

UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE PATENT TRIAL AND APPEAL BOARD

- - -

VEEAM SOFTWARE CORPORATION,

Petitioner,

v.

SYMANTEC CORPORATION,

Patent Owner

- - -

Case Nos. IPR2013-00141 and IPR 2013-00142

U.S. Patent No. 6,931,558

- - -

DEPOSITION OF

MATTHEW DANIEL GREEN, Ph.D.

New York, New York

February 14, 2014

Reported By:

Cheryll Kerr

Ref: 11236

February 14, 2014  
9:27 a.m.

Deposition of Matthew Daniel Green, Ph.D., taken by counsel for Petitioner, held at the offices of Bryan Cave, 1290 Avenue of the Americas, New York, New York, commencing on February 14, 2014 at 9:27 a.m., reported by Cheryl Kerr, LSR, a Licensed Shorthand Reporter and Notary Public in and for the State of New York.

APPEARANCES:

FOR PETITIONER:

STERNE, KESSLER, GOLDSTEIN & FOX, LLC  
BY: LORI GORDON, ESQ. / lgordon@skgf.com  
BY: DANIEL BLOCK, ESQ. / dblock@skgf.com  
BY: MARK FOX EVENS, ESQ. / mevens@skgf.com  
1100 New York Avenue, NW  
Washington, DC 20005  
202.371.2600

FOR PATENT OWNER:

BRYAN CAVE, LLP  
BY: JOSEPH J. RICHETTI, ESQ. / joe.richetti@bryancave.com  
BY: FRANK FABIANI, ESQ. / frank.fabiani@bryancave.com  
BY: HASSAN ALBAKRI, ESQ. / hassan.albakri@bryancave.com  
One Metropolitan Square  
211 North Broadway, Suite 3600  
St. Louis, MO 63102-2750  
314.259.2619

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1 M.D. Green, Ph.D.  
 2 MATTHEW GREEN, P h. D.,  
 3 called as a witness, having been duly  
 4 sworn, was examined and testified  
 5 as follows:

6 THE SHORTHAND REPORTER: Please state  
 7 your full name and your address for the  
 8 record, sir.

9 THE WITNESS: Matthew Daniel Green,  
 10 4506 Roland Avenue, Baltimore, Maryland,  
 11 21210.

12 THE SHORTHAND REPORTER: Thank you.  
 13 Please proceed.

14  
 15 DIRECT EXAMINATION  
 16 BY MS. GORDON:

17  
 18 Q. Good morning, Dr. Green. My name is Lori  
 19 Gordon, and I'm going to be taking your deposition  
 20 today.

21 I saw from your resume that you have been  
 22 deposed before; is that correct?

23 A. That's correct.

24 Q. Okay, so just before we begin, I am just  
 25 going to go through the standard ground rules for

1 M.D. Green, Ph.D.  
 2 this deposition.

3 Does that sound fair for you?

4 A. Sure.

5 Q. Okay.

6 So you understand that you're going to be  
 7 testifying under oath today?

8 A. Uh-huh, yes.

9 Q. Okay.

10 As part of your oath, you understand that  
 11 you're here to testify fully, and accurately, and to  
 12 the best of your knowledge?

13 A. Yes.

14 Q. Okay.

15 So in this deposition, like the other  
 16 deposition you had, I am going to be asking you  
 17 questions.

18 My questions and your answers are going to be  
 19 recorded by the court reporter, so it's important  
 20 for you to answer verbally.

21 She won't be able to record a nod of the head  
 22 or any nonverbal answers like "uh-huh" or "huh-uh,"  
 23 okay? Do you understand?

24 A. I understand.

25 Q. Okay. Now, on -- on occasion, I may ask

1 M.D. Green, Ph.D.  
 2 you a question that you may not understand or that I  
 3 did not phrase in the best way.

4 If there is ever a point where there's a  
 5 question that you don't understand, please just ask  
 6 me to rephrase it or state that you don't  
 7 understand, and I'll try and ask you a different --  
 8 a better question.

9 A. Okay.

10 Q. Okay?

11 A. (Nodding).

12 Q. So it's generally my habit to take a  
 13 break every 60 to 90 minutes.

14 If it happens that you need a break before that  
 15 time, just let your attorney know, and we will  
 16 finish up the pending question, and then we will  
 17 take a break at the next available time.

18 A. Okay.

19 Q. Is that okay? Great.

20 Is there any reason that you can think of that  
 21 you cannot give accurate testimony today?

22 A. No.

23 Q. Okay.

24 You understand that this deposition covers the  
 25 direct testimony that you provided via declarations

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1 M.D. Green, Ph.D.  
2 recovery.  
3 Q. Okay.  
4 (Pause)  
5 BY MS. GORDON:  
6 Q. And did you prepare for this deposition?  
7 A. I did.  
8 Q. And did you talk to anyone other than  
9 your attorneys in preparation for this deposition?  
10 A. As part of preparing, I spoke with the  
11 attorneys here.  
12 No. I read the reports, of course, but I  
13 didn't speak with anyone else.  
14 Q. Okay.  
15 And when you say "the reports," what are you  
16 referring to?  
17 A. I'm sorry. My declarations and the  
18 materials.  
19 Q. Okay.  
20 And you said "the materials." What materials  
21 would those be?  
22 A. So I reviewed a number of materials,  
23 including the '086 patent, and I believe I gave a  
24 list at the beginning of my report, so I reviewed  
25 those materials.

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1 M.D. Green, Ph.D.  
2 Q. Okay.  
3 And other than the materials listed in your two  
4 declarations and the declarations themselves, did  
5 you review anything else in preparation for this  
6 deposition?  
7 A. Well, throughout this case, I have done  
8 some web searches in technologies.  
9 I didn't list those in my report, because I  
10 don't have specific documents. I looked at a  
11 variety of things, but...  
12 Q. And as part of those web searches, did  
13 you do any searches on the state of virtual machines  
14 prior to 2002?  
15 A. Could you explain what you mean by "the  
16 state of virtual machines"?  
17 Q. Did you do any research on papers,  
18 patents, or other documents that were issued prior  
19 to 2002 related to virtual machines?  
20 A. I did not do any research on papers  
21 specifically.  
22 Q. And you --  
23 A. I didn't look for patents.  
24 Q. You said you did look for patents?  
25 A. No, I did not search for patents.

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1 M.D. Green, Ph.D.  
2 Q. Okay.  
3 So did you do any research on virtual machines  
4 prior to 2002 as part of -- for this project, or as  
5 part of preparation of your declarations?  
6 MR. RICHETTI: Objection to the form.  
7 You can answer.  
8 THE WITNESS: I looked around a  
9 little bit.  
10 I did some web searches on the state  
11 of technology in the 1990s.  
12 BY MS. GORDON:  
13 Q. Okay.  
14 What websites did you review on the state of  
15 the technology in the 1990s?  
16 A. I did a variety of searches to try to  
17 understand what virtualization systems had products  
18 were available in the 1990s -- early 1990s.  
19 Q. Okay, and can you elaborate on that?  
20 So what searches did you do to determine what  
21 products were available in the 1990s?  
22 A. I searched on -- I searched VMWare to  
23 identify the history of the company. I searched  
24 some other -- I think there was Connectix, to try to  
25 identify the history of that company. Those were

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1 M.D. Green, Ph.D.  
2 very short searches.  
3 Q. Did you review any documents related to  
4 the Connectix product?  
5 A. No, I didn't, besides the search I  
6 described.  
7 Q. When you said you searched "the website,"  
8 was that the current Connectix website?  
9 A. No.  
10 Q. What -- how did you search a prior  
11 Connectix website?  
12 A. No, I searched the Connectix history, and  
13 literally, I think the result which came up,  
14 which --  
15 It might have been Wikipedia, which had the  
16 date of the founding of the company. That's --  
17 that's what -- I was looking at that.  
18 Q. Okay, and you said you did very short  
19 searches.  
20 Can you estimate how short those searches were,  
21 how long of a time frame?  
22 A. For those searches, it was a matter of  
23 means.  
24 Q. Okay. Other than the VMWare or  
25 Connectix, did you identify any other products

1 M.D. Green, Ph.D.  
 2 existing in --  
 3 (Thereupon, an informal discussion was  
 4 held off the record.)  
 5 BY MS. GORDON:  
 6 Q. As part of --  
 7 Other than VMWare and Connectix, did you  
 8 identify any other products as a result of those  
 9 searches?  
 10 A. I didn't search for any other products.  
 11 Q. And how did you decide to just search on  
 12 VMWare and Connectix?  
 13 A. I searched on VMWare, simply because it  
 14 was mentioned in some of the materials provided in  
 15 this case.  
 16 I searched on Connectix, because it's a VMWare  
 17 that I've used, and so I was curious about its  
 18 history.  
 19 Q. Okay.  
 20 Are you aware of any other products -- VMWare  
 21 products -- that existed prior to 2002?  
 22 A. I am aware that VMWare had products prior  
 23 to 2002.  
 24 Q. And other than VMWare, are you aware of  
 25 any other company that had VMWare products before

1 M.D. Green, Ph.D.  
 2 Q. Okay.  
 3 And other than Java, Connectix, and VMWare, are  
 4 you aware of any other virtual machine products to  
 5 2002?  
 6 A. I can't think of anything specifically  
 7 that's a product that I am aware of.  
 8 Maybe -- no, that's all I can think of right  
 9 now.  
 10 Q. So other than product, did you search for  
 11 any materials related to VM? Virtual machines?  
 12 A. I didn't make any explicit web searches  
 13 in that time period.  
 14 Q. Okay.  
 15 (Pause)  
 16 BY MS. GORDON:  
 17 Q. As part of the preparation of your  
 18 declaration, did you search for any other products  
 19 other than virtual machine products prior -- that  
 20 existed prior to 2002?  
 21 A. I didn't explicitly search for any other  
 22 products.  
 23 Q. Okay.  
 24 When you say "explicitly," can you explain what  
 25 you mean by that?

1 M.D. Green, Ph.D.  
 2 2002?  
 3 A. I think that question may have just been  
 4 part of the phrase, but "VMWare products made by a  
 5 company other than VMWare"?  
 6 BY MS. GORDON:  
 7 Q. Okay. Virtual machine products. Sorry.  
 8 Did you search on any virtual machine products  
 9 made by a company other than VMWare?  
 10 A. Yes.  
 11 Q. Okay, and what products did you search  
 12 on?  
 13 A. I mentioned Connectix, for example.  
 14 Q. Other than VMWare and Connectix, did you  
 15 search for any other virtual machine products?  
 16 A. I did not search for any other.  
 17 Q. Other than VMWare and Connectix, are you  
 18 aware of any other virtual machine products that  
 19 existed prior to 2002?  
 20 A. Well, virtual machine is a big area. For  
 21 example Java has had a virtual machine that used to  
 22 run Java programs, and that's been in existence  
 23 since the mid-'90s, perhaps.  
 24 I was aware of that, because I used Java  
 25 programs during that period of time.

1 M.D. Green, Ph.D.  
 2 A. I can't recall making any searches with  
 3 the intent of searching for those products.  
 4 Q. So you didn't search for any backup  
 5 products in existence before 2002?  
 6 A. I didn't search for them.  
 7 Q. And did you search for any disaster  
 8 recovery products in existence before 2002?  
 9 A. No.  
 10 Q. Okay.  
 11 And did you search for anything else as part of  
 12 the preparation for this declaration?  
 13 A. Throughout, I searched for some manuals,  
 14 one of which I included in my report. Current  
 15 documentation, things like that.  
 16 Q. You referenced a manual. What manual  
 17 were you referring to?  
 18 A. I'm sorry.  
 19 The document that I'm referring to in my report  
 20 is part of the VMWare knowledge base, which is their  
 21 tech support site.  
 22 Q. You said that document is part of a  
 23 manual; is that correct?  
 24 A. It's part of technical documentation. I  
 25 misspoke.

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