

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

META PLATFORMS, INC.,
Petitioner

v.

SITNET, LLC,
Patent Owner

Case IPR2024-00530
U.S. Patent No. 9,877,345

**PETITIONER'S SUR-REPLY TO PATENT OWNER'S REPLY TO
OPPOSITION TO MOTION TO AMEND**

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Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

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PETITIONER'S EXHIBIT LIST

Exhibit No.	Description
1001	U.S. Patent No. 9,877,345 to Cona et al. (“’345 patent”)
1002	Prosecution History of U.S. Patent No. 9,877,345 (“’345 File History”)
1003	Declaration of Dr. Jeremy Cooperstock
1004	<i>Curriculum Vitae</i> of Dr. Jeremy Cooperstock
1005	U.S. Publication No. 2008/0139165 to Gage et al. (“Gage”)
1006	U.S. Publication No. 2003/0162557 to Shida (“Shida”)
1007	U.S. Publication No. 2008/0208605 to Sinha et al. (“Sinha”)
1008	U.S. Provisional Application No. 60/862,365 to Sinha et al. (“Sinha Provisional”)
1009	U.S. Publication No. 2003/0197615 to Roche et al. (“Roche”)
1010	U.S. Patent No. 9,143,535 to Cona et al. (“Cona”)
1011	U.S. Patent No. 8,045,455 to Agronow et al. (“Agronow”)
1012	U.S. Publication No. 2007/0276908 to Asthana et al. (“Asthana”)
1013	U.S. Publication No. 2007/0194938 to Mitchell (“Mitchell”)
1014	Japanese Patent Application Publication 2005-80211 to Ikeda (with certified English translation) (“Ikeda”)
1015	U.S. Patent No. 7,817,982 to Chu et al. (“Chu”)
1016	U.S. Patent No. 8,024,330 to Franco et al. (“Franco”)
1017	U.S. Publication No. 2005/0197775 to Smith (“Smith”)
1018	U.S. Publication No. 2007/0233635 to Burfeind et al. (“Burfeind”)
1019	U.S. Publication No. 2006/0270419 to Crowley et al. (“Crowley”)
1020	U.S. Publication No. 2006/0047825 to Steenstra et al. (Steenstra”)
1021	U.S. Publication No. 2006/0155809 to Arav (“Arav”)
1022	U.S. Publication No. 2006/0117051 to Chin (“Chin”)
1023	Prosecution History of U.S. Patent No. 8,249,932 (’932 File History”)

Exhibit No.	Description
1024	Civil Case Management Plan and Scheduling Order, 1:23-cv-06389 (S.D.N.Y.), Document 35 (10/20/2023)
1025	Joint Claim Construction Statement, <i>SitNet, LLC v. Meta Platforms, Inc.</i> , Case No. 1:23-cv-06389 (S.D.N.Y.) (Feb. 21, 2024)
1026	Declaration of Dr. Jeremy Cooperstock in Support of Petitioner's Reply to Patent Owner's Preliminary Response
1027	Transcript of the Deposition of Aviel D. Rubin, Ph.D. (February 7, 2025)
1028	Declaration Dr. Jeremy Cooperstock in Support of Petitioner's Opposition to Patent Owner's Contingent Motion to Amend
1029	U.S. Patent No. 7,730,216 to Issa et al. ("Issa")
1030	U.S. Patent No. 7,747,648 to Kraft et al. ("Kraft")
1031	<i>Intentionally left blank</i>
1032	Order on Motion to Dismiss, SDNY-1-23-cv-06389-51 (March 19, 2024)
1033	Declaration Dr. Jeremy Cooperstock in Support of Petitioner's Reply to Patent Owner's Response

I. INTRODUCTION

The Board correctly concluded that substitute claims 17-32 are unpatentable because they are not patent eligible and are obvious in view of the Gage-Issa and Shida-Kraft combinations. SitNet's responsive arguments all lack merit.

For patent eligibility, SitNet argues that the substitute claims result in a network architecture with improved network efficiency and reduced network resources. But, of course, those so-called improvements are not recited in the substitute claims, and neither SitNet nor the specification explain how such improvements could even be achieved. To the contrary, SitNet's expert admitted that the '345 patent does not disclose any type of new technology for communicating over a social network. The substitute claims are patent ineligible.

SitNet's non-obviousness arguments fare no better. They say, for example, that Gage's "dynamically established" networks are supposedly not "*created in response*" to an event as required by the substitute claims, because the connections in the claimed "social network" must be Layer 7 (i.e., Application Layer) connections. But, of course, Layer 7 is not recited in the claims nor disclosed anywhere else in the patent. This non-disclosed distinction, therefore, cannot establish patentability. The substitute claims would have been obvious.

For these reasons, and as explained in more detail below and in the Opposition, SitNet's Motion to Amend the '345 patent should be denied.

II. PATENT INELIGIBILITY UNDER 35 U.S.C. § 101

A. Alice Step One: The substitute claims are directed to the abstract idea of obtaining and aggregating status responses.

Petitioner explained that substitute claim 17 is representative and is directed to the abstract idea of “obtaining status responses from social network participants and compiling those responses into a list.” Opp., 8. The Board agreed. Prelim. Guidance, 7-9. SitNet’s responsive arguments fail. Reply to Opp., 2-6.

SitNet first argues that the substitute claims use an “unconventional network architecture” and claim “specific steps that improve the underlying network technology.” *Id.*, 3. But that argument is contradicted by the ’345 patent itself, which states that the claimed “social network” is “implemented using a wide variety of available hardware and technologies generally known in the art.” EX1001, 15:42-50, 16:32-36. And SitNet’s expert admitted that the ’345 patent “did not invent the concept of a social network” or “any new type of technology” that “would be needed for two users to communicate over a social network.” EX1027, 25:14-18, 27:14-17, 57:22-58:5. So the substitute claims are directed to an abstract idea.

The two passages from the ’345 patent that SitNet cites do not lead to a different result. For example, SitNet cites (Reply to Opp., 3) the following passage:

A user might desire to work with a “projected” view, i.e., a subset of the nodes, of the NDSN 100. Such a desire might be based, for example,

on a need to increase processing speed and reduce resource requirements such as CPU speed and memory size.

EX1001, 16:53-57. But this passage says nothing about the claimed “situational network” that SitNet touts as supposedly being unconventional. Rather, it discusses a “projected view”—a concept not recited anywhere in substitute claim 17. *Id.*

Thus, this passage fails to demonstrate that the claims are not directed to an abstract idea under *Alice* Step One.

SitNet’s second cited passage fares no better. It describes how a “SitNet may be used to provide common travel routes to users” by connecting a user “with other users familiar with local roads.” EX1001, 24:46-62. But, contrary to SitNet’s argument, that description from the ’345 patent says nothing about any “unconventional network architecture,” nor does it describe any improvements to the underlying network. Instead, this passage underscores that the ’345 patent’s functionality is directed to “collecting information, analyzing it, and displaying certain results.” Opp., 5 (citing *Trinity Info Media, LLC v. Covalent, Inc.*, 72 F.4th 1355, 1362 (Fed. Cir. 2023)). Thus, SitNet’s second cited passage also fails to show that the substitute claims are not directed to an abstract idea.

SitNet next argues (Reply to Opp., 4) that the substitute claims are supposedly like claims previously found patent eligible by the Federal Circuit. But, in this regard, SitNet’s reliance on *Cooperative Ent., Inc. v. Kollektive Tech., Inc.*,

50 F.4th 127 (Fed. Cir. 2022) is misplaced for at least two reasons.

First, in *Cooperative*, the Federal Circuit stated—explicitly—that they were “not decid[ing] today that the claims are patent eligible under § 101.” *Cooperative*, 50 F.4th at 136. Instead, the Federal Circuit merely determined—at the pleading stage—that factual disputes were “enough to preclude dismissal.” *Id.* But, as explained in the Opposition, “no such factual disputes exist here.” Opp., 10.

Second, SitNet’s reliance on *Cooperative* is also misplaced because the claims there are not analogous to the ones here. In *Cooperative*, the claims recited “content segmentation”—a feature that provided a specific way to distribute video content over a content distribution network. *Cooperative*, 50 F.4th at 135-136. Here, in contrast, the substitute claims merely recite conventional technologies, like gathering status responses. In fact, as explained in the Opposition, SitNet’s expert admitted that every step of the claims, including the “event node” feature, amounts to nothing more than receiving, manipulating, and presenting data. Opp., 5 (citing EX1027, 41:17-20, 57:7-59:15). Thus, contrary to SitNet’s assertions, the substitute claims are not analogous to those considered in *Cooperative*.

Finally, SitNet argues that the substitute claims are supposedly not analogous to the ineligible claims in *Trinity Info Media, LLC v. Covalent, Inc.*, 72 F.4th 1355 (Fed. Cir. 2023). Reply to Opp., 5-6. SitNet’s so-called argument,

however, amounts to little more than a seven-line quote from substitute claim 17.¹

But neither this quote nor SitNet’s Reply describes any improved network architecture or technology, as SitNet asserts. In fact, SitNet’s naked assertion of a supposed “improvement in conventional network technology” is directly contradicted by the ’345 patent itself, which states “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,” EX1001, 7:38-43; that “a node of the NDSN 100 may be implemented using a wide variety of available hardware and technologies generally known in the art,” *id.*, 15:42-46; and that “there are numerous well-known software and hardware technologies that may be utilized to implement the attributes of the users of the NDSN 100 and the attributes of the associations between the users,” *id.*, 16:32-36. The use of such conventional technologies to collect information, analyze it, and display certain

¹ SitNet quotes the following language from substitute claim 17: “forming a situational network related to the occurrence of the situation by establishing an event node hosted by an event node server within a N-dimensional social network and connecting the event node to a plurality of existing nodes within the N-dimensional social network, said plurality of existing nodes corresponding with a plurality of participant devices determined to be geographically proximate to the situation, each of the participant devices corresponding to a participant in the situational network.”

results is “a patent-ineligible . . . abstract idea.” *Trinity*, 72 F.4th at 1361-1362.

Additionally, SitNet does not address the Office’s two-prong framework for analyzing claims under § 101. *See* Reply to Opp., 2-6. As explained in the Opposition, the substitute claims are directed to an abstract idea under this framework. Opp., 7-8.

Under Step 2A, Prong One, the substitute claims describe a mental process as well as a method of organizing human activity. *Id.* Presenting a “roll call query” to geographically proximate participants and then receiving and aggregating status responses from those participants are operations that can be performed in the human mind. *Id.*

Under Step 2A, Prong Two, this judicial exception is not integrated into a practical application. *Id.* For example, forming a network to gather status responses from a social network may link the judicial exception to a technical field but does not add any “meaningful limitation to the claim,” and therefore does not integrate the exception into a practical application. *Id.*

Thus, under the Office’s *Alice* Step 1, Prong One and Prong Two analysis, the claims are directed to an abstract idea (*i.e.*, obtaining status responses from social network participants and compiling those responses into a list). *Id.*; Prelim. Guidance, 8-9. SitNet fails to address this two-prong analysis, and therefore fails to refute that the substitute claims are directed to an abstract idea.

B. Alice Step Two: The substitute claims lack an inventive concept.

The Opposition explains that each step in substitute claim 17 uses conventional hardware and technologies. Opp., 8-10. For example, the specification explains that the situational network and “N-dimensional social network” are implemented using “available hardware and technologies generally known in the art.” EX1001, 4:35-40, 6:1-7, 6:60-62, 7:38-56, 10:7-10, 15:42-50; EX1027, 43:18-44:3, 60:21-61:4.

In response, SitNet argues that the substitute claims recite an “ordered combination of elements that provides an inventive concept.” Reply to Opp., 6. But that argument fails because the claimed steps represent nothing more than an intuitive and conventional process. *See* Opp., 9-10. A “situational network” cannot be formed until a situation has occurred; a “roll call query” cannot be presented to nodes of a situational network until that situational network has been formed; and status responses cannot be received from the nodes until after they are presented the “roll call query.” *See Boom! Payments, Inc. v. Stripe, Inc.*, 839 F. App’x 528, 533 (Fed. Cir. 2021) (“[T]he order and timing of the claim elements are merely the necessary steps of executing payment escrow and so do not constitute an inventive concept.”). Because SitNet’s statements fail to refute this understanding, the Board should maintain its preliminary determination that the claims do not recite an inventive concept. *See* Prelim. Guidance, 9.

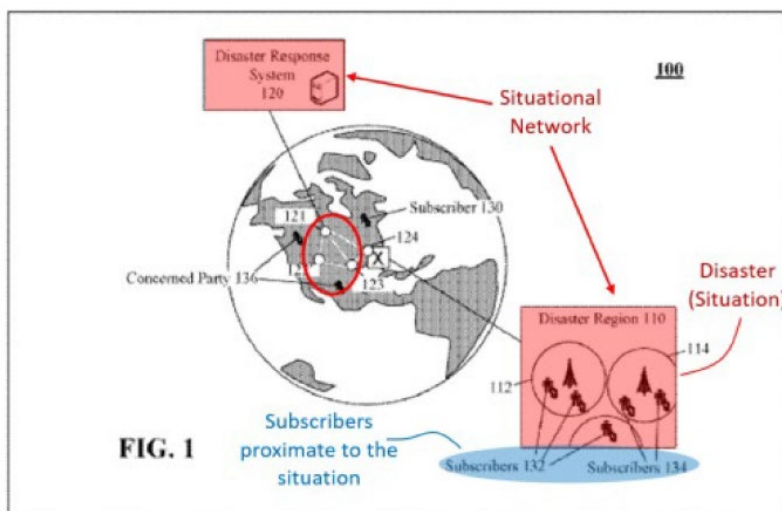
III. UNPATENTABILITY UNDER 35 U.S.C. § 103

SitNet's obviousness arguments are primarily the same as those presented in SitNet's Patent Owner's Response (POR): that Gage and Shida do not describe a situational network that is "created in response" to an event or situation. Reply to Opp., 6. For the reasons presented in Petitioner's Reply and as explained below, SitNet's arguments should be rejected because both Gage and Shida disclose forming the claimed situational network. Pet. Reply, 6-11, 14-19.

A. **Ground 1: Proposed substitute claims 17, 19-24, 26-29, and 31-32 are obvious over Gage in view of Issa.**

The Petition and the Petitioner's Reply explain how Gage discloses the claimed "*forming a situational network.*" Pet., 25-29; Pet. Reply, 6-11. Specifically, Gage forms a situational network by establishing connections to subscribers in a "disaster region" to request status indicators. Pet., 25-29. SitNet's four responsive arguments all fail.

First, SitNet argues that Gage does not create a network in response to an event or situation. Reply to Opp., 8. But SitNet ignores Gage's express teaching that the connections with subscriber devices located near a disaster occur "when a disaster is detected" (*i.e.*, in response to the occurrence of a situation). EX1005, ¶9. For example, as illustrated in Figure 1, Gage forms a situational network by establishing connections (*i.e.*, requests for "status indicators") with subscribers 132 and 134 in the disaster region 110. EX1005, ¶¶9-10, 36, 38, FIG. 3.



EX1005, FIG. 1 (annotated).

Additionally, Gage dynamically establishes “ad hoc networks” in response to a disaster to facilitate communications with disaster response system 120, which also teaches the formation of a situational network. Pet., 26-27; EX1005, ¶¶23-25; EX1033, ¶¶27-28. SitNet now argues that Gage’s ad hoc networks are insufficient because they “merely provide another communication means” for sending status and location information. Reply to Opp., 8. But this is not a distinction at all. As Gage explains, the ad hoc networks are “dynamically established” to allow subscribers affected by a disaster to communicate with disaster response system 120. Pet., 26-27; EX1005, ¶25. This teaches the formation of a situational network.

Second, SitNet argues that substitute claim 17 requires a connection to be formed via “Layer 7 (the Application Layer)” of the “Open Systems Interconnection (‘OSI’) model.” Reply to Opp., 8-9. But a Layer 7 connection is not recited in the claims nor disclosed anywhere else in the specification of the

'345 patent. Aside from Dr. Rubin's conclusory statements during his deposition, *see* Reply to Opp., 9 (citing EX1027, 15:15-22), SitNet provides no corroborating evidence that a person of ordinary skill in the art ("POSA") would have interpreted a "situational network" to require a Layer 7 connection. And, to the extent SitNet is arguing that a POSA would have *necessarily* understood the connections in the social networks of the '345 patent to be Layer 7 connections (despite the fact that Layer 7 is not disclosed anywhere in that patent), the same would have been true about the connections in the social networks disclosed by Issa.

Third, SitNet argues that Gage describes subscribers 130-134 as being able to use an ad hoc network, but subscriber 130 is not located in a disaster region. Reply to Opp., 9. That observation, however, does nothing to discount Gage's express teaching of establishing an ad hoc network with subscribers 132 and 134, who *are* located in a disaster region. *Id.*; Pet. Reply, 7; Pet., 26-28. Establishing an ad hoc network with subscribers 132 and 134 discloses the claimed forming of a situational network under SitNet's improperly narrow construction. Thus, SitNet's reliance on Gage's permissive use of additional ad hoc networks to communicate with other subscribers does nothing to refute or contradict Gage's clear teaching of forming a situational network.

Fourth, SitNet argues that Issa cannot be used as an invalidating reference because Issa teaches a peer-to-peer (P2P) network and Meta has argued that the

claims are not limited to such a network. Reply to Opp., 9-10. But just because the claims are not limited to only P2P networks, does not mean that Issa fails to disclose the claimed “event node” under SitNet’s own explicit interpretation. *See* MTA, 18. Rather, as explained in the Opposition, Issa discloses the claimed “event node” regardless of whether SitNet’s narrow construction is adopted. Opp., 2, 12-15. Additionally, while SitNet argues that Issa does not disclose a situational network, this statement fails to acknowledge that it is the ***combination*** of Issa and Gage—as presented in the Opposition—which demonstrates that the substitute claims are unpatentable. Opp., 11-17.

B. Ground 3: Proposed substitute claims 17, 19-20, 22-24, 26-29, and 31 are obvious over Shida in view of Kraft.

Shida discloses the same process for forming a situational network as described in the ’345 patent. Pet., 52-53; EX1006, ¶46. In response, SitNet argues that “[t]he alleged connections between Shida’s center server and subscriber terminals are not ‘created in response’ to an event or situation but are rather pre-existing connections.” Reply to Opp., 11-12. But that argument fails for the reasons presented in Petitioner’s Reply to POR. Pet. Reply, 14-21.

Specifically, Shida discloses establishing new connections when “notice information” and “safety confirmation response[s]” are exchanged in response to a disaster. Pet. Reply, 16 (citing Pet., 52; EX1033, ¶¶38-40). This “notice information” is generated in response to a disaster and transmitted “to the

subscribers to be notified.” *Id.* (citing Pet., 52; EX1006, ¶46). This refers specifically to the subscribers identified in the “disaster occurring region” and therefore reflects new connections made with those specific subscribers. *Id.*, 16-17 (citing EX1006, ¶46).

Additionally, SitNet attacks Kraft individually, arguing that Kraft supposedly does not disclose “creating network connections in response to events or situations.” Reply to Opp., 12. But that argument fails to acknowledge that it is the ***combination*** of Shida and Kraft—as presented in the Opposition—which shows the unpatentability of the substitute claims. *See* Opp., 18-24.

C. Grounds 2 and 4: SitNet provides no additional arguments.

SitNet provides no additional substantive arguments regarding Ground 2 (relating to dependent claims 18, 25, and 30) or Ground 4 (relating to dependent claims 18, 21, 25, 30, and 30). The challenged substitute claims are unpatentable for the reasons in the Opposition. *See* Opp., 17-18, 24.

IV. CONCLUSION

The Opposition shows that substitute claims 17-32 are unpatentable for two reasons: (i) they are directed to patent-ineligible subject matter under § 101; and (ii) they are obvious in view of the Gage-Issa and Shida-Kraft combinations under § 103. The Board agreed. SitNet’s Reply fails to refute this showing. So, for the reasons above and in the Opposition, SitNet’s motion to amend should be denied.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX PLLC

/Jonathan Tuminaro/

Jonathan Tuminaro (Reg. No. 61,327)
Michael D. Specht (Reg. No. 54,463)
Jennifer Meyer Chagnon (Reg. No. 55,440)
Steven M. Pappas (Reg. No. 73,904)
Timothy L. Tang (Reg. No. 75,187)
Counsel for Petitioner Meta Platforms, Inc.

Date: May 20, 2025

1101 K Street, NW, 10th Floor
Washington, DC 20005
(202) 371-2600

CLAIM APPENDIX FOR PROPOSED SUBSTITUTE CLAIMS

Claim 17

Element	
[17.P]	A method of accessing situation related information, the method comprising:
[17.1]	receiving an indication of an occurrence of a situation;
[17.2]	forming a situational network related to the occurrence of the situation <u>by establishing an event node hosted by an event node server within a N-dimensional social network and connecting the event node to a plurality of existing nodes within the N-dimensional social network, said plurality of existing nodes corresponding with a plurality of participant devices determined to be geographically proximate to the situation, each of the participant devices corresponding to a participant in the situational network;</u>
[17.3]	presenting a roll call query <u>by the event node to each of the plurality of existing nodes corresponding with the plurality participant devices, said roll call query</u> soliciting a reply related to a status of the participant;
[17.4]	receiving <u>at the event node</u> a status response from one or more of the participants; and
[17.5]	aggregating the status responses from responsive participants into a roll call list.

Claim 18

Element	
[18]	The method of claim 17, further comprising: receiving a request from a responsive participant to view the roll call list; presenting the roll call list to the responsive participant; and receiving from the participant an indication of the status of non-responsive participant.

Claim 19

Element	
[19]	The method of claim 17, wherein the situation includes at least one of an emergency event, a weather phenomenon, or a natural disaster.

Claim 20

Element	
[20]	The method of claim 17, wherein the situational network is formed by a situation authority.

Claim 21

Element	
[21]	The method of claim 17, further comprising: 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.

Claim 22

Element	
[22]	The method of claim 17, wherein the status response includes a request for assistance and a location of the participant.

Claim 23

Element	
[23]	The method of claim 17, wherein non-responding devices are reported to an emergency management organization.

Claim 24

Element	
[24.P]	A method of providing situation related information to a situation authority via a situational network, the method comprising:
[24.1]	receiving, by a participant device, a roll call query <u>sent by an event node established within an N-dimensional social network by an event node server of the situation authority</u> , said roll call query soliciting a reply related to a status of a participant based on the participant being determined, by the situation authority, to be geographically proximate to the situation;
[24.2]	receiving, by the participant device, a selection of a status response from the participant; and
[24.3]	sending the status response to <u>the event node of the [[central]] situation authority</u> , wherein the status response is included in a roll call list.

Claim 25

Element	
[25]	The method of claim [[8]] 24, further comprising: requesting, by the participant device, the roll call list; receiving, by the participant device, an indication of a status of non-responsive participant included on the roll call list; and sending the status of the non-responsive participant to the situation authority.

Claim 26

Element	
[26]	The method of claim [[8]] 24, wherein the situation includes at least one of an emergency event, a weather phenomenon, or a natural disaster.

Claim 27

Element	
[27]	The method of claim [[8]] 24, wherein the status response includes a request for assistance and a location of the participant.

Claim 28

Element	
[28]	The method of claim [[8]] 24, wherein the roll call list includes aggregated status responses from responsive participants of the situational network.

Claim 29

Element	
[29.P]	A system for accessing situation related information, the system comprising:
[29.1]	a central server, corresponding to a situation authority,
[29.2]	configured to receive an indication of an occurrence of a situation,
[29.3]	[[form]] <u>from a situational network related to the occurrence of the situation by establishing an event node hosted by the central server within a N-dimensional social network and connecting the event node to a plurality of existing nodes within the N-dimensional social network, said plurality of existing nodes corresponding with a plurality of participant devices determined to be geographically proximate to the situation, each of the participant devices corresponding to a participant in the situational network,</u>
[29.4]	<u>present by the event node</u> a roll call query to each of the plurality of participant devices soliciting a reply related to a status of the participant,
[29.5]	<u>receive at the event node</u> a status response from one or more of the participants, and aggregate the status responses from responsive participants into a roll call list; and
[29.6]	a database corresponding to the central server for storing the responses and the roll call list.

Claim 30

Element	
[30]	The system of claim [[13]] 29, wherein the central server is further configured to receive a request from a responsive participant to view the roll call list, present the roll call list to the responsive participant, and receive from the participant an indication of the status of non-responsive participant.

Claim 31

Element	
[31]	The system of claim [[13]] 29, wherein the situation includes at least one of an emergency event, a weather phenomenon, or a natural disaster.

Claim 32

Element	
[32]	The system of claim [[13]] 29, wherein the central server is further configured to establish an electronic message board for providing access to the roll call information related to the situation for individuals not participating in the situational network.

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

I certify that the above-captioned **PETITIONER’S SUR-REPLY TO
PATENT OWNER’S REPLY TO OPPOSITION TO MOTION TO AMEND**
was served in its entirety on May 20, 2025 upon the following parties via electronic
mail:

David L. Hecht (Lead Counsel) dhecht@hechtpartners.com
James Zak (Back-up Counsel) jzak@hechtpartners.com
hp-sitnet@hechtpartners.com
HECHT PARTNERS LLP

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX PLLC

/Jonathan Tuminaro/

Jonathan Tuminaro
Registration No. 61,327
Counsel for Petitioner Meta Platforms, Inc.

Date: May 20, 2025

1101 K Street, NW, 10th Floor
Washington, DC 20005
(202) 371-2600