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BLOG

Data Mining Class Action Settles for $14 Million

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An Illinois court recently approved a no-fault settlement agreement resolving claims brought against comScore Inc. that the company had collected online data from consumers without consent. According to the class complaint, comScore's OSSProxy software – which was downloaded with other free online software – monitored online activity and collected personally identifiable information but did not first get consent. The software not only collected information and analyzed it, but also sold that information to third-party clients.

The plaintiffs had claimed that these activities violated the Stored Communications Act, the Electronic Communications Privacy Act, the Computer Fraud and Abuse Act, and the Illinois Consumer Fraud Act. The parties settled earlier this summer, with comScore agreeing (1) to establish a $14 million settlement fund, (2) to modify its license agreement and disclosures to clarify the kinds of information the OSSProxy software collects, (3) to make sure partners included a link to the terms, (4) to have a way for consumers to un-install the software, and (5) to have third-party compliance audits conducted. The Illinois court has now held that the settlement is "fair, reasonable, and adequate," and has awarded class counsel $4.6 million in attorneys' fees, to be deducted from the settlement fund.

TIP: This case serves as a reminder that consumers and the class action bar are closely watching companies' tracking activities. Although a no-fault settlement was entered here, companies would be well served to review their practices to ensure they are comfortable with their notice and choice mechanisms.

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