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. 8,620,413

Inter Partes Review No. IPR2023-00438

PETITIONER'S OBJECTIONS TO EVIDENCE SUBMITTED WITH PATENT OWNER'S PRELIMINARY RESPONSE

lululemon athletica canada inc. and lululemon usa inc. ("lululemon") objects to the following evidence submitted by Nike, Inc. ("Nike") with its Patent Owner Preliminary Response (Paper 10) 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 July 10, 2023, institution decision. (Paper 11).

A. Exhibit 2001

lululemon objects to Exhibit 2001 as 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. Bergeron does not have personal knowledge (Fed. R. Evid. (FRE) 602), and to the extent that Dr. Bergeron's opinions constitute unreliable and prejudicial expert testimony under FRE 702 and 703.

lululemon also objects to the portions of Exhibit 2001 not discussed or cited in the Patent Owner Preliminary Response (POPR) as irrelevant. In particular, Nike did not cite or discuss at least paragraphs 1-76 of Dr. Bergeron's declaration in its POPR.

Dated: July 24, 2023

Respectfully submitted,

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

I hereby certify that the attached PETITIONER'S OBJECTIONS 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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