

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

WEBROOT, INC. and OPEN TEXT, INC.,	
Plaintiffs,	
v.	
AO KASPERSKY LAB,	W-22-CV-00243-ADA-DTG (LEAD CASE)
TREND MICRO, INC.,	W-22-CV-00239-ADA-DTG
SOPHOS LTD.,	W-22-CV-00240-ADA-DTG
CROWDSTRIKE, INC. AND CROWDSTRIKE HOLDINGS, INC.,	W-22-CV-00241-ADA-DTG
FORCEPOINT, LLC,	W-22-CV-00342-ADA-DTG
Defendants.	

**DEFENDANTS’ SECOND AMENDED
PRELIMINARY INVALIDITY CONTENTIONS**

Pursuant to the Court’s Standing Order Governing Proceedings (OGP) 4.3 – Patent Cases (“OGP”), Defendants AO Kaspersky Lab (“Kaspersky Russian”) and Kaspersky Lab Switzerland GmbH (“Kaspersky Switzerland”) (“Defendants” or collectively “Kaspersky”) hereby serves its Second Amended Invalidity Contentions concerning Plaintiffs’ patents asserted against Defendant in this litigation. These amended contentions include new claim charts identified in ***bold and italics*** in the table below. For completeness, the below table also identifies

all invalidity claim charts previously served by Kaspersky in this matter. Unless otherwise stated, Kaspersky’s previously served invalidity contentions remain unchanged.

Exhibit No.	Title	Notes
1A	‘250 Patent Invalidity Claim Chart – Halperin, Bucher, Made, Loukas	
1B	‘250 Patent Invalidity Claim Chart – Halperin, Mankins, Kirby	Newly added
2A	‘389 Patent Invalidity Claim Chart – Halperin, Loukas	
2B	‘389 Patent Invalidity Claim Chart – Sallam, Loukas	
3A	‘045 Patent Invalidity Claim Chart – Capalik, Morris, Seshadri, Trend Micro	
3B	‘045 Patent Invalidity Claim Chart – Chen I, Chen II, and Chen III	
4A	‘224 Patent Invalidity Claim Chart – Capalik, Morris, Seshadri, Oorschot, Trend Micro	
4B	‘224 Patent Invalidity Claim Chart – Chen I, Chen II, Chen III, Seshadri	
5A	‘591 Patent Invalidity Claim Chart – Dalcher, Tosa, Sallam	
5B	‘591 Patent Invalidity Claim Chart – Fratric, Sallam	
5B.1	‘591 Patent Invalidity Claim Chart – Fratric, Sallam, ROPGuard	
5C	‘591 Patent Invalidity Claim Chart – Szor, Tosa, Sallam	
5D	‘591 Patent Invalidity Claim Chart – Tosa, Pavlyushchik, Mirski	
5E	‘591 Patent Invalidity Claim Chart – Shukla, Dalcher, Tosa	Newly added
5F	‘591 Patent Invalidity Claim Chart – Kc	Newly added
6A	‘844 Patent Invalidity Claim Chart – Avasarala, Ideses, Fossen, Baldangombo, Mankin, Lee, Raugas, Schmidtler	
6B	‘844 Patent Invalidity Claim Chart – Ideses, Fossen, Lee, Raugas, Schmidtler	
6C	‘844 Patent Invalidity Claim Chart – Okano, Ideses, Lee, Schmidtler	
6D	‘844 Patent Invalidity Claim Chart – Kumar, Tahan, Hsu	Newly added

7A	'869 Patent Invalidity Claim Chart – Ideses, Sharma	
7B	'869 Patent Invalidity Claim Chart – Okano, Sharma, Lee	
8	'244 Patent Invalidity Claim Chart – Hartrell, Miyamoto, Oya, Lum	
9	'243 Patent Invalidity Claim Chart – Muttik, Hartrell, Song, Lum, Bates, Pantuso	
9B	'243 Patent Invalidity Claim Chart – Kidron, Williamson, Piccard	Newly added
10	'932 Patent Invalidity Claim Chart – Muttik, Hartrell, Song, Lum, Bates, Pantuso	
10B	'932 Patent Invalidity Claim Chart – Kidron, Williamson, Piccard	Newly added

Exhibits 1B, 5E, 5F, 6D, 9B, and 10B are being served with this main document

Counsel for Kaspersky certifies that (1) it took reasonable efforts to prepare its preliminary invalidity contentions; (2) this amendment is based upon material identified after those preliminary contentions were served; and (3) this amendment is being made seasonably upon identifying such material.

Dated: January 19, 2024

Respectfully submitted,

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Counsel for AO Kaspersky Lab

CERTIFICATE OF SERVICE

The undersigned certifies that on this 19th day of January, 2024, the below identified individuals were served with this document via electronic mail.

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/s/ Joseph T. Miotke

EXHIBIT 9B

Patent No. 8,201,243

This amendment to Kaspersky's preliminary invalidity chart is provided pursuant to the Court's Scheduling Order, as amended, and is subject to all reservations, objections, and disclaimers in Defendant's Preliminary Invalidity Contentions previously served or made herein and any amendment, supplement, or modification thereof, which are incorporated herein by reference in their entirety.

U.S. Patent No. 7,934,103 ("Kidron") was filed on April 15, 2003 and issued on April 26, 2011. It constitutes prior art under at least 35 U.S.C. §102(a)(2). To the extent it is found that Kidron does not expressly disclose certain limitations in the asserted claims, such limitations are at least implicitly or inherently disclosed. Moreover, to the extent that it is found that Kidron does not anticipate an asserted claim, Kidron renders obvious the asserted claim, either alone or in combination with other prior art identified in the cover pleading or herein, and/or in combination with the general knowledge of a person having ordinary skill in the art.

The following chart provides Kaspersky's contentions regarding the invalidity of the '243 Patent under 35 U.S.C. §102(a)(2) and/or §103 based on Kidron and under 35 U.S.C. §103 based on Kidron in combination with U.S. Patent No. 8,719,924 ("Williamson") and/or U.S. Patent Pub. 2007/0016951 ("Piccard") identified in this chart and in Kaspersky's invalidity contentions. The cited evidence is merely illustrative. Kaspersky has not attempted to identify every portion of the references that supports its contentions but has made a good faith effort to identify portions that will make its preliminary invalidity contentions clear. Kaspersky intends to rely on the entirety of the references cited in this chart to show that the asserted claims are invalid.

Plaintiffs' infringement contentions apply inappropriately broad interpretations of the asserted claims. To the extent Kaspersky may apply the same inappropriately broad constructions for the purpose of these contentions, Kaspersky does not concede that any such constructions are correct. Kaspersky reserves the right to amend and supplement its contentions.

Claim 1	Invalidity Position
A method for identifying an origin of activity on a computer that is indicative of pestware comprising:	U.S. Patent No. 7,934,103 to Kidron ("Kidron") discloses the technology and a method as recited in limitations of claim 1 as follows. Kidron discloses a method for identifying an origin of activity on a computer that is indicative of pestware in at least Col. 1, lines 54-60, ("Many types of computer viruses are known to exist. Memory resident viruses typically attach themselves to executable files, and become loaded into a computer's memory when the executable file is run. Once in memory, the virus can take