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

BMC Software, Inc.,	
Plaintiff,	Civil Action No. 2:14-cv-903
-against-	
ServiceNow, Inc.	JURY TRIAL DEMANDED
Defendant.	

COMPLAINT FOR PATENT INFRINGEMENT

BMC Software, Inc. ("BMC"), by and through its undersigned attorneys, based upon personal knowledge with respect to its own actions and on information and belief as to other matters, for its complaint avers as follows:

THE PARTIES

A.   BMC Software

1.   Plaintiff BMC is a leading provider of information technology (IT) management systems and serves thousands of customers around the globe, from small and mid-size businesses to the largest companies in the world. BMC is a corporation organized under the laws of Delaware with its headquarters at 2101 CityWest Boulevard, Houston, Texas 77042.

2.   BMC was founded in Houston, Texas by Scott Boulette, John Moores, and Dan Cloer, whose last names were used to form the name BMC. BMC's founders worked as software programmers for Shell Oil in Houston, Texas, and thereafter left together to start BMC.

Since BMC was founded in 1980, the company has grown to become one of the world's leading software providers.

3.   Today, BMC has approximately 6,000 employees who support more than 20,000 customers across the globe.

4.   BMC's IT management systems enable companies to easily manage, track, and service the ever-increasing number of network servers, computers, printers, software applications, and other computing resources needed across an enterprise, to ensure users are not disrupted in their business activities.

5.   Helping build the IT management industry through the design and development of modern IT management systems was no small feat. BMC made enormous investments over many years in research and development, as well as significant acquisitions. From these investments, BMC invented or further developed the technologies needed to make a modern IT management system possible.

6.   More specifically, BMC has invested approximately $8 billion in research and development during the past 34 years to help build many of today's leading IT management solutions. The results of these efforts are highly valuable and patented innovations.

7.   BMC's large investments in research and development have enabled the development of numerous technologies necessary for an enterprise to build and deploy both on-premise and cloud-based IT management systems. These fundamental IT management technologies include the basic processes of a modern IT management system, including:

(i)   Incident Management and Problem Management: BMC engineers developed numerous software innovations, including visualization tools for rendering and displaying information about the health status of an enterprise, to enable IT personnel to restore normal

operation following a user-reported incident, quickly and efficiently ("*Incident Management Visualization*"). BMC engineers also invented graphical user interfaces (including novel color maps) that enable IT personnel to easily visualize the health, status, and relationships of IT components causing a problem, and their compliance with service level agreements ("*Problem Management GUIs*"). Appreciating the human limitations and challenges of identifying and correcting for the root cause of a fault and its impact across an enterprise, BMC engineers invented and developed complementary technologies that allow IT personnel to automatically determine the root cause of a failure and the computing resources impacted, and to distinguish between the two, so that corrective action can be taken immediately, greatly reducing network downtime and service disruptions ("*Root Cause Failure Determination*").

(ii)   Performance Analytics: Recognizing that a critical aspect of IT management is measuring system performance, including for systems unique to an individual enterprise customer, BMC invested in technologies that allow for performance analytics tools to be customized to meet the specific needs of an enterprise and for such tools to have intuitive, graphical dashboards that allow IT personnel to detect and address problems before they become manifest ("*Customizable Performance Analytics Tools*").

(iii)   Configuration Management: To simply and automatically track the configuration, provisioning, and status of the computing resources of an enterprise, BMC engineers invented and developed technologies fundamental to the modern architecture of a Configuration Management Database ("CMDB"). These foundational technologies include, for example, hierarchical CMDBs for modeling the computing resources of an enterprise using Configuration Items (CIs) ("*Hierarchical CMDBs*") and a novel way of modeling the deployment of software assets to ensure compliance with applicable software licenses, thereby preventing the substantial

monetary penalties that could otherwise be imposed on an enterprise ("*Software License Compliance Modeling*").

(iv)   Discovery: In addition to their work in developing the modern CMDB architecture, BMC engineers also developed software tools and related technologies for automatically discovering the computing resources of an enterprise across its different offices and locations, including network servers, computers, printers, and software applications, how they are configured and provisioned, and what their status is (such Discovery tools are referred to in the industry as "*Discovery Probes*").

(v)   Orchestration: BMC engineers developed novel ways by which IT management tasks could be discovered, automated and customized, using scripts and plugins, and integrated with an IT management system (referred to in the industry as "*Orchestration*").

(vi)   Change and Release Management: BMC engineers developed visualization tools for managing and monitoring updates, releases, and other IT change functions associated with the computing resources of an enterprise ("*Change and Release Management Visualization*"). These visualization software tools minimize the risks of service disruptions in implementing changes to the IT components of an enterprise, and facilitate creating, assessing, approving, and implementing changes across an enterprise effectively.   In addition, to manage heterogeneous network servers across an enterprise (i.e., servers that use different operating systems), BMC engineers invented and developed technologies that allow for many different network servers to be configured, provisioned, and updated automatically using a single platform and language, a "one-to-many" approach.

8.   To encourage these and its many other innovations, BMC has an Inventor Recognition Program designed to recognize and reward employees for their inventions.

Inventing and patents are so central to the company's success that employees' inventive contributions are also recognized through the memorialization of their names and patents on BMC's Patent Wall, located at its Houston headquarters and in several other company offices around the world.
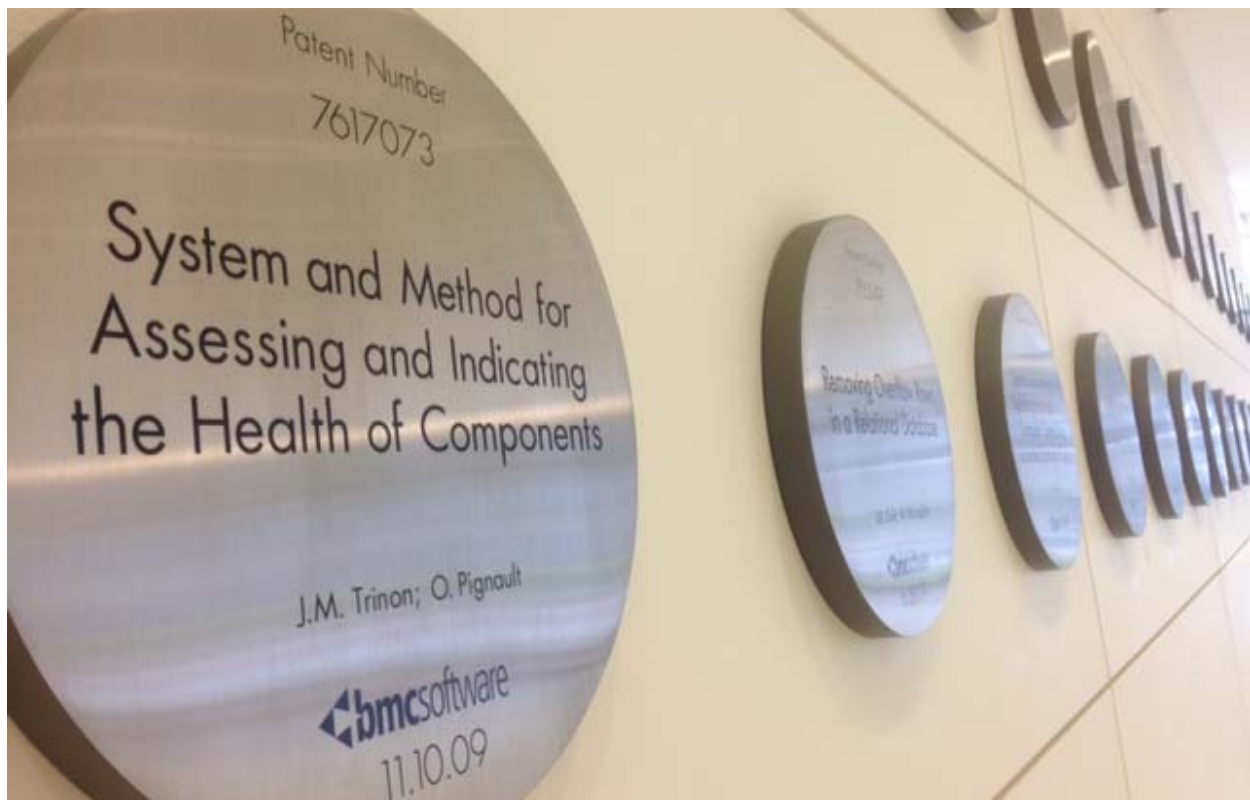
9.   To ensure that companies do not free-ride on BMC's enormous investments in research and development, BMC relies on the protection of its intellectual property and the enforcement of its intellectual property rights, including the hundreds of patents awarded to BMC employees for their innovations.

10.   BMC's ability to earn sufficient profits from demand for its innovations is harmed when others freely use these patented technologies and offer them at below market prices because such infringers do not need to recoup BMC's enormous R&D investments. If such infringement is permitted, BMC will be unable to continue to make the kinds of investments

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