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Paper 21
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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META PLATFORMS, INC.,
Petitioner,

v.

SITNET, LLC,
Patent Owner.

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IPR2024-00528
Patent 8,249,932 B1

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

SZPONDOWSKI, *Administrative Patent Judge*.

PRELIMINARY GUIDANCE

PATENT OWNER'S MOTION TO AMEND

*37 C.F.R. § 42.121(e)*

# I. INTRODUCTION

On September 11, 2024, we instituted trial as to claims 1–11, 22, and 23 of U.S. Patent No. 8,249,932 B1 ("the '932 patent"). Paper 10. After institution, Patent Owner filed a Motion to Amend that is contingent on the patentability of claims 1 and 22. Paper 14 ("Motion" or "Mot."). Petitioner filed an opposition on February 26, 2025. Paper 19 ("Opposition" or "Opp.").

In the Motion, Patent Owner requested that we provide preliminary guidance concerning the Motion in accordance with 37 C.F.R. § 42.121(a)(1)(ii). Mot. 1; *see* 37 C.F.R. § 42.121(e)(1); *see also Rules Governing Motion to Amend Practice and Procedures in Trial Proceedings under the America Invents Act before the Patent Trial and Appeal Board*, 89 Fed. Reg. 76,421 (Sept. 18, 2024) ("Final Rule"). We have considered Patent Owner's Motion and Petitioner's Opposition.

In this Preliminary Guidance, we provide information indicating our initial, preliminary, non-binding views on whether Patent Owner has shown a reasonable likelihood that it has satisfied the statutory and regulatory requirements associated with filing a motion to amend in an *inter partes* review and whether Petitioner establishes a reasonable likelihood that the substitute claims are unpatentable. 37 C.F.R. § 42.121(e)(1), (2); *see also* 35 U.S.C. § 316(d) (statutory requirements for a motion to amend); 37 C.F.R. § 42.121(a)(2), (a)(3), (b) (regulatory requirements and burdens for a motion to amend); *Lectrosonics, Inc. v. Zaxcom, Inc.*, IPR2018-01129, Paper 15 (PTAB Feb. 25, 2019) (precedential) (providing information and guidance regarding motions to amend). The reasonable likelihood standard this Preliminary Guidance applies is different than the preponderance of the evidence standard applied when ultimately deciding the Motion. *Compare* 37 C.F.R. § 42.121(e)(1) *with* § 42.121(d). Finally, this preliminary guidance is not a

"decision" for purposes of rehearing under 37 C.F.R. § 42.71(d). 37 C.F.R. § 42.121(e)(2).

For purposes of this Preliminary Guidance, we focus on the proposed substitute claims, and specifically on the amendments proposed in the Motion. *See* 37 C.F.R. § 42.121(e)(1); Final Rule, 89 Fed. Reg. at 76,425. We do not address the patentability of the originally challenged claims. *See id.* Moreover, in formulating our preliminary views on the Motion and Opposition, we have not considered the parties' other substantive papers on the underlying merits of Petitioner's challenges. We emphasize that the views expressed in this Preliminary Guidance are subject to change upon consideration of the complete record, including any revision to the Motion filed by Patent Owner. Thus, this Preliminary Guidance is not binding on the Board when rendering a final written decision or any other subsequent decision in this proceeding. 37 C.F.R. § 42.121(e)(2); *see Medytox, Inc. v. Galderma S.A.*, 71 F.4th 990, 1000 (Fed. Cir. 2023).

## II. PRELIMINARY GUIDANCE

### A. Statutory and Regulatory Requirements

Patent Owner bears the ultimate burden to show that its motion to amend complies with the requirements of 35 U.S.C. § 316(d)(1), (3) and 37 C.F.R. § 42.121(a)(2), (a)(3), (b)(1), and (b)(2). 37 C.F.R. § 42.121(d)(1). For the reasons discussed below, at this stage of the proceeding, and based on the current record, it appears that Patent Owner has shown a reasonable likelihood that it has satisfied the statutory and regulatory requirements associated with filing a motion to amend. *See* 37 C.F.R. § 42.121(e)(1).

#### 1. Reasonable Number of Substitute Claims

A motion to amend must propose a reasonable number of substitute claims. 35 U.S.C. § 316(d)(1)(B); 37 C.F.R. § 42.121(a)(3). Patent Owner proposes to

substitute original claims 1–11, 22, and 23 with substitute claims 24–36. Mot. 3. Patent Owner has shown that it proposes a reasonable number of substitute claims by proposing only one substitute claim for each of the originally challenged claims. Mot. 4; *see also* 37 C.F.R. § 42.121(a)(3) ("The presumption is that only one substitute claim would be needed to replace each challenged claim, and it may be rebutted by a demonstration of need"). Petitioner does not argue otherwise. *See* Opp.

2. Respond to Ground of Unpatentability

A motion to amend must respond to a ground of unpatentability involved in the proceeding. 37 C.F.R. § 42.121(a)(2)(i). Patent Owner responds to a ground of unpatentability in the Petition by asserting that the newly added limitations in proposed substitute claim 24 are not disclosed in Amidon (Ex. 1007) (*see* Mot. 13–19), which was the basis for two of the grounds in the Petition. Petitioner does not argue that the Motion fails to respond to a ground of unpatentability. *See* Opp.

Although Patent Owner also responds by asserting that the combination of Wong and Gogic fails to teach the newly added limitations (Mot. 20–24), the Petition in this proceeding included no such ground.[1] Nevertheless, because the Motion responds to at least one ground, as noted above, we determine that Patent Owner has met this regulatory requirement with a reasonable likelihood. *See* 37 C.F.R. § 42.121(a)(2)(i) (providing that a motion to amend may be denied where

[1] Although Patent Owner asserts that "the limitations added in proposed substitute independent claim 2[4] obviates the asserted grounds alleging obviousness by incorporating at least one additional limitation not disclosed in Carlson in view of Shahine, Carlson-Shahine in view of Lundy, Carlson-Shahine-Lundy in view of Roskind, Amidon in view of Walsh and Shahine, and Amidon-Walsh-Shahine in view of Jones," (Mot. 4) Patent Owner only argues that the proposed substitute claims are not obvious over Amidon and Wong and Gogic. Mot. 13–24. We do not further address Wong and Gogic in this Preliminary Guidance.

"[t]he amendment does not respond to a ground of unpatentability involved in the trial" (emphasis added)).

3. Scope of Amended Claims

A motion to amend may not enlarge the scope of the claims of the patent. 35 U.S.C. § 316(d)(3); 37 C.F.R. § 42.121(a)(2)(ii). Patent Owner's Motion does not enlarge the scope of the claims of the patent because the Motion only adds narrowing limitations. *See* Mot., 4–5, App. A. Petitioner does not argue otherwise. *See* Opp.

4. New Matter

A motion to amend may not introduce new subject matter. 35 U.S.C. § 316(d)(3); 37 C.F.R. § 42.121(a)(2)(ii). Patent Owner's Motion identifies where each limitation in the proposed substitute claims has support in U.S. Patent App. No. 11/924,748 (the "'748 application"), which is the application from which the '932 patent issued. *See* Mot. 6–11 (citing Ex. 1002, *passim*); *see also* Ex. 1001, code (21). Petitioner does not argue that the '748 application fails to provide written description support for the proposed substitute claims. *See* Opp.

B. Unpatentability Arguments by Petitioner

Petitioner bears the ultimate burden to show that any proposed substitute claims are unpatentable. 37 C.F.R. § 42.121(d)(2). For the reasons discussed below, at this stage of the proceeding, and based on the current record,[2] it appears that Petitioner has shown a reasonable likelihood that proposed substitute claims 24–36 are unpatentable. *See* 37 C.F.R. § 42.121(e)(1).

[2] We express no view on the patentability of original claims 1–11, 22, and 23 in this Preliminary Guidance. Instead, we focus on limitations added to those claims in Patent Owner's Motion to Amend.

1. Claim Construction

i. *"event node"*

Although "[t]he District Court determined the term 'event node' needed no construction,'" Patent Owner asserts that the Specification "provides a definition for an event node." Mot. 11. Specifically, Patent Owner points to disclosure in the '932 patent "that an event node '***propagates up-to-date information on the situation***' and that 'each node is capable of communicating in a peer-to-peer fashion with other nodes.'" *Id.* at 12 (citing Ex. 1001, 7:29–38, 14:50–54). Based on this disclosure, Patent Owner asserts that an event node "is a node within an NDSN providing up-to-date information regarding an event or situation via peer-to-peer communication with other nodes." *Id.* at 13.

Petitioner argues that Patent Owner's "construction attempts to improperly import optional limitations from the specification," and that even Patent Owner's "own expert agrees that a POSA would not have understood the term 'event node' to include these limitations." Opp. 2 (citing Ex. 1056 ¶¶ 5–11; Ex. 2009 ¶¶ 26–28, 34).

At this stage of the proceeding, we decline to adopt Patent Owner's construction for the term "event node" in the proposed substitute claims. Some of the disclosure in the '932 patent that Patent Owner alleges provides a definition of the term "event node" merely describes exemplary functionality of event nodes. *See* Mot. 18 (citing Ex. 1001, 7:29–38). Specifically, the '932 patent provides that "[f]or example, an entity, such as a trusted provider of information (e.g., a news source such as CNN or weather.com), establishes an event node in an NDSN that propagates up-to-date information on the situation to PIAs of the NDSN connected to that event node." Ex. 1001, 7:33–38. But neither of proposed substitute

claims 24 or 35 recite an event node that embodies this information propagation functionality.

In particular, although proposed substitute claim 24 includes the step of "causing an automatic redirection of a web browser application operating on each of the devices to a webpage containing information related to the situation," claim 24 does not specify any involvement of the "event node" in providing the "information related to the situation." For proposed substitute claim 35, while the "central server" is "configured to . . . establish[] an event node" and "cause an automatic redirection . . . to a webpage containing information related to the situation," claim 35 does not specify that the event node provides the "information related to the situation." Rather, claim 35 recites that the central server is configured to perform the redirection to the information. Accordingly, the "providing up-to-date information" part of Patent Owner's proposed claim construction for the term "event node" (Mot. 13) appears to add a limitation from the Specification of the '932 patent not required by the claimed embodiment.

Another portion of the '932 disclosure Patent Owner relies upon for its claim construction (Mot. 13) provides, as noted above, that "[e]ach node is capable of communicating in a peer-to-peer fashion with other nodes in the NDSN" (Ex. 1001, 14:50–51). But nothing in this portion of the '932 patent relates specifically to an event node. *See* Ex. 1001, 14:50–58. In fact, elsewhere in the '932 patent it is disclosed that "[i]n one embodiment, the SitNet can be formed in the absence of an event node, such as in a de-centralized (peer-to-peer) architecture." *Id.* at 7:48–50. Here, the '932 patent appears to indicate that event nodes are employed in embodiments with centralized, rather than peer-to-peer architectures. Accordingly, the "peer-to-peer communication with other nodes"

part of Patent Owner's proposed claim construction for the term "event node" contradicts, or at least fails to find support in, the Specification of the '932 patent.

Thus, Patent Owner has not shown support for its proposed claim construction that an "event node" is "a node within an NDSN providing up-to-date information regarding an event or situation via peer-to-peer communication with other nodes." Mot. 13. For purposes of this Preliminary Guidance, the claim language itself is sufficient for assessing Petitioner's unpatentability grounds in the Opposition, and there is no need for an explicit construction of the term "event node." In proposed substitute claim 24, for example, an "event node" is simply an entity "hosted by an event node server within a N-dimensional social network." Similarly, in proposed substitute claim 35 an "event node" is simply established by the central server "within a N-dimensional social network." Neither independent proposed substitute claim recites any particular functionality of the "event node." We turn to Petitioner's grounds of unpatentability with this understanding in mind.

2. Indefiniteness

Petitioner contends that the proposed substitute claims are indefinite under 35 U.S.C. § 112, second paragraph. Opp. 2–4. Specifically, Petitioner notes that "[e]ach of claims 24 and 35 recites 'establishing an event node … *within a N-dimensional social network*," but that "[c]laim 30, which depends from claim 24, further recites 'establish[ing] an event node *in a multi-dimensional personal information network*," where "[t]he '932 patent specification explains that '[a]n N-dimensional social network (NDSN) [is] also called a multi-dimensional personal information network.'" *Id.* at 3 (quoting Ex. 1001, 14:10–13). Petitioner argues that because "[t]he phrase 'multi-dimensional personal information network,' recited in claim 30, does not refer back to the 'N-dimensional social network' of claim 24," "it is unclear whether the claims require two different networks and, if

so, whether 'an event node' must be established in *each* of the two different networks." *Id.* at 3–4. Therefore, one "would not have been able to make an 'informed and confident choice' as to the proper scope of the claims." *Id.* at 4 (quoting *Interval Licensing LLC v. AOL, Inc.*, 766 F.3d 1364, 1370–71 (Fed. Cir. 2014)).

In post-grant proceedings the Board applies the indefiniteness standard set forth in *Nautilus, Inc. v. Biosig Instruments, Inc.*, 572 U.S. 898 (2014). *See* Memorandum: Approach to Indefiniteness Under 35 U.S.C. § 112 in AIA Post-Grant Proceedings (Jan. 6, 2021) (available at https://www.uspto.gov/sites/default/files/documents/IndefinitenessMemo.pdf). Under *Nautilus*, a claim is indefinite if fails to "inform those skilled in the art about the scope of the invention with reasonable certainty." 572 U.S. at 910.

As Petitioner highlights, proposed substitute claim 30 recites that "the situation authority establishes an event node in a multi-dimensional personal information network corresponding to the situation," in addition to the recitation in proposed substitute claim 24—from which claim 30 depends—of "establishing an event node hosted by an event server within a N-dimensional social network." Given the '932 patent's description of the terms "N-dimensional social network" and "multi-dimensional personal information network" as interchangeable (*see* Ex. 1001, 14:10–11), claim 30 does not provide reasonable certainty as to whether the recited "multi-dimensional personal information network" is the same network as the "N-dimensional social network" recited in claim 24, or whether claim 30 introduces a different network.

Accordingly, at this stage, we determine that there is a reasonable likelihood that proposed substitute claim 30 is indefinite. Although Petitioner suggests that all proposed substitute claims are indefinite (*see* Opp. 4 ("PO's substitute claims

are indefinite.")), Petitioner's reasoning in the Opposition only applies to proposed substitute claim 30, which is the only claim that recites the additional "multi-dimensional personal information network." We, therefore, do not determine that any other proposed substitute claim is indefinite at this juncture.

3. Patent Ineligibility

Petitioner contends that the proposed substitute claims are patent ineligible under 35 U.S.C. § 101. *See* Opp. 4–5. Specifically, Petitioner contends that "[u]nder Step 2A, Prong One, the substitute claims describe a method of organizing human activity—delivering targeted advertising." *Id.* at 7. Further, Petitioner contends that "[u]nder Step 2A, Prong Two, this judicial exception is not integrated into a practical application" because the recitation of the "formation of a 'situational network' and 'redirection of a web browser application … to a webpage" "merely 'link the judicial exception to a technical field'—transmission of advertisement through a computer network." *Id.* at 8. Accordingly, Petitioner contends that the proposed substitute claims are "directed to an abstract idea (i.e., presenting targeted advertising to individuals via a computer network)." *Id.*

Petitioner also contends that no claim elements, alone or in combination, employ more than conventional technology in implementing the abstract idea, and thus, there is no inventive concept in the proposed substitute claims. *See, e.g.*, Opp. 8 ("[T]he 'computer network' underlying the claimed 'situational network' 'may be implemented using the well-known TCP/IP suite of protocols,' and users may connect to the network using 'devices generally known to those skilled in the art that enable connection to, from and through the computer network.'" (quoting Ex. 1001, 4:11–16, 13:28–38)), 9 ("[A] 'social network,' as recited in the substitute claims, is merely 'a logical network' that relies on an existing 'physical network.'" (citing Ex. 1059, 20:16–22, 42:5–44:3); "[T]echniques for redirecting a web

browser application were well known prior to the '932 patent." (citing Ex. 1003 ¶¶ 51–52, 100–103)), 10 ("Similarly, '[u]sing a generic database to store [] information,' as in element [35.H], 'is not an inventive concept.'" (quoting *Chewy, Inc. v. Int'l Business Machines Corp.*, 94 F.4th 1354, 1366–67 (Fed. Cir. 2024))). Petitioner notes that although "the district court declined to dismiss the '932 patent due to the recitation of 'automatically connecting devices' to a situational network and 'causing an automatic redirection of a web browser application,' it did not make a determination of whether the asserted claims were directed to patent eligible subject matter." *Id.* at 4 (citing Ex. 1057, 7–9).

The Patent Office has published revised guidance concerning the application of § 101—USPTO's 2019 Revised Patent Subject Matter Eligibility Guidance, 84 Fed. Reg. 50 (Jan. 7, 2019) ("2019 Revised Guidance").[3] Under the 2019 Revised Guidance, we must first evaluate whether a claim recites a judicial exception in Step 2A, Prong One, including determining whether claim limitations fall within certain groupings of abstract ideas. 84 Fed. Reg. 50, 54. Abstract ideas include mathematical concepts, certain methods of organizing human activity, and mental processes. *Id.* at 52. If a claim recites a judicial exception, such as an abstract idea, we then proceed to Step 2A, Prong Two, where we "evaluate whether the claim as a whole integrates the recited judicial exception into a practical application of the exception." *Id.* at 54; *see also id.* at 54–55. If the claim does not integrate the judicial exception into a practical application, we proceed to Step 2B

[3] The Office's current eligibility guidance may also be found in the most recent update to the Manual of Patent Examination Procedure ("MPEP") (9th ed. rev. 01.2024 Nov. 2024). *See* MPEP § 2106. "All USPTO personnel are, as a matter of internal agency management, expected to follow the guidance." 84 Fed. Reg. at 51.

of the 2019 Revised Guidance, where we evaluate whether the claim provides an inventive concept. *Id.* at 56.

Petitioner has identified an abstract idea recited in the proposed substitute claims (i.e., presenting targeted advertising to individuals), and the current record does not show that the abstract idea is integrated into a practical application. *See* Opp. 5–8. Further, the current record does not show that the proposed substitute claims contain an inventive concept. *See id.* at 8–10. Accordingly, we determine, at this stage, that Petitioner's contentions highlighted above show a reasonable likelihood that the proposed substitute claims are patent ineligible.

4. Obviousness

Petitioner contends that the proposed substitute claims would have been obvious based on two of the originally asserted grounds in the Petition, namely, the combination of Amidon (Ex. 1007), Walsh (Ex. 1008), and Shahine (Ex. 1015), and the combination of Amidon, Walsh, Shahine, and Jones (Ex. 1014). *See* Opp. 10–19, 25. Additionally, Petitioner contends that the proposed substitute claims would have been obvious based on the addition of Kraft[4] (Ex. 1058) to either of these two originally asserted grounds. *See id.* at 19–25. In particular, Petitioner contends that proposed substitute claims 24–36 would have been obvious over Amidon, Walsh, and Shahine, or, alternatively, over Amidon, Walsh, Shahine, and Kraft. *See id.* at 10–25. Petitioner further contends that proposed substitute claim 31 would have been obvious over Amidon, Walsh, Shahine, and Jones, or, alternatively, over Amidon, Walsh, Shahine, Kraft, and Jones. *See id.* at 25.

Proposed substitute independent claim 24 recites

[4] US 7,747,648 B1, issued June 29, 2010.

> automatically connecting devices corresponding to a plurality of individuals to the situational network established in response to the situation, wherein establishing the situation network comprises establishing an event node hosted by an event server within a N-dimensional social network and connecting the event node to a plurality of existing nodes within the N-dimensional social network, said plurality of existing nodes corresponding with the plurality of individuals[.]

Mot., App. A (underlining highlighting newly added limitations)). Proposed substitute independent claim 35 recites similar newly added limitations. *See id.*

i. Amidon, Walsh, and Shahine

Petitioner contends, with respect to the originally asserted combination of Amidon, Walsh, and Shahine, that Amidon teaches the newly added limitations. Specifically, Petitioner asserts that Amidon discloses a multi-dimensional social network in which users may initiate a conference, where a conference is an object—i.e., the "event node"—hosted by a messaging server—i.e., the "event node server"—and where users can connect to the conference. *See* Opp. 13–16 (citing Ex. 1003 ¶ 251; Ex. 1056 ¶¶ 30–39; Ex. 1059, 32:17–20, 59:9–12; Ex. 2009 ¶ 34; Ex. 1007, 2:57–63, 4:60–5:2, 6:58–60, 8:27–40, 8:49–55, 9:23–38, 10:33–44, 15:6–15, 16:67–17:2, 19:54–61, 22:41–47). Petitioner relies on the same contentions for proposed substitute independent claim 35. *See id.* 19.

Patent Owner argues that "a conference cannot be a node, let alone an event node." Mot. 13. In particular, Patent Owner cites a general dictionary for the definition of "conference" and asserts that "Amidon defines its social networking conference consistent with the plain and ordinary meaning of a conference – i.e., a group of individuals communicating with one another." *Id.* at 14–15. "A group of individuals cannot be a node, let alone an event node," Patent Owner argues, because "an event node is [a] node communicating information regarding a

situation in a peer-to-peer fashion" and "an event node would be an element ***within*** a conference, but ***not*** a conference." *Id.* at 16–17.

Patent Owner acknowledges that Amidon describes that "'conferences may be defined by a database record including a ***conference ID and list of users by user ID***,'" but argues that this merely "depicts the architecture of a relational database," "not an event node communicating information regarding a situation in a peer-to-peer fashion with other nodes." Mot. 19 (quoting Ex. 1007, 15:10–12).

On the current record, Petitioner's contentions highlighted above, which are supported by expert testimony, show a reasonable likelihood that Amidon teaches the newly added limitations recited in independent proposed substitute claims 24 and 35. In particular, with respect to the disputed "event node" feature, Amidon describes that "[d]ata defining the social network conference, including the participant list, is then stored in computer-readable form," for example, "in one or more additional databases accessible by social network conferencing system 12." Ex. 1007, 10:40–44. More specifically, in Amidon "social network conferences may be defined using a plurality of data structures such as are illustrated in FIG. 3," which shows that "[c]onferences may be defined by a database record including a conference ID and list of users by user ID." *Id.* at 15:8–12. Patent Owner's and Petitioner's experts appear to agree that an "event node" encompasses data structures such as an object with attributes defining an event. *See* Ex. 1003 ¶ 254; Ex. 1056 ¶¶ 33–34; Ex. 1059, 32:17–20, 33:2–7. We thus determine, based on the current record, that there is a reasonable likelihood that Amidon's conference teaches the claimed "event node" because it is, in the words of Petitioner's expert, "an object in the network to which users connect . . . with 'data defining' the conference such as 'a conference ID and list of users by user ID.'" Ex. 1056 ¶ 34 (citing Ex. 1007, 10:40–44, 15:6–15).

Patent Owner's arguments that Amidon's conference is not an "event node" are not persuasive because they rely on a peer-to-peer communication functionality from the proposed claim construction that we decline to adopt. *See supra* § II.B.1.i. With our current understanding of the claims, we see nothing in proposed substitute claims 24 or 35 that precludes data structures representing a conference with which users interact from meeting the claimed "event node."

ii. Amidon, Walsh, Shahine, and Kraft

With respect to the newly asserted combination of Amidon, Walsh, Shahine, and Kraft, Petitioner contends that, to the extent necessary, Kraft cures any deficiency of the Amidon, Walsh, and Shahine combination regarding the newly added limitations in the proposed substitute claims. *See* Opp. 19–25. Specifically, Petitioner asserts that Kraft discloses a world model that may include features of a conventional social network and may contain a node representing an event, such as a mayoral election, that is implemented as a data structure. *Id.* at 20–22 (citing Ex. 1056 ¶¶ 71–74; Ex. 1058, 2:35–41, 2:67–3:2, 3:18–24, 3:52–55, 6:54–57, 8:26–31, 8:35–44, 9:33–36, 10:25–30). Petitioner further asserts "Kraft teaches that a user may query an event node, which, in response to the query, returns information (e.g., 'text or media content,' . . . ) related to the event." *Id.* at 22 (citing Ex. 1058, 3:18–24).

Based on these teachings, Petitioner argues that in the combination of Kraft with Amidon, Walsh, and Shahine, one of ordinary skill in the art "would have been motivated to establish and include an 'event node' as a participant within a conference," where, in the example of a mayoral election, "a conference amongst users would include an entity representing the election" and "the information contained within the election entity (e.g., 'text or media content,' . . . ) could be queried by and returned to users within the conference, just as messages between

individuals would be exchanged." Opp. 23 (citing Ex. 1056 ¶ 76; Ex. 1058, 3:18–24). Moreover, Petitioner argues one "would have been motivated to employ Amidon's messaging server to receive and respond to queries associated with an event entity within a conference, similar to the functionality of Kraft's 'world server.'" *Id.* at 23–24 (citing Ex. 1056 ¶ 77; Ex. 1058, 3:52–57).

Petitioner reasons that one of ordinary skill in the art "would have been motivated to combine Kraft's techniques with Amidon-Walsh-Shahine to allow users to obtain up-to-date information regarding an event from within a conference." Opp. 22–23 (citing Ex. 1056 ¶ 75). In addition, Petitioner asserts that one "would have had a reasonable expectation of success, encountering no technical hurdles, in storing entities representing events in Amidon's social network data stores." *Id.* at 25 (citing Ex. 1056 ¶ 79).

We determine, at this stage, that Petitioner's contentions highlighted above, which are supported by expert testimony, show a reasonable likelihood that Kraft, in combination with Amidon, Walsh, and Shahine, teaches the newly added limitations in independent proposed substitute claims 24 and 36. Petitioner's contentions further show a reasonable likelihood that it would have been obvious to combine Kraft with Amidon, Walsh, and Shahine.

iii. Amidon, Walsh, Shahine, and Jones, or
Amidon, Walsh, Shahine, Kraft and Jones

Petitioner relies on the addition of Jones for the limitation in proposed substitute claim 31. *See* Opp. 31. Proposed substitute claim 31 includes no newly added limitations aside from those discussed above for proposed substitute claim 24, from which proposed substitute claim 31 depends.

## III. CONCLUSION

This concludes our Preliminary Guidance. Patent Owner has the option to reply to this Preliminary Guidance *or* to file a revised MTA by DUE DATE 3. 37 C.F.R. § 42.121(e)(3), (f); Paper 11. Patent Owner's reply or revised MTA may only respond to this Preliminary Guidance or Petitioner's Opposition and may be accompanied by new evidence (including declarations). 37 C.F.R. § 42.121(e)(3). Petitioner has the option to file a sur-reply responsive to this Preliminary Guidance, Patent Owner's reply, or Patent Owner's revised MTA but may not present new evidence in any case. 37 C.F.R. § 42.121(e)(3). Petitioner may also file a reply to the preliminary guidance in the case Patent Owner does not file a reply or revised MTA. 37 C.F.R. § 42.121(e)(4).

In addition, Patent Owner is reminded that amendments of the challenged claims may also be pursued in a separate reissue or reexamination proceeding before, during, or after an AIA trial proceeding, including subsequent to the issuance of the Final Written Decision. We draw Patent Owner's attention to the April 2019 *Notice Regarding Options for Amendments by Patent Owner Through Reissue or Reexamination During a Pending AIA Trial Proceeding*. *See* 84 Fed. Reg. 16,654 (Apr. 22, 2019). If Patent Owner chooses to file a reissue application or a request for reexamination of the challenged patent, we remind Patent Owner of its continuing obligation to notify the Board of any such related matters in updated mandatory notices. *See* 37 C.F.R. § 42.8(a)(3), (b)(2).

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