

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

META PLATFORMS, INC.,
Petitioner

v.

SITNET, LLC,
Patent Owner

Case IPR2024-00529
U.S. Patent No. 8,332,454

PETITIONER'S REPLY TO PATENT OWNER'S RESPONSE

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PETITIONER’S UPDATED EXHIBIT LIST

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1001	U.S. Patent No. 8,332,454 to Cona <i>et al.</i> (“’454 patent”).
1002	Prosecution History of U.S. Patent No. 8,332,454 (“’454 File History”).
1003	Declaration of Jeremy Cooperstock, Ph.D.
1004	<i>Curriculum Vitae</i> of Dr. Jeremy Cooperstock
1005	U.S. Patent No. 8,346,864 B1 to Amidon <i>et al.</i> (“Amidon”)
1006	U.S. Patent Application Publication No. 2008/0103784 A1 to Wong <i>et al.</i> (“Wong”)
1007	U.S. Patent No. 8,103,300 B2 to Gogic (“Gogic”)
1008	U.S. Patent No. 7,801,971 B1 to Amidon <i>et al.</i> (“Amidon-971”)
1009	Palen <i>et al.</i> , <i>Online Forums Supporting Grassroots Participation in Emergency Preparedness and Response</i> , Communications of the ACM, Vol. 50, No. 3 (March 2007)
1010	U.S. Patent No. 7,016,307 B2 to Vasudev <i>et al.</i> (“Vasudev”)
1011	U.S. Patent Application Publication No. 2006/0230053 A1 to Eldering (“Eldering”)
1012	Harghirian <i>et al.</i> , <i>Increasing Advertising Value of Mobile Marketing – An Empirical Study of Antecedents</i> , Proceedings of the 48th Hawaii Int’l Conf. on System Sciences, IEEE (2005).
1013	Boyd & Ellison, <i>Social Network Sites: Definition, History, and Scholarship</i> , Journal of Computer-Mediated Communication, 13 (2008) pp. 210-230.
1014	U.S. Patent No. 8,024,330 to Franco <i>et al.</i> (“Franco”)
1015	November 26, 2006 Wikipedia page “Social network” (from web.archive.org) (accessed January 24, 2024)
1016	Barry Wellman, <i>Network Analysis: Some Basic Principles</i> , Sociological Theory, Vol. 1 (1983) pp. 155-200 (“Wellman”)
1017	Civil Case Management Plan and Scheduling Order, 1:23-cv-06389 (S.D.N.Y.), Document 35 (10/20/2023)

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1018	Declaration of Dr. Jeremy Cooperstock in Support of Petitioner's Reply to Patent Owner's Preliminary Response
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1020	Transcript of the Deposition of Aviel D. Rubin, Ph.D., February 7, 2025
1021	Declaration of Dr. Jeremy Cooperstock in Support of Petitioner's Reply to Patent Owner's Response and in Support of Petitioner's Opposition to Patent Owner's Contingent Motion to Amend
1022	U.S. Patent No. 7,747,648 to Kraft et al. ("Kraft")
1023	Order on Motion to Dismiss, <i>SitNet LLC v. Meta Platforms, Inc.</i> , SDNY-1-23-cv-06389 (March 19, 2024)

I. INTRODUCTION

The '454 patent relates to nothing more than forming an ad-hoc communication group within a conventional social-network platform. As explained in the Petition, nothing in the '454 patent purports to create any new computer technology or social-network structure. And SitNet's own expert admitted as much during his deposition. These claims are obvious as explained in the Petition.

SitNet's arguments to the contrary lack merit.

For Amidon, SitNet's sole argument is that Amidon does not teach the "event node" of claims 1 and 20 or the "event node server" of claim 10. But this argument is premised on a mischaracterization of Petitioner's position, as well as an improperly narrow construction of the term "event node."

For the Wong-Gogic combination, SitNet focuses on the references individually, arguing that neither teaches the claimed "event node." But SitNet does not address the Petition's theory of obviousness based on the teachings of Wong and Gogic. And for its motivation-to-combine arguments, SitNet ignores Petitioner's proposed combination, arguing instead that a POSA would not have been motivated to bodily incorporate Gogic's wireless communication system into Wong's social network. This is not the correct inquiry.

Thus, as explained in more detail below, the Board should reject SitNet's arguments and find all claims of the '454 patent unpatentable.

**II. SITNET’S PROPOSED CONSTRUCTION OF “EVENT NODE”
IMPERMISSIBLY READS IN LIMITATIONS FROM THE
SPECIFICATION’S EXEMPLARY EMBODIMENTS.**

Claims 1 and 20 recite an “event node” and claim 10 relatedly recites an “event node server.” SitNet argues that the Board should “adopt the District Court’s construction of all terms” from the parallel litigation. POR, 3. But, as SitNet concedes, POR, 3, the district court determined that the term “event node” “[n]eeds no construction.” *See* EX2007, 5-6. Petitioner agrees. Pet., 9-10; EX1003, ¶47; EX1018, ¶2; EX1021, ¶6.

SitNet then attempts to narrow the scope of the term “event node,” reading in limitations from the specification. POR, 3-6. This is improper. *TalexMedical, LLC v. Becon Med. Ltd.*, No. 2021-2069, 2022 WL 2898934, at *6-7 (Fed. Cir. July 22, 2022) (vacating PTAB construction that “improperly narrowed the scope of the claims by importing a . . . limitation based on embodiments described in the specification”).

According to SitNet, “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.” POR, 5-6. In other words, SitNet reads in a limitation regarding explicit *communication* about the situation *by the event node* to other nodes. But nothing in the claims requires this. And SitNet’s proposed construction is inconsistent with its own expert’s testimony, in which a node does

not require any communication. Rather, Dr. Rubin testifies that a “node within a social network is an object that has attributes defining the node. A node can be various types of objects.” EX2009, ¶34; EX1020, 25:19-28:19 (confirming his understanding of “node” applies to the ’454 patent), 32:17-33:7 (explaining that “objects” are simply data structures); *see* EX1021, ¶12.

In support of its construction, SitNet argues that an “event node is defined in the specification as a type of node that communicates, or propagates, up-to-date information in a NDSN.” POR, 5. But the disclosure upon which SitNet relies does not “put one reasonably skilled in the art on notice that the inventor intended to redefine” the claimed “*event node*.” *Merck & Co. v. Teva Pharms. USA, Inc.*, 395 F.3d 1364, 1370 (Fed. Cir. 2005). Rather, this disclosure is simply exemplary. *See* EX1001, 7:42-51 (cited at POR, 5) (“In the context of the NDSN, . . . *[f]or example*, an entity . . . establishes an event node in an NDSN that propagates up-to-date information on the situation”); EX1021, ¶9; *see also* EX1020, 44:11-45:18 (Dr. Rubin confirming that the ’454 patent does not define “node” differently than its plain and ordinary meaning). SitNet also points to a supposed “general definition of a node provided in the specification”—that “[e]ach node is capable of communicating in a peer-to-peer fashion with other nodes in the NDSN.” POR, 5 (citing EX1001, 15:1-4). Again, this disclosure is exemplary and

does not provide a definition of the claimed “event node.” EX1001, 14:59-15:5; EX1021, ¶11.

Contrary to SitNet’s proposed construction, the embodiments described in the ’454 specification do not require the information about the situation to be communicated *by the event node*. For example, the ’454 patent explains that users may share information directly with others, even when an event node is present. EX1001, 19:52-20:19; *see id.*, 20:1-5 (“A user 250 may also share information related to the situation with another user in the NDSN using a connection established between the user’s PIA 404 and another PIA 406. PIA 406 may or may not be connected to the event node server 3011.”), 21:53-64 (describing establishing a “new link” between users “[u]pon discovering that they are [both] connected to the event node”), 30:36-38 (“Notifications may be distributed in the SitNet 300 using a peer to peer connections, or through connections to a centralize service, such as one that includes the situation authority.”). In other words, in the embodiments of the ’454 patent, the event node may, but *is not required to*, provide peer-to-peer communication with users. EX1021, ¶10.

In sum, it is improper to read in limitations from the specification that would require the claimed “event node” to “provid[e] up-to-date information regarding an event or situation via peer-to-peer communication with other nodes,” as SitNet

contends. POR, 6. Instead, the claimed “event node” needs no construction and should be given its ordinary and customary meaning. Pet., 9-10; EX1003, ¶47.

III. PRIOR-ART GROUNDS

A. Ground 1: Amidon renders obvious claims 1-7, 10-17, 19, and 20.

1. Amidon teaches the claimed “event node” (claims 1 and 20) and “event node server” (claims 1, 10, and 20).

Amidon’s social network 10 “may be used as the basis for one or more social network conferences.” EX1005, 6:58-60. Amidon’s social network conference (as defined by stored data and accessible via user interface window 200) teaches the claimed event node. *See* Pet., 19-20; EX1005, 3:36-39, 10:37-44, 15:18-46, 16:65-18:50, FIGs. 2, 4; EX1003, ¶¶75, 77-78. Amidon’s social network server 16 creates the social network conference, and is the claimed event node server. *See* Pet., 18-22; EX1003, ¶¶73-74, 76, 79-83.

In response, SitNet argues that Amidon’s conference is simply a meeting, and that a group of individuals in communication cannot be a node because the conferences do not include as a participant the situation or event underlying the conference. SitNet is wrong for two reasons. *First*, SitNet’s arguments are premised on a mischaracterization or misunderstanding of Petitioner’s position. *Second*, SitNet’s argument hinges on an impermissibly narrow construction of “event node.” Each of these reasons is discussed in more detail below.

- a. **SitNet’s arguments that Amidon’s conference is not an event node mischaracterize Petitioner’s position and are premised on an improperly narrow construction of “event node.”**

SitNet contends “a conference cannot be a node, let alone an event node.”

POR, 7. As support, SitNet cites to a generic dictionary definition of “conference” as a “meeting,” arguing that a conference is, thus, “a group of individuals communicating with one another.” POR, 7. But SitNet’s reliance on a generic dictionary definition of “conference” to characterize Amidon’s teachings is misplaced. Amidon’s “conference” is not simply a meeting. It is implemented on a computer and is based on the underlying social network. *See, e.g.*, EX1005, 3:16-39, 7:56-61, 9:9-22, 16:65-19:3; EX1021, ¶15. And data defining the conference—including a participant list, a conference ID, and message information—is stored in, for example, the database of Figure 3. EX1005, 3:36-39, 15:6-26, FIG. 3. Thus, contrary to SitNet’s position, POR, 8, Amidon’s conference is not simply a group of individuals communicating with one another. Rather, Amidon’s conference, like the ’454 patent’s event node, connects the users in communication about the event or situation. *See, e.g.*, EX1001, 30:39-61; EX1005, 16:65-18:50, FIG. 4; EX1018, ¶17; EX1018, ¶17; EX1021, ¶15.

SitNet further contends that Amidon’s “social networking conference is nothing more than individuals communicating with one another in a conference group chat.” POR, 8. Pointing to the “display of social network conference group

201” in Amidon’s Figures 4 and 5, SitNet argues that because “the conference merely comprises members, it is nothing more than an online meeting of individual users.” POR, 9; EX1005, 17:7-10. But, as the Petition explains, Amidon’s conference is defined by more than just its membership list. *See* Pet., 19-22; EX1003, ¶¶76-79. Rather, data defining the conference may also include, e.g., a conference ID and message information. EX1005, 3:36-39, 15:6-26, FIG. 3. And to be clear, Amidon’s Figures 4 and 5 depict the user interface by which a user may access the communications occurring within the conference, but this user interface is not itself the conference. Pet., 19-20; EX1003, ¶¶75-77.

SitNet continues, “Amidon’s conference is [] merely [a] group of individual members in communication,” and contends that a “group of individuals cannot be a node, let alone an event node.” POR, 10. But this argument mischaracterizes, or at least misunderstands, Petitioner’s position. Petitioner does not rely on the group of individuals participating in Amidon’s conference as teaching the event node. Rather, the conference itself (as defined by the stored data and accessible via window 200) is the claimed event node. *See* Pet., 20; EX1003, ¶¶77-78; EX1021, ¶16. In Amidon, each of the participants is included in a list of users as part of the stored data defining the conference. EX1005, 15:6-17. In this way the conference is a “node,” because it “store[s] and manage[s] [its] profile and relationships with other users of the [social network],” as a node is broadly described in the ’454

patent. EX1001, 14:62-64; EX1021, ¶17. This is consistent with Dr. Rubin’s understanding of a “node” as well. *See* EX2009, ¶34 (“Node - A node within a social network is an object that has attributes defining the node. A node can be various types of objects. For example, Meta defines in their Graph API documentation that ‘a node is an individual object with a unique ID. For example, there are many User node objects, each with a unique ID representing a person on Facebook. Pages, Groups, Posts, Photos, and Comments are just some of the nodes of the Facebook Social Graph.’ Thus, in addition to the connections (i.e., edges) of the graph, a node has attributes that contain unique properties about the node.” (internal citations omitted)). According to Dr. Rubin, a node is simply a logical construct—i.e., a collection of attributes that define an “object.” EX1020, 27:18-28:19. In fact, Dr. Rubin confirmed that a “node” is “a data structure that includes attributes that define it.” EX1020, 61:5-8. Amidon’s social network conference meets Dr. Rubin’s interpretation of a “*node*.” EX1021, ¶¶16-17.

Further, relying on its impermissibly narrow construction of event node (that includes an alleged requirement for peer-to-peer communication between the event node and other nodes), SitNet argues that “an event node could be an element *within* a conference, but *not* the conference itself.” POR, 10 (emphasis SitNet’s). But, as explained above, this is not a requirement of the claims; the ’454 patent itself describes embodiments in which users may share information related to the

situation directly with other users, even when an event node is present. *See* Section II; EX1021, ¶18.

SitNet further contends that Amidon’s “conferences do not include as a participant the situation or event underlying the conference,” and therefore do not include an event node corresponding to a situation. POR, 11. However, Amidon’s conference need not include a node corresponding to the situation because Amidon’s conference *is* the event node. EX1018, ¶17; EX1021, ¶19. As the Board recognized in its Institution Decision, the ’454 patent allows for the situation to be *associated with* a node—the situation or event does not have to *be* the node, which SitNet’s theory implies. Inst. Dec., 15-16 (citing EX1001, 7:44-45).

This is consistent with other embodiments of the ’454 patent, where the event node connects the users in communication about the event or situation. For example, in the Figure 25 embodiment, a first user propagates messages (about a situation, e.g., a snowstorm) to other users in selected groups via a node in the network. EX1001, 30:39-61. The other users may then forward and/or reply to messages. *Id.* Here, the node simply connects users to facilitate messaging. EX1018, ¶17. Amidon’s social network conference similarly connects users to facilitate messaging about a situation (e.g., a “Game Conversation”). EX1005, 16:65-18:50, FIG. 4; EX1018, ¶17.

Amidon-971, which was “incorporated by reference for all purposes” into Amidon,¹ EX1005, 7:27-34, confirms that users in the conference are connected to a social network circuit server (i.e., the event node server). In particular, Amidon-971 explains that Amidon’s server “may be implemented as more or fewer physical or logical units [than a single server]” or the functionality thereof “may be distributed across a plurality of networked servers or even to supernodes within the social network.” EX1008, 8:47-52, 12:46-63, FIG. 5; EX1021, ¶20.

For these reasons, SitNet’s arguments are unavailing, and Amidon’s conference teaches the claimed event node.

b. SitNet’s arguments regarding Amidon’s database are premised on an improper construction of “event node” and, in any case, Amidon’s database record describes the situation.

Again relying on its impermissibly narrow construction of “event node,” SitNet argues that Amidon’s Figure 3 disclosure of the architecture of a relational database is not the claimed “event node” because it does not “communicate[] information regarding a situation in a peer-to-peer fashion with other nodes,” and because it “fails to include a database record for the situation underlying the conference.” POR, 11-13.

¹ U.S. Patent No. 7,801,971 (EX1008) issued from 11/526,955, which is “incorporated by reference for all purposes” into Amidon. EX1005, 7:27-34.

First, as explained above, the claimed “event node” does not require any communication by the event node, as SitNet contends. *See* Section II; EX1021, ¶21. Rather, this is an attempt by SitNet to impermissibly narrow the claims based on exemplary embodiments in the specification.

Second, as previously explained, the situation or event need not be a participant in the conference, and thus, contrary to SitNet’s assertion, a “database record defining the situation” is not required. POR, 13; EX1021, ¶21. Rather, the plain language of the claims is clear that the event node simply “correspond[s] to a situation.” EX1001, 33:21-23. This also is consistent with the district court’s discussion of the claim term. EX2007, 5-6. As explained in the Petition, Amidon’s conference (i.e., the event node) “corresponds to the situation” because it is created in response to the detection thereof. *See* Pet., 22-23; EX1003, ¶¶84-85; EX1021, ¶21.

Further, even if a database record is required (it is not), Amidon’s “conference ID” identifies the conference. EX1005, 15:6-17; EX1018, ¶18. And, as seen in Figures 4 and 5, “[t]itle bar 202 provides a description of the presently-selected conference (‘Game Conversation’),” indicating to a POSA that this information must be stored in the database record. EX1005, 16:65-17:7; EX1018, ¶18; *see also* EX1008, 10:42-51 (expressly teaching that “a record may be maintained for each social network circuit based on a unique identifier, the record

further including a name for the circuit”). It need not be labeled as an “event” or “situation” in Amidon to teach the limitation. EX1021, ¶22.

Dr. Rubin contends that Amidon’s relational database disclosure does not define “peer-to-peer connections between nodes [as] required for nodes within NDSN by [the] ‘454 Patent.” EX2009, ¶73. But the ’454 patent says that its embodiments “may be implemented with a database package such as Microsoft Access™ or a database management system (DBMS) such as Microsoft SQL Server™ Microsoft SQL Server CE™, IBM DB2™, MySQL or postgresQL.” EX1001, 32:8-16. Thus, using relational databases to store the data associated with the event node is within the scope of the ’454 patent. EX1021, ¶23.

* * *

SitNet’s arguments are unavailing and Amidon renders obvious the independent claims, for the reasons discussed above as well as the reasons set forth in the Petition. EX1021, ¶¶14-23.

2. Dependent Claims

SitNet’s arguments regarding dependent claims 2 and 5 fare no better.

a. Claim 2

Claim 2 recites that “the event node is created in response to identification of the situation by a situation authority.” As explained in the Petition, Amidon’s social network conference may be created automatically upon detecting various

“situations”—e.g., users listening to the same music, a certain number of users in the social network are involved in a conversation (e.g., related to a game), or users sharing content on a particular topic. EX1005, 13:57-14:29; Pet., 14, 22-23; EX1003, ¶¶66, 85. And Amidon’s “situation authority” is a user that identifies the set of parameters defining the situation. EX1005, 5:5-8, 21:18-61; Pet., 29-30; EX1003, ¶106; EX1021, ¶26.

SitNet’s contention that Amidon’s user is not “an entity providing information concerning a situation” (applying the district court’s construction of “situation authority”) is unavailing. POR, 14. The ’454 patent describes both a “situation” and “situation authority” broadly. *See, e.g.*, EX1001, 4:10-17, 4:48-62, 30:62-63; Pet., 14, 22, 29-30; EX1003, ¶¶32, 84, 105-106. Amidon teaches that its “user” “broadly include[s] not only an individual, but also other entities, such as groups of individuals and organizations when treatable as a single unit.” EX1005, 5:5-8. Amidon’s broad definition of a “user,” encompasses the ’454 patent specification’s examples of a situation authority, which also includes various organizations. EX1001, 4:10-17; Pet., 29-30; EX1003, ¶¶105-106.

Further, as to SitNet’s argument that Amidon’s user does not provide information about the situation, POR, 14, a POSA would have understood that each parameter identified by the user is information concerning a situation because the particular set of parameters is the situation. EX1021, ¶26. This information

concerning the situation is exactly what Amidon's user provides when it specifies the parameters for conference formation. *See, e.g.*, EX1005, 13:65-14:12, 21:18-61; Pet., 29-30; EX1021, ¶26.

In any event, as explained in the Petition, a POSA would have understood that, regardless of the situation to which the event node corresponds or from where the identification thereof originates, the same social network architecture would be used to implement the system and methods of the challenged claims. EX1003, ¶85; EX1021, ¶27; *see* Pet., 23.

Thus, claim 2 is unpatentable in view of Amidon. EX1021, ¶¶25-27.

b. Claim 5

Claim 5 recites that a “first set of information [about the situation] includes targeted advertisements.” As explained in the Petition, Amidon discloses that “a user may direct announcements or sales pitches toward members of a social network based on membership parameters, . . . such as demographic groupings,” which constitutes a targeted advertisement. Pet., 33; EX1005, 2:30-35; EX1003, ¶¶118-119.

SitNet contends that Amidon's disclosure regarding targeted advertisements is merely in the Background section, and “is not made in connection with the [] disclosed invention in Amidon.” POR, 15. This teaching, however, applies to communication tools utilizing data from social network systems more generally.

See EX1005, 2:29-37. It would have been readily apparent to a POSA that this teaching would apply to the social network-based communication tools of Amidon's disclosed embodiments. EX1021, ¶29. In Amidon, the list of participants in a social network conference may be specified based on various "parameters," examples of which include the user parameters (e.g., identity, interests, demographic characteristics) upon which Amidon's teachings of targeted advertisements are based. *See* EX1005, 2:31-33, 2:57-60, 3:22-47, 4:5-9, 12:37-65; Pet., 10-11, 15; EX1003, ¶¶48, 67. And messages (e.g., targeted advertisements) are likewise directed to users within a conference, selected based on these parameters. EX1005, 2:60-63; Pet., 10-11, 15; EX1003, ¶¶48-67.

SitNet also contends that Amidon does not disclose that the targeted advertisement itself includes information "about the situation." POR, 15. But this is not a requirement of the claim. Rather, *claim 4* requires the "first set of information" to be "about the situation." Claim 5, which depends from claim 4, recites that this "first set of information" further "includes targeted advertisements," which is met if the "first set of information" includes information about the situation (claim 4) and *additionally includes* targeted advertisements (claim 5). *Mars, Inc. v. H.J. Heinz Co., L.P.*, 377 F.3d 1369, 1376 (Fed. Cir. 2004) ("The MPEP specifically provides that '[t]he transitional term "comprising," ... is

synonymous with “including,” “containing,” or “characterized by,” [and] is open-ended and does not exclude additional, unrecited elements or method steps.””).

In any event, as explained in the Petition, the specific content of the claimed “first set of information” is unrelated to the function of the claimed method and should not be given patentable weight. *See* Pet., 32 (discussing claim 4, from which claim 5 depends) (citing *Praxair Distribution, Inc. v. Mallinckrodt Hosp. Prods. IP Ltd.*, 890 F.3d 1024, 1031-32 (Fed. Cir. 2018); *C R Bard Inc. v. AngioDynamics, Inc.*, 979 F.3d 1372, 1381 (Fed. Cir. 2020); *In re Distefano*, 808 F.3d 845, 848 (Fed. Cir. 2015)); EX1003, ¶116. The method of claim 5, likewise, can be performed irrespective of the particular content of information that is provided. EX1003, ¶116; EX1021, ¶30.

Thus, claim 5 is unpatentable in view of Amidon. EX1021, ¶¶28-30.

c. Claims 3-4, 6-7, 11-17, and 19

SitNet does not present any specific arguments regarding dependent claims 3-4, 6-7, 11-17, and 19, beyond those presented for their respective independent claims. *See generally* POR. These claims are unpatentable at least for the reasons discussed above for claims 1, 10, and 20, as well as the reasons set forth in the Petition. EX1021, ¶31.

B. Ground 2: The Wong-Gogic combination renders obvious claims 1-4, 6, 8-18, and 20.

1. The Wong-Gogic combination teaches the claimed “event node” (claims 1 and 20) and “event node server” (claims 1, 10, and 20).

Wong teaches a social network communication system that, among other things, allows communication between users, which includes sending notifications or alerts. EX1006, ¶¶44. Gogic teaches that it is useful to form an ad-hoc location-based communication group during an emergency situation. EX1007, 4:20-24. As explained in the Petition, a POSA would have been motivated to implement Gogic’s ad-hoc, location-based communication group in Wong’s social network communication system to facilitate sending updates or alerts to users located in an area affected by an emergency. Pet., 47-51; EX1003, ¶¶163-172; EX1021, ¶32.

In response, SitNet focuses on the asserted references individually, arguing that neither teaches the claimed “event node.” POR, 16-21. But SitNet does not address the Petition’s theory of obviousness based on the combined teachings of Wong and Gogic. Regarding motivation to combine, SitNet ignores Petitioner’s proposed combination, arguing instead that a POSA would not have been motivated to bodily incorporate Gogic’s wireless communication system into Wong’s social network. POR, 21-25.

For the reasons discussed, the Wong-Gogic combination renders obvious the independent claims.

a. SitNet focuses on the references individually, and ignores the combination asserted by Petitioner.

SitNet spends nearly six pages explaining that neither Gogic nor Wong discloses an event node, concluding that the combination, “therefore, cannot render the challenged claims invalid and unpatentable.” POR, 16-21. But these arguments completely ignore Petitioner’s proposed combination, and fundamentally misunderstand the obviousness inquiry.

Petitioner does not contend that either Gogic or Wong individually teaches an event node. Rather, Petitioner’s position is that the claimed “*event node*” would have been obvious based on Wong’s and Gogic’s combined teachings. *See* Pet., 52-54; EX1003, ¶¶163-168, 174-180. As the Board correctly recognized at institution, “[t]he 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 references.*” Inst. Dec., 22-23 (citing *In re Keller*, 642 F.2d 413, 425 (CCPA 1981); *In re Burckel*, 592 F.2d 1175, 1179 (CCPA 1979)); *see also Masimo Corp. v. Apple Inc.*, No. 2022-1894, 2024 WL 111647, at *3 (Fed. Cir. Jan. 10, 2024) (In considering whether a claim is obvious, “[t]he question is not whether the prior art disclosed the very thing claimed; it is whether, in light of the prior art, the claimed invention would have nonetheless

been *obvious* to a person of ordinary skill in the art as of the relevant date.” (citing *Fleming v. Cirrus Design Corp.*, 28 F.4th 1214, 1222 (Fed. Cir. 2022))).

As discussed in the Petition, Wong teaches that there may be additional node types beyond the specific types expressly disclosed therein, and also discloses creating new nodes. EX1006, ¶¶21-22, 26-27, FIGs. 5, 6. Wong further teaches that communication in the network happens between nodes including, for example, “notification of updates” or “alerts.” EX1006, ¶44. Gogic teaches that an ad-hoc communication group is created in response to an event, and Gogic describes advantages of doing so. EX1007, 4:20-24, 7:25-34, 10:16-11:13, FIG. 4. Based on these combined teachings, Dr. Cooperstock previously explained that a POSA would have recognized a new node (i.e., an event node) related to the identified event or condition (i.e., a situation) would be useful in Wong’s social network to facilitate communication amongst an ad-hoc communication group related to the event or condition. EX1003, ¶¶177-178; Pet., 53; *see also KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 421 (2007) (“A person of ordinary skill is also a person of ordinary creativity, not an automaton.”).

SitNet does not address these arguments substantively. Instead SitNet contends that “[n]o logic, reason, or underlying rationale is provided for this conclusionary statement.” POR., 20. But, Dr. Cooperstock’s testimony is supported by the teachings of the references themselves, as well as external evidence

regarding, for example, the known use of online forums to aid in emergency planning/response and confirming a POSA's understanding of a "node." *See* EX1003, ¶¶164, 177-178 (citing EX1006, ¶¶21-22, 26-27, 44, FIGs. 5, 6; EX1007, 7:25-34, 10:16-11:13, FIG. 4; EX1010, 1:13-16, 3:56-59).

b. SitNet's motivation-to-combine arguments are premised on an improper bodily incorporation theory.

SitNet contends that a combination of Gogic with Wong "would have been technically infeasible." POR, 21. But SitNet's arguments focus entirely on the specific hardware implementation described in Gogic's exemplary embodiments. POR, 21-25. The asserted combination, however, does not rely on Gogic's specific hardware. Instead, Petitioner relies more generally on Gogic's teachings that forming an ad-hoc communication network in response to an event or condition is advantageous. *See* Pet., 47-49.

A POSA would have understood from the combined teachings how to implement the idea of an ad-hoc communication network into Wong's social network communication system. Pet., 48-49; EX1003, ¶¶166-168. Despite SitNet's focus on the alleged infeasibility of incorporating Gogic's hardware implementations into Wong's social network, bodily incorporation is not required for a showing of obviousness. *In re Sneed*, 710 F.2d 1544, 1550 (Fed. Cir. 1983)

(“[I]t is not necessary that the inventions of the references be physically combinable to render obvious the invention under review.”).

c. Dr. Cooperstock is a POSA, and SitNet’s argument otherwise is premised on irrelevant requirements.

SitNet’s argues that Dr. Cooperstock “admit[s]” he was not a POSA because he had not personally used a cell phone to navigate a social network at the time of the invention. POR, 20-21. But this argument is premised on an irrelevant requirement that is not part of the level of ordinary skill—namely, experience using a cell phone to navigate a social network. The generally agreed-upon level of skill in the art includes only education in Computer or Electrical Engineering, and “approximately two years’ experience in telecommunications or computer networking.” *See* Pet., 9; EX1003, ¶¶45-46; *see also* EX2009, ¶35 (testifying a POSA would have education in “computer science or electrical engineering or equivalent discipline, and approximately two years of experience in computer networking, database management, or mobile communications”). Neither expert’s definition of a POSA requires personal experience using a cell phone to navigate a social network.

Further, the claims include no requirement for using a cell phone to navigate a social network. Nor does Petitioner’s proposed combination include any such requirement. In fact, Wong teaches that users may access the social network over *any device* capable of communicating over a network such as, for example,

“laptops, desktops, handheld, personal digital assistants, [or] mobile telephones.”

EX1006, ¶17. And, Petitioner relies on Gogic not for any specific hardware details of its wireless CDMA communication system, but for its more general teachings that forming an ad-hoc communication group in response to an event or condition is advantageous. Pet., 47-49. As explained above, the asserted combination does not rely on any of the specific hardware implementations in Gogic. Thus, there is no reason to require that a POSA used a cell phone to navigate a social network.

In any case, even if there was such a requirement (there is not), the Federal Circuit has recognized, “[a]n expert need not have acquired that skill level prior to the time of the invention to be able to testify *from the vantage point* of a person of ordinary skill in the art.” *Osseo Imaging, LLC v. Planmeca USA Inc.*, 116 F.4th 1335, 1340-41 (Fed. Cir. 2024). And as SitNet concedes, POR, 21, Dr. Cooperstock has “personal experience with social networks [that] post dates the arrival of [s]martphones.” EX2010, 63:8-11.

Any suggestion by SitNet that Dr. Cooperstock is not a POSA should be disregarded.

2. Dependent claims 2-4, 6, 8-9, and 11-18

SitNet does not present any specific arguments regarding dependent claims 2-4, 6, 8-9, and 11-18, beyond those presented for their respective independent claims. *See generally* POR. These claims are unpatentable at least for the reasons

discussed above for claims 1, 10, and 20, as well as the reasons set forth in the
Petition. EX1021, ¶32.

IV. CONCLUSION

The Board should cancel the challenged claims as unpatentable.

Respectfully submitted,

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CERTIFICATE OF WORD COUNT (37 C.F.R. § 42.24(d))

1. This Petitioner's Reply complies with the type-volume limitation of 5,600 words, comprising 4,906 words, excluding the parts exempted by 37 C.F.R. § 42.24(c).

2. This Petitioner's Reply complies with the general format requirements of 37 C.F.R. § 42.6(a) and has been prepared using Microsoft® Word 2016 in 14-point Times New Roman font.

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

I certify that the above-captioned **PETITIONER'S REPLY TO PATENT OWNER'S RESPONSE** and associated Exhibits 1020-1023 were served in their entirety upon the Patent Owner on February 26, 2025, upon the following parties via email:

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