

RECORD OF ORAL HEARING

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

Cases CBM2013-00052 (Patent 7,904,326)
CBM2013-00053 (Patent 7,958,024)
CBM2013-00054 (Patent 7,908,304)

Oral Hearing Held: Wednesday, October 29, 2014

Before: SALLY C. MEDLEY, HOWARD B. BLANKENSHIP, and
KEVIN F. TURNER (via video link), *Administrative Patent Judges*.

The above-entitled matter came on for hearing on Wednesday,
October 29, 2014, at 1:00 p.m., in Hearing Room A, taken at the U.S. Patent
and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

APPEARANCES:

ON BEHALF OF THE PETITIONER:

DEBORAH E. FISHMAN, ESQ.
MICHAEL S. TONKINSON, ESQ.
Dickstein Shapiro LLP
1841 Page Mill Road
Suite 150
Palo Alto, California 94304
650-690-9500

ON BEHALF OF THE PATENT OWNER:

RAGHAV BAJAJ, ESQ.
Haynes and Boone, LLP
600 Congress Avenue
Suite 1300
Austin, Texas 78701-3285
512-867-8520

KENT B. CHAMBERS, ESQ.
Terrile, Cannatti, Chambers & Holland, LLP
8911 N. Capital of Texas Highway
Westech Center, Suite 3150
Austin, Texas 78759
512-338-9100

1 P R O C E E D I N G S

2 (1:00 p.m.)

3 JUDGE MEDLEY: Please be seated. Good
4 afternoon. This is the hearing for CBM2013-00052, 53 and 54
5 between Petitioner, Callidus Software, and Patent Owner,
6 Versata Software and Versata Development Group.

7 At this time we would like the parties to please
8 introduce counsel beginning with Petitioner.

9 MS. FISHMAN: Good afternoon, Your Honor.
10 Deborah Fishman of Dickstein Shapiro on behalf of Petitioner
11 Callidus Software.

12 And with me today is my colleague, Michael
13 Tonkinson, also from Dickstein Shapiro.

14 JUDGE MEDLEY: Thank you. And for Patent
15 Owner?

16 MR. BAJAJ: Raghav Bajaj, Haynes and Boone, for
17 Patent Owner Versata Development Group.

18 MR. CHAMBERS: And Kent Chambers for Patent
19 Owner.

20 JUDGE MEDLEY: Thank you. Per the September
21 24th order, each party will have 30 minutes of total time per case
22 to present arguments for the three cases, with the exception that
23 for the 52 case the parties agree on an additional 10 minutes each
24 in connection with the 325(a) issues.

CBM2013-0052; CBM2013-0053; and CBM2013-0054
Patent Nos. 7,904,326; 7,958,024; and 7,908,304

1 Petitioner will proceed first to present its case with
2 respect to the challenged claims and grounds for which the Board
3 instituted trial for CBM2013-0052.

4 Petitioner, you may reserve some of your argument
5 time for rebuttal. Thereafter, Patent Owner will respond. The
6 same process then will be repeated for the 53 and 54 cases.

7 Any questions before we get started?

8 MR. BAJAJ: I do have a question, Your Honor. It
9 is our understanding that Petitioner bears the burden on all
10 issues. What we are not clear about is whether that includes the
11 standing issue.

12 And if the Patent Owner bears that burden of
13 establishing a lack of standing, then we would request rebuttal
14 time at least on that point at the end of the 52 CBM. I am
15 looking for some guidance on that point.

16 JUDGE MEDLEY: Okay. That's fine. If you want
17 to have some rebuttal time, that's fine, if that's okay with
18 Petitioner.

19 MR. BAJAJ: Thank you, Your Honor.

20 JUDGE MEDLEY: On that issue. Okay. You may
21 proceed.

22 MS. FISHMAN: Thank you, Your Honor. May it
23 please the Board. With respect to CBM2013-0052 regarding
24 Versata's U.S. Patent Number 7,904,326, Petitioners contend that
25 Alice, the Supreme Court's decision in Alice only confirms,

1 further confirms, that the '326 patent claim 1 is unpatentably
2 abstract.

3 If we could look at slide 1.

4 JUDGE MEDLEY: I'm sorry, I didn't ask you. Did
5 you want to reserve rebuttal time, and how much? I can kind of
6 keep an eye on the clock for you.

7 MS. FISHMAN: Thank you, Your Honor. I would
8 like to reserve at least 15 minutes rebuttal time on the main of
9 the argument, and then I would like to reserve all of my time on
10 standing.

11 JUDGE MEDLEY: Okay. So you want to talk
12 about standing in the second part of your argument?

13 MS. FISHMAN: Depending on what -- right. So I
14 will certainly address it in a cursory fashion, but I will reserve
15 most of my time on standing for after Patent Owner has had an
16 opportunity to be heard.

17 JUDGE MEDLEY: Okay. That's fine.

18 MS. FISHMAN: May I proceed?

19 JUDGE MEDLEY: Yes. I'm sorry.

20 MS. FISHMAN: So, Your Honors, it is Petitioner's
21 contention that claim construction is not necessary in order to
22 determine whether or not the claims of the '326 patent are
23 unpatentably abstract.

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.