

No. _____

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 CBM2014-00118
Patent 7,958,024

Title: METHOD AND APPARATUS FOR PROCESSING SALES
TRANSACTION DATA

**PATENT OWNER'S PRELIMINARY RESPONSE
UNDER 37 C.F.R. § 42.207**

TABLE OF CONTENTS

I. Introduction5

II. '024 Patent Overview.....5

III. TRIAL SHOULD NOT BE INSTITUTED BECAUSE PETITIONER IS
STATUTORILY BARRED FROM SEEKING POST-GRANT REVIEW ...7

 A. Section 325(a)(1) Defines a Statutory Bar that Pertains to the
 Transitional Program for Covered Business Method Review9

 B. Plain Language of § 325(a)(1) Bars Post-Grant Review10

 C. Legislative History Confirms the Meaning of § 325(a)(1)’s Plain
 Language; Petitioner’s Own Choice Triggers Statutory Bar12

 D. Statutory Framework is Hardly Inequitable to Patent Challenger16

 E. Prior Judicial and Administrative Interpretations Confirm Applicability
 of Statutory Bar for Prior-Filed Civil Action Challenging Validity.....18

 F. The Prior CBM and Prior Institution.....23

 G. Statutory Language Defining the § 325(a)(1) Prior Civil Action Bar, its
 Legislative History and Prior Interpretations of the Statute All Dictate
 Non-Institution26

IV. Claim Construction.....27

 A. Claim 1 from which claims 3-34 indirectly depend.....27

 1. Claim Term: “Using a Distributer Management System”27

 2. Claim Term: “Regulatory Conditions Applicable to/Associated with
 said Sales”30

 3. Claim Term: “Executing a Payment Process”33

 4. Claim Term: “Generating a Selling Agreement”35

V. Conclusion40

Certificate of Service43

TABLE OF AUTHORITIES

FEDERAL CASES

Ethicon, Inc. v. Quigg, 849 F.2d 1422 (Fed. Cir. 1998).....12
Hoechst Aktiengesellschaft. v. Quigg, 917 F.2d 522 (Fed. Cir. 1990)12
Graves v. Principi, 294 F.3d 1350 (Fed. Cir. 2002).....19
InVue Sec. Prods., Inc. v. Merch. Techs., Inc., 2012 U.S. Dist. LEXIS 92097
(W.D.N.C. July 3, 2012).....20
Phillips v. AWH Corp., 415 F.3d 1303 (Fed. Cir. 2005) (en banc)..... 27, 35

REGULATORY CASES

Anova Food, LLC v. Sandau, No. IPR2013-00114, Paper No. 17, Decision –
Denying *Inter Partes* Review (P.T.A.B. Sept. 13, 2013).....18
Branch Banking and Trust Co. v. Maxim Integrated Products, Inc., CBM2013-
00059, Paper No. 12 (P.T.A.B. March 20, 2014).....9
InVue Sec. Prods., Inc. v. Merch. Techs., Inc., No. IPR2012-00122, Paper No. 17,
Decision – Institution of *Inter Partes* Review (P.T.A.B. June 27, 2013)19

FEDERAL STATUTES

35 U.S.C. § 325(a)(1)..... *passim*
35 U.S.C. § 325(a)(3)..... 8, 9, 16
AIA § 18(a)(1) 8, 9, 10

REGULATIONS

37 CFR § 42.302(a).....20

LEGISLATIVE HISTORY

153 Cong. Rec. E77413
157 Cong. Rec. S1041.....15
157 Cong. Rec. S1363.....15
157 Cong. Rec. S1375.....14
157 Cong. Rec. S5428.....16
157 Cong. Rec. S5429.....17
157 Cong. Rec. S952.....16
154 Cong. Rec. S9987.....14

OTHER AUTHORITIES

77 Fed. Reg. 48,612, 48,6177

I. Introduction

Patent Owner Versata Development Group, Inc. (“Versata” or “Patent Owner”) submits the following Preliminary Response to the Petition filed by Callidus Software Inc. (“Callidus” or “Petitioner”) on April 17, 2014, requesting post-grant review of Claims 3-34 of U.S. Patent No. 7,958,024 (“the ’024 Patent”) under § 18 of the America Invents Act’s transitional program for covered business method patent review. Versata respectfully requests that the Patent Trial and Appeal Board (“Board” or “PTAB”) decline to institute post-grant review of the ’024 Patent because Callidus is statutorily barred from seeking post-grant review.

Pursuant to 35 U.S.C. § 325(a)(1), a post-grant review proceeding cannot be instituted where the petitioner, prior to the filing of a petition for post-grant review, filed a civil action challenging the validity of a claim of the patent. Over one-and-a-half years before filing its Petition for post-grant review, Callidus filed a civil action in the Northern District of California seeking a declaratory judgment of invalidity of the claims of the ’024 Patent. As a result, a post-grant review proceeding cannot be instituted.

II. '024 Patent Overview

The '024 Patent describes a method and apparatus for processing sales transaction data in an efficient manner which minimizes the use of computing resources in a traditionally computationally-expensive process.

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