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1 MICHAEL H. WEISS (State Bar No. 110148)  
2 mweiss@proskauer.com  
3 PROSKAUER ROSE LLP  
4 2049 Century Park East, 32nd Floor  
5 Los Angeles, CA 90067-3206  
6 Telephone: (310) 557-2900  
7 Facsimile: (310) 557-2193

8 JAMES B. BALDINGER (Florida Bar No. 869899)  
9 jbbaldinger@carltonfields.com  
10 (admitted pro hac vice)  
11 STACEY K. SUTTON (Florida Bar No. 0289530)  
12 ssutton@carltonfields.com  
13 (admitted pro hac vice)  
14 DAVID B. ESAU (Florida Bar No. 0650331)  
15 desau@carltonfields.com  
16 (admitted pro hac vice)  
17 CARLTON FIELDS, P.A.  
18 525 Okeechobee Blvd., Suite 1200, P.O. Box 150  
19 West Palm Beach, FL 33402-0150  
20 Telephone: (561) 659-7070  
21 Facsimile: (561) 659-7368

22 Attorneys for Plaintiff  
23 T-Mobile USA, Inc.

24 **UNITED STATES DISTRICT COURT**  
25 **CENTRAL DISTRICT OF CALIFORNIA**

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

28 Plaintiff,

v.

DELTA GAMES, INC.; MOHAMAD  
FARHAT; HASSAN MATAR; and  
DOES 1-10,

Defendants.

) Case No. 08-cv-01110-SGL (Ex)

) **FINAL JUDGMENT AND**  
) **PERMANENT INJUNCTION**  
) **AGAINST DELTA GAMES, INC.,**  
) **MOHAMAD FARHAT, AND**  
) **HASSAN MATAR**

29 Plaintiff T-Mobile USA, Inc. ("T-Mobile"), brought the above-captioned  
30 lawsuit against Defendants Delta Games, Inc., Mohamad Farhat, and Hassan

1 Matar (“Defendants”) asserting that Defendants are engaged in an unlawful  
2 enterprise involving the acquisition, sale, and alteration of large quantities of T-  
3 Mobile prepaid wireless telephones (“T-Mobile Prepaid Handsets” or “Handsets”)  
4 and SIM cards that causes substantial and irreparable harm to T-Mobile (the  
5 “Subsidy Theft Scheme”).

6 Defendants perpetrate the Subsidy Theft Scheme by acquiring bulk  
7 quantities of T-Mobile Prepaid Handsets, which include T-Mobile SIM cards,  
8 from retail stores, such as Wal-Mart or Target. Defendants solicit others to  
9 purchase T-Mobile Prepaid Handsets and SIM cards in bulk for their own benefit.  
10 Defendants acquire the T-Mobile Prepaid Handsets with the actual or constructive  
11 knowledge and intent that they will not be activated for use on the T-Mobile  
12 prepaid wireless network and that the Handsets will be computer-hacked. The  
13 purpose of this hacking, known as “unlocking,” is to erase, remove and/or disable  
14 proprietary software installed in the Handset, which enables the use of the T-  
15 Mobile Prepaid Handsets exclusively on T-Mobile’s prepaid wireless system. The  
16 unlocked Handsets are then trafficked and resold overseas, at a premium, under  
17 the T-Mobile trademarks for unauthorized use outside of Plaintiff’s prepaid  
18 wireless system and the SIM cards that come with the Handsets are illicitly sold  
19 and/or fraudulently activated to appropriate airtime.

20 T-Mobile Prepaid Handsets are sold subject to terms and conditions  
21 (“Terms and Conditions”) which conspicuously restrict and limit the sale and use  
22 of the T-Mobile Prepaid Handsets. These Terms and Conditions are set forth in  
23 printed inserts that are included in the packaging with every T-Mobile Prepaid  
24 Handset, and are also available to the public on T-Mobile’s website. The Terms  
25 and Conditions are referenced in printed warnings that are placed on the outside of  
26 the retail packaging of the Handsets. The Terms and Conditions and language on  
27 the packaging constitute a valid binding contract.

28

1 Pursuant to the Terms and Conditions and the language on the packaging,  
2 purchasers of T-Mobile Prepaid Handsets agree, among other things: not to use the  
3 Handsets for a fraudulent purpose that “negatively impact[s] [T-Mobile’s]  
4 customers, employees, business, ability to provide quality service, [and]  
5 reputation.” T-Mobile Terms and Conditions, ¶ 7.

6 As a result of the Subsidy Theft Scheme, T-Mobile has asserted claims  
7 against Defendants for breach of contract; federal trademark infringement and  
8 false advertising under 15 U.S.C. § 1125(a)(1)(A) and (B); unfair competition  
9 under California common law; contributory trademark infringement; tortious  
10 interference with business relationships and prospective advantage; harm to T-  
11 Mobile’s goodwill and business reputation; civil conspiracy; unjust enrichment;  
12 and conspiracy to induce a breach of contract.

13 The Court, having reviewed the Complaint and file and being otherwise  
14 duly advised in the premises, it is hereby:

15 **ORDERED, ADJUDGED and DECREED** that:

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

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

21 The logo consists of a stylized 'T' with a dot above it, followed by the word 'Mobile' in a serif font, with a dot above the 'i'.

22  
23 T-Mobile uses the T-Mobile Marks on and in connection with its  
24 telecommunications products and services. Defendants’ use of the T-Mobile  
25 Marks without authorization in connection with the Subsidy Theft Scheme has  
26 caused, and will further cause, a likelihood of confusion, mistake and deception as  
27 to the source of origin of the counterfeit products, and the relationship between T-  
28 Mobile and Defendants. Defendants’ activities constitute false designation of

1 origin, false descriptions and representations, and false advertising in commerce in  
2 violation of § 43(a) of the Lanham Act, 15 U.S.C. §1125(a)(1)(A) and (B).  
3 Defendants knew or should have known that T-Mobile is the exclusive licensee of  
4 the T-Mobile Marks and that Defendants had no legal right to use the T-Mobile  
5 Marks on infringing products.

6 3. The Court finds that the Terms and Conditions and the language on  
7 the packaging constitute a valid binding contract enforceable against Defendants.  
8 The Court finds that facilitating others to use T-Mobile Prepaid Handsets in  
9 conjunction with service providers other than T-Mobile; tampering with or  
10 altering T-Mobile Prepaid Handsets, SIM cards and/or the Handsets' software;  
11 and/or entering unauthorized PIN numbers in the Handsets for purposes of  
12 unlocking the Handsets or facilitating others in such acts, constitute independent  
13 breaches of contract for which T-Mobile is entitled to relief.

14 4. The Court finds that the conduct set forth in the Complaint  
15 constitutes violations of 15 U.S.C. § 1125(a)(1)(A) and (B) (federal trademark  
16 infringement and false advertising), and Cal. Bus. & Prof. Code. § 17200, et seq.  
17 (California unfair competition). The Court further finds that the conduct  
18 constitutes contributory trademark infringement; tortious interference with  
19 business relationships and prospective advantage; harm to T-Mobile's goodwill  
20 and business reputation; civil conspiracy; unjust enrichment; and conspiracy to  
21 induce a breach of contract, and has caused substantial and irreparable harm to T-  
22 Mobile, and will continue to cause substantial and irreparable harm to T-Mobile  
23 unless enjoined.

24 5. T-Mobile has suffered damages, including loss of goodwill and  
25 damage to its reputation, as a result of Defendants' alleged conduct. T-Mobile is  
26 entitled to injunctive relief on the claims set forth in the Complaint.

27 6. Final judgment is hereby entered, jointly and severally, against  
28 Defendants Delta Games, Inc. and Mohamad Farhat and in favor of the Plaintiff,

1 T-Mobile USA, Inc., on all of the claims set forth in T-Mobile's Complaint in the  
2 principal amount of Five Million Dollars and Zero Cents (\$5,000,000.00 (U.S.)),  
3 for which let execution issue forthwith.

4 7. Defendants Delta Games, Inc., Mohamad Farhat, and Hassan Matar,  
5 and each and all of their past, future, and present respective officers, directors,  
6 successors, predecessors, assigns, parents, subsidiaries, affiliates, related  
7 companies, predecessors-in-interest, agents, employees, attorneys, accountants,  
8 investigators, consultants, heirs, personal representatives, beneficiaries, relatives,  
9 independent contractors, and all other persons or entities acting or purporting to  
10 act for him/it or on his/its behalf, including but not limited to any corporation,  
11 partnership, proprietorship or entity of any type that is in any way affiliated or  
12 associated with any Defendant or any Defendant's representatives, agents,  
13 assigns, parent entities, employees, independent contractors, associates, servants,  
14 affiliated entities, and any and all persons and entities in active concert and  
15 participation with any Defendant who receive notice of this Order, shall be and  
16 hereby are PERMANENTLY ENJOINED from:

- 17 a. purchasing, selling, unlocking, reflashing, altering, advertising,  
18 soliciting and/or shipping, directly or indirectly, any T-Mobile  
19 Prepaid Handsets or "Activation Materials," which consist of SIM  
20 Cards, PIN numbers, and/or other mechanism, process or materials  
21 used to activate service or acquire airtime in connection with a new  
22 activation;
- 23 b. purchasing, selling, unlocking, reflashing, altering, advertising,  
24 soliciting and/or shipping, directly or indirectly, any T-Mobile mobile  
25 device or Activation Materials that Defendants know or should know  
26 bears any T-Mobile marks or any marks likely to cause confusion  
27 with the T-Mobile marks, or any other trademark, service mark, trade  
28 name and/or trade dress owned or used by T-Mobile now or in the

1 future (collectively the “T-Mobile Handsets”). Specifically,  
2 Defendants are enjoined from purchasing, selling, and/or shipping,  
3 directly or indirectly, all models of T-Mobile Prepaid Handsets and  
4 SIMS cards currently offered for sale by T-Mobile or that may be  
5 offered for sale in the future, as listed and updated from time to time  
6 on T-Mobile’s website: <http://www.t-mobile.com>, regardless of  
7 whether such devices are, new or used, whether in or out of their  
8 original packaging, or whether “locked,” “unlocked,” or otherwise  
9 modified in any way by any person;

- 10 c. unlocking of any T-Mobile Handset;
- 11 d. accessing, altering, erasing, tampering with, deleting or otherwise  
12 disabling the software contained in any T-Mobile Prepaid Handset;
- 13 e. supplying T-Mobile Handsets or SIM cards to or facilitating or in any  
14 way assisting other persons or entities who Defendants know or  
15 should know are engaged in unlocking T-Mobile Handsets and/or  
16 hacking, altering, erasing, tampering with, deleting or otherwise  
17 disabling the software installed in T-Mobile Handsets;
- 18 f. supplying T-Mobile Handsets or SIM cards to or facilitating or in any  
19 way assisting other persons or entities who Defendants know or  
20 should know are engaged in any of the acts prohibited under this  
21 Permanent Injunction, including, without limitation, the buying  
22 and/or selling of locked or unlocked T-Mobile Handsets or SIM  
23 cards; and
- 24 g. knowingly using the T-Mobile Marks or any other trademark, service  
25 mark, trade name and/or trade dress owned or used by T-Mobile now  
26 or in the future, or that is likely to cause confusion with T-Mobile’s  
27 marks, without T-Mobile’s prior written authorization.
- 28

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

5           9.     The address of Delta Games, Inc. is 7803 Telegraph Road, Suite J,  
6 Montebello, California 90640

7           10.    The address of Mohamad Farhat is 83256 Plaza De Oro, Coachella,  
8 California 92236.

9           11.    The address of Hassan Matar is 7020 Prospect Avenue, Bell,  
10 California 90201.

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

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

15           14.    The Court retains jurisdiction over this matter and the parties to this  
16 action in order to enforce any violation of the terms of this Permanent Injunction  
17 by a finding of contempt and an order for payment of compensatory damages to  
18 T-Mobile in an amount of \$5,000 for each T-Mobile prepaid handset or item of  
19 Activation Material that Defendants are found to have purchased, sold, or  
20 unlocked in violation of this Injunction. The Court finds that these amounts are  
21 compensatory and will serve to compensate T-Mobile for its losses in the event a  
22 Defendant violates the terms of this Order. The Court also retains jurisdiction  
23 over this matter and the parties to this action to enforce the terms of the parties'  
24 settlement agreement and to award damages in Plaintiff's favor against Defendant  
25 Hassan Matar.

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

1           DONE AND ORDERED in Chambers this 13th day of May,  
2 2009.

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5 JUDGE, UNITED STATES DISTRICT COURT

6 Copies furnished to:

7 All Counsel of Record and pro se parties  
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