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.

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Case IPR2015-00631
Patent 7,392,300 B2

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

BUSCH, *Administrative Patent Judge*.

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

I.   INTRODUCTION

Petitioner, ServiceNow, Inc., filed a Petition to institute an *inter partes* review of claims 1, 7, 8, 10, 21, and 22 ("the challenged claims") of U.S. Patent No. 7,392,300 B2 ("the '300 patent"). Paper 1 ("Pet."). Patent Owner, Hewlett-Packard Company, filed a Preliminary Response pursuant to 35 U.S.C. § 313. Paper 11 ("Prelim. Resp.").

We have authority to determine whether to institute an *inter partes* review. 35 U.S.C. § 314(b); 37 C.F.R. § 42.4(a). On this record and for the reasons explained below, we are persuaded that Petitioner shows a reasonable likelihood of prevailing with respect to at least one claim. *See* 35 U.S.C. § 314(a). Accordingly, we institute an *inter partes* review.

A.   Related Matters

Patent Owner has asserted the '300 patent against Petitioner in *Hewlett-Packard Company v. ServiceNow, Inc.*, Case No. 14-CV-00570 (N.D. Cal.). Pet. 1; Paper 5, 2.

B.   The Asserted Grounds

Petitioner relies upon the following references in support of its grounds for challenging the identified claims of the '300 patent:

Exhibit	References
1003	U.S. Patent Application Publication No. 2002/0161883 A1, published October 31, 2002 ("Matheny")
1004	Elliotte Rusty Harold and W. Scott Means, XML IN A NUTSHELL: A DESKTOP QUICK REFERENCE (2001) ("Harold").
1005	U.S. Patent No. 5,796,951, issued August 18, 1998 ("Hamner").
1006	U.S. Patent No. 6,256,635 B1, issued July 3, 2001 ("Arrouye").
1007	U.S. Patent No. 5,717,934, issued February 10, 1998 ("Pitt").

Petitioner identifies the following as asserted grounds of unpatentability:

References	Basis	Claims Challenged
Matheny, Harold, Hamner, and Arrouye	§ 103(a)	1, 7, 8, 10, 21, and 22
Matheny, Harold, Hamner, and Pitt	§ 103(a)	1, 7, 8, 10, 21, and 22

Pet. 3.

C.   The '300 Patent

The '300 patent pertains to a system and method for modeling a communications network using a computer system. Ex. 1001, 1:6–8. In particular, the challenged claims are directed to methods and systems of modeling a communication network including generating and parsing a network representation, using the parsed representation to generate a network model, storing the network model in memory, and processing a network event using the network model. *Id.* at 9:40–12:18. This process is shown in Figure 5 of the '300 patent, which depicts a flowchart of an exemplary process for modeling a communications network according to an embodiment of the '300 patent. The '300 patent explains that the network modeled may be any type of network, including local area networks, wide area networks, and virtual private networks. *Id.* at 2:37–39. The network representation may include any one or combination of various elements, including "circuit level index, circuit type identification, order of operation indication, delete circuit identification, underlying circuit index, underlying link index, delete object identification, parent circuit identification, and child circuit identification." *Id.* at 2:42–48. The network representation may process any received data or network events, including "provisioning, circuit

provisioning, service provisioning, switch provisioning, rollback, and delete." *Id.* at 2:51–57.

D. The Challenged Claims

Petitioner challenges claims 1, 7, 8, 10, 21, and 22. Pet. 2. Claims 1, 10, and 21 are independent. Claim 1 is illustrative and reproduced below:

> 1. A method of modelling a communications network using a computer system, the method including:
> generating a network representation using computer-readable code, the computer-readable code representing structured information;
> parsing the network representation;
> generating a network model using the parsed network representation, the network model including a plurality of network objects and relationships between the plurality of network objects;
> storing the network model in memory; and
> processing a network event using the network model, wherein the processing includes identifying one or more network objects of the plurality of network objects, and the processing further includes determining an order of operation on the one or more network objects.

II. ANALYSIS

A. Claim Construction

"A claim in an unexpired patent shall be given its broadest reasonable construction in light of the specification of the patent in which it appears." 37 C.F.R. § 42.100(b). Pursuant to that standard, the claim language should be read in light of the specification, as it would be interpreted by one of ordinary skill in the art. *In re Suitco Surface, Inc.*, 603 F.3d 1255, 1260 (Fed. Cir. 2010). Thus, we generally give claim terms their ordinary and customary meaning. *See In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257

(Fed. Cir. 2007) ("The ordinary and customary meaning is the meaning that the term would have to a person of ordinary skill in the art in question.") (internal quotation marks omitted).

Petitioner proposes express constructions for three terms, "network representation," "network model" and "network event." Pet. 13–17. Patent Owner proposes different constructions for each of those three terms, arguing those definitions are the ordinary and customary meaning. Prelim. Resp. 4–18.

1. *"network representation"*

Petitioner proposes that network representation be construed as "information about at least one object in the network or its relationship to the network." Pet. 13. Petitioner argues that construction "flows from the specification" because the '300 patent describes examples of a network representation that would be satisfied by basic information about a single network object. Pet. 13–15 (quoting Ex. 1001, 6:35–44, 2:42–48; Ex. 1002 ¶ 51).

Patent Owner asserts that the plain meaning of network representation is "computer data that represents objects in a network and the relationships between them." Prelim. Resp. 5. Patent Owner argues Petitioner's construction would allow for a network representation to cover "information about only a single object *or* a single relationship, which is insufficient to form a representation of a network." *Id.* Patent Owner points to portions of the '300 patent describing the "network inventory" and to one sentence stating that the network representation may include representations of objects and relationships to support its argument. *Id.* at 5–6 (quoting Ex.

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