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4 UNITED STATES DISTRICT COURT
5 NORTHERN DISTRICT OF CALIFORNIA

6 TRIBUO PARTNERS LLC,

7 Plaintiff,

8 v.

9 WILSON SONSINI GOODRICH ROSATI,
10 P.C.,

11 Defendant.

Case No. [22-cv-02930-TLT](#) (DMR)

**NOTICE OF REFERENCE AND
ORDER RE: DISCOVERY
PROCEDURES; ORDER DENYING
JOINT LETTER WITHOUT
PREJUDICE**

Re: Dkt. No. 47

12 The above matter has been referred to Magistrate Judge Donna M. Ryu for resolution of
13 all discovery matters, including the parties' joint discovery letter. [Docket Nos. 47, 48.] This
14 matter is suitable for resolution without a hearing. Civ. L.R. 7-1(b).

15 In the joint letter, Plaintiff Tribuo Partners LLC moves to compel Defendant Wilson
16 Sonsini Goodrich Rosati, P.C., to produce a privilege log for communications with Defendant's
17 Office of General Counsel ("OGC") to enable Plaintiff "to vet Defendants' privilege claims." Jt.
18 Letter 1. Defendant describes these communications as "relating to the lateral transition of
19 attorney Lyons, and similar post-claim communications"; asserts that the communications are
20 clearly privileged under applicable California law; and offers to "provide[] a declaration from the
21 OGC setting forth additional factual bas[e]s for assertion of privilege." *Id.* at 3-4 (citing *Edwards*
22 *Wildman Palmer LLP v. Superior Ct.*, 231 Cal. App. 4th 1214, 1235-36 (2014) (discussing factors
23 that a court may consider in analyzing whether an attorney-client relationship exists between a law
24 firm's attorneys and the firm's in-house counsel)). Defendant also asserts that the
25 communications "are not even relevant to [Plaintiff's] theories in this case." Jt. Letter 4.

26 In relevant part, Federal Rule of Civil Procedure 26 provides that "[w]hen a party
27 withholds information otherwise discoverable by claiming that the information is privileged . . .
28

1 the court uses the following procedure. The parties shall not file formal discovery motions.
2 Instead, as required by the federal and local rules, the parties shall first meet and confer to try to
3 resolve their disagreements. The meet and confer session must be **in person, by video, or by**
4 **telephone**, and may not be conducted by letter, e-mail, or fax. If disagreements remain, the
5 parties shall file a joint letter **no later than five business days** after the meet and confer session,
6 unless otherwise directed by the court. **Lead trial counsel for both parties must sign the letter**,
7 which shall include an attestation that the parties met and conferred in person, by video, or by
8 telephone regarding all issues prior to filing the letter. **The letter must also include a paragraph**
9 **listing relevant case management deadlines**, including (1) the fact and expert discovery cut-off
10 dates; (2) the last day to hear or file dispositive motions; (3) claim construction or class
11 certification briefing deadlines and hearing dates; and (4) pretrial conference and trial dates.
12 Going issue-by-issue, the joint letter shall describe each unresolved issue, summarize each party's
13 position with appropriate legal authority, and **provide each party's final proposed compromise**
14 **before moving to the next issue**. The joint letter shall not exceed **five pages** (12-point font or
15 greater; margins no less than one inch) without leave of court. **Parties are expected to plan for**
16 **and cooperate in preparing the joint letter so that each side has adequate time to address the**
17 **arguments**. In the rare instance that a joint letter is not possible, each side may submit a letter not
18 to exceed **two** pages, which shall include an explanation of why a joint letter was not possible.
19 The parties shall submit one exhibit that sets forth each disputed discovery request in full,
20 followed immediately by the objections and/or responses thereto. No other information shall be
21 included in the exhibit. No other exhibits shall be submitted without prior court approval. The
22 court will review the submission(s) and determine whether formal briefing or proceedings are
23 necessary. **Discovery letter briefs must be e-filed under the Civil Events category of Motions**
24 **and Related Filings > Motions - General > "Discovery Letter Brief."**

25 All exhibits to discovery disputes should be separately filed on ECF (for example, if the
26 motion is Docket No. 30, and the declaration with 10 exhibits is Docket No. 31, Exhibit A would
27 be filed as Docket No. 31-1, Exhibit B would be Docket No. 31-2, and so on). **All exhibits shall**
28 **also be filed in a searchable OCR format where possible.**

1 the model stipulated protective orders (available at <http://cand.uscourts.gov/model-protective->
2 orders). Parties shall file one of the following with their proposed protective order: (a) a
3 declaration stating that the proposed order is identical to one of the model orders except for the
4 addition of case-identifying information or the elimination of language denoted as optional; (b) a
5 declaration explaining each modification to the model order, along with a redline version
6 comparing the proposed protective order with the model order; or (c) a declaration explaining why
7 use of one of the model orders is not practicable. All protective orders, including the model
8 protective order, must be modified to reflect Judge Ryu’s standing order on judicial intervention in
9 discovery disputes. If the parties use one of the model stipulated protective orders, they must
10 modify section 6.3 by striking the remainder of the section after “If the Parties cannot resolve a
11 challenge without court intervention” and adding “the Parties shall follow the procedures for
12 resolving discovery disputes set forth in Magistrate Judge Donna M. Ryu’s standing order and
13 present the dispute in a joint letter to the court” or words to that effect.

14 **CHAMBERS COPIES AND PROPOSED ORDERS**

15 Parties must lodge an extra paper copy of the following filings pursuant to Civil L.R. 5-
16 1(d)(7): any of the motions listed under Civil L.R. 7-1(a) (except stipulations filed pursuant to
17 Civil L.R. 7-12), motions for attorneys’ fees filed under Civil L.R. 54-5, motions for temporary
18 restraining orders filed under Civil L.R. 65-1, and discovery letter briefs. If a District Judge refers
19 a discovery dispute to Judge Ryu for resolution, the parties must lodge a chambers copy of the
20 referred discovery letter or motion. The filings should be marked as a copy for “**DMR**
21 **Chambers.**” All chambers copies should be double-sided (when possible), three-hole punched
22 along the left side of the page, and should bear the ECF filing “stamp” (case number, docket
23 number, date, and ECF page number) along the top of the page. All exhibits shall be clearly
24 delineated with labels along the right side. If the filing includes exhibits over two inches thick, the
25 parties shall place the chambers copy in a binder.

26 Any stipulation or proposed order submitted by an e-filing party shall be submitted by
27 email to dmrpo@cand.uscourts.gov as a word processing attachment on the same day the
28 document is e-filed. This address should only be used for this stated purpose unless otherwise

United States District Court
Northern District of California

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directed by the court.

PRIVILEGE LOGS

If a party withholds responsive information by claiming that it is privileged or otherwise protected from discovery, that party shall produce a privilege log as quickly as possible, but **no later than fourteen days after its disclosures or discovery responses are due**, unless the parties stipulate to or the court sets another date. Privilege logs must be sufficiently detailed for the opposing party to assess whether the assertion of privilege is justified. Unless the parties agree to alternative logging methods, the log should include: (a) the title and description of the document, including number of pages or Bates-number range; (b) the subject matter addressed in the document; (c) the identity and position of its author(s); (d) the identity and position of all addressees and recipients; (e) the date the document was prepared and, if different, the date(s) on which it was sent to or shared with persons other than its author(s); and (f) the specific basis for the claim that the document is privileged or protected.

Communications involving trial counsel that post-date the filing of the complaint need not be placed on a privilege log. Failure to promptly furnish a privilege log may be deemed a waiver of the privilege or protection.

IT IS SO ORDERED.

Dated: January 23, 2023

