

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)  
CBM2013-00018 (Patent 7,426,481)<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  
Conduct of the Proceeding  
37 C.F.R. § 42.5

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<sup>1</sup> This order addresses a similar issue 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.

On December 3, 2013, a conference call was held between counsel for the respective parties and Judges Medley, Blankenship, and Turner. The purpose of the call was to discuss Patent Owner's request for an extension of the Scheduling Order Due Dates 1-7, entered October 24, 2013.

Patent Owner requests a one-month extension of Due Date 1 and a two-month extension for each of Due Dates 2-7. Counsel for Patent Owner explained that because of the upcoming holiday weeks, the number of claims involved in each case, and the change in Patent Owner counsel, Patent Owner needs more time to formulate its responses and motions to amend. Counsel for Petitioner indicated that Petitioner did not oppose the request.

The sole issue for trial in each of the two proceedings is whether the claims involved in each proceeding are unpatentable under 35 U.S.C. § 101. As such, a compressed schedule of due dates, which is identical in both proceedings, was initially set. Patent Owner has had notice of the challenges presented in the two proceedings from the time the petitions were filed nearly eight months ago. Counsel for Patent Owner did not present an adequate factual basis to support a good cause showing for extending the Due Dates 1-7 by several months. 37 C.F.R. § 42.5(c)(2). However, the Board understands the complexities of a change in counsel and meeting deadlines the day after December 25<sup>th</sup>. Accordingly, based on the facts of these proceedings, the Board authorizes a two week extension of Due Dates 1-6.

As further discussed, Patent Owner intends to file a motion to amend in each proceeding. The Board and parties agreed to have a conference call to discuss the motions to amend on December 13, 2013.

For all of the above reasons, Patent Owner's request for an extension of time for Due Dates 1-7 is *granted-in-part*.

It is

ORDERED that Patent Owner's request that the Board extend Due Dates 1-7 is *granted-in-part* such that Due Dates 1-6 are extended by two weeks in each of the two proceedings;

FURTHER ORDERED that the modified schedule for both proceedings is attached to this order; and

FURTHER ORDERED that a conference call is scheduled for 2:00 PM ET on December 13, 2013 to discuss any motion to amend Patent Owner intends to file.

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DUE DATE APPENDIX for CBM2013-00017 and CBM2013-00018

DUE DATE 1.....January 9, 2014  
Patent owner’s response to the petition  
Patent owner’s motion to amend the patent

DUE DATE 2.....March 12, 2014  
Petitioner’s reply to patent owner response to petition  
Petitioner’s opposition to motion to amend

DUE DATE 3.....April 9, 2014  
Patent owner’s reply to petitioner opposition to motion to amend

DUE DATE 4.....April 30, 2014  
Petitioner’s motion for observation regarding cross-examination of  
reply witness  
Motion to exclude evidence  
Request for oral argument

DUE DATE 5.....May 14, 2014  
Patent owner’s response to observation  
Opposition to motion to exclude

DUE DATE 6.....May 21, 2014  
Reply to opposition to motion to exclude

DUE DATE 7.....May 28, 2014  
Oral argument (if requested)