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United States District Court
For the Northern District of California

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

VISA U.S.A. INC.,

No. C 09-01176 SI

Plaintiff,

**ORDER RE: PLAINTIFF’S DISCOVERY
REQUEST
[Docket No. 48]**

v.

AUDIENCE IDENTIFICATION INC.,

Defendant.

Plaintiff Visa U.S.A. Inc. (“Visa”) has filed a discovery motion seeking an order compelling defendant Audience Identification Inc. (“Aii”) to produce a Rule 30(b)(6) witness for deposition. This dispute arises from a contract between Visa and Aii related to the identification of “inactive” users of U.S. Bank-branded Visa check cards, who could receive a \$15 credit through a Visa promotion if they used their inactive cards three times or more within the month of October 2007. Visa alleges that Aii acted negligently by including U.S. Bank account holders who held an inactive *card*, rather than limiting the promotion to include only inactive *account holders* – i.e., those who were not using any of their Visa check cards.

Visa seeks to depose Aii on several topics, including what Aii understood its duty to be at the time it received its instructions, how Aii determined which account holders should be included in the promotion, what communications Aii had with anyone regarding the promotion, and what investigation Aii did after learning of the error. The dispute between the parties centers on whether Aii should be required to appear for deposition before it receives production of documents reflecting the names, identification numbers, check card numbers, and current status of the \$15 reward for the more than 100,000 account holders Visa alleges were negligently included in the promotion. Aii asserts that

1 without these documents, its 30(b)(6) designee cannot adequately prepare for the deposition.

2 The Court agrees with Visa that the records of the 100,000 account holders in dispute are largely
3 unrelated to the topics on which Visa seeks to depose Aii. The deposition topics seek information that
4 Aii's representative should be able to provide without reviewing the extensive records Aii seeks.
5 Accordingly, the Court directs the parties to schedule a Rule 30(b)(6) deposition of Aii **no later than**
6 **February 19, 2010.** The Court further directs the parties to meet and confer in a timely fashion and
7 make a good faith attempt to resolve their dispute concerning the reasonable scope of production with
8 respect to the records requested by Aii.

9
10 **IT IS SO ORDERED.**

11 Dated: February 2, 2010



SUSAN ILLSTON
United States District Judge