

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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META PLATFORMS, INC.,

Petitioner,

v.

SITNET, LLC

Patent Owner

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IPR2026-00100

U.S. Patent No. 10,117,290

**PATENT OWNER SITNET LLC'S  
DISCRETIONARY DENIAL BRIEF**

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| 2001         | Complaint, <i>SitNet LLC v. Meta Platforms, Inc.</i> , No. 1:25-cv-06389-6185-JAV, (July 28, 2025).                  |
| 2002         | Amended Complaint, <i>SitNet LLC v. Meta Platforms, Inc.</i> , No. 1:25-cv-06389-6185-JAV, (Nov. 7, 2025).           |
| 2003         | Amended Complaint Exhibit 1, <i>SitNet LLC v. Meta Platforms, Inc.</i> , No. 1:25-cv-06389-6185-JAV, (Nov. 7, 2025). |
| 2004         | U.S. Patent No. 8,069,202 (“Cona”)                                                                                   |
| 2005         | Patent Center Continuity Data for Provisional Patent Application No. 60/887,843 (accessed on December 8, 2025)       |
| 2006         | U.S. Patent No. 9,412,136 (“Gertzfield”)                                                                             |

## I. INTRODUCTION

Institution should be denied as the patent-at-issue has been withdrawn from the related litigation. Patent Owner SitNet LLC filed an amended complaint in the parallel district court action removing U.S. Patent No. 10,117,290 (the “’290 Patent”) just **one day** after the Petition was filed (and less than four months after filing the original complaint). Despite knowing that the challenged patent is **moot** in the parallel litigation, Petitioner has not attempted to withdraw its petition, thus continuing to burden the Board. Reviewing a patent that is no longer at issue in litigation is a waste of the Board’s limited resources.

Many other factors further support discretionary denial. For example, Patent Owner has developed strong settled expectations due to the age of the ’290 Patent and the heavy investment in the ’290’s patent family—a large patent portfolio that dates back roughly 19 years. The Petition’s reuse of art already considered during prosecution also weighs in favor of discretionary denial. Discretionary Denial is further warranted by the Petition’s weak grounds, the lack of an intervening change in the law, and public health and national security interests.

## II. FACTUAL BACKGROUND

### A. Brief Overview of SitNet’s Technology

Nearly two decades ago, the inventors, including several affiliated with The Weather Channel in Atlanta, Georgia, began using networking and

telecommunications equipment to address issues relating to weather and safety. In particular, mobile applications were developed to enable devices capable of determining a user's location to receive highly pertinent information related to situations and events that could impact them (positively or negatively). Ex. 2001 ¶22.

The inventors describe a system in which an event or "situation" serves as the basis for dynamically creating a situational network that interconnects users and entities for the purpose of distributing situation-specific information and coordinating responses. As described in the specification, such situations include weather-related emergencies, such as hurricanes and associated evacuation scenarios, in which targeted notifications, preparedness information, and resource availability may be communicated to different affected parties. The disclosure further contemplates that the same situational-network framework may be applied to other emergent events requiring rapid, controlled information sharing, including security-related incidents, such as airplane crashes, or public health crises. Ex. 1001 at 4:29-44. This situational network system identifies and interconnects parties that are potentially impacted by an event or situation, allowing them to acknowledge their safety, communicate with one another, and receive information items related to the event or situation. Ex. 2001 ¶23.

The situational network forms a subset network within a larger network, allowing for increased efficiency and faster response times when interconnecting the parties within the subset network when compared to conventional network architectures. At the time of its invention, the situational network represented an unconventional architecture, implementing a dynamic connection between users which improved upon then-conventional network architectures that were only capable of maintaining static connections of users. Ex. 2001 ¶24.

To further this pioneering work, the inventors filed provisional patent application number 60/887,843 on February 2, 2007. Ex. 1001 at (60). Since then, numerous patent applications have been filed based on that original provisional application, resulting in a considerable portfolio of patents that includes the '290 Patent. *See* Ex. 2005; Ex. 2001 ¶25.

## **B. The Parallel Litigation**

On July 28, 2025, Patent Owner filed a complaint for patent infringement against Petitioner in the Southern District of New York (the “Parallel Litigation”), including the '290 Patent and other patents belonging to Patent Owner. Ex. 2001 ¶1.

On November 7, 2025, to streamline the Parallel Litigation, Patent Owner filed an amended complaint removing the '290 Patent from the Parallel Litigation. Ex. 2002 ¶1; Ex. 2003 ¶1 (showing redlined edits from original complaint).

### III. ARGUMENT

#### **A. Institution Would Be An Inefficient Use Of USPTO Resources As The '290 Patent Has Been Dropped From Parallel Litigation**

Patent Owner dropped the '290 Patent from the Parallel Litigation over two months ago. In fact, Patent Owner filed its amended complaint removing the '290 Patent just one day after the Petition was filed. Ex. 2002 ¶1, pg. 61; Ex. 2003 ¶1, pg. 64; Pet. at 90. Yet Petitioner has not withdrawn its petition for IPR, even though the '290 Patent will not be addressed further in the Parallel Litigation. This has already resulted in a substantial waste of resources for the Board and Patent Owner in proceeding through the pre-institution process. Instituting a full IPR trial on a patent that is not at issue in the Parallel Litigation, or any other litigation, would only further waste the Board's and Patent Owner's limited resources.

The Office has repeatedly held that “it is an inefficient use of Board resources to review claims of a patent that will not be further addressed in the district court trial involving the parties.” *Coretronic Corp. v. Maxell, Ltd.*, IPR2025-00941, Paper 10 at 3 (Director Sept. 26, 2025) (denying institution where challenged patent was “no longer assert[ed] ... in the parallel district court proceeding”); *see also Sportradar AG v. SportsCastr Inc. d/b/a PANDA Interactive*, IPR2025-00313, Paper 19 at 2 (Director July 16, 2025) (similar); *SAP Am., Inc. v. Valtrus Innovations Ltd.*, IPR2025-00415, Paper 10 at 2-3 (Director July 10, 2025) (similar); *Roche Diabetes*

*Care, Inc. v. Trividia Health, Inc.*, IPR2025-00553, Paper 10 at 2 (Director July 29, 2025) (denying institution where parties stipulated to non-infringement of challenged patent).

For this reason alone, the Director should exercise his discretion to deny institution.

**B. Other Considerations Also Support Discretionary Denial**

The Patent Office’s March 26, 2025 memorandum detailed numerous considerations relevant to discretionary denial. *See* Interim Processes for PTAB Workload Management Memorandum (“Memorandum”). These considerations further support discretionary denial of the Petition.

1. Patent Owner Has Strong Settled Expectations

The ’290 Patent issued October 30, 2018—over 7 years ago—creating strong settled expectations. The Office frequently denies institution based on such settled expectations, even when related litigation does not favor denial. For example, in one case the Director exercised discretion to deny institution even though related district court trial scheduled four months after projected final written decision date when the challenged patent had been in force “for seven years, creating strong settled expectations, and Petitioner does not provide any persuasive reasoning why an *inter partes* review is an appropriate use of Board resources under these circumstances.” *SmartSky Networks LLC v. Gogo Bus. Aviation LLC*, IPR2025-00672, Paper 10 at 2

(Director July 31, 2025) (citing *Dabico Airport Sols. Inc. v. AXA Power ApS*, IPR2025-00408, Paper 21 at 2–3 (Director June 18, 2025)); *see also Kahoot! AS v. Interstellar Inc.*, IPR2025-00696, Paper 12 at 2 (Director July 31, 2025) (denying petition challenging 6-year-old patent despite stay in related litigation); *OnePlus Technology (Shenzhen) Co., Ltd. v. Pantech Corp.*, IPR2025-00637, Paper 17 at 2 (Director Aug. 14, 2025) (denying petition challenging 7-year-old patent even though district court vacated scheduled trial date in related litigation).

Furthermore, the '290's patent family dates back roughly 19 years to a provisional application filed Feb. 2, 2007. Ex. 1001 at (60). This patent family includes over 30 patent applications which have resulted, so far, in over two dozen issued patents—many of which have been in force for over 14 years. *See e.g.*, Ex. 2004 at (45); Ex. 2005. The diligence and expenditure of resources in obtaining, and maintaining, patent protection for almost two decades represents a substantial investment in SitNet's technology, further supporting discretionary denial.

Petitioner has known, or should have known, about SitNet's patents, including the '290 Patent for quite some time. On July 9, 2012, Petitioner Meta (operating as "Facebook, Inc.") filed a patent application that resulted in U.S. Patent No. 9,412,136, entitled Creation of Real-time Conversations Based on Social Location Information, which issued on August 9, 2016. Ex. 2006 at pg. 1. During the prosecution of Meta's patent, the examiner cited SitNet's U.S. Patent No. 8,045,455,

which shares the same priority application and substantially identical figures and specification with the '290 Patent. Ex. 2006 at (56) (citing U.S. Patent No. 8,045,455 to Agronow); *compare* Ex. 2007 at Figs. 1-45, 1:29-32:67 *with* Ex. 1001 at Figs. 1-45, 1:56-34:7. Petitioner's longstanding knowledge of the '290's patent family further warrants discretionary denial. *See Aquestive Therapeutics, Inc. f/k/a MonoSol Rx, LLC v. Iono Pharma, LLC*, IPR2025-00874, Paper 11 at 2 (Director Oct. 3, 2025) (petitioner's knowledge of 2016 provisional application and 2018 PCT publication that eventually resulted in 2021 patent-at-issue favored discretionary denial).

SitNet's settled expectations in the '290 Patent are even further strengthened by the fact that Meta challenged *other* SitNet patents two years ago, but chose to *not challenge* the '290 Patent. In fact, on February 27, 2024, Meta filed a petition challenging SitNet's U.S. Patent 9,877,345, which Meta contends is "nearly identical" to the '290 Patent. Pet. at 2; Ex. 1028 at 1, 84. Yet despite the alleged similarity, Meta chose not to challenge the '290 Patent until after it completed a full IPR trial involving the '345 Patent. This delay in challenging the '290 Patent only further strengthens SitNet's settled expectations.

Therefore, SitNet has developed strong settled expectations in the '290 patent warranting discretionary denial.

2. The Petition's Use Of Art That Was Before The Examiner  
Warrants Denial Under 325(d).

The Petition's recycling of art that was before the Examiner further supports discretionary denial. 35 U.S.C. § 325(d).

The two-part *Advanced Bionics* test is clearly met here. *Advanced Bionics, LLC v. MED-EL Elektromedizinische Geräte GmbH*, IPR2019-01469, Paper 6 at 8-10 (PTAB Feb. 13, 2020) (precedential) ("*Advanced Bionics*").

The first part of *Advanced Bionics* considers "whether the same or substantially the same art previously was presented to the Office." *Advanced Bionics* at 8. This is plainly the case here for Shida, Petitioner's lead reference in Grounds 4-6. Pet. at 13; Ex. 1006 (Shida). Shida was identified in an IDS initialed by the Examiner and appears on the face of the '290 Patent. Ex. 1002 at 7 (IDS listing Shida, U.S. Patent App. Pub. No. 2003/0162557), 164 (Examiner certifying he considered Shida); Ex. 1001 at (56). "Challenging the claims using the same prior art that was previously presented on an IDS is sufficient to satisfy the first part of the *Advanced Bionics* framework." *Ecto World, LLC v. RAI Strategic Holdings, Inc.*, IPR2024-01280, Paper 13 at 4 (Director May 19, 2025) (precedential) ("*Ecto World*"). Accordingly, the first part of the *Advanced Bionics* test is satisfied.

The second part of *Advanced Bionics* considers "whether the petitioner has demonstrated that the Office erred in a manner material to the patentability of

challenged claims.” *Advanced Bionics* at 8. The Director and Board have consistently recognized that it is “Petitioner’s burden to demonstrate material error.” *Ecto World* at 6 n.2; *see also id.* at 5 (“a petitioner must explain ... how the Examiner erred in overlooking the prior art”); *Advanced Bionics* at 8-9 (If the first part of the *Advanced Bionics* framework is satisfied, “the Director generally will exercise discretion not to institute *inter partes* review” if “the petitioner fails to make a showing of material error.”); *Intel Corp. v. InterDigital, Inc.*, IPR2024-01441, Paper 13 at 17 (PTAB Apr. 1, 2025) (“Petitioner bears the burden of demonstrating material error”). Yet even though Shida was plainly considered by the Examiner, Petitioner does not even allege that the Examiner made any “error,” much less a “material” one as required by *Advanced Bionics*. *See generally* Pet. Petitioner cannot meet its burden with silence.

Thus, § 325(d) further supports discretionary denial.

### 3. The Petition’s Weak Grounds Favor Discretionary Denial

The Petition’s grounds are fatally flawed and do not establish a reasonable likelihood of invalidating any of the claims, as will be explained in Patent Owner’s forthcoming preliminary response. Memorandum at 2 (noting relevant considerations for discretionary denial include “[t]he strength of the unpatentability challenge.”). This provides yet another reason to discretionarily deny the Petition.

4. No Change In The Law That Would Affect Patentability

Patent Owner is not aware of any change in the law that would affect the patentability of the claims. Memorandum at 2 (noting relevant considerations for discretionary denial include “[w]hether the PTAB or another forum has already adjudicated the validity or patentability of the challenged patent claims.”). Nor has Petitioner identified any such legal authority. *See generally* Pet.

5. Public Health and National Security Interest Favor Discretionary Denial.

The inventors of the '290 Patent, and its related patents, created a system to help Americans in times of crisis, such as natural disasters, airplane crashes, public health crises, and other emergency situations. Ex. 1001 at 4:61-5:4; Ex. 2001 ¶¶21-22. They filed for patent protection as part of their development effort to bring this life-saving technology to the real world, and committed considerable resources into developing their patent portfolio. Allowing anyone, much less one of the ten largest companies in the world, to challenge these issued patents nearly two decades after the inventors started the patent process would only dissuade others from investing their time and resources to innovate in the areas of public health and national security.

Such a loss of innovation would be detrimental to the nation's public health and security interests, further supporting discretionary denial of this Petition.

Memorandum at 2 (listing “[c]ompelling economic, public health, or national security interests” as a relevant consideration).

#### IV. CONCLUSION

For the foregoing reasons, Patent Owner requests that the Director exercise his discretion to deny institution of the Petition.

Dated: January 20, 2026

Respectfully submitted by,

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the following documents were  
served by electronic service on the date signed below:

**PATENT OWNER SITNET LLC'S DISCRETIONARY DENIAL BRIEF  
EXHIBITS 2001-2006**

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