

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

SAP AMERICA, INC. ET AL.

Petitioner

v.

Patent of VERSATA DEVELOPMENT GROUP, INC.

Patent Owner

---

Case CBM2012-00001

Patent 6,553,350

---

**PATENT OWNER VERSATA'S REQUEST FOR REHEARING**

Mail Stop PATENT BOARD  
Patent Trial and Appeal Board  
U.S. Patent & Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

## **TABLE OF CONTENTS**

TABLE OF AUTHORITIES .....	iii
EXHIBIT LIST .....	vi
I. PRELIMINARY STATEMENT .....	1
II. STATEMENT OF THE PRECISE RELIEF REQUESTED .....	1
III. STATEMENT OF REASONS WHY THE RELIEF REQUESTED SHOULD BE GRANTED .....	2
A. The '350 Patent Is Not A Covered Business Method Patent .....	2
B. Claim and Issue Preclusion Bar The Review Initiated By SAP .....	4
C. 35 U.S.C. § 101 Is Not A Permissible Ground For Review .....	5
D. The Broadest Reasonable Interpretation Is Not the Correct Standard For Claim Construction In Review Proceedings .....	6
E. Even Assuming BRI Applied, The Board's Claim Constructions Are Unreasonable .....	11
F. The '350 Patent Claims Patent Eligible Subject Matter .....	12
IV. CONCLUSION.....	15

## TABLE OF AUTHORITIES

### Cases

<i>CLS Bank Int'l v. Alice Corp. Pty,</i> No. 2011-1301, 2013 U.S. App. LEXIS 9493 (Fed. Cir. May 10, 2013) .....	5, 6
<i>Diamond v. Diehr,</i> 450 U.S. 175 (1981).....	6, 14
<i>Gottschalk v. Benson,</i> 409 U.S. 63 (1972).....	12
<i>In re Alappat,</i> 33 F.3d 1526 (Fed. Cir. 1994) .....	14
<i>In re Skvorecz,</i> 580 F.3d 1262 (Fed. Cir. 2009) .....	6
<i>Markman v. Westview Instr.,</i> 517 U.S. 370 (1996).....	10
<i>Nasalok Coating Corp. v. Nylok Corp.,</i> 522 F.3d 1320 (Fed. Cir. 2008) .....	5
<i>Nat'l Org. of Veterans' Advocates, Inc. v. Sec'y of Veterans Affairs,</i> 260 F.3d 1365 (Fed. ....)	10
<i>Phillips v. AHW Corp.,</i> 415 F.3d 1303 (Fed. Cir. 2005) .....	8
<i>Tafas v. Doll,</i> 559 F.3d 1345 (Fed. Cir. 2009) .....	8
<i>Ultramercial, Inc. v. Hulu, LLC,</i> No. 2010-1544, 2013 U.S. App. LEXIS 12715 (Fed. Cir. June 21, 2013).....	12, 13, 14
<i>Decision, Motion to Amend, Idle Free Sys., Inc. v. Bergstrom, Inc.</i> IPR2012-00027 (JL), paper 26 (June 11, 2013) at 7 (Exh. 2105) .....	8, 9

...

## **Statutes**

35 U.S.C. § 101 .....	passim
35 U.S.C. § 145 .....	11
35 U.S.C. § 146 .....	11
35 U.S.C. § 2(b)(2) .....	7, 8
35 U.S.C. § 2(b)(2)(A) .....	7
35 U.S.C. § 282 .....	6
35 U.S.C. § 282(b)(2) .....	5
35 U.S.C. § 305 .....	9
35 U.S.C. § 321(b) .....	5
35 U.S.C. § 326 .....	7
35 U.S.C. § 326(d) .....	9
35 U.S.C. § 326(e) .....	9
5 U.S.C. § 701 .....	10
5 U.S.C. § 702 .....	10
5 U.S.C. § 703 .....	10
5 U.S.C. § 704 .....	10
5 U.S.C. § 705 .....	10
5 U.S.C. § 706 .....	10
§ 18, Leahy-Smith America Invents Act .....	2, 3, 4, 7

## **Other Authorities**

Patent Quality Improvement Act of 2013, Senate 866, 113th Congress § 1 (2013-2014) (proposed legislation) .....	4
---	---

..

Restatement 2d of Judgments, § 22 .....	5
---	---

## **Rules**

37 C.F.R. § 42.207(a).....	2
37 C.F.R. § 42.22(a)(3).....	9
37 C.F.R. § 42.220 .....	2
37 C.F.R. § 42.221 .....	9
37 C.F.R. § 42.300(b) .....	7
37 C.F.R. § 42.71(d) .....	1, 2

# 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.