

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

|  |   |                     |
|--|---|---------------------|
| SPRO CORPORATION, a Georgia corporation, | ) |                     |
|  | ) | No.                 |
| Plaintiff,                               | ) |                     |
|  | ) | COMPLAINT FOR FALSE |
| v.                                       | ) | ADVERTISING, UNFAIR |
|  | ) | COMPETITION, AND    |
| EAGLE CLAW FISHING TACKLE CO., a         | ) | VIOLATION OF THE    |
| Colorado corporation, and WRIGHT &       | ) | WASHINGTON CONSUMER |
| MCGILL CO., a Colorado corporation,      | ) | PROTECTION ACT      |
|  | ) |                     |
| Defendants.                              | ) | <b>JURY DEMAND</b>  |

Plaintiff, SPRO Corporation ("SPRO"), by and through its undersigned counsel, respectfully makes the following allegations for its Complaint against Defendants Eagle Claw Fishing Tackle Co. ("Eagle Claw") and Wright & McGill Co. ("Wright & McGill") (collectively "Defendants"). These allegations are made upon knowledge with respect to SPRO and its own acts, and upon information and belief as to all other matters.

**JURISDICTION AND VENUE**

1. This action arises under the Lanham Act, 15 U.S.C. §§ 1051, *et seq.*, and the laws of the State of Washington.

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1338(a), and 15 U.S.C. § 1121 because it arises under the Lanham Act. Jurisdiction over the Washington common-law and Consumer Protection Act claims is also appropriate as these

1 claims are so related to the claim under the Lanham Act that they form part of the same case  
2 and controversy, and hence fall within the scope of this Court's supplemental jurisdiction  
3 pursuant to 28 U.S.C. § 1338(b) and 1367.

4 3. Venue is proper in the Western District of Washington pursuant to 28 U.S.C.  
5 § 1391(b) and (c) because these causes of action arise from acts substantially occurring within  
6 Washington, as well as the transaction of business in Washington.

### 7 THE PARTIES

8 4. SPRO is a Georgia Corporation, with its principal place of business in  
9 Kennesaw, Georgia. SPRO develops and designs fishing tackle and equipment for use by  
10 professional sports anglers. SPRO's products are distributed throughout the United States and  
11 internationally.

12 5. Eagle Claw is a Colorado corporation, with its principal place of business in  
13 Denver, Colorado. In competition with SPRO, Eagle Claw distributes fishing tackle and  
14 equipment. Eagle Claw's products are also distributed throughout the United States.

15 6. Wright & McGill is a Colorado corporation, with its principal place of business  
16 in Denver, Colorado. Wright & McGill does business as Eagle Claw and distributes fishing  
17 tackle under the Eagle Claw name, in competition with SPRO. Wright & McGill's products  
18 are also distributed throughout the United States.

### 19 DEFENDANTS' FALSE ADVERTISING AND UNFAIR COMPETITION

20 7. In connection with the marketing, promotion, sale, and distribution of their  
21 swivel products, Defendants' represent that each has a breaking strength that exceeds a  
22 particular weight. Specifically:

23 a. The packaging of Defendants' Size 2 swivel states that its breaking  
24 strength is 230 pounds.

25 b. The packing of Defendants' Size 4 swivel states that its breaking  
26 strength is 130 pounds.

1 c. The packing of Defendants' Size 6 swivel states that its breaking  
2 strength is 50 pounds.

3 d. The packing of Defendants' Size 8 swivel + Hiper states that its  
4 breaking strength is 50 pounds.

5 e. The packing of Defendants' Size 14 swivel + Hiper states that its  
6 breaking strength is 20 pounds.

7 8. Defendants' representation of their swivel products' breaking strength is  
8 material to consumers of Defendants' products because consumers rely on a manufacturer's  
9 quoted breaking strength to select tackle that will not break during its intended use.

10 9. SPRO submitted Defendants' swivel products to an independent laboratory for  
11 strength and failure analysis. SPRO's independent laboratory test report confirmed that  
12 Defendants' representations of the breaking strength of their swivel products constitute false  
13 representations of fact that misrepresent the nature, characteristics, and qualities of their  
14 products.

15 10. Defendants' representations of the breaking strength of their swivel products  
16 are likely to induce consumer reliance and to deceive consumers as to the nature and  
17 characteristics of their products because Defendants' false statements of fact are quantifiable  
18 and relate to the specific or absolute characteristics of their products.

19 11. Defendants' representations of the breaking strength of their swivel products  
20 are material to consumers of Defendants' products, as well as to the consumers of SPRO's  
21 competing products, because the breaking strength of swivels, like other fishing tackle, is  
22 critical to consumers of fishing tackle when making their purchasing decisions.

23 12. Defendants' representations of the breaking strength of their swivel products  
24 have likely damaged, and will continue to damage, SPRO's ability to compete fairly with  
25 Defendants in the marketplace, and are likely to divert consumer purchases from SPRO to  
26 Defendants, resulting not only in a loss of profits, but also in a loss of valuable goodwill  
27 associated with SPRO's products.

**FIRST CLAIM FOR RELIEF**

**(False Advertising – 15 U.S.C. § 1125(a))**

13. SPRO realleges and incorporates by reference the allegations contained in Paragraphs 1 through 12 above.

14. Defendants' misrepresentations and false statements of fact regarding the characteristics and qualities of Defendants' products were made in connection with the marketing, promotion, sale, packaging, and distribution of Defendants' products, and therefore in the commercial advertisement and promotion of Defendants' products.

15. Defendants' misrepresentations and false statements of fact regarding the characteristics and qualities of Defendants' products were made to the purchasing public and in commercial competition with SPRO for the purpose of influencing consumers to purchase Defendants' products rather than similar products manufactured and distributed by Defendants' competitors, including SPRO.

16. Defendants' misrepresentations and false statements of fact regarding the characteristics and qualities of Defendants' products have deceived or are likely to deceive a substantial segment of consumers.

17. Defendants' misrepresentations and false statements of fact regarding the characteristics and qualities of Defendants' products are material to consumers, and will improperly draw current and prospective consumers to Defendants.

18. As a result of Defendants' misrepresentations and false statements of fact, SPRO is likely to be injured, either by a direct diversion of sales from SPRO to Defendants, or by a lessening of goodwill associated with SPRO's products, entitling SPRO to damages in an amount to be determined at trial.

19. SPRO has no adequate remedy at law because Defendants' misrepresentations and false statements regarding the characteristics and qualities of Defendants' products have damaged, and will continue to damage, SPRO's ability to compete fairly in the market, such that damages alone cannot fully compensate SPRO for Defendants' misconduct. Unless

1 enjoined by this Court, Defendants will continue to disseminate to the purchasing public  
2 misrepresentations and false statements of fact in connection with the marketing, promotion,  
3 sale, packaging, and distribution of Defendants' products that are likely to deceive a  
4 substantial segment of consumers as to the nature, characteristics, or quality of Defendants'  
5 products, and improperly draw consumers to Defendants to the irreparable injury of SPRO.  
6 This threat of future injury to the business, goodwill, and reputation of SPRO requires  
7 injunctive relief.

8         20. Defendants knew or should have known that its misrepresentations constituted  
9 a false statement of fact regarding the characteristics and qualities of its products, and thus  
10 Defendants' misrepresentations constitute exceptional, willful, and deliberate conduct,  
11 entitling SPRO to its reasonable attorneys' fees and costs incurred in connection with this  
12 lawsuit pursuant to 15 U.S.C. § 1117.

## 13                                 **SECOND CLAIM FOR RELIEF**

### 14                                 **(Common-Law Unfair Competition)**

15         21. SPRO realleges and incorporates by reference the allegations contained in  
16 Paragraphs 1 through 20 above.

17         22. Defendants' misrepresentations and false statements of fact regarding the  
18 characteristics and qualities of Defendants' products are calculated to and/or likely to confuse,  
19 mislead, or deceive consumers as to the nature, characteristics, or qualities of Defendants'  
20 products, and are likely to influence consumers to purchase Defendants' products as opposed  
21 to the similar products manufactured and distributed by Defendants' competitors, including  
22 SPRO.

23         23. As a result of Defendants' misrepresentations and false statements of fact  
24 regarding the characteristics and qualities of its products, SPRO is likely to be injured, either  
25 by a direct diversion of sales from SPRO to Defendants, or by a lessening of goodwill  
26 associated with SPRO's products, entitling SPRO to damages in an amount to be determined  
27 at trial.

24. SPRO has no adequate remedy at law because Defendants' misrepresentations and false statements regarding the characteristics and qualities of Defendants' products have damaged, and will continue to damage, SPRO's ability to compete fairly in the market, such that damages alone cannot fully compensate SPRO for Defendants' misconduct. Unless enjoined by this Court, Defendants will continue to make misrepresentations and false statements of fact in connection with the marketing, promotion, sale, packaging, and distribution of its products that are likely to confuse, mislead, or deceive consumers as to the nature, characteristics, or qualities of Defendants' products, and improperly draw consumers to Defendants to the irreparable injury of SPRO. This threat of future injury to the business, goodwill, and reputation of SPRO requires injunctive relief.

25. As a result of Defendants' misrepresentations and false statements of fact, SPRO has incurred attorneys' fees and costs, including fees and costs incurred in connection with this lawsuit to which it is entitled.

### **THIRD CLAIM FOR RELIEF**

#### **(Violation of Washington Consumer Protection Act)**

26. SPRO realleges and incorporates by reference the allegations contained in Paragraphs 1 through 25 above.

27. Defendants' conduct described herein is likely to cause confusion, mistake and to deceive the public into believing that Defendants' products have a particular breaking strength when they, in fact, do not, and such actions affect the public interest and will be injurious thereto, in violation of Washington State Unfair Business Practices and Consumer Protection Act, RCW 19.86 et seq. SPRO is entitled to recover damages, treble damages, and attorneys' fees pursuant to RCW 19.86.090.

28. Defendants' conduct described herein constitutes a violation of Washington Consumer Protection Act.

1 **PRAYER**

2 WHEREFORE, SPRO prays that:

3 1. Defendants, its agents, servants, employees, attorneys, and all other persons in  
4 active concert or participation with Defendants, be permanently enjoined and restrained from:  
5 (a) representing in connection with the marketing, promotion, sale, packaging, or distribution  
6 of its products that Defendants' products have a particular breaking strength when they, in  
7 fact, do not; and (b) making any other misrepresentation, false statement of fact, or false  
8 description regarding the nature, quality, and characteristics of Defendants' products in  
9 connection with the marketing, promotion, sale, packaging, or distribution of such products,  
10 including Defendants' actions complained of above.

11 2. Defendants, its agents, servants, employees, attorneys, and all other persons in  
12 active concert or participation with Defendants, be directed to remove from interstate and  
13 foreign commerce any commercial marketing, promotional, or packaging material containing  
14 misrepresentations regarding the breaking strength of Defendants' products, including but not  
15 limited to Defendants' packaging, package inserts, product catalogs, product magazines,  
16 website, and product descriptions.

17 3. Defendants, its agents, servants, employees, attorneys, and all other persons in  
18 active concert or participation with Defendants, be directed to notify its distributors, retailers,  
19 and other persons purchasing Defendants' products for resale to consumers that Defendants'  
20 marketing and promotional materials, including but not limited to Defendants' packaging,  
21 contain a false statement of Defendants' products' breaking strength.

22 4. Defendants be directed to file with this Court and serve on SPRO's counsel  
23 within thirty (30) days after the Court's issuance of an injunction, a report setting forth in  
24 detail the manner and form in which Defendants have complied with the injunction.

25 5. Defendants be required to pay SPRO all damages suffered by SPRO as a result  
26 of Defendants' misrepresentations, false statements, and unfair competition, in an amount to  
27 be determined at trial, and to be trebled in accordance with RCW 19.86.090.



7. SPRO be granted such other and further relief as this Court deems just and equitable.

7. SPRO be granted such other and further relief as this Court deems just and equitable.

## JURY DEMAND

**SPRO demands a trial by jury of all issues so triable.**

DATED this 12<sup>th</sup> day of September, 2011.

**Davis Wright Tremain LLP**  
**Attorneys for Plaintiff SPRO Corporation**

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