

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ORCA SECURITY LTD,
Petitioner,

v.

WIZ, INC.,
Patent Owner.

IPR2025-01086
Patent 12,001,549

**PATENT OWNER WIZ, INC.'S
PRELIMINARY RESPONSE**

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I. INTRODUCTION

Patent Owner Wiz, Inc. requests denial of inter partes review (IPR) of the involved U.S. Patent No. 12,001,549 (“Schindel’549”). Petitioner Orca Security Ltd. has failed to demonstrate a reasonable likelihood that at least one of the claims challenged in the petition is unpatentable. 35 U.S.C. §324(a).

Petitioner proposes a single ground of unpatentability, which combines Peters (EX1004) and Lal (EX1005/EX1006). Paper 1 (Pet.), 4 (“Claims 1-5 and 11-16 are obvious under 35 U.S.C. §103 over *Peters* in view of *Lal*.”). Claims 1, 11, and 12 are independent. However, the petition suffers from numerous deficiencies.

First, Petitioner has not shown either of Exhibits 1005 or 1006 (which Petitioner collectively refers to as “Lau”) qualifies as a prior art printed publication. Petitioner relies exclusively on content from a provisional application yet neither makes a *Dynamic Drinkware* showing for the published application claiming priority to that provisional, nor analyzes the relationship between the allegedly incorporated content of the provisional and the different content of the printed publication. Petitioner effectively relies on the provisional application itself as a prior art reference. Such an approach is improper. 35 U.S.C. §311(b) (IPR may be raised “only on the basis of prior art consisting of patents or printed publications”); 37 CFR §42.104(b)(2) (petition “must specify where each claim

element is found in the prior art patents or printed publications”).

Petitioner’s failure to establish its grounds are based on eligible prior art should end the discussion, but turning to the merits of the ground reveals further shortcomings. Its prior art mapping to the claimed *security event*¹ lacks the requisite particularity that would allow Wiz to respond and the Board to assess the challenge. It alleges a POSITA would find the claimed *wherein each scenario is associated with an incidence response* to be disclosed by the prior art, despite also arguing the claim is indefinite. It engages in impermissible gap-filling when addressing the required *security database including a representation of a computing environment*—turning to expert testimony and non-grounds exhibits for disclosure not found in the grounds art—and, even then, still fails to show how the element is satisfied. Further, the petition’s hindsight-based analysis fails to demonstrate a reasonable expectation of success in achieving the claimed invention.

Accordingly, for the reasons detailed below, the Board should deny institution of the petition.

¹ For convenience, Wiz adopts Petitioner’s convention of denoting claim language with italics. Pet., 18 n.5.

II. CLAIM CONSTRUCTION

In an IPR, claims are given their ordinary and customary meaning in light of the specification. 37 CFR §42.100(b). No constructions are necessary to deny institution because denial is warranted for numerous reasons that do not depend on claim construction, as further detailed below.

III. ANALYSIS

A. The Petition Does Not Establish Either Lal Reference (EX1005, EX1006) Is IPR-Eligible Prior Art

1. Petitioner has not shown the Lal published application (EX1005) is prior art

The Lal published application (“Lal’428,” EX1005) was filed on May 30, 2024, which is after January 31, 2024, the filing date for the challenged Schindel’549 patent. Compare EX1005, cover, item 22, with EX1001, cover, item 22. Hence, Lal’428 by itself is not prior art under either 35 U.S.C. §§102 or 311(b). Petitioner relies on Lal’s provisional application (“Lal’227,” EX1006) to argue Lal’428 “qualifies as prior art to the ’549 Patent under 35 U.S.C. §102(a)(2).” Pet., 11. Petitioner bears the burden of establishing that the Lal’428 publication is prior art. *Dynamic Drinkware v. National Graphics*, 800 F.3d 1375, 1379-80 (Fed. Cir. 2015) (“The burden of production was on [the petitioner] to prove that, under [35 U.S.C.] §119(e)(1), [the alleged prior-art reference] was entitled to the benefit of the filing date of its provisional application, and it failed

to do that.”). Petitioner makes no *Dynamic Drinkware* showing; instead, Petitioner merely relies on the Lal published application’s claim to have incorporated the Lal provisional application (EX1006). Pet., 11 (“which is incorporated by reference”). Petitioner, however, never explains how Lal’s “incorporation” was sufficient to satisfy *Dynamic Drinkware*’s requirements.

In a related IPR, Petitioner at least attempts to explain how this incorporation is supposed to work. IPR2025-01087, Paper 1 (“-1087 Pet.”), 7. While Petitioner should not be given credit here for an argument it did not make in this IPR, that explanation nevertheless actually shows why Petitioner is wrong. In that IPR, Petitioner urges that, because the Shua patent incorporates the Shua provisional application by reference, the Shua patent contains all the provisional application’s disclosure. *Id.*, citing MPEP 2163.07(b).² Petitioner’s citation is

² Even if it had been properly cited, the MPEP, of course, “does not have the force and effect of law or the force of the rules....” MPEP Foreword. Indeed, binding precedent gives little weight to nonspecific incorporations compared to what the actual patent disclosure says. *E.g., Finjan LLC v. ESET, LLC*, 51 F.4th 1377, 1383 (Fed. Cir. 2022) (construing term differently than its use in incorporated disclosures).

inapposite: this MPEP provision discusses how to fix a new-matter problem in an application under examination, not how to shoehorn ineligible disclosure into a prior-art challenge. MPEP 2163 (“Guidelines for the Examination of Patent Applications Under the 35 U.S.C. 112(a) or Pre-AIA 35 U.S.C. 112, first paragraph, ‘Written Description’ Requirement”). Indeed, MPEP 2163.07(b) specifically refers to 37 CFR §1.57 for the appropriate cure. Importantly, Rule 57(b) requires **amending** the later disclosure **to add** the critical-but-omitted disclosure. 37 CFR §1.57(b) (1) (“The application must be amended to include the inadvertently omitted portion of the specification or drawing(s) within any time period set by the Office, but in no case later than the close of prosecution”). Yet neither the Shua patent nor Petitioner identifies any disclosure that was specifically amended from the Shua provisional application into the Shua patent. Indeed, if the necessary provisional-application disclosure had been properly amended into the Shua patent, Petitioner would have had no need (in IPR’1087) to cite pervasively to the Shua provisional application alone. In sum, the very MPEP provision on which Petitioner relies **highlights** why the omitted provisional material **cannot** be treated as part of the patent’s disclosure.

Petitioner’s post hoc merging of the Lal’428 published and Lal’227 provisional applications is not harmless. The Lal applications are visibly very different. The Lal’227 provisional application has over 331 paragraphs. EX1006,

84. The Lal’428 published application has 278 paragraphs. EX1005, 45. Petitioner does not explain the more than fifty paragraph discrepancy in the respective teachings of the Lal published and provisional applications. Indeed, Lal’428 actually incorporates two provisional applications, making the discrepancy even more glaring and the nature of what was “incorporated” where and how even murkier. EX1005, 0001. Petitioner does not even acknowledge these discrepancies, much less explain why or how the present, much-reduced disclosure in Lal’428 discloses the same invention. Even the drawings are different. Compare EX1005, 0013-24 with EX1006, 0006-14. Petitioner masks the problem by “cit[ing] primarily to the Lal Provisional Application (‘Lal’277),” although Petitioner asserts “all disclosures are supported by the Lal Patent Publication” without providing an actual showing. Pet., 10 n.4. Petitioner understates its reliance: for its patentability analysis, Petitioner relies exclusively on the ineligible Lal’227 disclosure. See Pet., ii (table of contents), 4 (grounds), 10 (heading), 57 (exhibit list), the only places Petitioner cites EX1005 (Lal’428). In sum, Petitioner has no case unless it can reach the ineligible Lal’227 through Lal’428.

Even assuming Petitioner’s use of Lal’227 as part of the Lal’428 disclosure were appropriate, it would still present an *In re Arkley* problem. In *Arkley*, the court reversed an anticipation rejection because it stitched together different unrelated elements from ***the same*** prior-art disclosure using the applicant’s claims

as a guide. 455 F.2d 586, 587-88 (CCPA 1972). The Federal Circuit has explained that even for an obviousness challenge, disparate teachings in the same prior-art disclosure cannot be combined without explanation. *In re Stepan Co.*, 868 F.3d 1342, 1346 n.1 (Fed. Cir. 2017) (“Whether a rejection is based on combining disclosures from multiple references, combining multiple embodiments from a single reference, or selecting from large lists of elements in a single reference, there must be a motivation to make the combination and a reasonable expectation that such a combination would be successful, otherwise a skilled artisan would not arrive at the claimed combination.”); *Impax Labs. Inc. v. Lannett Holdings Inc.*, 893 F.3d 1372, 1379-80 (Fed. Cir. 2018) (viewing reference as a whole is not license to combine without guidance). Here, Petitioner urges the Board to do something even more remarkable: combine teachings from two very different disclosures—at least one of which is not even eligible as prior art in an IPR (§311(b))—without providing any analysis regarding motivation to combine the different disclosures’ teachings or reasonable expectation that the combination would succeed. Yet simple comparison shows Lal’428 and Lal’227 are very different, including very different figures. Indeed, Petitioner never even says the bits of disclosure it is cherry-picking from Lal’227 **could** be combined with Lal’428’s embodiments.

In sum, Petitioner would have the Board and Wiz proceed blindly to

institution without critical analysis based on Petitioner's misplaced presumption that it can rely on Lal'227 as Petitioner's de facto ground reference. Without Lal'227, Petitioner has failed to provide a facial case for unpatentability and accordingly fails to present a reasonable likelihood of prevailing.

2. The Lal provisional application (EX1006) is not prior art either

The Lal'227 provisional application (EX1006) is not a publication and thus cannot be a ground reference in itself. 35 U.S.C. 311(b) ("patents or printed publications"); *see also* 37 CFR §42.104(b)(2) (petition "must specify where each claim element is found in the **prior art patents or printed publications**") (emphasis added). Nor does blanket incorporation by reference help Petitioner because the Lal'428 publication (EX1005) never cites to the Lal'227 provisional application (EX1006) again in the much different Lal'428 publication. *Cf. Finjan LLC v. ESET, LLC*, 51 F.4th 1377, 1383 (Fed. Cir. 2022) (construing term differently than its use in incorporated disclosures). In *Finjan*, the court looked to the context in the host disclosure rather than give weight to the incorporated patents. *Id.*

Petitioner neither provides parallel citations to prove that the ineligible EX1006 disclosure survived into EX1005 (other than by defective incorporation) nor explains how a skilled artisan would consider the omitted disclosure or how it affects the meaning of the published application. Instead, Petitioner leaves its analysis as an exercise for the Board and Wiz. Simply put, Petitioner cannot rely

on Lal’227 directly and has provided no authority or analysis that would permit Petitioner to launder an ineligible disclosure through Lal’428. Petitioner should not be rewarded for shirking its burden.

B. The Petition Fails to Show Peters in View of Lau Renders Claim 1 Obvious

1. Claim 1(a): “*receiving an incident input based on a security event*”

Petitioner mixes apples and oranges to address limitation 1(a).³ The petition relies entirely on Peters for disclosure of the recited *receiving an incident input*. Pet., 18-19. Yet Petitioner fails to identify with specificity what aspect of Peters discloses this element, and the different aspects of Peters cited in the relevant petition discussion highlight Petitioner’s inconsistent, illogical contentions.

Petitioner begins by identifying “Peters’ security alert” as the *incident input*, which the claimed method requires *receiving*. Pet., 18-19. Petitioner characterizes Peters’ security alert as “event data and raw security alert data from one or more distinct sources of data.” EX1004, 8:23-24, cited at Pet., 19. Petitioner then pivots, however, to disclosure that Peters’ “security data is processed by a security alert engine and routed to a [sic] downstream cybersecurity threat handling processes as

³ Petitioner’s labeling for the claim limitations is used in this preliminary response.

a ‘validated’ security alert.” Pet., 20. Petitioner then maps this “validated security alert” to the claim language: “These validated security alerts are *based on a cybersecurity event* because Peters teaches that its ‘validated security alerts’ are processed to determine an identification of the cybersecurity threat type.” Pet., 20 (citation omitted), citing 9:10-54. Petitioner also cites Peters as using “the terms ‘validated security alert’ and ‘cybersecurity threat’ ...interchangeably”. Pet., 20, citing EX1004, 8:35-37.

The sleight of hand occurs at the switch from the “security alert data” that is collected from one or more distinct data sources and the subsequent “validated security alert” that is generated by processing the security alert data in a security alert engine. The petition never identifies which of the two options (security alert data, on the one hand, and validated security alerts, on the other) Petitioner relies on when referring to “Peters’ security alert” or “Peters’ received security alert” elsewhere throughout the claim 1 analysis. *See, e.g.*, Pet., 18 (claim 1(a)), 20 (claim 1(b)), 28 (claim 1(d)), 29 (claim 1(e)). Nor does the Petition identify which of these options it relies on to satisfy the *receiving* requirement of the claims. Pet., 19-20. Petitioner does allege that the “validated security alert” is *based on a cybersecurity event*, but this only serves to further highlight the failure to map any aspect of the cited disclosure to the related *receiving* requirement. As such, the petition fails to specify with particularity how each element of the claim is found in

the prior art. 37 CFR §42.104(b)(4).

Petitioner's vague mapping additionally suffers from logical inconsistencies. If Petitioner intended to rely upon receipt of the validated security alerts as satisfying the claim 1(a) *receiving* step (which, again, is not explicitly stated), the petition fails to allege, let alone explain, how that mapping would be consistent with the remainder of the claim 1 analysis. The petition asserts that after processing by a security alert engine, the validated security alerts are "routed to a downstream cybersecurity threat alert handling process." Pet., 20 (citing EX1004, 9:35-40). Peters describes this routing as sending the validated security alert to automated security investigations engine 120 in Figure 1. EX1004, 9:35-40. Yet in subsequent limitations of claim 1, Petitioner relies on adding aspects of Lal to Peter's machine learning system 114, which is **upstream** of the automated security investigations engine 120. *E.g.*, Pet., 23 (citing Peters security alert machine learning system 114 when discussing combination with Lal), 25 (citing Peters' discussion of "machine learning models" at 10:13-21); EX1004, Fig 1 (machine learning system 114 generates validated alert data for security investigations engine 120), 10:13-21 (machine learning models used to "identify the subject security alert as a valid security alert"). Petitioner argues the claimed steps must be performed in order (Pet., 5) yet does not explain how machine learning prior to generation of validated security alerts fits with cited disclosure in which those

security alerts have already been “routed to a downstream cybersecurity threat handling process.” Pet., 20. Nor does the petition explain what, if anything, might satisfy the *receiving* requirement in such a scheme.

Conversely, the petition doesn’t allege that the cited “security alert data” satisfies the *receiving* requirement **or** the *based on a cybersecurity event* requirement. Pet., 19-20. Rather, Petitioner wishes the Board to hold limitation 1(a) has been met by conflating the input of Peters’ validation processes with its output. This is not what Peters teaches, and Petitioner does not separately explain how this conflation can be justified. Noting that “validated security alert” and “cybersecurity threat” are interchangeable shows the validation process is validating, but Peters does not teach (or suggest) that a validated security alert is the same thing as the original security alert data—in the context of Peters, this would make the validation process meaningless. Nor does Petitioner provide a claim construction or obviousness analysis that would justify conflating these disparate elements in Peters. *Cf.* Pet., 6 (eschewing claim construction). Hence, the petition fails at least for claim limitation 1(a).

This limitation appears in all three challenged independent claims, and Petitioner offers no separate argument for this limitation in claims 11 (“receive an incident input based on a cybersecurity event”) and 12 (same). Pet., 46, 49. Hence, institution should be denied for these claims, and claim 1’s dependent claims and

claim 12's dependent claims, as well.

2. Claim 1(d): “mapping the received incident input into a scenario of a plurality of scenarios based on the output of the LLM, wherein each scenario is associated with an incidence response”

Petitioner attempts to have its cake and eat it too when it comes to claim construction for this limitation that Petitioner insists is indefinite, but Petitioner should not be rewarded for this predictable but unexplained inconsistency in its petition. Pet., 5. Indeed, Petitioner expressly preserves its position that the claims are indefinite. Pet., 6 n.3.

Petitioner contends the word “*incidence*” is indefinite. Pet., 5. Petitioner next states that it adopts “incident” as the proper reading for “*incidence*” in this petition. Petitioner does not, however, explain how or why this limitation is amenable to this construction. *Sun Pharmaceuticals Industries v. Nivagen Pharmaceuticals*, IPR2025-00893, #18 (USPTO Dir. 2025) (“[A] party should explain why different positions are warranted.”); *Nikon Corp. v. ASML Netherlands BV*, IPR2018-00220, #8, 17 (2018) (“The result of institution would be a trial in which Petitioner contends that the majority of the challenged claims are not amenable to construction.”). Nor has Petitioner identified this as a case where, even though the claim is indefinite, the art might nevertheless be applied. *Cf. Sisvel Int’l v. Sierra Wireless*, 82 F.4th 1355, 1370 (Fed. Cir. 2023) (remanding to determine whether the claim is indefinite and, if so, whether indefiniteness renders adjudicating the

prior-art merits impossible and, if not, to decide the merits despite the indefiniteness).

Significantly, this is **not** a case where the parties disagree about which of alternate constructions is best: Petitioner maintains the claims are indefinite, and Petitioner provides no basis for simply adopting Wiz’s construction as an alternative construction. In such circumstances, the Board has denied institution. *Nikon*, IPR2018-00220, Paper 8, 18 (“We do not determine whether claims 1, 6, 23, and 28 are indefinite. Rather, we determine, based on the current record, that Petitioner does not show that claims 1, 6, 23, and 28 are amenable to construction and, accordingly, has not shown a reasonable likelihood that prior art can be applied to those claims to support a conclusion of obviousness.”). For consistency, the Board should deny institution here as well. Petitioner is the “master” of its petition—and plainly identified the issue in its petition—so it should not be rewarded for its tactics or granted an opportunity to supplement its petition now. *SAS Institute v. Iancu*, 584 US 357, 363 (2018).

This limitation appears in all three challenged independent claims, and Petitioner offers no separate argument for this limitation in claims 11 (“associated with an incidence response”) and 12 (“associated with an incidence response”). Pet., 46, 49. Hence, institution should be denied for these claims, and claim 1’s dependent claims and claim 12’s dependent claims, as well.

3. Claim 1(f): “*executing the query on a security database, the security database including a representation of a computing environment*”

a. Impermissible gap filling

For this limitation, Petitioner has engaged in impermissible gap filling.

Petitioner addresses the *representation of a computing environment* by relying on a Microsoft service. Pet., 31-32. But Petitioner does not include a Microsoft reference in Ground 1. Instead, Petitioner cites Peters (Pet 31, citing EX1004, 14:45-48, EX1003, ¶¶146-50), but Peters does not identify a Microsoft service by name—discussing simply “an” Active Directory—and certainly does not identify a specific commercial service with specific features, much less describe or incorporate that one specific commercial embodiment. To paper over this gap, Petitioner relies extensively on its expert, Dr. Zadok, to assert information missing from Peters itself, but expert gap-filling cannot remedy a lack of inherency in Peters’ disclosure. Nothing in Peters renders any specific embodiment of a Microsoft service a necessary part of Peters.

If, alternatively, Petitioner and Dr. Zadok intended for it to have been obvious to incorporate Microsoft’s service into the proposed combination, Petitioner should have included it in Ground 1 and would have been obliged to provide motivation to combine and reasonable expectation of success. No such analysis is provided. By instead maintaining tactical ambiguity about the status of

its Microsoft reference, Petitioner avoids making out a facial case for obviousness including Microsoft. At the same time, by avoiding calling Microsoft an inherent part of Peters, Petitioner avoids performing an adequate inherency analysis. Either way, Petitioner's failure to provide the missing analysis is a sign of improper hindsight, using the claims as a template. *KSR International v. Teleflex Inc.*, 550 U.S. 398, 421 (2007) ("A factfinder should be aware, of course, of the distortion caused by hindsight bias and must be cautious of arguments reliant upon *ex post* reasoning."). Petitioner should not be rewarded for adopting ambiguity as a tactic to avoid making out a prima facie case.

This limitation appears in all three challenged independent claims, and Petitioner offers no separate argument for this limitation in claims 11 ("representation of a computing environment") and 12 ("representation of a computing environment"). Pet., 46, 49. Hence, institution should be denied for these claims, and claim 1's dependent claims and claim 12's dependent claims, as well.

Additionally, note that Petitioner uses Dr. Zadok and a general dictionary to engage in covert claim construction, to construe a network within the context of the Microsoft reference to be a *computing environment* within the meaning of the claims. EX1003, ¶149, citing EX1019 (*Merriam Webster Dictionary*). Petitioner does not define *representation* or explain how the disparate network elements in

Microsoft's database provide the claimed *representation of a computing environment* as a whole. See, e.g., EX1001, 16:41-59 ("the security graph including a representation of a computing environment, such as a cloud computing environment. In an embodiment, representation is generated based on the data schema."). Once again, the fact that Petitioner must go to expert testimony, an extrinsic reference, and a general dictionary to fill a gap in its case is telling, but even more telling is Petitioner's failure to show they amount to what is actually claimed. Conclusory expert testimony is no substitute for teachings in the asserted ground references.

b. Petitioner fails on the merits too

Claim limitation 1(f) requires *a representation of a computing environment*. As discussed in the previous section (§III.B.3.a), Petitioner relies on a Microsoft Active Directory service to provide this representation. Pet., 31-32. Beyond the improper gap-filling discussed above, the petition fails to explain why the information it alleges would be found in Microsoft's Active Directory would satisfy the *representation of a computing environment* requirement.

In addressing the limitation, the petition cites disclosure in the challenged Schindel'549 patent that Petitioner alleges is relevant to understanding the *security database* and *computing environment* aspects of this limitation. Pet., 30 (citing EX1001, 9:60-62, 8:42-45). However, the petition is silent as to whether that, or

any, disclosure is relevant to the representation of a computing environment requirement. *Id.*

The Schindel’549 patent does contain such relevant disclosure. For example, it explains “In an embodiment ... a representation is generated and stored in a security database. ... [t]he representation is based on a predefined data schema. For example, a first data schema is utilized to generate a representation of a resource, a second data schema is utilized to generate a representation of a principle, a third data schema is utilized to generate a representation of a cybersecurity object, etc.” 9:58-10:2; *see also, id.*, 14:34-36 (“in an embodiment, the data schema 524 is a unified data schema, which is utilized in generating a representation of a computing environment, such as a cloud computing environment.”). The specification goes on to describe a more specific example, explaining that “according to an embodiment, the representation is stored on a graph database, such as Neo4j®. In certain embodiments, a resource is represented by a resource node in the security graph, a principal is represented by a principal node in the security graph, etc.” *Id.*

Aside from introduction and conclusion sentences repeating the claim limitation at issue, the petition provides no analysis whatsoever as to how the cited evidence discloses a *representation of a computing environment*. The petition asserts:

... “Active Directory” is a Microsoft service and technology that ***stores information about*** the objects on the network, such as servers, network users, and computer accounts.

* * * * *

Active Directory [is] “a directory database” that ***includes data*** such as “***information*** regarding computing devices (e.g., computers and servers) that reside in the network, users of the network (e.g., authorized identities and valid credentials), directory sites, applications/services that make use of the network, network attributes/topology, organization hierarchy, etc.”

Pet., 31-32 (emphasis added). Petitioner does not connect the dots so it is difficult to know what it intended with this discussion, which does not identify anything as related to a representation of a computing environment. At best, this collection of information might be understood to read on a “unified data schema, which is utilized in generating a representation of a computing environment” rather than on the *representation of a computing environment* that is generated from such data and which is a claim element of 1(f). EX1001, 14:34-36.

The petition goes on to assert that Microsoft’s Active Dictionary “manages network security features like user permissions and passwords.” Pet., 20. Petitioner argues this indicates disclosure of “access to network information regarding the *computing environment*.” *Id.* But Petitioner does not address how information about a computing environment equates to or discloses a *representation of a*

computing environment. Once again, Petitioner invites the Board to draw an inference that Petitioner does not actually explain. This deficient approach to analyzing obviousness is improper and should not be rewarded.

This limitation appears in all three challenged independent claims, and Petitioner offers no separate argument for this limitation in claims 11 (“a representation of a computing environment”) and 12 (same). Pet., 46, 49. Hence, institution should be denied for these claims, and claim 1’s dependent claims and claim 12’s dependent claims, as well.

C. Inadequate Analysis of Expectation of Success

The petition provides a cursory analysis of reasonable explanation of success, asserting that both Peters and Lal “focus on widely understood and recognized cybersecurity systems and methods” and that a “POSITA would have understood that such processes could have been implemented ... without undue experimentation.” Pet., 17. While not explicitly argued as relevant to expectation of success, Petitioner goes on to make the related assertion, citing Dr. Zadok, that “[i]ncorporating Lal’s LLM [in]to Peters’ cybersecurity system would predictably result in the system becoming more automated and with less constant reliance on supervision by highly trained IT personnel.” *Id.*, citing EX1003, ¶102. These bald assertions fail to acknowledge known difficulties with LLM and AI technology, as well as Petitioner’s inconsistent positions taken in another IPR against a Wiz

patent.

First, neither Petitioner nor Dr. Zadok acknowledge, much less account for, unpredictable LLM behavior, such as hallucinations. *Snell v. United Specialty Ins. Co.*, 102 F.4th 1208, 1230 (11th Cir. 2024) (Newsom, J., concurring) (“First, the elephant in the room: What about LLMs' now-infamous ‘hallucinations’? Put simply, an LLM ‘hallucinates’ when, in response to a user's query, it generates facts that, well, just aren't true—or at least not *quite* true.”). Petitioner cannot shift to the Board or Wiz its burden of proving with evidence—rather than simply asserting—that the expectation of success is reasonable. *Rovalma, S.A. v. Bohler-Edelstahl GmbH*, 856 F.3d 1019, 1026 (Fed. Cir. 2017) (conclusory finding inadequate). Indeed, as shown in section III.B above, Petitioner fails to connect critical dots in its obviousness analysis, which suggests that if Petitioner could not do so, a skilled artisan would also be stymied.

Second, while Petitioner here argues that Lal’s LLM would be well-understood, implemented with ease, and would result in “less constant reliance on supervision by highly trained IT personnel,” Petitioner argues in IPR2025-01087 that AI systems are “difficult to audit” and “prone to adversarial attacks wherein an attack manipulates the AI model or data (incl. training or inference data) in a way that affects the model’s behavior and decision-making.” -1087 Pet., 11 (citing Lang, EX1006), 16-17 (“AI systems are ‘prone to adversarial attacks’” and

“‘highly proprietary’ and ... ‘a target for theft’” (same)). Even if these assertions are consistent with the cited prior-art disclosure in that IPR, that only serves to undermine Petitioner’s contentions in this IPR that an AI model such as an LLM would be well-understood, implemented without undue experimentation, and lead to predictable automation requiring less supervision.

IV. CONCLUSION

Petitioner has failed to make a facial case of unpatentability for any challenged claim, so institution is unwarranted and should be denied.

Respectfully submitted,

Date: September 26, 2025

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CERTIFICATION UNDER 37 C.F.R. §42.24(d)

I certify the word count for this reply is 4709 words, excluding any table of contents, table of authorities, mandatory notices, certificate of service or word count, and appendix of exhibits or claim listing.

Date: September 26, 2025

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CERTIFICATE OF SERVICE

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Date: September 26, 2025

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