

MINUTES

CASE NUMBER: 1:21-cr-00061-LEK-1
CASE NAME: United States of America v. (1) Martin Kao
ATTYS FOR PLA: Craig Nolan*
ATTYS FOR DEFT: Victor Bakke*
ATTYS FOR MOVANT: Jesse Schiel*

JUDGE:	Rom Trader	REPORTER:	FTR-Courtroom 5
DATE:	02/14/2023	TIME:	9:32 - 10:18 a.m.

COURT ACTION: EP: MOTION HEARING regarding ECF [82] Movant PacMar Technologies LLC's ("PacMar's") *Motion for Return of Property Pursuant to Rule 41(g) of the Federal Rules of Criminal Procedure* ("Motion") as to DEFENDANT (1) MARTIN KAO held.

Special appearance by Mike Ozaki*, civil counsel for Defendant Martin Kao.

Defendant is present and not in custody.

Motion Hearing:

The Court takes judicial notice of the records and files and has carefully considered the *Motion* ECF [82], Government's *Response* ECF [84], Defendant's *Memorandum in Opposition* ECF [89], Movant's *Reply in Support* ECF [90], the exhibits and declarations submitted, applicable legal authority, and the representations and arguments of counsel.

Argument had.

Having carefully considered the merits of the instant *Motion*, within the context of the record, applicable legal authority and arguments of counsel, the Court **GRANTS** the *Motion*.

Court **ORDERS** the Government, within 30 days, to produce to PacMar the **entirety** of data extracted from the Apple iPhone 11 Pro (IMEI 353247100759018) ("cellular phone") issued to Defendant during his employment with PacMar. The Court adopts

arguments and authorities relied upon by Movant and finds the cellular phone and extracted data are the property of PacMar pursuant to company policies which were acknowledged by Defendant. Furthermore, the Court finds that Defendant has no reasonable expectation of privacy with respect to the cellular phone data. The Court expressly rejects Defendant's request to segregate personal information/data from business information/data prior to production to PacMar.

Mr. Schiel to prepare and submit order to the Court's orders box at Trader_Orders@hid.uscourts.gov within seven (7) days of this hearing.

Defendant reserves the right to appeal the Court's decision to the District Judge. Should Defendant file a timely appeal, the Court stays the execution of its order during the period of appeal.

Defendant to remain on previously imposed conditions of pretrial release.

Submitted by: Lian Abernathy, Courtroom Manager.