

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NIKE, INC.,

Petitioner,

v.

SHERRYWEAR LLC,

Patent Owner.

IPR2024-01123

Patent 9,295,288

**PATENT OWNER'S PRELIMINARY RESPONSE
TO PETITION FOR *INTER PARTES* REVIEW
UNDER 35 U.S.C. §§ 311-19 AND 37 C.F.R. § 41.100, ET SEQ.**

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<i>Becton, Dickinson & Co. v. B. Braun Melsungen AG</i> , IPR2017-01586, Paper 8 at 22. (PTAB Dec. 15, 2017)	14, 15, 16, 18
<i>Bradium Techs. LLC v. Iancu</i> , 923 F.3d 1032, 1047 (Fed. Cir. 2019).....	23, 34, 38
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<i>Institut Pasteur & Universite Pierre Et Marie Curie v. Focarino</i> , 738 F.3d 1337, 1347-48 (Fed. Cir. 2013)	27
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Exhibit List

Exhibit No.	Exhibit Description
SW-2001	Affidavit of Sharon Goff
SW-2002	Article: A Comfortable Convenience—Berkshire Eagle
SW-2003	Article: Should YOU Invest in a Brainy Bra—Daily Mail
SW-2004	Urban Savage License
SW-2006	Rabbit License
SW-2007	Senita License
SW-2008	‘036 Senita Sculpt Bra Chart
SW-2009	‘036 Tracksmith Allston Chart
SW-2010	‘036 Crasher Crop Chart
SW-2011	‘510 Senita Flight Bra Chart
SW-2012	‘510 Senita Hustle Bra Chart
SW-2013	‘510 Senita Perfect Pocket Bra Chart
SW-2014	‘510 Senita Sarah Sports Bra Chart
SW-2015	‘510 Urban Savage Stash Bra Chart
SW-2016	‘510 Rabbit Bunny Hop Chart
SW-2017	‘510 Rabbit Crop Hop Support and Pocket Chart
SW-2018	‘510 Rabbit Crop Hop Support and Pocket Tech Chart
SW-2019	‘510 Rabbit Strappy Pocket Bra Chart
SW-2020	‘510 Rabbit UtiliBRA-vo chart
SW-2021	‘550 Senita Sculpt Bra Chart
SW-2022	‘550 Tracksmith Allston Chart
SW-2023	‘550 Tracksmith Allston APA Chart
SW-2024	‘550 Rabbit Crusher Crop Chart
SW-2025	‘800 Senita Flight Bra Chart
SW-2026	‘800 Senita Hustle Bra Chart
SW-2027	‘800 Senita Perfect Pocket Bra Chart
SW-2028	‘800 Senita Sarah Sports Bra Chart
SW-2029	‘800 Urban Savage Stash Bra Chart
SW-2030	‘800 Rabbit Bunny Hop Support and Pocket Chart
SW-2031	‘800 Rabbit Crop Hop Support and Pocket Chart
SW-2032	‘800 Rabbit Crop Hop Support and Pocket Tech Chart.
SW-2033	‘800 Rabbit Strappy Pocket Bra Chart
SW-2034	‘800 Rabbit UtiliBRA-vo Chart
SW-2035	2015 NIKE IDEA Submission

SW-2036	NIKE Correspondence
SW-2037	NIKE Correspondence
SW-2038	Ms. Goff and Mr. Saraceni Correspondence
SW-2039	NIKE Patent Application 15/597,364
SW-2040	2017 NIKE IDEA Submission
SW-2041	Correspondence from NIKE
SW-2042	NIKE Patent Application 15/718,171
SW-2043	‘016 Swoosh Pocket Bra Chart
SW-2044	‘510 Swoosh Pocket Bra Chart
SW-2045	‘550 Swoosh Pocket Bra Chart
SW-2046	‘878 Swoosh Pocket Bra Chart
SW-2047	‘800 Swoosh Pocket Bra Chart
SW-2048	‘016 Swoosh Bra Chart
SW-2049	‘510 Swoosh Bra Chart
SW-2050	‘551 Swoosh Bra Chart
SW-2051	‘878 Swoosh Bra Chart
SW-2052	‘800 Swoosh Bra Chart
SW-2053	‘036 Swoosh on the Run Chart
SW-2054	‘288 Swoosh on the Run Chart
SW-2055	‘510 Swoosh on the Run Chart
SW-2056	‘550 Swoosh on the Run Chart
SW-2057	‘800 Swoosh on the Run Chart
SW-2058	Swoosh Pocket Bra (product images)
SW-2059	Swoosh Pocket Bra (product images)
SW-2060	Swoosh Bra (product images)
SW-2061	Swoosh Bra (product images)
SW-2062	Swoosh on the Run (product images)
SW-2063	Swoosh on the Run (product images)

I. INTRODUCTION

The Petition fails to show a reasonable likelihood that Petitioner will succeed in invalidating at least one challenged claim of U.S. Patent No. 9,295,288 (“‘288 patent”). The Petition asserts three grounds for invalidity based on obviousness. Petitioner cannot show a reasonable likelihood that it will succeed on *any* of these grounds because the same or substantially similar art was considered during prosecution, the Petitioner has failed to demonstrate that the Examiner made any material error in allowing the patent, and none of the prior art offered in the petition renders the ‘288 patent obvious.

II. FACTUAL AND PROCEDURAL BACKGROUND

A. Invention, Patenting, and Reception of the Pocket Bra

Sharon Goff invented the Pocket Bra to resolve a long-standing and unfulfilled need in women’s apparel: women’s clothes frequently lack pockets, and Ms. Goff, like many other women, resorted to storing objects in her bra. *See* Goff Affidavit, SW-2001 at ¶ 2. This was unfashionable, uncomfortable and sometimes resulted in objects getting lost. *See* Goff Affidavit, SW-2001 at ¶ 2. In response, Ms. Goff invented several variations of bras with pockets, which are collectively referred to herein as variants of the Pocket Bra. *Id.* at ¶ 3.

When Ms. Goff began selling variants of the Pocket Bra, she discovered that many women had a similar experience to her and welcomed the new invention as a

way to store items and keep their hands free. *Id.* at ¶ 6. At least one woman who spoke to Ms. Goff also reported unexpected benefits, such as the ability to store insulin pumps on their person using the Pocket Bra. *Id.* at ¶ 7. Women showed further interest in the product by requesting it in a greater size range. *Id.*

The Pocket Bra also enjoyed significant positive press. In addition to various interviews with Ms. Goff herself, an expert in lingerie and women's undergarments hailed an early variant of the Pocket Bra as the Pocket Bra as "genius." Exhibit SW-2003. The expert, Chantelle, also echoed the observation of other women, and of Ms. Goff herself, that women frequently stowed items in their bras already, and the pocket bra represented a better solution than the ad hoc methods those women resorted to. *Id.*

Ms. Goff also pursued patent protection for the Pocket Bra and variants thereof, obtaining several patents in the process. These patents include the patents challenged in this and related IPR proceedings, specifically U.S. Patent No. 9,295,288 ("the '288 patent"); U.S. Patent No. 9,808,036 ("the '036 patent"); U.S. Patent No. 10,219,550 ("the '550 patent"); U.S. Patent No. 9,289,016 ("the '016 patent"); U.S. Patent No. 9,723,878 ("the '878 patent"); U.S. Patent No. 10,244,800 ("the '800 patent"); U.S. Patent No. 10,219,551 ("the '551 patent"); and U.S. Patent No. 10,869,510 ("the '510 patent") (collectively "the Disputed Patents).

B. Licensing of the Pocket Bra Patents to Third Parties.

Patents for the Pocket Bra have already been licensed to several other companies who started producing similar products after Ms. Goff filed her patent applications and began marketing her inventions. These licenses include a license to Urban Savage, LLC, [REDACTED] a license to Rabbit, LLC, and a license to Senita, LLC. SW-2001 at ¶ 9. The licensed products continue to enjoy commercial success, as evidenced by the continued availability of licensed products from each of the companies subject to the above-described licenses. *Id.* at ¶ 10. Each of the four licenses described above is provided herewith in Exhibits SW-2004 through SW-2007. Claim charts illustrating the applicability of Pocket Bra patent claims to products covered by the licenses are provided herewith as Exhibits SW-2008 through SW-2034.

SherryWear also has executed a license to Smooth Landing Inc., the provisions of which remain confidential. SW-2001 at ¶ 10.

C. Interactions with NIKE

On June 18, 2015, Ms. Goff submitted SherryWear's then-issued and pending patents, and photographs of a couple of SherryWear Pocket Bras, to NIKE via "NIKE Idea Submission," an online idea submission platform operated by NIKE. *Id.* at ¶ 11. A copy of the June 18, 2015, NIKE Idea submission is provided herewith as Exhibit 2035. Nike did not respond to the submission. SW-2001 at ¶

12. As illustrated below, the submission contained examples of the SherryWear sports bra products:



In January 2017, Ms. Goff contacted several high-ranking employees at NIKE via LinkedIn messenger including Evan Reynolds, then-Head of Marketplace Strategic Investments; Rick Boyd, then-Patent Footwear specialist; Nathan Plowman, then-Senior Director at NIKE; and Hillary Krane, then-General Counsel for NIKE. *Id.* at ¶¶ 13-14. Copies of the correspondence are provided herewith as Exhibit 2036 and Exhibit 2037. Hillary Krane forwarded Ms. Goff's messages to Paul Saraceni, then the VIP of Global IP Transactions & Licensing at NIKE, on

February 7, 2017. *See* SW-2037.

On February 7, 2017, Mr. Saraceni asked Ms. Goff to send a “non-confidential list of IP assets that [SherryWear] had begun to market for sale.” SW-2001 at ¶ 15. In response, Ms. Goff sent Mr. Saraceni a list of SherryWear’s then-issued and pending patents. *Id.* at ¶ 16. The patents then pending included the ‘878 patent, the ‘016 patent, the ‘036 patent, and the ‘288 patent, as a result of which NIKE was given access to all disclosure elements of the challenged patents.

Between February and March of 2017, Mr. Saraceni and Ms. Goff communicated again by email regarding the licensing or purchasing of SherryWear’s intellectual property. *Id.* at ¶ 17. A copy of the February and March 2017 correspondence is provided herewith as exhibit 2038. On March 24, 2017, Ms. Goff received an email from Mr. Saraceni stating, “[w]e will respectfully pass on the opportunity.” SW-2001 at ¶ 18.

On May 17, 2017, only fifty-five days, or less than 8 weeks, after Mr. Saraceni emailed Ms. Goff that NIKE would “pass on the opportunity,” NIKE filed U.S. patent application 15/597,364, entitled “Bra With Storage Pockets.” A copy of the U.S. patent application 15/597,364 is provided herewith as Exhibit SW-2039.

On September 22, 2017, Ms. Goff submitted SherryWear’s Pocket Bra idea and patents to NIKE via NIKE Idea Submission again. SW-2001 at ¶ 19. A copy of

the September 22, 2017, submission is provided herewith as Exhibit SW-2040. On October 20, 2017, Barrett Inman of NIKE's legal department responded to Ms. Goff's second NIKE Idea Submission stating, "[t]here is no interest in pursuing your submission." SW-2001 at ¶ 20. A copy of Mr. Inman's October 20, 2017, response is attached hereto as Exhibit SW-2041.

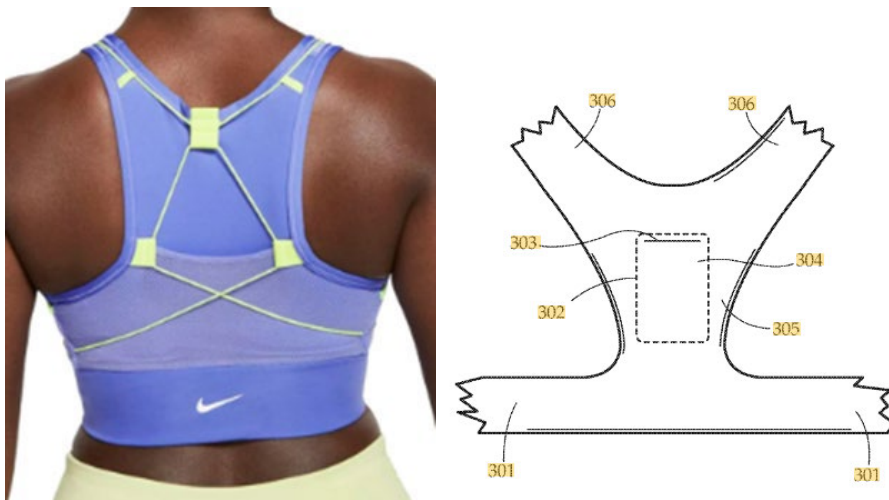
On September 28, 2017, six days after Ms. Goff submitted SherryWear's second NIKE Idea Submission, NIKE filed U.S. patent application 15/718,171, entitled "Bra With Storage Pockets." A copy of U.S. patent application 15/718,171 is attached hereto as Exhibit 2042. Both patent application 15/597,364 and 15/718,171 have since issued as patents.

SherryWear filed a complaint in the United States District Court for the District of Massachusetts for patent infringement based on the manufacture, use, sale, offer for sale, and/or import by NIKE of and with regard to several bras with pockets, initiating Case 1:23-cv-11599-LTS, SHERRYWEAR, LLC v. NIKE, INC. (the "Copending Case"). This case advanced to the Markman ruling, after which NIKE filed a total of eight IPR requests against the Disputed Patents and moved to stay the Copending Case. The stay was granted.

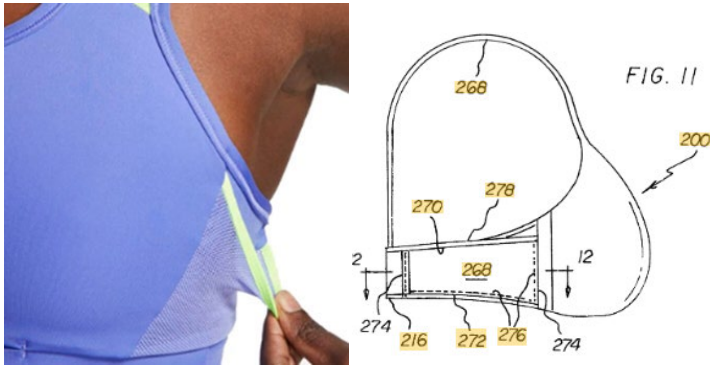
D. Evidence of Copying by NIKE

There is significant evidence that NIKE copied the patented inventions of Ms. Goff. As noted above, NIKE drafted and filed a patent application relating to a bra with pockets shortly after receiving product samples, patents, and patent applications from Ms. Goff. NIKE also began producing and selling bras with pockets after this point.

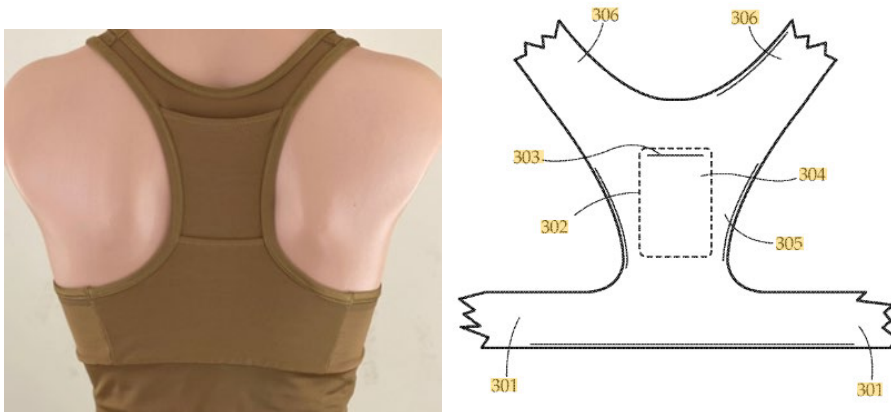
Several of Nike's products have notable similarities to the disclosures of the SherryWear patents. For instance, NIKE makes, uses, offers for sale, sells, and imports a sports bra with pockets titled the "Swoosh Pocket Bra." As shown in the following comparison, the Swoosh Pocket Bra has a back pocket, similarly to the back pocket portrayed in FIG. 13 of the '800 and '510 patents:



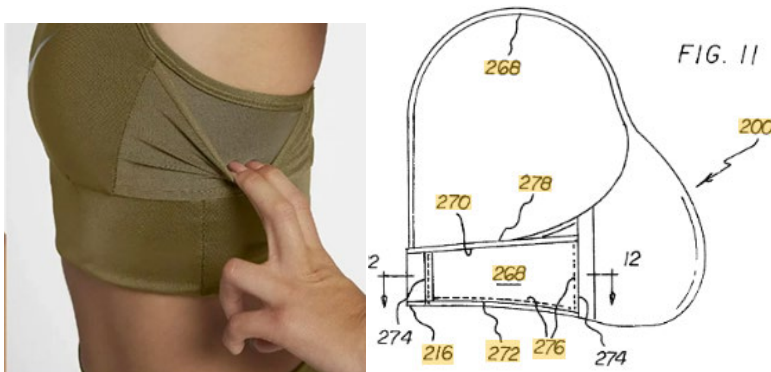
Similarly, the Swoosh Pocket Bra has a side pocket that closely resembles the side pocket portrayed in FIG. 11 of the '016, '551, and '878 patents:



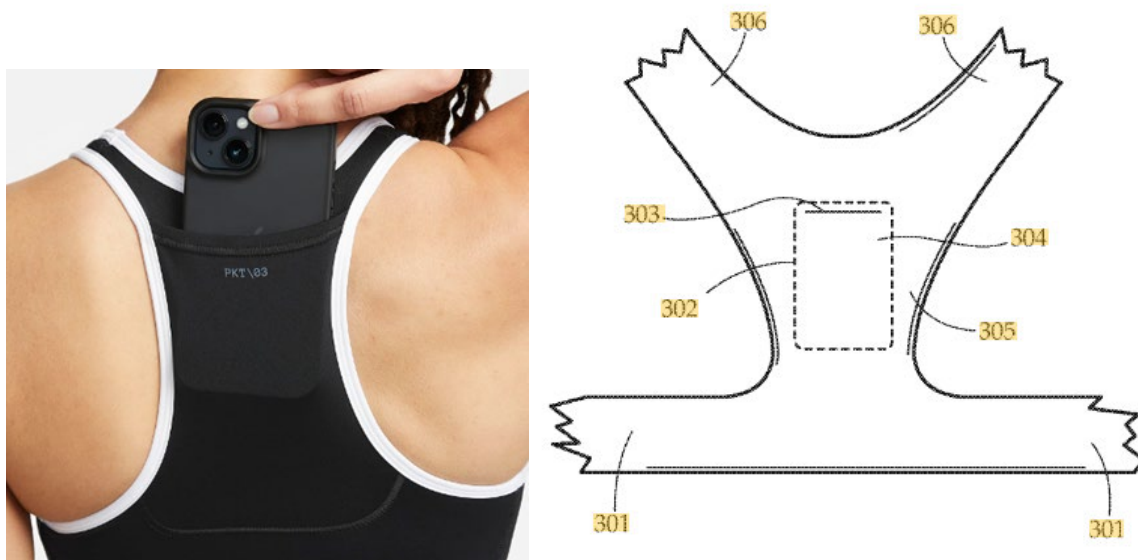
NIKE also makes, uses, offers for sale, sells, and imports a sports bra with pockets titled the “Swoosh Bra.” The Swoosh Bra has a rear pocket that resembles the rear pocket depicted in FIG. 13 of the ‘800 and ‘510 patents:



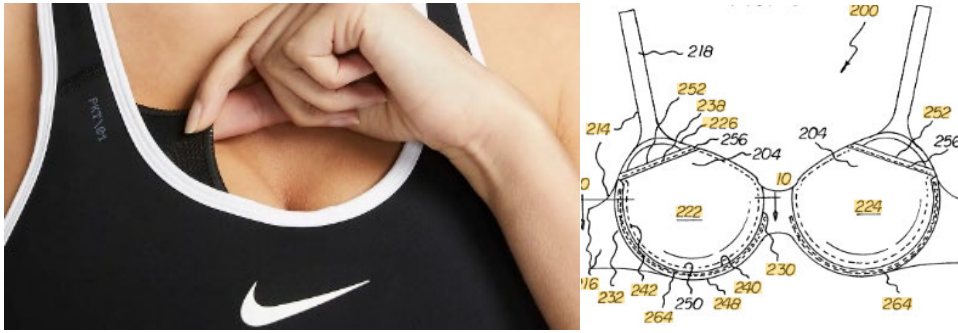
The Swoosh Bra also has a side pocket similar to that depicted in FIG. 11 of the ‘016, ‘551, and ‘878 patents:



NIKE also makes, uses, offers for sale, sells, and imports a sports bra with pockets titled, “Swoosh on the Run.” The Swoosh on the Run has one back pocket and two front pockets. The Swoosh on the Run has some similar features to those depicted in Ms. Goff’s patents. For instance, the back pocket of the Swoosh on the Run is similarly designed and positioned to the back pocket as portrayed in FIG. 13 of the ‘800 and ‘510 patents:



The Swoosh on the Run also has a pocket on the front cup area of the bra similarly to that portrayed in FIG. 9 of the ‘288, ‘036, and ‘550 patents:



There are also significant points of similarity between the above-mentioned NIKE products and the products that Ms. Goff presented to NIKE prior to NIKE's patent filings, as described above. For instance, both the Swoosh Bra and the Swoosh Pocket Bra have back pockets below the shoulder blade region on the respective bras, similarly to one of the sports bras presented by Ms. Goff to NIKE:



Similarly, each of the Swoosh Bra and the Swoosh Pocket Bra has a side pocket similarly positioned to the side pocket in another sports bra example Ms. Goff sent to NIKE:



There are also notable similarities between the products Ms. Goff provided to NIKE and the disclosures of the NIKE patents. For instance, FIG. 6 of patent application 15/597,364 shows a pocket below the shoulder blades on a depicted bra, similarly situated to the back pocket on one of the bras submitted by Ms. Goff:

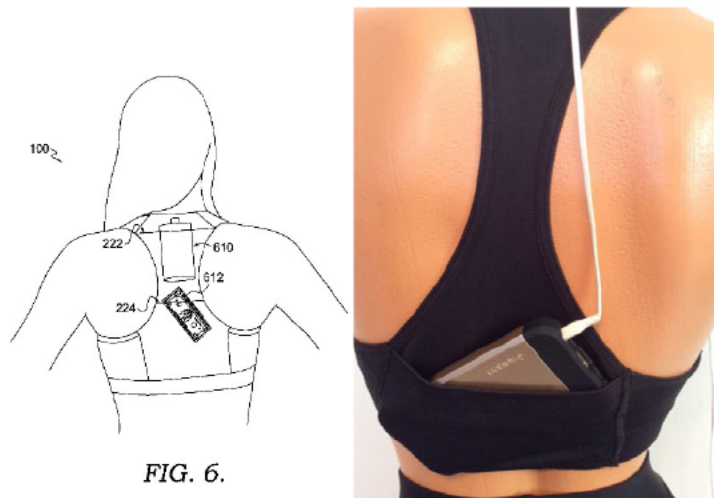


FIG. 5 of the same application depicts a side pocket similar to the side pocket of one of the bras Ms. Goff submitted to NIKE:

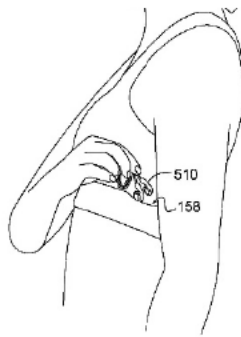
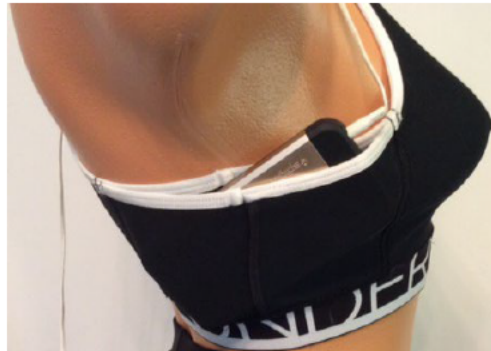


FIG. 5.



In the Copending Case, SherryWear has presented factual allegations indicating that NIKE intentionally copied her designs to produce its product lines and as the basis for its patent applications. NIKE had not yet produced any documentation concerning the initiation of the design process for the above-described products before the Copending Case was stayed. Counsel for SherryWear has also not had the opportunity to depose either Paul Saraceni or the person listed as the inventor on the Nike patents, Nicole Rendon; both depositions had been scheduled before the Copending Case was stayed but are now on hold pending the outcome of this matter.

In filing the Copending Case, Sherrywear provided claim charts indicating how the claims of the Disputed Patents read on and/or correspond to features of the above-described products. These claim charts are provided herewith as Exhibits SW-2043 through SW-2057. The images provided above of NIKE products are provided herewith as Exhibits SW-2058 through SW-2063.

**III. THE BOARD SHOULD DENY INSTITUTION UNDER § 325(d)
BECAUSE THE PETITION-ASSERTED ART IS SUBSTANTIALLY
THE SAME AS ART CONSIDERED BY THE OFFICE AND
OVERCOME DURING PROSECUTION**

The Board should deny institution because the Petition relies exclusively on art over which the Office allowed the challenged claims during prosecution, or art that adds nothing material to over the art the Office considered. The Board has discretion over whether to institute an *inter partes* review proceeding. *See, e.g., Harmonic Inc. v. Avid Tech., Inc.*, 815 F.3d 1356, 1367 (Fed. Cir. 2016) (“[T]he PTO is permitted, but never compelled, to institute an IPR proceeding”). In particular, the Board may “reject [a] petition or request, because, the same or substantially the same prior art or arguments previously were presented to the Office.” 35 U.S.C. § 325(d). Whether the Board rejects a petition as redundant to grounds considered in prosecution follows a two-part framework:

(1) whether the same or substantially the same art previously was presented to the Office or whether the same or substantially the same arguments were presented to the Office; and (2) if either condition of the first part of the framework is satisfied, whether the petitioner has

demonstrated that the Office erred in a manner material to the patentability of challenged claims.

Advanced Bionics, LLC v. Med-El Elektromedizinische Geräte GMBH, IPR2019-01469, Paper 6 at 8 (PTAB Feb. 13, 2020) (precedential). In *Becton, Dickinson & Co. v. B. Braun Melsungen AG*, the Board supplied six specific considerations when analyzing the framework laid out in *Advanced Bionics*:

(a) the similarities and material differences between the asserted art and the prior art involved during examination; (b) the cumulative nature of the asserted art and the prior art evaluated during examination; (c) the extent to which the asserted art was evaluated during examination, including whether the prior art was the basis for rejection; (d) the extent of the overlap between the arguments made during examination and the manner in which the Petitioner relies on the prior art or Patent Owner distinguishes the prior art; (e) whether petitioner has pointed out sufficiently how the examiner erred in its evaluation of the asserted prior art; and (f) the extent to which additional evidence and facts presented in the petition warrant reconsideration of the prior art or arguments.

IPR2017-01586, Paper 8 at 17-18 (PTAB Dec. 15, 2017) (precedential).

Both the *Advanced Bionics* framework and the *Becton, Dickinson* factors support denial of the Petition. Petitioner raises prior art that was either considered during examination or is cumulative over prior art considered by the Examiner. The Petitioner has not demonstrated that the Examiner committed any material error in allowing the ‘288 patent.

A. The Asserted Art does not Materially Differ from the Art Disclosed During Prosecution.

Material difference is a question of probative difference; where newly introduced art has no “probative differences” over the art considered by the Office, it is substantially the same art. *See Becton, Dickinson & Co. v. B. Braun Melsungen AG*, IPR2017-01586, Paper 8 at 22. (PTAB Dec. 15, 2017) (precedential).

The Petitioner observes that Barg, York, and Handras were not considered during the prosecution of the ‘288 patent. As for the differences between the asserted art and the art considered by the examiner, the Petitioner does not identify or otherwise the differences between Barg, York, and Handras and the specific references the Examiner used to reject claims in during prosecution of the ‘288 patent. The Petitioner asserts that, in contrast to the Newman reference used in prosecution of the ‘288 patent, each of Barg, York, and Handras is “explicitly directed to bras designed to store personal belongings.” In other words, the

Petitioner argues that the probative value of each of Barg, York, and Handras over the art considered during prosecution is in disclosing “bras designed to store personal belongings,” which the Petitioner characterizes as the key point of distinction during examination. However, the Petitioner then proceeds to note that “the Examiner acknowledged Pintor’s disclosure of a handheld electronic device stored in a bra pocket.” In other words, the Office did explicitly consider a prior art reference (Pintor) for precisely the probative purpose the Petitioner now ascribes to Barg, York, and Handras. *See Advanced Bionics*, Case IPR2019-00975, Paper 6 at 8 (where Petitioner relied on a newly asserted reference “in the same manner as the Examiner relied on” another reference during prosecution, the former was not materially different from the latter.) Therefore, neither Barg, York, nor Handras has a probative purpose beyond the art the Office considered. Accordingly, Barg, York, and Handras represent substantially the same art that was already considered during the original prosecution of the ‘288 patent. *See Becton* at 22.

The Petitioner refers to the institution decision in *Oticon* for the proposition that art may not be the same or substantially the same where some asserted patents were considered in examination, while others were not. *See Oticon Medical AB v. Cochlear Limited* (§ II.B and II.C), Case IPR2019-00975, Paper 15 (Oct. 16, 2019) (Precedential). However, in *Oticon* the Petitioner was able to identify a distinct feature that was present in the newly asserted art and absent from the art the

Examiner had not considered, representing “different structures that serve different purposes.” *Id.* at 15. In contrast, the Petitioner here relies on Barg, York, and Handras for the same structure and purpose the Examiner explicitly considered in Pintor: a pocket designed to removably store items. Thus in contrast to the art presented in *Oticon*, Barg, York, and Handras are not materially different from the art the Examiner already viewed. *See Advanced Bionics*, Case IPR2019-00975, Paper 6 at 8.

**B. The Petitioner’s Prior Art is Cumulative over the Prior Art
Considered by the Office**

In addition to Pintor, the Examiner considered several other patents and patent applications relating generally to bras with pockets, both as provided in an IDS and as a result of the Examiner’s own searching, including U.S. 7,585,200 to McLaren, and U.S. 5,496,205 to Lee. *See Nike-1006* at 90. McLaren was considered by the examiner in a rejection of claim 10. *Nike-1004* at 119. As noted above, the Examiner had already considered Pintor for all elements relied on by the Petitioner to distinguish the asserted patents; the above-described references further render the asserted patents redundant, and thus cumulative.

C. The Petitioner has Not Demonstrated that the Office Erred in a Manner Material to the Patentability of the Challenged Claims

If the Board finds that “the same or substantially the same art or arguments previously were presented to the Office,” it next analyzes whether the Office “erred in a manner material to the patentability of the challenged claims.”

Advanced Bionics at 10. This analysis considers *Becton, Dickinson* factors (c), (e), and, (f): “(c) the extent to which the asserted art was evaluated during examination, including whether the prior art was the basis for rejection”; “(e) whether petitioner has pointed out sufficiently how the examiner erred in its evaluation of the asserted prior art”; and “(f) the extent to which additional evidence and facts presented in the petition warrant reconsideration of the prior art or arguments.” *Becton, Dickinson*, Paper 8 at 17-18. The Petition does not demonstrate that the Office erred in allowing the challenged claims.

Here, the Petitioner argues that the Examiner failed to consider various attributes of Pintor. As noted above, the Examiner did consider the materially important element of a pocket configured to house removable items. Petitioner also argues that the Examiner erred in treating Pintor as a “secondary reference.” Petitioner asserts by way of example that Pintor discloses “a bra with left and right cups, shoulder straps, and a chest strap,” and “additionally discloses the bra cups comprised of polyurethane and the pockets made of elastic material.” However,

nothing in the prosecution history of the '288 patent indicates that the Examiner failed to locate teachings for those elements of the claims. On the contrary, the Newman reference sufficed to demonstrate the chest strap, shoulder straps, cups, and elastic material claimed in claims 1 and 6. Nike-1004 at 116-117. Petitioner does not explain why it was error for the Examiner, having established the presence of those elements in one prior art reference, to fail to repeat their existence in another. None of the independent claims of the '288 patent recite "bra cups comprised of polyurethane" or "pockets made of elastic material," so the Examiner could hardly have been expected to spend time discussing those features of Pintor in considering whether to allow the independent claims; naturally, if the independent claims were allowed that alone would be sufficient to allow the dependent claim, and a lack of discussion of the latter would not be erroneous.

The Petitioner further claims there was error because that the Examiner "failed to consider how a POSA would have understood Pintor's disclosures of stitching, polyurethane, elastic material, and use of the pocket for holding of non-padding items, and what a POSA would have been motivated to do with them, especially in combination with Barg, York, or Handras." As noted above, the Examiner would have no reason to opine on the existence or lack thereof of stitching, polyurethane, or elastic material in Pintor, and had explicitly considered Pintor's disclosure of a pocket for removable items. As for the use of a pocket to

hold non-padding items, the Petitioner acknowledges that Pintor disclosed this feature, and the Examiner noted it. The Petitioner's allegation of error amounts to no more than an invitation for the Board to substitute its judgement for that of the Examiner and fails to give a reason why the Board should exercise its discretion to do so.

The Petition does not raise any grounds for invalidity not already considered by the Examiner, and Petitioner presents neither argument nor evidence to show that the Office erred in its consideration of the asserted art during prosecution. Further consideration of the Petition merely consumes the Board's resources to duplicate the work already done during prosecution. The Board should accordingly deny institution under 35 U.S.C. § 325(d).

IV. THE PETITION FAILS TO SHOW A REASONABLE LIKELIHOOD OF SUCCESS OF EACH OF ITS GROUNDS FOR INVALIDITY

Even if the Board reaches the merits of Petitioner's asserted grounds for invalidity, each fails because the prior art fails to disclose, teach, or suggest important claim elements of the '288 patent, particularly in light of the evidence of copying by NIKE and other objective indicia.

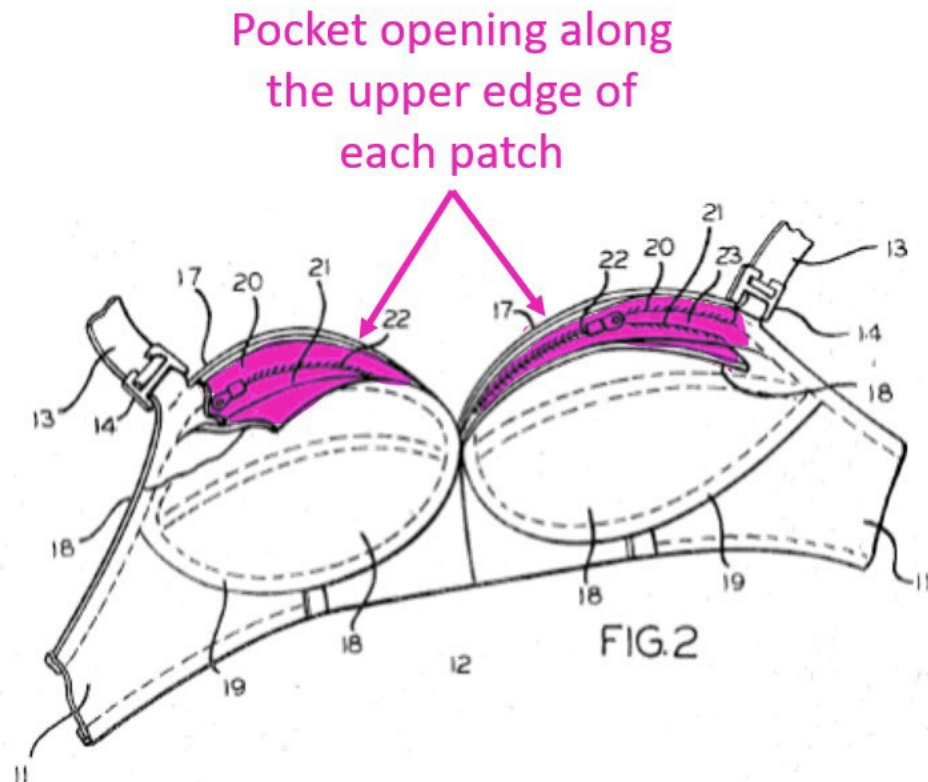
The question of obviousness is determined according to the *Graham* factors. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966). These include (1) the scope and content of the prior art; (2) the differences between the claims and the prior art;

(3) the level of ordinary skill in the pertinent art; and (4) secondary considerations of non-obviousness. *Id.* The Petition fails to show a reasonable likelihood of success on the merits because of the differences between the claims and the asserted art in light of significant objective indicia indicating non-obviousness.

A. Ground 1 Fails to Demonstrate Obviousness over Barg and Pintor in Light of the Objective Indicia.

1. Petitioner Does Not Demonstrate that Barg in view of Pintor Teaches, Suggests, or Motivates Each Element of Claims 1 and 6

The Petitioner asserts that Barg (U.S. 3,518,988) in combination with Pintor (U.S. 7,753,759) renders each element of claims 1 and 6 of the '288 patent obvious. Barg fails to disclose a linear upper edge. As illustrated in the Petition, the alleged upper edge of the element the Petitioner proffers as the patch is curved:



The Petitioner argues that a linear edge is obvious over Barg as an obvious design choice that a person skilled in the art would be motivated to make.

However, and as discussed below regarding objective indicia of obviousness, bras with pockets represent precisely the type of crowded field with simple technology where incremental improvements cannot be assumed to be obvious. *See Mintz v. Dietz & Watson, Inc.*, 679 F.3d 1372, 1379 (Fed. Cir. 2012) (“Where the invention is less technologically complex, the need for *Graham* findings can be important to ward against falling into the forbidden use of hindsight.”). NIKE is once again inviting the Board to exercise impermissible hindsight in support of this contention.

Alternatively, the Petitioner argues that Barg teaches a linear edge when considered in combination with Pintor, which the Petitioner cites as teaching a linear opening edge. However, Pintor teaches away from combination with Barg or similar designs. “A prior art reference teaches away if it “criticize[s], discredit[s], or otherwise discourage[s] the solution claimed.” *Bradium Techs. LLC v. Iancu*, 923 F.3d 1032, 1047 (Fed. Cir. 2019), quoting *In re Fulton*, 391 F.3d 1195, 1201 (Fed. Cir. 2004). In its “Description of Related Art” Pintor states that “brassieres with...pockets sewn into the front of the cups” are undesirable because they “cause the objects stored in the brassiere to become visible under clothing,” while “pockets covering much of the interior surface of the cups” are given as an example of a solution that “may not be optimally designed to secure various concealed objects, and may not provide a suitable aesthetic appearance with pockets that are adapted to conceal bulk by their position, angle and construction.” Nike-1022 at Page 9, Col. 1, Lines 31-50. Barg meets the description of either or both of these disparaged categories of pocket bras: Barg can be interpreted either as a “brassiere[] with a pocket sewn into the front of the cups,” or as one with “pockets covering much of the interior surface of the cups.” In either interpretation, Pintor is critical of the design in Barg, and would teach a person skilled in the art away from combining the invention of Barg with the invention of Pintor.

Therefore, and for at least this reason, Petitioner has failed to demonstrate that Barg in view of Pintor teaches, suggests, or motivates each element of claims 1 and 6. Claims 2-5, and 7-17 depend, directly or indirectly, from claims 1 and 6. Accordingly, because the Petition cannot demonstrate that claims 1 and 6 are obvious over Barg and Pintor, Ground 1 fails on claims 2-5, and 7-17 as well.

2. The Objective Indicia Demonstrate that the Claims of the ‘288 Patent are Not Obvious over Barg in view of Pintor

The non-obviousness of the ‘288 claims is additionally and separately supported by evidence for various objective indicia of non-obviousness. “Objective indicia, or secondary considerations, of non-obviousness can be the “most probative and cogent evidence of non-obviousness.” *Mintz v. Dietz & Watson, Inc.*, 679 F.3d 1372, 1378 (Fed. Cir. 2012), quoting *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 1538 (Fed. Cir. 1983). “[O]bjective indicia constitute “independent evidence of nonobviousness.” *Id.*, quoting *Pressure Prods. Med. Supplies, Inc. v. Greatbatch Ltd.*, 599 F.3d 1308, 1319 (Fed.Cir.2010). Such evidence “may often establish that an invention appearing to have been obvious in light of the prior art was not.” *Id.*, quoting *Simmons Fastener Corp. v. Illinois Tool Works, Inc.*, 739 F.2d 1573, 1575 (Fed.Cir.1984).

Objective indicia of obviousness are especially crucial where the nature of the technology and the state of the art give rise to a heightened risk of impermissible hindsight. For example, “differences that may appear technologically minor,” such as a “simple variation on known themes,” are often better assessed using “[s]uch objective indicia as commercial success, or filling an existing need,” especially in a crowded field. *Cont'l Can Co. USA v. Monsanto Co.*, 948 F.2d 1264, 1273 (Fed. Cir. 1991). Likewise, “[w]here the invention is less technologically complex, the need for *Graham* findings can be important to ward against falling into the forbidden use of hindsight.” *Mintz v. Dietz & Watson, Inc.*, 679 F.3d 1372, 1379 (Fed. Cir. 2012).

NIKE argues at length that bras, pockets, and even bras with pockets have existed for decades. They also refer to the inventive landscape of bras with pockets as “saturated.” They also emphasize the relative simplicity of innovations in this space by quoting Ms. Goff as saying the idea for her invention “seemed pretty obvious” after she had conceived of it. *See* Exhibit SW-2002. This is precisely why objective indicia are so important in this case. NIKE, and Ms. Goff in her offhand comment to a local newspaper, are applying impermissible hindsight to the question of obviousness with regard to a simple invention in an old field. “These objective criteria help inoculate the obviousness analysis against hindsight. The objective indicia “guard against slipping into use of hindsight and to resist the

temptation to read into the prior art the teachings of the invention in issue.”

Graham v. John Deere Co., 383 U.S. 1, 36, 86 S.Ct. 684, 15 L.Ed.2d 545 (1966).”

Mintz v. Dietz & Watson, Inc., 679 F.3d 1372, 1378 (Fed. Cir. 2012). The pocket bra was not obvious to Ms. Goff prior to her conception of it, and it was not obvious to NIKE before Ms. Goff revealed her designs to NIKE’s representatives. That innovations in pocket bras can be patentable is further demonstrated by the fact that NIKE filed and later obtained at least two patents on pocket bras following their interactions with Ms. Goff.

Objective criteria of non-obviousness can include such factors as evidence of copying of the subject invention, existence of licenses for the patents at issue, evidence of commercial success of the inventions, independent praise of the subject invention, and evidence of long-felt, unresolved need resolved by the subject invention. *Id.* at 1379. Each factor must have some nexus to the patent in question. *Fox Factory Inc. v. SRAM LLC*, 944 F.3d 1366, 1373 (Fed. Cir. 2019). “The patentee is entitled to a presumption of nexus if evidence of secondary considerations is “tied to a specific product” that embodies and is “coextensive” with the claimed invention. *Id.* “This is true even when the product has additional, unclaimed features.” *PPC Broadband, Inc. v. Corning Optical Commc'ns RF, LLC*, 815 F.3d 734, 747 (Fed. Cir. 2016). Here, the factual record includes substantial

evidence for objective indicia, including evidence of copying, licenses to third parties, commercial success, long-felt unresolved need, and industry praise.

a) Copying

“Evidence of copying may include internal documents, direct evidence such as photos of patented features or disassembly of products, or access and similarity to a patented product.” *Institut Pasteur & Universite Pierre Et Marie Curie v. Focarino*, 738 F.3d 1337, 1347-48 (Fed. Cir. 2013). Here there is significant evidence that NIKE copied the patented application in the ‘288 patent. NIKE received copies of patents and sample products from Ms. Goff prior to filing its patents or marketing any of the allegedly infringing products. *See* Exhibit SW-2001 at ¶¶ 11-17. Thus, NIKE had access to the patented products. *See Institut Pasteur*, 738 F.3d at 1347-48. As noted above, each of the Swoosh Pocket Bra, the Swoosh Bra, and the Swoosh on the Run has several points of similarity both to the product depicted and described in Ms. Goff’s patents as supplied to NIKE and to the product samples Ms. Goff sent to NIKE. There is also a claim chart showing a high degree of correspondence between features of the Swoosh on the Run and the claims of the ‘288 patent. *See* Exhibit SW-2053. This, combined with the evidence above, indicates a nexus between the copying and the patented invention. *See Fox Factory Inc.*, 944 F.3d at 1373; *PPC Broadband, Inc. v. Corning Optical Commc'ns RF, LLC*, 815 F.3d at 747.

There is further evidence of a nexus between NIKE products and patents and the other patents being challenged in the related IPR cases. There are claim charts indicating that the claims of the '016 patent read on or are highly coextensive with the Swoosh Pocket Bra and the Swoosh Bra, that the claims of the '510 patent read on or are highly coextensive with the Swoosh Pocket Bra, the Swoosh Bra, and the Swoosh on the Run, that the claims of the '551 patent read on or are highly coextensive with read on or are highly coextensive with the Swoosh Pocket Bra and the Swoosh Bra, that the claims of the '878 patent read on or are highly coextensive with the Swoosh Pocket Bra and the Swoosh Bra, that the claims of the '800 patent read on or are highly coextensive with the Swoosh Pocket Bra, the Swoosh Bra, and the Swoosh on the Run, that the claims of the '288 patent read on or are highly coextensive with the Swoosh on the Run, and that that the claims of the '550 patent read on or are highly coextensive with the Swoosh on the Run. *See* Exhibits SW-2043 through SW-2052 and SW-2054 through SW-2057. Therefore, there is extensive evidence of copying with regard to the '288 patent and related patents.

b) Licenses

Further support for the nonobviousness of the '288 patent is found in the licenses to competitors of the '288 patent and other patents in its family. "Licenses

taken under a patent in suit may constitute evidence of nonobviousness,” provided the patentee demonstrates “‘a nexus between the merits of the invention and the licenses of record.’” *In re GPAC Inc.*, 57 F.3d 1573, 1580 (Fed. Cir. 1995). A nexus may be presumed, as before, where the product in question is coextensive with the claims of the patent in question. *Fox Factory Inc. v. SRAM LLC*, 944 F.3d 1366, 1373 (Fed. Cir. 2019) .

Here, there are two licenses for the patent in question. [REDACTED]

[REDACTED]

[REDACTED] The second license is a license of the ‘036 patent, the ‘510 patent, the ‘800 patent, and the ‘550 patent to Senita. *See* Exhibit SW-2007. Each of these licenses includes a provision in which the licensee agrees to mark the licensed products with the licensed patents. Exhibit SW-2005 at Term 2.8; Exhibit SW-2007 at Term 3.6. The licensees’ agreement to this constitutes an acknowledgement that the products in question are the inventions disclosed and claimed in the licensed patents. In addition, a claim chart is provided herewith demonstrating how the claims of the ‘036 patent read on the Senita Sculpt Bra. *See* Exhibit SW-2008.

[REDACTED]

[REDACTED] In addition to having a largely identical disclosure to the ‘288 patent, the ‘036 patent has claims that are closely related to the ‘288 patent, and mostly coextensive therewith. Thus, there is evidence that at

least two of the licensed products are largely coextensive with the disclosure and claims of the '288 patent, indicating a nexus between the '288 patent and the licenses. In addition, and as noted above several other patents in the '288 patent family have also been licensed to Urban Savage, LLC and to Rabbit LLC, among other licenses. *See* Exhibits SW-2004 and SW-2007. There are multiple charts linking others of the Disputed Patents to products licensed under the above four licenses. *See* Exhibits SW-2011 through SW-2034.

c) *Commercial Success*

As further support for the non-obviousness of the ‘288 patent, there is some evidence of commercial success of products linked to the ‘288 patent and the other Disputed Patents. Where there is evidence of commercial success, and the “successful product is the invention disclosed and claimed in the patent, it is presumed that the commercial success is due to the patented invention.” *J.T. Eaton & Co. v. Atl. Paste & Glue Co.*, 106 F.3d 1563, 1571 (Fed. Cir. 1997). Here, and as noted above, multiple products licensed under the Disputed Patents remain available for sale, suggesting that those products have been profitable. ■

As noted above, the licensees acknowledged in each license that the licensed products practiced the invention

described and claimed in the ‘036 patent, which is highly similar to the ‘288 patent. Moreover, and as noted above, a claim chart is provided herewith indicating that the claims of the ‘036 patent read on the Allston Bra; therefore, and by similar reasoning, the Allston Bra represents “the invention disclosed and claimed in the patent,” and thus the commercial success of the Allston Bra is attributable to the invention in the ‘288 patent. There is also evidence that some licensed products described above have generated significant sales revenue. For instance Rabbit, LLC paid a lump sum of \$22,549.22, which amounted to 1% of gross revenues from the licensed products up to that point; Rabbit, LLC thus earned gross revenue in sales of at least 2.25 million dollars with respect to licensed products. SW-2006 at Terms 4.2 and 5.1.

d) Other Objective Indicia

As further support for the non-obviousness of the ‘288 patent, there is some evidence of industry praise products linked to the ‘288 patent and the other Disputed Patents. As noted above, at least one industry expert described the Pocket Bra as described and claimed in the Disputed Patents as “genius.” *See* SW-2003. Multiple women also informed Ms. Goff that the Pocket Bra as described and claimed in the Disputed Patents fulfilled a long-standing, unresolved need for improved storage about their person and other uses. *See* SW-2001 at ¶¶ 6 and 7.

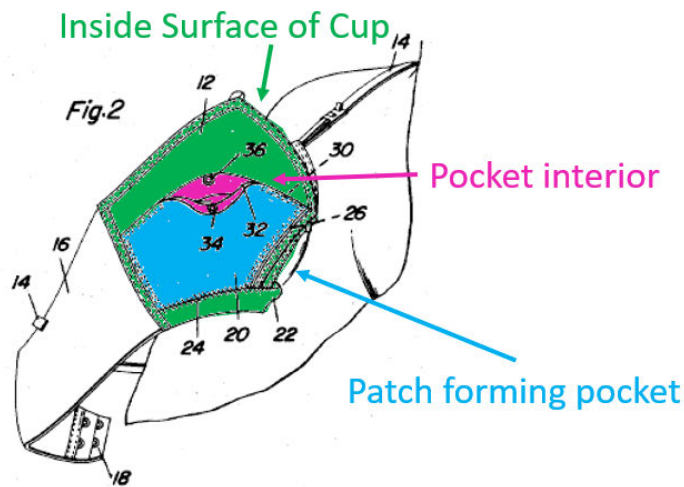
Therefore, and for at least the reasons set forth above, the Petitioner cannot succeed in demonstrating that the claims of the '288 patent are obvious in Ground 1 of the Petition.

B. Ground 2 Fails to Demonstrate Obviousness over York and Pintor in Light of the Objective Indicia

1. Petitioner Does Not Demonstrate that York in view of Pintor Teaches, Suggests, or Motivates Each Element of Claims 1, 6, and 11

The Petitioner asserts that York (U.S. 2,920,628) in view of Pintor renders each element of claims 1 and 6 of the '288 patent obvious. However, there are elements of claim 1 as claimed that York does not teach, suggest, or motivate. Furthermore, the objective indicia of non-obviousness weigh strongly against the conclusion that a person skilled in the art would consider claims 1 and 6 obvious over York and/or Pintor.

York does not teach a linear upper edge, as illustrated by the following figure from York:



The Petitioner argues that a linear edge is obvious over York as an obvious design choice that a person skilled in the art would be motivated to make. However, and as discussed below regarding objective indicia of obviousness, bras with pockets represent precisely the type of crowded field with simple technology where incremental improvements cannot be assumed to be obvious. *See Mintz v. Dietz & Watson, Inc.*, 679 F.3d 1372, 1379 (Fed. Cir. 2012) (“Where the invention is less technologically complex, the need for *Graham* findings can be important to ward against falling into the forbidden use of hindsight.”). NIKE is once again inviting the Board to exercise impermissible hindsight in support of this contention.

Alternatively, the Petitioner argues that York teaches a linear edge when considered in combination with Pintor, which the Petitioner cites as teaching a linear opening edge. However, and similarly to Barg, Pintor teaches away from combination with York or similar designs. “A prior art reference teaches away if it

“criticize[s], discredit[s], or otherwise discourage[s] the solution claimed.”

Bradium Techs. LLC v. Iancu, 923 F.3d 1032, 1047 (Fed. Cir. 2019), quoting *In re Fulton*, 391 F.3d 1195, 1201 (Fed. Cir. 2004). In its “Description of Related Art” Pintor states that “brassieres with...pockets sewn into the front of the cups” are undesirable because they “cause the objects stored in the brassiere to become visible under clothing,” while “pockets covering much of the interior surface of the cups” are given as an example of a solution that “may not be optimally designed to secure various concealed objects, and may not provide a suitable aesthetic appearance with pockets that are adapted to conceal bulk by their position, angle and construction.” Nike-1022 at Page 9, Col. 1, Lines 31-50. York meets the description of a “brassiere[] ...with pockets covering much of the interior surface of the cups.” Thus, Pintor is critical of the design in York, and would teach a person skilled in the art away from combining the invention of York with the invention of Pintor.

Therefore, and for at least this reason, Petitioner has failed to demonstrate that York in view of Pintor teaches, suggests, or motivates each element of claims 1 and 6. Claims 2-5, and 7-17 depend, directly or indirectly, from claims 1 and 6. Accordingly, because the Petition cannot demonstrate that claims 1 and 6 are obvious over York and Pintor, Ground 1 fails on claims 2-5, and 7-17 as well.

2. The Objective Indicia Demonstrate that the Claims of the ‘288 Patent are Not Obvious over York in view of Pintor

The non-obviousness of the ‘288 claims is additionally and separately supported by evidence for various objective indicia of non-obviousness. As noted above, “Objective indicia, or secondary considerations, of non-obviousness can be the “most probative and cogent evidence of non-obviousness.” *Mintz v. Dietz & Watson, Inc.*, 679 F.3d 1372, 1378 (Fed. Cir. 2012), quoting *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 1538 (Fed. Cir. 1983). “[O]bjective indicia constitute “independent evidence of nonobviousness.” *Id.*, quoting *Pressure Prods. Med. Supplies, Inc. v. Greatbatch Ltd.*, 599 F.3d 1308, 1319 (Fed.Cir.2010). Such evidence “may often establish that an invention appearing to have been obvious in light of the prior art was not.” *Id.*, quoting *Simmons Fastener Corp. v. Illinois Tool Works, Inc.*, 739 F.2d 1573, 1575 (Fed.Cir.1984). Furthermore “differences that may appear technologically minor,” such as a “simple variation on known themes,” are often better assessed using “[s]uch objective indicia as commercial success, or filling an existing need,” especially in a crowded field. *Cont’l Can Co. USA v. Monsanto Co.*, 948 F.2d 1264, 1273 (Fed. Cir. 1991). Likewise, “[w]here the invention is less technologically complex, the need for *Graham* findings can be

important to ward against falling into the forbidden use of hindsight.” *Mintz v. Dietz & Watson, Inc.*, 679 F.3d 1372, 1379 (Fed. Cir. 2012).

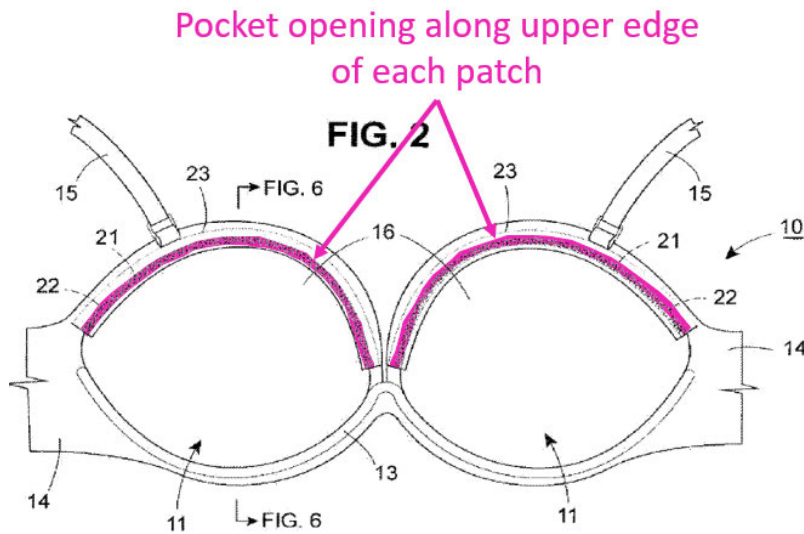
Here, and as set forth above for Ground 1, the factual record includes substantial evidence for objective indicia, including evidence of copying, licenses to third parties, commercial success, long-felt unresolved need, and industry praise.

Therefore, and for at least the reasons set forth above, the Petitioner cannot succeed in demonstrating that the claims of the ‘288 patent are obvious in Ground 2 of the Petition.

C. Ground 3 Fails to Demonstrate Obviousness over Handras and Pintor in Light of the Objective Indicia.

The Petitioner asserts that Handras (2014/0051331) in view of Pintor renders each element of claims 1 and 6 of the ‘288 patent obvious. However, there are elements of claim 1 and 6 as claimed that Handras does not teach, suggest, or motivate. Furthermore, the objective indicia of non-obviousness weigh strongly against the conclusion that a person skilled in the art would consider claims 1 and 6 obvious over Handras and/or Pintor.

Handras does not teach a linear edge, as illustrated for example in the following figure of Handras:



The Petitioner argues that a linear edge is obvious over Handras as an obvious design choice that a person skilled in the art would be motivated to make.

However, and as discussed below regarding objective indicia of obviousness, bras with pockets represent precisely the type of crowded field with simple technology where incremental improvements cannot be assumed to be obvious. *See Mintz v. Dietz & Watson, Inc.*, 679 F.3d 1372, 1379 (Fed. Cir. 2012) (“Where the invention is less technologically complex, the need for *Graham* findings can be important to ward against falling into the forbidden use of hindsight.”). NIKE is once again inviting the Board to exercise impermissible hindsight in support of this contention.

Alternatively, the Petitioner argues that Handras teaches a linear edge when considered in combination with Pintor, which the Petitioner cites as teaching a linear opening edge. However, Pintor teaches away from combination with

Handras or similar designs. “A prior art reference teaches away if it “criticize[s], discredit[s], or otherwise discourage[s] the solution claimed.” *Bradium Techs. LLC v. Iancu*, 923 F.3d 1032, 1047 (Fed. Cir. 2019), quoting *In re Fulton*, 391 F.3d 1195, 1201 (Fed. Cir. 2004). In its “Description of Related Art” Pintor states that “brassieres with...pockets sewn into the front of the cups” are undesirable because they “cause the objects stored in the brassiere to become visible under clothing,” while “pockets covering much of the interior surface of the cups” are given as an example of a solution that “may not be optimally designed to secure various concealed objects, and may not provide a suitable aesthetic appearance with pockets that are adapted to conceal bulk by their position, angle and construction.” Nike-1022 at Page 9, Col. 1, Lines 31-50. Handras meets the description of either or both of these disparaged categories of pocket bras: Handras can be interpreted either as a “brassiere[] with a pocket sewn into the front of the cups,” or as one with “pockets covering much of the interior surface of the cups.” In either interpretation, Pintor is critical of the design in Handras, and would teach a person skilled in the art away from combining the invention of Handras with the invention of Pintor.

Therefore, and for at least this reason, Petitioner has failed to demonstrate that Handras in view of Pintor teaches, suggests, or motivates each element of claims 1 and 6. Claims 2-5, and 7-17 depend, directly or indirectly, from claims 1

and 6. Accordingly, because the Petition cannot demonstrate that claims 1 and 6 are obvious over Handras and Pintor, Ground 1 fails on claims 2-5, and 7-17 as well.

1. The Objective Indicia Demonstrate that the Claims of the ‘288 Patent are Not Obvious over Handras in view of Pintor

The non-obviousness of the ‘288 claims is additionally and separately supported by evidence for various objective indicia of non-obviousness. As noted above, “Objective indicia, or secondary considerations, of non-obviousness can be the “most probative and cogent evidence of non-obviousness.” *Mintz v. Dietz & Watson, Inc.*, 679 F.3d 1372, 1378 (Fed. Cir. 2012), quoting *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 1538 (Fed. Cir. 1983). “[O]bjective indicia constitute “independent evidence of nonobviousness.” *Id.*, quoting *Pressure Prods. Med. Supplies, Inc. v. Greatbatch Ltd.*, 599 F.3d 1308, 1319 (Fed.Cir.2010). Such evidence “may often establish that an invention appearing to have been obvious in light of the prior art was not.” *Id.*, quoting *Simmons Fastener Corp. v. Illinois Tool Works, Inc.*, 739 F.2d 1573, 1575 (Fed.Cir.1984). Furthermore “differences that may appear technologically minor,” such as a “simple variation on known themes,” are often better assessed using “[s]uch objective indicia as commercial success, or filling an existing need,” especially in a crowded field. *Cont’l Can Co. USA v.*

Monsanto Co., 948 F.2d 1264, 1273 (Fed. Cir. 1991). Likewise, “[w]here the invention is less technologically complex, the need for *Graham* findings can be important to ward against falling into the forbidden use of hindsight.” *Mintz v. Dietz & Watson, Inc.*, 679 F.3d 1372, 1379 (Fed. Cir. 2012).

Here, and as set forth above for Ground 1, the factual record includes substantial evidence for objective indicia, including evidence of copying, licenses to third parties, commercial success, long-felt unresolved need, and industry praise.

Therefore, and for at least the reasons set forth above, the Petitioner cannot succeed in demonstrating that the claims of the ‘288 patent are obvious in Ground 3 of the Petition.

Petitioner has thus failed to make a *prima facie* case that it has a reasonable likelihood of success on either Ground 1, Ground 2, or Ground 3, and the Board should accord these Grounds no weight in rendering its institution decision.

V. CONCLUSION

For these reasons, Petitioner has failed to meet its burden to show that it has a reasonable likelihood of success for at least one claim. Patent Owner requests that the Board reject the Petition and deny institution.

Dated: November 13, 2024

Respectfully submitted,
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By its attorneys,

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CERTIFICATION OF COMPLIANCE

This Preliminary Response complies with the word count limitation of 37 C.F.R. § 42.24(b)(1) because, according to the word processing system used to prepare this document, the Petition contains 7,827 words, excluding the cover page, signature block, the exhibit list, and the parts of the Petition exempted by 37 C.F.R. § 42.24(a)(1).

Dated: November 28, 2024

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on November 28, 2024, copies of the foregoing PATENT OWNER'S PRELIMINARY RESPONSE TO PETITION FOR INTER PARTES REVIEW UNDER 35 U.S.C. §§ 311-19 AND 37 C.F.R. § 41.100, ET SEQ. were served pursuant to 37 C.F.R. § 42.6 electronically on Petitioner by sending the copies to Nike-SherryWear@kirkland.com.

Dated: November 28, 2024

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