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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

BRAINTREE LABORATORIES, INC.,

Movant,

CIV. NO. S-11-0077 JAM GGH

vs.

McKESSON CORPORATION,

Nonmovant.

ORDER TO SHOW CAUSE

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Presently before the court is Braintree Laboratories, Inc.’s (“Braintree”) motion to compel production of documents from third party McKesson Corporation (“McKesson”) pursuant to a subpoena served under Fed. R. Civ. P. 45. On September 15, 2011, along with Braintree’s motion, the parties filed a joint statement regarding their discovery disagreement in accordance with L.R. 251. The motion is currently set for hearing on September 22, 2011 at 10:00 a.m.

In the joint statement, Braintree states that, pursuant to Fed. R. Civ. P. 45(a)(2)(C), it “issued the subpoena ‘from the court for the district where the production or inspection is to be made,’ which in this case is this Court.” (Dkt. No. 12, at 8.) However, it also notes that third party McKesson is based in San Francisco, California (which is located in the

1 Northern District of California). Braintree is based in Massachusetts. Therefore, it is not clear
2 why the motion is being brought in the Eastern District of California. The subpoena attached to
3 the joint statement as Exhibit 1 does not shed light on the matter, because Braintree apparently
4 inadvertently attached the wrong subpoena. The subpoena attached as Exhibit 1 to the joint
5 statement is a subpoena to a different entity issued from the Southern District of Ohio. (Dkt. No.
6 12, Ex. 1.)

7 Accordingly, IT IS ORDERED that:

8 1. Braintree shall show cause within five (5) calendar days of the service of this
9 order why its motion was properly brought in the Eastern District of California. Braintree shall
10 also file a copy of the correct subpoena along with its response to this order. In the event that the
11 motion was erroneously filed in this District, Braintree shall instead file a notice withdrawing the
12 motion.

13 2. The hearing on Braintree's motion (Dkt. No. 12) currently set for September
14 22, 2011 at 10:00 a.m. is vacated. If the order to show cause is discharged, Braintree will be
15 permitted to re-notice the hearing on the next available calendar date upon seven (7) days' notice.

16 DATED: September 19, 2011

17 /s/ Gregory G. Hollows
18 UNITED STATES MAGISTRATE JUDGE

19 GGH/wvr
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