

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SITNET LLC,

Plaintiff,

v.

META PLATFORMS, INC.

Defendant.

Civil Action No.: 1:23-cv-06389-AS

JOINT CLAIM CONSTRUCTION BRIEF

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I. INTRODUCTION

A. Plaintiff's Opening Position

Plaintiff SitNet LLC (“SitNet”) owns U.S. Patent Nos. 9,877,345 (the “’345 Patent”), 8,332,454 (the “’454 Patent”), and 8,249,932 (the “’932 Patent”) (collectively the “Patents-in-Suit”).¹ The Patents-in-Suit are directed to specific aspects of a novel and unconventional online social network referred to as a “situational network” in which an event or “situation” becomes the basis for the creation of a situational network through which a subset of the overall online social network can be interconnected and more efficiently receive information regarding the event or situation. Defendant Meta Platforms, Inc. (“Meta”) stands accused of infringing claims in each of the Patents-in-Suit. Although Meta has refused to answer interrogatories seeking information about the nature of its defenses in this case, at least from the parties’ Joint Claim Construction Chart (see Dkt. 48) it appears a portion of Meta’s strategy for avoiding the consequences of its infringement is to attempt to use the claim construction process as a way to invalidate as many of the asserted claims as possible. That, and asking the Court to adopt unnaturally narrow constructions for well understood terms of art. For the reasons discussed in more detail below and in SitNet’s subsequent reply brief, the Court should reject Meta’s attempts to misuse this process as a way to avoid the ramifications of its ongoing infringement.

B. Defendant's Responsive Position

Meta proposes five terms for construction from two of the three asserted patents.² Three of Meta’s proposed terms for construction address the “automatic redirection” limitation of the ’932

¹ The Court dismissed the asserted claims in U.S. Patent No. 11,470,682 (the “’682 Patent”) on March 19, 2024. (See Dkt. 51.)

² This brief uses the following abbreviations: (1) “SitNet” means SitNet LLC; (2) “Meta” means Meta Platforms, Inc.; (3) “’345 Patent” means U.S. Patent No. 9,877,345; (4) “’932 Patent” means U.S. Patent No. 8,249,932; (5) “’454 Patent” means U.S. Patent No. 8,332,454; (6) “Shamp” means U.S. Patent No. 7,239,871; (7) “Hollenberg” means U.S. Patent No. 6,091,956; (8) “NDSN” means

Patent. All three terms require construction so that the jury understands the meaning of claim elements SitNet added to overcome prior art during prosecution and later cited as evidence of patent eligibility in this litigation. *See* Compl. ¶¶ 41, 45; Dkt. 51 at 8. Additionally, Meta has identified two indefinite terms, one from the '932 Patent and one from the '345 Patent, ripe for resolution at *Markman*.

SitNet asks the Court to construe several claim terms. In contrast to Meta's targeted proposals, SitNet's proposals depart radically from the intrinsic record. For example, SitNet attempts to confine every claim of the asserted '932, '454, and '345 Patents to just one of the multiple embodiments of a situational network disclosed in the specification. SitNet also attempts to read a key limitation **out** of the '454 Patent claims, to render them far broader than their plain and ordinary meaning allows.

The Court should adopt Meta's proposed constructions of each disputed term.

II. BACKGROUND

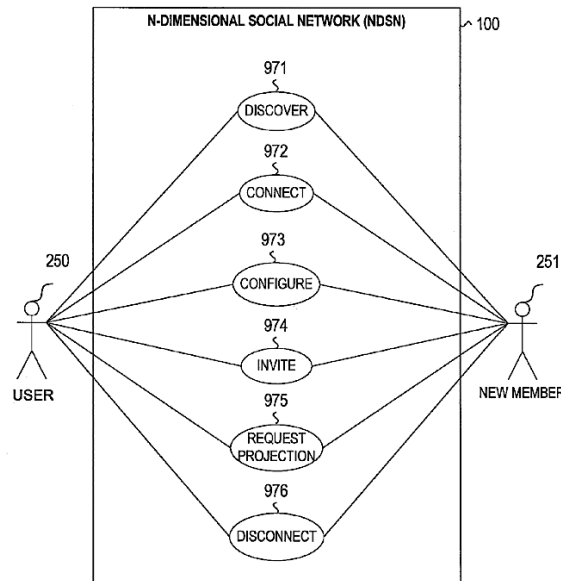
A. Plaintiff's Opening Position

The Patents-in-Suit reference a number of terms of art that help place the parties' claim construction disputes into their proper context. Of particular note is the acronym "NDSN," which is a reference to "a multi-dimensional personal information network," which also is known as "an N-dimensional social network."³ ('932 Patent, 5:24-28; 7:24-28; 14:10-13.) The Patents-in-Suit explain that a NDSN "captures and manages multi-dimensional relationships between persons and other entities that are users of the network" and "may be used as a **framework** for establishing a

multi-dimensional personal information network or N-dimensional social network; (9) "URL" means uniform resource locator; and (10) "FH" means file history.

³ Citations to the specification of any one of the Patents-in-Suit are intended to refer to the same or similar portions in the other Patents-in-Suit.

Situational Network.”⁴ (*Id.* at 14:10-15.) An example of this is shown in Figure 13, reproduced below:



The Patents-in-Suit further explain that a “user (i.e., a member or participant) of the NDSN may be an individual (i.e., person), a group (e.g., healthcare clinic, law firm, supermarket chain, etc), or entity” and that a “NDSN can also 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 14:15-17; 14:35-40.) Finally, the Patents-in-Suit explain that “a NDSN comprises interconnected **nodes**, where individual users, members, entities, communities, or other aggregations of entities within the NDSN are associated with the nodes.” (*Id.* at 14:41-46; 15:1-9.) A projected view of the NDSN or subset of nodes on an online social network is a “situational network” when it is formed in response to the occurrence of an event or situation.

Nodes are “a user’s point of connection to the NDSN, providing a user with access to information and can be obtained from the other users of the NDSN with whom the user has a

⁴ Unless otherwise indicated all emphasis has been added.

relationship.” (*Id.* at 15:1-9.) Accordingly, the Patents-in-Suit are focused on an online social network, which includes not only data concerning relationships among users, but data relating to content (*i.e.*, pertaining to an event), and “event node” or “situation authority” servers provide content data pertaining to an event. (*See id.* at 3:59-4:8.)

B. Defendant’s Responsive Position

The three asserted patents share a specification, and each claims systems and methods involving “situational networks.” 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.” ’454 Patent at 3:60-64. “A variety of different architectures may be used to connect the devices of participants in [a] situational network,” *id.* at 6:28-29, including centralized, decentralized, and combination architectures, *id.* at 6:30-7:14. At the time of the invention, “those skilled in the art [would have] recognize[d] that any of the available architectures (e.g., centralized, peer-to-peer, or combination thereof) may be used to form and sustain the various embodiments of the situational network” described in the patents. *Id.* at 7:23-29.

In centralized-architecture embodiments, user devices connect to a situation authority that acts as a host. *Id.* at 6:28-46, 6:58-62, Fig. 43. The situation authority is a “central authority, or trusted provider,” such as a news, weather, traffic, government, or relief agency, “that [is] generally [] able to aggregate and provide comprehensive information related to the situation.” *Id.* at 4:6-22. The situation authority shares information between and among the users, but the users do not have direct connections to each other. *Id.* at 6:28-46, Fig. 43. By contrast, in decentralized- and combination-architecture embodiments, users have direct connections. *Id.* at 6:47-57, 6:63-7:14. Situation authorities may participate in such networks as users but do not “host” them, as in situational networks with a centralized architecture. *Id.* at 6:58-62.

SitNet focuses on just one type of situational network in its background section: situational networks set up in the context of a multi-dimensional personal information network (or NDSN). Such networks have architectures that are at least partially decentralized. *See id.* at 7:37-52, 14:50-52. In an NDSN-based situational network, each user is associated with a node on the network. *Id.* at 7:42-44. The situation or event may also be associated with a node. *Id.* at 7:44-46. For example, a situation authority may “establish[] an event node in the NDSN that propagates up-to-date information on the situation to [devices] of the NDSN connected to that event node.” *Id.* at 7:46-51. “Information can be distributed from a user [] to all other users or a subset of the users” in the situational network. *Id.* at 6:56-57. The patents refer to a subset of the users of a situational network as a “projection of” the situational network. *Id.* at 16:26-27, 28:17-25. The specification underscores that not all situational networks exist in the context of an NDSN. *Id.* at 19:52-56 ([A]n embodiment of a situational network **may** be formed using the framework of an NDSN”) (emphasis added); *also compare* 14:50-52 (“The NDSN also provides a **decentralized** architecture outside the control of a single entity”) (emphasis added) *with* 6:30-31 (explaining that a situational network may be formed using a **centralized** architecture) (emphasis added).

The '932 Patent claims systems for and methods of presenting targeted advertising in a situational network. During prosecution, the patentee overcame a prior-art rejection by adding to the independent claims a limitation requiring that the claimed systems cause an “automatic redirection of a web browser application operating on each of the devices” of the users of the network, “to a webpage containing information related to the situation.” *See* Compl. ¶¶ 41, 45; Ex. 1, ('932 Patent FH, January 30, 2012 Remarks) at 3-8, 10-13. The web page displays advertisements targeted to the users based on their relationship to the situation. *Id.* at 12. SitNet alleges that the “automatic redirection” limitation was unconventional at the time of the invention and renders the

'932 Patent claims subject-matter under 35 U.S.C. § 101. Compl. ¶¶ 41, 45 (allegations listed under the heading "Patent Eligibility of the Claimed Inventions").

III. AGREED-UPON CONSTRUCTIONS

A. TERM 5 (SitNet) – a multi-dimensional personal information network

Claim Term	Agreed Construction
a multi-dimensional personal information network '454 Patent, Claims 1, 10	a network that captures and manages multi-dimensional relationships between users of the network

IV. DISPUTED TERMS

A. TERM 1 (SitNet) – a situational network

Patent(s)/Claim(s)	SitNet's Construction	Meta's Construction
'345 Patent, Claims 1, 13 '454 Patent, Claim 1 '932 Patent, Claims 1, 22	a network that is a subset of a larger network, comprising member nodes, formed in response to an event or situation	a network created when an occurrence or expected occurrence of an event or situation causes connections to be established between, within or among a set of participants

1. Plaintiff's Opening Position

Many of the asserted claims are directed to a situational network, which is a network that is a subset of a larger network, comprising member nodes, formed in response to an event or situation. As discussed in the Background section above, in the context of the claimed invention, the "larger network" being referred to is an online social network, which the Patents-in-Suit alternatively refer to as an NDSN, an N-dimensional social network, and a multi-dimensional personal information network. (See also '932 Patent, 3:53-58 ("Some or all of the participants included in the situational network (SitNet) . . . may have no prior knowledge of or connection or contact with each other or other participants of the situational network through any other type of social network or personal interactions.")).

By way of example, Claim 1 in the '932 Patent requires a “situational network established in response to the situation.” The parties agree that a “situational” network is a network formed in response to the occurrence of an event or situation, which are used interchangeably in the Patents-in-Suit. (*See, e.g.*, '932 Patent, 3:45-58.) The parties also appear to agree that a situational network is a subset of the broader personal information or online social network, although Meta uses the phrase “a set of participants,” whereas SitNet uses the term “subset” explicitly. (*See also id.* at 3:34-50; 14:35-40.) And while Meta’s proposed construction is less explicit on the subset point, and a bit awkwardly phrased, it is not clear to SitNet how Meta’s construction is meaningfully different from SitNet’s construction. What is clear is that a subset of nodes in an online social network, when formed in response to the occurrence of an event or situation, is a “situational network” within the meaning of the asserted claims. It similarly seems clear that the situational network also requires an event node. (*See, e.g.*, '454 Patent, 19:52-56 (“Within the framework of the NDSN, the event or situation becomes associated with a node of the NDSN, referred to as an event node . . . ”).) Therefore, the Court should construe this term to mean “a network that is a subset of a larger network, comprising member nodes, formed in response to an event or situation.”

2. *Defendant’s Responsive Position*

The patents say what a situational network is: a network “created when an occurrence or expected occurrence of an event or situation [] causes connections, referred to as links, to be established between, within or among a set of participants.” '454 Patent at 3:60-64. Meta’s construction adopts that language, and it is consistent with every disclosed embodiment. SitNet proposes to limit the term to a single embodiment—a continuation of its effort, beginning at the pleading stage, to read into the claims limitations absent from their plain language. In opposition to Meta’s motion to dismiss, SitNet argued that every claim of every asserted patent “result[s] in the projection of a situational network . . . and therefore . . . implement[s] an improvement to

conventional network technology[.]” Dkt. 40 at 18-19. Now, SitNet contends that a situational network necessarily forms within the context of a larger network (or NDSN). The Court should reject SitNet’s strategic and inconsistent effort to recast its claims.

“[Courts] normally do not interpret claim terms in a way that excludes disclosed examples in the specification.” *See Verizon Servs. Corp. v. Vonage Holdings Corp.*, 503 F.3d 1295, 1305 (Fed. Cir. 2007). Here, the patents explain that a situational network is not, by definition, a subset of a larger network. The specification repeatedly confirms that situational networks set up in an NDSN are just “one embodiment” of the invention.⁵ *See, e.g.*, ’454 Patent at 7:37-41 (“***In one embodiment***, the situational network may be established using the framework of an N-dimensional social network (NDSN)”) (emphasis added); *see also id.* at 19:52-56 ([A]n embodiment of a situational network ***may be formed using the framework of an NDSN.*** . . .”) (emphasis added).

The patents further teach that “[a] variety of different architectures may be used to connect the devices of participants in a situational network,” including both centralized and decentralized architectures.⁶ *Id.* at 6:28-7:14. The specification distinguishes situational networks set up within the framework of the NDSN, which “provides a decentralized architecture,” *id.* at 14:50-52, from those with a “centralized architecture,” *id.* at 6:28-40. For example, it explains how users interested in a weather event might join a situational network by connecting to a “***centralized*** social networking website” where they can “share and exchange information.” *Id.* at 31:36-46 (emphasis added). It then describes an alternative in which a user may use its NDSN to “discover other users interested

⁵ The patent uses the terms NDSN, multi-dimensional personal information network, and N-dimensional social network interchangeably to refer to such larger networks. *See, e.g.*, 454 Patent at 5:62-63 (referring to “multi-dimensional personal information network” as “NDSN”); *id.* at 7:38-39 (referring to “N-dimensional social network” as “NDSN”); *id.* at 14:28-29.

⁶ In embodiments with a centralized architecture, users connect to a central server, which distributes information to and among them. *See* ’454 Patent at 6:29-46. The users do not connect directly. *See, e.g., id.* at Fig. 43. Conversely, in embodiments with a “decentralized architecture,” users form peer-to-peer connections and share information directly among themselves. *Id.* at 6:47-57, Fig. 44.

in the weather event and request a connection.” *Id.* at 31:50-53. Comparing the two approaches, the specification explains that “[t]he SitNet established in the NDSN . . . may be used to share information similar to that obtained on the website[], but the information is shared in a **peer to peer** manner **instead of controlled by a centralized source**.” *Id.* at 31:53-57 (emphasis added); *see also id.* at 6:47-49 (“The situational network may also be formed using a decentralized architecture, such as a peer-to-peer network”). SitNet’s construction of “situational network” would impermissibly read the centralized embodiment out of the claims.

Contrary to SitNet’s construction, a situational network does not require an event node. The specification explains that a situational network “may be established without . . . the creation of an event node.” *Id.* at 5:53-55; *see also id.* at 7:56-64 (“In one embodiment, the SitNet can be formed in the absence of an event node, such as in a de-centralized (peer-to-peer) architecture as described above.”). An event node is only required when a situational network is “formed using the framework of an NDSN.” *Id.* at 19:52-56 (explaining that, in such embodiments, the event or situation is “associated with the node of an NDSN, referred to as an event node”). Thus, SitNet’s proposed “event node” requirement would exclude from the claims any embodiment with no event node.

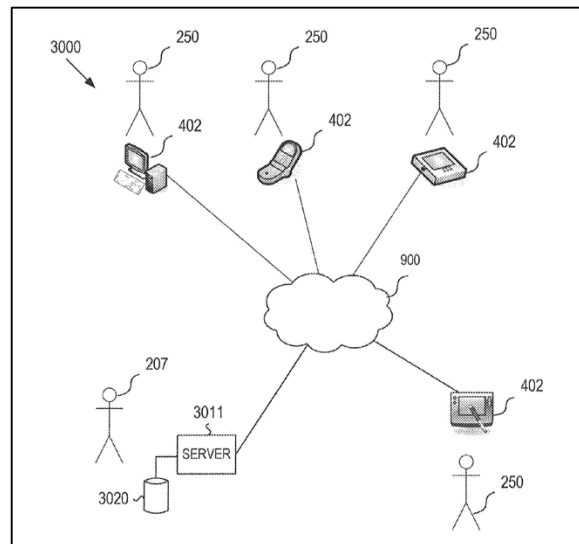
The claims of the asserted patents also show that situational networks do not necessarily include an event node or use an NDSN as a framework. When the patentee wanted to claim those requirements, they did so. For example, every asserted claim of the ’454 Patent recites a “multi-dimensional personal information network” and an “event node.” *See, e.g.,* ’454 Patent at Claim 1. Claim 7 of the ’932 Patent does likewise. *See* ’932 Patent at Claim 7; *see also id.* at Claim 12 (unasserted). If the term “situational network” imposed those limitations, the patentee would not have recited them. *See Norian Corp. v. Stryker Corp.*, 432 F.3d 1356, 1359 (Fed. Cir. 2005).

Because Meta’s proposed construction is consistent with the patentee’s definition of “situational network,” the language of the claims, and all the embodiments disclosed in the

specification, the Court should adopt it. See *SIMO Holdings Inc. v. Hong Kong uCloudlink Network Tech. Ltd.*, 983 F.3d 1367, 1379 (Fed. Cir. 2021).

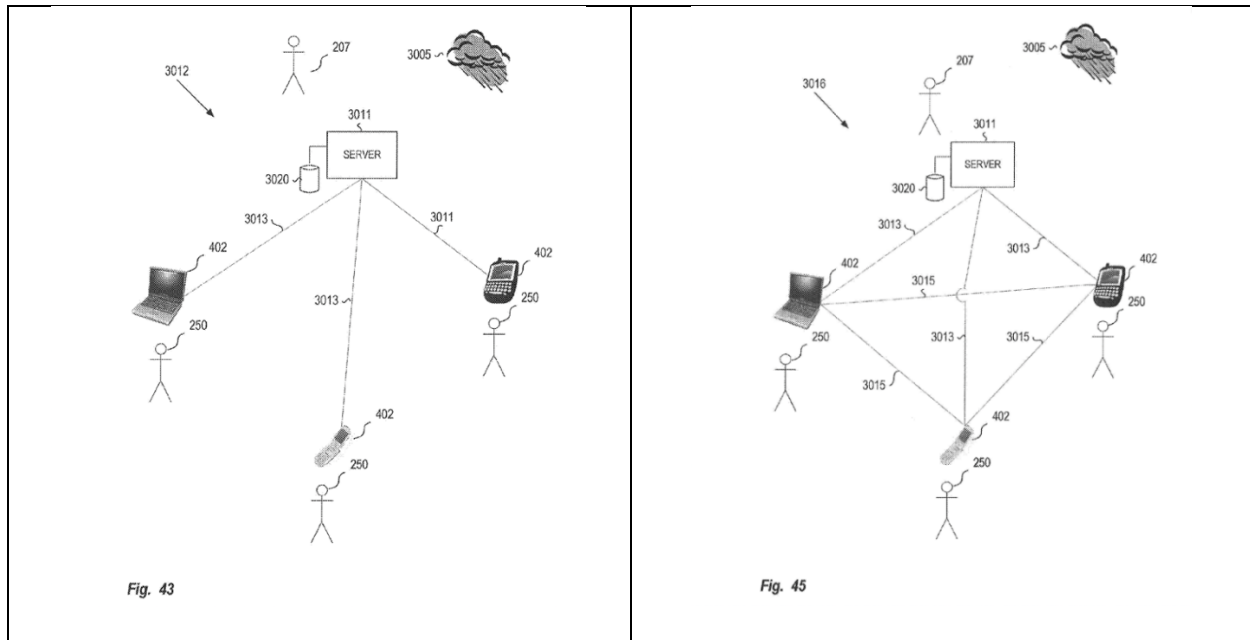
3. Plaintiff's Reply Position

The parties agree that “a situational network” is a network formed in response to an event or situation. Meta, however, objects to “a situational network” being construed as a subset of a larger network. That objection is based on a selective reading of the specification. In fact, the very next sentence in the specification after the one Meta quotes to open its argument on this term explains that “[t]he situational network allows the participants 250, 207 to interact and exchange information over connections to or through **a computer network 900** regarding the event or situation 3005.” (’454 Patent, 3:67-67.) In other words, as illustrated in a portion of Figure 1 below, the situational network forms out of a larger network, in this example computer network 900, and the situational network 3000 is comprised of the subset of users 250 of that larger network who may be affected by the event or situation.



Meta argues that construing “a situational network” as a subset of a larger network would read centralized architectures out of the claims. SitNet does not understand this argument, and, in any event, it is not consistent with what is taught in the specification. There are at least two figures

in the specification that are identified as depicting centralized architectures, Figures 43 and 45, with Figure 45 depicting the use of both a centralized architecture and a decentralized peer-to-peer architecture at the same time. (*See id.*, at 6:28-7:14.)



As can be seen from both figures, a situational network using a centralized architecture, either alone or in combination with a decentralized peer-to-peer architecture, comprises a subset of users of the larger network. Indeed, as the specification explains immediately after describing these figures, “[r]egardless of the architecture used to form and sustain the situational network, the situational network is generally formed according to the process outlined in FIG. 41, which includes a recognition or identification of a situation 3100, a connection of participants 3110, and a sharing of information related to the situation 3120.” (*Id.*, at 7:15-20.) The specification makes clear that the participants connected to the situational network using this process are the subset of users of the larger network who may be affected by the event or situation. (*See, e.g., id.*, at 5:27-33 (“User devices 404, 406 are connected into the situational network when it is determined that users of the devices 404, 406 are affected by the event or situation. Similarly, users are disconnected from the situational network as the event or situation moves away, the users move away from the situation,

or the users are no longer determined to be affected by the event or situation”); 5:46-48 (“A SitNet may be formed when users involved in a situation or event are determined to be in relatively close geographic positions.”).) Therefore, the Court should construe this term to mean “a network that is a subset of a larger network, comprising member nodes, formed in response to an event or situation.”

4. *Defendant’s Sur-Reply Position*

The disclosures SitNet cites in its Reply Brief do not support its position that all situational networks are a subset of an NDSN, a limitation that SitNet improperly seeks to read into this claim term. The “computer network **900**” shown in the embodiment of Figure 1 is not an NDSN that “captures and manages multi-dimensional relationships between persons or other entities that are users of the network.” *See supra* Parties’ Agreed-Upon Constructions. Instead, “computer network **900**” is a communications network for transmitting data, such as the internet. *See* ’932 Patent at 3:46-53, 13:28-38. Indeed, Figure 12 illustrates an “NDSN 100” that uses a “computer network **900**” as a tool for communications. *Id.* at 14:59-65, Fig. 12. Embodiments that reference “computer network **900**” thus do not support defining a situational network as a subset of an NDSN. Nor do the remaining disclosures SitNet cites, which do not refer to an NDSN at all.

The Court should reject SitNet’s attempt to confine the term “situational network” to a single disclosed embodiment and instead adopt Meta’s construction, which is consistent with the entire intrinsic record and all disclosed embodiments.

B. TERM 2 (SitNet) – a situation authority

Patent(s)/Claim(s)	SitNet’s Construction	Meta’s Construction
’345 Patent, Claim 13 ’454 Patent, Claim 2 ’932 Patent, Claims 6, 22	[an entity operating] a server with one or more event nodes providing information concerning a situation ⁷	an entity comprising a trusted provider that aggregates and provides comprehensive information related to the situation

⁷ To narrow the dispute between the parties, SitNet has modified its proposed construction as

1. *Plaintiff's Opening Position*

Some of the asserted claims require a situational authority, which is an entity operating a server with one or more event nodes providing information concerning a situation. For example, Claim 2 in the '454 Patent requires “creating, by an event node server, an event node in a multi-dimensional personal information network, the event node corresponding to a situation . . . wherein the event node is created in response to identification of the situation by a situation authority.” The specification makes clear that the event node server also is referred to as a “situation authority server” and that this server is, among other things, used “for storing information related to the situation.” ('454 Patent, 4:17-22.) So, the fact that the situational authority provides information concerning a situation or that it does so in conjunction with one or more event nodes appears incontrovertible.

The real issue is that Meta wants to limit the situational authority to “a **trusted** provider that aggregates and provides **comprehensive** information related to the situation.” While the specification does give that as one example of a situational authority, the full scope of the term is not so limited. (*Id.* at 4:6-17.) For one thing, that passage in the specification is couched in permissive language like “may include,” “generally” and “include, but are not limited to,” and, even if it wasn't, the general rule of claim construction is that such examples do not limit the claims. *See, e.g., Apple Inc. v. Wi-LAN Inc.*, 25 F.4th 960, 967 (Fed. Cir. 2022) (“Embodiments in the specification – even if there is only one embodiment – cannot limit the scope of the claims absent the patentee's words or expressions of manifest exclusion or restriction.”) (cleaned up); *Thorner v. Sony Computer Entm't Am. LLC*, 669 F.3d 1362, 1365 (Fed. Cir. 2012) (“It is not enough for a patentee to simply disclose a single embodiment or use a word in the same manner in all

reflected in the bracketed text.

embodiments, the patentee must clearly express an intent to redefine the term.”) (cleaned up); *Kara Tech. Inc. v. Stamps.com Inc.*, 582 F.3d 1341, 1348 (Fed. Cir. 2009) (“The patentee is entitled to the full scope of his claims, and we will not limit him to his preferred embodiment or import a limitation from the specification into the claims.”).

Moreover, at least one other example in the specification makes it clear that the term “situational authority” is not so limited:

In one embodiment, the situation authority acts as a participant in the peer-to-peer network. While the situation authority ***may act as an important source of information, it does not act as the central authority or host***, as would be found in the centralized architecture described above.

(’454 Patent, 6:58-62.) In keeping with this example, as well as the teaching in the patents that an “event node server” is the same thing as a “situation authority server,” and in keeping with the most basic rules of claim construction, the Court should allow for the full scope of the claims and construe a situational authority as “an entity operating a server with one or more event nodes providing information concerning a situation.”

2. *Defendant’s Responsive Position*

The patents also say what situation authorities are: “external entities[], also called . . . central authorities or trusted providers, that generally are able to aggregate and provide comprehensive information related to the situation.” *See, e.g.*, ’454 Patent at 4:6-10. Situation authorities may comprise “news organizations, such as news agencies (e.g., CNN), weather agencies (e.g., The Weather Channel), traffic agencies (e.g., Traffic.com), emergency relief organizations (e.g., The American Red Cross), and government agencies (e.g., local fire departments, state Departments of Transportation, Federal Emergency Management Agency (FEMA)).” *Id.* at 4:10-17.

Situation authorities do not necessarily operate servers that create event nodes, as SitNet contends. While creating an event node is ***one way*** a situation authority can participate in a

situational network, it is not the only way. For example, in situational networks with a centralized architecture, the situation authority server connects directly to users without creating an “event node.” *Compare, e.g., id.* at 6:28-46 (describing embodiment in which situation authority connects participants in a centralized architecture without event nodes) *with id.* at 6:58-62, 7:37-52 (describing embodiments in which situation authority participates in a peer-to-peer architecture, for example, by establishing an event node in a situational network established within an NDSN). It would be improper to limit the term “situation authority” in a manner that reads out those embodiments, as SitNet proposes to do.

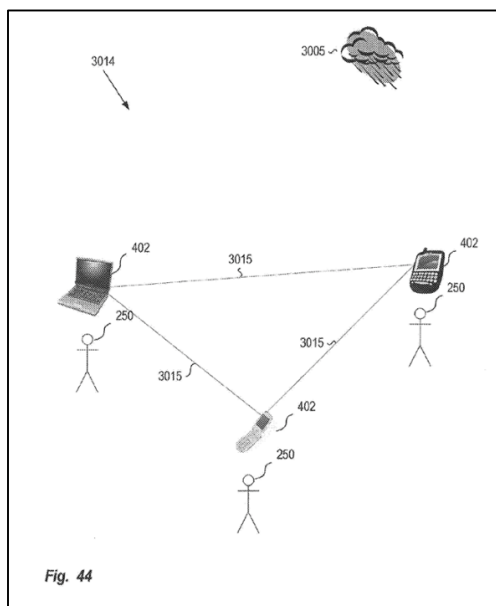
SitNet’s interpretation of Meta’s construction—as limiting a “situation authority” to acting as the host of a situational network in a centralized architecture and excluding embodiments in which the situation authority creates an event node in a multi-dimensional information network—is wrong. Indeed, the patents affirm that “situation authority” refers to a “trusted provider, such as a news source (e.g., CNN or weather.com) or a government agency” even in the context of a situational network created in an NDSN. *See, e.g., id.* at 19:52-60. The Court should adopt Meta’s construction because, unlike SitNet’s, it encompasses each embodiment disclosed in the specification.

3. *Plaintiff’s Reply Position*

Meta argues that “[s]ituation authorities do not necessarily operate servers that create event nodes” However, the specification teaches that in a situational network, “the participants may include external entities 207, also called **situation authorities**,” and that when those situation authorities are present in the situational network, “[t]here is a **corresponding situation authority server** 3011, also referred to as an **event node server**, for each situation authority 207.” The whole point of the corresponding “event node server” is to facilitate one or more event nodes on the situational network.

Indeed, the only embodiment described in the specification explicitly as **not** having at least

one event node is the one embodiment that lacks a situation authority – *i.e.*, the peer-to-peer network depicted in Figure 44.



(*See id.*, at 7:61-63 (“In one embodiment, the SitNet can be formed in the absence of an event node, such as in a de-centralized (peer-to-peer) architecture as described above.”)). It is settled law that not every claim in a patent has to cover every single disclosed embodiment. *See, e.g., PPC Broadband, Inc. v. Corning Optical Commc’ns RF, LLC*, 815 F.3d 747, 755 (Fed. Cir. 2016); *Baran v. Medical Device Techs., Inc.*, 616 F.3d 1309, 1316 (Fed. Cir. 2010). In this instance, the asserted claims that require a situation authority require at least one event node and do not cover the only embodiment disclosed in the specification without an event node – *i.e.*, a peer-to-peer network in which a situation authority is **not** a participant in the peer-to-peer network, which is the embodiment depicted in Figure 44.

Further, in asking the Court to limit the scope of “a situation authority” to only trusted providers that aggregate and provide comprehensive information related to the situation, Meta has elected to simply ignore the settled caselaw cited by SitNet that embodiments in the specification cannot limit the scope of the claims absent the patentee’s words or expressions of manifest exclusion

or restriction. Meta did not identify any words or expressions of manifest exclusion or restriction that would justify limiting the scope of this term in the manner it has proposed. The Court should, therefore, construe “a situation authority” consistent with its full ordinary scope, which is as “an entity operating a server with one or more event nodes providing information concerning a situation.”

4. *Defendant’s Sur-Reply Position*

SitNet, not Meta, attempts to improperly limit the scope of this term. The specification defines a situation authority by the type of entity it is—a trusted provider—and by its role in aggregating and providing information related to the situation. ’454 Patent at 4:6-17, 7:46-51, 19:56-60, 20:20-28. That is the broadest definition of “situation authority” the patent discloses and is consistent with every disclosed embodiment. Accordingly, Meta’s construction reflects the plain and ordinary meaning in view of the specification—the “single best guide to the meaning” of the term.⁸ *Phillips v. AWH Corp.*, 415 F.3d 1303, 1315 (Fed. Cir. 2005) (internal quotation marks omitted).

SitNet’s construction, by contrast, improperly attempts to limit the term “situation authority” based on **one** function it has, in **one** embodiment. While a situation authority **may** operate a server with event nodes, it need not do so. The specification discloses embodiments in which a situation authority does not create an event node. For example, a situation authority can participate in a decentralized, “peer-to-peer” architecture—which, as SitNet acknowledges, may be created “in the absence of an event node,” ’454 Patent at 6:58-62, 7:61-64, *contra* SitNet’s

⁸ SitNet’s contention that construing the term in view of the specification requires “words of manifest exclusion or restriction” is wrong. SitNet has pointed to no evidence (intrinsic or extrinsic) that the term “situation authority” would have a broader meaning to a person of skill in the art than the construction Meta proposes. Accordingly, adopting Meta’s construction does not require a finding of disavowal or disclaimer. *See Cont’l Circuits LLC v. Intel Corp.*, 915 F.3d 788, 797 (Fed. Cir. 2019).

Reply Br., situation authority term (claiming a “peer-to-peer” network lacks a situation authority). Likewise, in a centralized architecture, the situation authority server connects directly with participants without creating an event node in an NDSN. *See* ’454 Patent at 6:28-46, Fig. 43; *see also id.* at 6:63-67, Fig. 45; Meta’s Resp. Br., situational network term (citing evidence that centralized situational-network architectures are distinct from NDSN-based architectures).

SitNet’s contention that all the asserted claims that require a situation authority “require at least one event node” is incorrect. Asserted claims of the ’932 Patent (claims 6, 22) and ’345 Patent (claim 13) that require a situation authority do not require an event node. And there is no reason to read that requirement into those claims via construction of “situation authority”; claim terms take their plain and ordinary meaning in light of the whole specification ***regardless*** of which embodiment is being claimed.

Finally, the patentee’s use of the term “event node server” to refer to the situation authority server in some embodiments is not evidence the situation authorities necessarily are or operate servers that create event nodes. The specification uses the terms “event node server” and “situation authority server” interchangeably. ’454 Patent at 4:17-19. It typically refers to the former in the context of embodiments in which the situation authority creates an event node in an NDSN, *see, e.g., id.* at 19:52-20:5, 21:65-22:5, and the latter in the context of embodiments in which the situation authority does not create an event node (e.g., centralized embodiments). *See id.* at 6:29-46, 6:63-7:12. If anything, the alternative terms underscore the different roles a situation authority can have. The Court should reject SitNet’s attempt to limit the term to just one of them.

C. TERM 3 (SitNet) – a projection of a situational network

Patent(s)/Claim(s)	SitNet's Construction	Meta's Construction
'454 Patent, Claims 1, 10, 20	a subset of a personal information network, comprising member nodes, formed in response to an event or situation	a subset of a situational network

1. Plaintiff's Opening Position

Claim 1 in the '454 Patent requires, among other things, “creating a projection of a situational network . . . [by] creating . . . an event node . . . **corresponding to a situation** [and] forming a projection of **nodes** of the situational network . . . [and] forming a projection of **nodes** of the situational network using . . . **devices corresponding to nodes** in the multi-dimensional personal information network . . . [and] transmitting an invitation to establish a link with the event node server to **the devices corresponding to each node** in the projection” Claims 10 and 20 are similar. The parties appear to agree that a projection in this context is a subset of a broader online social network. (*See also* '454 Patent, 14:53:58 (“The NDSN can also 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. Such a ‘projected’ view allows the user to use and manage smaller portions of the entire social network.”).)

Moreover, as set forth above, and as the claims themselves made clear, a “situational network” is “a network that is a subset of a larger network, comprising member nodes, formed in response to an event or situation.” Indeed, the explicit claim language makes clear that the subset being “projected” is in response to “a situation” (which corresponds to an “event node”) and that the subset being “projected” is comprised of “nodes” on the personal information network that “correspond” to member devices.

That is how the Court should construe the term – *i.e.*, “a projection of a situational network” should be construed as “a subset of a personal information network, comprising member nodes, formed in response to an event or situation.”

2. *Defendant’s Responsive Position*

Only Meta’s proposed construction is consistent with the intrinsic record. The patent defines a projection of a network as “a subset” of the nodes of the network. ’454 Patent at 14:53-57; 16:26-27 (“A user might desire to work with a ‘projected’ view, *i.e.*, a subset of the nodes, of the NDSN.”); *cf. Edwards Lifesciences LLC v. Cook Inc.*, 582 F.3d 1322, 1334 (Fed. Cir. 2009) (“[U]se of ‘*i.e.*’ signals an intent to define the word to which it refers.”). Thus, when the patentee refers to a “projection,” or a “‘projected’ view . . . of the NDSN,” the patentee is talking about a subset of the nodes of the NDSN. ’454 Patent at 14:53-57; 16:26-27. And when, as in this term, the patentee claims “a projection of a situational network,” the patentee is claiming a subset of the nodes of a situational network.

Meta’s proposed construction is consistent with the patentee’s use of the term “projection of” throughout the specification. Whenever the specification uses the words “projection of a situational network,” it is referring to a subset of the nodes of the situational network. *See, e.g., id.* at 6:63-7:14, 21:36-39 (describing an affinity raised “for only some users in the SitNet, for example, users . . . belonging to nodes of a particular projection of the SitNet”), *id.* at 21:65-22:50 (describing how to create “projections of” a situational network to divide the members into groups based on geographic location), *id.* at 27:41-48, 28:13-25 (describing how advertisers may be targeted to situational-network users based on the projection of the situational network to which the user belongs), *id.* at 29:50-58 (using projected views of a situational network to target information to specific groups of its members). Conversely, when the specification refers to a subset of an NDSN, it uses the term “projection of an NDSN.” *See, e.g., id.* at 14:53-58, 15:38-43, 16:26-47, 30:8-16

(describing how identifying groups of members of an NDSN can be accomplished by creating “projections of” the NDSN). If the patentee had wanted to claim a “subset of a personal information network,” as SitNet argues, “it would have been simple [for them] to use the same language” as in the specification (i.e., “a projection of an NDSN”). *See Norian*, 432 F.3d at 1359. Their decision to instead refer to a “projection of a situational network” shows they intended to claim a subset of a situational network. *See id.* (where the claim differentiates between “**a** sodium phosphate” and “**at least one** phosphoric acid source,” the patentee would have used the “at least one” language had they meant to claim the use of at least one type of sodium phosphate) (emphasis added); *Bd. of Regents v. BENQ Am. Corp.*, 533 F.3d 1362, 1371 (Fed. Cir. 2008) (“Different claim terms are presumed to have different meanings.”))

Indeed, SitNet’s proposed construction assigns ***no meaning*** to the words “projection of.” This is apparent when comparing SitNet’s proposed construction of “situational network” with its proposed construction of “projection of a situational network”:

SitNet’s Proposed Constructions	
<i>situational network</i>	<i>projection of a situational network</i>
<u>a network that is a subset of a larger network</u> , comprising member nodes, formed in response to an event or situation	<u>a subset of a personal information network</u> , comprising member nodes, formed in response to an event or situation

“[C]laim terms are presumed to have meaning,” and every word in a claim is presumed to have purpose. *Innova/Pure Water, Inc. v. Safari Water Filtration Sys., Inc.*, 381 F.3d 1111, 1119 (Fed. Cir. 2004). Because SitNet’s proposed construction treats “projection”—the concept SitNet (incorrectly) identified as an unconventional and inventive feature of every asserted patent in its opposition to Meta’s motion to dismiss (Dkt. No. 40 at 12, 16, 18)—as surplusage, the Court should reject it and adopt Meta’s proposed construction.

3. *Plaintiff's Reply Position*

Meta makes two arguments against SitNet's proposed construction. First, that SitNet's proposed construction does not assign a meaning to "a projection of," and, second, that SitNet's proposed construction reads a personal information network into the claims. Meta's first argument is confusing. While SitNet disagrees with Meta's premise (*i.e.*, that "a projection of" is rendered as surplusage), if Meta were correct (which it is not) it is unclear how its construction does any better. In any event, the parties agree that a projection in this context refers to a subset of a network formed in response to an event or situation. That is the meaning. The only disagreement is how the network should be referred to.

This brings us to Meta's second argument. The problem with that argument is that it ignores the claim language. In **all** of the claims at issue with respect to this term, the situational network is claimed as being "a multi-dimensional personal information network" that is comprised of a subset of "nodes" on the personal information network "corresponding" to member devices and "projected" in response to "a situation." Accordingly, the Court should construe this term to mean "a subset of a personal information network, comprising member nodes, formed in response to an event or situation."

4. *Defendant's Sur-Reply Position*

The problem with SitNet's proposed construction is not that it reads a personal information network **into** the claims—the claims recite one under either party's construction—but that it reads the requirement of a **projection** of a situational network **out** of them. The situational networks claimed in the '454 Patent are created in the context of an NDSN. The term "projection of a situational network" refers to a subset of that situational network which, in turn, is a subset of the NDSN. See Meta's Resp. Br., "projection of a situational network" term. The projection is thus a

subset of a subset, consisting of some of the nodes of the personal network that are also part of the situational network.

If SitNet agrees that this claim term refers to a **subset** of a situational network (as opposed to the situational network itself), then the parties do not disagree about the scope of the claim and the term does not require construction. *See Akamai Techs., Inc. v. Limelight Networks, Inc.*, 805 F.3d 1368, 1376 (Fed. Cir. 2015). Nevertheless, the Court may adopt Meta’s construction to clarify the meaning of “projection” (i.e., a subset) for the jury. The “situational network” portion of the term should take the construction the Court adopts for that term.

The Court should not adopt SitNet’s proposed construction. If SitNet agrees this term requires a “subset” **of a situational network**, then SitNet proposes to construe the “situational network” portion of the term as “a personal information network, comprising member nodes, formed in response to an event or situation.” That definition is different than SitNet’s proposed construction of the term “situational network” (in this and every other patent). Adopting different constructions for the same claim term would wrongly suggest to the jury that “situational network” has a different scope in each claim. *Phillips*, 415 F.3d at 1314 (“[C]laim terms are normally used consistently throughout the patent . . .”). Further, nothing in the intrinsic record supports defining a situational network as “a personal information network.” Again, as discussed with respect to the preceding terms, situational networks created in the context of a personal information network are just one—not the only—embodiment of the claimed invention. *See Meta’s Responsive and Sur-Reply Br.*, situational network term. Finally, the claims of the ’454 Patent already claim a multi-dimensional personal information network, and the claimed situational networks are created within that network. Read in the context of the asserted claims, SitNet’s proposed construction suggests that what is being created **is** a situational network in an NDSN, when what the claims require is a **subset** of a situational network in an NDSN:

'454 Patent, Claim 1 (pertinent language)	'454 Patent, Claim 1 with SitNet's Proposed Construction	'454 Patent, Claim 1 with Meta's Proposed Construction
A method of creating a <u>projection of a situational network</u> , the method comprising:	A method of creating <u>a subset of a personal information network, comprising member nodes, formed in response to an event or situation</u> , the method comprising:	A method of creating a <u>subset of a situational network</u> , the method comprising:

For all those reasons, the Court should reject SitNet's proposed construction.

D. TERM 4 (SitNet) – event node

Patent(s)/Claim(s)	SitNet's Construction	Meta's Construction
'454 Patent, Claims 1, 10, 20 '932 Patent, Claim 7	a node on a personal information network corresponding to an event or situation	a node on a situational network corresponding to an event or situation

1. Plaintiff's Opening Position

In terms of what it does, it is clear that an event node aggregates and provides information relating to a situation or event. (*See* '454 Patent, 4:6-22; 7:44-52.) It is, therefore, not clear how the parties' constructions are meaningfully different. Both parties agree that an event node is a node on a network that corresponds to an event or situation. However, Meta describes that network as a "situational network," whereas SitNet describes the network as the claims describe it – *i.e.*, a "personal information network," which is an online social network. (*See, e.g.*, '454 Patent, 4:6-22; 7:44-52). That is, using Claim 1 in the '454 Patent as an example, the claim requires "creating, by an event node server, an event node in a multi-dimensional personal information network, the event node corresponding to a situation." All of the other claims that use the term "event node" describe the network into which the "event node" is created the same way – *i.e.*, "a multi-dimensional personal information network." There is no reason to rewrite the claims in the manner proposed by

Meta. The claims describe the network as a “personal information network” and that is how the Court’s construction should describe the network.

2. *Defendant’s Responsive Position*

The Court should adopt Meta’s proposed construction because it is both accurate and intelligible. The specification discloses that an “event node” is a node in a situational network. *See, e.g.*, ’454 Patent 19:56-60 (describing that an event node may be established by a situation authority); *id.* at 20:8-10 (users of a situational network may be automatically invited to connect to the event node); *id.* at 20 31-35 (a situational network’s temporal limit may be established at the event node); *id.* at 21:65-66 (“Users connected to an event node of a SitNet in an NDSN through a PIA may also request a ‘projected’ view.”). That is true even when the situational network is created within the framework of a “multi-dimensional personal information network.” *See, e.g., id.* at 5:61-6:13, 7:37-41, 14:28-34.

The Court should reject SitNet’s construction because it confuses more than it clarifies. If the Court adopts SitNet’s construction, claim 1(a) will read “creating, by an event node server, a node **on a personal information network** corresponding to an event or situation **in a multi-dimensional personal information network. . . .**” It is unclear whether SitNet intends the first “personal information network” and the second “multi-dimensional personal information network” to refer to the same thing or to have different meanings. Because Meta’s construction is comprehensible and consistent with the intrinsic record, the Court should adopt it.

3. *Plaintiff’s Reply Position*

The only disagreement between the parties with respect to “event node” is whether the network should be described as a “situational network” (Meta’s position) or as “a personal information network” (SitNet’s position).

Tellingly, in advancing its position, Meta never discusses the actual claim language. Claims

1 and 20 in the '454 Patent and Claim 7 in the '932 Patent explicitly state that the event node is “an event node in a multi-dimensional personal information network.” And although Claim 10 in the '454 Patent does not contain that phrase, it nonetheless makes explicitly clear that all of the claimed nodes, including the “event node,” are present “in a multi-dimensional personal information network.” There is no reason to rewrite the claims in the manner proposed by Meta. The claims describe the network as a “personal information network” and that is how the Court’s construction should describe the network.

4. *Defendant’s Sur-Reply Position*

Meta agrees that an “event node” is a node corresponding to an event or situation. Because event nodes are established in embodiments of a situational network that use an NDSN as a framework, *see, e.g.*, '454 Patent at 6:58-62, 7:37-52, they are simultaneously nodes on a situational network and on a personal information network. The Court should nevertheless reject SitNet’s proposed construction, because the asserted claims already recite creating an “event node in a multi-dimensional personal-information network.” Reciting that requirement for a second time in a claim construction (and using slightly different terminology) would confuse the jury. Conversely, because the claims do not specify that an event node is a node within the situational network established in the NDSN, Meta’s construction appropriately includes that requirement. The Court should adopt Meta’s proposed construction.

E. **TERM 10 (Meta) – roll call information**

Patent(s)/Claim(s)	SitNet’s Construction	Meta’s Construction
'345 Patent, Claim 5	Not indefinite; “the roll call list”	indefinite

1. *Plaintiff’s Opening Position*

Indefiniteness is an invalidity defense for which Meta bears the burden of proof by clear and convincing evidence. *See BASF Corp. v. Johnson Matthey Inc.*, 875 F.3d 1360, 1365 (Fed. Cir.

2017). Meta has not explained to SitNet why it thinks this phrase is indefinite. Accordingly, SitNet will respond to any arguments advanced by Meta once it explains why it thinks this claim phrase would not be reasonably clear to a person of ordinary skill in the art.

2. *Defendant’s Responsive Position*

“Roll call information” is indefinite because it lacks explicit antecedent basis, the antecedent basis “is not otherwise present by implication,” and the meaning of the term cannot otherwise be determined with reasonable certainty. *Halliburton Energy Servs. v. M-I LLC*, 514 F.3d 1244, 1249 (Fed. Cir. 2008); *Nautilus, Inc. v. Biosig Instruments, Inc.*, 572 U.S. 898, 901 (2014). “Roll call information” appears in claim 5 of the ’345 Patent, which depends from claim 1. Claim 1 recites sending a roll-call query to participants in a situational network. ’345 Patent at Claim 1. The roll-call query solicits a reply related to the status of a participant. *Id.* The network then “aggregate[es] the status responses **from responsive participants** into a **roll call list**.” *Id.* (emphasis added). Claim 5 further requires “establishing an electronic message board for providing access to the **roll call information** related to the situation for individuals not participating in the situational network.” *Id.* at Claim 5.

It is unclear whether the “roll call information” of claim 5 refers to the statuses of “responsive participants” that form the “roll call list” of claim 1, or to some other set of information. For example, the specification discloses an embodiment in which users may access information about **both** participants who responded to a roll-call query **and** participants who did not respond. See ’345 Patent 27:3-25 (describing how users may access a list of participants who did not respond to the roll-call query and so “might be missing or need assistance”); see also *id.* at Fig. 32 (button 3076 inviting a user to “VIEW list of Potential Missing Persons”). Because the term “roll call information” lacks antecedent basis, it could refer to claim 1’s responsive-participant “roll call list,” a list of all responsive and non-responsive participants as described in the specification, or some

other compilation of information. Because neither the claims nor the specification allows a person of ordinary skill in the art to determine the meaning of “roll call information” with reasonable certainty, the term is indefinite. *See Nautilus*, 572 U.S. at 901.

3. *Plaintiff’s Reply Position*

Indefiniteness is an invalidity defense for which Meta bears the burden of proof by clear and convincing evidence. *See BASF Corp.*, 875 F.3d at 1365. Meta, which only offers mere attorney argument to support its position, cannot meet its high evidentiary burden. *See, e.g., Mallinckrodt, Inc. v. Masimo Corp.*, 147 F. App’x 158, 179 (Fed. Cir. 2005) (rejecting indefiniteness claim when infringer “bases its indefiniteness challenge entirely on attorney argument” and “did not adduce any evidence to substantiate its claim of indefiniteness”); *Cacace v. Meyer Mktg.*, 812 F. Supp. 2d 547, 561 (S.D.N.Y. 2011) (“[M]ere attorney argument is insufficient to establish invalidity based on indefiniteness”); *Hypoxico, Inc. v. Colo. Altitude Training, LLC*, No. 02-CV-6191, 2008 WL 4129269, at *10 (S.D.N.Y. Sept. 4, 2008) (finding claim terms not indefinite where defendant “offer[ed] only the conclusory statements of counsel in support of its argument that one skilled in the art would not understand” the scope of the claim terms).

Moreover, Meta’s feigned confusion about the scope of Claim 5 in the ’345 Patent is not well-taken. Claim 5 depends on Claim 1. Claim 1 requires, among other things, “forming a situational network related to the occurrence of the situation with **a plurality of participant devices**,” “presenting **a roll call query** to each of the plurality of participant devices **soliciting a reply related to a status of the participant**,” “receiving **a status response** from one or more of the participants,” and “aggregating **the status responses** from the responsive participants into **a roll call list**.” As a result, when Claim 5 requires “establishing an electronic message board for providing access to **the roll call information** related to the situation,” it is clearly and unambiguously referring to **the only roll call information** generated in Claim 1 – i.e., the roll call list containing the responses to the roll

call inquiry.

Meta attempts to manufacture confusion by arguing that the specification includes an embodiment in which a user can “display the current status of the roll call list . . . so . . . [that the user] may be able to provide information on [other] users that have not responded to the roll call query.” (See ’345 Patent, 27:21-25.) Meta suggests that this could be the roll call information referred to in Claim 5. However, while this feature is **not** claimed in Claim 1, it is claimed in Claim 2, which, like Claim 5, depends on Claim 1. Reading the claim set as a whole, a person of ordinary skill in the art would know to at least a reasonable degree of certainty that the “the roll call information” in Claim 5 can only be referring to the specific roll call information generated in Claim 1 – *i.e.*, the roll call list containing the status responses from **responsive** participants – and not information concerning **non-responsive** participants generated separately in Claim 2, which is **not** in Claim 5’s dependency chain. Therefore, this term is not indefinite, and Meta has not met its high burden to establish otherwise.

4. *Defendant’s Sur-Reply Position*

The “internal coherence and context assessment of the patent, and whether it conveys claim meaning with reasonable certainty,” is a question of law for the Court. *Teva Pharms. USA, Inc. v. Sandoz, Inc.*, 789 F.3d 1335, 1342 (Fed. Cir. 2015). That “roll call information” does not convey claim meaning with reasonable certainty is evident from the face of the patent. Claim 2 only underscores the uncertainty by highlighting yet another category of information that might be the claimed roll call information: information about non-responsive participants ***provided by responsive participants***. The Court should find “roll call information” indefinite because the intrinsic record does not inform a person of skill in the art with reasonable certainty whether it includes some or all of: (1) the status of responsive participants (the “roll call list” of claim 1), (2) the list of users who did not respond to the roll call query (as described in the specification), (3)

the data responsive participants provide about non-responsive participants (identified in claim 2), or (4) any other roll-call related data.

F. TERM 13 (Meta) – caus[e/ing] an automatic redirection of a web browser application operating on each of the devices

Patent(s)/Claim(s)	SitNet’s Construction	Meta’s Construction
'932 Patent, all asserted claims	Plain and ordinary meaning	[causing/cause] a redirection of a web browser application operating on each of the devices without user action

1. Plaintiff’s Opening Position

The claim language at issue is “causing an automatic redirection of a web browser application operating on each of the devices to a webpage containing information ***related to the situation.***” (*E.g.*, '932 Patent, Claim 1.) Neither the claim language nor the specification prohibit any user action at all prior to redirection, as Meta’s construction appears to do. Instead, the plain and ordinary meaning of “automatic” in this context is that the browser redirects the user to a page related to the situation without the user specifically choosing to go to that page. In other words, the situational network is choosing the destination automatically for the user based on a determination that the page is related to the situation, regardless of what action user may or may not have taken before the redirection.

An example of this would be if, before the automatic redirection occurs, a notice pops up on the screen telling the user it was about to be taken to an external site and asking for permission to proceed, the redirection to that website still would be automatic because the user played no role in determining the site to which it was redirected. That is, under that scenario the user would still have been automatically redirected to a page related to the situation even if the user’s permission were needed to proceed. The specification teaches a number of similar examples. (*See, e.g., id.*, at 27:64-66 (“In one embodiment, targeted advertisements are delivered ***when a user connects*** to the SitNet

...”); 28:25-29 (“A change in availability of goods and services at different locations may also be provided to the users of the SitNet ***based on information provided by*** the providers of the goods and services themselves, or alternately, ***the users of the SitNet.***”); 29:19-22 (“Notifications of the service may be delivered on GPS enabled portable device, such as a cell phone or PDA, so that ***a traveling user*** can receive notifications of services most relevant to his current location.”); 29:14-18 (“The ***user may have previously selected*** the delivery language which is then stored in the user profile, or the notification sender may automatically determine the delivery language based on the personal information contained in the user profile.”); 29:25-27 (“The ***user may also communicate additional special considerations***, such as injuries or special needs, to the service provider.”).

There is no basis to narrow the claims in the way Meta has proposed. The Court should, instead, decline to construe this term. If, in the alternative, the Court thinks that the Jury should be given guidance on this term, the Court should instruct the Jury that the plain and ordinary meaning of this term is that the browser redirects the user to a page related to the situation without the user specifically choosing to go to that page.

2. *Defendant’s Responsive Position*

The Court should adopt Meta’s proposed construction to confirm that the claimed web browser must be redirected without user action to initiate the redirection. Construction is necessary because Meta disagrees with what SitNet asserts is the plain and ordinary meaning of this term. *O2 Micro Int’l Ltd. v. Beyond Innovation Tech. Co.*, 521 F.3d 1351, 1360 (Fed. Cir. 2008) (“When the parties raise an actual dispute regarding the proper scope of these claims, the court . . . must resolve that dispute.”); Pl. Op. Br. at 13 (SitNet’s Opening Argument for “caus[e/ing] an automatic redirection of a web browser application operating on each of the devices” (hereafter, “Term 1”)). Further, the patentee disclaimed redirection initiated by a user click or selection during prosecution and must not be allowed to recapture that claim scope through a “plain and ordinary meaning”

construction. *Omega Eng'g, Inc. v. Raytek Corp.*, 334 F.3d 1314, 1323 (Fed. Cir. 2003); *Traxcell Techs., LLC v. Nokia Sols. & Networks Oy*, 15 F.4th 1136, 1141-42 (Fed. Cir. 2021) (declining to apply plain and ordinary meaning because patentee had limited the scope of the term during prosecution to distinguish the claims from prior art).

Meta's proposed construction reflects the plain and ordinary meaning of "automatic redirection" at the time of the invention. Contemporaneous dictionaries defined "automatic" as occurring without human control or input. *See* Ex. 2, Dictionary of Computing 29 (4th ed. 2002) (automatic (adj) – that "which works by itself, without being worked by an operator"); Ex. 3, Merriam-Webster's Collegiate Dictionary 84 (11th ed. 2005) (automatic (adj) – "having a self-acting or self-regulating mechanism"). "Redirection" meant "[t]he act of changing a reference to some location or resource so that it points to a different destination"—in the context of this claim, pointing a web browser to a web page. *See* Ex. 4, The New Penguin Dictionary of Computing 410 (Dick Pountain ed. 2001) (listing as an example "redirect[ing] web page requests to a different web site"). Accordingly, this claim element requires that the claimed web browser be made to point to a new web page without user action.

The intrinsic record supports Meta's construction. The specification refers to "automatic redirection" only once, as one of three examples of how a situational network may be used to "broadcast emergency information to users[.]" '932 Patent at 24:49-51. Each example of "broadcasting" involves pushing data to a user without **any** user action: information is "directed to users' cell phones," updates are "automatically delivered to the user as they are made available," and, "in one embodiment, a user's home page is **automatically re-directed** to a website where most current information regarding the emergency event can be found." *Id.* at 24:49-60 (emphasis added).

More generally, the specification uses "automatic" to distinguish operations that occur without user action from those that require user input. For example, it contrasts an embodiment in

which “a user’s [device] **automatically** connect[s]” to an event with one in which the user must search for the event and “request a connection.” *See id.* at 24:32-37 (emphasis added); *see also id.* at 4:19-22 (explaining that a user device may be connected to a situational network “**automatically**, by requesting a connection, **or** by receiving an invitation to connect”) (emphasis added). Similarly, the patentee contrasts “automatic” selection of message recipients by a device with manual selection by a user. *See id.* at 30:23-34; *see also id.* at 29:12-18 (contrasting user inputting their language preference when signing up for a notification service, with the service “automatically” determining language based on their profile); *id.* at 29:54-59 (comparing “automatic selection” of groups by a device with manual selection by a user). Likewise, the patentee explains that, to prevent unauthorized access to data on user devices, the devices may either be “configured to notify the user **or** automatically reject requests known to be invalid[.]” *Id.* at 8:63-65 (emphasis added). The specification further describes providing notifications to users “automatically” in response to changing circumstances in a disaster—implying that the user does not have to check for updates. *See id.* at 28:25-32. That the patentee repeatedly distinguished “automatic” embodiments completed by a device from those initiated by user action supports Meta’s construction. *See, e.g., SkinMedica, Inc. v. Histogen Inc.*, 727 F.3d 1187, 1202 (Fed. Cir. 2013).

Consistent with its use of “automatic” throughout the written description, during prosecution the patentee disavowed any redirection that occurs because of a user clicking on or otherwise selecting a URL. The doctrine of prosecution disclaimer “precludes patentees from recapturing through claim interpretation specific meanings disclaimed during prosecution.” *Genuine Enabling Tech. LLC v. Nintendo Co.*, 29 F.4th 1365, 1374 (Fed. Cir. 2022) (cleaned up). Accordingly, a patentee who overcomes an examiner’s rejection by arguing their invention differs from some feature of the prior art may not later argue that their patent claims encompass the prior-art feature. *See Omega Eng’g*, 334 F.3d at 1324 (where a patentee “has unequivocally disavowed a certain

meaning to obtain his patent, the doctrine of prosecution disclaimer attaches and narrows the ordinary meaning of the claim congruent with the scope of the surrender”); *see also Uship Intellectual Props., LLC v. United States*, 714 F.3d 1311, 1315 (Fed. Cir. 2013).

That is precisely what the patentee did here. During prosecution of the '932 Patent, the examiner rejected the independent claims of the '932 Application in view of Shamp in combination with Hollenberg. *See* Ex. 5, ('932 Patent FH, October 31, 2011 Non-Final Rejection) at 2-5. The examiner explained that Hollenberg “teaches a system and method for connecting devices to a network to share and receive situation information.” *Id.* at 4. Thus, “it would have been obvious to one of ordinary skill in the art to incorporate the teachings of Shamp and Hollenberg to automatically connect user devices to relevant situational information networks so devices can receive more relevant and accurate situation information including advertisements, coupons, or promotional offers.” *Id.* (*citing* Ex. 6, (Hollenberg) at 7:31-40, 9:1-14). To overcome the rejection, the patentee amended the claims to add the claim element “causing an automatic redirection of a web browser application operating on each of the devices to a webpage containing information related to the situation.” Ex. 1 at 3-8, 10-13. The patentee explained that this addition made the claims patentable because “[b]oth Shamp and Hollenberg are completely silent with respect to automatic redirection of a web browser application.” *Id.* at 11-12.

The “automatic redirection” limitation of the '932 Patent claims cannot cover user clicks or selection because Hollenberg teaches redirecting a web browser application to a web page containing situation-related information based on a user click or selection. In Hollenberg, the wireless-communications device running the disclosed situation-information system displays symbols and text “that the user may **executably select** in order to receive additional information or execute computer code associated with it as described in Fig. 12.” Ex. 6 at 12:13-36 (emphasis added); *see also id.* at 13:29-38, 14:65-15:7. Figure 12 shows symbols and text that correspond to

“hypertext code sequence[s]” which, when “***selected by a user***” cause the device to “display additional information . . . by receiving new information transmitted from the service provider,” such as a merchant. *Id.* at 21:55-62, 22:25-30 (emphasis added). The hypertext code includes the information item’s “location or address, which may be a URL, of its additional information.” *Id.* at 22:10-12. Hollenberg thus teaches redirecting a web browser to a new web-page URL upon user selection. Because the patentee clearly and unmistakably distinguished its “automatic redirection of a web browser” limitation from the teachings of Hollenberg, the limitation cannot encompass redirection upon user selection. *Genuine Enabling Tech.*, 29 F.4th at 1374-75. Meta’s proposed construction reflects this disavowal.

Meta’s proposed construction does not, as SitNet suggests, forbid the user from doing anything at all on their device before automatic redirection. Instead, Meta’s proposal only requires that user action does not initiate ***redirection*** of the web browser. That is entirely consistent with the intrinsic record, including the disclosures SitNet cites—none of which discusses or relates to redirection of a web browser. *See* Pl. Op. Br. at 13-14 (SitNet’s Opening Argument for Term 1).

SitNet’s proposed construction is inconsistent with the plain meaning of the claims and fails to acknowledge the patentee’s disclaimer. As a threshold matter, a construction requiring that the browser redirects the page “without the user ***specifically choosing*** to go to that page,” Op. Br. at 14 (SitNet’s Opening Argument for Term 1) (emphasis added), would render the claims indefinite both because it refers to the user’s state of mind and because “specifically choosing” has no reasonably certain meaning to a person of ordinary skill in the art. *Cf. Intellectual Ventures I LLC v. T-Mobile USA, Inc.*, 902 F.3d 1372, 1381 (Fed. Cir. 2018) (finding indefiniteness where the term was entirely subjective and user-defined); *Amazon.com, Inc. v. Barnesandnoble.com, Inc.*, 239 F.3d 1343, 1353 (Fed. Cir. 2001) (“We are not prepared to assign a meaning to a patent claim that depends on the state of mind of the accused infringer.”). To the extent SitNet intends its proposed construction to

require that “the situational network [] choos[es] the destination [web page] automatically for the user”—which, by its plain terms, the construction does not—that revised proposal would still be wrong. In the disputed claim element, the term “automatic” modifies “redirection.” *VirnetX Inc. v. Apple Inc.*, 792 F. App’x 796, 810 (Fed. Cir. 2019) (adjective modifies noun it precedes). It does not describe the process by which the destination web page is “chosen,” because the claims do not reference that process. Further, it is inconsistent with the patentee’s prosecution disclaimer, which disavowed redirecting a web page to a URL provided by the claimed situational-awareness system. *See* Ex. 6 at 7:31-40, 9:1-14, 12:13-36, 13:29-39, 14:65-15:7, 21:55-62, 22:10-12, 22:29-30, Fig. 12.

Because Meta’s proposed construction reflects the plain and ordinary meaning of the claim element and is consistent with the patentee’s prosecution disclaimer, the Court should adopt it.

3. *Plaintiff’s Reply Position*

Meta asks the Court to adopt a construction that would preclude any user action whatsoever when the web browser application is automatically redirected to a webpage containing information related to the situation. Meta opens its argument using extrinsic evidence in the form of dictionary definitions. However, it is well settled that if the intrinsic evidence resolves any ambiguity in a disputed claim, extrinsic evidence cannot be used to contradict the established meaning of the claim language. *See, e.g., Mantech Envtl. Servs., Inc. v. Hudson Envtl. Serv., Inc.*, 152 F.3d 1368, 1373 (Fed. Cir. 1998). Here, the intrinsic record is clear that user action is permissible so long as the browser application redirects the user to a page related to the situation without the user instructing the browser application where to go.

First, the claims use the open-ended, transitional phrase “comprising” to introduce the claimed methods and system. This same issue arose in *CollegeNet, Inc. v. ApplyYourself, Inc.*, 418 F.3d 1225 (Fed. Cir. 2005). In that case, the claims at issue required “**automatically** inserting into

some of the second form data fields applicant information from the database” and “***automatically*** storing the applicant information entered into the second form data fields into the database by adding new records to the database . . .” *Id.* at 1228. Similar to Meta’s approach in this case, the defendant in *CollegeNet* asked the district court to construe “automatically” to mean a “process that occurs *without human intervention*, such that a human does not have the option to intercede and alter the flow of that process.” *Id.* at 1235 (emphasis in original). The district court rejected that construction, and the Federal Circuit affirmed. *Id.*

In doing so, the Federal Circuit observed that “the transitional term ‘comprising’ is inclusive or open-ended and does not exclude additional, unrecited elements or method steps” and held that, while the claims do “not expressly provide for human intervention, the use of ‘comprising’ suggests that additional, unrecited elements ***are not excluded***” and that “such elements ***could include human actions*** to expressly initiate the automatic storing or inserting, or to interrupt such functions.” *Id.* (cleaned up).

The Federal Circuit also credited a helpful analogy the district court had used – *i.e.*, an automatic dishwasher. Quoting the district court, the Federal Circuit noted that “simply because a human has to load an automatic dishwasher and press the start button, and has the ability to turn it off mid-cycle, does not mean that the device does not ‘automatically’ wash the dishes.” *Id.* (cleaned up). The same is true in this case. Just because a user may have to click a button or a link, or perform some other task, does not mean that the browser application is not automatically redirecting the user to a page related to a situation. What matters is that the browser application initiates the redirection and that user does not instruct the browser application where to go. *See Whitserve, LLC v. Computer Packages, Inc.*, 694 F.3d 10, 19-20 (Fed. Cir. 2012) (affirming denial of defendant’s JMOL of non-infringement in connection with a “comprising” claim in which the district court had construed “automatic” to mean “a process that, once initiated, is performed by a machine without

the need for manually performing that process, that is, without the need for human intervention” and that “a machine may still perform the claimed process automatically, even though a human might manually initiate or interrupt the process.”) (cleaned up).

Second, the specification teaches a number of examples of where user action can occur without that action rising to the level of instructing the browser application where to go. (*See, e.g.*, ’932 Patent, 27:64-66 (“In one embodiment, targeted advertisements are delivered ***when a user connects*** to the SitNet”); 28:25-29 (“A change in availability of goods and services at different locations may also be provided to the users of the SitNet ***based on information provided*** by the providers of the goods and services themselves, or alternately, ***the users of the SitNet***.”); 29:19-22 (“Notifications of the service may be delivered on GPS enabled portable device, such as a cell phone or PDA, so that ***a traveling user*** can receive notifications of services most relevant to his current location.”); 29:14-18 (“The ***user may have previously selected*** the delivery language which is then stored in the user profile, or the notification sender may automatically determine the delivery language based on the personal information contained in the user profile.”); 29:25-27 (“The ***user may also communicate additional special considerations***, such as injuries or special needs, to the service provider.”).

None of the passages from the specification recited by Meta preclude all user action in connection with an automatic process. In fact, a passage among the first few Meta relies on shows the exact opposite: “***Once the user accepts the invitation***, new updates are ***automatically*** delivered to the user as they are made available.” (*See id.*, at 24:49-60.) The updates are not any less automatic just because the user first had to accept the invitation. Similarly, immediately before in another passage relied on by Meta, the specification explains that “[a] ***user expecting guests might request*** that her PIA crawl the network and seek event nodes related to expected travel routes for the guests and ***automatically*** notify her if there are any unexpected delays.” (*See id.*, at 24:45-50.) The user

asking the PIA to look for travel delays does not make the automatic notification of such delays any less automatic.

Also unavailing is Meta's attempt to argue disavowal. For one thing, absent disavowal, a patentee is entitled to the full scope of its claims. By even arguing disavowal, Meta appears to concede that the full scope of the claims does **not** preclude all user action in connection with automatic redirection. Moreover, Meta glosses over the legal standard for disavowal. Disavowal requires that a patentee **clearly and unambiguously** disavows the full scope of a claim term either in the specification or during prosecution. *See Thorner*, 669 F.3d at 1365. The standard for disavowal of claim scope is exacting. "Absent a **clear** disavowal . . . in the specification or the prosecution history, the patentee is entitled to the full scope of its claim language." *Home Diagnostics, Inc. v. LifeScan, Inc.*, 381 F.3d 1352, 1358 (Fed. Cir. 2004).

Applying this legal standard here, there has been no disavowal of all user action in connection with automatic redirection. Indeed, as the patentee explained during prosecution, the automatic redirection limitation was added to the claims because the prior art (Shamp and Hollenberg) "**are completely silent** with respect to automatic redirection of a web browser application." (Ex. 1, p. 12.) And precisely because the prior art is silent on that issue, the patentee made no other arguments during prosecution to distinguish what is and is not considered automatic redirection. Not to be deterred, Meta cites to five passages in Hollenberg and argues that this is what the patentee must have been trying to avoid when it amended the claims to add automatic redirection:

- "a mappable hypertext item that the user may executably select in order to receive additional information" (Ex. 6, 12:27-30.)
- "which, as mappable hypertext items, may be executably selected by user to provide information" (*Id.*, at 13:35-37.)
- "which two menu items are mappable hypertext items that the user may

executably select in order to receive additional information” (*Id.*, at 15:4-6.)

- “mappable information items . . . which may be executably selected by a user in order to display additional information” (*Id.*, at 21:57-60.)
- “which maybe a URL . . . selected by a user to automatically provide additional information” (*Id.*, at 22:11-26.)

As an initial matter, this is an exercise in mind reading. There is nothing in the prosecution history that indicates that the patentee was focused on these five passages. But even if one credits Meta’s arguments, the most these passages show is that Hollenberg taught a system in which a user specifically choses where it wants to go. While Meta disparages “choosing” as impermissibly capturing a user’s state of mind, that is what Hollenberg teaches. Stated differently, and in terms Meta perhaps will find less objectionable, Hollenberg teaches that the user instructs the device where to take the user. SitNet agrees that the plain and ordinary meaning of automatic redirection in the ’932 Patent does **not** encompass the user instructing the browser application where to go. There is no disavowal needed for that. That is just what it means. But there is nothing in the prosecution history of the ’932 Patent that states or even implies that **all** user action is precluded in connection with automatic redirection. Rather, the prosecution history is further evidence that what matters for automatic redirection is that the browser application initiates the redirection and that user does not instruct the browser application where to go.

There is no basis to narrow the claims in the way Meta has proposed. The Court should, instead, decline to construe this term. If, in the alternative, the Court thinks that the Jury should be given guidance on this term, the Court should instruct the Jury that the plain and ordinary meaning of this term is that the browser application redirects the user to a page related to the situation without the user instructing the browser application to go to that page.

4. *Defendant's Sur-Reply Position*

SitNet attacks a strawman construction that Meta has already explained it is not proposing. Meta detailed in its Responsive Brief that its construction does not “forbid the user from doing anything at all on their device before automatic redirection.” *See* Meta’s Resp. Br. for “caus[e/ing] an automatic redirection of a web browser application operating on each of the devices” (hereinafter, “automatic redirection” term). Thus, SitNet’s specification citations showing user interaction before the system causes an “automatic” process accord with Meta’s proposal. *See, e.g.,* ’932 Patent at 29:14-18 (network “automatically” determining user language preference based on a profile the user previously set up).

What Meta’s construction does require is that the claimed **redirection** be automatic: the computer, not the user, must point the web browser to a different destination.⁹ *Cf. 20/20 Vision Ctr., LLC v. Vision Precision Holdings, LLC*, 801 F. App’x 770, 774 (Fed. Cir. 2020) (construing “automatically adjusting ophthalmic equipment” as adjusting the equipment “without requiring assistance from an eye care practitioner or on-site technician”). Meta’s construction is consistent with the plain and ordinary meaning of “automatic” and “redirection,” as well as the claim language requiring that claimed system (or the computer performing the claimed method) “**cause**” the automatic redirection. It is also consistent with the prosecution history. The patentee disclaimed systems and methods in which redirection occurs with a click **by adding** “automatic redirection” to the claims to overcome an obviousness rejection in view of Hollenberg, representing clearly and unequivocally that Hollenberg does not teach automatic redirection. *See* SitNet Reply Br., automatic redirection term. Because Hollenberg **does** teach redirection by

⁹ Despite its lengthy reply, SitNet appears to concede that point. *See* SitNet Reply Br., automatic redirection term (acknowledging that, in automatic redirection, “the browser application initiates the redirection”).

clicking or selecting a hyperlink, SitNet cannot now argue that the claims envelop those forms of redirection. *Id.*

CollegeNet, Inc. v. ApplyYourself, Inc., 418 F.3d 1225 (Fed. Cir. 2005) does not counsel a different result. There, the term “automatically” modified “inserting . . . applicant information” into a “form” and “adding new records to [a] database,” steps a user might otherwise perform. *Id.* at 1228. The same is true of the automatic dishwasher and autopilot analogies, in which the system automates activities traditionally performed by humans: washing dishes and piloting an airplane. The court held that the claimed machine must perform the data-entry and storage steps but did not rule out prior user interaction with the system such as a user affirming that the software should fill in the form. *Id.* at 1235-36.

Unlike the examples cited in *CollegeNet*, the ’932 Patent’s “redirection” is a computer process where a reference to a location within the computer’s code is changed “so that it points to a different destination.” *See* Ex. 4. For “automatic” to have meaning in the asserted claim, it must modify something capable of otherwise being performed by a user non-automatically. The only such step in the redirection process is the **initiation** of the redirection by a user, such as by clicking a link. Accordingly, “automatic redirection” excludes redirection initiated by a user. *Cf. Becton, Dickinson & Co. v. Tyco Healthcare Grp., LP*, 616 F.3d 1249, 1257 (Fed. Cir. 2010) (“Claims must be interpreted with an eye toward giving effect to all terms in the claim.” (internal quotation marks omitted)).

The Court should reject SitNet’s proposed alternative construction because it is unclear what it means for redirection to occur “without the user instructing the browser application to go to [the destination] page.” SitNet concedes that when a user clicks on hyperlinked text, as in the Hollenberg reference, the user **does** “instruct[] the device where to take the user” and so the redirection is not automatic. SitNet Reply Br., automatic redirection term. Yet SitNet also argues

that if a user clicks on a pop-up notice agreeing to be redirected to a different site, the subsequent redirection is still automatic. SitNet Op. Br., automatic redirection term. It is thus unclear what other user actions would fall within the scope of the claims SitNet proposes (i.e., which actions would **not** constitute “instructing the browser application to go to [the claimed web] page”).

The Court should adopt Meta’s construction.

G. TERM 14 (Meta) – a web browser application

Patent(s)/Claim(s)	SitNet’s Construction	Meta’s Construction
'932 Patent, all asserted claims	Plain and ordinary meaning	an application that enables users to browse World Wide Web pages across the Internet

1. Plaintiff’s Opening Position

A web browser application is a software application that allows a user to locate, access, and display web pages. (<https://www.techopedia.com/definition/288/web-browser>.) Rather than use this plain and ordinary meaning for the term, Meta proposes an overly narrow definition, presumably as part of some as of yet undisclosed non-infringement theory. It is undisclosed because SitNet served an interrogatory on Meta asking that it explain why it contends it does not infringe the asserted claims, however Meta refused to answer that interrogatory until after the Court construes the claims.

In any event, under Meta’s definition, Google’s Chrome browser would not be serving as a web browser application if it were used to access information on a company’s internal network, or in other words, its intranet. There is no basis to limit this term to browsing “World Wide Web pages across the Internet.” There is nothing in the specification that limits the term in this way. In fact, it is the opposite. The specification makes clear that both the “Internet” and “intranets” are within the scope of the invention. (See '932 Patent, 13:28-38 (“The Internet and some corporate intranets are examples of computer networks that use the technologies and standards described above.”).)

2. *Defendant's Responsive Position*

The Court must construe this term to clarify that a web browser application is not merely an application that connects to the internet but is, instead, an application that allows users to **browse** web pages **across the internet**. The patent explains that the term “web browser application” was familiar to a person of skill in the art at the time of the invention. *See* ’932 Patent at 32:41-45 (“Those skilled in the art will recognize that . . . embodiments of the present invention may be implemented as a web-based application that includes a web server and a browser application residing on a client computer.”). And dictionaries from that time show that the plain and ordinary meaning of “web browser” was an application that allowed users to browse or “surf” web pages. *See* Ex. 7, Computer Jargon: Dictionary and Thesaurus 215 (Eddie Martin ed., 2d ed. 2006) (web browser is “[s]oftware on your computer that allows you to surf the Internet and view World Wide Web pages”); Ex. 8, Newton’s Telecom Dictionary 930 (Harry Newton ed., 21st ed. 2005) (“A web browser is software which allows a computer user . . . to ‘surf’ the World Wide Web.”); Ex. 9, Internet Dictionary 52, 453 (Clare Lister ed., 2002) (web browser or browser is “[a]n application for viewing and navigating the World Wide Web.”); Ex. 10, The Facts on File Dictionary of Computer Science 219 (Valerie Illingworth et al. eds., 4th ed. 2001) (web browser is “[a] program developed to allow users to browse documents in the WWW.”).¹⁰

The Federal Circuit recently confirmed that, as of 2006, the plain and ordinary meaning of “web browser” requires the ability to browse pages across the web. *See Groove Digital, Inc. v. United Bank*, 825 F. App’x 852, 858 (Fed. Cir. 2020). The *Groove Digital* panel affirmed the district court’s construction of “internet browser”—which the parties agreed was synonymous with “web

¹⁰ Even the website cited by SitNet (with a last-updated date in 2023) acknowledges that web browsers “facilitat[e] web surfing.” *See* “Web Browser,” Technopedia (October 4, 2023), <https://www.techopedia.com/definition/288/web-browser>.

browser”—as “a program that enables a user to find, locate, retrieve, and navigate any web pages on the internet.” *Id.* at 855, 857-58 (cleaned up). There, as here, the patent at issue did not define the “browser” term. *Id.* at 857. The panel thus based its construction on extrinsic evidence, including dictionary definitions Meta cites above. *Id.* at 858.

Meta’s proposed construction does not, as SitNet contends, exclude popular web browser applications that can be used to access internal networks like intranets. Rather, it requires that, ***at a minimum***, a web browser application allow users to browse the World Wide Web. *Cf. Novartis Pharms. Corp. v. Abbott Lab’ys*, 375 F.3d 1328, 1336 (Fed. Cir. 2004). Construction of this term is necessary to clarify for the jury that the term “web browser application” requires this capability.¹¹

3. *Plaintiff’s Reply Position*

Although Meta argues that it has not prejudiced SitNet by refusing to provide any information at all for why Meta thinks it does not infringe the asserted claims, this claim term is a good example of why Meta is wrong. SitNet contends that the plain and ordinary meaning of “a web browser application” is a software application that allows a user to locate, access, and display web pages. In response, Meta first uses dictionary definitions to show “surfing” web pages is a shorthand for that activity, which seems harmless enough. However, Meta goes several steps further and then imports the “World Wide Web” and the “Internet” as additional limitations in its proposed construction of this term. But because Meta refuses to explain its non-infringement theory to SitNet,

¹¹ Meta has not, as SitNet complains (*see supra*, SitNet’s Opening Argument for “web browser application”), prejudiced SitNet in the claim-construction process by objecting to SitNet’s untimely request for non-infringement contentions. Meta’s non-infringement defenses are irrelevant to claim construction because claims are not construed in light of accused products. *SRI Int’l v. Matsushita Elec. Corp. of Am.*, 775 F.2d 1107, 1118 (Fed. Cir. 1985). Both Local Rule 33.3(c) and the case law in this district confirm SitNet’s request for non-infringement contentions is premature at this stage of the case. *Mickowski v. Visi-Trak Corp.*, 36 F. Supp. 2d 171, 177 (S.D.N.Y. 1999) (explaining that a court “must first determine the proper construction of the claims” allegedly infringed “[p]rior to analyzing . . . infringement”); *Regeneron Pharms., Inc. v. Merus B.V.*, 2014 WL 2447600, at *1-2 (S.D.N.Y. May 29, 2014).

it is not clear if or how these additional limitations matter to any issue in this case. This is a classic attempt to hide the ball.

And although SitNet agrees that claims are not construed in light of the accused products, it similarly is true that understanding the accused products and the parties' respective positions on infringement is helpful context for how the Court's claim construction could impact the case. *See, e.g., Wilson Sporting Goods Co. v. Hillerich & Bradsby Co.*, 442 F.3d 1322, 1331 (Fed. Cir. 2006) ("While a trial court should certainly not prejudge the ultimate infringement analysis by construing claims with an aim to include or exclude an accused product or process, knowledge of that product or process provides meaningful context for the first step of the infringement analysis, claim construction."). It also would be helpful context for the parties to use when trying to narrow the issues they need to ask the Court to decide. In fact, for this reason a number of courts require defendants to provide pre-claim construction non-infringement contentions. *See, e.g.,* Local Patent Rule 3.3 (N.D.N.Y); Local Patent Rule 3.4 (W.D.N.Y); Local Patent Rule 3.2 (N.D. Ill.); Local Patent Rule 3.2A (D.N.J.).

In any event, there is nothing in the '932 Patent that limits the scope of this limitation to use on "World Wide Web" pages across the "Internet." Indeed, the term "World Wide Web" does not appear anywhere in the '932 Patent, and every reference to the Internet in the patent is given merely as an example alongside other examples, such as intranets. (*See* '932 Patent, 8:25, 8:40, 8:45-46, 13:2, 13:36-38, 13:66-14:10, 17:53, 18:5, 18:15, 26:3, 26:50, 31:17.) In fact, in one example, the patent makes explicit that the situational network on which the "web browser application" is intended to operate and the Internet are ***not*** co-extensive – *i.e.*, "[r]eferring to FIG. 33, the message board 3080 may be accessible by a website on the internet (outside the SitNet)." (*See id.*, at 26:49-50.)

Meta's reliance on *Groove Digital*, 825 F. App'x at 857-58, is unavailing. The claim term

at issue was “internet browser.” Of course “internet” would be part of the construction of that term. And while the parties in that case agreed that, for the purposes of their case, “internet browser” and “web browser” meant the same thing, there is no such agreement in this case.¹² And there is nothing in the claims or the specification of the ’932 Patent indicating that, in the context of invention in this case, an “internet browser” and “a web browser application” mean the exact same thing. In fact, it is the opposite. The specification makes clear that both the “Internet” and “intranets” are within the scope of the invention. (See ’932 Patent, 13:28-38 (“The Internet and some corporate intranets are examples of computer networks that use the technologies and standards described above.”); *compare id.*, at 8:5 (“e.g., web browser”) with *id.*, at 32:41-45 (“a web-based application that includes a web server and a browser application”).)

SitNet continues to believe that a jury would have no trouble understanding “a web browser application” so long as the Court expressly rejects Meta’s attempts to limit it to use on the “World Wide Web” and the “Internet.”

If, however, the Court thinks a construction is needed, it should construe “a web browser application” as “a software application that allows a user to locate, access, and display web pages.” This definition is consistent with the art-accepted definition of “browser-based application” as “an application that runs within the web browser.” (See [Definition of browser-based application | PCMag](#)¹³.) “The instructions, typically written in a combination of HTML and JavaScript, are embedded in the web page.” *Id.* The definition also is consistent with the art-accepted meaning of

¹² In fact, “web browser” is not even the term in dispute in this case – it is “a web browser **application**.” Meta ignores the word “application” to align its argument with the dictionary definitions it cites. The inventors knew what a web browser was (see ’932 Patent, 8:5), yet they claimed the broader term “a web browser application” that is not limited to full-featured web browsers used on the “Internet” or the “World Wide Web.”

¹³<https://www.pcmag.com/encyclopedia/term/browser-based-application#:~:text=An%20application%20that%20runs%20within%20the%20Web%20browser.,Web%20page%20that%20is%20downloaded%20from%20a%20website.>

the more modern, synonymous term “web application” – *i.e.*, “[a]n application which all or some parts of the software are downloaded from the web every time it runs.” (See Definition of Web application | PCMag¹⁴.) The downloaded portion being the combination of HTML and JavaScript embedded in a web page.

4. *Defendant’s Sur-Reply Position*

The intrinsic record does not define or describe “web browser application,” ’932 Patent at 32:41-45, so the Court can look to extrinsic evidence. As the Federal Circuit found in *Groove Digital*, relevant extrinsic evidence in 2006 (one year prior to the ’932 Patent’s priority date) established that a “web browser” is a program “that enables a user to find, locate, retrieve, and navigate **any** web pages **on the internet**.” See *Groove Digital, Inc. v. United Bank*, 825 F. App’x 852, 855, 858 (Fed. Cir. 2020) (emphasis added); see also Exs. 7-10.¹⁵ Meta does not contend that such an application is **incapable** of navigating intranets but merely that it must allow users to freely browse web pages on the Internet. The Court should adopt Meta’s construction to clarify this important point.

¹⁴ <https://www.pcmag.com/encyclopedia/term/web-application>.

¹⁵ SitNet’s citations to current PCMag.com definitions of “browser-based application” and “web application” neither define “web browser” nor are pertinent as they postdate the ’932 Patent’s asserted February 2007 priority date by many years. See *Inverness Med. Switzerland GmbH v. Warner Lambert Co.*, 309 F.3d 1373, 1378 (Fed. Cir. 2002).

H. TERM 15 (Meta) – causing an automatic redirection of a web browser application operating on each of the devices to a webpage . . . and providing to each of the devices at least one of the plurality of advertisements for display on the webpage

Patent(s)/Claim(s)	SitNet's Construction	Meta's Construction
'932 Patent, Claims 1-7	Plain and ordinary meaning	"caus[ing] an automatic redirection . . . to a webpage" must occur prior to "provid[ing] at least one of the plurality of advertisements [. . .] for display on the webpage"

I. TERM 16 (Meta) – a central server . . . configured to . . . cause an automatic redirection of a web browser application operating on each of the devices to a webpage . . . and provide at least one of the plurality of advertisements to each of the devices for display on the webpage

Patent(s)/Claim(s)	SitNet's Construction	Meta's Construction
'932 Patent, Claim 22	Plain and ordinary meaning	"caus[ing] an automatic redirection . . . to a webpage" must occur prior to "provid[ing] at least one of the plurality of advertisements [. . .] for display on the webpage"

1. Plaintiff's Opening Position

These terms present the same issue so SitNet addresses them together. The issue is whether, as Meta contends, these terms require that the automatic redirection to a page must occur prior to providing one of the plurality of advertisements to a user. The claims certainly do not say that. And the specification directly contradicts Meta's proposed construction. That is, the specification teaches "[a]s a user **changes** position, **updated** information may be provided based on most recent location coordinates associated with the user." ('932 Patent, 28:23-25.) Under this scenario, multiple different advertisements have been provided for different locations and the user already has been redirected to a page containing at least one of them based on its prior location. But now, **after** the initial redirection, the user is directed to a different page with a different advertisement.

Similarly, the specification teaches that “[a] **change** in availability of goods and services at different locations may also be provided to the users of the SitNet based on information provided by the providers of the goods and services themselves, or alternately, the users of the SitNet. As the supplies of the goods are depleted and services become unavailable, users of the SitNet are **automatically notified of other nearby providers.**” (*Id.* at 28:25-29.) Under this scenario, multiple different advertisements also have been provided, this time for different suppliers of goods. The user already has been redirected to a page containing at least one of them, but is now, **after** that initial redirection, being directed to a different page based on the supply of goods available as the different suppliers.

Meta’s construction should be rejected, and the Court should decline to construe the terms. If the Court rejects Meta’s attempt to import a temporal limitation into the claims, there is no dispute between the parties as to claim scope.

2. *Defendant’s Responsive Position*

Grammar and logic require that these claim steps occur in the order written. *See Apple Inc. v. Motorola, Inc.*, 757 F.3d 1286, 1309 (Fed. Cir. 2014), *overruled on other grounds by Williamson v. Citrix Online, LLC*, 792 F.3d 1339 (Fed. Cir. 2015). Both claims 1 and 22 require automatic redirection of a web browser application on a device to “**a** webpage.” ’932 Patent at Claims 1, 22. Each then recites providing one or more advertisements for display on **the** webpage.” *Id.* The “webpage” recited in the first limitation is the same as “the webpage” referenced in the second, because the first provides antecedent basis for the latter. *Id.* It logically follows that the first step occurs before the second: the user must be directed to a web page before being provided advertisements for display on that web page.

When a claim recites forming or initiating an element in a first step, then acting on the element in a second step, the first step must precede the second. *See, e.g., Apple Inc.*, 757 F.3d at

1309 (the step of “multiplying” the codes implies that the codes have been formed before multiplying, and that the forming step must therefore occur before multiplying); *Rambus Inc. v. Rea*, 527 F. App’x 902, 907 (Fed. Cir. 2013) (the step of “sampling write data” logically happens after “a write operation” because otherwise there would be no “write data” to sample from); *TALtech Ltd. v. Esquel Apparel, Inc.*, 279 F. App’x 974, 978 (Fed. Cir. 2008) (the step of folding the garment component “such that the upper surface of the first garment component . . . abuts an upper surface of the bonding element” implies that the bonding element is already in place, therefore logically occurs after the step of “placing a bonding element”). Here, claim 1 first recites a “webpage” that the user is directed to, then describes displaying advertisements to the user on the web page. For the advertisement to be “display[ed]” on the webpage, the device must already have been “redirect[ed] . . . to” the webpage. The same reasoning applies to claim 22.

Meta’s construction is consistent with the structure of claims 1 and 22 because each of the steps of claim 1 “provides an antecedent basis for the steps that follow.”¹⁶ *Hytera Commc’ns Co. v. Motorola Sols., Inc.*, 841 F. App’x 210, 218 (Fed. Cir. 2021). Specifically, claim 1 recites (1) obtaining an indication of an occurrence of “a situation,” then (2) in response to “the situation,” connecting “devices” to a situational network, then (3) redirecting a browser on “the devices” to “a webpage,” and finally then (4) providing the device with advertisements for display on “the webpage.” When each step of a method provides antecedent basis for the next, logic and grammar require them to occur in the order written. *Hytera*, 841 F. App’x at 218.

“Because . . . the claim language demonstrates the order of the steps, [the Court] need not look further into the specification.” *Id.* But the specification also supports Meta’s proposed construction. The portion that discusses providing advertising based on a user’s affiliation to the

¹⁶ Although claim 22 is not a method claim, it recites the same steps as claim 1, in the context of describing a process the claimed server is “configured to” perform.

situation explains how individuals participating in a situational network can be “directed to a source of information, which may be a web page.” ’932 Patent at 27:46-28:12. Advertisements may then be “delivered” to the user by “displaying” or “showing” them on the web page. *Id.* This description aligns with the natural reading of the claims: a user device is first directed to a web page, then the advertisements are provided (or delivered, or shown) to the user via the web page.

The portion of the specification SitNet cites in its argument does not undermine the plain language of the claims. *Hytera*, 841 F. App’x at 218; *Kis v. Foto Fantasy*, 60 F. App’x 319, 321 (Fed. Cir. 2003) (a court’s consideration of the specification is restricted “if the claim language is clear on its face”). Nor does it—as SitNet implies—disclose providing advertisements to a device **before** redirecting the device to a web page that displays the advertisements. *See* ’932 Patent at 28:23-32. Indeed, that portion of the patent does not refer to placing advertisements on a web page at all. *Id.*

Because the logic and grammar of claims 1 and 22 require “causing an automatic redirection . . . to a webpage” to occur prior to “provid[ing] at least one of the plurality of advertisements [. . .] for display on the webpage,” the Court should adopt Meta’s construction.

3. *Plaintiff’s Reply Position*

This is another set of terms for which context about the parties’ respective positions on infringement would be helpful to know. Without that context, SitNet is left to guess at what Meta is getting at, and, therefore, the parties appear to be talking past each other. Whether or not, as a matter of law the claims require it, SitNet agrees as a practical matter that redirection occurs before the very first of the advertisements related to the event or situation is provided to the device being redirected.

However, the claims explicitly require the receipt of more than one advertisement, and the specification expressly teaches that other advertisements and/or information can be provided to

users after they have been redirected. (See '932 Patent, 28:23-29 (“A **change** in availability of goods and services at different locations may also be provided to the users of the SitNet based on information provided by the providers of the goods and services themselves, or alternately, the users of the SitNet. As the supplies of the goods are depleted and services become unavailable, users of the SitNet are **automatically notified of other nearby providers.**”). As a result, there is nothing in the claims or the specification that prohibits a subsequent redirection after an initial advertisement is provided.

Unless Meta disagrees with this, there does not appear to be a dispute between the parties as to claim scope with respect to these terms. The Court should decline to construe them in favor of their plain and ordinary meaning, which Meta argues is clear and unambiguous based on a plain reading of just the claim language. Thus, there is no need to rewrite that claim language in the manner Meta proposes.

4. *Defendant’s Sur-Reply Position*

Meta does not urge the Court to “rewrite” the claim. Instead, Meta respectfully requests that the Court enter an order confirming that the steps alleged to infringe these elements must occur in the order in which the elements **are written**. SitNet’s Opening Brief disputes this proposition. Its Reply Brief concedes that Meta’s construction is correct “as a practical matter” but not that the claims require it. Construction is therefore necessary to confirm that, as a matter of law, the claims require the recited order of steps.

J. **TERM 17 (Meta) – profile**

Patent(s)/Claim(s)	SitNet’s Construction	Meta’s Construction
'932 Patent, Claim 5	Not indefinite; “a profile for the at least one individual”	indefinite

1. *Plaintiff's Opening Position*

Indefiniteness is an invalidity defense for which Meta bears the burden of proof by clear and convincing evidence. *See BASF*, 875 F.3d at 1365. Meta has not explained to SitNet why it thinks this phrase is indefinite. Accordingly, SitNet will respond to any arguments advanced by Meta once it explains why it thinks this claim phrase would not be reasonably clear to a person of ordinary skill in the art.

2. *Defendant's Responsive Position*

Claim 5 depends from claim 1, and recites “wherein the profile is stored on the connected device.” Claim 1, however, does not recite a profile, or otherwise refer to any element that is recognizable as a profile. The term “profile” therefore lacks antecedent basis and is indefinite. *See Halliburton*, 514 F.3d at 1249.

The Court may not substitute the “a profile for the at least one individual” for “profile.” When the patentee wanted to claim “a profile for the at least one individual,” they did so. *See, e.g.,* ’932 Patent at Claim 4; *Bd. of Regents*, 533 F.3d at 1371 (“Different claim terms are presumed to have different meanings.”). Because it is not clear what “the profile” of claim 5 refers to, the term is indefinite.

3. *Plaintiff's Reply Position*

Claim 5 contains an obvious typographical error that the Court can correct – *i.e.*, Claim 5 should depend on Claim 4, not Claim 1. The Court can correct a patent “if (1) the correction is not subject to reasonable debate based on consideration of the claim language and the specification and (2) the prosecution history does not suggest a different interpretation of the claims.” *See Ultimex Cement Mfg. Corp. v. CTS Cement Mfg. Corp.*, 587 F.3d 1339, 1353 (Fed. Cir. 2009). Here, as Meta correctly points out, Claim 1 does not reference a profile of any kind. Yet, Claim 4 does. It requires there to be “a profile for the at least one individual.” So, when Claim 5 requires that “the”

profile is stored on the connected device it can only be referring to the user profile in Claim 4. This conclusion, which is the only reasonable interpretation of the claims, is buttressed by the fact that the **only** profile ever mentioned anywhere in the '932 Patent is the type of user profile claimed in Claim 4. (See '932 Patent, 14:45, 15:19, 14:48, 16:67, 17:12, 18:12, 18:39, 19:2, 19:61, 27:21, 27:41, 27:67, 28:49-60, 29:10-27.) There is nothing in the prosecution history that suggests “the” profile claimed in Claim 5 could be referring to anything other than the “profile for the at least one individual” in Claim 4.

As a result, the Court can and should make correct the dependency error, which is obvious on the face of the patent. See, e.g., *Novo Indus., L.P. v. Micro Molds Corp.*, 350 F.3d 1348, 1355 (Fed. Cir. 2003) (“under [*I.T.S. Rubber Co. v. Essex Rubber Co.*, 272 U.S. 429 (1926)], certain obvious errors in the patent can be corrected by the district court in construing the patent”); *Ultimax*, 587 F.3d at 1353 (“[I]f the correction is not subject to reasonable debate to one of ordinary skill in the art, namely, through claim language and the specification, and the prosecution history does not suggest a different interpretation, then a court can correct an obvious typographical error.”); see also *Ollnova Techs. Ltd. v. Ecobee Techs., ULC*, No. 2:22-CV-00072-JRG, 2023 WL 2871051, *9 (E.D. Tex. April 10, 2023) (correcting dependency error obvious on the face of the patent).

To the extent Meta argues that there is more than one possible way to correct Claim 5, such as by simply replacing “the profile” with “a profile for the at least one individual,” it is important to note that the Court can still correct Claim 5 in the manner proposed by SitNet. That is because the scope of Claim 5 would be the exact same under either correction. See *CBT Flint Partners, LLC v. Return Path, Inc.*, 654 F.3d 1353, 1358-59 (Fed. Cir. 2011) (“[T]he fact that a person of skill in the art would find the claim to have the same scope and meaning under each of the three possible meanings that the court found reasonable . . . the district court had the requisite authority to make a correction.”).

Finally, even if the Court is disinclined to correct Claim 5, the claim still is **not** indefinite. As the Federal Circuit explained in *Halliburton*, 514 F.3d at 1249, a claim can only be found invalid for lack of antecedent basis if the “proper antecedent . . . is not otherwise present by implication or the meaning is not reasonably ascertainable.” Here, there is no doubt whatsoever that “the profile” in Claim 5 is referring to the **only** profile disclosed anywhere in the patent – *i.e.*, a user profile, or, in the context of the claims, a profile for the at least one individual.

4. *Defendant’s Sur-Reply Position*

Meta does not oppose construing claim 5 as depending from claim 4 and agrees that would cure the indefiniteness issue. Absent that agreement, the claim term is indefinite for the reasons stated in Meta’s Responsive Brief.

V. CONCLUSION

A. Plaintiff’s Opening Position

For the reasons set forth above, SitNet requests that the Court address the disputed claim terms in the manner proposed by SitNet.

Dated: April 26, 2024
Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on April 26, 2024, the foregoing document was served on all counsel of record in this case.

/s/ Naresh K. Kannan

Naresh K. Kannan