

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

META PLATFORMS, INC.,
Petitioner

v.

SITNET, LLC,
Patent Owner

Case IPR2026-00111
U.S. Patent No. 12,238,815

**PETITIONER'S OPPOSITION TO PATENT OWNER'S
DISCRETIONARY DENIAL BRIEF**

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PETITIONER'S EXHIBIT LIST

Exhibit No.	Description
1001	U.S. Patent No. 12,238,815 to Cona et al., issued February 25, 2025 (“the ’815 patent”)
1002	Prosecution History of U.S. Patent No. 12,238,815 (“’815 File History”)
1003	Declaration of Dr. Bernard Jansen
1004	<i>Curriculum Vitae of Dr. Bernard Jansen</i>
1005	U.S. Patent No. 7,747,648 B1 to Kraft et al. (“Kraft”)
1006	U.S. Patent Publication No. 2005/0033615 A1 to Nguyen et al. (“Nguyen”)
1007	U.S. Publication No. 2008/0103784 A1 to Wong et al. (“Wong”)
1008	U.S. Publication No. 2007/0233635 to Burfeind et al. (“Burfeind”)
1009	U.S. Publication No. 2006/0270419 to Crowley et al. (“Crowley”)
1010	U.S. Publication No. 2007/0281690 to Altman et al. (“Altman”)
1011	U.S. Patent No. 8,024,330 to Franco <i>et al.</i> (“Franco”)
1012	U.S. Publication No. 2006/0047825 to Steenstra <i>et al.</i> (Steenstra”)
1013	U.S. Publication No. 2003/0197615 to Roche <i>et al.</i> (“Roche”)
1014	U.S. Patent No. 8,346,864 B1 to Amidon <i>et al.</i> (“Amidon”)
1015	Boyd & Ellison, <i>Social Network Sites: Definition, History, and Scholarship</i> , Journal of Computer-Mediated Communication, 13 (2008) pp. 210-230.
1016	U.S. Patent Application Publication No. 2007/0194938 to Mitchell (“Mitchell”)
1017	U.S. Publication No. 2003/0162557 to Shida (“Shida”)
1018	November 26, 2006 Wikipedia page “Social network” (from web.archive.org) (accessed Jan. 24, 2024)
1019	Adamic & Adar, <i>How to Search a Social Network</i> , SOCIAL NETWORKS 27, 187-203 (2005), accessed at https://www.cs.toronto.edu/~bor/303s19/docs/adamic-adar.pdf

Exhibit No.	Description
1020	Caroline Haythornthwaite, <i>Social Networks and Internet Connectivity Effects</i> , INFORMATION, COMMUNICATION & SOCIETY 125-147 (2005), accessed at https://www.dhi.ac.uk/san/waysofbeing/data/communication-zangana-haythornthwaite-2005.pdf
1021	Andrew Turner, <i>Introduction to Neogeography</i> 36-37 (2006).
1022	Gary Rivlin, <i>Friendster, Love and Money</i> , N.Y. TIMES (Jan. 24, 2005), https://www.nytimes.com/2005/01/24/technology/friendster-love-and-money.html
1023	<i>Myspace Events</i> , MYSPACE, (from web.archive.org) (accessed Nov. 5, 2025)
1024	Alex Williams, <i>MySpace: A Site with 26 Million 'Friends'</i> , N.Y. TIMES (Sept. 1, 2005), https://www.nytimes.com/2005/09/01/technology/myspace-a-site-with-26-million-friends.html .
1025	Theodora Stites, <i>Someone to Watch Over Me (on a Google Map)</i> , N.Y. TIMES (July 9, 2006), https://www.nytimes.com/2006/07/09/fashion/sundaystyles/someone-to-watch-over-me-on-a-google-map.html
1026	Amanda Lenhart & Mary Madden, <i>Social Networking Websites and Teens</i> , PEW RSCH. CTR. (Jan. 7, 2007), https://www.pewresearch.org/internet/2007/01/07/social-networking-websites-and-teens/
1027	Janet Kornblum, <i>Teens Hang Out at MySpace</i> , USA TODAY (Jan. 8, 2006) (from web.archive.org) (accessed Nov. 3, 2025)
1028	<i>Subset</i> , DICTIONARY.COM, https://www.dictionary.com/browse/subset (accessed Nov. 3, 2025)
1029	Joseph T. Plummer, <i>The Concept and Application of Life Segmentation</i> , 38 J. MKTG. 1, 33-37 (Jan. 1974)
1030	<i>Meta Platforms, Inc. v. SitNet LLC</i> , IPR2024-00529, Final Written Decision, Paper 33 (P.T.A.B. Sept. 8, 2025).

Exhibit No.	Description
1031	<i>Meta Platforms, Inc. v. SitNet, LLC</i> , IPR2024-00530, Final Written Decision, Paper 30 (PTAB September 8, 2025)
1032	Claim Construction Order in <i>SitNet LLC v. Meta Platforms, Inc.</i> , Case No. 1:23-cv-06389-AS (SDNY) (Dkt. 79) filed July 26, 2024
1033	A Systematic Review on Search Engine Advertising
1034	U.S. Publication No. 2006/0272012 to Wu (“Wu”)
1035	U.S. Patent No. 6,910,077 to Najork (“Najork”)
1036	Best Computer Science Scientists - Data Sources for the 11th Edition of the Research.com Best Computer Science Scientists Ranking (Page 14) https://research.com/scientists-rankings/computer-science?page=14
1037	<i>Meta Platforms, Inc. v. SitNet, LLC</i> , IPR2024-00538, Order Granting Request for Adverse Judgment, Paper 23 (PTAB Apr. 18, 2025)
1038	<i>Meta Platforms, Inc. v. SitNet, LLC</i> , IPR2024-00612, Final Written Decision, Paper 26 (PTAB Sept. 8, 2025)
1039	<i>Meta Platforms, Inc. v. SitNet, LLC</i> , IPR2024-00531, Final Written Decision, Paper 9 (PTAB Sept. 8, 2025)
1040	<i>Meta Platforms, Inc. v. SitNet, LLC</i> , IPR2024-00528, Preliminary Guidance, Paper 21 (PTAB Mar. 25, 2025)
1041	<i>Meta Platforms, Inc. v. SitNet, LLC</i> , IPR2024-00529, Preliminary Guidance, Paper 20 (PTAB Mar. 25, 2025)
1042	<i>Meta Platforms, Inc. v. SitNet, LLC</i> , IPR2024-00530, Preliminary Guidance, Paper 20 (PTAB Mar. 24, 2025)
1043	U.S. Patent No. 8,332,454 to Cona et al.
1044	U.S. Patent No. 11,470,682 to Cona et al.
1045	<i>Meta Platforms, Inc. v. SitNet, LLC</i> , IPR2024-00528, Motion for Adverse Judgement, Paper 22 (PTAB Apr. 9, 2025)
1046	<i>Meta Platforms, Inc. v. SitNet, LLC</i> , IPR2024-00529, Motion for Adverse Judgement, Paper 22 (PTAB Apr. 9, 2025)

Exhibit No.	Description
1047	U.S. Patent No. 7,711,475 to Cona et al.
1048	Assignment Records of Provisional Application No. 60/887,843
1049	Docket Navigator Search for “Parties: begins Resource Consortium Limited,” accessed at https://search.docketnavigator.com/patent/binder/0/0?print=true
1050	Docket Navigator Search for “Parties: begins SitNet,” accessed at https://search.docketnavigator.com/patent/binder/0/0?print=true
1051	Docket Navigator Search for SDNY Motion Success Stay Pending IPR, accessed at https://search.docketnavigator.com/patent/binder/0/0?print=true
1052	<i>Meta Platforms, Inc. v. SitNet, LLC</i> , IPR2024-00528, Patent Owner’s Motion to Amend and Request for Preliminary Guidance, Paper 14 (PTAB Dec. 4, 2024)
1053	<i>Meta Platforms, Inc. v. SitNet, LLC</i> , IPR2024-00529, Patent Owner’s Motion to Amend and Request for Preliminary Guidance, Paper 13 (PTAB Dec. 4, 2024)
1054	<i>Meta Platforms, Inc. v. SitNet, LLC</i> , IPR2024-00530, Patent Owner’s Motion to Amend and Request for Preliminary Guidance, Paper 13 (PTAB Dec. 3, 2024)
1055	<i>SitNet LLC v. Meta Platforms, Inc.</i> , Case No. 1:25-cv-06185, Scheduling Order (S.D.N.Y. Nov. 4, 2025)
1056	Time to Trial Statistics

I. INTRODUCTION

The Director should institute this IPR because discretionary and non-discretionary considerations strongly favor review. *First*, the '815 patent issued in February 2025, and SitNet has not developed settled expectations. Instead, the PTAB's invalidation of related patents indicates that the '815 patent claims are “highly vulnerable to invalidation based on prior art,”¹ and that SitNet had every reason to expect a meritorious challenge before the PTAB. Further, there is no evidence of licensing or commercialization, nor is there a history of enforcement of the '815 patent or other patents in the family prior to SitNet's campaign against Meta. The settled expectations of the parties thus favor institution.

Second, review is needed to correct material Office error. The Board determined all challenged claims of four related patents were unpatentable over much of the same art asserted here, yet the examiner issued the '815 patent claims without a single prior-art rejection, and without any discussion of the prior IPRs. It was material error for the Office to do so. And this material error dooms SitNet's arguments under 35 U.S.C. § 325(d).

Third, the *Fintiv* factors—which SitNet does not even address—favor

¹ *POSCO Co., Ltd. v. ArcelorMittal*, IPR2025-00370, Paper 10 at 2-3 (PTAB June 25, 2025).

consideration of the merits of Meta’s Petition. Trial in the co-pending district-court litigation is likely to occur more than a year after the Final Written Decision (FWD), there has been minimal investment in that proceeding, Meta’s *Sotera* stipulation will prevent duplicate efforts and inconsistent results, and the merits of the Petition are particularly strong.

For each of the foregoing reasons, the Director should institute review.

II. BACKGROUND

Meta has already successfully challenged the patentability of four patents in the ’815 patent’s family. SitNet asserted the four related patents in a prior case, *SitNet LLC v. Meta Platforms, Inc.*, Case No. 1:23-cv-06389 (S.D.N.Y.) (“*SitNet I*”), filed July 24, 2023. Meta filed IPR petitions, Pet., 77, and in each proceeding the Board canceled all challenged claims.² EX1030; EX1031; EX1037; EX1038; EX1039. SitNet filed Motions to Amend (MTA) in three of the proceedings; the Board provided Preliminary Guidance that there was a reasonable likelihood the proposed amended claims were unpatentable. EX1040; EX1041; EX1042. SitNet

² IPR2024-00528, IPR2024-00529, IPR2024-00530, IPR2024-00531, IPR2024-00612 (“*SitNet I* IPRs”). The FWDs in the -529IPR, the -530IPR, and the -612IPR are on appeal to the Federal Circuit (case numbers 26-1157, 26-1158, and 26-1159).

then withdrew two of the MTAs and requested adverse judgement as to the claims sought to be amended in those proceedings, which the PTAB granted. EX1037, 3; EX1030, 41-42; EX1045; EX1046. The Board denied SitNet's remaining MTA. EX1031, 49-82 (finding the proposed substitute claims unpatentable under §§ 101, 103).

While the *SitNet I* IPRs were ongoing, SitNet continued to prosecute additional patents in the family, including the '815 patent, which issued on February 25, 2025, after the *SitNet I* IPRs were instituted. SitNet subsequently asserted the '815 patent against Meta, along with five additional patents in the same family, in *SitNet LLC v. Meta Platforms, Inc.*, Case No. 1:25-cv-06185 (S.D.N.Y.) ("*SitNet II*"), filed July 28, 2025. Pet., 76; Paper 4, 1. Meta has filed petitions for *inter partes* review of the other five patents asserted in *SitNet II*.³ See Pet., 76-77.

III. SETTLED EXPECTATIONS OF THE PARTIES WEIGH AGAINST DISCRETIONARY DENIAL.

SitNet does not have settled expectations regarding the '815 patent, which issued only 9 months before Meta filed this Petition. Instead, Meta has settled expectations in the unpatentability of the '815 patent, given Meta's entirely

³ SitNet has since amended the complaint in the SDNY *SitNet II* proceeding to remove the '290 patent. See DD Br., 3.

successful prior challenges of four of the '815 patent's family members. Moreover, despite SitNet's claim to have diligently obtained and maintained patent protection for "almost two decades," DD Br., 10, SitNet *never asserted* any patent in the family prior to SitNet's July 2023 complaint in *SitNet I*.

A. This Petition is an early challenge to the '815 patent.

"Early challenges to patents favor robust, predictable patent rights and weigh against discretionary denial." *Straumann USA, LLC v. Smart Denture Conversions, LLC*, IPR2025-00956, Paper 11 at 2 (PTAB Sept. 19, 2025). Challenges to patents that have been in force for less than six years are considered "[e]arly challenges" because patent owners typically have not developed settled expectations within this timeframe. *See, e.g., OnePlus Tech. (Shenzhen) Co. v. Pantech Corp.*, IPR2025-00756, Paper 11 at 2 (PTAB Oct. 3, 2025); *Berkshire Hathaway Energy Co. v. Birchtech Corp.*, IPR2025-00274 et al., Paper 23 at 3 (PTAB July 2, 2025); *Shenzen Tuozhu Tech. Co. v. Stratasys, Inc.*, IPR2025-00438 et al., Paper 10 at 2 (PTAB July 17, 2025). The '815 patent issued on February 25, 2025, and was in force for less than a year at the time Meta filed its Petition on November 12, 2025. Accordingly, Meta's early challenge favors consideration of the merits by the Director.

B. SitNet could not have settled expectations given the history of invalidity in the family.

The Board's previous FWDs in the *SitNet I* IPRs held that all challenged

claims of four related patents were unpatentable, indicating that the claims of the '815 patent are “highly vulnerable to invalidation based on prior art.” *POSCO*, IPR2025-00370, Paper 10 at 2-3. As in *Arm Ltd. v. Deadalus Prime LLC*, where the Acting Director determined circumstances favored merits consideration, here also “the Board already has determined that ‘substantially identical claims’ in a related patent to the challenged patent are unpatentable based on one [or more] of the prior art references asserted in this proceeding.” IPR2025-00207, Paper 14 at 2-3 (PTAB Aug. 6, 2025); *see also Mercedes-Benz Group AG v. The Phelan Group, LLC*, IPR2025-00919, Paper 8 at 2 (PTAB Sept. 12, 2025) (favoring merits consideration where a “challenged patent in [an earlier instituted IPR] has similar claims to those challenged in these proceedings and the [earlier IPR] petition relies on prior art similar to the prior art raised in these Petitions”); *Nintendo Co., Ltd. v. Resonant Systems, Inc.*, IPR2025-00680, Paper 18 at 3 (PTAB Aug. 14, 2025) (favoring merits consideration where “in an *inter partes* review of a [related] patent ... , the Board has determined claims that are substantially similar to the challenged claims to be unpatentable”).

The '815 patent claims are substantively similar to those that the Board, in the *SitNet I* IPRs, already found to be unpatentable in view of many of the same references that Meta relies upon here. For example, the '815 patent recites “establishing, by at least one an event node server, an **event node** associated with

an event.” EX1001, 34:48-49⁴. U.S. Patent No. 8,332,454 (challenged in the -529IPR) similarly recites “creating, by an event node server, an **event node** ... corresponding to a situation.” EX1043, 33:21-23. In the -529IPR, the Board found that it would have been obvious to include a new node, i.e., an “event node” in Wong, based on the asserted references’ (there, Wong and Gogic) “collective[] suggest[ion of] a node to provide certain users with information related to an event, ... notwithstanding that the references do not individually use the same terminology as the challenged claims, i.e., ‘event node.’” EX1030, 39; *see id.*, 37-41. Here, in Ground 2, the Wong-Burfeind combination likewise suggests “a new node related to the event ... would be useful in Wong’s social network to facilitate event-related communication in the social network,” Pet., 45, in particular “provid[ing] to event participants ... information pertaining to the event.” EX1008, ¶131; *see* Pet., 44-46, 52-58.

As another example, the ’815 patent recites “transmitting ... respective **requests to connect** to the event node to the **second subset of user devices [selected based on respective distances** of devices of the second subset of user devices **from the event]**, wherein each **respective request to connect is in a form of roll calls.**” EX1001, 35:3-12. U.S. Patent No. 11,470,682 (challenged in the -

⁴ Emphasis added unless otherwise noted.

531IPR) similarly recites “a roll call list that includes status responses to **roll call queries** that were provided to the **second plurality of user devices [identified based on the second plurality of user devices being geographically proximate to the situation]** in order to solicit the status responses.” EX1044, 34:31-38. In the - 531IPR, the Board found that the Burfeind-Crowley combination taught these limitations. EX1039, 25-27. Here, in Ground 2, the Petition makes the same showing. *See* Pet., 46-48, 59-62.

SitNet argues that it has settled expectations with respect to the ’815 patent because Meta “has known, or should have known, about SitNet’s patents, including the ’815 Patent for quite some time.” DD Br., 11. This argument makes no sense. Meta could not have known about the ’815 patent prior to its existence. Indeed, the application resulting in the ’815 patent was not even filed until April 18, 2024.⁵ Once the patent did issue, Meta had every reason to expect it was

⁵ SitNet’s citation to *Aquestive* is inapposite. DD Br., 11. In *Aquestive*, the petitioner’s prior knowledge was of the publication of the PCT patent application that matured into the challenged patent. *Aquestive Therapeutics, Inc. v. Iono Pharma, LLC*, IPR2025-00874, Paper 11 at 2 (PTAB Oct. 3, 2025). Further, additional factors (not present here) favored denial, including that the petitioner had sought to purchase the challenged patent three years before the IPR. *Id.*

unpatentable in light of the results of the *SitNet I* IPRs. The similarity of the claims at issue here to those found unpatentable in prior IPRs, in view of the same references asserted here, favors institution of the Petition.

C. There is no evidence of licensing or commercialization, nor is there a history of enforcement of the patent family prior to SitNet’s litigation against Meta.

Institution is also warranted in light of the absence of any other circumstances that give rise to settled expectations. Unlike in the cases SitNet cites, there is no evidence that its patents have been licensed or otherwise commercialized. *See, e.g.*, DD Br., 10 (*citing Alliance Laundry Sys., LLC v. PayRange LLC*, IPR2025-00950, Paper 11 at 3 (PTAB Sept. 19, 2025)). Nor does SitNet assert or offer evidence that the ’815 patent has been “commercialized, asserted, marked, licensed, or otherwise applied.”⁶ *Shenzen*, IPR2025-00438, Paper 10 at 3 (quoting *Intel Corp. v. Proxense LLC*, IPR2025-00327, Paper 12 at 2–3 (PTAB June 26, 2025)).

⁶ Indeed, as SitNet notes, many patents have issued in the family since the first patent in the family issued on May 4, 2010. *See* DD Br., 10; EX2005; EX1047, (45). But neither SitNet, nor the prior assignee, Resource Consortium Limited, asserted *any* of these patents before the *SitNet I* district court proceeding. *See* EX1048; EX1049; EX1050.

SitNet claims its purported “diligence and expenditure of resources in obtaining, and maintaining, patent protection for almost two decades” gave it settled expectations in the validity of its new patents. DD Br., 10. Not so. When petitioners have challenged both more recent and older related patents, *all have been referred*, confirming patent owners do not have settled expectations in recently issued patents based solely on the existence of older patents in the family. *See, e.g., Padagis US LLC v. Neurelis, Inc.*, IPR2025-00464, Paper 12 at 3-4 (PTAB July 16, 2025) (informative); *Embody, Inc. v. LifeNet Health*, IPR2025-00248, Paper 13 at 3 (PTAB June 26, 2025).

For these reasons, the settled expectations of the parties weigh in favor of merits consideration here.

IV. REVIEW IS NEEDED TO CORRECT MATERIAL OFFICE ERROR.

Where a “Petitioner appears to show a material error by the Office, ... it is an appropriate use of Office resources to review the potential error.” *Ascentcare Dental Products, Inc. v. Solmetex, LLC*, IPR2025-01104, Paper 11 at 3 (PTAB Oct. 17, 2025). Here, it was material error for the Office to issue the ’815 patent over the art asserted in the *SitNet I* IPRs.⁷ The ’815 patent claims are substantively

⁷ Contrary to SitNet’s suggestion, DD Br., 8-9, Meta had no obligation to present examiner error arguments in the Petition. Indeed, the Office’s guidance

similar to the claims held unpatentable in the *SitNet I* IPRs, *see* Section III.B, and the examiner thus erred by allowing the '815 patent in view of the prior art asserted here.

A. The Office erred in issuing the '815 patent claims in view of the *SitNet I* IPRs and the art asserted therein.

The examiner's only rejections during prosecution were nonstatutory double-patenting rejections over other patents and applications in the '815 patent family. EX1002, 403-409. While the examiner marked as "considered" an IDS listing the *SitNet I* IPRs, as well as the respective Petitions "& Exhibits," *see* EX1002, 340-372, 375-388 (listing Wong, Burfeind, Crowley); *see also* EX1001, (56), the "patent examiner did not apply any art or reference during prosecution, despite the existence of PTAB proceedings of related patents that could impact the challenged claims." *Alliance Laundry Systems, LLC v. PayRange LLC*, IPR2025-00573, Paper 9 at 2 (PTAB July 17, 2025) (referring for merits consideration). The examiner's failure to do so was clear error given the similarity between the subject

instructs otherwise. *See* Interim Process (available at

<https://www.uspto.gov/patents/ptab/interim-director-discretionary-process>),

Sections I.C ("The petitioner and the patent owner should not present discretionary considerations in the petition or the Patent Owner Preliminary Response (POPR), respectively."); III.A ("The petition should *not* address discretionary issues.")

matter of the *SitNet I* and *SitNet II* patents—evidenced at least by the examiner’s double-patenting rejection of the ’815 patent in view of the ’454 patent asserted in *SitNet I*. EX1002, 407. The notice of allowance does not explain the examiner’s decision not to apply the prior art from the *SitNet I* IPRs, as it includes no statement of reasons for allowance. EX1002, 437-438. Reviewing this material error is an appropriate use of Office resources. *Ascentcare*, IPR2025-01104, Paper 11 at 3.

B. The Petition should not be denied under § 325(d).

SitNet argues that “[i]nstitution should be denied due to the Petition’s recycling of art that was before the Examiner.” DD Br., 4. But § 325(d) and the *Advanced Bionics* framework do not mandate denial where the same art or arguments are presented. Instead, *Advanced Bionics* explicitly instructs that if the same art or arguments were previously presented to the Office, then the Board considers “whether the petitioner has demonstrated that the Office erred in a manner material to the patentability of challenged claims.” *Advanced Bionics LLC v. Med-El Elektromedizinische Geräte GMBH*, IPR2019-01469, Paper 6 at 8-9 (PTAB Feb. 13, 2020) (precedential)

Although the art asserted in Grounds 2 and 3 (namely, Wong, Burfeind, and Crowley) is cited on the face of the ’815 patent, it was clear error for the examiner to allow the claims over these references. *See* Sections III.B, IV.A. The best

evidence of this error is the *SitNet I* FWDs. The Board found all challenged claims unpatentable in those proceedings, yet the examiner did not discuss the *SitNet I* IPRs or explain why the '815 patent claims are allowable over the asserted art. Where “the record of the Office’s previous consideration of the art is not well developed or silent, then a petitioner may show the Office erred by overlooking something persuasive under [*Becton Dickinson*] factors (e) and (f).”). *Advanced Bionics*, IPR2019-01469, Paper 6 at 10. As explained in the Petition, the Wong-Burfeind-Crowley combination renders obvious the majority of claims (with Altman relied upon for two dependent claims). *See* Pet., 40-76. The examiner’s lack of fulsome consideration of these references, particularly in view of the *SitNet I* IPRs, is material error that must be corrected.

Further, the primary reference of Ground 1 (Kraft) was *not* previously presented to the Office with respect to the '815 patent. Indeed, SitNet acknowledges that Kraft was only “considered by the same Examiner during the prosecution of a *related* patent,” DD Br., 6, a continuation application prosecuted *after* allowance of the '815 patent claims.⁸ *See* EX2009, 212 ('052 patent IDS filed Mar. 25, 2025); EX1001, (45) ('815 patent issued on Feb. 25, 2025).

⁸ Allowance of the '052 patent in view of Kraft was also in error. *See* IPR2026-00113 Petition (Paper 1), 7-37.

Further, even assuming Kraft had been presented to the Office, the examiner erred in allowing the '815 patent claims over the Kraft-Nguyen-Altman combination. *See* Pet., 7-40. As further evidence of the strength of the Petition's merits in Ground 1, in the *SitNet I* IPRs, SitNet filed Motions to Amend that added an "event node" to claims which did not already recite such a feature. *See*, EX1052; EX1053; EX1054. In its Preliminary Guidance, the panel agreed with Meta that Kraft taught the claimed "event node." EX1040, 15-16; EX1041, 11-12, 13-14; EX1042, 12-13. The examiner's failure to consider Kraft, particularly in view of the *SitNet I* IPRs, is material error that must be corrected.

Review of the '815 patent is warranted, and necessary, in view of the examiner's material error in allowing the claims, without explanation, over the same prior art the Board previously determined to render unpatentable similar claims issuing from the '815 patent's priority applications.

V. *FINTIV* FAVORS CONSIDERATION OF THE MERITS.

All of the *Fintiv* discretionary factors strongly weigh in favor of consideration of the merits. *See Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11 at 5-6 (PTAB Mar. 20, 2020) (precedential) ("*Fintiv*"). SitNet provides no evidence or argument to the contrary. In fact, SitNet does not even address *Fintiv*.

A. Factor 1 weighs against denial because there is evidence the district court will enter a stay if this IPR is instituted.

Factor 1 weighs in favor of considering the merits of Meta's Petition

because the district court is highly likely to grant a stay. The United States District Court for the Southern District of New York grants almost 85% of requests to stay pending IPR or PGR. EX1051.

B. Factor 2 strongly weighs against denial because the Board will enter a final FWD more than a year before the district court trial.

Factor 2 strongly weighs in favor of consideration of the merits. The projected statutory deadline for issuing a FWD in this IPR is May 25, 2027. Although a trial date has not yet been set in the parallel district court litigation, it will certainly occur well after May 25, 2027; the last deadline in the Scheduling Order, for the filing of the joint pretrial order in advance of the pretrial conference, is almost a month later. EX1055. Further, assuming the 36.4-month median time-to-trial statistics in the SDNY holds here, trial would not be expected until mid-August 2028. EX1056, 11. Thus, the Board will likely issue its FWD more than *a year before* any district court trial.

C. Factor 3 strongly weighs against denial because Meta was diligent in filing this IPR and there has been little investment in the district court litigation.

Factor 3 favors consideration of the merits because the parties and the court have not made significant investment in the SDNY litigation and Meta was diligent in filing this IPR. The district court is in the very early stages. The deadline for the completion of fact discovery is a year away, and the expert discovery cut-off 15 months away. EX1055. Claim-construction disclosures and briefing have not

begun. *cf. Fintiv*, Paper 11 at 9-10 (explaining that the issuance of “district court claim construction orders may indicate that the court and parties have invested sufficient time in the parallel proceeding to favor denial”). Investment in the case has thus far been minimal.

Further, Meta filed this IPR expeditiously—a mere four months after SitNet filed its complaint on July 28, 2025. The minimal investment and Meta’s diligence weigh in favor of consideration of the merits. *Fintiv*, 10-12.

D. Factor 4 weighs against denial because Meta submitted a *Sotera* stipulation.

Factor 4 favors consideration of the merits. Meta timely filed a *Sotera* stipulation (Paper 6), which “mitigates any concerns of duplicative efforts between the district court and the Board, as well as concerns of potentially conflicting decisions.” *Sotera Wireless, Inc. v. Masimo Corp.*, IPR2020-01019, Paper 12 at 19 (PTAB Dec. 1, 2020) (precedential as to § II.A).

The circumstances here are distinguishable from cases where a *Sotera* stipulation was found insufficient to ensure the IPR would be a true alternative to district court. For example, in *Motorola*, there was significant investment in the parallel proceeding and a trial date eleven months *prior* to the projected FWD date. *Motorola Sols., Inc. v. Stellar, LLC*, IPR2024-01205, Paper 19 at 3-4 (PTAB Mar. 28, 2025) (Stewart). Likewise, in *Cisco*, the district court had not granted a stay, and the likely trial date was three months before the Board’s projected FWD date.

Cisco Sys., Inc v. WSOU Invs. LLC, IPR2025-00188, Paper 14 at 3 (PTAB Aug. 22, 2025). Here, the FWD will issue well *more than a year before* the projected trial date, the district court is likely to grant a stay, and the case just began. Thus, this factor weighs against denial.

E. Factor 5 weighs against denial where, as here, the Board will enter a FWD before trial in the district court.

This factor weighs in favor of consideration of the merits because the parties in the parallel litigation are the same and the Board will reach its determination before the district court. *See BOE Tech. Grp. Co., Ltd. v. Optronix Scis. LLC*, IPR2024-01130, Paper 16 at 13 (PTAB Jan. 27, 2025) (noting weight of factor 5 depends on which tribunal is likely to reach a decision first); *NVIDIA Corp. v. InvenSense Corp.*, IPR2020-00603, Paper 11 at 23 (PTAB Sept. 3, 2020) (factor 5 weighs against denial where Board is likely to reach a FWD first).

F. Factor 6 weighs against denial because the merits of the challenge are strong.

The Office made a material error in issuing the '815 patent. *See* Section IV. The Petition presents strong challenges that clearly establish the claims at issue are unpatentable. Indeed, the Board determined claims substantially similar to the '815 patent claims were unpatentable over some of the same art presented in the Petition. *See* Section III.B. Accordingly, this factor weighs in favor of consideration of the merits.

G. Considered as a whole, the *Fintiv* factors strongly weigh against denial of institution.

In sum, all six of the *Fintiv* factors weigh against discretionary denial and, thus, in favor of the Director considering the Petition’s merits.

VI. THE PTAB IS THE MOST EFFICIENT FORUM TO DETERMINE VALIDITY OF THE ’815 PATENT AND RELATED IPRS.

Meta has filed IPR challenges for all six of the patents. Five of the patents issued less than two years ago:

Patent (IPR)	Patent Issue Date
10,117,290 (IPR2026-00100)	October 30, 2018
12,120,769 (IPR2026-00110)	October 15, 2024
12,238,815 (IPR2026-00111)	February 25, 2025
12,245,325 (IPR2026-00101)	March 4, 2025
12,256,463 (IPR2026-00112)	March 18, 2025
12,336,052 (IPR2026-00113)	June 17, 2025

Thus, a significant majority of Meta’s challenges are “early challenges,” which weighs against discretionary denial. *See, e.g., OnePlus Tech.*, IPR2025-00756, Paper 11 at 2. Further, the PTAB is the most efficient, and fastest, forum to resolve the parties’ dispute: the six patents are related and have similar claims, at least some of the prior art overlaps across all six IPRs, and the projected date for the PTAB to issue its FWDs is more than a year before the district court trial date. This also weighs against discretionary denial.

Although SitNet dropped the ’290 patent from their district court complaint a day after Meta filed its IPR challenging that patent, DD Br., 3, the Director

should consider this related patent because of the overlap in technology and prior art. Review would be warranted even if SitNet had developed settled expectations in this patent (it has not): where a patent owner has no settled expectations in five of six challenged patents, the PTAB is still the more efficient forum to address the validity of all six related patents. *See Padagis*, IPR2025-00464, Paper 12 (where two patents were challenged early, and the third patent was part of same family, it was an efficient use of Board resources to address the related patent); *Embody*, IPR2025-00248, Paper 13 at 3 (it would be “an efficient use of Board resources” to review the older parent patent along with the child (issued in 2022)). Efficiency weighs in favor of the Director considering the merits of all six of the related challenges.

VII. SITNET’S OTHER ARGUMENTS DO NOT FAVOR DENIAL.

SitNet’s remaining arguments are conclusory and do not support discretionary denial. *See* DD Br., 12-13. *First*, the Petition’s merits are strong. *Second*, a change in law is not required to justify review; instead, this is just one factor that *may* support review, typically for older patents for which the patent owner’s expectations might otherwise be settled. *See, e.g., Top Glory Trading Group Inc. v. Cole Haan LLC*, IPR2025-01395, Paper 18 (PTAB Jan. 12, 2026) (declining to discretionarily deny a patent issued in 2016 because of a change in the obviousness standard for design patents). Here, Meta’s early challenge favors

merits consideration regardless of whether the law has changed. *See* Section III.A.

Third, SitNet argues that allowing a challenge to the '815 patent “would be detrimental to the nation’s public health and security interests.” DD Br., 12-13. But such generic arguments are insufficient. *See Intel Corp. v. Advanced Cluster Sys., Inc.*, IPR2025-00794, Paper 13 at 3 (PTAB Aug. 14, 2025) (denying institution where the petitioner did not “explain in sufficient detail why review of the challenged patents is in the interest of national security”).

VIII. CONCLUSION

The Director should deny SitNet’s request to discretionarily deny this IPR and should institute review of the challenged claims.

Respectfully submitted,

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

I certify that the above-captioned **PETITIONER'S OPPOSITION TO
PATENT OWNER'S DISCRETIONARY DENIAL BRIEF** and associated
Exhibits 1037-1056 were served in their entireties on February 25, 2026, upon the
following parties via electronic mail:

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