

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

|                          |   |                              |
|--------------------------|---|------------------------------|
| WEBROOT, INC., AND       | ) | Case No. 6:22-CV-243-ADA-DTG |
| OPEN TEXT, INC.,         | ) |                              |
|                          | ) |                              |
| Plaintiffs,              | ) |                              |
|                          | ) |                              |
| v.                       | ) |                              |
|                          | ) |                              |
| AO KASPERSKY LABORATORY, | ) |                              |
| et al.,                  | ) |                              |
|                          | ) | Friday, December 9, 2022     |
| Defendant.               | ) | 2:00 P.M.                    |
| _____                    | ) |                              |

TRANSCRIPT OF MOTIONS HEARING  
**BEFORE THE HONORABLE DEREK T. GILLILAND**  
**UNITED STATES MAGISTRATE JUDGE**

APPEARANCES ON NEXT PAGE.

Deputy Clerk:                      Melissa Copp  
                                            U.S. District Court  
                                            800 Franklin Avenue, #140  
                                            Waco, Texas 76701

Transcription Service By:    Dipti Patel, CET-997  
                                            Liberty Transcripts  
                                            7306 Danwood Drive  
                                            Austin, Texas 78759  
                                            (847) 848-4907  
                                            www.libertytranscripts.com

Proceedings recorded by electronic sound recording;  
transcript produced by transcription service.

## APPEARANCES VIA ZOOM TELECONFERENCE:

For the Plaintiffs:

Steckler Wayne Cherry & Love  
BY: MARK D. SIEGMUND, ESQUIRE  
8416 Old McGregor Road  
Waco, Texas 76712

King & Spalding LLP  
BY: PATRICK M. LAFFERTY, ESQUIRE  
1700 Pennsylvania Avenue, NW  
Suite 900  
Washington, D.C. 20006

King & Spalding LLP  
BY: JEFFREY D. MILLS, ESQUIRE  
500 West Second Street #1800  
Austin, Texas 78701

For Defendant Sophos  
Limited:

Kelly Hart & Hallman, LLP  
BY: J. STEPHEN RAVEL, ESQ.  
303 Colorado Street, Suite 2000  
Austin, Texas 78701

Gibson Dunn & Crutcher, LLP  
BY: KATHERINE DOMINGUEZ, ESQUIRE  
200 Park Avenue  
New York, New York 10166

Gibson Dunn & Crutcher, LLP  
BY: ANTHONY DAVID BRZOZOWSKI, II,  
ESQUIRE  
1050 Connecticut Avenue, N.W.  
Washington, DC 20036

For Defendant Trend  
Micro, Inc.:

Paul Hastings, LLP  
BY: RADHESH DEVENDRAN, ESQUIRE  
1117 South California Avenue  
Palo Alto, California 94304

For Defendants  
CrowdStrike Holdings, Inc.  
And CrowdStrike, Inc.:

Quinn Emanuel Urquhart & Sullivan LLP  
BY: JEFFREY WILLIAM NARDINELLI,  
ESQUIRE  
50 California Street, 22nd Floor  
San Francisco, California 94111

## APPEARANCES VIA ZOOM TELECONFERENCE (CONTINUED):

For Defendant  
Forcepoint, LLC:

Kirkland & Ellis LLP  
BY: KAT LI, ESQUIRE  
401 Congress Avenue  
Austin, Texas 78701

Kirkland & Ellis LLP  
BY: LAURA ASHLEY HARRIS, ESQUIRE  
555 California Street 27th Floor  
San Francisco, California 94104

For AO Kaspersky  
Laboratory:

DeWitt, LLP  
BY: ERIC H. CHADWICK, ESQUIRE  
2391 Holmgren Way  
Green Bay, Wisconsin 54304

Gillam & Smith, L.L.P.  
BY: HARRY LEE GILLAM, JR., ESQUIRE  
JAMES TRAVIS UNDERWOOD, ESQUIRE  
102 North College, Suite 800  
Tyler, Texas 75702

| <u>INDEX</u>               | <u>PAGE</u> |
|----------------------------|-------------|
| Case called                | 5           |
| Court's Rulings on Motions | 40, 52      |
| End of Proceedings         | 61          |
| Certificate of Transcriber | 61          |

| <u>Direct</u> | <u>Cross</u> | <u>Redirect</u> | <u>Recross</u> |
|---------------|--------------|-----------------|----------------|
|---------------|--------------|-----------------|----------------|

WITNESSES

FOR THE GOVERNMENT:

(None)

FOR THE DEFENDANT:

(None)

EXHIBITS:

| <u>ID</u> | <u>EVD</u> |
|-----------|------------|
|-----------|------------|

FOR THE GOVERNMENT:

(None)

FOR THE DEFENDANT:

(None)

1           And I'll also point out on the patents that are  
2           asserted against Forcepoint with respect to venue, they don't  
3           identify any venue discovery that they didn't get. I think it's  
4           telling they don't say a single thing. And the practical reality  
5           is Forcepoint says you're accusing the same products. Okay,  
6           well, for venue, that means it would be the same.

7           And then the two patents, '243 and '932, well, they  
8           have one inventor and he's located in Colorado. So it wouldn't  
9           have helped them. They don't identify anything, so this venue  
10          discovery is just a -- you know, they had the chance, they could  
11          have, they just chose not to. And it doesn't make any difference  
12          to their venue motion.

13          So with that, I'm happy to answer any other questions  
14          the Court may have.

15          THE COURT: Has the -- have infringement contentions  
16          been served in support of these patents that you seek to add?

17          MR. MILLS: Yes, Your Honor.

18          We prepared, understanding the way the case schedule  
19          existed, there was an October 25th deadline for serving  
20          infringement contentions. And so we prepared and served on that  
21          day infringement contentions not just on the patents that were  
22          already in the case. And, you know, for CrowdStrike and Trend  
23          Micro, we prepared infringement contentions and served them on  
24          every one of the defendants on October 25th.

25          THE COURT: Okay. Let me go off the record just

1 briefly.

2 (Recess at 3:16 p.m./Reconvened at 3:19 p.m.)

3 THE COURT: Okay. We're back on the record.

4 At this point I'm going to grant plaintiffs' motions to  
5 amend and add these additional patents. Noting as Mr. Ravel did  
6 that this makes this a phenomenal case that I'm hoping one day  
7 maybe people will write songs about because it is about as  
8 complicated as you're going to get with patent cases.

9 I'm going to grant the leave to amend and primarily for  
10 my review of both the chart that was submitted back in October  
11 and the schedule that it did contemplate the addition amendments  
12 and addition of patents to the case.

13 I will in addition of granting the motions for leave to  
14 file the amended complaints, I will order the parties to meet and  
15 confer on desired modifications to the schedule. And if you can  
16 get, let's say I'll give you one week to submit -- do you think  
17 that will be enough time for everybody to visit and submit a  
18 proposed modification to the schedule?

19 As you can probably anticipate from the comments during  
20 the hearing that I'll be amenable to it. As the parties know,  
21 most things can be or most prejudice can be alleviated by  
22 granting more time to address things. So I'm definitely amenable  
23 to adjusting the schedule.

24 And to the extent that it can be adjusted in such a way  
25 that Kaspersky would line up with everybody else, that would not

1 be a bad thing either.

2 So with those thoughts in mind, that's what I'm going  
3 to do. And let me ask, will ask the parties -- I would think you  
4 could meet and confer and submit any requested revisions to the  
5 schedule within one week of today, but if for some reason or  
6 another you think it might take a little more time, let me know.

7 Let me see, I'll start with Ms. Li, you're in the top  
8 right of my screen so I'll just start with you and work across.  
9 But do you think seven weeks is -- I mean seven days, excuse me,  
10 is sufficient or do you -- would you think you'd need a little  
11 more time?

12 MS. LI: Thank you, Your Honor.

13 I think we can strive for seven days, but with your  
14 permission, if we get to Thursday just because we have to  
15 coordinate between all of us and we find we need a little more  
16 time, we can notify the Court. But we'll strive for next Friday.

17 THE COURT: Okay, that sounds good.

18 Mr. Chadwick?

19 MR. CHADWICK: That sounds good, Your Honor. I think  
20 we can make that work.

21 THE COURT: Okay. Mr. Mills or Mr. Siegmund?

22 MR. MILLS: Yes, Your Honor.

23 MR. SIEGMUND: Yes, Your Honor.

24 MR. MILLS: We can do it in a week.

25 THE COURT: All right. Ms. Dominguez or Mr. Ravel?