

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

SPARK NETWORK SERVICES, INC.,	)	
	)	Civil Action No. 1:07-cv-00570
Plaintiff,	)	
	)	
v.	)	
	)	
MATCH.COM, LP, eHARMONY.COM.,	)	
INC. and YAHOO!, INC.	)	
	)	
Defendants.	)	

**STATUS REPORT OF ALL PARTIES**

The parties provide the Court with this Status Report in response to the Court's request made at the status conference on September 20, 2007, and in anticipation of the status conference scheduled for October 10, 2007. While the parties have worked out some of the disputes between them, some as described below remain at issue:

**Plaintiff's Report:**

1. Regarding the documents of Gary Kremen, Match.com earlier today (October 5, 2007) provided Mr. Kremen's attorney a proposal to attempt to facilitate production of the documents. Because this issue has been outstanding for several weeks, it was suggested at the last hearing that Match.com should serve Gary Kremen with a third party subpoena for documents, which has not been done. (After this portion of the Status Report was submitted to Defendants, Match.com for the first time indicated that it allegedly "has been trying to serve Mr. Kremen since

September 18" – two months after the subpoena was issued – and with no detail of the alleged attempts at service.)

2. Regarding the Protective Order, the only issue remaining is whether Defendants should be allowed to have a client representative (in-house counsel) review confidential documents, while precluding Plaintiff from designating any client representative to do the same. Plaintiff's proposal would limit Plaintiff's designation to an employee with no business responsibility within the company.

**Defendants' Report:**

1. Match.com has made a proposal to counsel for Gary Kremen that they hope will allow for their inspection of Mr. Kremen's relevant documents without further controversy. Specifically, Match.com has agreed to pay to Mr. Kremen \$2,500.00 toward the cost of having shipped and assembled for inspection the fourteen boxes of documents that he reviewed at the request of SNS. Match.com has also advised Mr. Kremen, through his counsel Richard Idell, of the Court's offer to enter an order containing a claw back provision. Match.com hopes that such an order will obviate the need for a privilege review, thereby mooting the privilege review cost issue. Attached is a copy of the letter from Match.com counsel Larry D. Carlson to counsel for Mr. Kremen, Richard Idell, making this proposal.
2. On the issue of service of a subpoena upon Mr. Kremen, Match.com prepared a subpoena and negotiated with Mr. Kremen's attorney, Richard Idell, on whether he would accept service of the subpoena. Mr. Idell

proposed two conditions: (1) a payment of \$2,500.00 from Match.com for the cost of assembly and shipment of the relevant documents and (2) payment from Match.com for the cost of a privilege review of those documents. Match.com declined these proposals. Match.com then employed a process server to serve Mr. Kremen with the subpoena at the address of Mr. Kremen that Match.com had found through research. The process server has been trying to serve Mr. Kremen since September 18, 2007, but has been unable to serve him at the address Match.com has for him. Last week, Match.com employed another process server. That process server has also not yet been able to serve Mr. Kremen. If Mr. Kremen, through his counsel, agrees to the proposal above, that should negate the need for service of the subpoena. Since SNS raised the service issue in its paragraph 1 above, and given that Mr. Kremen is SNS's consultant, Match.com today asked Spark counsel to provide it with a current address for Mr. Kremen so that service of the subpoena can be accomplished forthwith.

3. Defendants have advised SNS that they will agree to SNS's request to remove the language from the Protective Order that would create an absolute bar for any "former officer, director, or employee" reviewing confidential information of another party. Match.com and eHarmony each reserve the right to object to Mr. Kremen pursuant to the provisions in Section 8 of the Protective Order if and when SNS designates him as a

consultant or expert to whom SNS would like to show confidential Match.com or eHarmony materials and information.

4. Defendants maintain their disagreement with Plaintiff's characterization of the remaining dispute regarding the Protective Order. The Defendants do not wish to preclude Plaintiff from have a client representative be able to review highly confidential materials. However, Defendants can not agree to allowing Plaintiff's CEO or other strategic business planners at SNS access to Defendants' respectively highly confidential and proprietary materials. To date, Plaintiff has not come forward with any alternative designees. Moreover, Plaintiff has failed to explain how it is prejudiced under the current wording of the draft Protective Order. As explained during the September 20, 2007 status conference, Defendants' respective in-house counsel would be allowed to review confidential materials in order to assist outside counsel in creating legal strategies and giving legal advice to their clients.

Dated: October 5, 2007

Respectfully Submitted,

/s/ Raymond P. Niro, Jr.

Paul K. Vickrey  
Raymond P. Niro, Jr.  
Frederick C. Laney  
NIRO, SCAVONE, HALLER & NIRO  
181 West Madison Street, Suite 4600  
Chicago, IL 60602  
(312) 236-0733

**Attorneys for Plaintiff, Spark  
Networks Services, Inc.**

/s/ Larry D. Carlson

Larry D. Carlson  
Kevin J. Meek  
Chad C. Walters  
John C. Nickelson  
BAKER BOTTS L.L.P.  
2001 Ross Avenue, Suite 1100  
Dallas, TX 75201  
(214) 953-6500

Craig A. Varga  
Elizabeth Barry  
VARGA BERGER LEDSKY HAYES &  
CASEY  
224 South Michigan Avenue, Suite 350  
Chicago, IL 60604  
(312) 341-9400

**Attorneys for Defendant, Match.com**

/s/ Matthew J. Hult

Chris R. Ottenweller  
Matthew J. Hult  
Robert E. Freitas  
Sugithra Somasekar  
ORRICK, HERRINGTON &  
SUTCLIFFE LLP  
1000 Marsh Road  
Menlo Park, CA 94025  
(650) 614-7400

Amy L. Beckman  
ORRICK, HERRINGTON &  
SUTCLIFFE LLP  
666 Fifth Avenue  
New York, NY 10103  
(212) 506-5000

Leif R. Sigmund, Jr.  
S. Richard Carden  
Jennifer M. Kurcz  
MCDONNELL BOEHNEN HULBERT &  
BERGHOFF LLP  
300 S. Wacker Drive, Suite 3200  
Chicago, IL 60606  
(312) 913-0001

**Attorneys for Defendant,  
eHarmony.com**