

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

META PLATFORMS, INC.,
Petitioner,

v.

SITNET LLC,
Patent Owner

U.S. Patent No. 8,249,932

IPR Case No.: 2024-00528

**SITNET LLC'S RESPONSE TO PETITION FOR *INTER PARTES* REVIEW
OF U.S. PATENT NO. 8,249,932**

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EXHIBIT LIST

No.	Exhibit Description
2001	Joint Claim Construction Brief in <i>SitNet LLC v. Meta Platforms, Inc.</i> , No. 1:23- cv-06389-AS (Dkt. 57).
2002	Amended Joint Claim Construction Chart in <i>SitNet LLC v. Meta Platforms, Inc.</i> , No. 1:23-cv-06389-AS (Dkt. 58).
2003	Order regarding Trial Schedule in <i>SitNet LLC v. Meta Platforms, Inc.</i> , No. 1:23- cv-06389-AS (Dkt. 32).
2004	Statistics for Southern District of New York Judges
2005	Expert Report of Dr. Aviel D. Rubin
2006	Markman Hearing Transcript in <i>SitNet LLC v. Meta Platforms, Inc.</i> , No. 1:23- cv- 06389-AS (July 1, 2024).
2007	Claim Construction Order in <i>SitNet LLC v. Meta Platforms, Inc.</i> , No. 1:23- cv- 06389-AS (Dkt. 79).
2008	<i>INTENTIONALLY LEFT BLANK</i>
2009	Supplemental Expert Report of Dr. Aviel D. Rubin

I. INTRODUCTION

Pursuant to 35 U.S.C. § 313 and 37 C.F.R. § 42.107, Patent Owner SitNet LLC (“SitNet”) submits the following Response to the Petition for *Inter Partes* Review of claims 1-11, 22 and 23 of U.S. Patent No. 8,249,932 (“the 932 Patent”) filed by Petitioner, Meta Platforms, Inc. (“Petitioner” or “Meta”). The patent at issue is currently being asserted against Petitioner in *SitNet LLC v. Meta Platforms, Inc.*, No. 1:23-cv-06389-AS (S.D.N.Y July 24, 2024) (“*SitNet v. Meta*”).

II. CLAIM CONSTRUCTION

A. 37 C.F.R. § 42.100(b) Statement

A *Markman* order was issued in *SitNet v. Meta*, a copy of which is attached as Exhibit 2001. In the order, the District Court construed “situational network” as “a network created in response to an event or situation.” Ex. 2007 at 2-4. Patent Owner respectfully requests the Board consider and adopt the District Court’s construction for at least “situational network”.

B. Situational Network

The PTAB has adopted the District Court’s construction of “situational network” to be “a network created in response to an event or situation.” Paper 10, at 9. “[T]his construction appears consistent with the specification and the language of the claims.” *Id.* The PTAB’s construction *excludes pre-established networks*.

The plain and ordinary meaning of a “network” is an interconnected system of elements that transmits information. The American Heritage Dictionary defines a network as:

“a. A group or system of electric components and *connecting circuitry* designed to function in a specific manner.

b. Computers A system of computers *interconnected* by telephone wires or other means in order to share information. Also called net.”

American Heritage Dictionary Entry: network,
<https://ahdictionary.com/word/search.html?q=network> (emphasis added); Ex. 2008, ¶ 59.

Similarly, PC Mag defines a “network” as:

“(1) *Any arrangement of elements that are interconnected.* See neural network and network database.

(2) A system that transmits data between users, which includes the client devices (computers, tablets and phones) and the network equipment (servers, switches, routers and cables). In wireless systems, antennas replace the cables.”

Definition of network | PC Mag,
<https://www.pcmag.com/encyclopedia/term/network> (emphasis added);
Ex. 2008, ¶ 60.

Each of the above defines a “network” as a system of *interconnected elements* that transmits information (i.e. data). As the interconnection between elements defines

a network, a network is created by connecting elements. Ex. 2008, ¶ 61. Thus, a network is created when at least two elements are connected to each other. The new network may be derived from an old network by establishing a new connection incorporating a new element into the system. *Id.* But regardless of whether the new network is being created from an existing network or a collection of previously unconnected elements, the act of creating a network requires establishing a new connection to incorporate at least one new element into the system. Ex. 2008, ¶ 62.

A “situational network” has been construed to be a network created at a specific time – i.e., “*in response to* an event or situation.” To be created “in response to” requires that the network’s creation is after the event or situation. Consequently, a “situational network” cannot exist *before* the event or situation that triggers its creation. A “situational network,” therefore, can only exist when the occurrence of an event or situation causes a new connection to be established incorporating at least one new element. Consequently, a “situational network” cannot be a system in which all elements were interconnected *prior to* the event or situation. Accordingly, pre-established networks are excluded from the PTAB’s construction of a “situational network.”

III. RESPONSE TO GROUNDS FOR INVALIDITY RAISED

A. Ground 1: Claims 1-4, 6-11, 22, and 23 Are Not Obvious Over Carlson in View of Shahine

Independent claims 1 and 22 both recite a “situational network.”

Consequently, dependent claims 2-4, 6-11, and 23 must also include a “situational network” as an element. Claims 1-4, 6-11, 22 and 23, therefore, require a “a network created in response to an event or situation.” The Petition fails to establish either Carlson (U.S. Publication No. 2006/0282312) and/or Shahine (U.S. Patent No. 8,799,073) discloses “a network created in response to an event or situation.” The combination of Carlson and Shahine, therefore, cannot render the challenged claims invalid and unpatentable.

The Petition relies on Carlson to establish the presence of a “situational network” within the asserted art. As noted *supra*, a “situational network” can only exist when the occurrence of an event or situation causes a new connection to be established incorporating at least one new element. But Carlson’s alleged situational network and the connections within it indeed exist *prior to* the event or situation. What Petitioner has identified as “connections” between the users and services as participants of Carlson’s alert interface are subscriptions established *prior to* the occurrence or expected occurrence of an event or situation.

The Petition asserts that the data stored in user data store 128 of Carlson’s system constitutes connections within a social network. Petition, at 35-36. Carlson

discloses, however, that “[u]ser data store 128 stores data and other information for users... The stored information can include data such as user account data for a mail provider service, user contact lists, *user alert subscription information*, user instant messaging account information, user mobile device account information, and other data.” Carlson, ¶ [0030]. The stored data thus includes a user’s subscription to receive alert notifications. The other stored data enumerated by Carlson provides means of delivering the alerts the user subscribed to receive. For instance, “user account data for a mail provider service” would inform the system on how to deliver the alerts the user signed up to receive to the user’s e-mail. Likewise, “the user instant messaging account information” and “user mobile device account information” would inform how to deliver alerts the user requested to receive via the user’s cellular phone. “User contact list” would include other means of delivering the alerts the user subscribed to receive. Accordingly, the data stored within user data store 128 are subscriptions and delivery addresses for the subscriptions.

That the connections between users and various alert services are subscriptions established *prior to* the occurrence or expected occurrence of an event or situation is confirmed by the other portions of Carlson the Petition cites. The Petition cites the examples of a “weather service” and a “sporting news service” presented by Carlson in paragraph [0052]. Petition, at 35. Both are presented as examples of “a service the user has *accepted or subscribed to*.” Carlson, ¶ [0052] (emphasis added).

Accordingly, the “[u]sers to receive the alert can include *users that have indicated a preference to receive information regarding the event detected.*” Carlson, ¶ [0053] (emphasis added).

Subscribing to a service and/or indicating a preference requires establishing a connection with the service *prior to* the occurrence or expected occurrence of an event or situation. Ex. 2008, ¶ 56. The very act of subscribing establishes a relationship with the service that interconnects the service and the subscriber. Furthermore, indicating preferences to the service also requires previously forming a relationship with the service that interconnects the service and the subscriber. What the Petition has identified as connections between the users and services disclosed in Carlson are thus formed *prior to* the occurrence or expected occurrence of an event or situation. Ex. 2008, ¶ 56. A “situational network,” however, has been construed to be a network created at a specific time – i.e., “*in response to* an event or situation.” To be created “in response to” requires that the network’s creation is after the event or situation. Consequently, a “situational network” cannot exist *before* the event or situation that triggers its creation. A “situational network,” therefore, can only exist when the occurrence of an event or situation causes a new connection to be established incorporating at least one new element. Consequently, a “situational network” cannot be a system in which all connection between elements existed *prior to* the event or situation. Accordingly, networks of pre-established connections are

excluded from the PTAB's construction of a "situational network." Consequently, the user data stored ahead of time in user data store 128 cannot be the connections underlying a situational network as construed by the Board. The Petition, therefore, has not established Carlson discloses a situational network.

The Petition fails to assert that Shahine discloses a situational network or otherwise overcomes the deficiencies. Consequently, the Petition has not established that Carlson in combination with Shahine discloses and/or suggests all the elements of claims 1-4, 6-11, 22 and 23, and thus has not established that claims 1-4, 6-11, 22 and 23 are obvious over Carlson in view of Shahine.

B. Ground 2: Claims 1-4, 6-11, 22 and 23 Are Not Obvious over Carlson-Shahine in View of Lundy

For the reasons detailed *supra*, Carlson-Shahine fails to disclose all the elements of claims 1-4, 6-11, 22 and 23. The Petition fails to assert that Lundy (U.S. Publication No. 2008/0092162) overcomes the deficiencies. Consequently, the Petition has not established that Carlson-Shahine in further combination with Lundy discloses and/or suggests all the elements of claims 1-4, 6-11, 22 and 23, and thus has not established that claims 1-4, 6-11, 22 and 23 are obvious over Carlson-Shahine in view of Lundy.

C. Grounds 3 and 4: Claim 5 Is Not Obvious over Carlson-Shahine nor Carlson-Shahine-Lundy in View of Roskind

For the reasons detailed *supra*, Carlson-Shahine and Carlson-Shahine-Lundy fail to disclose all the elements of claim 1 from which claim 5 depends. The Petition

fails to assert Roskind (U.S. Patent No. 7,263,614) overcomes the deficiencies. Consequently, the Petition has not established that Carlson-Shahine nor Carlson-Shahine-Lundy in further combination with Roskind discloses and/or suggests all the elements of claim 5, and thus has not established that claim 5 is obvious over Carlson-Shahine and/or Carlson-Shahine-Lundy in view of Roskind.

D. Ground 5: Claims 1-11, 22, and 23 Are Not Obvious over Amidon in View of Walsh and Shahine

Independent claims 1 and 22 both recite a “situational network.” Consequently, dependent claims 2-11, and 23 must also include a ‘situational network’ as an element. Claims 1-11, 22 and 23, therefore, require a “a network created in response to an event or situation.” The Petition fails to establish Amidon (U.S. Patent No. 8,346,864), Walsh (U.S. Patent No. 9,195,996) and/or Shahine (U.S. Patent No. 8,799,073) discloses “a network created in response to an event or situation.” The combination of Amidon, Walsh, and Shahine, therefore, cannot render the challenged claims invalid and unpatentable.

The Petition asserts Amidon’s architecture provides a “situational network”. Petition, at 56. As noted *supra*, a “situational network” can only exist when the occurrence of an event or situation causes a new connection to be established incorporating at least one new element. But Amidon’s architecture does not create new connections. Instead, Amidon architecture incorporates chatrooms, referred to as “conferences,” created using *existing* social networks to determine the participants in

a chatroom (i.e., conference). Likewise, existing social networks are used to determine the distribution of messages within a chatroom. In each instance, data is extracted from existing social networks to populate participant and recipient lists that are returned to the appropriate server. Mining existing social networks to populate lists, Amidon does not disclose a “conference” creates a new social network or alter the connections within existing social networks. Rather, Amidon merely uses the existing connections within a social network to determine members matching inclusion rules and adds those matching members to a participant or recipient list.

Amidon discloses that users “participate in social network conferences by way of any suitable communication techniques.” Amidon, 3:4-5. The suitable communication techniques enumerated are examples of various chat communication protocols. “For example, conferences may comprise textual messages, such as instant message (IM) and short message service (SMS) messages.” Amidon, 3:5-8. Accordingly, Amidon’s conferences use the messaging protocols commonly employed by chat apps. Amidon goes on to state that “[c]onferences may comprise audio messages, such as voice chat via streamed audio content, shared audio files, telephone (including VoIP, cellular, or other telephonic communication), or other suitable technique.” Amidon, 3:8-11. Accordingly, conferences may comprise voice chat. In addition to text and voice chat, Amidon states, “[c]onferences may comprise video messages, such as video chat via streamed video, shared video files, or other

suitable techniques.” Amidon, 3:11-13. Allowing participation via text, video, and/or voice chat, Amidon's conferences are chatrooms that connect users. Ex. 2008, ¶ 97.

Amidon's conferencing chatrooms are created using existing social networks to determine the participants. Amidon's system allows users to “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.*” Amidon, 7:59-61 (emphasis added); see Abstract (“[T]he members 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).”). Thus, Amidon discloses “systems and methods for users to conduct online conferences based on underlying social network structures.” Amidon, 2:55-56. A “situational network,” however, has been construed to be a network created at a specific time – i.e., “*in response to* an event or situation.” To be created “in response to” requires that the network’s creation is after the event or situation. Consequently, a “situational network” cannot exist *before* the event or situation that triggers its creation. A “situational network,” therefore, can only exist when the occurrence of an event or situation causes a new connection to be established incorporating at least one new element. Consequently, a “situational network” cannot be a system in which all connection between elements existed *prior to* the event or situation. Accordingly,

networks of pre-established connections are excluded from the PTAB's construction of a "situational network." Consequently, the connections defining the structure of an *already existing* social network cannot be the connections underlying a situational network as construed by the Board. Therefore, by using existing social network structures, Amidon's system does not create a situational network.

The existing underlying social network data is also used to identify participants based on existing relationships which satisfy distribution parameters set by the user. The method for creating a conference chat comprises "accessing social network data *identifying the relationship* between members of the social network" then "[b]ased on the social network data ... multiple other users may be identified for inclusion in a social network conference." Amidon, 3:31-36 (emphasis added). Identifying users for inclusion based on relationships, Amidon's conference chatrooms are created based on existing connections within a social network. "For example, a first user may provide one or more distribution parameter(s) that identify inclusion or exclusion rules, such as *desired degree of separation* (relative to the first user) restricting which other users are to be included in the conference... [T]he conferencing system may determine which social network users fall within the *desired degree of [separation]* and include them the social network conference." Amidon, 3:40-47 (emphasis added). Accordingly, Amidon teaches that existing connections may limit conference chatrooms to users that are direct friends or

friends-of-a-friend of a first user. The type of connection may also limit participants in Amidon's conference chat rooms. “For instance, the user may wish to conference with user within two degrees of separation in the *‘friend’ network* and only within a single degree of separation in the *‘work’ network*.” Amidon, 13:4-7. Amidon, accordingly, discloses using the structure of the underlying social network as represented by connections between users to define participation in conference chatrooms. But here again, Amidon is using connections defining the structure of an *already existing* social network, which cannot be the connections underlying a situational network as construed by the Board.

The distribution parameters specifying the connections to be used to create a conference chatroom are inputted by a user and packaged into “conference metadata.” A user “specifies one or more distribution parameters by interacting with a user interface ... and the parameter(s) are packaged into conference meta data...” Amidon, 10:25-28. To assist users in selecting the existing connections to include within the conference metadata, the user “may receive information about the user's respective social networks ... such as a diagram or chart of the social network. After reviewing the information, interested users may provide one or more social network parameters ... defining participation.” Amidon, 9:62-66. Thus, after a user has reviewed the structure of a social network and selected the type of connections within that structure, conference metadata is sent off that indicates the type of

connections as distribution parameters that define members to be included within the conference chatroom. Thus, Amidon is using connections defining the structure of an *already existing* social network to establish distribution parameters. But *pre-existing connections* cannot be the connections underlying a situational network as construed by the Board.

The delivery of messages within Amidon's conference chatrooms is also dependent on connections of existing social networks selected by users. “For example, user A may wish to begin a side discussion with only the closest of contacts...” and “specify that the message is to be distributed only to members within one degree of separation.” Amidon, 11:2-6. Recipients of replies are also defined by existing connections. For instance, “user C may limit distribution of the reply to users within one degree of separation.” Amidon, 12:4-5. Accordingly, Amidon is delivering messages using *pre-existing connections* which cannot be the connections underlying a situational network as construed by the Board.

Amidon thus discloses a system which creates chatrooms and delivers messages within a chatroom based upon user defined *pre-existing* connections included within metadata. In each instance, data is extracted from connections within an existing social networks to populate participant and recipient lists that are returned to the appropriate server. As Amidon explains, “the conference metadata is sent to messaging server 14” which then “provide[s] data identifying the social

network in question and the distribution parameters to social network server 16” which “uses the distribution parameters and other information to assemble *a participant list* for potential inclusion in the social network conference.” Amidon, 10:32-39 (emphasis added). Accordingly, the connections specified within the metadata are used to mine the social network for matching members that are included within a participant list.

Specified connections are also used to mine social networks to generate recipient lists when sending messages within a conference chatroom. “Based on the message metadata and data defining the social network, *a recipient list* can be determined and the message can be sent to the user(s) in the *recipient list*.” Amidon, 3:54-56 (emphasis added). Thus, sending a message within one of Amidon's conference chatrooms entails sending instructions “to access social network data identifying *relationships between members of the social network*; to determine, based on data including the social network data and the message metadata, *a recipient list* for the message; and to send the message to one or more users included in *the recipient list*.” Amidon, 4:54-59 (emphasis added). Accordingly, when creating a conference chatroom or sending a message within a conference chatroom, user defined connections included within metadata are used to mine social networks for matching users. But *pre-existing connections* cannot be the connections underlying a situational network as construed by the Board.

Mining existing social networks to populate lists, Amidon does not disclose a “conference” creates a new social network or alters the connections within existing social networks. Rather, Amidon merely uses the existing connections within a social network to determine members matching inclusion rules and adds those matching members to a participant or recipient list. As *detailed supra*, As noted *supra*, a “situational network” can only exist when the occurrence of an event or situation causes a new connection to be established incorporating at least one new element. But Amidon’s architecture does not create new connections and instead uses connections to mine existing social networks to populate lists. Accordingly, whatever Amidon’s architecture creates by mining social networks, it is not a “situational network”.

The Petition fails to assert that Walsh and/or Shahine discloses a situational network or otherwise overcomes the deficiencies of Amidon. Consequently, the Petition has not established that Amidon in combination with Walsh and Shahine discloses and/or suggests all the elements of claims 1-11, 22 and 23, and thus has not established that claims 1-11, 22 and 23 are obvious over Amidon in view of Walsh and Shahine.

E. Grounds 6: Claim 8 Is Not Obvious over Amidon-Walsh-Shahine in View of Jones

For the reasons detailed *supra*, Amidon-Walsh-Shahine fails to disclose all the elements of claim 1 from which claim 8 depends. The Petition fails to assert Jones

(U.S. Publication No. 2006/0095320) overcomes the deficiencies. Consequently, the Petition has not established that Amidon-Walsh-Shahine in further combination with Jones discloses and/or suggests all the elements of claim 8, and thus has not established that claim 8 is obvious over Amidon-Walsh-Shahine in view of Jones.

IV. CONCLUSION

The Petition fails to render the challenged claims invalid and unpatentable. Therefore, the Board should uphold the validity and patentability of claims 1-11, 22 and 23.

Dated: December 4, 2024

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CERTIFICATE OF SERVICE (37 C.F.R. § 42.6(e))

Pursuant to 37 C.F.R. § 42.6(e), the undersigned hereby certifies that Patent Owner's Response was served on December 4, 2024 by e-mailing copies to the e-mail addresses as provided in Petitioner's Petition.

Dated: December 4, 2024

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CERTIFICATE OF WORD COUNT

Under the provisions of 37 C.F.R. § 42.24, the undersigned hereby certifies that word count for the foregoing Patent Owner Response (excluding the table of contents, certificate of service, word count, or listing of exhibits) total 3,861 words, which is less than the 14,000 words allowed under 37 C.F.R. § 42.24(b)(1).

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