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

WEBROOT, INC., OPEN TEXT INC., *Plaintiffs and Counterclaim-Defendants* 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.	**6:22-CV-00241-ADA-DTG**
FORCEPOINT, LLC	**6:22-CV-00242-ADA-DTG**

ORDER GRANTING FIFTH
AMENDED SCHEDULING ORDER

The Court hereby ORDERS the following fifth amended scheduling order as follows:

Item	**Current Fourth Amended Schedule Date (ECF 160)**	**New Fifth Amended Schedule Dates**
Plaintiffs and Defendant Kaspersky[1] file a Sur-Reply claim construction brief with respect to claim terms in patents asserted by Plaintiffs and Counterclaim patents asserted by Defendant Kaspersky.	Friday, January 6, 2023	same
Other Parties exchange proposed claim constructions with respect to patents asserted by counterclaim.[2]	Wednesday, February 1, 2023	same
First Parties jointly email the law clerks[3] to confirm the *Markman* date and to notify if any venue or jurisdictional motions remain unripe for	Tuesday, February 7, 2023	same

[1] Plaintiff and Defendant AO Kaspersky Lab, Cause No. W-22-CV-00243-ADA-DTG, shall be referred to as the "First Parties" or "First Defendant." All other cause numbers and parties will be referred to as "Other Parties" or "Other Defendants," and if an item relates only to a specific cause number, that case will be identified by cause number.
[2] All dates in red pertain to the second scheduled Markman hearing. These dates are not applicable to the counterclaim patents asserted by Defendant Kaspersky because those patents are being addressed along with Plaintiffs' originally asserted patents.
[3] TXWDml_NoJudge_Chambers_WA_JudgeGilliland@txwd.uscourts.gov

resolution with respect to claim terms in patents asserted by Plaintiffs and Counterclaim Patents asserted by Defendant Kaspersky.		
Other Parties disclose extrinsic evidence for patents asserted by counterclaim. The parties shall disclose any extrinsic evidence, including the identity of any expert witness they may rely upon with respect to claim construction or indefiniteness. With respect to any expert identified, the parties shall identify the scope of the topics for the witness's expected testimony. With respect to items of extrinsic evidence, the parties shall identify each such item by production number or produce a copy of any such item if not previously produced.	Wednesday, February 8, 2023	same
Deadline for Other Parties to meet and confer to narrow terms in dispute and exchange revised lists of terms/constructions with respect to patents asserted by counterclaim.	Wednesday, February 15, 2023	same
First Parties submit Joint Claim Construction Statement and email the law clerks[4] an editable copy with respect to claim terms in patents asserted by Plaintiffs and Counterclaim Patents asserted by Defendant Kaspersky	Monday February 20, 2023	same
Defendants serve preliminary invalidity contentions with respect to patents Plaintiffs added by amendment in the form of (1) a chart setting forth where in the prior art references each element of the asserted claim(s) are found, (2) an identification of any limitations the Defendant contends are indefinite or lack written description under section 112, and (3) an identification of any claims the Defendant contends are directed to ineligible subject matter under section 101. Defendant shall also produce (1) all prior art referenced in the invalidity contentions, and (2) technical documents, including software where applicable, sufficient to show the operation of the accused product(s) (includes Trend Micro '098 Patent).	Tuesday, February 21, 2023	same
Plaintiffs file Opening claim construction brief, including any arguments that any claim terms are indefinite with respect to patents asserted by counterclaim	Wednesday, February 22, 2023	same

[4] TXWDml_NoJudge_Chambers_WA_JudgeGilliland@txwd.uscourts.gov

First Parties submit optional technical tutorials to the Court and technical advisor (if appointed) with respect to claim terms in patents asserted by Plaintiffs and Counterclaim patents asserted by Defendant Kaspersky.	Wednesday, February 22, 2023	same
Parties exchange claim terms for construction for patents Plaintiffs added by amendment (includes Trend Micro '098 Patent)	Tuesday, March 7, 2023	same
Markman Hearing at 9:00 a.m. for patents asserted by Plaintiffs and Counterclaim patents asserted by Defendant Kaspersky.	**Tuesday, March 7, 2023**	**same**
Other Defendants file Responsive claim construction brief with respect to patents asserted by counterclaim.	Wednesday, March 15, 2023	same
Parties exchange proposed claim constructions for patents Plaintiffs added by amendment (includes Trend Micro '098 Patent)	Tuesday, March 21, 2023	same
Parties disclose extrinsic evidence for patents Plaintiffs added by amendment. The parties shall disclose any extrinsic evidence, including the identity of any expert witness they may rely upon with respect to claim construction or indefiniteness. With respect to any expert identified, the parties shall identify the scope of the topics for the witness's expected testimony. With respect to items of extrinsic evidence, the parties shall identify each such item by production number or produce a copy of any such item if not previously produced (includes Trend Micro '098 Patent).	Wednesday, March 29, 2023	same
Plaintiffs file Reply claim construction brief with respect to patents asserted by counterclaim.	Wednesday March 29, 2023	same
Other Parties to jointly email the law clerks[5] to confirm their *Markman* date with respect to patents asserted by Counterclaim, and to notify if any venue or jurisdictional motions remain unripe for resolution with respect to claim terms in patents asserted by counterclaim.	Wednesday March 29, 2023	same
Deadline to meet and confer to narrow terms in dispute and exchange revised list of terms/constructions for patents Plaintiffs added by amendment (includes Trend Micro '098 Patent).	Tuesday, April 4, 2023	same

[5] TXWDml_NoJudge_Chambers_WA_JudgeGilliland@txwd.uscourts.gov

Parties exchange claim terms for construction for Sophos's '961, '182, and '218 Patents.	N/A	Tuesday, April 11, 2023
Parties exchange proposed claim constructions for Sophos's '961, '182, and '218 Patents.	N/A	Tuesday, April 11, 2023
Defendants file Opening claim construction brief, including any arguments that any claim terms are indefinite, with respect to identified claim terms in patents Plaintiffs added by amendment (includes Trend Micro '098 Patent).	Wednesday, April 12, 2023	same
Other Defendants file a Sur-Reply claim construction brief with respect to patents asserted by counterclaim.	Wednesday, April 12, 2023	same
Parties submit optional technical tutorials to the Court and technical advisory (if appointed) with respect to patents asserted by Counterclaim.	Friday, April 14, 2023	same
Parties submit Joint Claim Construction Statement with respect to patents asserted by counterclaim and email the law clerks an editable copy. Parties shall further contact the law clerks by email to determine whether paper copies are desired by Chambers and to obtain link to upload briefs, exhibits, and the optional technology tutorial.	Monday, April 17, 2023	same
All Fact Discovery opens; deadline to serve Initial Disclosures per Rule 26(a).	Tuesday, April 18, 2023	same
Parties disclose extrinsic evidence for Sophos's '961, '182, and '218 Patents. The parties shall disclose any extrinsic evidence, including the identity of any expert witness they may rely upon with respect to claim construction or indefiniteness. With respect to any expert identified, the parties shall identify the scope of the topics for the witness's expected testimony. With respect to items of extrinsic evidence, the parties shall identify each such item by production number or produce a copy of any such item if not previously produced.	N/A	Tuesday, April 18, 2023
Deadline to meet and confer to narrow terms in dispute and exchange revised list of terms/constructions for Sophos's '961, '182, and '218 Patents.	N/A	Friday, April 21, 2023
Counterclaim-Defendants file Opening claim construction brief, including any arguments that any claim terms are indefinite, with respect to identified claim terms in Sophos's '961, '182, and '218 Patents.	N/A	Friday, April 28, 2023

Defendants serve preliminary invalidity contentions with respect to Sophos's '961, '182, and '218 Patents in the form of (1) a chart setting forth where in the prior art references each element of the asserted claim(s) are found, (2) an identification of any limitations the Defendant contends are indefinite or lack written description under section 112, and (3) an identification of any claims the Defendant contends are directed to ineligible subject matter under section 101. Defendant shall also produce (1) all prior art referenced in the invalidity contentions, and (2) technical documents, including software where applicable, sufficient to show the operation of the accused product(s)	**N/A**	Monday, May 1, 2023
***Markman* Hearing at 9:00 a.m. with respect to patents asserted by Counterclaim.**	**Wednesday, May 3, 2023**	**same**
Plaintiffs file Responsive claim construction brief, with respect to claim terms in patents Plaintiffs added by amendment (includes Trend Micro '098 Patent).	Wednesday, May 3, 2023	same
Counterclaim-Plaintiff files Responsive claim construction brief with respect to claim terms in Sophos's '961, '182, and '218 Patents.	N/A	Friday, May 12, 2023
Defendants file Reply claim construction brief with respect to claim terms in patents Plaintiffs added by amendment (includes Trend Micro '098 Patent).	Wednesday May 17, 2023	same
Parties to jointly email the law clerks[6] to confirm their *Markman* date and to notify if any venue or jurisdictional motions remain unripe for resolution with respect to claim terms in patents Plaintiffs added by amendment (includes Trend Micro '098 Patent and Sophos's '961, '182, and '218 Patents).	Wednesday May 17, 2023	same
Counterclaim-Defendants file Reply claim construction brief with respect to claim terms in Sophos's '961, '182, and '218 Patents.	N/A	Monday, May 22, 2023
Plaintiffs file a Sur-Reply claim construction brief with respect to claim terms in patents Plaintiffs added by amendment (includes Trend Micro '098 Patent).	Wednesday May 31, 2023	same

[6] TXWDml_NoJudge_Chambers_WA_JudgeGilliland@txwd.uscourts.gov

Counterclaim-Plaintiff files a Sur-Reply claim construction brief with respect to claim terms in Sophos's '961, '182, and '218 Patents.		
Parties submit Joint Claim Construction Statement and email the law clerks an editable copy with respect to claim terms in patents Plaintiffs added by amendment (includes Trend Micro '098 Patent and Sophos's '961, '182, and '218 Patents).	Friday, June 2, 2023	same
Parties submit optional technical tutorials to the Court and technical advisor (if appointed) with respect to claim terms in patents Plaintiffs added by amendment (includes Trend Micro '098 Patent and Sophos's '961, '182, and '218 Patents).	Friday, June 2, 2023	same
***Markman* Hearing at 9:00 a.m. on patents Plaintiffs added by amendment (includes Trend Micro '098 Patent and Sophos's '961, '182, and '218 Patents).**	**Tuesday, June 13, 2023**	**same**
Deadline to add parties.	Tuesday, October 3, 2023	same
Deadline to serve Final Infringement and Invalidity Contentions. After this date, leave of Court is required for any amendment to infringement or invalidity contentions. This deadline does not relieve the parties of their obligation to seasonably amend if new information is identified after initial contentions.	Tuesday, October 17, 2023	same
Deadline for the first of two meet and confers to discuss significantly narrowing the number of claims asserted and prior art references at issue. Unless the parties agree to the narrowing, they are ordered to contact the Court's law clerk to arrange a teleconference with the Court to resolve the disputed issues.	Monday, December 11, 2023	same
Deadline to amend pleadings. A motion is not required unless the amendment adds patents or patent claims. (Note: This includes amendments in response to a 12(c) motion.)	Tuesday, December 12, 2023	same
Close of Fact Discovery.	Thursday, January 18, 2024	same
Deadline to serve Opening Expert Reports.	Tuesday, January 30, 2024	same

Deadline to serve Rebuttal Expert Reports.	Tuesday, March 12, 2024	same
Close of Expert Discovery.	Tuesday, March 12, 2024	same
Deadline for the second of two meet and confers to discuss narrowing the number of claims asserted and prior art references at issue to triable limits. If it helps the parties determine these limits, the parties are encouraged to contact the Court's law clerk for an estimate of the amount of trial time anticipated per side. The parties shall file a Joint Report within 5 business days regarding the results of the meet and confer.	Tuesday, March 12, 2024	same
Dispositive motion deadline and *Daubert* motion deadline. Parties shall further contact the law clerks by email to determine whether paper copies are desired by Chambers and to obtain link to upload briefs and exhibits..	Tuesday, May 7, 2024	same
Deadline to Serve Pretrial Disclosures (jury instructions, exhibits lists, witness lists, discovery and deposition designations).	Tuesday, June 4, 2024	same
Deadline to Serve objections to pretrial disclosures/rebuttal disclosures.	Tuesday, June 18, 2024	same
Parties to jointly email the Court's law clerk (See OGP at 1) to confirm their pretrial conference and trial dates.	Tuesday, June 25, 2024	same
Deadline to Serve objections to rebuttal disclosures; file Motions *in limine*	Tuesday, June 25, 2024	same
Deadline to File Joint Pretrial Order and Pretrial Submissions (jury instructions, exhibits lists, witness lists, discovery and deposition designations); file oppositions to motions *in limine*.	Thursday, July 11, 2024	same
Deadline to File Notice of Request for Daily Transcript or Real Time Reporting. If a daily transcript or real time reporting of court proceedings is requested for trial, the party or parties making said request shall file a notice with the Court and email the Court Reporter, Kristie Davis at kmdaviscsr@yahoo.com Deadline to meet and confer regarding remaining objections and disputes on motions *in limine*.	Notice of Daily Transcript: Friday, July 12, 2024 Meet and confer on remaining objections: Thursday, July 18, 2024	same

Deadline to File joint notice identifying remaining objections to pretrial disclosures and disputes on motions *in limine*.	Thursday, July 25, 2024	same
Final Pretrial Conference. Held in person unless otherwise requested.	Thursday, August 1, 2024	same
Jury Selection/Trial.	**Monday, August 19, 2024**	**same**

SIGNED this 29th day of March, 2023.

DEREK T. GILLILAND
UNITED STATES MAGISTRATE JUDGE