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9 UNITED STATES DISTRICT COURT
 10 SOUTHERN DISTRICT OF CALIFORNIA

12 **SPRINT SOLUTIONS INC. and**
 13 **SPRINT COMMUNICATIONS**
 14 **COMPANY L.P.,**
 15 **Plaintiffs,**
 16 **v.**
 17 **ZHIWEI LIAO individually and**
 18 **d/b/a Z-TECH LOOP, ANTHONY**
 19 **FAY, PHONE MONSTER INC.**
 20 **and MAXIMIANO OLIVA,**
 21 **Defendants.**

Case No.: 14-cv-00249-DMS-DHB

**STIPULATED FINAL
 JUDGMENT AND PERMANENT
 INJUNCTION AGAINST
 DEFENDANTS PHONE
 MONSTER, INC. AND
 MAXIMIANO OLIVA**

22 Plaintiffs Sprint Solutions, Inc. and Sprint Communications Company L.P.
 23 (collectively, “Sprint” or “Plaintiffs”) brought the above-captioned lawsuit against
 24 Defendants Phone Monster, Inc. and Maximiano Oliva (collectively “Defendants”),
 25 alleging that Defendants are engaged in an unlawful enterprise involving the
 26 unauthorized and deceptive bulk purchase and resale overseas of specially-
 manufactured wireless telephones designed for use on Sprint’s wireless service,
 including the Sprint iPhone (collectively, “Sprint Phones” or “Sprint Handsets” or

1 “Phones” or “Handsets”), the theft of Sprint’s subsidy investment in the Phones, the
2 unlawful access of Sprint’s protected computer systems and wireless network, the
3 trafficking of Sprint’s protected and confidential computer passwords, and the
4 willful infringement of Sprint’s trademarks (collectively, the “Bulk Handset
5 Trafficking Scheme” or the “Scheme”).

6 Sprint alleges that Defendants and their co-conspirators perpetrate the Bulk
7 Handset Trafficking Scheme by acquiring large quantities of Sprint Phones from
8 Sprint and/or Sprint authorized retailers and dealers, and by soliciting others to
9 purchase Sprint Phones in large quantities for the benefit of Defendants. Sprint
10 contends that Defendants and their co-conspirators acquire the Sprint Phones with
11 the knowledge and intent that the Phones will not be used on the Sprint wireless
12 network (as required by the Sprint contracts). Instead, Sprint alleges, the Phones are
13 trafficked and the vast majority are resold as new overseas where the Phones are not
14 subsidized by wireless carriers (as they are in the United States) and where the
15 Phones are not as readily available. Alleged by Sprint, in some cases, Defendants
16 and their co-conspirators acquire the Sprint Phones with the knowledge and intent
17 that the Phones will be computer-hacked. The purpose of this hacking, known as
18 “unlocking,” is to disable software installed in the Phones by the manufacturers at
19 the request and expense of Sprint, which enables the activation of the Sprint Phones
20 exclusively on Sprint’s wireless system. The purpose of the software is to allow
21 Sprint to offer the Phones at a discount to the consumer while protecting Sprint’s
22 subsidy investment in the Phone. Sprint alleges, the illegally unlocked Phones are
23 trafficked and resold as new by Defendants and their co-conspirators, at a premium,
24 under the Sprint trademarks.

25 Sprint Phones are sold subject to terms and conditions (“Terms and
26 Conditions”) which conspicuously restrict and limit the sale and use of the Phones.
27 These Terms and Conditions are set forth in printed inserts that are packaged with
28 each Phone and are posted on Sprint’s website. Pursuant to the Terms and Conditions

1 of Sprint Phones, purchasers agree, among other things: (a) to pay the applicable
2 service charges and other related fees; (b) to activate the Sprint Phones on the Sprint
3 CDMA network; (c) not to resell the Sprint Phones and related products and services;
4 and (d) not to use the Phones for a purpose that could damage or adversely affect
5 Sprint.

6 Sprint has asserted claims against Defendants for unfair competition, tortious
7 interference with business relationships and prospective advantage, civil conspiracy,
8 unjust enrichment, conspiracy to induce breach of contract, common law fraud,
9 fraudulent misrepresentation, violations of the federal Computer Fraud and Abuse
10 Act, 18 U.S.C. § 1030, *et seq.*, federal trademark infringement under 15 U.S.C. §
11 1114, federal common law trademark infringement and false advertising under 15
12 U.S.C. § 1125(a)(1)(A) and (B), contributory trademark infringement and
13 conversion and unfair competition under California Business & Professions Code §
14 17200, *et seq.* The Court has subject matter jurisdiction pursuant to 28 U.S.C. §§
15 1331 and 1367.

16 Based on the stipulation of the parties filed February 23, 2015, and having
17 reviewed the Complaint and file, this final judgment is entered based on the
18 following stipulated findings of fact and conclusions of law:

19 1. Sprint has the right to use and enforce rights in the standard character
20 Sprint® mark and stylized Sprint® Virgin Mobile, payLo, Assurance Wireless and
21 Boost Mobile trademarks (collectively, the “Sprint Marks”), as depicted below:

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1 Sprint uses the Sprint Marks on and in connection with its telecommunications
2 products and services. The Sprint Marks are valid, distinctive, protectable, famous,
3 have acquired secondary meaning, and are associated exclusively with Sprint.

4 2. The Terms and Conditions and the language in and on the packaging
5 constitute a valid and binding contract enforceable between Sprint and each of its
6 customers. The Terms and Conditions set forth certain rights and restrictions on the
7 use of Sprint Phones. Among other things, the Terms and Conditions: (a) require
8 that the customer pay applicable service charges and other related fees; (b) indicate
9 that the Phone is designed to be activated on the Sprint CDMA network; (c) prohibit
10 resale of Sprint Phones and related products and services; and (d) prohibit using the
11 Phones for a purpose that could damage or adversely affect Sprint, for which Sprint
12 is entitled to relief.

13 3. The conduct set forth in the Complaint, if proven, constitutes violations
14 of the Lanham Act, 15 U.S.C. §§ 1114 and 1125(a)(1)(A) and (B) (federal
15 trademark infringement and false advertising). The conduct, if proven, also
16 constitutes unfair competition, tortious interference with business relationships and
17 prospective advantage, civil conspiracy, unjust enrichment, conspiracy to induce
18 breach of contract, common law fraud, fraudulent misrepresentation, violations of
19 the federal Computer Fraud and Abuse Act, 18 U.S.C. § 1030, *et seq.*, contributory
20 trademark infringement and conversion and unfair competition under California
21 Business & Professions Code § 17200, *et seq.*

22 4. Sprint has suffered damages, including loss of goodwill and damage to
23 its reputation, as a result of Defendants' conduct. On review and consideration of
24 all relevant factors, Sprint is entitled to damages and injunctive relief on the claims
25 as set forth in the Complaint.

26 Based on the foregoing, it is **ORDERED** and **DECREED**:

27 5. Final judgment is hereby entered against Defendant Phone Monster Inc.
28 and in favor of the Plaintiffs, on all of the claims set forth in Plaintiffs' Complaint in

1 the principal amount of Five Million Dollars and Zero Cents (\$5,000,000.00 (U.S.)),
2 which shall bear interest at the legal rate, for which let execution issue forthwith.

3 6. Defendants and all of their past and present agents, employees, heirs,
4 personal representatives, beneficiaries, relatives, and all other persons or entities
5 acting or purporting to act for them or on their behalves, including, but not limited
6 to, any corporation, partnership, proprietorship or entity of any type that is in any
7 way affiliated or associated with Defendants or Defendants' representatives, agents,
8 assigns, employees, independent contractors, associates, servants, and any and all
9 persons and entities in active concert and participation with Defendants who receive
10 notice of this Order, shall be and hereby are PERMANENTLY ENJOINED from:

- 11 a. purchasing, selling, unlocking, reflashing, altering, advertising,
12 soliciting and/or shipping, directly or indirectly, any Sprint
13 Phones;
- 14 b. supplying Sprint Phones to or facilitating or in any way assisting
15 other persons or entities who Defendants know or should know
16 are engaged in the purchase or sale of Sprint Phones or hacking,
17 altering, erasing, tampering with, deleting or otherwise disabling
18 the software installed in Sprint Phones;
- 19 c. engaging in any of the conduct described in the Complaint as the
20 "Bulk Handset Trafficking Scheme;"
- 21 d. supplying Sprint Phones to or facilitating or in any way assisting
22 other persons or entities who Defendants know or should know
23 are engaged in any of the acts prohibited under this Permanent
24 Injunction, including, without limitation, the buying and/or
25 selling of Sprint Phones; and
- 26 e. knowingly using the Sprint Marks or any other trademark,
27 service mark, trade name and/or trade dress owned or used by
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Sprint now or in the future, or that is likely to cause confusion with Sprint's Marks, without Sprint's prior written authorization.

7. The purchase, sale or shipment of any Sprint Phones without Sprint's prior written consent within and/or outside of the continental United States is and shall be deemed a presumptive violation of this permanent injunction.

8. The addresses of Defendants are as follows:

Phone Monster Inc.
1210 Van Nuys Blvd., #24
Sylmar, CA 91342

Maximiano Oliva
1210 Van Nuys Blvd., #24
Sylmar, CA 91342

9. Defendants waive any and all rights to challenge the validity of this Final Judgment in this Court or in any other court, and specifically waive their right of appeal from the entry of this Final Judgment.

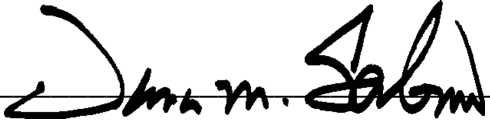
10. The Court retains jurisdiction over this matter and the parties to this action in order to enforce any violation of the terms of this Permanent Injunction by a finding of contempt and an order for payment of compensatory damages to Plaintiffs in an amount of \$5,000 for each Sprint Phone that Defendants are found to have purchased, sold or unlocked in violation of this Injunction. These amounts are compensatory and will serve to compensate Sprint for its losses in the event Defendants violate the terms of this Order.

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11. 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 Defendants as set forth herein.

DONE AND ORDERED this 13th day of April, 2015.


UNITED STATES DISTRICT JUDGE

Copies furnished to:
All Counsel of Record