

EXHIBIT C

Infringement of '086 Patent, VMware products

UNITED STATES PATENT NO. 7,093,086 (van Rietschote)

INFRINGEMENT CONTENTIONS

Accused Veeam Products: Veeam Backup & Replication Version 5.0
Veeam Backup & Replication Version 6.0
Veeam Backup & Replication Version 6.1
Veeam Backup Free Edition Version 6.1 (VeeamZIP).

Symantec reserves the right to supplement this list of Accused Veeam Products.

Veeam directly infringes at least claims 11 and 22 of the '086 patent, either literally or through the doctrine of equivalents, pursuant to 35 U.S.C. § 271(a).

In addition to Veeam's direct infringement of the claims of the '086 patent through its development, testing, use, distribution and sale of its products and services, Veeam also indirectly infringes at least claims 11 and 22 of the '086 patent pursuant to 35 U.S.C. § 271(b) and (c). End-users and others in the distribution channel of the Accused Veeam Products directly infringe this claim by using, selling, offering for sale, and/or importing these devices into the United States. Veeam contributes to and induces the infringement of asserted claims 11 and 22 through its promotion and provision of marketing, sale and/or technical support of the Accused Veeam Products and associated services in the United States, and through the design, marketing, manufacture, sale, and/or technical support of the Accused Products. Veeam supplies Accused Veeam Products and actively encourages the use, sale, offer for sale, and importation of the same in the United States through the promotion and provision of marketing literature and user guides, which induces and results in direct infringement. Veeam has known or should have known that these actions would cause direct infringement of the '086 patent and did so with specific intent to encourage direct infringement. At least as of February 13, 2012, Symantec served Veeam with its complaint in this litigation, which attached the '086 patent as an exhibit. Despite knowing of the '086 patent, Veeam continues to make, use, offer to sell, and sell its products and has continued to circulate marketing literature and user guides encouraging users of the Accused Veeam Products to infringe. Additionally, the identified features of the Accused Veeam Products are material parts of the inventions of the asserted claims and have no substantial non-infringing uses.

EXHIBIT C

Infringement of '086 Patent, VMware products

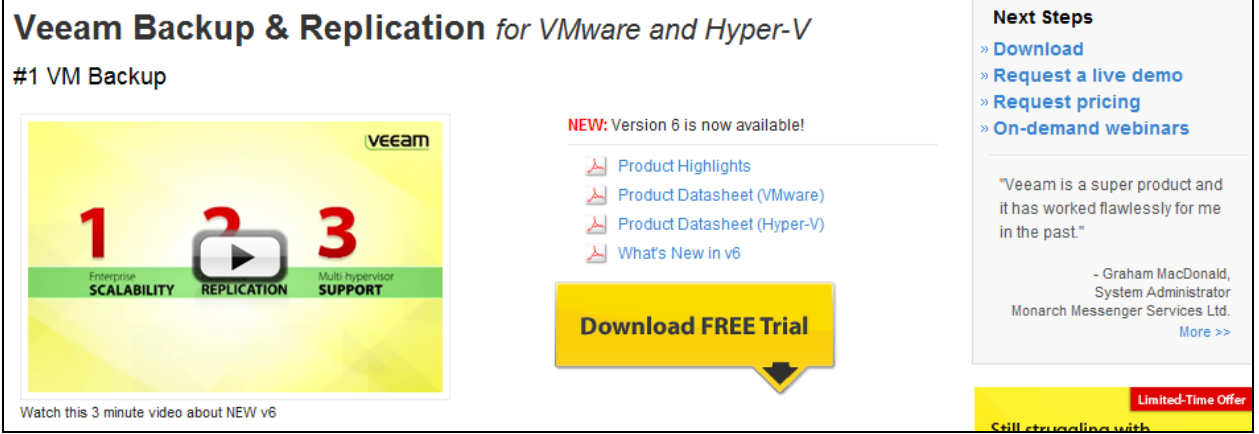
Symantec's investigation is ongoing and discovery and claim construction are not yet complete. Discovery has just begun in this litigation and Veeam has not produced any documents regarding the Accused Veeam Products. Symantec reserves the right to supplement or amend these contentions with contentions arising under the doctrine of equivalents in response to any proposed or ordered claim construction, subsequent discovery response or production, or subsequent disclosure made pursuant to Federal Rule of Civil Procedure 26.

This chart provides Symantec's infringement analysis for the Veeam Backup & Replication product for VMware hypervisors. The '086 patent is charted against Veeam Backup & Replication 6.0, but the same analysis applies to the other Veeam Accused Products identified above.

Below, Symantec identified elements of the accused products that correspond to language in the preamble. The claim construction proceedings set forth in the Northern District of California Patent Local Rules have not yet begun and, by including such language in these charts, Symantec does not concede that the language in the preamble constitutes a claim element that must be satisfied for infringement purposes.

	'086 CLAIM ELEMENT	VEEAM BACKUP & REPLICATION VERSION 6.0
Claim 1		
1.1	1. A computer readable medium storing a plurality of instructions comprising instructions which, when executed:	<p>Veeam Backup and Replication Version 6.0 is provided through a computer-readable storage medium storing a plurality of instructions. The software is available through download from the Veeam website.</p> <p>See http://www.veeam.com/vmware-esx-backup.html.</p>

EXHIBIT C
Infringement of '086 Patent, VMware products

		
1.2	<p>(i) capture a state of a first virtual machine executing on a first computer system, the state of the first virtual machine corresponding to a point in time in the execution of the first virtual machine, wherein the first virtual machine comprises at least one virtual disk storing at least one file used by at least</p>	<p>Veeam Backup and Replication Version 6.0 comprises instructions which, when executed, capture a state of a first virtual machine executing on a first computer system, the state of the first virtual machine corresponding to a point in time in the execution of the first virtual machine, wherein the first virtual machine comprises at least one virtual disk storing at least one file used by at least one application executing in the first virtual machine, and wherein the state of the first virtual machine comprises the at least one file.</p> <p>VBR6 captures the state of the virtual machine corresponding to a point in time of the execution of the virtual machine. This includes application data.</p> <ul style="list-style-type: none"> • See, e.g., VBR6 User’s Guide¹ at 18 (“Unlike traditional backup tools designed to work with physical machines, Veeam Backup & Replication is built specifically for virtual environments.

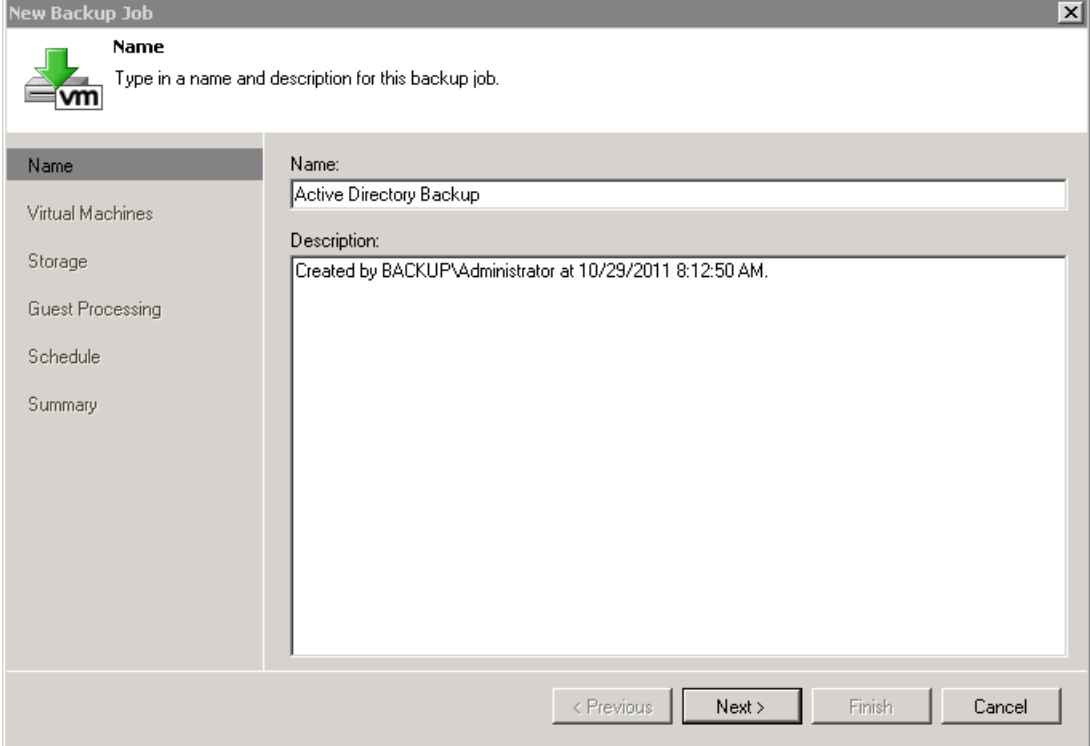
¹ The term “VBR6 User’s Guide” refers to the Veeam Backup & Replication Version 6.0 User Guide for VMware Environments, dated November 2011. Although these contentions cite to the User’s Guide for Veeam Backup and Replication Version 6.0, each of the other Veeam Accused Products include similar or identical functionality. See, e.g., VBR5 User’s Guide at 9, 64; VBR6.1 User’s Guide at 20-21; Veeam Backup Free 6.1 at 6 (“VeeamZIP is identical to full VM backup.”).

EXHIBIT C

Infringement of '086 Patent, VMware products

<p>one application executing in the first virtual machine, and wherein the state of the first virtual machine comprises the at least one file; and</p>	<p>It operates at the virtualization layer and uses an image-based approach for virtual machines backup. To retrieve VM data, no agent software needs to be installed inside the guest OS – instead, Veeam Backup & Replication leverages ESX snapshot capabilities. When a new backup session starts, a snapshot is taken to create a cohesive point-in-time copy of a VM including its configuration, OS, applications, associated data, system state and so on. Veeam Backup & Replication accesses this point-in-time copy to retrieve VM data. Image-based backups can be used for different types of recovery – such as full VM recovery, Instant VM Recovery, file-level recovery and other.”).</p> <p>A variety of applications may execute in the target virtual machine.</p> <ul style="list-style-type: none"> • <i>See, e.g., VBR6 User’s Guide at p. 30</i> (“To create a transactionally consistent backup of a VM running VSS-aware applications (such as Active Directory, Microsoft SQL, Microsoft Exchange, Sharepoint) without shutting them down, Veeam Backup & Replication uses application-aware image processing.”). <p>VBR6 provides a backup tool for creating a backup image of a virtual disk.</p> <ul style="list-style-type: none"> • <i>See, e.g., VBR6 User’s Guide at p. 88:</i>
--	---

EXHIBIT C
Infringement of '086 Patent, VMware products

		
1.3	(ii) copy at least a portion of the state to a destination separate from a storage device to which the first virtual machine is suspendable, wherein suspending the first virtual	<p>Veeam Backup and Replication Version 6.0 comprises instructions which, when executed, copy at least a portion of the state to a destination separate from a storage device to which the first virtual machine is suspendable, wherein suspending the first virtual machine is performed responsive to a suspend command.</p> <p>VBR6 can copy the backup image to a remote backup repository separate from the production storage.</p>

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.