

RECORD OF ORAL HEARING

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

SAP AMERICA, INC.  
Petitioner,

v.

VERSATA DEVELOPMENT GROUP, INC.  
Patent Owner.

---

Case CBM2012-00001 (MPT)  
Patent 6,553,350

---

Before SALLY C. MEDLEY, MICHAEL P. TIERNEY, and RAMA G.  
ELLURU, Administrative Patent Judges.

APPEARANCES:

ON BEHALF OF THE PETITIONER:

ERIKA H. ARNER, ESQUIRE  
Finnegan Henderson Farabow Garrett & Dunner, LLP  
Two Freedom Square, 11955 Freedom Drive  
Reston, Virginia 20190-5675

1 ON BEHALF OF THE PATENT OWNER:

2 MARTIN M. ZOLTICK, ESQUIRE

1 Rothwell Figg Ernst & Manbeck, PC  
2 607 14<sup>th</sup> Street, NW, Suite 800  
3 Washington, DC 20005  
4  
5

6 The above-entitled matter came on for hearing on Wednesday, April  
7 17, 2013, commencing at 2:05 p.m., at the U.S. Patent and Trademark  
8 Office, 600 Dulany Street, Alexandria, Virginia.  
9

10 P R O C E E D I N G S

11 - - - - -

12 JUDGE TIERNEY: Welcome, everyone, for the  
13 hearing for Covered Business Method, CBM2012-00001. Today,  
14 the issue -- the parties have requested a hearing. The issue  
15 they've requested a hearing on is 35 U.S.C. 101, on the  
16 patentability of Versata claims and related issues. Based on  
17 consultation with the parties, the Board is giving one hour to  
18 each party. Each party may reserve time for rebuttal. There will  
19 be one hour total time today.

20 The Petitioner bears the ultimate burden of proof for  
21 today's hearing, and we will have the Petitioner go first.

22 Petitioner, if you could introduce yourself and the  
23 accompanying representatives.

24 MS. ARNER: Yes, it's Erika Arner for Petitioner  
25 SAP. I'm here with backup counsel Steve Baughman, and co-  
26 counsel, Joe Palys.

27 JUDGE TIERNEY: Thank you. Patent Owner, if you  
28 could introduce yourself and your accompanying representatives.

1 MR. ZOLTICK: Yes, I'm Marty Zoltick for Versata  
2 Development Group, Patent Owner. With me is Nancy Linck and  
3 Derek Dahlgren and Brian Rosenbloom.

4 JUDGE TIERNEY: Welcome. So, Petitioner, when  
5 you're ready, please begin.

6 MS. ARNER: I'd like to reserve 30 minutes for  
7 rebuttal, please.

8 May it please the Board, this post-grant review  
9 proceeding involves Covered Business Method Patent Number  
10 6553350. The 350 Patent describes a way to determine a price  
11 for a product using customer and product hierarchies.

12 The Patent explains that the inventor did not invent  
13 the idea of pricing based on customer and product data. Instead,  
14 the Patent includes Figures 1 and 2, labeled prior art, that lists  
15 customers under the column heading who, and products under the  
16 row what, along with price data. In Figure 1, the Patent explains  
17 we have product prices. In Figure 2, we have volume discounts.

18 Likewise, the inventor did not invent computer  
19 pricing systems. Instead the Patent describes prior art pricing  
20 systems by Oracle and SAP. And the Patent Owner has recently  
21 explained that the use of hierarchical organizations for customers  
22 and products was "ubiquitous" at the time of the invention.

23 JUDGE TIERNEY: Ms. Arner, if you could identify  
24 the demonstrative you're looking at for the purpose of the record.

1 MS. ARNER: Yes. So, turning to slide 3, the  
2 inventor also did not -- the Patent also does not describe any  
3 advance in computer technology. Instead, the Patent repeatedly  
4 explains that the invention may be implemented on any  
5 conventional or general purpose computer system. The Patent  
6 includes a Figure 3, which is a computer system diagram, but the  
7 specification explains that the computer system is described for  
8 purposes of example only, and that the present invention may be  
9 implemented in any type of computer system or programming or  
10 processing environment.

11 The claims recite the words data source, but the  
12 specification explains that the invention can be implemented  
13 using any data source, that may be different even from a  
14 conventional database.

15 In the related litigation, the Patent Owner has again  
16 affirmed that the claims do not require extant data structures, but  
17 rather cover the capability of executing a pricing procedure using  
18 hierarchical arrangements of customer and product data. The  
19 fact that databases are not covered is confirmed by the fact that  
20 the claims do not recite the words database, nor do they recite  
21 database tables or queries, runtime, execution flow, computer  
22 screens for the invention, or a number of database tables or  
23 queries. None of these terms appear in the challenged claims.

24 JUDGE TIERNEY: Why don't we stop there and tell  
25 us what do the claims encompass.

1 MS. ARNER: So, turning to the claims, they describe  
2 two ideas. The idea of arranging customers and products into  
3 hierarchies. And the Patent specification explains it's a  
4 who/what paradigm. And Figure 5 of the Patent shows these  
5 customer and product hierarchies where the customers and  
6 products that were listed in the prior art figures 1 and 2 are  
7 reorganized here into hierarchies of customers or purchasing  
8 organizations under the label who, and into product hierarchies  
9 under the label what. And the Patent explains that these  
10 groupings into customer and product hierarchies are entirely  
11 arbitrary and determined by a user.

12 The other idea that the claims cover is the idea of  
13 pricing a calculation to price products using pricing information  
14 or price adjustments, they're called here on slide 8, to refer to  
15 the hierarchical arrangements of customers and products.

16 So, turning now to the claim language itself on slide  
17 9, the claim 17 is a method claim, and it recites these two ideas.  
18 The ideas of arranging a hierarchy of customers and products,  
19 and then the calculation of a product price using pricing  
20 information that is associated with the customer or  
21 organizational groups and product groups.

22 The other two independent claims under review,  
23 likewise, describe the use of customer and product hierarchies,  
24 and the process of calculating a price that is determined using

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.