

**SUPERIOR COURT, STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

Department 2, Honorable Drew C. Takaichi, Presiding
Audrey Nakamoto, Courtroom Clerk

191 North First Street, San Jose, CA 95113
Telephone 408.882-2120

To contest the ruling, call (408) 808-6856 before 4:00 P.M.

PROBATE LAW AND MOTION TENTATIVE RULINGS

DATE: June 17, 2024

TIME: 10:00 A.M.

*****NOTICE*****

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REMOTE THROUGH MICROSOFT TEAMS**

PLEASE GO TO:

**[https://www.sccscourt.org/general_info/ra_teams/video_hearings_teams.
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Case Names: *The Estate of Ryan Dang-Giang Ta*

Case No.: 23PR194463

Hearing date, time, and department: June 17, 2024 at 10:00 a.m. in Department 2

INTRODUCTION

Decedent Ryan Dang-Giang Ta (“Decedent”) passed away intestate in October 2022. The court appointed Decedent’s father Hoai N. Ta (“Personal Representative”) personal representative of Decedent’s estate.

Currently before the court is the personal representative’s motion for an order for disclosure or production of Decedent’s Google Account contents and digital assets. The motion is unopposed.

DISCUSSION

Personal Representative seeks an order compelling Google to provide him with access to “Decedent’s Google Account, including Gmail, Drive, Docs, Photos, Authenticator, and Calendar data, from the date of creation to the date of the Court’s order.” (Declaration of Chi N. Dinh in Support of Motion at ¶ 11.)

Probate Code section 876 provides

If a deceased user consented to or a court directs disclosure of the content of electronic communications of the user, the custodian¹ shall disclose to the personal representative of the estate of the user the content of an electronic communication sent or received by the user if the personal representative gives to the custodian all of the following:

- (a) A written request for disclosure in physical or electronic form.
- (b) A certified copy of the death certificate of the user.
- (c) A certified copy of the letter of appointment of the representative, a small-estate affidavit under Section 13101, or court order.
- (d) Unless the user provided direction using an online tool, a copy of the user’s will, trust, power of attorney, or other record evidencing the user’s consent to disclosure of the content of electronic communications.
- (e) If requested by the custodian, any of the following:

- (3) An order of the court finding any of the following:
 - (A) That the user had a specific account with the custodian, identifiable by the information specified in paragraph (1).

¹ “Custodian” means a person that carries, maintains, processes, receives, or stores a digital asset of a user. (Prob. Code, § 871, subd. (f).) In this instance, the custodian is Google.

(B) That disclosure of the content of the user's electronic communications would not violate Chapter 121 (commencing with Section 2701) of Part 1 of Title 18 of, and Section 222 of Title 47 of, the United States Code, or other applicable law.

(C) Unless the user provided direction using an online tool, that the user consented to disclosure of the content of electronic communications.

(D) That disclosure of the content of electronic communications of a user is reasonably necessary for estate administration.

Probate Code section 881, subdivision (a) provides, "Not later than 60 days after receipt of the information required under Sections 876 to 879, inclusive, a custodian shall comply with a request under this part from a fiduciary or designated recipient to disclose digital assets or terminate an account. If the custodian fails to comply with a request, the fiduciary or designated recipient may apply to the court for an order directing compliance." "An order under subdivision (a) directing compliance shall contain a finding that compliance is not in violation of Section 2702 of Title 18 of the United States Code." (Prob. Code, § 881, subd. (b).)

Here, the personal representative has contacted Google to attempt to gain access to Decedent's accounts but Google is requesting a court order pursuant to Probate Code section 876, subdivision (e)(3). The personal representative has provided a declaration indicating that Decedent possessed a Google account under the email address ryandta@gmail.com.

On May 9, 2024, the court issued an order denying Personal Representative's prior motion requesting the same relief. The court found that Personal Representative had not explained how disclosure of the content of the electronic communications is reasonably necessary for estate administration. (See Prob. Code, § 876, subd. (e)(3).) The court also requested that, should Personal Representative refile, he inform the court whether Decedent used an electronic tool to consent to or restrict disclosure of the information sought.

Personal Representative has now refiled the motion explaining that Decedent left financial accounts but Personal Representative has been unable to locate them and he believes that the Google accounts will contain information regarding those financial accounts. As mentioned above, the motion is unopposed. Personal Representative has also explained that there is no evidence that Decedent used an electronic tool to consent to or restrict disclosure of the information sought.

Accordingly, the court finds that Decedent had accounts with Google and there is no evidence that the user provided directions using an online tool. The court finds that disclosure of the account information requested is reasonably necessary for estate administration. The motion is GRANTED.

CONCLUSION

The motion is GRANTED. The court will sign the proposed order provided by Personal Representative.²

² The last sentence of paragraph 11 of the proposed order is modified to provide that all motions before the court relating to the Google account are resolved by this order.

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