

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

WEBROOT, INC., OPENTEXT INC.,	§	
	§	
<i>Plaintiffs,</i>	§	
v.	§	
AO KASPERSKY LAB	§	6:22-CV-00243-ADA-DTG
TREND MICRO, INC.	§	6:22-CV-00239-ADA-DTG
SOPHOS LTD.	§	6:22-CV-00240-ADA-DTG
CROWDSTRIKE HOLDINGS, INC. AND	§	
CROWDSTRIKE, INC.	§	6:22-CV-00241-ADA-DTG
FORCEPOINT, LLC	§	6:22-CV-00342-ADA-DTG
	§	
<i>Defendants.</i>	§	

JOINT CLAIM CONSTRUCTION STATEMENT

Plaintiffs Webroot, Inc. and Open Text Inc. (“Plaintiffs” or “OTI”) and Defendants AO Kaspersky Lab, Trend Micro, Inc., Sophos Ltd., CrowdStrike, Inc., CrowdStrike Holdings, Inc., and Forcepoint, LLC (collectively, “Defendants”) hereby provide the following Joint Claim Construction Statement for the terms, phrases, and clauses appearing in the asserted claims of U.S. Patent Nos. 8,418,250 (the “’250 Patent”); 8,438,386 (the “’386 Patent”); 8,726,389 (the “’389 Patent”); 9,413,721 (the “’721 Patent”); 9,578,045 (the “’045 Patent”); 10,025,928 (the “’928 Patent”); 10,257,224 (the “’224 Patent”); 10,284,591 (the “’591 Patent”); and 10,599,844 (the “’844 Patent”) (collectively the “Asserted Patents” or “Patents-in-Suit”).

I. LIST OF AGREED CONSTRUCTIONS

OTI and Defendants have not agreed to any constructions.

II. LIST OF DISPUTED TERMS

OTI’s and Defendants’ list of disputed terms for construction, in the order the patents are addressed in OTI’s and Defendants’ claim construction briefing, is included in Attachment A.

Respectfully submitted,

Date: February 20, 2023

/s/ Yar R. Chaikovsky
YAR R. CHAIKOVSKY
yarchaikovsky@paulhastings.com
PAUL HASTINGS LLP
1117 S. California Avenue
Palo Alto, CA 94304

Attorney for Trend Micro Inc.

/s/ Brian Rosenthal
BRIAN ROSENTHAL
broenthal@gibsondunn.com
GIBSON, DUNN & CRUTCHER LLP
200 Park Avenue
New York, NY 10166

Attorney for Sophos Ltd.

/s/ Kat Li
KAT LI
kat.li@kirkland.com
KIRKLAND & ELLIS LLP
401 Congress Avenue
Austin, TX 78701

Attorney for Forcepoint LLC

/s/ Eric H. Chadwick
ERIC H. CHADWICK
ehc@dewittllp.com
DEWITT LLP
2100 AT&T Tower
900 S. Marquette Avenue
Minneapolis, MN 55540

Attorney for AO Kaspersky Lab

/s/ Jeffrey D. Mills
JEFFREY D. MILLS
jmills@kslaw.com
KING & SPALDING LLP
500 W. 2nd Street, Suite 1800
Austin, TX 78701
Telephone: (512) 457-2027
Telecopier: (202) 626-3737

CHRISTOPHER C. CAMPBELL
ccampbell@kslaw.com
PATRICK M. LAFFERTY
plafferty@kslaw.com
KING & SPALDING LLP
1700 Pennsylvania Avenue, NW
Washington, DC 20006
Telephone: (202) 737-0500
Telecopier: (202) 626-3737

BRIAN J. EUTERMOSER
beutermoser@kslaw.com
BRITTON F. DAVIS
bfdavis@kslaw.com
KING & SPALDING LLP
1401 Lawrence Street, Suite 1900
Denver, Colorado 80202
Telephone: (720) 535-2300
Telecopier: (720) 535-2400

MARK D. SIEGMUND
mark@swclaw.com
STECKLER WAYNE
CHERRY & LOVE, PLLC
8416 Old McGregor Rd.
Waco, Texas 76712
Telephone: (254) 651-3690
Telecopier: (254) 651-3689

*Counsel for Webroot, Inc. and
Open Text, Inc.*

/s/ David Nelson

DAVID NELSON

davenelson@quinnemanuel.com

**QUINN EMANUEL URQUHART &
SULLIVAN, LLP**

191 N Upper Wacker Dr #2700

Chicago, IL 60606

*Attorney for CrowdStrike, Inc. and
CrowdStrike Holdings, Inc.*

CERTIFICATE OF SERVICE

In accordance with Federal Rule of Civil Procedure 5 and Local Rule CV-5, I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document through the Court's CM/ECF system on February 20, 2023.

/s/ Jeffrey D. Mills

Jeffrey D. Mills

Attachment A

U.S. Patents 8,418,250; 8,726,389; and 9,413,721			
Claim(s)	Claim Term	Plaintiffs' Proposed Construction	Defendants' Proposed Construction ¹
'250 patent, claims 1 and 13; '389 patent, claims 1 and 15	"similar objects" / "similar computer objects"	Not indefinite; plain and ordinary meaning	Indefinite
'250 patent, claims 1-30 '250 patent, claims 1-12, 25-30 '721 patent, claims 1, 9, and 14	"behaviour of the object" "behaviour of the computer object" "behavior information about the first computer object" "object behavior information"	Plain and ordinary meaning	"actions performed by the [object / computer object / first computer object]"
'250 patent, claims 1, 13, and 25	"automatically"	Plain and ordinary meaning	"without human involvement"
'250 patent, claims 1, 13, and 25; '389 patent, claim 14	"a mask for the computer object that defines acceptable behaviour for the computer object" / "a mask for an object ..., said mask defining acceptable behaviour for the object" / "a mask for the computer object, the mask defining acceptable behaviour for the object" / "a mask for said computer object that defines acceptable behaviour"	Plain and ordinary meaning	"a list of acceptable actions for the [object/computer object] to perform"

¹ **Defendants' Position:** One or more Defendants seek construction or indefiniteness for each disputed term. But each Defendant was permitted to identify only a limited number of terms. Where a Defendant has not requested construction or indefiniteness for a particular term, it does not mean that Defendant agrees with OTI's position.

U.S. Patents 8,418,250; 8,726,389; and 9,413,721			
Claim(s)	Claim Term	Plaintiffs' Proposed Construction	Defendants' Proposed Construction ¹
	for the computer object"		
'250 patent, claims 1-12, and 25-30	"running said object" / "executing the computer object"	Plain and ordinary meaning	"carrying out the object's computer code"
'250 patent, claims 2, 10, 14, 22, and 25-30; '389 patent, claims 1-14, 26, and 30	"events initiated [by] or involving the [computer] object"	Plain and ordinary meaning	"actions performed by or upon the object"
'389 patent, claim 1	"first remote computer" and "second remote computer"	Plain and ordinary meaning	The "first" and "second" remote computers are different computers
'389 patent, claim 1	"correlating, by the base computer, at least a portion of the data about the computer object received from the first remote computer to at least a portion of the data about the computer object received from the second remote computer"	Plain and ordinary meaning	"correlating, by the base computer, at least a portion of the data about the computer object received from the first remote computer to at least a portion of the data about the same computer object received from the second remote computer"
'389 patent, claim 1	"correlating, by the base computer, at least a portion of the data about the computer object received from the first remote computer to at least a portion of the data about the computer object received from the second remote computer; comparing, by the base computer, the correlated data about the computer object received from the first and second remote computers to other objects or entities to	Plain and ordinary meaning	Order of Steps: comparing must follow correlating

U.S. Patents 8,418,250; 8,726,389; and 9,413,721			
Claim(s)	Claim Term	Plaintiffs' Proposed Construction	Defendants' Proposed Construction ¹
	identify relationships between the correlated data and the other objects or entities"		
'250 patent, claims 1, 2, 5, 7, 10, 12-14, 17, 19, 22, 24, 25, and 28; '389 patent, claims 1, 6, 8, 9, 12, 14, and 30	"remote computer(s)"	Plain and ordinary meaning	"local terminal(s) connected to the base computer via the Internet"

U.S. Patent 8,438,386			
Claim(s)	Claim Term	Plaintiffs' Proposed Construction	Defendants' Proposed Construction
'386 patent, claims 1, 5, 7, and 11	"security appliance"	Plain and ordinary meaning	"a security device separate from, but on the same local area network as, the client-side device(s)"

U.S. Patents 9,578,045 and 10,257,224			
Claim(s)	Claim Term	Plaintiffs' Proposed Construction	Defendants' Proposed Construction
'045 patent, claim 1; '224 patent, claims 1, 10, and 17	"global perspective"	Not indefinite; plain and ordinary meaning	Indefinite
'045 patent, claim 1	"wherein the global perspective for one or more related events to the at least one event across a network"	"wherein the global perspective is for one or more related events to the at least one event across other devices on a network"	Indefinite
'045 patent, claim 1; '224 patent,	"event line"	Plain and ordinary meaning	a line of data containing at least event, contextual state, and global perspective

U.S. Patents 9,578,045 and 10,257,224			
Claim(s)	Claim Term	Plaintiffs' Proposed Construction	Defendants' Proposed Construction
claims 1, 10, and 17			information
'045 patent, claims 1, 8, and 16; '224 patent, claims 1, 10, and 17	“gathering an event defining an action of a first object acting on a target, wherein the first object is executed on a device; generating contextual state information for the event by correlating the event to an originating object of the first object; obtaining a global perspective for the event based on the contextual state information, wherein the global perspective comprises information associated with one or more of the first object and the originating object, and wherein the global perspective relates to one or more other events related to the event across a network;”	Plain and ordinary meaning	Order of steps: gathering, generating, and obtaining steps must be performed in order
'224 patent, claims 10, 14, 15, and 17	“a sensor agent . . .”	Not subject to 35 U.S.C. § 112(f); plain and ordinary meaning	<p>This limitation is a means-plus-function limitation governed by 35 U.S.C. § 112(f).</p> <p>Functions: (Claim 10): gather an event defining an action of a first object acting on a target; generate contextual state information for the event by correlating the event to an originating object of the first object; obtain a global perspective for the</p>

U.S. Patents 9,578,045 and 10,257,224			
Claim(s)	Claim Term	Plaintiffs' Proposed Construction	Defendants' Proposed Construction
			<p>event based on the contextual state information, wherein the global perspective comprises information associated with one or more of the first object and the originating object, and wherein the global perspective relates to one or more other events related to the event across a network; generate an event line comprising information relating to the event, wherein the information relates to at least one of the first object, the action of the first object, the target, and the originating object; and transmit the generated event line utilizing the communication interface</p> <p>Additional functions recited in dependent claims 14-15, and separate functions recited in claim 17</p> <p>Structure: Indefinite for failure to disclose corresponding structure or algorithm.</p>

U.S. Patent 10,284,591			
Claim(s)	Claim Term	Plaintiffs' Proposed Construction	Defendants' Proposed Construction
'591 patent, claims 1, 9, and 17	"a component for evaluating the at least one monitored function in the memory space"	Not indefinite; plain and ordinary meaning	Indefinite
'591 patent, claims 1, 9, and 17	"invoking one of the plurality of functions"	Plain and ordinary meaning	"running one of the plurality of functions in kernel mode, such that it can manipulate system resources"

U.S. Patent 10,284,591			
Claim(s)	Claim Term	Plaintiffs' Proposed Construction	Defendants' Proposed Construction
'591 patent, claims 1, 3, 5, 9, 11, 13, 17, and 18	"stack walk processing"	Plain and ordinary meaning	"a process that walks a stack for a hooked function from a lowest level user mode function to an address of the invoked/originating caller function"
'591 patent, claims 1, 9, and 17	"before an address of an originating caller function is reached"	Plain and ordinary meaning	"before the originating address of the invoked function is reached"
'591 patent, claims 3 and 11	"low level user mode function"	Not indefinite; plain and ordinary meaning	Indefinite
'591 patent, claims 9-16	"at least one processor . . ."	Not subject to 35 U.S.C. § 112(f); plain and ordinary meaning	<p>Means-plus-function</p> <p>Functions: (1) monitoring a memory space of a process for execution of at least one monitored function of a plurality of functions, wherein monitoring the memory space comprises loading a component for evaluating the at least one monitored function in the memory space;</p> <p>(2) invoking one of the plurality of functions as a result of receiving a call from an application programming instance;</p> <p>(3) executing stack walk processing upon the invocation of one of the plurality of functions in the monitored memory space; and</p> <p>(4) performing, during the executing of the stack walk processing before an address of an originating caller function is reached, a memory check for a plurality of stack entries identified during the stack walk processing to detect suspicious behavior, wherein an alert of suspicious behavior is triggered when the performing of the</p>

U.S. Patent 10,284,591			
Claim(s)	Claim Term	Plaintiffs' Proposed Construction	Defendants' Proposed Construction
			<p>memory check detects at least one of the following: code execution is attempted from non-executable memory, a base pointer is identified as being invalid, an invalid stack return address is identified, attempted execution of a return-oriented programming technique is detected, the base pointer is detected as being outside a current thread stack, and a return address is detected as being inside a virtual memory area, wherein when an alert of suspicious behavior is triggered,</p> <p>(5) the method further comprising preventing execution of a payload for the invoked function</p> <p>Additional functions recited in dependent claims 10-16</p> <p>Structure: Indefinite for failure to disclose corresponding structure or algorithm.</p>
'591 patent, claim 10	"10. The system according to claim 9, further comprising identifying an address associated with the invoked function; and when the address of the invoked function is found in a cache, and wherein the processor further executing an operation of preventing execution of a payload for the invoked function"	Not indefinite; plain and ordinary meaning	Indefinite

U.S. Patent 10,599,844			
Claim(s)	Claim Term	Plaintiffs' Proposed Construction	Defendants' Proposed Construction
'844 patent, claims 1-20	"an executable file"	Plain and ordinary meaning	"an encrypted or packed computer file or program"
'844 patent, claims 1, 10, and 17	The terms relating to whether "character strings" are "within a predetermined range"	Not indefinite; plain and ordinary meaning	Indefinite
'844 patent, claims 1, 10, and 17	"within a predetermined range"	Plain and ordinary meaning	"between a predefined lower and upper limit"
'844 patent, claims 1-20	"support vector processing"	Plain and ordinary meaning	"processing with a support vector machine"
'844 patent, claims 17-20	"at least one processor . . ."	Not subject to 35 U.S.C. § 112(f); plain and ordinary meaning	Means-plus-function <u>Functions:</u> (1) extracting a plurality of predefined character strings from an executable file without decrypting or unpacking the executable file; (2) generating a feature vector from the plurality of predefined character strings using a classifier trained to classify the plurality of predefined character strings based on a collection of data comprising known malicious executable files, known benign executable files and known unwanted executable files, wherein the collection of data comprises at least a portion of one or more of the plurality of predefined character strings, and wherein one or more features of the feature vector are selectively turned on or off based on whether a value of one or more predefined character strings from the plurality of

U.S. Patent 10,599,844			
Claim(s)	Claim Term	Plaintiffs' Proposed Construction	Defendants' Proposed Construction
			<p>predefined character strings is within a predetermined range; and (3) evaluating the feature vector using support vector processing to determine whether the executable file is harmful.</p> <p>Additional functions recited in dependent claims 18-20</p> <p><u>Structure</u>: Indefinite for failure to disclose corresponding structure or algorithm.</p>