

Filed on behalf of Symantec Corporation

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

VEEAM SOFTWARE CORPORATION  
Petitioner

v.

SYMANTEC CORPORATION  
Patent Owner

---

Case IPR2013-00150  
U.S. Patent No. 7,093,086

---

**PATENT OWNER MOTION TO EXCLUDE  
PURSUANT TO 37 C.F.R. § 42.64(c)**

**TABLE OF CONTENTS**

I. PETITIONER IMPROPERLY RELIES ON HYPOTHETICALS .....1

    A. Original Declaration of Dr. Shenoy (Veeam 1002) .....3

    B. Declaration of Dr. Shenoy in Support of Petitioner’s Reply (Veeam  
        1030) .....5

II. PETITIONER’S MISCHARACTERIZATION OF PATENT  
    OWNER’S EXPERT TESTIMONY .....7

III. CONCLUSION .....10

**TABLE OF AUTHORITIES**

**CASES**

*Capsugel Belgium NV v. Innercap Technologies, Inc.*,  
IPR 2013-00331 (PTAB Dec. 2013).....2

*Eli Lilly & Co. v. Sicor Pharms., Inc.*,  
705 F.Supp.2d 971 (S.D. Ind. 2010) .....2

*Net MoneyIN, Inc. v. VeriSign, Inc.*,  
545 F.3d 1359 (Fed Cir. 2008).....1

*Structural Rubber Products Co. v. Park Rubber Co.*,  
749 F.2d 707 (Fed. Cir. 1984).....2

**STATUTES AND RULES**

35 U.S.C. § 102..... 1, 3, 5, 6

35 U.S.C. § 311(b) .....2

37 C.F.R. § 42.64(c).....1

## LIST OF EXHIBITS

<b><u>Symantec Exhibit No.</u></b>	<b><u>Document Description</u></b>
Symantec 2001	Office Action, dated April 11, 2005
Symantec 2002	Appeal Brief, dated July 19, 2005
Symantec 2003	Response to Office Action, dated November 14, 2005
Symantec 2004	Supplemental Notice of Allowability, dated July 6, 2016
Symantec 2005	<i>Symantec Corp. v. Veeam Software Corp.</i> , Civil Action No. 3:12cv700 (Dkt. 105), Claim Construction Order, dated March 8, 2013
Symantec 2006	Patent Owner's Objections to Petitioner's Evidence Pursuant to 37 C.F.R. § 42.64(b)(1)
Symantec 2007	Declaration of Daniel Block, dated September 5, 2013
Symantec 2008	Patent Owner's Objections to Petitioner's Supplemental Evidence Pursuant to 37 C.F.R. § 42.64(b)(1)
Symantec 2009	Email requesting permission to file motion to amend, dated October 21, 2013
Symantec 2010	Internet Archive webpage titled "Download VMware Products" captured from VMware website, dated June 23, 2001
Symantec 2011	Internet Archive webpage titled "Download VMware Products" captured from VMware website, dated June 23, 2001
Symantec 2012	Internet Archive webpage titled "VMware Server Products Ordering Information" captured from VMware website, dated October 7, 2001
Symantec 2013	Internet Archive webpage titled "Evaluate VMware ESX Servicer" captured from VMware website, dated June 8, 2001
Symantec 2014	<i>Garmin Int'l, Inc. et al. v. Cuozzo Speed Tech. LLC</i> , IPR2012-00001, No. 26 (Mar. 5, 2013), Decision

...

**Symantec**

**Exhibit No.**

**Document Description**

Symantec 2015	Declaration of Matthew D. Green in Support of Patent Owner's Motion to Amend
Symantec 2016	Declaration of Matthew D. Green in Support of Patent Owner's Response
Symantec 2017	Cross-Examination Testimony of Prashant Shenoy
Symantec 2018	Non-Provisional Patent Application Serial No. 10/109,186 accorded a filing date of March 28, 2002 (original '086 specification)
Symantec 2019	Declaration of Matthew D. Green in Support of Patent Owner's Reply to Petitioner's Opposition (Green Rep.)
Symantec 2020	Deposition Transcript of Prashant Shenoy, March 7, 2014 (Shenoy 2nd Dep.)
Symantec 2021	Suzaki, U.S. Patent 7,240,239
Symantec 2022	CP Command Reference for general Users ("VM Dump")
Symantec 2023	Linux on IBM eserver zSeries and S/390: ISP/ASP Solutions ("Linux on IBM")
Symantec 2024	Preemptable Remote Execution Facilities for the V-System ("Theimer")
Symantec 2025	CM BrightStor VM:Backup Operator's Guide ("CM BrightStor")

**Currently Filed**

Symantec 2026	Patent Owner's Objections to Evidence, March 2, 2013
Symantec 2027	Deposition Transcript of Dr. Green, March 28, 2014

# 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.