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3 UNITED STATES DISTRICT COURT
4 NORTHERN DISTRICT OF CALIFORNIA

5 LOOP AI LABS INC,
6 Plaintiff,

7 v.

8 ANNA GATTI, et al.,
9 Defendants.

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

**ORDER DENYING PLAINTIFF'S
ADMINISTRATIVE MOTION FOR
LEAVE TO FILE UNILATERAL
DISCOVERY LETTER RE IQSYSTEM,
INC.'S DOCUMENT PRODUCTION**

Re: Dkt. No. 542

11 On March 30, 2016, Plaintiff Loop AI Labs Inc. filed an administrative motion for leave to
12 file unilateral discovery letters, including a letter brief regarding Defendant IQSystem, Inc.'s
13 ("IQS") document production. [Docket No. 542.] Plaintiff argued that exceptional circumstances
14 supported its request because IQS had refused to participate in Plaintiff's joint discovery letter. *Id.*
15 In its opposition, IQS stated that it had not refused to participate, and that its counsel had left
16 Plaintiff's counsel over ten messages in March 2016 in an attempt to meet and confer. [Docket
17 No. 567.] The court then ordered Plaintiff to submit a 125-word statement responding to IQS's
18 representations. [Docket No. 582.]

19 Plaintiff timely filed its statement, in which counsel asserts that "[w]hen Loop AI returned
20 counsel's calls, they were not answered; when messages were left, there were no returned calls."
21 [Docket No. 589.] On April 11, 2016, IQS filed a response in which counsel states that she called
22 Plaintiff's counsel's office fifteen times between March 7, 2016 and March 31, 2016 attempting to
23 meet and confer, and that Plaintiff's counsel did not return her calls. [Docket No. 596.] IQS
24 attached call records which purportedly showed the fifteen outgoing calls to Plaintiff's counsel
25 and the lack of incoming calls from Plaintiff's counsel. [Docket No. 596-1.] On April 12, 2016,
26 Plaintiff filed a response to IQS's April 11, 2016 submission in which it states it "emailed and
27 called IQS's counsel's office, not cellphone." [Docket No. 601.]
28

1 Given Plaintiff and IQS’s dispute about their phone contacts in March 2016, the court was
2 unable to determine whether Plaintiff had shown exceptional circumstances supporting its request
3 to file a unilateral discovery letter regarding IQS’s document productions. Therefore, on April 20,
4 2016, the court ordered IQS to re-submit counsel’s call records reflecting her calls to Plaintiff’s
5 counsel between March 7, 2016 and March 31, 2016 with an authenticating declaration. The court
6 also ordered Plaintiff to submit “a sworn declaration authenticating records, i.e., phone records
7 and emails that support Plaintiff’s counsel’s statement that she returned IQS’s calls and emailed
8 IQS’s counsel to meet and confer from March 7, 2016 through March 31, 2016.” [Docket No.
9 612.]

10 The parties timely filed the requested submissions. [Docket Nos. 618-620.] IQS’s counsel
11 submitted evidence supporting her assertion that she called Plaintiff’s counsel’s office numerous
12 times between March 7, 2016 and March 31, 2016, and that most calls lasted between three and
13 four minutes because she left messages each time. Brayer Decl., April 22, 2016, ¶¶ 5-8, Ex. 1.
14 Plaintiff’s evidence, however, does not substantiate its position. Plaintiff submitted evidence of
15 only one telephone call to IQS’s counsel from March 7, 2016 through March 31, 2016: on March
16 22, 2016, Plaintiff’s counsel called IQS’s counsel’s office and left a message. Wong Decl., April
17 22, 2016, ¶ 4, Ex. 1. The parties also conducted a telephonic meet and confer on March 11, 2016.
18 Healy Decl., April 22, 2016, ¶ 10. Plaintiff’s counsel did not submit evidence of any emails to
19 IQS during the relevant time period.

20 Based on this evidence, the court concludes that Plaintiff has failed to show exceptional
21 circumstances supporting its request to file a unilateral discovery letter regarding IQS’s document
22 production. Contrary to Plaintiff’s representations to the court, it does not appear that IQS refused
23 to participate in the court’s joint letter process. Accordingly, Plaintiff’s administrative motion is
24 denied.

25 **IT IS SO ORDERED.**

26 Dated: April 26, 2016

