

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

ARENDI S.A.R.L.,	)	
	)	
Plaintiff,	)	C.A. No. 13-919-JLH
	)	
v.	)	<b>PUBLIC VERSION</b>
	)	
GOOGLE LLC,	)	
	)	
Defendant.	)	

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

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Dated: April 23, 2023  
Public Version Dated: May 1, 2023

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Dear Judge Hall:

In the parties' prior letter (D.I. 475), the parties jointly requested the Court's assistance in resolving objections relating to the Anind Dey and James Miller deposition designations, counter-designations, proposed exhibits, and related objections. The parties have further streamlined the issues for resolution, and so wish to provide the court with an updated joint submission reflecting their pending disputes. There are no longer any disputes with respect to the Miller designations. Some remain as to the Dey designations and exhibits.

Accordingly, please find attached the updated Anind Dey deposition transcript, indicating Google's designations, Arendi's counter-designations, and the parties' objections and positions (Exhibit 1); a spreadsheet listing the parties' current deposition designations, counter-designations, objections, and positions (Exhibit 2); and a spreadsheet listing Google's proposed exhibits, Arendi's objections, and the parties' positions (Exhibit 3). Google also includes a key for its various objections (Appendix A).

Notably, many, though not all, 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 on those repeated objections:

#### 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.
- Leading: Arendi did not raise this objection at deposition, either by not raising any form objection or by not specifying a “leading” objection giving counsel the opportunity to correct any deficiency, and the questions were proper.

#### 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.
- Leading: Google's designations include leading questions that had a major impact on the testimony. Rule 611 is clear that leading questions can only be used with a witness who is adverse to or hostile to the questioning party. Mr. Dey is not

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adverse to Google, much less hostile. Arendi objected to Google's leading questions in the record, and they should be excluded as improper.

Respectfully,

*/s/ David E. Moore*

David E. Moore

DEM:nmt/10770813/12599.00040

Enclosures

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

**APPENDIX A**

<b><u>Objection Key</u></b>	
<b>Objection Code</b>	<b>Objection</b>
INQA	Incomplete question or answer
L	Leading