Paper No. _____
Filed: April 14, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

WIZ, INC.,
Petitioner,

v.

ORCA SECURITY LTD.,
Patent Owner.

Case IPR2024-00864
Patent No. 11,663,032

PETITIONER'S THIRD OBJECTIONS TO EVIDENCE

I. INTRODUCTION

Pursuant to 37 C.F.R. §42.64(b)(1), Wiz, Inc. ("Petitioner") submits the following objections to Orca Security Ltd. ("Patent Owner") exhibits 2073-2076, 2078-2088, 2090, 2092-2100, 2102-2104, 2106-2113, 2115-2116, 2118-2125, 2127-2145, 2147-2151, 2158-2160, 2165-2166, 2300-2304, 2306-2309, 2311-2312, 2400-2422, and 2425-2428.

Petitioner's objections are made pursuant to the Code of Federal Regulations ("C.F.R.") governing this proceeding, including without limitation 37 C.F.R. §§42.61-42.65 and §42.6(a)(3). As required by 37 C.F.R. §42.62, Petitioner's objections below apply the Federal Rules of Evidence ("F.R.E.").

II. OBJECTIONS

1. Exhibits 2073 and 2074

Grounds for Objection: F.R.E. 105 (Limited Scope); F.R.E. 401 (Test for Relevant Evidence); F.R.E. 402 (General Admissibility of Relevant Evidence); F.R.E. 403 (Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons); F.R.E. 602 (Need for Personal Knowledge); F.R.E. 701 (Opinion Testimony by Lay Witnesses), 702-703 (Expert Foundation and Opinions); F.R.E. 801-803 (Inadmissible Hearsay).

Exhibit 2073 is the declaration of Dr. David Kaeli and is objected to in its entirety. Dr. Kaeli's opinions are not based on sufficient facts or data and are not

the product of reliable principles and methods reliably applied to the facts of this case (F.R.E. 702-703). Moreover, exhibit 2073 is not relevant to the extent portions of it have not been cited to in the Patent Owner's response, including but not limited to paragraphs 1-34, 76-80, 91-92, 129-30, and 136-37 (F.R.E. 401-402). However, to the extent exhibit 2073 is deemed relevant, its admission would be unduly prejudicial, misleading, and a waste of time (F.R.E. 403). Exhibit 2073 is additionally unduly prejudicial due to the improper use of confidential documents produced by Wiz in district court litigation under the terms of the protective order in that case. Exhibit 2073 is further objected to under F.R.E. 801-803 as resting on statements constituting hearsay without satisfying any of the hearsay exceptions, including to the extent that Dr. Kaeli has not been made available for cross-examination in a manner complying with all rules governing this proceeding. Finally, Dr. Kaeli's testimony is objected to under F.R.E. 602 and 701 to the extent it is offered for subject matters outside of his expertise and fails to properly provide evidence of personal knowledge of his testimony or his testimony is not based on his own perception or is based on specialized knowledge within the scope of F.R.E. 702.

Exhibits 2074 is the declaration of Mr. Avi Shua and is objected to in its entirety. To the extent Mr. Shua's testimony does not properly provide evidence of his personal knowledge, is not based on his own perception, or is based on

specialized knowledge within the scope of F.R.E. 702, Mr. Shua's testimony is objected to under F.R.E. 602 and 701. Moreover, exhibit 2074 is not relevant to the extent portions of exhibit 2074 are not cited in the Patent Owner's response, including but not limited to paragraphs 1, 3-8, 15, 17-18, 20, 22-27, 129, and 148 (F.R.E. 401-402). To the extent exhibit 2074 is deemed relevant, its admission would be unduly prejudicial, misleading, and a waste of time (F.R.E. 403). Exhibit 2074 is further objected to under F.R.E. 801-803 as resting on statements constituting hearsay without satisfying any of the hearsay exceptions, including to the extent that Mr. Shua has not been made available for cross-examination in a manner complying with all rules governing this proceeding. Finally, to the extent Mr. Shua's opinions are relied upon as expert testimony, the declaration is further objected to as not being based on sufficient facts or data and not being the product of reliable principles and methods reliably applied to the facts of this case (F.R.E. 702-703).

Additionally, to the extent any portion of exhibits 2073-2074 is admitted, these exhibits are additionally objected to in accordance with F.R.E. 105 in so far as the admitted exhibits are used for any purpose other than for what they were admitted.

2. Exhibits 2076, 2078-2088, 2090, 2092-2100, 2102-2104, 2106-2113, 2118-2125, 2127-2136, 2139-2145, 2148, 2150, 2158-2159, 2301-2304, 2306-2309, 2312, 2411, 2422, and 2426

Grounds for Objection: F.R.E. 105 (Limited Scope), F.R.E. 401 (Test for Relevant Evidence); F.R.E. 402 (General Admissibility of Relevant Evidence); F.R.E. 403 (Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons); F.R.E. 801-803 (Hearsay Inadmissible); F.R.E. 901 (Authenticating or Identifying Evidence).

Petitioner objects to exhibits 2076, 2078-2088, 2090, 2092-2100, 2102-2104, 2106-2113, 2118-2125, 2127-2136, 2139-2145, 2148, 2150, 2158-2159, 2301-2304, 2306-2309, 2312, 2411, 2422, and 2426 (the "Second Set of Objected Exhibits") as lacking authentication under F.R.E. 901 because sufficient evidence has not been provided to establish the authenticity of these exhibits and these exhibits are not self-authenticating (F.R.E. 902). Moreover, exhibits 2422 and 2426 are purportedly English translations of exhibits 2421 and 2425, respectively, without any associated evidence regarding their authenticity or accuracy. Similarly, exhibits 2079, 2081, 2083, 2133, and 2411 are purportedly audio and video transcripts submitted by Patent Owner without any evidence regarding their authenticity or accuracy.

The Second Set of Objected Exhibits are further objected to for being irrelevant, including for example to the extent they are cited in support of

secondary considerations of nonobviousness without a proper showing of nexus with the claimed invention (F.R.E. 401-402). Furthermore, exhibits 2078-2079, 2084-2087, 2144, 2159, and 2306 are additionally irrelevant because they are not cited in Patent Owner's briefings. To the extent the Second Set of Objected Exhibits are deemed relevant, their probative value is minimal and substantially outweighed by the risk of confusing the issues, wasting time, being unduly prejudicial, and needlessly presenting cumulative evidence (F.R.E. 403). Exhibits 2411, 2422, and 2426 are additionally objected to as unduly prejudicial due to the improper use of confidential documents produced by Wiz in district court litigation under the terms of the protective order in that case.

Furthermore, the Second Set of Objected Exhibits are further objected to under F.R.E. 801-803 as hearsay to the extent they are offered for the truth of any matters asserted without satisfying any of the hearsay exceptions.

Lastly, to the extent any portion of the Second Set of Objected Exhibits is admitted, these exhibits are additionally objected to in accordance with F.R.E. 105 in so far as the admitted exhibits are used for any purpose other than for what they were admitted.

3. Exhibits 2075, 2115-2116, 2137-2138, 2147, 2149, 2151, 2160, 2165-2166, 2400-2410, 2412-2421, 2425-2426, and 2427-2428

Grounds for Objection: F.R.E. 105 (Limited Scope); F.R.E. 401 (Test for Relevant Evidence); F.R.E. 402 (General Admissibility of Relevant Evidence);

F.R.E. 403 (Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons); F.R.E. 801-803 (Hearsay Inadmissible).

Exhibits 2075, 2115-2116, 2137-2138, 2146, 2149, 2151, 2160, 2165-2166, 2400-2410, 2412-2421, 2425, and 2427-2428 (the "Third Set of Objected Exhibits") are objected to for being irrelevant, including for example to the extent they are cited in support of secondary considerations of nonobviousness without a proper showing of nexus with the claimed invention (F.R.E. 401-402). Furthermore, exhibit 2166 is additionally irrelevant because it is not cited in Patent Owner's briefings. To the extent the Third Set of Objected Exhibits are deemed relevant, their probative value is minimal and is substantially outweighed by the risk of confusing the issues, wasting time, being unduly prejudicial, and needlessly presenting cumulative evidence (F.R.E. 403). Exhibits 2400-2410, 2412-2421, 2425, and 2427-2428 are additionally objected to as unduly prejudicial due to the improper use of confidential documents produced by Wiz in district court litigation under the terms of the protective order in that case.

The Third Set of Objected Exhibits are further objected to under F.R.E. 801-803 as hearsay to the extent they are offered for the truth of any matters asserted without satisfying any of the hearsay exceptions.

Lastly, to the extent any portion of the Third Set of Objected Exhibits is admitted, these exhibits are additionally objected to in accordance with F.R.E. 105

in so far as the admitted exhibits are used for any purpose other than for what they were admitted.

4. Exhibits 2300 and 2311

Grounds for Objection: F.R.E. 105 (Limited Scope); F.R.E. 106 (Completeness); F.R.E. 401 (Test for Relevant Evidence); F.R.E. 402 (General Admissibility of Relevant Evidence); F.R.E. 403 (Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons); F.R.E. 801-803 (Hearsay Inadmissible); F.R.E. 901 (Authenticating or Identifying Evidence).

Petitioner objects to exhibits 2300 and 2311 as lacking authentication under F.R.E. 901 because sufficient evidence has not been provided to establish the authenticity of these exhibits and these exhibits are not self-authenticating (F.R.E. 902).

Exhibits 2300 and 2311 are also objected to for not being relevant to the current proceedings because they are cited in support of secondary considerations of nonobviousness without a proper showing of nexus with the claimed invention (F.R.E. 401-402). To the extent these exhibits are deemed relevant, their probative value is minimal and is substantially outweighed by the risk of confusing the issues, wasting time, being unduly prejudicial, and needlessly presenting cumulative evidence (F.R.E. 403).

Petitioner also further objects to exhibits 2300 and 2311 for constituting an incomplete portion of a writing (excerpts of the document) (F.R.E. 106).

Furthermore, exhibits 2300 and 2311 are objected to under F.R.E. 801-803 as hearsay to the extent they are offered for the truth of any matters asserted without satisfying any of the hearsay exceptions.

Lastly, to the extent any portion of exhibits 2300 and 2311 is admitted, these exhibits are additionally objected to in accordance with F.R.E. 105 in so far as the exhibits are used for any purpose other than for what it was admitted.

III. CONCLUSION

The aforementioned exhibits were submitted with Patent Owner's response on April 7, 2025. These objections are made within 5 business days of service pursuant to 37 C.F.R. §42.64.

Respectfully submitted,

Dated: April 14, 2025

/ Matthew A. Argenti /
Matthew A. Argenti, Lead Counsel
Reg. No. 61,836

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing Petitioner's Third Objections to Evidence was served on April 14, 2025, at the following electronic service addresses:

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Respectfully submitted,

Dated: April 14, 2025

/ Matthew A. Argenti /
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