

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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FORD MOTOR COMPANY  
Petitioner

v.

VERSATA DEVELOPMENT GROUP, INC.  
Patent Owner

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Case CBM2016-00101  
Patent No. 7,739,080

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**VERSATA'S PRELIMINARY RESPONSE  
UNDER 37 C.F.R. § 42.207(a)**

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Patent Trial and Appeal Board  
U.S. Patent and Trademark Office  
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Alexandria, VA 22313-1450

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EXHIBIT LIST

<b>2001</b>	Complaint, <i>Versata Development Group, Inc. et al. v. Ford Motor Co.</i> , Civ. No. 4:15-cv-00316 (E.D. Tex.), D.I. 1
<b>2002</b>	Declaration of Dr. David W. Franke
<b>2003</b>	<i>Curriculum Vitae</i> of Dr. David W. Franke
<b>2004</b>	Versata: About Us, available at <a href="http://cpq.versata.com/about-us">http://cpq.versata.com/about-us</a> , 2016.
<b>2005</b>	“Ford Starts Firm to Manage Its Web Sites,” <i>ComputerWorld</i> , February 28, 2000.
<b>2006</b>	McCartney, Laton, “Trilogy Making A Name For Itself,” <i>ZDNet</i> , July 28, 2000.
<b>2007</b>	Field, Tom, “Suit Yourself,” <i>InsideCIO</i> , Vol. 10, No. 13, April 15, 1997.
<b>2008</b>	“Ford and Trilogy Launch Web Company-InformationWeek,” February 23, 2000.
<b>2009</b>	Statutory Disclaimer for U.S. Patent No. 7,739,080 to Beck et al.
<b>2010</b>	PTAB Board Email dated October 26, 2016
<b>2011</b>	“Report and Recommendation of the Special Master Regarding Claim Construction” <i>Ford Motor Company v. Versata Software, Inc.</i> , 15-10628 (E.D. MI) (2016)
<b>2012</b>	“Ford Motor Company’s Motion to Adopt In Part the Report and Recommendation of the Special Master Regarding Claim Construction.” <i>Ford Motor Company v. Versata Software, Inc.</i> , 15-10628 (E.D. MI) (2016)

## I. INTRODUCTION

The Petition as filed on September 12, 2016 is woefully deficient, and Petitioner Ford Motor Company failed to satisfy its burden of persuasion at every turn. Regarding CBM eligibility, Ford's characterization of the claims as "financial" are a stretch at best, and are based solely on a "test" that the Federal Circuit has described as insufficient and misaligned with the CBM eligibility statute. Ford also completely failed to address an entire prong of the "technological invention" test, providing no discussion of the claimed invention's technical problem or technical solution.

Regarding subject matter eligibility, in its "analysis" of an alleged abstract idea, Ford created a strawman abstract idea that does not actually map to the language of the claims. And Ford's allegation that the claims recite routine and conventional functionality is based solely on attorney argument that includes no supporting evidence of what actually was routine and conventional. Any one of these deficiencies presents sufficient reason to deny the Petition outright; the combination of deficiencies renders the Petition fatally inadequate.

Further, Ford has failed to demonstrate that claims 2, 10, and 16 are indefinite, and Ford's ground of unpatentability of claim 22 under 35 U.S.C. § 112, second and sixth paragraphs, is mooted by statutory disclaimer.

For the reasons summarized above and explained in more detail below, Ford has failed to establish that U.S. Patent No. 7,739,080<sup>1</sup> is eligible for CBM review and has also failed to establish it is more likely than not that at least one of the claims of the '080 patent is unpatentable. The Board should therefore deny institution of this CBM review proceeding against any of the claims of the '080 patent.

## II. THE '080 PATENT TECHNOLOGY

The '080 patent generally relates to configuration systems for products. (Ex. 2002, Franke Decl., para. 25; Ex. 1001, '080 Patent, Abstract and 1:14-15.) The configurations are built on configuration models for a product -- where the model is a collection of rules defining buildable configurations of a product. (Franke Decl., para. 25; Ex. 1001, 2:57-58.)

For certain products, multiple configurations with individual rules are maintained, such as where a company markets a product with a particular set of standard features in one region, and with a different set of standard features in another region. (Franke Decl., para. 26; Ex. 1001, 3:2-5.) For example, a computer

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<sup>1</sup> U.S. Patent No. 7,739,080 is marked as Ford's exhibit 1001. Versata will refer to this patent as "the '080 patent."

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