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9 Attorney for Plaintiffs  
 BMW OF NORTH AMERICA, LLC,  
 10 ROLLS-ROYCE MOTOR CARS NA, LLC,  
 ROLLS-ROYCE MOTOR CARS LIMITED,  
 11 and  
 BAYERISCHE MOTOREN WERKE AG

12 Mark B. Frazier (State Bar No. 107221)  
 13 Damon Mircheff (State Bar No. 216257)  
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 16 mfrazier@rutan.com  
 dmircheff@rutan.com

17 Attorneys for Defendants  
 18 DINODIRECT CORP.; DINODIRECT  
 CHINA LTD.; B2FORCE INT'L CORP.;  
 19 AND JIANFENG FENG aka KEVIN FENG  
 aka KEVIN FENN

20 UNITED STATES DISTRICT COURT  
 21 NORTHERN DISTRICT OF CALIFORNIA  
 22 SAN FRANCISCO DIVISION

24 BMW OF NORTH AMERICA, LLC,  
 ROLLS-ROYCE MOTOR CARS NA,  
 25 LLC, ROLLS-ROYCE MOTOR CARS  
 LIMITED, and  
 26 BAYERISCHE MOTOREN WERKE  
 AG,

27 Plaintiffs,  
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Case No. 3:11-cv-04598-WHA

**CONSENT JUDGMENT AND  
 PERMANENT INJUNCTION**

**Judge: Hon. William Alsup**

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v.  
DINODIRECT CORP.,  
DINODIRECT CHINA LTD.,  
B2CFORCE INT'L CORP., and  
JIANFENG FENG a/k/a KEVIN FENN  
a/k/a KEVIN FENG,  
Defendants.

This action, having come on for consideration on the Amended Complaint of the Plaintiffs for direct trademark infringement and counterfeiting and unfair competition against the Defendants with regard to Plaintiffs' proprietary rights in their trademarks;

The Defendants, having stipulated to the facts referenced herein, and the parties having otherwise waived the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure, and without trial, argument or adjudication of any issue of fact or law, having consented and stipulated to the entry of this Consent Judgment and Permanent Injunction under the terms provided herein:

**IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that:

This Court has jurisdiction over the subject matter of this action under the laws of the United States, 15 U.S.C. § 1121 et seq., and supplemental jurisdiction over Plaintiffs' state law claims under 28 U.S.C. § 1367(a), and has jurisdiction over each of the Defendants. The claims arising under the laws of the State of California are joined with substantial and related claims under the trademark laws of the United States.

The Defendants acknowledge the existence and validity of the trademarks described in Paragraphs 14-22 of Plaintiffs' Amended Complaint, attached as Exhibit A. Specifically, BMW is the exclusive owner of valid and subsisting federal trademark registrations, including trademark registrations for its Roundel logo, "BMW" mark, Rolls-Royce Badge ("RR Badge"), "BMW Group" mark, Flying

1 Lady Device, “Z8” mark, and M-Stripes logo, attached hereto as Exhibit B, as well  
2 as common law rights to the trademark BMW MOTORSPORT (collectively, the  
3 “BMW Marks”), and BMW’s Roundel logo, “BMW” word mark, and RR Badge  
4 are famous. In addition, BMW has extensively used and advertised the BMW  
5 Marks in connection with its business of designing, manufacturing, distributing,  
6 offering for sale and selling motor vehicles, vehicles parts, and lifestyle items  
7 throughout the United States.

8 **IT IS FURTHER ORDERED** that:

9 1. Defendants, their parents, affiliates, subsidiaries, and their respective  
10 officers, agents, servants, employees, independent contractors and attorneys, or any  
11 other person or entity acting in concert or participating with anyone described  
12 above, and any successor in interest or future owners of the Defendants, agree to be  
13 and are immediately and permanently enjoined from:

14 A. designing, creating, manufacturing, advertising, marketing,  
15 promoting, offering for sale, ordering, accepting orders for, providing the means to  
16 order, brokering, selling, warehousing, delivering, shipping, importing, exporting,  
17 distributing, or accepting shipment or delivery of, any products that are not made or  
18 authorized by BMW that depict or bear any of the BMW Marks or any other  
19 trademark or logo of BMW or colorable imitations thereof, including any Chinese  
20 version thereof, or facilitating, inducing, or assisting any of the activity set forth  
21 above;

22 B. operating or hosting any website that sells or offers to sell goods  
23 using counterfeit reproductions of the BMW Marks or any colorable imitations  
24 thereof or any other trademark of BMW’s; or permitting, facilitating or allowing  
25 suppliers, customers, users or members of or to [www.dinodirect.com](http://www.dinodirect.com) or any other  
26 website or business now or in the future owned, operated or controlled wholly or in  
27 part by, or affiliated with any of the Defendants, to post or display listings or offers  
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1 to sell, buy, manufacture or distribute goods bearing a BMW Mark or advertised  
2 with a BMW logo, which are not genuine BMW goods.

3 C. displaying BMW's logos or colorable imitations thereof,  
4 including but not limited to BMW's Roundel logo, RR Badge, M-Stripes logo, and  
5 MINI Wings logo (attached hereto as Exhibit C), on any website, in promotional or  
6 marketing materials, or otherwise in connection with their business or on any  
7 website where such use is not authorized by BMW;

8 D. advertising or describing products that are not by BMW, Rolls-  
9 Royce, or MINI as "BMW," "Rolls-Royce," or "MINI" products, or otherwise  
10 using BMW's trademarks or colorable imitations thereof as or in the names, titles,  
11 and listings of products not made or authorized by BMW, such as using the term  
12 "BMW Accessories" to sell non-genuine accessories for BMWs, or making any  
13 other false or misleading description of fact in connection with products for BMWs;

14 E. assisting, advising, allowing, encouraging, inducing or  
15 instructing any supplier or source of or to any Defendant's website or business in  
16 creating or posting listings that Defendants know or have reason to know are for  
17 products that infringe Plaintiffs' marks or for counterfeit or replica products bearing  
18 Plaintiffs' marks;

19 F. failing to immediately remove or disable access to any listing (1)  
20 identified by Plaintiffs as allegedly infringing Plaintiffs' marks, or (2) that  
21 otherwise comes to the attention of the Defendants and that they know or have  
22 reason to know are for counterfeit or replica products bearing Plaintiffs' marks;

23 G. failing to immediately cancel a source's or supplier's access to  
24 any Defendant's website, staging area or business (1) identified by Plaintiffs as a  
25 seller, buyer, manufacturer, distributor of, or offering such services in connection  
26 with, goods allegedly infringing or counterfeiting Plaintiffs' marks, or (2) that  
27 otherwise comes to the attention of the Defendants where they know or have reason  
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1 to know the member is a seller or buyer of counterfeit or replica products bearing  
2 Plaintiffs' marks;

3 H. doing any other act or thing likely to confuse, mislead, or  
4 deceive others into believing that Defendants emanate from, are connected with,  
5 sponsored by, licensed by, or approved by, BMW, or that Defendants' products and  
6 services are sponsored, licensed or approved by BMW or aiding and abetting others  
7 to do so;

8 I. otherwise engaging in activity likely to dilute BMW's Roundel  
9 logo, "BMW" word mark, RR Badge or any other famous trademark of BMW's;

10 J. utilizing or registering any domain names or sub-domain names  
11 that use or incorporate any of BMW's trademarks;

12 K. making any other trademark use of the "BMW" mark, "BMW  
13 Group," or "Z8" mark, or any other BMW trademarks or colorable imitations  
14 thereof, including use of BMW's trademarks in metatags or any visible use of  
15 BMW's trademarks in Google Adwords or other keyword advertising; and

16 L. facilitating, inducing, assisting, aiding, abetting, or supplying  
17 the means for any other person or business entity to engage in or perform any of the  
18 activities referred to in the above subparagraphs (A) through (H), or effecting any  
19 assignments or transfers, forming new entities or associations or utilizing any other  
20 device for the purpose of circumventing or otherwise avoiding the prohibitions set  
21 forth in subparagraphs (A) through (K).

22 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that  
23 Defendants are directed to:

24 2. permanently delete and remove and recall from all websites, blogs,  
25 online auctions, stores, shops, markets, outlets, catalogues, or other channels of  
26 commerce any listings for goods bearing counterfeits of the BMW Marks, or any  
27 other non-genuine product confusingly similar to Plaintiffs' products, or that  
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1 otherwise bear, contain, display or utilize the BMW Marks, any derivation or  
2 colorable imitations thereof, or any other BMW trademark or colorable imitation  
3 thereof;

4 3. in accordance with § 36 of the Federal Trademark Act, 15 U.S.C. §  
5 1118, deliver up for destruction all counterfeit goods that bear Plaintiffs' marks,  
6 and/or any other products confusingly similar to Plaintiffs' products, or that  
7 otherwise bear, contain, display, or utilize the BMW Marks or any other BMW  
8 trademark or colorable imitation thereof, that are in Defendants' possession,  
9 custody, or control and all means of making the same;

10 4. in accordance with § 36 of the Federal Trademark Act, 15 U.S.C. §  
11 1118, deliver up for destruction any and all guarantees, circulars, price lists, labels,  
12 signs, prints, packages, wrappers, pouches, receptacles, advertising and promotional  
13 matter, electronic files, and other materials in the possession or control of  
14 Defendants bearing the BMW Marks, any derivation or colorable imitations thereof,  
15 or any other BMW trademark or colorable imitation thereof; and

16 5. file with the Court and serve on counsel for Plaintiffs within thirty (30)  
17 days after entry of this Order, a sworn written statement pursuant to § 34(a) of the  
18 Federal Trademark Act, 15 U.S.C. § 1116(a), setting forth in detail the manner and  
19 form in which the Defendants have complied with this Consent Judgment and  
20 Permanent Injunction.

21 6. provide, without limitation, any information to the Plaintiffs  
22 concerning and/or provided by source of goods to any of the Defendants that could  
23 identify buyers, sellers, manufacturers or distributors of counterfeit goods bearing  
24 Plaintiffs' marks. This information can include, but is not limited to, names,  
25 addresses, telephone, email, credit card and bank account information.

26 **IT IS FURTHER HEREBY ORDERED, ADJUDGED AND DECREED**  
27 that:

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1           7.     DinoDirect China Ltd. shall pay via wire transfer to BMW AG a total  
2 of USD \$50,000 (fifty thousand dollars) by no later than June 15, 2013;

3           8.     In the event of a breach of the Consent Judgment and Permanent  
4 Injunction, Defendants will be given 5 days following notice of the breach by  
5 Plaintiffs in order to cure the breach. If the breach is not cured within 3 business  
6 days, DinoDirect China Ltd. agrees to and shall immediately pay to Plaintiff BMW  
7 AG liquidated damages in the amount of USD \$200,000.

8           9.     For any repeat failure to cure following the notice provided for in  
9 paragraph 8 above, DinoDirect China Ltd. agrees to and shall immediately pay to  
10 Plaintiff BMW AG additional liquidated damages in the amount of USD \$500,000.

11          10.    The Defendants acknowledge that a breach of this Consent Judgment  
12 and Permanent Injunction by the Defendants would result in irreparable injury to  
13 Plaintiffs, and that in the event of a breach, Plaintiffs would be entitled to  
14 immediate injunctive relief to enforce this Consent Judgment and Permanent  
15 Injunction, liquidated damages for past and any ongoing trademark infringement,  
16 counterfeiting, or unfair competition, and to reimbursement of their reasonable  
17 attorneys' fees and costs arising from bringing an action against Defendants and  
18 enforcement of this Consent Judgment and Permanent Injunction.

19          11.    This Consent Judgment and Permanent Injunction is binding upon the  
20 Defendants, subsidiaries, affiliates, and their respective officers, agents, servants,  
21 employees, independent contractors and attorneys, or any other person or entity  
22 acting in concert or participating with the Defendants, and on any successor in  
23 interest of future owners of the Defendants' websites or the customer data  
24 associated with the defendants' websites.

25          12.    This Court shall retain jurisdiction of this matter and over the parties  
26 thereto for the purpose of enforcing the terms of this Consent Judgment and  
27 Permanent Injunction and the separate Settlement Agreement entered into between  
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1 plaintiffs and defendants with respect to the subject matter of this action for two (2) years from  
2 from the date of entry of this order.

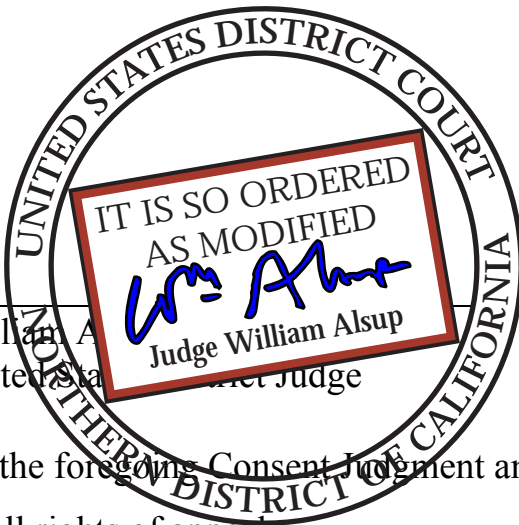
3 13. In accordance with § 34 of the Federal Trademark Act, 15 U.S.C. §  
4 1116, the Clerk of the Court shall notify the Commissioner of Patents and  
5 Trademarks of the entry of this Final Judgment who shall enter it upon the records  
6 of the United States Patent and Trademark Office.

7 14. There being no just reason for delay, the Clerk of this Court is hereby  
8 directed to enter this Final Judgment forthwith, which supersedes the Judgment  
9 previously entered in this action in favor of Plaintiffs and against Defendants.

10 **IT IS SO ORDERED.**

11 Dated: July 2, 2013.

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William A. Alsup  
United States District Judge

The parties hereby consent to the entry of the foregoing Consent Judgment and  
Permanent Injunction and waive any and all rights of appeal.



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BMW of North America, LLC  
By: \_\_\_\_\_  
Dated: \_\_\_\_\_

DinoDirect Corp.  
By: \_\_\_\_\_  
Dated: \_\_\_\_\_

Rolls-Royce Motor Cars NA, LLC  
By: \_\_\_\_\_  
Dated: \_\_\_\_\_

DinoDirect China Ltd.  
By: \_\_\_\_\_  
Dated: \_\_\_\_\_

Rolls-Royce Motor Cars Limited  
By: \_\_\_\_\_  
Dated: \_\_\_\_\_

B2CForce International Corp.  
By: \_\_\_\_\_  
Dated: \_\_\_\_\_

Bayerische Motoren Werke AG  
By: \_\_\_\_\_  
Dated: \_\_\_\_\_

JianFeng Feng a/k/a Kevin Fenn a/k/a  
Kevin Feng  
\_\_\_\_\_  
I.D. No.: 310110197305073634  
Dated: \_\_\_\_\_

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BMW of North America, LLC

By: [Signature]  
Dated: 6/7/13

DinoDirect Corp.

By: [Signature]  
Dated: 5/29/2013

Rolls-Royce Motor Cars NA, LLC

By: [Signature]  
Dated: 6/13/13

DinoDirect China Ltd.

By: [Signature]  
Dated: 5/29/2013

Rolls-Royce Motor Cars Limited

By: [Signature] [Signature]  
Dated: June 6, 2013

B2CForce International Corp.

By: [Signature]  
Dated: 5/29/2013

Bayerische Motoren Werke AG

By: [Signature] [Signature]  
Dated: June 6, 2013

JianFeng Feng a/k/a Kevin Fenn a/k/a  
Kevin Feng

[Signature]  
I.D. No.: 310110197305073634  
Dated: 5/29/2013