

Defendant perpetrates his Subsidy Theft and Flexpay Fraud Scheme by acquiring large quantities of T-Mobile Prepaid Handsets including, SIM cards, from retail stores, and by soliciting others (“Runners”) to purchase T-Mobile Prepaid Handsets in large quantities for the benefit of Defendant. Defendant removes the T-Mobile Prepaid Handsets’ original packaging and accessories, including copies of the written warranties and ownership manuals, and ship the Handsets, unlocked or to be unlocked, and the accompanying activation materials for resale at a substantial profit. Defendant acquires the T-Mobile Prepaid Handsets with the knowledge and intent that they will not be activated for use on the T-Mobile prepaid wireless network as required by the terms of the T-Mobile contracts. Instead, the T-Mobile Prepaid Handsets are computer-hacked. The purpose of this hacking, known as “unlocking,” is to disable the software installed in the Handsets by the manufacturers at the request and expense of T-Mobile, which enables the use of the T-Mobile Prepaid Handsets exclusively on T-Mobile’s prepaid wireless system. The illegally unlocked Handsets and accompanying SIM cards are trafficked and resold as new by Defendant, at a premium, under the T-Mobile trademarks. Additionally, Defendant improperly accesses T-Mobile’s proprietary activation system and wireless telecommunications network by using and/or trafficking in confidential and proprietary T-Mobile codes that are required to access the activation system, thereby illegally acquiring airtime intended for legitimate T-Mobile customers

As a result of the Defendant’s participation in the Subsidy Theft and Flexpay Fraud Scheme, T-Mobile has asserted claims against Defendant for federal trademark infringement and false advertising under 15 U.S.C. § 1125(a)(1)(A) and (B); violation of the federal Computer Fraud and Abuse Act, 18 U.S.C. § 1030, *et seq.*; contributory trademark infringement; common law fraud, tortious interference with business relationships and prospective advantage; harm to goodwill and reputation under Texas Statutes; civil conspiracy; unjust enrichment; and

conversion. Based on the respective positions advocated by the parties and having reviewed the Complaint and file and being otherwise duly and fully advised in the premises, it is hereby

ORDERED, ADJUDGED and DECREED that:

1. This Court has jurisdiction over all the parties and all of the claims set forth in T-Mobile's Complaint.

2. The Court finds that T-Mobile has the right to use and enforce said rights in the standard character mark T-Mobile and a stylized T-Mobile Mark (collectively, the "T-Mobile Marks"), as depicted below:



T-Mobile uses the T-Mobile Marks on and in connection with its telecommunications products and services. T-Mobile alleges that Defendant's use of the T-Mobile Marks without authorization in connection with the Subsidy Theft and Flexpay Fraud Scheme has caused, and will further cause, a likelihood of confusion, mistake and deception as to the source of origin of the counterfeit products, and the relationship between T-Mobile and Defendant. T-Mobile alleges that Defendant's activities constitute false designation of origin, false descriptions and representations, and false advertising in commerce in violation of § 43(a) of the Lanham Act, 15 U.S.C. §1125(a)(1)(A) and (B). T-Mobile alleges that Defendants knew or should have known that T-Mobile is the exclusive licensee of the T-Mobile Marks and that Defendants had no legal right to use the T-Mobile Marks on infringing products.

3. The Court finds that the conduct set forth in the Complaint constitutes violations of 15 U.S.C. § 1125(a)(1)(A) and (B) (federal trademark infringement and false advertising). The Court further finds that the conduct constitutes violation of the federal Computer Fraud and Abuse Act, 18 U.S.C. § 1030, *et seq.*; contributory trademark infringement; common law fraud,

tortious interference with business relationships and prospective advantage; harm to goodwill and reputation under Texas Statutes; civil conspiracy; unjust enrichment; and conversion, and has caused substantial and irreparable harm to T-Mobile, and will continue to cause substantial and irreparable harm to T-Mobile unless enjoined.

4. T-Mobile has suffered damages, including loss of goodwill and damage to its reputation, as a result of Defendant's alleged conduct. On review and consideration of all relevant factors, T-Mobile is entitled to damages and injunctive relief on the claims as set forth in the Complaint.

5. Final judgment is hereby entered, jointly and severally, against Defendant Abdul Hamid, and in favor of the Plaintiff T-Mobile USA, Inc., on all of the claims set forth in T-Mobile's Complaint in the principal amount of Five Million Dollars and Zero Cents (\$5,000,000.00 (U.S.)), which shall bear interest at the legal rate, for which let execution issue forthwith.

6. Defendant Abdul Hamid, and each and all of his past and present respective officers, directors, successors, assigns, parents, subsidiaries, affiliates, related companies, predecessors-in-interest, companies, respective agents, employees, heirs, personal representatives, beneficiaries, relatives, and all other persons or entities acting or purporting to act for him or on his behalf, including but not limited to any corporation, partnership, proprietorship or entity of any type that is in any way affiliated or associated with Defendant or Defendant's representatives, agents, assigns, parent entities, employees, independent contractors, associates, servants, affiliated entities, and any and all persons and entities in active concert and participation with Defendant who receive notice of this Order, shall be and hereby are PERMANENTLY ENJOINED from:

- a. purchasing, selling, altering, advertising, soliciting, using, and/or shipping, directly or indirectly, any T-Mobile “Activation Materials,” which consist of SIM Cards, PIN numbers, dealer activation and/or proprietary codes, and/or other mechanism, process or materials used to activate service or acquire airtime in connection with a new activation;
- b. purchasing, selling, unlocking, reflashing, altering, advertising, soliciting, using, and/or shipping, directly or indirectly, any T-Mobile prepaid Handsets.
- c. purchasing, selling, unlocking, reflashing, altering, advertising, soliciting and/or shipping, directly or indirectly, any Activation Materials or T-Mobile mobile device that Defendant knows or should know bears any T-Mobile marks or any marks likely to cause confusion with the T-Mobile marks, or any other trademark, service mark, trade name and/or trade dress owned or used by T-Mobile now or in the future;
- d. accessing, directly or indirectly, T-Mobile’s internal computer systems;
- e. unlocking of any T-Mobile Handset;
- f. accessing, altering, erasing, tampering with, deleting or otherwise disabling the software contained in any T-Mobile Prepaid Handset;
- g. supplying T-Mobile Activation Materials or Handsets to or facilitating or in any way assisting other persons or entities who Defendant knows or should know are engaged in selling SIM cards or unlocking T-Mobile Handsets and/or hacking, altering, erasing, tampering with, deleting or otherwise disabling the software installed in T-Mobile Handsets;

- h. supplying T-Mobile Activation Materials or Handsets to or facilitating or in any way assisting other persons or entities who Defendant knows or should know are engaged in any of the acts prohibited under this Preliminary Injunction, including, without limitation, the buying and/or selling T-Mobile Activation Materials or Handsets; and
- i. knowingly using the T-Mobile Marks or any other trademark, service mark, trade name and/or trade dress owned or used by T-Mobile now or in the future, or that is likely to cause confusion with T-Mobile's marks, without T-Mobile's prior written authorization.

7. The purchase, sale or shipment of any T-Mobile Handsets or SIM cards without T-Mobile's prior written consent within and/or outside of the continental United States and/or the sale of Activation Materials is and shall be deemed a presumptive violation of this permanent injunction.

8. The address of Defendant Abdul Hamid is 4014 Angelina Drive, Plan, Texas 75074.

9. The address of Plaintiff, T-Mobile USA, Inc. is 12920 S.E. 38th Street, Bellevue, Washington 98006.

10. Defendants waive their right of appeal from the entry of this Final Judgment.

11. The Court retains jurisdiction over this matter and the parties to this action in order to enforce any violation of the terms of this Permanent Injunction by a finding of contempt.

12. The Court hereby finds, pursuant to Fed. R. Civ. P. 54(b), that there is no just reason for delay and orders that Judgment shall be entered against Defendant as set forth herein.

SIGNED September 7, 2011.

A handwritten signature in cursive script that reads "David C. Godbey". The signature is written in black ink and is positioned above a horizontal line.

DAVID C. GODBEY
UNITED STATES DISTRICT JUDGE