

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

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

) Civil Action No: 14-1307

v.)

) **COMPLAINT FOR DAMAGES
AND INJUNCTIVE RELIEF**

SIMON MILLER ROBERSON, JR. a/k/a)
JOVANNI MILLER a/k/a CHAD)
ROBERSON a/k/a CHAD MILLERS a/k/a)
CHAD STEVENS and BRENDA A.)
OMOREGIE a/k/a REBECCA)
STEVENSONS a/k/a REBECCA MILLER,)
all the forgoing individually and d/b/a)
SPRINT PCS SECOND CHANCE)
RESTORATION SVC.,)

) **JURY TRIAL DEMANDED**

Defendants.

COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF

Plaintiffs, Sprint Solutions, Inc., Sprint Communications Company L.P. and Boost Worldwide, Inc. (collectively “Sprint” or “Plaintiffs”), hereby file this Complaint for Damages and Injunctive Relief against Defendants Simon Miller Roberson, Jr. a/k/a Giovanni Miller a/k/a Chad Roberson a/k/a Chad Millers a/k/a Chad Stevens and Brenda A. Omoregie a/k/a Rebecca Stevensons a/k/a Rebecca Miller, all the forgoing individually and d/b/a Sprint PCS Second Chance Restoration Svc. (collectively “Defendants”), and state:

INTRODUCTION

1. Sprint sells wireless handsets (“Sprint Phones” or “Phones”) under the brands Sprint, Boost Mobile, Virgin Mobile, payLo, and Assurance Wireless for use on Sprint’s wireless network at prices significantly below the wholesale price of the Phones to make them more widely accessible to consumers. Sprint subsidizes the cost of new Sprint Phones for the

benefit and convenience of its legitimate customers. Sprint provides telecommunications service to its customers under various plans and will directly work with delinquent customers, whenever possible, to attempt to get their accounts back in good standing with Sprint. Defendants and their co-conspirators are perpetrators of an unlawful scheme (the “Bulk Handset Theft and Trafficking Scheme”) to profit from the illegal acquisition and resale of new Sprint Phones and that preys on Sprint customers with delinquent accounts for their own financial profit and to the detriment of Sprint and its customers.

PARTIES, JURISDICTION, AND VENUE

2. This is an action for damages in excess of \$75,000.00, exclusive of interest, costs, and attorneys’ fees.

3. Sprint Solutions, Inc. is a Delaware corporation, with its principal place of business in Reston, Virginia.

4. Sprint Communications Company L.P. is a Delaware limited partnership, with its principal place of business in Overland Park, Kansas.

5. Simon Miller Roberson, Jr. a/k/a Giovanni Miller a/k/a Chad Roberson a/k/a Chad Millers a/k/a Chad Stevens (“Roberson”) is an individual who personally engaged in, and helped facilitate the improper conduct described herein. Upon information and belief, Roberson resides at Budget Suites of America, 9519 Forest Lane, Dallas, Texas 75243.

6. Defendant Brenda A. Omoregie a/k/a Rebecca Stevensons a/k/a Rebecca Miller (“Omoregie”) is an individual who personally engaged in, and helped facilitate the improper conduct described herein. Upon information and belief, Omoregie resides at Budget Suites of America, 9519 Forest Lane, Dallas, Texas 75243.

7. Upon information and belief, each of the foregoing individual Defendants also does business as “Sprint PCS Second Chance Restoration Svc.” (“Second Chance Restoration”).

8. Jurisdiction in this Court is proper pursuant to 28 U.S.C. §§ 1331, 1332, and 1338 because Sprint’s claims for violation of the United States Trademark Act, Title 15 of the United States Code and the Computer Fraud and Abuse Act, 18 U.S.C. § 1030, *et seq.* arise under federal law and because diversity exists between the parties and the amount in controversy exceeds \$75,000.00 exclusive of costs, fees, and interest. This Court has supplemental jurisdiction pursuant to 28 U.S.C. § 1367 over Sprint’s state law claims because those claims are so related to the federal claims that they form part of the same case or controversy.

9. All Defendants are subject to the personal jurisdiction of this Court because they have conducted, engaged in and carried out business ventures within the State of Texas; they have committed tortious acts within the State of Texas; and they have engaged in substantial and not isolated activity within the State of Texas.

10. Venue is proper pursuant to 28 U.S.C. § 1391(b) because the Defendants either reside in this district or a substantial part of the events or omissions giving rise to the claims occurred in this judicial district.

BULK HANDSET THEFT AND TRAFFICKING SCHEME

11. Defendants and their co-conspirators acquire subsidized Sprint Phones through various methods, including the use of “runners,” “credit mules,” account fraud, and mobile device theft. As part of the Bulk Handset Theft and Trafficking Scheme, the Phones are purchased and resold multiple times; ultimately ending up in the hands of someone other than the consumer whom Sprint intended to benefit. Along the way, the Phones are usually “unlocked” so they will operate on a wireless network other than Sprint. Often the ultimate user of the

phone is located overseas, in a country where Sprint does not provide service and the wireless service providers do not subsidize phones.

12. Defendants' Scheme takes advantage of the fact that while Sprint subsidizes Phones to benefit consumers, wireless service providers in other countries do not. By obtaining the Sprint Phones under false or fraudulent pretenses from Sprint and diverting them to other markets where phones are not subsidized, the Scheme converts Sprint's subsidies and other investment in the Phones into profits for Defendants and their co-conspirators. Although Defendants may participate in less than all of the steps in the process of diverting Sprint Phones, each of Defendants' acts is a violation of Sprint's rights and causes significant damage to Sprint. Additionally, as participants in the conspiracy, Defendants are liable for the harm caused to Sprint by the entire Scheme.

13. The Scheme causes tremendous harm to Sprint and to consumers. In addition to the pecuniary losses caused by Defendants' theft of Sprint mobile devices and subsidy investment, lost sales and market expenses, and lost expected customer revenue, Defendants' misconduct has harmed Sprint's relationships with its customers, dealers, and retailers. Defendants' Scheme also involves unlawfully accessing Sprint's protected computer systems and wireless network; trafficking of Sprint's protected and confidential computer passwords; willful infringement of Sprint's trademarks; stealing legitimate customer upgrades; and stealing payments by Sprint customers intended to be made toward their Sprint accounts. Defendants have caused substantial damage to Sprint's brand, image, and reputation.

14. Sprint seeks to recover damages for the harm caused by Defendants' Bulk Handset Theft and Trafficking Scheme and to obtain an injunction prohibiting Defendants from continuing to perpetrate the Scheme.

15. All conditions precedent to filing this action have been performed, waived or excused.

16. Sprint has retained the undersigned attorneys to represent it in this action and has agreed to pay its attorneys a reasonable fee for their services.

SPRINT'S BUSINESS MODEL

17. Sprint and its affiliates offer a comprehensive range of telecommunications products and services to consumers, businesses, and government users. Sprint currently serves more than 53 million customers nationwide, and is widely recognized for developing, engineering and deploying innovative technologies. The Sprint companies and affiliates highly value the outstanding business reputation they have worked hard to develop.

18. Sprint's wireless program enables Sprint customers to choose from a variety of voice and data plans for use on cutting edge devices on the Sprint wireless network. In addition to being available through Sprint online, over the phone with authorized Sprint customer service representatives, and in its stores, Sprint Phones and wireless service are sold through authorized Sprint dealers and retailers, with whom Sprint has contractual relationships, around the country. Sprint customer care works with Sprint customers whose accounts have become delinquent to attempt to reach a resolution of the issue and bring the accounts back into good standing.

19. Sprint customers can purchase Sprint Phones and other related Sprint equipment (such as SIM cards) over the phone. Once a customer provides the requisite security information, Sprint accesses the customer's account on its secure internal computers and allows the customer to place orders or make changes to his/her account. The customer can orally order devices or equipment to be shipped to any address provided by the customer.

20. Sprint's business model is based upon Sprint's ability to deliver affordable, innovative, and desirable products and services to consumers. Therefore, Sprint subsidizes its customers' acquisition of the Sprint Phones by selling its Phones for substantially less than the wholesale prices Sprint pays for the Phones from the manufacturers of the Phones. Sprint recoups this subsidy through revenue earned on the sale of Sprint service, which customers must use to transmit and receive voice, text, and data on the Sprint Phones.

21. Sprint is able to offer its Phones to customers at reduced prices only if the Phones are used as intended on the Sprint wireless network. Manufacturers that produce wireless phones for Sprint install proprietary software, requested and paid for by Sprint, into the Sprint Phones. Among other things, this software is intended to prevent the Phones from being used outside the Sprint network.

22. Because the Bulk Handset Theft and Trafficking Scheme requires the trafficked Sprint Phones to operate on a network other than Sprint's, Defendants or their co-conspirators must remove or alter this software using a process called "unlocking." In 2012, Federal regulators revoked an exemption to the Digital Millennium Copyright Act, 17 U.S.C. § 1201, *et seq.*, ("DMCA") for wireless phone unlocking, paving the way for unlockers to be criminally prosecuted under the DMCA, based upon the explanation that:

the practice of locking cell phones is an essential part of the wireless industry's predominant business model, which involves subsidizing the cost of wireless handsets in exchange for a commitment from the customer that the phone will be used on that carrier's service so that the subsidy can eventually be recouped by the carrier. CTIA alleged that the industry has been plagued by "large scale phone trafficking operations" that buy large quantities of pre-paid phones, unlock them, and resell them in foreign markets where carriers do not subsidize handsets.

Exemption to Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies, 77 Fed. Reg. 65260, 65265 (Oct. 26, 2012) (amending 37 C.F.R. § 201.40). Like

all wireless carriers in the United States, Sprint has policies in place to unlock Phones for legitimate customers in certain circumstances, in order to allow the customers to continue to use their Sprint Phone for international travel or if they port their service to another carrier with compatible technology. *See* 47 U.S.C. § 251(b)(2).

23. Wireless technology is constantly changing and improving, and the wireless industry is intensely competitive. Sprint expends substantial resources to maintain its position as an industry leader and to ensure that its network, handsets, and all of its products and services are at the cutting edge of the latest technological developments. Providing its customers with the highest quality and most advanced technology is a key differentiator for Sprint and central to its business strategy. For example, Sprint was the first national wireless carrier in the United States to offer 4G service, and Sprint continues to aggressively develop, engineer, and deploy innovative technologies to benefit its customers.

24. Sprint invests heavily in efforts to provide its customers with the most up-to-date wireless handsets, and subsidizes most or all of the cost of purchasing a new phone for its customers. Sprint makes subsidized phones available to new customers when they initiate wireless service, and also provides new subsidized phones to existing customers at regular intervals. According to its public securities filings, Sprint spent more than \$6.6 billion on handset subsidies in 2012, and invested an additional \$2 billion in subsidies in the first quarter of 2013. It is those funds that Defendants and their co-conspirators steal through their Bulk Handset Theft and Trafficking Scheme.

25. Sprint made a particularly significant and widely publicized investment for its customers in the smartphone market. As reported in *The Wall Street Journal*, Sprint agreed to buy 30.5 million iPhones from Apple over four years, at a cost of more than \$20 billion. Indeed,

Sprint has staked a significant amount of its business on the iPhone brand. Copies of newspaper articles discussing Sprint and the iPhone are attached hereto as **Composite Exhibit A**. Sprint's subsidized iPhones are a particularly attractive and lucrative target for Defendants and their co-conspirators' Bulk Handset Theft and Trafficking Scheme.

26. Sprint is continuously working to provide its customers with the latest in communications technology. For example, Sprint recently completed a massive "Network Vision" program to migrate millions of customers from the Nextel network, which used outdated iDEN technology, and to upgrade more than 25,000 wireless transmission facilities around the country to the latest 4G LTE transmission technology. Sprint's practice of subsidizing handsets for existing customers is an essential part of its business model, and facilitates the upgrading of Sprint's network by helping to migrate customers from older technology phones to newer models. Many of the various wireless transmission standards are not compatible with each other, so Sprint's customers need to switch to new phones before Sprint can transition its network to the latest standard. New handsets are also needed to utilize different radio frequencies and take advantage of Sprint's acquisition of wireless spectrum from various other companies.

27. By stealing the subsidies in handset upgrades that Sprint intends to benefit its customers, Defendants' Scheme harms Sprint not only by misappropriating its subsidy investment, but also by impeding Sprint's ability to upgrade its equipment and network facilities. Sprint offers subsidized Phone upgrades to its customers every 12 to 24 months to meet their high expectations and strong demand for the most technologically-advanced handsets, features, and services. These upgrades are critical to Sprint's network speed and efficiency.

SPRINT'S TRADEMARK RIGHTS

28. Sprint Communications Company L.P. owns federal trademark registrations for the standard character and stylized Sprint® marks (collectively, the “Sprint Communications Marks”). Sprint Solutions, Inc. has been assigned the right to use and enforce the Sprint Communications Marks. Copies of the certificates of registration issued by the United States Patent and Trademark Office are attached hereto as **Composite Exhibit B**. The stylized Sprint Communications Marks are depicted below:



29. Sprint has been assigned the right to use and enforce the standard character and stylized Virgin Mobile, payLo, Assurance Wireless and Boost Mobile trademarks (collectively, the “Assigned Marks”), the latter of which are depicted below:



The Sprint Communication Marks and Assigned Marks will collectively be referred to as the “Sprint Marks”.

30. Sprint uses the Sprint Marks on and in connection with its telecommunications products and services.

31. As a result of the high quality of Sprint’s products, services, sales, promotion and advertising thereof, the Sprint Marks have become an intrinsic and essential part of the valuable

goodwill and property of Sprint, who protects the Sprint Marks. The Sprint Marks are well established and well known to customers and the trade as symbols identifying and distinguishing Sprint's products and services, and signifying distinctive products and services of high quality. Only Sprint and its expressly authorized, affiliated agents are permitted to use the Sprint Marks. The Sprint Marks are valid, distinctive, protectable, famous, have acquired secondary meaning, and are associated exclusively with Sprint.

**TERMS AND CONDITIONS REGARDING
THE USE OF SPRINT PHONES**

32. Sprint Phones are sold subject to terms and conditions ("Terms and Conditions") which conspicuously restrict and limit the sale and use of the Phones. A copy of the Terms and Conditions is attached hereto as **Exhibit C**. These Terms and Conditions are set forth in printed inserts that are included with the purchase of every Sprint Phone.

33. To make its customers' experience as convenient as possible, Sprint provides various methods for its customers to manifest their agreement to the Terms and Conditions, depending on the type of service they obtain and the method and sales channel through which they activate their service. In some cases, customers are asked to sign a written contract, in others they acknowledge their agreement orally by phone, and in other situations they may indicate their agreement by clicking the appropriate buttons on a website. In the case of pay-as-you-go or prepaid service, customers sometimes indicate their agreement by purchasing a Phone in a package that conspicuously indicates that their purchase or use of the phone constitutes their agreement to the Terms and Conditions. All of the methods used by Sprint for obtaining its customers' agreement to the Terms and Conditions are legally valid and appropriate, and the Terms and Conditions constitute a valid and binding contract between Sprint and each of its customers.

34. The Terms and Conditions set forth certain rights and restrictions on the use of Sprint Phones. Among other things, the Terms and Conditions: (a) indicate that the Phone is designed to be activated on the Sprint CDMA network, (b) prohibit resale of Sprint Phones and related products and services; and (c) prohibit using the Phones for a purpose that could damage or adversely affect Sprint.

DEFENDANTS' MISCONDUCT

35. Sprint has discovered that, although large quantities of its Phones are being purchased throughout the United States, a significant number of these Phones are not being used on the Sprint network.

36. Instead, entities and individuals such as Defendants and their co-conspirators, with no intention of lawfully connecting to the Sprint wireless network, are fraudulently acquiring and reselling Sprint Phones in bulk quantities. The Phones are acquired, either directly by Defendants or through their co-conspirators, through illicit means, such as through unauthorized orders on the accounts of defrauded Sprint customers, and then sold for a substantial profit and shipped overseas, where they can be used on other wireless carriers' networks, or shipped or resold to other domestic traffickers, who add them to larger shipments headed overseas. The illicit Phones, which are now flagged in the Sprint system as connected to fraud or theft, are no longer useable on the Sprint network. Phones not shipped overseas are illicitly resold in the United States, often to unsuspecting consumers, who believe they are obtaining genuine Sprint Phones. The Phones are often unlocked by Defendants or their co-conspirators, to raise their value, and the original packaging, as well as accessories, warranties and manuals are often removed or replaced. Defendants undertake these actions for profit.

37. Once a Sprint Phone is unlocked and shipped overseas to be used on other wireless networks, or identified as lost to fraud or theft, Sprint no longer has a revenue source to recoup its investment in that Phone.

38. Defendants are knowingly and willfully engaged in an enterprise that traffics in and resells Sprint Phones. Defendants have used fraud and other illicit means to acquire Phones and sold those Sprint Phones through various co-conspirators. While the complete extent of Defendants' activities in the Bulk Handset Theft and Trafficking Scheme is not yet known, Defendants are actively involved in several integral components of the conspiracy.

39. Defendants are not authorized Sprint dealers, retailers, employees, associates, agents or representatives. Defendants have no legitimate connection to Sprint.

40. Defendants, who use the Sprint name and trademarks in their advertisements and solicitations, are actively defrauding both Sprint and Sprint's legitimate customers. Holding themselves out to be Sprint employees or agents, Defendants target Sprint customers whose accounts are past due with promises to restore their service or otherwise remedy account issues; Defendants then steal money from the unsuspecting Sprint customers intended to go to their Sprint accounts and use information obtained from the customers to fraudulently acquire Sprint Phones and Products by charging those items to the customer's accounts, which Defendants resell for their personal profit. On information and belief, Defendants work with co-conspirators, including one located in Omaha, Nebraska, to sell the illicit Phones they fraudulently acquire.

41. In or about August 2011, the Sprint Fraud Group was alerted to internet advertisements that claimed to be Sprint-sponsored notices that targeted Sprint customers with past due accounts. Samples of Defendants' fraudulent advertisements from 2011 to the present are attached hereto as **Exhibit D**. Defendants' d/b/a "Second Chance" purports to be a third-

party affiliate of Sprint authorized to provide debt relief services for Sprint customer accounts. *Id.* Defendants are not affiliated in any way with or authorized by Sprint to use the Sprint name or Marks or to hold themselves out as agents of Sprint. Defendants dupe Sprint customers into calling them with advertisements stating: “If your Sprint bill is too high and your services have been suspended, give us a call direct to restore your line of service with Sprint. We will help you get your service back on immediately, regardless of your financial problem! We work with ANY situation;” “Get ANY disconnected Sprint phone back on again, REGARDLESS OF WHAT YOU OWED IN THE PAST!! We’re giving the Second Chance you need to use our Unlimited Everything Sprint service again!! No deposits and No credit checks needed to come back;” and “Call Second Chance Restoration Services right now for immediate activation on ANY disconnected Sprint phone you have laying around!!” *Id.* The contact numbers in the advertisements are linked to Defendants both by name and aliases, including Defendant Brenda Omoregie and her known aliases, Rebecca Miller, Rebecca Stevens and Susan Alett, and, Defendant Roberson and his known aliases, Jovanni Miller and Chad Miller. *Id.*

42. Defendants’ business card, which is depicted in the advertisements, uses Sprint’s trademarked logo and the Defendants identify themselves as employees of “Sprint PCS 2nd Chance Restoration Svc.” *See Exhibit D.*

43. Defendants’ misappropriation of Sprint’s company name and Marks is causing significant customer confusion by misleading legitimate Sprint customers to believe that Defendants are affiliated with Sprint, which they are not. Sprint received complaints from irate customers who contacted Defendants in response to the advertisements and were defrauded of money while their Sprint accounts remained delinquent. To protect itself and its customers, Sprint investigated Defendants’ fraudulent practices.

44. Defendants are operating a sophisticated scam. When a Sprint customer contacts Defendants in response to their advertisements, Defendants offer to reduce or eliminate the Sprint customer's past due account balance for a fraction of the amount due and restore the Sprint accounts to active status immediately. Defendants assert they will be able to restore the customer's account to good standing for a fee ranging from \$50-100. As part of the scam, Defendants acquire information including the customers' names, phone numbers, passcodes and Personal Identification Numbers ("PINs"), as well as security questions and answers. According to customer complaints, Defendants use industry terminology to lend credibility to themselves as "legitimate" Sprint employees and affiliates. Within minutes of obtaining the customer's account information, Defendants contact Sprint, posing as the legitimate Sprint customer in possession of the relevant account validation information and negotiate a short term "promise to pay" agreement with Sprint. The promise to pay has the effect of temporarily reactivating the customer account, during which time the customer is expected to pay the remaining balance. Once the account is temporarily reactivated, Defendants contact the customer and advise that cellular service has been reactivated and the account balance reduced or eliminated. After Defendants achieve temporary restoration of the account, they demand to be paid their fee by MoneyGram or other wire transfer.

45. After securing the promise to pay agreement on the customer's account, Defendants call Sprint, usually within the next business day, again posing as the legitimate customer, and change the account profile information, including name, address and contact information and then place fraudulent equipment orders on the customer's account without the customer's knowledge or authorization. Defendants direct that the fraudulent equipment orders be shipped to Defendants' home address.

46. When the promise to pay agreements are not satisfied by the customers, they receive a notification of amount due and owing that includes not only the past due account balance (which was in no way effected by the fraudulent payment to Defendants) but also the unauthorized equipment orders placed by the Defendants.

47. For example, in July 2011, a Sprint customer lodged a formal complaint with law enforcement in Brownwood, Texas that she had been defrauded by Sprint PCS 2nd Chance Restoration and only after paying Defendants \$200 for their “services” did the customer contact Sprint and learn that it was a scam. In November 2013, an anonymous poster on Craigslist warned that Second Chance (who advertises on Craigslist) was a scam and not affiliated with Sprint. A copy of the July 1, 2011 Law Enforcement Blotter and November 6, 2013 Craigslist post are attached hereto as **Composite Exhibit E**.

48. In July 2011, Sprint’s Fraud Group was alerted to other suspicious activity related to Second Chance. Sprint communicated with a legitimate Sprint customer who stated that she had called Second Chance in response to its advertisements and was advised by “Chad” that she was entitled to a one-time 60% reduction in the past due balance. The customer provided the account information to Chad and within hours Defendant Roberson contacted Sprint, changed the account information to Defendants’ address, changed the phone number on the account to Second Chance’s advertised number, and then immediately placed a fraudulent order for three (3) new Sprint handsets. “Chad” is one of Defendant Roberson’s aliases.

49. In a similar occurrence in August 2011, a concerned Sprint customer reported to Sprint after he had contacted Second Chance for assistance with a delinquent account. The customer stated that he had called the advertised number and spoke with “Chad Miller” and “Chad Smith” (who provided the customer with a call back number that Sprint identified as

registered to “Peyton Trueblood” – upon information and belief, all three names are Defendant Roberson’s aliases). The customer gave Defendants his account information and promised to pay Second Chance \$100 for its service. Shortly thereafter, Defendant called Sprint posing as the customer with the appropriate account information and negotiated a promise to pay on behalf of the customer. In line with his normal practice, on information and belief, it was Defendants’ plan was to have the customer’s account reactivated long enough for the customer to pay Second Chance its “service fee” and to place fraudulent equipment orders. Instead, the customer became suspicious and contacted Sprint directly to lodge a formal complaint.

50. In or about October 2013, investigators for Sprint began an undercover investigation of Defendants’ activities. At that time, Sprint had identified that numerous fraudulently placed equipment orders were being shipped to Budget Suites, 9519 Forest Lane, Dallas, Texas 75243. Various Budget Suites units were identified in the shipping records, including Unit 1021.

51. From on or about October 1 through October 17, 2013, investigators conducted surveillance of the Budget Suites, focusing on Unit 1021 and the surrounding units. Investigators identified Defendant Roberson living and/or conducting business in and around Unit 1021 of the Budget Suites. Investigators telephoned the number for “Chad Millers” or “Jovanni Miller” and then watched as Defendant Roberson’s rang. The investigators witnessed regular foot traffic and business transactions with Defendant Roberson occurring in and out of Unit 1021 and the surrounding units.

52. On or about October 22, 2013, an undercover investigator placed a call to Second Chance at the advertised telephone number and spoke with a person who identified himself as “Chad Millers.” Upon information and belief, “Chad Millers” is one of Defendant Roberson’s

numerous aliases. During the conversation, Defendant Roberson implied that he was a Sprint employee and used industry terminology. The investigator stated that his Sprint phone service had been shut down for failure to pay monthly bills, to which Defendant Roberson stated that he could restore the service. Defendant Roberson asked the investigator how much he could afford to spend and they agreed on \$50.00. Defendant Roberson asked the investigator for the account information including name, address, telephone number, and PIN.

53. Later that day, Defendant Roberson telephoned Sprint posing as the investigator and using the account information that the investigator provided. Defendant Roberson inquired into additional account details such as the phone numbers and handset models connected on the account. Defendant Roberson telephoned Sprint again on this day and, again posing as the investigator and armed with the relevant account information, changed the billing address on the account to 9519 Forest Lane, Unit 1019, Dallas, Texas 75243. This is one of Budget Suites units utilized by Defendants.

54. Defendant Roberson contacted the investigator, stated that Sprint service had been restored and directed the investigator to make payment by sending a \$50 MoneyGram from Walmart; the recipient was "Chad Roberson." Upon information and belief, Chad Roberson is one of Defendant Roberson's aliases. A copy of the October 22, 2013 text message containing the MoneyGram payment instructions and MoneyGram receipt are annexed hereto as **Composite Exhibit F**.

55. After collecting his MoneyGram, Defendant Roberson told the investigator that he was eligible to receive upgrades of brand new iPhone 5s handset for \$60 each and that a referral program also entitled the investigator to one month of free Sprint service for each new customer referred to Defendants within the next three (3) days. Defendants' "promotional

offers” are also scams - Sprint does not offer either of these promotions to legitimate customers and has no connection to Defendants.

56. On or about October 25, 2013, the investigator contacted Defendant Roberson via text message and Defendant Roberson stated that he worked at the Sprint Store by United Cellular, 5620 LBJ Freeway, Dallas, Texas 75251, which also is not true. A copy of the October 25, 2013 text communication is attached hereto as **Exhibit G**.

57. On a telephone call later that same day, Defendant Roberson told the investigator that he was eligible for another “promotion,”--two (2) new Sprint iPhone 5s handsets for \$150.00, which he can pay for by MoneyGram and then take the MoneyGram receipt to any Sprint store and pick up the Phones.¹ Defendant Roberson directed the investigator to quickly make payment, explaining that he would be moved to Sprint’s “Financial Escalations Department” for the remainder of the day and could not guarantee the discounts would be available. The investigator accepted the promotional offer and Defendant Roberson instructed that the MoneyGram be made payable to “Chad Millers,” believed to be another of Defendant Roberson’s many aliases. The investigator contacted Defendant Roberson with the MoneyGram reference number. A copy of the October 25, 2013 MoneyGram receipt is attached hereto as **Exhibit H**; *see also* **Exhibit G**. Defendant Roberson told the investigator that he would send the instructions on how to pick up the new Sprint iPhones, but thereafter Defendants cut off communication and never again answered the investigator’s calls. At this point, Defendants had complete access to the investigator’s account and made no further attempts to bilk the investigator out of funds for phony promotional offers or non-existent services. Instead, Defendants used this account in their attempt to defraud more customers, as set forth below.

¹ No authorized Sprint dealer or retailer would provide merchandise to a customer based on the customer having a MoneyGram receipt.

58. On or about October 29, 2013, Defendant Roberson called Sprint, again posing as the legitimate Sprint customer (i.e., Sprint's investigator) and requested an ESN swap for his phone number, meaning that Sprint would switch the existing telephone number to a new handset. Sprint learned that the ESN swap was intended to restore the Sprint phone of another delinquent Sprint customer that called Second Chance for its services. The Sprint customer spoke with "Chad Stevens" who said that he could not reactivate her delinquent account but could open a new account with a new phone number for a \$35 service fee payable by MoneyGram. Upon information and belief, "Chad Stevens" is another of Defendant Roberson's aliases. When the customer agreed, Defendant Roberson provided her "new phone number," which Defendants swapped from the investigator's phone and had assigned to the customer's phone. Now the customer's phone was on the investigator's account and the investigator's phone was disconnected.

59. On or about November 7, 2013, a second investigator contacted the Defendants via the phone number in their advertisements and posed as a Sprint customer looking to utilize Defendants' services on a delinquent account. The investigator spoke with Defendant Roberson who again identified himself as "Chad." Defendant Roberson said he could not restore the account, but instead he offered to open a new account with an unlimited service plan. The investigator provided Defendant Roberson with the ESN of the Phone to activate and within minutes the phone was turned on and Defendant requested that his \$50 fee be paid via MoneyGram, with the receiver as "Ryan Brown." A copy of the November 7, 2013 MoneyGram receipt is attached hereto as **Exhibit I**. Upon information and belief, "Ryan Brown" is another of Defendant Roberson's aliases. In fact, the investigator intentionally omitted the "test question" that Defendant Roberson directed him to include with the MoneyGram, the effect of which was that the receiver would need to present identification to collect the money, which he was unable

to do. Chad contacted the investigator who met the individual in person later that day to pay the fee in person and confirmed that “Chad” was in fact Defendant Roberson.

60. On or about November 11, 2013 another investigator contacted Defendants and spoke with Defendant Roberson and inquired about activating a new Sprint iPhone for his girlfriend. Shortly after the initial call, Defendant Roberson called back and provided the investigator with the new phone number and directed the investigator to remit payment by MoneyGram, naming the receiver as “Steven Labrett.” A copy of the November 11, 2013 MoneyGram receipt is attached hereto as **Exhibit J**. Upon information and belief, “Steven Labrett” is another of Defendant Roberson’s aliases. Investigators surveilled Defendant Roberson’s attempt to collect the payment at PLS Check Cashers in Dallas, which he was unable to do because the investigator had again intentionally left off the security word and Defendant Roberson did not have identification with the name Steven Labrett. Defendant Roberson repeatedly contacted the investigator over the next two days demanding payment.

61. On or about November 14, 2013, the investigator received a text message on the “new account” set up by Defendants stating that the account, which had not been used, had a balance of \$507.10, which was due two days later. A copy of the November 14, 2013 text message is attached hereto as **Exhibit K**.

62. Sprint has determined that Defendants fraudulently placed at least 194 fraudulent equipment orders for more than 288 items in perpetration of their illegal activities. Upon information and belief, this is only a portion of the fraud and illicit activity that Defendants and their co-conspirators committed against Sprint and its customers. As the equipment orders were unauthorized by the Sprint customers whose accounts were targeted by Defendants, in addition to the damage Sprint sustained as a result of having subsidized Products carrying Sprint Marks

trafficked in violation of Sprint's rights, Sprint never received any payment for any of those Products. Further, Defendants' improper and unauthorized use of Sprint's name and Marks in their scheme to defraud Sprint's customers out of money has significantly and irreparably damaged Sprint's business reputation and customer good will.

63. Upon information and belief, Defendants have attempted and accomplished these various scams and yet unknown scams numerous times and benefited by stealing the cash payments from the customers as well as by reselling the fraudulently obtained Sprint Products for profit.

SUBSTANTIAL HARM CAUSED BY DEFENDANTS' MISCONDUCT

64. Defendants' actions substantially harm Sprint in several ways, including *inter alia*: (1) Sprint is deprived of the opportunity to recoup its investments in its Phones; (2) Sprint is deprived of the opportunity to earn profits by providing wireless service to legitimate Sprint consumers; (3) Sprint is hampered in its ability to migrate its customers from older to newer technology through legitimate timely upgrades, which negatively impacts the efficiency of Sprint's wireless network speed; (4) Sprint's brand, image, reputation, and relationships with its customers are harmed by Defendants' fraudulent actions; and (5) Defendants' infringement of the Sprint Marks causes significant ongoing and irreparable losses and harm to Sprint's brand, image, and reputation. All of these factors contribute to the loss of a competitive edge in the highly competitive cellular phone industry.

65. In addition to theft of Sprint Products, the conduct of Defendants, their unknown co-conspirators, and others who engage in the unlawful acquisition and sale of Sprint Phones has also resulted in shortages of available Sprint Phones. This misconduct substantially harms Sprint and its relationship with dealers, retailers and consumers because Sprint is not able to supply

sufficient handsets to satisfy the demand from legitimate consumers who, as a result, go elsewhere for their telecommunications services. This is particularly true in the case of the popular iPhones and Samsung Galaxy models.

66. Sprint suffers additional, irreparable harm when its Phones are acquired by fraud or theft and flagged as such in the Sprint system or removed from the original packaging and altered, which deprives Sprint of the means to control the quality of its product. This becomes particularly damaging where a potential legitimate Sprint customer acquires a Phone from Defendants that the customer believes is a genuine Sprint Phone, with all of the attendant benefits, and is later disappointed in Sprint because the Phone does not work at all or as intended on the Sprint network. Moreover, the process of unlocking and reselling a Sprint Phone voids the manufacturer's warranty on the device. Both consumers and Sprint are harmed when a Sprint Phone that has been altered or sold by Defendants or their co-conspirators is submitted for warranty repair. Consumers who purchase Sprint Phones from Defendants or their co-conspirators are unable to obtain warranty service in the event they experience problems with their Phones. As a result, Sprint's reputation suffers further.

67. Additionally, confused customers, relying on Defendants' false affirmations that they are associated with Sprint as well as the Sprint Marks on the Phones purchased from Defendants, look to Sprint to resolve their many questions and significant concerns, when their "new phones" are disconnected, their account balances jump despite promises that they had been eliminated for a fee, and Defendants are no longer returning their calls. Sprint incurs substantial costs associated with calls to its customer relations and fraud departments. Sprint's reputation is further damaged by Defendants' harmful actions under the Sprint name, as well as Sprint's inability to assist consumers of Defendant's "new phones" because despite bearing the Sprint

Marks, as a result of Defendants' actions, they are not legitimate Sprint Phones or activations. Further, Sprint has spent significant time and effort, and the associated cost, for remedying Defendants' fraudulent actions within the Sprint system and attempting to resolve issues for and retain Sprint customers whose accounts were affected by Defendants' fraud.

68. Defendants' conduct has resulted in the dilution of the Sprint Marks; substantial harm to Sprint's business reputation and goodwill; a greater likelihood of confusion, mistake, and deception as to the source of origin of Sprint products unlawfully sold by the Defendants and confusion as to what if any relationship exists between Sprint and Defendants.

69. On information and belief, Defendants and their co-conspirators are also engaged in various schemes that usurp legitimate customer upgrades by, *inter alia*, fraudulently acquiring subsidized handset upgrades on legitimate Sprint customer accounts and retaining the new devices while the consumers are left with an outdated device. The practice of stealing upgrade Phones misappropriates the subsidy intended for the customer and hinders Sprint's objective of regularly migrating customers to newer devices that work more effectively on Sprint's updated networks. This migration cannot occur when older devices remain in consumer circulation longer than intended. This conduct causes harm to Sprint's reputation with its customers, whose devices no longer work as effectively on Sprint's network and other customers, who were defrauded out of their subsidized Phone upgrade, no longer have the ability to upgrade their phone if it breaks, and may blame Sprint and leave for another service provider.

70. Defendants' Scheme also violate numerous state and federal laws, including the Telephone Records and Privacy Protection Act of 2006, 18 U.S.C. § 1039 ("TRAPPA"), which prohibits pretexting and other unauthorized access of telecommunications carriers' records. Specifically, TRAPPA criminalizes, among other things: (a) making false or fraudulent

statements or representations to an employee or a customer of a telecommunications carrier; (b) accessing a telecommunications customer's account without authorization; (c) the unauthorized sale or transfer of customer records or information; and (d) the unauthorized purchase or receipt of customer records and information. As discussed above, Defendants' conspiracy involves precisely this type of criminal conduct.

CIVIL LITIGATION AGAINST OTHER PHONE TRAFFICKERS

71. Federal courts have recognized that conduct similar to Defendants' conduct is unlawful.

72. In addition to Sprint, T-Mobile USA, Inc. ("T-Mobile"), TracFone Wireless, Inc. ("TracFone"), Nokia Corporation ("Nokia"), and AT&T Mobility LLC ("AT&T") have each filed multiple lawsuits in numerous federal courts across the country against other defendants similarly engaged in the practice of defrauding legitimate consumers by illicitly acquiring wireless telephones and reselling them for profit. Each of those companies has succeeded in obtaining Final Judgments and Permanent Injunctions against phone traffickers in those cases. Copies of examples of Final Judgments and Permanent Injunctions are attached hereto as **Composite Exhibit L**. A defendant in one case who continued trafficking in phones in violation of an injunction issued by the U.S. District Court for the Southern District of Texas was charged with criminal contempt of court and sentenced to serve 57 months in prison. Copies of the Memorandum Opinion and Order of Contempt, Application for Criminal Contempt, the Order finding cause to believe the defendant is guilty of criminal contempt, and Judgment of Criminal Contempt are attached hereto as **Composite Exhibit M**.

**CRIMINAL INVESTIGATION AND
PROSECUTION OF OTHER PHONE TRAFFICKERS**

73. Phone traffickers like Defendants have been the subject of numerous criminal investigations and prosecutions across the country. Some recent examples are:

a. In March, 2013 the California Attorney General charged two individuals with trafficking nearly \$4M in wireless phones to Hong Kong over an 8-month period.

b. On August 21, 2012, federal Homeland Security agents and SWAT teams conducted a raid on facilities operated by handset trafficker Ace Wholesale and on the home of the company's CEO, Jason Floarea. Later the same day, Sprint filed suit in federal court against Ace Wholesale, Floarea, and affiliated entities and persons, asserting handset trafficking claims similar to those asserted here.

c. On or about February 25, 2013, pursuant to a search warrant, federal law enforcement authorities, including agents from the Federal Bureau of Investigation, the United States Secret Service, and the Bureau of Alcohol, Tobacco, Firearms and Explosives, raided a warehouse belonging to phone trafficking company Wireless Buybacks in Elkridge, Maryland, and found the facilities were being used to harbor stolen Sprint Phones. Sprint filed suit against Wireless Buybacks and its affiliates the following day.

d. An FBI sting operation in Philadelphia that began with wireless phone trafficking resulted in the conviction of 16 individuals on terrorism charges when it turned out that the proceeds from their phone trafficking and other illegal conduct was being funneled to the terrorist organization Hezbollah.

Copies of court documents, press releases, and news reports regarding these incidents are attached hereto as **Composite Exhibit N**.

COUNT ONE

UNFAIR COMPETITION

74. Sprint reasserts the allegations set forth in Paragraphs 1 through 70 above as though fully set forth herein.

75. Defendants' conduct in holding themselves out as affiliated with Sprint and profiting from that false representation, as well as fraudulently acquiring and/or inducing others to fraudulently acquire Sprint Products, disabling or unlocking, inducing others to disable or unlock, and/or assisting others to disable or unlock the Phones, and/or selling and/or assisting others to sell the Products as new for activation on other wireless networks constitutes unfair competition under the common law of the State of Texas.

76. Defendants' conduct in selling, inducing others to sell, and/or assisting others to sell unlocked and fraudulently acquired Sprint Phones for the purpose of being resold, which undermines Sprint's investments in the Phones and its subsidy program, constitutes unfair competition under the common law of the State of Texas.

77. Defendants' affirmative misrepresentation of a connection with Sprint as well as their use of Sprint's name and Marks in connection with debt services and the sale of counterfeit Sprint Phones has caused, and will further cause, a likelihood of confusion, mistake and deception as to the source of origin of Defendants' counterfeit products and services, and the relationship between Sprint and Defendants. Thus, Defendants have also engaged in unfair competition with Sprint in violation of the common law of Texas by selling and/or offering, and promoting their services and products with the intention of trading upon the goodwill established by Sprint and are thereby misappropriating the benefits of substantial effort and money expended by Sprint in establishing its reputation and its rights in and to the Sprint Marks.

78. Defendants' actions were done in bad faith; they were intentional, malicious, and willful, and have caused substantial harm to Sprint.

79. Sprint is entitled to appropriate relief as prayed for hereinafter, including injunctive relief.

COUNT TWO

TORTIOUS INTERFERENCE WITH BUSINESS RELATIONSHIPS AND PROSPECTIVE ADVANTAGE

80. Sprint reasserts the allegations set forth in Paragraphs 1 through 70 above as though fully set forth herein.

81. A business relationship, and an expectancy of business relationships, exists between Sprint and authorized dealers of Sprint Phones.

82. A business relationship, and an expectancy of business relationships, exists between Sprint and authorized retailers of Sprint Phones.

83. A business relationship, and an expectancy of business relationships, exists between Sprint its customers and prospective customers.

84. There is a high probability of future economic benefit to Sprint as a result of these current and prospective business relationships.

85. Defendants have knowledge of and have intentionally and unjustifiably interfered with, and/or have knowingly facilitated a conspiracy to interfere with, these current and prospective business relationships between Sprint, authorized dealers and retailers who sell Sprint products, and legitimate Sprint customers or prospective customers.

86. Specifically, but without limitation, Defendants knew that Sprint has business relationships, and an expectancy of business relationships, with legitimate consumers of Sprint Phones and wireless service. Defendants interfered with these relationships by engaging in their

Bulk Handset Theft and Trafficking Scheme and causing, at least in part, Sprint to have an insufficient supply of Sprint Phones available to meet legitimate consumer demand. Defendants also interfered with the contractual relationships that existed between Sprint and Runners or other purchasers by inducing the Runners or other purchasers to breach their contracts with Sprint. Finally, Defendants interfered with the relationship that existed between Sprint and its customers by knowingly and fraudulently accessing those customer accounts and placing unauthorized orders for Sprint Products on those accounts, by adding unauthorized phones to existing Sprint accounts, and by substituting existing phones of legitimate customers with new phones.

87. Defendants also knew that Sprint has business relationships with authorized dealers and retailers of Sprint Phones to provide said dealers with sufficient quantities of Sprint Phones for their legitimate consumers' use exclusively on Sprint's wireless network. Defendants' actions have contributed to shortages of particular Sprint Products such that Sprint is unable to provide its dealers and retailers with sufficient Product to meet demand.

88. Defendants intentionally interfere with Sprint's business relationships and prospective advantages through improper means and in violation of the law.

89. Defendants engaged in the acts of interference set forth herein with a conscious desire to prevent the relationships from occurring or continuing, or Defendants knew that the interference was certain or substantially certain to occur as a result of their conduct.

90. Sprint has been proximately damaged and continues to be damaged as a result of Defendants' interference.

91. There is no adequate remedy at law to fully compensate Sprint for the harm caused by Defendants' tortious interference.

COUNT THREE

CIVIL CONSPIRACY

92. Sprint reasserts the allegations set forth in Paragraphs 1 through 70 above as though fully set forth herein.

93. An agreement and conspiracy existed and continues to exist between and among the Defendants and other co-conspirators to access and make unauthorized additions and/or changes to protected Sprint accounts and to unlawfully acquire, traffic, and sell unlocked and altered Sprint Phones under at least one of the Sprint Marks, which results in federal common law and statutory trademark infringement, common law unfair competition, contributory trademark infringement, tortious interference with business relationships and prospective advantage, unjust enrichment, and violations of the Computer Fraud and Abuse Act, among other things.

94. Defendants knowingly agreed to engage, and did engage, in one or more overt acts in pursuit of the conspiracy as set forth with more particularity in this Complaint.

95. Sprint has been proximately damaged by the conspiracy and Defendants' actions in furtherance thereof.

96. There is no adequate remedy at law to fully compensate Sprint for the harm caused by Defendants' conspiracy.

COUNT FOUR

UNJUST ENRICHMENT

97. Sprint reasserts the allegations set forth in Paragraphs 1 through 70 above as though fully set forth herein.

98. By acquiring the Sprint Phones without paying for them or at less than the manufacturer cost of the Phones for use on wireless networks other than Sprint's network, Defendants have obtained benefits from Sprint which have caused significant harm to Sprint and led to significant financial gain to Defendants through their sale of the fraudulently acquired Sprint Phones.

99. Defendants acquired the benefits voluntarily and intentionally and with full knowledge of the benefits.

100. Defendants retained the benefits under such circumstances that make it unjust and inequitable for Defendants to retain the benefits without paying Sprint the value of the benefits Defendants acquired.

101. There is no adequate remedy at law to fully compensate Sprint for the harm caused by Defendants' unjust enrichment.

COUNT FIVE

COMMON LAW FRAUD

102. Sprint reasserts the allegations set forth in Paragraphs 1 through 70 above as though fully set forth herein.

103. As part of their Bulk Handset Theft and Trafficking Scheme, Defendants regularly and systematically misrepresent to Sprint that they are legitimate Sprint customers calling on their own accounts, or are authorized by the legitimate Sprint customers to make changes and additions to the Sprint accounts. Further, Defendants regularly and systematically misrepresent to Sprint that Phones are being acquired under legitimate authority for a legitimate purpose, that the Phones will be used by Defendants or other legitimate consumers on Sprint's

wireless network, that the purchases are authorized by the Sprint account holder, and that they will perform in accordance with the Terms and Conditions.

104. When Defendants or their co-conspirators acquire Sprint Phones as part of their Bulk Handset Theft and Trafficking Scheme, they know they do not have authority to access and order Sprint Product on the Sprint accounts, do not intend to use the Phones for a legitimate purpose or to activate them or maintain them as active on Sprint's wireless network, or otherwise perform in accordance with the Terms and Conditions.

105. Defendants know that they are not authorized to order Sprint Product and that they are required to activate for use the Sprint Phones on the Sprint wireless network and comply with the Terms and Conditions.

106. Defendants intended for Sprint to rely on their misrepresentations, including on the account security information that they provide to Sprint customer service representatives to allow Defendants to order and unlock the Phones for improper purposes.

107. Sprint's reliance on Defendants' misrepresentations is reasonable under the circumstances.

108. Sprint has been damaged as a result of Defendants' actions.

109. There is no adequate remedy at law to fully compensate Sprint for the harm caused by Defendants' fraud.

COUNT SIX

FRAUDULENT MISREPRESENTATION

110. Sprint reasserts the allegations set forth in Paragraphs 1 through 70 above as though fully set forth herein.

111. As part of their Scheme, Defendants regularly and systematically misrepresent to Sprint that they are authorized to access, change, and place orders on existing Sprint customer

accounts. Additionally, Defendants represent to Sprint that the Phones are being purchased for a legitimate purpose and would be used by legitimate consumers on Sprint's wireless network.

112. When Defendants or their co-conspirators acquire a Sprint Phone, they are not authorized to place an order on the Sprint account and do not intend to use the Phone in compliance with the governing terms and conditions.

113. Defendants know that they are not authorized by the various Sprint customers whose accounts they commandeered, and they also knew that were not authorized to make changes to service or order equipment and were required to activate the Sprint Phones they acquired only in compliance with Sprint's governing terms and conditions of service.

114. Defendants intended for Sprint to rely on these misrepresentations, including account security information that they provide to Sprint customer service representatives, to allow Defendants to acquire and unlock the Phones for improper purposes.

115. Sprint's reliance on Defendants' misrepresentations is reasonable under the circumstances.

116. Sprint has been damaged as a result of Defendants' actions.

117. There is no adequate remedy at law to fully compensate Sprint for the harm caused by Defendants' fraudulent misrepresentations.

COUNT SEVEN

TRAFFICKING IN COMPUTER PASSWORDS 18 U.S.C. § 1030(a)(6)

118. Sprint reasserts the allegations set forth in Paragraphs 1 through 70 above as though fully set forth herein.

119. The Sprint Phones that are trafficked by Defendants are loaded with confidential codes that access: (a) Sprint's national telecommunications computer network to make and

receive wireless voice calls and to transmit data, and (b) Sprint's computer billing network (collectively, the "protected computer networks"). In other words, the Phones act as a gateway to Sprint's protected computer networks. Sprint protects access to these protected computer networks through, among other things, the confidential codes contained in the Phones and the confidential codes and security PINs protecting Sprint accounts ("security codes").

120. Through their Bulk Handset Theft and Trafficking Scheme, Defendants are knowingly trafficking in the confidential codes contained in the Phones and the associated security codes with the intent to defraud Sprint.

121. Defendants' transfer of the Phones and confidential codes to others constitutes "trafficking" of the codes as defined in 18 U.S.C. § 1029 in that the codes were transferred, or otherwise disposed of, to others, or Defendants obtained control of the codes with intent to transfer or dispose of them. On information and belief, Defendants also transfer the security codes to their new customers for existing customer accounts.

122. Defendants' trafficking of the Phones and security codes substantially affects interstate commerce and communication in that the codes contained in the Phones are trafficked over the internet, throughout the United States, and around the world, and Sprint's protected computer networks are used in and affect interstate commerce and communication, and provide wireless communications services pursuant to licenses issued by the Federal Communications Commission.

123. Defendants trafficking of Sprint's Phones and security codes has caused and will continue to cause Sprint to suffer injury, with "damages" and "losses" – as those terms are defined in Sections 1030(e)(8) and 1030(e)(11), respectively -- substantially in excess of \$5,000 over a one-year period.

124. With respect to loss, Sprint has lost its investment in the Phones and spent well in excess of \$5,000 responding to Defendants' contacts with Sprint customer service, investigating and assessing the possible impairment to the integrity of its protected computer networks, taking action to counteract Defendants' theft, and conducting a damage assessment regarding Defendants' collection and dissemination of Sprint Phones and security codes, as well as tracking down fraudulently sold Phones.

125. With respect to damage, by infiltrating the Sprint computer and telecommunications network and collecting and disseminating the illegally activated Phones and security codes, Defendants have substantially impaired the integrity of Sprint's protected computer networks in an amount in excess of \$5,000. Moreover, Defendants' actions have deprived Sprint of the means to control the quality of its product and service.

126. Defendants' activities constitute trafficking in computer passwords in violation of the Computer Fraud and Abuse Act, 18 U.S.C. § 1030(a)(6).

127. Defendants' conduct is intentional, malicious, and willful.

128. Pursuant to 18 U.S.C. § 1030(g), Sprint is entitled to maintain this civil action against Defendants to obtain compensatory damages and injunctive and other equitable relief for the reasons identified above, and because Defendants' conduct involves at least one of the factors identified in 18 U.S.C. § 1030(c)(4)(A)(i), including the factor set forth in subclause (I): the loss to Sprint and its customers as a result of Defendants' conduct during any one year period aggregated at least \$5,000 in value.

COUNT EIGHT

**UNAUTHORIZED ACCESS
18 U.S.C. § 1030(a)(5)(C)**

129. Sprint reasserts the allegations set forth in Paragraphs 1 through 70 above as though fully set forth herein.

130. The Sprint Phones that are acquired by the Defendants are loaded with codes that access Sprint's national telecommunications computer network to make and receive wireless voice calls and to transmit data, and Sprint's computer billing network (collectively, the "protected computer networks"). Moreover, Sprint protects its customer accounts and its proprietary computer system by requiring personal identifying information, such as PIN numbers, passwords, and/or social security or other information to make changes or place orders on customers' accounts ("security codes").

131. Sprint's proprietary computer system warehouses confidential customer information and provides access to customer accounts. It is connected to the internet, and assists in providing federally-regulated telecommunications services.

132. Through fraudulent means, Defendants and their co-conspirators improperly obtain the identifying security information necessary to access, place orders, and make changes to customers' accounts.

133. Defendants knowingly and with the intent to defraud, cause Sprint to access its customer accounts and proprietary computer systems. Defendants were not authorized to do so.

134. Further, by illicitly acquiring and unlocking the Phones, Defendants necessarily accesses the Sprint protected computer networks because the Phones are connected to those networks when acquired from Sprint.

135. Defendants acquire and, in some circumstances, unlock the Phones by misrepresenting to Sprint either directly or through a third-party agent that the Phones are being acquired and unlocked on behalf of a legitimate customer, for a legitimate purpose, and for use by legitimate consumers on Sprint's computer networks, when in fact, they are not. Defendants use fraud and misrepresentation to acquire the Phones from Sprint, and, as such, Defendants' access of Sprint's protected computer networks is not authorized in any way.

136. Upon information and belief, when Defendants acquire a Sprint Phone from Runners/Mules acting on their behalf, Defendants carefully examine the Phone, turn it on, and perform various tests to confirm that the Phone they are purchasing is, in fact, active on Sprint's wireless network and that the various electronic code numbers and access numbers loaded on the Phone are correct. This too constitutes unauthorized access of Sprint's protected computer networks via a password obtained through fraud and misrepresentation.

137. By trafficking in activated Sprint Phones, the Defendants are also knowingly, intentionally, and with the intent to defraud, facilitating the unauthorized access of Sprint's protected computer networks.

138. Defendants' illegal and unauthorized access of Sprint's protected computer systems allows them to improperly steal Sprint's investment in its Phones.

139. Sprint's customer accounts and proprietary computer systems are "protected computers" as that term is defined in Section 1030(e)(2)(B) of the Computer Fraud and Abuse Act because they are used in interstate commerce and communications.

140. Through this improper access, Defendants knowingly cause Sprint to make changes to customer accounts that Sprint would not otherwise make, such as, adding additional

phone lines, swapping telephone numbers, placing orders for equipment or changing the delivery address.

141. Defendants' activities substantially affect interstate commerce and communication in that the Phones are trafficked over the internet, throughout the United States, including in Omaha, Nebraska, and around the world, and Sprint's computer system and telecommunications network are used in and affect interstate commerce and communication, and provide wireless communications services pursuant to licenses issued by the Federal Communications Commission.

142. Defendants' unauthorized access of Sprint's protected computer systems has caused and will continue to cause Sprint to suffer injury, with "damages" and "losses" – as those terms are defined in Sections 1030(e)(8) and 1030(e)(11), respectively -- substantially in excess of \$5,000 over a one-year period.

143. With respect to loss, Sprint has lost investments in the trafficked Phones and security codes and spent well in excess of \$5,000 investigating and assessing the possible impairment to the integrity of its protected computer systems, taking action to counteract Defendants' theft, and conducting a damage assessment regarding Defendants' collection and dissemination of Sprint Phones, as well as tracking down fraudulently sold Phones and attempting to resolve customer disputes.

144. With respect to damage, by infiltrating the Sprint computers systems and collecting and disseminating the illegally trafficked Phones and security codes, Defendants have substantially impaired the integrity of Sprint's systems in an amount in excess of \$5,000. Moreover, Defendants' actions have deprived Sprint of the means to control the quality of its product and service, and have stolen Sprint's investment in its Phones.

145. Defendants' activities constitute unauthorized access in violation of the Computer Fraud and Abuse Act, 18 U.S.C. § 1030(a)(5)(C).

146. Defendants' conduct is intentional, malicious and willful.

147. Pursuant to 18 U.S.C. § 1030(g), Sprint is entitled to maintain this civil action against Defendants to obtain compensatory damages and injunctive and other equitable relief because of the reasons identified above, and because Defendants' conduct involves at least one of the factors identified in 18 U.S.C § 1030(c)(4)(A)(i), including the factor set forth in subclause (I): the loss to Sprint and its customers as a result of Defendants' conduct during any one year period aggregated at least \$5,000 in value.

COUNT NINE

UNAUTHORIZED ACCESS WITH INTENT TO DEFRAUD 18 U.S.C. § 1030(a)(4)

148. Sprint reasserts the allegations set forth in Paragraphs 1 through 70 above as though fully set forth herein.

149. The Sprint Phones that are acquired by the Defendants are loaded with codes that access Sprint's national telecommunications computer network to make and receive wireless voice calls and to transmit data, and Sprint's computer billing network (collectively, the "protected computer networks"). Moreover, Sprint protects its customer accounts and its proprietary computer system by requiring personal identifying information, such as PIN numbers, passwords, and/or social security or other information to make changes or place orders on customers' accounts ("security codes").

150. Sprint's proprietary computer system warehouses confidential customer information and provides access to customer accounts. It is connected to the internet, and assists in providing federally-regulated telecommunications services.

151. Through fraudulent means, Defendants and their co-conspirators improperly obtain the identifying security information necessary to access, place orders, and make changes to customers' accounts.

152. Defendants knowingly and with the intent to defraud, cause Sprint to access its customer accounts and proprietary computer systems. Defendants were not authorized to do so.

153. Further, by illicitly acquiring and unlocking the Phones, Defendants necessarily accesses the Sprint protected computer networks because the Phones are connected to those networks when purchased from Sprint.

154. Defendants acquire and, in some circumstances, unlock the Phones by misrepresenting to Sprint either directly or through a third-party agent that the Phones are being acquired and unlocked on behalf of a legitimate customer, for a legitimate purpose, and for use by legitimate consumers on Sprint's computer networks, when in fact, they are not. Defendants use fraud and misrepresentation to acquire the Phones from Sprint, and, as such, Defendants' access of Sprint's protected computer networks is not authorized in any way.

155. Upon information and belief, when Defendants acquire a Sprint Phone from Runners/Mules acting on their behalf, Defendants carefully examine the Phone, turn it on, and perform various tests to confirm that the Phone they are purchasing is, in fact, active on Sprint's wireless network and that the various electronic code numbers and access numbers loaded on the Phone are correct. This too constitutes unauthorized access of Sprint's protected computer networks via a password obtained through fraud and misrepresentation.

156. By trafficking in activated Sprint Phones and security codes, Defendants are also knowingly, intentionally, and with the intent to defraud, facilitating the unauthorized access of Sprint's protected computer networks.

157. Defendants' hacking of Sprint's protected computer systems allows them to improperly steal Sprint's investment in its Phones.

158. Sprint's customer accounts and proprietary computer systems are "protected computers" as that term is defined in Section 1030(e)(2)(B) of the Computer Fraud and Abuse Act because they are used in interstate commerce and communications.

159. Through improper access, Defendants knowingly cause Sprint to make changes to the customer accounts that Sprint would not otherwise make, such as, for example, adding additional phone lines, swapping telephone numbers, placing orders for equipment or changing the delivery address.

160. Defendants' activities substantially affect interstate commerce and communication in that the Phones are trafficked over the internet, throughout the United States, including in Omaha, Nebraska, and around the world, and Sprint's computer system and telecommunications network are used in and affect interstate commerce and communication, and provide wireless communications services pursuant to licenses issued by the Federal Communications Commission.

161. Defendants' unauthorized access of Sprint's protected computer systems has caused and will continue to cause Sprint to suffer injury, with "damages" and "losses" – as those terms are defined in Sections 1030(e)(8) and 1030(e)(11), respectively -- substantially in excess of \$5,000 over a one-year period.

162. With respect to loss, Sprint has lost investments in the trafficked Phones and security codes and spent well in excess of \$5,000 investigating and assessing the possible impairment to the integrity of its protected computer systems, taking action to counteract Defendants' theft, and conducting a damage assessment regarding Defendants' collection and

dissemination of Sprint Phones, as well as tracking down fraudulently sold Phones and attempting to resolve customer disputes.

163. With respect to damage, by infiltrating the Sprint computers systems and collecting and disseminating the illegally trafficked Phones and security codes, Defendants have substantially impaired the integrity of Sprint's systems in an amount in excess of \$5,000. Moreover, Defendants' actions have deprived Sprint of the means to control the quality of its product and service, and have stolen Sprint's investment in its Phones.

164. Defendants' activities constitute unauthorized access in violation of the Computer Fraud and Abuse Act, 18 U.S.C. § 1030(a)(4).

165. Defendants' conduct is intentional, malicious, and willful.

166. Pursuant to 18 U.S.C. § 1030(g), Sprint is entitled to maintain this civil action against Defendants to obtain compensatory damages and injunctive and other equitable relief because of the reasons identified above, and because Defendants' conduct involves at least one of the factors identified in 18 U.S.C § 1030(c)(4)(A)(i), including the factor set forth in subclause (I): the loss to Sprint and its customers as a result of Defendants' conduct during any one year period aggregated at least \$5,000 in value.

COUNT TEN

**FEDERAL TRADEMARK INFRINGEMENT
15 U.S.C. § 1114 [§ 32(1) of the Lanham Act]**

167. Sprint reasserts the allegations set forth in Paragraphs 1 through 70 above as though fully set forth herein.

168. Defendants' and/or their co-conspirators' aforementioned conduct constitutes use of certain federally registered Sprint Marks without authorization in connection with their conspiracy to sell and offer for sale: 1) unlocked, counterfeit Sprint Phones, which downstream

customers will discover have been altered from their original state, do not function on the Sprint network, and do not include the warranties, accessories, manuals and related items that constitute part of the Sprint Phone package; and 2) Sprint service that is neither authorized nor recognized by Sprint and, in fact, results in monies paid to Defendants that are never recovered.

169. Defendants' and/or their co-conspirators' use of certain federally registered Sprint Marks in connection with the sale of Sprint Products has caused, and will further cause, a likelihood of confusion, mistake and deception as to the source of origin of Defendants' infringing products, and the relationship between Sprint Communications and Defendants.

170. Defendants' and/or their co-conspirators' unauthorized use of certain federally registered Sprint Marks is likely to continue in the future, all to the great and irreparable damage to the business, reputation and goodwill of Sprint Communications.

171. Defendants' and/or their co-conspirators' use of certain federally registered Sprint Marks in connection with the unlocked, counterfeit Sprint Phones, which, as illicit equipment, are now incompatible with the Sprint network and do not include warranties, manuals, accessories and related items made part of the Sprint Phone package, as well as the use of the Marks in connection with unauthorized and unrecognized Sprint service constitutes a misappropriation of Sprint Communications' distinguishing and identifying federally registered trademarks that were created as a result of significant effort and expense by Sprint Communications over a long period of time. Defendants' and/or their co-conspirators' use of certain federally registered Sprint Marks evokes an immediate, favorable impression or association and constitutes a false representation that the products and business of Defendants have some connection, association or affiliation with Sprint Communications, and is likely to mislead the trade and public into believing that Defendants'

products and services originate from, are affiliated with, or are sponsored, authorized, approved or sanctioned by Sprint Communications.

172. Defendants, in committing the foregoing acts in commerce, have damaged, and will continue to damage Sprint and the reputation and goodwill of Sprint, and have been unjustly enriched and will continue to unjustly enrich themselves at the expense of Sprint. Sprint is without an adequate remedy at law to redress such acts, and will be irreparably damaged unless Defendants are enjoined from committing and continuing to commit such acts.

173. Defendants' aforesaid acts constitute willful infringement of Sprint Communications' aforementioned federally registered trademarks in violation of 15 U.S.C. § 1114.

COUNT ELEVEN

**FEDERAL COMMON LAW TRADEMARK INFRINGEMENT
AND FALSE ADVERTISING
15 U.S.C. § 1125 (a)(1)(A) and (B) [§ 43(a) of the Lanham Act]**

174. Sprint reasserts the allegations set forth in Paragraphs 1 through 70 above as though fully set forth herein.

175. Defendants' and/or their co-conspirators' aforementioned conduct constitutes use of the Sprint Marks without authorization in connection with their conspiracy to sell and offer for sale non-existent Sprint services and unlocked, counterfeit Sprint Phones, which downstream customers will discover cannot be activated on the Sprint network, have been altered from their original state, and do not include the warranties, accessories, manuals and related items that constitute part of the Sprint Phone package.

176. Defendants' and/or their co-conspirators' use of the Sprint Marks in connection with the sale of unlocked, counterfeit Sprint Phones has caused, and will further cause, a

likelihood of confusion, mistake and deception as to the source of origin of Defendants' counterfeit products, and the relationship between Sprint and Defendants.

177. Defendants' and/or their co-conspirators' unauthorized use of the Sprint Marks is likely to continue in the future, all to the great and irreparable damage to the business, reputation, and goodwill of Sprint.

178. Defendants' and/or their co-conspirators' use of the Sprint Marks in connection with: 1) the unlocked, counterfeit Sprint Phones, which cannot be activated on the Sprint network and do not include warranties, manuals, accessories and related items made part of the Sprint Phone package,; and 2) Sprint service that is neither authorized nor recognized by Sprint and constitutes a misappropriation of the distinguishing and identifying Sprint Marks that was created as a result of significant effort and expense. Defendants' and/or their co-conspirators' use of the Sprint Marks evokes an immediate, favorable impression or association and constitutes a false representation that the products and business of Defendants have some connection, association or affiliation with Sprint, and thus constitutes false designation of origin and is likely to mislead the trade and public into believing that Defendants' products and services originate from, are affiliated with, or are sponsored, authorized, approved or sanctioned by Sprint.

179. Defendants, in committing the foregoing acts in commerce, have damaged, and will continue to damage Sprint and the reputation and goodwill of Sprint, and have been unjustly enriched and will continue to unjustly enrich themselves at the expense of Sprint. Sprint is without an adequate remedy at law to redress such acts, and will be irreparably damaged unless Defendants are enjoined from committing and continuing to commit such acts.

180. Defendants' use of the Sprint Marks in commercial advertising or promotion misrepresents the nature, characteristics, and/or qualities of their infringing products. Defendants'

advertising and promotion is false or misleading. Defendants' advertising and promotion deceives and has the capacity to deceive consumers. The deception and misrepresentations have a material effect on the purchasing decisions and affect interstate commerce.

181. Defendants' 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).

182. Sprint is entitled to appropriate relief as prayed for hereinafter, including preliminary and permanent injunctive relief.

183. Defendants knew or should have known that Plaintiffs are the owners and/or authorized licensees of the Sprint Marks and that Defendants had no legal right to use the Sprint Marks on their infringing products. Defendants are engaged in and continues to engage in the alleged activities knowingly, willfully and deliberately, so as to justify the assessment of exemplary damages and an award of Plaintiffs' lost profits, Defendants' profits, and Plaintiffs' attorneys' fees.

COUNT TWELVE

CONTRIBUTORY TRADEMARK INFRINGEMENT

184. Sprint reasserts the allegations set forth in Paragraphs 1 through 70 above as though fully set forth herein.

185. By misappropriating and using at least one of the Sprint Marks in connection with the Bulk Handset Theft and Trafficking Scheme, Defendants knowingly aided and enabled distributors and/or sellers of their products to market them to members of the general public in a way that infringes at least one of the Sprint Marks by placing in the hands of distributors and/or sellers an instrument of consumer deception.

186. Defendants' unlawful, unauthorized, and unlicensed sale of the counterfeit Sprint Phones has contributed to the creation of express and implied misrepresentations that the Sprint Phones, as sold by Defendants, were created, authorized or approved by Sprint, and includes warranties.

187. Upon information and belief, Defendants' conduct leads to post-sale confusion by causing consumers who purchase Sprint Phones altered by Defendants to believe that they are purchasing handsets approved by Sprint and containing original warranties.

188. Defendants' conduct constitutes contributory infringement in violation of the Trademark Act.

189. Defendants' conduct is intentional, malicious and willful.

190. Sprint has been damaged and continues to suffer damages as a result of Defendants' actions.

191. There is no adequate remedy at law to fully compensate Sprint for the harm caused by Defendants' actions.

COUNT THIRTEEN

CONVERSION

192. Sprint reasserts the allegations set forth in Paragraphs 1 through 70 above as though fully set forth herein.

193. Defendants have and are engaged in acts of conversion in violation of the law of the State of Texas.

194. Sprint has the right to provide its Phones and wireless service to the public. Defendants have no such privilege or right.

195. Defendants knew or should have known that they obtained the Phones and Sprint service through illegitimate means and had no legal right to acquire, advertise, use or resell them.

196. Defendants are wrongfully interfering with Sprint's rights by engaging in the Bulk Handset Theft and Trafficking Scheme.

COUNT FOURTEEN

**INJURY TO BUSINESS OR REPUTATION; DILUTION OF TRADEMARKS
Tex. Bus. & Com. Code Ann. § 16.103**

197. Sprint reasserts the allegations set forth in Paragraphs 1 through 70 above as though fully set forth herein.

198. Plaintiff Sprint Communications is the lawful owner of the Sprint trade name and Sprint Marks, which are famous in the State of Texas.

199. Defendants' and/or their co-conspirators' aforementioned conduct constitutes use of federally registered Sprint Marks without authorization in connection with their conspiracy to sell and offer for sale: 1) unlocked, counterfeit Sprint Phones, which downstream customers will discover have been altered from their original state and do not include the warranties, accessories, manuals and related items that constitute part of the Sprint Phone package; and 2) Sprint service that is neither authorized nor recognized by Sprint and, in fact, results in monies paid to Defendants that are never recovered.

200. Defendants' and/or their co-conspirators' use of certain federally registered Sprint Marks in connection with the sale of Sprint Phones and Sprint services has caused, and will further cause, a likelihood of confusion, mistake and deception as to the source of origin of Defendants' infringing products, and the relationship between Sprint Communications and Defendants.

201. Defendants' and/or their co-conspirators' unauthorized use of certain federally registered Sprint Marks has caused and will continue to cause dilution of the distinctive quality of the Sprint Marks.

202. Defendants, in committing the foregoing acts in commerce, have damaged, and will continue to damage, Sprint Communications and the reputation and goodwill of Sprint Communications, and have been unjustly enriched and will continue to unjustly enrich themselves at the expense of Sprint Communications. Sprint Communications is without an adequate remedy at law to redress such acts, and will be irreparably damaged unless Defendants are enjoined from committing and continuing to commit such acts.

203. Defendants' acts constitute willful trading on Sprint Communications' federally registered trademarks and willful dilution of the famous Marks.

204. There is no adequate remedy at law to fully compensate Sprint for the harm caused by Defendants' actions.

DEMAND FOR JURY TRIAL

Plaintiffs demand a trial by jury on all triable issues.

WHEREFORE, Plaintiffs, Sprint Solutions, Inc. and Sprint Communications Company L.P., respectfully request that this Court enter final judgment and permanent injunctive relief in favor of Plaintiffs and against Defendants, as follows:

- (a) awarding Plaintiffs their compensatory, consequential, statutory and special damages including, without limitation, their lost profits, Defendants' profits, loss of goodwill and damage to its reputation, as well as exemplary damages, together with pre and post judgment interest, as provided by law;
- (b) awarding Plaintiffs their reasonable attorneys' fees and costs associated with this action;

- (c) granting permanent injunctive relief in favor of Plaintiffs and against Defendants enjoining Defendants from engaging in the unlawful practices described in this Complaint;
- (d) requiring Defendants, pursuant to the Lanham Act, to deliver to Plaintiffs their entire inventory of phones and products bearing or infringing the Sprint Marks or a confusingly similar copy thereof; and
- (e) granting such further relief as this Court deems just and proper.

Respectfully submitted this __ day of April, 2014.

By: /s/ April R. Terry

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