

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

VERSATA SOFTWARE, INC. and)
VERSATA DEVELOPMENT GROUP, INC.)
)
Plaintiffs,)
)
v.) C.A. No. 12-931 (SLR)
)
CALLIDUS SOFTWARE, INC.,)
)
Defendant.)

**PLAINTIFFS' NOTICE OF SUBSEQUENT EVENTS RELATING TO
DEFENDANT CALLIDUS SOFTWARE, INC.'S MOTION TO DISMISS**

Plaintiffs Versata Software, Inc. and Versata Development Group, Inc. ("Plaintiffs" or "Versata") submit this Notice of Subsequent Events Relating to Defendant Callidus Software, Inc.'s ("Callidus") Motion to Dismiss Plaintiffs' Complaint for Failure to State a Claim ("Motion to Dismiss") as follows:

On October 16, 2012, Defendant Callidus filed a declaratory judgment action against Versata in the Northern District of California specifically seeking a declaration that it does not directly or indirectly infringe U.S. Patent Nos. 7,958,024 ("the '024 Patent"), 7,908,304 ("the '304 Patent"), and 7,904,326 ("the '326 Patent") (collectively, the "Patents-in-Suit"). *See Ex. A, Callidus Software, Inc. v. Versata Software, Inc. and Versata Development Group, Inc.*, Case No. 12-cv-5337-JSC (D.I. 1.) Callidus's declaratory judgment action in the Northern District of California is essentially a mirror image of the claims Versata filed against it in this Court involving the same Patents-in-Suit, same claims of both direct and indirect infringement, and the same accused products. In its declaratory judgment action, Callidus alleges the existence of an "actual controversy" and prays for a declaration that it has not "directly infringed, contributed to the infringement, or induced the infringement of any claim of the [Patents-in-

Suit]. Without limitation, Callidus's SPM Suite, including Callidus's TrueComp and TrueProducer products do not meet each and every limitation, literally or under the doctrine of equivalents, of any claim of the [Patents-in-Suit]." (*Id.* ¶¶ 9, 11, 15, 19, and Prayer for Relief.)

Callidus has taken the position that an actual and justiciable controversy of sufficient immediacy exists to support a declaration relating to Versata's allegations of both direct and indirect infringement with respect to the accused products specifically identified in Versata's Complaint filed in this Court. Accordingly, Callidus's allegations in its declaratory judgment action against Versata are in direct conflict with the arguments made in Callidus's Motion to Dismiss. Callidus's ability to allege an actual and justiciable controversy as to direct and indirect infringement in its California action shows that Versata's Delaware Complaint provided Callidus with sufficient notice of Versata's claims and their basis.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ Julia Heaney

Jack B. Blumenfeld (#1014)
Julia Heaney (#3052)
1201 North Market Street
P.O. Box 1347
Wilmington, DE 19899-1347
(302) 658-9200
jblumenfeld@mnat.com
jheaney@mnat.com

*Attorneys for Plaintiffs Versata Software, Inc.
and Versata Development Group, Inc.*

OF COUNSEL:

Alan D. Albright
Michael Chibib
Conor M. Civins
Benjamin L. Bernell
BRACEWELL & GIULIANI LLP
111 Congress Avenue, Suite 2300
Austin, TX 78701
(512) 472-7800

November 2, 2012
6638949.1

CERTIFICATE OF SERVICE

I hereby certify that on November 2, 2012, I electronically filed the foregoing with the Clerk of the Court using CM/ECF, which will send notification to the registered attorney(s) of record that the document has been filed and is available for viewing and downloading.

I also certify that copies were caused to be served on November 2, 2012 upon the following in the manner indicated:

BY E-MAIL

Arthur G. Connolly, III
CONNOLLY GALLAGHER LLP
1000 North West Street, Suite 1400
Wilmington, DE 19801
(302) 757-7300
aconnolly@connollygallagher.com

Deborah E. Fishman
Assad H. Rajani
Michael S. Tonkinson
DICKSTEIN SHAPIRO LLP
700 Hansen Way
Palo Alto, CA 94304
fishmand@dicksteinshapiro.com
rajaniam@dicksteinshapiro.com
tonkinsonm@dicksteinshapiro.com

/s/ Julia Heaney
Julia Heaney (#3052)

EXHIBIT A

1 Deborah E. Fishman (Cal. Bar No. 197584)
FishmanD@dicksteinshapiro.com
2 Assad H. Rajani (Cal. Bar No. 251143)
RajaniA@dicksteinshapiro.com
3 DICKSTEIN SHAPIRO LLP
700 Hansen Way
4 Palo Alto, California 94304-1016
Telephone: (650) 690-9500
5 Facsimile: (650) 690-9501

6 Attorney for Plaintiff,
CALLIDUS SOFTWARE INC.

E-filing

7
8
9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA

JSC

11
12 CALLIDUS SOFTWARE INC., a Delaware
13 corporation,

14 Plaintiff,

15 v.

16 VERSATA SOFTWARE, INC., a Delaware
17 corporation, and VERSATA DEVELOPMENT
GROUP, INC., a Delaware corporation,

18 Defendants.
19
20
21
22
23
24
25
26
27
28

Case No. **CV 12 5337**

**COMPLAINT FOR DECLARATORY
JUDGMENT OF PATENT NON-
INFRINGEMENT AND INVALIDITY**

DEMAND FOR JURY TRIAL

DICKSTEIN
SHAPIRO LLP

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.