

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

BMC SOFTWARE, INC.,	§	
	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	Civil Action No. 2:14-CV-903-JRG
	§	
SERVICENOW, INC.,	§	
	§	
<i>Defendant.</i>	§	
	§	

MEMORANDUM OPINION AND ORDER

On July 10, 2015, the Court held a hearing to determine the proper construction of the disputed claim terms in United States Patent Nos. 5,978,594 (“the ’594 Patent”), 6,816,898 (“the ’898 Patent”), 6,895,586 (“the ’586 Patent”), 7,062,683 (“the ’683 Patent”), 7,617,073 (“the ’073 Patent”), 8,646,093 (“the ’093 Patent”), and 8,674,992 (“the ’992 Patent”) (collectively, the “Asserted Patents”). After considering the arguments made by the parties at the hearing and in the parties’ claim construction briefing (Dkt. Nos. 99, 106, and 108), the Court issues this Claim Construction Memorandum and Order.

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I. BACKGROUND

A. The '586 Patent

The '586 Patent is titled “Enterprise Management System and Method which Includes a Common Enterprise-wide Namespace and Prototype-based Hierarchical Inheritance.” It was filed on August 30, 2000, and issued on May 17, 2005. The '586 Patent generally relates to an improved namespace and object description system for enterprise management. *See* '586 Patent at Abstract.¹

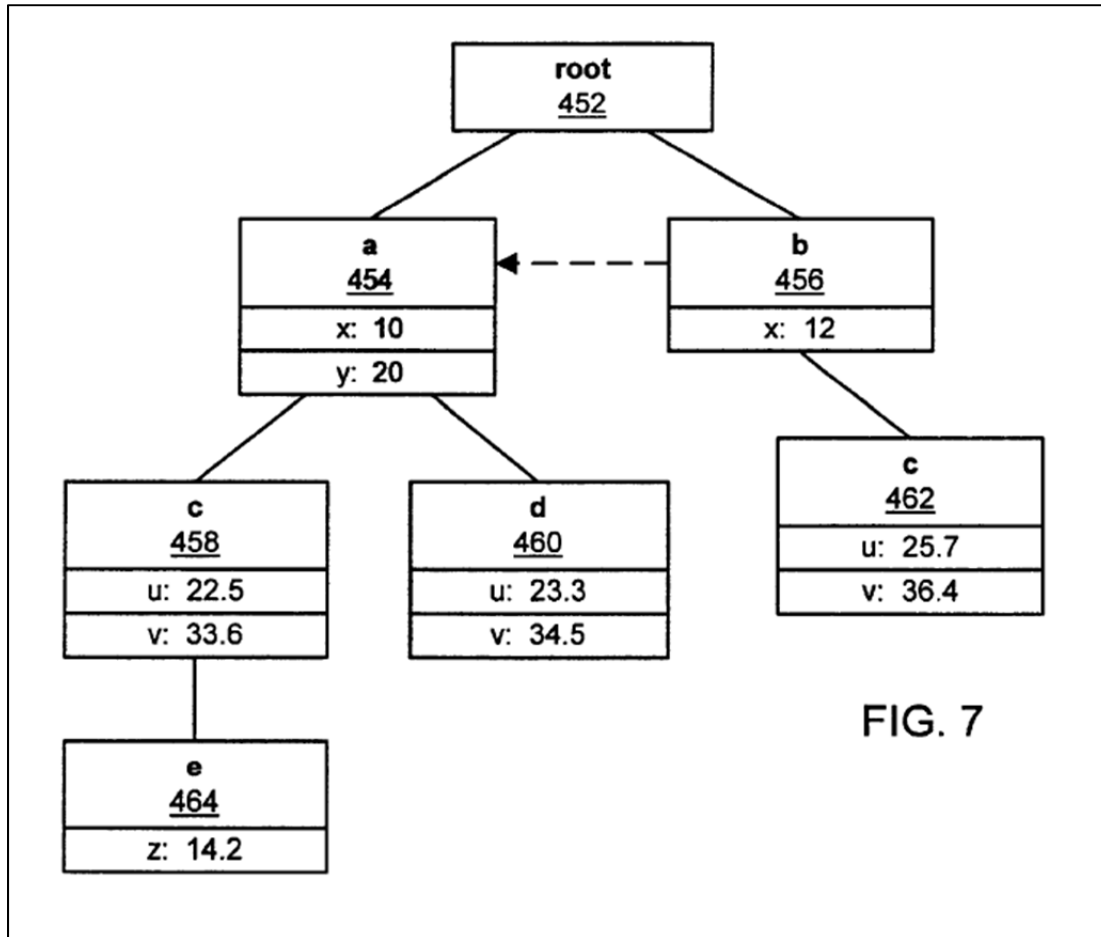
The specification states that “the term ‘namespace’ generally refers to a set of names in which all names are unique,” and that “[a] namespace is typically a logical organization and not a physical one.” *Id.* at 1:52–54; 2:12–13. The specification describes an embodiment where “[t]he namespace comprises a logical arrangement of the objects, stored hierarchically.” *Id.* at 3:62–63. The specification states that “a plurality of objects may be added to the namespace, wherein the objects relate to software and hardware of the one or more computer systems.” *Id.* at 3:63–65. The specification adds that “at least one of the objects is a prototype and at least one of the objects is an instance.” *Id.* at 4:8–10.

The specification defines “prototype” as “an object in a namespace from which attributes, values, and/or children are dynamically inherited by another object.” *Id.* at 14:44–46. The specification further defines “instance” as “an object in a namespace which dynamically inherits attributes, values, and/or children from another object in the namespace.” *Id.* at 14:47–49. The specification states that “[t]he instance inherits from the prototype traits such as attribute values

¹ The Abstract of the '586 Patent follows:

A system and method for providing an improved namespace and object description system for enterprise management are disclosed. The system and method employ a hierarchical namespace with objects including prototypes and instances where an instance inherits traits from a prototype, such as attribute values and/or child objects.

and/or child objects.” *Id.* at 4:8–10. The specification states that Figure 7 illustrates an example of a namespace which includes a prototype-instance relationship. *Id.* at 14:49–51.



Id. at Figure 7. The specification states that Figure 7 illustrates a “dynamic inheritance link from object ‘b’ 456 to object ‘a’ 454; the link is shown as a dashed arrow.” *Id.* at 14:53–54. The specification further states that “[o]bject ‘a’ 454 functions as the prototype and object ‘b’ 456 functions as the instance.” *Id.* at 14:54–55. The specification concludes that “object ‘b’ 456 dynamically inherits the attributes, values, and children of object ‘a’ 454.” *Id.* at 4:55–57. For example, “object ‘b’ 456 has an attribute called ‘x’ of its own and also inherits the attribute ‘y’ from object ‘a’ 454.” *Id.* at 14:60–62.

Claim 1 of the ’586 Patent is representative of the asserted claims and recites the

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