UNITED STATES PATENT AND TRADEMARK OFFICE
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BEFORE THE PATENT TRIAL AND APPEAL BOARD
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VOLUSION, INC.
Petitioner

v.

VERSATA DEVELOPMENT
GROUP, INC.
Patent Owner

AND

VERSATA SOFTWARE, INC.
Real Party-In-Interest
_____

Case CBM2013-00017
Patent 6,834,282)

_____

**PATENT OWNER'S MOTION TO AMEND
PURSUANT TO 37 C.F.R. § 42.221**

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I. First Motion to Amend; Proper Scope; Reasonable Number of Substitutes (37 C.F.R. § 42.221(a))

Pursuant to 35 U.S.C. § 326(d) and 37 C.F.R. § 42.221, and contingent upon a Board determination that original claim 1-3, 5, 6, 11-13, 15, or 16 of Patent No. 6,834,282 ("the '282 patent") is invalid under 35 U.S.C. § 101, Patent Owner hereby moves to amend by way of one-for-one substitute claims 24-33. Specifically, substitute claims 24-28 are contingent on adverse decision as to claims 1. Substitute claim 29 is contingent on adverse decision as to claim 11; claim 30 as to claim 12; claim 31 as to claim 13; claim 32 as to claim 15; and claim 33 as to claim 16. This Motion to Amend is responsive to the sole ground of unpatentability (§ 101) authorized in this proceeding.[1]

II. Content (§ 42.221(b))

Pursuant to 37 C.F.R. § 42.221(b) and consistent with the Office Patent Trial Practice Guide, Part II, Section G, 77 FR 48766-67, Patent Owner includes a claim listing that clearly shows changes being sought by way of substitute claims 24-33. For each substitute, changes relative to the original claim are noted.

A. Claim Listing

Claims 1-3: (replaced by proposed substitute); **Claim 4**: (original); **Claims 5 and**

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[1] The Board's Order entered Dec. 20, 2013 (Paper No. 19) requires a separate showing of a patentable distinction over prior art known to Patent Owner, despite the institution of trial on § 101 only. As Patent Owner respectfully believes such a requirement is extra-statutory and extra-regulatory, the instant Motion does not include such a showing, as further detailed in Patent Owner's Motion for Reconsideration filed Jan. 3, 2014 (Paper No. 20).

6: (replaced by proposed substitute); **Claims 7-10**: (original); **Claims 11-13**: (replaced by proposed substitute); **Claim 14**: (original); **Claims 15 and 16**: (replaced by proposed substitute); **Claims 17-23**: (original);

Claim 24: (proposed substitute for original claim 1) A <u>system comprising:</u>

<u>an application server; and</u>

<u>a browse</u> hierarchy <u>used by the application server</u> for representing<u>, and</u> <u>specifying a hierarchically-defined organization of</u> a plurality of items stored in a database, said <u>browse</u> hierarchy comprising:

a plurality of nodes <u>stored in non-transitory storage accessible to the</u> <u>application server and</u> each representative of a subset of the items <u>stored in the</u> <u>database, the nodes together specifying an aggregation of constraints and operative</u> <u>in the application server to, for a particular browse activated one of the nodes,</u> <u>derive a query executable to return particular ones of the items stored in the</u> <u>database</u>; and wherein:

each of the nodes is a child of one other node, except for a root <u>one of the</u> <u>nodes</u>, which is a child of no other <u>one of the</u> node<u>s</u> and is an ancestor of all of the nodes <u>of the browse hierarchy</u>;

a first portion of the nodes <u>of the browse hierarchy that</u> each specify one or more <u>of the</u> constraints defining a scope of the <u>corresponding</u> subset of <u>the</u> items

stored in the database represented by each node of the first portion relative to their respective parent node; and

a second portion of the nodes of the browse hierarchy that specify no constraints, each of the nodes of the second portion instead establishing a logical grouping defining a scope of the subset of the items stored in the database represented by each respective node of the second portion.

Claim 25: (proposed substitute for original claim 2) The system, including the browse hierarchy, of claim [[1]] 24 wherein the nodes of the second portion of the browse hierarchy that instead establish respective logical groupings, in turn have one or more child nodes, each representative of some further constraint defined subset portion of the subset of the items that are logically grouped.

Claim 26: (proposed substitute for original claim 3) The system, including the browse hierarchy, of claim [[1]] 24 wherein the scope of the items represented by each browse activated one of the nodes is constrained by [[an]] the aggregation of any constraints specified by the particular browse activated node and all of its ancestors.

Claim 27: (proposed substitute for original claim 5) The system, including the browse hierarchy, of claim [[4]] 26 wherein the aggregation of constraints comprises formulation of a search rule from which the application server derives and communicates to the database the executable query and thereby retrieves and

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