

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

WEBROOT INC. and OPEN TEXT, INC.,

Plaintiffs,

v.

SOPHOS LTD.,

Defendant.

Case No. 6:22-CV-00243-ADA-DTG
(LEAD CASE)

Case No. 6:22-CV-00240-ADA-DTG
(Consolidated)

SOPHOS LTD.,

Counterclaim-Plaintiff,

v.

WEBROOT, INC., OPEN TEXT, INC., and
OPEN TEXT CORP.,

Counterclaim-Defendants.

**DEFENDANT SOPHOS LTD.’S STIPULATION REGARDING INVALIDITY
CONTENTIONS FOR U.S. PATENT NO. 10,599,844**

On February 7, 2023, Defendant Sophos Ltd. (“Sophos”) will file petition no. IPR2023-00528 with the Patent Trial and Appeal Board (“the PTAB”), requesting *inter partes* review of U.S. Patent No. 10,599,844 (“the ’844 Patent”).

The petition asserts three grounds of invalidity: (1) claims 1–20 of the ’844 Patent are obvious under 35 U.S.C. § 103 over U.S. Patent Appl. Pub. No. 2015/0213376 (“Ideses”); (2) claims 1, 8–10, and 17 of the ’844 Patent are obvious over Japanese Patent Appl. Pub. No. 2012027710A (“Mori”); and (3) claims 1–20 are obvious over Ideses in view of Mori.

Defendants stipulate that, if the PTAB institutes *inter partes* review on IPR2023-00528 based on one or more of the grounds asserted in Sophos' petition ("Instituted Grounds"), Sophos will not pursue in the District Court the Instituted Grounds. See *Sand Revolution II, LLC v. Continental Intermodal Group – Trucking LLC*, IPR2019-01393, Paper No. 24 (PTAB June 16, 2020).

In so stipulating, Sophos seeks to avoid a situation in which multiple proceedings address the validity of the challenged claims based on the same grounds. Instead, through this Stipulation, Sophos expresses its preference that only the PTAB address the Instituted Grounds of invalidity of these claims.

Notwithstanding this Stipulation, Sophos reserves the right to assert in this litigation any grounds or claims on which the Board declines to institute *inter partes* review. Sophos also reserves the right to assert grounds other than the Instituted Grounds.

Dated: February 7, 2023

Respectfully submitted,

/s/ Brian Rosenthal

Brian Rosenthal

Katherine Dominguez

Allen Kathir (*Pro hac vice*)

Allyson Parks (*Pro hac vice*)

Michael M. Polka (*Pro hac vice*)

Benjamin Z. Bistricher (*Pro hac vice*)

GIBSON, DUNN & CRUTCHER LLP

200 Park Avenue

New York, New York 10166-0005

Telephone: (212) 351-4000

Facsimile: (212) 716-0839

Email: brosenthal@gibsondunn.com

Email: kdominguez@gibsondunn.com

Email: akathir@gibsondunn.com

Email: aparks@gibsondunn.com

Email: mpolka@gibsondunn.com

Email: bbistricher@gibsondunn.com

Timothy P. Best (*Pro hac vice*)

GIBSON, DUNN & CRUTCHER LLP

333 South Grand Avenue

Los Angeles, California 90071-1504

Telephone: (213) 229-7659

Facsimile: (213) 229-6659

Email: tbest@gibsondunn.com

Ryan Iwahashi (*Pro hac vice*)

GIBSON, DUNN & CRUTCHER LLP

1881 Page Mill Road

Palo Alto, California 94304-1211

Telephone: (650) 849-5300

Facsimile: (650) 849-5067

Email: riwahashi@gibsondunn.com

David Brzozowski (*Pro hac vice*)

GIBSON, DUNN & CRUTCHER LLP

1050 Connecticut Ave., N.W.

Washington, D.C. 20036

Telephone: (202) 955-8500

Facsimile: (202) 467-0539

Email: dbrzozowski@gibsondunn.com

Attorneys for Defendant Sophos Ltd.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 7, 2023, a copy of the foregoing was served electronically to counsel of record.

/s/ David Lam
David Lam