

**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.

C.A. No. 6:22-cv-00240-ADA-DTG

JURY TRIAL DEMANDED

DEFENDANT SOPHOS LTD.'S PRELIMINARY INVALIDITY CONTENTIONS

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Pursuant to the Parties' Proposed Scheduling Order,¹ Defendant Sophos, Ltd. ("Sophos") hereby provides its Preliminary Invalidity Contentions.

I. INTRODUCTION

On July 12, 2022, Plaintiffs Webroot, Inc. ("Webroot") and Open Text, Inc. ("Open Text") (collectively, "Plaintiffs") served their Preliminary Infringement Contentions with the following Asserted Claims:

- U.S. Patent No. 8,418,250 ("250 patent"): Claims 1-30
- U.S. Patent No. 8,726,389 ("389 patent"): Claims 1-14, 30
- U.S. Patent No. 9,578,045 ("045 patent"): Claims 1-7
- U.S. Patent No. 10,257,224 ("224 patent"): Claims 1-19
- U.S. Patent No. 10,284,591 ("591 patent"): Claims 1, 3-6, 9, 11-14, 17
- U.S. Patent No. 10,599,844 ("844 patent"): Claims 1-20
- U.S. Patent No. 9,413,721 ("721 patent"): Claims 1, 8, 9, 14

(collectively, the "Asserted Patents" and the "Asserted Claims"). Sophos contends that the Asserted Claims cover subject matter not eligible for patenting under 35 U.S.C. § 101, and that each of the Asserted Claims is invalid under at least 35 U.S.C. §§ 102, 103, and/or 112.²

These Preliminary Invalidity Contentions address the claims identified in Plaintiffs' Preliminary Infringement Contentions. Sophos reserves the right to modify, amend, or supplement these Preliminary Invalidity Contentions to the extent the Court permits Plaintiffs to amend,

¹ See September 2, 2022 Email from M. Siegmund to Court re Webroot, Inc. et al v. Multiple Defendants – Case Nos. 6-22-cv-00239 to 00243 and -00342 (hereinafter, the "Parties' Proposed Scheduling Order").

² Sophos applies the versions of Sections 102, 103, and 112 in effect prior to the effective date of the America Invents Act ("AIA") for the '250, '389, and '721 patents, and the versions of Sections 102, 103, and 112 in effect after the effective date of the AIA for the '045, '224, '591, and '844 patents.

A. State of the Art

The subject matter of the Asserted Claims was well understood to those of skill in the art as of the respective priority dates of the Asserted Patents. To describe the state of the art at the time of the alleged inventions, in addition to the references listed on the face of the Asserted Patents and those references listed in Section B and charted in Exhibits 250-A, 250-B, 389-A, 389-B, 045-A, 045-B, 224-A, 224-B, 591-A, 591-B, 844-A, 844-B, 721-A, and 721-B, Sophos may rely on at least the references listed below and any admitted prior art discussed in the Asserted Patents and file histories:

1. U.S. Patent No. 8,418,250

- U.S. Patent No. 7,487,543 to Arnold et al. (“Arnold ’543”)
- U.S. Patent No. 7,996,905 to Arnold et al. (“Arnold ’905”)
- U.S. Patent Pub. No. 2004/0123145 to Baffes et al. (“Baffes”)
- Bolton, *Aladdin Esafe Enterprise v3.0* (“Bolton”)
- U.S. Patent Pub. No. 2006/0293777 to Breitgand et al. (“Breitgand”)
- Cai et al., *Collaborative Internet Worm Containment* (“Cai”)
- U.S. Patent No. 7,080,000 to Cambridge (“Cambridge”)
- Chuvakin, *Security Even Analysis through Correlation* (“Chuvakin”)
- Conry-Murray, *Product Focus: Behavior-Blocking Stops Unknown Malicious Code* (“Conry-Murray”)
- Using Management Center for Cisco Security Agents 4.0 User Guide (“CSA”)
- Coretrace ECM 3000 System (“Coretrace”)
- U.S. Patent No. 7,434,261 to Costea et al. (“Costea”)
- Distributed Intrusions Detection System (“DIDS”)
- U.S. Patent No. 7,613,930 to Dotan (“Dotan”)
- Sophos Endpoint Security (“Endpoint Security”)

- U.S. Patent Pub. No. 2002/0078381 to Farley et al. (“Farley”)
- Finjan software, SurfinGuard Pro 5.7 (“Finjan”)
- Forrest et al., *Computer Immunology* (“Forrest 1”)
- Forrest et al., *A Sense of Self for Unix Processes* (“Forrest 2”)
- U.S. Patent No. 7,290,266 to Gladstone et al. (“Gladstone ’266”)
- U.S. Patent No. 7,594,267 to Gladstone et al. (“Gladstone ’267”)
- U.S. Patent Pub. No. 2004/0111632 to Halperin (“Halperin”)
- U.S. Patent Pub. No. 2004/0039968 to Hatonen et al. (“Hatonen”)
- U.S. Patent Pub. No. 2004/0143753 to Hernacki (“Hernacki”)
- Higgins, SANDBOX the HACKERS – They’re spreading viruses and stealth code. One way to stop them: block, or “sandbox,” the culprits (“Higgins”)
- U.S. Patent Pub. No. 2005/0038818 to Hooks (“Hooks”)
- Inoue et al., Anomaly Intrusion Detection in Dynamic Execution Environments, In: Proc. of the 2002 Workshop on New Security Paradigms (NSPW), pp. 52-60 (2002) (“Inoue”)
- U.S. Patent Pub. No. 2003/0172166 to Judge et al. (“Judge”)
- U.S. Patent No. 6,973,577 to Kouznetsov (“Kouznetsov”)
- U.S. Patent Pub. No. 2005/0210035 to Kester (“Kester”)
- U.S. Patent No. 7,594,272 to Kennedy et al. (“Kennedy”)
- U.S. Patent No. 7,934,103 to Kidron (“Kidron”)
- U.S. Patent No. 7,356,843 to Kingsford (“Kingsford”)
- U.S. Patent No. 7,694,150 to Kirby (“Kirby”)
- U.S. Patent No. 7,424,609 to Kwan (“Kwan”)
- U.S. Patent No. 7,152,164 to Loukas (“Loukas”)
- U.S. Patent No. 7,069,480 to Lovy (“Lovy”)
- U.S. Patent No. 7,900,194 to Mankins (“Mankins”)

- Nance, *Server-Based Java Security Products Help Guard Your Enterprise Flank* (“Nance”)
- Cisco, NetRanger (“NetRanger”)
- U.S. Patent Pub. No. 2005/0132205 to Palliyil (“Palliyil”)
- PR Newswire, Finjan Software and F-Secure to Deliver Proactive Content Security For Corporate PCs in New Era of Malicious Code (“PR Newswire”)
- PrevX Pro 2005 (“PrevX Pro”)
- R. Rivest, RCF 1321, The MD5 Message-Digest Algorithm, April 1992 (“RFC 1321”)
- U.S. Patent No. 7,913,303 to Rouland et al. (“Rouland”)
- Sandbox Security, Secure4U (“Sandbox Security”)
- U.S. Patent No. 7,603,711 to Scheidell (“Scheidell”)
- Webroot Spy Sweeper Enterprise (“Spy Sweeper”)
- U.S. Patent No. 8,516,583 to Thomas et al. (“Thomas”)
- U.S. Patent No. 9,104,871 to Tuvell et al. (“Tuvell”)
- U.S. Patent No. 7,093,239 to van der Made (“van der Made”)
- U.S. Patent No. 8,458,797 to Yu et al. (“Yu”)

2. **U.S. Patent No. 8,726,389**

- U.S. Patent Pub. No. 2004/0123145 to Baffes et al. (“Baffes”)
- Berk et al., *Designing a Framework for Active Worm Detection on Global Networks* (“Berk”)
- U.S. Patent Pub. No. 2006/0293777 to Breitgand et al. (“Breitgand”)
- Cai et al., *Collaborative Internet Worm Containment* (“Cai”)
- U.S. Patent No. 7,080,000 to Cambridge (“Cambridge”)
- Chuvakin, *Security Even Analysis through Correlation* (“Chuvakin”)
- Using Management Center for Cisco Security Agents 4.0 User Guide (“CSA”)

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Respectfully submitted,

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Certificate of Service

I hereby certify that on September 13, 2022, the foregoing document has been served by electronic mail on all counsel of record.

/s/ Jason Perlman
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