

 **ORIGINAL**

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

Nike, Inc.,

Plaintiff(s)

v.
 Sothearith Chhay, Sophorn Chhay, Steve
 Chhay, Khemora Chor, Naray Rath and
 Does 1 - 10, inclusive,

Defendant(s)

CASE NUMBER:

CV 08-00061

SUMMONS

TO: THE ABOVE-NAMED DEFENDANT(S):

YOU ARE HEREBY SUMMONED and required to file with this court and serve upon plaintiff's attorney
J. Andrew Coombs, whose address is:

J. Andrew Coombs, A P. C.
 517 East Wilson Avenue, Suite
 202
 Glendale, California 91206

an answer to the ☒ complaint ☐ _____ amended complaint ☐ counterclaim ☐ cross-claim
 which is herewith served upon you within 20 days after service of this Summons upon you, exclusive
 of the day of service. If you fail to do so, judgment by default will be taken against you for the relief
 demanded in the complaint.

CLERK, U.S. DISTRICT COURT

Date: **JAN - 4 2008**

By: Natalie Longoria
 Deputy Clerk

(Seal of the Court)

SUMMONS

FILED

J. Andrew Coombs (SBN 123881)
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2008 JAN -4 PM 2:58

CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

BY _____

Attorneys for Plaintiff Nike, Inc.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Nike, Inc.,

Plaintiff,

v.

Sothearith Chhay, Sophorn Chhay, Steve
Chhay, Khemora Chor, Naray Rath and
Does 1 – 10, inclusive,

Defendants.

Case No. **CV08-00061 R (CWx)**
COMPLAINT FOR TRADEMARK
INFRINGEMENT, TRADEMARK
DILUTION AND UNFAIR
COMPETITION

DEMAND FOR JURY TRIAL

Plaintiff Nike, Inc. ("Nike") alleges as follows:

JURISDICTION AND VENUE

1. This Court has original subject matter jurisdiction over the claims in this action pursuant to the provisions of the Lanham Act, 15 U.S.C. § 1051, *et seq.*, 28 U.S.C. § 1338(a) and 28 U.S.C. § 1331. This Court has jurisdiction over the claims in this action that arise under the law of the State of California pursuant to 28 U.S.C. § 1367(a), because the state law claims are so related to the federal claims that they form part of the same case or controversy and derive from a common nucleus of operative facts.

2. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b). The defendants offered and sold products that are the subject of this litigation in the

COPY

1 Central District of California. The claims alleged in this action arose in the Central
2 District of California.

3 INTRODUCTION

4 3. This action has been filed by Nike to combat the willful sale of
5 unlicensed and counterfeit products ("Infringing Product"), specifically including its
6 core product of sports shoes, bearing Nike's exclusive trademarks. Defendants in
7 this action are sellers of counterfeit Nike branded shoes through Internet sites
8 including but not necessarily limited to www.retrosneak.com,
9 www.23retrosneakers.com, www.buyretrosneakers.com, www.retro23fans.com and
10 www.airjordanshoesonline.com (the "Websites"). Through such active
11 manufacturing, purchasing, distributing, offering of sale and selling such unlicensed
12 and counterfeit footwear, Nike is irreparably damaged through consumer confusion,
13 dilution and tarnishment of its valuable trademarks.

14 4. Nike seeks a permanent injunction, damages, costs and attorney's fees
15 as authorized by the Lanham Act and California law.

16 THE PARTIES

17 5. Nike is a corporation duly organized and existing under the laws of the
18 State of Oregon having its principal place of business in Beaverton, Oregon. Nike is
19 qualified to do business in the State of California and both directly and through its
20 wholly owned affiliated companies is engaged in a variety of businesses in the City
21 and County of Los Angeles.

22 6. Defendant Sothearith Chhay ("Sothearith Chhay") is an individual
23 resident of the State of California. Upon information and belief, Sothearith Chhay
24 transacts business as retrosneakers.com, 23retrosneakers.com, buyretrosneakers.com,
25 retro23fans.com and airjordanshoesonline.com, by selling, offering for sale,
26 importing, advertising and distributing the Infringing Product in this judicial district.
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1 7. Defendant Sophorn Chhay ("Sophorn Chhay") is an individual resident
2 of the State of California. Upon information and belief, Sophorn Chhay transacts
3 business as retrosneak.com, 23retroshoes.com, buyretroshoe.com, retro23fans.com
4 and airjordanshoesonline.com, by selling, offering for sale, importing, advertising
5 and distributing the Infringing Product in this judicial district.

6 8. Defendant Steve Chhay ("Steve Chhay") is an individual resident of the
7 State of California. Upon information and belief, Steve Chhay transacts business as
8 retrosneak.com, 23retroshoes.com, buyretroshoe.com, retro23fans.com and
9 airjordanshoesonline.com, by selling, offering for sale, importing, advertising and
10 distributing the Infringing Product in this judicial district.

11 9. Defendant Khemora Chor ("Chor") is an individual resident of the State
12 of California. Upon information and belief, Chor transacts business as
13 retrosneak.com, 23retroshoes.com, buyretroshoe.com, retro23fans.com and
14 airjordanshoesonline.com, by selling, offering for sale, importing, advertising and
15 distributing the Infringing Product in this judicial district.

16 10. Defendant Naray Rath ("Rath") is an individual resident of the State of
17 California. Upon information and belief, Rath transacts business as retrosneak.com,
18 23retroshoes.com, buyretroshoe.com, retro23fans.com and
19 airjordanshoesonline.com, by selling, offering for sale, importing, advertising and
20 distributing the Infringing Product in this judicial district.

21 11. Nike is informed and believes, and upon that basis alleges, that
22 defendants John Does 1-10 are entities or individuals who are residents in this
23 judicial district and are subject to the jurisdiction of this Court. Nike is informed and
24 believes, and upon that basis alleges, that Does 1-10 are entities or individuals who
25 are manufacturing, distributing, importing, displaying, advertising, promoting,
26 selling and/or offering for sale, merchandise in this judicial district which infringes
27 the Nike Trademarks. The identities of the various Does are unknown to Nike at this
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1 time. Upon information and belief, said fictitiously named defendants are liable to
2 Nike on the basis of the same allegations made herein against Does. Nike will seek
3 leave to amend this Complaint to insert the true names and capacities when the same
4 are ascertained. The named Defendants and Does 1-10 are collectively referred to
5 herein as "Defendants".

6 **FACTUAL BACKGROUND**

7 12. Nike is engaged in the manufacture, design and sale of footwear,
8 apparel, and related accessories. Products manufactured and sold by Nike bear the
9 NIKE trademark, or an arbitrary and distinctive trademark which has come to be
10 known as the Swoosh Design trademark, or a composite trademark consisting of the
11 word NIKE and the Swoosh Design. Nike uses these trademarks on shoes and
12 apparel as trademarks of Nike's high quality products. Nike sells in excess of
13 \$4,500,000,000 a year in merchandise bearing its distinctive trademarks.

14 13. All products described above are sold with one or more of the Nike
15 trademarks alleged in paragraph 8. Nike adopted and used the NIKE and Swoosh
16 Design trademarks in 1971. Nike registered the NIKE trademark in block letters on
17 May 8, 1984, Registration No. 1,277,066 in Class 25 for apparel. Nike registered the
18 Swoosh Design on July 3, 1984, Registration No. 1,284,385 for apparel in Class 25.
19 Nike registered the composite mark of Nike and the Swoosh Design trademark on
20 May 10, 1983, for apparel in Class 25. And, more recently, Nike has registered the
21 NIKE AIR trademark, Registration No. 1,591,006, for apparel in Class 25.

22 14. Additionally, Nike obtained registrations for word marks incorporating
23 the word "air", including AIR JORDAN, AIR MAX and AIR TRAINER. These are
24 some, but by no means all, of Nike's federal trademark registrations. Each of The
25 Nike Trademarks have been registered with the United States Patent and Trademark
26 Office pursuant to the Lanham Act (15 U.S.C. § 1051). A list of Nike's federal
27 trademark registrations are attached hereto as Exhibit "A". (The trademarks
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1 identified in Exhibit "A" are collectively referred to herein as the "Nike
2 Trademarks.") All of the Nike Trademarks are current and in full force and effect.
3 Many of the marks have become incontestable pursuant to 15 U.S.C. § 1065.
4 Additionally, all of the Nike Trademarks qualify as famous marks pursuant to 15
5 U.S.C. § 1125.

6 15. The Nike Trademarks are distinctive when applied to the high quality
7 apparel, footwear and related merchandise signify to the purchaser that the products
8 come from Nike and are manufactured to the highest quality standard. Whether Nike
9 manufactures the products itself, or licenses others to do it, Nike has insured that
10 products bearing its trademarks are manufactured to such standard. Nike's products
11 have been widely accepted by the public and are enormously popular, as
12 demonstrated by billions of dollars in sales each year.

13 16. This enormous popularity is not without cost, as evidenced by the
14 increasing number of counterfeiters in the United States and around the world.
15 Indeed, it is a modern irony that companies measure success by the extent of their
16 counterfeiting problem.

17 **DEFENDANTS' UNLAWFUL CONDUCT**

18 17. Defendants are involved in the manufacture, purchase, distribution,
19 offering for sale and/or sale of counterfeit and/or infringing footwear bearing the
20 Nike Trademarks to the general public. Defendants do so using the Websites.

21 18. Nike is informed and believes and based thereon alleges that Defendants
22 processes purchases of counterfeit and infringing footwear incorporating likenesses
23 of one or more of the Nike Trademarks.

24 **FIRST CLAIM FOR RELIEF**

25 **(Trademark Infringement)**

26 19. Nike hereby repeats and alleges the allegations set forth in paragraphs 1
27 through 18 above, as if set forth fully herein.
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1 20. Nike's claim arises under Sections 32 and 43 of the Lanham Act, 15
2 U.S.C. §§ 1114 and 1125, for infringement of registered and unregistered marks.

3 21. Nike owns the exclusive trademark rights to those trademarks listed on
4 Exhibit "A". All of the trademark registrations are in full force and effect. In many
5 instances the trademarks have become incontestable pursuant to 15 U.S.C. § 1065.

6 22. All advertising and products, including apparel, footwear, watches,
7 jewelry and related merchandise, which have been sold by Nike, or under its
8 authority, have been manufactured and distributed in conformity with the provisions
9 of the United States trademark law.

10 23. Notwithstanding Nike's well known and prior common law and
11 statutory rights in the Nike Trademarks, Defendants have, with actual and
12 constructive notice of Nike's federal registration rights, and long after Nike
13 established its rights in the Nike Trademarks, adopted and used the Nike Trademarks
14 in conjunction with the manufacture, purchase, distribution, offer of sale and sale of
15 footwear in the State of California and in interstate commerce.

16 24. Defendants have caused to be imported, distributed, offered for sale and
17 sold footwear bearing one or more of the Nike Trademarks without the authorization
18 of Nike. Defendants' manufacture, purchase, distribution, offer for sale and sale of
19 footwear and related merchandise bearing the Nike Trademarks in California, and in
20 interstate commerce has and is likely to cause confusion, deception and mistake or to
21 deceive as to the source and origin of the footwear and related merchandise in that
22 the buying public will conclude that the products sold by Defendants are authorized,
23 sponsored, approved or associated with Nike.

24 25. Such confusion, deception and mistake has occurred as a direct result of
25 Defendants' display, advertising and promotion, both in-store and otherwise, of the
26 infringing footwear and other merchandise.
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1 26. Upon information and belief, Defendants' activities have also caused
2 actual confusion with consumers as to the source and origin of such footwear and
3 other merchandise.

4 27. Defendants' infringing activities will cause irreparable injury to Nike if
5 Defendants are not restrained by the Court from further violation of Nike's rights, as
6 Nike has no adequate remedy at law.

7 28. Nike has suffered damages as a result of the aforesaid acts. Defendants
8 have profited from its unlawful activities. Unless Defendants' conduct is enjoined,
9 Nike and its goodwill and reputation will continue to suffer irreparable injury which
10 cannot be adequately calculated or compensated solely by money damages.
11 Accordingly, Nike seeks preliminary and permanent injunctive relief pursuant to 15
12 U.S.C. § 1116.

13 29. Defendants' use in commerce of The Nike Trademarks in the sale of
14 footwear and related merchandise is an infringement of Nike's registered trademarks
15 in violation of 15 U.S.C. §§ 1114(1) and 1125.

16 30. Defendants committed the acts alleged herein intentionally,
17 fraudulently, maliciously, willfully, wantonly and oppressively with the intent to
18 injure Nike and its business. Accordingly, Nike is entitled to a judgment of three
19 times its damages and Defendants' profits, together with reasonable attorneys' fees
20 pursuant to 15 U.S.C. § 1117(a).

21 31. In order to determine the full extent of such damages, including such
22 profits, Nike will require an accounting from each defendant of all monies generated
23 from the manufacture, importation, distribution and/or sale of the infringing footwear
24 as alleged herein.

25 32. The unlicensed footwear bearing the Nike Trademarks, which was sold,
26 distributed and offered for sale by Defendants constitutes counterfeit products
27 pursuant to 15 U.S.C. § 1116(d).
28

SECOND CLAIM FOR RELIEF

(Lanham Act - Unfair Competition)

33. Nike hereby repeats and realleges the allegations set forth in paragraphs 1 through 32 above, as if set forth fully herein.

34. Nike's claim arises under section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a) and (d) for false designation of origin and false descriptions and representations in interstate commerce.

35. As a direct result of Nike's longstanding use, sales, advertising and marketing, the Nike Trademarks have acquired secondary and distinctive meaning among the public who have come to identify the Nike Trademarks with Nike and its products.

36. The unauthorized and counterfeit footwear and related merchandise which has been manufactured, purchased, distributed, offered for sale and sold by Defendants, duplicates and appropriates the Nike Trademarks in order to delude and confuse the public into believing that such footwear and related merchandise are authorized, sponsored, approved or associated with Nike.

37. Defendants, by misappropriating and using the likenesses of the Nike Trademarks in connection with the sale of such products, are misrepresenting and will continue to misrepresent and falsely describe to the general public the origin and sponsorship of their products. Defendants have caused such products to enter into interstate commerce willfully, with full knowledge of the falsity of the designation of their origin and description and representation in an effort to mislead the purchasing public into believing that their products are authorized or emanate from Nike.

38. Such confusion, deception and mistake has occurred as a direct result of Defendants' display, advertising and promotion, both in-store and otherwise, of the infringing footwear and other merchandise.

1 39. Defendants' use in commerce of the Nike Trademarks in the sale of
2 footwear and related merchandise is an infringement of Nike's registered trademarks
3 in violation of 15 U.S.C. § 1125.

4 40. Defendants have profited from their unlawful activities. Unless
5 Defendants' conduct is enjoined, Nike and its goodwill and reputation will continue
6 to suffer irreparable injury which cannot be adequately calculated or compensated
7 solely by money damages. Accordingly, Nike seeks preliminary and permanent
8 injunctive relief pursuant to 15 U.S.C. § 1116.

9 41. Nike has suffered monetary damages as a result of Defendants' acts. In
10 order to determine the full extent of such damages, including such profits as may be
11 recoverable; Nike will require an accounting from Defendants of all monies
12 generated from the manufacture, importation, distribution and/or sale of the
13 infringing footwear as alleged herein.

14 42. Accordingly, Nike is entitled to a judgment of three times its damages
15 and Defendants' profits, together with reasonable attorneys' fees pursuant to 15
16 U.S.C. § 1117(a).

17 **THIRD CLAIM FOR RELIEF**

18 **(Lanham Act - Dilution of Famous Mark)**

19 43. Nike hereby repeats and realleges the allegations set forth in paragraphs
20 1 through 42, above, as if set forth fully herein.

21 44. Nike's claim arises under Section 43 of the Lanham Act, 15 U.S.C. §
22 1125(c).

23 45. As a result of Nike's continuous promotion of its products in
24 conjunction with the Nike Trademarks, the Nike Trademarks have become
25 recognized as distinctive and famous trademarks.

26 46. Defendants' use in commerce of the Nike Trademarks began after the
27 Nike Trademarks had become famous and has caused dilution of the distinctive
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1 quality of the marks. Such conduct has caused injury to Nike pursuant to 15 U.S.C.
2 § 1125(c).

3 47. Such dilution has occurred as a direct result of Defendants' display,
4 advertising and promotion, both in-store and otherwise, of the infringing footwear
5 and other merchandise.

6 48. Defendants willfully intended to trade on Nike's reputation and/or to
7 cause dilution of the famous trademarks. Accordingly, Nike is entitled to recover its
8 damages, as well as Defendants' profits received as a result of the infringement,
9 pursuant to 15 U.S.C. § 1117(a).

10 49. Unless Defendants' conduct is enjoined, Nike and its goodwill and
11 reputation will suffer irreparable injury which cannot be adequately calculated or
12 compensated solely by money damages. Accordingly, Nike seeks permanent
13 injunctive relief pursuant to 15 U.S.C. § 1116 and 15 U.S.C. § 1125(c) (1).

14 **FOURTH CLAIM FOR RELIEF**

15 **(For Unfair Competition – California Law)**

16 50. Nike hereby repeats and realleges the allegations set forth in paragraphs
17 1 through 49, above, as if set forth fully herein.

18 51. The Nike Trademarks have acquired secondary meaning indicative of
19 origin, relationship, sponsorship and/or association with Nike. The purchasing
20 public is likely to attribute to Nike the use by Defendants of the Nike Trademarks or
21 any of them, as a source of origin, authorization and/or sponsorship for Defendants'
22 goods and therefore to purchase such goods based upon that erroneous belief.

23 52. Nike is informed and believes, and upon that basis alleges, that
24 Defendants have intentionally appropriated the Nike trademarks with the intent of
25 causing confusion, mistake and deception as to the source of their goods and with the
26 intent to palm off such goods as those of Nike and, as such, Defendants have
27 committed trademark infringement, misleading advertising and unfair competition,
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1 all in violation of the California Unfair Business Practices Act, Cal. Bus. & Prof.
2 Code, § 17200, *et seq.*

3 53. Defendants' appropriation, adoption and use of one or more of the Nike
4 Trademarks, including the sale and offering for sale of infringing shoes bearing or
5 using one or more of the Nike Trademarks in connection with the provision of goods
6 is likely to cause confusion between Defendants' infringing product and the goods
7 authorized and licensed by the Nike, thus constituting a violation of the California
8 Unfair Business Practices Act, Cal. Bus. & Prof. Code, § 17200, *et seq.*

9 54. Nike is informed and believes, and upon that basis alleges, that these
10 deceptive, unfair and fraudulent practices have been undertaken with knowledge by
11 Defendants of their wrongfulness. Nike is informed and believes, and upon that
12 basis alleges, that Defendants' use of Nike's trademarks is for the willful and
13 calculated purpose of misappropriating Plaintiffs' goodwill and business reputation,
14 at Nike's expense and at no expense to Defendants. By taking one or more of the
15 Nike Trademarks, Nike has been deprived of an opportunity to conduct business
16 using its trademarks and deprived of the right to control the use of its trademarks and
17 Defendants have been unjustly enriched.

18 55. Nike has no adequate remedy at law and has suffered and is continuing
19 to suffer irreparable harm and damage as a result of Defendants' acts in an amount
20 thus far not determined but within the jurisdiction of this Court.

21 56. Nike is informed and believes, and upon that basis alleges, that unless
22 enjoined by the Court, the confusion and deception alleged herein and the likelihood
23 thereof will continue with irreparable harm and damage to Nike.

24 57. Nike is informed and believes, and upon that basis alleges, that
25 Defendants have unlawfully and wrongfully derived and will continue to derive
26 income, gains, profits and advantages as a result of their wrongful acts of unfair
27 competition, in amounts thus far not determined but within the jurisdiction of this
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1 Court. Nike is informed and believes, and upon that basis alleges, that it has lost and
2 will continue to lose profits and goodwill as a result of Defendants' conduct.

3 58. By reason of the foregoing acts of unfair competition, Nike is entitled to
4 restitution from Defendants of all income, gains, profits and advantages resulting
5 from their wrongful conduct in amounts to be determined according to proof at trial.

6 59. In order to determine the full extent of such damages, including such
7 profits as may be recoverable; Nike will require an accounting from Defendants of
8 all monies generated from the manufacture, importation, distribution and/or sale of
9 the infringing product.

10 60. Nike is informed and believes, and upon that basis alleges, that
11 Defendants committed the acts alleged herein intentionally, fraudulently,
12 maliciously, willfully, wantonly and oppressively, with intent to injure Nike in its
13 business and with conscious disregard for Nike's rights, thereby justifying awards of
14 punitive and exemplary damages in amounts sufficient to punish and to set an
15 example for others.

16 **SIXTH CLAIM FOR RELIEF**

17 **(Dilution under California Law)**

18 61. Nike hereby repeats and realleges the allegations set forth in paragraphs
19 1 through 60 above, as if set forth fully herein.

20 62. Nike is informed and believes, and upon that basis alleges, that
21 Defendants' acts have caused a likelihood of injury to Nike's goodwill and business
22 reputation, impaired the effectiveness of Nike's trademarks and diluted its distinctive
23 trade names and trademarks.

24 63. Nike is informed and believes, and upon that basis alleges, that
25 Defendants' acts violate the trademark laws of the State of California and,
26 specifically, California Business and Professions Code, § 14330.

27 64. Nike has no adequate remedy at law and Defendants' conduct, if not
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1 enjoined, will continue to cause irreparable damage to Nike's rights in their
2 trademarks, trade name, reputation and goodwill.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Nike demands entry of a judgment against Defendants as
5 follows:

- 6 1) Permanent injunctive relief restraining Defendants, their officers, agents,
7 servants, employees and attorneys, and all those in active concert or
8 participation with them, from:
- 9 a) further infringing the Nike Trademarks by manufacturing, producing,
10 distributing, circulating, selling, marketing, offering for sale,
11 advertising, promoting, displaying or otherwise disposing of any
12 products not authorized by Nike, including, but not limited to footwear
13 and related merchandise, bearing any simulation, reproduction,
14 counterfeit, copy or colorable imitation of any of the Nike Trademarks
15 ("Unauthorized Products");
- 16 b) using any simulation, reproduction, counterfeit, copy or colorable
17 imitation of any of the Nike Trademarks in connection with the
18 promotion, advertisement, display, sale, offer for sale, manufacture,
19 production, circulation or distribution of Unauthorized Products in such
20 fashion as to relate or connect, or tend to relate or connect, such
21 products in any way to Nike, or to any goods sold, manufactured,
22 sponsored or approved by, or connected with Nike;
- 23 c) making any statement or representation whatsoever, or using any false
24 designation of origin or false description, or performing any act, which
25 can or is likely to lead the trade or public, or individual members
26 thereof, to believe that any products manufactured, distributed or sold
27 by Defendants are in any manner associated or connected with Nike, or
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- 1 are sold, manufactured, licensed, sponsored, approved or authorized by
2 Nike;
- 3 d) engaging in any other activity constituting unfair competition with Nike,
4 or constituting an infringement of any of Nike's trademarks or of Nike's
5 rights in, or to use or to exploit, said trademarks, or constituting any
6 dilution of any of Nike's names, reputations, or good will;
- 7 e) effecting assignments or transfers, forming new entities or association
8 or utilizing any other device for the purpose of circumventing or
9 otherwise avoiding the prohibitions set forth in Subparagraphs (a)
10 through (d);
- 11 f) secreting, destroying, altering, removing or otherwise dealing with the
12 Unauthorized Products or any books or records which may contain any
13 information relating to the importing, manufacturing, producing,
14 distributing, circulating, selling, marketing, offering for sale,
15 advertising, promoting or displaying of all unauthorized products which
16 infringe any of Nike's trademarks; and
- 17 g) aiding, abetting, contributing to or otherwise assisting anyone from
18 infringing upon Nike's trademarks.
- 19 2) Directing that Defendants deliver for destruction all Unauthorized Products,
20 including footwear, and labels, signs, prints, packages, dyes, wrappers,
21 receptacles and advertisements relating thereto in their possession or under
22 their control bearing any of the Nike Trademarks or any simulation,
23 reproduction, counterfeit, copy or colorable imitations thereof, and all plates,
24 molds, heat transfers, screens, matrices and other means of making the same.
- 25 3) Directing such other relief as the Court may deem appropriate to prevent the
26 trade and public from gaining the erroneous impression that any products
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1 manufactured, sold or otherwise circulated or promoted by defendant are
2 authorized by Nike, or related in any way to Nike's products.

- 3 4) That Nike be awarded from Defendants, as a result of Defendants' sale of
4 Unauthorized Products bearing the Nike Trademarks, three times Nike's
5 damages there from and three times of each of Defendants' profits there from,
6 after an accounting, or, in the alternative statutory damages, should Nike opt
7 for such relief, consisting of One Hundred Thousand Dollars (\$100,000.00)
8 for each of The Nike Trademarks infringed upon by each of the Defendants,
9 and to the extent this Court concludes such infringement was willful, One
10 Million Dollars (\$1,000,000), for each of The Nike Trademarks infringed
11 upon by each of the Defendants, pursuant to 15 U.S.C. § 1114 and § 1117.
- 12 5) That Nike be awarded from Defendants three times Nike's damages there from
13 and three times Defendants' profits there from, after an accounting, pursuant
14 to 15 U.S.C. § 1125(a) and § 1117.
- 15 6) That Nike be awarded its reasonable attorney's fees and investigative fees
16 pursuant to 15 U.S.C. § 1117.
- 17 7) That Nike be awarded punitive damages for Defendants' willful acts of unfair
18 competition under California law.
- 19 8) That Nike be awarded its costs in bringing this action.
- 20 9) That Nike have such other and further relief that this Court deems just.

21 Dated: January 8, 2008

J. Andrew Coombs, A Professional Corp.

22
23
24 By: J. Andrew Coombs
Annie S. Wang
Attorneys for Plaintiff Nike, Inc.

DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38(b), Nike Inc. hereby demands
a trial by jury of all issues so triable.

DATED: January 8, 2008

J. Andrew Coombs, A Professional Corp.


By: J. Andrew Coombs
Annie S. Wang
Attorneys for Plaintiff Nike, Inc.

EXHIBIT A**Nike Registrations**

Trademark	Registration Number	Registration Date
Swoosh® Design	977,190	January 22, 1974
Nike®	1,277,066	May 8, 1984
Swoosh® Design	1,284,385	July 3, 1984
Nike® and Swoosh® Design	1,237,469	May 10, 1983
Nike Air®	1,571,066	December 12, 1989
Air Jordan® Design	1,742,019	December 22, 1992 (Class 18 and 25)
Just Do It®	1,875,307	January 24, 1995
Nike®	2,196,735	October 13, 1998 (Class 14)
Nike® and Swoosh® Design	2,209,815	December 8, 1998 (Class 14)
AIR-SOLE	1,145,812	January 13, 1981
SWOOSH	1,200,529	July 6, 1982
NIKE	1,214,930	November 2, 1982
NIKE AIR w/Swoosh device	1,284,386	July 3, 1984
NIKE AIR	1,307,123	November 27, 1984
Swoosh device on shoe	1,323,342	March 5, 1985
Swoosh device	1,323,343	March 5, 1985
NIKE w/Swoosh device	1,325,938	March 19, 1985
AIR JORDAN	1,370,283	November 12, 1985
AIR MAX	1,508,348	October 11, 1988
AIR TRAINER	1,508,360	October 11, 1988
Jump Man device	1,558,100	September 26, 1989
AIR SKYLON	1,665,479	November 19, 1991
AIR SOLO FLIGHT	1,668,590	December 17, 1991
AIR FLIGHT	1,686,515	May 12, 1992
AIR DESCHUTZ	1,735,721	November 24, 1992
AIR TRAINER MAX	1,789,463	August 24, 1993
RUNWALK device	1,877,672	February 7, 1995
STARTER	1,896,998	May 30, 1995
NIKE GOLF	1,944,436	December 26, 1995
NIKE REGRIND	2,022,321	December 10, 1996

1	AIRMAX in oval	2,030,750	January 14, 1997
2	AIR UPTempo in crest	2,032,582	January 21, 1997
3	NIKE REGRIND in crest	2,042,940	March 11, 1997
4	AIR with Swoosh device	2,068,075	June 3, 1997
5	NIKE with Swoosh device	2,104,329	October 7, 1997
6	ACG NIKE in triangle	2,117,273	December 2, 1997
7	Stylized "B"	2,476,882	August 14, 2001
8	NIKE ALPHA PROJECT as device	2,517,735	December 11, 2001
9	Ellipses device	2,521,178	December 18, 2001
10	STORM-FIT	2,551,655	March 26, 2002
11	Baseballer silhouette device	2,571,726	May 21, 2002
12	Reverse "Z" in rectangle device	2,584,382	June 25, 2002
13	NIKE GOLF with crest	2,628,587	October 1, 2002
14	WAFFLE RACER	2,652,318	November 19, 2002
15	PHYLITE	2,657,832	December 10, 2002
16	TRUNNER	2,663,568	December 17, 2002
17	DRI-STAR	2,691,476	February 25, 2003
18	BOING	2,735,172	July 8, 2003
19	Swoosh with clubs crest	2,753,357	August 19, 2003
20	PRESTO	2,716,140	May 13, 2003
21	FOOTENT	2,798,233	December 23, 2003
22	FOOTENT in device	2,798,234	December 23, 2003
23	TRIAx	2,810,679	February 3, 2004
24	R9	2,843,275	May 18, 2004
25	WAFFLE TRAINER	2,893,674	October 12, 2004
26	THERMA-STAR	2,960,844	June 7, 2005
27	NIKE SHOX	2,970,902	July 19, 2005
28	STARTER	2,971,216	July 19, 2005
	Basketball player outline	2,977,850	July 26, 2005
	STAR FLEX	3,002,455	September 27, 2005
	10//2 in rectangle	3,057,889	February 7, 2006
	NIKEFREE	3,087,455	May 2, 2006

CIVIL COVER SHEET

I(a) PLAINTIFFS

Nike, Inc.

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Washington
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) ATTORNEYS (FIRM NAME, ADDRESS AND TELEPHONE NUMBER)

J. Andrew Coombs (SBN 123881) / Annie S. Wang (SBN 243027)
J. Andrew Coombs, A P. C.
517 East Wilson Avenue, Suite 202, Glendale, California 91206
Telephone: (818) 500-3200/ Facsimile: (818) 500-3201

DEFENDANTS

Sothearith Chhay, Sophorn Chhay, Steve Chhay, Khemora Chor,
Naray Rath and Does 1-10, inclusive,COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Los Angeles
(IN U.S. PLAINTIFF CASES ONLY)

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
- ☒ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties In Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN x IN ONE BOX FOR PLAINTIFF AND ONE FOR DEFENDANT)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. ORIGIN (PLACE AN x IN ONE BOX ONLY)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multi-district Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

V. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$Check YES only if demanded in complaint: JURY DEMAND: ☒ YES ☐ NO

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

Trademark infringement 15 U.S.C. §§ 1051, et seq.

VII. NATURE OF SUIT (PLACE AN x IN ONE BOX ONLY)

OTHER STATUTES	CONTRACT	TORTS	FORFEITURE / PENALTY	BANKRUPTCY
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 625 Drug Related Seizure of Property	<input type="checkbox"/> 424 Bankruptcy
<input type="checkbox"/> 450 Commerce/ICC Rates/etc.	<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Fed. Employers' Liability	<input type="checkbox"/> 21 USC 881	<input type="checkbox"/> 425 Bankruptcy
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 426 Bankruptcy
<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 427 Bankruptcy
<input type="checkbox"/> 810 Selective Service	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 650 Airline Regs	<input type="checkbox"/> 428 Bankruptcy
<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 660 Occupational Safety /Health	<input type="checkbox"/> 429 Bankruptcy
<input type="checkbox"/> 875 Customer Challenge 12 USC 3410	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 430 Bankruptcy
<input type="checkbox"/> 891 Agricultural Act	<input type="checkbox"/> 190 Other Contract			<input type="checkbox"/> 431 Bankruptcy
<input type="checkbox"/> 892 Economic Stabilization Act	<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 432 Bankruptcy
<input type="checkbox"/> 893 Environmental Matters				<input type="checkbox"/> 433 Bankruptcy
<input type="checkbox"/> 894 Energy Allocation Act				<input type="checkbox"/> 434 Bankruptcy
<input type="checkbox"/> 895 Freedom of Information Act				<input type="checkbox"/> 435 Bankruptcy
<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice				<input type="checkbox"/> 436 Bankruptcy
<input type="checkbox"/> 950 Constitutionality of State Statutes				<input type="checkbox"/> 437 Bankruptcy
<input type="checkbox"/> 890 Other Statutory Actions				<input type="checkbox"/> 438 Bankruptcy
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VIII(a). IDENTICAL CASES: Has this action been previously filed and dismissed, remanded or closed? ☐ YES ☒ NO

If yes, list case number(s):

CV-71 (10/01)

CIVIL COVER SHEET

Page 1 of 2

FOR OFFICE USE ONLY:

☐ Pro Hac Vice fee: ☐ paid ☐ not paid

Applying IFP

Judge

Mag. Judge

CIVIL COVER SHEET
(Reverse Side)

AFTER COMPLETING THE FRONT SIDE OF FORM JS-44C, COMPLETE THE INFORMATION REQUESTED BELOW.

VIII(b). RELATED CASES: Have any cases been previously filed that are related to the present case? ☐ YES ☒ NO

If yes, list case number(s): _____

CIVIL CASES ARE DEEMED RELATED IF A PREVIOUSLY FILED CASE AND THE PRESENT CASE:

- (CHECK ALL BOXES THAT APPLY) ☐ A. Appear to arise from the same or substantially identical transactions, happenings, or events;
☐ B. Involve the same or substantially the same parties or property;
☐ C. Involve the same patent, trademark or copyright;
☐ D. Call for determination of the same or substantially identical questions of law, or
☐ E. Likely for other reasons may entail unnecessary duplication of labor if heard by different judges.

IX. VENUE: List the California County, or State if other than California, in which **EACH** named plaintiff resides (Use an additional sheet if necessary)
☐ CHECK HERE IF THE US GOVERNMENT, ITS AGENCIES OR EMPLOYEES IS A NAMED PLAINTIFF.

Oregon

List the California County, or State if other than California, in which **EACH** named defendant resides. (Use an additional sheet if necessary).

☐ CHECK HERE IF THE US GOVERNMENT, ITS AGENCIES OR EMPLOYEES IS A NAMED DEFENDANT.

Los Angeles - all defendants

List the California County, or State if other than California, in which **EACH** claim arose. (Use an additional sheet if necessary)

NOTE: In land condemnation cases, use the location of the tract of land involved.

Los Angeles

X. SIGNATURE OF ATTORNEY (OR PRO PER): X

Date 1/3/08

NOTICE TO COUNSEL/PARTIES: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

<u>NATURE OF SUIT CODE</u>	<u>ABBREVIATION</u>	<u>SUBSTANTIVE STATEMENT OF CAUSE OF ACTION</u>
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))