

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 2015-01211  
Patent No. 7,617,073

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

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Patent Trial and Appeal Board  
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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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 Lavian) 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. Lavian has no personal knowledge regarding whether any of Exhibits 1004-1006 are authentic as required by FRE 901, and thus all statements and testimony by Dr. Lavian concerning these documents lack foundation, assume facts not in evidence, and represent improper testimony under FRE 702.

**B. Petitioner Exhibits 1003**

Petitioner Exhibits 1003 (Lewis 007 Patent) is objected to as irrelevant, unduly prejudicial, and containing hearsay. *See* FRE. 402, 403. 801, 802. Petitioner does not assert Exhibit 1003 as a prior art reference that anticipates or combines to render obvious the challenged patent claims, and it is not listed as specific grounds for challenging the patent claims, so it is irrelevant. *See* FRE 402,

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