

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CALLIDUS SOFTWARE INC.
Petitioner

v.

VERSATA DEVELOPMENT GROUP, INC.
Patent Owner

AND

VERSATA SOFTWARE, INC.
Real Party-In-Interest

Case CBM2013-00053
Patent 7,958,024

Filed: August 22, 2014

CORRECTED PETITIONER'S REPLY TO PATENT OWNER RESPONSE

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REGULATIONS

37 C.F.R. § 42.20113

37 C.F.R. §§ 42.30013

37 C.F.R. § 42.30013

I. INTRODUCTION

The Board instituted this CBM Review because it found that “it is more likely than not that Petitioner will prevail in establishing the unpatentability of claims 1, 2, and 35-47 of the ‘024 Patent under 35 U.S.C. § 101 as being directed to non-statutory subject matter.” Institution Decision, Paper No. 16 at 19 (PTAB Mar. 4, 2014) (“ID”). Nothing in the Patent Owner’s Response (“POR”) changes the reasoned and correct conclusions in the Institution Decision.

Alice reaffirmed that claims directed to abstract ideas, without limitations sufficient to tie them down, are patent ineligible. Rather than address this standard, PO concocts its own misguided tests for patent-eligibility that have no basis in precedent and, in fact, run afoul of the holdings in *Alice*, *Bilski*, *Benson*, *Flook*, *Bancorp*, and *CyberSource*.

II. CLAIM CONSTRUCTION

PO provides an alternative claim construction for three terms (“regulatory conditions,” “executing a payment process,” and “generating a selling agreement”) it does not contend are either necessary or even relevant for the Board to construe. As to a fourth term, “using a distributor management system,” PO seeks to inject the express use of a computer into the construction for this term. Of course, even if adopted, the use of a general purpose computer without more does not tie down the abstract idea of the challenged claims. Finally, PO attempts to

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