

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ARENDI S.A.R.L.,

Plaintiff,

v.

GOOGLE LLC,

Defendant.

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C.A. No. 13-919-JLH

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**PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION FOR
CLARIFICATION OF CLAIM CONSTRUCTION AND MOTION TO STRIKE**

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Defendants take a persistent approach to claim construction. If at first they don't succeed, they try, try (wait for a new judge), and try again. The Court construed the disputed limitation in August 2019; and the Court confirmed the plain and ordinarily meaning of its construction in March 2022, when ruling on both summary judgment and *Daubert* motions. Those latter motions briefed the exact issue Defendants rehash now, and the Court settled that issue decisively:

While the eligible “predefined categories” of information must be categories “that can be searched for in an information source external to the document,” the Court’s construction does not require that the searchability determination of the first information must be made by the accused infringing products while performing this step of the claimed process. The contrary interpretation of the term would effectively read the word “predefined” out of the Court’s construction. ***In other words, “the phrase ‘that can be searched for’ modifies the allowable ‘predefined categories’ and does not specify a distinct determination to be made.”***

Dkt. 400 at 6-7 (emphasis added). As a result, the Court denied Defendants’ motion for summary judgment, and the Court ordered Defendants’ technical expert be “***precluded from testifying that the Accused Devices or Accused Apps do not satisfy the claim limitation because they do not determine the searchability of the first information.***” *Id.* at 7 (emphasis added).¹

Defendants ignore the procedural rules and substantive rulings of this Court. They filed their motion, without seeking leave, in violation of the Court’s scheduling order, which required claim construction briefing to conclude by summer 2019. Their motion also violates Local Rule 7.1.5(a), which limits motions for reargument to 10 pages filed within 14 days of the Court’s challenged order, whether viewed vis-à-vis the Court’s August 2019 claim construction order or its March 2022 summary judgment and *Daubert* orders. And, in a baseless attempt to invoke *O2 Micro*, they pretend the Court has addressed determining searchability *only* “while the document

¹ This brief and Exhibit 1 contain materially the same argument and evidence as those filed in opposition to the same motion in *Arendi S.A.R.L. v. Motorola Mobility LLC*, C.A. No. 12-1601-JLH. Arendi has filed separate versions in the two cases because each version incorporates material from sealed filings in its respective case.



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