UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAP AMERICA, INC. ET AL. Petitioner

v.

VERSATA DEVELOPMENT GROUP, INC. Patent Owner

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

PATENT OWNER VERSATA DEVELOPMENT GROUP, INC.'S DEMONSTRATIVE EXHIBITS 1 – 49 FOR APRIL 17, 2013 ORAL HEARING

## Practical Application of Alleged Abstract Idea

#### Board:

"The concept of arranging customer and product data into hierarchies ...."

(ID at 30.)

#### SAP/Siegel:

 "[T]he rearrangement of prior art pricing data into 'completely arbitrary' hierarchies and the calculation of product prices using 'abstracted' numbers.."

(SP at 17; SX 1005, §§ 44-45, 49.)

#### Versata/Liebich:

 Claims, in addition to including steps/elements for arranging customer and product data into hierarchies and calculating a product price, include separate and distinct steps/elements requiring a particular way of determining product price. The combination of steps/elements required by the claims represents a practical application of the alleged abstract idea.

(VR at 16-26, 32, 36-37, 40, 43-44; VX 2091, ¶¶ 56-63, 80, 85-88, 99, 104-107.)

17. A method for determining a price of a product offered to a purchasing organization comprising:

- arranging a hierarchy of organizational groups comprising a plurality of branches such that an organizational group below a higher organizational group in each of the branches is a subset of the higher organizational group;
- arranging a hierarchy of product groups comprising a plurality of branches such that a product group below a higher product group in each of the branches in a subset of the higher product group;
- storing pricing information in a data source, wherein the pricing information is associated, with (i) a pricing type, (ii) the organizational groups, and (iii) the product groups;
- retrieving applicable pricing information corresponding to the product, the purchasing organization, each product group above the product group in each branch of the hierarchy of product groups in which the product is a member, and each organizational group above the purchasing organization in each branch of the hierarchy of organizational groups in which the purchasing organization is a member;
- sorting the pricing information according to the pricing types, the product, the purchasing organization, the hierarchy of product groups, and the hierarchy of organizational groups;

eliminating any of the pricing information that is less restrictive; and determining the product price using the sorted pricing information.

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## Claim 27

27. A computer implemented method for determining a price of a product offered to a purchasing organization comprising:

retrieving from a data source pricing information that is (i) applicable to the purchasing organization and (ii) from one or more identified organizational groups, within a hierarchy of organizational groups, of which the purchasing organization is a member;

- retrieving from the data source pricing information that is (i) applicable to the product and (ii) from one or more identified product groups, within a hierarchy of product groups, of which the product is a member; and
- receiving the price of the product determined using pricing information applicable to the one or more identified organizational groups and the one or more identified product groups according to the hierarchy of product groups and the hierarchy of organizational groups.

#### Claims 26 & 28

26. A computer readable storage media comprising: computer instructions to implement the method of claim 17.

28. A computer readable storage media comprising: computer instructions to implement the method of claim 27.

29. An apparatus for determining a price of a product offered to a purchasing organization comprising: a processor; a memory coupled to the processor, wherein the memory includes computer program instructions capable of:

- retrieving from a data source pricing information that is (i) applicable to the purchasing organization and (ii) from one or more identified organizational groups, within a hierarchy of organizational groups, of which the purchasing organization is a member;
- retrieving from the data source pricing information that is (i) applicable to the product and (ii) from one or more identified product groups, within a hierarchy of product groups, of which the product is a member; and
- receiving the price of the product determined using pricing information applicable to the one or more identified organizational groups and the one or more identified product groups according to the hierarchy of product groups and the hierarchy of organizational groups.

## Claims 17 & 26-29 Are Patent-Eligible Under § 101

Board should issue judgment that claims 17 and 26-29 of the '350 patent are patent eligible under 35 U.S.C. § 101.

 Evidence shows that each of claims 17, 26, 27, 28, and 29, considered as a whole, is directed to a specific, practical and advantageous way to determine product price using hierarchical groups of customer and products.

(VR at 16-26, 31-37, 39-44.)

 Evidence shows that the "very specific way" required by the claims to determine a product price cannot be considered abstract, mere field-of-use limitations, tangential references to technology, insignificant pre- or post-solution activity, ancillary data-gathering steps, or the like.

(VR at 20-22, 45-49.)

## Claims 17 & 26-29 Are Patent-Eligible Under § 101

Board should issue judgment that claims 17 and 26-29 of the '350 patent are patent eligible under 35 U.S.C. § 101.

 Evidence shows that the claimed combination and sequence of elements in claims 17 and 26-29 were an unconventional, non-routine and not well-known way of determining the price of a product.

(VR at 22-26, 32, 36-37, 40, 43-44, 49-51.)

 Evidence shows that the claimed combination and sequence of elements in claims 17 and 26-29 represented a significant improvement over prior processes and systems for pricing.

(VR at 22-26, 32, 37, 40, 43-44, 49-51.)

Evidence shows that claims 17 and 26-29 do not preempt any abstract idea.

(VR at 26-27, 38, 40, 43.)

Evidence shows that each of the claims satisfies the machine-or-transformation test.

(VR at 27-34, 38, 40-41, 44-45.)

#### The Problem

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RODUCTS IN MULTI-LEVEL PRODUCT AND ORGANIZATIONAL GROUPS

This is a continuation of application Ser. No. 08/64/ filed Jun. 17, 1996 now U.S. Pat. No. 5,878,400.

BACKGROUND OF THE INVENTION

 Field of the Invention This invention relates to the field of commu-

pricing of products. 2. Background Art

Many business categories use field sakes representatives to initiate, negotiari, and consumme sales transactions with customers. Those sales representatives compete with sales representatives from offer business enterprises. Sales representatives would prefer to conclude the sales transaction as complexitly as possible while meeting with the pricing information to potential customers at the time of the transaction.

As is explained below there are large menuses of data that must be intered and on provide accurate pricing for solatomestic methods and on provide accurate precision for distantistica in a large cardinal data. Solar the provide network access or by communicating with another protent information as input and accesses pricing ains a solph. The below office. The solar supervised price of the solar information as input and accesses pricing data as solph. The method accesses of the data construct, then days due the solars meeting accesses of Adda y in providing solar data for the meeting accesses of Adda y in providing solar critical datas are accessed as a solution of the measure of the data of the measure of the data of the measure of the data of the measure of the measure of the measure of the data of the measure of the

The large answers of data regional to provide scores in pricing in nucleotody bioschrönig the factors that go non pricing. For many categories hass, that is in far a particular of a sensor by scores mesh. That is it is far a particular price direct to state existences (in the present application the turn" "product", would gradiently the direct to angeble produces used in a singular products, such as services), direct and the score of the state of the score score and the score of the score score score and the score of the score score score and the score score of memory factors. The type of product is score score as a particular score (in the score score score score as a score to score as a preventioned to the score of the score score

representation. Assuming that each product is sold at a unique price to a particular practicular ognitation (the term "prochosing equilation" (refers to a solidg process solid as or oper) tional price Asternitation with the solid price opertional price Asternitation methods thatlace the price for each product solid as certain parchistic gragazization into a prise table. For example, if the selling organization into its thousand different products and there are not nonand different parcharses, the price table would have one hundred million (i.e., ten thousand milliping by the thousand)

Each product may have several attributes that contribut to pricing differential. The weight or size of a product coul increase its base shipping cost. The product may be price 2 2 estem. If there are teep possible attributes for the same order, the price table described above would have on likes earlies. Further, for each product there are usually invise adjustments to the basic price. For example, for we usually applicable state and hecat taxes, scatta shaping anges, currency conversions, and a number of possible sooms. If there are ten different types of price adjust ends for the same product for a given endourced there adjust ends for the same product for a given endourced there are some for the same softent.

Each category of possible price adjustments has its own sub-adjustments? For example, the adjustment category of discourss includes different types of discourss (e.s. subadjustments). The different types of discourss (e.s. subadjustments). The different types of discourss category in mini-hinid discours (e.g. subme) and the discours of the discours) as a fast that different types of discours for a discours (e.g. subtional discours) and discours of the discours of the distant discours (e.g. sub-adjusted discours) and the distant discours (e.g. substant discours) and the discours of the discours of the discours of the price table would grow to one handbad billion on La due notes in the latent mainformation comments dualities

In the prior art, a large mainframe computer database contains the prior table ("mainframe computer" referes to any computer with a large database). The customer order is entered in a correlability and financing system within the mainframe computer. The mainframe computer then performs the prioring exclusion according to the prior tables stored in the database.

The following discussion provides a specific example of varies tables used in the coversion princip system discussion above. IFG: 1 above an example of a biasi price that the product work bias with a soft and the table carry corresponding to the basic bias of the covers of the table product work bias with a soft and the table carry corresponding to the basic bias of the covers of the soft and the table carry covers and the table carry of the table of the soft and the table carry covers and the table carry of the table of the soft and the table carry of the soft and the soft

According to the prior and, in addition to the basic price up, table of HG. L. various order tables more by stored and maintained in the mainframe database. For example, FR. 2, shows a volume closer table that corresponds to the basic price table of FIG. I. Thus, the price S40 would be endeed by a discount of 1007 if Adma pracelases b4(5):24 (UV) stores volume-discounded price (5499(1-(10100))); at 2350, and compared with the original price S409(1-(10100)); at 2350, and a volume-discounded price (5490(1-(10100))); at 2500, and a volume discound (1476 corresponds to the original price S400, and a volume discound (1476 corresponds to the original price S400, and a volume discound (1476 corresponds to the original price S400, and a volume discound (1476 corresponds to the original price S400, and a volume discound (1476 corresponds to the original price S400, and a volume discound (1476 corresponds to the original price S400, and a volume discound (1476 corresponds to the original price S400, and a volume discound (1476 corresponds to the original price S400, and a volume discound (1476 corresponds to the original price S400, and a volume discound (1476 corresponds to the original price S400, and a volume discound (1476 corresponds to the original price S400, and a volume discound (1476 corresponds to the original price S400, and a volume discound (1476 corresponds to the original price S400, and a volume discound (1476 corresponds to the original price S400, and a volume discound (1476 corresponds to the original price S400, and a volume discound (1476 corresponds to the original price S400, and a volume discound (1476 corresponds to the original price S400, and a volume discound (1476 corresponds to the original price S400, and a volume discound (1476 corresponds to the original price S400, and a volume discound (1476 corresponds to the original price S400, and a volume discound (1476 corresponds to the original price S400, and a volume discound (1476 c

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djustanos is determine prices for various problems concer of the inversion's method and approximate, precise for concerned of the inversion's method and approximate, precise for computer is allowed and the standard of the second computer is allowed and the standard of the second computer is allowed and the standard of the second constant for the standard of the second computer is allowed and the standard of the second computer is the inversion the WHD (to be determined by the second computer is allowed and the second computer is allowed to extend the standard of the second computer is allowed the second the standard of the second computer is allowed of the groups to which that constant relevant, and all pricise of the groups to which that constant relevant, and hard the domains for which and engines is allowed and the precise independent of the groups to which that constant relevant, and hard the second computer is allowed and the precise independent of the second computer is a second and the precise independent of the second computer is allowed and the precision of the second computer is allowed and the second computer is allowed and the precision in the second second computer is allowed and the precision of the second computer is allowed and the second computer is allowed and the second computer is allowed and the precision of the second computer is allowed and the second computer is allowed

For example, when the "cashsmer type" group to wataparticular costomer belongs is identified, all of the privadigistments applicable to that cashsmer type are applied that particular costomer. This allows pricing rules to based on characteristics of each organizational group lask of basing the mixes on a pre-costomer basis. Similarly, a product group hierarchy is defined that cat applied to products. For example, a "hardwar" poor group may be defined that may include as member inturber of products. Special pricing adjointnets may

connect as appying to an intraware products, where product is selected using the investion, all product groups which the product belongs, and all applicable pricidiginaturents, are identified. The price adjustments for a particular purchasing orgazation are determined by retrieving the price adjustments's that particular purchasing organization as well as the pridigistratem for other organizational groups that are also

particular parchasing separatation in the expanzitation purpherearchy. Liskewise, the price calculations for fixedar product are determined by retrieving the prosentances for the produced purphers that are lober and the product produced purphers and are lober attractions of the produced purphers that are lober attractions product of the produced purphers and articular product of theread on a particular purchasing calculation based on services and principal purchasing and the product of theread on a particular purchasing shadt the pricing adjustments are applied in sequence we at a fault price at which a particular product can applied the price of the price price price price price price price at a price price of the price price price price and price p

The combination of organizational groups and roups hierarchies and the denormalized pricing tal ing a particular cognitization (or an ortherable) and a particular product (or an ortherable) product (or an ortherable) and product product (or an ortherable) product produc

tan-15 BRIEF DESCRIPTION OF THE I mes ficeicita tests. TGC. 1 illustrates a basic price table acc icita tests. Gravitational account (FIG. 2 shows a prior at volume dis for 20 sponding to the basic price table of FIG. FIG. 3 shows an example of a compume generate price recommediations account

FIG. 4A shows in example of an a 50 expanding group according to the pro-FIG. 4B shows an example of an a product group according to the present i FIG. 5 is an example of the inventivable for relating various purchasing orga 90 ons organizational groups) to various per PIG. 6 shows a compute various per PIG. 6 shows a computer server a accor

g envention instanting user a mangeo organ 5000 cm s a example of a compater as g the present investions showing the varipriving types and user specific priving vaend of the standard sector of the sector BIG. 9 is an example of a computer as the present investion showing priving adj end and user specific priving sources. FIG. 9 is an example of a computer as the present investion showing priving adj end and a sector of the source of the source of the source of the sector of the source of the source of the term of the source of the source

FIG. 11 is an example of a computer s the present invention showing customer d purchasing organization and a specific purtor FIG. 12 is an example of a computer s the present invention showing pricing adj an organizational group and a prodict g FIG. 13 is an example of a computer s the present invention showing pricing adj

using a Tax pricing type. FIG. 14 is another example of a compt ing to the present invention showing p details for a geographical organizational group a

FIGS. 15A through 15C illustrate the execution flo according to the present invention. DETAILED DESCRIPTION OF THE

A method and apparatus for pricing products in m level product and organizational groups is described. In

A pricing application called R3 made by SAP has the prior art disadvantages explained above. For example, R3 requires a number of price adjustment tables and a number of database queries to retrieve applicable price adjustments. Likewise, an order entry application made by Oracle has a similar shortcoming in that a number of database queries are required to retrieve various price adjustments from a large number of price adjustment tables.

SX 1001, 2:56-63

VERSATA DX-8 SAP v. VERSATA CASE CBM2012-00001

#### The Solution

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The present invention is a method and apparatus for determining prices for various products offered to various purchasing organizations (in the present application the term "purchasing organization" refers to a single person as well as to purchasing entities such as companies and the like). As stated above, in the present application the term "product" is used generically to refer to tangible products well as intangible products, such as services. The invention overcomes the prior art's difficulty in storing, maintaining, and retrieving the large amounts of data required to apply pricing adjustments to determine prices for various products. Because of the invention's method and apparatus, prices for a large number of products can be determined by a laptop computer and the prior art's need to utilize a mainframe computer is alleviated. SX 1001, 3:9-23

VERSATA DX-9 SAP v. VERSATA CASE CBM2012-00001

#### The Solution

US 6 553 350 B2 MARY OF THE INVENTION

on is a method and apparatus fo FIG. 1 illustrates a basic price table according to the pr

FIG. 4B shows an

BRIEF DESCRIPTION OF THE DRAWINGS

FIG. 6 shows

DETAILED DESCRIPTION OF THE INVENTION A method and apparatus for pricing products in well revoluct and organizational groups is described.

FIGS. 15A through 15C illustrate the execution floy

other organizational groups that are above the particular purchasing organization in the organizational groups hierarchy. Likewise, the price adjustments for a particular product are determined by retrieving the price adjustments for that particular product as well as the price adjustments for other product groups that are above the particular product in the product groups hierarchy. The invention sorts the various pricing adjustments applicable to a particular product offered to a particular purchasing organization based on several criteria. After the sorting is accomplished the pricing adjustments are applied in sequence to arrive at a final price at which a particular product can be sold to a particular

The price adjustments for a particular purchasing

organization are determined by retrieving the price

organization as well as the price adjustments for

adjustments for that particular purchasing

purchasing organization.

SX 1001, 3:50-65

**VERSATA DX-10** SAP v. VERSATA CASE CBM2012-00001

#### The Solution

US 6 553 350 B2 UMMARY OF THE INVENTION ion is a method and appar BRIEF DESCRIPTION OF THE DRAWING FIG. 1 illustrates a basic price table according to the pric rate price reco FIG. 4B shows an FIG. 6 shows oup, using a Tax pricing type. FIGS. 15A through 15C illustrate the execution flow DETAILED DESCRIPTION OF THE INVENTION A method and apparatus for pricing products in multi vel product and organizational groups is described. In th

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The combination of organizational groups and product groups hierarchies and the denormalized pricing table relating a particular organization (or an entire organizational group) to a particular product (or an entire product group) result in some of the advantages of the present invention over the prior art pricing systems. These advantages enable the method and apparatus of the present invention to overcome the prior art's need to store, maintain, and retrieve huge amounts of data required to determine prices for various products offered to various purchasing organizations while applying a large number of price adjustments. The invention also overcomes the disadvantages of having to "hard-code" the "business logic" into the pricing system. In other words, the invention provides for flexibility in formulating a desired pricing system while reducing the prior art need to store, maintain, and retrieve huge amounts of data.

*SX 1001,* 3:66-4:14

#### The Solution

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Thus, FIG. 5 illustrates that the invention greatly simplifies the prior art tables in at least two ways. First, products and organizations are categorized in different product and organizational groups. Second, the various product and organizational groups are associated with denormalized numbers whose interpretation is determined during run time. Each of these two simplifications introduced by the present invention results in a great reduction in the number of tables stored in different locations of the prior art mainframe database. One way to view these two simplifications is that each of these two simplifications result in a reduction of the number of queries to the database.

SX 1001, 11:48-59

**VERSATA DX-12** SAP v. VERSATA CASE CBM2012-00001

#### The Solution

US 6,553,350 B2

Attempticity II. Considered proceedings of \$150, and \$15

In contras, the prior at systems do not use downmalized prior tables. For complex, a prioring participation culled B4 made by S40, loss not titilize downmalined prior tables. As a reards, B4 has here prior at disadvantages in requiring as number of price adjustment tables and a number of database and on other carry application match by Ortech has a similar downcoming in that it does not use downmiled prior tables and as such the Order application metrics by Ortech has a similar downcoming on the similar downcoming and database queries is retrieve various price adjustments from 1 may (12). The similar downcoming of the similar downcoming the similar downcoming of the similar downcoming of the database queries is retrieve various price adjustments from 1 may (12).

fees the prior at tables in at least row ways. First, products and enginetisms are conjegated in different product and enginatized property. Second, the various product and members whose interproteins in determined during nut trace. Each of these two simplifications introduced by the present investories neurobic is agate reduction in the number of tables SS stored in different locations of the prior at matifications in that durings. On the system is a second during the tracenet of systems in the second system of the prior at matifications in that number of precises to the during the second system of the prior privated as remainers (relative). For other words, the prior privated systems (relative) for during that again there.

thes in the prior art. As explained above, the inventionalses fewer queries because the invention has climitated encode for the very large entitles of prior art tables. A duction in the number of queries to the database also of subscin a speed advantage in the present invention. Each ere vice a tweet means database takes about one to two rating the weaks communitation  $d_{2}$  in Fig. 5 Moreover, the Addo Rosseller (VAR). These comparations, but a siskally part of a family or two of organizations are single part of a family or two of organizations. But a sihold backbar exception, Neukline c a VAR in projectly the adverse sequencies, a Rossilie or a VAR in projectly the adverse sequencies, a Rossilie or a VAR in projectly and a single part of the sectory of organizations. The investion in the new rate sequencies, and the project and the Adverse adverse restory, with total Rossilia, a ratiogue extension of princing data for a new proder regimes addition and or princing data for a new proder regimes addition are spice tables such as that shown in FG 1. Moreover, the of adjacenter tables such as that shown in the rest of a shown in FG 2. Accordingly, the addition of a single shown into a set of adjacenter tables such as the value data adjacent data for the set of adjacenter tables such as the shown in FG 2. Accordingly, the addition of a soft data for the rest of adjacenter tables such as the value site of adjacenter tables adjacenter tables and a soft as a site of the set of adjacenter tables and the set of adjacenter tables and the data and the principal data. The set of the adjacenter tables are predicted adjacenter tables and the set of the adjacenter tables are predicted adjacenter tables and the set of the adjacenter tables are predicted adjacenter tables and the set of the organization of the set of the organization of the set of the adjacenter tables are set of the Handware project to 486 C (CPU is overcomment). These constructions in the principal shown in the principal shown in the principal shown in the set of the principal shown in the set of the set o

Memory, in the prior at, cention of prising that for a prior table is an that above in FIG. I Further, for each addate set of the se

the adjustments in an organizational group that is above new purchaser eliminate the prior at need for the larg number of separate price adjustment tables needed for eccomaching the addition of a new purchaser. For the same reasons that creation of new pricing data for a new product or parchaser is greatly simplified in th In other words, the prior art made a number of queries for obtaining the data in the basic price table and various adjustment and subadjustment tables in the prior art. As explained above, the invention makes fewer queries because the invention has eliminated the need for the very large number of prior art tables. A reduction in the number of queries to the database also results in a speed advantage in the present invention. Each query to a typical pricing database takes about one to two seconds for completion. Thus, the reduction in the number of queries results in the speed advantage in the present invention.

SX 1001, 11:59-12:3

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## Evidence shows that the claimed invention solved the identified problems with the prior art systems.

The storing, retrieving, sorting, eliminating, and determining steps are advantageous because they enable the reduction of the number of tables, and thus the number of queries, needed to determine a product price when using hierarchies. See VX 2091, ¶¶ 55-71. This in turn enables a significant performance advantage for computers running software embodying the invention of the '350 patent and provides a technological improvement over prior software systems. Id

(VR at 19-20.)

 SAP does not dispute that practicing the claimed steps enables the reduction of the number of tables and queries, and that this, in turn, enables a significant performance advantage.

(SR at 5-6.)

 The fact that the claims do not require a number of tables or queries, as SAP notes, is not relevant since practicing the claimed steps enables the undisputed advantageous, technological improvement.

(SR at 5-6.)



## Evidence shows that the claimed invention solved the identified problems with the prior art systems.

SAP documents show that the invention claimed in the '350 patent constitutes a specific and concrete improvement to technologies in the marketplace and involves activities that were in no way routine or conventional at the time of the invention. VX 2091, ¶¶ 113-118 (explaining SAP documents VX 2079, 2080, 2082, 2083, 2084, and 2089).

(VR at 49-51.)

 SAP documents show that companies had significant problems with the conventional pricing technology utilized by SAP before it adopted the technology claimed in the '350 patent in its R/3 Release 4.5 product pricing software (found to infringe the '350 claims). VX 2091, ¶ 120.

(VR at 49-51.)

 SAP documents demonstrate that the invention of claims 17 and 26-29 was not routine, conventional or well-known as of June 1996 (the time of the invention) and, further, that the claimed invention provided a real-world practical solution to the acknowledged performance issues that SAP, and it's customers, were experiencing with the SAP R/3 system in use at that time.

(VR at 49-51.)



Evidence shows that the claimed invention solved the identified problems with the prior art systems.

(VX 2091, ¶¶ 113-115; VX 2089 at p. 6-12; VX 2082 at p. 6-14.)

н	ierarchy Accesses (2) SAP
	<u>Solution before R/3 Release 4.5:</u> One condition table for each characteristic combination
	•
	Level 1 / Level 2 / Level 3
	Level 1 / Level 2
	Level 1
12	0 SAP AG 1999

- To define the condition table key for hierarchies like this, you might have to include partial quantities for a pre-defined quantity of characteristics.
- Without hierarchy accesses, you would need to create a condition table for each combination and assign all the accesses to these tables in an access sequence.
- This requires a lot of maintenance and will reduce system performance. The sequence of the accesses will also be fixed.
- This is particularly disadvantageous for hierarchy data such as product or customer hierarchies.

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Evidence shows that the claimed invention solved the identified problems with the prior art systems.

(VX 2091, ¶¶ 116-117; VX 2089 at p. 6-13; VX 2082 at p. 6-15.)

<u>A single c</u>	<u>vith R/3 R</u> ondition	l <u>elease 4.:</u> table /= o	<u>5:</u> ne access)	
Level 1 / Level 2 / Level 3 / Level 3				
SOrg / Dis LEVEL 1	str.Chnl 10 LEVEL 2	000 / 12 (fi LEVEL 3	xed key fields) MATERIAL	AMOUNT
			Sunfun 1200	20% -
00105	00100	00110		12% -
00105	00100			5% -

- The functions in hierarchy accesses enable you to solve these problems by using a single access to a condition table.
- In condition record maintenance, when you create the access sequence for using this condition table at field level, you have to define whether each field is a fixed component of the key or whether it is an optional field.
- Priorities are assigned to the optional fields.
- During pricing, the system sorts the records found with this access according to priority and displays the record with the highest priority.

VERSATA DX-17 SAP v. VERSATA CASE CBM2012-00001 Hierarchy accesses also provide clearer and easier master data maintenance because the different condition records for a condition type are created together in the quick entry screen for maintaining conditions.

#### Claim 17 is Not Directed to an Abstract Idea

#### Claim 17 must be considered as a whole.

§ 101 requires evaluating each separate and distinct step of the claimed method and the particular ways that each of the storing, retrieving, sorting, eliminating and determining steps must be performed.

(VR at 16-18.)

 Neither SAP nor Dr. Siegel considered claim 17 as a whole and thus failed to perform this analysis.

(VR at 16-18.)

#### SAP Failed To Evaluate All Elements Of The Claims

Patent eligibility must be evaluated based on what the claims recite, not on a characterization or summary of the ideas upon which they are premised. *Diehr*, 450 U.S. at 188. A proper determination of whether claim 17 is directed to patent eligible subject matter under § 101 requires an analysis of *all* of the elements or steps in the claimed process. *Id. See also Aro Mfg. Co.*, 365 U.S. at 345.

(VR at 14-15.)

 SAP and Dr. Siegel erroneously evaluated "[t]he concept of arranging customer and product data into hierarchies" and "the calculation of product prices using 'abstracted' numbers," instead of the specific elements of claim 17. See Petition, p. 17; SX 1005, §§ 44-45, 49.

(VR at 16-18)

 The requirements for patent eligibility under § 101 must be evaluated considering each of the claim elements in combination and the express language of each of the claimed steps, which SAP and Dr. Siegel failed to do.

#### SAP Failed To Evaluate All Elements Of The Claims

 Claim 17, in addition to including steps for arranging customer and product data into hierarchies and calculating a product price, includes separate and distinct steps requiring a particular way of determining product price.

(VR at 16-18.)

 SAP and Dr. Siegel failed to address the storing, retrieving, sorting, eliminating and determining steps required by claim 17 and their interrelation with one another and with the arranging steps.

(VR at 16-18.)

 SAP's new position that, when SAP and Dr. Siegel referred to "calculating" they actually meant the "storing, retrieving, sorting, eliminating, and determining steps," is a clear recognition of the defective § 101 evaluation set forth in SAP's Petition and Dr. Siegel's testimony.

(SR at 3-5.)

## SAP's New "Calculating" Argument

 SAP rewrites its statement of the alleged abstract ideas in claim 17 so that this time it refers to the claim steps (SR at 3):

infra pp. 4-5, claim 17 recites two abstract ideas using a series of steps: (1)

arranging customer and product data into hierarchies (SX1001 21:1-9 (arranging)

steps)) and (2) calculating a product price (*id.* at 21:10-29 (storing, retrieving,

sorting, eliminating, and determining steps)). Claim 27 likewise recites two

- SAP's new "calculating" argument is simply an attempt to try to fix SAP's and Dr. Siegel's defective § 101 analysis by improperly introducing a new argument that could have been, but was not, made in SAP's Petition or Dr. Siegel's testimony.
- Mischaracterizing the claimed storing, retrieving, sorting, eliminating, and determining steps as nothing more than "calculating" does not render the claims unpatentable under § 101, as SAP now contends.

(SR at 3-5.)



## "Calculating" ≠ Claimed Storing, Retrieving, Sorting, And Eliminating Steps

SAP's Improper Rewrite of the Claims	Actual Claim Language
"calculating a product price"	" storing pricing information in a data source, wherein the pricing information is associated, with (i) a pricing type, (ii) the organizational groups, and (iii) the product groups"
"calculating a product price"	" retrieving applicable pricing information corresponding to the product, the purchasing organization, each product group above the product group in each branch of the hierarchy of product groups in which the product is a member, and each organizational group above the purchasing organization in each branch of the hierarchy of organizational groups in which the purchasing organization is a member"

## "Calculating" ≠ Claimed Storing, Retrieving, Sorting, And Eliminating Steps

SAP's Improper Rewrite of the Claims	Actual Claim Language
"calculating a product price"	" sorting the pricing information according to the pricing types, the product, the purchasing organization, the hierarchy of product groups, and the hierarchy of organizational groups"
"calculating a product price"	" eliminating any of the pricing information that is less restrictive"

## "Calculating" ≠ Claimed Storing, Retrieving, Sorting, And Eliminating Steps

 SAP's rewrite of the storing, retrieving, sorting, eliminating, and determining steps as "calculating a product price" and arguing that the rewritten claim is abstract is improper and pointless.

(SR at 3-5.)

- SAP's mischaracterization of the claimed steps as "calculating a product price" is inconsistent with the actual claim language.
  - The claimed "pricing information" and the claimed "storing," "retrieving," "sorting," and "eliminating" of the pricing information are not simply numbers and are not a calculation.
  - The claimed "pricing information" and the claimed "storing," "retrieving," "sorting," and "eliminating" of the pricing information requires information on products (*e.g.*, Apple iPhone, Samsung Galaxy, Blackberry Z10), purchasing organizations (*e.g.*, AT&T Wireless, Best Buy, Costco), product groups (*e.g.*, smartphone, w/keyboard, Android OS) and organizational groups (*e.g.*, carrier, retailer, wholesaler), in addition to prices.
  - The claimed storing, retrieving, sorting, and eliminating of the pricing information is not simply "calculating a product price" and is not abstract. The combination of steps required by claim 17 represents a practical application of the alleged abstract idea.

(VR at 16-26, 32, 36-37, 40, 43-44; VX 2091, ¶¶ 56-63, 80, 85-88, 99, 104-107.)



The storing, retrieving, sorting, eliminating, and determining steps of claim 17 define a specific, practical and advantageous way to determine a product price using hierarchical groups of customers and products. VX 2091, ¶ 57.

(VR at 18-26.)

- Requirements for performing the claimed "storing" step.
- Requirements for performing the claimed "retrieving" step.
- Requirements for performing the claimed "sorting" step.
- Requirements for performing the claimed "eliminating" step.
- Requirements for performing the claimed "determining" step.

Evidence shows that the storing, retrieving, sorting, eliminating, and determining steps are meaningful and advantageous.

(VR at 19-23.)

- The claimed steps provide for functionality that enables the reduction of the number of tables and, thus, the number of queries needed to determine a product price when using hierarchies. See VX 2091, ¶¶ 57, 60.
- This in turn enables a significant performance advantage for computers running software embodying the invention of the '350 patent and provides a technological improvement over prior software systems. See VX 2091, ¶¶ 57, 60.
- The claimed combination of storing, retrieving, sorting, eliminating, and determining steps involves substantially different processing than simply "arranging and collecting data" and cannot be considered simply "data-gathering" steps or insignificant "post-solution" activity.

(VR at 20-22.)

SAP continues to ignore claim language and the evidence that the required storing, retrieving, sorting, eliminating, and determining steps of claim 17 define a specific, practical and advantageous way to determine a product price.

#### Storing step:

 SAP's response for the storing step, that "there is nothing special about the data source," ignores the specific and practical requirement of the storing step that the pricing information stored is "associated, with (i) a pricing type, (ii) the organizational groups, and (iii) the product groups."

(SR at 6.)

 SAP's sole focus on the data source, without considering the specifics of the claimed storing step, is meaningless in assessing whether the claim is or is not abstract.

(SR at 6.)

SAP continues to ignore claim language and the evidence that the required storing, retrieving, sorting, eliminating, and determining steps of claim 17 define a specific, practical and advantageous way to determine a product price.

Retrieving and sorting steps:

 Notwithstanding SAP's new "calculating" argument, SAP says that "these steps merely describe the abstract idea of customer ('organizational') and product hierarchies" and "amount to mere field-of-use or data gathering limitations."

(SR at 6.)

- SAP fails to provide any explanation as to how or why the retrieving and sorting steps allegedly describe customer ('organizational') and product hierarchies.
- SAP fails to provide any explanation as to how or why the retrieving and sorting steps allegedly amount to mere field-of-use.
- SAP fails to provide any explanation as to how or why the sorting step allegedly amounts to data gathering.

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SAP continues to ignore claim language and the evidence that the required storing, retrieving, sorting, eliminating, and determining steps of claim 17 define a specific, practical and advantageous way to determine a product price.

Retrieving and sorting steps:

 Evidence shows that these steps provide meaningful functionality that cannot be characterized as mere field-of-use or ancillary data-gathering.

(VR at 21-22; VX 2091, ¶¶ 56-63.)

#### Eliminating step:

• SAP fails to address the claimed eliminating step.

(SR at 5-7.)

#### Determining step:

• SAP fails to address the claimed determining step.

(SR at 5-7.)



SAP continues to ignore claim language and the evidence that the required storing, retrieving, sorting, eliminating, and determining steps of claim 17 define a specific, practical and advantageous way to determine a product price.

Advantageous, technological improvement:

 SAP does not dispute that practicing the claimed steps enables the reduction of the number of tables and queries needed to determine a product price when using hierarchies.

(SR at 5-6.)

 SAP does not dispute that this, in turn, enables a significant performance advantage for computers running software embodying the invention of the '350 patent.

(SR at 5-6.)

 The fact that the claims do not require a number of tables or queries, as SAP notes, is not relevant since practicing the claimed steps enables the undisputed advantageous, technological improvement.

(SR at 5-6.)



## Not Routine, Conventional or Well-Known

The way in which the claimed combination of storing, retrieving, sorting, eliminating, and determining steps use customer and product data arranged into hierarchies was not routine, conventional or well-known at the time of the invention.

(VR at 24-26; VX 2091, ¶ 62.)

SAP R/3 pricing technology available at that time (i.e., 1996) did not practice the claimed combination of steps. VX 2091, ¶ 62. For example, the SAP product did not sort pricing information according to pricing types, the product, the purchasing organization, and the product and organization group hierarchies, which is why the SAP pricing condition technique was recognized as needing significant performance improvement.

(VR at 24-25; VX 2091, ¶62.)

 No evidence or analysis of claim elements by SAP or Dr. Siegel to support allegation that claims include routine, conventional, and well-known activities added to abstract ideas.

(VR at 24; SP at 18; SX 1005, ¶¶ 44-49.)

## Not Routine, Conventional or Well-Known

The way in which the claimed combination of storing, retrieving, sorting, eliminating, and determining steps use customer and product data arranged into hierarchies was not routine, conventional or well-known at the time of the invention.

(VR at 24-26; VX 2091, ¶ 62.)

 Mr. Liebich, who, unlike Dr. Siegel, was actually working in the field of computerized business systems and software, focusing on pricing functionality, testified that he was not aware of any pricing technology in the marketplace at that time that performed the combination of storing, retrieving, sorting, eliminating, and determining steps set forth in claim 17.

(VR at 24-25; VX 2091, ¶62.)

 Mr. Liebich's testimony is supported by evidence. The commercial facts regarding what actually happened in the marketplace at the time back up his testimony.

(VR at 25-26.)

## Claims 17 and 26-29 do not preempt any abstract idea. (VR at 26-27, 38.)

 There are many ways to practice the concept of arranging customer and product data into hierarchies that fall outside the scope of claims 17 and 26-29.

(VR at 26-27, 38; VX 2091, ¶¶ 63-66, 89, 108.)

 There are ways to determine a product price using the concept of arranging customer and product data into hierarchies without practicing claims 17 and 26-29.

(VR at 26-27, 38; VX 2091, ¶¶ 63-66, 89, 108.)

 Dr. Siegel acknowledged that there are different ways to perform the alleged abstract idea of rearranging pricing data into hierarchies than the specific steps or claim elements that are in Claim 17.

(VR at 27; VX 2090, p. 103, l. 23 – p. 104, l. 16.)

Claim 17 satisfies the machine-or-transformation test. Claimed invention is tied to a particular machine – i.e., a programmed computer.

- Claim requires the pricing information to be stored in a "data source," which a person of ordinary skill in this field would understand to mean a conventional or unconventional computer database.
- Consistent with how the data source is discussed in the '350 patent specification. SX 1001, col. 10; 55-61.
- Method requiring data to be stored in a computer database requires a computer. Since a computer is needed to store (and retrieve) data from a computer database, use of a computer is integral to the claimed method.

(VR at 27-31; VX 2091, ¶¶ 67-70.)

Claim 17 satisfies the machine-or-transformation test. Claimed invention is tied to a particular machine – i.e., a programmed computer.

- Method cannot be performed using pencil and paper or mentally, without the use of a computer.
- Specification of the '350 patent, which clearly and consistently describes the claimed method as being implemented on a computer, further supports that the invention of claim 17 is tied to a particular machine and cannot be performed manually or mentally. See, e.g., SX 1001, col. 1, II 10-12; col. 3, II. 16-23; col. 5, II. 8-11, 55-58; col. 8, II. 64-67; col. 10, II. 55-61; col. 11, II. 17-25; col. 18, II. 53-55; col. 19, II. 7-17. See also VX 2077.
- SAP and Dr. Siegel's statements to the contrary are not credible in view the disclosure of the '350 patent and Dr. Siegel's subsequent testimony.
- Claimed invention has use and benefit only when implemented on a computer. From a practical standpoint, the invention would have no purpose if it were performed mentally or with pen and paper (even if it could be, which Versata denies). There would be no performance advantage outside of the context of a computer.

(VR at 27-31; VX 2091, ¶¶ 67-70.)

Claims 27 and 29 satisfy the machine-or-transformation test. Claimed invention is tied to a particular machine – i.e., a programmed computer.

- Claimed invention tied to a particular machine for the same reasons as claim 17.
- Claim 27 also requires computer implementation which further supports position that recited steps cannot be performed without a computer programmed to perform those steps.
- Claim 29 is an "apparatus" claim and requires a "processor," "memory coupled to the processor," and "computer program instructions." Claim 29 is not a "method" claim.
- Apparatus of claim 29, including its processor, memory and computer program instructions in that memory, is not a "general purpose" computer or machine. Rather, it is a special purpose machine when programmed, by the computer program instructions in memory, to perform the recited retrieving, retrieving and receiving steps to determine the product price.
- These claims cannot be performed manually or mentally.

(VR at 38, 44-45; VX 2091, ¶¶ 90, 109.)

Claims 26 and 28 satisfy the machine-or-transformation test. Claimed invention is tied to a particular machine – i.e., a programmed computer.

- Claimed invention is tied to a particular machine for the same reasons as claims 17 and 27.
- Claims 26 and 28 also require "a computer readable storage media" and "computer instructions." These additional limitations further support position that the claimed invention is tied to a particular machine.
- Additional limitations tie the invention to a computer with computer readable storage media comprising computer instructions (i.e., a programmed computer) and a data source storing pricing information, which is a requirement of claims 17 and 27. VX 2091, ¶ 81.
- These claims require more than a general purpose computer because the computer instructions, or programs, expressly recited in the claims, create a new machine that in effect becomes a special purpose computer to perform the particular functions pursuant to the computer instructions.
- These claims cannot be performed manually or mentally.

(VR at 32-34, 40-42; VX 2091, ¶¶ 80-81, 99-100.)

All required steps/elements of claims 17 and 26-29 cannot be performed entirely in the human mind or by a human using a pen and paper.

• All required claim steps/elements cannot be performed without use of a computer.

(VR at 27-31, 33, 38, 40-41, 44-45; VX 2091, ¶¶ 67-70, 81, 90, 100, 109.)

 Claims require the pricing information to be stored in a "data source," which a person of ordinary skill in this field would understand to mean a conventional or unconventional computer database.

(VR at 27-31; VX 2091, ¶¶ 67-70.)

- This interpretation is consistent with how the data source is discussed in the '350 patent specification. Any interpretation that is broader would not be reasonable in light of the specification.
  - <sup>55</sup> The invention's denormalized price table overcomes a prior art disadvantage since the invention is not limited in speed or in storage space by the prior art's requirement of retrieving several tables from the database (it is noted that although the invention is discussed in terms of a "database,"
  - 50 the invention can be implemented using any data source that may be different from a conventional database). The entries

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All required steps/elements of claims 17 and 26-29 cannot be performed entirely in the human mind or by a human using a pen and paper.

• All required claim steps/elements cannot be performed without use of a computer.

(VR at 27-31, 33, 38, 40-41, 44-45; VX 2091, ¶¶ 67-70, 81, 90, 100, 109.)

• Specification of the '350 patent clearly and consistently describes the claimed method as being implemented on a computer.

(VR at 28; VX 2077.)

• Claims requiring data to be stored in a computer database require a computer to store (and retrieve) data from the database.

(VR at 28; VX 2091, ¶ 67.)

 Claim 27 also requires computer implementation, and claim 29 is directed to an "apparatus" that includes a "processor," "memory coupled to the processor," and "computer program instructions."

(VR at 38; VX 2091, ¶ 90.)

• Claims 26 and 28 also require "a computer readable storage media" and "computer instructions."

(VR at 31, 39; VX 2091, ¶¶ 74, 94.)

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# All required steps/elements of claims 17 and 26-29 cannot be performed entirely in the human mind or by a human using a pen and paper.

Contrary to SAP's allegations, there is no evidence establishing that all of the steps/elements
of the claims can be performed entirely using pencil and paper or mentally.

(VR at 27-31; VX 2091, ¶¶ 67-70.)

• There is no disclosure or suggestion in '350 patent that the claimed invention can be performed mentally or using pencil and paper.

(SX 1001.)

 When Dr. Siegel was questioned about the claimed invention requiring use of a computer, he referred to the '350 patent specification disclosing that the claimed invention could be performed using pencil and paper. He did not identify any evidence to support his position and the '350 patent has no such disclosure.

(VX 2090, p. 105, ll. 4-15; p. 137, l. 14 - p. 139, l. 13.)

 Mr. Liebich testified that the claimed method could not be performed using pencil and paper or mentally, and SAP's reliance on his testimony as allegedly showing that it can be is misleading.

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Analysis/Factors	SAP/Dr. Siegel
Consider claim as a whole, evaluating all elements	Did not address claim as a whole. Did not address specific steps/elements of claims. Did rewrite of claims and addressed that instead.
Abstract ideas	Did not identify specific steps/elements of claims alleged to be the abstract ideas.
Practical application	Did not address whether specific steps/elements of claims constitute practical application of alleged abstract idea, are meaningful, advantageous, or a technological improvement. Did not evaluate whether claimed method/computer readable storage media/apparatus had been put into practical use.

Analysis/Factors	SAP/Dr. Siegel
Routine, conventional, well-known	Did not identify any specific steps/elements of claims as routine, conventional or well-known.
Mere field-of-use limitations	Did not identify any specific steps/elements of claims.
Tangential references to technology	Did not identify any specific steps/elements of claims.
Insignificant pre- or post-solution activity	Did not identify any specific steps/elements of claims.
Ancillary data-gathering steps	Did not identify any specific steps/elements of claims.
Preemption	Did not address preemption.

Analysis/Factors	Versata/Mr. Liebich
Consider claim as a whole	VR at 16-19, 32, 36, 40, 43. VX 2019, ¶¶ 56-57, 80, 86, 99, 106.
Abstract ideas	VR at 15-26, 31-44. VX 2019, ¶¶ 54-62, 72-81, 83-88, 92-100, 102-107.
Practical application	VR at 18-24, 32, 36-37, 40, 43-44. VX 2019, ¶¶ 56-57, 60, 80, 87-88, 99, 106- 107.
Not Routine, conventional, well-known	VR at 22-26, 32, 36-37, 40, 43. VX 2019, ¶¶ 60, 62, 80, 86, 88, 99, 106-107, 111-120.

Analysis/Factors	Versata/Mr. Liebich
Not mere field-of-use limitations	VR at 20-21, 45-49. VX 2019, ¶¶ 56-63, 80, 86, 99, 106.
Not tangential references to technology	VR at 20-21, 45-49. VX 2019, ¶¶ 56-63, 80, 86, 99, 106.
Not insignificant pre- or post-solution activity	VR at 20-21, 45-49. VX 2019, ¶¶ 56-63, 80, 86, 99, 106.
Not ancillary data-gathering steps	VR at 20-21, 45-49. VX 2019, ¶¶ 56-63, 80, 86, 99, 106.
No preemption	VR at 26-27, 32, 38, 40, 43-44. VX 2019, ¶¶ 63-66, 80, 89, 99, 108.

## Evidence Establishes That Mr. Liebich Is Qualified

#### The Evidence Establishes that Mr. Liebich is Qualified to Testify as to the Understanding of One Skilled in the Art.

 The Board determined that "[t]he field of invention is computerized financial systems" and that a person of ordinary skill in the art would have "at least a bachelor's degree in computer science and experience developing computerized financial systems."

(ID at 8, n. 4.)

 Versata and Mr. Liebich referred to the field of invention as "computerized business systems and software, including its pricing functionality."

(VR at 24, 32, 39; VX 2091, ¶ 14, 67, 77, 83, 97, 102.)

 Evidence establishes that Mr. Liebich has more than 20 years of experience in the field of computerized business systems and software, including its pricing functionality, and many years of practical experience designing, configuring and programming computerized pricing systems.

(VX 2091, ¶¶ 2-7, 14, 68 and Appendix A; SX 1033, p. 166, I. 8 – p. 167, I. 16.)

### Evidence Establishes That Mr. Liebich Is Qualified

#### The Evidence Establishes that Mr. Liebich is Qualified to Testify as to the Understanding of One Skilled in the Art.

 The qualifications, background, and experience of Mr. Liebich detailed in his testimony and his CV are more than sufficient to qualify him as a person of ordinary skill in the art and to testify as to the understanding of one skilled in the art.

(VX 2091, ¶¶ 2-7, 14, 68 and Appendix A.)

 "I have also taken into account my own knowledge of pricing, in general, and the pricing functionality of SAP's SD module in particular, gained from over 20 years of experience in the field of computerized business systems and software, including its pricing functionality."

(VX 2091, ¶ 14.)

 "My opinion is further supported by my many years of practical experience programming, troubleshooting and using pricing systems - - the size and complexity of which require the use of a programmed computer."

(VX 2091, ¶68.)

#### Evidence Establishes That Mr. Liebich Is Qualified

#### The Evidence Establishes that Mr. Liebich is Qualified to Testify as to the Understanding of One Skilled in the Art.

 "Q. ... And you indicate at the end of that sentence you have over 20 years of experience in the field of computerized business systems and software, including its pricing functionality, is that right? A. That is correct. .... When you look at my CV, you will see that 20 years of experience at different client sites with the specific tasks that I accomplished at these companies."

(SX 1033, p. 166, ll. 8-21.)

"Q. ... if you could, explain for the Board, as part of your work, have you done anything regarding designing or programming? A. Yes. THE WITNESS: When I started with SAP, I was sent to SAP for multiple programming courses. In the three years working in Germany, I was mainly programming different reports, transactions, online screens. The same happened when I moved to the United States. My first client, I was the leader of a development team. So I was -- I am very familiar with the programming language of SAP. And looking at the different customers that I've been at, I was always the pricing lead, basically designing their pricing functionality in the SAP R/3 system."

(SX 1033, p. 166, ll. 22 – p. 167, l. 16.)

### Board Should Give Weight to Mr. Liebich's Testimony

 Mr. Liebich's 20 years of experience designing, configuring, and programming computerized pricing systems (i.e., computerized "financial" systems, using the Board's terminology) places Mr. Liebich at least on par with and, in fact, he has expertise beyond, a person having "at least a bachelor's degree in computer science and experience developing computerized financial systems."

(VX 2091, ¶¶ 2-7, 14, 68 and Appendix A; SX 1033, p. 166, l. 8 – p. 167, l. 16.)

In arguing that Mr. Liebich's testimony should be given no weight, SAP relies on Sundance, Inc. v. DeMonte Fabricating Ltd., 550 F. 3d 1356, 1363 (Fed. Cir. 2008). In Sundance, the Federal Circuit held that a district court abused its discretion when it admitted the testimony of a patent law expert "[d]espite the absence of any suggestion of relevant technical expertise." Sundance, 550 F. 3d at 1361-62 (emphasis added).

(SR at 21-22.)

This is not the situation here. Evidence establishes that Mr. Liebich has "sufficient relevant technical expertise" such that there is an "adequate relationship between his experience and the claimed invention." See SEB S.A. v. Montgomery Ward & Co., Inc., 594 F.3d 1360, 1373 (Fed. Cir. 2010). Like the situation in SEB, "this case comes nowhere close to the unusual situation in [Sundance]" where the alleged expert did not have "any ... relevant technical expertise." Id.



## Dr. Siegel's Testimony Should Be Given No Weight

Expert Testimony Should Be Afforded Little To No Weight Where The Expert Does Not Provide A Sufficient Factual Basis For His Or Her Opinions

(VR at 67-68, citing 37 C.F.R. §§ 42.65(a) and 41.158(a), and Federal Circuit and Board decisions)

 Dr. Siegel failed to disclose underlying facts or data upon which his § 101 opinions are based.

(VR at 67-70.)

 Dr. Siegel did not analyze the claims as a whole and, admittedly, did not address the separate steps required by claim 17 in his § 101 analysis.

(VR at 68-70; VX 2090, p. 90, ll. 9-24.)

 Dr. Siegel admitted that he did not do any analysis to understand the system described in the '350 patent, and that he does not know what the system is.

(VR at 70; VX 2090, p. 104, l. 20 – p. 136, l. 8.)

 Dr. Siegel did not analyze each claim limitation or provide any factual basis to support his assertions regarding alleged conventional and well-known activities being in the claims.

(VR at 68-69; SX 1005, ¶¶ 44-49.)

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