

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

**Opposer Information**

Name	Veeam Software AG
Granted to Date of previous extension	05/07/2014
Address	Linden Park, Lindenstr. 16 Baar, CH-6340 SWITZERLAND
Party who filed Extension of time to oppose	Veeam Software Corporation
Relationship to party who filed Extension of time to oppose	Veeam Software Corporation is a related U.S. entity in privity with opposer

Attorney information	Monica Riva Talley Sterne, Kessler, Goldstein & Fox P.L.L.C. 1100 New York Avenue, N.W. Washington, DC 20005 UNITED STATES mtalley@skgf.com, tm@skgf.com Phone:202-371-2600
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**Applicant Information**

Application No	85795280	Publication date	01/07/2014
Opposition Filing Date	05/07/2014	Opposition Period Ends	05/07/2014
Applicant	Veam Inc. 250 W El Camino Real, #6404 Sunnyvale, CA 94087 UNITED STATES		

**Goods/Services Affected by Opposition**

<p>Class 009. First Use: 2012/03/00 First Use In Commerce: 2012/03/00 All goods and services in the class are opposed, namely: Computer application software for mobile phones, portable media players, handheld computers, laptops, and desktops, namely, software for publishing multimedia content; Computer software for processing multimedia content, namely, digital music, images, and video files; and Computer software for computer system and application development, deployment and management for distributing and publishing multimedia content</p>
<p>Class 042. First Use: 2012/03/00 First Use In Commerce: 2012/03/00 All goods and services in the class are opposed, namely: Application service provider (ASP) featuring software for use in publishing multimedia content</p>

## Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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## Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	3942772	Application Date	01/28/2010
Registration Date	04/12/2011	Foreign Priority Date	NONE
Word Mark	VEEAM		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 2006/08/26 First Use In Commerce: 2006/08/26  Downloadable computer software for use in data backup, data protection, data replication, and disaster recovery; downloadable computer software for use in monitoring computer performance, computer configuration, and change management for physical, virtual, cloud, and hybrid computer environments; downloadable computersoftware for data backup, data protection, data replication, disaster recovery and performance management in data centers, virtual machines, servers, desktops;downloadable computer software for use in automa-tion and monitoring of physicaland virtual computers</p> <p>Class 042. First use: First Use: 2009/10/28 First Use In Commerce: 2009/10/28  Providing temporary use of online computer software for use in data backup, data protection, data replication, and disaster recovery; providing temporary use of online computer software for use in monitoring computer performance, com-puter configuration, and change management forphysical, virtual, cloud, and hy-brid computer environments; providing temporaryuse of online computer soft-ware for data backup, data protection, data replication, disaster recovery and performance management in data centers, virtual machines, servers, desktops, and virtualization performance management; providing temporary use of online computer software for use in automation and monitoring of physical and virtual computers</p>		

Attachments	77922401#TMSN.jpeg( bytes ) 2907.031OPT0.pdf(1270918 bytes )
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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Monica Riva Talley/
Name	Monica Riva Talley
Date	05/07/2014



Opposer has acquired valuable rights and goodwill for this name and mark for a variety of goods and services, including computer software and related services.

3. Veeam is the owner of the following United States Trademark Registration for the VEEAM trademark for software and related services (a status printout from the U.S. Patent and Trademark Office's TSDR database, and a copy of the Assignment of this mark to Opposer as recorded today with the PTO, are attached as Exhibit A):

Mark	App. or Reg. No.	Dates	Goods & Services
VEEAM	3942772	Registered: April 12, 2011  First Use/Priority: August 26, 2006	<p>Class 9: Downloadable computer software for use in data backup, data protection, data replication, and disaster recovery; downloadable computer software for use in monitoring computer performance, computer configuration, and change management for physical, virtual, cloud, and hybrid computer environments; downloadable computer software for data backup, data protection, data replication, disaster recovery and performance management in data centers, virtual machines, servers, desktops; downloadable computer software for use in automation and monitoring of physical and virtual computers</p> <p>Class 42: Providing temporary use of online computer software for use in data backup, data protection, data replication, and disaster recovery; providing temporary use of online computer software for use in monitoring computer performance, computer configuration, and change management for physical, virtual, cloud, and hybrid computer environments; providing temporary use of online computer software for data backup, data protection, data replication, disaster recovery and performance management in data centers, virtual machines, servers, desktops, and</p>

Mark	App. or Reg. No.	Dates	Goods & Services
			virtualization performance management; providing temporary use of online computer software for use in automation, and monitoring of physical and virtual computers

4. The foregoing registration in Paragraph 3 is valid and subsisting and constitutes *prima facie* evidence of the validity of the mark and registration, of Opposer's ownership of and exclusive right to use the mark in commerce, and provides constructive notice of ownership thereof by Opposer.

**Applicant and its VEAM Application**

5. Upon information and belief, Applicant Veam Inc. is a California corporation with an address of 250 W El Camino Real, #6404, Sunnyvale, California 94087.

6. Applicant is the listed owner of Application Serial No. 85795280 for the mark VEAM filed December 5, 2012 for:

Computer application software for mobile phones, portable media players, handheld computers, laptops, and desktops, namely, software for publishing multimedia content; Computer software for processing multimedia content, namely, digital music, images, and video files; and Computer software for computer system and application development, deployment and management for distributing and publishing multimedia content, in Class 9

Application service provider (ASP) featuring software for use in publishing multimedia content, in Class 42

**Likelihood of Confusion, 15 U.S.C. §1052(d)**

7. Opposer repeats and realleges each and every allegation set forth above.

8. Opposer has used its VEEAM trade name and trademark in commerce since long prior to the filing date of the subject Application Serial No. 85795280, and any priority date upon which Applicant could possibly rely.

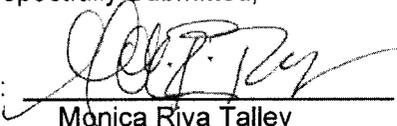
9. Opposer also has priority based on its pleaded valid and subsisting registration.
10. Applicant's VEAM trademark is substantially similar in sound, appearance, meaning, and connotation to Opposer's VEEAM trade name and trademark. Further, the goods and services identified in the opposed application are identical to and/or very closely related to the goods and services advertised, offered, and sold by Opposer in connection with its VEEAM trade name and trademark.
11. Applicant's VEAM mark so resembles Opposer's registered and prior used VEEAM trade name and trademark as to be likely, when used in connection with Applicant's goods and services to cause confusion, or to cause mistake, or to deceive under Section 2(d) of the Lanham Act, as amended, 15 U.S.C. § 1052(d).

WHEREFORE, Opposer believes it will be damaged by the registration of Applicant's VEAM mark shown in Application Serial No. 85795280, and requests that the opposition be sustained and that application Serial No. 85795280 be refused registration.

A filing fee has been submitted electronically. If the filing fee is found to be insufficient for any reason, please charge such deficiency to our Deposit Account No. 190036.

Respectfully Submitted,

Dated: May 7, 2014

By: 

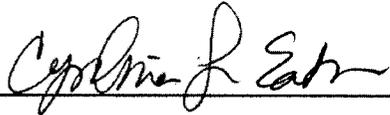
Monica Riva Talley  
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.  
1100 New York Ave. NW  
Washington, DC 20005  
Telephone: (202) 371-2600  
Facsimile: (202) 371-2540  
Attorneys for Opposer  
Veeam Software AG

Notice of Opposition  
Veeam Software AG v. Veam Inc.  
Serial No. 85795280  
Mark: VEAM

**CERTIFICATE OF SERVICE**

I certify that a true and accurate copy of the foregoing NOTICE OF OPPOSITION was served via first class mail, postage prepaid, on this 7th day of May 2014, upon Applicant at the following address of record:

Emil Chang  
Venture Pacific Law, PC  
5201 Great America Pkwy  
Suite 270  
Santa Clara, California 95054-1126



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Notice of Opposition  
Veeam Software AG v. Veam Inc.  
Serial No. 85795280  
Mark: VEAM

Notice of Opposition  
Veeam Software AG v. Veam Inc.  
Serial No. 85795280  
Mark: VEAM

**Exhibit A**

Generated on: This page was generated by TSDR on 2014-05-07 11:29:03 EDT

Mark: VEEAM

VEEAM

US Serial Number: 77922401

Application Filing Date: Jan. 28, 2010

US Registration Number: 3942772

Registration Date: Apr. 12, 2011

Register: Principal

Mark Type: Trademark, Service Mark

Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Status Date: Apr. 12, 2011

Publication Date: Jan. 25, 2011

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## Mark Information

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Mark Literal Elements: VEEAM

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

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## Goods and Services

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Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks "\*" identify additional (new) wording in the goods/services.

**For:** Downloadable computer software for use in data backup, data protection, data replication, and disaster recovery; downloadable computer software for use in monitoring computer performance, computer configuration, and change management for physical, virtual, cloud, and hybrid computer environments; downloadable computer software for data backup, data protection, data replication, disaster recovery and performance management in data centers, virtual machines, servers, desktops; downloadable computer software for use in automation and monitoring of physical and virtual computers

International Class(es): 009 - Primary Class

U.S Class(es): 021, 023, 026, 036, 036

Class Status: ACTIVE

Basis: 1(a)

First Use: Aug. 26, 2006

Use in Commerce: Aug. 26, 2006

**For:** Providing temporary use of online computer software for use in data backup, data protection, data replication, and disaster recovery; providing temporary use of online computer software for use in monitoring computer performance, computer configuration, and change management for physical, virtual, cloud, and hybrid computer environments; providing temporary use of online computer software for data backup, data protection, data replication, disaster recovery and performance management in data centers, virtual machines, servers, desktops, and virtualization performance management; providing temporary use of online computer software for use in automation and monitoring of physical and virtual computers

International Class(es): 042 - Primary Class

U.S Class(es): 100, 101

Class Status: ACTIVE

Basis: 1(a)

First Use: Oct. 28, 2009

Use in Commerce: Oct. 28, 2009

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## Basis Information (Case Level)

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Filed Use: Yes	Currently Use: Yes	Amended Use: No
Filed ITU: No	Currently ITU: No	Amended ITU: No
Filed 44D: No	Currently 44D: No	Amended 44D: No
Filed 44E: No	Currently 44E: No	Amended 44E: No
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

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## Current Owner(s) Information

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Owner Name: Veeam Software International Ltd.

Owner Address: Ground Floor  
Belvedere Building, 71, Pitts Bay Road

Pembroke HM08  
BERMUDA

Legal Entity Type: CORPORATION

State or Country Where Organized: BERMUDA

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## Attorney/Correspondence Information

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### Attorney of Record

Attorney Name: Tracy-Gene G. Durkin

Docket Number: 2907.0050000

### Correspondent

Correspondent TRACY-GENE G. DURKIN  
Name/Address: STERNE, KESSLER, GOLDSTEIN & FOX PLLC  
1100 NEW YORK AVE NW STE 600  
WASHINGTON, DISTRICT OF COLUMBIA 20005-6125  
UNITED STATES

Phone: 202-371-2600

Fax: 202-371-2540

### Domestic Representative - Not Found

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## Prosecution History

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Date	Description	Proceeding Number
Apr. 12, 2011	REGISTERED-PRINCIPAL REGISTER	
Jan. 25, 2011	PUBLISHED FOR OPPOSITION	
Jan. 05, 2011	NOTICE OF PUBLICATION	
Dec. 17, 2010	LAW OFFICE PUBLICATION REVIEW COMPLETED	68552
Dec. 17, 2010	APPROVED FOR PUB - PRINCIPAL REGISTER	
Dec. 16, 2010	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Dec. 16, 2010	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Dec. 16, 2010	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Jun. 18, 2010	NON-FINAL ACTION MAILED	
Jun. 18, 2010	NON-FINAL ACTION WRITTEN	76839
Jun. 14, 2010	PREVIOUS ALLOWANCE COUNT WITHDRAWN	
May 21, 2010	WITHDRAWN FROM PUB - OG REVIEW QUERY	60756
May 10, 2010	LAW OFFICE PUBLICATION REVIEW COMPLETED	68552
May 10, 2010	ASSIGNED TO LIE	68552
Apr. 28, 2010	APPROVED FOR PUB - PRINCIPAL REGISTER	
Apr. 28, 2010	ASSIGNED TO EXAMINER	76839
Feb. 02, 2010	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Feb. 01, 2010	NEW APPLICATION ENTERED IN TRAM	

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## TM Staff and Location Information

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### TM Staff Information - None

#### File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Apr. 12, 2011



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*Electronic Trademark Assignment System*

## Confirmation Receipt

Your assignment has been received by the USPTO.  
The coversheet of the assignment is displayed below:

<b>TRADEMARK ASSIGNMENT</b>
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Electronic Version v1.1  
Stylesheet Version v1.1

<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT		
<b>NATURE OF CONVEYANCE:</b>	NUNC PRO TUNC ASSIGNMENT		
<b>EFFECTIVE DATE:</b>	01/12/2012		
<b>CONVEYING PARTY DATA</b>			
<b>Name</b>	<b>Formerly</b>	<b>Execution Date</b>	<b>Entity Type</b>
Veeam Software International Ltd.		05/06/2014	CORPORATION: BERMUDA
<b>RECEIVING PARTY DATA</b>			
<b>Name:</b>	Veeam Software AG		
<b>Street Address:</b>	Linden Park, Lindenstr. 16		
<b>City:</b>	Baar		
<b>State/Country:</b>	SWITZERLAND		
<b>Postal Code:</b>	CH-6340		
<b>Entity Type:</b>	CORPORATION: SWITZERLAND		
<b>PROPERTY NUMBERS Total: 4</b>			
<b>Property Type</b>	<b>Number</b>	<b>Word Mark</b>	
<b>Registration Number:</b>	4122498	SUREBACKUP	
<b>Registration Number:</b>	4122464	U-AIR	

<b>Registration Number:</b>	4122462	VPOWER
<b>Registration Number:</b>	3942772	VEEAM
<b>CORRESPONDENCE DATA</b>		
<b>Fax Number:</b>	2023712540	
<b>Phone:</b>	2023712600	
<b>Email:</b>	tm@skgf.com	
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent via US Mail.</i>		
<b>Correspondent Name:</b>	Sterne Kessler Goldstein Fox PLLC	
<b>Address Line 1:</b>	1100 New York Avenue, NW, Suite 600	
<b>Address Line 4:</b>	Washington, DISTRICT OF COLUMBIA 20005	
<b>ATTORNEY DOCKET NUMBER:</b>	2907.0000000	
<b>DOMESTIC REPRESENTATIVE</b>		
<b>Name:</b>	Sterne Kessler Goldstein Fox PLLC	
<b>Address Line 1:</b>	1100 New York Avenue, NW, Suite 600	
<b>Address Line 4:</b>	Washington, DISTRICT OF COLUMBIA 20005	
<b>NAME OF SUBMITTER:</b>	Monica Riva Talley	
<b>Signature:</b>	/Monica Riva Talley/	
<b>Date:</b>	05/07/2014	
<b>Total Attachments: 2</b> source=2907-Trademark ASSIGNMENT to Veeam Software AG#page1.tif source=2907-Trademark ASSIGNMENT to Veeam Software AG#page2.tif		
<b>RECEIPT INFORMATION</b>		
<b>ETAS ID:</b>	TM303769	
<b>Receipt Date:</b>	05/07/2014	
<b>Fee Amount:</b>	\$115	

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TRADEMARK ASSIGNMENT

Veeam Software International Ltd., a corporation of Bermuda, with a principal place of business at Grd. Flr., Belvedere Bld., 71 Pitts Bay Rd., Pembroke, Bermuda HM08 ("Assignor"), is the owner of the marks identified on Exhibit A and of the U.S. and European Union trademark registrations therefor ("the Trademarks").

On January 1, 2012, Veeam Software AG, a corporation of Switzerland, with a principal place of business at Linden Park, Lindenstr. 16, Baar, Switzerland CH-6340 ("Assignee"), acquired the Trademarks from Assignor. Assignee is the owner in fact of the Trademarks and the parties desire to reflect this fact in the records of the U.S. Patent and Trademark Office and Office for Harmonization In the Internal Market (OHIM).

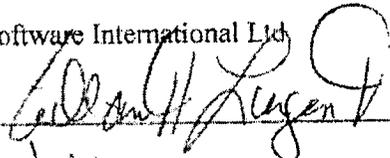
In consideration of the foregoing and for other good and valuable consideration, receipt of which is hereby acknowledged, Assignor hereby assigns nunc pro tunc as of January 1, 2012 to Assignee all its right, title, and interest in and to the Trademarks, together with the goodwill of the business associated with the Trademarks, and the right to use and recover for past infringements, dilution, and other violations.

Veeam Software International Ltd

By:

Name:

Date:

  
\_\_\_\_\_  
William H. Largent  
\_\_\_\_\_  
May 6, 2014  
\_\_\_\_\_

**EXHIBIT A**

**U.S. Registrations**

<b>Mark</b>	<b>Reg. No.</b>	<b>Registration Date</b>
SUREBACKUP	4,122,498	April 3, 2012
U-AIR	4,122,464	April 3, 2012
VPOWER	4,122,462	April 3, 2012
VEEAM	3,942,772	April 12, 2011

**European Union Registrations**

<b>Mark</b>	<b>Reg. No.</b>	<b>Registration Date</b>
VEEAM	009276205	January 10, 2011
VPOWER	009475311	May 5, 2012