

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LULULEMON ATHLETICA CANADA INC. and LULULEMON USA INC.,
Petitioner,

v.

NIKE, INC.,
Patent Owner.

Patent No. 10,188,930

Inter Partes Review No. IPR2023-00348

**PETITIONER'S OBJECTION TO EVIDENCE
SUBMITTED WITH PATENT OWNER'S PRELIMINARY RESPONSE**

Petitioner lululemon athletica Canada Inc. and lululemon USA Inc. (“lululemon”) hereby objects to the following evidence that was submitted by Patent Owner Nike, Inc. (“Nike”) with its Patent Owner’s Preliminary Response (Paper 12) in the above-captioned proceeding. In accordance with 37 C.F.R. § 42.64(b)(1), lululemon is filing and serving these objections within ten business days of the Board’s June 30, 2023 institution decision (Paper 13).

A. Exhibit 2001 (Declaration of Dr. Scott McLean)

lululemon objects to Exhibit 2001 as irrelevant, lacking foundation, assuming facts not in evidence, containing legal conclusions, and mischaracterizing the evidence. lululemon further objects to Exhibit 2001 to the extent that it includes expert opinions for which the factual bases have not been disclosed, for which Dr. McLean does not have personal knowledge (Fed. R. Evid. (FRE) 602), and to the extent that Dr. McLean’s opinions constitute unreliable and prejudicial expert testimony under FRE 702 and 703.

lululemon objects to the portions of Exhibit 2001 not discussed or cited in the Patent Owner Preliminary Response (POPR) as not being relevant to any issue on which trial has been issued. In particular, at least paragraphs 1-53, 67, 68, 73, 79, 85, 86, 90-92, and 95 were not cited or discussed in the POPR.

IPR2023-00348

Dated: July 17, 2023

Respectfully submitted,

By: /s/ Alex S. Yap

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Certificate of Service (37 C.F.R. § 42.6(e)(4))

I hereby certify that the attached PETITIONER'S OBJECTION TO EVIDENCE SUBMITTED WITH PATENT OWNER'S PRELIMINARY RESPONSE was served as of the below date on the Patent Owner via e-mail (by agreement) to the following counsel of record:

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Dated: July 17, 2023

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