

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

META PLATFORMS, INC.,
Petitioner,

v.

SITNET, LLC.
Patent Owner

IPR2024-00530
Patent 9,877,345 B2

Record of Oral Hearing
Held: June 10, 2025

Before THU A. DANG, NEIL T. POWELL, and
KARA L. SZPONDOWSKI, *Administrative Patent Judges*.

IPR2024-00530
Patent 9,877,345 B2

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P R O C E E D I N G S

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JUDGE DANG: Good afternoon, everyone. We are here for oral arguments in IPR2024-00530, challenging Patent Number 9,877,345. Meta Platforms, Inc. is the Petitioner and SitNet, LLC is the Patent Owner. Your panel today includes myself, Judge Thu Dang, along with Judge Neil Powell and Judge Kara Szpondowski.

Okay, let's start with appearances. Who do we have for Petitioner today?

MR. TUMINARO: For Petitioner, this is Jonathan Tuminaro from the law firm of Sterne, Kessler, Goldstein & Fox. And with me is Tim Tang, also from Sterne, Kessler; and I believe that Jordan Bekier is on the line. He's in-house Counsel for Meta.

JUDGE DANG: I'm sorry. Can you repeat your last name again, please?

MR. TUMINARO: Yes. It's Tuminaro. T-U-M-I-N-A-R-O.

JUDGE DANG: Tuminaro. Okay. Thank you, Mr. Tuminaro. You will be presenting today; is that correct?

MR. TUMINARO: That's correct.

JUDGE DANG: Okay, great. Thank you. And who do we have for Patent Owner today?

MR. HECHT: Good afternoon, Your Honors. David Hecht with the law firm of Hecht Partners. And with me is my partner, James Zak.

JUDGE DANG: Okay, great. And Mr. Hecht, are you presenting today?

1 MR. HECHT: I will be presenting. Thank you.

2 JUDGE DANG: Okay, great. Thank you. Thank you, everybody,
3 for joining us today. Before we get started, I have a few administrative
4 details to go over. First, please be reminded that unless you are speaking,
5 put yourself on mute. And when speaking, also identify yourself first. We
6 have access to all the papers, so please refer to your demonstratives and
7 exhibits by number, so we can follow along. There also might be an audio
8 lag, so before you speak, please observe a slight pause. And it'd always be
9 good to prevent any crosstalk.

10 I would also like to ask the parties to remain on the line at the end
11 so that the Court Reporter may have some questions that you can answer.
12 Also, be reminded there is a public line, so please know that. So with that,
13 let's begin. Before us today are the petition and a motion to amend.
14 Petitioner, you are to present first, so regarding both, the original claims and
15 the proposed substitute claims. You have 60 minutes in total. Would you
16 like to reserve any time?

17 MR. TUMINARO: Yes. May I reserve 30 minutes, please?

18 JUDGE DANG: 30 minutes. So you'd like to have 30 minutes in
19 the primary, right? Is that correct?

20 MR. TUMINARO: Yes, that's correct.

21 JUDGE DANG: Okay. Yes, let me know when you're ready
22 because the clock is right behind Judge --

23 MR. TUMINARO: Okay. I'm going to --

24 JUDGE DANG: -- Powell because he had -- yeah. And we'll start
25 at --

26 MR. TUMINARO: Can I share my --

1 JUDGE DANG: Yeah, I'm sorry. Go ahead. Yeah.

2 MR. TUMINARO: May I share my slides now?

3 JUDGE DANG: Okay, great. Yes. You can start now, yes.

4 MR. TUMINARO: Can you see those?

5 JUDGE DANG: Yes, I can.

6 MR. TUMINARO: Yeah, I'm ready to begin if you are, Your
7 Honor.

8 JUDGE DANG: Okay, great. Thank you.

9 MR. TUMINARO: May it please the Board. Jonathan Tuminaro
10 on behalf of the Petitioner, Meta. The '345 patent is directed to nothing
11 more than determining status information of people involved in a situation or
12 a disaster. The petition shows that all claims of the '345 patent are obvious.
13 SitNet's responsive arguments rely on limitations not recited in the claims
14 and in some instances, not even disclosed in the specification. The claims
15 are obvious.

16 Moving on to Slide 2 of our presentation, it has the grounds that
17 were instituted. There are four grounds, but in today's discussion, I'll focus
18 on only the disputed issues, which relate to the Gage reference and the Shida
19 reference. So I will not be speaking about Mitchell or Sinha, unless Your
20 Honors have questions about those references.

21 So moving on to Slide 3 of our presentation, it provides an outline
22 of the things that I intend to talk about. With respect to the petition, there
23 are two disputed issues related to the claim term "situational network" and
24 the term "situation authority", so I'll address those. I'll address the '345
25 patent's disclosure relating to those features, and then how Gage and Shida
26 teach those features.

1 And then I'll move on to the motion to amend. There's one
2 disputed issue there with respect to the term "event node", and I'll -- as we
3 set forth in our opposition to the motion to amend, all the substitute claims
4 are unpatentable because they're ineligible under 101 and they're also
5 obvious under 103, and I'll go through the disputed issues with respect to
6 those elements. So with that, I'll dive into the disputed issues with respect to
7 Gage.

8 And now I'm on to Slide 5 of our presentation. This is independent
9 Claim 13 of the '345 patent. The '345 patent really is directed to at a high
10 level, the notion of forming a situational network and providing a roll call
11 query or a list of status information of respondents.

12 As I mentioned at the top, there's really only two disputed terms.
13 It's situation authority, which I've highlighted in black in element 13.1, and
14 the other disputed term is related to a situational network in element 13.3.
15 Forming a situational network related to the occurrence of the situation with
16 a plurality of devices determined to be geographically proximate to the
17 situation.

18 So what does the specification of the '345 patent say about these
19 claim terms? I'm moving on to Slide 6. On the left-hand side, we have
20 some quotes from the '345 patent and then we have the Figure 1 of the '345
21 patent on the right-hand side. So looking at the top left quote about the
22 situational network, the situational network 3000 is created when an
23 occurrence or an expected occurrence of an event causes connections or
24 links to be established between the set of participants, 250 and 207. And the
25 situational network is shown on the right in Figure 1 as 3000. It includes a
26 bunch of those stick figures and the devices.

1 And on the bottom left-hand side of this slide, there's a quote from
2 the '345 patent that relates to the situation authority that says, in the context
3 of this entire situational network 3000, participants may include an external
4 entity, 207, which is shown sort of on the left-hand side of Figure 1, also
5 called a situation authority. And just previewing one of the claim
6 construction issues, the specification refers to 207 as an external entity, but it
7 doesn't say what is -- that the entity is external with respect to, but we know
8 just looking at Figure 1 on the right-hand side of Slide 6, it shows that the
9 207, the situation authority, is included within the situational network 3000.

10 So the only plausible -- our position is the only plausible
11 interpretation of what external means is it can't be external to the situational
12 network itself because Figure 1 shows the situation authority included within
13 the situational network. So the only plausible interpretation of external
14 means that the entity 207 has to be external to the disaster itself, and I'll
15 describe that in more detail as we go on.

16 Just continuing with -- moving on to Slide 7, we've highlighted
17 here on the right-hand side the network 900 and what the specification says
18 about network 900 is it's just a typical computer network. It could be
19 something like the internet, as we've highlighted in the text on the bottom
20 left-hand side of Slide 7. So the situational network described in the '345
21 patent is really just users connected to the internet that connections are
22 formed when a disaster has occurred or has been detected. And that is
23 precisely what Gage teaches, so moving on to Gage.

24 This is Slide 8. We've mapped on the left-hand side, this is an
25 annotated version of Figure 1 of Gage and it shows the situational network
26 that includes the disaster response system and the disaster region itself. And

1 if you sort of zoom in on -- the disaster response region is shown in Figure 1
2 as being somewhere located -- it looks like within the U.S., whereas the
3 disaster region itself looks like it's centered somewhere over in this map on
4 Figure 1 around Florida, somewhere like that. So it's showing that the
5 disaster response system is separate from the disaster itself, and this is the
6 situational network.

7 And on Slide 9 of our presentation, we have some text from Gage
8 that describes how this situational network -- how this network is formed.
9 And looking at the right-hand side, the highlighted text at the top of
10 paragraph 9 of Gage, it says, when a disaster is detected, mobile devices of
11 subscribers can be queried for location and wireless connectivity by a
12 centrally located disaster response system. And the other highlighted text
13 says that when a subscriber is proximate to the disaster area, those are the
14 subscriber devices that are queried for their status indicator.

15 And we set forth in the petition, these teachings from Gage
16 disclose both, the situational network being formed in response to a disaster,
17 because it says when a disaster is detected, that's when these subscriber units
18 are queried, and it's only the subscriber units that are proximate to the
19 disaster that are queried for their status indicator.

20 And we've also shown this, for example, on Slide 10 of our
21 presentation. This is another annotated version of Figure 1 of Gage and it
22 shows on the bottom right-hand corner of this slide, there are subscribers
23 132 and 134 that are within the disaster region, and those are the devices that
24 would be queried, whereas subscriber 130, which is in the red box in sort of
25 the middle of this figure, that subscriber is not within the disaster region, so
26 that subscriber would not be queried for a status indicator. So this is Gage

1 teaching that it's only those devices that are proximate to the disaster that are
2 queried for their status indicator. So Gage is teaching this forming of a
3 situational network in response to the detection of a disaster.

4 One other point about Gage's teaching about forming the
5 situational network. The types of connections that could be used to form --
6 the types of communication links or channels that can be used by Gage to
7 form the connection with the devices can vary. There are multiple different
8 communication means that Gage discloses.

9 For example, Gage says they could set up ad hoc networks, can be
10 dynamically established. That's the highlighted text in the middle of this
11 block, and those dynamically established ad hoc networks can use, for
12 example, Bluetooth functionality in order to form those connections. But
13 Gage also teaches that other types of connections can be used to establish the
14 connections with the devices. You could use WiMAX or Wi-Fi, and for
15 example, at pages 26 and 27 of the petition, we explain in detail how Gage
16 discloses various means performing the connections between the disaster
17 response system and the subscriber devices. So Gage teaches forming the
18 situational network. If there are no questions on that, I'll move on to
19 situational authority.

20 JUDGE SZPONDOWSKI: Counsel, I do have a question about
21 that. Patent Owner argued in their Patent Owner response at page 9 that
22 Gage's network of subscribers is equivalent to the persistent connections that
23 are discussed in the '345 patent, which Patent Owner says are unclaimed and
24 they're citing to Column 4, lines 48 to 52 of the '345 patent. And I wondered
25 if you had any response to that or if you agree that Gage's network of
26 subscribers is equivalent to the persistent connections.

1 MR. TUMINARO: We disagree with that. We do not agree with
2 that. In fact, Your Honor, Gage teaches precisely what's shown in, for
3 example, what is shown on Slide 6 and how this situational network is
4 formed. What the '345 patent says about forming the situational network is
5 that those devices 402 are connected to the network to begin with. 900 is
6 essentially the internet, so those devices 402 have to be connected somehow
7 to that network 900 in order to communicate with that network 900.

8 So there must be some pre-existing internet connection or some
9 connection with network 900 in order for network 900 to subsequently form
10 connections with those devices when a disaster or an event has occurred. If
11 there were no pre-existing connection between device 402 and network 900,
12 network 900 would have no means, no way of knowing how to communicate
13 with those devices that were proximate to the disaster. So there must be
14 some pre-existing connection between devices 402 and network 900. So I
15 guess to circle back to your question, no, we don't agree that these are
16 embodiments of persistent connections. We disagree with that.

17 JUDGE SZPONDOWSKI: Okay, thank you.

18 MR. TUMINARO: You're welcome. Moving on to situational
19 network -- I'm sorry -- situational network -- now I'm on Slide 12 of our
20 presentation. Sorry, I said situation -- I mean situation authority. Moving
21 on to the issue of situation authority. Gage teaches the situation authority.
22 So what the specification describes in the situation authority, it provides
23 information related to the disaster, and that's precisely what Gage's disaster
24 response system does. That's disaster response system 120, which is shown
25 on the right-hand side in Figure 1, sort of at the top of Figure 1. That
26 disaster response system 120 is what we map to the situation authority in our

1 petition and that disaster response system aggregates and provides
2 information to the subscribers that are notified about the occurrence of the
3 situation, so that disaster response system 120 teaches the situation
4 authority.

5 And to the extent that the -- SitNet argues that this term "situation
6 authority" requires this notion of external, which comes from -- moving back
7 to Slide 6. There's that one statement in the specification that says that in the
8 context of the situational network 3000, you have these external entities.
9 And again, external is not explained what is meant by that, but to the extent
10 that external is a requirement of the claim -- to the extent that SitNet argues
11 that -- Gage's disaster response system is still external to the disaster itself
12 and it would meet that claim limitation.

13 This is shown, for example, on the right-hand side in Figure 1.
14 You see that disaster response system 120 is external or in a different
15 location than the disaster region itself, and that makes sense because you
16 wouldn't want the disaster response system to be incorporated or be a part of
17 the disaster itself. So Gage teaches both, the situational network and the
18 situation authority. If there are no questions about that, I'll move on to
19 Shida.

20 So moving on to Shida, it's the same two issues, again, for Shida --
21 situational network and situation authority. So now I'm on Slide 14. This
22 is -- on the right-hand side, we have Figure 1 of Shida and the right-hand
23 box up toward the right, there's a box that's labeled "center server" and it
24 includes a number of other boxes -- notice information generator 31, a report
25 processor, and it goes on. And that center server can communicate with a
26 police station or a fire station, for example, and it's that center server that

1 forms the situational network. That center server is connected to network 1,
2 which is in the middle there. That's highlighted in blue. And for the devices
3 that are in the disaster spot, which is highlighted in blue on the left-hand side
4 of Figure 1, those devices that are in the disaster spot are contacted about
5 this disaster and they are requested to provide a safety confirmation
6 response.

7 So it's the devices in region B that are contacted when a disaster is
8 occurred. The device in region A at the top left hand corner of Figure 1 in
9 Shida is not contacted because that device is not within the disaster region.
10 So as we explained in the petition, Shida center server forms the situational
11 network with the devices 51 and 53 in disaster region B when the disaster is
12 detected. And there's some text that we have on Slides 15 and 16.

13 Slide 15 talks about the notice information that's sent from the
14 center server to the subscriber devices. Moving on to Slide 16, that notice
15 information that is transmitted, if you look at the quote on the left, the
16 transmitted disaster notice information is broadcast. You see that quote on
17 the left in paragraph 48. And on the right, in paragraph 50, we have
18 highlighted some text where the terminals that receive that notice
19 information then send back a safety confirmation response.

20 So it's the notice information and then the safety confirmation
21 response that exchange of information with the terminals and the center
22 server, that is the formation of the situational network when the center server
23 detects that a disaster or situation has occurred. So Shida, again, teaches this
24 forming of the situational network as required by the claims of the '345
25 patent.

26 Moving on to the situation authority limitation. On the left-hand

1 side, we have some text from our petition that highlights what we mapped as
2 the situation authority and that's shown on the right-hand side. It's the center
3 server, again, which is the box on the sort of top right-hand side of Figure 1.
4 That center server is what we map -- Shida's center server is what we map to
5 the situation authority. And again, even if situation authority -- if that
6 limitation of external is read into the claim term situation authority, even if
7 that's read in, which we say is improper, but even if it is read in, Shida's
8 center server is external to the disaster region. Again, that's shown in Figure
9 1 here where the center server is separate and apart or outside of the disaster
10 region B. So even if that limitation were read in, Shida still teaches that
11 limitation.

12 So moving on to the dependent claims, if there's no questions here.
13 Dependent Claims 6 and 11, these claims require that the status response
14 include two pieces of information -- a request for assistance and a location of
15 the participant, and Shida teaches that. Shida teaches -- we have it
16 highlighted in the center from paragraph 58 of Shida. Shida teaches a rescue
17 request. That's what we mapped to the request for -- the claimed request for
18 assistance, and Shida also teaches that -- the transmission of position
19 information, and that's what we mapped to the claim, a location of the
20 participant.

21 And we explained in the petition itself that to the extent it's
22 required that these two pieces of information would be sent in a single
23 response, that would've been obvious. This is from our petition at page 64.
24 We say at the bottom of the page, for instance, a POSA would've found it
25 obvious for the subscriber to send a safety confirmation response and
26 subscriber position information together so that the center server would

1 receive the most up to date location of the subscriber terminal to execute the
2 rescue requested in the safety confirmation response. So to the extent that
3 that's a requirement, that both pieces of information be in a single
4 transmission, that would've been obvious.

5 Moving on to dependent Claims 5 and 6. Now I'm on Slide 20 of
6 our presentation. Dependent Claims 5 and 6, they require the establishing of
7 an electronic message Board for providing access to roll call information
8 related to the situation for individuals not participating in the situational
9 network, and we relied on Sinha's teaching of the user's emergency
10 workplace board. That is what we mapped to the roll call information or the
11 electronic message board, and as we explained in the petition, it would've
12 been obvious to incorporate Sinha's employee workplace response board
13 into Shida to teach the limitations of Claims 5 and 16. If there are no
14 questions on that, I'll move on to the motion to amend.

15 So moving on to the motion to amend, now I'm on Slide 22. This
16 just shows an example, Claim 17 -- substitute Claim 17 -- and there are two
17 types of features that are attempted to be added to Claim 17. Number one,
18 it's an event node, and number two, an N-dimensional social network. And
19 both of those features -- an event node and N-dimensional social network --
20 are taught by the prior art, but before we get there, these proposed amended
21 claims are not even patent eligible under 101.

22 So starting with that issue -- now I'm on Slide 24. We explained in
23 our opposition to the motion to amend that these substitute claims don't
24 satisfy the USPTO's guidance relating to Section 101. SitNet didn't address
25 that guidance. I'll just summarize it here, but under Step 2A, Prong One, the
26 substitute claims just describe a mental process or a method of organizing

1 human activity. And under Step 2A, Prong Two, that judicial exception is
2 not integrated into a practical idea, and we explain that in detail in our
3 opposition to the motion to amend.

4 The substitute claims also do not satisfy the *Alice* test -- step 1 and
5 step 2 of *Alice*. So starting with step 1 of *Alice* -- I'm on Slide 25 -- we
6 showed in the opposition to the motion to amend that the proposed substitute
7 claims amount to nothing more than merely collecting data, manipulating
8 data, or presenting data. And in fact, SitNet's own expert agreed that the
9 limitations of the claims really amount to nothing more than collecting,
10 manipulating, or presenting data.

11 That's shown, for example, on Slide 26. We have some quotes
12 here from his deposition on the top left-hand side of the slide. "So receiving
13 an indication, that would be like receiving data about something, fair?"
14 Answer, "Yes." "So forming a situational network, that's creating logical
15 connections. Is that fair?" "Yes." "In order to create logical connections,
16 you have to manipulate data. Is that fair?" Answer, "Yes." And it goes on
17 and we have an additional quote on Slide 27 about manipulating data in
18 order to establish the event node.

19 So these claims -- the substitute claims amount to nothing more
20 than receiving manipulating and presenting data, and in a long line of cases,
21 the Federal Circuit has held that such claims of receiving, manipulating, and
22 presenting data are unpatentable under 101 and this is on our Slide 28.

23 Then moving on to *Alice* step 2. So under *Alice* step 1, these
24 proposed substitute claims don't satisfy *Alice* step 1 because they're directed
25 to an abstract idea. For *Alice* step 2, these claims are not implemented in an
26 inventive way. They're simply using known technology.

1 So for example, on Slide 29, we have some quotes from the '345
2 patent that explains that the situational network uses known devices, such as
3 device 402, which could be a cell phone, or other devices generally known
4 to those skilled in the art. Or on the right-hand side, we have a quote here
5 that shows the situational networks disclosed in the '345 patent might just
6 use known GPS type devices.

7 In addition, the '345 patent explains that known network
8 architectures can be used. This is shown in our Slide 30 of the presentation
9 on the left-hand side. Those skilled in the art will recognize that any of the
10 available architectures may be used to form and sustain the various
11 embodiments of the situational networks described above. On top of that --
12 so known architectures are used.

13 And just to close out this section, on Slide 31, known hardware and
14 software technologies are used, as disclosed in the '345 patent. It says that
15 those skilled -- I'm on the left-hand side of Slide 31. Those skilled in the art
16 will recognize that a node of the NDSN 100 may be implemented using a
17 wide variety of available hardware and technologies generally known in the
18 art. So the '345 patent doesn't describe any inventive way that this abstract
19 idea is implemented into a network. So for all these reasons, as we
20 explained our opposition, the claims are not patentable -- the substitute
21 claims are not patentable under 101. If there's no questions about that, I'll hit
22 the obvious issues very quickly and then be done with my time.

23 So moving on to obviousness. As I mentioned at the top, these
24 proposed substitute claims seek to introduce two features -- an event node
25 and a social network. Both of those features are taught by Issa and Kraft.
26 So first with Issa, and now I'm on Slide 33. On the left-hand side, we have

1 Figure 5 from Issa and it's showing an aggregation node, which we mapped
2 in our opposition to the motion to amend to the event node in the proposed
3 claims. And we show on the right-hand side that it talks about using
4 members of a pre-existing social network. So Issa teaches a social network,
5 as claimed in these proposed substitute claims.

6 I'll point out that, as we understand it, SitNet is not disputing these
7 teachings with respect to its substitute claims. Instead, it's relying, again, on
8 its argument related to situational -- forming a situational network and that
9 Shida or Gage don't teach the situational network. They're not disputing that
10 Issa and Kraft teach the event node and the social network that are proposed
11 to be added to the substitute claims.

12 And I'll just end with the Kraft. I'm on Slide 37 now. Just on the
13 left-hand side, Kraft teaches the event node that's shown on the left-hand
14 side of Figure 2. It's highlighted in red. We've annotated it. Kraft even
15 calls it an event and it -- it's a node that's labeled as an event. We map that
16 to the event node and it's not shown in these figures, but Kraft at, for
17 example, Column 10, around lines 25 to 30, talks about using a conventional
18 social network, and we have highlighted that in our opposition to the motion
19 to amend. And as I pointed out earlier, SitNet does not dispute that Kraft
20 and Issa teach a social network and an event node. If there's no questions, I
21 will reserve my time for rebuttal.

22 JUDGE DANG: Actually, this is Judge Dang, I have a question.
23 Do you have a position as to why it would have been obvious to combine
24 either Kraft or Issa to the primary references?

25 MR. TUMINARO: Yes. We explained this in our opposition and
26 this is on Slide 35. First thing I'll point out is that the motion to combine

1 Gage with Issa or Shida with Kraft, those motivations to combine are not
2 disputed, but we have a position on that. So for example, with respect to
3 Gage and Issa -- this is on our Slide 35 -- we explain that Issa's aggregation
4 node and virtual peer functionality as implemented with Gage's disaster
5 response systems renders obvious establishing the event node.

6 Moving on to Slide 36 of our presentation, we explain that, on the
7 left-hand side, a POSA would have been motivated to combine Gage and
8 Issa to provide a more efficient process for obtaining and aggregating status
9 indicator responses and providing those aggregated responses to better
10 inform relief records. And it goes on -- this is from our opposition to
11 SitNet's motion to amend, and we have similar rationale.

12 I'll jump to Slide 40 for the Shida-Kraft combination. Here we say
13 a POSA would have been motivated to combine Shida and Kraft to provide
14 an efficient way to continuously gather and update information related to the
15 disaster to further aid in confirming the safety of affected individuals. And
16 it goes on, and again, as we understand in our -- in SitNet's reply, they don't
17 dispute these motivations to combine that we've set forth in our opposition.

18 JUDGE DANG: Thank you so much. So you have exactly 30
19 minutes and 15 seconds left.

20 MR. TUMINARO: All right, great. I'll stop sharing so I can allow
21 my -- Mr. Hecht to share. Thank you.

22 JUDGE DANG: Okay, thank you. Mr. Hecht, you have 60
23 minutes. Would you like to reserve any time?

24 MR. HECHT: I will reserve 20 minutes, Your Honor.

25 JUDGE DANG: Okay, 20 minutes. So 40 --

26 MR. HECHT: I wanted to ask --

1 JUDGE DANG: -- minutes, right? Yes.

2 MR. HECHT: Sorry. I was just going to ask Mr. Zak, he's going
3 to be sharing the screen, and he can start with the slides, our slide deck.

4 JUDGE DANG: Great.

5 MR. HECHT: Just getting --

6 JUDGE DANG: And you can see a time behind Judge Powell, so
7 let me know whenever you're ready and we'll start the clock.

8 MR. HECHT: Okay. Mr. Zak, can you put the slides on the
9 screen? Beautiful. All right. All right, Your Honors. Thank you very
10 much. Good morning. Good afternoon. The petition fails to present any
11 prior art alone or in combination that would render the claims of the '345
12 patent invalid. Our road map here shows that we have two main arguments
13 that were already previewed and explored, that the references failed to
14 disclose a situational network, and they also failed to disclose a situation
15 authority. Moreso, as this proceeding involves motion to amend the claims,
16 we'll be covering why these claims should pass the *Alice* test for
17 patentability and why the additional art identified by Meta does not render
18 those amended claims invalid.

19 Going to the next slide. First, we'll be addressing situational
20 network. Jumping right in. Regarding the requirements of a situational
21 network that also don't exist in the prior art -- I call this section the genesis
22 argument because it involves creation and this is absolutely in the claims.
23 Claim 1, for example, says forming a situational network related to the
24 occurrence of the of the situation, right? And that's done with the plurality
25 of participant devices.

26 The district court construed the situational network as a network

1 created in response to an event or a situation. This is remarkably different
2 from using a network in response to an event or situation, which is what
3 we'll show the prior art is actually doing is using a pre-existing network in
4 all cases that we've seen here in order to actually aggregate responses and
5 figure out who's in danger, so to speak. The construction by the Court was
6 not controversial, as the Court has recognized, and we cited to Exhibit 2007,
7 I think, at page 2 shows the district court's analysis of this. Yeah, that's
8 correct.

9 So going to the next slide, again, the Markman order -- it says to
10 establish the foundation. Since we're focused on the creation of the network
11 in response to an event or situation, what exactly is the network being
12 created. Again, not really controversial, but it's a system of inter-connected
13 elements that transmit information. In the claims, for example, the -- one or
14 more of the plurality of the participant devices. Next slide, please.

15 JUDGE SZPONDOWSKI: Counsel, I have a question about this.

16 MR. HECHT: Sure.

17 JUDGE SZPONDOWSKI: So it feels like you're asking us to
18 construe the district court's construction of a network and what does it mean
19 to be created in response, and I mean, were these arguments made in the
20 district court with respect to the claim construction of the situational
21 network?

22 MR. HECHT: So I think what happened -- yes, I think the -- I can
23 actually bring up the -- we can bring up the slide, but I don't think that this
24 was as big of a point. I think everyone had accepted that something was
25 created in response because even Meta's construction on that very page, the
26 2007 page 2, says a network created when an occurrence or expected

1 occurrence of an event or situation causes connections to be established.

2 So we all agree, so this was not a point of contention. I think the
3 purpose of our slides is just to show that now this sort of pivot by Meta is
4 not appropriate given the claim construction, and it's also not appropriate
5 just given the claim limitations. So again, we're not really asking you to
6 reconstrue anything. We're just asking to pay careful attention to that
7 Markman order because certainly, Meta's position there were consistent with
8 what was eventually found by the district court, but you know, some of the
9 minutia as to what does that actually mean, what's actually being created, it
10 seems like at this point, Meta has now forgotten that.

11 They have not -- and none of the prior art has been identified as
12 creating anything other than maybe a database of information from the
13 pulled devices. There's no network being created. So okay, we're on Slide
14 6. And this is -- we're focused on here the new connections and that's why
15 our position is something needs to be created, and it's not just that database
16 because that's not what's in the claims. It's forming a situational network
17 and that requires that something is actually created. So, next slide, please.

18 JUDGE DANG: Mr. Hecht, this is --

19 MR. HECHT: Yes.

20 JUDGE DANG: -- Judge Dang. I have a question on that,
21 speaking of creating a network. So is it your position that a network -- or
22 creating a network requires creating new connections? Because that is
23 requiring it as to have a claim interpretation because could creating a
24 network be creating a subset -- a subnetwork, I guess? Something inside a
25 bigger network.

26 For instance, suppose I have like 10 friends and I have a network

1 of five friends that I depend on, on certain things. Now, isn't that creating a
2 network as a -- okay, for somebody who -- for a group of friends that would
3 like to go fishing. That's a network of friends that like to go fishing. That is
4 a subset of friends that I have, so yeah. So, you know, what's your, I
5 guess -- what do you want us to -- how do you want us to interpret a
6 network? That has to have a new connection created?

7 MR. HECHT: There has to be at least -- and I think this is, again,
8 consistent with what the district court found. The district court actually had,
9 I think, another page or two of, you know, of texts on this. It wasn't just,
10 you know, the network being created. It went on to actually distinguish -- in
11 the past, SitNet had argued -- and, you know, entirely consistent with what
12 we're arguing, or entirely consistent with the Plaintiffs -- sorry, I take that
13 back.

14 The point is that our position there was that for example, we said
15 that the situational network must be part of a larger social network. And
16 what the Court says is the phrase "connections to or through a computer
17 network" makes clear that the computer network is simply the medium of
18 communication. It is not a social network. That reading is confirmed by at
19 least three parts of the specification. So we took the position there about the
20 social network aspect, but it's always been consistent that there could be a
21 larger network, and then the situational network would be a -- could be a
22 subset of that.

23 What's required, and it's in the spec, it's in the claims, is forming
24 something. And the situational network is created when -- as it's read on the
25 screen here -- an occurrence causes connections. There's some kind of new
26 links that are established. And that happens, for example, in the next line --

1 user devices are connected into the situational network when it is determined
2 that those users are affected by the event or situation. And so we're talking
3 about like a network topology as opposed to just, as I said, you know, a list
4 of effective nodes. That's something fundamentally different in the art, so
5 you call it a claim construction, but I don't really see it as a claim
6 construction.

7 I see it as a claim limitation and, you know, we're not completely
8 reliant on the specification here. I think we're comfortable at least. You
9 know, Claim 1 shows it, Claim 13 shows it. In terms of the central server,
10 that says it's configured -- where is it? So the central server is corresponding
11 to a situational authority, configured to receive an indication of an
12 occurrence of a situation and then form a situational network related to the
13 occurrence with a plurality of participant devices. So something has to join.
14 It can't just be a pre-existing network, otherwise, the word "form" wouldn't
15 have been used.

16 JUDGE DANG: But suppose -- okay, let's look at Gage, for
17 instance. So you have all these people connected -- all these subscribers
18 connected, but then when you have a situation, like a national disaster, they
19 would then connect, I guess, the subscribers in an area. Isn't that a
20 connection that's created? Because what if you want to say, I'm going to
21 create a chat or whatever just for the people within the area. This is not a
22 new connection.

23 MR. HECHT: I don't think that's --

24 JUDGE DANG: Is that creating -- I'm sorry. Yeah.

25 MR. HECHT: So I don't think that's what it's actually doing in
26 Gage. So if you look at our Slide 16, actually, we summarize what happens

1 with the citations to Gage. Just one second. So Gage's disaster response
2 system requested location in the existing network to figure out at step 2,
3 where the disaster has occurred, has a disaster occurred. Then we move -- if
4 a disaster has occurred, the disaster response system requests status
5 indicators. So it's not connecting anyone. It's just polling. That's what the
6 point of Gage is. It's not about forming a new network. It's about polling
7 and then having a list of affected participants who are affected by the
8 disaster. There's no new connections being formed anywhere, and that's
9 why we think Gage is completely different than the claims mentioned.
10 We've --

11 JUDGE SZPONDOWSKI: It's determining, though, which
12 subscribers are affected. I mean, that's step 315 --

13 MR. HECHT: Yeah.

14 JUDGE SZPONDOWSKI: -- which you don't have on this slide,
15 which I mean, that sounds awfully similar to your second point that was
16 back on Slide 7, which says user devices are connected into the situational
17 network when it is determined that users of the devices are affected by the
18 events. So isn't Gage -- Gage is figuring out which subscribers are affected
19 by the event, so why isn't that group of subscribers a situational network?

20 MR. HECHT: Because it doesn't actually -- I think at the logical
21 level, you know, and we're going to make this argument later on, but there's
22 no interconnection of anything. I think that's our point that whether you
23 know whether or not, you know -- a participant was affected -- yes, maybe
24 you've reached a similar end result, but you know, this is not done in the
25 same way. The patent at issue here is specific to creating a network
26 specifically to get to that solution, as opposed to the old style pulling, which

1 would've -- it was a different -- totally different objective.

2 One is using something that exists. One is forming something that
3 didn't exist. So I think that's the distinguishing factor here. And I agree with
4 you that it could, you know -- people who are in distress could be getting
5 some kind of a notification at the end of the day, but it's done in a -- I would
6 say a less sufficient manner, because that's going to be one of our arguments
7 for 101 that by doing it this way, forming a situational network, you're
8 saving on computing usage and cycle and all that.

9 So going back to -- what are we up to? Slide -- I guess I can
10 quickly traverse some of these -- I think we've covered Slide 9 and 10
11 basically, but we were talking about in Slide 10, we were talking -- or we
12 touched on Dr. Rubin's testimony regarding -- in order for a device that's
13 part of an existing network, he was asked to be included in the formation of
14 a situational network, that device would have to have a new connection
15 created and that was Dr. Rubin's position.

16 The next slide shows actually, the slide that was presented in the
17 claim construction, which shows, you know, the country and it shows lots of
18 people in an existing network, but the subset of affected users to the
19 hurricane on the upper right would be connected in a different way
20 according to the patent. The subset of users would form a situational
21 network from the pre-existing social network. And then on the next slide,
22 we annotated Slide 1 to show all of these are new connections, as opposed to
23 connections that existed in a larger social network before and they're
24 connecting people in a more efficient way.

25 With respect to the argument, and we're going to get to it later, but
26 the situation authority, I'd just note here that I think we looked at earlier --

1 opposing Counsel had noted -- 207 was flagged as the external entity, the
2 situation authority. That's not connected to the network here and that's why
3 we still maintain that there's nothing in the specification, other than a
4 description about being external to the situational network that we are
5 leaning into here. Again, next slide shows the same thing. It's just
6 animated.

7 Moving on to the slide after that. Just like Gage and Shida
8 disclose -- sorry -- Gage does not disclose all the elements because it's
9 missing situational network. The next slide shows -- this is Meta slide,
10 again, repeated. Same connections before and after. No -- there's been
11 nothing that's actually been accomplished by the network other than the
12 polling, as reflected in the next slide, which shows that sort of order of
13 operations that I mentioned in Gage.

14 Next slide. In distinguishing some of Meta's arguments, so Meta
15 argues that the '345 patent suggests that some participants may already be
16 connected and that the situational network may be established using the
17 framework of the social network. We agree, but in that embodiment, the
18 users are connected into the social network, but then there are new
19 connections as a result of creating a situational network from the NDSN.
20 The user is being connected into. That's straight from the specification.

21 The next argument -- this also leans into this querying, you know,
22 getting the status from Gage. Gage forms a situational network according to
23 Meta by the centrally located disaster response system, querying mobile
24 devices of subscribers near the location of the disaster for status indicator --
25 the status indication. But querying is not creating a network in response to
26 an event or situation, as I said. Gage doesn't teach creating those new

1 connections and the disaster response system doesn't query over any newly
2 created connections, so there's no creating a response. Next slide. Turning
3 to the ad hoc aspect of this. Give me one second.

4 JUDGE SZPONDOWSKI: Actually, let me ask you a question.
5 In the briefing, there was discussion about physical connections versus
6 logical connections. Are you looking at the physical connections in Gage or
7 is the issue that there are subscribers in Gage, or what's the issue?

8 MR. HECHT: So to distinguish in that -- we're talking about the
9 physical connections, not the logical connections. We're not sure what
10 physical connections are actually created because -- hang on one second.
11 We actually reach this argument later, but skipping ahead again. We have
12 some slides later on that go into -- let me find it.

13 Okay. So, if we turn to Slide 20. And we're making this argument
14 here, even though this is even more apt to the amended claims, which
15 explicitly recites social network, but our position is that in -- these claims do
16 require social network, you know, whether you -- if you don't accept that,
17 then you know, we've amended the claims for that very reason to be explicit
18 about it. But the various connections are logical connections rather than the
19 physical connections. And Dr. Rubin testified that only layer 7, the
20 application layer, is the layer associated with the connections in the social
21 network, so that's what's relevant here and those connections are not present
22 in any of the prior art. You see the Q&A on the right side. Forming a
23 situational network that's creating logical connections.

24 JUDGE SZPONDOWSKI: But if the connections are -- okay, if
25 the logical connection is -- it says it's a connection such as friendships or
26 group membership. If Gage is putting together -- is, you know, determining

1 who's affected by a disaster and that's the group, then why isn't that a logical
2 connection?

3 MR. HECHT: Because there's no disclosure of that. There's no
4 disclosure -- there's no logical connection just because there's a database of
5 effective users that are then being broadcast to, so I think our point is the
6 creation of the social network is what's new about this. And that's, again -- it
7 might have a logical connection because it has the database and logical
8 connections pre-exist, but I think the distinguishing factor here, and I'm
9 sorry if I conflated the two -- it's a little confusing sometimes to think about
10 the various layers. But the application layer is the only layer associated with
11 the connections in the social network. That, none of the prior art has.

12 So going back to -- what were we up to? Oh, the Bluetooth
13 argument. So if you go back one slide on Slide 19, Meta argues that
14 Bluetooth being mentioned in Gage and the forming of ad hoc networks,
15 which is, again, physical in response to a disaster to facilitate
16 communications with the disaster response system is a form of creating a
17 situational network. We disagree.

18 The reason is, again, no logical connections. The point of these ad
19 hoc connections is essentially -- it's like having -- switching phone towers or
20 like highly available internet. You could have Starlink, which is a wireless,
21 you know, type of communication, and you could have a T1 line and you're
22 still physically connected to the same network. We're talking about the
23 logical connections here in the social network that overcomes the prior art.
24 And so our position -- you can go to the next slide, Slide 20. Okay. You
25 know, this was the slide we just covered about Dr. Rubin's testimony.

26 The next slide after that shows some ways of their argument that

1 Gage's ad hoc networks don't include the logical connections. Dr. Rubin
2 said we don't even care about how the underlying connection is happening.
3 We're just looking at network in layer 7, the application view. Whether your
4 physical layer is wired or wireless won't affect the connections you have at
5 the social network, and that's why Bluetooth or other physical connections
6 do not establish a situational network that requires logical connections. The
7 physical connections just provide another communication means, which is
8 what I had mentioned.

9 Next slide. So again, no real relevancy to the ad hoc network in
10 the context of the patented claims. Gage shows that subscribers 130 to 134,
11 which are the folks in the globe, utilize the ad hoc network, but subscriber
12 130 isn't even in the disaster region, nor is it part of the alleged situational
13 network, as shown in their annotated versions of the claims. Meta states in
14 its reply, subscriber 130 is not geographically proximate to disaster region
15 110 and is not included in the established situational network. So these ad
16 hoc networks, they're usable, but they're not situational networks. They're
17 usable for communications, but that's about it.

18 Moving towards Shida. Next slide. Sorry -- flaws with Shida.
19 Again, same issue with the situational network. Next slide. The disaster
20 center server is -- communicates over the same connections to the
21 subscribers before or after an event or situation similarly to how the pre-
22 existing network works in Gage. No connections are being made. There
23 cannot be a situational network created in response. There's no disclosure of
24 that in Shida.

25 Next slide. Meta argues that Shida discloses the situational
26 network because the center server establishes communication at the

1 subscriber terminals and the subscriber terminals receive broadcast notice
2 information in return with a safety confirmation response. So that's even
3 more removed than Gage, right? Because again, nothing is being connected.
4 This is just pre-established communication not created in response to an
5 event or situation. The subscriber's terminals are constantly monitored via
6 persistent connection, and I think that's a keyword here, and that was in --
7 that's in paragraph 36. Whenever the subscriber terminal changes its
8 existing region, the carrier server updates the regional subscriber table. This
9 is, you know, you can tell, highly inefficient.

10 For this to occur, the subscriber's devices must be constantly
11 connected to the system, prior to an after an event or situation. And the
12 broadcast notice information received from the central server by the
13 subscriber terminal in the safety confirmation response returned to the center
14 server are sent over the same pre-existing conditions. No new conditions are
15 created and Shida therefore fails to disclose the situational network created
16 in response.

17 Moving towards the situational authority, one of the reasons -- I
18 mentioned Figure 1 of the patent doesn't show that the situational network is
19 even connected as the Petitioner suggests. The little stick figure of the man
20 at the 207, their Slide 6, did not show that there was any kind of connection,
21 physical or otherwise.

22 The reason we're raising this issue of situation authority is that
23 Petitioner admitted during claim construction that the situation authority
24 must be external. Now they're pivoting to this idea that this is external to the
25 disaster region, but what -- it needs to be external to, and the only disclosure
26 in the patent is about being external to the -- external entities to the overall

1 network. That there's nothing suggesting that this would be external to the
2 disaster, the situation itself.

3 We had a miscite in our briefs on Slide 28. Just wanted to clear
4 this up because I did notice this when we were preparing. The patents say
5 what the situation authorities are. This is the citation to what Meta had
6 argued while raising this. This is the sub-bullet. This Exhibit 2002 should
7 be 2001. So what Meta said is that the patents also say what situational
8 authorities are -- external entities, also called central authorities or trusted
9 providers that are generally able to aggregate or provide comprehensive
10 information related to the situation.

11 It wouldn't even make any sense to interpret that as being external
12 to the situation because it's external to everything, because it's saying,
13 providing comprehensive information related to the situation and
14 aggregating that information. So based on the intrinsic record and Meta's
15 own admission, the Board should recognize that the situation authority has
16 to be an external entity outside of the service or a system providing the
17 situational network. Next slide.

18 JUDGE SZPONDOWSKI: Counsel, on that, the district court's
19 construction doesn't include that it's an external entity and it doesn't look like
20 either of you had that as part of -- either party even proposed that the entity
21 had to be external in the district court. So are you asking us to adopt a
22 different -- I guess it would be a narrower claim construction than the district
23 court.

24 MR. HECHT: I would say we're asking you to recognize the
25 limitation set forth by Meta itself, so the answer is yes, that we would ask
26 you to interpret the situation authorities as being external, so yes.

1 JUDGE SZPONDOWSKI: So then is the district court's claim
2 construction wrong? I guess I'm trying to understand if a situation authority
3 has to be external, then why isn't that part of the district court's construction?

4 MR. HECHT: I don't think either side -- well, we argued for it, but
5 they weren't, you know -- certainly, Meta recognized it. It was not in the
6 actual construction. So I would say it doesn't require a complete rehash and
7 it's not -- I don't think it runs contrary. It's more of a clarification. You
8 know, each side argued that there was an entity that provided some
9 information and Meta explicitly, in the text that I quoted, said something that
10 was narrower. We're asking the Board to recognize that. I think it's
11 consistent with the Court's construction and I think it's something that's
12 required here in order to properly view what the situation authority here is
13 given this argument between the parties.

14 JUDGE SZPONDOWSKI: Okay, thank you.

15 MR. HECHT: Next slide. What are we up to? 29 or 30. So 30
16 shows the same thing. We're missing something in Gage. Meta asserts that
17 the disaster response system is the situation authority. They highlighted in
18 red what they believe to be the situational network, including the DRS,
19 which is the box towards the left. Situation authority is an external entity
20 outside of the servicer system providing the situational network, as we just
21 argued. And because it's not external, the disaster response system cannot
22 be the -- it cannot qualify as the situation authority. It cannot -- it's not
23 external to anything. It's not external to the network.

24 Next slide. Meta asserts that Shida's center server is the situation
25 authority. Meta highlighted in blue it would've believed to be the situation
26 authority, including the center server. The situation authority is the external

1 entity, as we argued, and since the center server is not external, it should not
2 be construed -- it should not qualify as a situation authority.

3 Next, we're going to be turning to the motion to amend. You
4 know, in here I'll also note this wasn't mentioned by opposing Counsel, but
5 *Alice* was overcome in this patent specifically and other patents that have a
6 similar language to what we are amending to. So that is in the record. I
7 think that ought to be given some deference. The -- or a lot of deference.
8 I'm saying the intrinsic record -- the district court didn't include that the
9 Claims of 3, 4, 5 were directed towards an abstract idea.

10 The missions that Meta has pointed to are not any sort of
11 admissions. Dr. Rubin was taking -- was asking about slices of the claims.
12 You know, the street limitations and they were further distilled into
13 receiving, manipulating, and presenting. That's not a proper one-on-one
14 analysis. Similarly, the aspects of the spec that were taken out of context,
15 there is a highlight -- I'm not going to bring it up, but there was, for example,
16 Meta quotes, those skilled in the art will recognize that a node of the NDSN
17 may be implemented using a wide variety of available hardware. That
18 doesn't say anything about 101 validity. We're, again, just slicing and dicing
19 this up, which is not proper under Federal Circuit precedent.

20 The fact that various communication means could be used,
21 different hardware, different technologies -- this is all basically meaningless
22 because we're looking at the claims. Not the protocol or the, you know --
23 anything that we can distill those -- the communications channels down to.
24 And so the inquiries of significance are what does the claim say and is the
25 claim patent knowledgeable at step 1 because it's a solution to a problem that
26 specifically arises in the realm of computer networks.

1 And I think this also bolsters, you know, viewing what we had just
2 talked about. You know, what is this patent really about? And it comes
3 down to efficiency as we'll see, and we'll see what the Federal Circuit had
4 recognized was certainly enough to overcome an *Alice* rejection previously
5 in a different case. In the context of computer networks, the claim is patent
6 eligible if the claim is properly characterized as identifying a specific
7 improvement in computer capabilities or network functionality rather than
8 only claiming a desirable result.

9 Next slide. So here we see the amendment and we're introducing
10 the concept of the event node in the social network and basically, everything
11 else is -- in many ways, this achieves harmony with other claims in the
12 various families and other claims that the district court had looked at
13 specifically for an *Alice* analysis. Situational authority is created in response
14 to situation with unconventional network architecture here.

15 The situational network is formed from users within an N-
16 dimensional social network and an event node. These are all specific
17 problems in the realm of social networking. A situational network formed
18 from the subset of users that are geographically proximate to the situation is
19 a specific problem here. The subset of users are connected into the
20 situational network via new connections, and this -- lastly, improve
21 processing, speed, and reduce resource requirements, like CPU speed and
22 memory.

23 Next slide is what I was referring to earlier. The Federal Circuit
24 found the claim to be eligible because it recited a specific type of content
25 network sharing that delineated both, the network structure and function, as
26 we're doing here. Similarly, Claim 17 -- amended Claim 17 -- recites a

1 specific type of situational network with specific improvements over
2 conventional network architecture and this implementation of a situational
3 network allows for the increased processing speed and reduced resource
4 requirements, as I said. Next slide.

5 JUDGE SZPONDOWSKI: Counsel, I have a question. What are
6 the specific improvements over conventional network architecture?

7 MR. HECHT: I think that's what we just cited in '345, Column 16,
8 lines 53 to 57. It talks about the increased processing speed and reduced
9 resource requirements, which is exactly, you know, the type of improvement
10 that was found to be Patent Owner eligible. And as far as the delineation of
11 structure and function, I think that's plainly in the amendment, the event
12 nodes, specifically. You know, this is something that's structure, that there's
13 a plurality of existing nodes within a social network and those nodes
14 correspond to participant devices that are geographically proximate. So, all
15 of these are specific structure.

16 JUDGE SZPONDOWSKI: But isn't that citation just -- isn't that
17 referring to working with a projective view of the nodes, which isn't even
18 recited in the independent claim?

19 MR. HECHT: Well, that's -- I mean, the improvement is not going
20 to be in the claim itself. It's the architecture, it's the -- I think the concept of
21 using this technology to improve the functionality and speed
22 (INDISCERNIBLE) and an event node into a situational network that can
23 disseminate information. That's an improvement to, you know, computing
24 power side. The improve is this event node aspect into the situational
25 network.

26 JUDGE SZPONDOWSKI: My point was just that the increased

1 processing speed and reduced resource requirements -- I mean, that citation,
2 as I read it, was referring to working with the projective view of the nodes,
3 not just the, you know, adding a node or the situational network in general.
4 It was that -- at least my reading of it was that specific, you know --

5 MR. HECHT: I think that --

6 JUDGE SZPONDOWSKI: It was (CROSSTALK) to that.

7 MR. HECHT: I think you may be right, Your Honor, but I think
8 that, you know, that aspect of it could be read into the rest because the whole
9 point is that, you know -- it's not to slow the system down. So the focus was
10 on using processing -- reducing processing power, getting things done more
11 efficiently. You know, introducing a network that was efficient as opposed
12 to the old school sending out this polling aspect and querying. The event
13 nodes connection cements the projective view, as well, so I think that's an
14 important consideration.

15 JUDGE SZPONDOWSKI: Thank you.

16 MR. HECHT: You're welcome, Your Honor. Okay. I'm not
17 going terribly on time either. Here we are, *Alice* step 2. Sorry. I think we
18 covered *Alice* sufficiently. So, sorry, you moved ahead on the slides, but I
19 think that's okay. So Slide 38, now we're going to address the various
20 combinations. Meta relies on Gage to disclose the situational network and
21 the situation authority. To further distinguish, we have added the event
22 node. Meta acknowledges Gage does not explicitly disclose an event node
23 and so they introduce Issa.

24 So Issa, if you look at the title -- so the title of the patent and the
25 gist of the patent is it's a hybrid peer to peer network used for sharing
26 content in a pre-existing social network -- pre-existing -- wherein each users

1 client device contains an embedded peer to peer -- peer 28 interface for
2 connecting -- communicating those in a social network. That's in Issa Figure
3 5. We cite this paper 22 in the next slide. Yep, okay.

4 Next slide. In response to SitNet's proposed construction of the
5 event node, that included peer to peer communication nodes with other
6 nodes. Meta argued that these additional limitations are not present in the
7 amendments and should not be interpreted to be required by the claims. Issa
8 discloses the peer to peer network for sharing content. When each user's
9 client device contains the interface, Meta can't use the same alleged
10 teachings of a peer to peer communication network between nodes in a
11 social network to invalidate the substitute claims when we've already
12 asserted that these features are not present in the amendments and should not
13 be required by the claims.

14 And then the last slide on this is the Shida-Kraft combination.
15 Meta relies on Shida to disclose the situational network and the situational
16 authority, but then Kraft doesn't -- Kraft's disclosure of a node modeling
17 information and modeling and information updating (INDISCERNIBLE)
18 and the teaching of creating network connections in response to events or
19 situations. It's the same issue with the situational network aspect. The
20 creation is just not there. So Shida and Kraft both alone or combination
21 failed to disclose the situational network created in response to an event or
22 situation. And since I'm approaching my time, I think that's it for now,
23 unless you have any questions specifically.

24 JUDGE DANG: Great, thank you. You have --

25 MR. HECHT: Thank you.

26 JUDGE DANG: -- 20 minutes and 20 seconds left. Thank you.

1 MR. HECHT: Thank you.

2 JUDGE DANG: And Mr. Tuminaro, you have 30 minutes and 15
3 seconds, and let us know when you're ready and we'll start the clock.

4 MR. TUMINARO: I'm ready and I will share my slides.

5 JUDGE DANG: Great, thank you.

6 MR. TUMINARO: Thank you, Your Honors. Jonathan Tuminaro
7 on behalf of Meta. So first, I'd like to start with the situational network term,
8 and I'll start at -- I don't have access to their slides to show on the screen, but
9 I'm at their Slide 12, if Your Honors have their slide -- SitNet's Slide
10 presentation 12. And I'll just give you a moment to pull that up.

11 JUDGE DANG: Okay, thank you.

12 MR. TUMINARO: So on SitNet's Slide 12, it's an annotated
13 version of the '345 patent, Figure 1. And what it's showing here is just what
14 they're calling these new connections that are in red and they're yellow lines
15 to the devices 402. As I mentioned when I began when I first stood up, in
16 Figure 1, those devices are connected to like the internet, network 900. In
17 order for the network 900 to speak to those devices 402, there must be some
18 sort of pre-existing connection; otherwise the network couldn't communicate
19 with those devices 402.

20 What the '345 patent describes is that when a disaster occurs,
21 there's the formation of a connection with those devices that are proximate to
22 that disaster. That's what's shown in SitNet's Figure 12, that's what's taught
23 in the '345 patent, and that's precisely what Gage and Shida teach when there
24 is -- I'll go first to Gage. When -- this is now on Slide 9 of our presentation.
25 When a disaster is detected, the devices or the subscribers that are proximate
26 to that disaster are queried for status information. There's a formation of a

1 connection.

2 The '345 patent doesn't describe anything special about that
3 connection. Unlike what Mr. Hecht says, the '345 patent, going back to
4 Slide 6 of our presentation -- the '345 patent doesn't talk about a new
5 connection. They don't say anything about new connection or connecting in
6 a different way. The '345 patent merely says that when a disaster is
7 detected, you form connections with the devices close -- proximate to that
8 disaster. That's all that the teachings of the '345 patent says, that's all that
9 the claims recite, and that's what Gage and Shida disclose. So again, Gage
10 and Shida, now Slide 9 -- this is Gage -- forms connections. Those
11 connections include a query for status indicator and a response from the
12 device. In Shida, it is similar.

13 Moving on to Slide 14 of our presentation. When a disaster is
14 detected, the devices that are proximate to that disaster are query for
15 information. In our petition, we talk about sending notice information and
16 safety confirmation responses. That exchange of information --

17 JUDGE DANG: Yeah.

18 MR. TUMINARO: -- between the devices and the center server in
19 response to the detection of a disaster is the formation of the situational
20 network, precisely the way it's described in the '345 patent and claimed in
21 the claims.

22 JUDGE DANG: Mr. Tuminaro, I have a question, okay? So,
23 Patent Owner argues that is not forming a network, so what is going on in
24 Gage is basically the system or queries, the subscriber, right? And is that a
25 network then because are the subscribers talking to each other or what --
26 how do you define, I guess? How are you reading this as a network?

1 MR. TUMINARO: It's forming a connection and making a
2 network in the sense that there's an exchange of information between the
3 subscriber devices and the disaster response system, and let me explain what
4 I mean by this exchange of information. This is shown, for example, in
5 Slide 9 of our presentation. On the right-hand side, the first part of the
6 exchange or the first piece of information that's sent from the disaster
7 response system to the subscribers are these queries for a status indicator.
8 It's only the devices that are proximate to that disaster that are queried for
9 the status indicator. So that's the first piece of information in this exchange.
10 It's information -- the query for the status indicator.

11 And then the response to that status indicator -- I mean, the query
12 is the beginning of the communication and the response, that status
13 indicator, is an exchange of information between the subscribers and the
14 disaster response system, and that's the formation of a network in the same
15 way that is described in the '345 patent. That's for Gage. I'll explain it with
16 respect to Shida.

17 Moving on to -- sorry, Your Honors -- I'm on Slide 15. Again,
18 when there is a disaster that is detected in Shida, there's an exchange of
19 information between the center server and the subscriber terminals. The
20 way Shida describes it is the first piece of information is the disaster
21 response system, and those devices -- I'm moving on now to Slide 16. If you
22 look on the right-hand side, the devices that receive that notice information,
23 they send back a safety information response to the center server.

24 So again, in Shida, there's this exchange of information. The
25 devices that are proximate to the disaster are first broadcast -- they are sent
26 notice information and those devices send back a safety confirmation

1 response, so there's an exchange of information between the terminals or the
2 subscriber devices and the center server, and that exchange of information is
3 the formation of a connection. It's the formation of a situational network in
4 response to a disaster or situation that's detected.

5 JUDGE DANG: Thank you.

6 MR. TUMINARO: Okay. Moving on to their Slide 20. This is
7 with respect to layer 7 and again, I can't project this on the screen but I'll just
8 wait for Your Honors to get to Slide 20 of their presentation. Okay. So on
9 Slide 20, here's where Mr. Hecht was talking about layer 7 connections. A
10 couple points in response to this.

11 First, procedurally, that's a new argument. It wasn't in their POR.
12 That's waived. They shouldn't even be able to make this argument about
13 layer 7, but to the extent you entertain this argument, second point is that, as
14 Mr. Hecht admitted when he was talking about -- or as he argued when he
15 was talking about this Slide 20, this is really with respect to a social
16 network, and a social network is not recited anywhere in the claims -- the
17 original claims of the '345 patent. That's -- there's a proposal to add that to
18 the substantive claim. So this is only with respect to the social network.
19 That's not in the claims of the '345 patent.

20 Third point on this, layer 7 is not disclosed -- it's not recited in the
21 claims and it's not disclosed anywhere in the specification of the '345 patent.
22 So to the extent that SitNet is arguing, well, a person of ordinary skill in the
23 art would simply understand that for every social network, the type of
24 connection you have is a layer 7 connection, well if that's their argument,
25 then the same would be true about the social networks disclosed in Issa and
26 Kraft. Those would be layer 7, as well. So this layer 7 argument shouldn't

1 even be heard, but even if it is, it's disclosed by Kraft and Shida.

2 If there's no more questions about situational network, I'll move on
3 to situation authority. So now, I'm on Slide 53. This is the district court's
4 construction. Again, as Your Honors -- I apologize, I forget who pointed it
5 out, but I believe somebody pointed out that the district court's construction
6 does not require external with respect to the situation authority limitation, so
7 the district court's construction is on the left. It's an entity providing
8 information concerning a situation.

9 There's nothing about external in this limitation and in fact -- I'm
10 on Slide 57 -- I asked their expert about this feature. This is on the left-hand
11 side. That definition from the district court is an entity providing
12 information concerning a situation, right? Answer, right. Question, do you
13 agree with that construction? Answer, yes. Question, that construction does
14 not require the situation authority to be external, right? Answer, it doesn't
15 say anything about that. So even SitNet's own expert agreed that the district
16 court's construction doesn't require this external feature that's added in there.

17 And now I'm going to go to our Slide 6, but also, I want to refer to
18 their Slide 28, which I don't have access to, again, but I'm flipping there, if
19 Your Honors want to go to their Slide 28. So in this portion on their Slide
20 28, SitNet -- Mr. Hecht was arguing that essentially, that the situation
21 authority has to be outside of the service or system providing the situational
22 network. Well, again, that's contrary to what's disclosed in the '345 patent.

23 So I'm looking here at now on Slide -- our Slide 6 on the right-
24 hand side, entity 207 is the situation authority and that entity is part of the
25 situational network. Now, to the extent that Mr. Hecht is arguing that 207
26 itself doesn't have a connection to network 900, we agree with that. If you

1 look at the users 250 up at the top, they also are not connected to the
2 network. It's the devices associated with those people or entities that are
3 connected to the network.

4 So that's -- so we agree with that, that the people -- like I cannot be
5 connected to a network, but my device can. So to the extent that that's his
6 argument, we agree, but we explained in the petition that both, Gage and
7 Shida describe that. So for example, at page 34 of the petition, this is with
8 respect to Gage where we're discussing independent Claim 8 and the
9 preamble to independent Claim 8, which recites a situation authority.

10 And we explain -- I'll just read from our petition. This is about
11 Gage. The disaster response system that's referring to Gage is a situation
12 authority because the disaster response system detects an occurrence of a
13 disaster affecting a situation receives and aggregates information related to
14 the disaster and provides the information to various participants in the
15 network, such as -- and it goes on to say disaster relief agencies and rescue
16 personnel. So Gage itself talks about disaster relief agencies and rescue
17 personnel. They could be the situational authority, the entity associated with
18 the server itself, like shown in 207.

19 And we have a similar teachings in Shida. This is actually -- you
20 can see it if you just look at our Slide 12. No, I'm sorry, our Slide 14. If you
21 look at the bottom right-hand side, the box that's highlighted in blue, it says
22 fire station or police station. The center server is connected to like a fire
23 station or a police station. A terminal that's at a fire station or a police
24 station, so that means that the person using that terminal is going to be a
25 fireman or a policeman. That would be the entity behind that device, just
26 like the entity on Slide 6, 207, that's not actually connected to the network,

1 but is using a device to connect to the network. So Shida teaches the same
2 thing. I'll pause there for a second, just to let that sink in.

3 Okay. If there are no questions on situation authority, I'll move on
4 to the motion to amend. Okay. The motion to amend, I'm at their Slide 34
5 and their Slide 34 just has the claim on the right-hand side and mentions the
6 limitations that are proposed to be added to this claim. And I believe that
7 Mr. Hecht said that the district court looked at these claims and said that
8 they were patent eligible under 101.

9 Respectfully, that's not correct and we explain this in our
10 opposition to the motion to amend. This is at page 3 of our opposition to the
11 motion to amend and in the footnote, in particular, essentially what -- as we
12 explained in this footnote and I can read it -- but essentially, the district court
13 didn't reach the issue of whether the claims were patent eligible because the
14 district court found that there were fact issues under *Alice* step 2 that
15 precluded a determination of whether the claims were patent eligible under
16 101.

17 And I'll just read from our paper in the opposition in the footnote,
18 in the parallel district court case, Meta raised patent ineligibility of the '345
19 patent in a motion to dismiss. The Court concluded that the claims of the
20 '345 patent "might" be directed to an abstract idea under *Alice* step 1, but the
21 Court declined to hold those claims unpatentable under *Alice* step 2 because
22 "plausible, factual disputes" precluded such a determination at the motion to
23 dismiss stage. So it's not that the district court found that these claims are
24 patent eligible, it's just that there were -- the district court found that there
25 were fact issues, and those fact issues aren't present here.

26 So moving on to their Slide 36. On their Slide 36, they talk about

1 a specific network architecture that's recited in the claims of the '345 patent
2 and that this is somehow unconventional or improved. That argument
3 actually conflicts with the teachings of the '345 patent itself. This is shown,
4 for example, at Slide 30 of our presentation. On Slide 30 on the left-hand
5 side, we point out how the '345 patent explicitly states that those skilled in
6 the art will recognize that any of the available architectures may be used to
7 form and sustain the various embodiments of the situational network
8 described above. So the '345 patent describes that any architecture --
9 network architecture -- may be used, not that there's some sort of special or
10 unique architecture that makes these claims patent eligible.

11 I'm moving on to their Slide 39. This is about -- if there's no issues
12 on 101, I'll move on to the obviousness issues with respect to the motion to
13 amend. So moving on to the obvious issues with respect to the motion to
14 amend, I'm on their Slide 39 now. This is about the Gage-Issa combination.
15 And what I understand Mr. Hecht is to be arguing is that Issa discloses this
16 peer to peer information, and we argued -- he correctly characterizes that we
17 argue that the claims -- the substitute claims don't require peer to peer
18 communication. But all that means then is that Issa teaches more than the
19 claims require. It doesn't mean that the claims are somehow patentably
20 distinct over Issa. It just means that Issa and Gage teach all elements of the
21 claims of the '345 or the substitute claims of the '345 and more. So the
22 combination of the Gage-Issa renders those claims obvious.

23 Moving on to Slide -- their Slide -- SitNet's Slide 40. So in the
24 second bullet here on their Slide 40, they argue -- Mr. Hecht argued that
25 Kraft doesn't teach the creating of network connections in response to an
26 event or a situation. We're not relying on Kraft that for that limitation. As

1 we set forth in the opposition to the motion to amend, we rely on Kraft for
2 the teaching of the event node and the social network. It's the teachings of
3 Shida that perform the situational network, as I have discussed at length up
4 here today. So we're not relying on Kraft for the teaching of the formation
5 of the situational network.

6 So I guess with that, the '345 patent discloses nothing but gathering
7 and providing information about a disaster using conventional technologies,
8 like cell phones, on a social network. Claims 1 to 16 of the '345 patent
9 should be held unpatentable and SitNet's motion to amend should be denied
10 because substitute -- proposed substitute Claims 17 to 32 are patent
11 ineligible under Section 101 and are obvious under Section 103. If there are
12 no questions, I'll yield the remainder of my time.

13 JUDGE DANG: Thank you so much. Mr. Hecht, you have 20
14 minutes and 20 seconds.

15 MR. HECHT: Okay. Thank you so much, Your Honor. So the
16 type of connections -- the type of new connections that we were referring to
17 and we had argued in our Patent Owner response and preliminary response
18 were never defined. The Court didn't define them below, the Petitioner did
19 not define them in their petition. We assumed that Meta was talking about
20 logical connections, but then they shifted to physical. Counsel questioned
21 Dr. Avi Rubin about it and he said those connections should not be physical.
22 That was the first time that we realized that Petitioner was discussing
23 physical connections and not logical connections.

24 The commonality that we continue to hear is despite hearing
25 polling, querying, we are not hearing anything about the connections and
26 certainly not the logical connections. Patent Owner has always been

1 consistent in arguing new connections, so to the extent that there's an
2 argument about the improper raising of a layer 7 argument, they brought it
3 up and they had questioned the expert about it, and that actually shed a lot of
4 light on things. And to be clear, the amended claims now having that social
5 network aspect, it's important to consider that those connections are logical.
6 It's another reason why those amendments are so important.

7 So the other thing on *Alice* was yes, the district court essentially
8 punted on *Alice* at the motion to dismiss stage, but the opposing Counsel
9 said, you know, there were factual issues in the case that aren't the issues --
10 that aren't at issue here. We're talking about the exact same intrinsic record,
11 so I don't think it's quite accurate to say that there are no factual issues that
12 they have -- to the extent that, you know, there has been, you know, no new
13 argument raised by Petitioner that would shed any additional light on these
14 claims -- the patentability of the claims. But we do know that we -- the case
15 law is behind us and behind the organization of the networks in a very
16 explicit way that wasn't in some of the, you know -- the weaker, so to speak,
17 aspects of the patents that may have been more problematic at the lower
18 court.

19 So we have added additional disclosure to bolster these claims.
20 And so if anything -- and so these are more patentable than the original sets
21 of claims of the '345 patent. And so the -- but the proper inquiry for 101 is
22 not just looking at the specification. It's looking at the claims. That's the
23 proper analysis. And here, the specific sets of claims are patent eligible.
24 That's most of what I have as far as the counters, unless Your Honors have
25 any specific questions.

26 JUDGE DANG: That's great. Thank you so much. And I think

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1 that's all we have as a panel. So the panel would like to thank the parties for
2 your presentations today. The explanations of the record really would be
3 helpful to us in our final determination and so we will issue a final decision
4 in due course and with that, we are adjourned.

5 (Whereupon, the above-entitled matter went off the record at 2:39
6 p.m.)

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