

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

META PLATFORMS, INC.,
Petitioner,

v.

SITNET LLC,
Patent Owner.

IPR2024-00529
Patent 8,332,454 B1

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

POWELL, *Administrative Patent Judge*.

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

I. INTRODUCTION

A. BACKGROUND

Meta Platforms, Inc. (“Petitioner”) filed a Petition for *inter partes* review of claims 1–20 of U.S. Patent No. 8,332,454 B1 (Ex. 1001, “the ’454 patent”). Paper 1 (“Pet.”). SitNet LLC (“Patent Owner”) filed a Preliminary Response. Paper 6 (“Prelim. Resp.”). With our authorization, Petitioner filed a Preliminary Reply (Paper 7, “Prelim. Reply”), and Patent Owner filed a Preliminary Sur-reply (Paper 8, “Prelim. Sur-reply”).

We have authority to determine whether to institute an *inter partes* review. *See* 35 U.S.C. § 314; 37 C.F.R. § 42.4(a) (2021). To institute an *inter partes* review, we must determine that the information presented in the Petition shows “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). For the reasons set forth below, we determine that the information presented in the Petition establishes a reasonable likelihood that Petitioner will prevail with respect to at least one challenged claim. We institute an *inter partes* review of claims 1–20 based on the grounds set forth in the Petition.

B. RELATED PROCEEDINGS

The parties identify *SitNet, LLC v. Meta Platforms, Inc.*, No. 1:23-cv-06389 (S.D.N.Y. July 24, 2023) as a related case (“district court litigation”). Pet. 2; Paper 4, 2. Petitioner also notes that the district court litigation involves, in addition to the ’454 patent, other related U.S. patents. Pet. 3. Petitioner further notes that it is seeking *inter partes* review of those related patents in IPR2024-00528, IPR2024-00530, IPR2024-00531, and IPR2024-00612. *Id.*

C. THE '454 PATENT

The '454 patent is titled “Creating a Projection of a Situational Network” and is generally directed to “[a] method of creating a projection of a situational network.” Ex. 1001, codes (54), (57). The method involves “creating, by an event node server, an event node in a multi-dimensional personal information network.” *Id.* at code (57).

The '454 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, 3:60–64. “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 3:64–67. 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 4:6–4:22. 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 4:25–36, 20:8–16. Users are connected into the situational network when it is determined that they are affected by the event or situation. *Id.* at 5:27–29. 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 4:48–62, 30:62–63. For example, a situational network “may be formed when users involved in a situation or event are determined to be in relatively close geographic

positions.” *Id.* at 5:46–48. As another example, a situational network for an emergency event “may have multiple tiers or access levels to allow for more effective sharing and propagation of information between users.”

Id. at 25:18–21.

The ’454 patent describes an embodiment where the situational network may be established using the framework of a multi-dimensional personal information network (also referred to as an N-dimensional social network (NDSN)). Ex. 1001, 7:37–40. The NDSN “captures and manages multi-dimensional relationships between persons and other entities that are users of the network” and “permits the user to discover and utilize the indirect relationships to other users that are connected to him through first-degree users.” *Id.* at 14:28–45. “In this embodiment, users are connected into the situational network through the NDSN using a PIA [Personal Information Aggregator].” *Id.* at 7:41–42. The PIA associated with each user is or encompasses a node of the situational network, and the event or situation itself may also be associated with a node on the situational network, known as an event node. *Id.* at 7:43–44. The PIA “provides a user with the ability to store, organize and control personal information” and may be implemented on a handheld device, such as a mobile phone, a personal computer, or a dedicated appliance. *Id.* at 7:43–44, 7:65–67, 13:9–44. The stored information may reside in data structures that are implemented as tables in a relational database management system that can be accessed by the PIA’s application program. *Id.* at 9:30–33. In this embodiment, the NDSN can “provide a ‘projected’ view of a subset of the members of the NDSN to the user based on a subset of the NDSN’s multiple dimensions.” *Id.* at 14:53–55; *see also id.* at 16:26–28, 29:44–58.

As discussed above, in this embodiment the event or situation becomes associated with a node of the NDSN, referred to as an event node. Ex. 1001, 19:54–56. A user may be automatically connected to the event node, request connection to the event node, or be invited to connect to the event node corresponding to the event. *Id.* at 19:56–57. The invitation may be based on a stored user profile accessible to a situation authority server associated with the event node that crawls the network for user PIAs “that would likely be interested in the information about the event.” *Id.* at 20:10–14. The user may accept or decline the invitation. *Id.* at 20:15–16.

In another embodiment, “[a] situational network can be used to efficiently deliver and propagate a message or notification from a single user related to a situation or event to an expanded group of individuals who are directly or indirectly affected by the event or situation.” Ex. 1001, 29:59–53. The messages or notifications can be propagated to selected groups of users. *Id.* at 29:53–30:16, 30:39–61.

D. ILLUSTRATIVE CLAIM

Of the challenged claims, claims 1, 10, and 20 are independent. Each of claims 2–9 and 11–19 depends, directly or indirectly, from one of independent claims 1 and 10. Claim 1 is illustrative and is reproduced below with certain reformatting:¹

¹ We have added the same labels that Petitioner uses to identify portions of claim 1. *See* Pet. 24–25.

1. [1.P] A method of creating a projection of a situational network, the method comprising:

[1.1] (a) creating, by an event node server, an event node in a multi-dimensional personal information network, the event node corresponding to a situation;

[1.2] (b) forming a projection of nodes of the situational network using geographic locations of a plurality of devices corresponding to nodes in the multi-dimensional personal information network;

[1.3] (c) transmitting an invitation to establish a link with the event node server to the devices corresponding to each node in the projection formed in step (b);

[1.4] (d) receiving a response from at least one of the devices from step (c) accepting the invitation to establish a link with the event node server; and

[1.5] (e) establishing a link with each device accepting the invitation.

Ex. 1001, 33:19–35.

E. ASSERTED GROUNDS OF UNPATENTABILITY

Petitioner challenges the patentability of claims 1–20 of the ’454 patent on the following grounds (Pet. 5):

Claims Challenged	35 U.S.C. § ²	Reference(s)/Basis
1–7, 10–17, 19, 20	103(a)	Amidon ³
1–4, 6, 8–18, 20	103(a)	Wong ⁴ , Gogic ⁵

² The Leahy-Smith America Invents Act (“AIA”), Pub. L. No. 112-29, 125 Stat. 284, 287–88 (2011), revised 35 U.S.C. § 103, effective March 16, 2013. Because the application for the ’454 patent was filed before this date, the pre-AIA version of § 103 applies. *See* Ex. 1001, code (22).

³ U.S. Patent No. 8,346,864 B1, issued Jan. 1, 2013 (Ex. 1005, “Amidon”).

⁴ U.S. Patent Application Publication No. 2008/0103784 A1, published May 1, 2008 (Ex. 1006, “Wong”).

⁵ U.S. Patent No. 8,103,300 B2, issued Jan. 24, 2012 (Ex. 1007, “Gogic”).

In support of its challenges, Petitioner also relies on the Declaration of Jeremy R. Cooperstock, Ph.D. Ex. 1003. Patent Owner relies on an “Expert Report” of Aviel D. Rubin, Ph.D. Ex. 2005.

II. ANALYSIS

A. LEVEL OF ORDINARY SKILL

In determining the level of skill in the art, we consider the type of problems encountered in the art, the prior art solutions to those problems, the rapidity with which innovations are made, the sophistication of the technology, and the educational level of active workers in the field. *Custom Accessories, Inc. v. Jeffrey-Allan Indus. Inc.*, 807 F.2d 955, 962 (Fed. Cir. 1986); *Orthopedic Equip. Co. v. U.S.*, 702 F.2d 1005, 1011 (Fed. Cir. 1983).

Petitioner proposes that “[a] person of ordinary skill in the art (‘POSA’) would have had a bachelor’s degree in Computer or Electrical Engineering or equivalent discipline, and approximately two years’ experience in telecommunications or computer networking. Additional education could substitute for professional experience, and significant work experience could substitute for formal education.” Pet. 9.

At this stage, Patent Owner does not dispute Petitioner’s definition. *See generally* Prelim. Resp.; Prelim. Sur-reply. However, we note that Dr. Rubin states 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.

B. CLAIM CONSTRUCTION

In an *inter partes* review proceeding, a claim of a patent is construed using the same standard used in federal district court, including construing the claim in accordance with the ordinary and customary meaning of the claim as understood by one of ordinary skill in the art and the prosecution history pertaining to the patent. 37 C.F.R. § 42.100(b). According to the applicable standard, claim terms "are generally given their ordinary and customary meaning" as understood by a person of ordinary skill in the art in question at the time of the invention. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312–13 (Fed. Cir. 2005) (en banc) (citations omitted). Only those terms that are in controversy need be construed, and only to the extent necessary to resolve the controversy. *See Nidec Motor Corp. v. Zhongshan Broad Ocean Motor Co.*, 868 F.3d 1013, 1017 (Fed. Cir. 2017) (citing *Vivid Techs., Inc. v. America Sci. & Eng'g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999)). In order to resolve the Parties' dispute regarding whether Petitioner has supported its obviousness challenges sufficiently to warrant instituting *inter partes* review, we need not and do not construe any claim language expressly.

C. 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. 19–21. 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”),⁶ 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 10 (citing *Sotera*, IPR2020-01019, Paper 12).

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.

⁶ 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.

D. ALLEGED OBVIOUSNESS OVER AMIDON

1. *Overview of Amidon*

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. 1005, 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. 1005, 5:21–23.

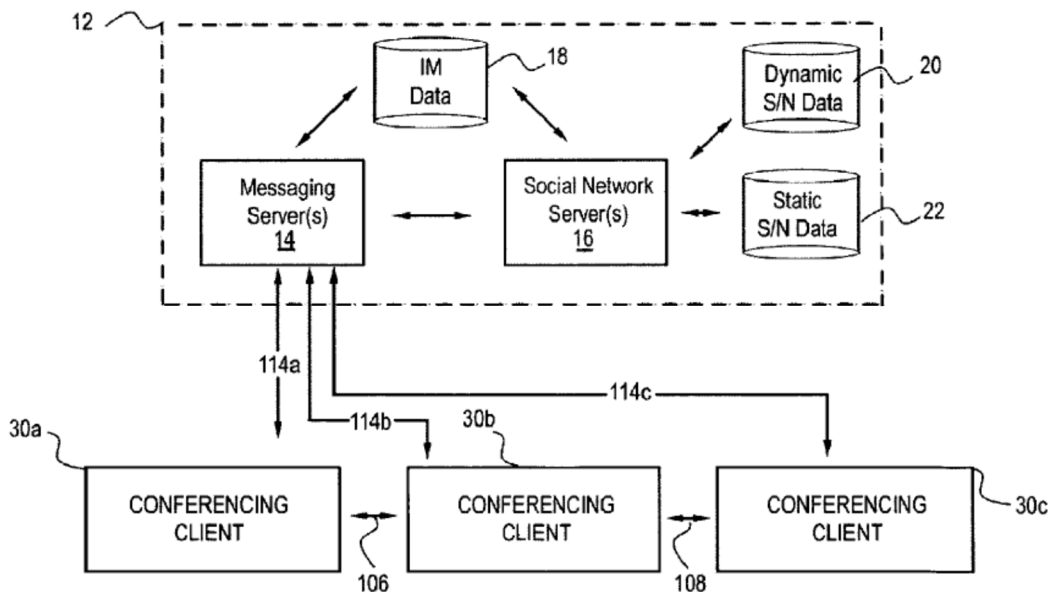


FIGURE 2

Figure 2 depicts system 12 including messaging server 14, social network server 16, and data stores 18, 20, and 22. Ex. 1005, 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. 1005, 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. Users may also define parameters that control conference participation, such as providing users with different access levels which allow users to moderate and participate fully in the conference, or allow users to participate but not moderate or only participate to a limited extent. *Id.* at 13:8–21. 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. 1005, 5:27–29.

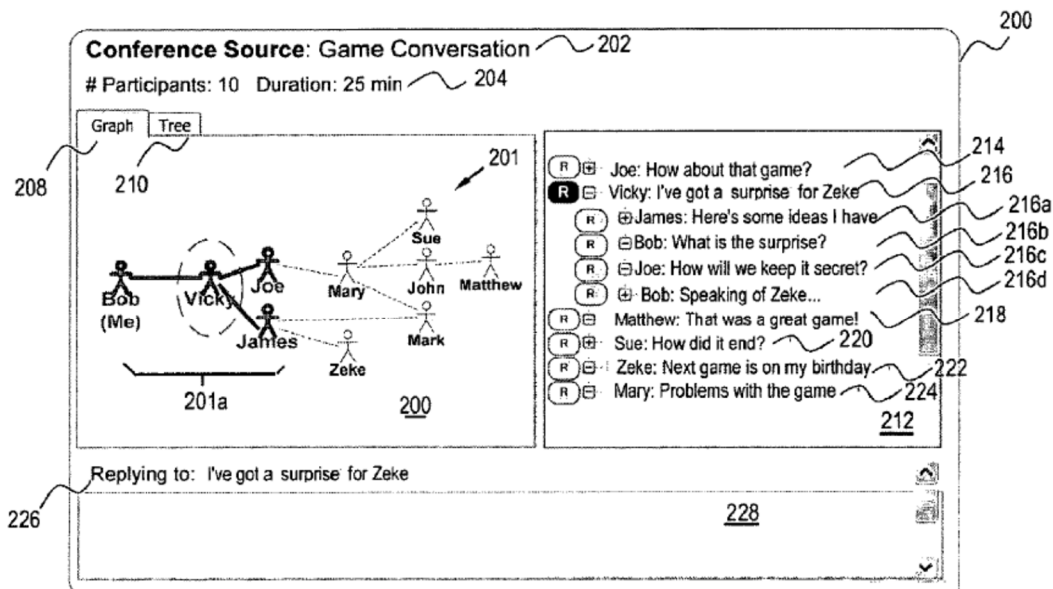


FIGURE 4

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. 1005, 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. 1005, 5:30–32.

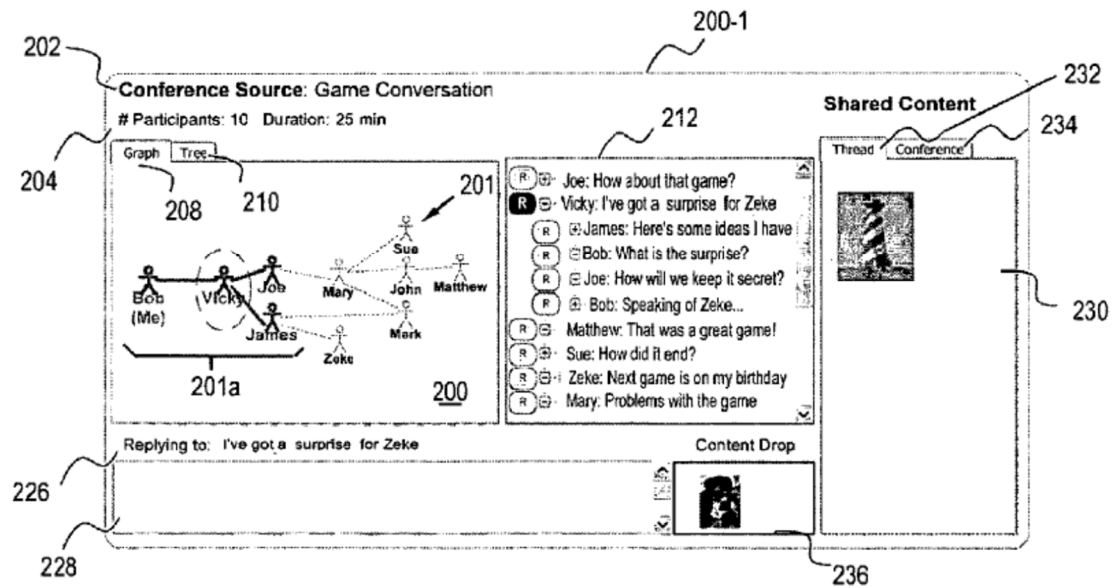


FIGURE 5

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. 1005, 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. Discussion

According to Petitioner, “Amidon renders obvious claims 1-7, 10-17, 19, and 20.” Pet. 10. Asserting that “Amidon’s teaching of a set of users communicating via a conference, which was created in response to a situation, corresponds to a *situational network*” (*id.* at 15), Petitioner argues that “Amidon renders obvious each element of the challenged claims” (*id.* at 14). Having reviewed all of the Parties’ arguments and evidence

currently of record, we determine Petitioner has demonstrated a reasonable likelihood of establishing that at least independent claim 1 of the '454 patent would have been obvious over Amidon.

At this stage, with respect to Petitioner's allegations of obviousness over Amidon, there ultimately is only one dispute: whether Amidon teaches the challenged claims' "event node."⁷ Pet. 15–26; Prelim. Resp. 11–15; Prelim. Reply 7–9; Prelim. Sur-reply 2–3. Petitioner argues that "Amidon teaches *creating, by an event node server, an event node*. Amidon's social network server 16 (i.e., *an event node server*) 'uses the distribution parameters and other information to assemble a participant list for potential inclusion in the social network conference.'" Pet. 19 (citing Ex. 1005, 10:37–39, Fig. 2). Petitioner contends that "Amidon's social network conference (as defined by the stored data and accessible via window 200) teaches the claimed *event node*." *Id.* at 20 (citing Ex. 1003 ¶ 77). Petitioner also argues that "the social network conference (as defined by the stored data and accessible via window 200) (i.e., *the event node*) corresponds to the situation." *Id.* at 22–23.

Patent Owner argues that Amidon's "conference" fails to teach an "event node." Prelim. Resp. 12. According to Patent Owner, "the conferences disclosed by Amidon do not disclose or suggest a node corresponding to the situation or event that is the subject of the conference." *Id.* (citing Ex. 2005 ¶¶ 36–38). With respect to Amidon's Figures 4 and 5,

⁷ Patent Owner also argues that Petitioner fails to address the claimed "event node server" sufficiently. Prelim. Resp. 11–15. But this argument ultimately rests only on Patent Owner's contention that Petitioner does not address sufficiently the claimed "event node." *Id.* at 10, 12–15.

Patent Owner argues that “the conferences do not include as a participant *the situation or event underlying the conference*. Without the underlying situation or event as a participant, the conferences do not and cannot include an ‘event node’ corresponding to the situation or event that is the subject of the conference.” *Id.* at 13 (citing Ex. 2005 ¶ 38). Patent Owner also argues that Amidon’s database record includes a conference ID and list of users by user ID, but does not include a listing or other entry for the event or situation underlying the conference, which further indicates that Amidon does not teach an “event node.” Prelim. Resp. 14; Prelim. Sur-reply 3.

On this record, we are persuaded that Petitioner has sufficiently shown that Amidon teaches an “event node” for purposes of institution. Petitioner has identified Amidon’s conference as the “event node,” where the user has specified the nature of the conference (i.e., the event or situation). *See* Prelim. Reply 7–8 (citing Pet. 20). We are not persuaded, at this stage and on this record, that the conference itself cannot teach the “event node.” As Petitioner points out, embodiments in the ’454 patent describe situations where the event node connects users to facilitate communication about an event or situation, similar to how Amidon’s conference functionality facilitates communication among users. *Id.* at 8 (citing Ex. 1018 ¶ 17; Ex. 1001, 30:39–61; Ex. 1005, 16:65–18:50, Fig. 4).

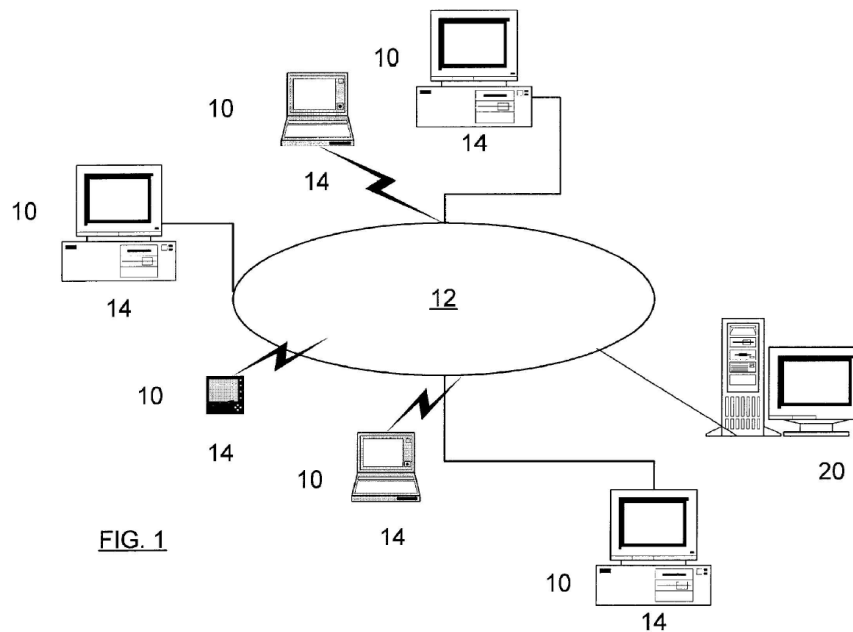
Patent Owner does not persuasively explain, or provide evidence that the event or situation must be a *participant* to the conference to qualify as an “event node.” Rather, we note that the ’454 patent states that “[t]he situation or event itself may also be *associated with* a node,” which supports Petitioner’s contentions that the nature of the conference (i.e., the situation or event) is associated with a node (i.e., the conference).

See Ex. 1001, 7:44–45. Nor does Patent Owner provide evidence or support that there must be a database record corresponding to the situation or event (i.e., defining the conference) in order for the conference to disclose an “event node.” Regardless, however, as Petitioner argues, the Conference ID entry as shown in Amidon’s Figure 3 identifies the conference, and title bar 202 (“Game Conversation”) as shown in Amidon’s Figures 4 and 5 describes the conference and seems to suggest this information must be stored somewhere. Prelim. Reply 8–9.

E. ALLEGED OBVIOUSNESS OVER WONG AND GOGIC

1. *Overview of Wong*

Wong “relates to the field of online networks.” Ex. 1006 ¶ 1. Wong’s Figure 1 is reproduced below.



Wong’s “[Figure] 1 is a schematic diagram illustrating a computer network.” *Id.* ¶ 9.

In the computer network, users 10 with computer terminals 14 can access “computer network 12 such as the Internet.” *Id.* ¶ 17. Additionally,

“[a] social network server or servers 20 maintain a system comprising an Internet website, database and associated data, which is accessible to users 10. Server 20 has the hardware and software required to operate an internet-accessible social network, including web server, email server, databases, data storage and the like.” *Id.*

Wong further discloses implementing “an interactive computerized network comprising a plurality of nodes, . . . each node linked to one or more nodes . . . by linkages.” *Id.* ¶ 6. An example appears in Figure 2, reproduced below.

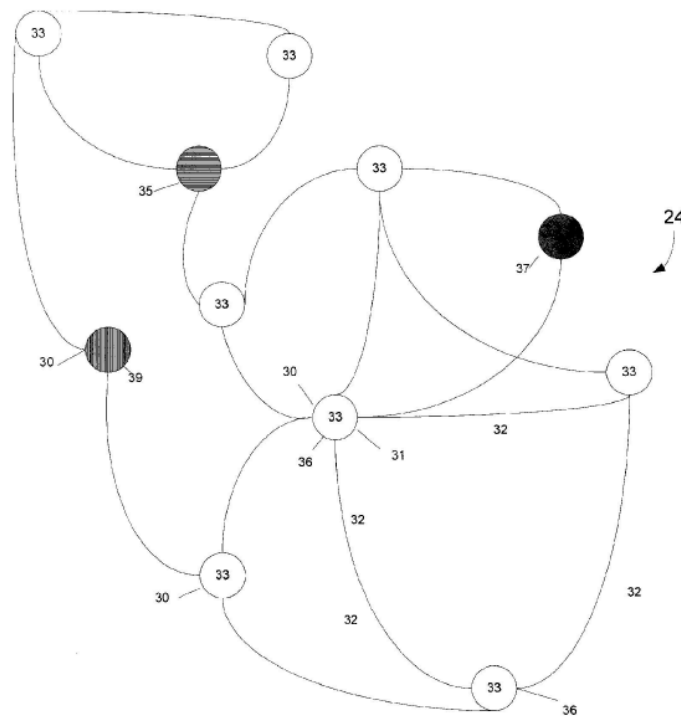


Fig. 2

Wong’s “[Figure] 2 is a schematic diagram illustrating a network of living and non-living entities.” *Id.* ¶ 10.

In this network, linkages 32 connect nodes 30. *Id.* ¶ 21. The network may include different node types. *E.g., id.* at code (57), ¶ 21. For example,

“such node types can include persons, places, objects, and animals.” *Id.* at code (57). Additionally, there may be more or fewer than four main node types. *Id.* ¶ 22.

Network users can communicate using social networking features:

The social networking features of the network of living and non-living entities facilitate many forms of communication, such as notification of updates, alerts, sharing of files and photos, blogs, instant messaging and comments. Also, the sender can select those in the network of living and non-living entities who can receive or view a particular communication or file.

Id. ¶ 44.

2. Overview of Gogic

Gogic provides group communication services in a communication system. Ex. 1007, 2:21–30. Gogic illustrates an exemplary communication system in Figure 2, which is reproduced below. Ex. 1007, 5:58–63.

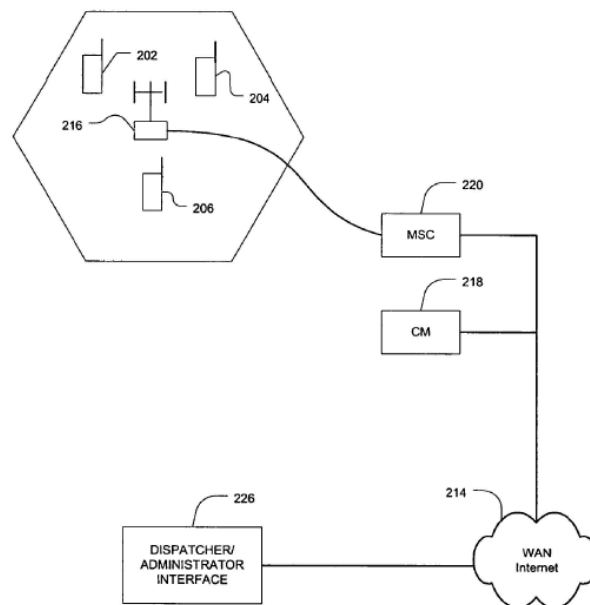


FIG. 2

Gogic's "[Figure] 2 illustrates a wireless communication system configured for group communication." Ex. 1007, 3:62–64.

This communication system includes communication devices (CD) 202, 204, and 206, linked to base station 216, mobile switching center (MSC) 220, and data network 214. Ex. 1007, 6:22–24, 7:50–60, 8:14–20. In this communication system, group members use CDs 202, 204, 206 to communicate with each other. *Id.* at 6:22–24.

The communication system also includes communication manager (CM) 218 and external administrator interface 226, which may facilitate system management. Ex. 1007, 7:17–34. For example, "CM 218 maintains a list of defined groups." *Id.* at 7:17. CM 218 may get group definitions via external administrator interface 226. *Id.* at 7:20–22.

Additionally, "[i]n one embodiment . . . , the administrator interface 226 accommodates a dispatcher for requesting the formation of an ad-hoc communication group of users located in a specific vicinity or region and for regulating communication . . . based on various criteria." *Id.* at 7:25–30. This may help, for example, in emergency situations by facilitating more appropriately or more efficiently deploying emergency services. *Id.* at 4:16–20.

Gogic discusses an example of forming an ad-hoc location-based communication group in connection with Figure 4, which is reproduced below.

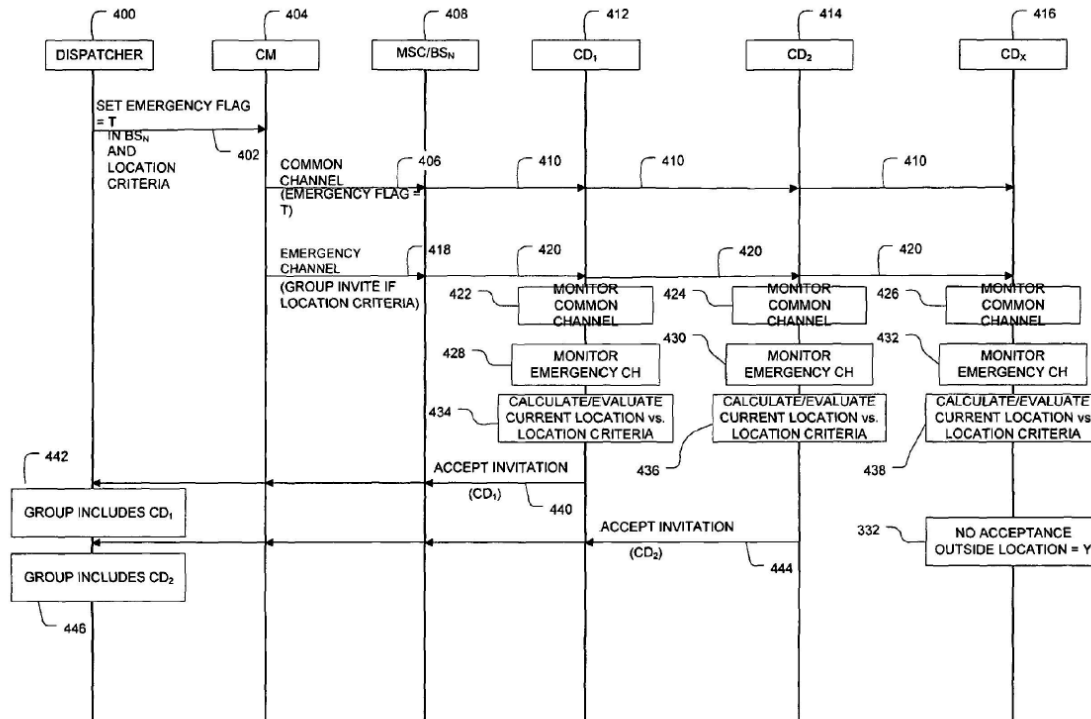


FIG. 4

Gogic’s “[Figure] 4 illustrates the formation of an ad-hoc group in response to an emergency notification, wherein the group is formed on the basis of proximity to a designated location.” Ex. 1007, 10:16–18.

In this process, dispatcher 400 detects circumstances in which it would help for proximately located users to communicate with each other. Ex. 1007, 10:18–21. Dispatcher 400 sends CM 404 a request to set an emergency flag on a channel commonly monitored by CDs 412, 414, 416. *Id.* at 10:21–37. This request may include “a group membership location criteria such as region or location criteria defining the inclusive boundary of users that are invited to join the group.” *Id.* at 10:24–29, 10:35–37. CM 404 instructs MSC/BS_N 408 to send a set emergency flag “on a common channel in at least an area serviced by a specific base station . . . that services the area surrounding the desired location of users to be included within the ad-

hoc group.” *Id.* at 10:37–42. Additionally, MSC/BS_N 408 sends “a broad or indiscriminant or generalized invitation to join a group to all recipient CDs with their invitation acceptance being conditional upon the CD qualifying according to the location criteria also transmitted in the broad indiscriminant invitation.” *Id.* at 10:45–50.

CDs 412, 414, 416 detect the emergency flag and monitor for further information on an emergency broadcast channel. Ex. 1007, 10:51–56. CDs 412, 414, 416 thereby receive the location-contingent invitation to join the group. *Id.* at 10:57–61. CDs 412, 414, 416 assess whether they meet the location requirements of the invitation. *Id.* at 10:62–66. In the example of Figure 4, CDs 412, 414 meet the location requirements and accept the invitation, which is relayed to dispatcher 400 via CM 404. *Id.* at 10:66–11:2, 11:4–7. Dispatcher 400 adds CDs 412, 414 to the list of confirmed group members. *Id.* at 11:7–9. In the example of Figure 4, CD 416 does not meet the location requirements, so it does not accept the invitation. *Id.* at 11:10–13.

3. Discussion

Petitioner contends that “[t]he combination of Wong and Gogic renders obvious claims 1-4, 6, 8-18, and 20.” Pet. 45. Petitioner asserts that Wong “teaches communication between nodes in a social network.” *Id.* at 46. Petitioner argues that Gogic discloses a communication system and that “an ad-hoc communication group may be formed, for example, in response to an emergency notification and based on the geographic proximity of users to a designated location.” *Id.* at 47. According to Petitioner, “[a person of ordinary skill in the art] would have been motivated to modify Wong’s social network communication system to incorporate

Gogic’s teachings of an ad-hoc location-based communication group.” *Id.* Having reviewed all of the Parties’ arguments and evidence currently of record, we determine Petitioner has demonstrated a reasonable likelihood of establishing that at least independent claim 1 of the ’454 patent would have been obvious over Wong and Gogic.

At this stage, with respect to Petitioner’s allegations of obviousness over Wong and Gogic, there ultimately is only one dispute: whether it would have been obvious in view of Wong and Gogic to implement the challenged claims’ “event node.”⁸ Pet. 51–54, 64, 69–70; Prelim. Resp. 15–19; Prelim. Reply 9–10; Prelim. Sur-reply 3. Petitioner argues that “[t]he Wong-Gogic combination teaches” limitation 1.1, which recites, in part, “creating, by an event node server, an event node.” Ex. 1001, 33:21; Pet. 51. Asserting that Wong teaches using nodes, Petitioner argues that it would have been obvious in view of Gogic to modify Wong’s system by adding an event node. Pet. 51–53. Asserting that neither Wong nor Gogic teaches an event node, Patent Owner argues that Petitioner fails to supply any “logic, reason, or underlying rationale” for the position that it would have been obvious in view of Gogic to add an event node to Wong’s system.

We do not agree with Patent Owner. The test for obviousness is not whether the claimed invention is expressly suggested in any one or all of the references, but whether the claimed subject matter would have been obvious to those of ordinary skill in the art *in light of the combined teachings of those*

⁸ Patent Owner also argues that Petitioner fails to address the claimed “event node server” sufficiently. Prelim. Resp. 15. But this argument ultimately rests only on Patent Owner’s contention that Petitioner does not address sufficiently the claimed “event node.” *Id.* at 10, 15.

references. See In re Keller, 642 F.2d 413, 425 (CCPA 1981); *In re Burckel*, 592 F.2d 1175, 1179 (CCPA 1979) (“[A] reference must be considered not only for what it expressly teaches, but also for what it fairly suggests.”).

For purposes of institution, Petitioner provides sufficient support for its position that it would have been obvious in view of Gogic to add an event node to Wong’s system. Petitioner argues that Gogic teaches dispatcher 400 facilitating communication between proximate users in response to an event or condition. Pet. 53. Petitioner contends that Wong teaches relying on nodes to facilitate communication between users. *Id.* at 52–53. Petitioner further notes that Wong teaches the possibility of adding more nodes and different kinds of nodes. *Id.* at 53. Given these assertions, Petitioner suggests that an obvious application of Gogic’s disclosure of using an entity to facilitate communication between proximately located users would have involved implementing Wong’s suggestion of adding a communication node, specifically an event node to facilitate communication between proximately located users. *Id.* Based on these arguments, Petitioner demonstrates a reasonable likelihood of prevailing on its assertion that it would have been obvious in view of Wong and Gogic to add an event node to Wong’s system, regardless of whether either Wong or Gogic individually teaches an event node. *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007) (“A person of ordinary skill is also a person of ordinary creativity, not an automaton.”).

III. CONCLUSION

After considering the evidence and arguments of record, we determine that Petitioner has demonstrated a reasonable likelihood of success with respect to at least one of the challenged claims. An *inter partes* review of all

of the claims and all of the grounds presented in the Petition is hereby instituted. *See SAS Institute Inc. v. Iancu*, 138 S. Ct. 1348, 1354, 1359–60; *PGS Geophysical AS v. Iancu*, 891 F.3d 1354, 1360 (Fed. Cir. 2018); 37 C.F.R. § 42.108(a).

At this stage of the proceeding, the Board has not made a final determination as to the patentability of any challenged claims or any underlying factual or legal issues. The final determination will be based on the record as developed during the *inter partes* review.

IV. ORDER

In consideration of the foregoing, it is:

ORDERED that, pursuant to 35 U.S.C. § 314(a), an *inter partes* review of the '454 patent is instituted with respect to challenged claims 1–20 with respect to all grounds set forth in the Petition; and

FURTHER ORDERED that, pursuant to 35 U.S.C. § 314(a) and 37 C.F.R. § 42.4(b), *inter partes* review of the '454 patent shall commence on the entry date of this Order, and notice is hereby given of the institution of a trial.

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