

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

VOLUSION, INC.
Petitioner

v.

VERSATA SOFTWARE, INC. AND
VERSATA DEVELOPMENT GROUP, INC.
Patent Owner

Case CBM2013-00017
U.S. Patent No. 6,834,282 B1

Before HOWARD B. BLANKENSHIP, SALLY C. MEDLEY, and
KEVIN F. TURNER, *Administrative Patent Judges*.

PETITIONER VOLUSION, INC.'S REPLY
TO PATENT OWNER'S RESPONSE

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Cases

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Other Authorities

37 C.F.R. § 42.242

37 C.F.R. § 42.62

LIST OF EXHIBITS

Exhibit 1016:	Transcript of the March 10, 2014 Deposition of Scott Nettles
Exhibit 1017:	Declaration of Philip Greenspun in Support of Petitioner's Reply to Patent Owner Response
Exhibit 1018:	Declaration of Philip Greenspun in Support of Petitioner's Opposition to Motion to Amend
Exhibit 1019:	Plaintiffs' Proposed Claim Constructions, <i>Versata Software, Inc., et al. v. Volusion, Inc.</i> , Civil Action No. 1:12-cv-893-SS (W.D. Tex.), served June 17, 2013
Exhibit 1020:	Greenspun Demonstrative A
Exhibit 1021:	Greenspun Demonstrative B
Exhibit 1022:	Greenspun Demonstrative C
Exhibit 1023:	Curriculum Vitae of Philip Greenspun

I. INTRODUCTION

Patent Owner's Response fails to refute Petitioner's showing that claims 1-20 of U.S. Patent No. 6,834,282 ("the '282 Patent") are unpatentable under 35 U.S.C. § 101. Instead, the Response is based on legal, factual, and procedural errors. First, Patent Owner fails to even address half of the challenged claims of the '282 Patent and then misstates the explicit language of the claims it does address. Moreover, Patent Owner's arguments depend exclusively on the adoption of Patent Owner's flawed claim construction of "hierarchy" which is contrary to the record evidence, including the testimony of Patent Owner's own expert.

Further, the opinions of Patent Owner's expert are not credible because he analyzes an overly-broad abstract idea he himself defines in an attempt to salvage the claims at issue. In doing so, Patent Owner's expert fails to provide any analysis relevant to the question before the Board. Patent Owner's expert also fails to address a key part of the patentability inquiry under Section 101 – determining if the limitations are more than well-known or routine pre- or post-solution activity.

Finally, in an attempt to circumvent the Board's page limit requirements, throughout its Response, Patent Owner incorporates by reference arguments contained solely in the declaration of its expert. Such use of a declaration to circumvent the rules is improper. *Blackberry Corp.. v. MobileMedia Ideas LLC*, IPR2013-0016, 2014 WL 824372, at *11 (P.T.A.B. Feb. 25, 2014) ("incorporation

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