

# Exhibit 3

# EXHIBIT 1

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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION

JAWBONE INNOVATIONS, LLC\*  
\* October 14, 2022  
VS. \*  
\* CIVIL ACTION NO. W-21-CV-985  
GOOGLE LLC \*

BEFORE THE HONORABLE ALAN D ALBRIGHT  
MARKMAN HEARING (via Zoom)

APPEARANCES:

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Proceedings recorded by mechanical stenography,  
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09:32

09:32 1 (Hearing begins.)

09:32 2 DEPUTY CLERK: Civil Action in Case  
09:32 3 6:21-CV-985, Jawbone Innovations, LLC versus Google  
09:32 4 LLC. Case called for a Markman hearing.

09:33 5 THE COURT: And if we could start with  
09:33 6 the plaintiff, please.

09:33 7 MR. LAMBRIANAKOS: Good morning, Your  
09:33 8 Honor. This is Peter Lambrianakos of Fabricant LLP on  
09:33 9 behalf of the plaintiff Jawbone. With me is Rich  
09:33 10 Cowell, also of Fabricant LLP, and Ray Mort.

09:33 11 THE COURT: Good morning.

09:33 12 MR. LAMBRIANAKOS: Good morning.

09:33 13 THE COURT: I see Mr. Jones.

09:33 14 MR. JONES: Good morning, Your Honor.  
09:33 15 This is Mike Jones for Google, together with David  
09:33 16 Rosen, Luis Hoyos, Rylee Kercher Olm, Reid Mullen, Erin  
09:33 17 Meyer and Shaun Hassett. And also on from Google  
09:33 18 itself is Mr. Timur Engin.

09:33 19 And we're ready to proceed, Your Honor.

09:33 20 THE COURT: Welcome to the client  
09:33 21 representatives.

09:33 22 Mr. Jones, we've got to quit meeting like  
09:33 23 this. I get to see you several times a week. That's a  
09:33 24 good thing.

09:33 25 MR. JONES: It's a privilege, Your Honor.

09:33 1 THE COURT: Let me turn to the first  
09:33 2 claim term, which is "microphone." I very much look  
09:34 3 forward to hearing this argument.

09:34 4 MR. HOYOS: Good morning. This is Luis  
09:34 5 Hoyos on behalf of the defendant, Google LLC.

09:34 6 As you mentioned, I'll be discussing the  
09:34 7 term "microphone," which appears in the following  
09:34 8 asserted claims: Claim 1 of the '058 patent and Claims  
09:34 9 1, 8, 19, 20 and 26 of the '543 patent. And I will  
09:34 10 refer to these patents at times collectively as the  
09:34 11 "Burnett patents."

09:34 12 As Your Honor recognizes in the Court's  
09:34 13 preliminary construction, the plain and ordinary  
09:34 14 meaning of the term "microphone" needs clarification in  
09:34 15 this case because Jawbone insists the term includes  
09:34 16 virtual microphones.

09:34 17 But this construction would unnecessarily  
09:34 18 create a conflict with an order issued by Magistrate  
09:34 19 Judge Payne in another case also filed by Jawbone and  
09:34 20 involving some of the same patents against Samsung in  
09:34 21 the Eastern District of Texas.

09:34 22 In fact, Jawbone did not object to  
09:34 23 Magistrate Judge Payne's claim construction order,  
09:34 24 which led the Court to adopt his construction of the  
09:34 25 term "microphone" to mean physical microphone in that

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