RECORD OF ORAL HEARING

UNITED STATES PATENT AND TRADEMARK OFFICE
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BEFORE THE PATENT TRIAL AND APPEAL BOARD
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SAP AMERICA, INC.
Petitioner,

v.

VERSATA DEVELOPMENT GROUP, INC.
Patent Owner.

_____

Case CBM2012-00001 (MPT)
Patent 6,553,350

_____

Before SALLY C. MEDLEY, MICHAEL P. TIERNEY, and RAMA G. ELLURU, Administrative Patent Judges.

APPEARANCES:

ON BEHALF OF THE PETITIONER:

        ERIKA H. ARNER, ESQUIRE
        Finnegan Henderson Farabow Garrett & Dunner, LLP
        Two Freedom Square, 11955 Freedom Drive
        Reston, Virginia 20190-5675

1   ON BEHALF OF THE PATENT OWNER:
2   MARTIN M. ZOLTICK, ESQUIRE

1   Rothwell Figg Ernst & Manbeck, PC
2   607 14th Street, NW, Suite 800
3   Washington, DC 20005
4
5
6   The above-entitled matter came on for hearing on Wednesday, April
7   17, 2013, commencing at 2:05 p.m., at the U.S. Patent and Trademark
8   Office, 600 Dulany Street, Alexandria, Virginia.
9
10   P R O C E E D I N G S

11   -   -   -   -   -

12   JUDGE TIERNEY: Welcome, everyone, for the

13   hearing for Covered Business Method, CBM2012-00001. Today,

14   the issue -- the parties have requested a hearing. The issue

15   they've requested a hearing on is 35 U.S.C. 101, on the

16   patentability of Versata claims and related issues. Based on

17   consultation with the parties, the Board is giving one hour to

18   each party. Each party may reserve time for rebuttal. There will

19   be one hour total time today.

20   The Petitioner bears the ultimate burden of proof for

21   today's hearing, and we will have the Petitioner go first.

22   Petitioner, if you could introduce yourself and the

23   accompanying representatives.

24   MS. ARNER: Yes, it's Erika Arner for Petitioner

25   SAP. I'm here with backup counsel Steve Baughman, and co-

26   counsel, Joe Palys.

27   JUDGE TIERNEY: Thank you. Patent Owner, if you

28   could introduce yourself and your accompanying representatives.

1   MR. ZOLTICK: Yes, I'm Marty Zoltick for Versata

2 Development Group, Patent Owner. With me is Nancy Linck and

3 Derek Dahlgren and Brian Rosenbloom.

4   JUDGE TIERNEY: Welcome. So, Petitioner, when

5 you're ready, please begin.

6   MS. ARNER: I'd like to reserve 30 minutes for

7 rebuttal, please.

8   May it please the Board, this post-grant review

9 proceeding involves Covered Business Method Patent Number

10 6553350. The 350 Patent describes a way to determine a price

11 for a product using customer and product hierarchies.

12   The Patent explains that the inventor did not invent

13 the idea of pricing based on customer and product data. Instead,

14 the Patent includes Figures 1 and 2, labeled prior art, that lists

15 customers under the column heading who, and products under the

16 row what, along with price data. In Figure 1, the Patent explains

17 we have product prices. In Figure 2, we have volume discounts.

18   Likewise, the inventor did not invent computer

19 pricing systems. Instead the Patent describes prior art pricing

20 systems by Oracle and SAP. And the Patent Owner has recently

21 explained that the use of hierarchical organizations for customers

22 and products was "ubiquitous" at the time of the invention.

23   JUDGE TIERNEY: Ms. Arner, if you could identify

24 the demonstrative you're looking at for the purpose of the record.

1   MS. ARNER: Yes. So, turning to slide 3, the

2   inventor also did not -- the Patent also does not describe any

3   advance in computer technology. Instead, the Patent repeatedly

4   explains that the invention may be implemented on any

5   conventional or general purpose computer system. The Patent

6   includes a Figure 3, which is a computer system diagram, but the

7   specification explains that the computer system is described for

8   purposes of example only, and that the present invention may be

9   implemented in any type of computer system or programming or

10   processing environment.

11   The claims recite the words data source, but the

12   specification explains that the invention can be implemented

13   using any data source, that may be different even from a

14   conventional database.

15   In the related litigation, the Patent Owner has again

16   affirmed that the claims do not require extant data structures, but

17   rather cover the capability of executing a pricing procedure using

18   hierarchical arrangements of customer and product data. The

19   fact that databases are not covered is confirmed by the fact that

20   the claims do not recite the words database, nor do they recite

21   database tables or queries, runtime, execution flow, computer

22   screens for the invention, or a number of database tables or

23   queries. None of these terms appear in the challenged claims.

24   JUDGE TIERNEY: Why don't we stop there and tell

25   us what do the claims encompass.

1   MS. ARNER: So, turning to the claims, they describe

2   two ideas. The idea of arranging customers and products into

3   hierarchies. And the Patent specification explains it's a

4   who/what paradigm. And Figure 5 of the Patent shows these

5   customer and product hierarchies where the customers and

6   products that were listed in the prior art figures 1 and 2 are

7   reorganized here into hierarchies of customers or purchasing

8   organizations under the label who, and into product hierarchies

9   under the label what. And the Patent explains that these

10   groupings into customer and product hierarchies are entirely

11   arbitrary and determined by a user.

12   The other idea that the claims cover is the idea of

13   pricing a calculation to price products using pricing information

14   or price adjustments, they're called here on slide 8, to refer to

15   the hierarchical arrangements of customers and products.

16   So, turning now to the claim language itself on slide

17   9, the claim 17 is a method claim, and it recites these two ideas.

18   The ideas of arranging a hierarchy of customers and products,

19   and then the calculation of a product price using pricing

20   information that is associated with the customer or

21   organizational groups and product groups.

22   The other two independent claims under review,

23   likewise, describe the use of customer and product hierarchies,

24   and the process of calculating a price that is determined using

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