

EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ARENDI S.A.R.L.,)	
)	
Plaintiff,)	C.A. No. 13-919-JLH
)	
v.)	
)	
GOOGLE, LLC,)	
)	
Defendant.)	

Friday, January 5, 2024
11:00 a.m.
Teleconference

844 King Street
Wilmington, Delaware

BEFORE: THE HONORABLE JENNIFER L. HALL
United States District Court Judge

APPEARANCES:

SMITH, KATZENSTEIN & JENKINS, LLP
BY: NEAL C. BELGAM, ESQ.
BY: DANIEL TAYLOR, ESQ.

-and-

SUSMAN GODFREY, LLP
BY: KEMPER DIEHL, ESQ.
BY: MAX I. STRAUS, ESQ.

Counsel for the Plaintiff

1 APPEARANCES CONTINUED:

2

POTTER, ANDERSON & CORROON, LLP
3 BY: DAVID ELLIS MOORE, ESQ.

4

-and-

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PAUL HASTINGS, LLP
6 BY: ROBERT UNIKEL, ESQ.

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Counsel for the Defendant

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11:00:30 10

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THE COURT: Hi. Good morning, everyone. This
11:00:33 12 is Jen Hall. We are here for Arendi versus Google. It's
11:00:37 13 civil action number 13-919. Do we have somebody on the line
11:00:41 14 for Arendi?

11:00:42 15

MR. BELGAM: Good morning, Your Honor. It's
11:00:45 16 Neal Belgam for the plaintiff Arendi. I have with me from
11:00:47 17 my firm, my colleague Daniel Taylor. And from the Susman
11:00:52 18 Godfrey firm, I have Kemper Diehl and Max Straus.

11:00:59 19

THE COURT: Fantastic. Good morning to all of
11:01:02 20 you. Happy New Year. And how about for Google?

11:01:04 21

MR. MOORE: Yes. Good morning, Your Honor.
11:01:06 22 Dave Moore from Potter Anderson on behalf of Google. I'm
11:01:09 23 joined by my co-counsel Rob Unikel from Paul Hastings as
11:01:14 24 well as Marisa Williams from Google. Happy New Year.

11:01:18 25

THE COURT: Good to hear from everybody. Well,

11:01:20 1 I wanted to have a status call, but I also wanted to give
11:01:24 2 you a preview of what I was thinking about. And we had some
11:01:28 3 thoughts about this, but we're interested to hear your
11:01:30 4 thoughts as well. So I don't know if you all have decided
11:01:34 5 who will talk first, but I'm happy to hear from Arendi first
11:01:37 6 if that works.

11:01:38 7 MR. DIEHL: Your Honor, good morning. This is
11:01:41 8 Kemper Diehl on behalf of Arendi. We hadn't talked about
11:01:44 9 who would talk first, but I'll just kick it off. We submit
11:01:47 10 that the Court can and should amend its judgement to remove
11:01:50 11 references to the invalidity issue and clarify that the
11:01:52 12 judgment is based on the jury's non-infringement verdict.

11:01:55 13 If the Court does that, then we agree that it
11:01:59 14 can decline to address Arendi's post trial motion on the
11:02:02 15 validity issues. There's no need for the Court to
11:02:05 16 incorporate invalidity into the judgment or really further
11:02:09 17 consider the issue at all, because, as the Court noted on
11:02:13 18 the docket, Google raised it as an affirmative defense and
11:02:16 19 not as a counterclaim, so the defense became moot when the
11:02:19 20 jury found non-infringement. A number of courts have faced
11:02:24 21 this situation and they've declined to rule on post trial
11:02:27 22 motions concerning validity because of the mootness of the
11:02:30 23 issue. And Judge Noreika did that a couple years ago in the
11:02:34 24 AgroFresh versus Essentiv case. Judge Noreika cited the
11:02:39 25 federal circuit opinions there that are on point, have held

11:02:42 1 that, you know, where a defendant only raises invalidity as
11:02:46 2 an affirmative defense then a non-infringement verdict makes
11:02:50 3 any invalidity finding unnecessary for the judgment.

11:02:54 4 So because the issue of validity is moot here,
11:02:56 5 we think the proper course is to go ahead and amend the
11:02:59 6 judgment, remove the references to invalidity. And we think
11:03:03 7 the best way to do that, looking at docket 545, the judgment
11:03:07 8 that's in place now is just to delete the second sentence
11:03:11 9 which deals with the invalidity issue.

11:03:13 10 Thank you, Your Honor.

11:03:13 11 THE COURT: And let me just ask you, Mr. Diehl,
11:03:17 12 so what happens then? You have not appealed or you have not
11:03:22 13 moved for a JMOL of the jury's finding of non-infringement,
11:03:26 14 so you can't appeal that issue. You have a pending motion
11:03:29 15 of appeal, I suppose you could appeal the claim construction
11:03:34 16 or like -- just fill me in on what happens after that,
11:03:39 17 because we're trying to figure out the most -- best way and
11:03:42 18 most efficient way to resolve this both for us and you and
11:03:45 19 for the federal circuit.

20 MR. DIEHL: Yes. Thank you, Your Honor. In the
11:03:49 21 notice of appeal we filed we got the footnote on the various
11:03:49 22 basis for appeal and we would appeal both the
11:03:53 23 non-infringement -- we -- in this situation, we'd appeal the
11:03:58 24 non-infringement judgment and that goes back to claim
11:04:00 25 construction and other issues that happened over the

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