IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS DALLAS DIVISION

SUSAN CHANG, AS NEXT FRIEND OF	§	
ALISON CHANG, A MINOR, AND	§	
JUSTIN HO-WEE WONG,	§	
	§	
Plaintiffs,	§	CA No. 3:07-cv-1767
	§	
V.	§	
	§	
VIRGIN MOBILE PTY LTD.,	§	
Defendant.	§	

APPENDIX IN SUPPORT OF DEFENDANT VIRGIN MOBILE (AUSTRALIA) PTY LTD.'S OPPOSITION TO PLAINTIFFS' MOTION FOR THIRD EXTENSION TO FILE <u>AN OPPOSITION ON DEFENDANT'S MOTION TO DISMISS</u>

Excerpts of Graham Milne Deposition on April 23, 2008 APP 1 - 4

Respectfully submitted,

BAKER & McKENZIE LLP

/s/ Lisa H. Meyerhoff

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ATTORNEYS FOR DEFENDANT VIRGIN MOBILE (AUSTRALIA) PTY, LTD.

CERTIFICATE OF SERVICE

I hereby certify that, on the 14TH day of May 2008, I electronically filed the foregoing "Appendix in Support of Defendant Virgin Mobile (Australia) Pty, Ltd.'s Opposition to Plaintiffs' Motion for Third Extension to File Opposition on Defendant's Motion to Dismiss" with the Clerk of Court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the Court. The electronic case filing system sent a "Notice of Electronic Filing" to the following attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means:

Bryant A. Fitts Ryan H. Zehl Fitts Zehl LLP 5065 Westheimer Rd., Suite 700 Houston, Texas 77056 Email: <u>rzehl@fittszehl.com</u>

/s/ Lisa H. Meyerhoff

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		Plaintif	fs) Cause No. 3:07-CV-01767
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				GRAHAM MILNE
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		50 Bridge	Street	
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. 1	MR ZEHL: How is that - I'll restate it in several	1	Australia; is that correct?
2	parts.	2	A. That is correct, yes.
3	Q. A Virgin Mobile subscriber uses the	3	Q. Okay. If a Virgin Mobile customer places a
4	Optus network to speak with somebody; is that correct?	4	call to the United States, for example, would the call
5	A. Can you be specific about the location of the	5	still originate on Optus's network?
6	Virgin Mobile subscriber?	6	A. Yes, it would.
7	Q. If a Virgin Mobile subscriber is in Australia	7	Q. And is there a way, based on your experience,
8	and he places a call from Australia, is that call routed	8	for you to determine or estimate which network the call
9	over the Optus network?	9	would transfer over to if the Virgin Mobile customer was
10	A. Yes, it is.	10	calling the United States from Australia?
11	Q. Is that true regardless of where the call goes?	11	A. I don't have visibility of - of where it goes
12	Does it originally start on the Optus network if the	12	out with the Optus network. I have a level of
13	customer is in Australia?	13	understanding of how the call is routed through the Optus
14	A. Yes, it does.	14	network, but I don't understand what happens after it
15	Q. Okay. Which company owns the infrastructure	15	leaves the Optus network.
16	that the calls are routed over? I - I know you said it's	16	Q. Okay. Does Optus - does that Optus network -
17	Optus's network. Is there one particular company that	17	is it - does it - is it, in effect, over a certain
18	owns that - that network?	18	geographical territory? In other words, does it only
19	A. There are a number of different systems that	19	work in Australia or does it work in other countries as
20	are involved in making - making a call, so it's routed	20	well? Can you tell me?
21	through Optus's infrastructure, it's also routed through	21	A. Optus network is - is deployed only in
22	some Virgin Mobile infrastructure. So what - what	22	Australia is my understanding, and it interacts with
23	specific area?	23	other networks through network equipment.
24	Q. Okay. Okay. Without Optus's infrastructure,	24	Q. Now, does the destination - let me repeat - let
25	though, a Virgin Mobile customer cannot place a call from	25	me state this more succinctly. Does the location of the

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 Optus Networks works with other telecommunications companies located outside of Australia? A. 1-1 don't know the answer to that question. Q. Based on your experience, for a Virgin Mobile customer to place a call outside of Optus's network, does there need to be some type of relationship with another telecommunications provider for that call to be routed properly? MR HAWKINS: Object. Form. THE WITNESS: From my understanding of - of the networks, then there will be a gateway out of Optus to intermational companies, but that's as far as my knowledge goes. BY MR ZEHL: Q. So once it leaves Optus's network and goes into the gateway, dopending on where the recipient of the call is located, it will go into a new international network; is that correct? MR HAWKINS: Object. Form. THE WITNESS: That is my understanding. BY MR ZEHL: G. So once it leaves Optus's network and goes into the gateway, dopending on where the recipient of the call is located, it will go into a new international network; is that correct? Q. Okay. If somebody from another country comes A. Yes, I do. Q. Okay. If somebody from another country comes to Australia and they're not a Virgin Mobile customer and
3 A. I - I don't know the answer to that question. 3 MR HAWKINS: Object. Form. 4 Q. Based on your experience, for a Virgin Mobile 5 5 customer to place a call outside of Optus's network, does 6 6 there need to be some type of relationship with another 7 7 telecommunications provider for that call to be routed 8 8 properly? 9 9 MR HAWKINS: Object. Form. 10 10 THE WITNESS: From my understanding of - of the 1 11 networks, then there will be a gateway out of Optus to 1 12 international companies, but that's as far as my 13 13 knowledge goes. 14 BY MR ZEHL: 15 Q. So once it leaves Optus's network and goes into 16 they alwa a handset that's compatible with the network 16 the gateway, depending on where the recipient of the call 17 is located, it will go into a new international network; 18 is that correct? 19 Q. Okay. If they are roaming, will their call 19 MR HAWKINS: Object. Form. 20 So when they are roaming, heir call will 20 Q. Okay. Do y
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24 Q. Okay. If somebody from another country comes 25 A. That is correct.
25 to Australia and they're not a Virgin Mobile customer and
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1	roaming on their network or not.	1	network Virgin Mobile pays for using the network?
1		2	MR HAWKINS: Object. Form.
2	Q. Okay. Does Virgin Mobile pay Optus Networks	2	THE WITNESS: Can you repeat the question?
3	for utilising its network?		BY MR ZEHL:
4	A. We are - we are charged for using their	4	
5	network, yes.	5	Q. Do you know the name of the Optus company that
6	Q. And does Optus charge Virgin Mobile for using	6	Virgin Mobile pays for using the network?
7	the network; is that correct?	7	A. I don't, no.
8	A. That's correct.	8	MR HAWKINS: Object. Form.
9	MR HAWKINS: Object. Form.	9	BY MR ZEHL:
10	THE WITNESS: I understand that Optus charge us for	10	Q. Okay. How does Virgin Mobile generate revenue?
11	using	11	How does it make money?
12	BY MR ZEHL:	12	A. It charges - we charge our customers for
13	Q. And does Virgin Mobile	13	providing services.
14	A. I understand	14	Q. Okay. What kind of services?
15	Q. Go ahead. I'm sorry.	15	A. Telecommunication services, broadband
16	A. I understand that Optus charges for - for using	16	MR HAWKINS: Object. Form.
17	their network. I'm not sure which Optus company charges	17	THE WITNESS: Mobile broadband services.
18	us.	18	BY MR ZEHL:
19	Q. Does Virgin Mobile then have to pay for using	19	Q. Okay. Who collects the payments from
20	the network?	20	Virgin Mobile customers?
21	MR HAWKINS: Object. Form.	21	A. Virgin Mobile does.
22	THE EXAMINEE: Yes, there are charges that are	22	Q. Okay. Are you familiar with how much Optus
23	associated with using the Optus infrastructure.	23	charges Virgin Mobile to use its network?
24	BY MR ZEHL:	24	A. No, I am not.
25	Q. Okay. Do you - but you are unsure which Optus	25	Q. Are you certain that Optus charges
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