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28IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SWARMIFY, INC.,

No. C 17-06957 WHA

Plaintiff,

v.

CLOUDFLARE, INC.,

**ORDER RE LETTER DATED
FEBRUARY 16, 2018**Defendant.
_____ /

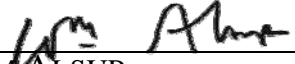
The Court received a letter today from counsel for defendant Cloudflare, Inc., regarding a recent news article titled “Swarmify Says CloudFlare Stole Stream Tech After Deal Talks” published after yesterday’s hearing on plaintiff Swarmify, Inc.’s motion for preliminary injunction. According to the article, after that hearing — a portion of which was held under seal *at Swarmify’s request* so it could talk candidly about the substance of its supposed trade secrets — Swarmify gave statements to the press that commented on both the public and sealed portions of the hearing, including a comment purporting to construe the Court’s views on the merits of arguments made during the *sealed* portion. In today’s letter, Cloudflare says it “would like to respond, but feel[s] constrained about [its] ability to do so in light of the Court’s seal.” Cloudflare wishes to “speak about the general tenor of the sealed portion of the hearing (without disclosing any of Swarmify’s alleged trade secrets/confidential information).” It therefore seeks clarification “as to how [it] may properly discuss these matters with the press” (Dkt. No. 72).

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Being familiar with the circumstances, the Court finds Cloudflare’s request reasonable. The principal purpose of sealing part of yesterday’s hearing — again, at Swarmify’s request — was to prevent disclosure of Swarmify’s supposed trade secrets. This order therefore concludes Cloudflare should be able to respond publicly to Swarmify’s public statements at the same level of generality employed by Swarmify itself. For example, Cloudflare may describe the “general tenor” of the sealed hearing and give its own interpretation of what it believes to be the Court’s views to the press at the same level of generality that Swarmify did.

IT IS SO ORDERED.

Dated: February 16, 2018.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE