

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

WEBROOT, INC. and
OPEN TEXT, INC.,

Plaintiffs

v.

FORCEPOINT LLC,

Defendant.

CIVIL ACTION NO. 6:22-CV-00342

JURY TRIAL DEMANDED

FORCEPOINT LLC,

Counterclaim Plaintiff,

v.

WEBROOT, INC., OPEN TEXT, INC., and
OPEN TEXT CORPORATION

Counterclaim-
Defendants.

**DEFENDANT FORCEPOINT LLC’S
PRELIMINARY INVALIDITY CONTENTIONS**

I. INTRODUCTION

Pursuant to the Court’s Standing Order Governing Proceedings (OGP 4.1) – Patent Cases, Dkt. No. 13 (the “Order”) and the Scheduling Order in this case, Defendant Forcepoint LLC (“Meta” or “Defendant”) hereby provides the following Preliminary Invalidity Contentions (“Contentions”) to Plaintiffs and Counterclaim Defendants Webroot Inc. (“Webroot”), Open Text, Inc. (“OTI”), and Open Text Corp. (“OTC”) (collectively, “Plaintiffs”) for asserted U.S. Patent Nos. 10,025,928 (the “’928 Patent”), 8,438,386 (the “’386 Patent”), 10,599,844 (the “’844

Patent”), 8,726,389 (the “’389 Patent”), and 9,413,721 (the “’721 Patent”) (collectively, the “Asserted Patents”).¹ Defendant reserves the right to supplement or modify these Contentions, consistent with the Order.

Discovery is ongoing, and accordingly, Defendant reserves the right to revise or supplement these Contentions in light of party and third-party discovery. Defendant’s Contentions are based in whole or in part on its present understanding of Plaintiffs’ contentions concerning the scope and construction of the claims in their Infringement Contentions and Defendant’s own understanding of the scope and construction of those claims. Defendant has conducted the invalidity analysis herein without having proposed claim terms for construction and before disclosure of Plaintiffs’ apparent interpretation of the Asserted Claims of the Asserted Patents. Plaintiffs’ Infringement Contentions are deficient at least insofar as they fail to articulate how any single accused product or the use of any single accused product infringes any claim, and Defendant reserves the right to further amend its Contentions in response to any further supplementation or amendment of Plaintiffs’ Infringement Contentions or in response to Plaintiffs’ proposed claim constructions. Defendant takes no position on any matter of claim construction in these Contentions. Any statement herein describing or tending to describe any claim element is provided

¹ On Friday, September 9, a mere two business days prior to the scheduled due date for Invalidity Contentions, Plaintiffs belatedly asserted newly alleged priority dates for the ’721 Patent—59 days after the Court’s deadline. *See* Plaintiffs’ September 9, 2022 First Supplemental Disclosure of Asserted Claims and Preliminary Infringement Contentions. Due to the prejudice inflicted upon the Defendant by this eleventh-hour amendment, Defendant and the fact that the Court has not had a chance to address this issue, the Preliminary Contentions are hereby included with the express reservation of the right to supplement or modify Defendant’s Invalidity Contentions. Likewise, Forcepoint is investigating the recently served supplemental contentions and reserves all rights with respect to any other new contentions, including but not limited to newly asserted claims, and new infringement theories advancing new or different claim interpretations or claim scope, for which Forcepoint reserves the right to identify and chart additional art and assert additional invalidity grounds under §§ 101, 102, 103, and/or 112.

solely for the purpose of understanding the relevant prior art. Defendant further reserves the right to amend these Contentions based on any claim construction order by the Court.

Defendant further reserves the right to interpret these terms differently over the course of the litigation, and does not adopt any interpretations impliedly or expressly put forth in these Contentions. Accordingly, Defendant's Contentions, including the attached claim charts, may reflect alternative positions as to claim construction and scope. Nothing in this document or the attached claim charts, however, should be construed as an admission that Defendant agrees with Plaintiffs' contentions or that any claim, whether asserted or not, of the Asserted Patents is valid, enforceable, or infringed.

Accompanying claim charts contain specific examples of prior art references, patents, knowledge, inventions, uses, sales, methods, and/or systems that included and/or disclosed, either expressly or inherently, each limitation of certain claims and/or examples of prior art references and systems in view of which a person of ordinary skill in the art would have considered each limitation and the claimed combination of such limitations obvious. Defendant has endeavored to identify relevant portions and/or features of the identified prior art. The identified prior art, however, may contain additional descriptions of or alternative support for the claim limitations. Defendant may rely upon un-cited portions or features of the identified prior art, other documents, and expert testimony to provide context or to aid them in understanding the identified prior art. Where Defendant cites to a particular figure in a reference, the citation should be understood to encompass the caption and description of the figure and any text relating to the figure. Similarly, where Defendant cites to particular text referring to a figure, the citation should be understood to include the figure and caption as well.

Defendant reserves the right to further amend these disclosures should Plaintiffs later provide any information that they failed to provide in their disclosures under Section II, Paragraph 2 of the Order or should Plaintiffs further amend their disclosures under Section II, Paragraph 2 of the Order in any way. Moreover, Defendant reserves the right to revise their ultimate Contentions concerning the invalidity of the Asserted Claims, which may change in response to the Court's construction of the Asserted Claims, additional information obtained during the discovery period, any findings as to the priority date of the Asserted Claims, and/or positions that Defendant or any expert witnesses may take concerning claim construction, infringement, and/or invalidity issues. Defendant hereby provides disclosures and related documents pertaining only to the Asserted Claims as identified by Plaintiffs in their Preliminary Infringement Contentions, served July 12, 2022. Defendant reserves the right to modify, amend, or supplement these Contentions to address any additional claims that the Court may allow Plaintiffs to later assert.

Defendant further intends to rely upon inventor admissions concerning the scope of the Asserted Claims, and prior art relevant to the Asserted Claims, found in: the Asserted Patents, the patent prosecution histories for the Asserted Patents, and related patents and/or patent applications; any deposition testimony of any inventor of the Asserted Patents; any previous trial testimony of any inventor of the Asserted Patents; and any papers filed or any evidence produced or submitted by Plaintiffs or their affiliates in connection with this litigation, or any previous litigation, related to any of the Asserted Patents. In particular, Defendant reserves the right to contend that the Asserted Claims are invalid in view of admitted prior art, or under pre-AIA 35 U.S.C. § 102(f) in the event Defendant obtains evidence that inventors named in the Asserted Patents did not invent (either alone or in conjunction with others) the subject matter claimed in the Asserted Patents.

Should Defendant obtain such evidence, they will provide the name of the person(s) from whom and the circumstances under which the claimed invention or any part thereof was derived.

Prior art not included in these Contentions, whether known or not known to Defendant, may become relevant. Defendant is currently unaware of the extent, if any, to which Plaintiffs will contend that limitations of the Asserted Claims are not disclosed in the prior art identified by Defendant. Defendant reserves the right to identify additional references that would render obvious the allegedly missing limitation(s) of the disclosed device or method. Discovery is ongoing, and Defendant has not yet completed their search for and analysis of relevant prior art. Thus, Defendant reserves the right to revise, amend, and/or supplement the information provided herein, including identifying, charting, and relying on additional references, should Defendant's further search and analysis yield additional information or references, consistent with the Order and the Federal Rules of Civil Procedure.

Prior art patents or publications included in these Contentions may be related (*e.g.*, as a divisional, continuation, continuation-in-part, parent, child, or other relation or claim of priority) to earlier or later filed patents or publications, may have counterparts filed in other jurisdictions, or may incorporate (or be incorporated by) other patents or publications by reference. The listed patents or publications are intended to be representative of these other patents or publications, to the extent they exist. Accordingly, Defendant reserves the right to modify, amend, and/or supplement these Contentions with these related patents or publications, as well as other prior art references, upon further investigation.

Additionally, because third-party discovery is not yet complete, Defendant reserves the right to present additional items of prior art under 35 U.S.C. §§ 102(a), (b), (e), and/or (g), and/or § 103 located during the course of such discovery or further investigation, and to assert contentions

of invalidity under 35 U.S.C. §§ 102(c), (d), or (f) to the extent that such discovery or investigation yields information forming the basis for such contentions of invalidity.² For example, Defendant may issue subpoenas in the course of discovery to third parties believed to have knowledge, documentation, and/or corroborating evidence concerning some of the prior art listed below and/or additional prior art. These third parties may include, without limitation, the authors, inventors, developers, designers, or assignees of the references and systems listed in these disclosures.

In those instances where Defendant asserts that the claims are invalid under 35 U.S.C. § 112 (*e.g.*, no written description, not enabled, and/or indefinite), Defendant has applied the prior art, in part, in accordance with Defendant's assumptions that Plaintiffs: (1) contend those claims are definite; (2) find written description support for those claims; and (3) contend that those claims are enabled. However, Defendant's prior art and Invalidity Contentions do not necessarily represent Defendant's agreement or view as to the meaning, definiteness, written description support for, or enablement of any claim contained therein. In fact, Defendant notes numerous grounds for invalidity on such bases below.

II. BACKGROUND

A. The Asserted Claims

Plaintiffs are asserting the following claims of the Asserted Patents:

Patent	Asserted Claims
'389 Patent	1-14, 30 ("Asserted '389 Patent Claims")
'844 Patent	1-3, 6-12, and 15-20 ("Asserted '844 Patent Claim")
'721 Patent	1, 8, 9, 14, and 15 ("Asserted '721 Patent Claims")

² Throughout these Contentions, Forcepoint applies post-AIA sections to the '844 Patent based on its filing date and the equivalent pre-AIA sections to the other four Asserted Patents based on their filing date. All references to 35 U.S.C. throughout these Contentions should be understood to apply the appropriate pre-AIA or post-AIA sections accordingly.

Patent	Asserted Claims
'386 Patent	1-13, 15, 16, and 18 ("Asserted '386 Patent Claims")
'928 Patent	1-20 ("Asserted '928 Patent Claims")

B. Priority Dates of the Asserted Claims

The '389 Patent

Plaintiffs purport that the '389 Patent is entitled to a priority date of June 30, 2005 based on the filing of foreign patent application GB 01513375.6. But, as a preliminary matter, GB 01513375.6 and U.S. Patent Application No. 11/477,807 (the first U.S. Patent application filed relating to the '389 Patent) do not share a common applicant or inventor as required by 35 U.S.C. § 119(a) to claim priority to a foreign application. Therefore, Defendant contends that no Asserted Claim of the '389 Patent is entitled to a priority date earlier than June 30, 2006, though Defendant does not concede that the '389 Patent is necessarily even entitled to that priority date.

The '844 Patent

Defendant contends that no Asserted Claim of the '844 Patent is entitled to a priority date earlier than May 12, 2015, though Defendant does not concede that the '844 Patent is necessarily even entitled to that priority date.

The '721 Patent

On September 9, 2022, a mere two business days prior to the scheduled due date for Invalidity Contentions, Plaintiffs modified the priority date for the '721 Patent. *See* Plaintiffs' September 9, 2022 First Supplemental Disclosure of Asserted Claims and Preliminary Infringement Contentions.³ Defendant contends that no Asserted Claim of the '721 Patent is

³ Plaintiffs belatedly asserted newly alleged priority date for the '721 Patent on September 9, 2022, 59 days after the Court's deadline. Given the late assertion of the purported priority date, Defendant has not had a chance to ascertain the merit of veracity of the newly asserted priority dates or the purported evidence regarding the newly asserted priority dates (also belatedly served on September 9, 2022). Moreover, Plaintiffs have not yet explained

entitled to a priority date earlier than February 15, 2011, though Defendant does not concede that the '721 Patent is necessarily even entitled to that priority date.

The '386 Patent

Defendant contends that no Asserted Claim of the '386 Patent is entitled to a priority date earlier than April 21, 2009, though Defendant does not concede that the '386 Patent is necessarily even entitled to that priority date.

The '928 Patent

Defendant contends that no Asserted Claim of the '928 Patent is entitled to a priority date earlier than October 3, 2011, though Defendant does not concede that the '928 Patent is necessarily even entitled to that priority date.

III. INVALIDITY CONTENTIONS FOR THE '389 PATENT

A. General State of the Art at the Time of the Alleged Inventions

The prior art references identified in these Invalidity Contentions, and the “References Cited” on the face of the '389 Patent, may provide background and context pertinent to the teachings in, and interpretation of, the prior art referenced by the attached claim charts. Defendant may rely upon that prior art, including the “References Cited” on the face of the '389 Patent, to demonstrate the general state of the art at the time of the alleged inventions and what one of ordinary skill in the art would have understood at a time prior to the date of the alleged invention of the Asserted Claims. This prior art is exemplary only and is not in any way intended to limit the scope of what one of ordinary skill in the art would have understood at the times of the alleged inventions. Defendant reserves the right to rely upon additional prior art, information, and/or

the basis for their priority assertions. As a result, Defendant reserves its objections to Plaintiffs' belated assertion of the new priority date and expressly reserves all rights to challenge this alleged new priority date.

knowledge to demonstrate what one of ordinary skill would have understood at any time prior to the date of alleged invention of the Asserted Claims.

B. Claim Charts

Pursuant to Section II, Paragraph 4 of the Order, the claim charts attached in Appendix A as Exhibits A-1 through A-20 identify where each limitation of the Asserted Claims of the '389 Patent is found in the prior art.

C. Identification of the Prior Art

Based on Plaintiffs' July 12, 2022 Preliminary Infringement Contentions, Defendant identifies prior art below and in Appendix A as Exhibits A-1 through A-20, which contains charts disclosing the identity of each item of prior art that anticipates each claim and/or renders it obvious. As shown in Appendix A as Exhibits A-1 through A-20 and below, Defendant has identified each prior art reference by its number, country of origin, author, and date of issue (where applicable). Defendant notes that it has applied the prior art in accordance with Plaintiffs' improper assertions of infringement and improper applications of the claims. Defendant does not agree with Plaintiffs' application of the claims and denies infringement.

Defendant further contends that all claims that are anticipated by a particular reference are also rendered obvious by that same reference alone, in combination with the other references, and/or in combination with the knowledge of a person of ordinary skill in the art. Defendant reserves the right to rely upon any combination of the charted prior art under 35 U.S.C. § 103, yet Defendant has also identified exemplary obviousness combination in Section III.E, *infra*.

'389 Patent Prior Art Patents/Patent Applications				
Ex. No.	Patent / Publication No.	Country of Origin	Filing Date	Date of Issue / Publication
Ex. A-1	U.S. Patent No. 7,865,956 ("Cambridge 956")	U.S.	Jun. 10, 2005	Jan. 4, 2011

'389 Patent Prior Art Patents/Patent Applications				
Ex. No.	Patent / Publication No.	Country of Origin	Filing Date	Date of Issue / Publication
Ex. A-2	U.S. Patent No. 7,603,711 ("Scheidell")	U.S.	Oct. 30, 2003	Oct. 13, 2009
Ex. A-3	U.S. Patent No. 8,516,583 ("Thomas")	U.S.	Mar. 31, 2005	Aug. 20, 2013
Ex. A-4	U.S. Patent No. 9,104,871 ("Tuvell 871")	U.S.	Apr. 6, 2007	Aug. 11, 2015
Ex. A-5	U.S. Patent No. 6,973,577 ("Kouznetsov")	U.S.	May 26, 2000	Dec. 6, 2005
Ex. A-6	U.S. Patent No. 7,080,000 ("Cambridge 000")	U.S.	Jul. 23, 2001	Jul. 18, 2006
Ex. A-7	U.S. Patent No. 7,093,239 ("van der Made")	U.S.	Aug. 18, 2000	Aug. 15, 2006
Ex. A-8	U.S. Patent No. 7,152,164 ("Loukas")	U.S.	Nov. 26, 2001	Dec. 19, 2006
Ex. A-9	U.S. Patent No. 7,356,843 ("Kingsford")	U.S.	Oct. 1, 2003	Apr. 8, 2008
Ex. A-10	U.S. Patent No. 7,694,150 ("Kirby")	U.S.	Jun. 22, 2004	Apr. 6, 2010
Ex. A-11	U.S. Patent No. 7,934,103 ("Kidron")	U.S.	Apr. 15, 2003	Apr. 26, 2011
Ex. A-12	U.S. Patent No. 7,434,261 ("Costea")	U.S.	Sep. 27, 2004	Oct. 7, 2008
Ex. A-13	U.S. Patent Publication No. 2002/0078381 A1 ("Farley 381")	U.S.	Jun. 6, 2001	Feb. 26, 2004
Ex. A-14	U.S. Patent Publication No. 2004/0039968 A1 ("Hatonen")	U.S.	Jun. 6, 2001	Feb. 26, 2004
Ex. A-15	U.S. Patent Publication No. 2004/0143753 ("Hernacki")	U.S.	Jan. 21, 2003	Jul. 22, 2004
Ex. A-16	U.S. Patent Publication No. 2004/0111632 A1 ("Halperin")	U.S.	May 5, 2003	Jun. 10, 2004
Ex. A-17	U.S. Patent Publication No. 2005/0210035 ("Kester 035")	U.S.	May 19, 2005	Sep. 22, 2005
Ex. A-18	U.S. Patent Publication No. 2005/0132205 A1 ("Palliyil")	U.S.	Dec. 12, 2004	Jun. 16, 2005

'389 Patent Prior Art Patents/Patent Applications				
Ex. No.	Patent / Publication No.	Country of Origin	Filing Date	Date of Issue / Publication
Ex. A-19	U.S. Patent Publication No. 2005/0038818 A1 ("Hooks")	U.S.	Aug. 11, 2004	Feb. 17, 2005

'389 Patent Prior Art Publications				
Ex. No.	Title	Date of Publication	Author	Publisher
Ex. A-20	Inoue, H., Forrest, S., Anomaly Intrusion Detection in Dynamic Execution Environments, In: Proc. of the 2002 Workshop on New Security Paradigms (NSPW), pp. 52–60 (2002) ("Inoue")		Haijme Inoue & Stephanie Forrest	University of New Mexico

'389 Patent Additional Prior Art/Background Art
U.S. Patent No. 5,440,723 ("Arnold 723")
U.S. Patent No. 6,195,587 ("Hruska")
U.S. Patent No. 6,842,861 ("Cox")
U.S. Patent No. 6,880,110 ("Largman")
U.S. Patent No. 7,089,428 ("Farley 428")
U.S. Patent No. 7,263,616 ("Brackett")
U.S. Patent No. 7,424,609 ("Kwan")
U.S. Patent No. 7,565,550 ("Liang")
U.S. Patent No. 7,594,272 ("Kennedy")
U.S. Patent No. 7,627,898 ("Beck")
U.S. Patent No. 7,634,806 ("Zinda")
U.S. Patent No. 7,900,194 ("Mankins")
U.S. Patent No. 7,913,303 ("Rouland")
U.S. Patent No. 8,458,797 ("Yu 797")
U.S. Patent Application Publication No. US 2003/0172166 ("Judge")
U.S. Patent Application Publication No. US 2004/0123145 ("Baffes")

'389 Patent Additional Prior Art/Background Art
U.S. Patent Application Publication No. US 2006/0101520 ("Schumaker")
U.S. Patent Application Publication No. US 2006/0293777 ("Breitgand")
U.S. Patent Application Publication No. US 2007/0294768 ("Moskovitch 768")
Australian Patent Publication No. AU 2001/262958 A1 ("Brass")
Barry Nance, <i>Server-Based Java Security Products Help Guard Your Enterprise Flank</i> , NETWORK COMPUTING, Dec. 1, 1998, at 86. ("Nance")
Andrew Conry-Murray, <i>Behavior-Blocking Stops Unknown Malicious Code</i> , NETWORK MAGAZINE, Jun. 5, 2002. ("Conry-Murray")
SandBox Security's Secure4U, http://www.sandboxsecurity.com/Products/index.htm (last visited Sep. 11, 2022). ("Sandbox Security")
Stacy Bolton, <i>Global Information Assurance Certification Paper</i> , SANS INSTITUTE, Aug. 1, 2002. ("Bolton")
PR Newswire, <i>Finjan Software and F-Secure to Deliver Proactive Content Security For Corporate PCs in New Era of Malicious Code</i> , PR NEWswire ASSOCIATION LLC, Oct. 30, 2000. ("Finjan")
Kelly Jackson Higgins, <i>Sandbox the Hackers</i> , INTERNETWEEK, http://www.internetweek.com/indepth01/indepth041701.htm . ("Higgins")
SurfinGuard Pro 5.7, http://www.finjan.com/Products/HomeUsersSurfinGuardPro/default.asp (last visited September 11, 2022). ("SurfinGuard")
Vincent Berk et al., <i>Designing a Framework for Active Worm Detection on Global Networks</i> , IEEE, Mar. 24, 2003. ("Berk")
Okena StormWatch, <i>A New Approach To Intrusion Detection: Intrusion Prevention</i> , INTRUSION PREVENTION WHITE PAPER, 2002. ("Okena StormWatch")
David Dagon et al., <i>HoneyStat: Local Worm Detection Using Honey Pots</i> , RECENT ADANCES IN INTRUSION DETECTION, 2004. ("Dagon")
Anton Chuvakin, <i>Security Event Analysis through Correlation</i> , 13, INFORMATION SYSTEMS SECURITY, 13, 2004. ("Chuvakin")
Min Cai et al., <i>Collaborative Internet Worm Containment</i> , 3, IEEE, June 13, 2005 at 25. ("Cai")
Christopher M. King, <i>Security Management: Making Sense Of Events</i> , BUSINESS COMMUNICATIONS REVIEW, Sep. 2001 at 32. ("King")
Linda Leung, <i>Advanced Technologies Aim to Protect Network Asset</i> , PROFILING CYBERCRIME: NETWORK THREATS AND DEFENSE STRATEGIES, Nov. 29, 2004 at 56. ("Leung")

'389 Patent Additional Prior Art/Background Art
neuSecure 3.0, www.guarded.net:80/neusecure3.0.html (last visited Sep. 11, 2022). (“neuSecure”)
Open Systems Security Threat Manager, www.open.com:80/products/products.shtml (last visited Sep. 11, 2022) (“Open”)

Furthermore, with respect to the '389 Patent, under pre-AIA 35 U.S.C. § 102(f), Defendant identifies the activities of entities involved in computer security as referenced in foreign patent application GB 01513375.6, to which Plaintiffs claim priority. *See, e.g.*, GB 01513375.6 at 1-3.

Furthermore, with respect to the '389 Patent, under pre-AIA 35 U.S.C. §§ 102(a), (b), and (g)(2), Defendant reserves the right to identify prior art systems developed prior to June 30, 2006. *See, e.g., Intell. Ventures II LLC v. FedEx Corp.*, No. 2:16-CV-00980-JRG, 2019 WL 1434656, at *8-11 (E.D. Tex. Mar. 29, 2019). Discovery is ongoing, and Defendant reserves the right to amend the Invalidity Contentions herein based on third-party discovery obtained.

D. Anticipation

At least under Plaintiffs' apparent infringement theory, the Asserted Claims of the '389 Patent are anticipated, either expressly or inherently as understood by a person having ordinary skill in the art, by the references as set forth in the attached claim charts. At least under Plaintiffs' apparent infringement theory, Asserted Claims 1-7 and 30 of the '389 Patent are anticipated, either expressly or inherently as understood by a person having ordinary skill in the art, by Scheidell as set forth in the attached claim chart. At least under Plaintiffs' apparent infringement theory, Asserted Claims 1-6 of the '389 Patent are anticipated, either expressly or inherently as understood by a person having ordinary skill in the art, by Cambridge 956 as set forth in the attached claim chart. At least under Plaintiffs' apparent infringement theory, Asserted Claims 1-5 and 8 of the '389 Patent are anticipated, either expressly or inherently as understood by a person having

ordinary skill in the art, by Thomas as set forth in the attached claim chart. At least under Plaintiffs' apparent infringement theory, Asserted Claims 1-5, 9-14, and 30 of the '389 Patent are anticipated, either expressly or inherently as understood by a person having ordinary skill in the art, by Tuvell 871 as set forth in the attached claim chart. At least under Plaintiffs' apparent infringement theory, Asserted Claims 1-7, 9, 11, 14, and 30 of the '389 Patent are anticipated, either expressly or inherently as understood by a person having ordinary skill in the art, by Halperin and Kirby as set forth in the attached claim chart. At least under Plaintiffs' apparent infringement theory, Asserted Claims 1-7, 9, 11-14, and 30 of the '389 Patent are anticipated, either expressly or inherently as understood by a person having ordinary skill in the art, by Hernacki as set forth in the attached claim chart. At least under Plaintiffs' apparent infringement theory, Asserted Claims 1-7, 9-11, 13-14, and 30 of the '389 Patent are anticipated, either expressly or inherently as understood by a person having ordinary skill in the art, by Loukas as set forth in the attached claim chart. At least under Plaintiffs' apparent infringement theory, Asserted Claims 1, 14, and 30 of the '389 Patent are anticipated, either expressly or inherently as understood by a person having ordinary skill in the art, by van der Made as set forth in the attached claim chart. At least under Plaintiffs' apparent infringement theory, Asserted Claims 1-2 and 4-6 of the '389 Patent are anticipated, either expressly or inherently as understood by a person having ordinary skill in the art, by Farley 381 as set forth in the attached claim chart. At least under Plaintiffs' apparent infringement theory, Asserted Claims 1-3, 5-7, 9, 11, 14, and 30 of the '389 Patent are anticipated, either expressly or inherently as understood by a person having ordinary skill in the art, by Palliyil as set forth in the attached claim chart. At least under Plaintiffs' apparent infringement theory, Asserted Claims 1-2, 6, 9, 11, 14, and 30 of the '389 Patent are anticipated, either expressly or inherently as understood by a person having ordinary skill in the art, by Inoue as set forth in the attached claim chart. At

least under Plaintiffs' apparent infringement theory, Asserted Claims 1-3, 6-7, and 9-11 of the '389 Patent are anticipated, either expressly or inherently as understood by a person having ordinary skill in the art, by Kingsford as set forth in the attached claim chart.

E. Obviousness

At least under Plaintiffs' apparent infringement theory, the Asserted Claims of the '389 Patent are rendered obvious by the references identified in the attached claim charts, either alone or in the combinations with other prior art references as identified below. Defendant contends that one of ordinary skill in the art, at the time of the alleged invention of the Asserted '389 Patent Claims, would have been motivated to combine the references disclosed herein in such a way to reach the alleged inventions. In certain instances, the suggested obviousness combinations are provided in the alternative to Defendant's anticipation contentions, which shall not be construed to suggest that any reference included in the combinations is not by itself anticipatory. The combinations evidencing teachings, suggestions, and/or motivations to combine the prior-art references in a way that renders the Asserted Claims obvious are merely exemplary.

Primary Reference	In Combination With
Halperin	Cambridge 000
Halperin	Cambridge 956
Halperin	Costea
Halperin	Farley 381
Halperin	Hatonen
Halperin	Hooks
Halperin	Hernacki
Halperin	Inoue

Primary Reference	In Combination With
Halperin	Kirby
Halperin	Kester 035
Halperin	Kouznetsov
Halperin	Kingsford
Halperin	Kidron
Halperin	Loukas
Halperin	Palliyil
Halperin	Scheidell
Halperin	Thomas
Halperin	Tuvell 871
Halperin	van der Made
Kester 035	Cambridge 956
Kester 035	Cambridge 000
Kester 035	Costea
Kester 035	Farley 381
Kester 035	Halperin
Kester 035	Hatonen
Kester 035	Hooks
Kester 035	Inoue
Kester 035	Kirby
Kester 035	Kouznetsov
Kester 035	Kingsford
Kester 035	Kidron

Primary Reference	In Combination With
Kester 035	Loukas
Kester 035	Palliyil
Kester 035	Scheidell
Kester 035	Thomas
Kester 035	Tuvell 871
Kester 035	van der Made
Hernacki	Cambridge 000
Hernacki	Cambridge 956
Hernacki	Costea
Hernacki	Farley 381
Hernacki	Halperin
Hernacki	Hatonen
Hernacki	Hooks
Hernacki	Inoue
Hernacki	Kirby
Hernacki	Kester 035
Hernacki	Kingsford
Hernacki	Kidron
Hernacki	Loukas
Hernacki	Palliyil
Hernacki	Scheidell
Hernacki	Thomas
Hernacki	Tuvell 871

Primary Reference	In Combination With
Hernacki	van der Made
Palliyil	Cambridge 956
Palliyil	Cambridge 000
Palliyil	Costea
Palliyil	Farley 381
Palliyil	Halperin
Palliyil	Hatonen
Palliyil	Hooks
Palliyil	Hernacki
Palliyil	Inoue
Palliyil	Kirby
Palliyil	Kester 035
Palliyil	Kouznetsov
Palliyil	Kingsford
Palliyil	Kidron
Palliyil	Loukas
Palliyil	Scheidell
Palliyil	Thomas
Palliyil	Tuvell 871
Palliyil	van der Made
Thomas	Cambridge 000
Thomas	Cambridge 956
Thomas	Costea

VIII. DOCUMENT PRODUCTION

Pursuant to Section II, Paragraph 4 of the Order, Defendant states that (1) all prior art related to these Contentions and (2) technical documents, excluding source code, within Defendant's possession, sufficient to show the operation of the accused product(s) were produced concurrently with service of these Contentions at FP_WR00006352 - FP_WR00017692. Defendant's will make source code available for inspection in the Austin office of Kirkland & Ellis once a protective order is entered.

Dated: September 13, 2022

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that counsel of record are being served on September 13, 2022, with a copy of this document via email.

/s/ Kat Li

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