

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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VEEAM SOFTWARE CORPORATION  
Petitioner,

v.

SYMANTEC CORPORATION  
Patent Owner.

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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

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Held: May 5, 2014

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

APPEARANCES:

ON BEHALF OF THE PETITIONER:

LORI A. GORDON  
BYRON L. PICKARD  
Directors  
Sterne, Kessler, Goldstein & Fox  
1100 New York Avenue, NW  
Washington, DC 20005

1 ON BEHALF OF PATENT OWNER:  
2 JOSEPH J. RICHETTI, ESQUIRE  
3 Bryan Cave  
4 1290 Avenue of the Americas  
5 New York, New York 10104-3300  
6

7 and  
8

9 DANIEL A. CROWE, ESQUIRE  
10 Bryan Cave  
11 One Metropolitan Square  
12 211 North Broadway, Suite 3600  
13 St. Louis, Missouri 63102-2750  
14  
15

16 The above-entitled matter came on for hearing on Monday,  
17 May 5, 2014, commencing at 1:00 p.m., at the U.S. Patent and  
18 Trademark Office, 600 Dulany Street, Alexandria, Virginia.  
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22 P R O C E E D I N G S  
23 - - - - -

24 JUDGE GIANNETTI: So, good afternoon, everyone. We  
25 are here today for a final hearing in a series of four IPRs in which  
26 Veeam Software Corporation is the Petitioner and Symantec  
27 Corporation is the Patent Owner.

1           For the record these are cases IPR2013-00141, 00142,  
2 00143 and 00150. Your panel today is from left to right, Judge Ward,  
3 Judge Petravick, myself, Judge Giannetti and Judge Prats.

4           Let's get -- counsel, we will -- we have three hours for the  
5 hearing today. We will take a break at around 3:00, a short break, and  
6 then we'll come back and finish the hearing.

7           Do we have -- let's get the appearances of counsel. Who do  
8 we have today for Petitioner?

9           MS. GORDON: Yes. For Petitioner we have Lori Gordon  
10 from the law firm of Stern Kessler Goldstein & Fox. Arguing with  
11 me today is Byron Pickard also from the law firm of Stern Kessler.

12           JUDGE GIANNETTI: Okay. What was that last name?

13           MR. PICKARD: Pickard.

14           JUDGE GIANNETTI: Pickard. And for the Patent Owner?

15           MR. RICHETTI: Good afternoon, Your Honors. This is  
16 Joseph Richetti from Bryan Cave representing Patent Owner,  
17 Symantec Corporation. Here with me is my partner, Dan Crowe, also  
18 representing Symantec.

19           JUDGE GIANNETTI: Okay. And that was Crowe?

20           MR. RICHETTI: Crowe.

21           JUDGE GIANNETTI: C R O W E?

22           MR. RICHETTI: Correct.

23           JUDGE GIANNETTI: Mr. Pickard, are you admitted pro  
24 hac for this proceeding?

1 MR. PICKARD: No, Your Honor. I have a registration  
2 number.

3 JUDGE GIANNETTI: You have a registration number?

4 MR. PICKARD: Yes.

5 JUDGE GIANNETTI: Okay. All right. So now we have  
6 appearances. Have -- I'll address this to counsel. Have you had an  
7 opportunity to talk about the format and the timing of the hearing?

8 MS. GORDON: Yes, Your Honor. We have discussed it.  
9 Our plan was for Petitioner to present its case in chief on all four IPRs  
10 and we'd like to reserve 30 minutes for rebuttal and then Patent Owner  
11 will present its case in chief on its four patents and provide rebuttal of  
12 our case and then we would go last.

13 JUDGE GIANNETTI: Case in chief on its motion to amend.

14 MS. GORDON: To amend.

15 JUDGE GIANNETTI: Okay. So do you want to proceed  
16 first with the patentability issues?

17 MS. GORDON: Correct.

18 JUDGE GIANNETTI: Okay. And so you will reserve time  
19 for rebuttal on that, right?

20 MS. GORDON: Correct.

21 JUDGE GIANNETTI: Okay. And then you will proceed  
22 on -- Mr. Richetti, you will proceed on the motion to amend, right?

23 MR. RICHETTI: As well as the opposition to their petition,  
24 Your Honor. I think that was our understanding.

1 JUDGE GIANNETTI: No. I thought that you were going  
2 to do the patentability first and then go on to the motion to amend.

3 MS. GORDON: Yeah, I guess our understanding is that we  
4 would present patentability, then Patent Owner would rebut  
5 patentability and present their motion to amend and then we would  
6 rebut the motion to amend.

7 JUDGE GIANETTI: Okay. And then you have reply --

8 MR. RICHETTI: On the motion to amend, exactly.

9 JUDGE GIANNETTI: Okay. And you want to do this for  
10 all patents?

11 MS. GORDON: Yes.

12 JUDGE GIANNETTI: All at once? Okay. And so what  
13 we'll do is we'll give each of you an hour and a half to do that. At  
14 3:00 we'll stop and take a break and I'll try to let you know when  
15 you're running low on time, but you'll have to watch your time  
16 yourselves. We won't be able to give you warnings, because you're  
17 not going patent by patent. All right?

18 So, Ms. Gordon, I guess you are first. All right. And you  
19 have an hour and a half and I'll let you know when you have -- I guess  
20 you will just proceed until you stop and then Mr. Richetti will be up.  
21 We won't be keeping time or giving a warning. Understood?

22 MS. GORDON: Yes, understood.

23 JUDGE GIANNETTI: Okay. Do you want to reserve time  
24 now?

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