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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

In Re Apple and AT&T iPad Unlimited
Data Plan Litigation

ALL CONSOLIDATED ACTIONS

Case No. 5:10-cv-02553 RMW

**ORDER GRANTING
CONDITIONAL CERTIFICATION
OF AN ATTM NON-SUBSCRIBER
SETTLEMENT CLASS, APPROVAL OF
FORMS AND METHODS
OF NOTICE, AND PRELIMINARY
APPROVAL OF SETTLEMENT**

Judge: Hon. Ronald M. Whyte

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WHEREAS, this Court has reviewed the Stipulation of Settlement (“Agreement”) entered into by and among defendant AT&T Mobility LLC (“ATTM”) and plaintiff Joe Hanna, as an individual and as “Class Representative” (collectively the “Parties” in the above-referenced “Action”), together with all exhibits thereto, the record in this Action, and the arguments of counsel;

WHEREAS, this Court preliminarily finds, for the purposes of settlement only, that the class alleged in the Action meets all the prerequisites of Federal Rules of Civil Procedure Rule 23 for class certification, including numerosity, commonality, typicality, ascertainability, predominance of common issues, superiority, and that the Class Representative and Class Counsel are adequate representatives of the ATTM Non-Subscriber Settlement Class;

IT IS HEREBY ORDERED AS FOLLOWS:

1. Except as otherwise specifically provided, all terms and definitions used herein have the same meanings as set forth in the Agreement.
2. The Court has jurisdiction over the subject matter of the Action, the Class Representative, the ATTM Non-Subscriber Settlement Class Members, and ATTM, and venue is proper in this District.
3. The proposed settlement set forth in the Agreement is hereby preliminarily approved as being fair, reasonable, and adequate such that notice thereof should be given to members of the ATTM Non-Subscriber Settlement Class (as defined in the following paragraph).
4. The Action is provisionally certified as a class action, for the purposes of settlement only, pursuant to Rule 23(b)(3), which class (the “ATTM Non-Subscriber Settlement Class”) is defined as follows:

All persons in the United States who purchased or ordered an Apple iPad 3G on or before June 7, 2010 but who did not sign up for or purchase an ATTM data plan for that iPad 3G at any time. Excluded from this Class are Apple; ATTM; any entity in which ATTM or Apple has a controlling interest; ATTM and

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2 Apple's directors and officers; Apple's employees; and ATTM
3 and Apple's legal representatives, successors, and assigns

4 5. Certification of the ATTM Non-Subscriber Settlement Class shall be solely
5 for settlement purposes and without prejudice to the Parties in the event that the
6 Agreement is not finally approved by this Court or otherwise does not take effect.
7 Certification of the ATTM Non-Subscriber Settlement Class shall be vacated and shall
8 have no effect in the event that the Agreement is not finally approved by this Court or
9 otherwise does not take effect.

10 6. Class Counsel and the Class Representative are hereby found to be and are
11 therefore appointed as adequate representatives of the ATTM Non-Subscriber Settlement
12 Class: Michael W. Sobol and Roger N. Heller, Lieff Cabraser Heimann & Bernstein,
13 LLP, 275 Battery Street, 29th Floor, San Francisco, CA 94111. Joe Hanna is hereby
14 appointed as Class Representative.

15 7. The Court hereby appoints Kurtzman Carson Consultants LLC ("KCC" or
16 "Settlement Administrator") to serve as the Settlement Administrator, and directs KCC to
17 carry out all duties and responsibilities of the Settlement Administrator specified in the
18 Agreement.

19 8. The Court finds that the forms of notice to the ATTM Non-Subscriber
20 Settlement Class regarding the pendency of the Action, this settlement, and Class
21 Counsel's fee and expense application, attached to the Agreement as Exhibits A through
22 D, and the methods for disseminating notice to members of the ATTM Non-Subscriber
23 Settlement Class in accordance with the terms of the Agreement and this Order,
24 constitute the best notice practicable under the circumstances and constitute valid, due,
25 and sufficient notice to all members of the ATTM Non-Subscriber Settlement Class,
26 complying fully with all requirements, including Federal Rule of Civil Procedure 23 and
27 due process.

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2 9. The Notice of Pendency and Proposed Settlements of Class Action (“Class
3 Notice”); the Dual Summary Notice of Settlement (“Dual Summary Notice”); the Dual
4 Postcard Notice of Settlement (“Dual Postcard Notice”); and the Published Notice of
5 Settlement (“Published Notice”), which are attached to the Agreement as Exhibits A-D,
6 respectively, are hereby approved as to form. The Claim Forms, attached to the
7 Agreement as Exhibits E-G, are hereby approved as to form.

8 10. Defendant Apple Inc. (“Apple”) shall, in connection with a separate
9 settlement in this Action between Apple and plaintiffs, provide the Settlement
10 Administrator with known, reasonably available e-mail and street addresses, serial
11 numbers, and IMEI numbers for the Apple Class Members (as that term is defined in the
12 Apple settlement) based upon Apple’s customer records regarding those iPad 3G
13 purchases and orders falling within the Apple Settlement Class definition (as that term is
14 defined in the Apple agreement). Apple shall transmit this information to the Settlement
15 Administrator by no later than 10 (ten) business days after entry of this Order. Within the
16 same time frame, Apple shall also transmit to ATTM the IMEI numbers for the potential
17 Apple Class Members (as that term is defined in the Apple settlement). To the extent
18 feasible, ATTM shall identify for the Settlement Administrator any persons potentially
19 within the ATTM Non-Subscriber Settlement Class. Those persons potentially within the
20 ATTM Non-Subscriber Settlement Class shall be put on a Dual Notice List.

21 11. The deadline (“Notice Date”) for initially mailing and emailing notice, and
22 for publishing notice, pursuant to the terms of the Agreement, shall be November 5,
23 2013. Backup mailed notice, pursuant to the terms of the Agreement and this Order, or
24 other remailing of notice shall not affect or delay the Notice Date.

25 12. By no later than the first date on which notice is mailed, e-mailed or
26 published, the Settlement Administrator shall establish and maintain a toll-free telephone
27 number (“Toll-Free Number”) which Class Members may call to request copies of the
28 Class Notice and Claim Form. The Settlement Administrator shall further establish and

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maintain a settlement website, at the address www.3Gdataplansettlement.com (“Settlement Website”), where ATTM Non-Subscriber Settlement Class Members may submit online Claim Forms, and which shall include, without limitation, the Class Notice, a downloadable Claim Form, copies of the Complaint and the Agreement, Frequently Asked Questions, and the Toll-Free Number.

13. By no later than the Notice Date, the Settlement Administrator shall e-mail the Dual Summary Notice to those Class Members for whom an e-mail address is included in the Dual Notice List.

14. By no later than the Notice Date, the Settlement Administrator shall send, via first-class mail postage pre-paid, the Dual Postcard Notice to those Class Members for whom an e-mail address is not included, and a mailing address is included, in the Dual Notice List. All mailing addresses used for mailing the Dual Postcard Notice shall be updated by the Settlement Administrator through the United States Postal Service’s National Change of Address database.

15. For those Class Members for whom e-mail Dual Summary Notice is returned undeliverable, the Settlement Administrator shall mail the Dual Postcard Notice to such Class Members to the extent a mailing address is included in the Dual Notice List. For mailed Dual Postcard Notices that are returned with forwarding address information, the Settlement Administrator shall re-mail the Dual Postcard Notice once to the new address indicated.

16. By no later than the Notice Date, ATTM, together with Apple, shall cause the Published Notice to be published once in *Macworld* and once on a different date in *USA Today*. The Published Notice in *Macworld* shall not be less than 1/4 of a page in size. The Published Notice in *USA Today* shall not be less than 1/8 of a page in size.

17. ATTM Non-Subscriber Settlement Class Members who so request shall receive a reminder e-mail notice from the Settlement Administrator.

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2 18. ATTM Non-Subscriber Settlement Class Members shall have the option of
3 submitting claims using one of the following methods:

4 a. ATTM Non-Subscriber Settlement Class Members may submit a
5 Claim Form electronically through the Settlement Website. The Dual Summary Notices
6 emailed to ATTM Non-Subscriber Settlement Class Members shall contain a hyperlink to the
7 appropriate online Claim Form. The Dual Postcard Notices mailed to ATTM Non-
8 Subscriber Settlement Class Members shall contain the web address for the appropriate
9 online Claim Form.

10 b. ATTM Non-Subscriber Settlement Class Members may submit a
11 Claim Form by mail at their own expense. The Settlement Website shall include a
12 downloadable, printable Claim Form, and ATTM Non-Subscriber Settlement Class Members
13 may obtain a hard copy Claim Form from the Settlement Administrator.

14 19. ATTM Non-Subscriber Settlement Class Members who wish to claim the
15 Settlement Data Plan Benefit must submit their Claim Form within ninety (90) days from
16 the Notice Date. Claim Forms submitted by mail must be postmarked by no later than
17 ninety (90) days from the Notice Date.

18 20. Any person or entity falling within the ATTM Non-Subscriber Settlement
19 Class definition who seeks to be excluded from the ATTM Non-Subscriber Settlement
20 Class must send a request by first class mail, postmarked on or before December 20,
21 2013, to the Settlement Administrator at the address indicated in the Class Notice.

22 21. Any person or entity falling within the ATTM Non-Subscriber Settlement
23 Class definition who does not submit a valid and timely request for exclusion will be
24 bound by the Final Judgment dismissing the Action on the merits and with prejudice.

25 22. Any ATTM Non-Subscriber Settlement Class Member who does not submit
26 a valid and timely request for exclusion may object to, or comment on, the Agreement
27 and/or Class Counsels' application for attorneys' fees and expenses. To be considered,
28 an objection must be in writing, must be mailed to the Clerk of the Court and the

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2 Settlement Administrator, at the addresses indicated in the Class Notice, postmarked no
3 later than December 20, 2013, and must include: (a) the ATTM Non-Subscriber
4 Settlement Class Member's name, address, and telephone number, (b) the ATTM Non-
5 Subscriber Settlement Class Member's signature; (c) a statement that the objecting
6 person is a member of the ATTM Non-Subscriber Settlement Class and an explanation of
7 the basis upon which they claim to be a member of the ATTM Non-Subscriber
8 Settlement Class; (d) all grounds for the objection; and (e) the identify of all counsel, if
9 any, who represent the ATTM Non-Subscriber Settlement Class Member. Class Counsel
10 shall file their application for attorneys' fees and costs in advance of the deadline for
11 mailing objections. Once it is filed, Class Counsels' application for attorneys' fees and
12 costs shall be posted on the Settlement Website.

13 23. A hearing (the "Final Approval Hearing") shall be held by the Court on
14 February 7, 2014, at 9:00 a.m., to consider and determine whether the requirements for
15 certification of the ATTM Non-Subscriber Settlement Class have been met and whether
16 the proposed settlement of the Action on the terms set forth in the Agreement should be
17 approved as fair, reasonable, adequate, and in the best interests of the ATTM Non-
18 Subscriber Settlement Class Members; whether Class Counsels' fee and expense
19 application should be approved; and whether the Final Judgment approving the
20 settlement and dismissing the Action on the merits and with prejudice against the Class
21 Representative and all ATTM Non-Subscriber Settlement Class Members should be
22 entered.

23 24. The Final Approval Hearing may, from time to time and without further
24 notice to the ATTM Non-Subscriber Settlement Class, be continued or adjourned by
25 Order of the Court. If the Final Approval Hearing is so continued or adjourned, the new
26 date and time shall be posted on the Settlement Website.

27 25. Before or at the Final Approval Hearing, the Court shall be provided with a
28 declaration from the Settlement Administrator, confirming that the notice program

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approved herein has been implemented and setting forth a complete list of all persons and entities who submitted timely and valid requests for exclusion from the ATTM Non-Subscriber Settlement Class.

26. By no later than December 6, 2013, the Parties shall file any motions in support of final approval of the Agreement. By no later than November 22, 2013, Class Counsel shall file their application for attorneys' fees and expenses. By no later than January 24, 2014, the Parties shall file any additional papers in support of final approval of the Agreement; responses to objections; and/or replies in support of Class Counsels' application for attorneys' fees and expenses.

27. Upon entry of this Order, and until further Order of the Court, all proceedings in the Action, except those proceedings in furtherance of obtaining final approval of the settlements, shall be stayed. Until further Order of the Court, Class Members shall be barred from commencing or prosecuting any action or proceeding in any court or tribunal against the Released Parties asserting Released Claims.

28. Counsel for the Parties are hereby authorized to utilize all reasonable procedures in connection with the administration of the Agreement which are not materially inconsistent with either this Order or the terms of the Agreement.

29. The following chart summarizes the various dates and deadlines set forth herein:

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Notice Date	November 5, 2013
Deadline for Class Counsel to file their fee application	November 22, 2013
Deadline for the Parties to file any motions in support of final approval of the settlement	December 6, 2013
Opt-Out Deadline	December 20, 2013
Objection Deadline	December 20, 2013
Deadline for: (a) Parties to file any responses to objections and any additional papers in support of final approval of the settlement; and (b) Class Counsel to file any reply in support of their fee application	January 24, 2014
Claims Submission Deadline	February 3, 2014
Fairness Hearing	February 7, 2014, 9:00 a.m.

IT IS SO ORDERED.

Dated: _____, 2013



RONALD M. WHYTE
United States District Judge