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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

MELISSA FERRINGTON, CHERYL
SCHMIDT, CHRISTOPHER BENNETT
AND CHRISTI HALL,

Plaintiffs,

v.

MCAFEE, INC., ARPU, INC., D/B/A
TRYANDBUY.COM,

Defendants.

Case No. CV-10-01455 LHK (HRL)

**[PROPOSED] CONDITIONAL CLASS
CERTIFICATION ORDER**

Complaint Filed: April 6, 2010
Trial Date: None
Judge: Hon. Lucy H. Koh

WHEREAS, Plaintiffs Melissa Ferrington, Cheryl Schmidt, Christopher Bennett and Christi Hall (“Plaintiffs”) and Defendants McAfee, Inc. (“McAfee”) and Arpu, Inc., d/b/a TryandBuy.com. (“Arpu”) (collectively, “Defendants”) have entered into a Settlement Agreement (“Agreement”) with respect to this matter; and

WHEREAS, the Court has reviewed the Agreement and the parties’ papers in support of preliminary approval of the Agreement and in support of conditional certification of a Plaintiff Settlement Class; and

GOOD CAUSE APPEARING AND SOLELY FOR THE PURPOSE OF
SETTLEMENT IN ACCORDANCE WITH THE AGREEMENT, THE COURT FINDS AND

1 ORDERS AS FOLLOWS:

2 1. The Court hereby certifies a Plaintiff Settlement Class consisting of all
3 persons in the United States who during the Class Period purchased software from McAfee's
4 website and subsequently accepted an Arpu pop-up advertisement offer presented at the
5 conclusion of the McAfee transaction and were charged by Arpu for the product, service or
6 software sold in the Arpu pop-up. The Plaintiff Settlement Class excludes McAfee, Arpu, any
7 entity in which McAfee or Arpu has a controlling interest, any of McAfee's or Arpu's
8 subsidiaries, affiliates, officers, directors, or employees, and any legal representative, heir,
9 successor, or assignee of McAfee or Arpu, and any persons and entities that timely opt-out of the
10 Plaintiff Settlement Class.

11 2. The above-described Plaintiff Settlement Class is so numerous that joinder
12 of all members is impracticable.

13 3. There are questions of law or fact common to the above-described Plaintiff
14 Settlement Class.

15 4. The claims advanced by Plaintiffs are typical of the claims of the above-
16 described Plaintiff Settlement Class.

17 5. The Plaintiffs will fairly and adequately protect the interests of the above-
18 described Plaintiff Settlement Class, and are conditionally appointed as representatives of the
19 Plaintiff Settlement Class for the purpose of implementing the settlement in accordance with the
20 Agreement. Cohen Milstein Sellers & Toll PLLC are conditionally appointed as counsel for the
21 Plaintiff Settlement Class.

22 6. The questions of law or fact common to the members of the above-
23 described Plaintiff Settlement Class predominate over the questions affecting only individual
24 members.

25 7. Certification of the above-described Plaintiff Settlement Class by the Court
26 in this matter is superior to other available methods for the fair and efficient adjudication of the
27 controversy.

28 8. Notice of the pendency of this case and the proposed settlement shall be

1 provided to the Plaintiff Settlement Class as specified in the Court's Order Granting Preliminary
2 Approval of Class Action Settlement, filed herewith. Any Plaintiff Settlement Class member may
3 elect not to be a part of the Plaintiff Settlement Class and not to be bound by the Agreement, as
4 set forth in the Summary Published Notice, Summary Email Notice and Long Form Notice.

5 9. In the event that Final Approval of the settlement does not occur for any
6 reason, or in the event of termination of the Agreement for any reason, this Order, and all of its
7 provisions, shall be deemed null and void *ab initio*, shall have no force or effect whatsoever, shall
8 not be used in this or in any other proceeding for any purpose, and this action shall revert to its
9 status as existed prior to the date of this Order. Nothing in this Order is, or may be construed as,
10 an admission or concession by or against any of the parties on any point of fact or law.

11 IT IS SO ORDERED.

12 Dated: August 16, 2011
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15 _____
16 Honorable Lucy H. Koh
17 Judge of the United States District Court
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