

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 09-21691-CIV-MOORE/SIMONTON

T-MOBILE USA, INC.,
a Delaware Corporation,

Plaintiff,

v.

NRA GROUP, INC.; SARAH TARIQ a/k/a
SARAH SYED a/k/a NIDA TARIQ; ASSEM
A. AICHA a/k/a ESSEM ASSEM; JOHN
DOES 1-10; and XYZ COMPANIES 1-10,

Defendants.

**FINAL JUDGMENT AND PERMANENT INJUNCTION
AGAINST DEFENDANT NRA GROUP, INC.**

Plaintiff T-Mobile USA, Inc. ("T-Mobile"), brought the above-captioned lawsuit against Defendant NRA Group, Inc. ("NRA Group" or "Defendant"), among others, alleging that Defendant is engaged in an unlawful enterprise involving the acquisition, sale, and alteration of large quantities of T-Mobile branded wireless telephones ("T-Mobile Prepaid Handsets" or "Handsets") and activation materials, including but not limited to SIM cards. Defendant acquires bulk quantities of T-Mobile Prepaid Handsets, which include T-Mobile SIM cards, from retail stores, such as Wal-Mart or Target. Defendant solicits others to purchase T-Mobile Prepaid Handsets and SIM cards in bulk for its benefit. Defendant acquires the T-Mobile Prepaid Handsets with the actual or constructive knowledge and intent that the Handsets will not be activated for use on the T-Mobile prepaid wireless network and that the handsets will be computer-hacked. The purpose of this hacking, known as "unlocking," is to erase, remove,

and/or disable proprietary software installed in the Handset, which enables the use of the T-Mobile Prepaid Handsets exclusively on T-Mobile's prepaid wireless system. The unlocked Handsets are then trafficked and resold overseas at a premium under the T-Mobile trademarks for unauthorized use outside of Plaintiff's prepaid wireless system. The SIM cards that come with the handsets are sold and/or fraudulently activated to appropriate airtime.

T-Mobile Prepaid Handsets are sold subject to terms and conditions ("Terms and Conditions") which conspicuously restrict and limit the sale and use of the T-Mobile Prepaid Handsets. These Terms and Conditions are set forth in printed inserts that are included in the packaging with every T-Mobile Prepaid Handset and are also available to the public on T-Mobile's website. The Terms and Conditions are referenced in printed warnings that are placed on the outside of the retail packaging of the Handsets. The Terms and Conditions and language on the packaging constitute a valid binding contract.

Pursuant to the Terms and Conditions and the language on the packaging, purchasers of T-Mobile Prepaid Handset agree, among other things: not to use the Handsets for fraudulent purposes that "negatively impact [T-Mobile's] customers, employees, business, ability to provide quality service, [and] reputation," "attempt[ing] to decipher, decompile or reverse engineer any software," or "reselling or attempting to resell any aspect of the Service, whether for profit or otherwise." T-Mobile Terms and Conditions, ¶ 7.

As a result of the Defendant's activities, T-Mobile brought claims against Defendant for breach of contract; federal trademark infringement and false advertising under 15 U.S.C. § 1125(a)(1)(A) and (B); common law unfair competition; contributory trademark infringement; tortious interference with business relationships and prospective advantage; unfair competition and false advertising under Florida Statutes; civil conspiracy; unjust enrichment; and conspiracy

to induce breach of contract. UPON CONSIDERATION of the Motion, the pertinent portions of the record, and being otherwise fully advised in the premises, it is

ORDERED AND ADJUDGED that:

1. This Court has jurisdiction over NRA Group, Inc. 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®

3. T-Mobile uses the T-Mobile Marks on and in connection with its telecommunications products and services. Defendant's use of the T-Mobile Marks without authorization has caused, and will further cause, a likelihood of confusion, mistake and deception as to the source of origin of the products, and the relationship between T-Mobile and Defendant. 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). Defendant knew or should have known that T-Mobile is the exclusive licensee of the T-Mobile Marks and Defendant had no legal right to use the T-Mobile Marks.

4. The Court finds that the Terms and Conditions and the language on the packaging constitute a valid binding contract enforceable against Defendant. The Court finds that (a) selling and facilitating the use T-Mobile Prepaid Handsets in conjunction with service providers other than T-Mobile and (b) tampering with or altering T-Mobile Prepaid Handsets, SIM cards or the Handsets' software; and/or entering unauthorized PIN numbers in the Handsets for purposes

of unlocking the Handsets or facilitating others in such acts, constitute breaches of contract for which T-Mobile is entitled to relief.

5. The Court finds that Defendant has violated 15 U.S.C. § 1125(a)(1)(A) and (B) (federal trademark infringement and false advertising) by selling altered products bearing the T-Mobile mark, and that Defendant's conduct is likely to cause confusion, mistake, or to deceive consumers by leading them to believe they are purchasing original and unaltered T-Mobile products and that the Defendant is authorized by T-Mobile to sell the products. The Court further finds that the conduct constitutes common law unfair competition; contributory trademark infringement; unfair competition and false advertising under Florida Statutes; civil conspiracy; unjust enrichment; and conspiracy to induce breach of contract, and has caused substantial and irreparable harm to T-Mobile, and will continue to cause substantial and irreparable harm to T-Mobile. This Court finds that the conduct set forth in the Complaint fails to establish tortious interference with business relationships.

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

7. Final judgment is hereby entered against Defendant NRA Group, Inc. and in favor of the Plaintiff T-Mobile USA, Inc., on the above-referenced claims in an amount to be determined after T-Mobile conducts discovery on damages.

8. T-Mobile may immediately begin discovery in this matter. NRA Group, Inc. and its principals, officers, directors, agents, and employees shall comply with all discovery propounded by T-Mobile. Failure to do so may result in sanctions.

9. Within 120 days from the date of this Order, Plaintiff shall submit a supplemental memorandum and evidence detailing its damages incurred in this matter.

10. Defendant NRA Group, Inc., and each and all of its past and present respective officers, directors, successors, assigns, parents, subsidiaries, affiliates, related companies, predecessors-in-interest, companies, respective agents, employees, personal representatives, beneficiaries and all other persons or entities acting or purporting to act for it or on its behalf, including but not limited to any corporation, partnership, proprietorship or entity of any type who receive notice of this Order, shall be and hereby immediately are PERMANENTLY ENJOINED from:

- a. purchasing, selling, unlocking, reflashing, altering, advertising, soliciting and/or shipping, directly or indirectly, any T-Mobile Prepaid Handsets or "Activation Materials," which consist of SIM Cards, PIN numbers, 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 and/or shipping, directly or indirectly, any T-Mobile mobile device or Activation Materials 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 (collectively the "T-Mobile Handsets"). Specifically, Defendant is enjoined from purchasing, selling, and/or shipping, directly or indirectly, all models of T-Mobile Prepaid Handsets and Activation Materials currently offered for sale by T-

Mobile or that may be offered for sale in the future, as listed and updated from time to time on T-Mobile's website: <http://www.t-mobile.com>, regardless of whether such devices are, new or used, whether in or out of their original packaging, or whether "locked," "unlocked," or otherwise modified in any way by any person;

- c. unlocking of any T-Mobile Handset;
- d. accessing, altering, erasing, tampering with, deleting or otherwise disabling the software contained in any T-Mobile Prepaid Handset;
- e. supplying T-Mobile Handsets or Activation Materials to or facilitating or in any way assisting other persons or entities who Defendant knows or should know are engaged in unlocking T-Mobile Handsets and/or hacking, altering, erasing, tampering with, deleting or otherwise disabling the software installed in T-Mobile Handsets;
- f. supplying T-Mobile Handsets or Activation Materials 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 Permanent Injunction, including, without limitation, the buying and/or selling of locked or unlocked T-Mobile Handsets or SIM cards; and
- g. 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.

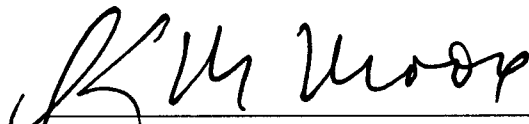
11. The purchase, sale or shipment of any T-Mobile Handsets without T-Mobile's prior written consent within and/or outside of the continental United States and/or the sale of Activation Materials is and shall be deemed a presumptive violation of this permanent injunction.

12. The Court retains jurisdiction over this matter in order to enforce any violation of the terms of this Permanent Injunction by a finding of contempt and/or sanctions for each T-Mobile prepaid handset or item of Activation Material that Defendant is found to have purchased, sold or unlocked in violation of this Injunction.

13. The Court also retains jurisdiction over this matter to compel compliance with discovery against NRA Group, Inc.

14. 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 immediately against Defendant NRA Group, Inc. as set forth herein.

DONE AND ORDERED in Chambers at Miami, Florida, this 19th day of August, 2009.



K. MICHAEL MOORE
UNITED STATES DISTRICT JUDGE

cc: All Counsel of Record and pro se parties