

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LULULEMON USA INC.,
Petitioner,

v.

NIKE INC.,
Patent Owner.

IPR2024-00159
Patent 9,375,046 B2

Before CARL M. DeFRANCO, GEORGE R. HOSKINS, and
STEPHEN E. BELISLE, *Administrative Patent Judges*.

DeFRANCO, *Administrative Patent Judge*.

ORDER
Setting Oral Hearing
37 C.F.R. § 42.70

I. ORAL ARGUMENT

A. Time and Format

Oral argument will commence at 1:30 PM EDT on April 3, 2025, at USPTO headquarters in Alexandria, VA. The Board will provide a court reporter for the hearing, and the reporter's transcript will constitute the official record of the hearing.¹

Each party will have a total of sixty (60) minutes to present its case. Petitioner will open the hearing with its case, followed by Patent Owner's response. Petitioner and Patent Owner may each reserve rebuttal time. *See Consolidated Trial Practice Guide*² ("TPG") at 83 (November 2019).

B. Demonstratives

We note that the parties have exchanged demonstratives and filed them with the Board. *See* Paper 27; Ex. 1024. We remind the parties that demonstratives are visual aids to a party's arguments and evidence previously presented and discussed in the papers. Due to the nature of the Board's consideration of demonstratives and the opportunity for the parties to reach agreement without involving the Board, any objections to demonstratives are not likely to be sustained. Nonetheless, if a party objects to the propriety of any demonstrative, the parties shall meet and confer in good faith to resolve any such objections. If such objections cannot be resolved, the parties may raise any such objections at the hearing, prior to commencement of argument. The objections shall identify with particularity

¹ If there are any concerns about disclosing confidential information, the parties must contact the Board at Trials@uspto.gov at least two (2) business days before the hearing date.

² *Available at* <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

which portions of the demonstratives are subject to objection. The Board will consider any objections, and may reserve ruling on the objections. Any objection to demonstratives that is not timely presented will be considered waived.

C. Presenting Counsel

The Board generally expects lead counsel for each party to be present at the hearing. *See* TPG 11. Any counsel of record may present the party's argument.

D. Remote Attendance Requests

Members of the public may request to listen to and/or view this hearing. The Board generally expects to grant such requests. If either party objects to the Board granting such requests, for example, because confidential information may be discussed, the party must promptly notify the Board at PTABHearings@uspto.gov.

E. Legal Experience and Advancement Program (LEAP)

The Board has established the "Legal Experience and Advancement Program," or "LEAP," to encourage advocates with less legal experience to argue before the Board to develop their skills. The parties are encouraged to participate in the Board's LEAP program. Either party may request that a qualifying LEAP practitioner participate in the program and conduct at least a portion of the party's oral argument. The Board will grant up to fifteen (15) minutes of additional argument time to that party.

Here, Patent Owner requested that Lindsey Staubach be permitted to participate in the oral hearing as a LEAP practitioner. Patent Owner's request is granted. Paper 25. As such, Patent Owner will receive an additional fifteen minutes of argument time during the oral hearing, and is

reminded that the LEAP practitioner is required to have a meaningful and substantive opportunity to argue. For guidance regarding LEAP, please visit the USPTO website: www.uspto.gov/leap.

F. Audio/Visual Equipment Requests

Any special requests for audio-visual equipment should be directed to PTABHearings@uspto.gov. A party may also indicate any special requests related to appearing at the hearing, such as a request to accommodate deaf or hard-of-hearing individuals and blind or low vision individuals, and indicate how the PTAB may accommodate the special request. Any special requests must be presented in a separate communication at least two (2) business days before the hearing.

II. ORDER

Accordingly, it is

ORDERED that oral argument for this proceeding shall commence at 1:30 PM EDT on April 3, 2025, at USPTO headquarters in Alexandria, VA, and proceed in the manner set forth herein.

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