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8 Attorneys for Plaintiffs

9 AT&T Mobility LLC and AT&T Intellectual
10 Property II, L.P.

11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA

13 AT&T MOBILITY LLC and AT&T)
14 INTELLECTUAL PROPERTY II, L.P.,)

15 Plaintiffs,)

16 v.)

17 C-TECH WHOLESALE, INC.; and)
18 HASSAN CHAALAN,)

19 Defendants.)

20 Case No. CV09-6131 CAS (CWx)

21 **FINAL JUDGMENT AND**
22 **PERMANENT INJUNCTION**
23 **AGAINST DEFENDANTS C-**
24 **TECH WHOLESALE, INC. AND**
25 **HASSAN CHAALAN**

26 Plaintiffs AT&T Mobility LLC and AT&T Intellectual Property II L.P.
27 (collectively "AT&T"), brought the above-captioned lawsuit against Defendants C-
28 Tech Wholesale, Inc. and Hassan Chaalan (collectively referred to as
"Defendants"), alleging that Defendants are engaged in an unlawful enterprise
involving the acquisition, sale, and alteration of large quantities of AT&T wireless
devices sold for the purpose of use with AT&T's prepaid service (referred to herein
as "GoPhones" or "Phones") and associated SIM cards and activation kits
purchased from retail outlets, the solicitation and payment of others to bulk
purchase Phones for Defendants' benefit, computer hacking and erasing or
otherwise disabling software installed in the Phones, or selling the Phones to others

1 who disable the software, and ultimately selling or facilitating the sale of the altered
2 Phones as new under the AT&T trademarks for unauthorized use outside of the
3 AT&T wireless system for profit and illicitly selling and/or fraudulently activating
4 the SIM cards that come with the prepaid devices for the unlawful acquisition of
5 airtime (the “Illicit Bulk Resale Scheme”).

6 AT&T GoPhones are sold subject to terms and conditions (“Terms and
7 Conditions”) which conspicuously restrict and limit the sale and use of the
8 GoPhones. These Terms and Conditions are set forth in printed inserts that are
9 included in the packaging with every AT&T GoPhone and are posted on AT&T’s
10 website. AT&T alleges that the Terms and Conditions and language on the
11 GoPhone packaging constitute a valid binding contract.

12 AT&T alleges that Defendants have violated the Terms and Conditions
13 by, *inter alia*, purchasing AT&T GoPhones with the intent that such phones will
14 not be activated and used on AT&T’s service, but instead with the intent to
15 improperly unlock, repackage, or resell the phones, or by otherwise using the
16 GoPhones in violation of the Terms and Conditions.

17 As a result of Defendants’ alleged involvement in the Illicit Bulk
18 Resale Scheme, AT&T asserted claims against Defendants for breach of contract;
19 trademark infringement under 15 U.S.C. § 1114 and 15 U.S.C. § 1125(a); federal
20 trademark dilution under 15 U.S.C. § 1125(c); violation of Cal. Bus & Prof. Code
21 §§ 14200 *et seq.* and 17200 *et seq.*; contributory trademark infringement; tortious
22 interference with business relationships and prospective advantage; tortious
23 interference with contract; conspiracy to induce breach of contract; civil
24 conspiracy; and unjust enrichment.

25 Based on the respective positions advocated by the parties and having
26 reviewed the Complaint and file and being otherwise duly and fully advised in the
27 premises, it is hereby **ORDERED, ADJUDGED** and **DECREED** that:

1 1. This Court has jurisdiction over all the parties and all of the claims set
2 forth in AT&T's Complaint.

3 2. The Court finds that AT&T has the right to use and enforce said rights
4 in the stylized AT&T and GOPHONE marks, which are used in connection with
5 telecommunications products and services, as depicted below:



9

10 AT&T uses the AT&T Marks on and in connection with its
11 telecommunications products and services. The AT&T and GOPHONE marks are
12 valid, distinctive, protectable, famous, have acquired secondary meaning, and are
13 associated exclusively with AT&T.

14 3. The Court finds that, if proven, Defendants' alleged involvement in the
15 Illicit Bulk Resale Scheme would constitute breach of contract; trademark
16 infringement under 15 U.S.C. § 1114 and 15 U.S.C. § 1125(a); federal trademark
17 dilution under 15 U.S.C. § 1125(c); violation of Cal. Bus & Prof. Code §§ 14200 *et*
18 *seq.* and 17200 *et seq.*; contributory trademark infringement; tortious interference
19 with business relationships and prospective advantage; tortious interference with
20 contract; conspiracy to induce breach of contract; civil conspiracy; and unjust
21 enrichment.

22 4. The Court finds that the Terms and Conditions and the language on the
23 GoPhone packaging constitute a valid binding contract enforceable against
24 purchasers of GoPhones. The Court finds that (a) facilitating others to use
25 GoPhones in conjunction with service providers other than AT&T, and (b)
26 tampering with or altering, or facilitating or assisting others to tamper with or alter,
27 GoPhones or the GoPhones' software constitute independent breaches of contract
28 for which AT&T is entitled to relief.

1 5. The Court further finds that, if proven, Defendants’ alleged
2 participation in the Illicit Bulk Resale Scheme, including, *inter alia* the purchase
3 and sale of GoPhones and activation kits, would cause substantial and irreparable
4 harm to AT&T for which there is no adequate remedy at law, and would continue
5 to cause substantial and irreparable harm to AT&T unless enjoined.

6 6. On review and consideration of all relevant factors, AT&T is entitled
7 to damages and injunctive relief on the claims as set forth in the Complaint.

8 7. Final judgment is hereby entered against Defendant C-Tech
9 Wholesale, Inc. and in favor of the Plaintiffs AT&T Mobility LLC and AT&T
10 Intellectual Property II L.P., on all claims set forth in AT&T’s Complaint in the
11 principal amount of Five Million Dollars and Zero Cents (\$5,000,000.00 (U.S.)),
12 which shall bear interest at the legal rate, for which let execution issue forthwith.

13 8. C-Tech Wholesale, Inc. and Hassan Chaalan, and each and all of their
14 respective officers, directors, successors, assigns, parents, subsidiaries, affiliates,
15 related companies, predecessors-in-interest, agents, employees, personal
16 representatives, beneficiaries, and all other persons or entities acting or purporting
17 to act for him/it or on his/its behalf, including but not limited to any corporation,
18 partnership, proprietorship or entity of any type that is in any way affiliated or
19 associated with any Defendant or any Defendant’s representatives, agents, assigns,
20 parent entities, employees, associates, servants, affiliated entities, and any and all
21 persons and entities in active concert and participation with any Defendant who
22 receive notice of this Order, shall be and hereby are PERMANENTLY ENJOINED
23 from:

- 24 a. purchasing, selling, unlocking, reflashing, altering, advertising,
25 soliciting and/or shipping, directly or indirectly, any AT&T GoPhones
26 as well as related “Activation Materials,” which consist of SIM Cards,
27 GoPhone airtime cards, PIN numbers and/or other mechanism, process
28

1 or materials used to activate service or acquire airtime in connection
2 with a new activation;

3 b. purchasing, selling, unlocking, reflashing, altering, advertising,
4 soliciting and/or shipping, directly or indirectly, any AT&T wireless
5 handset that Defendants know or should know bears any AT&T or
6 GoPhone Trademark, any other trademark owned or used by AT&T.
7 Unless expressly authorized by AT&T in writing, Defendants are
8 enjoined from purchasing and/or selling, directly or indirectly, all
9 models of phones currently offered for sale by AT&T or that may be
10 offered for sale in the future, as listed and updated from time to time
11 on AT&T's website: <http://www.att.com>, regardless of whether such
12 devices are in or out of their original packaging, or whether "locked,"
13 "unlocked," or otherwise modified in any way by any person;

14 c. accessing, altering, erasing, tampering with, deleting or otherwise
15 disabling the software contained in any GoPhone and/or fraudulently
16 activating Activation Materials;

17 d. facilitating or in any way assisting other persons or entities who
18 Defendants know or should know are engaged in unlocking GoPhones
19 and/or hacking, altering, erasing, tampering with, deleting or otherwise
20 disabling the software installed in GoPhones;

21 e. facilitating or in any way assisting other persons or entities who
22 Defendants know or should know are engaged in any of the acts
23 prohibited under this Permanent Injunction, including, without
24 limitation, the buying and/or selling of unlocked GoPhones and
25 Activation Materials; and

26 f. knowingly using the AT&T or GoPhone Marks or any mark owned or
27 used by AT&T, or that is likely to cause confusion with AT&T's
28 marks, without AT&T's prior written authorization.

