

**Exhibit 12**  
**(filed partially**  
**under seal)**

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

MIKE HARRIS and JEFF DUNSTAN,	)	
individually and on behalf of a	)	
class of similarly situated	)	
individuals,	)	
	)	
Plaintiffs,	)	
	)	
-vs-	)	No. 1:11-cv-5807
	)	
COMSCORE, INC., a Delaware	)	Judge Holderman
corporation,	)	
	)	Magistrate Judge
	)	Kim
Defendant.	)	
	)	

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The deposition of COLIN O'MALLEY, called by the Plaintiffs for examination, pursuant to notice and pursuant to the Federal Rules of Civil Procedure for the United States District Courts pertaining to the taking of depositions, taken before Liza M. Perez, Certified Shorthand Reporter and Notary Public within and for the County of Cook and State of Illinois, at 350 North LaSalle Street, 13th Floor, Chicago, Illinois, commencing at the hour of 9:44 a.m. on the 13th day of December, A.D., 2012.

1 (Whereupon, O'Malley Deposition  
2 Exhibit No. 1 was marked for  
3 identification, LMP.)

4 (Witness duly sworn.)

5 MR. THOMASSEN: Good morning, Mr. O'Malley.  
6 My name is Ben.

7 Do you mind if I call you Colin throughout  
8 today?

9 THE WITNESS: Please.

10 MR. THOMASSEN: Feel free to call me Ben.

11 The record should reflect that this is a  
12 deposition of one of comScore's experts produced for  
13 class certification in the matter of Mike Harris and  
14 Jeff Dunstan versus comScore, Incorporated.

15 COLIN O'MALLEY,  
16 called as a witness herein, having been first duly  
17 sworn, was examined and testified as follows:

18 DIRECT EXAMINATION

19 BY MR. THOMASSEN:

20 Q. Mr. O'Malley -- Colin. I guess I'm probably  
21 going to refer to you as Mr. O'Malley no matter what.

22 Have you ever been deposed before?

23 A. No.

24 Q. Okay. Let me just explain a few things about

1 be my misunderstanding of how this works. When you go  
2 through the installation process as we'll go through  
3 here, when you get to the point of being offered  
4 RelevantKnowledge, you haven't downloaded it at that  
5 point?

6 A. Correct.

7 Q. So is it incorrect to say that MP3 Cutter  
8 download includes RelevantKnowledge?

9 A. Yes.

10 Q. Okay. Do you know whether it says anywhere  
11 on the MP3 Cutter website that as a part of the  
12 download of MP3 Cutter, you'll be provided with an  
13 opportunity to either install or download  
14 RelevantKnowledge?

15 A. I haven't comprehensively reviewed the  
16 website for that disclosure, so I really can't tell  
17 you one way or the other. I would suggest -- well, I  
18 will just tell you that I'd be surprised to see it  
19 there, but that's not surprising to me as it's not  
20 customary in many online business models to, for  
21 example, register for a website and then be offered an  
22 offer from a partner. But to have prior disclosure  
23 before your registration begins that you're going to  
24 see an offer that you optionally can participate in



1 NORTHERN DISTRICT OF ILLINOIS )  
EASTERN DIVISION )  
2 STATE OF ILLINOIS )  
 ) SS:  
3 COUNTY OF COOK )

4 I, Liza M. Perez, Certified Shorthand  
5 Reporter and Notary Public in and for the County of  
6 Cook, State of Illinois, do hereby certify that on the  
7 13th of December, A.D., 2012, the deposition of the  
8 witness, COLIN O'MALLEY, called by the Plaintiffs, was  
9 taken before me, reported stenographically and was  
10 thereafter reduced to typewriting through  
11 computer-aided transcription.

12 The said witness, COLIN O'MALLEY, was first  
13 duly sworn to tell the truth, the whole truth, and  
14 nothing but the truth, and was then examined upon oral  
15 interrogatories.

16 I further certify that the foregoing is a  
17 true, accurate and complete record of the questions  
18 asked of and answers made by the said witness, at the  
19 time and place hereinabove referred to.

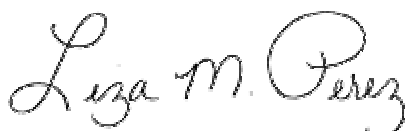
20 The signature of the witness was not waived  
21 by agreement.

22 Pursuant to Rule 30(e) of the Federal Rules  
23 of Civil Procedure for the United States District  
24 Courts, if deponent fails to read and sign this

1 deposition transcript within 30 days or make other  
2 arrangements for reading and signing thereof, this  
3 deposition transcript may be used as fully as though  
4 signed, and the instant certificate will then evidence  
5 such failure to read and sign this deposition  
6 transcript as the reason for signature being waived.

7 The undersigned is not interested in the  
8 within case, nor of kin or counsel to any of the  
9 parties.

10 Witness my official signature and seal as  
11 Notary Public, in and for Cook County, Illinois, on  
12 this 19th day of December, A.D., 2012.

13  
14  
15  
16 



17 Liza M. Perez, CSR  
18 Notary Public  
19 19 South LaSalle Street, Suite 1402  
Chicago, Illinois 60603

20 License No. 084-004686  
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