

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

ARENDI S.A.R.L.,

Plaintiff,

v.

LG ELECTRONICS INC.,
LG ELECTRONICS U.S.A., INC., and
LG ELECTRONICS MOBILECOMM U.S.A.,
INC.,

Defendants.

C.A. No. 12-01595-LPS

JURY TRIAL DEMAND



REDACTED VERSION

**LG'S REPLY IN SUPPORT OF ITS
MOTION FOR SUMMARY JUDGMENT OF NON-INFRINGEMENT
BY THE NON-REBEL 4 ACCUSED PRODUCTS**

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Dated: May 6, 2021

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I. INTRODUCTION AND SUMMARY OF REPLY

Arendi accused the Non-Rebel 4 Products of infringing the '843 patent, but then failed to provide the requisite infringement contention claim charts. Arendi failed to take the necessary steps to preserve an infringement theory for the Non-Rebel 4 Products, and accordingly, Arendi can no longer prove that the Non-Rebel 4 Products infringe.

Moreover, to this very day, Arendi has failed to provide any explanation for its failure to meet its discovery obligations by the close of fact discovery in 2019. Rather than establish “good cause” to amend its contentions, Arendi instead attempted to improperly amend its contentions by including new and undisclosed infringement theories and evidence in its opening expert report. LG moved to strike the new contentions and evidence, and the Court granted LG’s motion. [See D.I. 213.] Therefore, Arendi is left with no evidence with which to establish infringement as to the Non-Rebel 4 Products.

Arendi attempts to sidestep the impact of the Court’s Order on LG’s Motion to Strike by referring to the ruling as a mere “technicality.” [D.I. 298 at 2 (“There is no reason to grant summary judgment on a technicality here . . .”).] It was not a mere technicality. Notably, Arendi does *not* dispute that summary judgment of non-infringement is appropriate where a plaintiff accuses products of infringement but then fails to provide infringement contentions. Here, Arendi’s improper expert evidence attempting to show infringement by the Non-Rebel 4 Products was struck—and the consequence is that Arendi cannot prove infringement by those products.

Arendi also argues that the Non-Rebel 4 Products are not properly in this case. However, this Court has already laid such strained arguments to rest. In dismissing *Arendi II*, this Court stated: “the non-Rebel 4 products are part of *Arendi I*” (*i.e.*, this case). *Arendi S.A.R.L. v. LG*

Elecs. Inc. et al., Civ. No 1:20-cv-01483-LPS, D.I. 20 (Transcript of Telephonic Oral Argument Hearing) at 55:1-5 (D. Del. Apr. 19, 2021) (“*Arendi II*”). The bottom line is that LG is entitled to summary judgment of no infringement because Arendi failed to meet its discovery obligations to maintain its infringement allegations and because Arendi lacks the theories, evidence, and expert testimony needed to reach the jury on the issue of infringement as to the Non-Rebel 4 Products.

Arendi presents a single substantive argument in a footnote, arguing that it can prove infringement without expert opinions because the jury can allegedly observe infringement by inspecting the accused devices. Because it is raised in a footnote, it is waived. Even if not waived, Arendi’s argument is meritless. For one thing, Arendi’s argument ignores the fact that it cannot prove infringement for the simple reason that it lacks infringement contentions as to the Non-Rebel 4 Products. Moreover, Arendi makes no attempt to develop or support its argument—and for good reason. Arendi’s own expert admitted that while the patent claims have some limitations visible to the user, they also have limitations that are “under the hood” and which cannot be discerned from mere inspection of the devices. Thus expert testimony is needed to prove infringement.

II. ARGUMENT

A. Arendi’s Argument in Opposition Has Already Been Rejected by This Court

LG moves for summary judgment on the Non-Rebel 4 Products because Arendi cannot establish infringement. First, Arendi failed to provide the required claim charts providing LG with notice as to how Arendi maps each limitation of each asserted claim onto the accused Non-Rebel 4 Products. On this basis alone, summary judgment is appropriate.

A party cannot flaunt and disregard its duty to fully disclose an infringement theory during fact discovery, and then pursue the waived claims of infringement at trial. LG cited

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