

**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. 8,726,389**

On March 3, 2023, Defendant Sophos Ltd. will file petition No. IPR2023-00633 with the Patent Trial and Appeal Board (“the PTAB”), requesting *inter partes* review of U.S. Patent No. 8,726,389 (“the ’389 Patent”).

The petition asserts three grounds of invalidity:

1. Claims 1-6, 8-13, 15-20, 22-27, 29, and 30 are obvious under 35 U.S.C. § 103 over U.S. Patent Pub. No. 2004/0111632 to Halperin (“Halperin”);
2. Claims 3, 5, 7, 9-13, 17, 19, 21, and 23-27 are obvious under 35 U.S.C. § 103 over Halperin in view of U.S. Patent No. 7,694,150 to Kirby (“Kirby”); and

3. Claims 14 and 28 are obvious under 35 U.S.C. § 103 over Halperin in view of Kirby and U.S. Patent No. 7,900,194 to Mankins (“Mankins”)

Defendants stipulate that, if the PTAB institutes *inter partes* review on IPR2023-00633 based on the grounds asserted in Sophos’ petition, Sophos will not pursue in the District Court the specific grounds raised in IPR2023-00633 against Claims 1-30 of the ’389 Patent. 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: March 3, 2023

Respectfully submitted,

/s/ Brian Rosenthal

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 3, 2023, a copy of the foregoing was served electronically to counsel of record.

/s/ David Lam
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