IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ARENDI S.A.R.L.,	)	
	)	
Plaintiff,	)	C.A. No. 13-919-LPS
	)	
v.	)	**JURY TRIAL DEMANDED**
	)	
GOOGLE LLC,	)	**PUBLIC VERSION**
	)	
Defendant.	)	

DEFENDANT GOOGLE LLC'S ANSWERING BRIEF TO PLAINTIFF'S MOTION TO EXCLUDE PORTIONS OF DR. MARTIN RINARD'S EXPERT REPORT

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Defendant Google LLC ("Google"), by this Answer, responds to and opposes Arendi S.A.R.L.'s ("Arendi") motion to exclude portions of the expert report of Google's expert Dr. Martin Rinard (D.I. 269 ("Arendi's Motion"); 270 ("Arendi's Brief")). For the reasons explained herein, Arendi's Motion should be denied.

NATURE AND STAGE OF THE PROCEEDINGS

On August 19, 2019, the Court construed certain claim terms of asserted U.S. Patent No. 7,917,843 ("'843 Patent"). D.I. 143, 144. On December 13, 2019, fact discovery closed. D.I. 174. On October 20, 2020, Google served Dr. Rinard's expert report, in which he opines that the accused Google products do not infringe the asserted claims of the '843 Patent. D.I. 271, Ex. 1. On December 18, 2020, Arendi deposed Dr. Rinard concerning the contents of his expert report. D.I. 271, Ex. 3. On January 22, 2021, expert discovery closed. D.I. 210.

On February 1, 2021, more than three months after Arendi received Dr. Rinard's report and over six weeks after Dr. Rinard was deposed, Arendi for the first time notified Google of Arendi's view that Dr. Rinard's report offered improper claim constructions. Ex. 1.

On March 5, 2021, Google moved for summary judgement of non-infringement on five independent grounds.[1] D.I. 275. On that same day, Arendi filed the present motion.[2]

SUMMARY OF ARGUMENT

Arendi's Motion and Brief incorrectly describe the scope and content of the non-infringement report of Google's non-infringement expert, Dr. Rinard, in an effort to suggest that

[1] Only one of the four claim terms raised in Arendi's Motion ("to determine if the first information is at least one of the plurality of types of information that can be searched for") forms the basis of a non-infringement argument in Google's motion for summary judgment. D.I. 276, Section VI.B.

[2] Arendi's Motion is substantially identical to the Motion to Exclude Portions of Dr. Rinard's Expert Report that Arendi filed in the related *Arendi SARL v. Motorola Mobility LLC* (C.A. No. 12-1601-LPS) case. Accordingly, the present Answer filed here by Google to Arendi's Motion is similar to that filed by Motorola in the 12-1601 litigation.

Dr. Rinard is somehow engaging in prohibited claim construction. But careful consideration of Dr. Rinard's actual report and opinions demonstrate that for each claim term raised in Arendi's Motion, Dr. Rinard either (1) properly applies the term consistent with the Court's construction, or (2) appropriately applies the plain and ordinary meaning for an unconstrued term. To the extent that Arendi and its infringement expert, Dr. Smedley, disagree with Dr. Rinard's ultimate non-infringement opinions, such disagreements are properly presented to and resolved by the fact-finder, not through an untimely motion to exclude, as Arendi now attempts. *See Power Integrations, Inc. v. Fairchild Semiconductor Int'l, Inc.*, 763 F. Supp. 2d 671, 695 (D. Del. 2010).

First, as to the term "analyzing . . . to determine if the first information is at least one of a plurality of types of information that can be searched for in order to find second information related to the first information," Dr. Rinard indisputably applies the Court's construction of the term, including the Court's explicit requirement that the "can be searched for" determination be made with reference to "an information source external to the document." Arendi's challenge to Dr. Rinard's non-infringement opinions regarding this element ignores the explicit language of the '843 Patent claims and seeks to rewrite the Court's construction to eliminate the phrase "that can be searched for in an information source external to the document." There simply is no basis to exclude Dr. Rinard's opinions on this element.

Second, as to the element "analyzing, in a computer process, first information in a document," Dr. Rinard applies the plain and ordinary meaning of the element, taking into consideration the Court's explicit definition of "first information." Arendi's complaint that Dr. Rinard's opinion excludes analysis of passages that include more than the "first information" (and that may include many instances of potential "first information") ignores the clear claim language and effectively seeks to rewrite the claim element to read "analyzing, in a computer process, text

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