

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

WEBROOT, INC., OPENTEXT INC., §

§

Plaintiffs,

§

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, INC. and
CROWDSTRIKE HOLDINGS, INC.**

§

6:22-CV-00241-ADA-DTG

FORCEPOINT, LLC

§

6:22-CV-00342-ADA-DTG

Defendants

**JOINT STIPULATION REGARDING RESERVATION OF APPELLATE RIGHTS
RELATING TO CLAIM CONSTRUCTION**

WHEREAS, Plaintiffs originally asserted claims from U.S. Patent No. 10,599,844 (the “’844 patent”) and then later, through amended complaints, asserted claims from U.S. Patent No. 11,409,869 (the “’869 patent”);

WHEREAS, the ’869 patent is a continuation of the ’844 patent;

WHEREAS, pursuant to the Fifth Amended Scheduling Order (ECF 252), the Court is holding two separate Markman hearings—one held on March 14 that addressed the patents Plaintiffs asserted in their original complaint, including the ’844 patent, and another to be held on June 13 to address the patents Plaintiffs added by amendment, including the ’869 patent;

WHEREAS, the Court previously issued a claim construction order (ECF 236) construing terms from the ’844 patent (“Previously Construed ’844 Terms”);

WHEREAS, Defendants wish to propose for construction the Previously Construed ’844 Terms that are also included in the asserted claims of the ’869 patent, but Defendants do not wish to burden the Court with briefing on issues previously decided;

WHEREAS, in lieu of briefing the Previously Construed '844 Terms again with respect to the '869 patent, the parties agree to preserve all appellate rights with respect to terms in the '869 patent through stipulation;

All parties hereby STIPULATE as follows:

For purposes of these cases only, the following terms in the '869 patent shall be construed consistent with this Court's prior Order (ECF 236) construing the Previously Construed '844 Terms. All parties expressly do not waive, and expressly reserve, all rights to appeal these stipulated constructions.

Patent and Claim Term	Stipulated Construction
"executable file" '869 claims 19, 26, 29-33, 40, 43-47, 54, 57-59	Plain and ordinary meaning <i>See</i> ECF 236, term #24
"whether a value of one of the plurality of static data points is within a predetermined range . . . wherein the plurality of static data points represent predefined character strings in the executable file" '869 claims 29, 43, 57	Not indefinite. Plain-and-ordinary meaning <i>See</i> ECF 236, term #25
"support vector processing" '869 claims 24, 38, 52	Plain-and-ordinary meaning wherein the plain-and-ordinary meaning is "processing that involves a support vector." <i>See</i> ECF 236, term #27
"at least one processor" '869 claims 46-48, 54-59	Not subject to § 112(f). Plain-and-ordinary meaning. <i>See</i> ECF 236, term #28

Dated: April 12, 2023

Respectfully submitted,

/s/ Brian Rosenthal

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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 CM/ECF on April 12, 2023.

/s/ Steven Callahan
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