

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.

CBM2014-00118
Patent 7,958,024 B2

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

TURNER, *Administrative Patent Judge*.

DECISION

Institution of Covered Business Method Patent Review
37 C.F.R. § 42.208

I. INTRODUCTION

Callidus Software, Inc. (“Petitioner”) filed a Petition on April 17, 2014, requesting a covered business method patent review of claims 3–34 of U.S. Patent No. 7,958,024 (Ex. 1001, “the ’024 Patent”). Paper 1 (“Pet.”). Petitioner asserts that all of the challenged claims are unpatentable under 35 U.S.C. § 101. In response, Versata Development Group, Inc. and Versata Software, Inc. (“Patent Owner”) filed a Patent Owner Preliminary Response on July 24, 2014. Paper 10 (“Prelim. Resp.”). We have jurisdiction under 35 U.S.C. § 324, which provides that a post-grant review may not be instituted “unless ... the information presented in the petition ... would demonstrate that it is more likely than not that at least 1 of the claims challenged in the petition is unpatentable.”

Pursuant to 35 U.S.C. § 324, the Board authorizes a covered business method patent review to be instituted as to claims 3–34 of the ’024 Patent.

A. *The ’024 Patent*

The ’024 Patent relates to managing relationships between institutions associated with a product or service and the distributors thereof. Ex. 1001, 4:41-44. Based on governmental licensing and regulation, organizations, such as life insurances companies, may need to manage the sale and distribution of life insurance plans in a way that coincides with the regulatory constraints put in place on such sales by government organizations. *Id.* at 4:50-54. Embodiments disclosed in the ’024 Patent allow for license data to be validated prior to distribution of compensation to sales agents for the transactions. *Id.* at 5:9-19. A suite of applications, namely a Distributor Management System Suite (“DMSS”),

provide tracking information, such as contact points, payment methods, and organizational hierarchies on all parties in the system, managing regulatory information and ensuring that distributors are licensed and appointed to sell the products manufactured by the provider. *Id.* at 6:26-32.

B. Illustrative Claims

The challenged claims ultimately depend from independent claim 1, which is illustrative of the subject matter of the claims at issue and is reproduced below:

1. A method for processing sales transaction data comprising:
 - using a distributor management system to perform:
 - capturing transaction data associated with sales performed by a plurality of sales representatives;
 - determining if said sales representatives associated with said transaction data are in conformity with a set of regulatory conditions applicable to said sales;
 - computing a plurality of compensation amounts based on said sale transactions data and said set of regulatory conditions;
 - and
 - executing a payment process to compensate said plurality of sales representatives for said sales in accordance with said compensation amounts.

C. Asserted Ground of Unpatentability

Petitioner challenges the patentability of claims 3–34 as failing to recite patentable subject matter under 35 U.S.C. § 101. The Petition does not assert any other challenges to the patentability of the claims of the '024 Patent.

D. Related Proceedings

In compliance with 37 C.F.R. § 42.302(a), Petitioner certifies that it has been sued for infringement of the '024 Patent. Pet. 7. The identified related case is *Versata Software, Inc. v. Callidus Software, Inc.*, No. 1:12-cv-931-SLR (D. Del.). A covered business method patent review was instituted on March 4, 2014 (“Decision on Institution”) involving the same parties, the same patent, but different claims. *Callidus Software, Inc. v. Versata Software, Inc. and Versata Development Group, Inc.*, Case CBM2013-00053, Paper 16 (PTAB March 4, 2014) (“’53 DI”).

E. Covered Business Method Patent

A covered business method patent is “a patent that claims a method or corresponding apparatus for performing data processing or other operations used in the practice, administration, or management of a financial product or service, except that the term does not include patents for technological inventions.” § 18(d)(1) of the Leahy-Smith America Invents Act, Pub. L. No. 112-29, 125 Stat. 284, 329 (2011) (“AIA”). To determine whether a patent is for a technological invention, we consider “[w]hether the claimed subject matter as a whole recites a technological feature that is novel and unobvious over the prior art; and solves a technical problem using a technical solution.” 37 C.F.R. § 42.301(b).

Petitioner submits arguments and evidence substantially identical to those submitted in the Petition for CBM2013-00053 as to whether the '024 Patent is a

CBM2014-00118
Patent 7,958,024 B2

covered business method patent. Pet. 10 (“The following Sections IV.C.1 and IV.C.2 are the same as Sections III.C.1 and III.C.2 of the Petition in CBM2013-00053 (Exh. 1014).”). As it did in its Preliminary Response in case CBM2013-00053, Patent Owner does not dispute that its patent claims a method for performing data processing or other operations used in the practice, administration, or management of a financial product or service, and does not include a technological invention. Prelim. Resp.

In the ’53 DI, we determined that the ’024 Patent is a covered business method patent under AIA § 18(d)(1). ’53 DI, slip op. at 4–9. We incorporate our previous analysis from the ’53 DI, and for the reasons provided there, we determine that the ’024 Patent is a covered business method patent under AIA § 18(d)(1).

F. 35 U.S.C. § 325(a)(1)

Patent Owner urges that the Board decline to institute review of the ’024 Patent because Petitioner is statutorily barred from seeking such review. Prelim. Resp. 7–26. Patent Owner argues that 35 U.S.C. § 325(a)(1) bars Petitioner because Petitioner filed a civil action challenging validity of the ’024 Patent before the filing of the Petition. *Id.* Patent Owner’s arguments are substantially identical to those made in connection with the Patent Owner’s Preliminary Response and Rehearing Request in CBM2013-00053, Papers 15 and 19. We previously considered Patent Owner’s arguments. In the ’53 DI, and the Decision on Rehearing, we determined that Petitioner is not statutorily barred from seeking a

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