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 7 PHONEDOG, LLC

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 9 UNITED STATES DISTRICT COURT
 10 NORTHERN DISTRICT OF CALIFORNIA

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 12 PHONEDOG, LLC, a Delaware
 corporation,
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 Plaintiff,
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 v.
 15
 NOAH KRAVITZ, an individual,
 16
 Defendant.

CASE NO. 3:11-cv-03474-MEJ

**[PROPOSED] ORDER DENYING
 DEFENDANT NOAH KRAVITZ'S
 MOTION TO DISMISS FOR LACK OF
 SUBJECT MATTER JURISDICTION AND
 FAILURE TO STATE A CLAIM**

Date: September 15, 2011
 Time: 10:00 a.m.
 Dept.: Courtroom B - 15th Floor
 Judge: Maria-Elena James

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1 On September 15, 2011, Defendant Noah Kravitz's ("Defendant") Motion to Dismiss
2 Plaintiff PhoneDog, LLC's ("PhoneDog") Complaint for Lack of Subject Matter Jurisdiction
3 under Federal Rule of Civil Procedure 12(b)(1) and For Failure to State a Claim Under Federal
4 Rule of Civil Procedure 12(b)(6) ("Motion to Dismiss") came on regularly for hearing before the
5 Honorable Maria-Elena James in Courtroom B on the 15th floor of this Court. John C. Kirke of
6 Donahue Gallagher Woods LLP appeared on behalf of PhoneDog, and Cary Kletter of Kletter
7 Law Firm appeared on behalf of Defendant.

8 The Court, having heard oral argument and considered the pleadings in support of and in
9 opposition to the Motion to Dismiss, finds that Defendant's Motion to Dismiss is DENIED in its
10 entirety. The Court specifically finds the following:

11 1. Defendant's Motion to Dismiss for Lack of Subject Matter Jurisdiction is
12 DENIED. In its Complaint, PhoneDog satisfies the requirements of Federal Rule of Civil
13 Procedure 8(a)(1) by adequately pleading an amount in controversy in excess of \$75,000;

14 2. Defendant's Motion to Dismiss Plaintiff's First Cause of Action for
15 Misappropriation of Trade Secrets For Failure to State a Claim is DENIED. In its Complaint,
16 PhoneDog satisfies the requirements of Federal Rule of Civil Procedure 8(a)(2) by sufficiently
17 alleging each element of its claim and pleading misappropriation with the requisite particularity;

18 3. Defendant's Motion to Dismiss Plaintiff's Second Cause of Action for Intentional
19 Interference With Prospective Economic Advantage For Failure to State a Claim is DENIED. In
20 its Complaint, PhoneDog satisfies the requirements of Federal Rule of Civil Procedure 8(a)(2) by
21 sufficiently alleging (1) an existing economic relationship that would have probably resulted in an
22 economic benefit and (2) an intentional act by Defendant that actually disrupted that relationship.
23 *See Korea Supply Co. v. Lockheed Martin Corp.*, 29 Cal. 4th 1134 (2003);

24 4. Defendant's Motion to Dismiss Plaintiff's Third Cause of Action for Negligent
25 Interference With Prospective Economic Advantage For Failure to State a Claim is DENIED. In
26 its Complaint, PhoneDog satisfies the requirements of Federal Rule of Civil Procedure 8(a)(2) by
27 sufficiently alleging (1) an existing economic relationship that would have probably resulted in an
28 economic benefit and (2) a negligent act by Defendant that actually disrupted that relationship.

1 *See North American Chemical Co. v. Superior Court*, 59 Cal. App. 4th 764, 786 (1997); and

2 5. Defendant's Motion to Dismiss Plaintiff's Fourth Cause of Action for Conversion
3 For Failure to State a Claim is DENIED. In its Complaint, PhoneDog satisfies the requirements
4 of Federal Rule of Civil Procedure 8(a)(2) by sufficiently alleging each element of its claim.

5 [In the alternative, the Court finds that PhoneDog's Request for Leave to Amend its
6 Complaint is GRANTED.]

7 IT IS SO ORDERED:

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9 Dated:

Judge of the United States District Court

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