

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CALLIDUS SOFTWARE INC.
Petitioner

v.

VERSATA SOFTWARE, INC. AND VERSATA DEVELOPMENT
GROUP, INC.
Patent Owner

Case CBM2013-00053
Patent 7,958,024

Filed: September 17, 2013

Before PATRICK E. BAKER, *Trial Paralegal*

**PETITION FOR COVERED BUSINESS METHOD PATENT
REVIEW UNDER 35 U.S.C. § 321 AND §18 OF THE
LEAHY-SMITH AMERICA INVENTS ACT¹**

Pursuant to 35 U.S.C. § 321 and § 18 of the Leahy-Smith America Invents Act (“AIA”) and pursuant to 37 C.F.R. § 42.300 *et seq.*, the undersigned hereby

¹ As directed by the Board in Paper No. 3, Petitioner hereby resubmits its Petition to incorporate mandatory notice information.

requests covered business method (“CBM”) patent review of claims 1, 2, and 35-47 of U.S. Patent 7,958,024 (“the ‘024 patent,” attached as Petition Exhibit 1001), which issued to David Chao et al. on June 7, 2011.

An electronic payment in the amount of \$30,000.00 for the covered business method review fee specified by 37 C.F.R. § 42.15(b)(1) is being paid at the time of filing this petition, charged to deposit account No. 041073.

TABLE OF CONTENTS

	Page No.
I. PRELIMINARY STATEMENT	1
II. MANDATORY NOTICES	4
A..... Real Party-in-Interest	4
B..... Related Matters.....	4
C..... Lead and Back-Up Counsel.....	4
D..... Service Information.....	5
III. GROUNDS FOR STANDING.....	6
A..... Petitioner has Been Sued for Infringement of the ‘024 Patent and is Not Estopped	6
B..... At Least One Challenged Claim is Unpatentable	6
C..... The ‘024 Patent is a CBM Patent.....	6
1. Claims 1, 2, and 35-47 are Directed to Financial Products or Services	7
2. Claims 1, 2, and 35-47 are Not Directed to a “Technological Invention”.....	10
IV. STATEMENT OF PRECISE RELIEF REQUESTED FOR EACH CLAIM CHALLENGED	18
A..... Claims for which Review is Requested	18
B..... Statutory Grounds of Challenge.....	19
V. CLAIM CONSTRUCTION	19
A..... Broadest Reasonable Interpretation	19
B..... Support for Petitioner’s Broadest Reasonable Interpretation	23
1. “Distributor Management System”	23
2. “Regulatory Conditions Applicable to Said Sales” / “Regulatory Conditions Associated with Said Sales”	25
3. “Executing a Payment Process” / “Execute a Payment Process”	27

TABLE OF CONTENTS (con't)

	Page No.
4. “Generating a Selling Agreement” / “Generate a Selling Agreement”	28
5. Means-Plus-Function Claim Terms	29
VI. CLAIMS 1, 2, AND 35-47 OF THE ‘024 PATENT ARE DIRECTED TO NON-PATENTABLE SUBJECT MATTER	30
A.....Inventions Covering Abstract Ideas are Not Eligible for Patent Protections, Regardless of their Form.....	30
B.....Claim 1 of the ‘024 Patent is Directed to an Abstract Idea.....	32
1. Any Computer System Used to Implement the Claimed Method is No More than a General Purpose Computer	37
2. Computing Compensation for Sales Representatives that Conforms with a Set of Regulatory Conditions Can Be Accomplished by Hand.....	41
3. Claim 1 Fails the Machine-or-Transformation Test	45
C.....Claim 40 of the ‘024 Patent is Directed to an Abstract Idea.....	50
D.....Claim 42 of the ‘024 Patent is Directed to an Abstract Idea.....	53
E. Claim 45 of the ‘024 Patent is Directed to an Abstract Idea.....	55
F.Dependent Claims 2, 35-39, 41, 43, 44, 46, and 47 also Define Abstract Ideas that Fail to Tie Down the Claimed Abstract Idea	58
1. Dependent Claims 2, 41, 44, and 47 Add Nothing More Than Insignificant Post-Solution Activity to the Abstract Idea of Independent Claims 1, 40, 42, and 45.	59
2. The Generating Reports Limitations of Dependent Claims 35/38 and 36/ 39 are Also Insignificant Post-Solution Activity.....	61
3. Dependent Claims 37, 43, and 46 Merely Limit the Claims to a Particular Species or Field of Use.....	62
VII. CONCLUSION.....	64

TABLE OF AUTHORITIES

	Page No.
Cases	
<i>Aristocrat Techs. Austl. Pty. Ltd. v. Int’l Game Tech.</i> , 521 F.3d 1328 (Fed. Cir. 2008)	30
<i>Bancorp Servs., L.L.C. v. Sun Life Assurance Co. of Can. (U.S.)</i> , 687 F.3d 1266 (Fed. Cir. 2012)	passim
<i>Bilski v. Kappos</i> , 130 S. Ct. 3218, 3230 (2010)	passim
<i>Blackboard, Inc. v. Desire2Learn Inc.</i> , 574 F.3d 1371 (Fed. Cir. 2009)	30
<i>Clearstream Wastewater Sys., Inc. v. Hydro-Action, Inc.</i> , 206 F.3d 1440, 1446 (Fed. Cir. 2000)	26
<i>CLS Bank Int’l v. Alice Corp. Pty.</i> , 717 F.3d 1341 (Fed. Cir. 2012)	passim
<i>CyberSource Corp. v. Retail Decisions, Inc.</i> , 654 F.3d 1366 (Fed. Cir. 2011)	passim
<i>Diamond v. Diehr</i> , 450 U.S. 175 (1981)	61
<i>Fort Props., Inc. v. Am. Master Lease, LLC</i> , 671 F.3d 1317 (Fed. Cir. 2012)	31, 37, 49
<i>Gottschalk v. Benson</i> , 409 U.S. 63 (1972)	passim
<i>In re Am. Acad. of Sci. Tech Ctr.</i> , 367 F.3d 1359 (Fed. Cir. 2004)	19, 20
<i>In re Grams</i> , 888 F.2d 835 (Fed. Cir. 1989)	53, 57
<i>In re Zletz</i> , 893 F.2d 319 (Fed. Cir. 1989)	20
<i>Inventio AG v. ThyssenKrupp Elevator Ams. Corp.</i> , 649 F.3d 1350 (Fed. Cir. 2011)	21
<i>Mayo Collaboration Servs. v. Prometheus Labs., Inc.</i> , 132 S. Ct. 1289 (2012)	passim

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.