

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

ARENDI S.A.R.L.,)	
)	
Plaintiff,)	
)	C.A. No. 13-919-JLH
v.)	Original Version Filed: May 18, 2023
)	
GOOGLE LLC,)	Public Version Filed: May 25, 2023
)	
Defendant.)	
)	

**DECLARATION OF SETH ARD IN OPPOSITION TO
NON-PARTY APPLE INC.’S MOTION FOR SANCTIONS**

I, Seth Ard, declare as follows:

1. I am an attorney and partner at Susman Godfrey LLP. I was admitted to practice *pro hac vice* in the above-captioned matter as counsel for Plaintiff Arendi S.à.r.l (“Arendi”).
2. On April 26, 2023, I presented Arendi’s damages expert, Roy Weinstein, at trial.
3. During the course of his redirect examination, I asked Mr. Weinstein, “Do the differences between the real-world rates that were agreed to and the hypothetical rates impact your assessment of whether your multiplier was conservative?”
4. That question was neither intended nor expected to elicit testimony concerning the specific amount of Arendi’s prior license agreement with Apple Inc. (the “Settlement Amount”) or the damages models that Mr. Weinstein had advanced in Arendi’s related cases (the “Damages Figure”).
5. The question reproduced in paragraph 3 was not written prior to Mr. Weinstein’s cross-examination and Mr. Weinstein’s response was unrehearsed and impromptu.

6. Had I expected Mr. Weinstein to reference the Settlement Amount and Damages Figure, I would have moved to seal the courtroom—as I did on multiple occasions during Mr. Weinstein’s testimony.

7. A follow-up question to the one reproduced in paragraph 3 above included a reference to the same Damages Figure that Mr. Weinstein had just referenced in his prior response. That follow-up question was not scripted and was formed in reaction to Mr. Weinstein’s use of the Damages Figure in his own testimony. My reference to the Damages Figure while the courtroom was unsealed was unplanned and unintentional.

8. During the next break in testimony, Apple’s attorney raised the disclosure of both the Settlement Amount and Damages Figure with me outside the courtroom in an unsealed setting. That was the first instance at which I realized such disclosures had occurred during Mr. Weinstein’s spontaneous reexamination. I stated that I would address the matter with Apple’s attorney but was unavailable to engage in discussion at that moment. Apple’s attorney stated that was OK, and did not further engage with me or other counsel for Arendi during the break.

9. When the Court reconvened, Apple requested that relevant portions of the transcript be conditionally sealed. Arendi stated that it did not object, and the Court granted the request.

10. On the evening of April 26, 2023, Apple asked Arendi to join a written motion to seal the transcript. Apple did not provide a copy of its intended motion and did not respond to my request to view a copy before Arendi agreed to join.

11. Apple never again contacted Arendi concerning the references to the Damages Figure and Settlement Amount during Mr. Weinstein’s testimony. Apple filed its motion for sanctions without providing any notice to Arendi or opportunity for dialogue.

12. Attached hereto as Exhibit A is a true and correct copy of excerpts of the draft trial transcript in this case.

13. Attached hereto as Exhibit B is a true and correct copy of email correspondence between counsel for Arendi and Apple on and after April 4, 2023.

14. Counsel for Arendi also notified Arendi's other licensees, including Microsoft and Samsung, of its intent to disclose information from those license agreements during trial, and none requested that the courtroom be sealed.

15. Attached hereto as Exhibit C is a true and correct copy of email correspondence between counsel for Arendi and Apple on April 26, 2023.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 18, 2023.

/s/ Seth Ard
Seth Ard