United States Court of Appeals for the Federal Circuit

ARENDI S.A.R.L.,
Plaintiff-Appellant

v.

LG ELECTRONICS INC., LG ELECTRONICS USA, INC.,
Defendants-Appellees

2021-1967

Appeal from the United States District Court for the District of Delaware in No. 1:20-cv-01483-LPS, Judge Leonard P. Stark.

Decided: September 7, 2022

KEMPER DIEHL, Susman Godfrey LLP, Seattle, WA, argued for plaintiff-appellant. Also represented by SETH ARD, MAX ISAAC STRAUS, New York, NY; JOHN PIERRE LAHAD, Houston, TX; KALPANA SRINIVASAN, Los Angeles, CA.

ROBERT ANDREW SCHWENTKER, Fish & Richardson P.C., Washington, DC, argued for defendants-appellees. Also represented by STEVEN KATZ, Boston, MA.

Before PROST, CHEN, and STOLL, *Circuit Judges*.

PROST, *Circuit Judge*.

Arendi S.A.R.L. ("Arendi") alleged that various LG Electronics Inc. and LG Electronics USA, Inc. (collectively "LG") products infringed its U.S. Patent No. 7,917,843 ("the '843 patent"). First Am. Compl., *Arendi S.A.R.L. v. LG Elecs. Inc.* ("*Arendi I*"), No. 1:12-cv-01595 (D. Del. Oct. 3, 2013), ECF No. 34; *see also* J.A. 144–57 (original complaint). After the district court struck part of Arendi's infringement expert report as beyond the scope of Arendi's infringement contentions, Arendi filed a second patent-infringement suit against LG in the same court, again asserting the '843 patent. Compl. for Patent Infringement, *Arendi S.A.R.L. v. LG Elecs. Inc.* ("*Arendi II*"), No. 1:20-cv-01483 (D. Del. Nov. 3, 2020), ECF No. 1; J.A. 1583–91. The district court granted LG's motion to dismiss the *Arendi II* complaint under the duplicative-litigation doctrine, determining that in both cases the same products were accused of infringing the same patent. Arendi appeals from the dismissal. We affirm.

BACKGROUND

In *Arendi I*, Arendi sued LG (among others) in the U.S. District Court for the District of Delaware for infringing various Arendi patents. The District of Delaware, Arendi's chosen forum, has specific rules governing initial discovery in patent cases. Section 4(a) of those rules required Arendi to "specifically identify the accused products and the asserted patent(s) they allegedly infringe." D. Del. Default Standard for Discovery § 4(a) (cleaned up). Then, under Section 4(c), Arendi had to "produce . . . an initial claim chart relating *each* accused product to the asserted claims *each* product allegedly infringes" after LG provided initial discovery on those products. *Id.* § 4(c) (emphasis added); *see id.* § 4(b). As explicitly outlined in the same local rules, "these disclosures are 'initial,' [and] each party shall be permitted to supplement." *Id.* § 4 n.3.

Arendi filed its Section 4(a) Disclosure in November 2018 and listed hundreds of LG products as infringing four claims of the '843 patent. J.A. 1121–37 (Section 4(a) Disclosure). Despite this lengthy 4(a) Disclosure and Section 4(c)'s instruction that Arendi "relat[e] each accused product to the asserted claims," Arendi's Section 4(c) Disclosure provided claim charts for only one of those products—LG's Rebel 4 phone. These charts labeled the Rebel 4 as "exemplary." J.A. 1167–262 (Section 4(c) Disclosure).

In April 2019, two months after Arendi filed its Section 4(c) Disclosure, LG sent a letter to Arendi stating that the singular-product claim charts for the '843 patent were insufficient under Section 4(c) and thus "LG underst[ood] Arendi's infringement contentions [for the '843 patent] to be limited to" the Rebel 4. J.A. 1469. LG remarked that, "[s]hould Arendi intend to accuse [non-Rebel 4] products, then Arendi must promptly provide claim charts demonstrating how these products infringe[] or explain why Arendi contends the current claim charts are representative of specific non-charted products." J.A. 1469. Arendi did not respond to this letter or move to supplement its Section 4(c) Disclosure.

As the litigation proceeded, Arendi and LG agreed on eight representative products to represent all accused products. Seven of the eight were non-Rebel 4 products. LG provided additional discovery on all eight representative products, and Arendi still did not move to supplement its Section 4(c) Disclosure. So in October 2019, in response to an interrogatory relating to those eight products, LG reiterated its "position that Arendi has only provided infringement contentions for [the Rebel 4]. . . . Arendi bears the burden to prove infringement and, if it so desires, to try to prove that" the Rebel 4 "is representative of one or more" of the non-Rebel 4 products. J.A. 1476. Without such a showing, LG continued, "Arendi has not provided sufficiently detailed contentions to know . . . its allegations of

infringement" for the '843 patent. J.A. 1476–77. Still, Arendi did not move to supplement its Section 4(c) Disclosure.

Arendi provided its expert report in August 2020 after the close of fact discovery in December 2019. LG moved to strike portions of that report because it allegedly "disclosed—for the first time—infringement contentions for five of" the seven non-Rebel 4 representative products. J.A. 191 (emphasis omitted); *see Arendi I*, ECF No. 201. The district court orally granted that motion in October 2020 under applicable Third Circuit law. The court determined that Arendi did not timely disclose these infringement contentions having "failed to fulfill its discovery obligations." J.A. 1576–77 (citing *Meyers v. Pennypack Woods Home Ownership Ass'n*, 559 F.2d 894 (3d Cir. 1977)). In the court's analysis, it repeated LG's assertion that "LG understood Arendi was accusing only the Rebel 4" of infringing the asserted '843 patent claims, J.A. 1577, since Arendi repeatedly failed to update its infringement contentions in the face of LG's April 2019 letter and October 2019 interrogatory response. Arendi still took no action to supplement its Section 4(c) Disclosure.

Instead, Arendi filed its *Arendi II* complaint in November 2020 in the District of Delaware. This complaint also asserted that LG's non-Rebel 4 products infringed the '843 patent. LG moved to dismiss the complaint as duplicative since all of the non-Rebel 4 products accused in *Arendi II* were also accused in *Arendi I*. The district court granted that motion without prejudice via an oral order in April 2021, J.A. 3, 50–64, and Arendi appealed on May 18, 2021.

That same day, Arendi finally moved to supplement its Section 4(c) Disclosure in *Arendi I*. In March 2022, the district court denied that motion and a pending LG motion for summary judgment of noninfringement of the non-Rebel 4 products without prejudice "[i]n view of the potential impact of [this] pending appeal." *Arendi I*, ECF No. 354. The

court also noted that the motions were subject to renewal after a decision in this appeal. *Id.*

We have jurisdiction under 28 U.S.C. § 1295(a)(1).

DISCUSSION

I

For a "procedural question that is not unique to [our] exclusive jurisdiction," this court applies and gives "deference for regional circuit law on a concern for 'consistency of future trial management.'" *Eolas Techs., Inc. v. Microsoft Corp.*, 457 F.3d 1279, 1282 (Fed. Cir. 2006) (quoting *Biodex Corp. v. Loredan Biomedical, Inc.*, 946 F.2d 850, 857–58 (Fed. Cir. 1991)). Under the circumstances of this case, the question of dismissing the *Arendi II* complaint as duplicative of the *Arendi I* complaint involves a procedural issue: a district court's power to dismiss a case as duplicative is "part of [a district court's] general power to administer its docket," *Fabics v. City of New Brunswick*, 629 F. App'x 196, 198 (3d Cir. 2015) (nonprecedential), that supports "wise judicial administration," *Serline v. Arthur Andersen & Co.*, 3 F.3d 221, 223 (7th Cir. 1993), and "conservation of resources," *Adam v. Jacobs*, 950 F.2d 89, 92 (2d Cir. 1991). We, therefore, apply the Third Circuit's standard of reviewing dismissals of duplicative complaints for abuse of discretion. *See Jenn-Ching Luo v. Owen J. Roberts Sch. Dist.*, 737 F. App'x 111, 115 n.4 (3d Cir. 2018) (nonprecedential); *Fabics*, 629 F. App'x at 198; *Schneider v. United States*, 301 F. App'x 187, 190 (3d Cir. 2008) (nonprecedential). A district court abuses its discretion when it reaches an errant conclusion of law, improperly applies law to fact, or makes a clearly erroneous finding of fact. *Weitzner v. Sanofi Pasteur Inc.*, 909 F.3d 604, 613 (3d Cir. 2018).

The duplicative-litigation doctrine prevents plaintiffs from "maintain[ing] two separate actions involving the same subject matter at the same time in the same court . . . against the same defendant." *Walton v. Eaton Corp.*,

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