

BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

In Re

iPhone 3G Marketing Litigation

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MDL Docket No. _____

**MOTION OF AT&T MOBILITY LLC
FOR § 1407 TRANSFER OF ACTIONS**

Defendant AT&T Mobility LLC (“ATTM”) respectfully moves the Judicial Panel on Multidistrict Litigation, pursuant to 28 U.S.C. § 1407, for an order transferring the twelve putative class actions identified in the Schedule of Actions, which are brought against ATTM and Apple, Inc., to the United States District Court for the District of New Jersey for coordinated pretrial proceedings.

In support of this motion, ATTM states:

1. The actions identified have been filed in federal district courts across the country against Apple and ATTM. These actions allege that Apple and ATTM have engaged in deceptive marketing with respect to the performance of Apple’s iPhone 3G on ATTM’s wireless network.

2. These actions are currently pending in five federal district courts: the Northern District of California, the Southern District of Florida, the District of New Jersey, the Eastern District of New York, and the Eastern District of Texas. Pursuant to Rule 7.2(a)(ii), R.P.J.P.M.L., a Schedule of Actions is submitted with this motion. Copies of the complaints and docket sheets in all of the actions are also attached.

3. These actions are brought on behalf of consumers who allegedly purchased an iPhone 3G, and seek to certify identical or overlapping nationwide or statewide classes.

4. These actions assert similar causes of action and requests for relief. The complaints allege violations of consumer protection statutes, breach of warranty and contract, common law fraud, and unjust enrichment, and seek recovery of compensatory and exemplary damages, disgorgement of profits, attorneys' fees, and other forms of relief.

5. Transfer under 28 U.S.C. § 1407 is warranted because these actions have "common questions of fact", and therefore transfer and coordination will prevent duplicative discovery, eliminate the possibility of conflicting decisions, and conserve judicial resources.

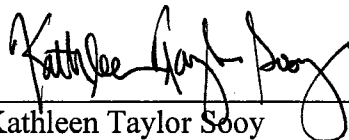
7. ATTM requests transfer to the District of New Jersey. It is a convenient forum for the parties, witnesses, and counsel; it is easily accessible, given its close proximity to several large, national airports. Further, the District of New Jersey has the experience and resources to manage a complex MDL proceeding because: (1) the majority of the parties and attorneys involved are located in the eastern United States; (2) one of the iPhone 3G putative class actions, *Ritchie*, is already pending before the Honorable Judge William J. Martini in the District of New Jersey; (3) Judge Martini has experience handling complex litigation, including MDL proceedings, as the MDL Panel noted in a previous transfer decision; and (4) the District of New Jersey has the resources necessary for the successful management of a complex MDL case.

8. Although some of these actions have been deemed related in the Northern District of California, the Northern District is not an appropriate forum because: 1) no progress has been made on any of the cases pending in the Northern District; 2) plaintiffs in eight of the twelve iPhone 3G putative class actions are not located in California; 3) ATTM is headquartered in Georgia, and evidence and witnesses central to these actions are located in Georgia; and 4) the Northern District has a significantly greater workload than the District of New Jersey.

9. Additional actions may be filed involving similar allegations, and therefore ATTM requests that any such subsequently-filed actions be treated as tag-along actions under Rule 7.4, R.P.J.P.M.L., subject to transfer to the same venue as these actions, in order to “promote the just and efficient conduct of the cases.” 28 U.S.C. § 1407.

Dated: March 5, 2009

Respectfully Submitted,



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