KOBAYASHI SUGITA & GODA, LLP
DAVID M. LOUIE 2162
JESSE W. SCHIEL 7995
First Hawaiian Center
999 Bishop Street, Suite 2600
Honolulu, Hawaii 96813
Telephone: (808) 535-5700
Facsimile: (808) 535-5799
E-mail: dml@ksglaw.com;
jws@ksglaw.com

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

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 ORDER GRANTING MOTION FOR RETURN OF PROPERTY PURSUANT TO RULE 41(g) OF THE FEDERAL RULES OF CRIMINAL PROCEDURE

ORDER GRANTING MOTION FOR RETURN OF PROPERTY PURSUANT TO RULE 41(g) OF THE FEDERAL RULES OF CRIMINAL PROCEDURE

PACMAR TECHNOLOGIES LLC f/k/a MARTIN DEFENSE GROUP, LLC f/k/a NAVATEK LLC'S ("**PacMar**" or the "**Company**") MOTION FOR RETURN OF PROPERTY PURSUANT TO RULE 41(g) OF THE FEDERAL RULES OF

CRIMINAL PROCEDURE (the "**Motion**") came on for hearing on February 14, 2023 at 9:30 a.m. before the Honorable Rom Trader. Jesse W. Schiel appeared for Movant PacMar, Craig S. Nolan appeared for Plaintiff UNITED STATES (the "**Government**"), and Victor J. Bakke and Michael Okazaki appeared for Defendant MARTIN KAO ("**Defendant Kao**").

Having considered the Motion, the Memorandum in Opposition filed by Defendant Kao [Dkt. No. 89], the Government's Response to the Motion [Dkt. No. 84, hereinafter the "**Government's Response**"], PacMar's Reply in Support of the Motion [Dkt. No. 90], the arguments of counsel at the hearing on this matter, the records and files herein, and for the reasons set forth on the record during the hearing, the COURT hereby FINDS AND ORDERS as follows:

1. The Motion is GRANTED;

2. The Court adopts the arguments and authorities relied upon by PacMar and finds that the cellular phone previously issued by PacMar to Defendant Kao during his employment with Pacmar, Apple iPhone 11 Pro (IMEI 353247100759018) (the "**Company Cellphone**"), and all of the business and personal data stored therein (hereinafter the "**Cellphone Data**"), are the property of PacMar pursuant to PacMar's policies which were acknowledged by Defendant Kao and that Defendant Kao has no reasonable expectation of privacy with respect to the Cellphone Data.

3. Having found that PacMar is the owner of the Company Cellphone and Cellphone Data, the Court further finds that PacMar has met the requirements under Rule 41(g) of the Federal Rules of Criminal Procedure for the return of its property and is therefore entitled to the Government's return of the Cellphone Data under Rule 41(g);

4. Pursuant to the representations made in the Government's Response, the Government shall retain the Company Cellphone, and a copy of the entirety of the Cellphone Data shall be returned to PacMar within thirty (30) days; and

5. Should Defendant Kao file a timely objection to this order, the Court will stay the execution of this order pending the District Court's disposition of the objection.

DATED: Honolulu, Hawai'i, February 15, 2023.

Rom A. Trader
United States Magistrate Judge