

Filed on behalf of Veeam Software Corporation

By: Lori A. Gordon  
Michael Q. Lee  
Byron L. Pickard  
Daniel S. Block  
Sterne, Kessler, Goldstein & Fox PLLC  
1100 New York Avenue, NW  
Washington, D.C.  
Tel: (202) 371-2600  
Fax: (202) 371-2540

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL  
AND APPEAL BOARD

Case IPR2013-00150  
Patent 7,093,086

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**REPLY TO PATENT OWNER'S RESPONSE**

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## **I. Introduction**

The Board, in granting the instant *inter partes* review, found that Petitioner has presented a compelling case for finding the challenged claims of the '086 patent unpatentable. In response to the Board's well-reasoned decision, Patent Owner provides a lengthy tract based on improperly misstating the claim language, importing limitations into the claims, ignoring the specification's language, improperly summarizing the applied prior art, and ignoring pertinent case law dealing with claim differentiation. This Reply treats each of the Patent Owner's significant transgressions with the detail possible in a 15-page limit.

## **II. Argument**

### **A. The Board Should Reject Patent Owner's Constructions.**

To support patentability, Patent Owner argues three improperly narrow constructions of the claims: (1) that the challenged claims are limited to a single back-up program performing each of the steps, (2) that "state" must include information sufficient to resume the virtual machine, and (3) that the claims require the virtual machine to be executing during the capturing step. Patent Owner's constructions are contrary to the explicit language of the claims and improperly import limitations into the claims. Accordingly, the Board should reject Patent Owner's arguments and affirm the interpretations the Board relied on in instituting this Review.

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