

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AO KASPERSKY LAB
Petitioner

v.

OPEN TEXT INC.
Patent Owner

IPR2023-00289
U.S. Patent No. 8,418,250

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

Pursuant to 35 U.S.C. § 317(a), 37 C.F.R. § 42.74, and the Board's email of April 9, 2024, Petitioner AO Kaspersky Lab ("Kaspersky" 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, Kaspersky and Open Text request that the Board treat as business confidential information, the true and complete copy of the Agreement (Confidential Exhibits 1024 and 1025) between the parties, as referenced in the parties' Joint Motion to terminate Proceeding (pursuant to § 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. Therefore, the Parties request that the Agreement (Confidential Exhibits 1024 and 1025) (i) be treated as business confidential information, (ii) be maintained separate from the publicly available file of the involved patent, and (iii) be made available only to Federal Government agencies on written request, or to persons showing good cause on written request, pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c).

Both parties also respectfully request that the Board inform us if anyone seeks production of the Agreement and afford the parties an opportunity to address whether such request is supported by good cause.

Dated: April 12, 2024

Respectfully submitted,

DEWITT LLP

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COUNSEL FOR PATENT OWNER

CERTIFICATE OF SERVICE

The undersigned certifies that, in accordance with 37 C.F.R. § 42.6(e)(4), the undersigned certifies that on April 12, 2024, a complete and entire copy of this Joint Request to Treat Agreement as Business Confidential Information was provided by email, to the Patent Owner by serving the email correspondence address of record as follows:

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Dated: April 12, 2024

Respectfully submitted,

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