

Exhibit C

1 **TRANSCRIBED FROM DIGITAL RECORDING**

2 IN THE UNITED STATES DISTRICT COURT
3 NORTHERN DISTRICT OF ILLINOIS
4 EASTERN DIVISION

4 JEFF DUNSTAN, individually and on)
behalf of a class of similarly)
5 situated individuals; and MIKE)
HARRIS,)
6)
Plaintiffs,)
7)
vs.) No. 11 C 5807
8)
COMSCORE, INC., a Delaware)
9 corporation,) Chicago, Illinois
10 Defendant.) August 23, 2012
11) 11:07 A.M.

11 TRANSCRIPT OF PROCEEDINGS - Status
12 BEFORE THE HONORABLE YOUNG B. KIM, Magistrate Judge

13 APPEARANCES:

13 For the Plaintiffs: EDELSON McGUIRE, LLC
14 350 North LaSalle Street, Suite 1300
15 Chicago, Illinois 60654
BY: MR. BENJAMIN SCOTT THOMASSEN

16 For the Defendant: QUINN EMANUEL URQUHART
17 & SULLIVAN, LLP
18 500 West Madison Street, Suite 2450
Chicago, Illinois 60606
BY: MR. STEPHEN A. SWEDLOW
MS. ROBYN M. BOWLAND

19
20 STACK & O'CONNOR CHARTERED
140 South Dearborn Street, Suite 411
Chicago, Illinois 60603
21 BY: MR. PAUL F. STACK

22 PAMELA S. WARREN, CSR, RPR
Official Court Reporter
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25 NOTE: Please notify of correct speaker identification.
FAILURE TO SPEAK DIRECTLY INTO THE MICROPHONE MAKES PORTIONS.

1 (Proceedings held in open court:)

2 THE COURT: 11 C 5807, Harris, et al. versus comScore,
3 Inc., status hearing.

4 MR. SWEDLOW: Good morning, your Honor. Stephen
5 Swedlow, Paul Stack, and Robyn Bowland on behalf of comScore,
6 the defendant.

7 MR. THOMASSEN: Good morning, your Honor. Ben
8 Thomassen here for plaintiffs.

9 THE COURT: All right.

10 MR. SWEDLOW: So we have got --

11 THE COURT: So --

12 MR. SWEDLOW: -- two issues. The first one I think is
13 completely resolved. The last time we were here we just -- or
14 I didn't -- but we discussed with you the fact that providing
15 access to a --

16 THE COURT: Yes.

17 MR. SWEDLOW: -- computer live link version of
18 our -- a portion of our production would require that we also
19 include what had been redacted as privileged. We're going to
20 just do that. And plaintiffs's counsel has agreed not to use
21 that previously redacted information in discovery or for
22 strategic purposes.

23 THE COURT: Okay.

24 MR. SWEDLOW: There is some no take
25 procedures -- essentially we have agreed to everything. We

1 could outline it for you, but it works for us, so --

2 THE COURT: Great.

3 MR. SWEDLOW: The second issue relates to the --
4 whether the plaintiff should file an amended complaint or a
5 motion for leave to dismiss --

6 THE COURT: Yes.

7 MR. SWEDLOW: -- certain count. This is -- the issue
8 is this: In order to stipulate to a motion to dismiss a
9 portion of their complaint, plaintiffs and defendant would be
10 required to line item change the complaint in at least these
11 ways. Classes would have to become class everywhere -- a lot
12 of places. There would be a subclass that would have to be
13 dismissed. Count 4 would be dismissed. Factual allegations
14 that we believe relate to damages, which would be paragraphs
15 71, 72, and 73, would have to be removed from the complaint.

16 And what we'd be left with is a complaint that's on
17 Pacer that isn't really the complaint. You'd have to take that
18 and chart it against the dismissal to figure out what
19 allegations remain in the complaint, which -- as you said, you
20 can't force the plaintiff to do anything other than -- we can't
21 force the plaintiff to do anything.

22 This is, I believe, the reason we're having this
23 dispute though. If an amended complaint is required to be
24 filed and it substantively changes the allegations of the
25 remaining counts, we would have to then answer or otherwise

1 respond to the amended complaint. It doesn't mean we would
2 have a motion to dismiss based on those changes, but we might.
3 And if it is stipulation for dismissal, the plaintiff would
4 argue you don't get a chance to file a response to stipulation
5 for dismissal so you couldn't make your allegation -- your
6 motion to dismiss, even if you wanted to, because there is no
7 amended complaint that you are responding to.

8 That's really -- that's not what it was -- as it was
9 presented, but that's the real -- that's the strategic
10 disagreement why we wouldn't do this interlineation dismissal
11 as opposed to an amended complaint eliminating those
12 allegations.

13 MR. THOMASSEN: And I'm not really sure what
14 we're -- what we're re-tracking here. I mean, we -- as ordered
15 we provided a stipulation to dismiss the subclass that counsel
16 mentioned and the one count that is brought on behalf of that
17 subclass. We received revisions to that stipulation about a
18 week later. It is our view that the changes to the complaint
19 aren't quite as onerous as counsel makes them out to be. The
20 word class will have change -- or classes will change to class,
21 and one -- one count will be eliminated. But we think that's
22 it, and that's what we're willing to do at this point. And --

23 THE COURT: Defendant has filed an answer, correct?

24 MR. SWEDLOW: We filed an answer to the
25 (unintelligible) complaint.

1 THE COURT: So there are two -- there are two ways of
2 dismissing claims or claim, one, by way of stipulation; or,
3 two, by way of a court order. So if we can't have an agreement
4 as to what's going to be done with the claims that Mr. -- I
5 think Mr. Harris will not be pursuing, then the next step is
6 for Mr. Harris to go ahead and file a motion for leave
7 to -- leave of Court to dismiss his claim regarding having to
8 expend certain dollars to have something removed from his
9 computer.

10 MR. THOMASSEN: Correct. And for the record, it is
11 Mr. Dunstan I believe --

12 THE COURT: Oh, okay.

13 MR. THOMASSEN: -- that the subclass was brought on
14 behalf of. And we have -- as I have mentioned, we have a
15 revised stipulation draft that we received back from counsel.
16 We haven't responded to that yet. We are planning on doing
17 that either today or tomorrow.

18 And if we can't reach that stipulated agreement to
19 dismiss that -- we agreed that that would be the next step to
20 move the class --

21 THE COURT: But, you know, we need to move forward
22 quickly on that because I think the defendant is holding off
23 its motion to compel based on what happens with that particular
24 claim.

25 MR. SWEDLOW: Right.

1 THE COURT: So I do need -- let's go ahead -- let's
2 have the plaintiff, Mr. Dunstan, respond to that revised
3 stipulation by August 31st.

4 MR. SWEDLOW: And just to be clear, maybe I'm beating
5 a dead horse here, but it is the allegations before you get to
6 the count that relate to damage, the ones you described where
7 you spend some money -- your computer was damaged. If those
8 are eliminated, that could have an impact on the remaining
9 counts because our position would be that -- those allegations
10 relating to damage are different now. The only -- the damage
11 would only be whether it is damage or not. The information was
12 intercepted or --

13 THE COURT: Yes.

14 MR. SWEDLOW: -- whatever.

15 THE COURT: You're right. You're right.

16 MR. SWEDLOW: And so it is a different claim for the
17 remaining counts. And we won't get a chance -- I'm not saying
18 we would file a motion to dismiss, but we don't even get a
19 chance to respond to the new allegations without those extra
20 damage allegations in there if it is a -- if it is a
21 stipulation. So we could wind up further in the case, and then
22 you or Judge Holderman could decide this -- there is no claim
23 here because without those allegations there is no damage.

24 THE COURT: Do you want to say something?

25 MR. STACK: No, I -- the point that he has just made,

1 which is the allegations that we're having the trouble with,
2 are not in the (unintelligible) --

3 THE COURT: Uh-huh.

4 MR. STACK: -- general body of the complaint, so they
5 would provide (unintelligible) basically --

6 THE COURT: Uh-huh.

7 MR. STACK: -- provide background for the other
8 allegations, the other counts. That's -- that's the
9 (unintelligible) our discovery is directed to the allegations
10 (unintelligible).

11 THE COURT: And, you know, it is what it is.

12 MR. STACK: Yeah.

13 MR. SWEDLOW: Okay.

14 THE COURT: So if you can't agree to it, then
15 plaintiff will file a motion. If that motion is denied, then
16 the plaintiff can either amend the complaint or fight the
17 motion to compel. If the motion to compel is somehow granted
18 and the plaintiff does not want to comply with the order, then
19 I'm sure the last resort would be that plaintiff has to amend
20 the complaint. So -- but we'll move through this.

21 Now are we -- we're moving forward with
22 (unintelligible) discovery or --

23 MR. SWEDLOW: We had a 30(b)(6) deposition that took
24 place already, and we have got three company -- comScore
25 company employees scheduled in a couple of weeks as well.

1 And both the -- I should point out, both of the class
2 representatives, the plaintiffs themselves, have been deposed.

3 THE COURT: Okay. So plaintiff is to go
4 ahead -- plaintiff, Mr. Dunstan, to go ahead and respond to the
5 revised (unintelligible) by August 31st.

6 And I'd like to see the parties again on September
7 14. And I like to focus on September 14 -- and I would like to
8 focus -- September 14 at 11:00. I'd like to focus on
9 depositions taken and outstanding depositions and how much time
10 we need to complete those depositions because I think --

11 MR. SWEDLOW: There was a motion for extension of the
12 time period that was granted previously, so the discovery
13 period was extended a little bit.

14 MR. THOMASSEN: To November 30th.

15 THE COURT: But then I see that we have Rule 26(a)(2)
16 to be served by the plaintiffs by September 17th. So I need a
17 status report on that too on the 14th. Okay?

18 MR. SWEDLOW: Yeah, no problem.

19 The -- it will be -- it might be a different face here
20 because we're -- we're going to be in -- we're going to be at a
21 deposition on the 14th. We have depositions scheduled the
22 12th, 13th, and 14th.

23 THE COURT: Uh-huh.

24 MR. SWEDLOW: We can certainly send somebody here, and
25 they will be reporting on the fact that in part we're in a

1 deposition that day. But I think we can keep (unintelligible)
2 is that okay with you?

3 MR. THOMASSEN: It is fine with us. It is a
4 deposition relating to this case, so --

5 THE COURT: Well, what you are telling me is that
6 whoever appears for the status hearing may not have extensive
7 knowledge about the case.

8 MR. SWEDLOW: I think -- I think they will. But, yeah
9 --

10 THE COURT: You know, if that's the case, then do me a
11 favor and prepare a status report and file it with me before
12 the 14th so that I know what's going on. I'm interested in
13 sort of wrapping up the old discovery for class issues.

14 MR. SWEDLOW: Okay.

15 THE COURT: Okay? All right. Talk to you on the
16 14th.

17 MR. SWEDLOW: Thank you, your Honor.

18 (Which concluded the proceedings in the above-entitled
19 000matter.)

20 CERTIFICATE

21 I HEREBY CERTIFY that the foregoing is a true, correct
22 and complete transcript of the proceedings had at the hearing
of the aforementioned cause on the day and date hereof.

23 /s/ *Pamela S. Warren*
24 Official Court Reporter
United States District Court
25 Northern District of Illinois
Eastern Division

August 30, 2012
Date