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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

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In the Matter of the Search Warrant
for: [Redacted].com

Case No. 16-2316M

**ADOBE SYSTEMS
INCORPORATED'S
SUPPLEMENTAL BRIEF IN
SUPPORT OF ITS REPLY**

CASE FILED UNDER SEAL

1 Pursuant to this Court's order of January 24, 2017, ECF No. 11, Adobe files
2 this supplemental brief to address whether Adobe objects to the government's
3 proposed amendment to the NDO. The government proposes an NDO that lasts
4 "until written notice is provided by the [government] that nondisclosure is no
5 longer required." Opp'n at 9 fn.4.

6 Adobe, respectfully, does object to the government's proposed amendment
7 because the proposed amendment would still be an indefinite NDO. Like the
8 current NDO, the government's proposed NDO that lasts until "further notice" does
9 not have an end date at all. *See, e.g., In the Matter of the Grand Jury Subpoena for:*
10 *[Redacted]@yahoo.com ("Yahoo"), 79 F. Supp. 3d 1091 (N.D. Cal. 2015) ("until*
11 *further order . . . [means] an indefinite order"); In re Sealing & Non-Disclosure of*
12 *Pen/Trap/2703(d) Orders ("Pen Trap"), 562 F. Supp. 2d 876, 878 (S.D. Tex.*
13 *2008) ("until further order" means "indefinitely sealed [which] means permanently*
14 *sealed").* As such, the proposed NDO is indefinite and subject to the same SCA
15 and First Amendment issues as the existing NDO. Worse, the proposed amendment
16 would improperly vest the discretion to terminate it with the government. That
17 discretion belongs to this Court, not the government. *See* 18 U.S.C. § 2705(b) ("for
18 [a] period . . . *the court* deems appropriate") (emphasis added).

19 For the foregoing reasons, Adobe respectfully requests that the Court reject
20 the government's proposed amendment to the NDO and amend the NDO to specify
21 a period the Court deems appropriate.

22 DATED: February 6, 2017

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By: _____

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