

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 B2)
CBM2013-00053 (Patent 7,958,024 B2)
CBM2013-00054 (Patent 7,908,304 B2)¹

Before HOWARD B. BLANKENSHIP, SALLY C. MEDLEY, and
KEVIN F. TURNER, *Administrative Patent Judges*.

MEDLEY, *Administrative Patent Judge*.

ORDER
Conduct of the Proceedings
37 C.F.R. § 42.5

¹ This order addresses an issue that is identical in all three cases. Therefore, we exercise discretion to issue one order to be filed in each of the three cases. The parties, however, are not authorized to use this style heading in subsequent papers since doing so may cause confusion.

CASES CBM2013-00052, 00053, 00054
Patents 7,904,326; 7,958,024; 7,908,304

On November 13, 2014, the parties informed the Board the parties have a written settlement agreement settling these proceedings. The parties seek authorization to file a joint motion to terminate the proceedings and to file the settlement agreement.

Upon consideration of the parties' request and information, we authorize the filing of a joint motion to terminate the instant proceedings. The joint motion must include a sufficient explanation as to why termination is appropriate, especially at such a late stage when the record is complete with briefing from the parties, and a trial hearing has been held. The joint motion also must inform the Board of the status of any litigation or proceeding, including, but not limited to, proceedings in the U.S. Patent and Trademark Office, involving any of the involved patents, and advise the Board whether any litigation or proceeding involving any of the involved patents is contemplated in the foreseeable future. Under 35 U.S.C. § 327(a), the Board has the option to terminate the proceeding with respect to Petitioner and then, with no petitioner remaining in the proceeding, proceed to a final written decision.

A joint motion to terminate ordinarily must be accompanied by a true copy of the settlement agreement in connection with the termination of a proceeding, as required by 35 U.S.C. § 327(b) and 37 C.F.R. § 42.74(b). A redacted version of the settlement agreement will not be accepted as a true copy of the settlement agreement. Any request that the agreement be treated as business confidential information and be kept separate from the files of the involved patent must be filed with the settlement agreement. 37 C.F.R. § 42.74(c). The parties are directed to

CASES CBM2013-00052, 00053, 00054
Patents 7,904,326; 7,958,024; 7,908,304

FAQ G2 on the Board's website page at

<http://www.uspto.gov/ip/boards/bpai/prps.jsp> for instructions on how to file their settlement agreement as confidential (*e.g.*, uploading as "Parties and Board Only").

The joint motion to terminate and the settlement agreement shall be filed no later than November 19, 2014.

It is

ORDERED that the parties are authorized to file a separate joint motion to terminate in each of the proceedings in accordance with this order; and

FURTHER ORDERED that the joint motions are due November 19, 2014.

CASES CBM2013-00052, 00053, 00054
Patents 7,904,326; 7,958,024; 7,908,304

PETITIONER:

Deborah Fishman
Jeffrey Miller
Michael Tonkinson
DICKSTEIN SHAPIRO LLP
fishmand@dicksteinshapiro.com
millerj@dicksteinshapiro.com
tonkinsonm@dicksteinshapiro.com

PATENT OWNER:

Kent Chambers
TERRILE, CANNATTI, CHAMBERS & HOLLAND LLP
kchambers@tcchlaw.com

Alisa Lipski
AHMAD, ZAVITSANOS, ANAIPAKOS, ALAVI & MENSING, P.C.
alipski@azalaw.com

David O'Brien
John Russell Emerson
Raghav Bajaj
HAYNES AND BOONE, LLP
david.obrien.ipr@haynesboone.com
russell.emerson.ipr@haynesboone.com
raghav.bajaj.ipr@haynesboone.com