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Halloween Town, Inc.
7

8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10
11 HALLOWEEN TOWN, INC.,

12 Plaintiff,

13 v.

14 GLENDALE HALLOWEEN, a
fictitious business name; ZINAIDA
15 KHRIMYAN, an individual; and
DOES 1-10,
16

17 Defendants.
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Case No. 2:23-cv-8200

COMPLAINT FOR:

**(1) COPYRIGHT INFRINGEMENT,
17 U.S.C. 501**

**(2) TRADEMARK
INFRINGEMENT, 17 U.S.C. 1114**

**(3) FALSE DESIGNATION OF
ORIGIN (VIOLATION OF
LANHAM ACT, 15 U.S.C. § 1125(a));**

**(4) FEDERAL TRADEMARK
DILUTION (VIOLATION OF
LANHAM ACT, 15 U.S.C. § 1125(c));**

**(5) COMMON LAW AND
STATUTORY TRADE NAME
INFRINGEMENT;**

**(6) UNFAIR COMPETITION
(CAL. BUS. & PROF. CODE §
17200);**

**(7) COMMON LAW UNFAIR
COMPETITION; AND**

**(8) STATE TRADEMARK
DILUTION (CAL. BUS. & PROF.
CODE § 14247)**

DEMAND FOR JURY TRIAL

1 Plaintiff Halloween Town, Inc. (“Halloween Town”), for its complaint
2 against Glendale Halloween and Zinaida Khrimyan (“Defendants”), hereby alleges
3 based on knowledge as to its acts and based on information and belief as to the acts
4 of others, as follows:

5 **INTRODUCTION**

6 1. This is an action for copyright infringement, false designation of
7 origin, dilution, trade name infringement and unfair competition arising from
8 defendant Glendale Halloween’s willful and intentional infringement of Halloween
9 Town’s trademark and copyright.

10 2. For the last 23 years, Plaintiff Halloween Town has been the premier
11 purveyor of a vast array of Halloween and horror-related merchandise, costumes,
12 decorations, clothing, novelties and special effects accessories. Since 2006,
13 Halloween Town has operated its famous store at its current location in Burbank,
14 California (the “Halloween Town Store”). The Halloween Town Store is a year-
15 round tourist attraction for consumers interested in Halloween and the horror genre
16 more generally.

17 3. Previously, Defendants Glendale Halloween and Zinaida Khrimyan
18 (“Defendants”) operated a seasonal Halloween merchandise store in Glendale, as its
19 name suggests. Defendants, however, were and are well aware of Halloween
20 Town’s fame and notoriety as the premier purveyor of horror merchandise.

21 4. In or about 2023, Defendants conceived a scheme to trade upon
22 Halloween Towns’ tremendous and longstanding good will and reputation, and the
23 massive amount of business that Halloween Town would otherwise generate during
24 the Halloween season.

25 5. To further their unlawful scheme, Defendants moved their seasonal
26 “Glendale Halloween” Store to Burbank, just two miles from the Halloween Town
27 Store. At this new location, Glendale Halloween maintains a sign advertising itself
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1 as “Burbank Halloween,” even though it continues to do business online as
2 “Glendale Halloween.”

3 6. Attempting to capitalize on Halloween Town’s success, Glendale
4 Halloween also copied a photo from in the inside of the Halloween Town Store,
5 which Glendale Halloween displays on its website (the “Halloween Town Store
6 Photo”). The Halloween Town Store Photo depicts a custom-designed green ghost
7 prop found near the entryway to the Halloween Town Store. The prop itself is a
8 major tourist attraction and consumers often stop to take photos of themselves with
9 the prop when visiting Halloween Town. Both the prop itself and the Halloween
10 Town Store Photo are strongly associated with Halloween Town, and Halloween
11 Town owns the copyright in the Halloween Town Store Photo.

12 7. Glendale Halloween misappropriated the Halloween Town Store
13 Photo to falsely represent it as the interior of Defendants’ seasonal Burbank store
14 and to create the false impression that Glendale Halloween offers the same
15 experience and tourist-worthy attractions as Halloween Town, even though
16 Glendale Halloween is only a seasonal purveyor of costumes and accessories that
17 comes nowhere close to offering the tourist-worthy attractions as Halloween Town.

18 8. Defendants have also published articles on their website to trade on
19 Halloween Town’s registered trademark for Halloween Town, including blog posts
20 and articles that refer to the Glendale Halloween Store as “Halloween Town.”

21 9. Defendants are transparently engaged in this unlawful scheme of
22 copyright and trademark infringement for the express purpose of profiting from
23 Halloween Town’s good will and reputation and to deceive customers into
24 believing that its store has the same high quality design, experience and
25 merchandise that is found in Halloween Town and/or is associated with or endorsed
26 by Halloween Town. Their misconduct is not just likely to deceive – it has and will
27 continue to cause actual confusion unless remedied by this Court.
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THE PARTIES

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2 10. Halloween Town is a California corporation with its principal place of
3 business located at 2921 W. Magnolia Blvd., Burbank, California 91505 (the
4 “Halloween Town Store”). Halloween Town is a widely recognized retailer of
5 Halloween and horror-related merchandise and novelties, namely costumes and
6 accessories, toys, jewelry, books, audio and video recordings, special effect
7 supplies and accessories, holiday props and decorations, gifts and collectibles,
8 clothing, shoes and handbags. Halloween Town sells its products through both a
9 physical retail store located in Burbank, California, and an online retail store outlet
10 located at www.halloweentownstore.com.

11 11. Defendant Glendale Halloween is an unknown entity or unknown
12 individual, registered to do business under a fictitious name in Los Angeles County
13 (Document #2021143798). Glendale Halloween is conducting business at the
14 premises known as 201 E. Magnolia Blvd #100, Burbank, CA 91502 (the
15 “Glendale Halloween Store”). Glendale Halloween also operates an online retail
16 store located at www.glendalehalloween.com.

17 12. Defendant Zinaida Khrimyan is a resident of Los Angeles County,
18 California. Khrimyan was previously indicted on federal charges related to her
19 operation of the business known as Glendale Halloween. In that indictment, she
20 was identified as the owner of Glendale Halloween and accused of unlawfully
21 selling prescription contact lenses at the Glendale Halloween store. As recently as
22 September 2023, Khrimyan posted on Facebook advertising and promoting the new
23 location of the Glendale Halloween store. Upon information and belief, Khrimyan
24 continues to be the owner of the Glendale Halloween store in Burbank. Upon
25 information and belief, Khrimyan is the individual who registered herself under the
26 fictitious business name “Glendale Halloween” with the County of Los Angeles or
27 else she is the owner of the entity that did so.
28

1 17. Venue is proper in this judicial district pursuant to 28 U.S.C. §
2 1391(B) and (C) because: (a) it is a judicial district in which Defendants reside; (b)
3 is where a substantial part of the events giving rise to the claims asserted herein
4 occurred; and (c) Defendants were and are subject to personal jurisdiction in this
5 district at the time the action was commenced.

6 **FACTUAL BACKGROUND**

7 **A. The Halloween Town Mark, Retail Store and Website**

8 18. Since at least as early as September of 2000, plaintiff Halloween Town
9 has owned and operated the Halloween Town Store in Burbank, California with the
10 registered trademark and tradename Halloween Town (“Halloween Town Mark”).

11 19. Halloween Town opened a permanent store at its present location at
12 Burbank in 2006. The store is known throughout the United States and around the
13 world as a tourist attraction for Halloween and horror-themed arts and special
14 effects. Halloween Town has also expanded and opened a second location one
15 block away from the Halloween Town Store to sell Halloween costumes and
16 accessories. Over the years, it has also operated other locations, including a
17 children’s costume store and a warehouse, in the region.

18 20. The Halloween Town Store has consistently featured a vast array of
19 Halloween and horror-related merchandise and accessories. At all times,
20 Halloween Town has displayed its Halloween Town Mark in connection with its
21 retail store goods and services.

22 21. Commencing in August of 2003, Halloween Town expanded its
23 Halloween Town services to include an online store located on the Internet at the
24 domain name www.halloweentownstore.com (“Halloween Town Website”), which
25 has been in continuous operation ever since. The Halloween Town Website has
26 enabled consumers throughout the U.S. and worldwide to purchase a vast array of
27 unique Halloween costumes, masks, clothing, merchandise, decorations, props,
28 toys, videos, music, books, jewelry, makeup and special effects that Halloween

1 Town offers in its retail store. Since its inception, Halloween Town's Website has
2 also prominently featured the Halloween Town Mark used in connection with its
3 retail store goods and services.

4 22. Since adopting its Halloween Town Mark, Halloween Town has
5 continuously promoted and used the mark throughout the United States in interstate
6 commerce, and has expended considerable sums in exerting every effort to maintain
7 and develop the Halloween Town Mark. As such Halloween Town has created
8 substantial and extremely valuable goodwill among the purchasing public under its
9 Halloween Town Mark. As a result of Halloween Town's continuous and
10 extensive use of the Halloween Town Mark, the mark has become and continues to
11 function as its core business and marketing asset, and serves to indicate to the trade
12 and consuming public the products originating from Halloween Town.

13 23. Halloween Town has established widespread common law trademark
14 rights in the Halloween Town Mark. With the establishment of the Halloween
15 Town Website, Halloween Town's trademark rights have spread quickly from
16 Southern California throughout the entire U.S. Halloween Town has also sold
17 goods under its Halloween Town Mark to consumers worldwide. Due to the fame
18 of the Halloween Town Mark, Halloween Town customers from many foreign
19 countries have visited the Halloween Town Store.

20 24. Through such extensive use, advertising, marketing and promotion of
21 Halloween Town's physical and online retail store services under the Halloween
22 Town Mark, Halloween Town has built up, at great expense and effort, a valuable
23 reputation and goodwill symbolized by its strong and distinctive mark.

24 25. By reason of the adoption and continuous use of the Halloween Town
25 Mark in U.S. interstate commerce, Halloween Town has established valuable public
26 recognition in the Halloween Town Mark as identifying Halloween Town as a
27 trusted source of high quality Halloween and horror-related merchandise and
28 accessories. By way of Halloween Town's substantial and exclusive use of the

1 Halloween Town Mark, the Halloween Town Mark has achieved a distinctive
2 quality and has acquired special and particular significance as identifying
3 Halloween Town and its retail goods and services.

4 **B. The Halloween Town Store Photo**

5 26. The Halloween Town Store Photo is an original photograph authored
6 by Wayne Toth, a legendary creator of special makeup effects and horror design in
7 Hollywood. Mr. Toth is the owner and founder of Halloween Town and the
8 Halloween Town Store. Mr. Toth authored the Halloween Town Store Photo in or
9 around February 2019 and it was first published by Halloween Town in or around
10 October 2019.

11 27. The Halloween Town Store Photo was taken inside the Halloween
12 Town Store and depicts a view from inside the Halloween Town Store in Burbank,
13 California. Plaintiff Halloween Town owns the copyright to the Halloween Town
14 Store Photo.

15 28. The Halloween Town Store Photo depicts a green ghost prop that was
16 custom made for Halloween Town and is not a product that Halloween Town sells.
17 It sits at the front of the Halloween Town Store and serves as part of the experience
18 of Halloween Town and is by itself a major tourist attraction. Customers regularly
19 stop to take photos with the ghost prop when visiting the store, and both the prop
20 and the Halloween Town Store Photo itself are strongly associated with Halloween
21 Town itself.

22 29. To this day, the Halloween Town Store Photo remains Halloween
23 Town's main promotional photograph. It is routinely used online and in print
24 media. The photograph is also the primary image used by the Halloween Town
25 Store's Twitter account and appears on various social media postings. The
26 Halloween Town Store Photo is strongly associated with Halloween Town's
27 trademark, good will and reputation. A copy of the Halloween Town Store Photo is
28 shown below:

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The “Halloween Town Store Photo”

30. Defendant Glendale Halloween misappropriated the Halloween Town Store Photo and publishes the photograph on its website for the purpose of deceiving the public into believing that the interior of the Halloween Town Store is actually the interior of the Glendale Halloween Store. For example, the Halloween Town Store Photo is seen in the left side of the image below, captured from Glendale Halloween’s website, <https://www.glendalehalloween.com/contact/> (accessed September 27, 2023).



The “Glendale Halloween Photo”

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1 31. Glendale Halloween has repeatedly displayed, published, reproduced
2 and commercially exploited the Halloween Town Store Photo on its website and,
3 upon information and belief, in other advertisements and promotional materials,
4 without any consent or authorization from the Halloween Store or the author of the
5 Halloween Town Store Photo.

6 32. Glendale Halloween’s display, reproduction, publication, exploitation
7 and use of the Halloween Town Store Photo directly infringe Halloween Town’s
8 copyright to the Halloween Town Store Photo.

9 33. In addition, Glendale Halloween engaged in this misconduct to
10 deceive customers who visited the Glendale Halloween website or saw its other
11 promotional materials into believing that the interior of the Glendale Halloween
12 would actually be interior of the Halloween Town Store and that Glendale
13 Halloween store would share the same quality of design, experience, and
14 merchandise available to customers who visited the Halloween Town Store.

15 34. As a result of Glendale Halloween’s misconduct, customers have been
16 misdirected away from visiting the Halloween Town Store and fraudulently
17 deceived into visiting the Glendale Halloween Store, including both at its former
18 location in Glendale and its present location in Burbank.

19 **C. Glendale Halloween’s Unfair Competition And Trade Upon Halloween**
20 **Town’s Mark, Good Will and Reputation**

21 35. For many years, Glendale Halloween operated its store at a location in
22 Glendale, California. In or around September 2023, Glendale Halloween decided to
23 increase its assault on Halloween Town by leaving Glendale and relocating to a
24 new location in Burbank less than two miles away from the Halloween Town Store.

25 36. At this new location, Glendale Halloween displays signs outside the
26 new store calling itself “Burbank Halloween,” in order to trade on the Halloween
27 Town Mark and Halloween Town’s good will and reputation.

28

1 37. Despite the physical store calling itself “Burbank Halloween,”
2 Glendale Halloween continues to use the website “Glendale Halloween” along with
3 various social media accounts of the same name. And on that website, Glendale
4 Halloween continues to use the Halloween Town Store Photo to deceive customers
5 into believing that the interior of the Glendale Halloween Store is actually the
6 interior of the Halloween Town Store.

7 38. In addition, on its website, Glendale Halloween has published articles,
8 blog posts and advertisements encouraging customers referring to itself as “the
9 Halloween Town,” in direct infringement of the Halloween Town Mark.

10 39. For example, one article has the headline “THE ACTIVITIES THAT
11 MAKE UP FOR A GREAT GET-TOGETHER *IN THE HALLOWEEN TOWN*”
12 (emphasis added). In that article, Glendale Halloween tells customers: “*The*
13 *Halloween Town* is waiting for you.” (emphasis added). It also adds: “The entire
14 place is lit up and comes to the picture as the *Halloween town*.” (emphasis added)
15 (see [https://www.glendalehalloween.com/the-activities-that-make-up-for-a-great-
16 get-together-in-the-halloween-town/](https://www.glendalehalloween.com/the-activities-that-make-up-for-a-great-get-together-in-the-halloween-town/)) (accessed September 27, 2023).

17 40. Numerous other articles on the Glendale Halloween website reference
18 “Halloween Town” as if Halloween Town were affiliated with Glendale Halloween.

19 41. Upon information and belief, Glendale Halloween has published other
20 advertisements and made other statements directly associating itself with
21 Halloween Town and trading on the Halloween Town Mark and Halloween’s
22 Town’s good will and reputation.

23 **D. Khrimyan’s Individual Misconduct**

24 42. Upon information and belief, Khrimyan is the individual doing
25 business as “Glendale Halloween.” Khrimyan previously conducted the business of
26 Glendale Halloween through HTS General, Inc., a California corporation. In 2014,
27 the United States filed a criminal indictment against both Khrimyan and HTS
28 General, Inc., based upon Khrimyan’s conduct of the business known as Glendale

1 Halloween. In 2015, the entity HTS General, Inc., was terminated. Since that time,
2 Khrimyan has continued to conduct the business of Glendale Halloween, either in
3 her own name or through another entity owned and controlled by Khrimyan.

4 43. Upon information and belief, Khrimyan is responsible for
5 misappropriating the Halloween Town Store Photo from either the website or social
6 media accounts of Halloween Town and directing the use of the Halloween Town
7 Store Photo by Glendale Halloween. Khrimyan directed, authorized and controlled
8 the decision to misappropriate the Halloween Town Store Photo to deceive
9 customers for her own personal profit and gain.

10 44. In addition, upon information and belief, Khrimyan is responsible for
11 drafting or causing to be drafted the article and blog posts on Glendale Halloween's
12 website that falsely reference her business as "Halloween Town." Khrimyan is
13 responsible for the decision to draft these articles to directly trade on the Halloween
14 Town Mark, good will and reputation. She directed, controlled and participated the
15 drafting, content, and publication of these article, and directed, controlled and
16 participated in the publication of them on the Glendale Halloween website to
17 directly target Halloween Town.

18 45. In addition, upon information and belief, Khrimyan decided to relocate
19 the business of Glendale Halloween from Glendale, to a location close to
20 Halloween Town, in order to further trade on the Halloween Town Mark, good will
21 and reputation.

22 46. Khrimyan directed, controlled and participated in all of these wrongful
23 acts in order to commercially exploit the intellectual property of Halloween Town,
24 and to cause consumer and vendor confusion, all to her own profit. Khrimyan's
25 misconduct has caused Halloween Town damages and caused actual consumer and
26 vendor confusion.

27 **ALLEGATION OF IRREPARABLE HARM**
28

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1 55. Defendants have realized unjust profits, gains and advantages, and
2 they will continue to realize unjust profits, gains and advantages, as a proximate
3 result of their infringement of the Halloween Town Store Photo, as long as such
4 infringement is permitted to continue.

5 56. Defendants copyright infringement is willful such that Halloween
6 Town is entitled to statutory damages of \$150,000 pursuant to 17 U.S.C.
7 § 504(c)(2).

8 57. In addition, or in the alternative, as a direct and proximate result of
9 Defendants’ intentional and willful copyright infringement, Halloween Town has
10 suffered and is continuing to suffer injury, loss and damages in an amount
11 according to proof at trial, attorney’s fees and costs pursuant to 17 U.S.C. § 505,
12 and to disgorgement of Defendants’ unlawful gains and profits.

13 **SECOND CLAIM FOR RELIEF**

14 **Federal Trademark Infringement**

15 **Violation of Lanhan Act § 43(a), 15 U.S.C. § 1114**

16 58. Halloween Town realleges and incorporates by reference each of the
17 foregoing paragraphs of this Complaint as though fully set forth in full herein.

18 59. Halloween Town Mark is the registered holder of the Halloween Town
19 Mark.

20 60. Defendants are actually aware that Halloween Town is the registered
21 trademark holder of the Halloween Town Mark. Further, Halloween Town’s
22 registration on the Principal Register give constructive notice of its ownership
23 rights.

24 61. The Halloween Town Mark is distinctive and famous throughout the
25 United States and the Halloween Town Mark is incontestable.

26 62. After the Halloween Town Mark became famous, Defendants used and
27 are using a mark in its trade name, advertisements, website and products that is
28 identical or virtually identical to the Halloween Town Mark. Defendants

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1 reproduced, counterfeited, copied and colorably imitated the Halloween Town
2 Mark and applied such reproduction, counterfeiting, copying, and colorable
3 imitation to labels, signs, publications, and/or advertisements intended to be used in
4 commerce upon or in connection with the sale, offering for sale, distribution and/or
5 advertising of goods.

6 63. Halloween Town is informed and believes and on that basis alleges
7 that Defendants acted with knowledge of the fame and reputation of the Halloween
8 Town Mark with the purpose of usurping such rights and to willfully and
9 intentionally confuse, mislead, and deceive members of the public.

10 64. Halloween Town did not consent or authorize Defendants' use of the
11 Halloween Town Mark.

12 65. Defendants' actions have and are likely to dilute, blur and tarnish the
13 distinctive quality of the Halloween Town Mark, to lessen the ability of the
14 Halloween Town Mark to identify and distinguish the Halloween Town's products.

15 66. As a result of Defendants' violation of 15 U.S.C. § 1114, Halloween
16 Town has and continues to suffer damages according to proof at trial. Further,
17 unless Defendants are restrained, Halloween Town will continue to suffer
18 irreparable damage and injury to its reputation and goodwill.

19 67. Because Defendants acted willfully and intentionally to trade on
20 Halloween Town's reputation and/or cause dilution of Halloween Town's famous
21 trademark, Halloween Town is entitled to damages, extraordinary damages, fees
22 and costs pursuant to 15 U.S.C. § 1114.

23 **THIRD CLAIM FOR RELIEF**

24 **Federal Unfair Competition and False Designation of Origin**
25 **in Violation of Lanham Act § 43(a), 15 U.S.C. § 1125(a)**

26 68. Halloween Town realleges and incorporates by reference each of the
27 foregoing paragraphs of this Complaint as though fully set forth in full herein.
28

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1 and are using a mark in its trade name and products and in its advertising that is
2 identical or virtually identical to the Halloween Town Mark.

3 74. Halloween Town is informed and believes and on that basis alleges
4 that Defendants acted with knowledge of the fame and reputation of the Halloween
5 Town Mark with the purpose of usurping such rights and to willfully and
6 intentionally confuse, mislead, and deceive members of the public.

7 75. Defendants' actions have and are likely to dilute, blur and tarnish the
8 distinctive quality of the Halloween Town Mark, to lessen the ability of the
9 Halloween Town Mark to identify and distinguish the Halloween Town's products.

10 76. As a result of Defendants' violation of 15 U.S.C. § 1125(c), Halloween
11 Town has and continues to suffer damages according to proof at trial. Further,
12 unless Defendants are restrained, Halloween Town will continue to suffer
13 irreparable damage and injury to its reputation and goodwill.

14 77. Because Defendants acted willfully and intentionally to trade on
15 Halloween Town's reputation and/or cause dilution of Halloween Town's famous
16 trademark, Halloween Town is entitled to damages, extraordinary damages, fees
17 and costs pursuant to 15 U.S.C. § 1125(c)(2).

18 **FIFTH CLAIM FOR RELIEF**

19 **Common Law and Statutory Trade Name Infringement**

20 78. Halloween Town realleges and incorporates by reference each of the
21 foregoing paragraphs of this Complaint as though fully set forth in full herein.

22 79. Defendants have engaged in trade name infringement under the
23 common and statutory law of the State of California, California Business and
24 Professions Code § 14402, *et seq.*

25 80. Defendants have intentionally deceived the public by misrepresenting
26 that its services and/or its products are in some way sponsored or authorized by
27 Halloween Town, including under its Halloween Town Mark.
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1 81. Defendants’ acts were undertaken willfully and with the intention of
2 causing confusion, mistake or deception.

3 82. As a proximate result of Defendants’ acts, Halloween Town has and
4 continues to suffer damages according to proof at trial. Further, unless Defendants
5 are restrained, Halloween Town will continue to suffer irreparable damage and
6 injury to its reputation and goodwill.

7 **SIXTH CLAIM FOR RELIEF**

8 **Unfair Competition in Violation of California Business & Professions**
9 **Code § 17200, et seq.**

10 83. Halloween Town realleges and incorporates by reference each of the
11 foregoing paragraphs of this Complaint as though fully set forth in full herein.

12 84. Defendants’ misconduct in trading upon Halloween Town’s goodwill
13 and reputation constitute an unlawful, unfair and fraudulent business acts or
14 practices and unfair, deceptive, untrue or misleading advertising, in violation of
15 California Business and Professions Code §§ 17200, *et seq.*

16 85. As a direct and proximate result of Defendants’ unfair, unlawful and
17 illegal business practices, Halloween Town has suffered irreparable harm to its
18 reputation and goodwill. As such, Halloween Town is entitled to injunctive relief
19 as set forth herein.

20 **SEVENTH CLAIM FOR RELIEF**

21 **Common Law Unfair Competition**

22 86. Halloween Town realleges and incorporates by reference each of the
23 foregoing paragraphs of this Complaint as though fully set forth in full herein.

24 87. Defendants’ sale, use and imitation of the Halloween Town Mark
25 constitutes infringement, copying, imitation, and misappropriation of Halloween
26 Town’s intellectual property, unjust enrichment of Defendants, and unfair
27 competition with Halloween Town in violation of Halloween Town’s rights under
28 the common law of the state of California and other states of the United States.

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1 88. Defendants’ willful conduct outlined herein has unjustly enriched
2 Defendants in violation of Halloween Town’s rights. As such, Halloween Town is
3 entitled to injunctive relief and monetary damages according to proof at trial.

4 **EIGHTH CLAIM FOR RELIEF**

5 **Dilution in Violation of California Business & Professions Code**

6 **§ 14247, et seq.**

7 89. Halloween Town realleges and incorporates by reference each of the
8 foregoing paragraphs of this Complaint as though fully set forth in full herein.

9 90. The Halloween Town Mark is distinctive and famous throughout the
10 United States. After the Halloween Town Mark became famous, Defendants used
11 and are using a mark in its trade name and products and in its advertising that is
12 identical or virtually identical to the Halloween Town Mark.

13 91. Halloween Town is informed and believes and on that basis alleges
14 that Defendants acted with knowledge of the fame and reputation of the Halloween
15 Town Mark with the purpose of usurping such rights and to willfully and
16 intentionally confuse, mislead, and deceive members of the public.

17 92. Defendants’ actions have and are likely to dilute, blur and tarnish the
18 distinctive quality of the Halloween Town Mark, to lessen the ability of the
19 Halloween Town Mark to identify and distinguish Halloween Town’s products.

20 93. As a result of Defendants’ violation of California Business and
21 Professions Code §§ 14247, et seq., Halloween Town has and continues to suffer
22 damages according to proof at trial. Further, unless Defendants are restrained,
23 Halloween Town will continue to suffer irreparable damage and injury to its
24 reputation and goodwill.

25 **PRAYER FOR RELIEF**

26 WHEREFORE, Halloween Town prays for judgment in its favor and against
27 Defendants, including but not limited to, the following relief:
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1. A preliminary and permanent injunction enjoining Defendants, their members, officers, shareholders, agents, servants, employees, attorneys, successors and assigns, distributors, retailers and those in privity with them, and those persons in active concert or participation with any of them who receive actual notice of the judgment by personal service or otherwise, from any further infringement and/or dilution of Halloween Town’s copyright in the Halloween Town Store Photo and Halloween Town’s Mark and from any further acts of unfair competition.

2. For an award of actual damages and/or statutory damages sin an amount according to proof at trial;

3. For an accounting to Halloween Town for any and all profits derived by Defendants from the unlawful acts complained of herein, and for disgorgement of those profits.

4. For reasonable attorneys’ fees;

5. For Halloween Town’s costs in this lawsuit;

6. For interest as allowed by law; and

7. For such further relief as the Court deems just and proper.

Dated: September 29, 2023

ROBINS KAPLAN LLP

By: /s/ David Martinez _____
David Martinez

**Attorneys for Plaintiff
HALLOWEEN TOWN, INC.**

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DEMAND FOR JURY TRIAL

Halloween Town hereby demands a trial by jury.

Dated: September 29, 2023

ROBINS KAPLAN LLP

By: /s/ David Martinez _____
David Martinez

**Attorneys for Plaintiff
HALLOWEEN TOWN, INC.**