#### 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-



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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

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November 2, 2012 6638949.1

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#### **CERTIFICATE OF SERVICE**

I hereby certify that on November 2, 2012, I electronically filed the foregoing with

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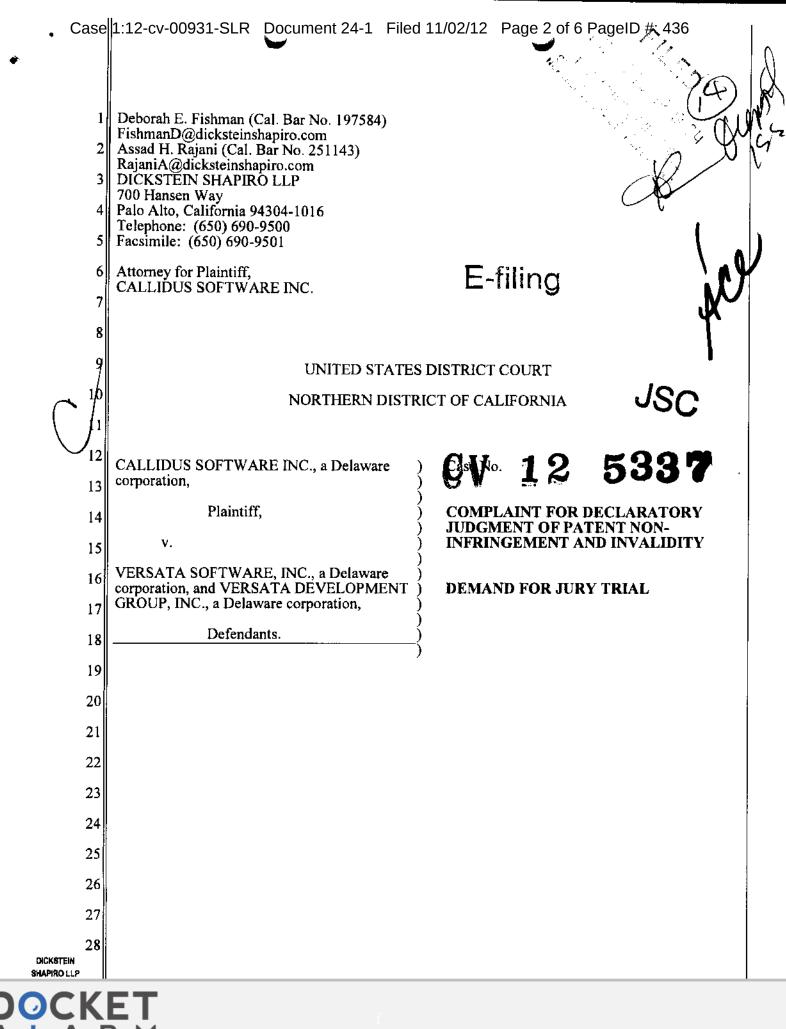
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# EXHIBIT A



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