2024-00612, Paper 1, 6.[9] Petitioner argues in its Notice that "independent claim 12 differs substantially in claim scope" from claims 1–11, 22, and 23, and that "[t]he dependent claims also differ across claim sets." Notice 1–2.

Petitioner asserts that it needed to submit two petitions because (1) the petitions are not duplicative because they challenge different claims with substantially different claim scope; (2) the burden on the Board is minimized because the petition in IPR2024-00612 relies on the same prior art presented in this proceeding; and (3) the claims are "lengthy." Notice 2–5. Patent Owner does not respond to Petitioner's Notice, or otherwise address the separate parallel petitions filed.

The Board has indicated that "one petition should be sufficient to challenge the claims of a patent in most situations." Consolidated Trial Practice Guide 59 (Nov. 2019) ("CTPG").[10] But "the Board recognizes that there may be circumstances in which more than one petition may be necessary." *Id.* Here, we agree with Petitioner that the claims in the '932 patent are relatively lengthy. Moreover, the overlap of petitions (i.e., the prior art asserted), mitigates the potential that the parallel proceedings "may place a substantial and unnecessary burden on the Board or the patent owner" or that it "could raise fairness, timing, and efficiency concerns." *Id.* Further, under these circumstances, it is not apparent there has been a substantial benefit afforded to Petitioner by filing two petitions. Thus, we

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[9] In IPR2024-00612, Petitioner asserts three grounds challenging (1) claims 12, 14–21 over the combination of Amidon and Walsh; (2) claim 3 over the combination of Amidon, Walsh, and Shahine; and (3) claim 20 over the combination of Amidon, Walsh, Shahine, and Jones. Notice 2.
[10] Available at https://www.uspto.gov/TrialPracticeGuideConsolidated.

determine that Petitioner's filing of two parallel petitions does not weigh in favor of exercising our discretion to deny institution in this particular case.

E. Discretion to Deny Institution Under § 35 U.S.C. 314

Patent Owner contends that we should exercise our discretion to deny institution under 35 U.S.C. § 314(a) in light of the related litigation in the Southern District of New York. Prelim. Resp. 21–24. Patent Owner contends that the factors identified in *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11 (PTAB Mar. 20, 2020) (precedential) ("Fintiv"), weigh in favor of exercising discretion to deny institution. *Id.*

On June 21, 2022, the Director of the U.S. Patent and Trademark Office ("USPTO") issued a Memorandum titled "Interim Procedure for Discretionary Denials in AIA Post-Grant Proceedings With Parallel District Court Litigation" ("Memorandum"),[11] which states, among other things, that "the PTAB will not discretionarily deny institution in view of parallel district court litigation where a petitioner presents a stipulation not to pursue in a parallel proceeding the same grounds or any grounds that could have reasonably been raised before the PTAB." Memorandum 3 (citing *Sotera Wireless, Inc. v. Masimo Corp.*, IPR2020-01019, Paper 12 (PTAB Dec. 1, 2020) (precedential as to § II.A)).

In the Preliminary Reply, Petitioner states that "Petitioner will not raise in district court any grounds raised or that reasonably could have been raised in the Petition." Prelim. Reply 8 (citing *Sotera*, IPR2020-01019, Paper 12).

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[11] The Memorandum is *available at* https://www.uspto.gov/sites/default/files/documents/interim_proc_discretionary_denials_aia_parallel_district_court_litigation_memo_20220621_.pdf.

Applying the guidance provided in the Memorandum, we decline to exercise our discretion to deny institution in this proceeding under *Fintiv* because Petitioner submitted a *Sotera* stipulation.

F. Ground 1: Alleged Obviousness Over Carlson and Shahine

Petitioner contends claims 1–4, 6–11, 22, and 23 would have been obvious over the combination of Carlson and Shahine. Pet. 7–41. Patent Owner disputes Petitioner's contentions. Prelim. Resp. 10–15. In particular, Patent Owner alleges that Carlson does not teach a "situational network." *Id.* Having considered the arguments and evidence before us, we find that the record establishes a reasonable likelihood that Petitioner would prevail on at least one claim in this asserted ground of unpatentability.

1. Carlson (Ex. 1005)

Carlson is titled "Advertisements in an Alert Interface" and is generally directed to delivering an alert to a user about an event, and selecting and delivering a relevant advertisement to the user based upon the content of the alert. Ex. 1005, codes (54), (57).

Figure 1, reproduced below, illustrates an embodiment of a system for implementing relevant advertising in an alert. Ex. 1005 ¶¶ 10, 25.

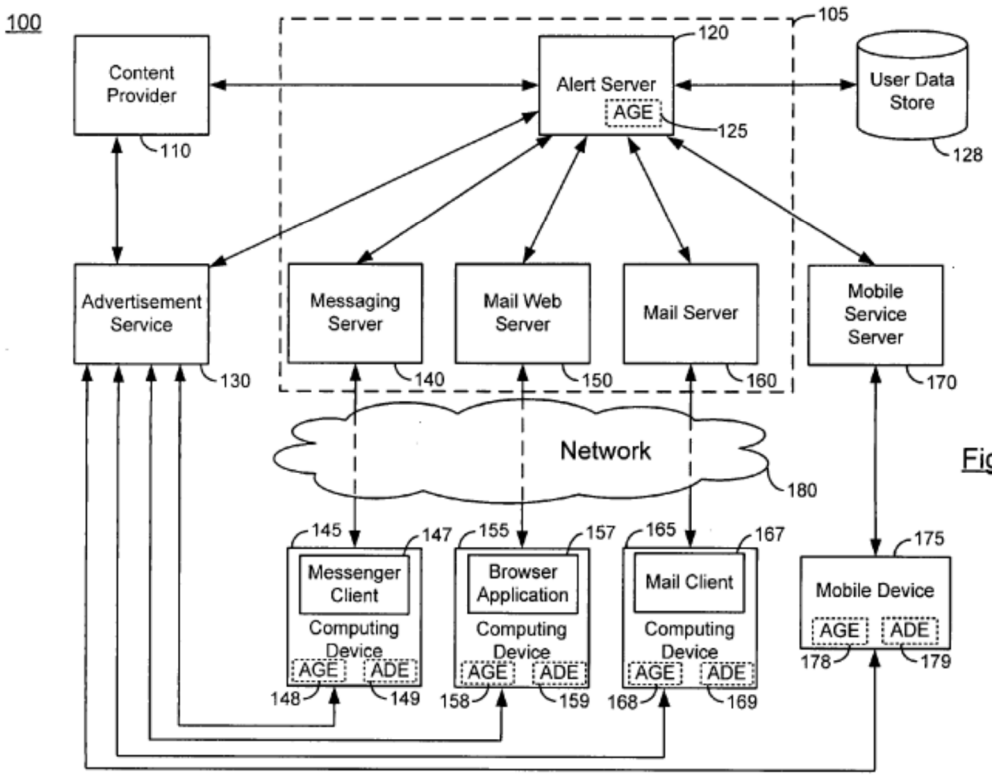

Figure 1

Figure 1, above, shows system 100 that includes, among other things, content provider 110; relevant advertisement generation system 105 that includes alert server 120, messaging server 140, mail web server 150, and mail server 160; advertisement service 130; computing devices 145, 155, and 165; and mobile device 175. Ex. 1005 ¶ 25. Advertisement generation system 105 communicates with content provider 110, advertisement service 130, user data store 128, mobile service provider 170, computing devices 145–165, and mobile device 175 over network 180, which may be the Internet. *Id.*

Figure 4A, reproduced below, "illustrates an embodiment of a method 400 for partner-side retrieval of a relevant advertisement." Ex. 1005 ¶ 52.

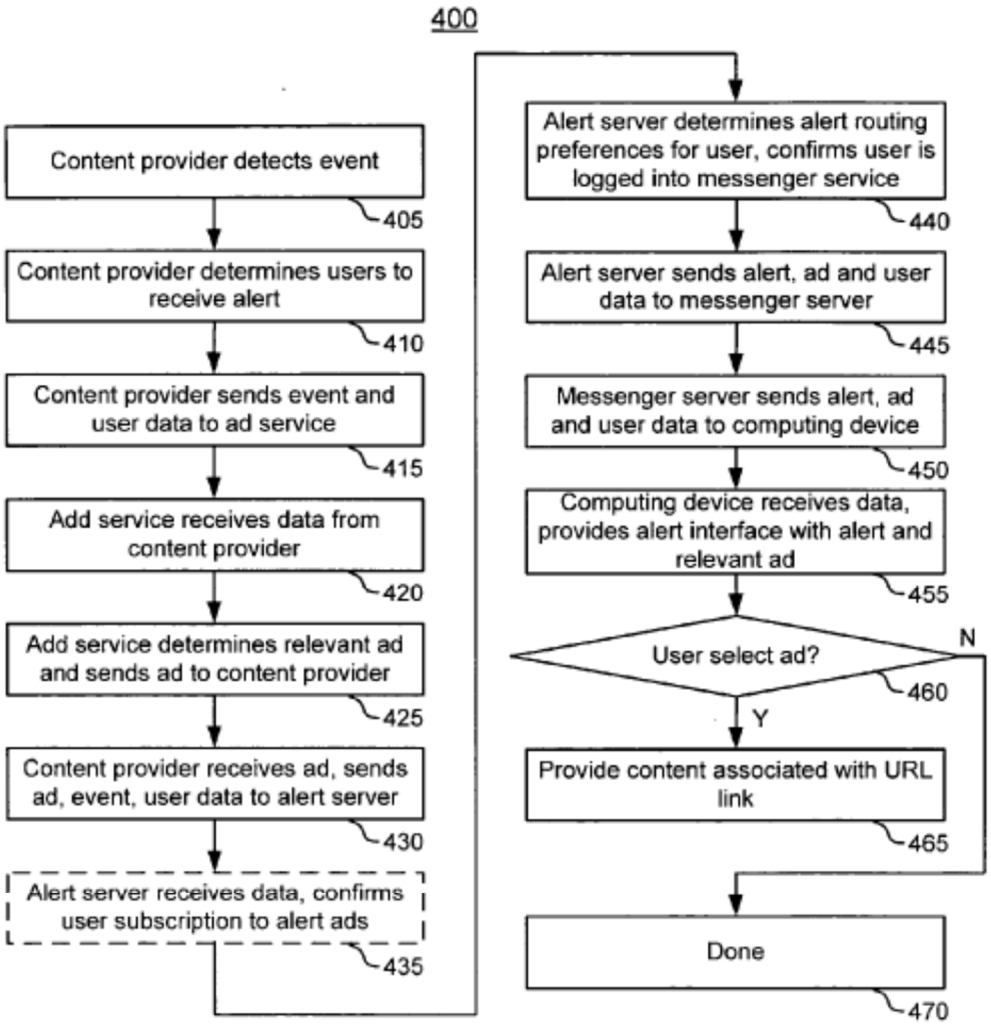

Figure 4A

Figure 4A depicts a flow chart, including step 405 where content provider 110 detects an event, step 410 where content provider determines users to receive an alert, step 425 where ad service determines the relevant ad and sends it to the content provider, step 450 where the alert is sent to the user's computing device, and step 455 where the computing device provides the alert interface to the user with the alert and relevant ad. *Id.* ¶¶ 52, 53, 58, 59. Carlson states that "the event may be any event associated with a service

the user has accepted or subscribed to," for example, a weather service, sporting news service, or other types of services or information. *Id.* ¶ 52.

Figure 4B, reproduced below, "illustrates an alert interface having an advertisement." Ex. 1005 ¶ 14.

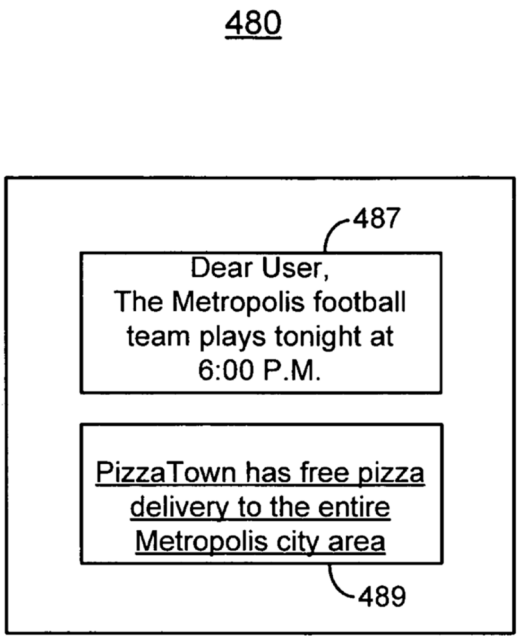

Figure 4B

Figure 4B depicts alert interface 480, which includes alert 487 ("Dear User, The Metropolis football team plays tonight at 6:00 P.M.") and advertisement 489 ("PizzaTown has free pizza delivery to the entire Metropolis city area"). Ex. 1005 ¶ 60.

2. Shahine (Exhibit 1015)

Shahine is titled "Computing System for Monetizing Calendar Applications" and is generally directed to a method "for advertisers to target specific calendar users with the advertisers' events." Ex. 1015, codes (54)

(57). Figure 1, reproduced below, "illustrates a block diagram of an embodiment of a system for providing advertising in a social calendar." Ex. 1015, 2:58–60.

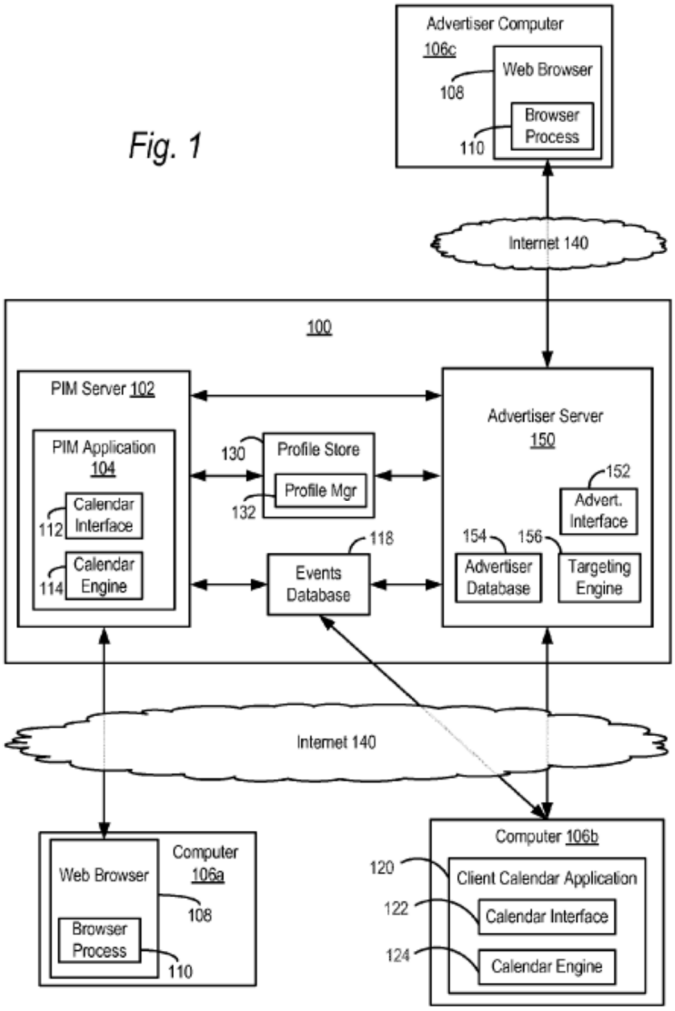

Figure 1 depicts system 100, including advertiser server 150 "for receiving advertising content and targeting data from advertisers via a computing device." Ex. 1015, 5:32–34. Advertiser server 150 includes interface 152, which "allows an advertiser to upload an advertisement including textual and/or graphical data, which data is then stored in an

advertiser database 154 associated with advertiser server 150." *Id.* at 5:39–42.

3. Analysis of Independent Claim 1

a) Preamble

Petitioner argues that Carlson discloses "[a] method of presenting targeted advertising in a situational network" because Carlson is "generally directed to 'providing advertising to a user through an alert service'" and discloses techniques in which '[a]dvertisements are incorporated into alerts generated for a user.'" Pet. 7–8 (citing Ex. 1005, code (57), ¶ 2, Fig. 4B; Ex. 1003 ¶ 75). Petitioner additionally relies on Figure 4A of Carlson, in particular, steps 405, 410, 450, and 455. *Id.* at 9–10 (citing Ex. 1005 ¶¶ 52, 58, 59, 63, 68; Ex. 1003 ¶¶ 77–78). Petitioner contends that Carlson discloses its techniques in the context of a "situational network" because "the alerts and advertisements sent in response to a situation are sent over connections to a computer network." *Id.* at 10. "For example," Petitioner asserts, "Carlson discloses that its computing devices 'may operate in a networked environment,' such as 'the Internet.'" *Id.* (citing Ex. 1005 ¶¶ 25, 49; Ex. 1003 ¶ 79).

Patent Owner contends that Carlson does not disclose a "situational network" because "it merely discloses networks of logical connections used to connect remote computers–and *not* a social network." Prelim. Resp. 12–13. In addition, Patent Owner argues that Petitioner has not established that Carlson's "connections are formed at the required time." *Id.* at 13 (citing Ex. 2005 ¶¶ 38–39). According to Patent Owner, Petitioner has identified user subscriptions that are "established ***prior to*** the occurrence or expected occurrence of an event or situation." *Id.* Patent Owner argues that Carlson's

data store 128 stores data that "includes a user's subscription to receive alert notifications," but the act of subscribing and/or indicating a preference establishes a relationship with the service, and therefore forms a connection prior to the occurrence or expected occurrence of an event or situation. *Id.* at 13–14.

At this stage of the proceeding, we are persuaded that Petitioner has sufficiently shown that Carlson discloses the preamble, including the recited "situational network." Patent Owner's arguments that Carlson discloses logical connections and not a social network are related to its proposed claim construction argument in the Preliminary Response, which was not adopted by the District Court. *See* Prelim. Resp. 2–10 (arguing that a "situational network" is a "social network"); Ex. 2007, 2–4 (rejecting Patent Owner's argument that a "situational network" is part of a larger social network). As set forth above, consistent with the District Court's construction and Patent Owner's position in the Preliminary Sur-reply, we interpret a situational network as "a network created in response to an event or situation."

As shown in Figure 1 of Carlson, advertisement generation system 105 communicates with content provider 110, advertisement service 130, user data store 128, mobile service provider 170, computing devices 145–165, and mobile device 175 over network 180, which may be the Internet. Ex. 1005 ¶ 25; *see also id.* at ¶¶ 35, 36, 49. As cited by Petitioner, content provider 110 detects an event and determines users to receive an alert. Ex. 1005 ¶¶ 52–53, Fig. 4A. The step of determining which users to receive an alert (step 410 in Figure 4A), may be based on "users that have indicated a preference to receive information regarding the event," and in one embodiment, "content provider 110 may access a database or mailing list to

determine which users shall receive the alert." *Id.* at ¶ 53. Subsequently, the users will receive an alert and ad associated with the event. *Id.* at ¶ 53, Fig. 4A. On this record, this disclosure sufficiently teaches "a network created in response to an event or situation" for purposes of institution.

Based on the current record, we do not find persuasive Patent Owner's arguments that Carlson's "situational network" is not formed at the correct time because the user may have subscribed to or indicated a preference to receive notifications. The claim language merely requires that the "situational network" is "established in response to the situation," and does not preclude using stored information, such as Carlson's preference or subscription information, to determine which users may be included. *See* Ex. 1001, 33:9–11. At this stage, we find persuasive Petitioner's arguments that Carlson's storing user subscription information does not prevent a "situational network" from being established, but rather, is used to facilitate establishment of the "situational network" when an event occurs. *See* Prelim. Reply 5–6. That is, "in response to an event, Carlson's user subscription information is used to determine a subset of users to connect to the alert service." *Id.*

Accordingly, based on the record before us, we determine that Petitioner's cited evidence sufficiently supports its contentions regarding the preamble.[12]

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[12] Because we are persuaded that Petitioner has shown that Carlson teaches the subject matter recited in the preamble, we need not decide whether the preamble is limiting for purposes of this Decision. At this stage, neither party has presented arguments that the preamble is limiting.

b) Limitation [1.A]

Limitation [1.A] recites "receiving a plurality of advertisements from at least one advertising entity." Ex. 1001, 33:6–7.

Petitioner contends that Carlson, alone or in combination with Shahine, teaches limitation [1.A]. Pet. 10. Petitioner contends that Carlson's content provider 110 and alert server 120 each receive an advertisement from advertisement server 130 for each user determined to receive an alert. *Id.* at 10–11 (citing Ex. 1005 ¶ 53, Fig. 4A; Ex. 1003 ¶¶ 80–83). Petitioner further contends that Carlson discloses that advertisement server 130 stores or has access to "a plurality of advertisements" which are also associated with "at least one advertising entity." *Id.* at 11–12 (citing Ex. 1005 ¶¶ 54, 55; Ex. 1003 ¶ 83).

However, Petitioner asserts, to the extent that Carlson does not expressly teach "receiving" advertisements stored by advertisement server 130, Shahine discloses this operation. Pet. 12 (citing Ex. 1003 ¶¶ 84–85). Petitioner contends that Shahine's advertiser server 150 receives advertising content and targeting data from advertisers, stores this data in advertiser database 154 associated with advertiser server 150, and then sends advertisements from advertiser server 150 to the client application program. *Id.* at 12–13 (citing Ex. 1015, 5:32–42, 6:36–39, 14:27–28, Fig. 1; Ex. 1003 ¶ 85).

According to Petitioner, a person of ordinary skill in the art would have been motivated to combine Carlson's advertisement service 130 with Shahine's advertiser server 150 with associated advertiser database to receive advertisements from various advertisers because "this is how advertising services at the time of the '932 patent typically worked." Pet.

13–14 (citing Ex. 1003 ¶¶ 48–50, 86–88). Dr. Jansen provides testimony that this was the common paradigm at the time of the '932 patent. Ex. 1003 ¶¶ 86–88. Petitioner further contends that the combination would "allow those advertisements to be later distributed to users" and that a person of ordinary skill in the art "would have had a reasonable expectation of success in doing so using well-known network communication and upload techniques." Pet. 14 (citing Ex. 1003 ¶ 89).

Patent Owner does not present arguments regarding this limitation at this stage of the proceeding. *See generally* Prelim. Resp.

We determine that, on the record before us, Petitioner's cited evidence sufficiently supports its contentions regarding this limitation.

c) Limitation [1.B]

Limitation [1.B] recites "obtaining an indication of an occurrence of a situation." Ex. 1001, 33:8.

Petitioner contends that Carlson teaches this limitation. Pet. 14. Relying on step 405 of Figure 4A, Petitioner contends that content provider 110 detects an event, such as for example, an event associated with a notification for bad weather, and sends the event data to alert server. *Id.* at 14–15 (citing Ex. 1005 ¶ 52, 56; Ex. 1003 ¶¶ 91, 92).

Patent Owner does not present arguments regarding this limitation at this stage of the proceeding. *See generally* Prelim. Resp.

We determine that, on the record before us, Petitioner's cited evidence sufficiently supports its contentions regarding this limitation.

d) Limitation [1.C]

Limitation [1.C] recites "automatically connecting devices corresponding to a plurality of individuals to the situational network established in response to the situation." Ex. 1001, 33:9–11.

Petitioner contends that Carlson teaches this limitation. Pet. 15. According to Petitioner, "in response to a situation, Carlson's process establishes connections from its system to devices of users determined to receive an alert." *Id.* at 16 (citing Ex. 1003 ¶ 95); *id.* at 15–16 (citing Ex. 1005 ¶¶ 25, 30, 40, 52, 53, 58, 59, Figs. 1, 4A; Ex. 1003 ¶¶ 93–95). As cited by Petitioner, those users "can include users that have indicated a preference to receive information regarding the event detected." *Id.* at 16 (citing Ex. 1005 ¶¶ 52, 53).

Aside from Patent Owner's arguments regarding Carlson's disclosure of a "situational network," as discussed above, Patent Owner does not present arguments regarding this limitation at this stage of the proceeding. *See generally* Prelim. Resp.

We determine that, on the record before us, Petitioner's cited evidence sufficiently supports its contentions regarding this limitation.

e) Limitation [1.D]

Limitation [1.D] recites "causing an automatic redirection of a web browser application operating on each of the devices to a webpage containing information related to the situation." Ex. 1001, 33:12–14.

Petitioner contends that Carlson teaches this limitation. Pet. 17. Petitioner contends that Carlson teaches user computing devices that may receive alerts and advertisements. *Id.* (citing Ex. 1005 ¶¶ 35–38, Fig. 1; Ex. 1003 ¶ 97). Petitioner contends that Carlson teaches that a user may receive

these alerts in multiple ways on their user device, such as to the user's web-based mail account and/or through the user device's browser application. *Id.* at 18–19 (citing Ex. 1005 ¶¶ 35–38, 59; Ex. 1003 ¶¶ 98–99). According to Petitioner, a person of ordinary skill in the art would have understood that "alerts received by Carlson's computing device 155 can cause 'automatic redirection' of the device's web browser to the 'webpage containing information related to the situation,' i.e., the alert." *Id.* at 19 (citing Ex. 1003 ¶ 100). Petitioner contends, with supporting testimony from Dr. Jansen, that "such techniques for displaying pushed alerts through a web browser were well known at the time of the '932 patent" and a person of ordinary skill in the art would have been motivated to employ such techniques "to ensure that the alert is timely received by the device user." *Id.* (citing Ex. 1003 ¶¶ 51, 52, 101–103).

Patent Owner does not present arguments regarding this limitation at this stage of the proceeding. *See generally* Prelim. Resp.

We determine that, on the record before us, Petitioner's cited evidence sufficiently supports its contentions regarding this limitation.

f) *Limitation [1.E]*

Limitation [1.E] recites "providing to each of the devices at least one of the plurality of advertisements for display on the webpage based on determining an affiliation of the corresponding individual to the situation, wherein the affiliation is based at least in part on an effect of the situation on the corresponding individual or their property." Ex. 1001, 33:15–20.

Petitioner contends that Carlson teaches this limitation. Pet. 20. Petitioner contends that Carlson discloses that messaging server 140 sends the alert, advertisement, and user data to computing device 145, which

receives the alert and provides an alert interface with the alert and relevant advertisement. *Id.* at 20–21 (citing Ex. 1005 ¶¶ 58, 59, 66; Figs. 4A, 4B, 5). Petitioner contends that, as discussed in limitation [1.D], Carlson provides the "*advertisements for display on the webpage*" by "delivering the alert 'to the user's web-based mail account.'" *Id.* at 22 (citing Ex. 1005 ¶ 36; Ex. 1003 ¶¶ 107–108).

Petitioner further contends that Carlson teaches that advertisements are "*provid[ed] . . . based on determining an affiliation of the corresponding individual to the situation, wherein the affiliation is based at least in part on an effect of the situation on the corresponding individual or their property*," for three reasons. Pet. 22–23. First, Petitioner contends that Carlson's advertisement can be provided based on the location of the user. *Id.* (citing Ex 1005 ¶¶ 21, 24). Second, Petitioner contends that Carlson's advertisement can be provided based on a user's subscription to a particular event service, which indicates "*an effect of the situation*." *Id.* at 23 (citing Ex. 1003 ¶ 111; Ex. 1005 ¶¶ 30, 52, 54). Third, Petitioner contends that Carlson's advertisements are provided based on relevancy metrics, including user metadata, the device, user location, user actions, or other information associated with the user. *Id.* at 24 (citing Ex. 1005 ¶¶ 24, 53).

Patent Owner does not present arguments regarding these limitations at this stage of the proceeding. *See generally* Prelim. Resp.

We determine that, on the record before us, Petitioner's cited evidence sufficiently supports its contentions regarding these limitations.

g) Conclusion for Independent Claim 1

Based on our review and consideration of the current record, we determine that Petitioner has adequately shown that the combination of

Carlson and Shahine teaches the limitations in claim 1 for purposes of institution. Accordingly, we determine, on the current record and for purposes of this Decision, that the information presented in the Petition demonstrates a reasonable likelihood that claim 1 is unpatentable under 35 U.S.C. § 103(a) over Carlson and Shahine.

4. Claims 2–4, 6–11, 22, and 23

At this stage, Patent Owner does not separately challenge Petitioner's contentions as to claims 2–4, 6–11, 22, and 23. *See generally* Prelim. Resp. Because we preliminarily determine above that Petitioner has demonstrated a reasonable likelihood of prevailing in its challenge to at least one claim of the '932 patent, we institute *inter partes* review on all claims and grounds. *See* 37 C.F.R. § 42.108(a) ("When instituting . . . review, the Board will authorize the review to proceed on all of the challenged claims and on all grounds of unpatentability asserted for each claim."). At this stage of the proceeding, and because Petitioner meets the threshold for institution for claim 1 under this ground, we need not decide whether Petitioner's challenges to the other independent and dependent claims demonstrate the same. Those challenges, in our view, are best left for trial after full development of the record.

G. Ground 2: Alleged Obviousness over Carlson, Shahine, and Lundy

Petitioner contends that claims 1–4, 6–11, 22, and 23 would have been obvious over the combination of Carlson, Shahine, and Lundy. Pet. 41–48. Petitioner contends that Lundy qualifies as prior art under 35 U.S.C. § 102(e), based upon its priority claim to U.S. Provisional No. 60/839,683. Pet. 5–6. Petitioner's contentions are similar to those in Ground 1, except

that Petitioner additionally relies on Lundy to teach limitation [1.D]. *Id.* at 41–48.

At this stage, Patent Owner does not separately dispute Petitioner's contentions as to this challenge or Petitioner's contentions as to Lundy's prior art status. Prelim. Resp. 15.

Because Petitioner meets the threshold for institution for claim 1 under Ground 1, we need not decide whether Petitioner's challenges under Ground 2 demonstrate the same. This challenge, in our view, is best left for trial after full development of the record.

H. Grounds 3 and 4: Alleged Obviousness Over Carlson, Shahine, and Roskind or Carlson, Shahine, Lundy, and Roskind

Petitioner contends that claim 5 would have been obvious over the combination of Carlson, Shahine, and Roskind (Ground 3) or the combination of Carlson, Shahine, Lundy, and Roskind (Ground 4). Pet. 48–51. At this stage, Patent Owner does not separately dispute Petitioner's contentions as to these challenges. Prelim. Resp. 15–16. Because Petitioner meets the threshold for institution for claim 1 under Ground 1, we need not decide whether Petitioner's challenges under Grounds 3 and 4 demonstrate the same. Those challenges, in our view, are best left for trial after full development of the record.

I. Ground 5: Alleged Obviousness Over Amidon, Walsh, and Shahine

Petitioner contends claims 1–11, 22, and 23 would have been obvious over the combination of Amidon, Walsh, and Shahine. Pet. 51–81. Patent Owner disputes Petitioner's contentions. Prelim. Resp. 16–21. In particular, Patent Owner alleges that Amidon does not teach a "situational network." *Id.* Having considered the arguments and evidence before us, we find that

the record establishes a reasonable likelihood that Petitioner would prevail on at least one claim in this asserted ground of unpatentability.

1. Amidon (Ex. 1007)

Amidon is titled "Systems and Methods for Social Network Based Conferencing" and is generally directed to systems and methods where members of social networks "can define and participate in conferences, with the extent of the participation and messaging within such conferences based on the structure of the underlying social network(s)." Ex. 1007, codes (54), (57). The conference may be defined on the basis of various parameters, such as social network parameters, degree of separation, or geographic. *Id.* at 2:57–63, 3:40-47, 4:5–9.

Figure 2, reproduced below, is "a functional block diagram of an exemplary messaging system including social network conferencing functionality." Ex. 1007, 5:21–23.

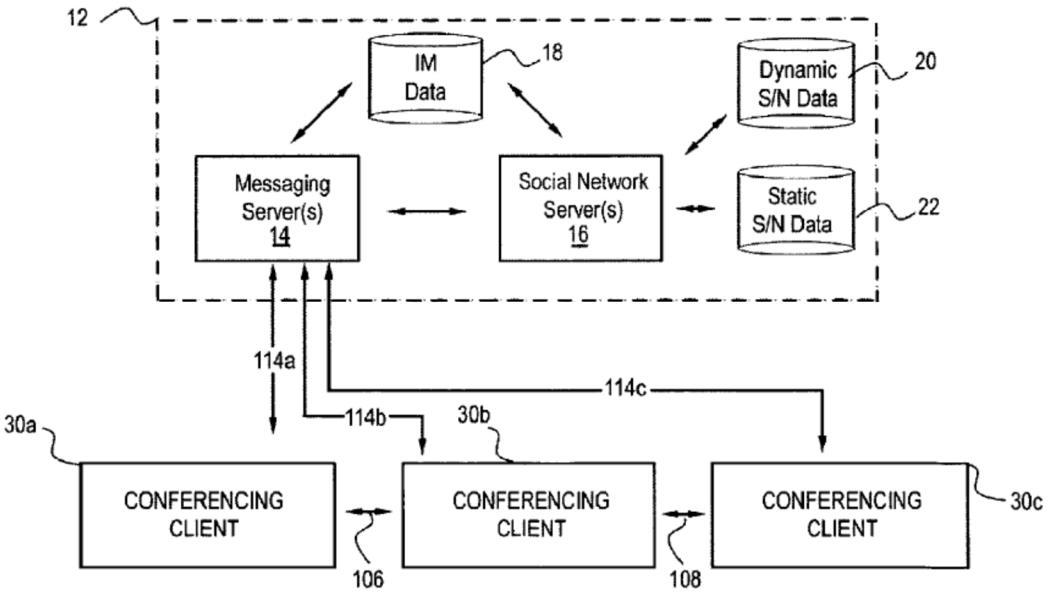

FIGURE 2

Figure 2 depicts system 12 including messaging server 14, social network server 16, and data stores 18, 20, and 22. Ex. 1007, 8:3–8. In addition, Figure 2 includes conferencing clients 30a, 30b, and 30c comprising one or more computing devices that provides messaging functionality and the ability to interact with other users. *Id.* at 8:12–18. In some embodiments, conferencing client functionality may be provided through web-based applications. *Id.* at 8:27–35. Conferencing clients 30a, 30b, and 30c interface with messaging server 14 via links 114a, 114b, and 114c. *Id.* at 8:36–40.

According to Amidon, conferencing clients 30 "support transmitting metadata to social network conferencing system 12 to define one or more social network conferences and to specify the extent to which a message should be transmitted in a social network conference." Ex. 1007, 9:57–61. A user "may specify any number or combination of rules, preferences, and parameters in defining the extent of the conference participation, distribution of messages, and distribution of replies to messages." *Id.* at 12:37–40. For example, "[b]ased on user location data, conference participation can be determined based on geographical parameters, such as users within a certain distance, users from a particular location, and so on." *Id.* at 12:59–65. The messaging server may send an invitation to users to join in the conference via messaging connections and messaging client applications. *Id.* at 21:5–8.

Figure 4, reproduced below, "illustrates an exemplary user interface which may be rendered by a client device to provide for user interaction in social network based conferencing systems." Ex. 1007, 5:27–29.

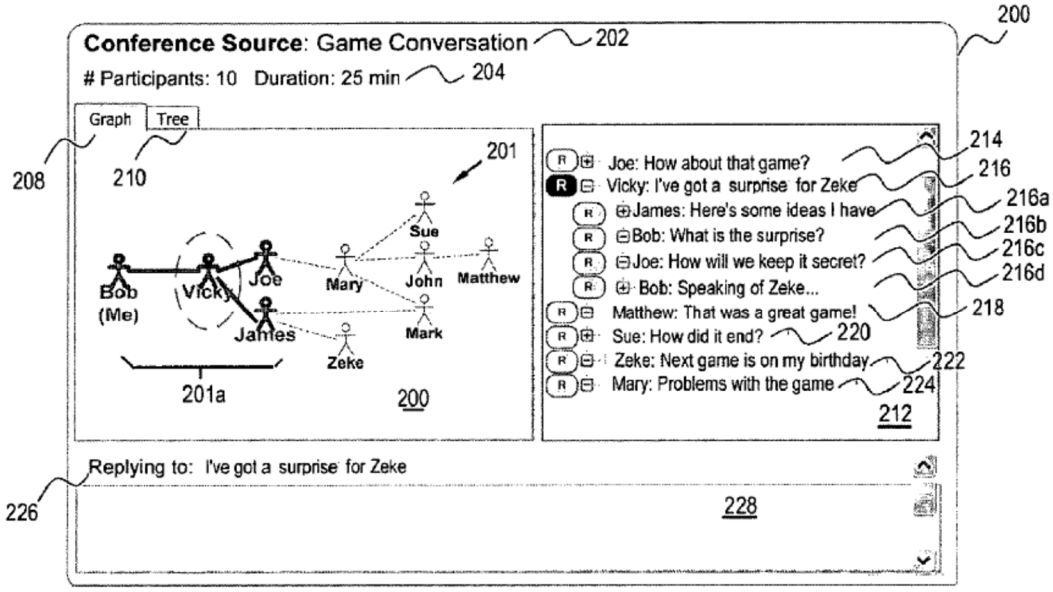

FIGURE 4

Figure 4 depicts window 200 of conferencing client 30, which includes several different areas and data indicators, such as title bar 202 ("Game Conversation"), conference metadata 204 (number of participants and duration), social network conference group 201, and conference thread display area 212, which shows a plurality of threads each comprising data (messages, content) exchanged among the members of the conference. Ex. 1007, 16:65–17:26.

Figure 5, reproduced below, "illustrates another exemplary user interface which may be rendered by a client device to provide for user interaction in social network based conferencing systems." Ex. 1007, 5:30–32.

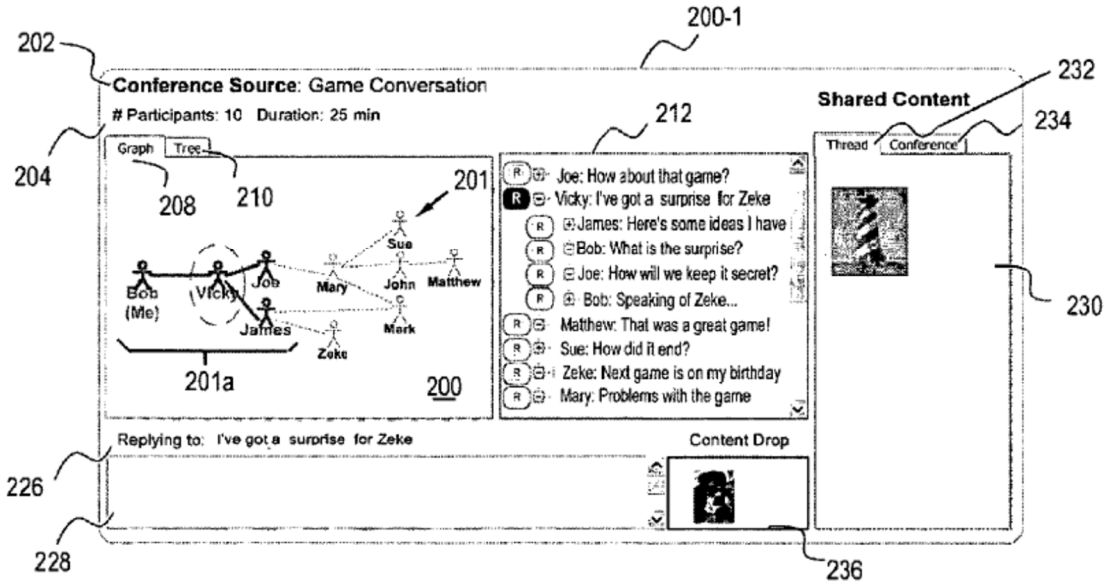

FIGURE 5

Figure 5 depicts an alternate window 200-1, which includes the same features as window 200 in Figure 4, but additionally displays information related to content sharing functionality in shared content area 230. Ex. 1007, 18:51–55. "Shared content area 230 includes icons or other indicators of content that is presently being shared amongst content participants." *Id.* at 18:56–58.

2. Walsh (Ex. 1008)

Walsh is titled "System and Method for Classification of Communication Sessions in a Social Network" and is generally directed to "automatic classification of communication sessions (e.g., a messaging conference) of social network users based on data describing parameters such as participating users, conversation messages and shared content items within a communication session." Ex. 1008, code (54), 1:7–12.

Figure 1, reproduced below is "an exemplary user interface that may be viewed by users in a social network, wherein certain display portions may be customized based on one or more computed session profiles relative to each given user." Ex. 1008, 3:31–34.

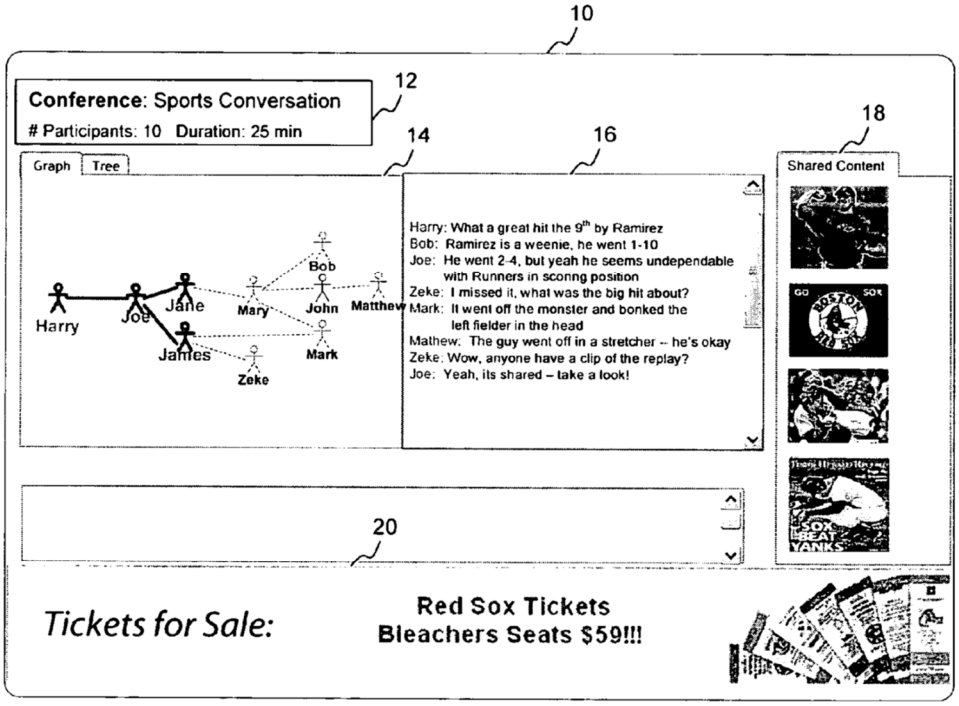

Fig. 1

Figure 1 depicts user interface 10, which includes information about a communication session, such as general conference identifier(s) 12 ("Conference: Sports Conversation," number of participants, duration), graphical social network representation 14 of participating users, conversation message display 16, representation 18 of content items shared among the participating social network users, and advertisement display 20. Ex. 1008, 5:1–8. Advertisement display 20 is customized to provide ads that are selected for each user participating in the social network communication. *Id.* at 6:10–20.

3. Analysis of Independent Claim 1

a) Preamble

Petitioner contends that the combination of Amidon and Walsh teaches the preamble. Pet. 55. According to Petitioner, Amidon provides a "situational network" because it allows users to specify the nature and extent of a conference among members of the network, and users can direct messages to desired users in the conference. Pet. 55–57 (citing Ex. 1007, 2:54–63, 3:4–5, 6:11–12, Figs. 1, 2). Petitioner further argues that both Amidon and Walsh disclose that "each conference relates to a situation . . . such as a particular game, sporting event, or request to 'talk about vacation.'" *Id.* at 57 (citing Ex. 1007, 21:35–38, Fig. 4; Ex. 1008, Fig. 1; Ex. 1003 ¶¶ 198–199).

Petitioner further contends that Walsh teaches "[a] method of presenting targeted advertising" within Amidon's "situational network." Pet. 57–58 (citing Ex. 1003 ¶ 200). Specifically, Petitioner contends that Walsh discloses "computing a session profile" which may be used in order to select advertisements to be provided to a user in the advertisement display portion of a user interface. *Id.* at 58 (citing Ex. 1008, 2:16–20, 6:21–25, 13:30–33, Fig. 1; Ex. 1003 ¶ 200). Petitioner further contends that these advertisements are individually targeted to each user. *Id.* at 58–59 (Ex. 1008, 6:15–20; Ex. 1003 ¶¶ 201–202).

Petitioner contends that it would have been obvious to a person of ordinary skill in the art to combine Amidon and Walsh because a person of ordinary skill in the art would have recognized the well-known benefits to providing targeted advertisements as disclosed in Walsh, such as generating ad revenue. Pet. 54 (citing Ex. 1003 ¶¶ 39–47, 194). Petitioner contends

that a person of ordinary skill in the art would have had a reasonable expectation of success in incorporating Walsh's targeted advertising into Amidon's conference system because it "would amount to nothing more than incorporating well-known techniques (selecting an[d] displaying relevant advertisements to a user) into Amidon's known conferencing system." *Id.* at 54–55 (citing Ex. 1003 ¶ 195). Petitioner states that Walsh itself discloses how to make the combination, by illustrating Amidon's conference interface with an incorporated advertisement display. *Id.* at 55 (citing Ex. 1008, Fig. 1; Ex. 1003 ¶ 195).

Patent Owner contends that Amidon does not teach a "situational network" because it uses existing social networks to determine the participants in the conference and distribution of messages in the conference, rather than creating a new social network or altering the connections within existing social networks. Prelim. Resp. 16–21.

At this stage of the proceeding, we are persuaded that Petitioner has sufficiently shown that the combination of Amidon and Walsh discloses the preamble, including the recited "situational network." As set forth above, consistent with the District Court's construction and Patent Owner's position in the Preliminary Sur-reply, we interpret a situational network as "a network created in response to an event or situation."

As shown in Figure 2 of Amidon, conferencing clients 30a, 30b, and 30c interface with messaging server 14 via links 114a, 114b, and 114c. Ex. 1007, 8:36–40. Moreover, Amidon teaches that users can specify the nature and extent of a conference among members of a social network. Ex. 1007, 2:57–63. Petitioner contends that "the nature of the conference" teaches that each conference is related to a "situation." Pet. 57. We agree with

Petitioner that "Amidon's conferences connect a subset of the users of the larger social network in response to an event or situation." Prelim. Reply 7 (citing Pet. 56–57; Ex. 1053 ¶ 13). On this record, this disclosure sufficiently teaches "a network created in response to an event or situation" for purposes of institution.

Based on the current record, we do not find persuasive Patent Owner's arguments that Amidon does not teach a "situational network" because it uses existing social networks, rather than creating a new social network or altering connections within an existing social network. As discussed above, the claim language merely requires that the "situational network" is "established in response to the situation," and we agree with Petitioner that, on this record, nothing precludes the use of existing social network information in forming a "situational network." Prelim. Reply 6–7. We find persuasive Petitioner's arguments that the '932 patent's disclosure of an embodiment where users may be invited to connect to an event node corresponding to an event, which may be based on a stored user profile, supports that a "situational network" may be formed using existing social network information. *Id.* at 7 (citing Ex. 1001, 19:58–66). We note that this embodiment appears similar to Amidon's disclosure that a user may be sent an invitation to join a conference. Ex. 1007, 21:5–8.

Accordingly, based on the record before us, we determine that Petitioner's cited evidence sufficiently supports its contentions regarding the preamble.

b) Limitation [1.A]

Limitation [1.A] recites "receiving a plurality of advertisements from at least one advertising entity." Ex. 1001, 33:6–7.

Petitioner contends that the combination of Amidon, Walsh, and Shahine teaches this limitation. Pet. 59. Petitioner contends that Walsh discloses "a plurality of advertisements" that may be selected and provided to users. *Id.* at 59–60 (citing Ex. 1008, 13:30–33, 6:17–20, Fig. 1; Ex. 1003 ¶ 203). Petitioner contends that a person of ordinary skill in the art would have understood that Walsh's "available ads" would be "associated with at least one advertising entity." *Id.* at 60 (citing Ex. 1008, Fig. 1 ("Red Sox Tickets"); Ex. 1003 ¶ 204). Further, Petitioner contends, Shahine discloses "receiving advertisements from various advertisements for storage and distribution to users." *Id.* (citing Ex. 1015, 5:39–42; Ex. 1003 ¶ 205). Petitioner contends that a person of ordinary skill in the art would have been motivated to incorporate this operation into Amidon-Walsh in order to allow the selection and distribution of advertisements to users, as taught in Walsh. Pet. 55, 60 (citing Ex. 1008, 6:9–20, 13:30–33; Ex. 1003 ¶¶ 196, 205). According to Petitioner, "advertising services such as Walsh's typically employed ad servers that received and stored advertisements for distribution to users." *Id.* at 60 (citing Ex. 1003 ¶¶ 48–50, 205).

Patent Owner does not present arguments regarding this limitation at this stage of the proceeding. *See generally* Prelim. Resp.

We determine that, on the record before us, Petitioner's cited evidence sufficiently supports its contentions regarding this limitation.

c) Limitation [1.B]

Limitation [1.B] recites "obtaining an indication of an occurrence of a situation." Ex. 1001, 33:8.

Petitioner contends that the combination of Amidon and Walsh teaches this limitation. Pet. 61. Petitioner argues that Amidon's metadata

transmitted to the conferencing system, for example, as used for formation of the conference, teaches this claim limitation. *Id.* (citing Ex. 1007, 9:57–61, 10:25–23, 13:66–14.3; Ex. 1003 ¶ 206).

Patent Owner does not present arguments regarding this limitation at this stage of the proceeding. *See generally* Prelim. Resp.

We determine that, on the record before us, Petitioner's cited evidence sufficiently supports its contentions regarding this limitation.

d) Limitation [1.C]

Limitation [1.C] recites "automatically connecting devices corresponding to a plurality of individuals to the situational network established in response to the situation." Ex. 1001, 33:9–11.

Petitioner contends that the combination of Amidon and Walsh teaches this limitation. Pet. 61. Petitioner contends that Amidon teaches this limitation by connecting participants to a conference, where the participants are determined based on conference metadata. *Id.* at 61–63 (citing Ex. 1007, 2:60–63, 3:33–36, 3:40–47, 4:5–9, 8:12–19, 10:11–24, 10:32–41, 12:59–65, 19:54–61, Figs. 2, 6B; Ex. 1003 ¶¶ 207–209).

Patent Owner does not present arguments regarding this limitation at this stage of the proceeding. *See generally* Prelim. Resp.

We determine that, on the record before us, Petitioner's cited evidence sufficiently supports its contentions regarding this limitation.

e) Limitation [1.D]

Limitation [1.D] recites "causing an automatic redirection of a web browser application operating on each of the devices to a webpage containing information related to the situation." Ex. 1001, 33:12–14.

Petitioner contends that the combination of Amidon and Walsh teaches this limitation. Pet. 64. Petitioner contends that a person of ordinary skill in the art would have understood that Amidon teaches providing its user interface (as shown in Figure 4) as a "web page." *Id.* at 64–65 (citing Ex. 1007, 8:27–35; 16:65–17:3, Fig. 4; Ex. 1003 ¶¶ 210–212). According to Petitioner, "[i]n Amidon's 'web-based' embodiments, a [person of ordinary skill in the art] would have understood that when a user is included in the conference, the browser operating on their device would be 'automatically redirect[ed]' to a web page rendering the conference interface," that contains information related to the situation, as shown in Amidon's Figure 4. *Id.* at 65–66 (citing Ex. 1007, 8:27–35, 16:65–17:14, 17:21–26; Ex. 1003 ¶ 214).

Patent Owner does not present arguments regarding this limitation at this stage of the proceeding. *See generally* Prelim. Resp.

We determine that, on the record before us, Petitioner's cited evidence sufficiently supports its contentions regarding this limitation.

f) Limitation [1.E]

Limitation [1.E] recites "providing to each of the devices at least one of the plurality of advertisements for display on the webpage based on determining an affiliation of the corresponding individual to the situation, wherein the affiliation is based at least in part on an effect of the situation on the corresponding individual or their property." Ex. 1001, 33:15–20.

Petitioner contends that the combination of Amidon and Walsh teaches this limitation. Pet. 66. Specifically, Petitioner contends that Walsh teaches providing ads to a user that have been particularly selected for that user. *Id.* at 66–67 (citing Ex. 1008, 6:17–20, 13:30–33, Fig. 1; Ex. 1003 ¶¶ 215–216). Petitioner contends that Walsh computes a session profile for

each user that is used to personalize content for each user, for example, based on geographic location or a user feedback rating. *Id.* at 67–70 (citing Ex. 1008, 2:60–64, 6:17–20, 6:45–48, 6:65–67, 8:62–67, 9:16–19, 10:58–61, 11:5–8, 12:44–47, 13:30–33, Fig. 1; Ex. 1003 ¶¶ 218–222). Petitioner contends that Walsh's disclosure of scoring information related to the situation (e.g., messages and shared content) based on a user's location teaches "determining an affiliation of the corresponding individual to the situation" and that the location of the user or the user's rating of messages and content items may indicate "an effect of the situation on the corresponding individual or their property." *Id.* at 69–70 (citing Ex. 1003 ¶¶ 220–222; Ex. 1008, 6:9–20, 8:62–67, 12:44–47, 13:30–33, Fig. 1).

Patent Owner does not present arguments regarding this limitation at this stage of the proceeding. *See generally* Prelim. Resp.

We determine that, on the record before us, Petitioner's cited evidence sufficiently supports its contentions regarding this limitation.

g) Conclusion for Independent Claim 1

Based on our review and consideration of the current record, we determine that Petitioner has adequately shown that the combination of Amidon, Walsh, and Shahine teaches the limitations in claim 1 for purposes of institution. Accordingly, we determine, on the current record and for purposes of this Decision, that the information presented in the Petition demonstrates a reasonable likelihood that claim 1 is unpatentable under 35 U.S.C. § 103(a) over Amidon, Walsh, and Shahine.

4. Claims 2–4, 6–11, 22, and 23

At this stage, Patent Owner does not separately challenge Petitioner's contentions as to claims 2–4, 6–11, 22, and 23. *See generally* Prelim. Resp.

At this stage of the proceeding, and because Petitioner meets the threshold for institution for claim 1 under this ground, we need not decide whether Petitioner's challenges to the other independent and dependent claims demonstrate the same. Those challenges, in our view, are best left for trial after full development of the record.

J. Ground 6: Alleged Obviousness Over Amidon, Walsh, Shahine, Jones

Petitioner contends that claim 8 would have been obvious over the combination of Amidon, Walsh, Shahine, and Jones. Pet. 81–82. At this stage, Patent Owner does not separately dispute Petitioner's contentions as to these challenges. Prelim. Resp. 15–16. Because Petitioner meets the threshold for institution for claim 1 under Ground 5, we need not decide whether Petitioner's challenge in this ground demonstrates the same. This challenge, in our view, is best left for trial after full development of the record.

IV. CONCLUSION

After considering the evidence and arguments presented in the Petition, Preliminary Response, Preliminary Reply, and Preliminary Sur-reply, we determine Petitioner has established a reasonable likelihood of prevailing on its assertion that at least one claim of the '932 patent is unpatentable on at least one ground, and we institute an *inter partes* review on all the challenged claims and challenges presented in the Petition. *See* 37 C.F.R. § 42.108(a) ("When instituting *inter partes* review, the Board will authorize the review to proceed on all of the challenged claims and on all grounds of unpatentability asserted for each claim").

V. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that pursuant to 35 U.S.C. § 314, *inter partes* review is instituted as to the challenged claims of the ’932 patent and all challenges of unpatentability presented in the Petition; and

FURTHER ORDERED that *inter partes* review is commenced on the entry date of this Order, and pursuant to 35 U.S.C. § 314(c) and 37 C.F.R. § 42.4, notice is hereby given of the institution of a trial.

IPR2024-00528
Patent 8,249,932 B1

For PETITIONER:

Michael Specht
Jonathan Tuminaro
Steven Pappas
STERNE, KESSLER, GOLDSTEIN & FOX PLLC
mspecht-ptab@sternekessler.com
jtuminar-ptab@sternekessler.com
spappas-ptab@sternekessler.com

For PATENT OWNER:

David Hecht
James Zak
HECHT PARTNERS LLP
dhecht@hechtpartners.com
zakx0017@umn.edu