

Declaration of Tal Lavian, Ph.D., in Support of  
Petition for *Inter Partes* Review of  
U.S. Patent No. 7,617,073

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

U.S. Patent No. 7,617,073  
Filing Date: February 28, 2003  
Issue Date: November 10, 2009

TITLE: SYSTEM AND METHOD FOR ASSESSING AND INDICATING THE HEALTH OF COMPONENTS

**DECLARATION OF TAL LAVIAN, PH.D.**

*Inter Partes* Review No. 2015-\_\_

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(c) “a renderer adapted to display the health status of the IT component by showing a first indicator for the IT component and a second indicator for the at least one IT subcomponent, wherein the first and second indicator are each separately visible at the same time on a single display window of a display unit” (Claim 1[c]) .....	43
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I, Tal Lavian, Ph.D., declare as follows:

1. I have personal knowledge of the facts stated in this Declaration, and could and would testify to these facts under oath if called upon to do so.

2. I have been retained by counsel for ServiceNow, Inc. (“Petitioner”) in this case as an expert in the relevant art.

3. I have been asked to provide my opinions relating to claims 1-4 of U.S. Patent No. 7,617,073 to Jean-Marc Trinon et al. (“the ‘073 patent”), which I understand is owned by BMC Software, Inc. (“Patent Owner” or “BMC”).

**I. BRIEF SUMMARY OF MY OPINIONS**

4. Claims 1-4 of the ‘073 patent purport to disclose a system for displaying health status indications of IT components and subcomponents. They do not describe anything that was new or non-obvious by March 2002, the earliest date listed on the face of the ‘073 patent. As explained in detail in **Part VI** of this Declaration, the features described in those claims were disclosed and suggested in International Patent Application Pub. No. WO 00/72183 A2 to Lundy Lewis, which pre-dates the earliest application filing date. In broad overview, Lewis discloses a system in which software agents monitor operational data and

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compute health status of computer-based services and the network components that the services are composed of or depend on. The separate indications of health status for the services and network components are shown graphically within a single display window.

## II. INTRODUCTION AND QUALIFICATIONS

### A. Qualifications and Experience

5. I possess the knowledge, skills, experience, training and the education to form an expert opinion and testimony in this case. A detailed record of my professional qualifications, including a list of patents and academic and professional publications, is set forth in my curriculum vitae attached to this declaration as **Exhibit A**.

6. I have more than 25 years of experience in the networking, telecommunications, Internet, and software fields. I received a Ph.D. in Computer Science from the University of California at Berkeley in 2006 and obtained a Master's of Science ("M.Sc.") degree in Electrical Engineering from Tel Aviv University, Israel, in 1996. In 1987, I obtained a Bachelor of Science ("B.Sc.") in Mathematics and Computer Science, also from Tel Aviv University.

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