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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

BROOKLYN OFFICE

SPRINT SOLUTIONS, INC. and SPRINT)
COMMUNICATIONS COMPANY L.P.,)

Civil Action No: 1:15-CV-01801-ILG-MDG

Plaintiffs,)

v.)

MIN CHEN a/k/a MINNA CHEN and)
various JOHN DOES 1-10)
(UNIDENTIFIED),)

Defendants.)

**FINAL JUDGMENT AND PERMANENT INJUNCTION
AGAINST DEFENDANTS MIN CHEN AND WEI CHEN**

Plaintiffs Sprint Solutions, Inc. and Sprint Communications Company L.P. (collectively “Sprint” or “Plaintiffs”) brought the above-captioned lawsuit against Defendants Min Chen a/k/a Minna Chen and Wei Chen (collectively “Defendants”) alleging that Defendants are engaged in the unauthorized and deceptive acquisition and resale of specially-manufactured wireless telephones and other wireless devices designed for use on Sprint’s wireless network, which Sprint offers under various Sprint brands, including Sprint, Sprint Prepaid, Boost Mobile, Virgin Mobile, PayLo and Assurance Wireless (collectively “Sprint Phones” or “Phones”) through several methods, including the theft of Sprint’s investment in the Phones; the unlawful access of Sprint’s protected computer systems and wireless network; the trafficking of Sprint’s protected and confidential computer passwords; and the willful infringement of Sprint’s trademark rights (the “Bulk Handset Trafficking Scheme” or the “Scheme”).

As alleged in the Amended Complaint and not denied by Defendants, Defendants perpetrates the Scheme by, *inter alia*, by illicitly acquiring in bulk new Sprint iPhones through

online advertising and solicitation and reselling the Sprint Phones overseas. Defendants' Scheme causes tremendous harm to both Sprint and Sprint's legitimate consumers. In some cases, Defendants and their co-conspirators acquire the Sprint Phones with the knowledge and intent that the Phones will be computer-hacked. The purpose of this hacking, or "unlocking," is to disable software installed in the Phones by the manufacturers at the request and expense of Sprint, which enables activation of the Sprint Phones exclusively on Sprint's wireless system. The illegally obtained and in some cases unlocked Phones are trafficked and resold as new by Defendants under the Sprint trademarks. Defendants' Scheme causes tremendous harm to Sprint.

Sprint Phones are sold subject to terms and conditions ("Terms and Conditions") which conspicuously restrict and limit the sale and use of the Phones. These Terms and Conditions are set forth in printed inserts that are packaged with each Phone and are posted on Sprint's website. Pursuant to the Terms and Conditions of Sprint Phones, purchasers agree, among other things: (a) to pay the service charges and other related fees; (b) to activate the Sprint Phones on the Sprint CDMA network; (c) not to resell the Sprint Phones and related products and services; and (d) not to use the Phones for a purpose that could damage or adversely affect Sprint.

As a result of Defendants' involvement in the Scheme, Sprint asserted claims against Defendants for common law unfair competition, tortious interference with prospective business relations and economic advantage, tortious interference with contractual relations, conspiracy to commit fraud and fraudulent misrepresentation, unjust enrichment, conspiracy to induce breach of contract, common law fraud and fraudulent misrepresentation, violations of the Computer Fraud and Abuse Act, 18 U.S.C. § 1030, *et seq.*, federal trademark infringement under 15 U.S.C. § 1114, federal common law trademark infringement and false advertising under 15 U.S.C. § 1125(a)(1)(A) and (B), contributory trademark infringement, conversion, and violations of the

N.Y. General Business Law §§ 349 and 350.

Based on the undisputed positions advocated by Plaintiffs, 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 Sprint's Complaint.

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



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

3. The Terms and Conditions and the language in and on the packaging constitute a valid and binding contract enforceable between Sprint and each of its customers. The Terms and Conditions set forth certain rights and restrictions on the use of Sprint Phones. Among other things, the Terms and Conditions: (a) require that the customer pay applicable service charges and other related fees; (b) indicate that the Phone is designed to be activated on the Sprint

CDMA network; (c) prohibit resale of Sprint Phones and related products and services; and (d) prohibit using the Phones for a purpose that could damage or adversely affect Sprint, for which Sprint is entitled to relief.

4. The conduct set forth in the Complaint constitutes the following violations: common law unfair competition (Count 1); tortious interference with prospective business relations and economic advantage (Count 2); tortious interference with contractual relations (Count 3); conspiracy to commit fraud and fraudulent misrepresentation (Count 4); unjust enrichment (Count 5); conspiracy to induce breach of contract (Count 6); common law fraud and fraudulent misrepresentation (Count 7); trafficking in computer passwords, 18 U.S.C. § 1030(a)(6) (Count 8); unauthorized access, 18 U.S.C. § 1030(a)(5)(C) (Count 9); unauthorized access with intent to defraud, 18 U.S.C. § 1030(a)(4) (Count 10); federal trademark infringement, 15 U.S.C. § 1114 (Count 11); federal common law trademark infringement and false advertising, 15 U.S.C. § 1125(a)(1)(A) and (B) (Count 12); contributory trademark infringement (Count 13); conversion (Count 14); false advertising, N.Y. GEN. BUS. LAW § 350, *et seq.* (Count 15); and deceptive acts and practices, N.Y. GEN. BUS. LAW § 349 (Count 16); and such conduct has caused substantial and irreparable harm to Sprint, and will continue to cause substantial and irreparable harm to Sprint unless enjoined.

5. Sprint has suffered damages, including loss of goodwill and damage to its reputation, as a result of Defendants' conduct that far exceeds the \$5,000 aggregate annual damages under the Computer Fraud and Abuse Act.

6. On review and consideration of all relevant factors, Sprint is entitled to damages and injunctive relief on the claims as set forth in the Amended Complaint.

7. The Court finds that Defendants unlawfully trafficked in at least 102 new Sprint Phones. For each new Sprint smartphone that Sprint sells its investment and expected revenue from the Phone averages \$1,919. When a new Sprint Phone is unlawfully trafficked through Defendants' use of a co-conspirator or otherwise, Sprint loses its investment and does not receive the expected revenue, which reduces its profits and increases Sprint's costs. Sprint's damages resulting from Defendants' acquisition and resale of new Sprint Phones add up to at least: $\$1,919 \times 102 \text{ Sprint smartphones} = \$195,738$. In light of Defendants' willful violations of the Lanham Act and affirmative absence from this case, and because Sprint's damages uncovered by their investigation are modest compared to the likely damage caused by Defendants, which has been hampered by Defendants' refusal to participate, the Court will treble these damages to \$587,214.

8. Sprint is also entitled to an award of its reasonable attorneys' fees in the amount of \$22,122.40.

9. Sprint is also entitled to an award of its reasonable costs in the amount of \$870.90.

10. Sprint is also entitled to an award of reasonable investigation fees in the amount of \$10,277.50.

11. Final default judgment is hereby entered against Defendants Min Chen and Wei Chen, jointly and severally, and in favor of Sprint, on all of the claims set forth in Sprint's Amended Complaint in the principal amount of \$620,484.80 which shall bear interest at the legal rate, for which let execution issue forthwith.

12. From the date of entry of this order, Sprint shall have six-months to conduct post-judgment discovery in aid of execution of judgment.

13. For all Sprint brands, now and in the future, including without limitation, Sprint, Sprint Prepaid, Boost Mobile, Virgin Mobile, PayLo and Assurance Wireless, Defendants and all of their past and present agents, employees, heirs, personal representatives, beneficiaries, relatives, and all other persons or entities acting or purporting to act for them or on their behalf, including, but not limited to, any corporation, partnership, proprietorship or entity of any type that is in any way affiliated or associated with Defendants or Defendants' representatives, agents, assigns, employees, independent contractors, associates, servants, and any and all persons and entities in active concert and participation with Defendants who receive notice of this Order, shall be and hereby are PERMANENTLY ENJOINED from:

- a. acquiring, purchasing, selling, unlocking, reflashing, altering, advertising, soliciting and/or shipping, directly or indirectly, any Sprint Phones (including services);
- b. supplying Sprint Phones to or facilitating or in any way assisting other persons or entities who Defendants know or should know are engaged in the purchase or sale of Sprint Phones or hacking, altering, erasing, tampering with, deleting or otherwise disabling the software installed in Sprint Phones;
- c. engaging in any of the conduct described in the Complaint as the "Bulk Handset Trafficking Scheme;"
- d. accessing Sprint's computer networks either directly or through a Sprint representative, customer and/or a third-party;
- e. knowingly using the Sprint Marks or any other trademark, service mark, trade name and/or trade dress owned or used by Sprint now or in the

- future, or that is likely to cause confusion with Sprint's Marks, without Sprint's prior written authorization;
- f. holding themselves out as being associated with, employed by or on behalf of, or acting as an agent, representative or authorized partner of Sprint; and,
 - g. supplying Sprint Phones to or facilitating or in any way assisting, aiding or cooperating with other persons or entities who Defendants know or should know are engaged in any of the acts prohibited under this Permanent Injunction, including, without limitation, the acquisition of Sprint Phones (including services) or contacting any division, department, employee, agent or affiliate of Sprint for the purpose of obtaining Sprint Phones and/or Sprint services and/or Sprint customer account information.

14. Pursuant to the Lanham Act, Defendants shall deliver and turn over all Sprint Phones and Products in their possession, or subject to their custody or control, bearing or infringing any Sprint trademark or confusingly similar copy thereof, to Sprint within ten (10) days of the date of this Final Judgment.

15. The acquisition, sale, or shipment of any Sprint Phone without Sprint's prior written consent within or outside of the continental United States shall be deemed a presumptive violation of this injunction.

16. The Court retains jurisdiction to enforce any violation of the terms of this Final Judgment and Permanent Injunction. Any violation shall result in an order finding the Defendants in contempt and requiring payment of compensatory damages to Sprint in an amount of \$5,000 for each Sprint Phone or Product that Defendant is found to have acquired, sold or

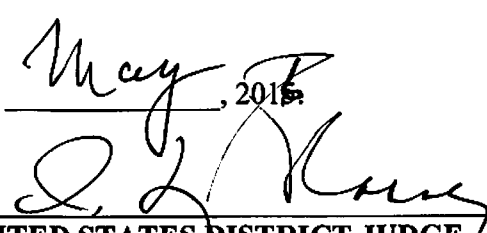
unlocked in violation of this Injunction. The Court finds that these amounts are compensatory and will serve to compensate Sprint for its losses in the event Defendants violates the terms of this Order.

17. The address of Plaintiffs is 6200 Sprint Pkwy, Overland Park, Kansas 66251.

18. The last known address of Defendant Min Chen, 133-38 Sanford Avenue, Apt. 8G, Flushing, New York 11355.

19. The last known address of Defendant Wei Chen, 133-38 Sanford Avenue, Apt. 8G, Flushing, New York 11355.

DONE AND ORDERED this 10th day of May, 2016.



UNITED STATES DISTRICT JUDGE

Copies furnished to:
All Counsel of Record and pro se parties