

Filed on behalf of Hewlett-Packard Company

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SERVICENOW, INC.
Petitioner

v.

HEWLETT-PACKARD COMPANY
Patent Owner

Case No. IPR2015-00523
Patent 6,321,229
Filed: January 5, 2015

**PATENT OWNER'S ELECTION TO WAIVE
ITS PRELIMINARY RESPONSE**

Patent Owner Waiver of Preliminary Response

Pursuant to 37 C.F.R. § 42.107(b), Patent Owner Hewlett-Packard Company (“HP”) hereby elects to waive its patent owner preliminary response to the Petition for *Inter Partes* Review of U.S. Patent No. 6,321,229 (“’229 patent”). As indicated in the Trial Practice Guide, no adverse inference should be taken by this election. See Office Patent Trial Practice Guide, 77 Fed. Reg. 48756, 48764 (Aug. 14, 2012). Patent Owner reserves all rights to submit a Patent Owner’s Response and/or Amendment of the Patent pursuant to 37 C.F.R. §§ 42.120 and 42.121, respectively, should the Board institute *Inter Partes* Review.

Patent Owner Notice of Developments in Related litigation

Patent Owner HP wishes to make the Board aware of certain developments in the following related litigation for the ‘229 patent, which is also set forth in the Petition and HP’s Mandatory Notices: *Hewlett-Packard Company v. ServiceNow, Inc.*, Case No. 14-CV-00570 BLF (N.D. Cal. Feb. 6, 2014). In this related litigation, the court granted Petitioner ServiceNow’s motion for summary judgment of invalidity under 35 U.S.C. §101 for the claims of the ‘229 patent that are subject to the Petition. See Ex. 2001 (Order Granting Defendant’s Motion for Summary Judgment of Invalidity). The summary judgment motion did not involve issues under 35 U.S.C. §§ 102, 103. In addition, certain positions regarding claim

construction were taken with respect to this motion. *See* Ex. 2001 (Order Granting Defendant's Motion for Summary Judgment of Invalidity) at Ex. B (HP's Proposed Constructions), Ex. 2002 (Plaintiff Hewlett-Packard Company's Proposed Claim Constructions in Support of HP's Opposition to ServiceNow's Motion for Summary Judgment of Invalidity under 35 U.S.C. § 101) at 3. The briefing relating to this summary judgment motion is publicly available.

Respectfully Submitted,

Date: May 8, 2015

/David L. Cavanaugh/

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Attorneys for Patent Owner Hewlett-
Packard Company

CERTIFICATE OF SERVICE

I hereby certify that on May 8, 2015, I caused a true and correct copy of the foregoing document:

- **PATENT OWNER'S ELECTION TO WAIVE ITS PRELIMINARY RESPONSE**
- **Exhibits 2001-2002**

to be served via email on the following attorneys of record for Petitioner:

- Heidi L. Keefe (hkeefe@cooley.com; zpatdcdocketing@cooley.com)
- Andrew C. Mace (amace@cooley.com; zpatdcdocketing@cooley.com)

/David L. Cavanaugh/
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Exhibit List for Inter Partes Review of U.S. Patent No. 6,321,229

Exhibit Description	Exhibit #
Order Granting Defendant's Motion for Summary Judgment of Invalidity	2001
Plaintiff Hewlett-Packard Company's Proposed Claim Constructions in Support of HP's Opposition to ServiceNow's Motion for Summary Judgment of Invalidity under 35 U.S.C. § 101	2002