UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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SERVICENOW, INC.
Petitioner

v.

HEWLETT-PACKARD COMPANY
Patent Owner

Case IPR2015-00631
U.S. Patent No. 7,392,300

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PETITIONER'S REPLY

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The Petitioner respectfully submits the following Reply:

I.   Hamner Discloses the "Network Event" of the '300 Patent

The patent owner's first and primary argument is that Hamner does not disclose a "network event" and therefore does not disclose the step of "processing a network event" under its proposed construction. As explained in detail below, the patent owner's arguments are wrong for two separate reasons. First, the patent owner has adopted and applied an incorrect construction of "network event." Second, the patent owner's arguments fail because even under the patent owner's construction, Hamner discloses the claimed network events.

A.   The Patent Owner's Construction of "Network Event" is Wrong

This brief represents the Petitioner's first opportunity since the filing of the IPR petition more than a year ago to address the proper construction of "network event." The patent owner, in both its Preliminary Response and its subsequent Response, ignores the description of "network events" in the specification and relies instead on extrinsic evidence such as dictionaries and other external references. The Board should reject the patent owner's approach and adopt a construction of "network event" consistent with its use throughout the specification.

The Federal Circuit has made clear that "the specification 'is always highly relevant to the claim construction analysis. Usually, it is dispositive; it is the single

best guide to the meaning of a disputed term.'" *Phillips v. AWH Corp.*, 415 F.3d

1303, 1315 (Fed. Cir. 2005) (*en banc*) (quoting *Vitronics Corp. v. Conceptronic,*

Inc., 90 F.3d 1576, 1582 (Fed. Cir. 1996)). Extrinsic evidence such as dictionary

definitions, on the other hand, is generally less reliable. *Id.* at 1318-19.

The Federal Circuit in *Phillips* warned that the approach of conducting claim

construction using dictionary definitions impermissibly shifts the focus away from

the patent specification. "The main problem with elevating the dictionary to such

prominence is that it focuses the inquiry on the abstract meaning of words rather

than on the meaning of claim terms within the context of the patent." *Id.* at 1321.

This is precisely what the patent owner's proposed construction of "network

event" attempts to do. The specification provides dispositive guidance on the

meaning of "network event." As explained below, a person of ordinary skill in the

art would have understood "network event," as used in the patent, to refer to one or

more operations that can be executed on or by a network or network device. (Ex.

1002, ¶ 54; Ex. 1011, ¶ 6.) A simpler yet equivalent formulation would be an

action or occurrence that takes place in the network.

1.   The Intrinsic Evidence Supports Petitioner's Interpretation

The key dispute as to the meaning of "network event" is straightforward.

The patent owner contends that an "event" is a signal, such as a hardware or

software interrupt, that notifies a computer that something needs attention.

(Response at 32; Menascé Decl. ¶¶ 49-53.) The patent owner further states that "[a]lthough a 'network event' can ***trigger*** an operation, command, or programs, the network event is not itself an operation, command, or program and is not executed or performed." (Response at 32 (emphasis in original).)

But this is exactly where the patent owner's analysis falls apart. A "network event" in the context of the patent **is** the operation to be executed or performed, **not** the preceding occurrence that triggered it. For example, the specification describes a "network event" as something that is "executed":

> Network events may be **executed** using the communications network representation. The network event may be selected from the group consisting of provisioning, circuit provisioning, service provisioning, switch provisioning, rollback, and delete.

('300, Ex. 1001, 2:51-55 (underlining added).) The passage above lists exemplary network events (e.g. provisioning, rollback, delete, etc.) that "may be **executed** using the communications network representation." (*Id.* (emphasis added).) This list of executable network events is also reflected in dependent claims 5 and 19. ('300, claims 5 & 19 (". . . wherein the network event comprises at least one of provisioning, circuit provisioning, service provisioning, switch provisioning, rollback, and delete . . .").)

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