

EXHIBIT 636-1
Invalidity Claim Chart for U.S. Patent 9,510,636

U.S. Patent No. 2,147,197 by Alfred A. Glidden (“Glidden”), which was filed on November 25, 1936 and issued on February 14, 1939, anticipates or renders obvious the asserted claims of the U.S. Patent 9,060,562 (“the ’562 patent”) pursuant to at least pre-AIA 35 U.S.C. §102(a), 102(b), 102(e), 102(g), and/or 103 under the ’636 patent’s earliest possible priority date.

As set forth in the chart below, all asserted claims of the ’636 patent are anticipated and/or obvious over Glidden.¹

The citations to portions of any reference in this chart are exemplary only. Defendant reserves the right to use the entirety of any reference described in other Exhibits to Section V of Defendant’s Preliminary Invalidity Contentions to show that the asserted claims are anticipated and/or obvious.

Defendant expressly reserves the right to supplement these contentions to add additional information showing that Glidden invalidates the asserted claims of the ’636 patent.

To the extent that any of the below claim limitations are found to not be expressly disclosed by the below reference, it is Defendant’s contention that any such limitation would be obvious, either based the general knowledge of one of ordinary skill in the art or based on any of the art cited in Defendant’s Preliminary Invalidity Contentions, which are incorporated herein by reference. In particular, as evidenced by the below and in Section V of Defendant’s Preliminary Invalidity Contentions, the ’636 patent is merely a collection of prior art elements that fails to meet the statutory requirement of nonobviousness under § 103, and the factors delineated in *KSR Int’l Co. v. Teleflex, Inc.*, 550 U.S. 398 (2007), weigh against a finding of nonobviousness.

For example, it would have been obvious to a person of ordinary skill in the art to combine the teaching of Glidden with the teachings of the references charted as Exhibits 636-2 to 636-8 to Defendant’s Preliminary Invalidity Contentions; such references are in the same field of art, and discuss various techniques and improvements that would have been known to yield predictable results when applied to the technology claimed in the ’636 patent, and a person of ordinary skill therefore would have been motivated to so combine them in view of the disclosures therein.

¹ The excerpts cited herein are exemplary. For any claim limitation, Defendant may rely on excerpts cited for any other limitation and/or additional excerpts not set forth fully herein to the extent necessary to provide a more comprehensive explanation for a reference’s disclosure of a limitation. Where an excerpt refers to or discusses a figure or figure items, that figure and any additional descriptions of that figure should be understood to be incorporated by reference as if set forth fully therein.

It is also Defendant's contention that one of ordinary skill in the art would find such limitation obvious for at least one or more of the following reasons: (1) the combination would unite old elements with no change in their respective function; (2) the combination would have been a predictable variation of a work in the same or a different field of endeavor; (3) the modification would have used a known technique to improve a similar device in the same way; (4) the modification was a known problem for which there was an obvious solution; (5) the modification would have been "obvious to try"; (6) the modification was known work in one field of endeavor that would have prompted variations of it for use in either the same or different field based on design incentives or other market forces; (7) there was an explicit teaching, suggestion, or motivation in the prior art for the modification.

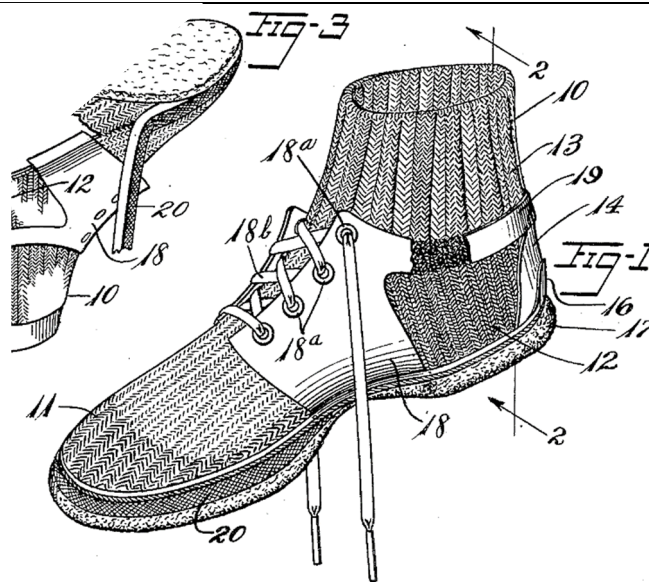
Except where specifically noted otherwise, this chart applies the apparent constructions of claim terms as used by Plaintiff in its Apparent Infringement Contentions;² such use, however, does not imply that Defendant adopts or agrees with Plaintiff's constructions in any way.

² Defendant notes that Nike did not serve infringement contentions on the date agreed to by the parties, namely, March 22, 2024. Defendant reserves all rights in light of this omission. In this document, Defendant responds to the purported infringement contentions appended to Nike's interrogatory responses served on March 1, 2024.

PRIOR ART CLAIM CHART FOR U.S. PATENT NO. 9,510,636

'636 Claims	Exemplary Citations to U.S. 2,147,197 (Glidden)
1[pre]. An article of footwear having an upper and a sole structure secured to the upper, the article of footwear incorporating a knitted component comprising:	To the extent that the preamble is considered limiting, Glidden teaches (explicitly, implicitly, and inherently) and also renders obvious an article of footwear having an upper and a sole structure secured to the upper, the article of footwear incorporating a knitted component. For example, see the following illustrative citation(s): p. 1, col. 1, ll. 1-4: "This invention relates to articles of footwear and to methods of making the same, and is especially useful in the manufacture of shoes having textile uppers." p. 1, col. 1, ll. 25-30: "The principal objects of the present invention are to provide comfort, stretchability, light weight, breathability and absorption properties in an article of footwear and to provide for economy of materials and convenience of procedure in the manufacture of the same." p. 2, col. 1, ll. 8-24: "In the embodiment of Fig. 1, after the upper has been applied to the last, the parts, preferably of rubber including a counter 14, heel reinforcement 18, outsole 11 and a blucher saddle 18 having an integral heel strap 19, which encircles the rear of the shoe, are mounted in place upon the upper as illustrated in Fig. 3, and may be cemented thereto in the places where it is desired to attach the parts to the upper, and a foxing 20 is preferably applied around the lower portion of the shoe where it joins the outer sole. A filler or reinforcing layer 15, preferably of thin, rubberized fabric, may be provided to facilitate assembly and to provide a stronger union of the outsole to the textile upper and to provide greater smoothness of the inner sole bottom." p. 2, col. 1, ll. 68-74: "In the embodiment of Figs. 6 and 7, the lower portion of the textile upper 27 is embraced by an integral rubber covering 28 having no lacings or other fastening means, but provided with a sole 29 and formed with ventilating and expansion-facilitating openings 30 which expose the textile upper." p. 2, col. 1, l. 75-col. 2, l. 15: "Whether or not the rubber portion 28 is to be attached to the upper it is preferably built upon the textile upper while the latter is upon a last, as in the building of the

	embodiments shown in Figs. 1 and 4, or a last which corresponds in dimension and shape with the outside of the lasted textile upper 27 may be constructed, and the rubber portion may be assembled thereabout and vulcanized thereon, as illustrated in Fig. 7, in which a perforated sheet of material 28 is shown as being laid about the last 31, and the sole 29 is laid thereon in adhesive engagement with the sheet 28. A filler or reinforcing layer 28a, like 15 of Fig. 3, may be provided if desired, to facilitate uniting the sole 29 to the part 28 and to provide a smooth inner bottom.” p. 2, col. 2, ll. 24-26: “Here a sole 32 is provided with a counter 33, toe cap 34, heel straps 35, and sole straps 36, united to each other.” p. 2, col. 2, ll. 45-53: “The high porosity of the upper provides good ventilation, and the flexibility of the upper and its inherent elasticity provide a degree of comfort comparable to wearing well fitted socks without shoes, while the outsole, which may be of any desired type and may be of crepe soling or may be molded to provide any desired anti-skid surface, provides adequate traction and protects the feet in walking.” Claim 1: “A shoe having an upper of porous elastic material providing an elastic top portion, a less flexible midportion and substantially less flexible portions at the lower margin of its sides and at its toe and heel, a sole on said upper and a bracing structure secured to the sole and extending over the instep portion of the upper to restrain the upper from being excessively stretched, the bracing structure covering only a portion of the upper thereby leaving extensive ventilating area of the latter exposed.” Figure 1 and associated text:
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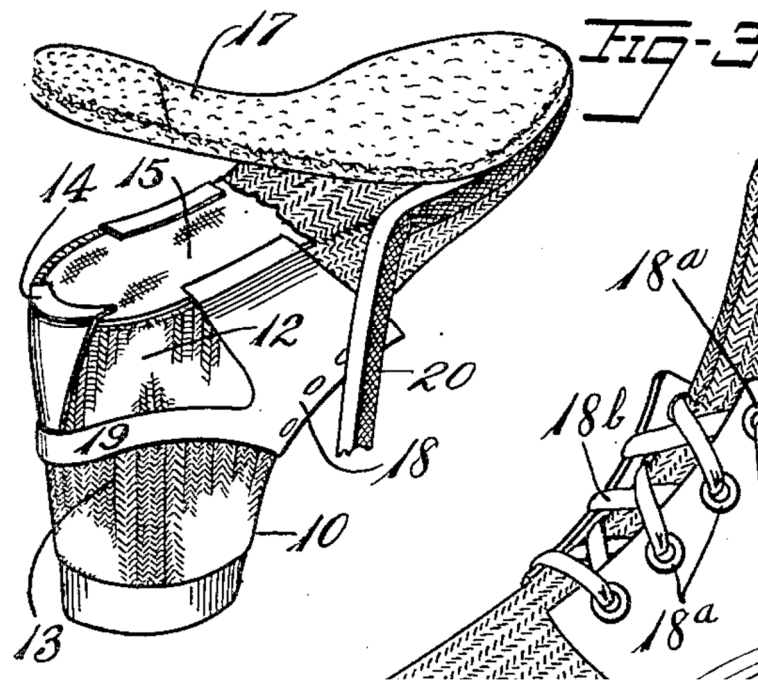


Figure 6 and associated text:

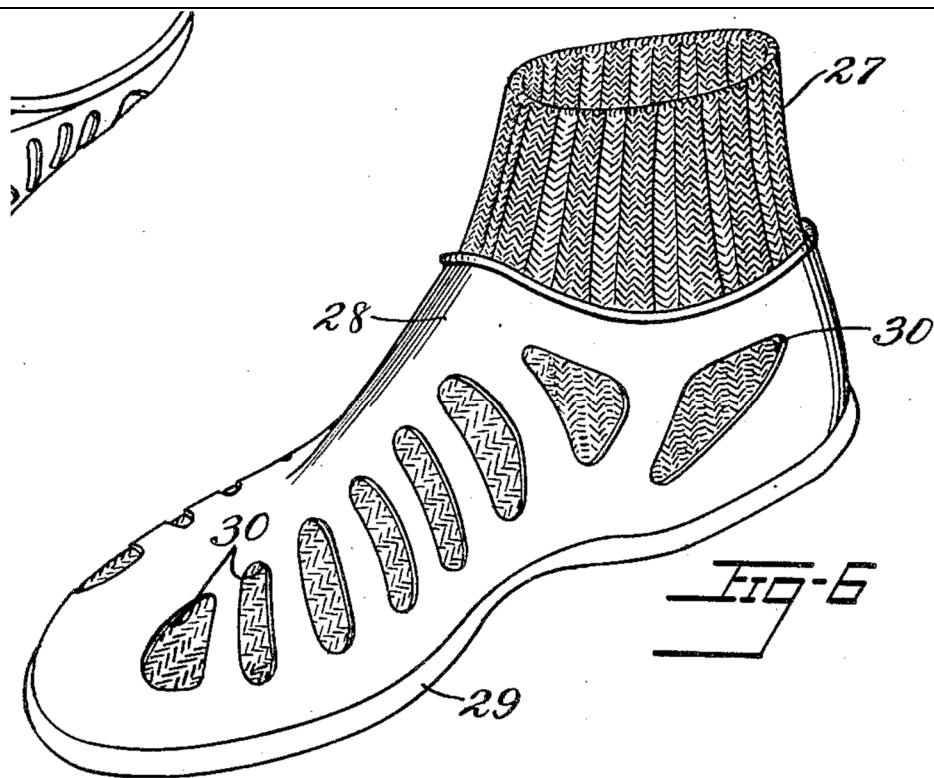


Figure 7 and associated text:

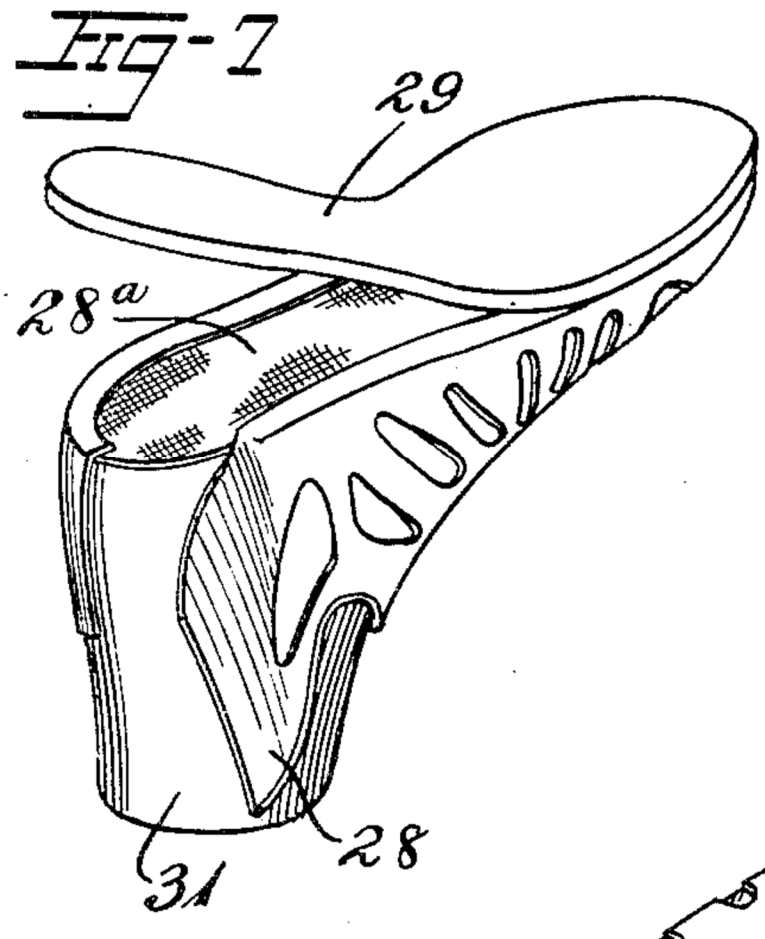
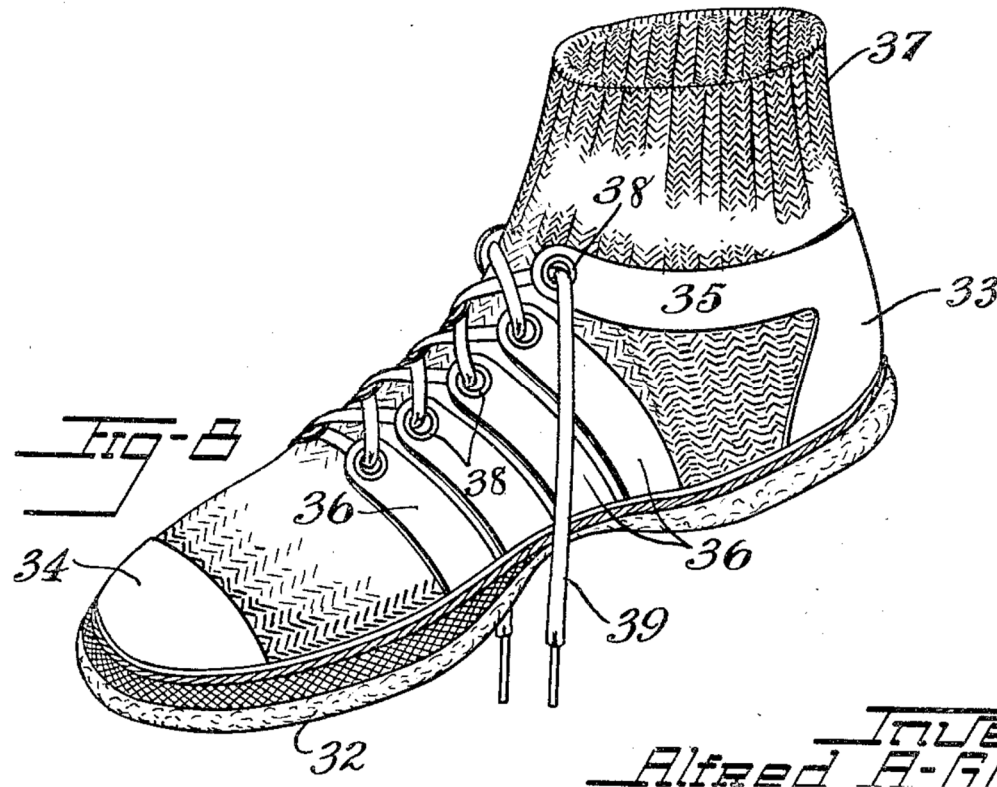


Figure 8 and associated text:



1[a]. a portion of the knitted component defining the upper, the upper including a portion of at least one of an exterior surface of the knitted component and an opposite interior surface of the knitted component, the interior

Glidden discloses (explicitly, implicitly, and inherently) a knitted component, wherein a portion of the knitted component defines the upper, the upper including a portion of at least one of an exterior surface and an opposite interior surface of the knitted component, the interior surface defining a void for receiving a foot.

For example, as shown in the figures, the upper has an exterior surface and an interior surface.

Figure 1 and associated text:

surface defining a void
for receiving a foot; and

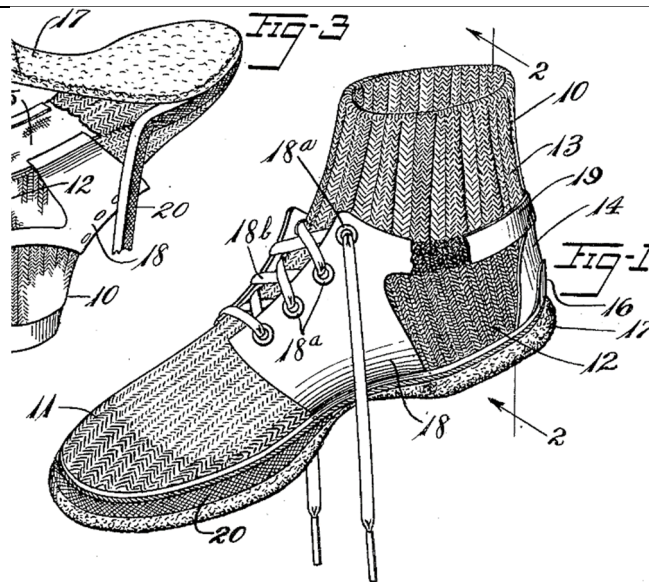


Figure 4 and associated text:

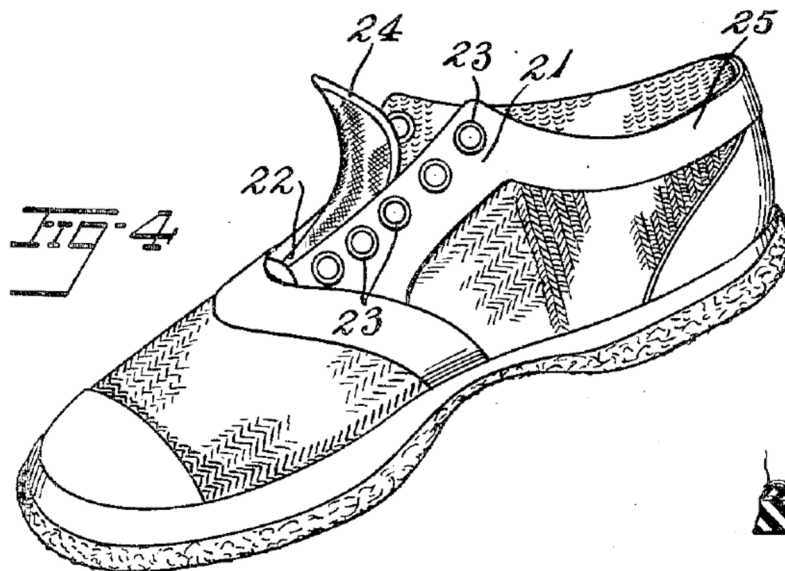


Figure 6 and associated text:

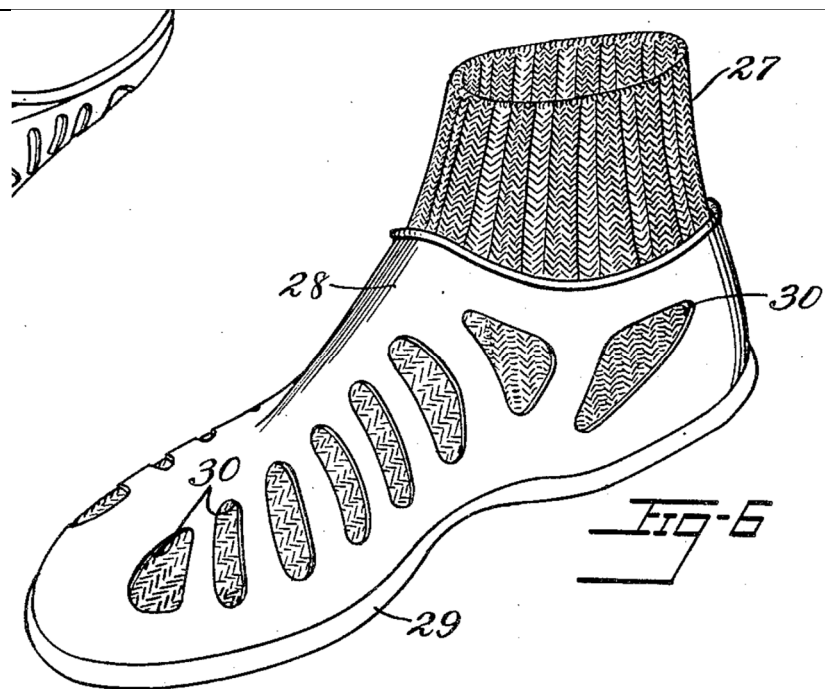
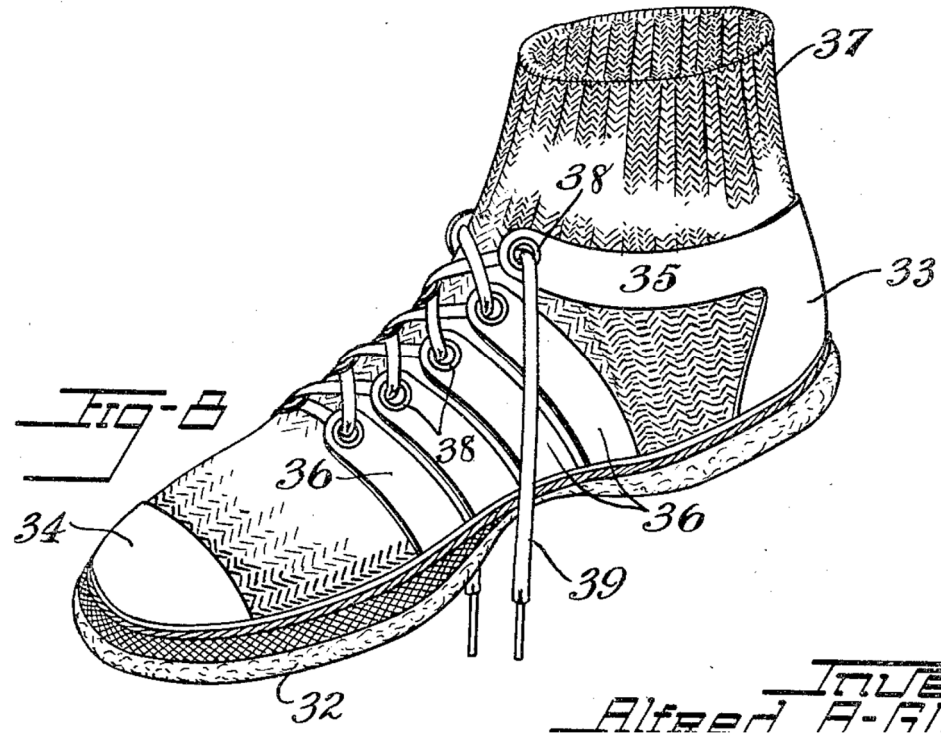


Figure 8 and associated text:



In addition, to the extent Nike contends that Glidden does not disclose this claim element, it would have been obvious to a POSITA to modify Glidden, such as by combining with the general knowledge and/or the teachings of the numerous prior art references that disclose this limitation, including, e.g., U.S. Patent No. 8,490,299 ("Dua '299"), to arrive at this claim element. For example, Dua '299 discloses that a knitted upper includes at least one of an exterior surface and an opposite interior surface.

3:58-60: "In addition, knitted component 40 forms both an interior surface and an opposite exterior surface of upper 30."

	9:39-40: “Knitted component 40 forms both an interior surface and an opposite exterior surface of upper 30.” A POSITA would have been motivated to combine these references for this limitation, because they are in the same field, they are aimed at solving the same perceived problems in the art, and the nature of the problem to be solved was the same. Known design incentives and market forces would have also motivated a POSITA to combine these references. Furthermore, a POSITA would understand that this limitation was a standard implementation and an obvious design choice. Such an implementation simply reflects one of a finite number of well-known techniques implemented in a predictable manner, to achieve well-known, predictable results.
1[b]. an integral knit tongue formed with the upper and extending through a throat area of the knitted component; and	Glidden discloses (explicitly, implicitly, and inherently) a knitted component including an integral knit tongue formed with the upper and extending through a throat area of the knitted component. For example, see the following illustrative citation(s): p. 1, col. 2, ll. 3-17: “Referring to the drawings, the invention contemplates the construction of an article of footwear in which an upper of extensible and elastic textile material, such, for example, as knit[t]ed material, and of such extent as to form the complete upper including the insole, fabricated without substantial waste to the desired shape to accommodate the foot without uncomfortable wrin[k]les. A reinforcing structure, preferably of rubber is provided on the outer face of the upper in formfitting contact therewith without wrinkling or buckling of either of the parts, while preferably leaving extensive portions of the textile upper exposed to provide breathability and facility of flexing.” p. 1, col. 2, ll. 19-24: “In proceeding according to the method of this invention a complete and integral, extensible and elastic, unlined shoe upper 10 is formed, preferably by knitting, to final form and without waste, of yarn which may be of any suitable material” Moreover, the figures show a single, unitary knit upper that covers the instep or tongue portion. Figure 1 and associated text:

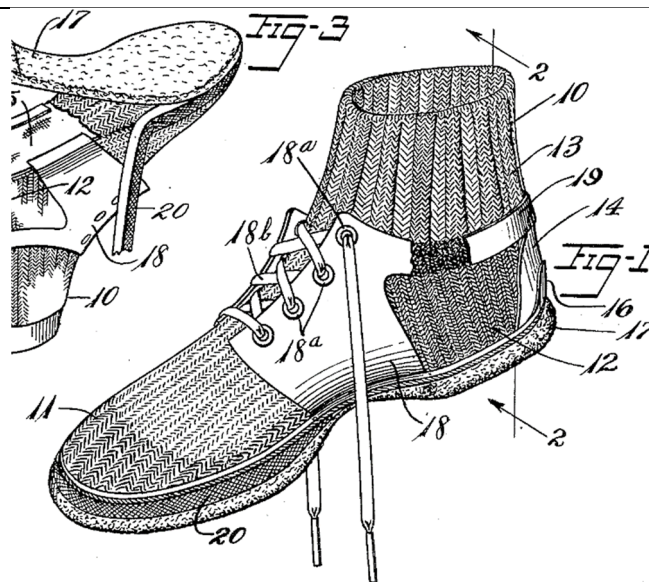


Figure 4 and associated text:

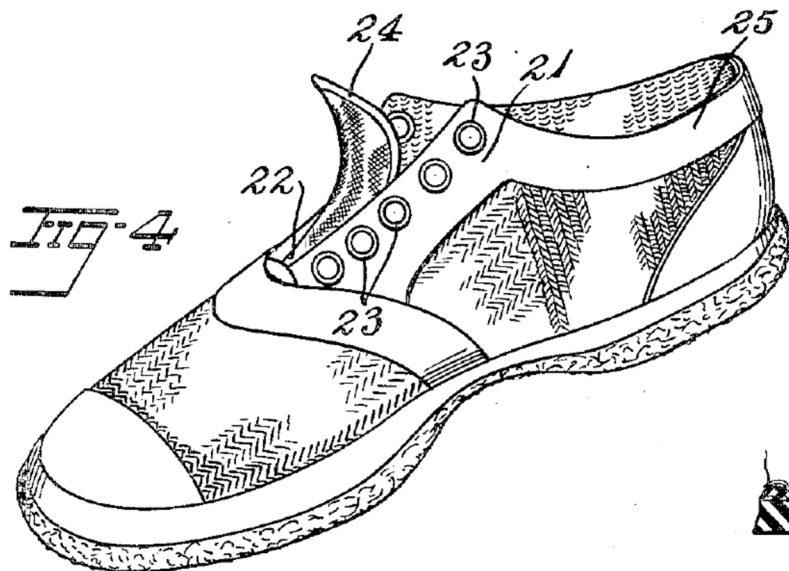


Figure 6 and associated text:

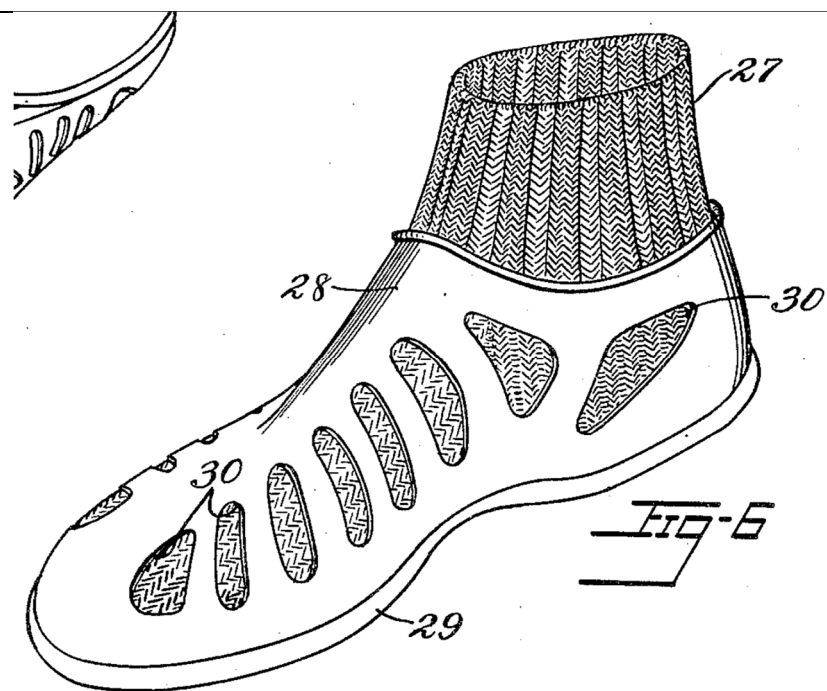
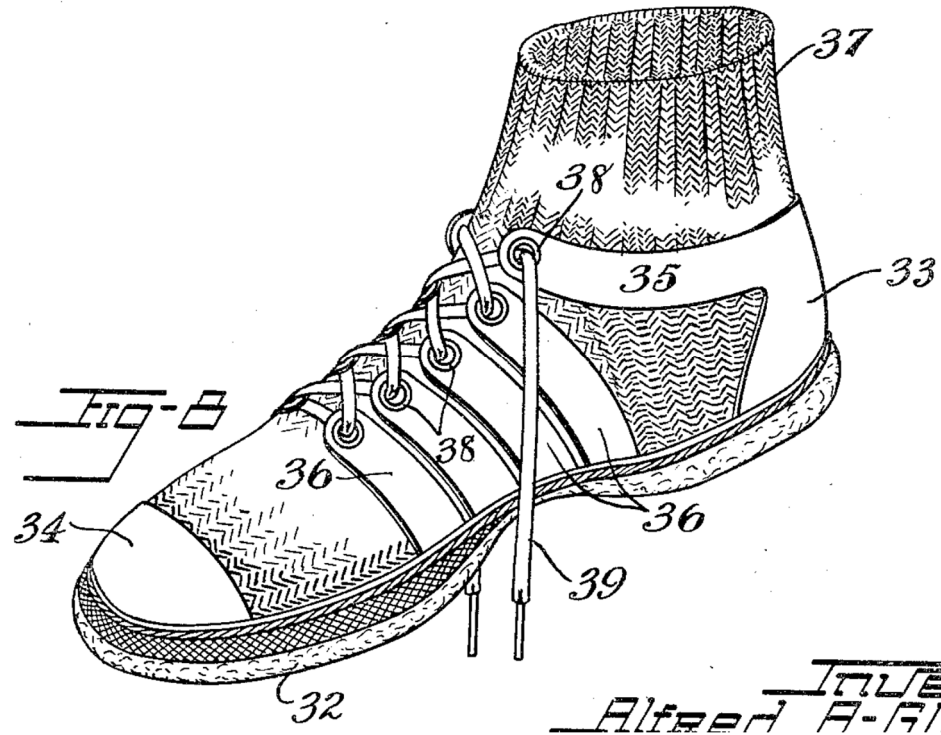


Figure 8 and associated text:



A POSITA would understand that the disclosure of such a single, unitary knit upper teaches an integral knit tongue extending through the throat area of the knitted component.

In addition, to the extent Nike contends that Glidden does not disclose this claim element, it would have been obvious to a POSITA to modify Glidden, such as by combining with the general knowledge and/or the teachings of the numerous prior art references that disclose this limitation, including, *e.g.*, U.S. Patent App. Pub. Nos. 2010/0077634 (“Bell”), and 2012/0233884 (“Greene”), to arrive at this claim element.

For instance, Bell teaches an integral knit tongue extending through the throat area of the upper.

[0056]: “FIG. 3 illustrates one example of an upper member 200 that may be produced in accordance with this invention. In this example structure, the upper member 200 constitutes a single piece that

includes: a medial side and lace eyelet section 212, a lateral side and lace eyelet section 214, a toe portion 216, a rear heel portion 218, and footbed portions 220 and 222. Although not shown in FIG. 2 or 3, the upper construction may additionally include a tongue member, e.g., integrally formed as part of the one piece upper member 200 (e.g., extending from one of the eyelet sections 212 or 214 or from the toe portion 216), or separately formed (from the same upper material blank 202 or from a different blank or even a different upper material). The upper member 200 may be shaped and stitched in the necessary places (optionally along with a tongue part, as mentioned above) to provide a final upper construction. As one example in the illustrated upper member 200, edge 224 may be engaged with edge 226 when forming the upper construction. Various examples of seam formation features of the invention will be described in more detail below.”

[0088]: “... Alternatively, if desired, a tongue member 1020 may be integrally formed as part of the upper member construction. As best illustrated in FIG. 10C, in this example structure 1000, the tongue member 1020 is integrally formed with at least a portion of the medial side 1030 of the upper construction. Specifically, the tongue member 1020 integrally extends from the medial side eyelet area 1018, and it is joined to the upper structure along seam 1008. In order to allow a conventional shoe lace to be engaged with the upper 1002, the medial side eyelet area 1018 includes two eyelet holes 1032 at each lace engagement location (one in which the free end of the lace enters and one in which the free end of the lace exits), whereas the lateral side eyelet area 1016 includes a single eyelet hole 1032 at each lace engagement location. Alternatively, if desired, the tongue member 1020 could be integrally formed from the lateral side 1034 of the article of footwear 1000 or from the toe portion 1036 of the article of footwear 1000.”

Figures 10B-10C and associated text:

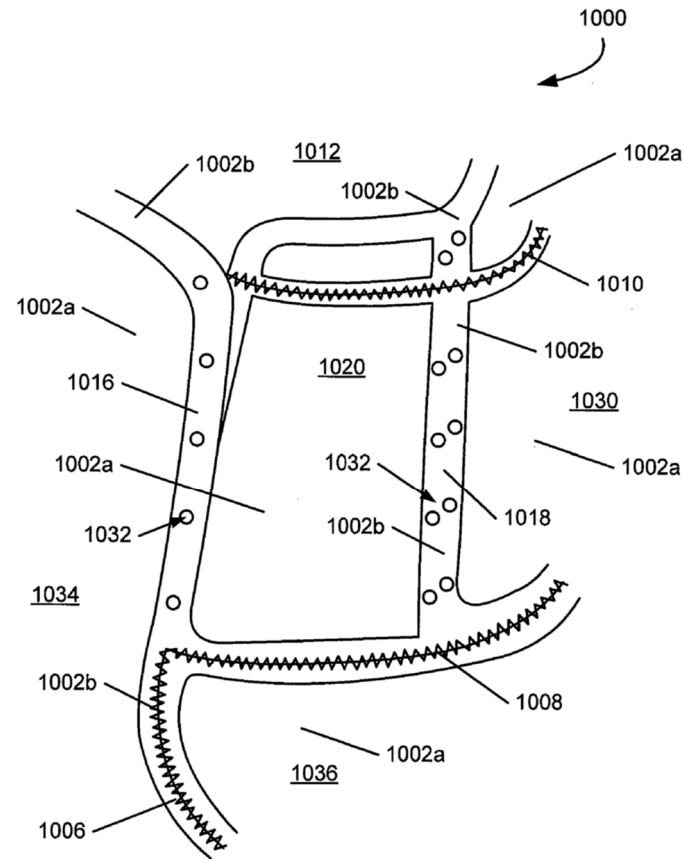


FIG. 10C

Greene similarly discloses an integral knit tongue that extends through the throat area of a shoe upper.

[0059]: “Whereas many conventional footwear tongues have a sheath formed from multiple textile elements or other material elements that are joined through stitching or bonding, for example, sheath 41 is formed as a one-piece element through a knitting process, such as circular knitting or flat

knitting. More particularly, sheath **41** is generally formed of unitary knit construction through the knitting process. As utilized herein, a knitted component such as sheath **41** is defined as being formed of “unitary knit construction” when constructed as a one-piece knit element that is substantially free of additional stitching or bonding processes. That is, the knitting process substantially forms the various features and structures of sheath **41** without the need for significant additional manufacturing steps or processes. In some configurations, sheath **41** remains formed of unitary knit construction when first end **45** or second end **46** are closed through stitching or bonding in order to seal core **42** within sheath **41**, or when areas are trimmed following the knitting process. Additionally, sheath **41** remains formed of unitary knit construction when other minor elements (e.g., logos, trademarks, lace loops, care instruction and material placards) are added to tongue element **40** following the knitting process.”

[0061]: “Tongue element 40 provides various advantages over conventional footwear tongues. For example, tongue element 40 enhances footwear comfort by incorporating few seams or other discontinuities in areas that contact the foot. As another example, tongue element 40 includes relatively few material elements. As discussed in the Background section above, by decreasing the number of material elements utilized in the upper, waste may be decreased while increasing the manufacturing efficiency and recyclability of the upper. To further enhance efficiency, forming sheath 41 through a knitting process limits the number of cutting operations or other processes that generally generate waste material, while allowing the creation of contours that are relatively difficult with stitch and turn methods.”

[0103]: “... For example, as depicted in FIGS. 32-34, tongue element 40 of upper 30 is secured to knitted component 36, which may be configured as set forth in U.S. patent application Ser. No. 12/338,726 to Dua, filed Dec. 18, 2008, which is herein incorporated by reference. Tongue element 40 may be secured to knitted component 36 by stitching 37. As a further example, as depicted in FIGS. 35-37, tongue element 140 of upper 30 is secured by stitching 37 to knitted component 36, which may be configured as set forth in U.S. patent application Ser. No. 13/048,514 to Huffa et al., filed Mar. 15, 2011, which is herein incorporated by reference.”

Figure 34 and associated text:

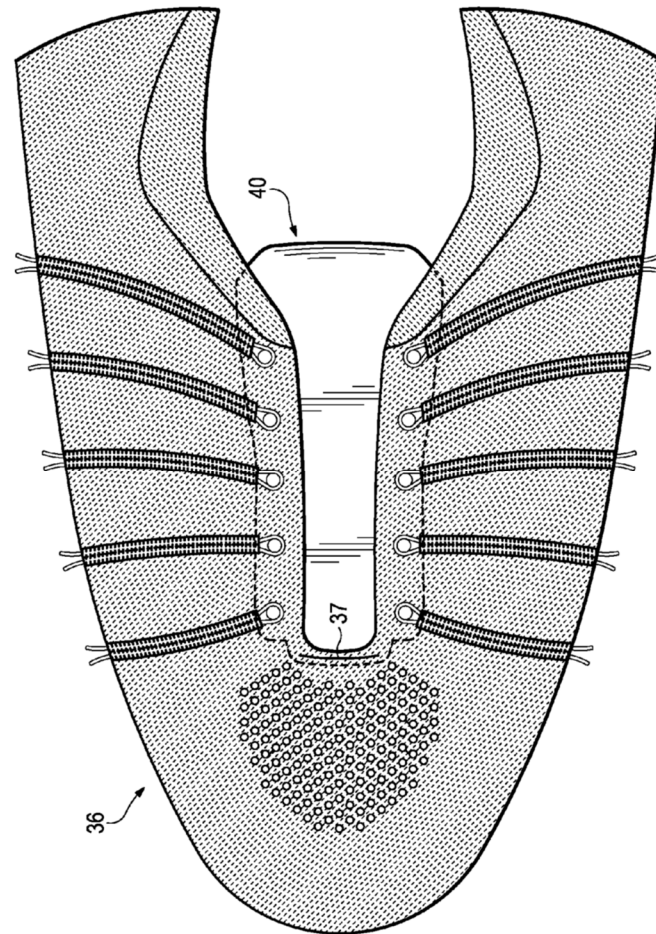


Figure 34

A POSITA would have been motivated to combine these references for this limitation, because they are in the same field, they are aimed at solving the same perceived problems in the art, and the nature of the problem to be solved was the same. Known design incentives and market forces would have also motivated a POSITA to combine these references. Furthermore, a POSITA would understand that this limitation was a standard implementation and an obvious design choice. Such an

	implementation simply reflects one of a finite number of well-known techniques implemented in a predictable manner, to achieve well-known, predictable results.
1[c] . at least one raised element extending a height above the exterior surface of the knitted component,	Glidden discloses (explicitly, implicitly, and inherently) a knitted component including at least one raised element extending a height above the exterior surface of the knitted component. For example, see the following illustrative citation(s): p. 1, col. 2, ll. 33-44: “In fabricating the unitary upper, as by knitting, areas thereof which are normally subjected to greater wear and in which a lower degree of elasticity is desired, such as the toe 11 and the heel portion 12, may be more densely fabricated to provide therein heavier weight and less extensibility than in the other parts of the upper, as by changing the type of stitch or amount or thickness of the yarn in the knitting. Other areas, such as the ankle portion 13, are preferably made so as to provide softness and elasticity, as by making them of ribbed construction, as shown.” p. 2, col. 1, ll. 8-38: “In the embodiment of Fig. 1, after the upper has been applied to the last, the parts, preferably of rubber including a counter 14, heel reinforcement 18, outsole 11 and a blucher saddle 18 having an integral heel strap 19, which encircles the rear of the shoe, are mounted in place upon the upper as illustrated in Fig. 3, and may be cemented thereto in the places where it is desired to attach the parts to the upper, and a foxing 20 is preferably applied around the lower portion of the shoe where it joins the outer sole. A filler or reinforcing layer 15, preferably of thin, rubberized fabric, may be provided to facilitate assembly and to provide a stronger union of the outsole to the textile upper and to provide greater smoothness of the inner sole bottom. The article is then vulcanized preferably while on the last and then removed therefrom. The eyelets 18a for receiving the shoe lace 18b may be applied to the margins of the blucher saddle 18 after vulcanization. The blucher saddle is permanently attached to the upper only at or near the sole leaving the eyeleted portion free. While rubber is the preferred material, some or all the parts applied to the upper in this and the other embodiments may in some cases be of any other suitable material, such as fabric, or natural or artificial leather. Where rubber is used, it may be unreinforced, or it may be reinforced, as by fabric, if desired.” p. 2, col. 1, ll. 39-55: “In the embodiment of Fig. 4 the front of the upper has reinforcing stays 21 secured thereto, as by cementing or stitching, over the instep and extending to the top of the shoe, and the upper may be slit as at 22, preferably after vulcanization, to provide a vent extending from the top of the shoe to the instep in a forward direction, the stays being provided with eyelets 23 for lacing. A

	tongue 24 also may be provided. In some cases the tongue 24 and the slit 22 may be omitted, the stays being retained, however, to permit lacing, and for bracing. A strap 25 may be provided, extending around the back of the foot and secured at its ends to the stays. As shown, the shoe may be of the low type with the strap 25 extending along the top margin of the upper.” p. 2, col. 2, ll. 20-22: “If desired, the rubber part may then be cemented to the textile upper 28 over all or a part of their contacting surfaces.” p. 2, col. 2, ll. 35-39: “In this embodiment, also, the upper may be either removable or cemented or otherwise attached in place over at least a portion of the area of contact with the rubber parts.” Claim 1: “A shoe having an upper of porous elastic material providing an elastic top portion, a less flexible midportion and substantially less flexible portions at the lower margin of its sides and at its toe and heel, a sole on said upper and a bracing structure secured to the sole and extending over the instep portion of the upper to restrain the upper from being excessively stretched, the bracing structure covering only a portion of the upper thereby leaving extensive ventilating area of the latter exposed.” Claim 2: “A shoe having an upper of knitted material providing elasticity and ventilating porosity by virtue of the knitted construction, a sole on the upper, and a bracing structure secured to the sole and extending over the instep portion of the upper to restrain the upper from being excessively stretched, the bracing structure covering only a portion of the upper thereby leaving extensive ventilating area of the latter exposed and said upper having in the foot portion below the ankle a plurality of zones of knitted material of different degrees of stiffness merged integrally by knitted union with one another to provide localized reinforcement of the knitted material acting in cooperation with said bracing structure to resist excessive localized stretching while providing elasticity and ventilation of the upper.” Claim 3: “3. A shoe having an upper of knitted material providing elasticity and ventilating porosity by virtue of the knitted construction, a sole adhered to the upper, and a bracing structure secured to the sole and adhered at least in part directly to said upper and extending over the instep portion of the upper to restrain the upper from being excessively stretched, the bracing structure covering only a portion of the upper thereby leaving extensive ventilating area of the latter exposed and said upper having at the margin of an adhered portion of said bracing structure a zone of increased density of
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knitting merging with a zone of the knitted material of less dense knitting spaced from the bracing structure to provide local reinforcement of the knitted material at the margin of the bracing structure against excessive localized stretching.”

Claim 4: “A shoe having an upper of such knitted construction as to provide an elastic top portion, a less flexible midportion and a substantially less flexible lower portion, the upper being porous for ventilation by virtue of the knitted construction, a sole on the upper, and a bracing structure secured to the sole and extending over the instep portion of the upper to restrain the knitted upper from being excessively stretched, the bracing structure covering only a portion of the upper thereby leaving extensive ventilating area of the latter exposed.”

Claim 5: “A shoe having. a sock-like upper of such knitted construction as to provide an elastic top portion, a less flexible midportion, and substantially less flexible portions at the lower margin of its sides and at its toe and heel, a sole essentially of rubber adhered to the upper and a bracing structure essentially of rubber for restraining the upper from being excessively stretched, said structure comprising a portion adhered to the sole and extending over the instep of the upper and a portion adhered to the sole at the heel and extending forwardly around the upper, the bracing structure covering only a portion of the upper thereby leaving extensive ventilating area of the latter exposed.”

Figure 1:

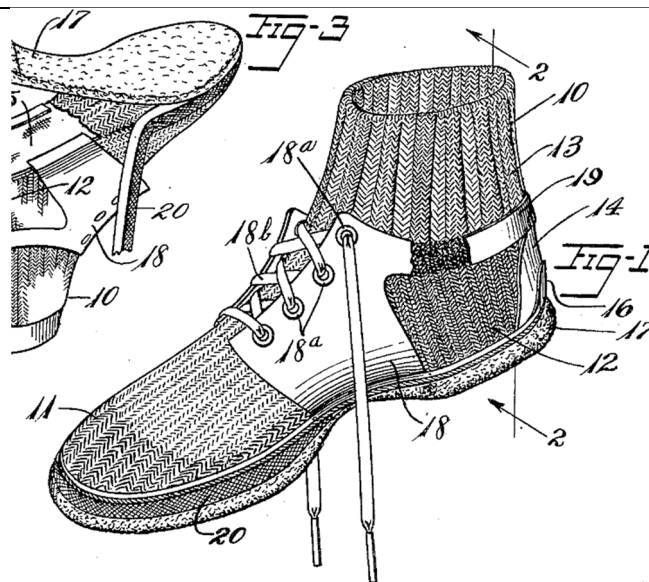


Figure 4 and associated text:

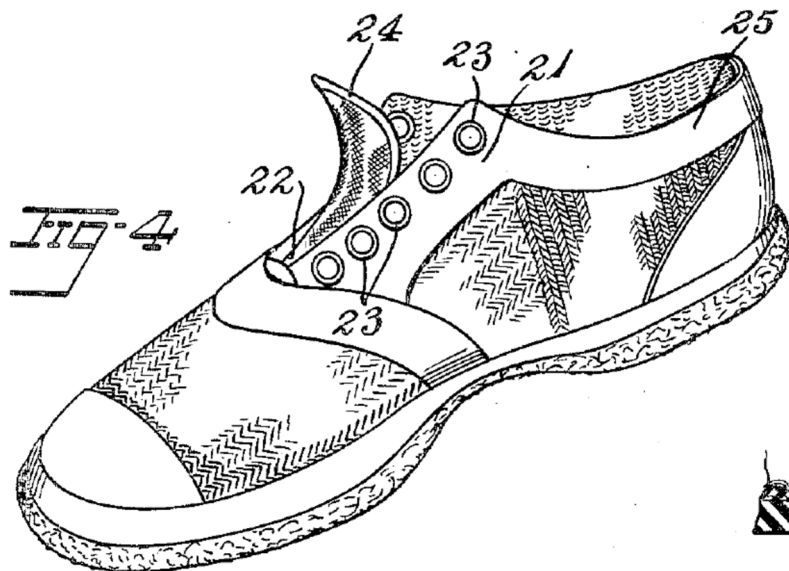


Figure 6 and associated text:

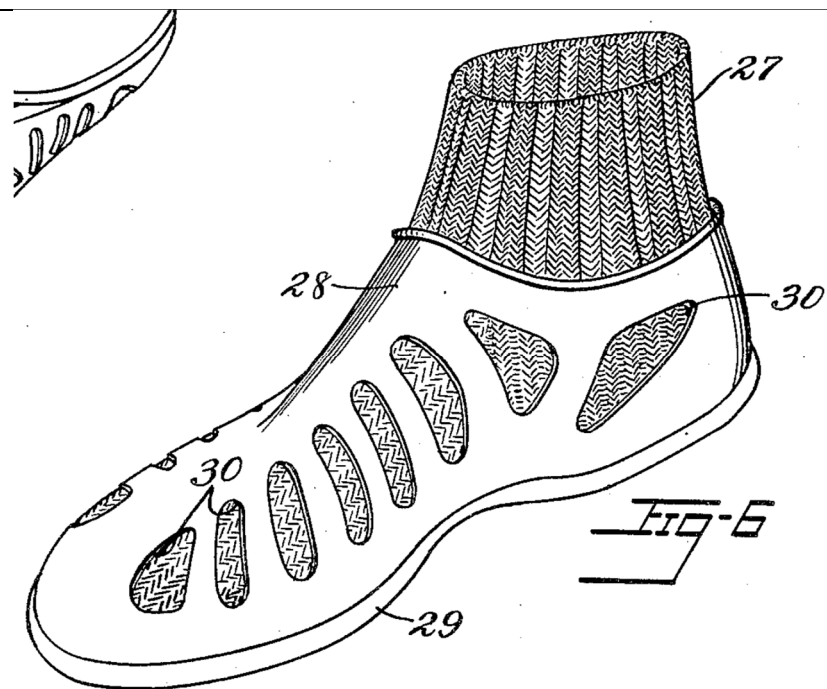
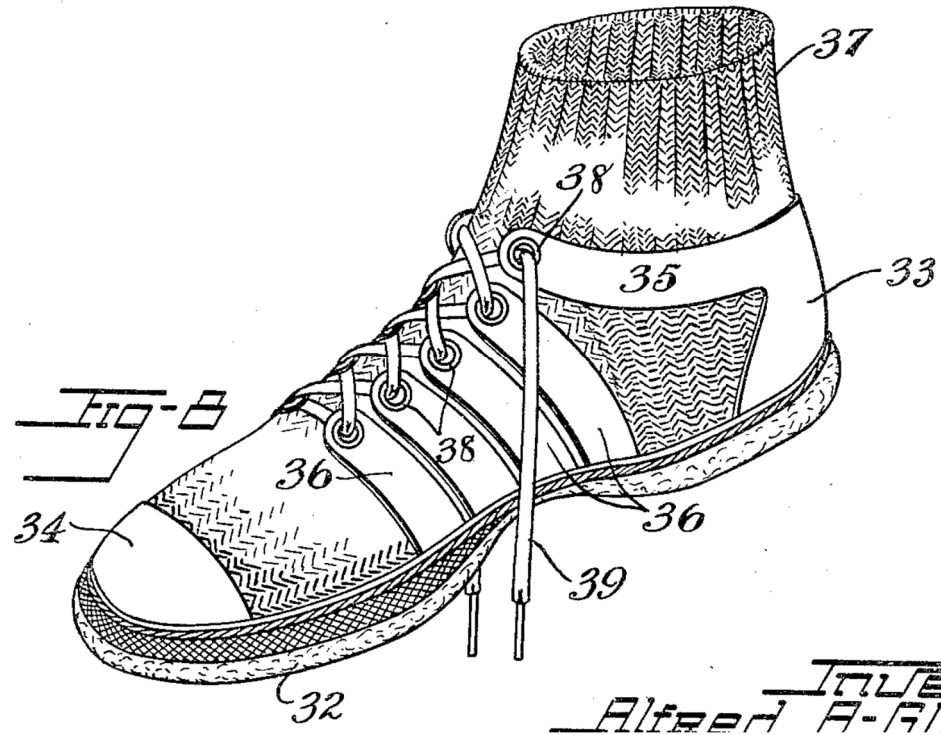


Figure 8 and associated text:



To the extent Nike contends that Glidden does not disclose this claim, it would have been obvious to a POSITA at the relevant time to modify Glidden, such as by combining with the general knowledge and/or the teachings of the numerous prior art references that disclose this limitation, including, *e.g.*, Bell, to arrive at this claim. For instance, Bell discloses at least one raised element extending a height above the exterior surface of the knitted component.

[0088]: “As mentioned above, a separate tongue member (made of the same or different materials from the remainder of the upper member) may be provided and attached to the upper construction without departing from this invention. Alternatively, if desired, a tongue member 1020 may be integrally formed as part of the upper member construction. As best illustrated in FIG. 10C, in this example structure 1000, the tongue member 1020 is integrally formed with at least a portion of the medial side 1030 of the upper construction. Specifically, the tongue member **1020** integrally extends

from the medial side eyelet area **1018**, and it is joined to the upper structure along seam **1008**. In order to allow a conventional shoe lace to be engaged with the upper **1002**, the medial side eyelet area **1018** includes two eyelet holes **1032** at each lace engagement location (one in which the free end of the lace enters and one in which the free end of the lace exits), whereas the lateral side eyelet area **1016** includes a single eyelet hole **1032** at each lace engagement location. Alternatively, if desired, the tongue member **1020** could be integrally formed from the lateral side **1034** of the article of footwear **1000** or from the toe portion **1036** of the article of footwear **1000**.”

Figure 10B and associated text:

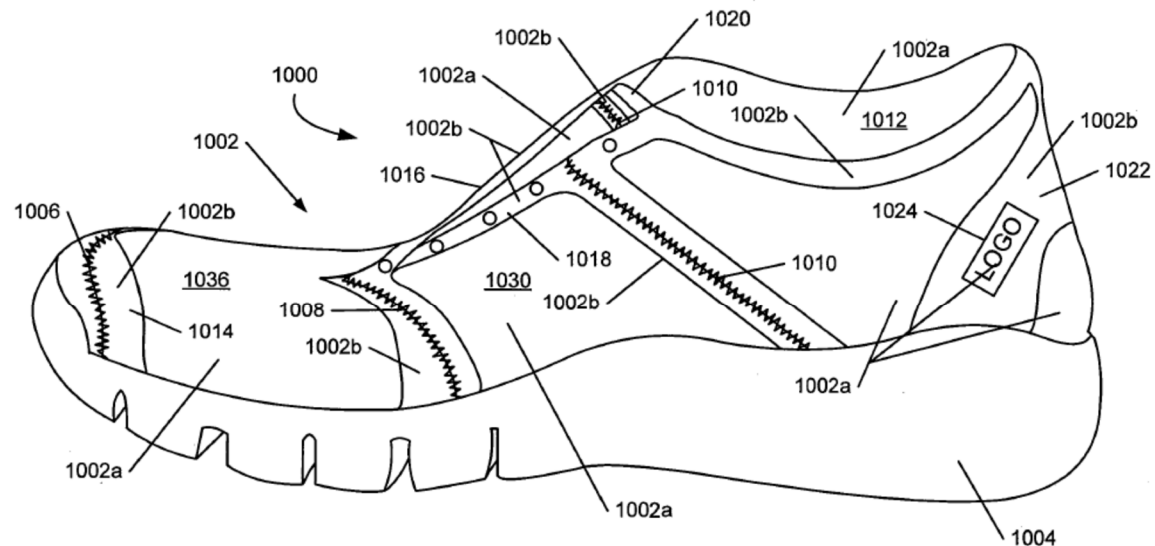


FIG. 10B

A POSITA would have been motivated to combine these references for this limitation, because they are in the same field, they are aimed at solving the same perceived problems in the art, and the nature

	of the problem to be solved was the same. Known design incentives and market forces would have also motivated a POSITA to combine these references. Furthermore, a POSITA would understand that this limitation was a standard implementation and an obvious design choice. Such an implementation simply reflects one of a finite number of well-known techniques implemented in a predictable manner, to achieve well-known, predictable results.
1[d]. wherein the integral knit tongue is joined to a forward portion of the throat area and at least along a portion of a lateral side and a medial side of the throat area of the knitted component extending from the forward portion to an ankle opening of the upper.	Glidden discloses (explicitly, implicitly, and inherently) an integral knit tongue that is joined to a forward portion of the throat area and at least along a portion of a lateral side and a medial side of the throat area of the knitted component extending from the forward portion to an ankle opening of the upper. For example, see the following illustrative citation(s): p. 1, col. 2, ll. 3-17: “Referring to the drawings, the invention contemplates the construction of an article of footwear in which an upper of extensible and elastic textile material, such, for example, as knit[t]ed material, and of such extent as to form the complete upper including the insole, fabricated without substantial waste to the desired shape to accommodate the foot without uncomfortable wrin[k]les. A reinforcing structure, preferably of rubber is provided on the outer face of the upper in formfitting contact therewith without wrinkling or buckling of either of the parts, while preferably leaving extensive portions of the textile upper exposed to provide breathability and facility of flexing.” p. 1, col. 2, ll. 19-24: “In proceeding according to the method of this invention a complete and integral, extensible and elastic, unlined shoe upper 10 is formed, preferably by knitting, to final form and without waste, of yarn which may be of any suitable material” Moreover, the figures show a single, unitary knit upper that covers the instep or tongue portion. Figure 1 and associated text:

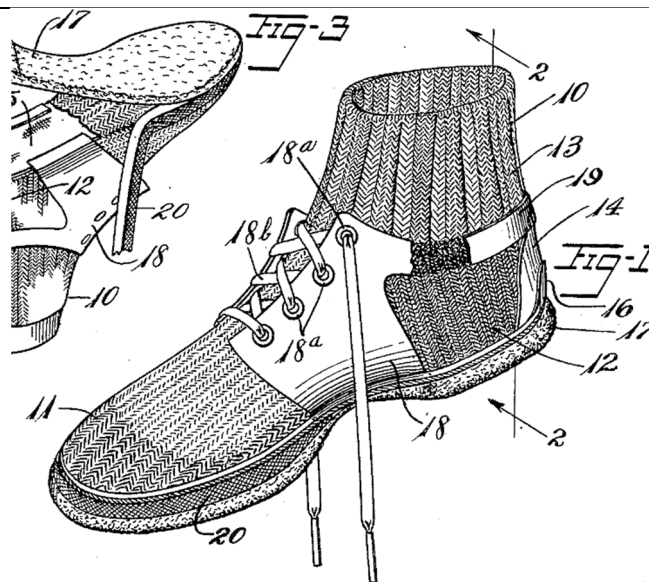


Figure 4 and associated text:

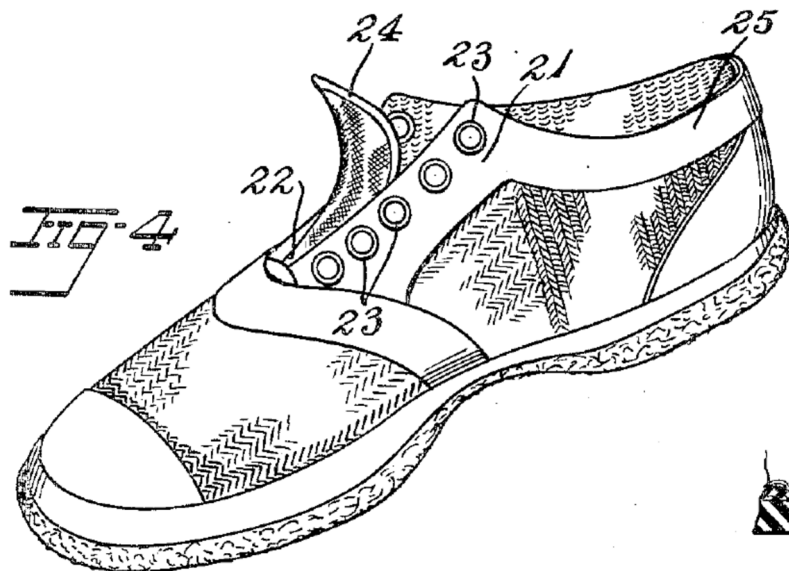


Figure 6 and associated text:

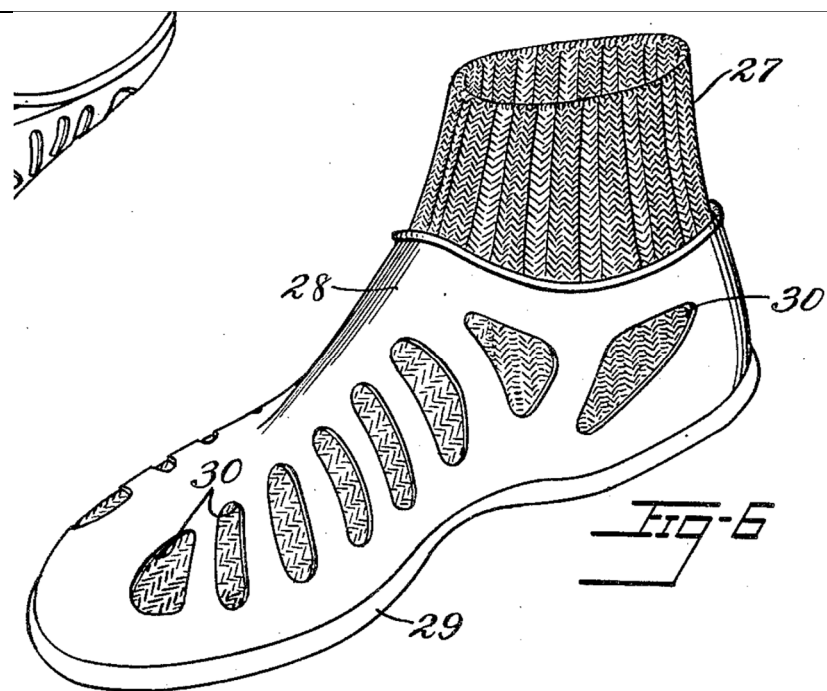
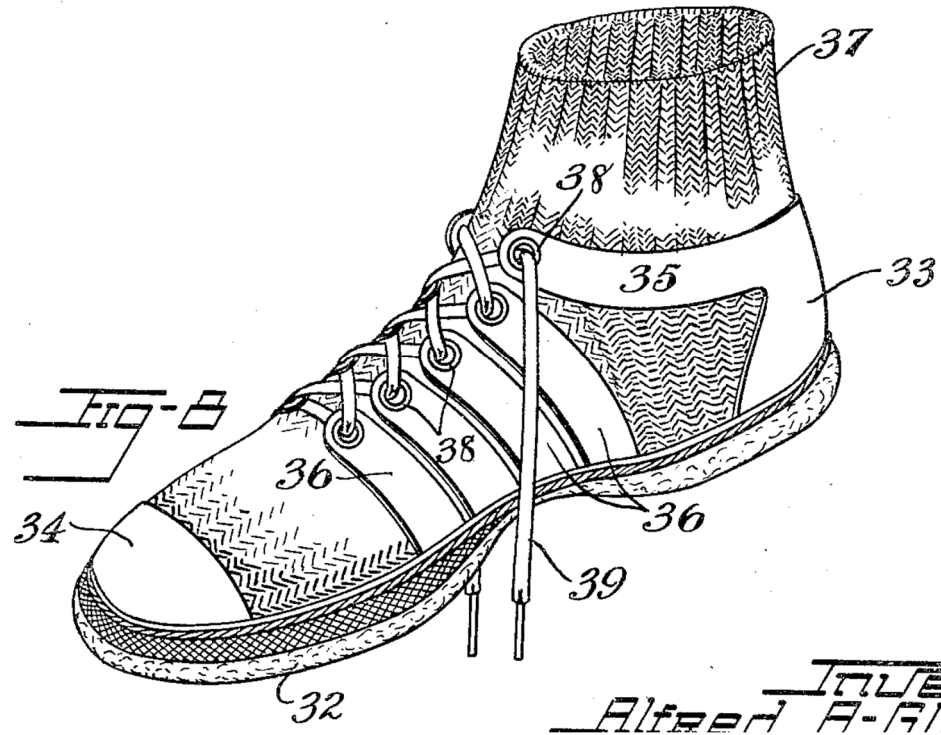


Figure 8 and associated text:



A POSITA would understand that the disclosure of such a single, unitary knit upper teaches an integral tongue that is joined to a forward portion of the throat area and at least along a portion of a lateral side and a medial side of the throat area of the knitted component extending from the forward portion to an ankle opening of the upper.

In addition, to the extent Nike contends that Glidden does not disclose this claim element, it would have been obvious to a POSITA to modify Glidden, such as by combining with the general knowledge and/or the teachings of the numerous prior art references that disclose this limitation, including, *e.g.*, U.S. Patent App. Pub. Nos. 2010/0077634 (“Bell”), and 2012/0233884 (“Greene”), to arrive at this claim element.

	For instance, Bell teaches an integral knit tongue that is joined to a forward portion of the throat area and at least along a portion of a lateral side and a medial side of the throat area of the knitted component extending from the forward portion to an ankle opening. [0056]: “FIG. 3 illustrates one example of an upper member 200 that may be produced in accordance with this invention. In this example structure, the upper member 200 constitutes a single piece that includes: a medial side and lace eyelet section 212, a lateral side and lace eyelet section 214, a toe portion 216, a rear heel portion 218, and footbed portions 220 and 222. Although not shown in FIG. 2 or 3, the upper construction may additionally include a tongue member, e.g., integrally formed as part of the one piece upper member 200 (e.g., extending from one of the eyelet sections 212 or 214 or from the toe portion 216), or separately formed (from the same upper material blank 202 or from a different blank or even a different upper material). The upper member 200 may be shaped and stitched in the necessary places (optionally along with a tongue part, as mentioned above) to provide a final upper construction. As one example in the illustrated upper member 200, edge 224 may be engaged with edge 226 when forming the upper construction. Various examples of seam formation features of the invention will be described in more detail below.” [0088]: “... Alternatively, if desired, a tongue member 1020 may be integrally formed as part of the upper member construction. As best illustrated in FIG. 10C, in this example structure 1000, the tongue member 1020 is integrally formed with at least a portion of the medial side 1030 of the upper construction. Specifically, the tongue member 1020 integrally extends from the medial side eyelet area 1018, and it is joined to the upper structure along seam 1008. In order to allow a conventional shoe lace to be engaged with the upper 1002, the medial side eyelet area 1018 includes two eyelet holes 1032 at each lace engagement location (one in which the free end of the lace enters and one in which the free end of the lace exits), whereas the lateral side eyelet area 1016 includes a single eyelet hole 1032 at each lace engagement location. Alternatively, if desired, the tongue member 1020 could be integrally formed from the lateral side 1034 of the article of footwear 1000 or from the toe portion 1036 of the article of footwear 1000.” Figures 10B-10C and associated text:
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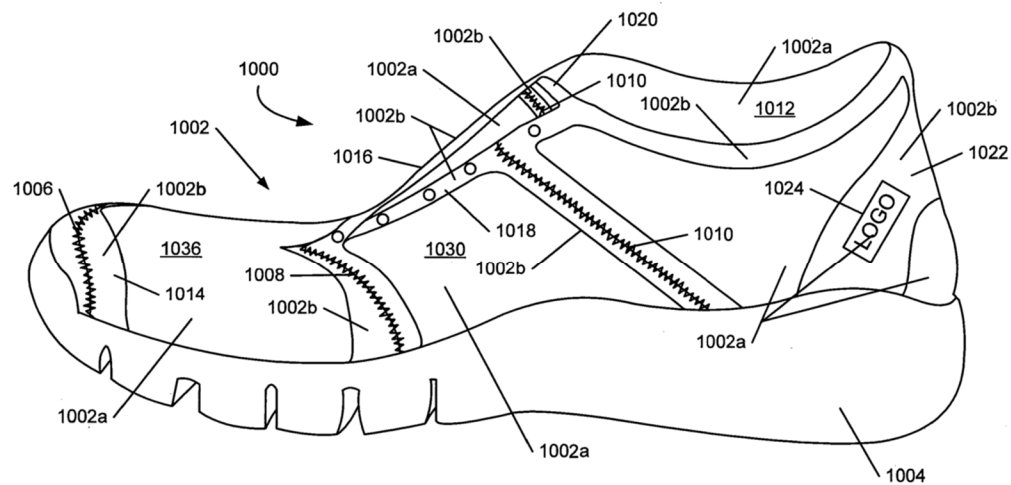


FIG. 10B

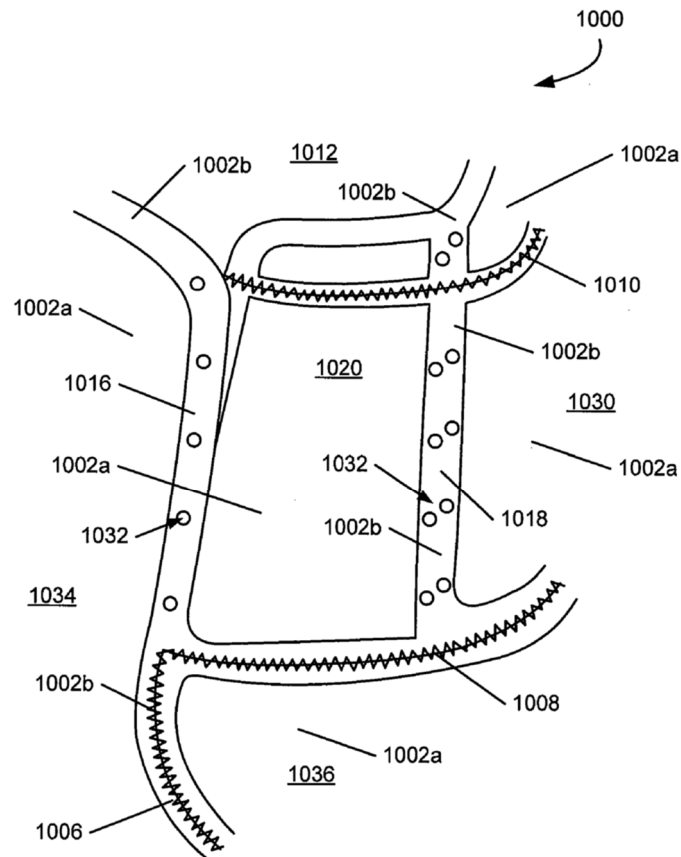


FIG. 10C

Greene also discloses an integral knit tongue and how the tongue is joined to the upper.

[0059]: “Whereas many conventional footwear tongues have a sheath formed from multiple textile elements or other material elements that are joined through stitching or bonding, for example, sheath 41 is formed as a one-piece element through a knitting process, such as circular knitting or flat

knitting. More particularly, sheath **41** is generally formed of unitary knit construction through the knitting process. As utilized herein, a knitted component such as sheath **41** is defined as being formed of "unitary knit construction" when constructed as a one-piece knit element that is substantially free of additional stitching or bonding processes. That is, the knitting process substantially forms the various features and structures of sheath **41** without the need for significant additional manufacturing steps or processes. In some configurations, sheath **41** remains formed of unitary knit construction when first end **45** or second end **46** are closed through stitching or bonding in order to seal core **42** within sheath **41**, or when areas are trimmed following the knitting process. Additionally, sheath **41** remains formed of unitary knit construction when other minor elements (e.g., logos, trademarks, lace loops, care instruction and material placards) are added to tongue element **40** following the knitting process."

[0061]: "Tongue element 40 provides various advantages over conventional footwear tongues. For example, tongue element 40 enhances footwear comfort by incorporating few seams or other discontinuities in areas that contact the foot. As another example, tongue element 40 includes relatively few material elements. As discussed in the Background section above, by decreasing the number of material elements utilized in the upper, waste may be decreased while increasing the manufacturing efficiency and recyclability of the upper. To further enhance efficiency, forming sheath 41 through a knitting process limits the number of cutting operations or other processes that generally generate waste material, while allowing the creation of contours that are relatively difficult with stitch and turn methods."

[0103]: "... For example, as depicted in FIGS. 32-34, tongue element 40 of upper 30 is secured to knitted component 36, which may be configured as set forth in U.S. patent application Ser. No. 12/338,726 to Dua, filed Dec. 18, 2008, which is herein incorporated by reference. Tongue element 40 may be secured to knitted component 36 by stitching 37. As a further example, as depicted in FIGS. 35-37, tongue element 140 of upper 30 is secured by stitching 37 to knitted component 36, which may be configured as set forth in U.S. patent application Ser. No. 13/048,514 to Huffa et al., filed Mar. 15, 2011, which is herein incorporated by reference."

Figure 34 and associated text:

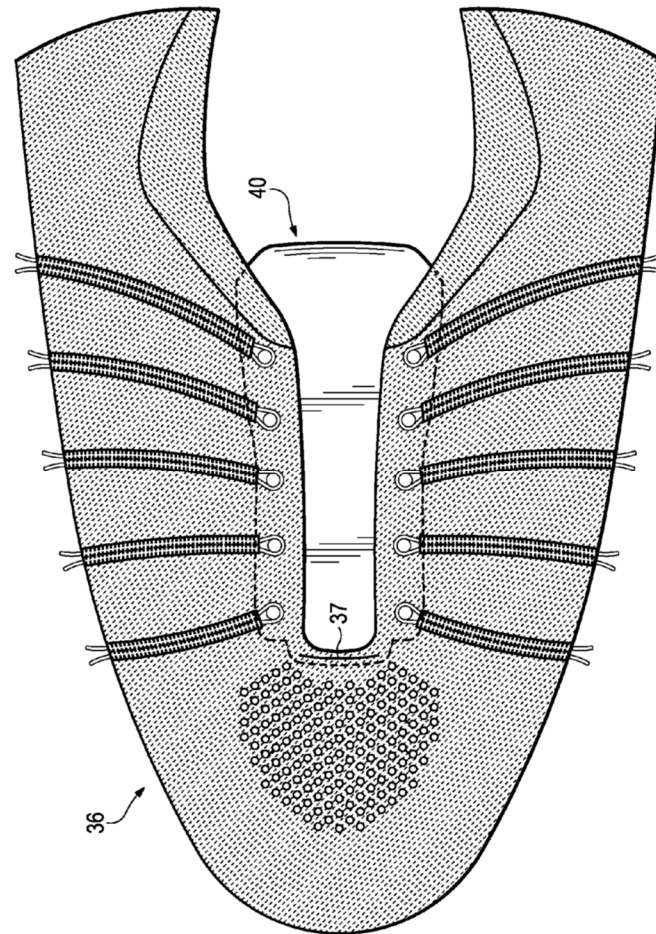


Figure 34

A POSITA would have been motivated to combine these references for this limitation, because they are in the same field, they are aimed at solving the same perceived problems in the art, and the nature of the problem to be solved was the same. Known design incentives and market forces would have also motivated a POSITA to combine these references. Furthermore, a POSITA would understand that this limitation was a standard implementation and an obvious design choice. Such an

	implementation simply reflects one of a finite number of well-known techniques implemented in a predictable manner, to achieve well-known, predictable results.
2. The article of footwear recited in claim 1, wherein at least a portion of the integral knit tongue and a portion of the upper include at least one course having a common yarn.	As set forth above, Glidden discloses (explicitly, implicitly, and inherently) and also renders obvious all of the elements of claim 1. In addition, Glidden discloses (explicitly, implicitly, and inherently) that at least a portion of the integral knit tongue and a portion of the upper include at least one course having a common yarn. For example, see the following illustrative citation(s): p. 1, col. 2, ll. 19-32: “In proceeding according to the method of this invention-a complete and integral, extensible and elastic, unlined shoe upper 10 is formed, preferably by knitting, to final form and without waste, of yarn which may be of any suitable material, such for example, as cotton, wool, combinations of cotton and wool, animal fibers such as mohair, alpaca, cellulose filaments such as rayon, cellulose acetate or the like, vegetable fibers such as jute, sisal, hemp or especially prepared fibers such as combinations of rayon, shredded leather held together by resinous bodies, natural or artificial dispersions of rubber or other agglutinous material.” <i>See also</i> Figures 1, 6, and 8 showing a single, unitary knit upper having an integral tongue formed including a common yarn with the upper. Figure 1 and associated text:

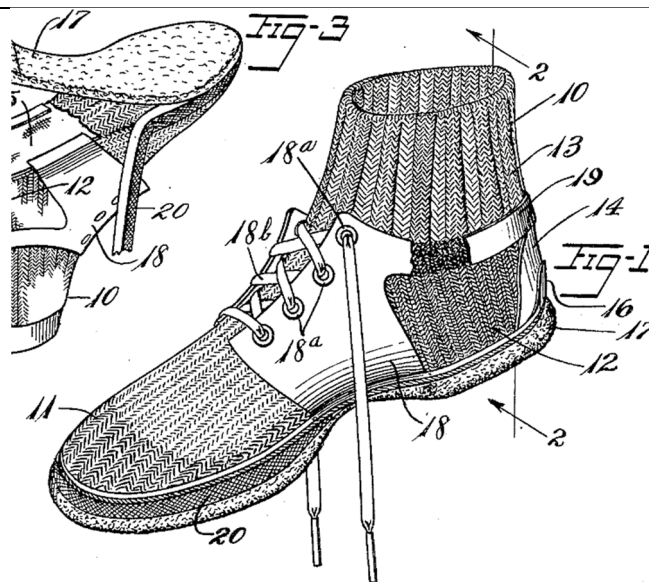


Figure 4 and associated text:

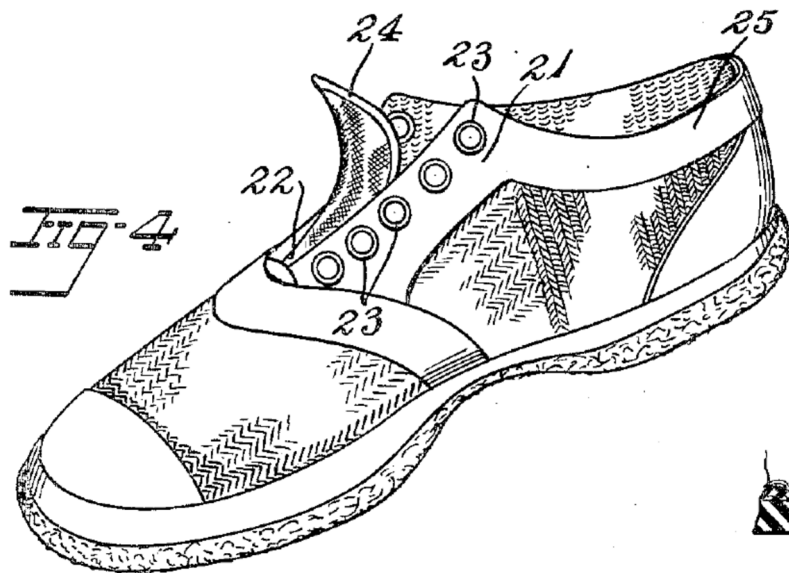


Figure 6 and associated text:

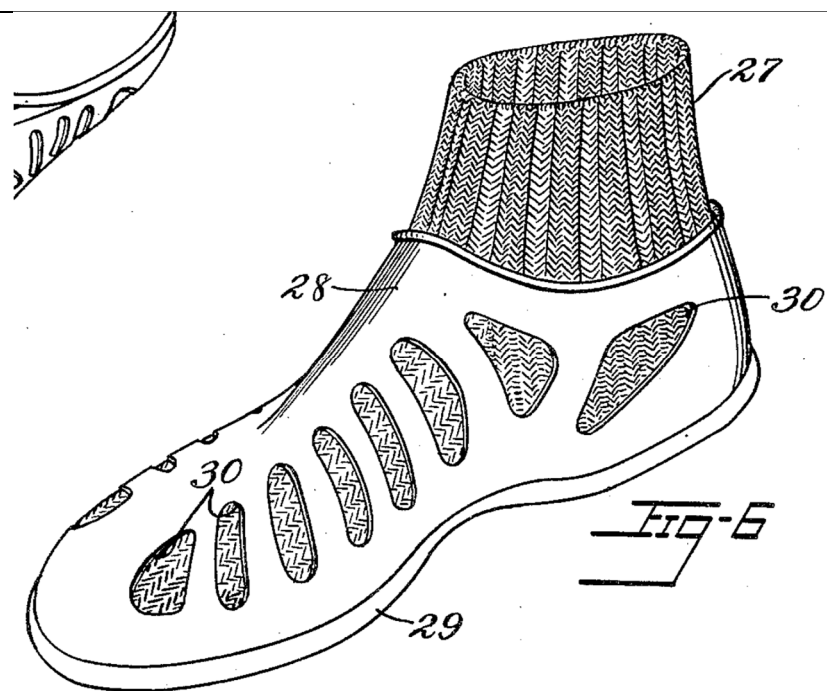
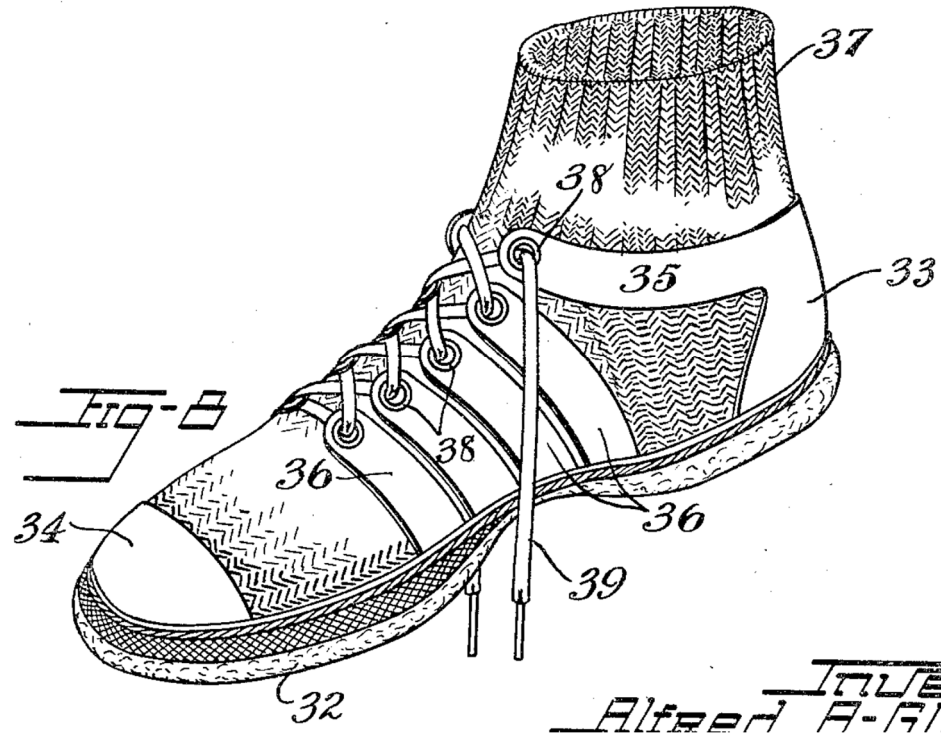


Figure 8 and associated text:



To the extent Nike contends that Glidden does not disclose this claim, it would have been obvious to a POSITA at the relevant time to modify Glidden, such as by combining with the general knowledge and/or the teachings of the numerous prior art references that disclose this limitation, including, *e.g.*, U.S. Patent No. 5,345,638 (“Nishida”) and Greene, to arrive at this claim. For instance, Nishida teaches a shoe tongue including at least one common yarn with the upper.

5:34-36: “Preferably, in each case, related tongues 40 are produced simultaneously with a layout 2 on same web of material 1.”

5:37-40: “For optimum surface use of web of []material 1, a tongue 40 can be produced in the open space 41 located between the two layout sections 42 and 43, which later form the rear of foot or heel-pan shoe part.”

	Greene similarly discloses an integral knit tongue that includes at least one common yarn with the upper, thereby motivating a POSITA to modify Glidden to include this feature. [0104]: “Moreover, a knit structure incorporated into an area of knitted component 36 may be substantially the same as a knit structure incorporated into tongue element 40 or tongue element 140, and a type of yarn incorporated into an area of knitted component 36 may be substantially the same as a type of yarn incorporated into tongue element 40 or tongue element 140. Utilizing common knit structures and types of yarn in knitted component 36 and either of tongue elements 40 and 140 provides an advantage of imparting uniform aesthetics, tactile properties, or both to various regions and the major components of upper 30. Accordingly, an area of knitted component 36 and an area of tongue element 40 or tongue element 140 may share one or more properties, such as color, softness, biodegradability, durability, abrasion resistance, strength, denier, loft, an aesthetic property, a stretch property, a recovery property, an insulating property, a hydrophobic property, or a thermobonding property, for example.” A POSITA would have been motivated to combine these references for this limitation, because they are in the same field, they are aimed at solving the same perceived problems in the art, and the nature of the problem to be solved was the same. Known design incentives and market forces would have also motivated a POSITA to combine these references. Furthermore, a POSITA would understand that this limitation was a standard implementation and an obvious design choice. Such an implementation simply reflects one of a finite number of well-known techniques implemented in a predictable manner, to achieve well-known, predictable results.
3. The article of footwear recited in claim 1, wherein at least a portion of the upper and a portion of the integral knit tongue are formed from a common knit structure.	As set forth above, Glidden discloses (explicitly, implicitly, and inherently) and also renders obvious all of the elements of claim 1. In addition, Glidden discloses (explicitly, implicitly, and inherently) that at least a portion of the upper and a portion of the integral knit tongue are formed from a common knit structure. For example, see the following illustrative citation(s): p. 1, col. 2, ll. 19-32: “In proceeding according to the method of this invention-a complete and integral, extensible and elastic, unlined shoe upper 10 is formed, preferably by knitting, to final form and without waste, of yarn which may be of any suitable material, such for example, as cotton, wool,

combinations of cotton and wool, animal fibers such as mohair, alpaca, cellulose filaments such as rayon, cellulose acetate or the like, vegetable fibers such as jute, sisal, hemp or especially prepared fibers such as combinations of rayon, shredded leather held together by resinous bodies, natural or artificial dispersions of rubber or other agglutinous material.”

See also figures showing a single, unitary knit upper having an integral tongue formed from a common knit structure with a portion the upper.

Figure 1 and associated text:

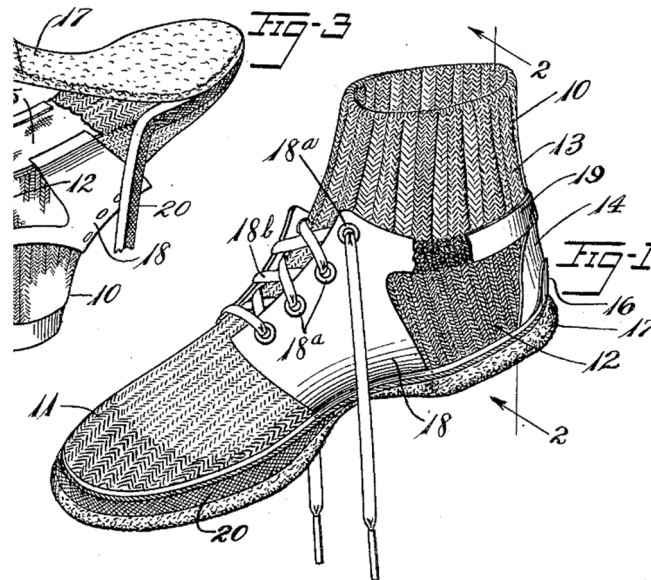


Figure 4 and associated text:

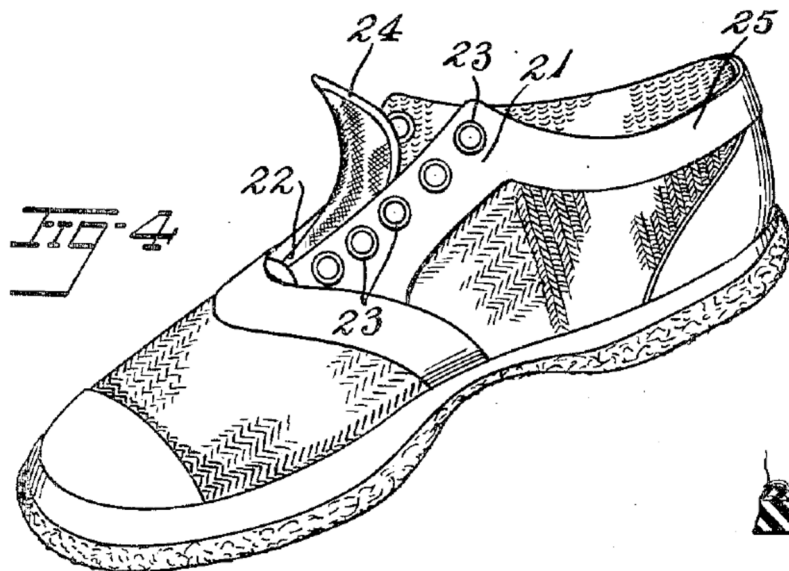


Figure 6 and associated text:

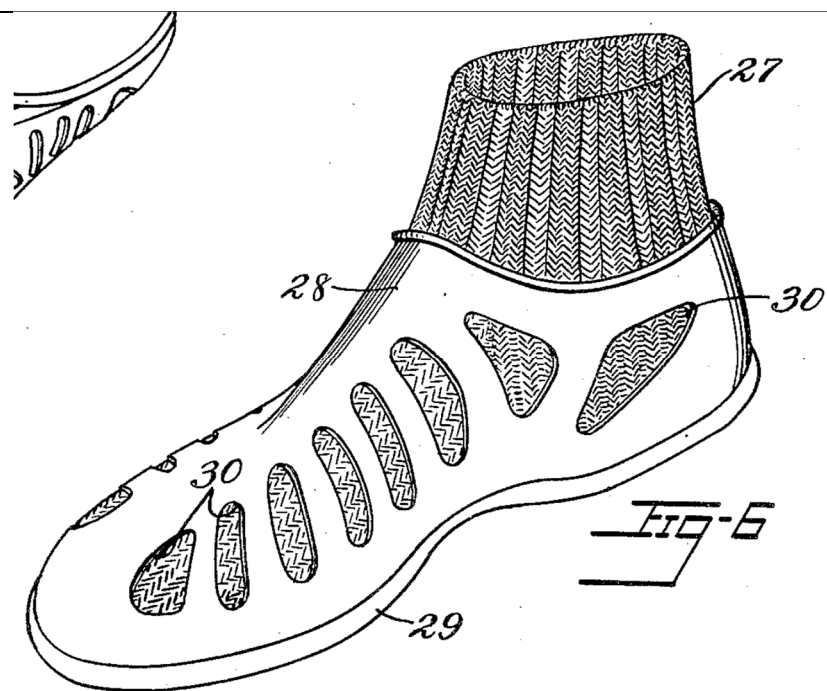
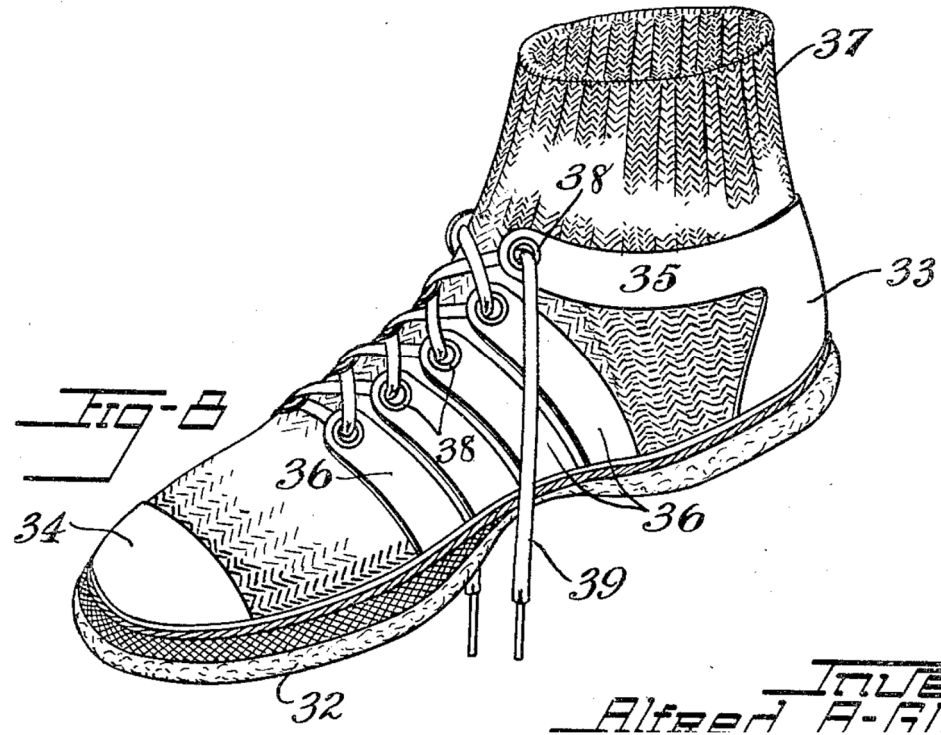


Figure 8 and associated text:



To the extent Nike contends that Glidden does not disclose this claim, it would have been obvious to a POSITA at the relevant time to modify Glidden, such as by combining with the general knowledge and/or the teachings of the numerous prior art references that disclose this limitation, including, *e.g.*, Nishida and Greene, to arrive at this claim. For instance, Nishida teaches a shoe tongue including at least one common yarn with the upper.

5:34-36: “Preferably, in each case, related tongues 40 are produced simultaneously with a layout 2 on same web of material 1.”

Claim 10: “Process according to claim 9, wherein said tongues are produced on the same web of material as the layouts and sole parts.”

	Greene: [0104]: “Moreover, a knit structure incorporated into an area of knitted component 36 may be substantially the same as a knit structure incorporated into tongue element 40 or tongue element 140, and a type of yarn incorporated into an area of knitted component 36 may be substantially the same as a type of yarn incorporated into tongue element 40 or tongue element 140. Utilizing common knit structures and types of yarn in knitted component 36 and either of tongue elements 40 and 140 provides an advantage of imparting uniform aesthetics, tactile properties, or both to various regions and the major components of upper 30. Accordingly, an area of knitted component 36 and an area of tongue element 40 or tongue element 140 may share one or more properties, such as color, softness, biodegradability, durability, abrasion resistance, strength, denier, loft, an aesthetic property, a stretch property, a recovery property, an insulating property, a hydrophobic property, or a thermobonding property, for example.” A POSITA would have been motivated to combine these references for this limitation, because they are in the same field, they are aimed at solving the same perceived problems in the art, and the nature of the problem to be solved was the same. Known design incentives and market forces would have also motivated a POSITA to combine these references. Furthermore, a POSITA would understand that this limitation was a standard implementation and an obvious design choice. Such an implementation simply reflects one of a finite number of well-known techniques implemented in a predictable manner, to achieve well-known, predictable results.
4. The article of footwear recited in claim 1, wherein the at least one raised element is formed of unitary knit construction with the upper and the integral knit tongue.	As set forth above, Glidden discloses (explicitly, implicitly, and inherently) and renders obvious all of the elements of claim 1. In addition, Glidden discloses (explicitly, implicitly, and inherently) that the at least one raised element is formed of unitary knit construction with the upper and the integral knit tongue. For example, see the following illustrative citation(s): p. 1, col. 2, ll. 33-44: “In fabricating the unitary upper, as by knitting, areas thereof which are normally subjected to greater wear and in which a lower degree of elasticity is desired, such as the toe 11 and the heel portion 12, may be more densely fabricated to provide therein heavier weight and less extensibility than in the other parts of the upper, as by changing the type of stitch or amount or

	thickness of the yarn in the knitting. Other areas, such as the ankle portion 13, are preferably made so as to provide softness and elasticity, as by making them of ribbed construction, as shown.” p. 2, col. 1, ll. 8-38: “In the embodiment of Fig. 1, after the upper has been applied to the last, the parts, preferably of rubber including a counter 14, heel reinforcement 18, outsole 11 and a blucher saddle 18 having an integral heel strap 19, which encircles the rear of the shoe, are mounted in place upon the upper as illustrated in Fig. 3, and may be cemented thereto in the places where it is desired to attach the parts to the upper, and a foxing 20 is preferably applied around the lower portion of the shoe where it joins the outer sole. A filler or reinforcing layer 15, preferably of thin, rubberized fabric, may be provided to facilitate assembly and to provide a stronger union of the outsole to the textile upper and to provide greater smoothness of the inner sole bottom. The article is then vulcanized preferably while on the last and then removed therefrom. The eyelets 18a for receiving the shoe lace 18b may be applied to the margins of the blucher saddle 18 after vulcanization. The blucher saddle is permanently attached to the upper only at or near the sole leaving the eyeleted portion free. While rubber is the preferred material, some or all the parts applied to the upper in this and the other embodiments may in some cases be of any other suitable material, such as fabric, or natural or artificial leather. Where rubber is used, it may be unreinforced, or it may be reinforced, as by fabric, if desired.” p. 2, col. 1, ll. 39-55: “In the embodiment of Fig. 4 the front of the upper has reinforcing stays 21 secured thereto, as by cementing or stitching, over the instep and extending to the top of the shoe, and the upper may be slit as at 22, preferably after vulcanization, to provide a vent extending from the top of the shoe to the instep in a forward direction, the stays being provided with eyelets 23 for lacing. A tongue 24 also may be provided. In some cases the tongue 24 and the slit 22 may be omitted, the stays being retained, however, to permit lacing, and for bracing. A strap 25 may be provided, extending around the back of the foot and secured at its ends to the stays. As shown, the shoe may be of the low type with the strap 25 extending along the top margin of the upper.” p. 2, col. 2, ll. 20-22: “If desired, the rubber part may then be cemented to the textile upper 28 over all or a part of their contacting surfaces.” p. 2, col. 2, ll. 35-39: “In this embodiment, also, the upper may be either removable or cemented or otherwise attached in place over at least a portion of the area of contact with the rubber parts.”
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Claim 1: “A shoe having an upper of porous elastic material providing an elastic top portion, a less flexible midportion and substantially less flexible portions at the lower margin of its sides and at its toe and heel, a sole on said upper and a **bracing structure secured to the sole and extending over the instep portion of the upper** to restrain the upper from being excessively stretched, the bracing structure covering only a portion of the upper thereby leaving extensive ventilating area of the latter exposed.”

Claim 2: “A shoe having an upper of knitted material providing elasticity and ventilating porosity by virtue of the knitted construction, a sole on the upper, and a **bracing structure secured to the sole and extending over the instep portion of the upper** to restrain the upper from being excessively stretched, the bracing structure covering only a portion of the upper thereby leaving extensive ventilating area of the latter exposed and said upper having in the foot portion below the ankle a plurality of zones of knitted material of different degrees of stiffness merged integrally by knitted union with one another to provide localized reinforcement of the knitted material acting in cooperation with said bracing structure to resist excessive localized stretching while providing elasticity and ventilation of the upper.”

Claim 3: “3. A shoe having an upper of knitted material providing elasticity and ventilating porosity by virtue of the knitted construction, a sole adhered to the upper, and a bracing structure secured to the sole and adhered at least in part directly to said upper and extending over the instep portion of the upper to restrain the upper from being excessively stretched, the bracing structure covering only a portion of the upper thereby leaving extensive ventilating area of the latter exposed and said upper having at the margin of an adhered portion of said bracing structure a zone of increased density of knitting merging with a zone of the knitted material of less dense knitting spaced from the bracing structure to provide local reinforcement of the knitted material at the margin of the bracing structure against excessive localized stretching.”

Claim 4: “A shoe having an upper of such knitted construction as to provide an elastic top portion, a less flexible midportion and a substantially less flexible lower portion, the upper being porous for ventilation by virtue of the knitted construction, a sole on the upper, and a bracing structure secured to the sole and extending over the instep portion of the upper to restrain the knitted upper from being excessively stretched, the bracing structure covering only a portion of the upper thereby leaving extensive ventilating area of the latter exposed.”

Claim 5: "A shoe having. a sock-like upper of such knitted construction as to provide an elastic top portion, a less flexible midportion, and substantially less flexible portions at the lower margin of its sides and at its toe and heel, a sole essentially of rubber adhered to the upper and a bracing structure essentially of rubber for restraining the upper from being excessively stretched, said structure comprising a portion adhered to the sole and extending over the instep of the upper and a portion adhered to the sole at the heel and extending forwardly around the upper, the bracing structure covering only a portion of the upper thereby leaving extensive ventilating area of the latter exposed."

Figure 1 and associated text:

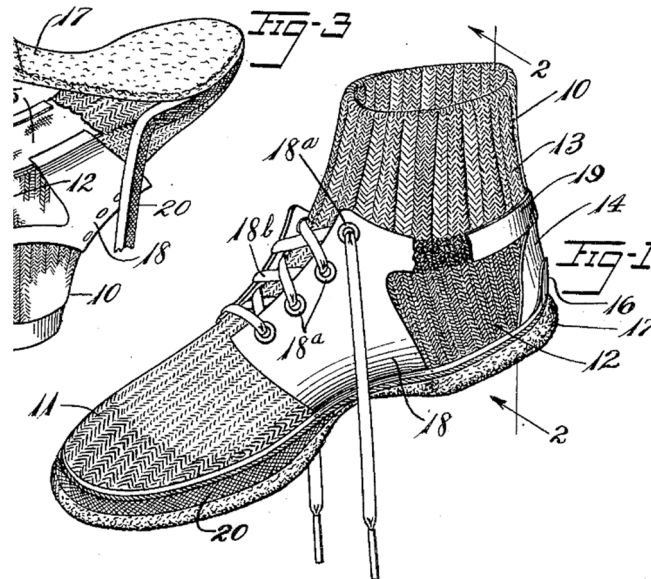


Figure 4 and associated text:

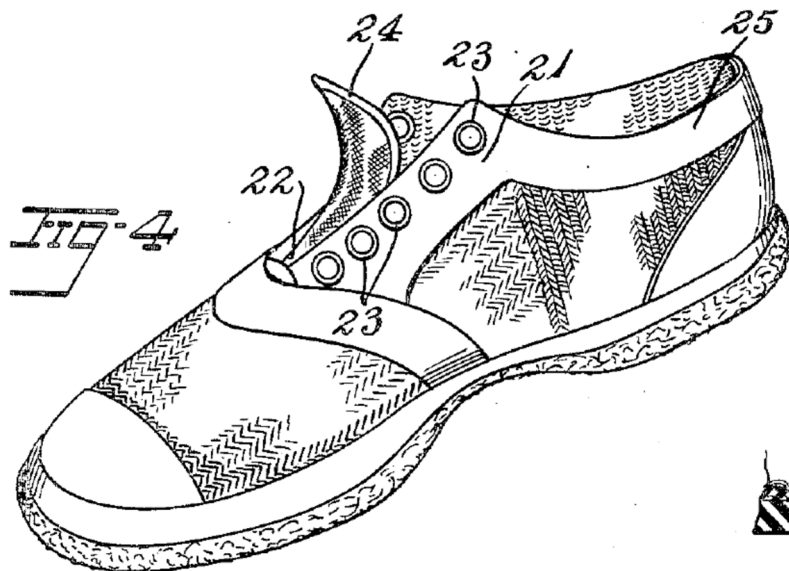


Figure 6 and associated text:

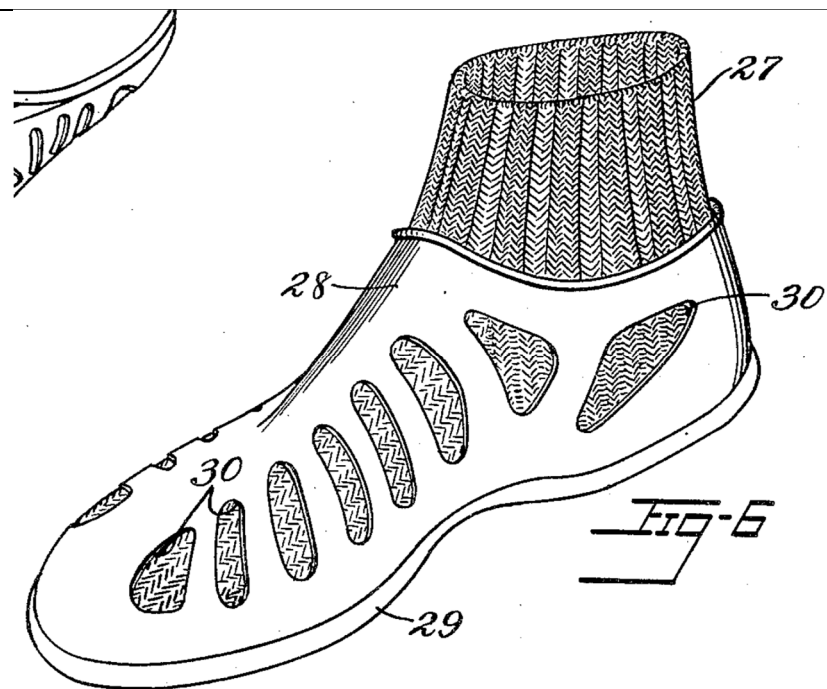
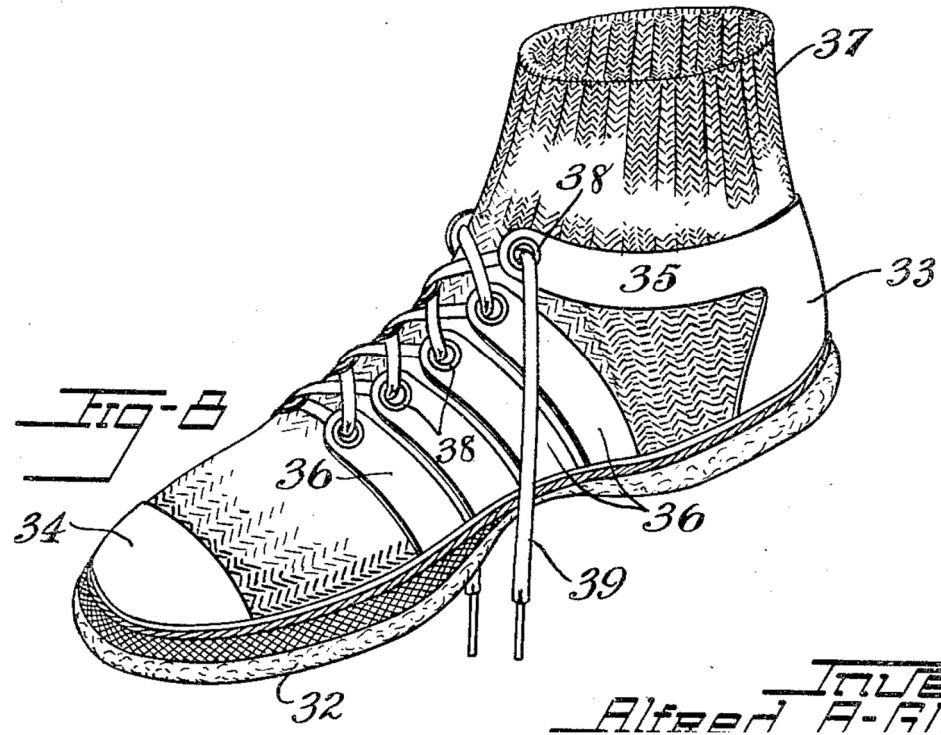


Figure 8 and associated text:



To the extent Nike contends that Glidden does not disclose this claim, it would have been obvious to a POSITA at the relevant time to modify Glidden, such as by combining with the general knowledge and/or the teachings of the numerous prior art references that disclose this limitation, including, *e.g.*, Bell, Greene and Huffa, to arrive at this claim. For instance, Bell discloses at least one raised element extending a height above the exterior surface of the knitted component.

[0088]: “As mentioned above, a separate tongue member (made of the same or different materials from the remainder of the upper member) may be provided and attached to the upper construction without departing from this invention. Alternatively, if desired, a tongue member 1020 may be integrally formed as part of the upper member construction. As best illustrated in FIG. 10C, in this example structure 1000, the tongue member 1020 is integrally formed with at least a portion of the medial side 1030 of the upper construction. Specifically, the tongue member **1020** integrally extends

from the medial side eyelet area **1018**, and it is joined to the upper structure along seam **1008**. In order to allow a conventional shoe lace to be engaged with the upper **1002**, the medial side eyelet area **1018** includes two eyelet holes **1032** at each lace engagement location (one in which the free end of the lace enters and one in which the free end of the lace exits), whereas the lateral side eyelet area **1016** includes a single eyelet hole **1032** at each lace engagement location. Alternatively, if desired, the tongue member **1020** could be integrally formed from the lateral side **1034** of the article of footwear **1000** or from the toe portion **1036** of the article of footwear **1000**.”

Figure 10B and associated text:

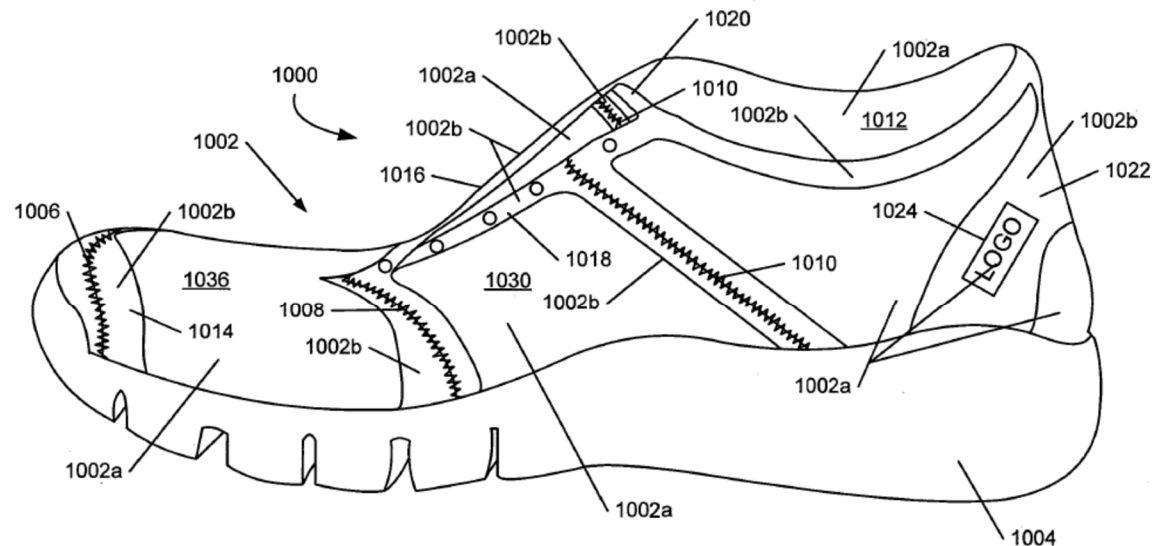


FIG. 10B

Moreover, Greene and U.S. Patent App. Pub. No. 2012/0233882 (“Huffa”) also teach that elements added to a one-piece upper are also considered formed of unitary knit construction.

	Greene, [0059]: "... Additionally, sheath 41 remains formed of unitary knit construction when other minor elements (e.g., logos, trademarks, lace loops, care instruction and material placards) are added to tongue element 40 following the knitting process. Huffa, [0039]: "... Moreover, knitted component 130 remains formed of unitary knit construction when other elements (e.g., lace 122, tongue 124, logos, trademarks, placards with care instructions and material information) are added following the knitting process." A POSITA would have been motivated to combine these references for this limitation, because they are in the same field, they are aimed at solving the same perceived problems in the art, and the nature of the problem to be solved was the same. Known design incentives and market forces would have also motivated a POSITA to combine these references. Furthermore, a POSITA would understand that this limitation was a standard implementation and an obvious design choice. Such an implementation simply reflects one of a finite number of well-known techniques implemented in a predictable manner, to achieve well-known, predictable results.
5. The article of footwear recited in claim 4, wherein the knitted component includes at least two raised elements disposed on each of the lateral side and the medial side of the throat area of the upper and extending a height above the exterior surface of the knitted component.	As set forth above, Glidden discloses (explicitly, implicitly, and inherently) and renders obvious all of the elements of claim 4. In addition, Glidden discloses (explicitly, implicitly, and inherently) that the knitted component includes at least two raised elements disposed on each of the lateral side and the medial side of the throat area of the upper and extending a height above the exterior surface of the knitted component For example, see the following illustrative citation(s): p. 1, col. 2, ll. 33-44: "In fabricating the unitary upper, as by knitting, areas thereof which are normally subjected to greater wear and in which a lower degree of elasticity is desired, such as the toe 11 and the heel portion 12, may be more densely fabricated to provide therein heavier weight and less extensibility than in the other parts of the upper, as by changing the type of stitch or amount or thickness of the yarn in the knitting. Other areas, such as the ankle portion 13, are preferably made so as to provide softness and elasticity, as by making them of ribbed construction, as shown." p. 2, col. 1, ll. 8-38: "In the embodiment of Fig. 1, after the upper has been applied to the last, the parts, preferably of rubber including a counter 14, heel reinforcement 18, outsole 11 and a blucher saddle 18 having an integral heel strap 19, which encircles the rear of the shoe, are mounted in place

upon the upper as illustrated in Fig. 3, and may be cemented thereto in the places where it is desired to attach the parts to the upper, and a foxing 20 is preferably applied around the lower portion of the shoe where it joins the outer sole. A filler or reinforcing layer 15, preferably of thin, rubberized fabric, may be provided to facilitate assembly and to provide a stronger union of the outsole to the textile upper and to provide greater smoothness of the inner sole bottom. The article is then vulcanized preferably while on the last and then removed therefrom. **The eyelets 18a for receiving the shoe lace 18b may be applied to the margins of the blucher saddle 18 after vulcanization. The blucher saddle is permanently attached to the upper** only at or near the sole leaving the eyeleted portion free. While rubber is the preferred material, some or all the parts applied to the upper in this and the other embodiments may in some cases be of any other suitable material, such as fabric, or natural or artificial leather. Where rubber is used, it may be unreinforced, or it may be reinforced, as by fabric, if desired.”

p. 2, col. 1, ll. 39-55: “In the embodiment of Fig. 4 the front of the upper has reinforcing stays **21** secured thereto, as by cementing or stitching, over the instep and extending to the top of the shoe, and the upper may be slit as at **22**, preferably after vulcanization, to provide a vent extending from the top of the shoe to the instep in a forward direction, the stays being provided with eyelets **23** for lacing. A tongue **24** also may be provided. In some cases the tongue **24** and the slit **22** may be omitted, the stays being retained, however, to permit lacing, and for bracing. A strap **25** may be provided, extending around the back of the foot and secured at its ends to the stays. As shown, the shoe may be of the low type with the strap **25** extending along the top margin of the upper.”

p. 2, col. 2, ll. 20-22: “If desired, the rubber part may then be cemented to the textile upper 28 over all or a part of their contacting surfaces.”

p. 2, col. 2, ll. 35-39: “In this embodiment, also, the upper may be either removable or cemented or otherwise attached in place over at least a portion of the area of contact with the rubber parts.”

Claim 1: “A shoe having an upper of parous elastic material providing an elastic top portion, a less flexible midportion and substantially less flexible portions at the lower margin of its sides and at its toe and heel, a sole on said upper and a **bracing structure secured to the sole and extending over the instep portion of the upper** to restrain the upper from being excessively stretched, the bracing

structure covering only a portion of the upper thereby leaving extensive ventilating area of the latter exposed.”

Claim 2: “A shoe having an upper of knitted material providing elasticity and ventilating porosity by virtue of the knitted construction, a sole on the upper, and a **bracing structure secured to the sole and extending over the instep portion of the upper** to restrain the upper from being excessively stretched, the bracing structure covering only a portion of the upper thereby leaving extensive ventilating area of the latter exposed and said upper having in the foot portion below the ankle a plurality of zones of knitted material of different degrees of stiffness merged integrally by knitted union with one another to provide localized reinforcement of the knitted material acting in cooperation with said bracing structure to resist excessive localized stretching while providing elasticity and ventilation of the upper.”

Claim 3: “3. A shoe having an upper of knitted material providing elasticity and ventilating porosity by virtue of the knitted construction, a sole adhered to the upper, and a bracing structure secured to the sole and adhered at least in part directly to said upper and extending over the instep portion of the upper to restrain the upper from being excessively stretched, the bracing structure covering only a portion of the upper thereby leaving extensive ventilating area of the latter exposed and laid upper having at the margin of an adhered portion of said bracing structure a zone of increased density of knitting merging with a zone of the knitted material of less dense knitting spaced from the bracing structure to provide local reinforcement of the knitted material at the margin of the bracing structure against excessive localized stretching.”

Claim 4: “A shoe having an upper of such knitted construction as to provide an elastic top portion, a less flexible midportion and a substantially less flexible lower portion, the upper being porous for ventilation by virtue of the knitted construction, a sole on the upper, and a bracing structure secured to the sole and extending over the instep portion of the upper to restrain the knitted upper from being excessively stretched, the bracing structure covering only a portion of the upper thereby leaving extensive ventilating area of the latter exposed.”

Claim 5: “A shoe having a sock-like upper of such knitted construction as to provide an elastic top portion, a less flexible midportion, and substantially less flexible portions at the lower margin of its sides and at its toe and heel, a sole essentially of rubber adhered to the upper and a bracing structure essentially of rubber for restraining the upper from being excessively stretched, said structure

comprising a portion adhered to the sole and extending over the instep of the upper and a portion adhered to the sole at the heel and extending forwardly around the upper, the bracing structure covering only a portion of the upper thereby leaving extensive ventilating area of the latter exposed.”

Figure 1 and associated text:

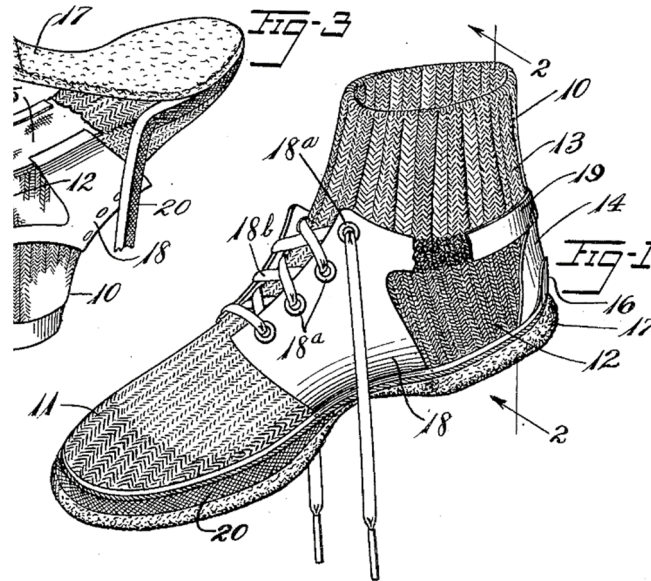


Figure 4 and associated text:

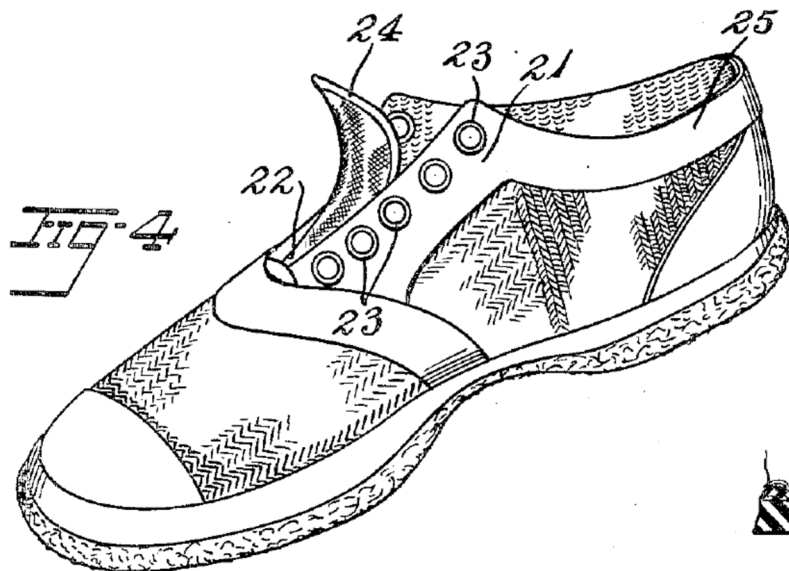


Figure 6 and associated text:

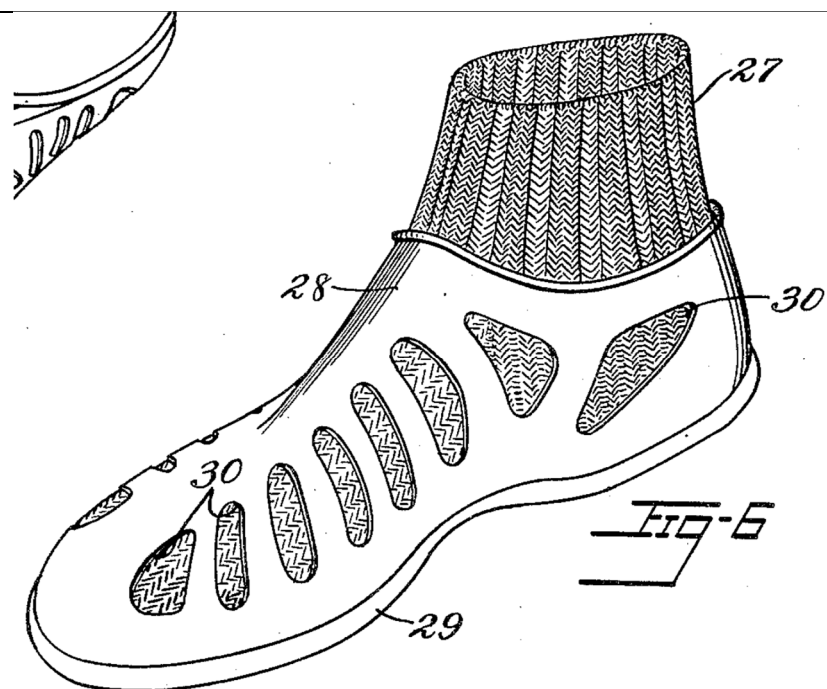
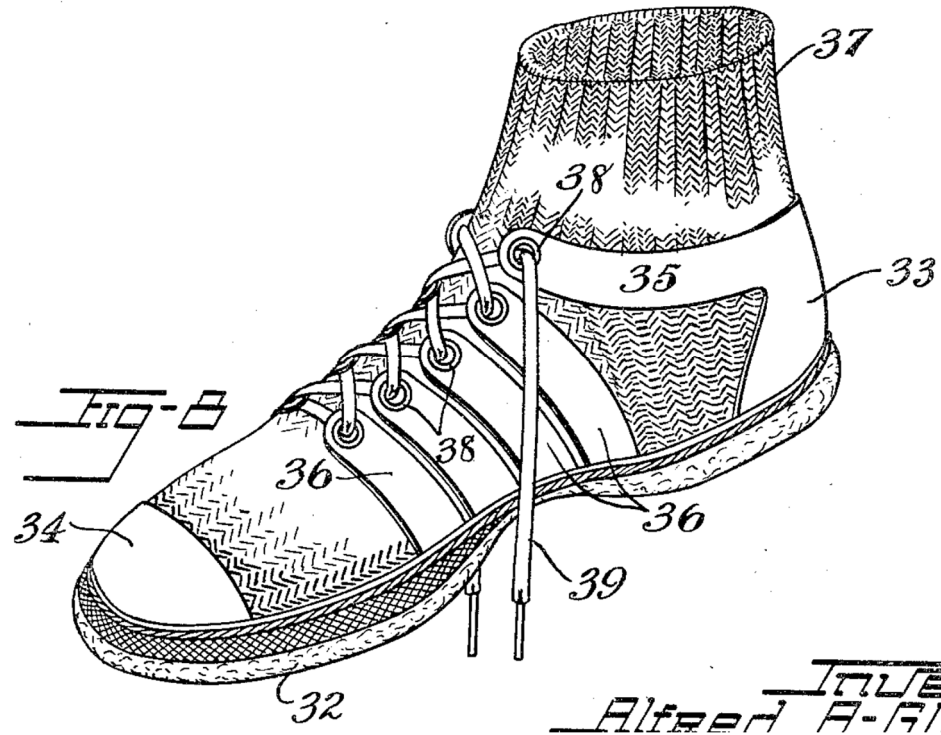


Figure 8 and associated text:



To the extent Nike contends that Glidden does not disclose this claim, it would have been obvious to a POSITA at the relevant time to modify Glidden, such as by combining with the general knowledge and/or the teachings of the numerous prior art references that disclose this limitation, including, *e.g.*, Bell, to arrive at this claim. For instance, Bell discloses a knitted component including at least two raised elements disposed on each of the lateral side and the medial side of the throat area of the upper and extending a height above the exterior surface of the knitted component.

[0088]: “As mentioned above, a separate tongue member (made of the same or different materials from the remainder of the upper member) may be provided and attached to the upper construction without departing from this invention. Alternatively, if desired, a tongue member 1020 may be integrally formed as part of the upper member construction. As best illustrated in FIG. 10C, in this example structure 1000, the tongue member 1020 is integrally formed with at least a portion of the

medial side 1030 of the upper construction. Specifically, the tongue member **1020** integrally extends from the medial side eyelet area **1018**, and it is joined to the upper structure along seam **1008**. In order to allow a conventional shoe lace to be engaged with the upper **1002**, the medial side eyelet area **1018** includes two eyelet holes **1032** at each lace engagement location (one in which the free end of the lace enters and one in which the free end of the lace exits), whereas the lateral side eyelet area **1016** includes a single eyelet hole **1032** at each lace engagement location. Alternatively, if desired, the tongue member **1020** could be integrally formed from the lateral side **1034** of the article of footwear **1000** or from the toe portion **1036** of the article of footwear **1000**.”

Figure 10B and associated text:

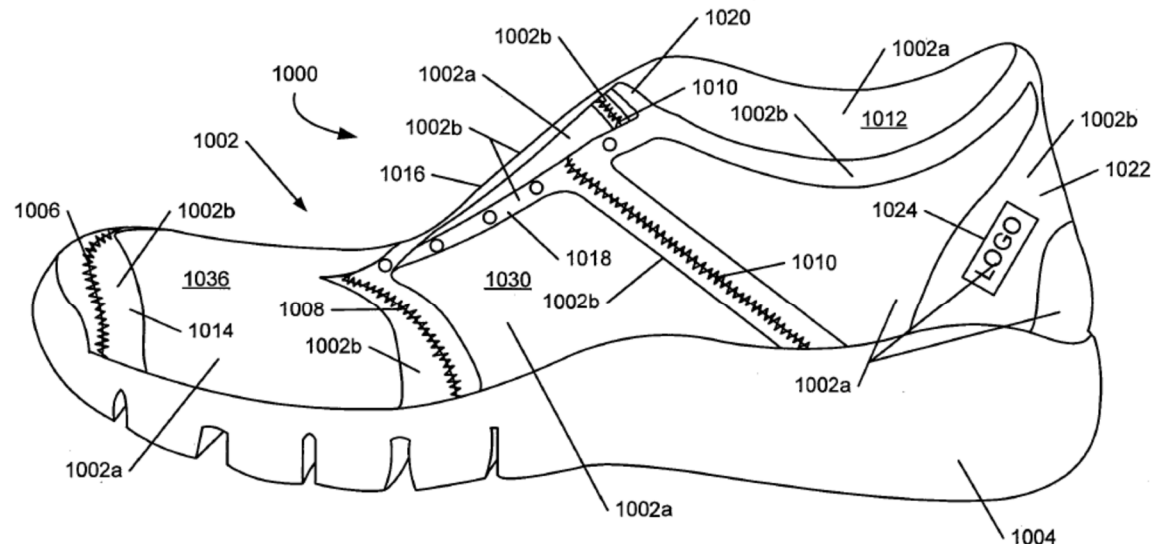


FIG. 10B

A POSITA would have been motivated to combine these references for this limitation, because they are in the same field, they are aimed at solving the same perceived problems in the art, and the nature of the problem to be solved was the same. Known design incentives and market forces would have

	also motivated a POSITA to combine these references. Furthermore, a POSITA would understand that this limitation was a standard implementation and an obvious design choice. Such an implementation simply reflects one of a finite number of well-known techniques implemented in a predictable manner, to achieve well-known, predictable results.
6. The article of footwear recited in claim 4, wherein the at least one raised element further comprises at least one lace aperture configured to receive a lace.	As set forth above, Glidden discloses (explicitly, implicitly, and inherently) and renders obvious all of the elements of claim 4. In addition, Glidden discloses (explicitly, implicitly, and inherently) that the at least one raised element further comprises at least one lace aperture configured to receive a lace. For example, see the following illustrative citation(s): p. 1, col. 2, ll. 33-44: “In fabricating the unitary upper, as by knitting, areas thereof which are normally subjected to greater wear and in which a lower degree of elasticity is desired, such as the toe 11 and the heel portion 12, may be more densely fabricated to provide therein heavier weight and less extensibility than in the other parts of the upper, as by changing the type of stitch or amount or thickness of the yarn in the knitting. Other areas, such as the ankle portion 13, are preferably made so as to provide softness and elasticity, as by making them of ribbed construction, as shown.” p. 2, col. 1, ll. 8-38: “In the embodiment of Fig. 1, after the upper has been applied to the last, the parts, preferably of rubber including a counter 14, heel reinforcement 18, outsole 11 and a blucher saddle 18 having an integral heel strap 19, which encircles the rear of the shoe, are mounted in place upon the upper as illustrated in Fig. 3, and may be cemented thereto in the places where it is desired to attach the parts to the upper, and a foxing 20 is preferably applied around the lower portion of the shoe where it joins the outer sole. A filler or reinforcing layer 15, preferably of thin, rubberized fabric, may be provided to facilitate assembly and to provide a stronger union of the outsole to the textile upper and to provide greater smoothness of the inner sole bottom. The article is then vulcanized preferably while on the last and then removed therefrom. The eyelets 18a for receiving the shoe lace 18b may be applied to the margins of the blucher saddle 18 after vulcanization. The blucher saddle is permanently attached to the upper only at or near the sole leaving the eyeleted portion free. While rubber is the preferred material, some or all the parts applied to the upper in this and the other embodiments may in some cases be of any other suitable material, such as

	fabric, or natural or artificial leather. Where rubber is used, it may be unreinforced, or it may be reinforced, as by fabric, if desired.” p. 2, col. 1, ll. 39-55: “In the embodiment of Fig. 4 the front of the upper has reinforcing stays 21 secured thereto, as by cementing or stitching, over the instep and extending to the top of the shoe, and the upper may be slit as at 22, preferably after vulcanization, to provide a vent extending from the top of the shoe to the instep in a forward direction, the stays being provided with eyelets 23 for lacing. A tongue 24 also may be provided. In some cases the tongue 24 and the slit 22 may be omitted, the stays being retained, however, to permit lacing, and for bracing. A strap 25 may be provided, extending around the back of the foot and secured at its ends to the stays. As shown, the shoe may be of the low type with the strap 25 extending along the top margin of the upper.” p. 2, col. 2, ll. 20-22: “If desired, the rubber part may then be cemented to the textile upper 28 over all or a part of their contacting surfaces.” p. 2, col. 2, ll. 35-39: “In this embodiment, also, the upper may be either removable or cemented or otherwise attached in place over at least a portion of the area of contact with the rubber parts.” Claim 1: “A shoe having an upper of porous elastic material providing an elastic top portion, a less flexible midportion and substantially less flexible portions at the lower margin of its sides and at its toe and heel, a sole on said upper and a bracing structure secured to the sole and extending over the instep portion of the upper to restrain the upper from being excessively stretched, the bracing structure covering only a portion of the upper thereby leaving extensive ventilating area of the latter exposed.” Claim 2: “A shoe having an upper of knitted material providing elasticity and ventilating porosity by virtue of the knitted construction, a sole on the upper, and a bracing structure secured to the sole and extending over the instep portion of the upper to restrain the upper from being excessively stretched, the bracing structure covering only a portion of the upper thereby leaving extensive ventilating area of the latter exposed and said upper having in the foot portion below the ankle a plurality of zones of knitted material of different degrees of stiffness merged integrally by knitted union with one another to provide localized reinforcement of the knitted material acting in
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cooperation with said bracing structure to resist excessive localized stretching while providing elasticity and ventilation of the upper.”

Claim 3: “3. A shoe having an upper of knitted material providing elasticity and ventilating porosity by virtue of the knitted construction, a sole adhered to the upper, and a bracing structure secured to the sole and adhered at least in part directly to said upper and extending over the instep portion of the upper to restrain the upper from being excessively stretched, the bracing structure covering only a portion of the upper thereby leaving extensive ventilating area of the latter exposed and laid upper having at the margin of an adhered portion of said bracing structure a zone of increased density of knitting merging with a zone of the knitted material of less dense knitting spaced from the bracing structure to provide local reinforcement of the knitted material at the margin of the bracing structure against excessive localized stretching.”

Claim 4: “A shoe having an upper of such knitted construction as to provide an elastic top portion, a less flexible midportion and a substantially less flexible lower portion, the upper being porous for ventilation by virtue of the knitted construction, a sole on the upper, and a bracing structure secured to the sole and extending over the instep portion of the upper to restrain the knitted upper from being excessively stretched, the bracing structure covering only a portion of the upper thereby leaving extensive ventilating area of the latter exposed.”

Claim 5: “A shoe having a sock-like upper of such knitted construction as to provide an elastic top portion, a less flexible midportion, and substantially less flexible portions at the lower margin of its sides and at its toe and heel, a sole essentially of rubber adhered to the upper and a bracing structure essentially of rubber for restraining the upper from being excessively stretched, said structure comprising a portion adhered to the sole and extending over the instep of the upper and a portion adhered to the sole at the heel and extending forwardly around the upper, the bracing structure covering only a portion of the upper thereby leaving extensive ventilating area of the latter exposed.”

Figure 1 and associated text:

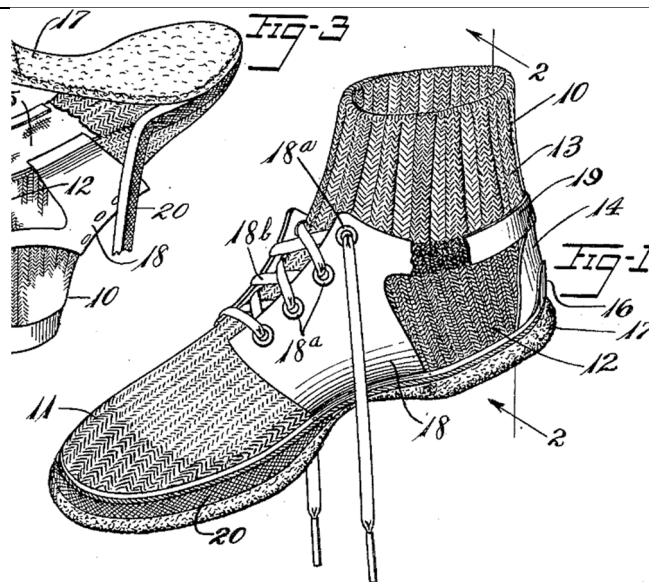


Figure 4 and associated text:

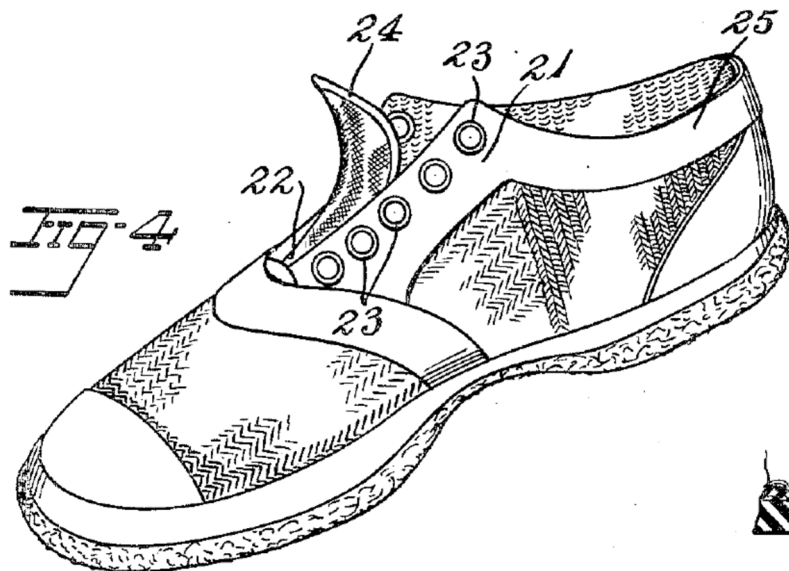


Figure 6 and associated text:

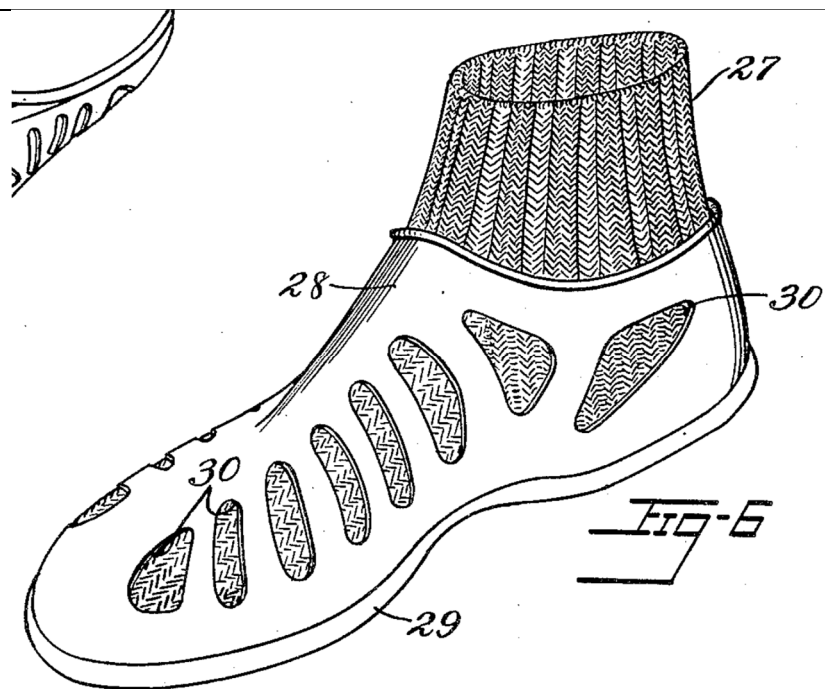
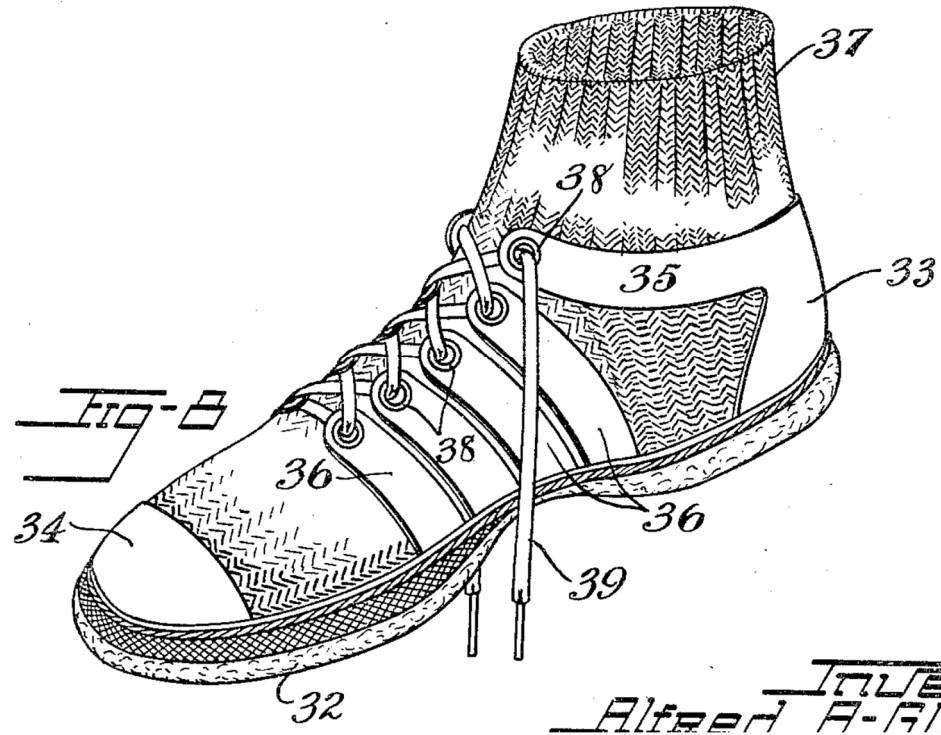


Figure 8 and associated text:



To the extent Nike contends that Glidden does not disclose this claim, it would have been obvious to a POSITA at the relevant time to modify Glidden, such as based on the general knowledge and/or the teachings of the numerous prior art references, to arrive at this claim. For instance, Bell discloses that the at least one raised element further comprises at least one lace aperture configured to receive a lace.

[0088]: “As mentioned above, a separate tongue member (made of the same or different materials from the remainder of the upper member) may be provided and attached to the upper construction without departing from this invention. Alternatively, if desired, a tongue member 1020 may be integrally formed as part of the upper member construction. As best illustrated in FIG. 10C, in this example structure 1000, the tongue member 1020 is integrally formed with at least a portion of the medial side 1030 of the upper construction. Specifically, the tongue member **1020** integrally extends

from the medial side eyelet area **1018**, and it is joined to the upper structure along seam **1008**. In order to allow a conventional shoe lace to be engaged with the upper **1002**, the medial side eyelet area **1018** includes two eyelet holes **1032** at each lace engagement location (one in which the free end of the lace enters and one in which the free end of the lace exits), whereas the lateral side eyelet area **1016** includes a single eyelet hole **1032** at each lace engagement location. Alternatively, if desired, the tongue member **1020** could be integrally formed from the lateral side **1034** of the article of footwear **1000** or from the toe portion **1036** of the article of footwear **1000**.”

Figure 10B and associated text:

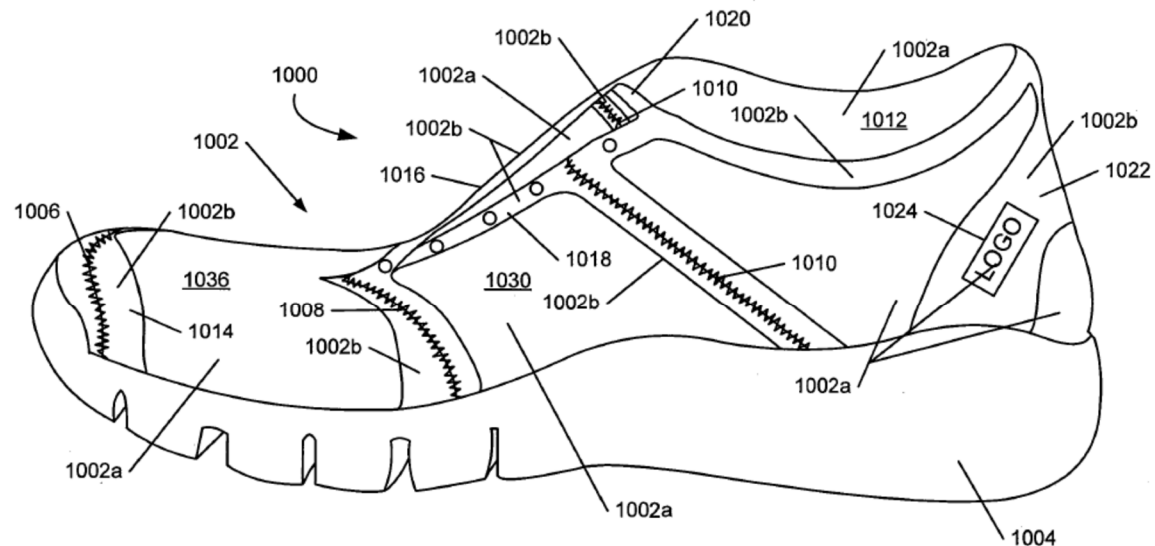
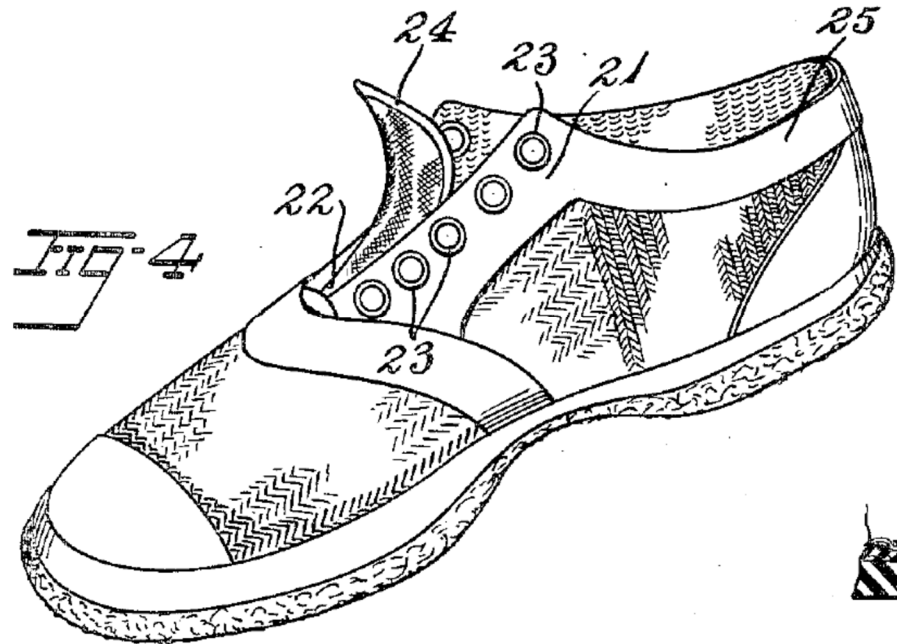


FIG. 10B

A POSITA would have been motivated to combine these references for this limitation, because they are in the same field, they are aimed at solving the same perceived problems in the art, and the nature of the problem to be solved was the same. Known design incentives and market forces would have also motivated a POSITA to combine these references. Furthermore, a POSITA would understand

	that this limitation was a standard implementation and an obvious design choice. Such an implementation simply reflects one of a finite number of well-known techniques implemented in a predictable manner, to achieve well-known, predictable results.
7. The article of footwear recited in claim 1, wherein the integral knit tongue comprises at least a partially integral portion and a free portion; the partially integral portion being of unitary knit construction with the upper at the forward portion of the throat area and at least along the portion of the lateral side and the medial side of the throat area of the knitted component; and the free portion being of unitary knit construction with the partially integral portion at a rearward portion of the integral knit tongue and remaining unattached to the remaining portions of the knitted component.	As set forth above, Glidden discloses (explicitly, implicitly, and inherently) and renders obvious all of the elements of claim 1. In addition, Glidden discloses (explicitly, implicitly, and inherently) that the integral knit tongue comprises at least a partially integral portion and a free portion; the partially integral portion being of unitary knit construction with the upper at the forward portion of the throat area and at least along the portion of the lateral side and the medial side of the throat area of the knitted component; and the free portion being of unitary knit construction with the partially integral portion at a rearward portion of the integral knit tongue and remaining unattached to the remaining portions of the knitted component. For example, see the following illustrative citation(s): p. 2, col. 1, ll. 39-55: “In the embodiment of Fig. 4 the front of the upper has reinforcing stays 21 secured thereto, as by cementing or stitching, over the instep and extending to the top of the shoe, and the upper may be slit as at 22, preferably after vulcanization, to provide a vent extending from the top of the shoe to the instep in a forward direction, the stays being provided with eyelets 23 for lacing. A tongue 24 also may be provided. In some cases the tongue 24 and the slit 22 may be omitted, the stays being retained, however, to permit lacing, and for bracing. A strap 25 may be provided, extending around the back of the foot and secured at its ends to the stays. As shown, the shoe may be of the low type with the strap 25 extending along the top margin of the upper.” See also Fig. 4. showing a tongue with a free portion.



A POSITA would have been motivated before the earliest priority date to modify Glidden, such as by combining with the general knowledge and/or the teachings of the numerous prior art references, including, e.g., Greene, such that the tongue is at least partially integral to the upper. For example, Glidden itself teaches that a single, unitary knitted shoe upper is advantageous because it can be manufactured “without substantial waste to the desired shape to accommodate the foot without uncomfortable wrin[k]les.” Glidden, p. 1, col. 2, ll. 3-10. Therefore, a POSITA would have been motivated to knit the tongue as shown in Figure 4 such that a portion of the tongue is integrally joined to the upper.

Moreover, Greene teaches an integral knit tongue with a partially integral portion and a free portion.

[0056]: “Tongue element 40 is centrally-located in a throat area of upper 30 and extends from forefoot region 11 to heel region 13, as well as from lateral side 14 to medial side 15. Side areas of tongue element 40 are positioned adjacent to and in contact with the areas of layer 32 that form lace

	apertures 34, and a central area of tongue element 40 is in contact with lace 33 and may be exposed between areas of lace 33 that cross each other. In forefoot region 11, tongue element 40 is joined to layers 31 and 32, but a remainder of tongue element 40 is generally free or unsecured to other areas of upper 30. In heel region 13, tongue element 40 may protrude from the ankle opening formed by collar element 50.” Figure 34 and associated text:
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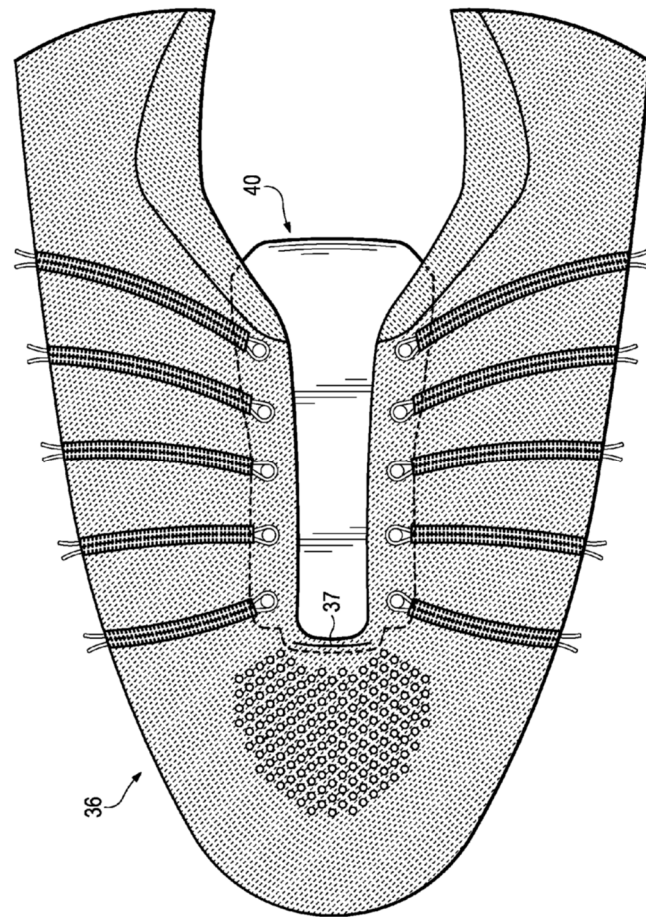


Figure 34

Figure 37 and associated text:

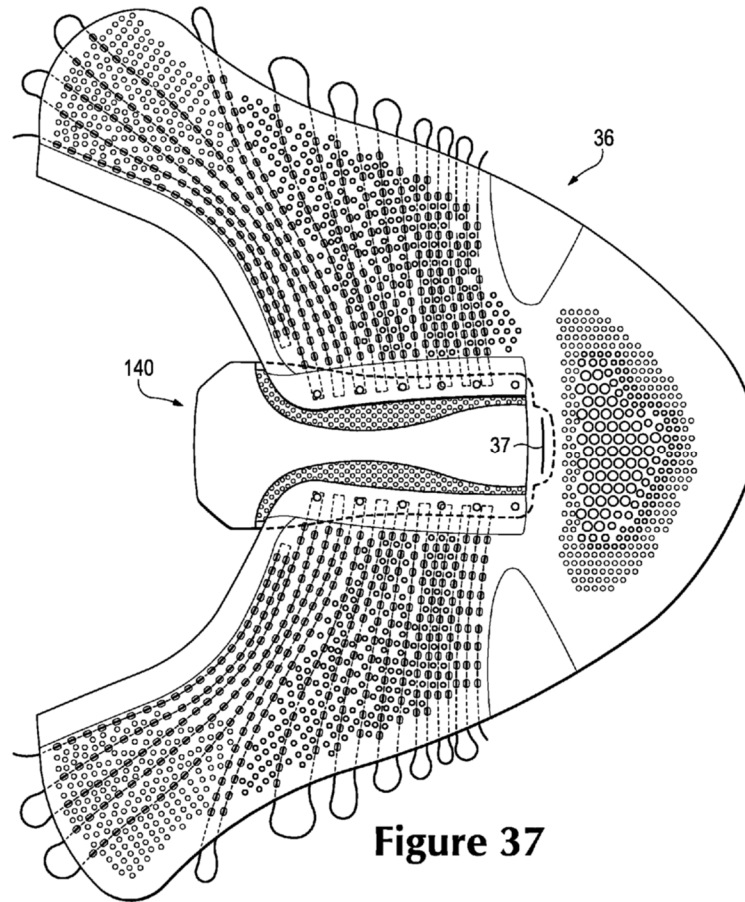


Figure 37

A POSITA would have been motivated to combine these references for this limitation, because they are in the same field, they are aimed at solving the same perceived problems in the art, and the nature of the problem to be solved was the same. Known design incentives and market forces would have also motivated a POSITA to combine these references. Furthermore, a POSITA would understand that this limitation was a standard implementation and an obvious design choice. Such an

	implementation simply reflects one of a finite number of well-known techniques implemented in a predictable manner, to achieve well-known, predictable results. Moreover, applying Nike's apparent infringement theory, it would have been obvious to a POSITA to include integral knit tongue, which comprises at least a partially integral portion and a free portion; the partially integral portion being of unitary knit construction with the upper at the forward portion of the throat area and at least along the portion of the lateral side and the medial side of the throat area of the knitted component; and the free portion being of unitary knit construction with the partially integral portion at a rearward portion of the integral knit tongue and remaining unattached to the remaining portions of the knitted component.. A POSITA would understand that this limitation was a standard implementation and an obvious design choice. Such an implementation simply reflects one of a finite number of well-known techniques implemented in a predictable manner, to achieve well-known, predictable results.
8. The article of footwear recited in claim 1, wherein the upper comprises a first type of yarn; and wherein the integral knit tongue comprises a second type of yarn, the second type of yarn being different from the first type of yarn.	As set forth above, Glidden discloses (explicitly, implicitly, and inherently) and renders obvious all of the elements of claim 1. In addition, Glidden discloses (explicitly, implicitly, and inherently) that the upper comprises a first type of yarn and that the integral knit tongue comprises a second type of yarn, the second type of yarn being different from the first type of yarn. For example, see the following illustrative citation(s): 2:3-10: "Referring to the drawings, the invention contemplates the construction of an article of footwear in which an upper of extensible and elastic textile material, such, for example, as knit[t]ed material, and of such extent as to form the complete upper including the insole, is fabricated without substantial waste to the desired shape to accommodate the foot without uncomfortable wrin[k]les." 2:19-24: "In proceeding according to the method of this invention a complete and integral, extensible and elastic, unlined shoe upper it is formed, preferably by knitting, to final form and without waste, of yarn which may be of any suitable material." Claim 1: "A shoe having an upper of parous elastic material providing an elastic top portion, a less flexible midportion and substantially less flexible portions at the lower margin of its sides and at its

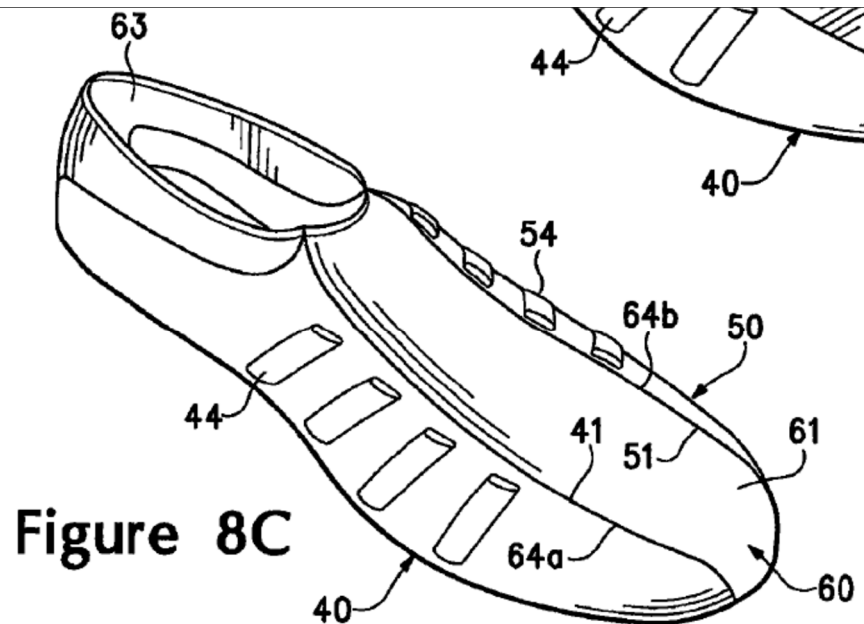
	toe and heel, a sole on said upper and a bracing structure secured to the sole and extending over the instep portion of the upper to restrain the upper from being excessively stretched, the bracing structure covering only a portion of the upper thereby leaving extensive ventilating area of the latter exposed.” To the extent Nike contends that Glidden does not disclose this claim, it would have been obvious to a POSITA at the relevant time that the upper comprises a first type of yarn and that the integral knit tongue comprises a second type of yarn, the second type of yarn being different from the first type of yarn, such as based on general knowledge and/or the teachings of the numerous prior art references, including, e.g., Dua ’299 and Dua ’956, to arrive at this claim. <i>See, e.g.,</i> Dua ’299 2:8-10: “In some configurations, the knit type or yarn type may vary in different regions of the knitted component to impart different properties.” 4:30-5: “Knitted component 40 may also incorporate various yarn types that impart different properties to separate areas of upper 30. Moreover, by combining various yarn types with various stitch types, knitted component 40 may impart a range of different properties to separate areas of upper 30. The properties that a particular type of yarn will impart to an area of knitted component 40 partially depend upon the materials that form the various filaments and fibers within the yarn. Cotton, for example, provides a soft hand, natural aesthetics, and biodegradability. Elastane and stretch polyester each provide substantial stretch and recoverability, with stretch polyester also providing recycleability. Rayon provides high luster and moisture absorption. Wool also provides high moisture absorption, in addition to insulating properties. Nylon is a durable and abrasion-resistant material with high strength. Polyester is a hydrophobic material that also provides relatively high durability. In addition to materials, other aspects relating to the yarn may affect the properties of upper 30. For example, the yarn may be a monofilament yarn or a multifilament yarn. The yarn may also include separate filaments that are each formed of different materials. The yarn may also include filaments that are each formed of two or more different materials, such as a bicomponent yarn with filaments having a sheath-core configuration or two halves formed of different materials. Different degrees of twist and crimping, as well as different deniers, may affect the properties of upper 30
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	where the yarn is located. Accordingly, both the materials forming the yam and other aspects of the yarn may be selected to impart a variety of properties to separate areas of upper 30.” 10:27-32: “Portions of strobrel sock 23 or tongue 33 may also be formed through a flat knitting process to have a spacer-knit configuration. Moreover, a variety of yarns types may be utilized for areas of knitted component 40 having the spacer-knit configuration, including mono-filament yarns or textured yarns.” Dua ’956: Abstract: “... By selectively placing multiple different yarns and/or stitch patterns at multiple different locations in the overall structure during the knitting process, flat knitted products may have multiple different physical properties (e.g., different stretchability, different moisture management capabilities, etc.) at multiple different locations or Zones within a single, unitary construction (e.g., different properties at different Zones or locations within a single footwear structure)....” 3:2-6: “In Some configurations, the step of flat knitting may include forming a first area and a second area, with one or both of a stitch type and a yarn type of the first area being different than a stitch type and a yarn type of the second area.” 4: 39-47: “By selectively placing multiple different yarns and/or stitch patterns at multiple different locations in the overall structure during the knitting process, flat knitted products may have multiple different physical properties (e.g., different stretchability, different moisture management capabilities, etc.) at multiple different locations or zones within a single, unitary construction (e.g., different properties at different zones or locations within a single footwear structure).” 7:43-52: “In addition, flat knitting may be utilized to form areas with different types of stitches and areas with different types of yarns.... Moreover, textile elements 40 and 50 may be formed from a less stretchable type of stitch than forward portion 61, and the yarn selected for textile elements 40 and 50 may be more wear-resistant than the yarn selected for forward portion 61.”
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	8:37-41: “Accordingly, the materials comprising the yarn may be selected to impart a variety of physical properties to textile elements 40, 50, and 60, and the physical properties may include, for example, strength, stretch, support, stiffness, recovery, fit, and form.” A POSITA would have been motivated to combine these references for this limitation, because they are in the same field, they are aimed at solving the same perceived problems in the art, and the nature of the problem to be solved was the same. Known design incentives and market forces would have also motivated a POSITA to combine these references. Moreover, applying Nike’s apparent infringement theory, this claim would have been obvious to a POSITA. A POSITA would understand that this limitation was a standard implementation and an obvious design choice. Such an implementation simply reflects one of a finite number of well-known techniques implemented in a predictable manner, to achieve well-known, predictable results.
9. The article of footwear recited in claim 8, wherein the second type of yarn is an elastic yarn.	As set forth above, Glidden discloses (explicitly, implicitly, and inherently) and renders obvious all of the elements of claim 8. In addition, Glidden discloses (explicitly, implicitly, and inherently) that the second type of yarn is an elastic yarn. For example, see the following illustrative citation(s): p. 1, col. 2, ll. 3-10: “Referring to the drawings, the invention contemplates the construction of an article of footwear in which an upper of extensible and elastic textile material, such, for example, as knit[t]ed material, and of such extent as to form the complete upper including the insole, is fabricated without substantial waste to the desired shape to accommodate the foot without uncomfortable wrin[k]les.” p. 1, col. 2, ll. 19-24: “In proceeding according to the method of this invention a complete and integral, extensible and elastic, unlined shoe upper it is formed, preferably by knitting, to final form and without waste, of yarn which may be of any suitable material.” p. 1, col. 2, ll. 33-44: “In fabricating the unitary upper, as by knitting, areas thereof which are normally subjected to greater wear and in which a lower degree of elasticity is desired, such as the toe

	11 and the heel portion 12, may be more densely fabricated to provide therein heavier weight and less extensibility than in the other parts of the upper, as by changing the type of stitch or amount or thickness of the yarn in the knitting. Other areas, such as the ankle portion 13, are preferably made so as to provide softness and elasticity, as by making them of ribbed construction, as shown.” To the extent Nike contends that Glidden does not disclose this claim, it would have been obvious to a POSITA at the relevant time that the second type of yarn is an elastic yarn, such as based on general knowledge and/or the teachings of the numerous prior art references, including, e.g., Greene, to arrive at this claim. For example, Greene teaches that the integral tongue may include one region incorporating elastane to enhance stretch. 5:4-7: “Whereas one region may incorporate elastane to enhance stretch, the other region may incorporate nylon to enhance wear-resistance and durability.” A POSITA would have been motivated to combine these references for this limitation, because they are in the same field, they are aimed at solving the same perceived problems in the art, and the nature of the problem to be solved was the same. Known design incentives and market forces would have also motivated a POSITA to combine these references. Moreover, applying Nike’s apparent infringement theory, this claim would have been obvious to a POSITA. A POSITA would understand that this limitation was a standard implementation and an obvious design choice. Such an implementation simply reflects one of a finite number of well-known techniques implemented in a predictable manner, to achieve well-known, predictable results.
10. The article of footwear recited in claim 1, wherein the knitted component comprises at least two knit element layers, the at least two knit element layers including: a first knit element layer comprising a portion of	As set forth above, Glidden discloses (explicitly, implicitly, and inherently) and renders obvious all of the elements of claim 1. In addition, Glidden discloses (explicitly, implicitly, and inherently) that the knitted component comprises at least two knit element layers, the at least two knit element layers including: a first knit element layer comprising a portion of the knitted component associated with the exterior surface; and a second knit element layer comprising a portion of the knitted component associated with the interior surface; and wherein the second knit element layer further includes the integral knit tongue.

the knitted component associated with the exterior surface; and a second knit element layer comprising a portion of the knitted component associated with the interior surface; and wherein the second knit element layer further includes the integral knit tongue.	To the extent Glidden does not disclose this claim, applying Nike’s apparent infringement theory, it would have been obvious to a POSITA to modify Glidden, such as by combining with the general knowledge and/or the teachings of the numerous prior art references that disclose this limitation, including, e.g., Dua ’956, to arrive at this claim. For instance, Dua ’956 teaches a knitted components having at least two knitted element layers formed of unitary knit construction, and at least one layer further includes an integral tongue: 2:5-8: “As another example, the knitted component may have a pair of at least partially coextensive knitted layers formed of unitary knit construction, and a plurality of floating yarns may extend between the knitted layers.” 6:20-25: “As depicted in the cross-section of FIG. 4B, channels 44 are formed from two at least partially coextensive layers of the material forming lateral textile element 40, and the two layers are formed of unitary (i.e., one piece) construction through the flat knitting process.” 9:5-11: “With reference to FIG. 8C, the assembly process continues by joining textile elements 40 and 50 to forward portion 61. More particularly, upper edge 41 of lateral textile element 40 is stitched to lateral edge 64a of forward portion 61, and upper edge 51 of medial textile element 50 is stitched to medial edge 64b of forward portion 61.” Figure 8C and associated text:
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Moreover, Huffa also discloses the recited features. *See, e.g.,*

[0003]: “... In athletic footwear, for example, the upper may have multiple layers that each include a variety of joined material elements....”

[0006]: “Additionally, an article of footwear is disclosed below as having an upper that includes a first knitted layer, a second knitted layer, and a plurality of floating yams. The first knitted layer forms at least a portion of an exterior surface of the upper. The second knitted layer is formed of unitary knit construction with the first knitted layer, and the second knitted layer is positioned adjacent to the first knitted layer and at least partially coextensive with the first knitted layer to define a tube between the first knitted layer and the second knitted layer....”

	[0039]: "... Moreover, knitted component 130 remains formed of unitary knit construction when other elements (e.g., lace 122, tongue 124, logos, trademarks, placards with care instructions and material information) are added following the knitting process." [0053]: "... Referring to FIG. 7E, the padded area is formed by two overlapping and at least partially coextensive knitted layers 140, which may be formed of unitary knit construction, and a plurality of floating yarns 141 extending between knitted layers 140...." Claim 30: "An article of footwear having an upper and a sole structure secured to the upper, the upper comprising: a first knitted layer that forms at least a portion of an exterior surface of the upper; a second knitted layer formed of unitary knit construction with the first knitted layer, the second knitted layer being positioned adjacent to the first knitted layer and at least partially coextensive with the first knitted layer to define a tube between the first knitted layer and the second knitted layer; and a plurality of floating yarns located within the tube and extending in a direction that is substantially parallel to the first knitted layer and the second knitted layer, wherein the first knitted layer and the second knitted layer are at least partially formed from a yarn that stretches at least one hundred percent." Moreover, Greene similarly discloses the recited features. <i>See, e.g.,</i> [0052]: "... portion of upper 30 is formed from various layers 31 and 32, as shown in FIGS. SA-SC. Whereas layer 31 forms a portion of an exterior surface of upper 30, layer 32 forms a portion of an interior surface of upper 30 (i.e., the surface defining the void within upper 30)." [0056]: "... Side areas of tongue element 40 are positioned adjacent to and in contact with the areas of layer 32 that form lace apertures 34, and a central area of tongue element 40 is in contact with lace 33 and may be exposed between areas of lace 33 that cross each other. In forefoot region 11, tongue element 40 is joined to layers 31 and 32, but a remainder of tongue element 40 is generally free or unsecured to other areas of upper 30. In heel region 13, tongue element 40 may protrude from the ankle opening formed by collar element 50." [0057]: "The primary components of tongue element 40, as depicted in FIGS. 6-9B, are a knitted sheath 41 and a compressible core 42...."
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	[0059]: “Whereas many conventional footwear tongues have a sheath formed from multiple textile elements or other material elements that are joined through stitching or bonding, for example, sheath 41 is formed as a one-piece element through a knitting process, such as circular knitting or flat knitting....” [0092]: “Referring to FIGS. 5A and 5C, flanges 47 from tongue element 40 and flange 54 from collar element 50 are located between layers 31 and 32 and joined with at least one of layers 31 and 32....” [0093]: “When knitting collar-throat element 60, layers 61 and 62 and opposite sides of flange 64 may be knit symmetrically and of equal quality. When formed in this manner, collar-throat element 60 may be used on either lateral side 14 or medial side 15. That is, collar-throat element 60 may have a symmetrical aspect that allows it to be incorporated into either side of footwear 10, thereby reducing the types of elements that are manufactured for use in footwear 10.” A POSITA would have been motivated to combine these references for this limitation, because they are in the same field, they are aimed at solving the same perceived problems in the art, and the nature of the problem to be solved was the same. Known design incentives and market forces would have also motivated a POSITA to combine these references. Furthermore, a POSITA would understand that this limitation was a standard implementation and an obvious design choice. Such an implementation simply reflects one of a finite number of well-known techniques implemented in a predictable manner, to achieve well-known, predictable results.
11. The article of footwear recited in claim 10, wherein at least a first portion of the first knit element layer and the second knit element layer are decoupled along the throat area of the knitted component.	As set forth above, Glidden discloses (explicitly, implicitly, and inherently) and renders obvious all of the elements of claim 10. In addition, Glidden discloses (explicitly, implicitly, and inherently) that at least a first portion of the first knit element layer and the second knit element layer are decoupled along the throat area of the knitted component. To the extent Glidden does not disclose this claim, applying Nike’s apparent infringement theory, it would have been obvious to a POSITA to modify Glidden, such as by combining with the general knowledge and/or the teachings of the numerous prior art references that disclose this limitation, including, e.g., Greene, to arrive at this claim.

For example, see the following illustrative citation(s) in Greene:

[0089]: "... Whereas tongue area 81 may have the general configuration of tongue element 40, vamp area 82 may be a single layer of material, for example. When incorporated into footwear 10, as depicted in FIG. 25, vamp area 82 may form an interior lining. Moreover, a portion of vamp area 82 may be exposed through an aperture in layers 31 and 32. Although vamp area 82 may be formed to exhibit a single type of knit structure or may have various knit structures. For example, the area exposed through the aperture in layers 31 and 32 may define various apertures to enhance breathability."

Figure 25 and associated text:

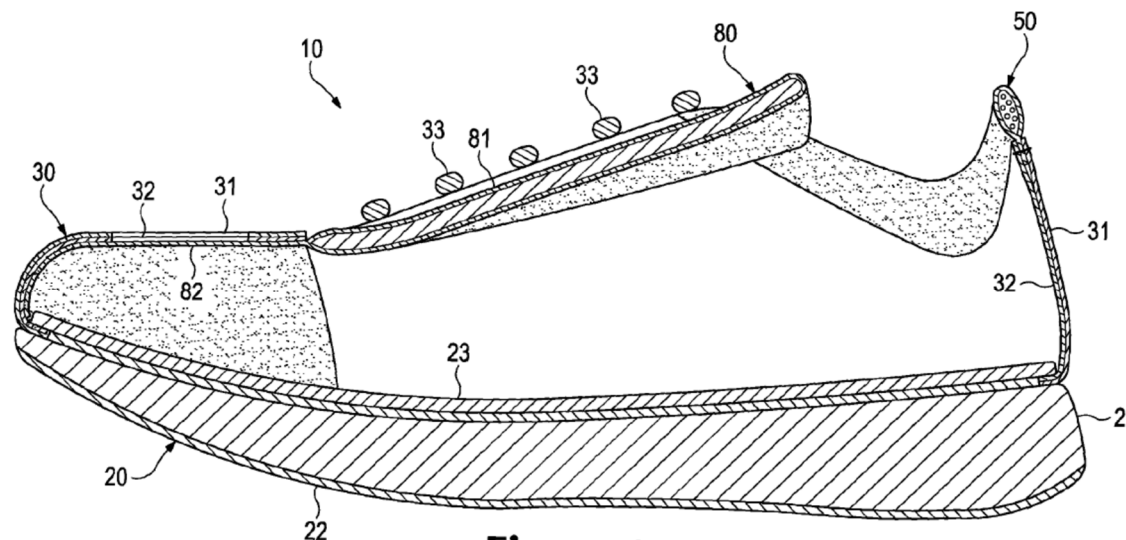


Figure 25

A POSITA would have been motivated to combine these references for this limitation, because they are in the same field, they are aimed at solving the same perceived problems in the art, and the nature of the problem to be solved was the same. Known design incentives and market forces would have also motivated a POSITA to combine these references. Furthermore, a POSITA would understand that this limitation was a standard implementation and an obvious design choice. Such an

	implementation simply reflects one of a finite number of well-known techniques implemented in a predictable manner, to achieve well-known, predictable results.
12. The article of footwear recited in claim 11, wherein at least a second portion of the first knit element layer and the second knit element layer are joined along the throat area of the knitted component.	As set forth above, Glidden discloses (explicitly, implicitly, and inherently) and renders obvious all of the elements of claim 11. In addition, Glidden discloses (explicitly, implicitly, and inherently) that at least a second portion of the first knit element layer and the second knit element layer are joined along the throat area of the knitted component. To the extent Glidden does not disclose this claim, applying Nike’s apparent infringement theory, it would have been obvious to a POSITA to modify Glidden, such as by combining with the general knowledge and/or the teachings of the numerous prior art references that disclose this limitation, including, e.g., Greene, to arrive at this claim. For example, see the following illustrative citation(s) in Greene: [0089]: “... Whereas tongue area 81 may have the general configuration of tongue element 40, vamp area 82 may be a single layer of material, for example. When incorporated into footwear 10, as depicted in FIG. 25, vamp area 82 may form an interior lining. Moreover, a portion of vamp area 82 may be exposed through an aperture in layers 31 and 32. Although vamp area 82 may be formed to exhibit a single type of knit structure or may have various knit structures. For example, the area exposed through the aperture in layers 31 and 32 may define various apertures to enhance breathability.” Figure 25 and associated text:

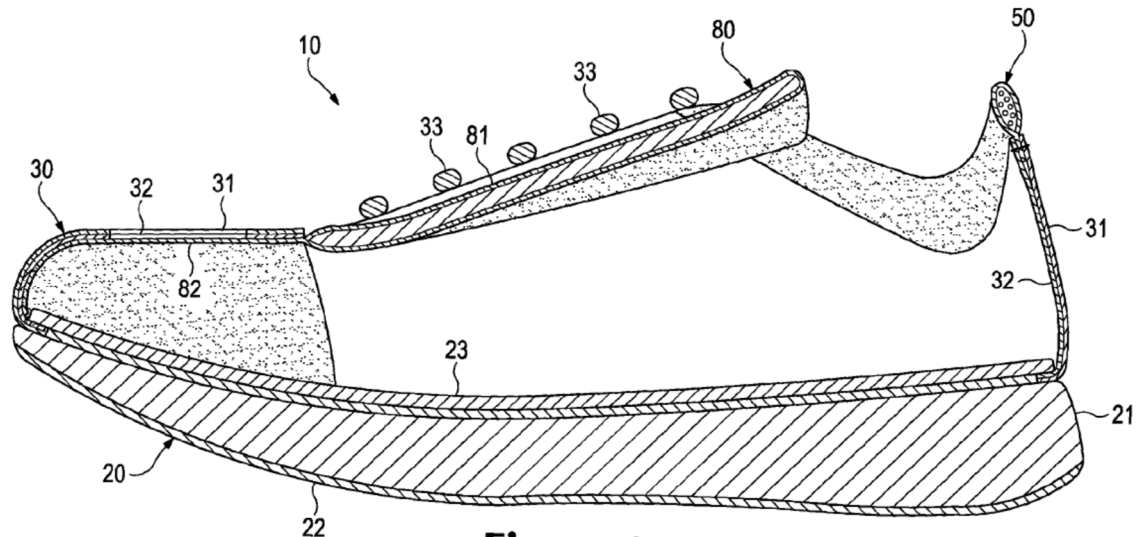


Figure 25

A POSITA would have been motivated to combine these references for this limitation, because they are in the same field, they are aimed at solving the same perceived problems in the art, and the nature of the problem to be solved was the same. Known design incentives and market forces would have also motivated a POSITA to combine these references. Furthermore, a POSITA would understand that this limitation was a standard implementation and an obvious design choice. Such an implementation simply reflects one of a finite number of well-known techniques implemented in a predictable manner, to achieve well-known, predictable results.

13[pre]. A knitted component for an article of footwear, the knitted component comprising:

To the extent that the preamble is considered limiting, Glidden teaches (explicitly, implicitly, and inherently) and also renders obvious a knitted component for an article of footwear.

See supra discussions and citations in connections with Claim Element 1[pre].

13[a]. a portion of the knitted component defining an upper, the

Glidden discloses (explicitly, implicitly, and inherently) and also renders obvious a knitted component, wherein a portion of the knitted component defines the upper, the upper including a

upper including a portion of at least one of an exterior surface of the knitted component and an opposite interior surface of the knitted component, the interior surface configured to define a void for receiving a foot; and	portion of at least one of an exterior surface and an opposite interior surface of the knitted component, the interior surface configured to define a void for receiving a foot. <i>See supra</i> discussions and citations in connections with Claim Element 1[a].
13[b]. an integral knit tongue with the upper and extending through a throat area of the knitted component; and	Glidden discloses (explicitly, implicitly, and inherently) and also renders obvious a knitted component, wherein the knitted component includes an integral knit tongue with the upper and extending through a throat area of the knitted component. <i>See supra</i> discussions and citations in connections with Claim Element 1[b].
13[c]. at least one raised element having at least one lace aperture configured to receive a lace,	Glidden discloses (explicitly, implicitly, and inherently) and also renders obvious a knitted component, wherein the knitted component includes at least one raised element having at least one lace aperture configured to receive a lace. <i>See supra</i> discussions and citations in connections with Claim Element 1[c] and Claim 6.
13[d]. wherein the integral knit tongue is joined to a forward portion of the throat area and at least along a portion of a lateral side and a medial side of the throat area of the knitted component extending from the forward portion	Glidden discloses (explicitly, implicitly, and inherently) and also renders obvious that the integral knit tongue is joined to a forward portion of the throat area and at least along a portion of a lateral side and a medial side of the throat area of the knitted component extending from the forward portion to an ankle opening of the upper. <i>See supra</i> discussions and citations in connections with Claim Element 1[d].

to an ankle opening of the upper.	
14. The knitted component recited in claim 13, wherein at least a portion of the integral knit tongue and a portion of the upper include at least one course having a common yarn.	As set forth above, Glidden discloses (explicitly, implicitly, and inherently) and renders obvious all of the elements of claim 13. In addition, Glidden discloses (explicitly, implicitly, and inherently) and renders obvious that at least a portion of the integral knit tongue and a portion of the upper include at least one course having a common yarn. <i>See supra</i> discussions and citations in connections with Claim 2.
15. The knitted component recited in claim 13, wherein at least a portion of the upper and a portion of the integral knit tongue are formed from a common knit structure.	As set forth above, Glidden discloses (explicitly, implicitly, and inherently) and renders obvious all of the elements of claim 13. In addition, Glidden discloses (explicitly, implicitly, and inherently) and renders obvious that at least a portion of the upper and a portion of the integral knit tongue are formed from a common knit structure. <i>See supra</i> discussions and citations in connections with Claim 3.
16. The knitted component recited in claim 13, wherein the at least one raised element is formed of unitary knit construction with the upper and the integral knit tongue.	As set forth above, Glidden discloses (explicitly, implicitly, and inherently) and renders obvious all of the elements of claim 13. In addition, Glidden discloses (explicitly, implicitly, and inherently) and renders obvious that the at least one raised element is formed of unitary knit construction with the upper and the integral knit tongue. <i>See supra</i> discussions and citations in connections with Claim 4.
17. The knitted component recited in claim 16, comprising at least two raised elements disposed on each of a	As set forth above, Glidden discloses (explicitly, implicitly, and inherently) and renders obvious all of the elements of claim 16.

lateral side and a medial side of the upper and extending a height above the exterior surface of the knitted component.	In addition, Glidden discloses (explicitly, implicitly, and inherently) and renders obvious that at least two raised elements disposed on each of a lateral side and a medial side of the upper and extending a height above the exterior surface of the knitted component. <i>See supra</i> discussions and citations in connections with Claim 5.
18. The knitted component recited in claim 13, wherein the integral knit tongue comprises at least a partially integral portion and a free portion; the partially integral portion being of unitary knit construction with the upper at the forward portion of the throat area and at least along the portion of the lateral side and the medial side of the throat area of the knitted component; and the free portion being of unitary knit construction with the partially integral portion at a rearward portion of the integral knit tongue and remaining unattached to the remaining portions of the knitted component.	As set forth above, Glidden discloses (explicitly, implicitly, and inherently) and renders obvious all of the elements of claim 13. In addition, Glidden discloses (explicitly, implicitly, and inherently) and renders obvious that the integral knit tongue comprises at least a partially integral portion and a free portion; the partially integral portion being of unitary knit construction with the upper at the forward portion of the throat area and at least along the portion of the lateral side and the medial side of the throat area of the knitted component; and the free portion being of unitary knit construction with the partially integral portion at a rearward portion of the integral knit tongue and remaining unattached to the remaining portions of the knitted component. <i>See supra</i> discussions and citations in connections with Claim 7.

19. The knitted component recited in claim 13, wherein the upper comprises a first type of yarn; and wherein the integral knit tongue comprises a second type of yarn, the second type of yarn being different from the first type of yarn.	As set forth above, Glidden discloses (explicitly, implicitly, and inherently) and renders obvious all of the elements of claim 13. In addition, Glidden discloses (explicitly, implicitly, and inherently) and renders obvious that the upper comprises a first type of yarn; and wherein the integral knit tongue comprises a second type of yarn, the second type of yarn being different from the first type of yarn. <i>See supra</i> discussions and citations in connections with Claim 8.
20. The knitted component recited in claim 19, wherein the second type of yarn is an elastic yarn.	As set forth above, Glidden discloses (explicitly, implicitly, and inherently) and renders obvious all of the elements of claim 19. In addition, Glidden discloses (explicitly, implicitly, and inherently) and renders obvious that the second type of yarn is an elastic yarn. <i>See supra</i> discussions and citations in connections with Claim 9.
21[pre]. A knitted component for an article of footwear, the knitted component comprising:	To the extent that the preamble is considered limiting, Glidden teaches (explicitly, implicitly, and inherently) and also renders obvious a knitted component for an article of footwear. <i>See supra</i> discussions and citations in connections with Claim Elements 1[pre] and 13[pre].
21[a]. an upper and an integral knit tongue formed of unitary knit construction with the upper and extending through a throat area of the knitted component;	Glidden discloses (explicitly, implicitly, and inherently) and also renders obvious a knitted component, wherein the knitted component includes an upper and an integral knit tongue formed of unitary knit construction with the upper and extending through a throat area of the knitted component. <i>See supra</i> discussions and citations in connections with Claim Elements 1[a] and 1[b].
21[b]. the knitted component comprising at	Glidden discloses (explicitly, implicitly, and inherently) and also renders obvious a knitted component, wherein the knitted component includes at least two knit element layers, including: a first

least two knit element layers, including: a first knit element layer comprising a portion of an exterior surface of the knitted component; and a second knit element layer comprising a portion of an interior surface of the knitted component, the interior surface disposed opposite to the exterior surface and the interior surface being configured to define a void for receiving a foot;	knit element layer comprising a portion of an exterior surface of the knitted component; and a second knit element layer comprising a portion of an interior surface of the knitted component, the interior surface disposed opposite to the exterior surface and the interior surface being configured to define a void for receiving a foot. <i>See supra</i> discussions and citations in connections with Claim Elements 1[a] and Claim 10.
21[c], wherein the integral knit tongue is joined to a forward portion of the throat area and at least along a portion of a lateral side and a medial side of the throat area of the knitted component extending from the forward portion to an ankle opening of the upper.	Glidden discloses (explicitly, implicitly, and inherently) and also renders obvious that the integral knit tongue is joined to a forward portion of the throat area and at least along a portion of a lateral side and a medial side of the throat area of the knitted component extending from the forward portion to an ankle opening of the upper. <i>See supra</i> discussions and citations in connections with Claim Elements 1[d].
22. The knitted component recited in claim 21, wherein the second knit element	As set forth above, Glidden discloses (explicitly, implicitly, and inherently) and renders obvious all of the elements of claim 21.

comprises the integral knit tongue.	In addition, Glidden discloses (explicitly, implicitly, and inherently) and also renders obvious that second knit element comprises the integral knit tongue. <i>See supra</i> discussions and citations in connections with Claim 10.
23. The knitted component recited in claim 21, wherein at least a first portion of the first knit element layer and the second knit element layer are decoupled along the throat area of the knitted component.	As set forth above, Glidden discloses (explicitly, implicitly, and inherently) and renders obvious all of the elements of claim 21. In addition, Glidden discloses (explicitly, implicitly, and inherently) and also renders obvious that at least a first portion of the first knit element layer and the second knit element layer are decoupled along the throat area of the knitted component. <i>See supra</i> discussions and citations in connections with Claim 11.
24. The knitted component recited in claim 23, wherein at least a second portion of the first knit element layer and the second knit element layer are joined along the throat area of the knitted component.	As set forth above, Glidden discloses (explicitly, implicitly, and inherently) and renders obvious all of the elements of claim 23. In addition, Glidden discloses (explicitly, implicitly, and inherently) and also renders obvious that at least a second portion of the first knit element layer and the second knit element layer are joined along the throat area of the knitted component. <i>See supra</i> discussions and citations in connections with Claim 12.
25. The knitted component recited in claim 21, wherein at least a portion of the integral knit tongue and a portion of the upper include at least one	As set forth above, Glidden discloses (explicitly, implicitly, and inherently) and renders obvious all of the elements of claim 21. In addition, Glidden discloses (explicitly, implicitly, and inherently) and also renders obvious that at least a portion of the integral knit tongue and a portion of the upper include at least one course having a common yarn.

course having a common yarn.	<i>See supra</i> discussions and citations in connections with Claim 2.
26. The knitted component recited in claim 21, further comprising at least one raised element that is formed of unitary knit construction with the upper and the integral knit tongue.	As set forth above, Glidden discloses (explicitly, implicitly, and inherently) and renders obvious all of the elements of claim 21. In addition, Glidden discloses (explicitly, implicitly, and inherently) and also renders obvious that the knitted component further includes at least one raised element that is formed of unitary knit construction with the upper and the integral knit tongue. <i>See supra</i> discussions and citations in connections with Claim 4.
27. The knitted component recited in claim 26, wherein the first knit element layer comprises the at least one raised element.	As set forth above, Glidden discloses (explicitly, implicitly, and inherently) and renders obvious all of the elements of claim 26. In addition, Glidden discloses (explicitly, implicitly, and inherently) and also renders obvious that the first knit element layer comprises the at least one raised element. <i>See supra</i> discussions and citations in connections with Claim Element 1[c] and Claim 10.