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

WEBROOT, INC. and OPEN TEXT, INC., **Plaintiffs,** **v.** **CROWDSTRIKE, INC., and CROWDSTRIKE HOLDINGS, INC.,** **Defendants.**	**Case No. 6:22-cv-00241-ADA-DTG** **JURY TRIAL DEMANDED**
CROWDSTRIKE, INC., **Counterclaim-Plaintiff,** **v.** **WEBROOT, INC. and OPEN TEXT, INC.,** **Counterclaim-Defendants.**	

CROWDSTRIKE'S PRELIMINARY INVALIDITY CONTENTIONS

I. INTRODUCTION

Defendants CrowdStrike, Inc. and CrowdStrike Holdings, Inc. (collectively, "CrowdStrike") provide these Preliminary Invalidity Contentions to Plaintiffs Webroot, Inc. and Open Text, Inc. (collectively "Plaintiffs") for the following patents (collectively, "Asserted Patents" or "Patents-in-Suit") and claims (collectively, "Asserted Claims") identified as asserted in Plaintiffs' Disclosure of Preliminary Infringement Contentions served on July 12, 2022 ("Infringement Contentions"):

IPR2023-00699
Open Text Inc. EX-2013

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- U.S. Patent No. 8,418,250 ("the '250 Patent"), claims 1–30 ("the '250 Asserted Claims");
- U.S. Patent No. 8,726,389 ("the '389 Patent"), claims 1–14 and 30 ("the '389 Asserted Claims");
- U.S. Patent No. 9,578,045 ("the '045 Patent"), claims 1–4 and 7 ("the '045 Asserted Claims");
- U.S. Patent No. 10,257,224 ("the '224 Patent"), claims 1–4, 7, 8, 10–13, 16, and 17 ("the '224 Asserted Claims");
- U.S. Patent No. 10,284,591 ("the '591 Patent"), claims 1, 3, 4, 9, 11, 12, and 17 ("the '591 Asserted Claims"); and
- U.S. Patent No. 10,599,844 ("the '844 Patent"), claims 1–20 ("the '844 Asserted Claims").

CrowdStrike addresses the invalidity of the Asserted Claims and concludes with a description of its document production and identification of additional reservations and explanations.

II. PRIORITY DATE OF THE ASSERTED PATENTS AND CLAIMS

In their Infringement Contentions, Plaintiffs assert that the Asserted Patents are entitled to the following priority dates:

- '250 Patent: June 30, 2005;
- '389 Patent: June 30, 2005;
- '045 Patent: May 3, 2013;
- '224 Patent: May 3, 2013;
- '591 Patent: January 27, 2014;
- '844 Patent: May 12, 2015.

It is Plaintiffs' burden to show entitlement to the asserted priority dates, and CrowdStrike asserts that Plaintiffs have failed to meet that burden. For example, Plaintiffs have failed to show that any of the Asserted Claims are entitled to a priority date earlier than the filing of the

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applications that issued as the Asserted Patents. Plaintiffs have therefore not demonstrated that the Asserted Patents are entitled to the dates of the provisional applications. Nevertheless, CrowdStrike has focused on prior art that predates the priority dates alleged by Plaintiffs. CrowdStrike reserves the right to amend its invalidity contentions with additional prior art and/or with additional invalidity charts if Plaintiffs change their position and allege earlier or later priority dates, or if Plaintiffs do not meet their burden to prove the priority dates they assert. In addition, Plaintiffs have not provided any assertion or evidence that any Asserted Patent or Asserted Claim is entitled to a date of conception earlier than the claimed priority dates listed above. CrowdStrike therefore also reserves its right to amend its Invalidity Contentions if Plaintiffs are permitted to allege earlier dates of conception for the Asserted Patents.

III. PRIOR ART REFERENCES

CrowdStrike identifies the following prior art now known to CrowdStrike to anticipate the Asserted Claims under at least 35 U.S.C. §§ 102(a), (b), (e), and/or (g), either expressly or inherently as understood by a POSITA, and/or to render the Asserted Claims obvious under 35 U.S.C. § 103, either alone or in combination. These prior art references also evidence the level of skill in the art and provide background information regarding the knowledge of a person of skill in the art. CrowdStrike reserves the right to rely on these references to that end.

CrowdStrike additionally incorporates by reference all prior art references cited on the face of the Asserted Patents, related patents, and all foreign counterparts. CrowdStrike further incorporates by reference all prior art references identified in the file histories of the same. CrowdStrike reserves the right to rely upon foreign counterparts of the U.S. Patents identified in these invalidity contentions, U.S. counterparts of foreign patents and foreign patent applications identified in these invalidity contentions, U.S. and foreign patents and patent applications corresponding to articles and publications identified in these invalidity contentions, and any

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systems, products, or prior inventions related to any references identified in these invalidity contentions.

In these invalidity contentions, including the exhibits, any citation to a printed publication or other reference describing a prior art system should also be construed to reference to the prior art system itself. Any citation to a prior art system should also be construed to reference all printed publications or other references describing that system.

CrowdStrike has identified systems and products that anticipate and/or render obvious the Asserted Claims. Many of the systems are associated with patents, patent publications, and other written references identified below, and many of the patent references identified below are currently and/or were originally assigned to companies that build products to detect malware, including but not limited to CrowdStrike, Cisco, CounterTack, HP, IBM, HP, McAfee, Microsoft, Forcepoint, Kaspersky, Sophos, and Trend Micro. CrowdStrike has endeavored to use publicly-available materials to explain how these prior art products anticipate and/or render obvious the Asserted Claims. However, discovery in this case has not yet opened, and so CrowdStrike has not had the opportunity to conduct third-party discovery from these (and other) sources. CrowdStrike reserves the right to conduct such discovery and supplement its invalidity contentions to include any additional prior art systems and products that render the Asserted Claims invalid, and to provide additional detail on how these systems and products render the Asserted Claims invalid. CrowdStrike may use physical samples, executable software, source code, testimony, and/or other sources as evidence of the relevant functionality of these prior art systems.

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A. Prior Art Patents, Publications, and Systems

1. '250 and '389 Patents

System or Publication	Date of Filing or Publication	Effective Filing Date
Anderson, Computer Security Threat Monitoring and Surveillance	4/15/1980	
Anderson, Detecting Unusual Program Behavior Using the Statistical Component of the Next Generation Intrusion Detection Expert System (NIDES)	May-95	
AU2001262958 (Farley).pdf	4/27/2001	
Cloudmark SpamNet	6/24/1905	
CPM_Explorer_Admin-2.pdf	9/19/2005	
CPMAdminGuide.pdf	5/2/2005	
Denning, An Intrusion-Detection Model	1986	
Hedberg, Combating computer viruses.pdf	Summer 1996	
Inoue, Anomaly Intrusion.pdf	September 23-26, 2002	
Javitz, The NIDES Statistical Component	3/7/1994	
Rivest, rfc1321 MD5 Hashing Algorithm.pdf	April 1992	
Shieh, A Pattern-Orientated Intrusion-Detection Model and its Applications	1991	
Shieh, On a Pattern-Oriented Model for Intrusion Detection	Aug-97	
US20020078381A1 (Farley, IBM).pdf	4/27/2001	4/27/2000
US20020147923A1 (Dotan).pdf	1/4/2002	1/19/2001
US20030046582 (Black)	8/30/2001	
US20030172166A1 (Judge).pdf	3/8/2002	
US20040039968A1 (Hatonen, Nokia).pdf	6/6/2001	9/11/2000

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System or Publication	Date of Filing or Publication	Effective Filing Date
US20040111632A1 (Halperin).pdf	5/5/2003	5/6/2002
US20040123145A1 (Baffes, IBM).pdf	12/19/2002	
US20040143753A1 (Hernacki, Symantec)	1/21/2003	
US20040153644A1 (McCorkendale, Symantec Digital Immune System)	2/5/2003	
US20050038818A1 (Hooks, IBM)	8/11/2004	8/11/2003
US20050132205A1 (Palliyil, IBM)	12/12/2003	
US20050210035A1 (Kester).pdf	5/19/2005	
US20060101520A1 (Schumaker).pdf	11/7/2005	11/5/2004
US20060230289A1 (Fox, IBM).pdf	3/29/2005	
US20060293777A1 (Breitgand, IBM).pdf	6/7/2005	
US20070294768A1 (Moskovitch).pdf	1/29/2007	1/31/2006
US5440723 (Arnold, IBM).pdf	1/19/1993	
US6195587 (Hruska, Sophos)	4/28/1994	10/29/1993
US6842861 (Cox, Network Associates).pdf	3/24/2000	
US6880110 (Largman, Self Reporting Computers).pdf	5/21/2001	5/19/2000
US6973577B1 (Kouznetsov, McAfee)	5/26/2000	
US7069480 (Lovy).pdf	8/17/2004	3/28/2001
US7080000 (Cambridge, McAfee).pdf	7/23/2001	3/30/2001
US7089428 (Farley, ISS).pdf	4/27/2001	4/28/2000
US7093239 (van der Made, ISS).pdf	8/18/2000	7/17/2000
US7152164 (Loukas).pdf	11/26/2001	12/6/2000

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System or Publication	Date of Filing or Publication	Effective Filing Date
US7225343 (Honig).pdf	1/27/2003	1/25/2002
US7263616B1 (Brackett).pdf	9/22/2000	
US7356843 (Kingsford, Symantec).pdf	10/1/2003	
US7424609 (Kwan, Computer Associates Think)	7/9/2004	7/11/2003
US7434261 (Costea, Microsoft)	9/27/2004	
US7509680 (Sallam, Symantec)	9/1/2004	
US7565550 (Liang, Trend Micro)	10/9/2003	8/29/2003
US7594272 (Kennedy, Symantec)	10/5/2004	
US7603711 (Scheidell, Secnap)	10/30/2003	
US7627898 (Beck, Microsoft).pdf	11/23/2004	7/23/2004
US7634806 (Zinda, Microsoft)	5/30/2002	
US7694150 (Kirby, Cisco).pdf	6/22/2004	
US7865956 (Cambridge, McAfee).pdf	6/10/2005	3/30/2001
US7900194B1 (Mankins).pdf	3/23/2005	3/25/2004
US7913303 (Rouland, IBM)	3/27/2003	1/21/2003
US7934103 (Kidron, Computer Associates Think)	4/15/2003	4/17/2002
US7979889 (Gladstone, Cisco)	1/7/2005	
US8458797 (Yu, Trend Micro)	3/25/2004	
US8516583 (Thomas, Microsoft).pdf	3/31/2005	
US9104871 (Tuvell, Juniper).pdf	4/6/2007	4/6/2006
WO2005114949A1 (Gassoway).pdf	4/19/2004	

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Subject to CrowdStrike's reservation of rights, CrowdStrike identifies each item of prior art that anticipates and/or renders obvious the Asserted Claims. The patents/applications, publications, and systems identified are also relevant to show the state of the art and reasons and motivations for making improvements, additions, and combinations.

CrowdStrike also contends that the Asserted Patents are invalid in view of public knowledge and uses and/or offers for sale or sales of products and services that are under 35 U.S.C. § 102(a) and/or 35 U.S.C. § 102(b) and/or prior inventions made in this country by other inventors who had not abandoned, suppressed, or concealed them under 35 U.S.C. § 102(g).

CrowdStrike also reserves the right to rely on any system, public knowledge or use embodying or otherwise incorporating any of the prior art disclosed herein alone or in combination. CrowdStrike further reserves the right to rely on any other documents or references describing any such system, knowledge, or use.

Dated: September 13, 2022

Respectfully submitted,

DAVID NELSON
QUINN EMANUEL URQUHART & SULLIVAN, LLP
191 N Upper Wacker Dr #2700
Chicago, IL 60606
Tel.: (312) 705-7400
Fax: (312) 705-7401

VICTORIA F. MAROULIS
QUINN EMANUEL URQUHART & SULLIVAN, LLP
555 Twin Dolphin Dr., 5th Floor
Redwood Shores, CA 94065
Tel.: (650) 801-5000
Fax: (650) 801-5100

DEEPA ACHARYA
QUINN EMANUEL URQUHART & SULLIVAN, LLP
1300 I Street, NW, Suite 900
Washington, D.C. 20005
Tel.: (202) 538-8000
Fax: (202) 538-8100

STEVEN CALLAHAN
Texas State Bar No. 24053122
CHARHON CALLAHAN ROBSON & GARZA, PLLC
3333 Lee Parkway, Suite 460
Dallas, Texas 75219
Tel.: (214) 521-6400
Fax: (214) 764-8392

Counsel for Defendants CrowdStrike, Inc. and CrowdStrike Holdings, Inc.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via electronic mail on September 13, 2022.

STEVEN CALLAHAN