

Bajaj, Raghav (ATX)

From: Jaffe, Jordan <jjaffe@wsgr.com>
Sent: Thursday, December 26, 2024 9:09 PM
To: Davis, Blake (Bay Area); Zang, Lisa; JBlumenfeld@morrisnichols.com; RSmith@morrisnichols.com; cclark@morrisnichols.com; #C-M ORCA SECURITY - WIZ - LW TEAM
Cc: Farnan@RLF.com; Cottrell@RLF.com; haynes@rlf.com; WSGR - Orca Wiz
Subject: RE: Activity in Case 1:23-cv-00758-JLH-SRF Orca Security Ltd. v. Wiz, Inc. Order Cancelling Deadline

Blake,

Subject to further review and client input, we may be able to work with you on Paragraphs 3 and 6.

Wiz will not agree to Paragraph 5. There are only two relevant options here: (1) Either Orca knows of a claim (or claims) it wants tolled, and is refusing to tell Wiz what they are; or (2) Orca does not know of such a claim at the moment, which is what you all stated during our last meet and confer. In option 2, the statute of limitations is not running on a claim you're unaware of, subject to the law on inquiry notice and the like.

To the extent that Orca contends its unknown or unidentified claims are equitably tolled as a matter of law, it is free to make such an argument after a stay is lifted without Paragraph 5 included. The parties can then litigate it at that time.

Best regards,

Jordan R. Jaffe | Partner | Wilson Sonsini Goodrich & Rosati
One Market Plaza, Spear Tower, Suite 3300 | San Francisco, CA 94105
415.498.0556 | jjaffe@wsgr.com | [LinkedIn](#)

From: Blake.Davis@lw.com <Blake.Davis@lw.com>
Sent: Thursday, December 26, 2024 3:37 PM
To: Jaffe, Jordan <jjaffe@wsgr.com>; Zang, Lisa <lzang@wsgr.com>; JBlumenfeld@morrisnichols.com; RSmith@morrisnichols.com; cclark@morrisnichols.com; orcasecuritywiz.lwteam@lw.com
Cc: Farnan@RLF.com; Cottrell@RLF.com; haynes@rlf.com; WSGR - Orca Wiz <WSGR-Orca-Wiz@wsgr.com>
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EXT - blake.davis@lw.com

Jordan,

Happy holidays. To address your questions:

Regarding paragraph 3, Orca intends to move for a protective order in the IPRs allowing Orca to submit confidential and/or AEO information in the IPRs. We sent a draft protective order to the folks from WSGR that have appeared in the IPRs on Monday. I'm attaching that email here for reference. While we hope there won't be any issues that would require the district court's involvement in issues relating to the submission of confidential or AEO information in the IPRs, we want to ensure that if disputes over such information arise, there is a mechanism in place for the district court to evaluate them notwithstanding a stay.

Regarding paragraph 5, there is no reason for Wiz to object to this. The tolling contemplated by this provision is the same as that provided as a matter of law in circumstances like those the parties face here, with civil causes of action equitably tolled for the duration of a stay. *See, e.g., Ramirez v. County of Nassau*, 345 F.R.D. 397, 404 (E.D.N.Y. 2024)

("[w]here parties are ordered or agree by stipulation to suspend proceedings during the pendency of legal proceedings, the time during which a party is prevented from obtaining legal relief is not counted for purposes of statutes of limitations.") (collecting cases). Likewise, paragraph 6 is not intended to provide for an accrual of damages other than that provided by law.

Best,
Blake

Blake R. Davis

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From: Jaffe, Jordan <jjaffe@wsgr.com>
Sent: Thursday, December 26, 2024 10:58 AM
To: Davis, Blake (Bay Area) <Blake.Davis@lw.com>; Zang, Lisa <lzang@wsgr.com>; JBlumenfeld@morrisnichols.com; RSmith@morrisnichols.com; cclark@morrisnichols.com; #C-M ORCA SECURITY - WIZ - LW TEAM <orcasecuritywiz.lwteam@lw.com>
Cc: Farnan@RLF.com; Cottrell@RLF.com; haynes@rlf.com; WSGR - Orca Wiz <WSGR-Orca-Wiz@wsgr.com>
Subject: RE: Activity in Case 1:23-cv-00758-JLH-SRF Orca Security Ltd. v. Wiz, Inc. Order Cancelling Deadline

Hi Blake,

Happy holidays to you and the team. Thanks for the sending over this draft. A few immediate questions/comments, subject to a more detailed review and discussions with our client:

- What does this intend to refer to in Paragraph No. 3: "provided however, that the parties may pursue procedures to facilitate the disclosure of information produced in this case in the Wiz IPRs without violating the stay."
- Wiz will not agree to Paragraph 5 for the reasons we discussed during our last meet and confer. If you're aware of any Court adopting such a provision over the objection of another party in a motion to stay pending IPR, please let us know and we can consider it.
- Re Paragraph 6: Does this intend to provide for a more or different accrual of damages during the stay other than is provided by law?

Best regards,

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From: Blake.Davis@lw.com <Blake.Davis@lw.com>
Sent: Thursday, December 26, 2024 9:41 AM
To: Zang, Lisa <lzang@wsgr.com>; Jaffe, Jordan <jjaffe@wsgr.com>; JBlumenfeld@morrisnichols.com; RSmith@morrisnichols.com; cclark@morrisnichols.com; orcasecuritywiz.lwteam@lw.com
Cc: Farnan@RLF.com; Cottrell@RLF.com; haynes@rlf.com; WSGR - Orca Wiz <WSGR-Orca-Wiz@wsgr.com>
Subject: RE: Activity in Case 1:23-cv-00758-JLH-SRF Orca Security Ltd. v. Wiz, Inc. Order Cancelling Deadline

EXT - blake.davis@lw.com

Lisa,

We've conferred with Orca and attached is a proposal for a stipulated stay per our discussion last week, including addressing the items we raised on the meet and confer. Please let us know if Wiz agrees to the attached or if you would like to have another meet and confer to discuss.

Best,
Blake

Blake R. Davis

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From: Davis, Blake (Bay Area) <Blake.Davis@lw.com>
Sent: Tuesday, December 24, 2024 8:08 AM
To: Zang, Lisa <lzang@wsgr.com>; Jaffe, Jordan <jjaffe@wsgr.com>; JBlumenfeld@morrisnichols.com; RSmith@morrisnichols.com; cclark@morrisnichols.com; #C-M ORCA SECURITY - WIZ - LW TEAM <orcasecuritywiz.lwteam@lw.com>
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Hi Lisa,

As we mentioned on our meet and confer, we had not yet had an opportunity to discuss with our client. We are still conferring with Orca and expect we'll be able to provide our position this week, as well as to address the inaccuracies in your summary below.

Happy holidays to you and your team.

Best,
Blake

Blake R. Davis

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From: Zang, Lisa <lzang@wsgr.com>
Sent: Monday, December 23, 2024 3:47 PM
To: Davis, Blake (Bay Area) <Blake.Davis@lw.com>; Jaffe, Jordan <jjaffe@wsgr.com>; JBlumenfeld@morrisnichols.com;

RSmith@morrisnichols.com; cclark@morrisnichols.com; #C-M ORCA SECURITY - WIZ - LW TEAM

<orcasecuritywiz.lwteam@lw.com>

Cc: Farnan@RLF.com; Cottrell@RLF.com; haynes@rlf.com; WSGR - Orca Wiz <WSGR-Orca-Wiz@wsgr.com>

Subject: RE: Activity in Case 1:23-cv-00758-JLH-SRF Orca Security Ltd. v. Wiz, Inc. Order Cancelling Deadline

Orca Counsel,

We write to follow up on our meet and confer last Wednesday, December 18, 2024. During that call, you stated that there was a potential path by which Orca agrees to a stay pending resolution of Wiz's IPRs, subject to client sign off/input. You further stated that to the extent your client agreed, Orca would revert with its proposed form of stipulation by early next week. We have not heard from you. Given the holiday this week, we are following up now.

Orca also noted that Orca would condition its agreement to a stay on certain items, including tolling of the statute of limitations for some unknown claims for both sides. When asked what claims Orca wanted to be tolled, Orca counsel answered "I don't know." The other express conditions Orca discussed were regarding what happens if the other 3 IPRs are not instituted, and accrual of damages during a stay.

We have not heard from you regarding Orca's position. Please provide Orca's proposed form of stipulation or, alternatively, confirm Orca's position on Wiz's motion so that we can raise this with the Court promptly.

Best regards,
Lisa

From: Zang, Lisa <lzang@wsgr.com>

Sent: Tuesday, December 17, 2024 2:34 PM

To: Blake.Davis@lw.com; Jaffe, Jordan <jjaffe@wsgr.com>; JBlumenfeld@morrisnichols.com;

RSmith@morrisnichols.com; cclark@morrisnichols.com; orcasecuritywiz.lwteam@lw.com

Cc: Farnan@RLF.com; Cottrell@RLF.com; haynes@rlf.com; WSGR - Orca Wiz <WSGR-Orca-Wiz@wsgr.com>

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Blake,

Thanks. 1 p.m. PT tomorrow works for us. I'll circulate a Zoom invite.

Best,
Lisa

From: Blake.Davis@lw.com <Blake.Davis@lw.com>

Sent: Tuesday, December 17, 2024 2:16 PM

To: Jaffe, Jordan <jjaffe@wsgr.com>; JBlumenfeld@morrisnichols.com; RSmith@morrisnichols.com;

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Cc: Farnan@RLF.com; Cottrell@RLF.com; haynes@rlf.com; WSGR - Orca Wiz <WSGR-Orca-Wiz@wsgr.com>

Subject: RE: Activity in Case 1:23-cv-00758-JLH-SRF Orca Security Ltd. v. Wiz, Inc. Order Cancelling Deadline

EXT - blake.davis@lw.com

Jordan,

We're available to meet and confer tomorrow from 9-10am pacific or 1-3pm pacific, or Thursday from 9am-12pm. Let us know what works for you.

Best,
Blake

Blake R. Davis

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Subject: FW: Activity in Case 1:23-cv-00758-JLH-SRF Orca Security Ltd. v. Wiz, Inc. Order Cancelling Deadline

Orca counsel,

Per the below, please let us know when you're available to meet and confer regarding Wiz's anticipated motion to stay in accordance with the Court's discovery procedures.

Best regards,

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Sent: Tuesday, December 17, 2024 10:08 AM
To: ded_ecf@ded.uscourts.gov
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U.S. District Court

District of Delaware

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Case Name: Orca Security Ltd. v. Wiz, Inc.

Case Number: [1:23-cv-00758-JLH-SRF](#)

Filer:

Document Number: 223(No document attached)

Docket Text:

ORAL ORDER: Having reviewed the parties' respective letters regarding institution of IPRs (D.I. [218], [220]), IT IS HEREBY ORDERED that the December 23, 2024 *Markman* Hearing is CONTINUED. Defendant's anticipated motion to stay should be raised in accordance with the Court's discovery dispute procedures. The Court will promptly reschedule the *Markman* Hearing if it determines that the stay should not be granted. IT IS FURTHER ORDERED that that parties shall file a joint status report on or before January 22, 2025. Ordered by Judge Jennifer L. Hall on 12/17/2024. (ceg)

1:23-cv-00758-JLH-SRF Notice has been electronically mailed to:

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