

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

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

**JOINT LETTER TO THE HONORABLE JENNIFER L. HALL FROM  
DAVID E. MOORE REGARDING THE COURT'S MAY 1, 2023  
PROPOSED FINAL JURY INSTRUCTIONS**

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Dated: May 2, 2023

May 2, 2023

Dear Judge Hall:

Pursuant to the Court's May 1, 2023 oral order at D.I. 522, Google respectfully writes on behalf of the parties to set forth corrections and objections to the Court's May 1, 2023 Proposed Final Jury Instructions (D.I. 521), with the exception of Section 5.7, which pertains to the Samsung License Agreement.

Google's statement:

- Google stands by its previously stated positions and its objections in open court to adverse rulings on Google's proposed final jury instructions and proposed final verdict form.
- In addition, Google objects to the Court's exclusion of the following proposed instruction from Section 5.5 (Damages—Apportionment) of the Court's Proposed Final Jury Instructions:

“Arendi bears the burden to establish the amounts attributable to the patented feature and not to other technologies, features, or aspects of the accused products.”

*See, e.g., Dowagiac Mfg. Co. v. Minn. Moline Plow Co.*, 235 U.S. 641, 646–47 (1915); *Garretson v. Clark*, 111 U.S. 120, 121 (1884); *Finjan, Inc. v. Blue Coat Sys., Inc.*, 879 F.3d 1299, 1310 (Fed. Cir. 2018); *Lucent Techs., Inc. v. Gateway, Inc.*, 580 F.3d 1301, 1337–38 (Fed. Cir. 2009). This proposed instruction on Arendi's burden for apportionment is particularly relevant in this case given the trial evidence, Arendi's changes to its trial and damages theories, and the parties' disputes regarding apportionment.

- Google also proposes the following corrections to the Court's Proposed Final Jury Instructions:
  - In Section 2.2 (Summary of the Issues): Issue No. 2 should refer to “claims 23 and 30,” rather than “the asserted claims.” And Issue Nos. 3 and 4 should refer to “claim 23 or 30” instead of “any claim.” These edits would harmonize Issue Nos. 2-4 with the wording of Issue No. 1. Google also suggests switching the order of Issue Nos. 3 and 4 to match the order of questions on the Verdict Form.
  - In Section 4.3 (Prior Art): The list of prior art should be capitalized and punctuated for consistency, as follows:
    - CyberDesk system;
    - Apple Data Detectors system; and
    - Microsoft Word 97 system.

Arendi's statement:

- Arendi stands by its previously stated positions and its objections in open court to adverse rulings on Arendi's proposed final jury instructions and proposed final verdict form.
- Without waiver of Arendi's previously stated positions and objections, Arendi does not have objections or proposed corrections to the Court's proposed final jury instructions.

The Honorable Jennifer L. Hall  
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Respectfully,

*/s/ David E. Moore*

David E. Moore

DEM:nmt/10785784/12599.00040

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