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Attorneys for Plaintiff
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA, Plaintiff, vs. MARTIN KAO, Defendant.	CR. NO. 21-00061 LEK GOVERNMENT'S RESPONSE TO MOTION FOR RETURN OF PROPERY PURSUANT TO RULE 41(G); CERTIFICATE OF SERVICE

GOVERNMENT'S RESPONSE TO MOTION FOR
RETURN OF PROPERY PURSUANT TO RULE 41(G)

The United States of America hereby responds to PacMar's Motion for Return of Property Pursuant to Rule 41(g) of the Federal Rules of Criminal Procedure (ECF No. 82). PacMar's Motion accurately describes and attaches the

relevant written communications of PacMar, Victor J. Bakke, Esq., counsel for Mr. Kao, and the government related to PacMar's request. As explained by PacMar, the government does not oppose an order to return a copy of the data extracted by the government from the cellphone seized from and used by Martin Kao, which PacMar states in its Motion is sufficient at this point in time. Had Mr. Kao consented to such production, the government would have made the data available to PacMar without the need for a motion and order. Because Mr. Kao objected to such production, he should have an opportunity to respond to PacMar's Motion.

Finally, the government notes that although Mr. Kao has entered guilty pleas to all charges in the instant wire fraud matter, he has not yet been sentenced, and he was recently indicted in this District for bank fraud in CR 23-00003 LEK. The cellphone at issue constitutes and contains evidence in both prosecutions.

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Wherefore, the government respectfully requests (1) that the Court set a deadline for Mr. Kao to respond to PacMar's Motion, and (2) if such Motion is granted after Mr. Kao's opportunity to respond, that the Court limit the scope of the order to a production of a copy of the data extracted by the government from the cellphone.

DATED: January 26, 2023, at Honolulu, Hawaii.

CLARE E. CONNORS
United States Attorney
District of Hawaii

By: */s/ Craig S. Nolan*
Craig S. Nolan
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

I hereby certify that, on the date and by the method of service noted below, the true and correct copy of the foregoing was served on the following at their last known address:

Served Electronically by CM/ECF:

Victor J. Bakke, Esq.

Attorney for Defendant
MARTIN KAO

Served Electronically by CM/ECF:

David M. Louie
Jesse W. Schiel

Attorneys for Movant
PACMAR TECHNOLOGIES LLC
f/k/a MARTIN DEFENSE GROUP,
LLC f/k/a NAVATEK LLC

DATED: January 26, 2023, at Honolulu, Hawaii.

/s/ Dalia Malig
U.S. Attorney's Office
District of Hawaii