

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

META PLATFORMS, INC.,
Petitioner

v.

SITNET, LLC,
Patent Owner

Case IPR2024-00612
U.S. Patent No. 8,249,932

**PETITIONER'S *SOTERA* STIPULATION AND
REPLY TO PATENT OWNER'S PRELIMINARY RESPONSE**

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PETITIONER'S EXHIBIT LIST

Exhibit No.	Description
1001	U.S. Patent No. 8,249,932 to Cona et al. (“’932 patent”)
1002	Prosecution History of U.S. Patent No. 8,249,932 (“Prosecution History”)
1003	Declaration of Bernard J. Jansen, Ph.D.
1004	<i>Curriculum Vitae</i> of Bernard J. Jansen, Ph.D.
1005	<i>Intentionally Left Blank</i>
1006	<i>Intentionally Left Blank</i>
1007	U.S. Patent No. 8,346,864 to Amidon et al. (“Amidon”)
1008	U.S. Patent No. 9,195,996 to Walsh et al. (“Walsh”)
1009	Ioannidis, J.P.A. et al., “Updated science-wide author databases of standardized citation indicators,” <i>PLOS Biology</i> (Oct. 2020)
1010	<i>Intentionally Left Blank</i>
1011	U.S. Patent No. 7,263,614 to Roskind (“Roskind”)
1012	<i>Intentionally Left Blank</i>
1013	Zhang, P. et al., “Intelligent Delivery of Interactive Advertisement Content,” Bell Labs Technical Journal, 13(3):143-158 (Sept. 2008)
1014	U.S. Patent Pub. No. 2006/0095320 to Jones (“Jones”)
1015	U.S. Patent No. 8,799,073 to Shahine et al. (“Shahine”)
1016	“Why we’re buying DoubleClick” Google Blog, accessed at https://googleblog.blogspot.com/2007/06/why-were-buying-doubleclick.html (June 26, 2007) (“Google Blog”)
1017	<i>Intentionally Left Blank</i>
1018	<i>Intentionally Left Blank</i>
1019	<i>Intentionally Left Blank</i>
1020	<i>Intentionally Left Blank</i>
1021	“GPS Coordinates,” TechTarget (Aug. 2022)
1022	<i>Intentionally Left Blank</i>

Exhibit No.	Description
1023	<i>Intentionally Left Blank</i>
1024	Tsang, M.M. et al., “Consumer Attitudes Toward Mobile Advertising: An Empirical Study,” <i>International Journal of Electronic Commerce</i> , 8(3):65-78 (2004)
1025	Gidófalvi, G. et al., “Estimating the Capacity of the Location-Based Advertising Channel,” <i>Sixth International Conference on the Management of Mobile Business</i> (2007)
1026	Bruner, R.E. et al., “Best Practices for Optimizing Web Advertising Effectiveness,” <i>DoubleClick</i> (May 2006)
1027	Haghirian, P. et al., “Increasing Advertising Value of Mobile Marketers,” <i>Proceedings of the 38th Hawaii International Conference on System Sciences</i> (2005)
1028	Jafarzadeh, H. et al., “A Systematic Review on Search Engine Advertising,” <i>Pacific Asia Journal of the Association for Information Systems</i> , 7(3):1-32 (Sept. 2015)
1029	“What is an ad server?,” Adjust, accessed at https://www.adjust.com/glossary/ad-server-definition/
1030	<i>Intentionally Left Blank</i>
1031	U.S. Patent No. 8,560,385 to Atazky et al. (“Atazky”)
1032	Complaint, <i>SitNet, LLC v. Meta Platforms, Inc.</i> , Case No. 1:23-cv-06389 (S.D.N.Y.)
1033	“From the original banner to Tosh.0: The hits and misses of publisher ad plays,” <i>Digiday</i> , accessed at https://digiday.com/sponsored/001-328-347-628-gumgumbcs-timeline-how-publishers-monetized-their-pages-since-1988/ (Dec. 9, 2015)
1034	Hesterberg, K., “A Brief History of Online Advertising,” accessed at https://blog.hubspot.com/marketing/history-of-online-advertising (Nov. 28, 2021)
1035	LaFrance, A., “The First-Ever Banner Ad on the Web,” accessed at https://www.theatlantic.com/technology/archive/2017/04/the-first-ever-banner-ad-on-the-web/523728/ (Apr. 21, 2017)

Exhibit No.	Description
1036	Oberoi, A., “The History of Online Advertising,” Aspupshup, accessed at https://www.adpushup.com/blog/the-history-of-online-advertising/ (July 3, 2013)
1037	Glave, J., “PGP Lets You Take Charge of Your Cookies,” Wired, accessed at https://www.wired.com/1996/12/pgp-lets-you-take-charge-of-your-cookies/ (Dec. 10, 1996)
1038	Stokel-Walker, C., “How 20 years of Google’s AdSense changed the Internet,” Fast Company, accessed at https://www.fastcompany.com/90861689/how-20-years-of-googles-adsense-changed-the-internet#:~:text=%E2%80%9CIt%20allowed%20creators%20to%20monetize,totals%20more%20than%20%24100%20billion. (Mar. 29, 2023)
1039	“Google Acquires Applied Semantics,” Google, accessed at http://googlepress.blogspot.com/2004/04/google-acquires-applied-semantics.html (April 23, 2003)
1040	“Google Timeline,” The New York Times, accessed at https://www.nytimes.com/2004/04/29/business/google-timeline.html (April 29, 2004)
1041	“The Evolution of Google AdWords – A \$38 Billion Advertising Platform,” WordStream, accessed at https://www.wordstream.com/blog/ws/2012/06/05/evolution-of-adwords (Dec. 18, 2023)
1042	Jansen, B.J. et al., “The Google Online Marketing Challenge,” Journal of Interactive Advertising, Vol. 9, accessed at https://jiad.org/article109/ (2018)
1043	Story, L. and Helft, M., “Google Buys DoubleClick for \$3.1 Billion,” The New York Times, accessed at https://www.nytimes.com/2007/04/14/technology/14DoubleClick.html (Apr. 14, 2007)
1044	U.S. Patent No. 5,774,670 to Montulli (“Montulli”)
1045	Allen, C., “Stale Cookies,” ClickZ, accessed at https://www.clickz.com/stale-cookies/ (Dec. 28, 1999)

Exhibit No.	Description
1046	Rothenberg, R., “An Advertising Power, but Just What Does Doubleclick Do?,” The New York Times, accessed at https://www.nytimes.com/1999/09/22/technology/an-advertising-power-but-just-what-does-doubleclick-do.html (Sept. 22, 1999)
1047	Malhotra, A., “HTML Images,” Tech Altum, accessed at https://tutorial.techaltum.com/html-image.html (May 27, 2023)
1048	“Pop-up ads OK for Tripod,” CNET, accessed at https://www.cnet.com/tech/services-and-software/pop-up-ads-ok-for-tripod/ (Dec. 22, 1997)
1049	Langheinrich, M., “Unintrusive customization techniques for Web advertising,” Computer Networks: The International Journal of Computer and Telecommunications Networking, 31(11-16):1259-72 (May 1999)
1050	Reiter, M.K., “Detecting Hit Shaving in Click-Through Payment Schemes,” Proceedings of the 3rd USENIX Workshop on Electronic Commerce (Aug. 31, 1998)
1051	Civil Case Management Plan and Scheduling Order, Case No. 1:23-cv-06389 (S.D.N.Y.), Document 35 (10/20/2023)
1052	Plaintiff SitNet’s Disclosure of Asserted Claims and Infringement Contentions, <i>SitNet, LLC v. Meta Platforms, Inc.</i> , Case No. 1:23-cv-06389 (S.D.N.Y.)
1053	Supplemental Declaration of Bernard J. Jansen, Ph.D.
1054	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)
1055	Infringement Contentions, Exhibit 8, <i>SitNet, LLC v. Meta Platforms, Inc.</i> , Case No. 1:23-cv-06389 (S.D.N.Y.)

I. INTRODUCTION

SitNet advocates for impermissibly narrow constructions that differ significantly from the constructions it submitted in the corresponding district-court litigation. The Board should reject these constructions because they improperly import optional limitations from the specification and add more confusion than clarification. But even under SitNet’s impermissibly narrow constructions, the prior art renders the challenged claims obvious.

II. CLAIM CONSTRUCTION

The Petition explains that each term should be given its plain and ordinary meaning. Pet., 5; EX1053, ¶2. SitNet has not given the Board reason to do otherwise. The Board should thus reject SitNet’s proposed constructions, as explained below.

A. Situational Network

As shown in the table below, SitNet proposes a 45-word construction for “situational network” here that is substantially narrower than its proposed construction in district court. POPR, 10.¹ The Board should reject SitNet’s proposed construction for this reason alone. *Amazon.com, Inc. v.*

¹ To the extent the POPR relies on Dr. Rubin’s testimony (EX2005), the Board should give his testimony no weight because his declaration does not include the statements required by 37 C.F.R. § 1.68. *See* 37 C.F.R. §§ 42.2, 43.53(a).

Barnesandnoble.com, Inc., 239 F.3d 1343, 1351 (Fed. Cir. 2001) (“A patent may not, like a nose of wax, be twisted one way to avoid [invalidity] and another to find infringement.”) (cleaned up). Moreover, the Board should reject this construction because, to the extent it is even understandable, it confuses more than clarifies and improperly imports embodiments from the specification. EX1053, ¶3.

Term	SitNet District Court Construction	POPR Construction
situational network	“a network that is a subset of a larger network, comprising member nodes, formed in response to an event or situation” (EX1054, 8; EX2002, 3)	“a social network formed in response to the occurrence of an event or situation by forming connections between nodes which represent the personal information and social metrics that interconnect participants of the social networking service hosting the situational network to the underlying situation or event” (POPR, 10)

At bottom, SitNet’s construction requires the situational network to be a “social network,” which the ’932 patent also refers to as an “N-dimensional social network” (NDSN). POPR, 3; EX1001, 14:10-15; EX2001, 6. But a situational network is not so limited. EX1053, ¶4. The specification repeatedly confirms that the situational network is established using a social network in *only a single embodiment*—“*[i]n one embodiment*, the situational network may be established using the framework of an N-dimensional social network (NDSN).” EX1001, 7:24-29, *see also* 14:10-15:7, 19:35-36; EX1053, ¶4.

SitNet ignores this. It relies instead on one vague statement that situational network participants “may have no prior knowledge of or connection or contact with each other . . . through ***any other type of social network*** or personal interactions.” POPR, 2 (citing EX1001, 3:46-58) (emphasis in original). SitNet asserts that, through this statement, “the 932 Patent classifies a ‘situational network’ as a type of social network.” POPR, 2-3. But this statement does not redefine a situational network as a social network. *Hill-Rom Servs., Inc. v. Stryker Corp.*, 755 F.3d 1367, 1371 (Fed. Cir. 2014) (“[W]e do not read limitations from the embodiments in the specification into the claims.”); EX1053, ¶5. First, this statement refers broadly to “any other type of ***social network or personal interactions***.” EX1001, 3:46-58 (emphasis added). Therefore, a POSA would not have understood this statement to define a “situational network” as being limited to a type of social network. EX1053, ¶6. Second, to the extent this passage even mentions a social network, it is relegated to only “one embodiment.” EX1001, 7:24-29, *see also* 14:10-15:7, 19:35-36. The ’932 patent does not say that every embodiment of a “situational network” must be a social network. SitNet’s construction thus improperly excludes the specification’s other embodiments of a situational network. *See, e.g.*, EX1001, 7:1-23, 25:1-55; EX1053, ¶6.

The rest of SitNet’s convoluted, confusing construction is premised on a situational network being a social network, and therefore also fails. The Board

should reject SitNet’s proposed construction and apply the plain and ordinary meaning.

B. Event Node

SitNet proposes that the term “event node” should be construed as “a node on a personal information network corresponding to an event or situation.” POPR, 10-11; EX1054, 10. This construction, however, adds more confusion than clarification and improperly narrows the claim. EX1053, ¶7.,

SitNet’s construction leads to confusion in element [12.B], for example, which would read: “establishing *a node on a **personal information network** corresponding to an event or situation* for the situation in a **multi-dimensional personal information network**.” It is unclear whether the *personal information network* and the *multi-dimensional personal information network* are the same or if they have different meanings. EX1053, ¶8. And, to the extent they are the same, such a construction would create an unnecessary redundancy in the claims, rendering the “multi-dimensional personal information network” superfluous. *TMI Prods., Inc. v. Rosen Ent. Sys., L.P.*, 610 F. App’x 968, 972 (Fed. Cir. 2015) (rejecting a construction that would “create[] a redundancy” in claim limitations, rendering language “unnecessary”); EX1053, ¶8.

As properly construed, an “event node” itself is not limited to being on a personal information network (e.g., a social network). EX1053, ¶9. Rather,

consistent with the specification, it may be a node *on a situational network*. *See, e.g.,* EX1001, 19:39-43 (describing that an event node may be established by a situation authority), 19:58-60 (users of a situational network may be automatically invited to connect to the event node), 20:16-19 (a situational network’s temporal limit may be established at the event node), 21:49-52 (“Users connected to an event node of a SitNet in an NDSN through a PIA may also request a ‘projected’ view”); EX1053, ¶9. That is true even when the situational network is created within the framework of a “multi-dimensional personal information network.” *See, e.g.,* EX1001, 5:47-65, 7:24-28, 14:10-17; EX1053, ¶9.

The POPR contends “a ‘situational network’ must be a type of ‘personal information network,’” because a “‘situational network may be established using the framework of an N-dimensional social network (NDSN), also referred to hereafter as a multi-dimensional personal information network.’” POPR, 11 (quoting EX1001, 7:24-27). That a situational network *may be* established within the framework of a personal information network, however, does not mean that it *must be* established within such a framework. EX1053, ¶10. To be sure, in embodiments of a situational network that use an NDSN as a framework, event nodes may simultaneously be nodes on a situational network and on a personal information network. *See, e.g.,* EX1001, 6:44-48, 7:24-39; EX1053, ¶10. But this is not a reason to limit the term “event node” in such a manner. *SuperGuide Corp.*

v. DirecTV Enters., Inc., 358 F.3d 870, 875 (Fed. Cir. 2004) (“[A] particular embodiment appearing in the written description may not be read into a claim when the claim language is broader than the embodiment.”).

III. AMIDON, WALSH, AND SHAHINE RENDER THE CLAIMS OBVIOUS EVEN UNDER SITNET’S IMPROPER CONSTRUCTIONS.

A. Amidon teaches a “situational network” under SitNet’s proposed construction.

SitNet does not dispute that Amidon teaches a social network. *See* POPR, 12-17. Instead, SitNet attacks the supposed timing requirements for formation of a “situational network.” *Id.* Specifically, SitNet argues that “Amidon’s architecture does not create new connections but instead creates chatrooms, referred to as ‘conferences,’” and that these “chatrooms are created using existing social networks to determine the participants in a chatroom (i.e., conference).” POPR, 12-13. SitNet therefore asserts that “Amidon’s architecture does not create new connections and instead uses connections to mine existing social networks.” POPR, 17. But nothing in SitNet’s proposed construction, nor the specification, prevents use of existing social network information in forming a “situational network.” EX1053, ¶11.²

² Tellingly, in related proceeding IPR2024-00529, SitNet does not challenge that Amidon teaches a “situational network.” *See generally* IPR2024-00529, POPR.

SitNet’s own claim-construction arguments explain why Amidon teaches a “situational network.” In district court, SitNet explained, “[w]hat is clear is that a subset of nodes in an online social network, when formed in response to the occurrence of an event or situation, is a ‘situational network’ within the meaning of the asserted claims.” EX2001, 7. To the extent required by the claims, SitNet’s characterization of a “situational network” is precisely what Amidon teaches. EX1053, ¶12.

In Amidon’s system, the Petition explains, “a user can specify the nature and extent of a conference amongst members of a social network,” and “[o]nce a conference has been initiated, users participating in the conference can direct messages to desired users in the conference.” EX1007, 2:57-63; Pet., 12-13. Each conference is formed in response to a situation (“a user can specify the nature . . . of a conference,” EX1007, 2:57-63). Thus, Amidon’s conferences connect a subset of the users of the larger social network in response to an event or situation. EX1053, ¶13; Pet., 11-13.

Amidon further discloses “send[ing] an invitation to users . . . to join in the conference” in certain embodiments as part of conference formation. EX1007, 21:5-8. In arguing its claim-construction position in the POPR, SitNet points to a similar embodiment in the ’932 patent “show[ing] a situation in which a user is invited to connect to an event node (‘invite(Event Node)’) based on a likely

interest in the event underlying the ‘situational network.’” POPR, 7-8 (citing EX1001, 19:58-66); EX1053, ¶14. The cited passage of the ’932 patent further explains that “[t]he automatic invitation may be based on a stored user profile” to determine whether a user “would likely be interested in the information about the event.” EX1001, 19:58-66; POPR, 8. Thus, even the portions of the ’932 patent allegedly supporting SitNet’s POPR construction confirm that a “situational network” may be formed using existing social network information. EX1053, ¶14.

SitNet’s challenge to Amidon runs contrary to both the ’932 patent specification and SitNet’s own claim construction arguments. The Board should find that Amidon teaches a “situational network” under any proffered construction.

B. Amidon teaches an “event node” under SitNet’s proposed construction.

To the extent the Board determines the event node must be in “a node on a *personal information network*,” SitNet does not dispute that Amidon teaches a personal information network, or that Amidon’s “social network conference[s]” are established within that network. *See* POPR, 17-20; Pet., 15-16 (explaining that Amidon teaches a “multi-dimensional personal information network” and establishes conferences within the network); EX1003, ¶¶78-80. Instead, SitNet’s argument requires an even narrower construction, asserting that Amidon’s “conferences do not include **as a participant** *the situation or event underlying the conference*.” POPR, 19 (bolding added, italics in original). Consequently, SitNet

asserts, “Without the underlying situation or event as a participant, the conferences do not and cannot include an ‘event node’ corresponding to the situation or event that is the subject of the conference.” *Id.*

This argument misses the point. As the Petition explains, Amidon’s social network conference *itself* is the claimed “event node”: “Amidon teaches ‘*establishing an event node for the situation in a multi-dimensional personal information network*’ in the form of a ‘social network conference’ to which users may connect.” Pet., 16 (citing EX1003, ¶¶79-80); EX1053, ¶¶15-16. An additional node is not necessary because the conference *is* the node. EX1053, ¶16. And nothing in SitNet’s proposed construction requires the “event node” to be a conference participant.

Such an understanding is consistent with embodiments of the ’932 patent, where the event node connects users to facilitate communication about the event or situation. EX1053, ¶17. For example, in the embodiment of Figure 25, a first user propagates messages (about a situation, e.g., a snowstorm) to other users in selected groups via a node in the network. EX1001, 30:23-45. The other users may then forward and/or reply to messages. EX1001, 30:23-45. The node in this embodiment simply connects users to facilitate messaging. EX1053, ¶17. Amidon’s social network conference similarly connects users to facilitate messaging about a situation (e.g., a “Game Conversation”). EX1007, 16:65-18:50,

FIG. 4; EX1053, ¶17.

SitNet further contends that Amidon’s “database record cannot correspond to a situation or event without providing entry for the event or situation, because without such a field, the conference could not be queried based on the event or situation.” POPR, 20 (citing EX2005, ¶52). But, Amidon’s “conference ID” identifies the conference. EX1007, 15:6-17; EX1053, ¶18. Further, “[t]itle bar 202 provides a description of the presently-selected conference (‘Game Conversation’),” indicating to a POSA that this information must be stored in the database record. EX1007, 16:65-17:7, EX1053, ¶18. It need not be labeled as an “event” or “situation” in Amidon to teach the limitation.

Amidon’s teachings are also consistent with SitNet’s initial infringement contentions in the district court. For example, SitNet identifies creation of an event itself as the alleged “event node,” not a participant of the event. *See* EX1055, 3-5.

Accordingly, Amidon teaches an “event node” under SitNet’s proposed construction.

IV. *SOTERA* STIPULATION

If the Board institutes this IPR, Petitioner will not raise in district court any grounds raised or that reasonably could have been raised in the Petition. *Sotera Wireless, Inc. v. Masimo Corp.*, IPR2020-01019, Paper 12 (PTAB Dec. 1, 2020).

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing **PETITIONER'S
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