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 CBM2013-00054
Patent 7,908,304

Filed: August 22, 2014

PETITIONER'S REPLY TO PATENT OWNER RESPONSE

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TABLE OF CONTENTS

Page No.

I. INTRODUCTION 1

II. CLAIM CONSTRUCTION 1

A. ..... "Commission Engine" 2

B. ..... "Selling Agreement" 4

C. ..... "Interface" for Obtaining a Plurality of Business Rules 6

III. CLAIMS 1, 12, AND 32 ARE DIRECTED TO ABSTRACT IDEAS 7

IV. THE REMAINDER OF CLAIMS 1, 12 & 32 DO NOT TRANSFORM THE ABSTRACT IDEAS INTO PATENT-ELIGIBLE CLAIMS 10

V. THE DEPENDENT CLAIMS ARE ALSO DIRECTED TO NON-PATENTABLE SUBJECT MATTER 12

VI. PETITIONER IS NOT BARRED FROM POST-GRANT REVIEW 12

VII. CONCLUSION 15

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TABLE OF AUTHORITIES

Page(s)

CASES

Alice Corp. Pty. Ltd. v. CLS Bank Int'l,
134 S. Ct. 2347 (2014).....passim

Bancorp Servs., L.L.C. v. Sun Life Assur. Co. of Canada (U.S.),
687 F.3d 1266 (Fed. Cir. 2012).....8, 11

Bell Atl. Network Servs. v. Covad Commc'ns Grp., Inc.,
262 F.3d 1258 (Fed. Cir. 2001).....2

Bilski v. Kappos,
130 S. Ct. 3218 (2010).....8

Chevron U.S.A. v. Natural Res. Def. Council,
104 S. Ct. 2778, 467 U.S. 837 (1984).....13

CyberSource Corp v Retail Decisions Inc.,
654 F.3d 1366, 99 U.S.P.Q.2d 1690 (Fed. Cir. 2011).....8, 9, 11, 12

Ethicon Inc. v. Quigg,
849 F.2d 1422 (Fed. Cir. 1988).....13

Liebel-Flarsheim Co. v. Medrad, Inc.,
358 F.3d 898 (Fed. Cir. 2004).....3

Merck & Co., Inc., v. Teva Pharms. USA, Inc.,
395 F.3d 1364 (Fed. Cir. 2005).....2, 5

Princess Cruises, Inc. v. United States,
201 F.3d 1352 (Fed. Cir. 2000).....13

STATUTES

U.S.C. §§ 42.300.....12

35 U.S.C. § 101.....1, 4, 7, 8

35 U.S.C. § 321.....13

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35 U.S.C. § 325 ..... 12, 13, 14

AIA § 18(a)(1)(B) 13

AIA § 18(a)(1)(C)(i) and (ii) 13

AIA § 18(a)(1) 12, 13

REGULATIONS

37 C.F.R. § 42.23 1

37 C.F.R. § 42.201 12

37 C.F.R. § 42.300 ..... 12, 13

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I. INTRODUCTION

The Board instituted this CBM Review because it found that it was "more likely than not that Petitioner would prevail in establishing unpatentability of claims 1, 12-25, 30-32, 42, and 43" under 35 U.S.C. § 101. Institution Decision, Paper No. 19 at 26 (P.T.A.B. Mar. 4, 2014) ("ID"). Nothing in the Patent Owner's Response ("POR") changes the reasoned and correct conclusions of the Board.

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

II. CLAIM CONSTRUCTION

The Board's constructions in the Institution Decision were correct, and should be adopted in the Final Decision.[1] Under the guise of "lexicography," PO's proposed construction of "commission engine" represents an improper attempt to amend claims, not construe them. PO's proposed constructions are unsupported by the claim language or the specification. In any event, since PO proposes even ***broader*** constructions than already-adopted by the Board, these proposed

[1] Indeed, PO does not challenge the Board's constructions of "module," "modules," "backbone," and "engine." POR 16.

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