

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

WEBROOT INC. and OPEN TEXT, INC.,

Plaintiffs,

v.

SOPHOS LTD.,

Defendant.

Case No. 6:22-CV-00243-ADA-DTG
(LEAD CASE)

Case No. 6:22-CV-00240-ADA-DTG
(Consolidated)

SOPHOS LTD.,

Counterclaim-Plaintiff,

v.

Webroot, Inc., Open Text, Inc., and Open Text Corp.,

Counterclaim-Defendants.

**DEFENDANT SOPHOS LTD.’S STIPULATION REGARDING INVALIDITY
CONTENTIONS FOR U.S. PATENT NO. 11,409,869**

By May 9, 2023, Defendant Sophos Ltd. will file petition No. PGR2023-0031 with the Patent Trial and Appeal Board (“the PTAB”), requesting post grant review of U.S. Patent No. 11,409,869 (“the ’869 Patent”).

The petition asserts six grounds of invalidity: (1) claims 1–59 of the ’869 Patent are obvious under 35 U.S.C. § 103 over U.S. Patent Appl. Pub. No. 2015/0213376 (“Ideses”); (2) claims 11-6, 8-24, 26-27, 29-30, 32-38, 40-41, 43-44, 46-52, 54-55, and 57-58 of the ’869 Patent are obvious over Japanese Patent Appl. Pub. No. 2012027710A (“Mori”); (3) claims 1–59 are obvious over Ideses in view of Mori; (4) claims 1-59 are indefinite under 112(b) (“the static data points”); (5)

claims 8, 14, 17, 29, 43, 57 are indefinite under 112(b) (“character strings” ... “within a predetermined range”); and (6) claims 8, 14, 17, 29, 43, 57 lack written description under 112(a) (“character strings” ... “within a predetermined range”).

Defendants stipulate that, if the PTAB institutes post grant review on PGR2023-0031 based on the grounds asserted in Sophos’ petition, Sophos will not pursue in the District Court the specific grounds raised in PGR2023-0031 against Claims 1-59 of the ’869 Patent. *See Sand Revolution II, LLC v. Continental Intermodal Group – Trucking LLC*, IPR2019-01393, Paper No. 24 (PTAB June 16, 2020).

In so stipulating, Sophos seeks to avoid a situation in which multiple proceedings address the validity of the challenged claims based on the same grounds. Instead, through this Stipulation, Sophos expresses its preference that only the PTAB address the Instituted Grounds of invalidity of these claims.

Notwithstanding this Stipulation, Sophos reserves the right to assert in this litigation any grounds or claims on which the Board declines to institute post grant review. Sophos also reserves the right to assert grounds other than the Instituted Grounds.

Dated: May 8, 2023

Respectfully submitted,

/s/ Brian Rosenthal

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 8, 2023, a copy of the foregoing was served electronically to counsel of record.

/s/ David Lam
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