

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAS INSTITUTE, INC.
Petitioner

v.

COMPLEMENTSOFT, LLC
Patent Owner

Case IPR2013-00581
Patent 7,110,936 B2

Before KEVIN F. TURNER, JUSTIN T. ARBES, and JENNIFER S. BISK,
Administrative Patent Judges.

BISK, *Administrative Patent Judge.*

DECISION

Denying Institution of *Inter Partes* Review
Dismissing Motion for Joinder
37 C.F.R. §§ 42.108, 42.122

I. INTRODUCTION

A. Background

SAS Institute, Inc. (“SAS”) filed a corrected petition (Paper 7, “Pet.”) to institute an *inter partes* review of claims 1–16 of Patent 7,110,936 B2 (“the ’936 patent”) pursuant to 35 U.S.C. § 311 *et seq.* and a motion for joinder with Case IPR2013-00226¹ (Paper 1, “Mot.”). ComplementSoft, LLC (“ComplementSoft”) filed a preliminary response (Paper 14, “Prelim. Resp.”) and an opposition to SAS’s motion (Paper 8, “Opp.”). We have jurisdiction under 35 U.S.C. § 314.

In IPR2013-00226, the Board instituted a trial for claims 1 and 3–10 of the ’936 patent on the following grounds:

- 1) obviousness of claim 1 over Coad, Oracle Primer, and Oracle8 Primer;
- 2) obviousness of claims 1, 3, 5, 6, 8, and 10 over Antis and Coad;
- 3) obviousness of claim 4 obvious over Antis, Coad, and Burkwald;
- 4) obviousness of claim 7 over Antis, Coad, and Eick; and
- 5) obviousness of claim 9 over Antis, Coad, and “Building Applications.

Decision to Institute, Paper 9 IPR2013-00226 (“Prior Decision”) at page 3. In the current petition, SAS contends that the challenged claims are unpatentable under 35 U.S.C. § 103 based on the following specific grounds (Pet. 22, 41, 43–48, 51–58):

¹ The decision to institute an *inter partes* review in Case IPR2013-00226 was entered August 12, 2013, based on a petition for *inter partes* review filed March 29, 2013.

References ²	Claims challenged
Grounds Based on Polo	
Polo, Coad, Oracle Primer, and Oracle8 Primer	1–3, 6, 8, 10–12, 15, and 16
Polo, Coad, Oracle Primer, Oracle8 Primer, and Burkwald	2 and 4
Polo, Coad, Oracle Primer, Oracle8 Primer, and Antis	5
Polo, Coad, Oracle Primer, Oracle8 Primer, and Eick	7
Polo, Coad, Oracle Primer, Oracle8 Primer, and “Building Applications”	9, 11, and 12
Polo, Coad, Oracle Primer, Oracle8 Primer, and Corda	13
Polo, Coad, Oracle Primer, Oracle8 Primer, and Access 97 Visual Basic	14
Grounds Primarily Based on Coad	
Coad, Oracle Primer, and Oracle8 Primer	2, 3, 6, 8, 10–12, 15, and 16
Coad, Oracle Primer, Oracle8 Primer, and Burkwald	2 and 4
Coad, Oracle Primer, Oracle8 Primer, and Antis	5
Coad, Oracle Primer, Oracle8 Primer, and Eick	7
Coad, Oracle Primer, Oracle8 Primer, and “Building Applications”	9, 11, and 12
Coad, Oracle Primer, Oracle8 Primer, and Corda	13

² U.S. Patent 5,572,650 (Ex. 1005) (“Antis”); U.S. Patent 6,851,107 (Ex. 1006) (“Coad”); U.S. Patent 6,356,285 (Ex. 1007) (“Burkwald”); U.S. Patent 5,937,064 (Ex. 1008) (“Eick”); Evan Callahan, MICROSOFT ACCESS 97 VISUAL BASIC STEP BY STEP (1997) (Ex. 1009) (“Access 97 Visual Basic”); U.S. Patent 5,782,122 (Ex. 1010) (“Corda”); Microsoft Corporation, BUILDING APPLICATIONS WITH MICROSOFT ACCESS 97 (1996) (Ex. 1011) (“Building Applications”); Rajshekhar Sunderraman, ORACLE PROGRAMMING: A PRIMER (1999) (Ex. 1012) (“Oracle Primer”); and Rajshekhar Sunderraman, ORACLE8 PROGRAMMING: A PRIMER (2000) (Ex. 1013) (“Oracle8 Primer”).

References ³	Claims challenged
Coad, Oracle Primer, Oracle8 Primer, and Access 97 Visual Basic	14
Grounds Primarily Based on Antis	
Antis and Coad	2, 11, 12, 15, and 16
Antis, Coad, and Corda	13
Antis, Coad, and Access 97 Visual Basic	14
Antis, Coad, and “Building Applications”	11 and 12

We conclude that SAS has not shown, under 35 U.S.C. § 314(a), that there is a reasonable likelihood that it would prevail on: (1) any of the grounds based on Polo; (2) any of the grounds primarily based on Antis; or (3) obviousness of claims 2 and 11–16 primarily based on Coad.

Further, based on the record before us and exercising our discretion under 35 U.S.C. § 325(d) we deny the petition as to the grounds listed below because these grounds are based upon substantially the same prior art and arguments as set forth in IPR2013-00226:

- 1) obviousness of claims 3, 6, 8, and 10 over Coad, Oracle Primer, and Oracle8 Primer;
- 2) obviousness of claim 4 over Coad, Oracle Primer, Oracle8 Primer, and

³ U.S. Patent 5,572,650 (Ex. 1005) (“Antis”); U.S. Patent 6,851,107 (Ex. 1006) (“Coad”); U.S. Patent 6,356,285 (Ex. 1007) (“Burkwald”); U.S. Patent 5,937,064 (Ex. 1008) (“Eick”); Evan Callahan, MICROSOFT ACCESS 97 VISUAL BASIC STEP BY STEP (1997) (Ex. 1009) (“Access 97 Visual Basic”); U.S. Patent 5,782,122 (Ex. 1010) (“Corda”); Microsoft Corporation, BUILDING APPLICATIONS WITH MICROSOFT ACCESS 97 (1996) (Ex. 1011) (“Building Applications”); Rajshekhar Sunderraman, ORACLE PROGRAMMING: A PRIMER (1999) (Ex. 1012) (“Oracle Primer”); and Rajshekhar Sunderraman, ORACLE8 PROGRAMMING: A PRIMER (2000) (Ex. 1013) (“Oracle8 Primer”).

Burkwald;

- 3) obviousness of claim 5 over Coad, Oracle Primer, Oracle8 Primer, and Antis;
- 4) obviousness of claim 7 over Coad, Oracle Primer, Oracle8 Primer, and Eick; and
- 5) obviousness of claim 9 over Coad, Oracle Primer, Oracle8 Primer, and “Building Applications.”

Therefore, the Board has determined not to institute an *inter partes* review. As a result of this determination, the petition is denied and SAS’s motion for joinder is dismissed as moot.

B. The '936 Patent

The technology of the '936 patent is described in the Prior Decision at page 4. For the purposes of this decision, we adopt that prior description.

Claim 1, reproduced below, is the '936 patent’s only independent claim:

1. An integrated development environment, comprising:
 - a document manager for retrieving source code programmed using one of a plurality of types of data manipulation languages;
 - an editor for displaying the retrieved source code and providing a means for a user to edit the retrieved source code;
 - a parser layer which detects the one of the plurality of types of data manipulation languages in which the retrieved source code is programmed and which activates rules and logic applicable to the detected one of the plurality of types of data manipulation languages; and
 - a visualizer dynamically linked to the editor for displaying graphical representations of flows within the retrieved source code using the rules and logic applicable to the detected one of the plurality of types of data manipulation languages and activated by the parser,

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