

**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,)	PUBLIC VERSION
)	
Defendant.)	

**JOINT LETTER TO THE HONORABLE JENNIFER L. HALL FROM
DAVID E. MOORE REGARDING DEPOSITION DESIGNATIONS**

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April 21, 2023

Dear Judge Hall:

The parties jointly request the Court's assistance in resolving objections relating to the Anind Dey and James Miller deposition designations, counter-designations, proposed exhibits, and related objections. These are the only two sets of deposition designations that either party intends to introduce at trial. The parties are presenting them early given the length of the deposition designations to ensure the Court is given adequate time to address these issues.

Accordingly, please find attached the Anind Dey and James Miller deposition transcripts, indicating Google's designations, Arendi's counter-designations, and the parties' objections and positions (Exhibits 1-2); for each witness, a spreadsheet listing the parties' deposition designations, counter-designations, objections, and positions (Exhibits 3-4); and a spreadsheet listing Google's proposed exhibits, Arendi's objections, and the parties' positions (Exhibit 5). Google also includes a key for its various objections (Appendix A).

Notably, many of the parties' objections are common across various deposition designations and exhibits. To avoid burdening the Court with repetitive objections, the parties provide the following positions referenced in the exhibits as indicated:

Google

- IPR Estoppel and associated 401, 402, 403, and Relevance objections: IPR estoppel does not apply to CyberDesk or Apple Data Detectors – this is no basis to exclude the designated testimony or related exhibits, especially as Arendi has not asserted IPR estoppel as to Apple Data Detectors and thus has waived any basis to object on that ground. Moreover, this issue has already (again) been presented by Arendi to the Court as to CyberDesk.
- Untimeliness objections: Many of Arendi's counter-designations were *never before* disclosed, including in Arendi's objections filed with the parties' joint pretrial order. Arendi may not insert brand-new objections at this late stage, well after its deadlines to disclose objections.

Arendi

- IPR Estoppel and associated 401, 402, 403, and Relevance objections: Arendi objects to Anind Dey's designated testimony as estopped under 35 U.S.C. § 315(e) because Google's designations cover testimony cumulative of printed publications about CyberDesk that Google knew about when it filed its IPR petition. Dr. Dey's testimony was specifically about those publications—not a “system” that he actually presented at his deposition or that the jury will see at trial. No such system exists. To any extent Dr. Dey's testimony expands upon the printed publications, it is improper as uncorroborated and more prejudicial than probative under Rule 403.
- Untimeliness objections: Google's untimeliness objections relate to counter-designations Arendi timely disclosed and that were included in the March 27, 2023, proposed pre-trial order at Exhibit 5D. D.I. 424. They were likewise included in the Court's final pre-trial order at Exhibit 5D. D.I. 460. What is *new* are Google's untimeliness objections, which it never before asserted.

The Honorable Jennifer L. Hall

April 21, 2023

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Respectfully,

/s/ David E. Moore

David E. Moore

DEM:nmt/10767896/12599.00040

Enclosures

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

APPENDIX A

<u>Objection Key</u>	
Objection Code	Objection
COMP	Compound
CS	Calls for speculation
IMP C	Improper counter
INQA	Incomplete question or answer
L	Leading
NT	Not Testimony
V	Vague
R, 402	Relevance
403	Prejudice, confusion, misleading, cumulative, waste of time