

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

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Cases CBM2013-00017 (Patent 6,834,282 B1)  
CBM2013-00018 (Patent 7,426,481 B1)<sup>1</sup>

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

MEDLEY, *Administrative Patent Judge*.

ORDER  
Trial Hearing  
*35 U.S.C. § 326(a)(10)*

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<sup>1</sup> This order addresses similar issues in the two cases. Therefore, we exercise discretion to issue one order to be filed in each case. The parties, however, are not authorized to use this style of heading in subsequent papers.

CBM2013-00017 (Patent 6,834,282)

CBM2013-00018 (Patent 7,426,481)

Both parties request a hearing in both cases pursuant to 37 C.F.R. § 42.70. The requests are *granted*.

Each party will have forty-five (45) minutes total time per case to present arguments. Petitioner will proceed first to present its case with respect to the challenged claims and grounds for which the Board instituted trial in CBM2013-00017. Petitioner may reserve some of its argument time, both for rebuttal and for responding to Patent Owner's presentation on Patent Owner's motion to amend claims.

Thereafter, Patent Owner will respond to Petitioner's presentation and may present its motion to amend claims. In that regard, note that the Patent Owner bears the burden of proof with regard to the proposed substitute claims. The Patent Owner may reserve some of its argument time for rebuttal, to respond to Petitioner's opposing presentation on Patent Owner's motion to amend claims.

The same process will be repeated for CBM2013-00018.

The parties have brought to our attention, in each case, the issue of whether an opponent's reply and evidence are proper under 37 C.F.R. § 42.23(b). *See, e.g.*, CBM2013-00017, Papers 36 and 41 (item 3). The record is clear, in both cases, that this is an issue of concern for both parties. The parties have not been authorized to file papers explaining the merits of their respective positions regarding whether an opponent's reply is proper under 37 C.F.R. § 42.23(b) (*see, e.g.*, CBM2013-00017, Paper 36), nor will the panel hear new arguments regarding whether an opponent's reply is proper under 37 C.F.R. § 42.23(b). Thus, the parties are not authorized to discuss, during the hearing, whether an opponent's reply is proper under 37 C.F.R. § 42.23(b).

CBM2013-00017 (Patent 6,834,282)

CBM2013-00018 (Patent 7,426,481)

The hearing for these cases will commence at 1:00 PM Eastern Time, on May 28, 2014, and it will be open to the public for in-person attendance, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia. In-person attendance will be accommodated on a first-come first-served basis.

The Board will provide a court reporter for the hearing and the reporter's transcript will constitute the official record of the hearing.

Under 37 C.F.R. § 42.70(b), demonstrative exhibits must be served five business days prior to the hearing. They shall be filed at the Board two business days prior to the hearing, and the parties must initiate a conference call with the Board by two business days prior to the hearing to resolve any dispute over the propriety of each party's demonstrative exhibits. The parties are directed to *CBS Interactive Inc. v. Helferich Patent Licensing, LLC*, IPR2013-00033, Paper 118 (October 23, 2013), regarding the appropriate content of demonstrative exhibits.

The Board expects lead counsel for each party to be present at hearing, although any backup counsel may make the actual presentation, in whole or in part. If any lead counsel will not be in attendance at hearing, the Board should be notified via a joint telephone conference call no later than two days prior to the hearing to discuss the matter.

CBM2013-00017 (Patent 6,834,282)

CBM2013-00018 (Patent 7,426,481)

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