

## **Actifio v. Delphix Corp: Granting Institution IPR2015-00100**

Article By:

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*Takeaway: The Board may decide that substantially the same references and arguments are not being presented in the petition as were presented to the Patent Office during prosecution because the arguments provided in the petition are in greater detail than those presented to the Patent Office.*

In its Decision, the Board instituted *inter partes* review of all of the challenged claims (claims 1-6, 8, 14, 16-19, 24, and 25) of the '361 Patent. The '361 Patent describes systems and methods for managing databases and lifecycle workflows based on databases.

The Board first examined claim construction, stating that the claims will be interpreted using the broadest reasonable construction standard. The Board construed “database” as comprising data stored for use by a computer. The Board construed “database blocks” to mean “a unit of data used by a database,” and did not adopt any of the limiting definitions suggested by either party. The Board did not adopt either of the parties’ constructions of the term “virtual database,” and adopted the construction of “a set of database files capable of being read from and written to, and capable of being mapped to physical addresses for stored database blocks.”

The Board then reviewed the sole ground of unpatentability – that the challenged claims are obvious over Sanders, Edwards, and Chapman. The Board reviewed all of the evidence presented by Petitioner. Next, the Board analyzed Patent Owner’s arguments. Patent Owner argued that the references did not disclose certain limitations, but the Board was not persuaded by those arguments. Patent Owner also argued that there is no motivation to combine because Sanders teaches against the proposed combination, but the Board was not persuaded by that argument because it did not fully account for the teachings of Sanders. Finally, Patent Owner asserted that it had disclosed to the Patent Office every feature of the prior art that Petitioner has cited to in the Petition, and Petitioner is trying to “take a second bite at the apple” by submitting a redundant references describing those features. The Board was not persuaded that substantially the same references and arguments presented in the Petitioner were presented to the Patent Office because of the difference in the level of detail. Therefore, it was not a reason to deny institution.

### ***Actifio, Inc. v. Delphix Corp., IPR2015-00100***

Paper 7: Decision on Institution of *Inter Partes* Review

Dated: May 14, 2015

Patent 8,566,361 B2

Before: Karl D. Easthom, Jennifer S. Bisk, and Patrick R. Scanlon

Written by: Scanlon

Related Proceedings: *Delphix Corp. v. Actifio, Inc.*, No. 5:13-cv-04618-BLF (N.D. Cal.);  
IPR2015-00108; IPR2015-00014; IPR2015-00016; IPR2015-00019; IPR2015-00026;  
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