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 8 MASTERCARD INTERNATIONAL  
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10 **UNITED STATES DISTRICT COURT**  
 11 **NORTHERN DISTRICT OF CALIFORNIA**  
 12 **SAN FRANCISCO DIVISION**

14 **B & R SUPERMARKET, INC., d/b/a**  
**MILAM'S MARKET, et al.,**

16 **Plaintiffs,**

17 **v.**

18 **VISA, INC., et al.,**

20 **Defendants.**

**Case No. 3:16-cv-01150-WHA**

~~**PROPOSED**~~ **ORDER FOR**  
**ISSUANCE OF LETTER**  
**ROGATORY AND APPOINTMENT**  
**OF A COMMISSIONER**

**Honorable William H. Alsup**

22 Upon consideration of Defendants' Administrative Motion for an Order Issuing Letter  
 23 Rogatory and Appointing a Commissioner Pursuant to 28 U.S.C. section 1781 and the Hague  
 24 Convention ("Motion"),

25 IT IS HEREBY ORDERED that Defendants' Motion is GRANTED.

26 IT IS FURTHER ORDERED that:

27 1. Pursuant to Article 17 of the Hague Convention, Nathalie Meyer Fabre  
 28 (the "Commissioner") is hereby appointed, pending approval of the French Ministère de la

1 Justice and subject to the terms of the Court’s Letter of Request for International Judicial  
2 Assistance, as the Commissioner to receive from FIME documents located in France that are  
3 responsive to Exhibit 2 to the Motion, and to simultaneously transmit the documents to counsel  
4 for Defendants pursuant to Article 17 of the Hague Convention, and, in performance of her  
5 appointment as Commissioner and duties thereunder, upon completion to inform the French  
6 Ministère de la Justice;

7           2.       The signed Motion, Order, and Request for International Judicial  
8 Assistance will be given to counsel for Defendant Mastercard, who are hereby directed to request  
9 that Alexander Blumrosen, counsel for FIME, file this document in English, along with a French  
10 translation of the same, as well as English and French versions of Defendant Mastercard’s  
11 Subpoena (Exhibit 2 to the Motion), with the Ministère de la Justice, Direction des Affaires  
12 Civiles et du Sceau, Bureau de l’entraide civile et commerciale internationale (D3), 13, Place  
13 Vendôme, 75042 Paris Cedex 01, France;

14           3.       Defendants will bear the costs of the Hague Convention proceedings—  
15 including the fees of the Commissioner and the translation fees or costs—up to a maximum of  
16 \$20,000 without prior approval of the Defendants. The Commissioner must seek approval from  
17 Defendants for any work that will result in the fees and costs exceeding \$20,000. Each party will  
18 be responsible for the fees and expenses, if any, of its own attorneys relating to the Hague  
19 Convention proceedings; and

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1           4.       Neither the Motion, this Order, the production of documents pursuant to  
2 the Hague Convention, nor the terms of the Court's Letter of Request for International Judicial  
3 Assistance shall constitute or operate as a waiver of any argument, position, allegation, or  
4 defense of any party in the above-captioned action, or of the attorney-client privilege, the work-  
5 product doctrine, or any other privileges, rights, or protections that may apply to that evidence  
6 under the laws of France or the United States.

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8 **IT IS SO ORDERED.**

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10 Dated: February 9, 2017.

  
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HONORABLE WILLIAM H. ALSUP  
UNITED STATES DISTRICT COURT JUDGE