

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SERVICENOW, INC.,
Petitioner,

v.

HEWLETT-PACKARD COMPANY,
Patent Owner.

Case IPR2015-00523
Patent 6,321,229 B1

Before JUSTIN BUSCH, JAMES B. ARPIN, and
BARBARA A. PARVIS, *Administrative Patent Judges*.

PARVIS, *Administrative Patent Judge*.

DECISION
Instituting *Inter Partes* Review
37 C.F.R. § 42.108

I. INTRODUCTION

A. *Background*

ServiceNow, Inc. (“Petitioner”) filed a Petition (Paper 1, “Pet.”) to institute an *inter partes* review of claims 8–10, 13, 15, and 17–20 (the “challenged claims”) of U.S. Patent No. 6,321,229 B1 (Ex. 1001, “the ’229 Patent”) pursuant to 35 U.S.C. § 311. Hewlett-Packard Company (“Patent Owner”) filed a Waiver of Preliminary Response. Paper 12. Under 35

U.S.C. § 314, an *inter partes* review may not be instituted “unless . . . there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” 35 U.S.C. § 314(a).

Petitioner contends that the challenged claims are unpatentable under 35 U.S.C. § 103 based on the following grounds (Pet. 3):

References	Claims challenged
U.S. Patent No. 6,199,098 B1 (“Jones”) (Ex. 1003) and Fox ¹	8–10 and 13
Jones, Fox, and U.S. Patent No. 6,151,630 (“Williams”) (Ex. 1006)	18–20
Jones, Fox, and Forta ²	15 and 17

For the reasons set forth below, we determine that, on this record, Petitioner demonstrates a reasonable likelihood of prevailing in showing the unpatentability of the challenged claims.

B. Related Proceedings

Petitioner identifies, as a related proceeding, a lawsuit in the United States District Court for the Northern District of California captioned *Hewlett-Packard Company v. ServiceNow, Inc.*, Case Number 14-CV-00570. Pet. 1.

C. The '229 Patent

The '229 Patent pertains to a computer implemented system using an information model to organize an information repository into a hierarchy of

¹ DAVID FOX & TROY DOWNING, WEB PUBLISHER’S CONSTRUCTION KIT WITH HTML 3.2 (1996) (“Fox”) (Ex. 1004).

² BEN FORTA ET AL., THE COLD FUSION WEB DATABASE CONSTRUCTION KIT (1997) (“Forta”) (Ex. 1005).

information. Ex. 1001, 1:7–11. The hierarchy comprises derived containers that are generated in conformance with an information model comprising a hierarchy of container definition nodes. *Id.* at 2:61–63.

D. Illustrative Claims

Petitioner challenges claims 8–10, 13, 15, and 17–20 of the '229 Patent. Pet. 1. Claims 8, 17, and 18 are independent. Ex. 1001, 16:16–33, 17:15–18:22. Each of claims 9, 10, 13, and 15 depends directly from claim 8. *Id.* at 16:34–41, 16:59–67, 17:5–10. Each of claims 19 and 20 depends directly from claim 18. *Id.* at 18:23–29. Independent claim 8 is illustrative and is reproduced below.

8. 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.

E. Claim Construction

1. Legal Standard

As a step in our analysis, we determine the meaning of the claims for purposes of this decision. In an *inter partes* review, claim terms in an unexpired patent are interpreted according to their broadest reasonable construction in light of the specification of the patent in which they appear. 37 C.F.R. § 42.100(b); *see also In re Cuozzo Speed Techs., LLC.*, No. 2014-1301, 2015 WL 4097949, at *5–*8 (Fed. Cir. July 8, 2015) (“Congress implicitly approved the broadest reasonable interpretation standard in enacting the [America Invents Act (Pub. L. No. 112–29, 125 Stat. 284 (2011))] (‘AIA’),” and “the standard was properly adopted by [United States Patent and Trademark Office (‘USPTO’)] regulation.”). Under the broadest reasonable construction standard, claim terms are given their ordinary and customary meaning, as would be understood by one of ordinary skill in the art in the context of the entire disclosure. *In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007).

2. Proposed Constructions

Petitioner identifies the following claim terms for construction. Pet. 12–19.

Claim Term in the '229 Patent	Proposed Construction
“information repository”	“[A] collection of information.” <i>Id.</i> at 12.
“information model”	“[I]nformation that defines a hierarchical organization for an information repository.” <i>Id.</i> at 13.
“container definition node”	“Information comprising attributes for creating a derived container.” <i>Id.</i> at 14.
“derived container”	“[I]nformation derived at least in part from a container definition node.” <i>Id.</i> at 17.

Claim Term in the '229 Patent	Proposed Construction
“selection criteria attribute”	“[A]n attribute that determines information that can be extracted at a derived container.” <i>Id.</i>
“pointer”	“[A] piece of information that points to or references other information.” <i>Id.</i> at 18.

Patent Owner does not address Petitioner’s proposed claim constructions in its Waiver of Preliminary Response.

On this record and for purposes of this Decision, we determine that Petitioner’s proposed claim constructions for the terms “information repository,” “information model,” “selection criteria attribute,” and “pointer” are the broadest reasonable interpretations of these terms. For example, the ’229 Patent Specification describes an “information repository” as “hold[ing] a wealth and variety of information that can be accessed.” Ex. 1001, 1:31–32. Regarding the term “information model,” the ’229 Patent Specification explains that “an information model can be created to define a hierarchy of information (also referred to as a hierarchy) for one or more information repositories to provide meaningful and easy access to information in the information repositories.” *Id.* at 4:23–26. Regarding the term “selection criteria attribute,” the ’229 Patent Specification describes that a “selection criteria attribute” is used to “actually extract [records] from a database.” *Id.* at 7:15–16.

Regarding the terms “container definition node” and “derived container,” we agree with Petitioner to the extent that the ’229 Patent Specification describes a “container definition node” as comprising attributes (*id.* at 10:24–26) and indicates that derived containers are generated in conformance with an information model comprising a hierarchy

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