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10 *Attorneys for Plaintiff*
 11 CALLIDUS SOFTWARE INC.

12 UNITED STATES DISTRICT COURT
 13 NORTHERN DISTRICT OF CALIFORNIA
 14 OAKLAND DIVISION

15 CALLIDUS SOFTWARE INC., a Delaware)
 16 corporation,)
 17)
 18 Plaintiff,)
 19 vs.)
 20)
 21 VERSATA SOFTWARE, INC., a Delaware)
 22 corporation, and)
 23)
 24 VERSATA DEVELOPMENT GROUP , INC, a)
 25 Delaware corporation,)
 26)
 27)
 28 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**

Callidus Ex. 1025
 CBM2013-00053
 Callidus v. Versata

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
27

28

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.

15
16 /s/ Deborah E. Fishman
17 Deborah E. Fishman
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Exhibit A

PATENT

**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.
Assigned to: Judge Sue L. Robinson
Related Case: [1:10-cv-00781-SLR -MPT](#)
Cause: 35:271 Patent Infringement

Date Filed: 07/19/2012
Jury Demand: Plaintiff
Nature of Suit: 830 Patent
Jurisdiction: Federal Question

Plaintiff**Versata Software Inc.**

represented by **Jack B. Blumenfeld**
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Plaintiff**Versata Development Group Inc.**

represented by **Jack B. Blumenfeld**
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ATTORNEY TO BE NOTICED

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

V.

Defendant**Callidus Software Inc.**

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