

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

ARENDI S.A.R.L.,	)	
	)	
Plaintiff,	)	C.A. No. 13-919-JLH
	)	
v.	)	<b>Original Version Filed: April 20 2023</b>
	)	
GOOGLE LLC,	)	<b>Public Version Filed: April 27, 2023</b>
	)	
Defendant.	)	
	)	

**LETTER TO THE HONORABLE JENNIFER L. HALL FROM NEAL BELGAM  
REGARDING GOOGLE'S REQUEST FOR RE-ARGUMENT OF SAMSUNG LICENSE**

*Of Counsel:*

SUSMAN GODFREY LLP  
Seth Ard (*pro hac vice*)  
Max Straus (*pro hac vice*)  
1301 Avenue of the Americas, 32<sup>nd</sup> Floor  
New York, NY 10019  
sard@susmangodfrey.com  
mstraus@susmangodfrey.com

John Lahad (*pro hac vice*)  
1000 Louisiana Street, Suite 5100  
Houston, TX 77002-5096  
jlahad@susmangodfrey.com

Kalpana Srinivasan (*pro hac vice*)  
1900 Avenue of the Stars, Suite 1400  
Los Angeles, CA 90067  
ksrinivasan@susmangodfrey.com

Kemper Diehl (*pro hac vice*)  
401 Union Street, Suite 3000  
Seattle, WA 98101-3000  
kdiehl@susmangodfrey.com

Dated: April 20, 2023

SMITH, KATZENSTEIN & JENKINS LLP  
Neal C. Belgam (No. 2721)  
Daniel Taylor (No. 6934)  
1000 West Street, Suite 1501  
Wilmington, DE 19801  
(302) 652-8400  
nbelgam@skjlaw.com  
dtaylor@skjlaw.com

*Attorneys for Plaintiff Arendi S.A.R.L.*

Dear Judge Hall:

Google asks this Court, once again, to dismiss 42% of Arendi's claims against Google, on the eve of trial, and years after the applicable summary judgment deadline. The Court rejected this exact argument two weeks ago because it was an untimely summary judgment motion:

[L]et's start with Google's Motion to Strike Portions of Mr. Weinstein's supplemental expert report regarding damages. I reviewed the parties' submissions on that. The Court's ruling is that Google's motion is going to be denied. I disagree with Google that the dispute was properly brought as a motion to strike.

I agree with Arendi that what Google essentially seeks is a pretrial ruling that infringement is licensed when the accused apps are on Samsung devices and that's an issue that, in my view, should have been appropriately raised as a motion for partial summary judgment. And, of course, the deadline for filing those motions has long passed.

D.I. 469, Ex. 1, at 4-5. This ruling was correct for all the reasons set forth in Arendi's original letter on this issue. D.I. 426.

Google improperly seeks reconsideration of this Court's ruling during the pre-trial conference, without citing or even attempting to meet the high standards for re-argument in this District. *See In re Sensipar (Cinacalcet Hydrochloride Tablets) Antitrust Litig.*, No. 19-MD-2895-CFC, 2023 WL 2810061, at \*2 (D. Del. Apr. 6, 2023) (denying motion for re-argument where party failed to show any of the three grounds for reconsideration). Far from supporting re-argument, the only two cases Google cites relating to patent licenses *confirm* this Court was correct in determining that Google's motion "should have been appropriately raised as a motion for partial summary judgment." *See Oyster Optics, LLC v. Alcatel-Lucent USA, Inc.*, 816 F. App'x 438, 439 (Fed. Cir. 2020) (license issue decided at summary judgment); *Quanta Comp., Inc. v. LG Elecs., Inc.*, 553 U.S. 617, 628–30 (2008) (same). And of course, any such motion for summary judgment was due and waived long ago.

On the merits, Google's position is meritless and completely divorced from Arendi's and Samsung's intent, which controls. A stranger to a contract does not get to dictate what the contract means or says. Rather than repeating those arguments, Arendi incorporates its previous responses on these exact issues. D.I. 426.

Without citation to any authority, Google argues that this Court must resolve whether the contract is ambiguous *pretrial*, simply because whether a contract is ambiguous is for the Court to decide. That is a *non-sequitur* argument. Courts decide legal issues all the time at the charging conference, during trial, even though those legal issues are purely for the Court to decide. The same should be done here.

Google did not propose any jury instructions on this issue, nor did it preserve this defense in its Answer, which it never amended after the Samsung license. To the extent the issue is not waived, the proper course is for the parties to present this issue at the charging conference and the Court to rule then. On the merits of what the Agreement means, there are three possibilities: the

contract is unambiguous in Arendi's favor; it is ambiguous; or it is unambiguous in Google's favor.<sup>1</sup> An appropriate jury instruction can be crafted at the charging conference to reflect any of those rulings.

Respectfully,

*/s/ Neal C. Belgam*

Neal C. Belgam (No. 2721)

cc: Clerk of Court (via CM/ECF)  
All Counsel of Record (via CM/ECF)

---

<sup>1</sup> Contrary to Google's suggestion, the fact that the parties take opposite views on what the contract unambiguously means does not mean the contract is unambiguous. Arendi's position is that the contract is either unambiguous in its favor or that it is ambiguous. *See* D.I. 426.