

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

VERSATA SOFTWARE, INC. and	)	
VERSATA DEVELOPMENT GROUP, INC.	)	
	)	
Plaintiffs,	)	
	)	
v.	)	C.A. No. 12-931-SLR
	)	
CALLIDUS SOFTWARE INC.,	)	<b>JURY TRIAL DEMANDED</b>
	)	
Defendant.	)	

**DEFENDANT CALLIDUS SOFTWARE INC.'S  
ANSWER TO COMPLAINT AND COUNTERCLAIMS**

Pursuant to Rule 8 of the Federal Rules of Civil Procedure, Defendant CALLIDUS SOFTWARE INC. (“Callidus”) answers the Complaint of Plaintiffs VERSATA SOFTWARE, INC. and VERSATA DEVELOPMENT GROUP, INC. (“Plaintiffs”) as follows:

Callidus denies each and every allegation in the Complaint unless expressly admitted herein.

**The Parties**

1. Callidus lacks information sufficient to admit or deny the allegations of Paragraph 1, and on that basis denies them.
2. Callidus lacks information sufficient to admit or deny the allegations of Paragraph 2, and on that basis denies them.
3. Callidus admits the allegations of Paragraph 3.

**Jurisdiction and Venue**

4. Callidus admits that the Complaint alleges an action for patent infringement under the Patent Laws of the United States, 35 U.S.C. § 271, but denies that there has been infringement.

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5. Callidus admits that the Court has subject matter jurisdiction based on 28 U.S.C. §§ 1331 and 1338(a).

6. Callidus admits that venue is proper in this judicial district under 28 U.S.C. §§ 1391(b) and 1400(b). Callidus denies that it has committed any acts of patent infringement in this, or any, judicial district.

7. Callidus admits that it is subject to this Court's specific and general personal jurisdiction and is a Delaware corporation. Callidus denies that it has committed, induced, and/or contributed to acts of patent infringement in this judicial district, or any other judicial district. Callidus lacks information sufficient to admit or deny the remaining allegations of Paragraph 7, and on that basis denies them.

### **Patents**

8. Callidus admits that U.S. Patent No. 7,958,024 ("the '024 patent") is entitled "Method and Apparatus for Processing Sales Transaction Data," and on its face appears to have issued on June 7, 2011. Callidus admits that Exhibit A of the Complaint purports to be a true and correct copy of the '024 patent. Callidus lacks information sufficient to admit or deny the remaining allegations of Paragraph 8, and on that basis denies them.

9. Callidus admits that U.S. Patent No. 7,908,304 ("the '304 patent") is entitled "Method and Apparatus for Managing Distributor Information," and on its face appears to have issued on March 15, 2011. Callidus admits that Exhibit B of the Complaint purports to be a true and correct copy of the '304 patent. Callidus lacks information sufficient to admit or deny the remaining allegations of Paragraph 9, and on that basis denies them.

10. Callidus admits that U.S. Patent No. 7,904,326 ("the '326 patent") is entitled "Method and Apparatus for Performing Collective Validation of Credential Information," and on its face appears to have issued on March 8, 2011. Callidus admits that Exhibit C of the

Complaint purports to be a true and correct copy of the '326 patent. Callidus lacks information sufficient to admit or deny the remaining allegations of Paragraph 10, and on that basis denies them.

11. Callidus denies the allegations of Paragraph 11.

**COUNT I**  
**Infringement of the '024 Patent**

12. Callidus incorporates its answers to Paragraphs 1 through 11 as if fully set forth herein.

13. Callidus denies the allegations of Paragraph 13.

14. Callidus denies the allegations of Paragraph 14.

15. Callidus admits that it has knowledge of the '024 patent as of the date it was served with a copy of the Complaint. Callidus denies the remaining allegations of Paragraph 15.

16. Callidus denies the allegations of Paragraph 16.

**COUNT II**  
**Infringement of the '304 Patent**

17. Callidus incorporates its answers to Paragraphs 1 through 16 as if fully set forth herein.

18. Callidus denies the allegations of Paragraph 18.

19. Callidus denies the allegations of Paragraph 19.

20. Callidus admits that it has knowledge of the '304 patent as of the date it was served with a copy of the Complaint. Callidus denies the remaining allegations of Paragraph 20.

21. Callidus denies the allegations of Paragraph 21.

**COUNT III**  
**Infringement of the '326 Patent**

22. Callidus incorporates its answers to Paragraphs 1 through 21 as if fully set forth

herein.

23. Callidus denies the allegations of Paragraph 23.

24. Callidus denies the allegations of Paragraph 24.

25. Callidus admits that it has knowledge of the '326 patent as of the date it was served with a copy of the Complaint. Callidus denies the remaining allegations of Paragraph 25.

26. Callidus denies the allegations of Paragraph 26.

### **Response to Plaintiffs' Prayer for Relief**

Callidus denies that Plaintiffs are entitled to any of the relief sought in its prayer or any relief whatsoever.

### **AFFIRMATIVE DEFENSES**

Callidus asserts the following affirmative defenses without admitting in any way that Callidus is liable to Plaintiffs, or that Plaintiffs are entitled to any relief whatsoever.

#### **First Affirmative Defense** **(Failure to State a Claim for Infringement)**

27. Plaintiffs have failed to state a claim for patent infringement under the U.S. Patent laws including, but not limited to, 35 U.S.C. § 271.

#### **Second Affirmative Defense** **(Failure to State a Claim for Past Damages)**

28. Plaintiffs have failed to allege facts sufficient to claim any damages prior to the filing of this action pursuant to the marking and notice provisions of 35 U.S.C. § 287.

#### **Third Affirmative Defense** **(Non-Infringement)**

29. Callidus has not infringed, contributed to the infringement of, or induced the infringement of the '024 patent, the '304 patent, and the '326 patent, and is not liable for infringement thereof either literally or under the doctrine of equivalents.

**Fourth Affirmative Defense**  
**(Invalidity)**

30. Based on information and belief, one or more claims of the '024 patent, the '304 patent, and the '326 patent, are invalid for failure to meet the conditions of patentability of 35 U.S.C. §§ 1 *et seq.*, including but not limited to 35 U.S.C. §§101, 102, 103, and/or 112.

**Fifth Affirmative Defense**  
**(No Injunction)**

31. The Complaint and each of the claims therein do not entitle Plaintiffs to injunctive relief on the grounds that the facts and circumstances do not warrant injunctive relief.

**Sixth Affirmative Defense**  
**(Prosecution History Estoppel and/or Disclaimer)**

32. On information and belief, Plaintiffs' claims for relief are barred, in whole or in part, by the doctrine of prosecution history estoppel and/or prosecution disclaimer.

**Seventh Affirmative Defense**  
**(Laches, Estoppel, Equitable Estoppel and/or Waiver)**

33. On information and belief, that Plaintiffs' rights in the '024 patent, the '304 patent, and the '326 patent, are barred, in whole or in part, by one or more of the equitable doctrines of laches, estoppel, equitable estoppel, and waiver.

**Eighth Affirmative Defense**  
**(Unclean Hands)**

34. On information and belief, that Plaintiffs' rights in the '024 patent, the '304 patent, and the '326 patent, are barred, in whole or in part, by the equitable doctrine of unclean hands.

**Reservation of Defenses**

Callidus reserves all affirmative defenses under Rule 8(c) of the Federal Rules of Civil Procedure, the Patent Laws of the United States, and any other defenses at law or in equity, that

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