

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

ADOBE SYSTEMS INCORPORATED,

Plaintiff,

v.

WOWZA MEDIA SYSTEMS, LLC, and
COFFEE CUP PARTNERS, INC. (F/K/A/
WOWZA MEDIA SYSTEMS, INC.),

Defendants.

Case No.: 11-2243 CW (JSC)

**ORDER RE: JOINT DISCOVERY
DISPUTE STATEMENT RE Third
Party Discovery (Dkt. No. 272-1)**

The Court is in receipt of a joint discovery brief from the parties regarding Adobe's request to subpoena five of Wowza's customers. (Dkt. No. 272-1.) After reviewing the parties' submission, the Court concludes that oral argument would not be helpful. *See* Civ. L.R. 7-1(b).

This issue has been before the Court on numerous prior occasions. (Dkt. Nos. 138, 191, 237.) Wowza has twice filed motions for protective orders seeking to enjoin Adobe from subpoenaing its customers. (Dkt Nos. 81 & 175.) Through the subpoenas Adobe seeks information from Wowza's customers regarding their use and demand for the RTMP and

1 RTMPE protocols. The parties agreed that in lieu of the subpoenas Adobe could propound
2 written questions on ten pre-selected Wowza customers.

3 On January 3, 2013, Wowza confirmed that the written questions had been sent to the
4 ten identified customers. Three customers have responded and another two have indicated
5 that they intend to do so; however, four customers have not responded and one customer has
6 declined to respond absent a court order. Adobe now seeks an order allowing it to serve
7 subpoenas on the five Wowza customers who have not responded to the written questions
8 propounded by Adobe via Wowza.

9 As the Court has previously found, Adobe is entitled to discovery into what drives the
10 customers demand for Wowza's products. Although the parties appeared to be working
11 together to obtain this information without the need for subpoenas, this no longer appears to
12 be the case. Accordingly, Adobe is entitled to serve subpoenas (limited to the already
13 approved deposition questions) on the five customers who have not responded or declined to
14 respond. More than 30 days have passed without a response from these customers and
15 Adobe's Motion for Summary Judgment is due March 1, 2013.

16
17 **IT IS SO ORDERED.**

18 Dated: February 8, 2013

19 
20 _____
21 JACQUELINE SCOTT CORLEY
22 UNITED STATES MAGISTRATE JUDGE
23
24
25
26
27
28