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   CALLIDUS SOFTWARE INC.
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10   UNITED STATES DISTRICT COURT
11   NORTHERN DISTRICT OF CALIFORNIA
12   OAKLAND DIVISION
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CALLIDUS SOFTWARE INC., a Delaware corporation,
 	
                Plaintiff,
 	
     vs.
 	
VERSATA SOFTWARE, INC., a Delaware corporation, and
VERSATA DEVELOPMENT GROUP , INC, a Delaware corporation,
 	
                Defendants.
	Case No. CV-12-5337-PJH
	
	DECLARATION OF DEBORAH FISHMAN IN SUPPORT OF STIPULATION AND REQUEST FOR STAY PENDING RULING ON MOTION TO TRANSFER

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1   I, Deborah E. Fishman, declare:

2   1.   I am an attorney licensed to practice law in the State of California and am a partner at

3   Dickstein Shapiro LLP, counsel for Plaintiff Callidus Software Inc. ("Callidus"), in this action.

4   Unless stated on information and belief, I make this declaration based on my own personal

5   knowledge, and if called as a witness, I could and would testify competently to the matters set forth

6   herein.

7   2.   On July 19, 2012, Defendants Versata Software, Inc. and Versata Development

8   Group, Inc. (collectively "Versata") sued Callidus in the District of Delaware alleging infringement

9   by Callidus of U.S. Patent Nos. 7,958,024, 7,908,304, and 7,904,326 ("the Asserted Patents").

10   Attached hereto as Exhibit A is a true and correct copy of the docket in *Versata Software, Inc. v.*

11   *Callidus Software Inc.*, No. 1:12-cv-00931-SLR (D. Del.) (last accessed February 26, 2013).

12   ("Delaware Action").

13   3.   On September 13, 2012, Callidus filed its Motion to Transfer the Delaware Action to

14   the Northern District of California. In its Opposition, Versata requested that the Court deny

15   Callidus's Motion to Transfer, or in the alternative, transfer the Delaware Action to the Western

16   District of Texas. The Motion to Transfer is now fully briefed and awaiting a ruling by the

17   Delaware Court.

18   4.   On October 16, 2012, Callidus filed its Complaint for Declaratory Judgment of Non-

19   Infringement and Invalidity of the Asserted Patents in this Court ("DJ Complaint"). D.N. 1.

20   Callidus filed its DJ Complaint in the Northern District of California because it believes the

21   Northern District is the proper and the most convenient forum to litigate the substance of the

22   Delaware Action and in order to prevent Versata from unilaterally dismissing the Delaware Action

23   and re-filing it in the Western District of Texas before the Delaware court has the opportunity to rule

24   on Callidus's Motion to Transfer. Versata denies that the Northern District of California is the

25   proper and most convenient forum to litigate the substance of the Delaware Action and believes the

26   Delaware Action should remain in Delaware, or in the alternative be transferred to the Western

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1   District of Texas. Callidus served its DJ Complaint on Versata on February 11, 2013. D.N. 11,

2   D.N. 12.

3   5.   This Stipulation and Request for Stay Pending Ruling on Motion to Transfer

4   ("Stipulation") is sought to prevent duplication of efforts between this Court and the District of

5   Delaware Court, and to prevent unnecessary motion practice by the parties. Callidus sought and

6   obtained Versata's consent to file this Stipulation.

7   6.   On February 15, 2013 the parties filed a stipulation and request for the Court to

8   extend the Case Management Conference hearing date. On February 20, 2013 the Court granted the

9   stipulation and request and set the Case Management Conference hearing date for May 30, 2013.

10   D.N. 14.

11   7.   This stay, if granted, would impact all future dates in this case, including Versata's

12   time to file its Answer or otherwise respond to the DJ Complaint.

13   I declare under penalty of perjury under the laws of the United States that the foregoing is

14   true and correct. Executed this 26th day of February, 2013 at Palo Alto, California.

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16   */s/ Deborah E. Fishman*
                                  Deborah E. Fishman

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Exhibit A

U.S. District Court
District of Delaware (Wilmington)
CIVIL DOCKET FOR CASE #: 1:12-cv-00931-SLR

Versata Software Inc. et al v. Callidus Software Inc.   Date Filed: 07/19/2012
Assigned to: Judge Sue L. Robinson   Jury Demand: Plaintiff
Related Case: 1:10-cv-00781-SLR -MPT   Nature of Suit: 830 Patent
Cause: 35:271 Patent Infringement   Jurisdiction: Federal Question

Plaintiff

Versata Software Inc.   represented by **Jack B. Blumenfeld**
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                                                            LEAD ATTORNEY
                                                            ATTORNEY TO BE NOTICED

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Plaintiff

Versata Development Group Inc.   represented by **Jack B. Blumenfeld**
                                                            (See above for address)
                                                            LEAD ATTORNEY
                                                            ATTORNEY TO BE NOTICED

                                                            Julia Heaney
                                                            (See above for address)
                                                            ATTORNEY TO BE NOTICED

V.

Defendant

Callidus Software Inc.   represented by **Arthur G. Connolly , III**
                                                            Connolly Gallagher LLP
                                                            Brandywine Building
                                                            1000 North West Street, 14th Floor

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