

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TREND MICRO, INC.

Petitioner,

v.

OPEN TEXT INC.

Patent Owner.

Patent No. 8,181,244

**JOINT REQUEST TO TREAT AGREEMENT AS
BUSINESS CONFIDENTIAL INFORMATION**

Case No. IPR2023-01392

LIST OF EXHIBITS

Exhibit No.	Description of Document
1001	U.S. Patent No. 8,181,244 to Boney. (“’244”)
1002	Prosecution History of ’244.
1003	Expert Declaration of Dr. Seth Nielson.
1004	Curriculum Vitae of Dr. Seth Nielson.
1005	Webroot, Inc. and Open Text, Inc. v. Trend Micro Inc., Case No. 6:22-cv-00243-ADA-DTG, Claim Construction Order, Dkt. 391 (W.D. Tex., July 25, 2023).
1006	Kevin Chen, <i>ECF – Event Correlation for Forensics</i>, Australian Computer, Network & Information Forensics Conference (2003).
1007	U.S. Patent Publication No. 2007/0006310 to Piccard.
1008	Zhenmin Li, <i>UCLog: A Unified, Correlated Logging Architecture for Intrusion Detection</i>, Int’l Conf. on Telecomm. Sys.- Modelling & Analysis (2004).
1009	Declaration of Ingrid Hsieh-Yee, Ph.D.
1010	Peter G. Viscarola, <i>Windows NT Device Driver Development</i>, ORS Open Systems Resources, Inc., (1999).
1011	Nicholas Weaver, <i>Worms vs. Perimeters: The Case or Hard-LANS</i>, 12th Annual IEEE Symposium (Aug. 2004).
1012	Weidong Cui, <i>Design and Implementation of an Extrusion-based Break-In Detector for Personal Computers</i> (2006).
1013	Cristina Abad, <i>Log Correlation for Intrusion Detection: A Proof of Concept</i>, 19th Annual Computer Security Applications Conference (2003).
1014	Robert Rinnan, <i>Benefits of Centralized Log File Correlation</i>, Gjøvik University College (2005).
1015	Ed Skoudis, <i>Malware: Fighting Malicious Code</i>, Pearson (Nov. 2003).
1016	Platform SDK: Windows Management Instrumentation, <i>Win32_Process</i>, Win32_Process class [WMI] (archive.org) (Jul. 17, 2004).

Exhibit No.	Description of Document
1017	Matthew M. Lavy, <i>Windows Management Instrumentation (WMI)</i>, Sams (Oct. 2001).
1018	Yariv Kaplan, <i>API Spying Techniques for Windows 9x, NT and 2000</i>, API Spying Techniques for Windows 9x, NT and 2000 (archive.org) (Feb. 10, 2003).
1019	Stephanie Forrest, <i>Computer Immunology</i>, Communications of the ACM 40(1), (Oct. 1997).
1020	Confidential Agreement

Pursuant to 35 U.S.C. § 317(a), 37 C.F.R. § 42.74, and the Board’s email of February 16, 2024, Petitioner Trend Micro, Inc. (“Trend Micro” or “Petitioner”) and Patent Owner Open Text Inc. (“Open Text” or “Patent Owner”) (collectively, the “Parties”) have reached a resolution and jointly move to terminate the above-captioned proceeding. As permitted by statute, Trend Micro and Open Text request that the Board treat as business confidential information, the true and correct copy of the executed agreement resolving the parties’ disputes and agreeing to terminate this proceeding and the parties’ related district court proceeding (Confidential Exhibit 1020), as referenced in the parties’ Joint Motion to Terminate Proceeding (pursuant to 35 U.S.C. § 317 and 37 C.F.R. § 42.74), filed concurrently herewith.

35 U.S.C. § 317(b) provides that:

At the request of a party to the proceeding, the agreement or understanding shall be treated as business confidential information, shall be kept separate from the file of the involved patents, and shall be made available only to Federal Government agencies on written request, or to any person on a showing of good cause.

Likewise, 37 C.F.R. § 42.74(c) provides that:

A party to a settlement may request that the settlement be treated as business confidential information and be kept separate from the files of an involved patent or application. The request must be filed with the settlement. If a timely request is filed, the settlement shall only be available:

- (1) *To a Government agency on written request to the Board; or*
(2) *To any other person upon written request to the Board to make the settlement agreement available, along with the fee specified in § 42.15(d) and on a showing of good cause.*

The present request, which is being filed contemporaneously with the Agreement, is timely and in accordance with the foregoing authority. The Agreement describes the confidential terms resolving the parties' dispute, which constitute confidential information under the Board's rules. *See* 37 C.F.R. § 42.54. The parties hereby certify that, to the best of their knowledge, the documents sought to be protected have not been made publicly available.

Respectfully submitted,

Dated: February 19, 2024



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CERTIFICATE OF SERVICE

A copy of the JOINT REQUEST TO TREAT AGREEMENT AS BUSINESS
CONFIDENTIAL INFORMATION has been served on February 19, 2024, to Patent
Owner's counsel of record as follows:

Brian Eutermoser, beutermoser@kslaw.com

Russell Blythe, rblythe@kslaw.com

Mikaela Stone, mikaela.stone@kslaw.com

A handwritten signature in black ink, reading "Robert M. Hansen", with a long horizontal flourish extending to the right.

Robert M. Hansen
Attorney for Petitioner