UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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VOLUSION, INC.
Petitioner

v.

VERSATA SOFTWARE, INC. AND
VERSATA DEVELOPMENT GROUP, INC.
Patent Owner

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Case CBM2013-00017
Patent 6,834,282 B1

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

BLANKENSHIP, *Administrative Patent Judge.*

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

SUMMARY

Petitioner Volusion, Inc. filed a petition seeking a covered business method patent review of Patent Owner Versata's 6,834,282 patent pursuant to section 18 of the Leahy-Smith America Invents Act (AIA).[1] The Petition ("Pet.") challenges all the claims (1-23) of the '282 patent as unpatentable under 35 U.S.C. § 101. Patent Owner filed a preliminary response opposing institution of the review. Paper No. 6 ("Prelim. Resp."). We have jurisdiction under 35 U.S.C. § 324.

The standard for instituting a covered business method patent review is set forth in 35 U.S.C. § 324(a), which provides as follows:

> THRESHOLD --The Director may not authorize a post-grant review to be instituted unless the Director determines that the information presented in the petition filed under section 321, if such information is not rebutted, would demonstrate that it is more likely than not that at least 1 of the claims challenged in the petition is unpatentable.

We determine that the '282 patent is a covered business method patent. Petitioner has demonstrated that it is more likely than not that claims 1-20 are directed to non-statutory subject matter and, thus, unpatentable under 35 U.S.C. § 101. However, Petitioner has not shown that it is more likely than not that claims 21-23 are unpatentable under § 101. Thus, we institute a covered business method patent review for claims 1-20 of the '282 patent based upon Petitioner's challenge that those claims are unpatentable under § 101.

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[1] Pub. L. No. 112-29, 125 Stat. 284 (2011).

THE CHALLENGED PATENT

The '282 patent relates to a hierarchical representation that consists of nodes that are related to one another in a tree-like structure starting with a root node. Each node has a label indicative of items in a database. Ex. 1001, Abstract.
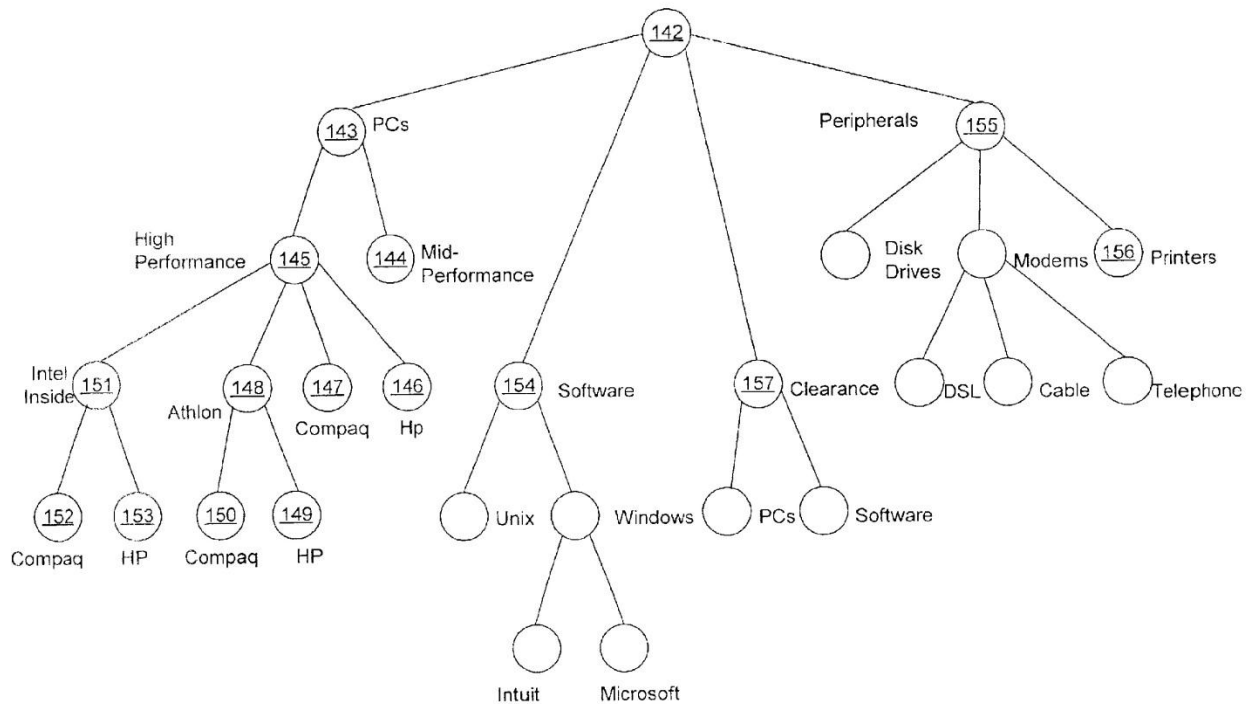
Figure 3 of the '282 patent is reproduced below.

FIG. 3

Figure 3 shows a tree-like structure having labeled nodes and is said to provide "one possible example of a logic and constraint-based hierarchy that might be employed in accordance with the invention." Ex. 1001, col. 4, ll. 37-39. Each node may specify one or more constraints that require all items falling under the node to have specific values for certain item attributes. Each node inherits the constraints of its ancestors. *Id*. at col. 5, ll. 3-16.

Illustrative Claims

1. A hierarchy for representing a plurality of items stored in a database, said hierarchy comprising:

a plurality of nodes each representative of a subset of the items; and wherein:

each of the nodes is a child of one other node, except for a root node, which is a child of no other node and is an ancestor of all of the nodes;

a first portion of the nodes each specify one or more constraints defining a scope of the subset of items represented by each of the first portion relative to their parent node; and

a second portion of the nodes specify no constraints, each of the second portion establishing a logical grouping defining a scope of the subset of the items represented by each of the second portion.

11. A method of representing a plurality of items in a database hierarchically, each of the items associated with one or more attributes, each of the attributes having one or more values, said method comprising:

apportioning the plurality of items into subsets;

representing each of the subsets with a node in a hierarchy, each of the nodes being a child of one other node, except for a root node, which is a child of no other of the nodes and is an ancestor of all of the nodes in the hierarchy;

specifying one or more constraints for each of a first portion of the nodes, the constraints defining a scope of the subset of items represented by each of the first portion relative to their parent node; and

establishing a logical grouping of the items for a second portion of the nodes, the logical grouping defining a scope of the subset of items represented by each of the second portion of nodes, no constraints being specified for any of the second portion of the nodes.

COVERED BUSINESS METHOD PATENT

Related Litigation

In compliance with 37 C.F.R. § 42.302(a), Petitioner certifies that it has been sued for infringement of the '282 patent. Pet. 2-3. Patent Owner does not challenge the certification.

*Used in the Practice, Administration, or Management
of Financial Products or Services*

A covered business method patent "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." AIA § 18(d)(1). The legislative history of the AIA "explains that the definition of covered business method patent was drafted to encompass patents 'claiming activities that are financial in nature, incidental to a financial activity or complementary to a financial activity.'" 77 *Fed. Reg.* 48,735 (Aug. 14, 2012) (quoting 157 Cong. Rec. S5432 (daily ed. Sept. 8, 2011)).

Petitioner points out that the '282 patent explicitly states that "[m]any embodiments of the present invention have application to a wide range of industries" including "*financial services.*" Pet. 8; *see also* Ex. 1001, col. 10, ll. 37-43. Patent Owner alleges that the patent does not claim a method or corresponding apparatus used in the practice, administration, or management of financial products or services. Prelim. Resp. 20-24. Patent Owner does not address the explicit statement in the '282 patent concerning "financial services" that was pointed out in the Petition. *See id.*

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