

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.

BMC SOFTWARE, INC.  
Patent Owner

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Case IPR 2015-01176  
Patent No. 5,978,594

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**PATENT OWNER'S NOTICE OF OBJECTIONS TO EVIDENCE  
PURSUANT TO 37 C.F.R. § 42.64**

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United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313

The undersigned, on behalf of BMC Software, Inc. (“BMC” or “Patent Owner”), hereby provides Notice to the Board that the objections made on the record herewith were served to ServiceNow, Inc. (“SNOW” or “Petitioner”) pursuant to 37 C.F.R. § 42.64. *See also* Trial Practice Guide, 77 Fed. Reg. 48756, 48767 (Aug. 14, 2012).

Respectfully submitted,

Dated: December 1, 2015

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Case No. IPR 2015-01176

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Pursuant to 37 C.F.R. § 42.64(b)(1), Patent Owner BMC Software, Inc. (“BMC” or “Patent Owner”) objects to the admissibility of the documents identified below that were submitted by ServiceNow, Inc. (“SNow” or “Petitioner”) during the preliminary proceedings, for the following reasons:

**A. Petitioner Exhibit 1002**

Petitioner Exhibit 1002 (Declaration of Klausner) is objected to as lacking foundation, assuming facts not in evidence, containing testimony on matters as to which the witness lacks personal knowledge, conclusory, and containing testimony concerning documents for which authentication required by FRE 901 is lacking. For example and without limitation, Dr. Klausner has no personal knowledge regarding whether any of Exhibits 1004-1008 are authentic as required by FRE 901, and thus all statements and testimony by Dr. Klausner concerning these documents lack foundation, assume facts not in evidence, and represent improper testimony under FRE 702.

**B. Petitioner Exhibits 1004-1005**

Petitioner Exhibit 1004 (excerpts from *Unix System V*) and 1005 (excerpts from *Inside MacIntosh*) are objected to as lacking authentication, containing hearsay, and being incomplete. Petitioner does not offer evidence that Exhibits 1004 and 1005 are what Petitioner claims them to be, and these Exhibits are not self-authenticating. *See* FRE 901. They also contain inadmissible hearsay. *See*

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