UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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NIKE, INC.,
Petitioner,
v.
SHERRYWEAR LLC,
Patent Owner.

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IPR2024-01123
Patent 9,295,288

PATENT OWNER'S OBJECTIONS TO EVIDENCE SUBMITTED WITH PETITION FOR INTER PARTES REVIEW

Pursuant to 37 C.F.R. § 42.64(b)(1), Patent Owner Sherrywear, LLC objects to the admissibility of evidence submitted with the Petitioner for Inter Partes Review (Paper 1) as follows:

Exhibit No.	Objection(s)
NIKE-1001	Improper Expert Testimony (FRE 702) – It has not been established that Ms. Baran is a POSA under the Board's accepted definition. Relevance (FRE 401, 402, 403) – Petitioner has not identified any fact made more or less probable by this exhibit. Any probative value of this exhibit is substantially outweighed by the danger of unfair prejudice, confusing the issues, wasting time, or needlessly presenting cumulative evidence. Hearsay (FRE 801/802) – Ms. Baran's signed declaration (¶¶ 6–7, 15–21) constitutes inadmissible hearsay if offered to prove the truth of any matter allegedly asserted therein. 37 C.F.R. § 42.51 – Petitioner has not yet offered Ms. Baran for a deposition in connection with this matter. To the extent Ms. Baran is not made available for a deposition, Petitioners object to the use of NIKE-1001 for any purpose in this proceeding.
NIKE-1002	Relevance (FRE 401, 402, 403) – Petitioner has not identified any fact made more or less probable by this exhibit. Any probative value of this exhibit is substantially outweighed by the danger of unfair prejudice, confusing the issues, wasting time, or needlessly presenting cumulative evidence. Hearsay (FRE 801/802) – This item is inadmissible hearsay if offered to prove the truth of any matter allegedly asserted therein.

Exhibit No.	Objection(s)
NIKE-1019	Authentication (FRE 901/902) – Petitioner has not produced evidence sufficient to support a finding that the document is what Petitioner claims it is. Foundation (FRE 602) – Petitioner has not provided testimony to establish personal knowledge of this exhibit sufficient to prove its contents.
NIKE-1020	Authentication (FRE 901/902) – Petitioner has not produced evidence sufficient to support a finding that the document is what Petitioner claims it is. Foundation (FRE 602) – Petitioner has not provided testimony to establish personal knowledge of this exhibit sufficient to prove its contents.
NIKE-1021	Authentication (FRE 901/902) – Petitioner has not produced evidence sufficient to support a finding that the document is what Petitioner claims it is. Foundation (FRE 602) – Petitioner has not provided testimony to establish personal knowledge of this exhibit sufficient to prove its contents.
NIKE-1022	Authentication (FRE 901/902) – Petitioner has not produced evidence sufficient to support a finding that the document is what Petitioner claims it is. Foundation (FRE 602) – Petitioner has not provided testimony to establish personal knowledge of this exhibit sufficient to prove its contents.

Exhibit No.	Objection(s)
NIKE-1023	Authentication (FRE 901/902) – Petitioner has not produced evidence sufficient to support a finding that the document is what Petitioner claims it is. Foundation (FRE 602) – Petitioner has not provided testimony to establish personal knowledge of this exhibit sufficient to prove its contents.
NIKE-1024	Authentication (FRE 901/902) – Petitioner has not produced evidence sufficient to support a finding that the document is what Petitioner claims it is. Foundation (FRE 602) – Petitioner has not provided testimony to establish personal knowledge of this exhibit sufficient to prove its contents.
NIKE-1025	Authentication (FRE 901/902) – Petitioner has not produced evidence sufficient to support a finding that the document is what Petitioner claims it is. Foundation (FRE 602) – Petitioner has not provided testimony to establish personal knowledge of this exhibit sufficient to prove its contents.
NIKE-1030	Authentication (FRE 901/902) – Petitioner has not produced evidence sufficient to support a finding that the document is what Petitioner claims it is. Foundation (FRE 602) – Petitioner has not provided testimony to establish personal knowledge of this exhibit sufficient to prove its contents.

Exhibit No.	Objection(s)
NIKE-1034	Relevance (FRE 401, 402, 403) – Petitioner has not identified any fact made more or less probable by this exhibit. Any probative value of this exhibit is substantially outweighed by the danger of unfair prejudice, confusing the issues, wasting time, or needlessly presenting cumulative evidence. The bra analyzed is not a bra at issue in this case. Hearsay (FRE 801/802) – This item is inadmissible hearsay if offered to prove the truth of any matter allegedly asserted therein. Authentication (FRE 901/902) – Petitioner has not produced evidence sufficient to support a finding that the document is what Petitioner claims it is.
NIKE-1035	Relevance (FRE 401, 402, 403) – Petitioner has not identified any fact made more or less probable by this exhibit. Any probative value of this exhibit is substantially outweighed by the danger of unfair prejudice, confusing the issues, wasting time, or needlessly presenting cumulative evidence. The bra analyzed is not a bra at issue in this case. Hearsay (FRE 801/802) – This item is inadmissible hearsay if offered to prove the truth of any matter allegedly asserted therein. Authentication (FRE 901/902) – Petitioner has not produced evidence sufficient to support a finding that the document is what Petitioner claims it is.

Exhibit No.	Objection(s)
NIKE-1036	Relevance (FRE 401, 402, 403) – Petitioner has not identified any fact made more or less probable by this exhibit. Any probative value of this exhibit is substantially outweighed by the danger of unfair prejudice, confusing the issues, wasting time, or needlessly presenting cumulative evidence. The bra analyzed is not a bra at issue in this case. Hearsay (FRE 801/802) – This item is inadmissible hearsay if offered to prove the truth of any matter allegedly asserted therein. Authentication (FRE 901/902) – Petitioner has not produced evidence sufficient to support a finding that the document is what Petitioner claims it is.
NIKE-1047	Relevance (FRE 401, 402, 403) – Petitioner has not identified any fact made more or less probable by this exhibit. Any probative value of this exhibit is substantially outweighed by the danger of unfair prejudice, confusing the issues, wasting time, or needlessly presenting cumulative evidence. Hearsay (FRE 801/802) – This item is inadmissible hearsay if offered to prove the truth of any matter allegedly asserted therein. Authentication (FRE 901) – Petitioner has not produced evidence sufficient to indicate the provenance of this exhibit. Foundation (FRE 602) – Petitioner has not provided testimony to establish personal knowledge of this exhibit sufficient to prove its contents.

Exhibit No.	Objection(s)
NIKE-1048	Relevance (FRE 401, 402, 403) – Petitioner has not identified any fact made more or less probable by this exhibit. Any probative value of this exhibit is substantially outweighed by the danger of unfair prejudice, confusing the issues, wasting time, or needlessly presenting cumulative evidence. Hearsay (FRE 801/802) – This item is inadmissible hearsay if offered to prove the truth of any matter allegedly asserted therein. Authentication (FRE 901) – Petitioner has not produced evidence sufficient to indicate the provenance of this item. Foundation (FRE 602) – Petitioner has not provided testimony to establish personal knowledge of this exhibit sufficient to prove its contents.
NIKE-1049	Relevance (FRE 401, 402, 403) – Petitioner has not identified any fact made more or less probable by this exhibit. Any probative value of this exhibit is substantially outweighed by the danger of unfair prejudice, confusing the issues, wasting time, or needlessly presenting cumulative evidence.

Dated: February 26, 2025

Respectfully submitted,
SherryWear LLC,
By its attorneys,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on February 26, 2025, copies of the foregoing PATENT OWNER'S OBJECTIONS TO EVIDENCE SUBMITTED WITH PETITION FOR INTER PARTES REVIEWwere served pursuant to 37 C.F.R. § 42.6 electronically on Petitioner by sending the copies to Nike-SherryWear@kirkland.com.

Dated: February 26, 2025

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