

5. Online behavioral advertising often utilizes HTTP cookies, which are small text files that can be used to collect and store information about a user's online activities, including information such as the content or advertisements viewed or the pages visited within a particular website. These cookies contain a unique identification number that allows an advertising network to recognize the user's computer and correlate the computer to online activity. When a user visits a website within an advertising network's group of publishers, the advertising network may set a new HTTP cookie in the computer's browser or automatically receives a previously set HTTP cookie from the computer's browser. The advertising network then may add information about the user's web browsing activities to information already collected via the cookie, and may use such information to serve online advertisements that are targeted to the user's interests as indicated by the user's web browsing history. Users can delete existing HTTP cookies or block the delivery of new HTTP cookies by changing their browsers' privacy settings.
6. From April 2007 until September 2009, ScanScout used Flash local shared objects, also known as "Flash cookies"—as opposed to HTTP cookies—to collect and store user data and facilitate online behavioral targeting of video advertisements. Flash cookies, like HTTP cookies, can be used to store data correlated with a unique identification number on a computer. Flash cookies store such data in a different location on a computer than HTTP cookies. At the time that ScanScout used Flash cookies, they were not controlled through a computer's browser. Accordingly, if users changed their browsers' privacy settings to delete or block cookies, Flash cookies were unaffected.
7. During the time that ScanScout utilized Flash cookies, from April 2007 until September 2009, users could not prevent Scanscout from collecting data about their online activities or from serving them targeted video advertisements by changing their browser settings to delete or block HTTP cookies.

SCANSCOUT'S STATEMENTS

8. From April 2007 until September 2009, ScanScout disseminated, or caused to be disseminated, a privacy policy on its website, which stated:

General user data, such as your computer's Internet Protocol (IP) address, operating system and browser type, pages you visited, and the date and time of your visit, is automatically collected through the use of "cookies". Cookies are small files that are stored on your computer by a website to give you a unique identification. Cookies also keep track of services you have used, record registration information regarding your login name and password, record your preferences and keep you logged into the Site. ***You can opt out of receiving a cookie by changing your browser settings to prevent the receipt of cookies.*** Since each web browser is different, we recommend that you please look through your browser "Help" file to

learn the correct way to modify your cookies set-up. . . We may use automatically collected information and cookies information for a number of purposes, including but not limited to. . . provide custom, personalized content, and information; monitor the effectiveness of our marketing campaigns. . . (emphasis added)

VIOLATION OF THE FTC ACT

9. Through the means described in Paragraph 8, ScanScout represented, expressly or by implication, that consumers could prevent ScanScout from collecting data about their online activities by changing their browser settings to prevent the receipt of cookies.
10. In truth and in fact, as described in Paragraphs 6 and 7, consumers could not prevent ScanScout from collecting data about their online activities by changing their browser settings to prevent the receipt of cookies. Therefore, the representation set forth in Paragraph 9 was false or misleading.
11. The acts and practices of ScanScout, as alleged in this complaint, constitute deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

THEREFORE, the Federal Trade Commission this fourteenth day of December, 2011, has issued this complaint against respondent.

By the Commission.

Donald S. Clark
Secretary