

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

META PLATFORMS, INC.,
Petitioner

v.

SITNET LLC,
Patent Owner

U.S. Patent No. 9,877,345

IPR Case No.: 2024-00530

**SITNET LLC'S SUR-REPLY TO PETITION FOR *INTER PARTES*
REVIEW OF U.S. PATENT NO. 9,877,345**

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EXHIBIT LIST

No.	Exhibit Description
2001	Joint Claim Construction Brief in <i>SitNet LLC v. Meta Platforms, Inc.</i> , No. 1:23- cv-06389-AS (Dkt. 57).
2002	Amended Joint Claim Construction Chart in <i>SitNet LLC v. Meta Platforms, Inc.</i> , No. 1:23-cv-06389-AS (Dkt. 58).
2003	Order regarding Trial Schedule in <i>SitNet LLC v. Meta Platforms, Inc.</i> , No. 1:23- cv-06389-AS (Dkt. 32).
2004	Statistics for Southern District of New York Judges
2005	Expert Report of Dr. Aviel D. Rubin
2006	Markman Hearing Transcript in <i>SitNet LLC v. Meta Platforms, Inc.</i> , No. 1:23- cv- 06389-AS (July 1, 2024).
2007	Claim Construction Order in <i>SitNet LLC v. Meta Platforms, Inc.</i> , No. 1:23- cv- 06389-AS (Dkt. 79).
2008	U.S. Patent Application Series No. 11/924,711
2009	Supplemental Expert Report of Dr. Aviel D. Rubin

I. INTRODUCTION

Patent Owner SitNet LLC (“SitNet”) submits the following Sur-Reply to the Petition for *Inter Partes* Review of claims 1-16 of U.S. Patent No. 9,877,345 B2 (“the 345 Patent”) filed by Petitioner, Meta Platforms, Inc. (“Petitioner” or “Meta”).

The fundamental disagreement between the parties in the instant Petition centers around the interpretation of the terms “situational network” and “situation authority.” Meta mistakenly believes it is SitNet’s position that the situational network cannot be created from an existing network. Reply at 2-4. This is not true. SitNet acknowledges that the situational network can be ***created from*** a pre-existing network ***in response*** to an event or situation; however, the situational network itself cannot exist prior to the event or situation as this would contradict the District Court’s construction of “a network ***created in response*** to an event or situation.” Ex. 2007 at 2-4 (emphasis added).

Further, Meta incorrectly finds issue with the assertion that the situation authority is “external” to the situational network when this understanding comes directly from the specification of the 345 Patent. Specifically, the 345 Patent teaches that “***external entities*** 207, also ***called situation authorities*** . . . are able to aggregate and provide comprehensive information related to the situation.” 345 Patent, 4:14-20 (emphasis added). As such, SitNet emphasizes the proper interpretation for “situation authority” that is derived when viewed in context of the 345 Patent.

II. CLAIM INTERPRETATION

A. Situational Network

The *Markman* order in *SitNet v. Meta* construed “situational network” as “a network created in response to an event or situation,” which the Board adopted in related IPRs. Ex. 2007 at 2-4; IPR2024-00528, Paper 10 at 9 (PTAB Sept. 11, 2024); IPR2024-00612, Paper 10 at 10 (PTAB Sept. 11, 2024). In view of this construction, Meta seems to be confused to the meaning of “created in response” to an event or situation. Inherently, the situational network cannot exist prior to the event or situation, otherwise, it cannot be “created in response” to said event or situation. Therefore, this is not an instance, as Meta suggests, of SitNet importing limitations into the claims. Reply at 2-3. Rather, the simple application of the plain and ordinary meaning of the “created in response” portion of the construction would exclude pre-existing networks, as those pre-existing networks would not be “created in response” to an event or situation. Therefore, the pre-existing networks disclosed in Gage and Shida do not read on the claims of the 345 Patent.

Now, as SitNet even acknowledges, the situational network can be *derived from* a pre-existing network. POR at 3 (“The new network may be derived from an old network [.]”). However, the “created in response” portion of the construction can only apply to a pre-existing network if something *new* is added to the system. Specifically, “by establishing a *new connection* incorporating a *new element* into the system.” *Id.* (emphasis added). Without adding a new connection/new element to a

pre-existing network, one would be left with just the old, pre-existing network that is not “created in response” to an event or situation.

Meta seems to ignore the fact the 345 Patent specification explicitly confirms this understanding that new connections are established when creating the situational network. Namely, the 345 Patent teaches the “situational network 3000 is *created* when an occurrence [] *causes connections*, also referred to as links, *to be established* between, within or among a set of participants 250, 207.” 345 Patent, 4:3-7 (emphasis added). This understanding was also confirmed by SitNet’s expert Dr. Rubin during his deposition:

Q. And you gave an example of how that device would then be included in the formation of a situational network -- well, strike that.

In order for that device that’s part of an existing network, in order for it to be included *in the formation of a situational network, that device would have to have a new connection created. Is that fair?*

A. *Yes.*

Ex 1027 at 56:8-16 (emphasis added). Accordingly, a situational network is not a pre-existing network but can be derived from a pre-existing network if a new connection to a subscriber’s device is established in response to an event or situation.

Dr. Rubin further specified during his deposition the type of connection that would have to be created:

Q. And you gave an example of how that device would then be included in the formation of a situational network

-- well, strike that.

In order for that device that's part of an existing network, in order for it to be included in *the formation of a situational network, that device would have to have a new connection created*. Is that fair?

A. Yes.

Q. That connection would be at which layer of the stack?

A. Layer 7.

Ex. 1027 at 56:8-19 (emphasis added).

Earlier in the deposition, Dr. Rubin explained the concept of a "Layer 7" connection as something indifferent to the physical connections of the lower layers utilized by developers when building applications.

Q. How would you describe it? I said "right on top." Are there different words that you would want to use?

A. I -- I think that's not a bad description. It's not one that I've used before, but I like it.

So you have -- within the concept of layering, the *idea is that programmers, developers, analysts only really need to concentrate on one layer at a time because whether your physical layer is wireless or wired won't affect the connections that you have at the social network*. Like if Bob is friends with Alice, that's going to be independent of whether their communication is over TCP or whether it's spoken or whether it's wireless.

So the idea of a logical layer is that these things aren't actually connected by a wire, like Bob and Alice may not have a wire going between them. *We don't even care or know how the underlying communication is happening. We're just looking at the network at Layer 7, which is the application view.*

Ex. 1027 at 21:1-20 (emphasis added).

Q. So forming a situational network, that's creating logical connections.

A. Yes.

Ex. 1027 at 57:22-58:2. Thus, a "situational network" is a "a network created in response to an event or situation" by establishing a new logical, Layer 7 connection. This, as Dr. Rubin explained, permits client and server-side applications to communicate:

Q. Are there other ways to -- besides establishing a TCP/IP session in a network, are there other ways to establish a logical connection?

A. Yes.

Q. Can you name a few?

A. Sure. So you could have an application that is a client server application and you can establish a connection within the application.

So Computer A, when the user is running, say, tax

software -- you name it, I'm just giving an example -- and there is a server component to that. And within that application, you could have code that involves remembering the state of the communication that you had with the server. And so when you start up the client and the first time that you request something from the server, that establishes a connection. And then when you log out, that could close the connection. *That would be a higher layer logical connection than the underlying TCP connection. In fact, it could happen without a TCP connection.* It could happen with a UDP over IP over --

THE REPORTER: With a U --

THE WITNESS: UDP, IP, any -- any way to get the bits from one place to the next. The application wouldn't care. It would be connected. *And so when the application client requests data from the application server, it's using their logical connection.*

Q. (BY MR. TUMINARO) *So what layer of the OSI stack are you referring to when you talk about that server connection?*

A. Seven

Ex. 1027 at 15:12 -- 16:22 (emphasis added).

Q. So my questions relates to if you have applications communicating over a network, those two applications would have a Layer 7 connection?

A. Yes.

Ex. 1027 at 45:22 - 46:3. Accordingly, a “situational network” is a “a network created in response to an event or situation” by establishing a new logical, Layer 7 connection permitting applications to communicate between devices.

However, the networks taught by Gage and Shida utilize only pre-existing logical, Layer 7 connections, and thus do not teach establishing new connections with subscriber devices in response to an event or situation, and do not read on the claims of the 345 Patent.

B. Situation Authority

Claims must be read in view of the specification, of which they are a part. *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 979 (Fed. Cir. 1995), *aff'd*, 517 U.S. 370, 116 S. Ct. 1384, 134 L. Ed. 2d 577 (1996). An analysis of the 345 Patent specification confirms that the “situation authority” is indeed an “external entity” to the situational network.

Meta mistakenly argues that the specification does not contain any “expressions of manifest exclusion or restriction” that would require the situation authority to be external to the situational network. Reply at 4-5. It misinterprets the following passage from the 345 Patent to suggest situation authorities are not required to be external to the situational network:

In the context of the situational network 3000, the participants may include external entities 207, also called situation authorities, central authorities or trusted providers.

Reply at 5. Specifically, Meta argues this passage “suggests that situation authorities may be included in a situational network and are not required to be external to the situational network.” *Id.* This is an incorrect reading of the specification. Rather, this passage states that the “participants” of the situational network “may include” external entities/situation authorities not that situational authorities may be external entities. The 345 Patent specification explicitly equates a situation authority to an external entity and does not affirm the opposite. There is nothing in the 345 Patent that contradicts this or teaches that situation authorities are not external entities as Meta seems to suggest.

When a situation authority is present (as claimed), that situation authority is an external entity. An external entity logically would have to be an entity *outside of the service or system* providing the “situational network.” However, the Gage and Shida systems do not read on the claims of the 345 Patent as they each fail to disclose a situation authority that is an external entity.

III. RESPONSE TO GROUNDS FOR INVALIDITY RAISED

A. Ground 1: Claims 1, 3-8, 10-13, 15, and 16 Are Not Rendered Obvious by Gage

1. Situational Network

Gage’s alleged situational network is not a network “created in response” to an event or situation. Ex. 2009 ¶ 56. Logically, if the situational network is created in response to an event or situation, it cannot exist prior to the event or situation. That is, it cannot rely only on preexisting logical, Layer 7 connections. But, Gage’s alleged

situational network and the logical, Layer 7 connections within it indeed exist prior to the event or situation.

In its Reply, Meta asserts that Gage follows the teachings of the 345 Patent and therefore discloses a “situational network.” To support this assertion, Meta argues that the 345 Patent teaches that “some participants may already be connected” and the “situational network may be established using the framework of an N-dimensional social network (NDSN). [] 4:10-15, 7:52-59.” Reply at 7. This is an improper reading of the 345 Patent.

The 345 Patent discloses that a situational network is created when *new connections* are established between a set of participants. 345 Patent, 4:3-7 (“a situational network 3000 is *created* when an occurrence [] *causes connections*, also referred to as links, *to be established* between, within or among a set of participants 250, 207.”) (emphasis added). As Dr. Rubin explained, the newly created connections would be logical, Layer 7 connections. *See* Ex. 1027 at 56:8-19 and 57:22 - 58:2. Further, the section of the 345 Patent cited by Meta regarding the embodiment of a situational network being established using the framework of an N-dimensional social network (NDSN), in fact confirms that *new connections* are established between the participants. Specifically, in this embodiment, “users are *connected into* the situational network through the NDSN using a [personal information aggregator].” 345 Patent, 7:56-57 (emphasis added). As Dr. Rubin also explained, applications on the users’ client device would communicate via a logical, Layer 7

connection. Ex. 1027 at 15:12 – 16:22 and 45:22 - 46:3.

Further in its Reply, Meta argues Gage allegedly teaches a situational network because “‘when a disaster is detected’ (*occurrence of the situation*), ‘a centrally located disaster response system’ queries mobile devices of subscribers located near the disaster for status indicators.” Reply at 7, 9 (emphasis in original). However, **querying** mobile devices for status indicators is not **creating** a network in response to an event or situation. Rather, as Dr. Rubin explained, it is merely using an existing logical, Layer 7 connection to communicate data between applications. Ex. 1027 at 15:12 – 16:22 and 45:22 - 46:3. As SitNet previously explained in its Patent Owner’s Response (“POR”), this querying occurs (1) prior to the occurrence of an event or situation and (2) over pre-existing connections to subscribers’ mobile devices. POR at 5-7. Meta has not pointed to single passage of Gage stating otherwise.

Meta’s Reply next argues that Gage forms “ad hoc networks” in response to a disaster that can be “**dynamically** established (i.e., through BLUETOOTH functionality of mobile telephones) to enable subscribers 130-134 to convey status and location.” Reply at 8 (emphasis in original). However, these ad hoc networks are not situational networks. In a situational network, “We don’t even care or know how the underlying communication is happening. We’re just looking at the network at Layer 7, which is the application view.” Ex. 1027 at 21:18-20. Accordingly, Bluetooth and other dynamically established physical connections do not establish a situational network. They merely provide another communication means, such as

Bluetooth, for subscribers to provide status and location info when wide area network (WAN) communications are unavailable. A Bluetooth communication channel is not the same as a connection of a mobile device to a situational network. As SitNet's expert Dr. Rubin testified, in the Open Systems Interconnection ("OSI") model, which describes seven layers that computer systems use to communicate over a network, Layer 7 (the Application Layer) is the only layer associated with connections in a social network:

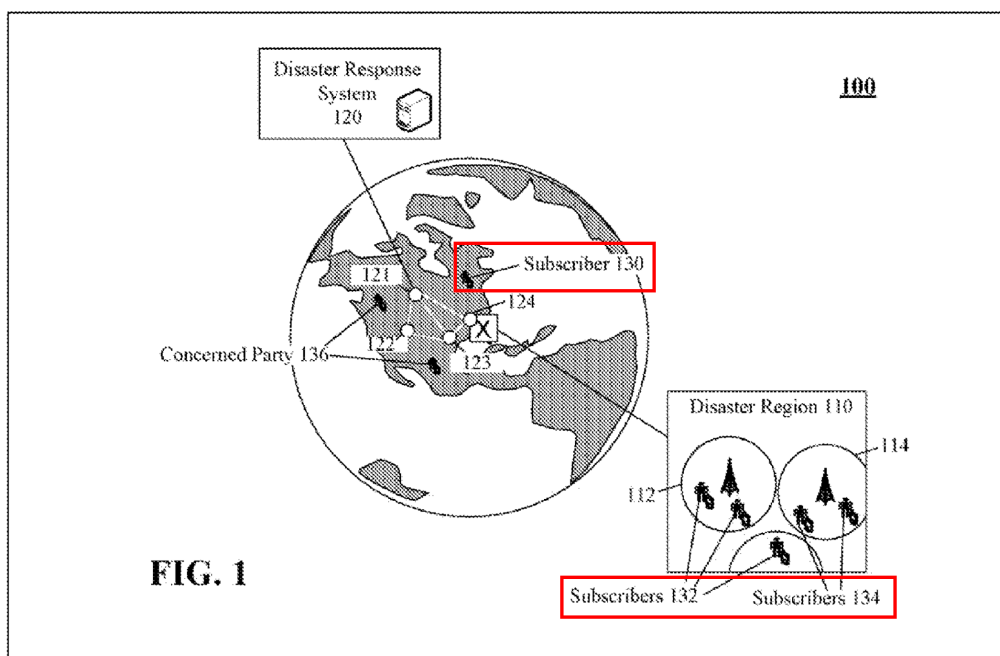
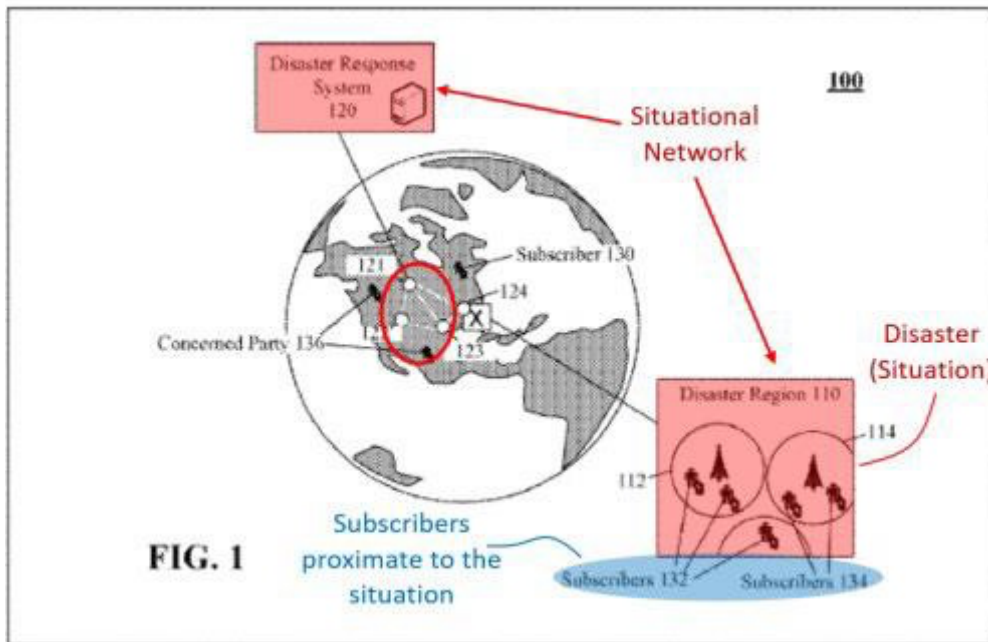
Q. Is there a particular layer, in your mind,
that is associated with connections in a social
network?

A. Layer 7.

Q. Do you think that's the only layer that would
be important in making a connection in a social
network?

A. Yes.

Ex. 1027 at 15:15-22. Bluetooth communication channels are not part of the Application Layer 7, which further confirms Gage's ad hoc networks do not include connections creating a situational network. Further, the irrelevancy of these ad hoc networks is apparent as Gage teaches subscribers "130-134" can utilize the ad hoc network, but subscriber 130 is not even in the disaster region nor part of Gage's alleged situational network as shown in Meta's annotated versions of Gage Figure 1:



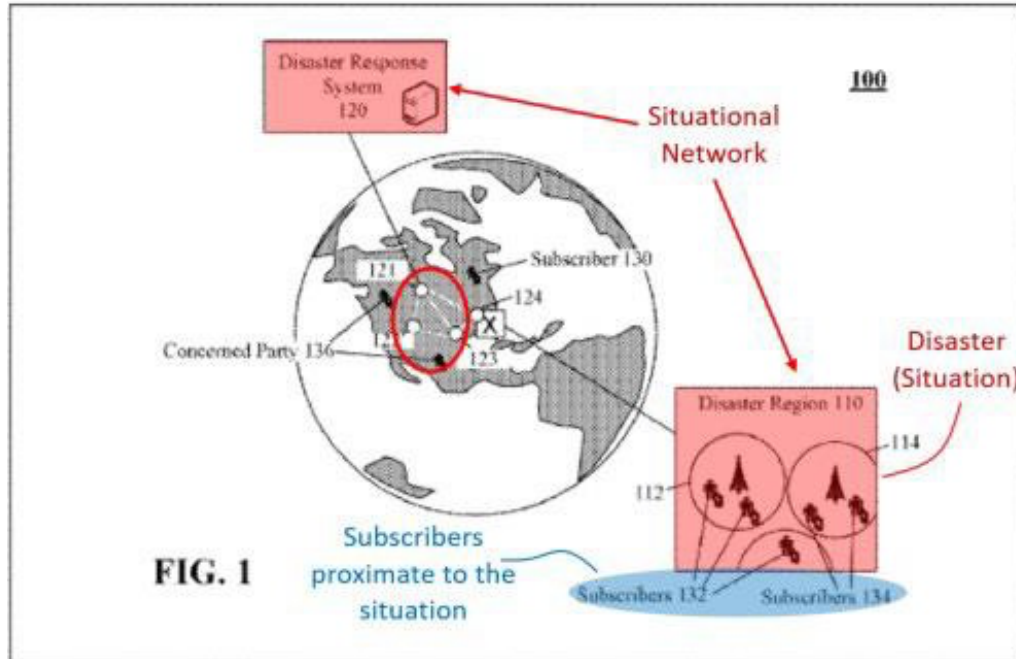
Reply at 7-8, 11. As Meta states in its Reply, “subscriber 130 is not geographically proximate to disaster region 110 and is not included in the established situational network.” *Id.* at 10. Accordingly, these “ad hoc networks” that are usable to subscriber devices not within the disaster region are not situational networks and are not relevant to any invalidity analysis.

2. Situation Authority

The 345 Patent specification teaches a “situation authority” is an *external entity* able to aggregate and provide comprehensive information related to the situation. 345 Patent, 4:14-20. Meta points to Gage’s disaster response system as the situation authority, but the disaster response system is not external to what the Meta believes to be the situational network. Accordingly, the Petition fails to establish Gage’s disaster response system is a situation authority.

Meta argues “[n]othing in the claim requires a situation authority to be external to the situational network.” Reply at 12. However, for the reasons detailed *supra* in Section II.B., claims are interpreted in view of the specification and the 345 Patent specification is clear that a “situation authority” is referenced as an *external entity*: “*external entities 207*, also called *situation authorities*, central authorities or trusted providers, [] generally are able to aggregate and provide comprehensive information related to the situation.” 345 Patent, 4:14-20 (emphasis added).

As a reminder, Meta highlighted in red what it believes comprises the situational network with its annotated version of Gage’s Fig.1:



IPR2024-00530 Petition at 28. An *external entity* logically would have to be an entity *outside of the service or system* providing the “situational network.” However, as Meta acknowledges, “Gage’s disaster response system is part of the network that it creates.” Reply at 12. If true, it cannot also be a “situation authority” because such would require Gage’s disaster response system to be outside of or external *to itself*—which is nonsensical. Gage’s disaster response system, therefore, cannot be both part of a “situational network” and a “situation authority,” as Petitioner asserts. POR at 14-15. Presenting contradictory assertions, the Petitioner fails to establish Gage invalidates claims 4, 8, 10-13, 15, and 16.

B. Ground 2: Claims 2, 9, and 14 Are Not Rendered Obvious by Gage and Mitchell

For the reasons detailed *supra* in Section III.A., Gage fails to disclose all the elements of independent claims 1, 8, and 13 upon which claims 2, 9, and 14, respectively,

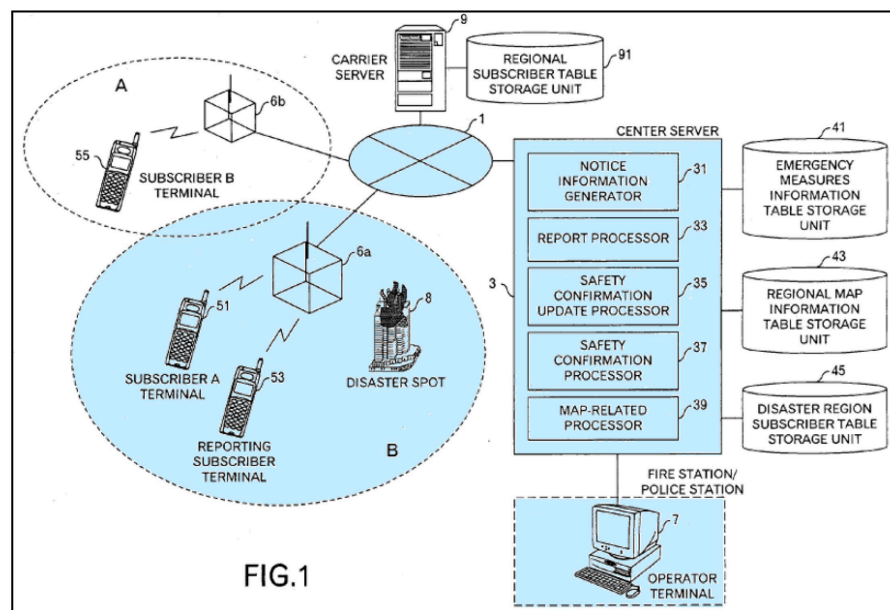
depend. The Petition fails to assert Mitchell (U.S. Publication No. 2007/0194938) overcomes the deficiencies. Consequently, the Petition has not established Gage in combination with Mitchell invalidates claims 2, 9 and 14.

C. Ground 3: Claims 1, 3, 4, 6-8, 10-13, and 15 Are Not Rendered Obvious by Shida

Meta's Reply does not cure the deficiencies in its Petition and fails to demonstrate Shida (U.S. Publication No. 2003/0162557) discloses a "situational network" as recited in independent claims 1, 8, and 13 and a "situation authority" as recited in independent claims 8 and 13. Shida thus cannot render the challenged claims invalid and unpatentable.

1. Situational Network

For the reasons detailed *supra* in Section II.B. regarding the interpretation of the term "situational network," Shida fails disclose a situation network "created in response" to an event or situation. In its Reply, Meta first argues Shida discloses a "situational network" as shown in its annotated Figure 1 of Shida:



Reply at 15-16. According to Meta, Shida discloses the “situational network” because its center server 3 establishes communication with the subscriber terminals located in Region B in response to a disaster and the subscriber terminals receive broadcast notice information and return a “safety confirmation response” to the center server via a “mobile communication network system.” *Id.*

However, the alleged connections between the center server and subscriber terminals are not established in response to an event or situation, they are pre-existing connections. Specifically, users’ devices are connected to the base station 6a prior to the occurrence of the disaster. This is confirmed in Shida as its subscribers’ terminal locations are constantly monitored and updated by carrier server 9. As Shida details, “[t]he carrier server 9 has a regional subscriber table storage unit 91 for storing a regional subscriber table to manage information of a region where the subscriber exists.” Shida, ¶ [0029]. “Whenever the subscriber terminal changes its existing region, the carrier server 9 updates the regional subscriber table.” Shida ¶ [0036]. For this to occur, the subscribers’ devices must already be connected to the system *prior to* an event or situation. Ex. 2009 ¶¶ 77-83. The “broadcast notice information” received from the center server by the subscriber terminal and the “safety confirmation response” returned to the center server are sent over the same, pre-existing communication network that is used to constantly track subscribers’ locations. Again, the 345 Patent teaches the “situational network 3000 is *created* when an occurrence [] *causes connections*, also referred to as links, *to be established* between, within or

among a set of participants 250, 207.” 345 Patent, 4:3-7 (emphasis added). No new connections are created by Shida’s system to send the “broadcast notice information” or “safety confirmation response.” Accordingly, Shida fails to disclose a situational network “created in response” to an event or situation.

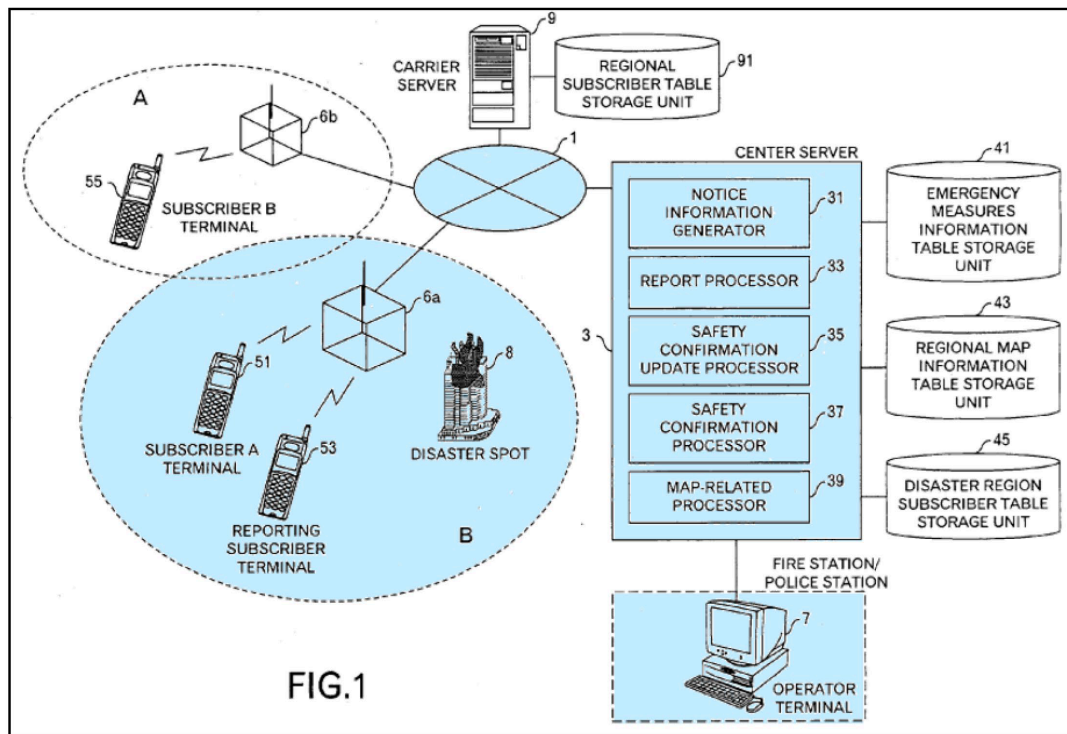
2. Situation Authority

The 345 Patent specification teaches a “situation authority” is an *external entity* able to aggregate and provide comprehensive information related to the situation. 345 Patent, 4:14-20. Meta points to Shida’s center server as the situation authority, but the center server is not external to what the Petitioner believes to be the situational network. Accordingly, the Petition fails to establish Shida’s center server is a situation authority.

Meta argues “[n]othing in the claim requires a situation authority to be external to the situational network.” Reply at 19. However, for the reasons detailed *supra* in Section II.B., claims are interpreted in view of the specification and the 345 Patent specification is clear that a “situation authority” is referenced as an *external entity*: “*external entities 207*, also called *situation authorities*, central authorities or trusted providers, [] generally are able to aggregate and provide comprehensive information related to the situation.” 345 Patent, 4:14-20 (emphasis added).

As a reminder, Meta highlighted in blue what it believes comprises the situational network with its annotated version of Shida’s Fig.1, which includes

the center server:



IPR2024-00530 at 54. An *external entity* logically would have to be an entity *outside of the service or system* providing the “situational network.” However, as Meta acknowledges, “Shida’s center server is part of the network that it creates.” Reply at 20. If true, it cannot also be a “situation authority” because such would require Shida’s center server to be outside of or external *to itself*—which is nonsensical. Shida’s center server, therefore, cannot be both part of a “situational network” and a “situation authority,” as Petitioner asserts. Presenting contradictory assertions, the Petition fails to establish Shida invalidates claims 4, 8, 10-13, 15, and 16.

D. Ground 4: Claims 2, 5, 9, 14, and 16 Are Not Rendered Obvious by Shida and Sinha

For the reasons detailed *supra* in Section III.C., Shida fails to disclose all the elements of independent claims 1, 8, and 13 upon which claims 2, 5, 9, 14 and 16

depend. The Petition fails to assert Shina (U.S. Publication No. 2008/0208605) overcomes the deficiencies. Consequently, the Petition has not established Shida in combination with Sinha invalidates claims 2, 5, 9, 14 and 16.

IV. CONCLUSION

The Petition fails to render the challenged claims invalid and unpatentable. Therefore, the Board should uphold the validity and patentability of claims 1-16.

Dated: April 8, 2025

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

Pursuant to 37 C.F.R. § 42.6(e), the undersigned hereby certifies that Patent Owner's Sur-Reply was served on April 8, 2025 by e-mailing copies to the following e-mail addresses as provided in Petitioner's Petition:

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CERTIFICATE OF WORD COUNT

Under the provisions of 37 C.F.R. § 42.24, the undersigned hereby certifies that word count for the foregoing Patent Owner Sur-Reply (excluding the table of contents, certificate of service, word count, or listing of exhibits) total 4,508 words, which is less than the 5,600 words allowed under 37 C.F.R. § 42.24(c)(4).

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