

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

WEBROOT, INC. and OPEN TEXT, INC.,	§	
	§	
Plaintiffs	§	
	§	
v.	§	Case No. 6:22-cv-239-ADA-DTG
	§	
TREND MICRO INC.,	§	Lead Case No. 6:22-cv-243-ADA-DTG
	§	
Defendant.	§	JURY TRIAL DEMANDED
TREND MICRO INC.,	§	
	§	
Counter-Plaintiff	§	
	§	
v.	§	
	§	
WEBROOT, INC. and OPEN TEXT, INC.,	§	
	§	
Counter-Defendants,	§	
	§	
and	§	
	§	
OPEN TEXT CORP.	§	
	§	
Counter-Defendant.	§	

DEFENDANT’S FINAL INVALIDITY CONTENTIONS

Defendant Trend Micro Inc. (“Trend Micro” or “Defendant”), by their attorneys, make these Invalidity Contentions concerning U.S. Patent Nos. 8,418,250 (the “’250 patent”), 8,726,389 (the “’389 patent”), 9,578,045 (the “’045 patent”), 10,257,224 (the “’224 patent”), 10,284,591 (the “’591 patent”), 10,599,844 (the “’844 patent”), 8,181,244 (the “’244 patent”), 8,201,243 (the “’243 patent”), 8,719,932 (the “’932 patent”), 8,856,505 (the “’505 patent”), and 11,409,869 (the “’869 patent”) (collectively, the “Asserted Patents”) to Open Text, Inc. (“Open Text”) and Webroot, Inc.

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Ex. 505-A-21 – Trend Micro ServerProtect (“ServerProtect”)
Ex. 505-A-22 – Trend Micro Control Manager (“Control Manager” or “TMCM”)
Ex. 505-A-23 – Trend Micro NeatSuite (“NeatSuite”)
Ex. 505-A-24 – Trend Micro Client Server Messaging Security (“CSMS”)
Ex. 505-A-25 – Prevx including at least Prevx Enterprise and Prevx Home (“Prevx”)
Ex. 505-A-26 – Prevx1 (“Prevx1”)
Ex. 505-A-27 – U.S. Patent No. 7,779,472 to Lou (filed Oct. 11, 2005, issued Aug. 17, 2010) (“Lou”)
Ex. 505-A-28 – Garfinkel et al., A Virtual Machine Introspection Based Architecture for Intrusion Detection (2003) (“Garfinkel”)
Ex. 505-A-29 – Hoglund, et al., Subverting the Windows Kernel: Rootkits, Addison-Wesley Professional (Jul. 22, 2005) (“Hoglund”)
Ex. 869-A-1 – U.S. Patent No. 8,161,548 to Wan (filed Aug. 15, 2005, issued Apr. 17, 2012) (“Wan”)
Ex. 869-A-2 – U.S. Patent No. 8,838,992 to Zhu et al. (filed Apr. 28, 2011, issued Sept. 16, 2014) (“Zhu”)
Ex. 869-A-3 – U.S. Patent No. 8,505,094 to Xuewen et al. (filed Jan. 13, 2010, issued Aug. 6, 2013) (“Xuewen”)
Ex. 869-A-4 – European Patent Application Publication No. (EP) 2,182,458 to Moskovitch (filed Oct. 1, 2009, published May 5, 2010) (“Moskovitch”)
Ex. 869-A-5 – U.S. Patent No. 10,666,676 to Hsu et al. (filed Aug. 18, 2014, issued May 26, 2020) (“Hsu”)
Ex. 869-A-6 – Menahem et al., Improving Malware Detection by Applying Multi-Inducer Ensemble, Computational Statistics and Data Analysis (Feb. 2009) (“Menahem”)
Ex. 869-A-7 – U.S. Patent No. 8,935,788 to Diao et al. (filed Oct. 15, 2008, issued Jan. 13, 2015) (“Diao ’788”)
Ex. 869-A-8 – U.S. Patent No. 7,756,535 to Diao et al. (filed July 7, 2006, issued July 13, 2010) (“Diao ’535”)
Ex. 869-A-9 – U.S. Patent No. 8,560,466 to Diao et al. (filed Feb. 26, 2010, issued Oct. 15, 2013) (“Diao ’466”)
Ex. 869-A-10 – U.S. Patent No. 7,689, 531 to Diao et al. (filed Sept. 28, 2005, issued Mar. 30, 2010) (“Diao ’531”)
Ex. 869-A-11 – U.S. Patent No. 7,949,771 to Chen et al. (filed Sept. 5, 2007, issued May 24, 2011) (“Chen”)
Ex. 869-A-12 – U.S. Patent No. 8,495,144 to Cheng et al. (filed Oct. 6, 2004, issued July 23, 2013) (“Cheng”)
Ex. 869-A-13 – U.S. Patent No. 8,850,570 to Ramzan (filed June 30, 2008, issued Sept. 30, 2014) (“Ramzan”)
Ex. 869-A-14 – U.S. Patent No. 8,023,974 to Diao et al. (filed Feb. 15, 2007, issued Sept. 20, 2011) (“Diao ’974”)
Ex. 869-A-15 – U.S. Patent Application Publication No. 2009/0254992 to Schultz et al. (filed Dec. 18, 2008, published Oct. 8, 2009) (“Schultz ’992”)
Ex. 869-A-16 – U.S. Patent Application Publication No. 2015/0096024 to Haq et al. (filed Sept. 30, 2013, published Apr. 2, 2015) (“Haq”)

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Ex. 869-A-17 – Tahan et al., Mal-ID: Automatic Malware Detection Using Common Segment Analysis and Meta-Features, Journal of Machine Learning Research (Apr. 2012) (“Tahan”)
Ex. 869-A-18 – U.S. Patent Application Publication No. 2006/0026675 to Cai et al. (filed July 28, 2004, published Feb. 2, 2006) (“Cai”)
Ex. 869-A-19 – U.S. Patent Application Publication No. 2010/0162395 to Kennedy (filed Dec. 18, 2008, published June 24, 2010) (“Kennedy”)
Ex. 869-A-20 – U.S. Patent No. 8,826,439 to Hu et al. (filed Jan. 26, 2011, issued Sept. 2, 2014) (“Hu”)
Ex. 869-A-21 – U.S. Patent Application Publication No. 2011/0225655 to Niemela et al. (filed Mar. 15, 2010, published Sept. 15, 2011) (“Niemela”)
Ex. 869-A-22 – U.S. Patent Application Publication No. 2010/0162395 to Lee et al. (filed May 7, 2013, published June 26, 2014) (“Lee”)
Ex. 869-A-23 – U.S. Patent No. 9,781,151 to McCorkendale et al. (filed Oct. 11, 2011, issued Oct. 3, 2017) (“McCorkendale”)
Ex. 869-A-24 – Trend Micro OfficeScan (“OfficeScan”)
Ex. 869-A-25 – Trend Micro Advanced Threat Scan Engine (“Advanced Threat Scan Engine”)
Ex. 869-A-26 – Trend Micro Smart Protection Server (“Smart Protection Server”)
Ex. 869-A-27 – Trend Micro Enterprise Security Suite (“Enterprise Security Suite”)
Ex. 869-A-28 – Trend Micro ScanMail (“ScanMail”)
Ex. 869-A-29 – Trend Micro InterScan Messaging (“InterScan Messaging”)
Ex. 869-A-30 – Trend Micro InterScan Web Security (“InterScan Web Security”)
Ex. 869-A-31 – Trend Micro Communication and Collaboration Security (“Communication and Collaboration Security”)
Ex. 869-A-32 – Trend Micro IM Security (“IM Security”)
Ex. 869-A-33 – Trend Micro Enterprise Security for Endpoints (“Enterprise Security for Endpoints”)
Ex. 869-A-34 – Trend Micro Security for Mac (“Security for Mac”)
Ex. 869-A-35 – Trend Micro Worry-Free Business Security (“Worry-Free Business Security”)
Ex. 869-A-36 – Trend Micro Deep Discovery (“Deep Discovery”)
Ex. 869-A-37 – Trend Micro Deep Discovery Inspector (“Deep Discovery Inspector”)
Ex. 869-A-38 – Webroot BrightCloud Anti-Phishing Service (“Anti-Phishing Service”)
Ex. 869-A-39 – Webroot BrightCloud Web Reputation Service (“Web Reputation Service”)
Ex. 869-A-40 – Webroot BrightCloud Web Classification Service (“Web Classification Service”)
Ex. 869-A-41 – Webroot BrightCloud IP Reputation Service (“IP Reputation Service”)
Ex. 869-A-42 – Webroot BrightCloud Mobile App Reputation Service (“Mobile App Reputation Service”)
Ex. 869-A-43 – Webroot BrightCloud File Reputation Service (“File Reputation Service”)
Ex. 869-A-44 – Trend Micro Deep Security (“Deep Security”)
Ex. 869-A-45 – Trend Micro Deep Security as a Service (“Deep Security as a Service”)

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Ex. 869-A-46 – Trend Micro Client Server Suite (“Client Server Suite”)
Ex. 869-A-47 – Trend Micro NeatSuite (NeatSuite”)
Ex. 869-A-48 – Trend Micro Deep Discovery Analyzer (Deep Discovery Analyzer)
Ex. 869-A-49 – Trend Micro Deep Discovery Email Inspector (“Deep Discovery Email Inspector”)
Ex. 869-A-50 – Trend Micro Deep Edge (“Deep Edge”)
Ex. 869-A-51 – Trend Micro Anti-Spam Engine (“Anti-Spam Engine”)
Ex. 869-A-52 – Trend Micro Hosted Email Security (Hosted Email Security”)
Ex. 869-A-53 – Trend Micro Script Analyzer (“Script Analyzer”)
Ex. 869-A-54 – McAfee Mobile Virus Scan (“Mobile Virus Scan”)
Ex. 869-A-55 – McAfee Content Security Suite (“Content Security Suite”)
Ex. 869-A-56 – Check Point Anti-Bot Software Blade (“Anti-Bot Software Blade)
Ex. 869-A-57 – Check Point Anti-Spam Software Blade (“Anti-Spam Software Blade”)
Ex. 869-A-58 – Check Point URL Filtering Software Blade (“URL Filtering Software Blade”)
Ex. 869-A-59 – Check Point Secure Web Gateway (“Secure Web Gateway”)
Ex. 869-A-60 – McAfee Email Protection (“Email Protection”)
Ex. 869-A-61 – McAfee Web Protection (“Web Protection”)
Ex. 869-A-62 – McAfee Endpoint Protection (“Endpoint Protection”)
Ex. 869-A-63 – Check Point Threat Prevention Appliance (“Threat Prevention Appliance”)
Ex. 869-A-64 – Symantec Endpoint Protection (“Endpoint Protection”)
Ex. 869-A-65 – McAfee Advanced Threat Defense (“Advanced Threat Defense”)
Ex. 869-A-66 – Symantec Email Security (“Email Security”)
Ex. 869-A-67 – Symantec IM Security (“IM Security”)
Ex. 869-A-68 – Symantec Web Security (“Web Security”)
Ex. 869-A-69 – Symantec AntiSpam (“AntiSpam”)
Ex. 869-A-70 – Webroot SecureAnywhere Endpoint Protection (“SecureAnywhere Endpoint Protection”)
Ex. 869-A-71 – Trend Micro InterScan VirusWall (“InterScan VirusWall”) – CONFIDENTIAL – OUTSIDE ATTORNEY’S EYES ONLY
Ex. 869-A-72 – U.S. Patent Application Publication No. 2014/0090061 to Avasarala et al. (filed Sept. 26, 2013, published Mar. 27, 2014) (“Avasarala”)
Ex. 869-A-73 – U.S. Patent No. 9,245,120 to Friedrichs et al. (filed July 15, 2013, issued Jan. 26, 2016) (“Friedrichs”)
Ex. 869-A-74 – U.S. Patent Application Publication No. 2015/0213376 to Ideses et al. (filed Jan. 29, 2015, published July 30, 2015) (“Ideses”)
Ex. 869-A-75 – Masud et al., Data Mining Tools For Malware Detection, Taylor & Francis Group, LLC (CRC Press) (2011) (“Masud”)
Ex. 869-A-76 – U.S. Patent Application Publication No. 2017/0098074 to Okano et al. (filed June 11, 2014, published Apr. 6, 2017) (“Okano ’074”)
Ex. 869-A-77 – U.S. Patent No. 9,398,034 to Ronen et al. (filed Dec. 19, 2013, issued July 19, 2016) (“Ronen”)
Ex. 869-A-78 – U.S. Patent No. 8,799,190 to Stokes et al. (filed June 17, 2011, issued Aug. 5, 2014) (“Stokes”)

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Ex. 869-A-79 – U.S. Patent No. 8,799,190 to Kumar et al. (filed June 9, 2011, issued Feb. 10, 2015) (“Kumar”)
Ex. 869-A-80 – U.S. Patent No. 10,268,820 to Okano et al. (filed June 11, 2014, issued Apr. 23, 2019) (“Okano ’820”)
Ex. 869-A-81 – U.S. Patent No. 9,672,355 to Titonis et al. (filed Sept. 14, 2012, issued June 6, 2017) (“Titonis”)
Ex. 869-A-82 – U.S. Patent Application Publication No. 2006/0037080 to Maloof (filed Aug. 12, 2005, published Feb. 16, 2006) (“Maloof”)
Ex. 869-A-83 – Ravula, Classification of Malware Using Reverse Engineering and Data Mining Techniques, The University of Akron (August 2011) (“Ravula”)
Ex. 869-A-84 – U.S. Patent No. 9,208,323 to Karta et al. (filed Jan. 14, 2014, issued Dec. 8, 2015) (“Karta”)
Ex. 869-A-85 – U.S. Patent Application Publication No. 2013/0198841 to Poulson (filed Jan. 30, 2012, published Aug. 1, 2013) (“Poulson”)
Ex. 869-A-86 – U.S. Patent No. 9,940,459 to Saxe (filed May 19, 2015, issued Apr. 10, 2018) (“Saxe”)
Ex. 869-A-87 – U.S. Patent Application Publication No. 2003/0065926 to Schultz et al. (filed July 30, 2002, published Apr. 3, 2003) (“Schultz ’926”)
Ex. 869-A-88 – Baldangombo et al., A Static Malware Detection System Using Data Mining Methods, International Journal of Artificial Intelligence & Applications (July 2013) (“Baldangombo”)
Ex. 869-A-89 – Islam et al., Classification of Malware Based on String and Function Feature Selection, Institute of Electrical and Electronics Engineers (July 2010) (“Islam 2010”)
Ex. 869-A-90 – Islam et al., Classification of Malware Based on Integrated Static and Dynamic Features, Journal of Network and Computer Applications (Nov. 2012) (“Islam 2012”)
Ex. 869-A-91 – Trend Micro Malware Classification System

To the extent not identified above in Section III, Defendant identifies all references listed in the Invalidity Charts table as prior art references anticipating and/or rendering obvious one or more claims of the Asserted Patents.

To the extent that Plaintiffs contend that any one of the primary references does not disclose one or more elements of the asserted claims, it would have been obvious to combine the primary references in the Invalidity Charts with one or more of the primary references and/or the references in one or more of the below exhibits, collectively the “Obviousness Exhibits,” as discussed more fully in each of the Invalidity Charts and Obviousness Exhibits.

DATED: November 1, 2023

By: /s/ Yar R. Chaikovsky

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing documents has been served on November 1, 2023, to all counsel of record via e-mail.

/s/ C. Daniel Treviño

C. Daniel Treviño