# EXHIBIT A

A. Yes.
Q. And I think that the questions were -- you filed a litigation against Microsoft; is that correct?
A. Yes.
Q. And then the question was: How did it end? And you said you -- they took a license; is that right?
A. Yes, I did.
Q. There was a lot of litigation that happened between those two things, correct?
A. Yes.
Q. There was at least one trial that went on, correct?
A. I didn't hear you.
Q. There was at least one trial that went on between you and Microsoft?
A. We had one trial against Microsoft, correct.
Q. And you had filed -- you had -- how long was the litigation going on before you signed an agreed -- settlement agreement with Microsoft?
A. This agreement is -- was based on -- was after suit against -- filing against Microsoft 2009.
Q. So, approximately two years of litigation had been going on when you signed this agreement with Microsoft; is that correct?
A. Yes. No trial in that litigation.
Q. And on the front page of this agreement, we see a



number of recitals, correct?
A. We do.
Q. And in particular, let's look at Recital D, "Microsoft has denied infringement of the Asserted Patents and the European Patent and has also challenged the validity thereof. Microsoft has also filed, on 26 July 2006, an opposition in the EPO for the European Patent (the EPO proceeding)." Unquote.
Do you see that?
A. I do.
Q. So am I correct that at the time this agreement was signed, Microsoft was both denying infringement of the patents and challenging the validity of the patents?
A. Agree what it says there, yes.
MR. UNIKEL: And if we can look at Subpart A of the recitals, please.
BY MR. UNIKEL:
Q. Am I correct we see there three U.S. patent numbers listed, correct?
A. Yes.
Q. One of those is the '843 patent, right?
A. Correct.
Q. And then there's also at least one European patent that's mentioned in that paragraph, correct?
A. There's one European patent, right.



Q. Do you recall how many total patents were licensed by Arendi to Microsoft as part of this agreement?
A. Everything that's in the agreement. So those patents, I don't know if there's an appendix with more. I don't know.
Q. And do you happen to know which of the patents Microsoft was most interested in or concerned about when they signed this agreement?
A. Nothing we discussed.
Q. And, sir, Microsoft paid you $30 million under this agreement, correct?
A. Correct.
Q. And you don't know how much of that $30 million was attributable to the '854 patent which is listed up there; is that right?
A. Correct.
Q. You don't know how much of that $30 million was attributable to the European patent that is listed up there, correct?
A. Correct.
MR. UNIKEL: I have only a few questions left, but we can unseal the courtroom if you would like, Your Honor.
THE COURT: Thank you very much.
Ms. Garfinkel, unseal the courtroom.



MR. DIEHL: Your Honor, just as a note on that, on redirect, I can go right back into his licenses and we can unseal after that. I am happy to have it unsealed now and I can talk about other things and then go into licenses, but if we are going to redirect soon, it could make sense just to keep it sealed.
THE COURT: Let's unseal the courtroom. Thank you, Counsel.
MR. DIEHL: Yes.
* * *
(Whereupon, the sealed discussion concludes.)
THE COURT: The courtroom is unsealed.
Please proceed.
BY MR. UNIKEL:
Q. Sir, am I correct that at no time before filing this lawsuit in 2013 did you ever tell Google that they were infringing any patents of Arendi's?
A. That's correct.
Q. The first time that you would have alerted Google to the fact that you thought they were infringing any patents was when you filed the lawsuit in 2013; is that right?
A. Correct.
Q. And you made a conscious decision not to reach out to Google; is that right?
A. Yes.

Q. And you made that conscious decision together with your lawyers not to alert Google; is that right?

A. Yes.

**MR. UNIKEL:** Your Honor, that's all I have.

**THE COURT:** Thank you very much.

Redirect.

**MR. DIEHL:** Your Honor, I will start with the licenses, since that was the last thing I did.

**THE COURT:** Okay.

**MR. DIEHL:** I'm sorry to do it.

**THE COURT:** I'm going to ask Ms. Garfinkel to seal the courtroom.

The courtroom has been sealed.

* * *

(The following discussion is held under seal:

**MR. DIEHL:** Thank you, Your Honor.

REDIRECT EXAMINATION

**BY MR. DIEHL:**

Q. Mr. Hedloy, I want to start talking about the license agreements that counsel for Google just walked you through. I'll start with the Apple license.

Do you recall that counsel for Google pointed out a clause in there -- I think it was two clauses -- where Apple denied infringing the '843 patent and denied the validity of the '843 patent?



A. Yes.

Q. And Apple, despite denying infringement invalidity, still paid $15 million; is that correct?

A. That is correct.

**MR. DIEHL:** Now, I want to move to the Samsung agreement that was PX-76, if we can put that on the screen. I'm sorry, not 76. Let's take that down. PX-77. Yes. PX-77.

**BY MR. DIEHL:**

Q. Now, conspicuously, when Google was walking you through this document, did Google happen to point out any denial of infringement by Samsung?

A. Not that I recall.

Q. Did Google happen to point out any denial of validity by Samsung?

A. Not that I can remember.

Q. Now, do you recall during the opening statement that Google gave, it said that all of the licensees who took a license from Arendi actually did deny infringement and validity?

A. I do.

Q. So was Google accurate when it was saying that Samsung as one of the licensees, denied infringement and denied validity?

A. No.



Q. That was incorrect?

A. That was incorrect.

Q. Now, in your experience, Google pointed out that some of these licenses related to multiple patents.

Do you recall that?

A. I do.

Q. In your experience, is it normal when two companies come together for a license agreement, to have that license applied to the full portfolio of intellectual property that the licensing entity owns?

A. Yes.

Q. Now, I want to look at Section 2.1 of the Samsung agreement. Again, that was 77, PX-77. Mr. Hedloy, this is a grainy version of this document, but I think we can make due.

Do you recall Google asking you about this provision?

A. Yes.

**MR. DIEHL:** Thank you, Mr. Boles.

**BY MR. DIEHL:**

Q. And Google in particular pointed out a sentence here that begins on the fourth line, toward the end of fourth line, "Licensor, on behalf of itself and its affiliates, agrees that the license granted to licensee and its affiliates under this section permits licensee and its affiliates and their distributers, wholesalers, resellers,



retailers, and customers to sell or use any licensed product."

My question is, did Arendi intend to extend this license that it entered with Samsung to Google as either a customer or a retailer or a reseller or a wholesaler or a distributer?

A. No.

Q. That was not your intent at the time of entering the Samsung agreement?

A. No, of course not. We had only sued Google the way to license that to Samsung.

Q. And let's move to the other one that Google looked at with you, which was Section 3.1 of the agreement.

Now, Google emphasized a particular wording here "supplier," and here, this says that -- so we'll start on the second line: "Arendi hereby releases forever discharges licensee and its affiliates, including their officers, directors, attorneys, employees, and together with their suppliers, distributers, wholesalers, resellers, retailers, and customers from any or all claims in connection with any licensed product."

My question, again, here, did Arendi intend to license Google when it was doing this agreement with Samsung as a supplier of Samsung?

A. No.

**MR. UNIKEL:** Objection, Your Honor.

**THE COURT:** Overruled.

**THE WITNESS:** No.

**BY MR. DIEHL:**

**Q.** Now, during the negotiations with Samsung, did Samsung say anything about releasing Arendi's claims against Google that were there pending in a separate lawsuit against Google?

**A.** No.

**Q.** And, Mr. Hedloy, I believe when you were answering one of questions that Google's counsel asked, you started to say something about pre-installed applications versus user-installed applications.

Can you explain that further?

**A.** Well, there is a difference, because what we had sued Samsung for was what they sold, which would be their -- I'm going to take -- I'm -- I was sorry. Can I?

**THE COURT:** Yes.

**THE WITNESS:** I was trying to avoid coughing so much, but...

**BY MR. DIEHL:**

**Q.** No problem.

**A.** So what we accused Samsung of was what they sold, which was their tablets and cell phones with pre-installed applications. We did not accuse them of infringing on



what they didn't have anything to do with, which was what was downloaded afterwards.

**Q.** So did Arendi intend to license, in the Samsung agreement, Google apps that a user of a Samsung phone might download onto that phone after buying the Samsung phone?

**A.** No.

**Q.** And then I believe the last license that Google's counsel looked at with you was the Microsoft license. And, again, Google's counsel pointed out there that Microsoft did deny infringing Arendi's IP.

Do you recall that?

**A.** I do.

**Q.** And what did Microsoft ultimately pay despite that denial?

**A.** $30 million.

**Q.** And Google's counsel also asked the question about whether Arendi made a conscious decision with its counsel not to alert Google that it suspected Google was infringing the '843 patent.

Do you recall that question?

**A.** I do.

**Q.** Did you have concerns about what Google would do if Arendi came to Google and brought that allegation to it outside of the context of a lawsuit?



**A.** Yes.

**Q.** And did you have concerns about Google taking legal action of its own in response to that kind of allegation?

**A.** Yes.

**MR. DIEHL:** Now, Your Honor, I think we can unseal the courtroom at this point.

**THE COURT:** All right.

Ms. Garfinkel, please unseal the courtroom.

(Courtroom unsealed.)

**THE COURT:** The courtroom has been unsealed.

Please proceed.

**MR. DIEHL:** Thank you, Your Honor.

**BY MR. DIEHL:**

**Q.** Okay. Next subject. I want to get -- just go back into the issue of the efforts that Arendi made to provide information to the Patent Office.

**A.** Yes.

**Q.** And do you recall that Google asked you a number of questions about that process?

**A.** I do.

**Q.** And I'd like to look back at what was Exhibit DTX-2, which is a record of things that happened before the Patent Office.

Do you recall talking about this exhibit with Google's counsel?



**A.** Yes.

**Q.** Okay. In particular, we looked at Page 180 of this document. Do you recall -- look at Pages 180 and 181, if we can look at both of those on the screen.

And here, Google's counsel pointed to a particular sentence that begins at the end of Page 180, "Applicant" -- Arendi -- "notes that application Serial No. 12,841,302 n(also before the Examiner) and the prior art references analyzed in the Accelerated Examination Support Document (AESD) of July 22, 2010 are of particular interest in relation to the present application."

Do you recall questions about this?

**A.** I do.

**Q.** So what was the reason for alerting the Patent Office about this?

**A.** Well, it was that the -- we wanted to make sure that he -- we didn't withhold anything. So that's why we alerted him to it. So we said those references should also be looked at.

**Q.** Now, those references, you were pointing up to the -- specifically to the prior art references analyzed in the Accelerated Examination Support Document; is that fair?

**A.** Yes. We should look at those prior art references.

**Q.** Those prior art references.

And then the Accelerated Examination Support

from Professor Edward Fox, who is a long-time professor in the industry at Virginia Tech, extremely accomplished. He's studied the invention. He has studied the patent. He has studied what was said to the Patent Office, and he has studied the prior art systems: CyberDesk, Apple Data Detectors, Microsoft Word.

And what he's going to tell you and explain to you is that if Arendi is correct that its patent covers Approach 2, it covers the use of separate instructions from the apps, then it covers CyberDesk and Apple Data Detectors, because those did all the same shortcuts, they presented users with all the same options, but they did it with separate instructions rather than the self-contained instructions that are required by the claims.

And if at the end of case, you really believe that the patent is broad enough to cover Google's products, which use separate instructions from the apps, then you're going, I think, have to see that it also covers systems that existed well before Mr. Hedloy ever filed for his patent application.

So by the end of the trial, I think you're going to see that Google's accused products do not perform two critical elements of the '843 patent. Those that specifically require actions from the first computer program. They don't provide an input device that's



configured by the first computer program, and they do not satisfy the inconsequence of receipt by the first computer program of the user command from the user device causing a search element.

And as you just heard, it's Arendi's burden to prove infringement. If -- the evidence will show you that Google went a different approach. They went right; Arendi went left. And Arendi will not, we believe, be able to show that there's infringement of these elements by Google's use of an opposite technological approach.

When you look under the hood, when you really consider how Arendi's patent invention needs to work and how Google's products actually do work, I think you're going to see they're very different approaches, even if the user might see food on their table at the end of the day.

Now, we get back to the question, what exactly did Arendi invent? Because it's only what they actually added that's new that they can ask for money based on.

So the question you're going to be asked is, is there infringement? Is the patent valid? If you find there's no infringement, if you find the patent is not valid because it should not have issued in light of CyberDesk or Apple Data Detectors, then you'll never have to consider damages in this case.



Only if you find that we have infringed and only if you find that the patent is valid will you have to consider the question: If Google used Arendi's approach, how much was it really worth to Google?

Once again, you're going to hear that their invention was to put all of the instructions inside a single computer program. Google went a different way and put the instructions outside of any specific computer program.

So it raises the question of how much would Google pay for a technology that was the opposite of what it wanted, that did the exact opposite thing of how it wanted to construct its systems. And Arendi, as you've seen, wants more than $40 million from Google for the period from December 2017 to November 10, 2018, 11 months, for Google's use of a technology that it didn't want, that it didn't need, and, frankly, that it wanted the opposite of.

But if you ultimately get to consider damages, despite the fact that we went one way and they went the other, you're going to hear from an expert by the name of Douglas Kidder. He is a gentleman who has 30-plus years in the area of patent damages and financial damages analysis. And you're going to hear from him about what the appropriate way to consider the possible value to



Google of this would have been.

There's a little context, though, that I would like you to consider. Before Arendi filed this suit, it did not contact Google in any way about the patent. It didn't send us a letter. It didn't call us on the phone. Not a single contact to say: I have this patent. I think you might be interested in it, or I think you might be using the technology.

Now, remember, when they filed suit in 2013, there's not a single product that's being accused of infringement from that period of time. There's not a single product right now, from 2013 to 2017, that's being accused of infringement in this case, and yet they didn't reach out to us before they filed suit to say: We think you're infringing or we think you're using our patent; you might want a license.

As you will hear, since the year 2000, Arendi's company's only business is getting patents and enforcing patents. Since the year 2000, they do not make any products, they do not sell any products, they have not tried to develop any products.

And as you will see, from the moment that they filed suit against Google, Google has defended itself at all times on the basis that it doesn't use the technology, it does not want the technology, and it wants to go in a

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