

THE HONORABLE \_\_\_\_\_

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

SPACE NEEDLE CORPORATION, a  
Washington corporation,

Plaintiff,

v.

MCCAIN SNACK FOODS, a Wisconsin  
corporation,

Defendant.

NO. \_\_\_\_\_

COMPLAINT FOR TRADEMARK  
INFRINGEMENT, TRADEMARK  
DILUTION AND UNFAIR  
COMPETITION

JURY DEMAND

**NATURE OF THE CASE**

1. Plaintiff Space Needle Corporation ("SNC") seeks damages, injunctive relief and attorneys' fees resulting from defendant McCain Snack Foods' ("Defendant") use of SNC's Space Needle trademarks in a nationally-circulated advertisement for Defendant's food products.

**JURISDICTION AND VENUE**

2. This Court has jurisdiction over the Lanham Act claims pursuant to 28 U.S.C. §§ 1331 (federal question) and 1338(a) (trademark claim) and over the State law



1 products and services. An example of the image of the Space Needle used by SNC in  
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3 connection with goods and services follows:  
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33 9. SNC offers a variety of entertainment services, including a very popular  
34 upscale restaurant and conference and banquet services, and sells many goods, including  
35 clothing, dishware, water and wine, under the Space Needle Marks.  
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39 10. SNC has spent substantial time, effort and money advertising and promoting  
40 the goods and services under the Space Needle Marks, and, as a result of these efforts, such  
41 goods and services are strongly associated with SNC and the Space Needle Marks.  
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1           23.     SNC owns numerous federal trademark registrations for the Space Needle  
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3 Marks. (See Exhibits 1 & 2.) These registrations are in full force and effect and are  
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5 enforceable. SNC also owns common law rights in the Space Needle Marks that date back  
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7 to 1962.

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9           24.     Defendant's actions constitute the use in interstate commerce of a false  
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11 designation of origin, false or misleading description of fact, or false or misleading  
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13 representations of fact that are likely to cause confusion or mistake, or to deceive as to the  
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15 affiliation, connection, or association of the goods and services with SNC, or as to the origin,  
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17 sponsorship, or approval of the goods and services provided by Defendant in violation of  
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19 Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

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21           25.     Defendant's actions also constitute the use in interstate commerce of a  
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23 reproduction, counterfeit, copy, or colorable imitation of a registered trademark of SNC in  
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25 connection with the sale, offering for sale, distribution, or advertising of goods or services  
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27 on or in connection with which such use is likely to cause confusion or mistake, or to  
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29 deceive, in violation of Section 32 of the Lanham Act, 15 U.S.C. § 1114.

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31           26.     Defendant knew or should have known of SNC's rights, and Defendant's false  
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33 designation of origin has been knowing, willful and deliberate, making this an exceptional  
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35 case within the meaning of 15 U.S.C. § 1117.

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37           27.     SNC has been, and continues to be, damaged by such acts in a manner that  
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39 cannot be fully measured or compensated in economic terms. Defendant's acts have  
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41 damaged SNC's reputation and goodwill.

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**SECOND CLAIM FOR RELIEF**  
**Trademark Dilution Under RCW 19.77.160**

28. SNC specifically realleges and incorporates paragraphs 1 through 27 as if fully set forth herein.

29. Defendant's actions constitute the unauthorized, commercial use of a famous trademark of SNC commencing after that mark became famous.

30. Defendant's unauthorized use dilutes the quality of SNC's Space Needle Marks by diminishing the capacity of the marks to identify and distinguish SNC's goods and services, in violation of RCW 19.77.160.

31. SNC has been, and continues to be, damaged by such acts in a manner that cannot be fully measured or compensated in economic terms.

**THIRD CLAIM FOR RELIEF**  
**Trademark Infringement Under Washington Law**

32. SNC specifically realleges and incorporates paragraphs 1 through 31 as if fully set forth herein.

33. The acts and conduct of Defendant as alleged above constitute trademark infringement under the common law of the State of Washington.

34. As a direct and proximate result of Defendant's conduct, SNC has been damaged in an exact amount to be proven at trial.

**FOURTH CLAIM FOR RELIEF**  
**Violation of the Washington Consumer Protection Act,**  
**RCW 19.86.020, et seq.**

35. SNC specifically realleges and incorporates paragraphs 1 through 34 as if fully set forth herein.



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E. Treble damages and attorneys' fees pursuant to RCW 19.86.090;

F. SNC's costs and attorneys' fees pursuant to 15 U.S.C. § 1117, and as otherwise provided by law; and

G. For such other and further relief as this Court deems just and proper.

DATED this 22nd day of June, 2004.

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