UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ServiceNow, Inc.
Petitioner

v.

BMC Software, Inc.
Patent Owner

U.S. Patent No. 8,646,093
Filing Date: December 9, 2009
Issue Date: February 4, 2014

TITLE: METHOD AND SYSTEM FOR CONFIGURATION MANAGEMENT DATABASE SOFTWARE LICENSE COMPLIANCE

PETITION FOR *INTER PARTES* REVIEW OF U.S. PATENT NO. 8,646,093

DOCKET ALARM
Find authenticated court documents without watermarks at docketalarm.com.

Table of Contents

Page

I. MANDATORY NOTICES UNDER 37 C.F.R. § 42.8(A)(1) 1

A. Real Party-In-Interest under 37 C.F.R. § 42.8(b)(1) 1

B. Related Matters under 37 C.F.R. § 42.8(b)(2) 1

C. Lead and Back-Up Counsel under 37 C.F.R. § 42.8(b)(3) 1

D. Service Information 2

E. Power of Attorney 2

II. PAYMENT OF FEES - 37 C.F.R. § 42.103 2

III. REQUIREMENTS FOR INTER PARTES REVIEW UNDER 37 C.F.R. §§ 42.104 AND 42.108 3

A. Grounds for Standing under 37 C.F.R. § 42.104(a) 3

B. Identification of Challenge under 37 C.F.R. § 42.104(b) and Statement of Precise Relief Requested 3

C. Requirements for Inter Partes Review 37 C.F.R. § 42.108(c) 4

IV. BRIEF BACKGROUND OF THE UNDERLYING TECHNOLOGY 4

V. SUMMARY OF THE CLAIMED SUBJECT MATTER 9

A. The Specification of the '093 Patent 9

B. The Challenged Claims of the '093 Patent 14

VI. CLAIM CONSTRUCTION UNDER 37 C.F.R. § 42.104(B)(3) 15

A. "license certificate" 16

B. "model" and "modeling" 17

C. "exception indication" 19

VII. CLAIMS 1, 5, 10-13, AND 16 ARE UNPATENTABLE 20

A. Brief Summary and Date Qualification of the Prior Art 21

1. Brief Overview of Meyer (Ex. 1003) 21

2. Brief Overview of Best Practice (Ex. 1004) 24

3. Brief Overview of Addy (Ex. 1005) 25

4. Brief Overview of Bruchlos (Ex. 1006) 26

DOCKET ALARM

Find authenticated court documents without watermarks at docketalarm.com.

Table of Contents
(continued)

Page

B. Ground 1: Claims 1, 5, 10, and 16 Are Obvious Over Meyer in View of Best Practice and Addy 26

1. Claim 1 26

a. "modeling deployment of a software product and a software license contract for the software product" (Claim 1[a]) 26

b. "storing a first model of the modeled deployment of the software product in a configuration management database (CMDB) by storing information related to the software product as a first configuration item in the CMDB and by storing information related to the software license contract as a second configuration item in the CMDB" (Claim 1[b])....29

c. "storing a second model of the modeled software license contract for the software product in a license database by generating a license certificate corresponding to the software license contract and storing the license certificate in the license database" (Claim 1[c])....30

d. "evaluating the deployment of the software product for compliance with the software license contract, comprising . . ." (Claim 1[d]) 38

(1) "connecting and comparing the first model and the second model by comparing the first configuration item with the license certificate and connecting the license certificate with the second configuration item responsive to comparing the first configuration item with the license certificate; and" (Claim 1[d][1]) 39

DOCKET ALARM
Find authenticated court documents without watermarks at docketalarm.com.

Table of Contents
(continued)

Page

(2) "generating an exception indication if the act of comparing the first model and the second model indicates non-compliance with the software license contract" (Claim 1[d][2]) 47

2. Claim 5 49

3. Claim 10 49

4. Claim 16 51

C. Ground 2: Claims 11-13 Are Obvious Over Meyer in View of Best Practice, Addy and Bruchlos 53

1. Claim 11 53

2. Claim 12 56

3. Claim 13 56

VIII. CONCLUSION 58

DOCKET ALARM
Find authenticated court documents without watermarks at docketalarm.com.

List of Exhibits

Ex. No	Description of Document
1001	U.S. Patent No. 8,646,093 to Anthony George Myers et al.
1002	Declaration of Tal Lavian, Ph.D.
1003	U.S. Patent No. 6,810,389 B1 to Marc A. Meyer
1004	Excerpts from Best Practice for Software Asset Management, IT Infrastructure Library (ITIL) (2003)
1005	Excerpts from Rob Addy, *Effective IT Service Management, to ITIL and Beyond!* (2007)
1006	U.S. Patent Application Publication No. 2005/0071276 A1 to Joachim Bruchlos et al.
1007	Excerpts from Joint Claim Construction Chart filed in *BMC Software, Inc. v. ServiceNow, Inc.*, Case No. 14-CV-00903 JRG (E.D. Tex.), on June 26, 2015, ECF No. 109

DOCKET ALARM
Find authenticated court documents without watermarks at docketalarm.com.

DOCKET ALARM

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts

Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research

With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips

Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS
Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS
Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS
Sync your system to PACER to automate legal marketing.