

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

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

**LETTER TO THE HONORABLE JENNIFER L. HALL FROM DAVID E. MOORE
IN OPPOSITION TO PLAINTIFF'S FURTHER LETTER ON PRIOR ART ESTOPPEL**

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Dated: April 17, 2023

Dear Judge Hall:

Arendi's last-minute request for a hearing on its letter motion regarding IPR estoppel is a further unnecessary distraction on the eve of trial and was entirely avoidable. Such a hearing is not needed or warranted.

It was incumbent on Arendi, as the party with the burden of invoking and demonstrating estoppel, to raise the issue in a timely fashion if it was going to attempt to make an estoppel case in the wake of Judge Stark's summary judgment denial. Arendi *knew* months ago, through the parties' pretrial exchanges—as its proposed final jury instructions show, *see* D.I. 452 at 38—that Google would pursue at least anticipation by the prior art CyberDesk system at trial. Arendi could have raised the purported estoppel of CyberDesk and any related combinations through a timely motion *in limine* weeks ago, but it chose not to. Its suggestion that it needed to wait for Google's disclosure of narrowed prior art grounds to seek an estoppel ruling from the Court is plainly false. Arendi should not be permitted to tactically disregard the Court's pretrial scheduling orders and procedures.

As explained in Google's April 13, 2023 response letter (D.I. 462), the case history, existing rulings, law, and available record make it clear that Arendi has forfeited its arguments as untimely and improper (despite its assertion that it is not merely seeking reargument) and that, on the merits, estoppel cannot apply to CyberDesk. The Court should so hold, rather than rewarding Arendi's delay and pretrial tactics by providing it with a further, inappropriate opportunity to rehash estoppel through oral argument and to frustrate Google's trial preparation efforts.

Respectfully,

/s/ David E. Moore

David E. Moore

DEM:nmt/10760196

cc: Clerk of the Court (via hand delivery)
Counsel of Record (via electronic mail)