

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re *inter partes* review of:

U.S. Patent 7,093,086 to  
van Rietschote

Atty. Docket: 2907.020IPR0

Filed: Herewith

For: **Disaster Recovery and Backup  
Using Virtual Machines**

**Declaration of Dr. Prashant Shenoy  
in Support of Petition for *Inter Partes* Review of U.S. Patent No. 7,093,086**

I, Prashant Shenoy, declare as follows:

1. I have been retained by Sterne, Kessler, Goldstein, and Fox PLLC on behalf of Veeam Software Corporation (“Veeam”) for the above-captioned *inter partes* review proceeding. I understand that this proceeding involves U.S. Patent No. 7,093,086 (“the ‘086 patent”) entitled “Disaster Recovery and Backup using Virtual Machines,” and that the ‘086 patent is currently assigned to Symantec Corporation.

2. I have reviewed and am familiar with the specification of the ‘086 patent filed on March 28, 2002. A copy of the ‘086 patent is provided as VEEAM 1001.

VEEAM 1002  
IPR of U.S. Patent No. 7,093,086

3. I have reviewed and am familiar with the following prior art, which I understand is used in the Petition for *Inter Partes* Review of the '086 patent:

- a. U.S. Patent No. 6,795,966 to Lim (“Lim,” provided as VEEAM 1004);
- b. “VMware ESX Server: User’s Manual” (“VMware ESX,” provided as VEEAM 1005)
- c. “Getting Started Guide: VMware 2.0 for Linux” (“VMware GSG,” provided as VEEAM 1006);
- d. An English translation of “Checkpoint for Network Transferable Computer” by Suzaki (“Suzaki,” provided as VEEAM 1008);
- e. “Integrating Checkpointing with Transaction Processing” by Wang (“Wang,” provided as VEEAM 1010); and
- f. U.S. Patent No. 6,917,963 to Hipp (“Hipp,” provided as VEEAM 1011.)

4. I am familiar with the technology at issue as of the March 28, 2002 filing date of the '086 patent.

5. I have been asked to provide my technical review, analysis, and insight regarding the above-noted references that form the basis for the grounds of rejection set forth in the Petition.

## **I. Qualifications**

1. I have more than two decades of experience in distributed/operating systems, networking, and data management. During that time, I have published over 150 technical papers that have been cited in other publications more than 5,500 times.

2. I earned a Bachelor of Technology degree from the Department of Computer Science and Engineering at the Indian Institute of Technology in Bombay, India. I later received my Master of Science (M.S.) and Doctor of Philosophy (Ph.D.) degrees in 1994 and 1998, respectively, in Computer Science from the University of Texas of Austin.

3. Over the years, I have led research and industry collaboration projects in areas such as storage and file systems, cloud computing, virtualization, content distribution, streaming media, database systems,

RFID and sensor networks, and energy systems. During that time, I have consulted with both large companies and startups in a technical advisory role related to product architecture, IP issues, and applied research.

4. I have been a professor in the Department of Computer Science at the University of Massachusetts Amherst since 1998. During that time, I taught graduate courses on virtualization and distributed systems, and undergraduate courses on operating systems. The courses covered in-depth discussions of virtualization technologies, as well as material on storage and file systems.

5. My *Curriculum Vitae* is attached as VEEAM 1003, which contains further details on my education, experience, publications, and other qualifications to render an expert opinion. My work on this declaration is being billed at a rate of \$435.00 per hour, with reimbursement for actual expenses. My compensation is not contingent upon the outcome of this *inter partes* review.

## **II. My Understanding of Claim Construction**

6. I understand that, at the Patent Office, claims are to be given their broadest reasonable construction in light of the specification as would be read by a person of ordinary skill in the relevant art.

## **III. My Understanding of Anticipation**

7. I understand that a claim is unpatentable if every element is actually disclosed in a reference as recited in the claims. The disclosure may be explicit, implicit, or inherent. I understand that a reference is read from the perspective of a person of ordinary skill in the art at the time of the invention.

## **IV. My Understanding of Obviousness**

8. It is my understanding that a claimed invention is unpatentable if the differences between the invention and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains.

9. It is my understanding that “obviousness” is a question of law based on underlying factual issues including the content of the prior art and

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