

No. 19-

IN THE
Supreme Court of the United States

MALWAREBYTES, INC.,
Petitioner,

v.

ENIGMA SOFTWARE GROUP USA, LLC,
Respondent.

**On Petition for a Writ of Certiorari to the
United States Court of Appeals
for the Ninth Circuit**

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Section 230(c)(2)(B) of the Communications Decency Act provides immunity from most civil liability to computer-service providers for “any action taken to enable or make available to * * * others the technical means to restrict access to material” that “the provider or user considers to be * * * objectionable.” 47 U.S.C. § 230(c)(2). The court below agreed that none of the narrow, express exceptions to that immunity in Section 230(e) apply here. The question presented is:

Whether federal courts can derive an implied exception to Section 230(c)(2)(B) immunity for blocking or filtering decisions when they are alleged to be “driven by anticompetitive animus.”

(i)

PARTIES TO THE PROCEEDING

Malwarebytes, Inc., petitioner on review, was the defendant-appellee below.

Enigma Software Group USA, LLC, respondent on review, was the plaintiff-appellant below.

RULE 29.6 DISCLOSURE STATEMENT

Malwarebytes, Inc. has no parent corporation, and no publicly held company owns 10% or more of its stock.

RELATED PROCEEDINGS

U.S. Court of Appeals for the Ninth Circuit:

Enigma Software Group USA, LLC v. Malwarebytes, Inc., No. 17-17351 (9th Cir. Dec. 31, 2019) (reported at 946 F.3d 1040)

Enigma Software Group USA, LLC v. Malwarebytes, Inc., No. 17-17351 (9th Cir. Sep. 12, 2019) (reported at 938 F.3d 1026) (opinion withdrawn and superseded on denial of rehearing)

U.S. District Court for the Northern District of California:

Enigma Software Group USA LLC v. Malwarebytes Inc., No. 5:17-cv-02915-EJD (N.D. Cal. Nov. 7, 2017) (unreported)



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