

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ORCA SECURITY LTD.,	)	
	)	
	)	
Plaintiff,	)	C.A. No. 23-758-JLH
	)	
v.	)	
	)	
WIZ, INC.,	)	
	)	
Defendant.	)	

DEFENDANT WIZ, INC.’S INITIAL INVALIDITY CONTENTIONS

Pursuant to Paragraph 7(b) of the Court’s Scheduling Order (D.I. 33), Defendant Wiz, Inc. (“Wiz” or “Defendant”) hereby provides the following initial invalidity contentions to Plaintiff Orca Ltd.’s (“Plaintiff” or “Orca”) regarding the currently asserted claims of the following U.S. Patent Nos. 11,663,031 (the “’031 patent”); 11,663,032 (the “’032 patent”); 11,693,685 (the “’685 patent”); 11,726,809 (the “’809 patent”); 11,740,926 (the “’926 patent”); and 11,775,326 (the “’326 patent”) (collectively, the “Asserted Patents”).

Wiz continues to pursue discovery and to investigate and analyze the prior art. Wiz reserves the right to modify, amend, and/or supplement these Initial Invalidity Contentions as additional information becomes known to Wiz, including through discovery, the claim construction process, or during IPR proceedings involving the Asserted Patents. Wiz’s submission of these Initial Invalidity Contentions is not intended and should not be construed as a waiver of any claim construction argument or non-infringement position.

I. GENERAL STATEMENTS

A. Asserted Claims

Orca served Wiz with Initial Infringement Contentions pursuant to Paragraph 7(b) of the Court's Scheduling Order (D.I. 24) and Paragraph 4(c) of the District of Delaware Default Standard for Discovery on May 10, 2024, as part of Orca's supplemental response to Wiz's Interrogatory No. 1. Orca's Initial Infringement Contentions assert the following claims:

Asserted Patent	Asserted Claim
'031 Patent	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16
'032 Patent	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25
'685 Patent	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22
'809 Patent	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23
'926 Patent	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15
'326 Patent	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28

B. Claim Construction

The Court has not yet construed the asserted claims. To the extent that these Initial Invalidity Contentions rely on or otherwise embody particular constructions of terms or phrases in the asserted claims, Wiz is not proposing any such construction as proper constructions of those terms or phrases. Wiz will disclose its proposed constructions according to the deadlines set by the Court. For purposes of these Initial Invalidity Contentions, Wiz may adopt alternative, and even inconsistent, claim construction positions. In particular, certain of these Initial Invalidity Contentions, including the attached charts, may be based on claim constructions that appear to

with each potential cyber vulnerabilities, determining a risk level to the cloud computing environment, and reporting the potential cyber vulnerabilities. '326 Patent at Claim 1.

Under *Alice* step two, the elements of the asserted claims—considered either separately or as an ordered combination—do not provide an inventive concept. Taking the asserted claim elements separately, the function performed at each step is purely conventional and may be implemented on conventional computers and software, including conventional cloud computing platforms. Indeed, platforms that the specifications of the Asserted Patents acknowledge were in the prior art, such as AWS by Amazon, already included snapshot functionality. All additional limitations existed in the prior art and thus cannot provide the necessary inventive concept. Taken as a whole, the asserted claims simply recite the abstract concept of presenting a list of content and viewing the information on that list. The elements fail to add “significantly more” to the abstract idea. *See Ultramercial, Inc. v. Hulu LLC*, 772 F.3d 709, 715 (Fed. Cir. 2014).

Because the claims of the Asserted Patents are drawn to the abstract idea of taking a snapshot of a virtual machine to analyze it and detect vulnerabilities with conventional devices and technologies, the asserted claims are patent ineligible under 35 U.S.C. § 101.

III. INVALIDITY UNDER 35 U.S.C. §§ 102 AND/OR 103

The Asserted Claims are invalid under 35 U.S.C. §§ 102 and 103. Wiz identifies the following prior art as references that anticipate and/or render obvious the asserted claims of the Asserted Patents under 35 U.S.C. §§ 102 and 103:

Patent/Application Number	Country of Origin	Filing or Priority Date	Date of Issuance or Publications	Short Cite
US11216563B1	United States	May 19, 2017	Jan. 4, 2022	Veselov
US20200097662A1	United States	Sep. 25, 2018	Mar. 26, 2020	Hufsmith
US20130111018A1	United States	Jun. 20, 2012	May 2, 2013	Ammons
US20130247133A1	United States	Oct. 13, 2011	Sep. 19, 2013	Price
US20160092679A1	United States	Sep. 25, 2014	Mar. 31, 2016	Kim

Wiz identifies the following secondary prior art references:

Patent/Application Number	Country of Origin	Filing or Priority Date	Date of Issuance or Publications	Short Cite
US20130191919A1	United States	Jan. 19, 2012	Jul. 25, 2013	Basavapatna
US9400886B1	United States	Sep. 24, 2014	Jul. 26, 2016	Belousov
US20170109240A1	United States	Jul. 26, 2016	Apr. 20, 2017	Bezbaruah
US20100169948A1	United States	Dec. 31, 2008	Jul. 1, 2010	Budko
US20160210461A1	United States	Mar. 31, 2016	Jul. 21, 2016	Chari
US9268689B1	United States	Mar. 26, 2012	Feb. 23, 2016	Chen
US10536471	United States	Mar. 31, 2016	Jan. 14, 2020	Derbeko
US 8,984,478 B2	United States	Oct. 3, 2011.	Mar. 17, 2015	Epstein
US 9,141,805 B2	United States	Sep. 16, 2011	Sep. 22, 2015	Giakouminakis
US10944778	United States	Oct. 27, 2017	Mar. 9, 2021	Golan
US20170199753A1	United States	Jan. 7, 2017	Jul. 13, 2017	Gong
US20140245376A1	United States	Feb. 25, 2013	Aug. 28, 2014	Hibbert
US20110247071A1	United States	Apr. 6, 2010	Oct. 6, 2011	Hooks
US20130024940A1	United States	Sep. 20, 2012	Jan. 24, 2013	Hutchins
US 10,469,304 B1	United States	Jan. 16 , 2013	Nov. 5 , 2019	Kempe
US20150033227A1	United States	Mar. 5, 2013	Jan. 29, 2015	Lin
US20170111384	United States	Oct. 12, 2016	Apr. 20, 2017	Loureiro
US20170192810A1	United States	Jan. 5, 2016	Jul. 6, 2017	Lukacs
US20170180318A1	United States	Dec. 19, 2016	Jun. 22, 2017	Lutas
US 9,692,778 B1	United States	Nov. 11, 2014	Jun. 27, 2017	Mohanty
US 7,802,302 B1	United States	Mar. 10, 2006	Sep. 21, 2010	Nagarkar
US20100070725A1	United States	Sep. 3, 2009	Mar. 18, 2010	Prahlad
US20170052717A1	United States	Aug. 20, 2015	Feb. 23, 2017	Rawat
WO2015065330A1	United States	Oct. 29, 2013	May 7, 2015	Roberts
US20130262801A1	United States	Mar. 30, 2012	Oct. 3, 2013	Sancheti
US20190180028A1	United States	Dec. 6, 2018	Jun. 13, 2019	SEO
US7437764B1	United States	Nov. 14, 2003	Oct. 14, 2008	Sobel
US9900333B2	United States	Feb. 5, 2015	Feb. 20, 2018	Thakar

Title			Date of Publication	Author/Publisher	Short Cite
Virtual Machine Memory Forensics			2013	Alvin Huseinović and Samir Ribić	Huseinović
VMware Infrastructure Architecture Overview White Paper	2006	VMWare	VMInfrastructure		

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CERTIFICATE OF SERVICE

I hereby certify that on June 7, 2024, true and correct copies of the foregoing document were served on the following in the manner indicated:

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