

THE HONORABLE JOHN C. COUGHENOUR

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THE HONORABLE JOHN C. COUGHENOUR
U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE
04-CV-01443-AF

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. CV04-01443-C

STIPULATED ~~(PROPOSED)~~ ORDER OF
DISMISSAL AND PERMANENT
INJUNCTION

Plaintiff Space Needle Corporation ("SNC") and defendant McCain Snack Foods ("Defendant"), by and through their respective counsel, hereby stipulate to the entry of the following Order and permanent injunction:

1. On June 22, 2004, SNC initiated this action and alleged causes of action for trademark infringement, trademark dilution and unfair competition relating to Defendant's use of SNC's trademarks in certain advertisements. Among other things, SNC asserted that it owned enforceable rights in its distinctive trademark SPACE NEEDLE and the distinctive image of the Space Needle (together, the "Space Needle Marks") to identify numerous

STIPULATED [PROPOSED] ORDER OF DISMISSAL
AND PERMANENT INJUNCTION
(NO. CV04-1443C) - 1
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1 products and services. SNC also alleged rights in numerous trademark registrations with the
2 United States Patent and Trademark Office for the Space Needle Marks, including
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4 Registration Nos. 2,771,413; 2,773,451; and 2,775,235.
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7 2. SNC and Defendant vigorously disagree as to whether Defendant's actions
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9 created any liability or wrongdoing.

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11 3. This Court has jurisdiction over the parties and the subject matter of this
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13 action.

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15 4. Defendant, its officers, agents, servants, employees and all persons in concert
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17 or participation with it who receive actual notice of this Order by personal service or
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19 otherwise, are immediately and permanently enjoined from (1) using the Space Needle
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21 Marks or any image of the Space Needle in which the Space Needle is the dominant feature;
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23 and (2) using an adulterated image of the Space Needle.

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25 5. Defendant waives any objections under Federal Rule of Civil Procedure
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27 65(d) (pertaining to injunctions) to paragraph 4, above.

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29 6. This Court shall retain jurisdiction over the enforcement of this injunction,
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31 and Defendant consents to submit to the jurisdiction of the United States District Court for
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33 the Western District of Washington in an action to enforce this stipulation and order of
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35 dismissal and permanent injunction.

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37 7. Pursuant to Federal Rule of Civil Procedure 41(a)(1)(ii) and based on the
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39 parties' agreement to the terms stated in paragraphs 1 through 6, the above-entitled action
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41 will be dismissed with prejudice and without cost to either party.
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1 DATED November 19, 2004.
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5 s/ Susan Fahringer
6 Susan Fahringer, WSBA # 21567
7 William C. Rava, WSBA # 29948
8 Perkins Coie LLP
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15 Attorneys for Plaintiff Space Needle
16 Corporation
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Attorneys for Defendant McCain Snack
Foods

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22 IT IS SO ORDERED, this 23 day of Nov, 2004.
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30 United States District Judge
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CERTIFICATE OF SERVICE

On November 19, 2004, I caused to be served upon counsel of record, at the address stated below, via the method of service indicated, a true and correct copy of the foregoing document.

David J. Lenci, WSBA # 7688
Preston Gates & Ellis
925 - 4th Avenue, #2900
Seattle, WA 98104

Via hand delivery
 Via U.S. Mail, 1st Class,
Postage Prepaid
 Via Overnight Delivery
 Via Facsimile
 Via E-filing

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED: November 19, 2004.

s/ Susan Fahringer

Susan Fahringer, WSBA # 21567

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