

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

FILED BY *RS* D.C.
FEB 28 2006
LAWRENCE MADDOX
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Case No. 05-23279-CIV-Altonaga/Turnoff

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TRACFONE WIRELESS, INC., :
a Florida corporation, :
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 Plaintiff, :
 :
 v. :
 :
 SOL WIRELESS GROUP, INC., :
a Florida corporation, CARLOS PINO, :
an individual, and JORGE ROMERO, :
an individual, :
 :
 :
 Defendants. :
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CLOSED
CIVIL
CASE

FINAL JUDGMENT AND PERMANENT INJUNCTION

Plaintiff TracFone Wireless, Inc. (“TracFone”), filed a Complaint on December 21, 2005 asserting that Defendants Sol Wireless Group, Inc., Carlos Pino, and Jorge Romero (collectively “the Sol Wireless Defendants”) are purchasing TracFone prepaid wireless telephones from retail stores such as Wal-Mart, Target or Sam’s Club, hacking into and erasing or disabling the TracFone proprietary prepaid software that enables consumers to access TracFone’s prepaid wireless service, and then reselling the wireless telephones as new for use on other wireless carriers’ networks/systems. Based on that conduct, the Complaint asserts claims against the Sol Wireless Defendants for federal trademark infringement and unfair competition under the Trademark Act of 1946, as amended, 15 U.S.C. § 1051, *et seq.*, injury to business reputation and dilution of mark under Fla. Stat. § 495.151 *et seq.*, unfair

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competition and deceptive trade practices under Fla. Stat. § 501.204 *et seq.*, circumvention of technological measures that control access to proprietary software under 17 U.S.C. § 1201 *et seq.*, trafficking in services that circumvent technological measures protecting proprietary software under 17 U.S.C. § 1201 *et seq.*, tortious interference with business relationships and prospective advantage, and tortious interference with the business relationship between TracFone and Nokia Corporation (“Nokia”). On January 13, 2006, TracFone filed a motion for preliminary injunction and expedited discovery with supporting declarations and exhibits and accompanying memoranda of law. The Sol Wireless Defendants have denied the allegations of TracFone’s Complaint. This Court having considered the Complaint, declarations and exhibits, memoranda of law, and further evidence submitted therewith, it is hereby:

ORDERED, ADJUDGED, and DECREED that:

1. This Court has jurisdiction over all the parties and all of the claims for federal trademark infringement and unfair competition under the Trademark Act of 1946, as amended, 15 U.S.C. § 1051, *et seq.*, injury to business reputation and dilution of mark under Fla. Stat. § 495.151 *et seq.*, unfair competition and deceptive trade practices under Fla. Stat. § 501.204 *et seq.*, circumvention of technological measures that control access to proprietary software under 17 U.S.C. § 1201 *et seq.*, trafficking in services that circumvent technological measures protecting proprietary software under 17 U.S.C. § 1201 *et seq.*, tortious interference with business relationships and prospective advantage, and tortious interference with business relationship between TracFone and Nokia, asserted in the above action.

2. Plaintiff owns all right, title, and interest in and to the trademark TRACFONE.

3. Defendants and any of their representatives, subsidiaries, related or affiliated entities, agents, servants, and employees, and any and all persons and entities in active concert and participation with them who receive notice of this order by personal service or otherwise, shall be and hereby are permanently enjoined from:

- i. purchasing or selling any wireless mobile phone bearing the TRACFONE trademark (“TracFone phones”);
- ii. engaging in the alteration or unlocking of any TracFone phones;
- iii. facilitating or in any way assisting other persons or entities that the Sol Wireless Defendants knew or should have known were engaged in altering or unlocking any TracFone phone;
- iv. using either the TRACFONE trademark, or any other mark that is likely to cause confusion therewith, without authorization;
- v. misrepresenting any used products as new or in any way infringing on TracFone’s trademarks or misrepresenting that TracFone warrants the used and/or re-conditioned phones.

4. This Court hereby retains jurisdiction over this matter and the parties to this action in order to punish any violations of the terms of this Final Judgment and Permanent Injunction by a finding of contempt and a payment of damages to TracFone in an amount of not less than \$5,000.00 for each wireless phone that the Sol Wireless Defendants are found to have purchased, sold, or unlocked in violation of this injunction.

5. The prevailing party in any proceeding to enforce compliance with the terms of this Final Judgment and Permanent Injunction shall be entitled to an award of its attorneys' fees and costs incurred thereby.

DONE AND ORDERED in chambers at Miami, Florida, this 27 day of February, 2006.



HON. CECILIA M. ALTONAGA
United States District Judge