

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'S OBJECTIONS TO PETITIONER'S
EVIDENCE PURSUANT TO 37 C.F.R. § 42.64(b)(1)**

Patent Owner Symantec Corporation hereby objects to the admissibility of the following documents submitted in connection with the Petition by Veeam Software Corporation, which requests *inter partes* review of claims 1, 11, 12 and 22 of U.S. Patent No. 7,093,086. Patent Owner requests that the Patent Trial and Appeal Board deny admission and consideration of the following documents on the following bases.

Symantec 2006

1. Exhibit VEEAM 1004 (Lim)

Patent owner objects to the admissibility of VEEAM 1004 on the grounds that the document does not constitute prior art under 35 U.S.C. § 102(e).

2. Exhibit VEEAM 1005 (VMWare ESX)

Patent owner objects to the admissibility of VEEAM 1005 on the grounds that:

a. Petitioner failed to authenticate the document as required by Federal Rule of Evidence (“FRE”) 901;

b. the document is inadmissible hearsay under FRE 801 and is, therefore, inadmissible under FRE 802; and

c. the document does not constitute prior art under 35 U.S.C. § 102(a). For example, Petitioner fails to offer any admissible evidence regarding the date or the manner in which the document was made available to the public.

3. Exhibit VEEAM 1012 (June 23, 2001 WebArchive captured through the WayBackMachine)

Patent owner objects to the admissibility of VEEAM 1012 on the grounds that:

a. Petitioner failed to authenticate the document as required by FRE 901;

b. the document is inadmissible hearsay under FRE 801 and is, therefore, inadmissible under FRE 802; and

c. the document is irrelevant under FRE 401 as it fails to support that VEEAM 1005 (VMWare ESX) was available, or even included with, the product allegedly identified in VEEAM 1012 and is, therefore, inadmissible under FRE 402.

4. Exhibit VEEAM 1006 (VMWare GSG)

Patent owner objects to the admissibility of VEEAM 1006 on the grounds that:

a. Petitioner failed to authenticate the document as required by FRE 901;

b. the document is inadmissible hearsay under FRE 801 and is, therefore, inadmissible under FRE 802; and

c. the document does not constitute prior art under 35 U.S.C. § 102(b). For example, Petitioner fails to offer any admissible evidence regarding the date or the manner in which the document was made available to the public.

5. Exhibits VEEAM 1007-1009 (Suzaki)

Patent owner objects to the admissibility of VEEAM 1007-1009 on the grounds that:

- a. Petitioner failed to authenticate the documents as required by FRE 901;
- b. the documents are inadmissible hearsay under FRE 801 and are, therefore, inadmissible under FRE 802; and
- c. the documents do not constitute prior art under 35 U.S.C. § 102(a).

For example, Petitioner fails to offer any admissible evidence regarding the date or the manner in which the documents were made available to the public.

6. Exhibit VEEAM 1010 (Wang)

Patent owner objects to the admissibility of VEEAM 1010 on the grounds that:

- a. Petitioner failed to authenticate the document as required by FRE 901;
- b. the document is inadmissible hearsay under FRE 801 and is, therefore, inadmissible under FRE 802; and

c. the document does not constitute prior art under 35 U.S.C. § 102(b). For example, Petitioner fails to offer any admissible evidence regarding the date or the manner in which the document was made available to the public.

This objection is made within 10 business days from the August 7, 2013 institution of trial.

Date: August 21, 2013

Respectfully submitted,

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