

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

VEEAM SOFTWARE CORPORATION
Petitioner

v.

SYMANTEC CORPORATION
Patent Owner

Case IPR2013-00141 (Patent 6,931,558)
Case IPR2013-00142 (Patent 6,931,558)
Case IPR2013-00143 (Patent 7,191,299)
Case IPR2013-00150 (Patent 7,093,086)¹

Before FRANCISCO C. PRATS, MEREDITH C. PETRAVICK,
THOMAS L. GIANNETTI, and TRENTON A. WARD,
Administrative Patent Judges.

GIANNETTI, *Administrative Patent Judge.*

ORDER
Request for Oral Argument
37 C.F.R. § 42.70

¹ This paper addresses issues that are identical in the listed cases. The parties are not authorized to use this heading style for any subsequent papers.

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The Scheduling Orders for these cases set the date for oral hearing to May 5, 2014, if hearing is requested by the parties and granted by the Board. Both parties have requested oral hearing pursuant to 37 C.F.R. § 42.70. Petitioner's and Patent Owner's request for oral hearing in each of the cases is *granted*. The four cases will be heard together. Each side will have 90 minutes to present arguments and can determine for itself how to divide time among the three patents involved.

Petitioner bears the ultimate burden of proof that Patent Owner's claims at issue in this review are unpatentable. Therefore, Petitioner will open the hearing by presenting its case regarding the challenged claims for which the Board instituted trial. Patent Owner has filed a motion to amend the claims and bears the burden of proof with respect to that motion. After Petitioner's presentation, therefore, Patent Owner will respond to Petitioner's argument and also argue in support of its motion to amend. Each side may reserve time to respond to arguments presented by the other side with some limitations. More specifically, to the extent that Petitioner reserves rebuttal time, it may respond to Patent Owner's presentation on all matters. To the extent that Patent Owner reserves rebuttal time, however, it may respond only to Petitioner's arguments opposing the motion to amend.

The hearing will commence at 1:00 PM on May 5, 2014, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia. The Board will provide a court reporter for the hearing and the reporter's transcript will constitute the official record of the hearing. The hearing will be open to the public

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for in-person attendance that will be accommodated on a first-come, first-served basis.

The parties are reminded that under 37 C.F.R. § 42.53(f)(7), a proponent of deposition testimony must file such testimony as an exhibit. The Board will not consider any deposition testimony that has not been so filed.

Furthermore, under 37 C.F.R. § 42.70(b), demonstrative exhibits must be served at least five business days before the hearing date. The Board requests also that such exhibits be filed at the Board at least five business days before the hearing. The parties must file any objections to the demonstratives with the Board at least two business days before the hearing. Any objection to demonstrative exhibits that is not timely presented will be considered waived. The objections should identify with particularity which demonstratives are subject to objection, and include a short (one sentence or less) statement of the reason for each objection. No argument or further explanation is permitted. The Board will consider the objections and schedule a conference if deemed necessary. Otherwise, the Board will reserve ruling on the objections until after the oral argument. The parties are directed to *St. Jude Medical, Cardiology Division, Inc. v. The Board of Regents of the University of Michigan*, IPR2013-00041 (PTAB January 27, 2014) (Paper 65), for guidance regarding the appropriate content of demonstrative exhibits.

The Board expects lead counsel for each party to be present in person at the oral hearing. However, any counsel of record may present the party's argument. If either party expects that its lead counsel will not be attending the oral argument,

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the parties should initiate a joint telephone conference with the Board no later than two business days prior to the oral hearing to discuss the matter.

Any special requests for audio visual equipment should be directed to Trials@uspto.gov. Requests for special equipment will not be honored unless presented in a separate communication not less than five days before the hearing directed to the above email address.

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Lori A. Gordon
Michael Q. Lee
Byron L. Pickard
STERNE, KESSLER, GOLDSTEIN
& FOX PLLC
lgordon-PTAB@skgf.com
mlee-PTAB@skgf.com
bpickard-ptab@skgf.com

For PATENT OWNER:

Joseph J. Richetti
Lawrence G. Kurland
BRYAN CAVE LLP
joe.richetti@bryancave.com
lgkurland@bryancave.com