

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO 0:20-CV-62165

**CRICKET WIRELESS LLC, AT&T
MOBILITY LLC, and AT&T
INTELLECTUAL PROPERTY II, L.P., JURY TRIAL DEMANDED**

Plaintiff,

v.

**NOELTHETECHEXPERTS, LLC, NOEL
BROWN, and JOHN DOES 1-20,**

Defendants.

COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF

Plaintiffs Cricket Wireless LLC (“Cricket” or “Cricket Wireless”), AT&T Mobility LLC (“AT&T PREPAID”) and AT&T Intellectual Property II, L.P. (collectively “AT&T” or “Plaintiffs”), hereby file this Complaint for Damages and Injunctive Relief against Defendants Noel Brown, NoelTheTechExperts, LLC, and John Does 1-20 (collectively “Defendants”) and state:

PARTIES

1. Cricket Wireless LLC is a Delaware limited liability company with its principal place of business at 1025 Lenox Park Boulevard, NE, Atlanta, Georgia 30319.

2. AT&T Mobility LLC is a Delaware limited liability company with its principal place of business at 1025 Lenox Park Boulevard, NE, Atlanta, Georgia 30319.

3. AT&T Intellectual Property II, L.P. is a Nevada limited partnership with a place of business at 754 Peachtree Street, NE, Atlanta, Georgia 30319.

4. Defendant NoelTheTechExperts, LLC is a Florida limited liability company with its principal place of business and mailing address at 2330 SW 163rd Terrace, Miramar, Florida 33027.

5. Defendant Noel Brown ("Brown") is an individual who is a resident of Florida and who conducts business transactions in this District as alleged herein. Upon information and belief, Noel Brown is the owner and the registered agent for NoelTheTechExperts, LLC. Upon information and belief, Mr. Brown is located at 2330 SW 163rd Terrace, Miramar, Florida 33027.

6. Upon information and belief, Defendants John Does 1-20 are individuals and co-conspirators who participate in other aspects of the Prepaid Phone Trafficking Conspiracy set forth below, including but not limited to purchasing and reselling AT&T Phones (as defined below in paragraph 10), obtaining and supplying unlocking codes, providing phone unlocking services, and/or reselling and shipping AT&T Phones overseas.

JURISDICTION AND VENUE

7. Jurisdiction in this Court is proper pursuant to 28 U.S.C. §§ 1331, 1332, and 1338 because AT&T's claims for violation of the United States Trademark Act, Title 15 of the United States Code, the Computer Fraud and Abuse Act, 18 U.S.C. § 1030, et seq., and the United States Copyright Act, Title 17 of the United States Code, arise under federal law. This Court has supplemental jurisdiction pursuant to 28 U.S.C. § 1367 over AT&T's state law claims because those claims are so related to the federal claims that they form part of the same case or controversy. This Court also has jurisdiction because diversity exists between the parties and the amount in controversy exceeds \$75,000.00 exclusive of costs, fees, and interest.

8. Defendant NoelTheTechExperts, LLC is subject to the personal jurisdiction of this Court because it is a Florida company with its principal place of business in the State of Florida. The individual 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 Florida, including unlocking new AT&T Phones without authorization, or have committed tortious acts within the State of Florida, and have engaged in substantial and not isolated activity within the State of Florida.

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

NATURE OF ACTION

10. AT&T PREPAID™ (f/k/a AT&T GoPhone) sells new prepaid wireless phones and other mobile devices under the AT&T brand. Cricket Wireless sells new prepaid wireless phones and other mobile devices under the Cricket brand. These devices (collectively “AT&T Phones” or “Phones”) are intended for use with SIM cards from the AT&T Mobility or Cricket Wireless networks (collectively, the “AT&T Authorized Networks”), and are sold at prices lower than the wholesale price of the Phones as sold to AT&T to make them more widely accessible to consumers. The Phones are physically branded with AT&T’s registered trademarks and are preloaded with AT&T proprietary software. AT&T sells its Phones directly from the AT&T PREPAID and Cricket Wireless websites, from retail stores owned by AT&T, through authorized AT&T and Cricket dealers (“Authorized Dealers”), and through AT&T approved national retail chains such as Best Buy, Walmart, or Target (“National Retailers”).

11. Defendants and their co-conspirators are perpetrators of an unlawful conspiracy (the “Conspiracy” or “Prepaid Phone Trafficking Conspiracy”) to profit from the illegal acquisition, unlocking and resale of new bulk AT&T Phones by misappropriating the substantial financial investment that AT&T makes in its Phones, and converting that investment for their own profit and to the detriment of AT&T and its customers. Defendants profit directly by providing unlocking services and unlock codes to their co-conspirators for a fee.

12. Upon information and belief, the Prepaid Phone Trafficking Conspiracy involves Defendants’ co-conspirators directly or indirectly acquiring new, locked AT&T Phones, ineligible for unlocking, directly from AT&T, at National Retailers, and/or at AT&T and Cricket Authorized Dealers. As part of this Conspiracy, the Phones, which may be purchased and resold multiple times, are ultimately resold to someone other than a consumer with whom AT&T has a business relationship. These Phones are not activated in an authorized manner on an AT&T Authorized Network. Instead, Defendants provide their co-conspirators with services in either illicitly circumventing, or causing to circumvent, a technological protection measure, or by providing co-conspirators with an unlock code specific for each individual new AT&T Phone for permanently unlocking the phone without authorization. Once the new Phones are unlocked, they can operate on other carriers’ wireless networks. Upon information and belief, Defendants’ co-conspirators then offer for sale AT&T Phones that they represent to be new. Upon information and belief, the ultimate users of the Phones may even be located overseas, in a country where the wireless service provider does not subsidize the cost of new phones.

13. Defendants’ Prepaid Phone Trafficking Conspiracy takes advantage of AT&T’s investment in its Phones to reduce the costs for its consumers. Defendants and their co-conspirators directly or indirectly obtain, and conspire to obtain the new AT&T Phones under

false or fraudulent pretenses that they will be utilizing the phones on the AT&T Authorized Networks, but then unlock and resell or divert them to other markets. The Prepaid Phone Trafficking Conspiracy converts AT&T's investment dollars into substantial profits for Defendants and their co-conspirators. In addition, Phones resold by Defendants are materially different from AT&T Phones sold through legitimate channels, as they are unlocked, and/or sold without warranty information, original packaging and accessories. While Defendants' role in the Conspiracy may not involve each step of the Conspiracy, each of Defendants' acts is a violation of AT&T's rights and causes significant damage to AT&T. Additionally, as participants in the conspiracy, Defendants are liable for the harm caused to AT&T by the entire Conspiracy.

14. The Prepaid Phone Trafficking Conspiracy causes tremendous harm to AT&T and to consumers. In addition to the pecuniary losses caused by AT&T's misappropriated investment in the Phones, lost sales and market expenses, and lost expected customer revenue, Defendants' misconduct has harmed AT&T's relationships with its customers, Authorized Dealers, National Retailers, and others. Defendants' Prepaid Phone Trafficking Conspiracy also involves unlawfully accessing AT&T's protected computers; trafficking of AT&T's protected and confidential computer passwords; willful infringement of AT&T's trademarks; and/or misappropriating AT&T's investment in subsidizing new mobile devices. AT&T Phones fraudulently acquired and resold under Defendants' Prepaid Phone Trafficking Conspiracy have also caused substantial damage to AT&T's brand, image and reputation.

15. AT&T seeks to recover damages for the harm caused by Defendants' Prepaid Phone Trafficking Conspiracy, and to obtain an injunction prohibiting Defendants from continuing to perpetrate the Prepaid Phone Trafficking Conspiracy.

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