

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LOOP AI LABS INC,
Plaintiff,

v.

ANNA GATTI, et al.,
Defendants.

Case No. [15-cv-00798-HSG](#) (DMR)

**ORDER ON DEFENDANTS' MOTION
FOR PROTECTIVE ORDER**

Re: Dkt. No. 295

Plaintiff Loop AI Labs Inc. (“Loop”) and Defendants Anna Gatti, IQSystem LLC, and IQSystem Inc. filed a joint letter in which these three Defendants move for a protective order as to five subpoenas issued by Loop.¹ [Docket No. 295 (Joint Letter).] The court has determined that this matter is suitable for resolution without oral argument pursuant to Civil Local Rule 7-1(b). For the following reasons, Defendants’ motion is granted in part and denied in part.

I. BACKGROUND

Loop filed this action in February 2015 against Defendants Alwave USA; Alwave S.p.A. (“Alwave”) and Alwave S.r.l. (together, the “Alwave Defendants”); Gatti; IQSystem LLC; and IQSystem Inc. Loop is a startup that develops artificial intelligence technology. It alleges that Gatti, its former CEO, conspired with the Alwave Defendants to misappropriate Loop’s trade secrets and sabotage its investor negotiations. According to Loop, while pretending to work full time for Loop, Gatti took a concurrent CEO position with Alwave USA and allegedly established IQSystem LLC and IQSystem Inc. “to funnel the money that she was receiving as compensation” for her illegal activities. [Docket No. 210 (2d Am. Compl.) ¶¶ 26, 42,

¹ For ease of reference, the court refers collectively to the three moving defendants as “Defendants,” even though there are other defendants in this case. No other defendant joined in this motion.

1 43.] In its second amended complaint, Loop brings seventeen claims against some or all of the
2 Defendants, including, inter alia, violations of the Racketeer Influenced and Corrupt
3 Organizations Act (“RICO”), 18 U.S.C. § 1962 et seq., violations of the Computer Fraud and
4 Abuse Act (“CFAA”), 18 U.S.C. § 1030 et seq., misappropriation of trade secrets, unfair
5 competition, and various torts.

6 Loop issued five subpoenas for documents to the following third parties: 1) AT&T
7 Communications (“AT&T”); 2) Google, Inc. (“Google”); 3) WI Harper Group, Inc. (“WI
8 Harper”); 4) Carr & Ferrell, LLP (“Carr & Ferrell”); and 5) Bank of the West. Joint Letter Exs. 1-
9 5. Defendants Gatti, IQSystem LLC, and IQSystem Inc. move for a protective order as to each of
10 the five subpoenas, arguing that they improperly seek their private and privileged information that
11 is irrelevant to this action.

12 **II. LEGAL STANDARD**

13 Federal Rule of Civil Procedure 45 governs discovery of nonparties by subpoena. Fed. R.
14 Civ. P. 45. The Advisory Committee Notes to Rule 45 state that “the scope of discovery through a
15 subpoena is the same as that applicable to Rule 34 and the other discovery rules,” which in turn is
16 the same as under Rule 26(b). Advisory Committee Notes to 1970 Amendment. Rule 26(b)
17 allows a party to obtain discovery concerning

18 any nonprivileged matter that is relevant to any party’s claim or
19 defense and proportional to the needs of the case, considering the
20 importance of the issues at stake in the action, the amount in
21 controversy, the parties’ relative access to relevant information, the
22 parties’ resources, the importance of the discovery in resolving the
23 issues, and whether the burden or expense of the proposed discovery
24 outweighs its likely benefit.

25 Fed. R. Civ. P. 26(b)(1). “Information within this scope of discovery need not be admissible in
26 evidence to be discoverable.” *Id.*

27 Rule 45 provides that “on timely motion, the court for the district where compliance is
28 required must quash or modify a subpoena that . . . requires disclosure of privileged or other
protected matter, if no exception or waiver applies; or . . . subjects a person to undue burden.”
Fed. R. Civ. P. 45(c)(3)(A)(iii), (iv). “[A] court determining the propriety of a subpoena balances
the relevance of the discovery sought, the requesting party’s need, and the potential hardship to the

1 party subject to the subpoena.” *Gonzales v. Google*, 234 F.R.D. 674, 680 (N.D. Cal. 2006)
2 (citation omitted). The party who moves to quash a subpoena bears the “burden of persuasion”
3 under Rule 45(c)(3). *Moon v. SCP Pool Corp.*, 232 F.R.D. 633, 637 (C.D. Cal. 2005) (citations
4 omitted).

5 A party generally lacks standing under Federal Rules of Civil Procedure Rule 45(c)(3) to
6 challenge a subpoena issued to a non-party “unless the party claims a personal right or privilege
7 with respect to the documents requested in the subpoena.” *In re REMEC, Inc. Sec. Litig.*, No. CIV
8 04CV1948 JLS AJB, 2008 WL 2282647, at *1 (S.D. Cal. May 30, 2008) (citing *Nova Prods., Inc.*
9 *v. Kisma Video, Inc.*, 220 F.R.D. 238, 241 (S.D.N.Y. 2004); *In re Cree Inc. Sec. Litig.*, 220 F.R.D.
10 443 (M.D.N.C. 2004)); see also *Moon*, 232 F.R.D. at 636 (“A party cannot object to a subpoena
11 duces tecum served on a nonparty, but rather, must seek a protective order or make a motion to
12 quash.”). “A party can move for a protective order in regard to a subpoena issued to a non-party if
13 it believes its own interests are jeopardized by discovery sought from a third party and has
14 standing under Rule 26(c) to seek a protective order regarding subpoenas issued to non-parties
15 which seek irrelevant information.” *In re REMEC*, 2008 WL 2282647, at *1.

16 **III. DISCUSSION**

17 As a preliminary matter, Defendants² appear to object to all five subpoenas on the ground
18 that Loop has failed to comply with California Code of Civil Procedure section 2019.210. Loop
19 alleges a claim for misappropriation of trade secrets pursuant to California Civil Code section
20 3426, California’s Uniform Trade Secrets Act (“CUTSA”). Section 2019.210 provides that in any
21 action alleging misappropriation of trade secrets under CUTSA, “before commencing discovery
22 relating to the trade secret, the party alleging the misappropriation shall identify the trade secret
23 with reasonable particularity subject to any orders that may be appropriate under Section 3426.5 of
24 the Civil Code.” Cal. Civ. Proc. Code § 2019.210. Although it is not clearly stated, it appears that
25 Defendants’ position is that unless and until Plaintiff identifies its alleged trade secrets with

26 _____
27 ² The joint letter does not always make clear on whose behalf the objections are made, whether it
28 be Gatti, IQSystem LLC, or IQSystem Inc., or some combination thereof. Therefore, the court
will refer to the objections as “Defendants’ objections,” meaning Gatti, IQSystem LLC, and
IQSystem Inc. collectively.

1 particularity, Plaintiff is not entitled to discovery.

2 This argument is without merit. After the parties filed the instant joint letter, the
3 undersigned granted in part and denied in part Defendant IQSystem Inc.’s motion to compel Loop
4 to provide a particularized trade secret disclosure pursuant to section 2019.210 and to stay
5 discovery until Loop provides such disclosure. [Docket No. 331.] The court concluded that
6 section 2019.210 applies in this case and that Loop had failed to sufficiently identify the trade
7 secrets at issue. However, the court denied IQSystem Inc.’s motion to stay all discovery in this
8 case pending Loop’s compliance with section 2019.210, holding that section 2019.210 only
9 supports a stay of “discovery related to the trade secret[s].” *Id.* at 7. The court stayed discovery as
10 to Loop’s CUTSA claim only, and ordered that Loop could proceed with such discovery upon
11 filing a statement identifying with reasonable particularity the trade secrets at issue in this lawsuit.
12 *Id.*

13 Loop filed a statement regarding its trade secrets on January 11, 2016. Without expressing
14 an opinion on the sufficiency of Loop’s disclosure, the court notes that to date, no party has moved
15 to challenge Loop’s disclosure. Moreover, there is no argument or indication that the five
16 subpoenas at issue relate solely to Loop’s CUTSA claim. Accordingly, Defendants’ objections to
17 the five subpoenas based on section 2019.210 are overruled.

18 **A. Subpoena to AT&T**

19 Loop’s subpoena to AT&T seeks “all records reflecting the incoming and outgoing call
20 history, text or other data messages, and data transfer from March 1, 2013 through the present” for
21 five specified phone numbers that are associated with accounts held by Gatti, IQSystem LLC, and
22 IQSystem Inc. The subpoena also asks for the same information for any other phone numbers
23 held by Gatti. Loop argues that the records of communications by Gatti, IQSystem LLC, and
24 IQSystem Inc. are highly relevant to its allegations about Gatti’s participation in a conspiracy
25 involving wire fraud. In its second amended complaint, Loop alleges that “Gatti utilized a wide
26 variety of communications means including in-person meetings, teleconference meetings,
27 telephone calls, emails, text messages, and social media messages” in order “[t]o carry out as well
28 as conceal her fraudulent activities and wrongdoings.” 2d Am. Compl. ¶ 143. It also argues that

1 Gatti justified “repeated disappearances” from work on the basis of personal reasons, and that
2 these records will confirm “her true whereabouts and activities” during her employment with
3 Loop.

4 Defendants object on the ground that the subpoena potentially calls for attorney-client
5 communications and documents protected by California’s right to privacy, such as
6 communications between Gatti and her physician. They also argue that the subpoena may not be
7 enforced to the extent that it violates the federal Stored Communications Act (“SCA”), 18 U.S.C.
8 §§ 2701-2712. Further, Defendants argue that the subpoena is overbroad as to time and scope and
9 calls for documents not relevant to any party’s claim or defense, since it seeks information about
10 communications that post-date the allegations in the operative complaint.

11 Defendants’ privacy objections appear solely based on their reading of the subpoena as
12 calling for the substance of potentially privileged or protected communications. This is contrary
13 to Loop’s intent, since Loop contends that it does not seek the content of the communications.
14 According to Loop, it simply seeks “a list of technical data of the date/time the communication
15 was made or received, the numbers called, and other technical data.” *Jt. Letter* at 3. It argues that
16 disclosure of such data—and not the contents of communications themselves—is expressly
17 permitted by the SCA.

18 Civil subpoenas are subject to the prohibitions of the SCA. See *Theofel v. Farey-Jones*,
19 359 F.3d 1066, 1071-72, 1077 (9th Cir. 2004). The SCA generally prohibits “providers’ of
20 communication services from divulging private communications to certain entities and/or
21 individuals.” *Quon v. Arch Wireless Operating Co., Inc.*, 529 F.3d 892, 900 (9th Cir. 2008), *rev’d*
22 on other grounds by *City of Ontario v. Quon*, 560 U.S. 746 (2010). It permits an electronic
23 communications service provider to “divulge a record or other information pertaining to a
24 subscriber to or customer of such service (not including the contents of communications . . .) . . .
25 to any person other than a governmental entity.” 18 U.S.C. § 2702(c)(6). The Ninth Circuit has
26 held that wireless communications providers such as AT&T are properly classified as “electronic
27 communication service[s].” *Quon*, 529 F.3d at 901; see *Mintz v. Mark Bartelstein & Assocs., Inc.*,
28 885 F. Supp. 2d 987, 992 (C.D. Cal. 2012). Because Loop is not a governmental entity, AT&T

1 may disclose to it the subscriber information requested by the subpoena. See *id.* at 992-93
2 (holding SCA permits AT&T to disclose subscriber information pursuant to subpoena, including
3 date, time, originating and receiving telephone number for specified date range); see also *Obodai*
4 *v. Indeed, Inc.*, No. 13-80027-MISC EMC (KAW), 2013 WL 1191267, at *3 (N.D. Cal. Mar. 21,
5 2013) (“Since subscriber information is not protected by the SCA, [litigant] may obtain non-
6 content information pursuant to a valid, civil subpoena.”). AT&T may not provide the content of
7 any communications, including text messages, consistent with the SCA.³ See *Mintz*, 885 F. Supp.
8 2d at 993. To the extent that Loop’s subpoena could be read to request the content of the
9 requested communications, this order explicitly holds that AT&T is prohibited from providing the
10 content of any communications.

11 As to the scope of the subpoena, Loop seeks the requested information from March 1, 2013
12 through the present.⁴ Loop argues that the time frame is appropriate since Gatti’s scheme
13 “continues to date as alleged in the Second Amended Complaint.” *Jt. Letter* at 2. It also argues
14 that Gatti has continued to improperly solicit Loop’s confidential investors and advisors by phone
15 and text messages “as recently as a few weeks ago.” *Id.* Loop gives no other information about
16 these allegedly improper activities. In the second amended complaint, Loop makes a number of
17 allegations about Gatti’s continued wrongdoing, including the allegation that after her termination
18 from Loop, Gatti continued to make false and misleading communications with Loop’s employees
19 and investors “with the intent to cause further damage to [Loop].” 2d Am. Compl. ¶ 36. It alleges
20 that before and after Gatti’s termination, she has “continued to use text messaging to solicit
21 [Loop’s] confidential contacts, witnesses, past, current and prospective investors, advisors and
22 their families,” and that Gatti “recently” solicited by text messages “key individuals in investment
23 funds” at issue in this action. *Id.* at ¶ 143; see also ¶¶ 147, 149, 226 (“Defendants’ [racketeering]
24 activities were ongoing for at least one year, and continued through her termination from [Loop]

25 _____
26 ³ Since the content of Defendants’ communications is not at issue, Defendants’ privacy objections
are overruled.

27 ⁴ Defendants ask the court to limit the time period to June 1, 2012 through February 23, 2015, the
28 date Loop filed its complaint. However, the AT&T subpoena does not seek data prior to March 1,
2013.

1 on February 3, 2015.”). Given Plaintiff’s allegations about Gatti’s continued wrongdoing, the
2 court finds that the appropriate time period for the information requested in the AT&T subpoena is
3 March 1, 2013 through September 23, 2015, the date Loop filed its second amended complaint.

4 **B. Subpoena to Google**

5 Loop’s subpoena to Google requests four categories of information, two of which are
6 subject to Defendants’ objections: 1) all documents and communications concerning Gatti’s
7 employment with Google and Youtube, Inc. (“Youtube”), including her complete
8 employee/personnel file (Request for Production (RFP) 1); and 2) any documents related to any
9 application for unemployment benefits made by Gatti for which Google or Youtube received
10 notification (RFP 3). Defendants argue that the requested information, including the “day to day
11 ins and outs of Gatti’s employment with Google,” is not relevant to any party’s claims or defenses,
12 and that Gatti’s employment file is private.

13 In response, Loop argues that Gatti’s employment records are “critically at issue in this
14 case,” because Loop alleges that Gatti made material misrepresentations regarding her past
15 employment, compensation, and academic history in order to fraudulently induce Loop into giving
16 her a large percentage of company shares and a high salary. Jt. Letter at 4. While Loop alleges a
17 claim of fraud in the inducement against Gatti based upon alleged misrepresentations about her
18 education and prior employment at the University of California, Berkeley and Skype, it makes no
19 allegations about any misrepresentations by Gatti about her employment with Google or Youtube
20 in connection with that or any other claim. See 2d Am. Compl. ¶¶ 258-262. Moreover, to the
21 extent that Loop seeks to confirm details about Gatti’s employment with Google and Youtube,
22 such as the dates of employment and compensation, it does not need the contents of Gatti’s
23 personnel file to do so; it can obtain this information through less burdensome sources, including
24 depositions of Gatti and/or her former supervisors. Since Gatti’s personnel file from Google
25 and/or Youtube are of minimal relevance and are not proportional to the needs of the case,
26 Defendants’ motion to quash the subpoena to Google is granted as to RFP 1. See Fed. R. Civ. P.
27 26(b)(1). This ruling is made without prejudice to Loop re-serving the portion of its subpoena
28 seeking Gatti’s personnel file from Google and/or YouTube should Loop learn facts in discovery

1 that establish the clear relevance of those personnel files.

2 As to any application by Gatti for unemployment benefits, Loop offers no argument about
3 the relevance of such documents. Accordingly, the motion to quash the subpoena is granted as to
4 RFP 3.

5 **C. Subpoena to WI Harper Group**

6 Loop's subpoena to WI Harper Group seeks 24 categories of information. Defendants
7 object to the following four categories: 1) all documents and communications related to, referring
8 to, or in any way discussing or including the name Anna Gatti or any of Gatti's contact
9 information (RFP 3); 2) all text messages between anyone at WI Harper Group and Gatti,
10 including any text messages to or from Shahi Ghanem (RFP 4); 3) all LinkedIn, Facebook, and
11 any other social media messages to or from Anna Gatti and anyone at WI Harper Group, including
12 any message or request sent to Peter Liu (RFP 6); and 4) all documents and communications
13 regarding or relating to IQSystem Inc. and IQSystem LLC (RFP 16).

14 Loop explains that WI Harper was one of Loop's business relationships that "was
15 destroyed by Gatti directly and through the other Defendants," and that Gatti improperly continued
16 to solicit WI Harper after her termination. Loop contends that Gatti admitted that she has waived
17 objections to this subpoena since she did not assert objections to the Almaviva Defendants'
18 subpoena to WI Harper seeking "all documents related to Anna Gatti." Jt. Letter at 5.

19 Although not clearly stated, it appears that Defendants object to these four categories of
20 information on privacy and overbreadth grounds. However, they provide no support or
21 explanation for these objections, merely incorporating by reference their arguments related to the
22 AT&T subpoena, which do not appear applicable. They also do not respond to Loop's assertion,
23 and therefore concede that Defendants waived their objections to the subpoena. Accordingly, the
24 motion to quash the WI Harper subpoena is denied.

25 **D. Subpoena to Carr & Ferrell**

26 Loop's subpoena to the Carr & Ferrell law firm seeks thirteen categories of documents.
27 Defendants object to the following categories: 1) correspondence by attorney Jeffrey Capaccio
28 regarding Loop, its employees, Gatti, Tony DiNapoli, Gennaro DiNapoli, and the Almaviva

1 Defendants, and documents from Capaccio’s files regarding the same (RFP 2); 2) all documents
2 regarding IQSystem Inc. and IQSystem LLC (RFP 3); 3) documents regarding payments to
3 Capaccio from Gatti, Tony DiNapoli, or any of the defendants (RFP 4); 4) all documents related to
4 the Almaviva Defendants or the IQSystem Defendants’ goals for, expectations of, and
5 requirements for Carr & Ferrell in connection with its work as a contractor for the Almaviva
6 Defendants (RFP 5); 5) communications with Gatti from March 1, 2013 through the present (RFP
7 6); and communications by or to Capaccio regarding this litigation (RFP 10). Defendants also
8 object to RFP 1, which seeks all engagement letters between Carr & Ferrell and any of the
9 defendants in this action and/or Tony DiNapoli. Loop contends that Capaccio is Gatti’s co-
10 conspirator, and a close friend of Gatti’s boyfriend and alleged co-conspirator Tony DiNapoli. It
11 alleges that Capaccio schemed with Gatti to force Loop to sell its intellectual property at a bargain
12 price. See 2d Am. Compl. ¶¶ 211-13. Loop alleges that Capaccio and DiNapoli “have a tried and
13 true modus operandi for seeking to force start-ups to sell on the cheap to other companies.” Id. at
14 211.

15 Defendants again incorporate by reference their arguments related to the AT&T subpoena.
16 They baldly assert that the subpoena calls for attorney-client privileged communications and
17 documents protected by the attorney work product doctrine, without providing any information or
18 context about the relationship between Carr & Ferrell, Capaccio, and any of the defendants in this
19 case. They ask the court to limit the time period to June 1, 2012 to February 23, 2015, and to limit
20 the scope to documents excluding privileged communications and documents containing attorney
21 work product and documents concerning Loop and the Almaviva Defendants, “excluding attorney-
22 client privileged communications between Almaviva’s counsel and Gatti as Almaviva’s agent and
23 other Almaviva agents/employees.” Jt. Letter at 7. In response, Loop argues that Defendants do
24 not, and cannot allege that they ever retained Carr & Ferrell as counsel for any matter, and that
25 they have no basis to block the production of these highly relevant documents.

26 Federal privilege law applies in this federal question case. Fed. R. Evid. 501; see also
27 Loop AI Labs Inc. v. Gatti, No. 15-cv-00798 HSG (DMR), 2016 WL 730211, at *2 (N.D. Cal.
28 Feb. 24, 2016). The attorney-client privilege protects from discovery “confidential

1 communications between attorneys and clients, which are made for the purpose of giving legal
2 advice.” *United States v. Richey*, 632 F.3d 559, 566 (9th Cir. 2011) (citation omitted). The
3 privilege is “narrowly and strictly construed,” and the party asserting it bears the burden of
4 proving that it applies. *Vasudevan Software, Inc. v. IBM Corp.*, No. 09-5897-RS (PSG), 2011 WL
5 1599646, at *1 (N.D. Cal. Apr. 27, 2011) (citations omitted); accord *United States v. Bergonzi*,
6 216 F.R.D. 487, 493 (N.D. Cal. 2003) (holding that party asserting privilege “must make a prima
7 facie showing” that privilege applies) (citing *In re Grand Jury Investigation*, 974 F.2d 1068, 1071
8 (9th Cir. 1992)); see *Richey*, 632 F.3d at 566. Here, Defendants have made no showing that the
9 privilege applies, as they do not assert that Carr & Ferrell or Capaccio ever represented them in
10 any capacity. Moreover, as to Loop’s request for engagement letters between Carr & Ferrell and
11 any of the defendants in this action and/or Tony DiNapoli, the Ninth Circuit has held that the
12 attorney-client privilege usually does not protect from disclosure “the identity of the client, the
13 amount of the fee, the identification of payment by case file name, and the general purpose of the
14 work performed.” *Clarke v. Am. Commerce Nat’l Bank*, 974 F.2d 127, 129 (9th Cir. 1992).

15 The work product doctrine protects from discovery “materials prepared by an attorney in
16 anticipation of litigation,” be they “by or for the attorney.” *Bergonzi*, 216 F.R.D. at 494 (citations
17 omitted); accord *Richey*, 632 F.3d at 567. To qualify for work-product protection, materials must
18 “(1) be prepared in anticipation of litigation or for trial and (2) be prepared by or for another party
19 or by or for that other party’s representative.” *Richey*, 632 F.3d at 567 (citation omitted). When a
20 document was not prepared exclusively for litigation, it will receive protection if “in light of the
21 nature of the document and the factual situation in the particular case, the document can be fairly
22 said to have been prepared or obtained because of the prospect of litigation.” *Id.* at 568 (citation
23 omitted). As with their attorney-client privilege objection, Defendants make no showing that the
24 work product doctrine applies to the documents requested by Loop’s subpoena.

25 The court notes its concern that Defendants did not respond to any of Loop’s assertions
26 about the lack of an attorney-client relationship between Defendants and Capaccio. Further, even
27 though it appears that Capaccio represented the Almagiva Defendants at some point, the Almagiva
28 Defendants did not move to quash the subpoena or participate in the instant joint letter. Since the

1 attorney-client privilege is “narrowly and strictly construed,” the court declines to quash the
2 subpoena on attorney-client privilege and attorney work product protection grounds. However, in
3 an abundance of caution, the court will allow for the possibility that Carr & Ferrell may withhold
4 certain documents based on privilege. To the extent that Carr & Ferrell withholds documents in
5 response to Loop’s subpoena, it must promptly provide a privilege log in conformance with this
6 court’s Standing Order. [See Docket No. 401 (Notice of Amended Discovery Procedures).] Carr
7 & Ferrell may only withhold documents based on an objectively reasonable assertion of attorney-
8 client privilege and/or attorney work product protection.

9 As to the scope of the subpoena, Loop seeks the requested information for various time
10 frames, including 2012 to the present, June 1, 2013 to the present, January 2014 to the present, and
11 March 1, 2013 to the present. Loop argues that Capaccio and DiNapoli’s alleged modus operandi
12 is continuous and ongoing. See 2d Am. Compl. ¶¶ 211-13, 228-31. The court orders Carr &
13 Ferrell to produce the responsive information starting from the dates requested in the subpoena
14 through September 23, 2015.

15 **E. Subpoena to Bank of the West**

16 Loop’s subpoena to Bank of the West seeks 15 categories of information, including the
17 identification of bank accounts held by Gatti, Tony DiNapoli, IQSystem Inc., IQSystem LLC, the
18 Almaviva Defendants, Almawave USA, and others, and documents associated with opening such
19 accounts; communications between Gatti and specific Bank of the West employees or
20 representatives; documents and communications related to specific instances of cash pick-ups; and
21 documents and communications related to Loop and/or this litigation. Loop argues that the
22 requested information is relevant to its allegations that Gatti used the assistance of specific Bank
23 of the West employees to conduct her unlawful activities related to the Almaviva Defendants and
24 used bank accounts to obtain and make fraudulent payments. 2d Am. Compl. ¶¶ 27, 43, 50, 151-
25 54, 234. It also argues that the information requested is relevant to review the funds Gatti received
26 while she was supposed to be exclusively working for Loop.

27 Defendants object to nine RFPs, again incorporating by reference their arguments related
28 to the AT&T subpoena. They also argue that their personal financial information is private and

1 that the subpoena is overbroad and should be limited to documents concerning Loop and the
2 Almagiva Defendants only. Defendants seek to limit the scope to documents and information
3 from June 1, 2012 through February 23, 2015.

4 As noted above, federal privilege law applies in this case. Defendants provide no support
5 for their claim that the information sought is protected from discovery, and no explanation why
6 their privacy would not be sufficiently protected if sensitive financial information is designated as
7 “confidential” or “highly confidential—attorneys’ eyes only” pursuant to the parties’ protective
8 order. [Docket No. 230.] See, e.g., In re Heritage Bond Litigation, No. CV 02-1475-DT(RCX),
9 2004 WL 1970058, at *5 n.12 (C.D. Cal. July 23, 2004) (“Any privacy concerns Kasirer
10 defendants have in their bank records and related financial statements are adequately protected by
11 the protective order, and are not sufficient to prevent production in this matter.”) (citing Sneirson
12 v. Chemical Bank, 108 F.R.D. 159, 162 (D. Del. 1985); accord In re Yassai, 225 B.R. 478, 483
13 (Bankr. C.D. Cal. 1998). As to the scope of the subpoena, Loop does not seek documents or
14 information prior to June 1, 2012. The court finds that the appropriate time period for the
15 information requested in the Bank of the West subpoena is June 1, 2012 through September 23,
16 2015.

17 **IV. CONCLUSION**

18 For the foregoing reasons, Defendants’ motion for a protective order and/or to quash
19 Loop’s subpoenas to AT&T, Google, WI Harper Group, Carr & Ferrell, and Bank of the West is
20 granted in part and denied in part.

21
22 **IT IS SO ORDERED.**

23 Dated: February 29, 2016

