

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

MIKE HARRIS and JEFF DUNSTAN,
individually and on behalf of a class of
similarly situated individuals

Plaintiff,

v.

COMSCORE, INC., a Delaware corporation

Defendant.

CASE NO. 1:11-cv-5807

Chief Judge Holderman

Magistrate Judge Kim

**COMSCORE, INC.'S STATEMENT REGARDING PLAINTIFFS MIKE HARRIS AND
JEFF DUNSTAN'S MOTION AND SUPPORTING MEMORANDUM TO MODIFY
MAGISTRATE JUDGE KIM'S SCHEDULING ORDER**

Defendant comScore, Inc. ("comScore") respectfully submits this statement regarding Plaintiffs Mike Harris and Jeff Dunstan's (together "Plaintiffs") Motion and Supporting Memorandum to Modify Magistrate Judge Kim's Scheduling Order ("Motion").

As acknowledged by Plaintiffs in the Motion, comScore has not taken a position regarding Plaintiffs' request to extend this Court's discovery deadlines. comScore continues to maintain its position in this regard. However, in the Motion Plaintiffs imply that comScore failed to comply with the Court's orders regarding written discovery in this case. Due to this mischaracterization, comScore is compelled to submit this Statement to clarify the record.

On July 26, 2013 Magistrate Judge Kim entered an order which, in part, stated "Parties then have until September 9, 2013, to respond to the written discovery requests." (Dkt. No. 211.) In accordance with this Court's order, comScore produced documents responsive to Plaintiffs' Document Requests on September 9, 2013 via Federal Express. (Ex. A, Sept. 9, 2013 Letter to Balabanian from Bowland.) An employee at Plaintiffs' counsel's law firm ("T. Hackman"),

described later by counsel for Plaintiffs as the “office manager” for Plaintiffs’ counsel’s law firm, signed for the package containing comScore’s document production on September 10, 2013 at 9:42 am. (Ex. B, Federal Express Proof of Delivery; Ex. C, October 4, 2013 Decl. of Bowland at ¶ 2.) Counsel for Plaintiffs then contacted counsel for comScore, Inc. on September 12, 2013 claiming that they had not received comScore’s production. (Ex. C, October 4, 2013 Decl. of Bowland at ¶ 2.) Although counsel for comScore provided Exhibit B, the Proof of Receipt, to Plaintiffs’ counsel, Plaintiffs’ counsel continued to claim they had not received comScore’s production. Counsel for comScore, at Plaintiffs’ request, then agreed to provide a replacement hard drive as a courtesy. comScore also requested that Plaintiffs search their office for the previously produced hard drive, which contains comScore’s proprietary information. (Ex. C, October 4, 2013 Decl. of Bowland at ¶¶ 3-5.) Should Plaintiffs fail to recover the hard drive they misplaced, comScore may seek relief from this Court under the Protective Order entered in this matter. *See* Dkt. No. 72.

DATED: October 4, 2013

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Attorneys for Defendant comScore, Inc.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the foregoing has been caused to be served on October 4, 2013 to all counsel of record via email.

/s/ Robyn Bowland
Robyn Bowland