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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

AIRDOCTOR, LLC *Plaintiff* v. LONNI, INC., et al., *Defendants*	CASE NO. 2:23-cv-00353-GW-AS Judge: Hon. George H. Wu Magistrate Judge: Hon. Alka Sagar **COUNTERCLAIM DEFENDANTS' OPPOSITION TO COUNTERCLAIM PLAINTIFFS' MOTION FOR REVIEW OF MAGISTRATE JUDGE'S DISCOVERY ORDER [DKT. 315] AND REQUEST FOR EXPEDITED REVIEW** [Filed concurrently with Declaration of Ashly E. Sands] Fact Disc. Cutoff: July 2, 2026 Pretrial Conf.: December 3, 2026 Trial Date: December 15, 2026

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I. INTRODUCTION

This motion asks the Court to do what Rule 72(a) does not permit: to relitigate, under a deferential standard of review, a fact bound discovery ruling that Magistrate Judge Sagar reached after full briefing and argument. Counterclaim Plaintiffs ("CCPs") seek review of a single portion of the June 18, 2026 order ("June 18 MTC Order" Dkt. 315), the ruling that discovery concerning Plaintiff AirDoctor's ("Plaintiff") AD3500 filter "is not relevant or proportional to the claims in this case." Dkt. 315 at 2. They also ask this Court to reopen fact discovery for sixty days, an extraordinary request. Having opposed Counterclaim Defendants' motion for a stay, insisted that every deposition go forward, and taken the testimony of six (6) witnesses, CCPs now seek a do-over of the very discovery they just completed, in pursuit of AD3500 material Judge Sagar has twice found irrelevant. Reopening would force AirDoctor, LLC, together with Counterclaim Defendants Ideal Living Holdings, LLC, Ideal Living LLC, Response Products, LLC[1], and Ideal Living Management LLC (collectively, "CCDs"), to re-run document searches and produce *at least* six already-deposed witnesses for a second (or for some, third) sitting. The motion should be denied on either of two independent grounds.

First, there is no clear error. Judge Sagar's ruling does not turn on a mere product "label," as CCPs suggest. It rests on CCPs' own binding Rule 36 admissions that they never sold, offered, or advertised any AD3500-compatible filter, and on AirDoctor's election to seek, as damages, only CCPs' profits on their claimed AD3000-compatible filters. It also rests on an undisputed fact Judge Sagar expressly recognized: the AD3500 filter fits an AD3000 AirDoctor Air Purifier, but CCPs' alleged AD3000-compatible filters cannot fit an AD3500 AirDoctor air purifier, so an AD3500 AirDoctor air purifier owner could never have bought CCPs' products, and there were no AD3500 sales to divert. The very "combo-pack" listing CCPs now brandish was presented to, considered

[1] The SACC named Response Products, LLC (d/b/a Ideal Living Direct). There is, however, no entity registered as Ideal Living Direct.

by, and rejected by Judge Sagar at the June 11, 2026 hearing on CCP's Motion to Compel that led to the June 18 MTC Order ("June 11 Hearing"). Sands Dec., ¶ 5, Ex. E. On a record like this, the deferential clear error standard forecloses reversal.

Second, CCPs manufactured the timing crisis they invoke. They announced this motion on June 22, 2026, met and conferred the next day, and thus had a fully formed motion in hand. Sands Dec., ¶ 10, Ex. J. Yet, they declined CCDs' proposed stay of the remaining depositions and filed only on July 2, 2026, the final day of fact discovery after every deposition (save one)[2] was complete. A party that deposes first and moves last cannot show good cause to reopen discovery. Moreover, CCPs cannot manufacture urgency: they filed a regularly noticed motion set for hearing more than five weeks out. The motion should be denied in its entirety.

II. RELEVANT BACKGROUND

A. The June 18 MTC Order Denies AD3500 Discovery

CCPs sought to compel discovery concerning AirDoctor's AD3500 filter ("CCP's MTC"). Dkt. 277 at 24–26; *see also* Dkt. 282 at 3–5 ("CCPs' MTC Supplemental Memo"). In the June 18 MTC Order, Judge Sagar held that "discovery regarding the AD3500 replacement filter is not relevant or proportional to the claims in this case because Defendants did not sell AD3500 replacement filters and Plaintiff is seeking, as an element of damages, Defendants' profits on sales of AD3000 compatible filters." Dkt. 315 at 2. The Court "reject[ed]" CCPs' diversion theory and found their "argument regarding loss of potential sales of the AD3500 replacement filter speculative." *Id*. The Court denied the motion to compel AD3500 discovery, subject only to a narrow document instruction: Plaintiff may not withhold responsive documents that reference AD3500 data where that data is maintained together with, or is part of, relevant AD3000 data. *Id*. at 2-3.

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[2] On June 26, 2026, this Court extended the fact discovery cutoff solely as to the deposition of Helen Christoni until July 14, 2026. Dkt. 332.

B. CCPs Refuse a Stay and Depose First

On June 22, 2026, CCPs gave written notice that they would move under Rule 72(a) for "expedited" review of the AD3500 ruling in the June 18 MTC Order, and set out the grounds in their instant motion ("Motion for Review"). The parties met and conferred on June 23, 2026. Also on June 23, 2026, on CCDs' application to stay discovery (Dkt. 321, "Stay Application"), Your Honor extended the fact discovery cutoff to July 10, 2026 solely for the depositions CCPs noticed and the Xincheng deposition (Dkt. 323). CCDs' Stay Application had primarily sought to stay all remaining discovery pending its forthcoming, fully dispositive motion for summary judgment[3]; CCPs opposed the stay. In opposing the stay, CCPs represented that they would be "irreparably prejudiced if the depositions were not completed before July 2," insisted the depositions "proceed apace," and cross-moved for sanctions, accusing CCDs of bad faith for seeking the stay. Dkt. 322, pp. 6, 9-10, 17-20.

On June 25, 2026, CCDs again proposed a limited, stipulated stay of the remaining depositions pending the parties' motions via e-mail. CCPs not only declined; they insisted the depositions proceed that day and threatened "yet another motion for sanctions" against CCDs for adhering to the June 18 MTC Order, urging that CCDs instead "allow the discovery that [CCPs] seek subject to a protective order." Sands Dec., ¶ 13, Ex. K. CCDs responded, in writing, that the appropriate remedy for any disagreement with the Order was a motion for review, not deposition self-help. *Id*. CCPs did not file that motion until July 2, 2026.

C. CCPs Depose CCDs' Witnesses and Later File for Review

On June 25, 2026, at the second Rule 30(b)(6) deposition of CCDs' designee Michael Pedersen, CCPs examined the witness about the AD3500 over objection and forced repeated instructions under Rule 30(c)(2). Then, after CCDs repeatedly asked, on

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[3] CCDs served notice of their intent to move for summary judgment under L.R. 7-3 on June 16, 2026. Sands Dec., ¶ 9, Ex. I. Because Ms. Christoni's deposition was completed on July 14, 2026, CCDs are awaiting the certified deposition transcript and will file their motion promptly upon its receipt.

the record and while the witness was present and about to leave the country, whether CCPs sought any testimony from the witness outside the AD3500, which CCPs declined to identify or ask. Sands Dec., ¶ 14, Ex. L, 82:8–83:5. Instead, CCPs cut the deposition short, threatening sanctions and contempt against CCDs for adhering to the June 18, 2026 MTC Order. (*Id.*). CCDs sought a protective order (Dkt. 324); CCPs cross-moved to enforce the June 18 MTC Order (Dkt. 325). On June 26, Judge Sagar confirmed that questioning about AD3000/AD3500 "overlap" and commingled data was permitted, but that questions "that pertain solely to the AD3500 filter (i.e., dimensions, design features)" were not, "as the Court has found such information not relevant" ("June 26 Order"). Dkt. 331. Both parties' sanctions requests were denied. The four remaining depositions of Jeremy Sweet (30(b)(6)), Adam Shen (30(b)(1)), Gene Boyarsky (30(b)(6) and (30(b)(1)), and Peter Spiegel (30(b)(1)) then proceeded on June 29 through July 1, 2026. Sands Dec., ¶ 18, Exs. M-P. On July 2, 2026 the fourteenth day after the June 18 MTC Order and the last day of fact discovery, and after every noticed deposition except Helen Christoni's was complete, CCPs filed this Motion for Review, noticed for hearing on August 6, 2026, and asked for a sixty-day reopening.

Ms. Christoni's deposition was conducted on July 14, 2026, at which CCPs freely exercised the shared-topic questioning the June 26 Order permits. CCPs' counsel examined Ms. Christoni, in both her individual and Rule 30(b)(6) capacities, about the "combo pack" listing, the company's transition to the AD3500, the redesigned filter's fit in both the AD3000 and AD3500 units, and the listing's copy and pricing, and received substantive answers. Sands Dec., ¶ 23, Ex. S, 80:13–83:19, 88:4–14, 90:12–93:15.[4] Only once all day did defending counsel direct the witness not to answer, on a question CCPs' counsel himself stated was "not asking about the 3500," and after a brief recess CCPs' counsel moved on without pressing it. *Id.* 164:2–165:12. CCPs' counsel concluded the

[4] Citations to Ms. Christoni's July 14, 2026 deposition are to the rough transcript as CCDs have not yet received the certified transcript.

examination that afternoon, with hours of the seven permitted under Rule 30(d)(1) unused, without reserving any rights, seeking any ruling, or identifying questions he was prevented from asking. *Id.* 176:7–14.

III. LEGAL STANDARD

A district judge may set aside a magistrate judge's order on a nondispositive pretrial matter only if it is "clearly erroneous or . . . contrary to law". 28 U.S.C. § 636(b)(1)(A); Fed. R. Civ. P. 72(a). Discovery rulings are quintessentially nondispositive and are reviewed under this deferential standard. *Bhan v. NME Hosps., Inc.*, 929 F.2d 1404, 1414 (9th Cir. 1991); *Grimes v. City & Cnty. of San Francisco*, 951 F.2d 236, 240-41 (9th Cir. 1991); *Wolpin v. Philip Morris Inc.*, 189 F.R.D. 418, 422 (C.D. Cal. 1999). CCPs cite *Grimes* and *Wolpin* themselves; their own authority confirms the deference owed.

The clear error standard is "significantly deferential," requiring a "definite and firm conviction that a mistake has been committed" *Concrete Pipe & Prods. of Cal., Inc. v. Constr. Laborers Pension Tr.*, 508 U.S. 602, 623 (1993); *Security Farms v. Int'l Bhd. of Teamsters*, 124 F.3d 999, 1014 (9th Cir. 1997); *U.S. v. U.S. Gypsum Co.*, 333 U.S. 364, 395 (1948). If the magistrate judge's account of the evidence is plausible on the record as a whole, the district court may not reverse even if it would have weighed the evidence differently. *Anderson v. Bessemer City*, 470 U.S. 564, 573-74 (1985); *Phoenix Eng'g & Supply Inc. v. Universal Elec. Co.*, 104 F.3d 1137, 1141 (9th Cir. 1997). Courts in this District routinely apply precisely these standards to affirm magistrate judges' denials of discovery-related motions under Rule 72(a). *See, e.g.*, *Steenwyk v. Steenwyk*, No. 2:20-cv-02375-FLA (AJRx), 2024 U.S. Dist. LEXIS 249989, at *13-15 (C.D. Cal. Sept. 3, 2024); *Jerozal v. Stryker Corp.*, No. CV 22-4094-GW-AFMx, 2023 U.S. Dist. LEXIS 234648, at *23 (C.D. Cal. Aug. 22, 2023).

Two corollaries bear directly on this motion. First, "[a] ruling usually cannot be clearly erroneous if there is no Ninth Circuit authority on point, or the question has not been addressed by any circuit court." *Mersho v. U.S. Dist. Court*, 6 F.4th 891, 898 (9th

Cir. 2021). Second, the narrower "contrary to law" standard permits independent review only of purely legal determinations, *Green v. Baca*, 219 F.R.D. 485, 489 (C.D. Cal. 2003), and applies only where the magistrate judge "applies an incorrect legal standard or fails to consider an element of the applicable standard." *U.S. v. Mitchell*, 128 F. Supp. 3d 1266, 1270-71 (E.D. Cal. 2015); *DCD Partners, LLC v. Transamerica Life Ins. Co.*, No. 2:15-cv-03238-CAS (GJSx), 2018 U.S. Dist. LEXIS 226010 at *5 (C.D. Cal. June 13, 2018). Critically, the clearly erroneous standard applies not only to the magistrate judge's factual findings but also to "discretionary decisions made in connection with non-dispositive pretrial discovery matters." *F.D.I.C. v. Fid. & Deposit Co*, 196 F.R.D. 375, 378 (S.D. Cal. 2000); *see Irwin v. Mascott*, 370 F.3d 924, 931 (9th Cir. 2004). Judge Sagar's relevance and proportionality ruling is exactly such a discretionary discovery call, reviewed for clear error and abuse of discretion, not *de novo*. *See* Dkt. 333, p. 14 (conceding relevance disputes are reviewed for abuse of discretion, citing *Wolpin*, 189 F.R.D. at 422, 423).

IV. ARGUMENT

A. The June 18 MTC Order is Neither Clearly Erroneous nor Contrary to Law

1. <u>The June 18 MTC Order Rests on CCPs' Binding Admissions and AirDoctor's Damages Election</u>

To prevail, CCPs must show that the June 18 MTC Order is "clearly erroneous or . . . contrary to law." Fed. R. Civ. P. 72(a). They cannot satisfy either prong. Judge Sagar applied the correct legal test, Rule 26(b)(1)'s relevance-and-proportionality standard, so there is no purely legal error for this Court to review de novo as "contrary to law." *See United States v. Mitchell*, 128 F. Supp. 3d 1266, 1270-71 (E.D. Cal. 2015). CCPs' own motion confirms as much. They do not contend that Judge Sagar misapplied Rule 26(b)(1), invoked the wrong legal test, or committed any error of law; their lead argument is that the June 18 MTC Order "rests upon a factual premise the existing record does not support." Dkt. 333, p. 14. That is a challenge to Judge Sagar's assessment of the record, precisely the species of determination CCPs concede is reviewed deferentially, not de

novo. *Id.* (acknowledging that "[t]he standard of review in most instances of discovery disputes that involve a question of relevance is abuse of discretion") (quoting *Wolpin*, 189 F.R.D. at 422).

Judge Sagar's application of that standard to the record was, at a minimum, plausible, so it is not "clearly erroneous." *See Anderson*, 470 U.S. at 573–74. All that remains is CCPs' disagreement with how Judge Sagar weighed the evidence, which Rule 72(a) does not reach.

CCPs frame the June 18 MTC Order as though it turned on whether they sold a product bearing the model number "AD3500." It did not. It rests on their own conclusive admissions. In response to AirDoctor's First Set of Requests for Admission, each CCP admitted that, prior to filing the Second Amended Counterclaims ("SACC"), it "had not sold," "offered for sale," or "advertised any filters intended for use in" AirDoctor's AD3500 air purifier (each "Admitted"). Sands Dec., ¶ 4, Exs. B-D. Facts admitted under Rule 36 are conclusively established and may not be controverted. Fed. R. Civ. P. 36(b). Judge Sagar's finding tracks those admissions: discovery regarding the AD3500 filter "is not relevant or proportional to the claims in this case because Defendants did not sell AD3500 replacement filters." June 18 MTC Order, p. 2. CCPs' counsel confirmed the same at the June 11 Hearing, stating, "[w]e are not selling the 3500 admittedly." Sands Dec., ¶ 5, Ex. E, 22:17, and the SACC pleads no AD3500 claim, alleging only that CCPs "wish to continue selling the delisted products," meaning their AD3000-compatible filters, and no allegation that any CCP ever sold, offered for sale, or intended to sell an AD3500-compatible filter, and no damages theory predicated on the AD3500. SACC, ¶ 56; Sands Dec., ¶ 5, Ex E, 29:12-17.

The June 18 MTC Order also rests on AirDoctor's damages election. As confirmed at the hearing, AirDoctor seeks "their profits on the AD 3000 compatible filters", not lost sales, and not anything tied to the AD3500. Sands Dec., ¶ 5, Ex. E, 26:19-21; Dkt. 315 at 2-3. Discovery directed at AirDoctor's AD3500 filter is therefore untethered from any live claim, defense, or element of damages. These are record-based determinations, not

premises the record fails to support.

2. <u>One-directional Compatibility Defeats Diversion</u>

The dispositive fact CCPs omit is that compatibility is one-directional. The redesigned AD3500 filter can be installed in an AD3000 AirDoctor Air Purifier, but CCPs' AD3000-compatible filters cannot be installed in an AD3500 AirDoctor air purifier, which incorporates a patented notch modification. *See* Sands Dec., ¶ 22, Ex. R. Judge Sagar recognized this at the hearing: "the AD 3500 filter can be used in the AD 3000 purifier but the AD 3000 filter cannot be used in the AD 3500 purifier." Sands Dec., Ex. E, 14:5-8. It follows that an owner of an AD3500 AirDoctor Air Purifier could never have purchased CCPs' filters, and that Plaintiff's marketing of an "AD3000 / AD3500" combination pack could not have diverted any AD3500 sale from CCPs. There was no such trade to divert.

On that record, Judge Sagar's conclusion that CCPs' lost-AD3500-sales theory is "speculative" was amply supported, and, at a minimum, plausible on this record, which ends the inquiry. *Anderson*, 470 U.S. at 573-74. Judge Sagar pressed the theory repeatedly before rejecting it: "your whole claim on you were planning to sell the AD 3500, but then you couldn't. I mean it's so speculative" (Sands Dec., ¶ 5, Ex. E., 17:5-6); "I just think it's really speculative" *Id.* at 17:18-19; and "that's speculative and I don't know that that meets the standard" *Id.* at 23:22-25. A conclusion reached after that degree of scrutiny is the antithesis of clear error.

3. <u>CCPs Cannot Relitigate the Combo-Pack Listing</u>

A Rule 72(a) motion is not a vehicle to relitigate arguments the magistrate judge already considered. *See Steenwyk*, 2024 U.S. Dist. LEXIS 249989, at *12-13, *15 (overruling a Rule 72(a) objection that "repeat[ed] the same argument already considered by" the magistrate judge). That is exactly what CCPs do here. At the June 11 Hearing, CCPs showed Judge Sagar the very "AD3000 / AD3500" combination listing they now brandish, arguing that "their own listings currently show that the AirDoctor 3500 is being sold as being compatible with and a replacement from the AirDoctor 3000." Sands Dec.,

¶ 5, Ex. E, 6:24-7:2. Judge Sagar weighed that listing, along with the one-directional compatibility and the diversion theory, still finding the AD3500 discovery irrelevant because CCPs did not sell AD3500 filters. *Id.* at 14:5-17; June 18 MTC Order, p. 2. Accordingly, rehashing that same material is improper.

4. <u>The June 18 MTC Order is not "Internally Inconsistent"</u>

CCPs argue the June 18 MTC Order is internally inconsistent because it deems AD3500 discovery irrelevant yet requires AirDoctor to produce material that references the AD3500. There is no inconsistency. The June 18 MTC Order denied AD3500 discovery as neither relevant nor proportional, and separately provided that AirDoctor need not run separate AD3500 searches or strip incidental AD3500 references out of the AD3000 materials it produces. June 18 MTC Order, pp. 2-3; Sands Dec., ¶ 5, Ex. E. 42:10-18. Judge Sagar confirmed the point in the June 26 Order, permitting questions about any AD3000/AD3500 overlap while holding that questions "that pertain solely to the AD3500 filter" are "not permitted... as the Court has found such information not relevant." June 26 Order, p. 2. The carve-out thus spares AirDoctor an extraction burden; it is not a ruling that AD3500 discovery is relevant, and there is nothing to reconcile.

The factual predicate for CCPs' argument also fails. AirDoctor did not produce "intertwined" AD3500 financial data; it produced isolated AD3000 financials, and the AD3500 was excluded. Indeed, the "intertwined" characterization was CCPs' own counsel's, and when he advanced it at the June 11 Hearing, AirDoctor's counsel refuted it directly: "They're not intertwined." Sands Dec., ¶ 5, Ex. E, 28:1-3. As confirmed by the Declaration of Gene Boyarsky, CCDs' CFO, the declaration the June 18 MTC Order directed, AD3000 revenue and product costs are tracked by SKU and were filtered to the AD3000 SKU family; brand-level operating expenses were allocated to the AD3000 filters through a documented, consistently applied methodology; and the figures were reconciled to CCDs' audited financial statements, such that the calculation "covers only AD3000 filter products and does not include any products associated with the AD3500 air purifier." Sands Dec., ¶ 20, Ex. Q ; *see* June 18 MTC Order, Dkt. 315 at 3. Ms.

Futterman explained the same process at the hearing: the CFO used the company's annually audited ERP system to "isolate the AD3000 sales and profits at the relevant time period," which are the "updated financials that [AirDoctor] produced". Sands Dec., Ex. E, 32:1-22. The Court recognized that CCPs had received precisely that discovery. Sands Dec., Ex. E, 32:23-24; 34:16-18. CCDs' CFO confirmed the same at his deposition: the ERP tracks revenue and product cost by SKU, and he isolated the SKUs unique to the AD3000 filter to produce the AD3000 figures. Sands Dec., ¶ 18, Ex. N, 64:10-23, 65:25-66:4, 83:18-84:20. There is accordingly no inseparable AD3500 financial data CCPs must receive to obtain the AD3000 discovery they were owed.

The only material that ever referenced both models was a subset of documents and data that surfaced when AirDoctor ran AD3000 search terms and, in good faith, produced the results without redacting incidental AD3500 references. Sands Dec., Ex. E, 36:13-19. That overlap is a document-search artifact, not evidence that AD3500 data is inseparable, and not a basis to deem AD3500 discovery relevant. Judge Sagar framed the carve-out accordingly, as an extraction convenience: she denied AD3500 discovery "except as to when that is sort of intertwined with the discovery that is produced regarding the AD 3000 so you don't have to extract it," while making clear that "plaintiffs are not required to do separate searches for the AD 3500 related materials." Sands Dec., ¶ 5, Ex. E, 42:10-18. CCPs already have the benefit of that overlap ruling. There is nothing left to review and no inconsistency to fix.

The record likewise answers CCPs' assertion in the Motion for Review that reopened AD3500 discovery would impose "little additional burden" because AD3500 information is "maintained together" with AD3000 information. Dkt. 333, pp. 20-21. As shown above, AirDoctor maintains its records at the brand level and isolated the AD3000 financials by SKU; the only materials referencing both models were incidental search-term overlaps, which AirDoctor already produced unredacted under the June 18 MTC Order's carve-out. There is accordingly nothing "maintained together" left to produce. What CCPs actually seek, separate AD3500 document searches, testing files, financial

runs, and reopened depositions, is the very "separate searches" discovery Judge Sagar held AirDoctor was not required to undertake, and its burden is precisely what the June 18 MTC Order found disproportionate.

Nor can CCPs salvage the motion by recasting AD3500 discovery as evidence of the falsity of the advertising they challenge. The June 18 MTC Order withholds only material pertaining solely to the AD3500 filter; CCPs remain entitled to discovery concerning the AD3000 filter, the product on which they claim they competed, which has been produced. June 26 Order, p. 2. Material unique to the AD3500 filter cannot establish the falsity of AirDoctor's advertising concerning the AD3000 filter. The AD3500 filter is a separately designed product incorporating a patented modification. Sands Dec., Ex. Q.

5. <u>CCPs' Own Cases Require Direct Competition, Which Is Absent</u>

The authorities CCPs invoke confirm, rather than undermine, Judge Sagar's ruling. The Lanham Act requires injury to a commercial interest "either by direct diversion of sales from itself to defendant or by a lessening of the goodwill associated with its products." *Southland Sod Farms v. Stover Seed Co.*, 108 F.3d 1134, 1139 (9th Cir. 1997). *Lexmark* confirms that the paradigmatic injury is diversion of sales to a direct competitor and requires an existing commercial injury proximately caused by the challenged advertising, not a hypothetical future opportunity. *Lexmark Int'l, Inc. v. Static Control Components, Inc.*, 572 U.S. 118, 131-34 (2014).

CCPs' lead case, *InSinkErator*, is a case about two undisputed direct competitors in the same market whose products were sold "side-by-side" at retail; the Ninth Circuit's injury analysis turned on precisely that shared market competition. *InSinkErator, LLC v. Joneca Co., LLC*, 163 F.4th 608, 621-22 (9th Cir. 2025). That predicate, actual competition and divertible sales, is exactly what is missing here. CCPs admittedly never sold, offered, or advertised any AD3500-compatible filter, and because compatibility is one-directional, an AD3500 owner could never have bought their product. There were no AD3500 sales to divert. *InSinkErator* therefore supports Judge Sagar's ruling. So does *ThermoLife*, which likewise presupposes parties that actually compete in the relevant

market. *ThermoLife Int'l, LLC v. Compound Sols., Inc.*, 848 F. App'x 706 (9th Cir. 2021).

CCPs also rely on *Vicious Brands*, but it does not help them. It is a pleading-stage decision about what a Lanham Act plaintiff must plausibly allege to survive dismissal, not a ruling on whether discovery into a separate product is relevant or proportional, and it does not disturb Judge Sagar's discretionary relevance determination. *Vicious Brands, Inc. v. Face Co., LLC*, No. 24-cv-04996-LJC, 2026 U.S. Dist. LEXIS 22640 (N.D. Cal. Feb. 3, 2026). It therefore does not make AD3500 discovery relevant, and it does nothing to render the June 18 MTC Order clearly erroneous. In all events, CCPs lack even what *Vicious Brands* required: no lost AD3500 sales, no diverted AD3500 customer, and no injury from competition in the AD3500 replacement-filter market (Sands Dec., Ex. E, 14:18-19), only an intent-to-enter theory "speculative" and a single supplier document that shows no such plan (*see infra* § IV(A)(7)). These points confirm the reasonableness of Judge Sagar's relevance determination; they do not ask this Court to decide Lanham Act standing.

6. <u>CCPs Relevance Cases Do Not Show Clear Error</u>

CCPs' new reliance on *Geophysical Systems Corp. v. Raytheon Co.*, 117 F.R.D. 646 (C.D. Cal. 1987), provides no basis to disturb the June 18 MTC Order.

First, the theory *Geophysical* is cited to support was squarely presented to Judge Sagar and soundly rejected. CCPs argued to Judge Sagar that because AirDoctor markets the AD3500 and AD3000 filters as interchangeable and part of "the same market," AD3500 discovery is relevant to their counterclaims, and they specifically disputed AirDoctor's showing that the SACC contains no AD3500 allegations. CCP's MTC, 22:3-14; Dkt. 282 at 3-5; Sands Dec., Ex. E, 14:9-19. Judge Sagar considered that product-overlap theory and declined to compel AD3500 discovery, finding that because CCPs never sold AD3500 filters she did not "see how that is relevant to any of [CCPs'] claims." Sands Dec., Ex. E, 14:14-17. A motion under Rule 72(a) is not an occasion to relitigate arguments the magistrate judge already considered and rejected. *Jerozal*, 2023 U.S. Dist. LEXIS 234648, at *12-13; *Steenwyk*, 2024 U.S. Dist. LEXIS 249989, at *13-15. Dressing

the same argument in a case not previously cited does not convert a considered discretionary ruling into clear error.

Second, CCPs never presented *Geophysical* to Judge Sagar. They did not cite it in CCP's MTC, in CCPs' MTC Supplemental Memo, or at the June 11 Hearing. It appears for the first time here. A district court "has discretion, but is not required, to consider evidence [or argument] presented for the first time in a party's objection to a magistrate judge's" ruling, because treating material never put to the magistrate as a basis for reversal "would effectively nullify the magistrate judge's consideration of the matter and would not help to relieve the workload of the district court." *U.S. v. Howell*, 231 F.3d 615, 621-22 (9th Cir. 2000); *see also Hill v. Assuranceforeningen Skuld (Gjensidig)*, NO. 15-00025, 2017 U.S. Dist. LEXIS 34965, at *31-33 (D. Guam Mar. 9, 2017). That principle applies with even greater force on the deferential review of a nondispositive discovery order.

Third, *Geophysical* would not establish clear error or a ruling contrary to law even if considered. *Geophysical* reviewed a relevance ruling deferentially, under what it called "the clearly implicit standard of abuse of discretion." *Geophysical Sys. Corp.*, 117 F.R.D. at 647. That deferential posture, which this Court applied in *Jerozal*, only underscores that a debatable relevance theory does not render Judge Sagar's determination "clearly erroneous or contrary to law." 28 U.S.C. § 636(b)(1)(A); Fed. R. Civ. P. 72(a). *Geophysical* also predates the 2015 amendments to Rule 26(b)(1), which narrowed the scope of discovery to matter relevant to a party's claim or defense and elevated proportionality to an express, co-equal limitation. *Geophysical* reflects a discovery standard that no longer governs and never addressed proportionality, so it cannot show that Judge Sagar's proportionality determination was clearly erroneous or contrary to law. Finally, the discovery ordered in *Geophysical* was relevant, as CCPs themselves describe it, only because "[d]efendants' knowledge of such defects, if any existed, in the precursor systems would be relevant to plaintiff's fraud claims." *Geophysical Sys. Corp.*, 117 F.R.D. at 648. Knowledge and intent were elements of the fraud and misrepresentation

claims there. Intent to deceive is not an element of CCPs' Lanham Act, UCL, or FAL claims, so the rationale that made related-product discovery relevant in *Geophysical* has no application here.

CCPs' reliance on *Jerozal* is especially misplaced: *Jerozal* is this Court's own decision, and there, Your Honor affirmed magistrate's discovery-relevance order as "neither clearly erroneous nor contrary to law" rejecting objections "substantially similar to those presented to" the magistrate. *Jerozal*, 2023 U.S. Dist. LEXIS 234648, at *12-13, *22-24. The "await trial" language CCPs quote appears in *Jerozal* only to explain why such rulings are reviewed deferentially. *Id.* at *9-11. *Jerozal* thus confirms both the deference owed to the June 18 MTC Order and that rehashing arguments already made to the magistrate is no basis for reversal.

7. <u>The Xincheng Spec Sheets Show No AD3500 Plan</u>

CCPs' entire "intent to make and sell AD3500 filters" theory rests on two single page specification sheets produced by Defendant Xincheng (XC-00085, XC-00086) cited in their supplemental memorandum (Sands Dec., Ex. F, p. 3) (hereinafter "Xincheng Spec Sheets"). The Xincheng Spec Sheets cannot support that theory, for several independent reasons, any one of which confirms the Magistrate's "speculative" finding.

As an initial matter, the Xincheng Spec Sheets are the supplier's documents, not CCPs'. Xincheng is a Hong Kong supplier; it is not a CCP. Only the CCPs, Lonni, Dazhan, and Lianrui, could show an intent to enter that market, by ordering, commissioning, or planning such filters. A supplier's spec sheet cannot do that: even taken at face value, it reflects the supplier's own plans, not any CCP's. There is no purchase order, contract, or communication from Lonni, Dazhan, or Lianrui ordering AD3500-compatible filters or expressing any intent to list or sell them, and the documents do not reference the CCPs at all. A manufacturer's spec sheet, without the seller's order, proves nothing about the seller's plans. This ground requires no ruling on authenticity.

A specification sheet, in any event, is not a plan. Even if genuine, it describes a product that *could* be made, not one that was ordered, manufactured, sold, or concretely

planned, and these sheets are facially deficient: XC-00086 is an unfinished draft, [redacted]. The Xincheng Spec Sheets also lack every hallmark of genuine product development, no purchase orders, tooling agreements, prototypes, third-party test reports, or internal communication about market entry as to the AD3500, in stark contrast to Xincheng's genuine AD3000 development records.

The Xincheng Spec Sheets, moreover, bear the markings of documents prepared for this litigation. Their metadata reflects creation on April 2, 2026, the day after the meet and confer at which CCPs first raised the AD3500 discovery issue and production at 10:37 p.m. on April 20, the night the Joint Stipulation was filed; [redacted]. CCPs cited them to the Magistrate (CCPs' MTC Supplemental Memo, p. 3) with no Bates numbers, no exhibit, and no declaration. CCDs have served a Rule 37 letter and, pursuant to Rule 11(c)(2)'s safe-harbor procedure, a Rule 11 letter and draft motion challenging the Xincheng Spec Sheets as manufactured for this litigation. Sands Dec., Exs. G, H.

Finally, even crediting the Xincheng Spec Sheets, they establish no competitive injury under the standard *Lexmark* and *ThermoLife* articulate. Discovery is not a vehicle "to engage in 'fishing expedition[s]'" where a party "has no basis other than gross speculation" to support its theory. *Webb v. Trader Joe's Co.*, 999 F.3d 1196, 1204 (9th Cir. 2021) (quoting *Rivera v. NIBCO, Inc.*, 364 F.3d 1057, 1072 (9th Cir. 2004)); *see also Aim High Inv. Grp., LLC v. Spectrum Labs., LLC,* No. 8:22-cv-00011-DOC (ADSx), 2022 U.S. Dist. LEXIS 206547 (C.D. Cal. Oct. 20, 2022) (denying discovery of products not at issue in the case). Judge Sagar's determination that the AD3500 theory is speculative, irrelevant, and disproportionate was correct, and far from clear error.

8. <u>Judge Sagar's Proportionality Ruling Is Independently Sound</u>

Even if relevance were debatable, Judge Sagar independently found AD3500 discovery not proportional to the needs of the case. Fed. R. Civ. P. 26(b)(1). Given CCPs'

conclusive admissions, AirDoctor's AD3000-only damages election, the one-directional compatibility, and the advanced stage of a years-long discovery period, that discretionary determination was well within Judge Sagar's discretion. To prevail, CCPs must show clear error on both relevance and proportionality. They can show neither.

B. CCPs Are Not Entitled to Expedited Review or Reopened Discovery

At each turn, CCPs have raced to the Court, on shortened time and with threats of sanctions, rather than use the orderly, meet and confer processes the Rules and this Court's procedures prescribe, multiplying these proceedings at every turn. They raced *ex parte* to compel deposition dates rather than confer (Dkt. 312); opposed CCDs' Stay Application and insisted the depositions go forward; threatened sanctions and contempt against CCDs for adhering to the June 18 MTC Order; forced two rounds of emergency motion practice (Dkts. 324, 325); took every noticed deposition; and now ask to reopen fact discovery for sixty days to redo it all.

1. <u>CCPs Manufactured the Urgency They Invoke</u>

CCPs had the review mechanism in hand well before the depositions and deliberately withheld it. They announced this precise motion, Rule 72(a) review of the AD3500 ruling, plus expedited review, on June 22, 2026 and articulated its grounds and met and conferred on June 23, 2026. They thus had a fully formed motion ten days before they filed it. Rather than file it and obtain the expedited ruling they say they needed, which could have resolved the AD3500 scope *before* the depositions, they waited until July 2, 2026, the last day of fact discovery, after every noticed deposition but one was complete. Their claim of diligence because they filed "within 14 days" inverts the point: fourteen days is the outer limit under Rule 72(a), not a measure of diligence.

CCPs' "expedited review" request is, moreover, self-refuting. They did not seek truly expedited or *ex parte* treatment. They filed a regularly noticed motion, expressly invoking the L.R. 7-3 pre-filing conference process (Dkt. 333, p. 4), which by rule requires a conference at least seven days before filing and governs ordinary noticed motions, not emergencies, and set the motion for hearing on August 6, 2026, more than

five weeks out, on the standard track under the Local Rules and this Court's procedures. The only time pressure, that fact discovery has now closed, is entirely of CCPs' own making. To the extent CCPs seek any acceleration outside the ordinary motion track, they cannot have it. A party seeking such relief must be "without fault in creating the crisis" that supposedly requires it, *Mission Power Eng'g Co. v. Cont'l Cas. Co.*, 883 F. Supp. 488, 492 (C.D. Cal. 1995), and CCPs manufactured this one.

2. <u>CCPs Refused the Orderly Alternatives</u>

CCPs cannot credibly claim urgency when they refused the orderly alternatives CCDs offered. CCDs filed their Stay Application seeking to stay remaining discovery pending their forthcoming dispositive summary-judgment motion, or, alternatively, to extend the deposition cutoff; CCPs opposed the stay and insisted on taking the depositions immediately. During the meet and confer on the instant motion, when CCDs separately proposed a limited, stipulated stay of the remaining depositions pending the parties' motions, CCPs declined again. Sands Dec., ¶ 12. Having demanded that the depositions go forward, taken the testimony, and only then filed for review and a sixty-day reopening, CCPs cannot have it both ways.

CCPs' own words in opposing the stay defeat their request now. When CCDs sought a brief stay so the Court could resolve the AD3500 scope and the forthcoming dispositive motion first, CCPs told the Court the depositions were so urgent that any delay would "irreparably prejudice[]" them and that they had to be "completed before July 2," and they branded the stay a "tactic to delay." Opp. to Stay App. Dkt. 322, pp. 6, 9-10, 11. Having insisted the depositions could not wait, opposed the very sequencing that would have avoided the timing "crisis" they now invoke, and then taken every deposition, CCPs cannot now claim that the same testimony was inadequate and demand a sixty-day reopening to take it again. *See Humetrix, Inc. v. Gemplus S.C.A.*, 268 F.3d 910, 917-18 (9th Cir. 2001) (judicial estoppel "prohibits a litigant from asserting inconsistent positions in the same litigation," barring a party from reversing a position taken to obtain a favorable result merely because it is later dissatisfied with the outcome).

3. CCPs Cannot Show Good Cause to Reopen

Reopening discovery requires good cause under Rule 16(b), which turns on the movant's diligence. *Johnson v. Mammoth Recreations*, 975 F.2d 604, 609 (9th Cir. 1992). CCPs were not diligent, they withheld a ready motion, refused a stay, and deposed first. Indeed, CCPs' lack of diligence predates the June 18 MTC Order: AirDoctor objected to AD3500 discovery in writing when it served its responses to Lonni's Fifth Set of Requests for Production (Sands Dec. ¶ 3, Ex. A), yet CCPs did not move to compel until April 20, 2026. Dkt. 277. The "late" June 18 MTC Order they now invoke as cause for reopening thus traces to their own delay, not to anything CCDs did. *Steenwyk* is directly on point. There, this Court affirmed the denial of relief where the movant "waited until well after all depositions (fact and expert) were completed before filing," found "not good cause to excuse the failure to comply with the District Judge's scheduling order," and emphasized the "compelling reasons to resolve all discovery matters in a timely manner." *Steenwyk*, 2024 U.S. Dist. LEXIS 249989, at *11-12. CCPs did the same thing here.

The *City of Pomona* factors likewise favor CCDs. *City of Pomona v. SQM N. Am. Corp.*, 866 F.3d 1060, 1066 (9th Cir. 2017). The need for a reopening is entirely self-inflicted; the request is not truly "narrow" and the prejudice to CCDs is real and concrete: CCPs' requested relief would require a fresh round of extensive AD3500 document searches and production and the re-deposition of *at least* six witnesses CCPs already examined (Pedersen, Sweet, Shen, Boyarsky, Spiegel, and Christoni), all to develop a product Judge Sagar twice found irrelevant (June 18 MTC Order and June 26 Order); that is neither "targeted" nor "harmless". Nor would the requested reopening be as contained as CCPs suggest: sixty days measured from the August 6, 2026 hearing date CCPs themselves selected would extend fact discovery into October 2026, months after its close and deep into the parties' preparation for the December 3, 2026 pretrial conference and December 15, 2026 trial.

4. <u>Reopening Would Burden Witnesses CCPs Declined to Question</u>

CCDs' witnesses are real employees with jobs and outside commitments, not litigation props. Mr. Pedersen was leaving the country immediately after his deposition; AirDoctor's counsel told CCPs on the record that Pedersen "is leaving the country and is going to be unavailable" and that "if you have questions, you should ask them now." Sands Dec., Ex. L, 82:17-25; see *id.* 62: 18-24. AirDoctor's in-house counsel added that the witnesses "have schedules," were "taking PTO," and asked CCPs to "ask the questions when we're available." *Id.* 84:8-19. A sixty-day reopening would drag these witnesses back for a second (or for some, third) sitting, the antithesis of proportionality. A second or third deposition of an already-deposed witness requires leave of court, Fed. R. Civ. P. 30(a)(2)(A)(ii), and the court "must limit" discovery that is "unreasonably cumulative or duplicative" or where the party "has had ample opportunity to obtain the information," Fed. R. Civ. P. 26(b)(2)(C). A party who fails to diligently pursue discovery from an already-deposed witness before the cutoff is not entitled to reopen it. *Cornwell v. Electra Cent. Credit Union*, 439 F.3d 1018, 1026-27 (9th Cir. 2006) (affirming denial of reopening for lack of diligence "even in the face of requested supplemental discovery that might have revealed highly probative evidence"); *Playup, Inc. v. Mintas*, 344 F.R.D. 429, 435-36 (D. Nev. 2023) (denying a second deposition where the movant "indisputably had the opportunity" to obtain the testimony and made a tactical choice not to).

Reopening would also burden witnesses whom CCPs declined to question when they had every opportunity to do so. After the June 26, 2026 Order expressly permitted questioning on shared advertising, product information, testing, sales, and expenses relating to the AD3000 and AD3500, CCPs deposed Shen, Sweet, Boyarsky, and Spiegel and did not ask a single question referencing the AD3500 at any of those four depositions. The only references to the AD3500 in those transcripts are defending counsel's opening recitations of this Court's orders confirming the permitted scope. Sands Dec., Ex. M, 5:14–6:19; Ex. N, 9:13–10:17; Sands Dec., Ex. O, 9:23–10:14; Sands Dec., Ex. P 8:17–25. At those four depositions, no question was ever met with an AD3500 objection or

instruction not to answer, because none was asked. Nor did CCPs lack time: of the seven hours available for each deposition under Rule 30(d)(1), they used roughly two hours with Mr. Shen, an hour and forty-five minutes with Mr. Sweet, and under thirty minutes with Mr. Spiegel, and cut Mr. Pedersen's deposition short after about two hours. Sands Dec. ¶¶ 14; 18. Requiring these witnesses, each of whom was produced, examined, and released, to sit for a second deposition to answer questions CCPs chose not to ask is precisely the scenario in which reopening is denied: CCPs "indisputably had the opportunity" to ask them and made a tactical choice not to. *Playup*, 344 F.R.D. at 435-36; Fed. R. Civ. P. 26(b)(2)(C)(ii). That choice reflected CCPs' pattern of escalating to the Court rather than using the discovery available to them, threatening sanctions before the depositions began and pairing their opposition to the stay with a sanctions request rather than asking the questions the June 26 Order authorized. Sands Dec. Ex. K; Dkt. 322. A party that declines the discovery it was authorized to take, and cuts off a deposition to seek sanctions rather than ask the questions available to it, cannot establish good cause to reopen and re-take it. *See* Fed. R. Civ. P. 26(b)(2)(C)(ii); *Cornwell,* 439 F.3d at 1026-27; *Steenwyk*, 2024 U.S. Dist. LEXIS 249989, at *11-12.

V. CONCLUSION

The June 18 MTC Order is neither clearly erroneous nor contrary to law; it rests on CCPs' binding admissions, AirDoctor's damages election, the undisputed one-directional compatibility, and evidence Judge Sagar already weighed. Independently, CCPs' delay, their refusal of a stay, and their cost-multiplying conduct defeat any showing of good cause for expedited review or a reopening of fact discovery. CCDs respectfully request that the Court overrule CCPs' objections, affirm the June 18 Order, and deny the Motion for Review in its entirety.

Dated: July 16, 2026

Respectfully submitted,

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L.R. 11-6.2 CERTIFICATE OF COMPLIANCE

The undersigned, counsel of record for Plaintiff and Counterclaim Defendants, certifies that this brief contains 6,963 words, which complies with the word limit of L.R. 11-6.1.

Dated: July 16, 2026

/s/ Ashly E. Sands
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