UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

HEWLETT PACKARD COMPANY,
Plaintiff,

v.

SERVICENOW, INC.,
Defendant.

Case No. 14-cv-00570-BLF

ORDER GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT OF INVALIDITY

[Re: ECF 70]

Defendant ServiceNow moves for summary judgment of invalidity of claims asserted against it under four U.S. patents. For the reasons below, the motion is **GRANTED**.

I. BACKGROUND

Plaintiff Hewlett Packard ("HP") brought this suit against Defendant ServiceNow, alleging infringement of eight patents. At issue in the present motion are claims 12, 32, and 35 of U.S. Patent 8,224,683; claims 8-10, 13, 15, and 17-20 of U.S. Patent 6,321,229; claims 1, 2, 3, 5, and 15 of U.S. Patent 7,890,802; and claims 1, 3, 4, 5, and 7 of U.S. Patent 7,610,512.[1] ServiceNow contends that these claims (collectively the "asserted claims") are invalid under 35 U.S.C § 101 for failing to claim patentable subject matter. Specifically, ServiceNow contends that the asserted claims are directed to abstract ideas, which the Supreme Court has long held fall outside the scope of § 101, *Alice Corp. v. CLS Bank Int'l*, 134 S.Ct. 2347, 2354 (2014).

The court held a hearing on January 29, 2015. HP argued that the parties' positions revealed underlying disputes as to the proper construction of critical claim terms and that construction of these claim terms would be necessary in order resolve the parties' ultimate dispute regarding patent-eligibility. *See* Hearing Transcript at 40:5-14, ECF 87. However, HP did not provide explicit proposed constructions of the claim terms it believed precluded summary judgment of invalidity,

explaining that it had understood the court's prior instructions to preclude claim construction prior to this summary judgment motion. The court, recognizing a misunderstanding, granted leave for HP to file proposed constructions; the court also granted ServiceNow leave to file additional briefing to address whether the patents at issue would be invalid under HP's proposed constructions. ECF 84. HP took the opportunity to file proposed constructions.[2] ECF 89. ServiceNow has accepted HP's proposed constructions for purposes of this motion and argued that the asserted claims are invalid even under the proposed constructions. ServiceNow's Supplemental Brief, ECF 91. The court will adopt HP's proposed constructions for purposes of this motion as well. *See Bascom Research, LLC v. LinkedIn, Inc.*, No. 12-cv-06293, 2015 WL 149480, at *12 (N.D. Cal. Jan. 5, 2015).

A. U.S. PATENT 8,224,683

The '683 patent is directed toward optimizing the efficiency of providing IT helpdesk services. According to the patent's specification, "many businesses choose to contract . . . information technology (IT) specialists to install and maintain appropriate computer and network hardware and software necessary for the business to achieve its business objectives. . . . Typically, the contract requires the IT provider to maintain a helpdesk to which the business'[s] employees may call to notify the IT provider of problems with the computer system, network, or software. ¶ The helpdesk agent assigns each reported problem a service ticket." '683 patent at 1:27-40. The claims of the '683 patent are directed to a "system for monitoring service tickets in order to provide reminders to a help desk user of impending times for actions." Claim 12 of the '683 patent, which is representative for § 101 purposes,[3] recites:

> A computer program product in a non-transitory computer readable media for use in a data processing system for monitoring service tickets for information technology service providers to ensure that levels of service required to be provided to a customer pursuant to a contractual agreement between the

[2] The constructions submitted by HP are reproduced in Appendix B.

[3] Although HP has not stipulated that Claim 12 is representative for § 101 purposes, both parties argued the patent's validity in general terms, without identifying differences among the claims that would change the § 101 analysis. After reviewing the asserted claims, the court concludes that Claim 12 is representative for § 101 purposes "because all the claims are substantially similar and linked to the same abstract idea." *Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat.*

customer and a service provider, are met, the computer program product comprising:

first instructions for inspecting a service ticket in a database to determine a deadline for when a problem associated with the service ticket must be resolved, with the deadline based upon a contractually determined severity of the problem and a corresponding contractually required time for resolution of the problem;

display instructions for displaying, on a display device at the help desk, a graphical display populated with representations of service tickets that have reached a predetermined percentage of the time before their due date;

second instructions for determining an deadline approaching alert time at which a help desk user must be notified that the deadline for resolving the problem must be met; and

third instructions for alerting the help desk user that the deadline for resolving the problem is approaching when the deadline approaching alert time is reached.

B. U.S. PATENT 6,321,229

The '229 patent is directed toward accessing information in an information repository, such as a computer database. Recognizing the utility of displaying information hierarchically, the '229 patent claims a method and apparatus for accessing a repository's information in a way that it may be displayed to a user in hierarchical form. Claim 8 of the '229 patent, representative for § 101 purposes,[4] recites:

Apparatus for accessing an information repository, comprising:

a. a number of computer readable media; and

b. computer readable program code stored on said number of computer readable media, said computer readable program code comprising:

i. code for creating a hierarchy of derived containers, wherein a given derived container corresponds to:

(1) a container definition node of an information model, said information model comprising a hierarchy of container definition nodes; and

(2) a category of information stored in said information repository;

ii. code for displaying given ones of said derived containers to a computer user; and

iii. code for determining if a given one of said displayed derived containers has been selected by a computer user, and upon selection of said given one of said displayed derived containers, displaying contents of said given one of said displayed derived containers.

[4] Although HP has not stipulated that Claim 8 is representative for § 101 purposes, both parties argued the patent's validity in general terms, without identifying differences among the claims that would change the § 101 analysis. After reviewing the asserted claims, the court concludes that Claim 8 is representative for § 101 purposes "because all the claims are substantially similar and linked to the same abstract idea." *Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat.*

C. U.S. PATENTS 7,890,802 AND 7,610,512

The '802 and '512 patents, which share a specification, are directed toward automating workflows for resolving IT incidents. The '802 patent's claims focus on the creation of these automated IT workflows, while the '512 patent's claims focus on running the automated IT workflows. Claim 1 of the '802 patent, representative for § 101 purposes,[5] recites:

> A computer implemented method for facilitating a user in defining a repair workflow for subsequent use in resolving information technology (IT) incidents, comprising:
>
> facilitating the user in defining a plurality of steps of the repair workflow using a computing device, wherein facilitating the user in defining a plurality of steps comprises facilitating the user in defining a plurality of operations for the steps, and defining inputs and outputs of the operations;
>
> facilitating the user in defining a plurality of transitions between the steps, based at least in part on the outputs of the steps, using a computing device; and
>
> checking the defined repair workflow for correctness before being used to resolve an IT incident using a computing device, wherein checking the defined repair workflow for correctness includes verifying that each response of each step's operation has a transition to another step.

Claim 1 of the '512 patent, representative for § 101 purposes,[6] recites:

> A computer implemented method for resolving an information technology (IT) incident, comprising:
>
> loading a repair workflow having a plurality of steps and transitions between the steps, defined to repair the IT incident on a computing device, each of the steps having one or more inputs, processing logic for the input(s) and one or more outputs;
>
> creating a repair frame for the loaded repair workflow on the computing device;
>
> creating a repair context for the repair frame on the computing device, and populating the repair frame with configuration data;
>
> binding one or more data values to the one or more inputs of one of the steps within the repair context;

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[5] Although HP has not stipulated that Claim 1 is representative for § 101 purposes, both parties argued the patent's validity in general terms, without identifying differences among the claims that would change the § 101 analysis. After reviewing the asserted claims, the court concludes that Claim 1 is representative for § 101 purposes "because all the claims are substantially similar and linked to the same abstract idea." *Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat. Ass'n*, 776 F.3d 1343, 1348 (Fed. Cir. 2014) (internal citations omitted).

[6] Although HP has not stipulated that Claim 1 is representative for § 101 purposes, both parties argued the patent's validity in general terms, without identifying differences among the claims that would change the § 101 analysis. After reviewing the asserted claims, the court concludes that Claim 1 is representative for § 101 purposes "because all the claims are substantially similar and linked to the same abstract idea." *Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat.*

processing the bound data values of the one or more inputs of the step within the repair context;
executing the step's operation;
extracting the one or more outputs of step within the context; and
selecting a transition to transition to another step within the context, based at least in part on the extracted one or more outputs.

II. LEGAL STANDARD

A. MOTION FOR SUMMARY JUDGMENT

Pursuant to Rule 56 of the Federal Rules of Civil Procedure, a "court shall grant summary judgment if the movant shows that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a).

The Supreme Court's 1986 "trilogy" of *Celotex Corp. v. Catrett*, 477 U.S. 317 (1986), *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242 (1986), and *Matsushita Electric Industrial Co. v. Zenith Radio Corp.*, 475 U.S. 574 (1986), requires that a party seeking summary judgment show the absence of a genuine issue of material fact. Once the moving party has done so, the nonmoving party must "go beyond the pleadings and by [its] own affidavits, or by the depositions, answers to interrogatories, and admissions on file, designate specific facts showing that there is a genuine issue for trial." *See Celotex*, 477 U.S. at 324. "When the moving party has carried its burden under Rule 56(c), its opponent must do more than simply show that there is some metaphysical doubt as to the material facts." *Matsushita*, 475 U.S. at 586. "If the [opposing party's] evidence is merely colorable, or is not significantly probative, summary judgment may be granted." *Liberty Lobby*, 477 U.S. at 249-50. "[I]nferences to be drawn from the underlying facts," however, "must be viewed in the light most favorable to the party opposing the motion." *See Matsushita*, 475 U.S. at 587.

B. PATENT-ELIGIBLE SUBJECT MATTER

Section 101 of the Patent Act defines the classes of patentable subject matter: "Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title." 35 U.S.C. § 101.

Despite the apparent breadth of this language, § 101 has long contained "an important implicit exception: Laws of nature, natural phenomena, and abstract ideas are not patentable." *Ass'n for Molecular Pathology v. Myriad Genetics*, 133 S.Ct. 2107, 2116 (2013) (quoting *Mayo Collaborative*

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