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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

IN RE: QUALCOMM LITIGATION

Case No.: 17-cv-0108-GPC-MDD

**ORDER ON JOINT MOTION FOR
DETERMINATION OF
DISCOVERY REGARDING
QUALCOMM'S RESPONSES TO
APPLE'S SECOND SET OF
REQUESTS FOR PRODUCTION**

[ECF NO. 404]

This Joint Motion was filed on April 4, 2018. The dispute involves Qualcomm's responses to 60 requests for production ("RFPs"). Apple does not challenge any specific response; it challenges all of them for not meeting the requirements of Rule 34, Fed. R. Civ. P. Qualcomm asserts that taken in context, considering that these RFPs are duplicative of earlier RFPs and considering the lengthy correspondence between the parties regarding Qualcomm's search methodology, its responses are sufficient.

LEGAL STANDARD

The Federal Rules of Civil Procedure authorize parties to obtain

1 discovery of “any nonprivileged matter that is relevant to any party’s claim or
2 defense and proportional to the needs of the case” Fed. R. Civ. P.
3 26(b)(1). “Information within the scope of discovery need not be admissible in
4 evidence to be discoverable.” *Id.* District courts have broad discretion to
5 limit discovery where the discovery sought is “unreasonably cumulative or
6 duplicative, or can be obtained from some other source that is more
7 convenient, less burdensome, or less expensive.” Fed. R. Civ. P. 26(b)(2)(C).

8 A party may request the production of any document within the scope of
9 Rule 26(b). Fed. R. Civ. P. 34(a). “For each item or category, the response
10 must either state that inspection and related activities will be permitted as
11 requested or state an objection to the request, including the reasons.” Rule
12 34(b)(2)(B). If the responding party chooses to produce responsive
13 information, rather than allow for inspection, the production must be
14 completed no later than the time specified in the request or another
15 reasonable time specified in the response. *Id.* An objection must state
16 whether any responsive materials are being withheld on the basis of that
17 objection. Rule 34(b)(2)(C). An objection to part of a request must specify the
18 part and permit inspection or production of the rest. *Id.*

19 DISCUSSION

20 In this dispute, Apple is not challenging any particular production or
21 withholding by Qualcomm. Apple’s complaint is that the responses to these
22 60 RFPs are deficient as a matter of law under Rule 34, Fed. R. Civ. P. Apple
23 asserts that it cannot tell what is being produced or withheld in response to
24 these RFPs. Qualcomm responds that, in context, its responses are sufficient.
25 Qualcomm has supplied to the Court, in a sealed filing, its correspondence
26 with Apple regarding its approach to managing the hundreds of RFPs served,
27 this far, in this case. The Court has reviewed the RFPs at issue, the

1 responses, the arguments of the parties and the materials filed under seal.

2 Apple is correct that if viewed in vacuum, these responses are deficient.
3 But, this is not a vacuum. The Court has held a hearing and a status
4 conference regarding discovery in this matter and has ruled on several
5 discovery disputes. The Court is familiar with the context behind this
6 dispute.

7 Taken in context, the Court finds Qualcomm's responses sufficient
8 under Rule 34. Apple's main thrust is that it cannot determine whether
9 documents are being withheld. Qualcomm asserts that Apple has been
10 provided a detailed explanation of Qualcomm's search parameters which, by
11 exclusion, describe what it is not searching for. Documents outside of the
12 search parameters are not being produced and need not be further described.
13 *See Rowan v. Sunflower Elec. Power Corp.*, No. 15-cv-9227-JWL-TJJ, 2016
14 WL 3743102 *5 (D. Kan. July 13, 2016). Qualcomm has stated that its
15 production regarding these and the related RFPs will be completed by May
16 11, 2018. Apple has not challenged that assertion.

17 **CONCLUSION**

18 Apple's motion to compel, as presented in this Joint Motion, is
19 **DENIED.**

20 Dated: April 10, 2018

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22 Hon. Mitchell D. Dembin
23 United States Magistrate Judge
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