

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 B1

Before KARL D. EASTHOM, NABEEL U. KHAN, and LISA A.
MURRAY, *Administrative Patent Judges*.

MURRAY, *Administrative Patent Judge*.

DECISION
Denying Institution of *Inter Partes* Review
35 U.S.C. § 314

I. INTRODUCTION

A. Background and Summary

Orca Security Ltd. (“Petitioner”) filed a Petition (Paper 1, “Pet.”) requesting institution of *inter partes* review of claims 1–5 and 11–16 of U.S. Patent No. 12,001,549 (“the ’549 Patent”). Wiz, Inc. (“Patent Owner”) filed a Preliminary Response (Paper 9, “Prelim. Resp.”). With the authorization of the Board, Petitioner filed a Preliminary Reply (Paper 11, “Prelim. Reply”), and Patent Owner filed a Preliminary Sur-Reply (Paper 12, “Prelim. Sur-Reply”).¹

An *inter partes* review may be instituted only if “the information presented in the petition . . . and any [preliminary] response . . . shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” 35 U.S.C. § 314(a). For the reasons given below, on this record, Petitioner has not established a reasonable likelihood that it would prevail in showing the unpatentability of at least one of the challenged claims. Accordingly, we decline to institute an *inter partes* review of the challenged claims.

B. Real Parties in Interest

Petitioner identifies Orca Security Ltd. as a real party in interest. Pet. 52. Patent Owner identifies Wiz., Inc. as a real party in interest. Paper 3, 1 (Patent Owner’s Mandatory Notices).

¹ Patent Owner also filed a Request for Discretionary Denial. Paper 7. Petitioner filed an Opposition to Patent Owner’s Request for Discretionary Denial. Paper 8. On October 17, 2025, an Order issued denying Patent Owner’s Request for Discretionary Denial and referring the matter to this Panel for consideration. Paper 10.

C. Related Matters

The parties identify the following pending litigation involving the '549 Patent: *Orca Security Ltd. v. Wiz, Inc.*, No. 1:23CV-00758 (D. Del.). Pet. 52; Paper 3, 1.

D. The '549 Patent

The '549 Patent issued on June 4, 2024 and is entitled “Cybersecurity Incident Response Techniques Utilizing Artificial Intelligence.” It is a continuation of App. No. 18/466,882 (filed on Sept. 14, 2023), which is a continuation-in-part of App. No. 18/457,054 (filed on Aug. 28, 2023). Ex. 1001, codes (21), (22). The '549 Patent claims a system and method for providing a cybersecurity incident response using a large language model (“LLM”). The method includes: using an LLM to map a received incident input into one of a plurality of scenarios, each containing a plurality of sub-scenarios; generating a query based on the received incident input and a selected sub-scenario; executing the query on a security database that includes a representation of the computing environment; and initiating a mitigation action based on a result of the executed query. *See* Ex. 1001 code (57).

E. Illustrative Claim

Petitioner challenges claims 1–5 and 11–16 of the '549 Patent. The independent claims are claim 1, a method claim, claim 11, which claims a non-transitory computer-readable medium, and claim 12, a system claim. Claims 11 and 12 are similar in scope to claim 1. *Compare* Ex. 1001, 19:35–53, *with id.* at 20:37–21:13. Claim 1, reproduced below with Petitioner’s parenthetical identifiers added (*see* Pet. 54), is representative of the challenged claims:

- 1(P) A method for providing cybersecurity incident response, comprising:
 - 1(a) receiving an incident input based on a cybersecurity event;
 - 1(b) generating a prompt for a large language model (LLM) based on the received incident input;
 - 1(c) configuring the LLM to generate an output based on the generated prompt;
 - 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*;
 - 1(e) generating a query based on the received incident input and the mapped scenario;
 - 1(f) executing the query on a security database, the security database including a representation of a computing environment; and
 - 1(g) initiating a mitigation action based on a result of the executed query.

Ex. 1001 at 19:35–53; Pet. 54 (*emphasis added to key term*).

F. Evidence

Petitioner relies on the following patent evidence.

Name	Patent Document	Exhibit
Peters	US 11,303,666 B1	1004
Lal ²	US 2024/0403428 A1	1005

Petitioner also relies on a Declaration of Erez Zadok. Ex. 1003.

² Petitioner relies on both the Lal patent publication (Ex. 1005) and on the corresponding provisional, US Prov. App. No. 63/472,227 (Ex. 1006), “the entire contents” of which are incorporated by reference in the Lal patent publication (Ex. 1005 ¶ 1). *See* Pet. 10 n.4 (“For purposes of this Petition, Petitioner cites primarily to the Lal Provisional Application (‘Lal’), though all disclosures are supported by the Lal Patent Publication.”).

G. Prior Art and Asserted Grounds

Petitioner asserts that claims 1–5 and 11–16 would have been unpatentable on the following ground:

Claim(s) Challenged	35 U.S.C. §	Reference(s)/Basis
1–5, 11–16	103	Peters, Lal

II. CLAIM CONSTRUCTION ANALYSIS

A. Legal Standards

In *inter partes* review proceedings, we interpret claims in the same manner used “in a civil action under 35 U.S.C. § 282(b), including construing the claim in accordance with the ordinary and customary meaning of such claim as understood by one of ordinary skill in the art and the prosecution history pertaining to the patent.” 37 C.F.R. § 42.100(b). Thus, we interpret the claim language as it would have been understood by one of ordinary skill in the art in light of the specification. *Wasica Fin. GmbH v. Cont’l Auto. Sys., Inc.*, 853 F.3d 1272, 1279–80 (Fed. Cir. 2017); *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312–13 (Fed. Cir. 2005) (en banc).

B. The Parties’ Claim Construction Positions

In the related district court litigation, the parties have proffered the following constructions for two terms of the ’549 Patent:

Term/Phrase	Petitioner’s Proposed Construction	Patent Owner’s Proposed Construction
“wherein each scenario is associated with an incidence response”	Indefinite	“incidence” should read “incident”. Otherwise, no construction necessary.

Term/Phrase	Petitioner's Proposed Construction	Patent Owner's Proposed Construction
“based on”	“dependent on”; the limitations of claims 1, 11 and 12 must be performed in order	No construction necessary. Alternatively, “influenced by”; the limitations of a method claim are not required to be performed in order.

See Pet. 5; Ex. 1010, 14–15.

In this proceeding, Petitioner states that “[b]ecause the proposed ground below renders the Challenged Claims obvious under each party’s proposed construction of ‘based on,’ and under Patent Owner’s Proposed Construction of ‘wherein each scenario is associated with an incidence response,’ Petitioner does not contend that any claim construction is necessary.” Pet. 5–6; *see also id.* at 25 n.6 (“For the sake of this Petition only, Petitioner accedes, *arguendo*, in Patent Owner’s contention that ‘incidence’ should be read as ‘incident’ in this claim.”).

Patent Owner argues that “[n]o constructions are necessary to deny institution because denial is warranted for numerous reasons that do not depend on claim construction[.]” Prelim. Resp. 3. Patent Owner further argues that the Petitioner’s approach to claim construction is fundamentally flawed:

Petitioner contends the word “incidence” is indefinite. 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. . . . Nor has Petitioner identified this as a case where, even though the claim is indefinite, the art might nevertheless be applied. . . .

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.

Id. at 13–14 (citations omitted).

C. Our Analysis

We agree with Patent Owner that Petitioner has taken inconsistent positions on claim construction in district court and before the Board, specifically regarding the term “wherein each scenario is associated with an incidence response.” We further agree that Petitioner has not provided an adequate reason why it should be permitted to do so. We determine that this is a sufficient basis for denying institution, for the reasons set forth below.

The Board has recently clarified that “[s]imply noting that the petitioner is adopting a patent owner’s claim construction proposals from district court . . . is not a sufficient reason for advancing different positions in the two forums.” *Revvo Techs., Inc. v. Cerebrum Sensor Techs, Inc.*, IPR2025-00632, Paper 20, 5 (PTAB Nov. 3, 2025) (precedential). In *Revvo*, as in this case, the petitioner did not propose its own constructions for claim terms in the Petition, but instead accepted the patent owner’s proposed constructions from the related district court litigation. *Id.* at 2. Although the petitioner had proposed different constructions for the claim terms in district court, it did not explain why it was taking a different position before the Board. *Id.* The Board’s trial rules “do not necessarily prohibit petitioners from taking inconsistent claim construction positions before the Board and a

district court,”³ but when this occurs “the petitioner should, at a minimum, explain why alternative positions are warranted.” *Revvo*, Paper 20, 3–4 (quoting *Cambridge Mobile Telematics, Inc. v. Sfara, Inc.*, IPR2024-00952, Paper 12 at 8–9 (PTAB Dec. 13, 2024) (informative)). Petitioner has not sufficiently done so here.

Moreover, the fact that Petitioner cannot raise its indefiniteness challenge in an *inter partes* review is not a sufficient reason to allow Petitioner to take inconsistent claim construction positions before the Board and the district court. *Tesla, Inc. v. Intellectual Ventures II LLC*, IPR2025-00340, Paper 18, 3 (Nov. 5, 2025) (informative). As explained in the Board’s *Tesla* decision:

Petitioner’s statement that it cannot raise indefiniteness challenges in an *inter partes* review is not a sufficient explanation. Indeed, the statement amounts to an assertion that a petitioner should be permitted to raise inconsistent invalidity challenges in the two forums.

Petitioner’s explanation may have risen to a sufficient level, for example, if Petitioner had shown that, notwithstanding the alleged indefiniteness of the claim term, an ordinarily skilled artisan would understand that the asserted art satisfies the claim limitation (such as if the limitation prescribed a range and only the outer bounds of the range were unclear). Instead, Petitioner argued indefiniteness in the district court and then adopted Patent Owner’s plain and ordinary meaning construction from the district court litigation in its Petition. Allowing a petitioner to advance a claim construction before the Board when that petitioner has made inconsistent indefiniteness arguments in

³ “For example, if a party advances a narrow construction in the district court and the district court declines to adopt the narrow construction, the party would have sufficient reason for advancing the broader, court-adopted construction in a proceeding before the Board.” *Revvo*, Paper 20, 5 (quoting *Sun Pharm. Indus. Inc. v. Nivagen Pharm., Inc.*, IPR2025-00893, Paper 18, 3 (PTAB Sept. 19, 2025)).

district court fails to further, but instead detracts from, the Office’s goal of “providing greater predictability and certainty in the patent system.”

Tesla, Paper 18, 3–4 (quoting *Revvo*, Paper 20 at 4–5).

Petitioner’s claim construction strategy in this proceeding is the same as the strategy pursued by the petitioners in *Revvo* and *Tesla*. *See* Pet. 25 n.6 (“For the sake of this Petition only, Petitioner accedes, *arguendo*, in Patent Owner’s contention that ‘incidence’ should be read as ‘incident’ in this claim.”). For the reasons set forth in those decisions and summarized above, denial of institution is appropriate in this case.⁴

III. CONCLUSION

We determine that Petitioner has not demonstrated a reasonable likelihood that it would prevail in showing that at least one claim of the ’549 Patent is unpatentable.

IV. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that the Petition is denied as to all challenged claims of the ’549 Patent.

⁴ Patent Owner has advanced additional arguments in favor of denying institution. Prelim. Resp. 3–22. Because we agree with Patent Owner that the issue of Petitioner’s inconsistent claim construction positions is dispositive, we need not reach the merits of Patent Owner’s other arguments. *See Beloit Corp. v. Valmet Oy*, 742 F.2d 1421, 1423 (Fed. Cir. 1984) (finding an administrative agency is at liberty to reach a decision based on “a single dispositive issue”).

IPR2025-01086
Patent No. 12,001,549 B1

FOR PETITIONER:

Robin A. Snader
Eric A. Buresh
Christopher R. Schmidt
Kathleen Fitterling
ERISE IP, P.A.
robin.snader@eriseip.com
eric.buresh@eriseip.com
kathleen.fitterling@eriseip.com
chris.schmidt@eriseip.com

FOR PATENT OWNER:

Matthew A. Argenti
Michael T. Rosato
Wesley E. Derryberry
Joseph M. Baillargeon
WILSON SONSINI GOODRICH & ROSATI
margenti@wsgr.com
mrosato@wsgr.com
wderryberry@wsgr.com
jbaillargeon@wsgr.com