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6 Attorneys for Plaintiff Nike, Inc.

BY _____
2008 JAN 11 PM 3:03
COURT
CENTRAL DISTRICT OF CALIF.
FILED

9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA

11 Nike, Inc.,	}	Case No. CV 08 - 00188	DSF
12 Plaintiff,		}	COMPLAINT FOR TRADEMARK INFRINGEMENT, TRADEMARK DILUTION AND UNFAIR COMPETITION
13 v.			
14 Shem Weissman, and Does 1 - 10, 15 inclusive,	}	}	DEMAND FOR JURY TRIAL
16 Defendants.			

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

18 **JURISDICTION AND VENUE**

19 1. This Court has original subject matter jurisdiction over the claims in this
20 action pursuant to the provisions of the Lanham Act, 15 U.S.C. § 1051, et seq., 28
21 U.S.C. § 1338(a) and 28 U.S.C. § 1331. This Court has jurisdiction over the claims
22 in this action that arise under the law of the State of California pursuant to 28 U.S.C.
23 § 1367(a), because the state law claims are so related to the federal claims that they
24 form part of the same case or controversy and derive from a common nucleus of
25 operative facts.

26 2. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b).
27 The Defendants offered and sold products that are the subject of this litigation in the
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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.kickstime.com (the “Website”).
9 Through such active manufacturing, purchasing, distributing, offering of sale and
10 selling such unlicensed and counterfeit footwear, Nike is irreparably damaged
11 through consumer confusion, dilution and tarnishment of its valuable trademarks.

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

14 **THE PARTIES**

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

20 6. Defendant Shem Weissman (“Weissman”) is an individual resident of
21 the city of Long Beach, State of California. Weissman transacts business as
22 www.kickstime.com and KicksTime Online Ltd. by selling, offering for sale,
23 importing, advertising and distributing the Infringing Product in this judicial district.

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

9 **FACTUAL BACKGROUND**

10 8. Nike is engaged in the manufacture, design and sale of footwear,
11 apparel, and related accessories. Products manufactured and sold by Nike bear the
12 NIKE trademark, or an arbitrary and distinctive trademark which has come to be
13 known as the Swoosh Design trademark, or a composite trademark consisting of the
14 word NIKE and the Swoosh Design. Nike uses these trademarks on shoes and
15 apparel as trademarks of Nike's high quality products. Nike sells in excess of
16 \$4,500,000,000 a year in merchandise bearing its distinctive trademarks.

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

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

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

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

20 **DEFENDANTS' UNLAWFUL CONDUCT**

21 13. Defendants are involved in the manufacture, purchase, distribution,
22 offering for sale and/or sale of counterfeit and/or infringing footwear bearing the
23 Nike Trademarks to the general public. Defendants do so using the Website.

24 14. Nike is informed and believes and based thereon alleges that Defendants
25 processes purchases of counterfeit and infringing footwear incorporating likenesses
26 of one or more of the Nike Trademarks.

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FIRST CLAIM FOR RELIEF

(Trademark Infringement)

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3 15. Nike hereby repeats and alleges the allegations set forth in paragraphs 1
4 through 14 above, as if set forth fully herein.

5 16. Nike's claim arises under Sections 32 and 43 of the Lanham Act, 15
6 U.S.C. §§ 1114 and 1125, for infringement of registered and unregistered marks.

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

10 18. All advertising and products, including apparel, footwear, watches,
11 jewelry and related merchandise, which have been sold by Nike, or under its
12 authority, have been manufactured and distributed in conformity with the provisions
13 of the United States trademark law.

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

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

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

4 22. Upon information and belief, Defendants' activities have also caused
5 actual confusion with consumers as to the source and origin of such footwear and
6 other merchandise.

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

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

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

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

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

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1 41. As a result of Nike's continuous promotion of its products in
2 conjunction with the Nike Trademarks, the Nike Trademarks have become
3 recognized as distinctive and famous trademarks.

4 42. Defendants' use in commerce of the Nike Trademarks began after the
5 Nike Trademarks had become famous and has caused dilution of the distinctive
6 quality of the marks. Such conduct has caused injury to Nike pursuant to 15 U.S.C.
7 § 1125(c).

8 43. Such dilution has occurred as a direct result of Defendants' display,
9 advertising and promotion, both in-store and otherwise, of the infringing footwear
10 and other merchandise.

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

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

19 **FOURTH CLAIM FOR RELIEF**

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

21 46. Nike hereby repeats and realleges the allegations set forth in paragraphs
22 1 through 45, above, as if set forth fully herein.

23 47. The Nike Trademarks have acquired secondary meaning indicative of
24 origin, relationship, sponsorship and/or association with Nike. The purchasing
25 public is likely to attribute to Nike the use by Defendants of the Nike Trademarks or
26 any of them, as a source of origin, authorization and/or sponsorship for Defendants'
27 goods and therefore to purchase such goods based upon that erroneous belief.
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1 48. Nike is informed and believes, and upon that basis alleges, that
2 Defendants have intentionally appropriated the Nike trademarks with the intent of
3 causing confusion, mistake and deception as to the source of their goods and with the
4 intent to palm off such goods as those of Nike and, as such, Defendants have
5 committed trademark infringement, misleading advertising and unfair competition,
6 all in violation of the California Unfair Business Practices Act, Cal. Bus. & Prof.
7 Code, § 17200, *et seq.*

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

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

23 51. Nike has no adequate remedy at law and has suffered and is continuing
24 to suffer irreparable harm and damage as a result of Defendants' acts in an amount
25 thus far not determined but within the jurisdiction of this Court.
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1 52. Nike is informed and believes, and upon that basis alleges, that unless
2 enjoined by the Court, the confusion and deception alleged herein and the likelihood
3 thereof will continue with irreparable harm and damage to Nike.

4 53. Nike is informed and believes, and upon that basis alleges, that
5 Defendants have unlawfully and wrongfully derived and will continue to derive
6 income, gains, profits and advantages as a result of their wrongful acts of unfair
7 competition, in amounts thus far not determined but within the jurisdiction of this
8 Court. Nike is informed and believes, and upon that basis alleges, that it has lost and
9 will continue to lose profits and goodwill as a result of Defendants' conduct.

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

13 55. In order to determine the full extent of such damages, including such
14 profits as may be recoverable; Nike will require an accounting from Defendants of
15 all monies generated from the manufacture, importation, distribution and/or sale of
16 the infringing product.

17 56. Nike is informed and believes, and upon that basis alleges, that
18 Defendants committed the acts alleged herein intentionally, fraudulently,
19 maliciously, willfully, wantonly and oppressively, with intent to injure Nike in its
20 business and with conscious disregard for Nike's rights, thereby justifying awards of
21 punitive and exemplary damages in amounts sufficient to punish and to set an
22 example for others.

23 **SIXTH CLAIM FOR RELIEF**

24 **(Dilution under California Law)**

25 57. Nike hereby repeats and realleges the allegations set forth in paragraphs
26 1 through 56 above, as if set forth fully herein.

27 58. Nike is informed and believes, and upon that basis alleges, that
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1 Defendants' acts have caused a likelihood of injury to Nike's goodwill and business
2 reputation, impaired the effectiveness of Nike's trademarks and diluted its distinctive
3 trade names and trademarks.

4 59. Nike is informed and believes, and upon that basis alleges, that
5 Defendants' acts violate the trademark laws of the State of California and,
6 specifically, California Business and Professions Code, § 14330.

7 60. Nike has no adequate remedy at law and Defendants' conduct, if not
8 enjoined, will continue to cause irreparable damage to Nike's rights in their
9 trademarks, trade name, reputation and goodwill.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Nike demands entry of a judgment against Defendants as
12 follows:

- 13 1) Permanent injunctive relief restraining Defendants, their officers, agents,
14 servants, employees and attorneys, and all those in active concert or
15 participation with them, from:
- 16 a) further infringing the Nike Trademarks by manufacturing, producing,
17 distributing, circulating, selling, marketing, offering for sale,
18 advertising, promoting, displaying or otherwise disposing of any
19 products not authorized by Nike, including, but not limited to footwear
20 and related merchandise, bearing any simulation, reproduction,
21 counterfeit, copy or colorable imitation of any of the Nike Trademarks
22 ("Unauthorized Products");
 - 23 b) using any simulation, reproduction, counterfeit, copy or colorable
24 imitation of any of the Nike Trademarks in connection with the
25 promotion, advertisement, display, sale, offer for sale, manufacture,
26 production, circulation or distribution of Unauthorized Products in such
27 fashion as to relate or connect, or tend to relate or connect, such
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products in any way to Nike, or to any goods sold, manufactured, sponsored or approved by, or connected with Nike;

- c) making any statement or representation whatsoever, or using any false designation of origin or false description, or performing any act, which can or is likely to lead the trade or public, or individual members thereof, to believe that any products manufactured, distributed or sold by Defendants are in any manner associated or connected with Nike, or are sold, manufactured, licensed, sponsored, approved or authorized by Nike;
- d) engaging in any other activity constituting unfair competition with Nike, or constituting an infringement of any of Nike's trademarks or of Nike's rights in, or to use or to exploit, said trademarks, or constituting any dilution of any of Nike's names, reputations, or good will;
- e) effecting assignments or transfers, forming new entities or association or utilizing any other device for the purpose of circumventing or otherwise avoiding the prohibitions set forth in Subparagraphs (a) through (d);
- f) secreting, destroying, altering, removing or otherwise dealing with the Unauthorized Products or any books or records which may contain any information relating to the importing, manufacturing, producing, distributing, circulating, selling, marketing, offering for sale, advertising, promoting or displaying of all unauthorized products which infringe any of Nike's trademarks; and
- g) aiding, abetting, contributing to or otherwise assisting anyone from infringing upon Nike's trademarks.

2) Directing that Defendants deliver for destruction all Unauthorized Products, including footwear, and labels, signs, prints, packages, dyes, wrappers,

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receptacles and advertisements relating thereto in their possession or under their control bearing any of The Nike Trademarks or any simulation, reproduction, counterfeit, copy or colorable imitations thereof, and all plates, molds, heat transfers, screens, matrices and other means of making the same.

- 3) Directing such other relief as the Court may deem appropriate to prevent the trade and public from gaining the erroneous impression that any products manufactured, sold or otherwise circulated or promoted by Defendants are authorized by Nike, or related in any way to Nike's products.
- 4) That Nike be awarded from Defendants, as a result of Defendants' sale of Unauthorized Products bearing the Nike Trademarks, three times Nike's damages there from and three times of each of Defendants' profits there from, after an accounting, or, in the alternative statutory damages, should Nike opt for such relief, consisting of One Hundred Thousand Dollars (\$100,000.00) for each of The Nike Trademarks infringed upon by each of the Defendants, and to the extent this Court concludes such infringement was willful, One Million Dollars (\$1,000,000), for each of The Nike Trademarks infringed upon by each of the Defendants, pursuant to 15 U.S.C. § 1114 and § 1117.
- 5) That Nike be awarded from Defendants three times Nike's damages there from and three times Defendants' profits there from, after an accounting, pursuant to 15 U.S.C. § 1125(a) and § 1117.
- 6) That Nike be awarded its reasonable attorney's fees and investigative fees pursuant to 15 U.S.C. § 1117.
- 7) That Nike be awarded punitive damages for Defendants' willful acts of unfair competition under California law.

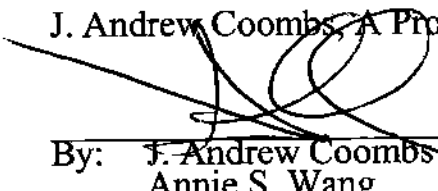
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- 1 8) That Nike be awarded its costs in bringing this action.
- 2 9) That Nike have such other and further relief that this Court deems just.

3 Dated: January 8, 2008

J. Andrew Coombs, A Professional Corp.

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6 By: ~~J. Andrew Coombs~~
7 Annie S. Wang
8 Attorneys for Plaintiff Nike, Inc.

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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 9, 2008

J. Andrew Coombs, A Professional Corp.



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

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EXHIBIT A

Nike Registrations
International Class 25

Trademark	Registration Number	Registration Date
AIR-SOLE	1,145,812	January 13, 1981
SWOOSH	1,200,529	July 6, 1982
NIKE	1,214,930	November 2, 1982
Nike [®] and Swoosh [®] Design	1,237,469	May 10, 1983
Nike [®]	1,277,066	May 8, 1984
Swoosh [®] Design	1,284,385	July 3, 1984
NIKE AIR w/Swoosh device	1,284,386	July 3, 1984
NIKE AIR	1,307,123	November 27, 1984
Air Jordan [®]	1,370,283	November 12, 1985
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
Nike Air [®]	1,571,066	December 12, 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
Jump Man device	1,742,019	December 22, 1992
AIR TRAINER MAX	1,789,463	August 24, 1993
AIRMAX in oval	2,030,750	January 14, 1997
AIR UPTEMPO in crest	2,032,582	January 21, 1997
AIR with Swoosh device	2,068,075	June 3, 1997
NIKE with Swoosh device	2,104,329	October 7, 1997
ACG NIKE in triangle	2,117,273	December 2, 1997
Nike [®]	2,196,735	October 13, 1998
Nike [®] and Swoosh [®] Design	2,209,815	December 8, 1998
Stylized "B"	2,476,882	August 14, 2001
NIKE ALPHA PROJECT as device	2,517,735	December 1, 2001
WAFFLE RACER	2,652,318	November 19, 2002

1	PHYLITE	2,657,832	December 10, 2002
2	TRUNNER	2,663,568	December 17, 2002
3	DRI-STAR	2,691,476	February 25, 2003
4	PRESTO	2,716,140	May 13, 2003
5	TRIAx	2,810,679	February 3, 2004
6	WAFFLE TRAINER	2,893,674	October 12, 2004
7	THERMA-STAR	2,960,844	June 7, 2005
8	NIKE SHOX	2,970,902	July 19, 2005
9	STARTER	2,971,216	July 19, 2005
10	Basketball player outline	2,977,850	July 26, 2005
11	NIKEFREE	3,087,455	May 2, 2006

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ORIGINAL

J. Andrew Coombs (SBN 123881)
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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Nike, Inc.,	CASE NUMBER: CV 08-00188 DSF (JC)
Plaintiff(s) v. Shem Weissman, and Does 1 - 10, inclusive, Defendant(s)	SUMMONS

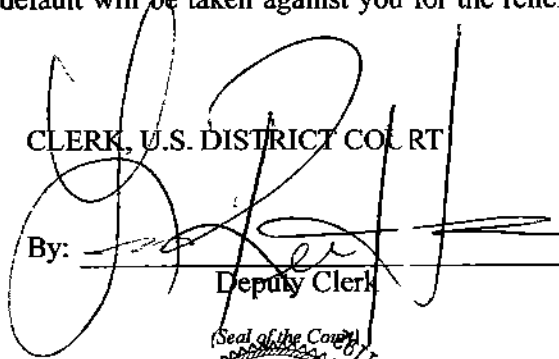
TO: THE ABOVE-NAMED DEFENDANT(S):

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 E. Wilson Ave., 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.

Date: JAN 11 2008

CLERK, U.S. DISTRICT COURT
By: 
Deputy Clerk



SUMMONS

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

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Dale S. Fischer and the assigned discovery Magistrate Judge is Jacqueline Chooljian.

The case number on all documents filed with the Court should read as follows:

CV08 - 188 DSF (JCx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

Western Division
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

Southern Division
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

Eastern Division
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

I(a) PLAINTIFFS

Nike, Inc.

DEFENDANTS

Shem Weissman, and Does 1 - 10, inclusive,

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

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____
 (IN U.S. PLAINTIFF CASES ONLY)

(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 E. Wilson Ave., Suite 202, Glendale, California 91206
 Telephone: (818) 500-3200 / Facsimile: (818) 500-3201

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"/> 28 USC 158
<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 21 USC 881	<input type="checkbox"/> 423 Withdrawal 28 USC 157
<input type="checkbox"/> 450 Commerce/ICC Rates/etc.	<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Fed. Employers' Liability	<input type="checkbox"/> 630 Liquor Laws	PROPERTY RIGHTS
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 820 Copyrights
<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"/> 650 Airline Regs	<input type="checkbox"/> 830 Patent
<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"/> 660 Occupational Safety /Health	<input checked="" type="checkbox"/> 840 Trademark
<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"/> 690 Other	SOCIAL SECURITY
<input type="checkbox"/> 875 Customer Challenge 12 USC 3410	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	LABOR	<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 891 Agricultural Act	<input type="checkbox"/> 190 Other Contract		<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 892 Economic Stabilization Act	<input type="checkbox"/> 195 Contract Product Liability		<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 863 DIWC/DIWW (405(g))
<input type="checkbox"/> 893 Environmental Matters	REAL PROPERTY	CIVIL RIGHTS	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Ac	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 894 Energy Allocation Act	<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 865 RSI (405(g))
<input type="checkbox"/> 895 Freedom of Information Act	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 790 Other Labor Litigation	FEDERAL TAX SUITS
<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 791 Empl. Ret. In-Security Act	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 950 Constitutionality of State Statutes	<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare		<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
<input type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 440 Other Civil Rights		
	<input type="checkbox"/> 290 All Other Real Property			

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 _____

COPY

CV08-00188

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

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))

AO 120 (Rev. 2/99)

TO: Commissioner of Patents and Trademarks Washington, DC 20231	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
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In Compliance with 35 § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court Central on the following Patents or Trademarks:

DOCKET NO. CV08-00188	DATE FILED DSF (JC)	U.S. DISTRICT COURT Central District of California
PLAINTIFF Nike, Inc.	DEFENDANT Shem Weissman, and Does 1 -10, inclusive,	
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 SEE EXHIBIT A		Nike, Inc.
2		
3		
4		
5		

In the above—entitled case, the following patent(s) have been included:

DATE INCLUDED	INCLUDED BY			
	<input checked="" type="checkbox"/> Amendment	<input checked="" type="checkbox"/> Answer	<input checked="" type="checkbox"/> Cross Bill	<input checked="" type="checkbox"/> Other Pleading
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK		
1				
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In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK	(BY) DEPUTY CLERK	DATE
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Copy 1—Upon initiation of action, mail this copy to Commissioner Copy 3—Upon termination of action, mail this copy to Commissioner
 Copy 2—Upon filing document adding patent(s), mail this copy to Commissioner Copy 4—Case file copy

COPY

EXHIBIT A

Nike Registrations for Footwear
International Class 25

Trademark	Registration Number	Registration Date
AIR-SOLE	1,145,812	January 13, 1981
SWOOSH	1,200,529	July 6, 1982
NIKE	1,214,930	November 2, 1982
Nike [®] and Swoosh [®] Design	1,237,469	May 10, 1983
Nike [®]	1,277,066	May 8, 1984
Swoosh [®] Design	1,284,385	July 3, 1984
NIKE AIR w/Swoosh device	1,284,386	July 3, 1984
NIKE AIR	1,307,123	November 27, 1984
Air Jordan [®]	1,370,283	November 12, 1985
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
Nike Air [®]	1,571,066	December 12, 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
Jump Man device	1,742,019	December 22, 1992
AIR TRAINER MAX	1,789,463	August 24, 1993
AIRMAX in oval	2,030,750	January 14, 1997
AIR UPTEMPO in crest	2,032,582	January 21, 1997
AIR with Swoosh device	2,068,075	June 3, 1997
NIKE with Swoosh device	2,104,329	October 7, 1997
ACG NIKE in triangle	2,117,273	December 2, 1997
Nike [®]	2,196,735	October 13, 1998
Nike [®] and Swoosh [®] Design	2,209,815	December 8, 1998
Stylized "B"	2,476,882	August 14, 2001
NIKE ALPHA PROJECT as device	2,517,735	December 11, 2001
WAFFLE RACER	2,652,318	November 9, 2002
PHYLITE	2,657,832	December 10, 2002

EXHIBIT A

1	TRUNNER	2,663,568	December 17, 2002
2	DRI-STAR	2,691,476	February 25, 2003
3	PRESTO	2,716,140	May 13, 2003
4	TRIAX	2,810,679	February 3, 2004
5	WAFFLE TRAINER	2,893,674	October 12, 2004
6	THERMA-STAR	2,960,844	June 7, 2005
7	NIKE SHOX	2,970,902	July 19, 2005
8	STARTER	2,971,216	July 19, 2005
9	Basketball player outline	2,977,850	July 26, 2005
10	NIKEFREE	3,087,455	May 2, 2006

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