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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

COLE HAAN LLC, Plaintiff, v. TOP GLORY TRADING GROUP INC. AND DP DREAM PAIRS INC, Defendants.	**CIVIL ACTION NO. 2:25-cv-00176-ES-SDA** **DEFENDANTS TOP GLORY TRADING GROUP INC. AND DP DREAM PAIRS INC.'S INVALIDITY CONTENTIONS**

DEFENDANTS TOP GLORY AND DP DREAM PAIRS
INVALIDITY CONTENTIONS

Pursuant to Local Patent Rule 3.3 and the Court's Scheduling Order (D.I. 49), Defendants Top Glory Trading Group Inc. and DP Dream Pairs Inc. (collectively, "Top Glory") hereby provide their Invalidity Contentions with respect to the Asserted Claims identified and charted in Cole Haan LLC's ("Cole

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Haan") Disclosure of Asserted Claims & Infringement Contentions served on September 4, 2025.

With respect to each Asserted Claim, and based on its investigation to date, Top Glory hereby—(a) identifies each item of prior art that anticipates or renders obvious each Asserted Claim; (b) specifies whether the asserted prior art anticipates or renders obvious each Asserted Claim; (c) submits charts for each utility patent (the '511, '163, and '262 Patents) identifying where the asserted prior art references disclose the limitations of the Asserted Claims; and (d) identifies the grounds for invalidating the Asserted Claims based on patent eligibility under 35 U.S.C. § 101 and indefiniteness, enablement, and written description deficiencies under 35 U.S.C. § 112(a). *See* L. Pat. R. 3.3.

In conjunction with its disclosures, Top Glory attaches the following, in addition to Appendices A–D:

Exhibit	Description
A0	Obviousness
A1	U.S. Patent App. Pub. No. 2010/00154256 ("Dua '256")
A2	U.S. Patent No. 6,931,762 ("Dua '762")
A3	U.S. Patent No. 6,910,288 ("Dua '288")
A4	Mark Nason by Skechers Embolden Oxfords ("Skechers")
A5	Nike Lunar Flyknit Chukka ("Nike Chukka")
A6	Cole Haan C11947
A7	Nike Lunar Flyknit Trainer ("Nike Trainer")
A8	Cole Haan C10226

Exhibit	Description
A9	Nike Lunar Flyknit HTM NRG (“Nike HTM NRG”)
A10	Applicant Admitted Prior Art (“AAPA”)
B0	Obviousness
B1	U.S. Patent App. Pub. No. 2010/00154256 (“Dua ’256”)
B2	U.S. Patent No. 6,931,762 (“Dua ’762”)
B3	U.S. Patent No. 6,910,288 (“Dua ’288”)
B4	Mark Nason by Skechers Embolden Oxfords (“Skechers”)
B5	Nike Lunar Flyknit Chukka (“Nike Chukka”)
B6	Cole Haan C11947
B7	Nike Lunar Flyknit Trainer (“Nike Trainer”)
B8	Cole Haan C10226
B9	Nike Lunar Flyknit HTM NRG (“Nike HTM NRG”)
B10	Applicant Admitted Prior Art (“AAPA”)
C0	Obviousness
C1	U.S. Patent App. Pub. No. 2010/00154256 (“Dua ’256”)
C2	U.S. Patent No. 6,931,762 (“Dua ’762”)
C3	U.S. Patent No. 6,910,288 (“Dua ’288”)
C4	Mark Nason by Skechers Embolden Oxfords (“Skechers”)
C5	Nike Lunar Flyknit Chukka (“Nike Chukka”)
C6	Cole Haan C11947
C7	Nike Lunar Flyknit Trainer (“Nike Trainer”)
C8	Cole Haan C10226
C9	Nike Lunar Flyknit HTM NRG (“Nike HTM NRG”)
C10	Applicant Admitted Prior Art (“AAPA”)

I. INCORPORATION OF *INTER PARTES* REVIEW, OTHER PROCEEDINGS, AND MOTION TO DISMISS

Top Glory hereby incorporates by reference, as if fully set forth herein, the following IPRs concerning the Asserted Patents (collectively, the "Asserted Patent IPRs"):

IPR Proceeding Caption	Asserted Patent No.
Top Glory Trading Grp., Inc. et al. v. Cole Haan LLC, IPR2025-01392 (PTAB)	U.S. Patent No. 10,327,511
DP Dream Pairs Inc. et al. v. Cole Haan LLC, IPR2025-01393 (PTAB)	U.S. Patent No. 10,443,163
DP Dream Pairs Inc. et al. v. Cole Haan LLC, IPR2025-01394 (PTAB)	U.S. Patent No. 11,041,262
DP Dream Pairs Inc. et al. v. Cole Haan LLC, IPR2025-01395 (PTAB)	U.S. Patent No. D768,969

The Asserted Patents IPRs' also include any forthcoming materials submitted in the IPRs, and any other IPRs, reexaminations, foreign patent office proceedings, International Search Reports, or foreign opposition proceedings related to the Asserted Patents or any family members thereof.

Defendants also incorporates by reference, as if fully set forth herein, all prior and future invalidity contentions served by any other party, including without limitation the invalidity contentions served by the defendants in the litigation captioned *Cole Haan LLC v. The Individuals, Corporations, Limited Liability Companies, Partnerships, Entities, Unincorporated Associations, and/or Collective Who Operate the Website Wearbreeze.co*, No. 1:25-cv-01327 (N.D. Ill. Feb. 6, 2025).

Top Glory also incorporates by reference, as if fully set forth herein, Top Glory's Motion to Dismiss, Dkt. Nos. 25, 39, and any supplements or amendments thereto.

II. ASSERTED PATENTS

Cole Haan has asserted claims 1-23 of U.S. Patent No. 10,327,511 ("the '511 Patent"), claims 1-26 of U.S. Patent No. 10,443,163 ("the '163 Patent"), claims 1-4, 7-10, and 13 of U.S. Patent No. 11,041,262 ("the '262 Patent"), and claim 1 of U.S. Patent No. D768,969 ("the D'969 Patent").

A. The Asserted Utility Patents

1. The '511 Patent

The asserted claims of the '511 Patent have not been construed. Top Glory reserves the right to amend its invalidity contentions based on the Court's claim construction. Any such amendments to the invalidity contentions may include new theories based on the references cited herein or additional references.

a. L. Pat. R. 3.3(a) – Identification of Prior Art

Top Glory identifies the prior art produced or made available for inspection concurrently with this pleading, as prior art that is presently available and in Top Glory's possession. Top Glory asserts that the prior art listed in Appendices A-D, Exhibits A0 through C10, and IPR2025-01392, individually or in combination, invalidates the asserted claims of the '511 Patent. The listed patents, publications,

and products (as well as the methods and processes used to create those products) each qualify as prior art under 35 U.S.C. § 102(a)(1).

Appendices A-D and Exhibits A0 through C10 also include products that Top Glory intends to rely upon as prior art under 35. U.S.C. § 102(a)(1). For the products that Top Glory has in its possession, Top Glory has included photographs of those products in the contentions for Cole Haan's convenience. However, Top Glory intends to rely upon the physical product for prior art purposes and may rely upon additional photographs of these products in the future. These products are available for inspection at Sheppard Mullin's New York office, 30 Rockefeller Plaza, New York, NY 10112.

The attached Exhibits A0–A10 contain claim charts referencing these prior art references and identifying where each claim element is disclosed in the prior art.

b. Prior Art Under 35 U.S.C. § 102 (Anticipation)

Top Glory asserts that Appendix A includes a list of currently known anticipatory references for the '511 Patent. Top Glory reserves the right to amend or modify Appendix A.

c. Prior Art Under 35 U.S.C. § 103 (Obviousness)

Top Glory asserts that Appendix A further includes a list of currently known references that render the claims of the ’511 Patent obvious. Top Glory reserves the right to amend or modify Appendix A.

d. L. Pat. R. 3.3(b) – Statement of Anticipation and Obviousness

As indicated in Appendix A and further explained in Exhibits A0–A10 and IPR2025-01392, the cited prior art references either anticipate and/or render obvious the asserted claims of the ’511 Patent. To the extent any limitation of an Asserted Claim is deemed not to be exactly disclosed by an item of prior art in Appendix A, then the claim is rendered obvious by combination of the prior art item with one or more other items of prior art identified in these disclosures, including the prior art disclosures identified in Appendix A, IPR2025-01392, and Exhibit A0-A10.

Top Glory also reserves the right to rely on any claim chart in Exhibits A0 through C10 standing alone, in combination with the reference(s) in any other claim chart, in combination with any of the references listed in Exhibits A, B, or C, or IPR2025-01392, in combination with Applicant’s Admitted Prior Art, and/or in view of the knowledge of a person of ordinary skill in the art. In addition, Top Glory reserves the right to rely on any reference listed in Exhibits A, B, or C alone, in combination with the reference(s) in any claim chart in Exhibits A0 through

C10, in combination with any of the other references listed in Exhibits A, B, or C, or IPR2025-01392, in combination with Applicant's Admitted Prior Art, and/or in view of the knowledge of a person of ordinary skill in the art.

Though these claim charts provide illustrative citations to where each element may be found in the prior art references or in their combination, the cited references may contain other disclosures of each claim element as well, and Top Glory reserves the right to argue any claim elements of the Asserted Claims of the Asserted Patents are disclosed in non-cited portions of these references. For at least the reasons described above and below in the examples provided as well as in the claim charts appended hereto, it would have been obvious to one of ordinary skill in the art to combine any of a number of prior art references.

Top Glory also incorporates by reference Top Glory's Petition for *Inter Partes* Review of the '511 Patent (IPR2025-01392). Top Glory intends to rely upon the prior art disclosures in IPR2025-01392 in combination with the art disclosed in Exhibits A0 through C10, including the motivations to combine described in the IPRs as applied to the art disclosed in Exhibits A0 through C10.

Additionally, any embodiment of the patents or publications relied upon and/or referenced in the invalidity contentions that were publicly available during the relevant time period also constitute prior art that Top Glory may rely upon in combination with prior art patents and printed publications.

Any reference or combination of references that anticipates or makes obvious an asserted independent claim also makes obvious any asserted claim dependent on that independent claim. Accordingly, Top Glory contends that each claim of the ’163 Patent would have been obvious not only by the combinations explicitly defined in these contentions, but also by any combination of references that renders obvious an asserted claim, including combinations of references not expressly recited herein.

i. Motivation To Combine Teachings

The U.S. Supreme Court decision in *KSR Int’l Co. v. Teleflex Inc., et al*. 127 S. Ct. 1727, 1739 (2007) (“KSR”) held that a claimed invention can be obvious even if there is no explicit, written teaching, suggestion, or motivation for combining the prior art to produce that invention. Accordingly, Top Glory believes that no showing of an express motivation to combine prior art is required to combine the references disclosed in Exhibits A0-C10 as each combination of art would have no unexpected results, and at most would simply represent a known alternative to one of ordinary skill in the art. *See KSR Int’l Co. v. Teleflex, Inc.*, 127 S.Ct. 1727, 1739-40 (2007) (rejecting the Federal Circuit’s “rigid” application of the teaching, suggestion, or motivation to combine test, and instead espousing an “expansive and flexible” approach).

The Supreme Court in KSR held that a person of ordinary skill in the art is "a person of ordinary creativity, not an automaton" and "in many cases a person of ordinary skill in the art will be able to fit the teachings of multiple patents together like pieces of a puzzle." *Id.* at 1742. "In determining whether the subject matter of a patent claim is obvious, neither the particular motivation nor the avowed purpose of the patentee controls. What matters is the objective reach of the claim." *Id.* at 1741-42. "Under the correct analysis, any need or problem known in the field of endeavor at the time of invention and addressed by the patent can provide a reason for combining the elements in the manner claimed." *Id.* at 1742. In particular, the Supreme Court emphasized the principle that "[t]he combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results." *Id.* at 1739. A key inquiry is whether the "improvement is more than the predictable use of prior art elements according to their established functions." *Id.* at 1740.

The rationale to combine or modify prior art references is significantly stronger when the references seek to solve the same problem, come from the same field, and correspond well. In *In re Inland Steel Co.*, 265 F.3d 1354 (Fed. Cir. 2001), the Federal Circuit allowed two references to be combined as invalidating art when "[the prior art] focus[es] on the same problem that the . . . patent addresses. . . . Moreover, both [prior art references] come from the same field. . . .

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Finally, the solutions to the identified problems found in the two references correspond well." *Id.* at 1362.

Although Top Glory contends that no specific showing of motivation to combine is necessary for the references cited in the attached Exhibits and Petitions for *Inter Partes* Review, Top Glory hereby preliminarily identifies specific motivations and reasons to combine the cited art. One or more combinations of the prior art references identified herein would have been obvious because these references would have been combined using: known methods to yield predictable results; known techniques in the same way; a simple substitution of one known, equivalent element for another to obtain predictable results; or a teaching, suggestion, or motivation in the prior art generally. In addition, it would have been obvious to try combining the prior art references identified herein because there were only a finite number of predictable solutions or because known work in one field of endeavor prompted variations based on predictable design incentives or market forces either in the same field or a different one. In addition, the combination of prior art references identified herein would have been obvious because the combinations represent known potential options with a reasonable expectation of success.

Additional evidence that there would have been a motivation to combine the prior art references identified in the attached exhibits includes the motivations to

combine described in the *Inter Partes Reviews* applicable to other prior art references listed here, the interrelated teachings of multiple prior art references; the effects of demands known to the community or present in the marketplace; the existence of a known problem for which there was an obvious solution encompassed by the Asserted Claims; the existence of a known need or problem in the field of the endeavor at the time of the invention(s); and the background knowledge that would have been possessed by a person having ordinary skill in the art. The claimed subject matter required nothing more than combining prior art elements according to known methods to yield predictable results. One of ordinary skill in the art would have been motivated to combine the prior art, in that it required only simple substitutions of one known element for another to obtain predictable results. Thus, a skilled artisan seeking to solve this problem would look to these cited references in combination.

Furthermore, a person of ordinary skill at the time of the alleged invention had reason to combine or modify one or more of the references listed and charted in Exhibits A0-C10, as illustrated in the Exhibits, in light of the knowledge of a person of ordinary skill in the art at the time of the invention and information in the prior art cited herein. The reasons or motivation to combine the prior art would include, for example, the fact that the prior art for the Asserted Claims is in the same field, and one of ordinary skill in the art implementing a device, system, or

method in accordance with the Asserted Claims would have been motivated to investigate the various related existing devices, systems, methods, publications or patents identified in these contentions to address the particular needs. Indeed, the claimed subject matter required nothing more than combining prior art elements according to known methods to yield predictable results. One of ordinary skill in the art would have been motivated to combine the prior art, in that it required only simple substitutions of one known element for another to obtain predictable results. Moreover, these references cross-reference and discuss one another, illustrating the close technical relationship among them.

To the extent any piece of prior art refers to or discusses other pieces of prior art, either expressly or inherently, it would have been obvious to combine those pieces of prior art for that reason. In addition, design incentives and other market forces would have prompted those combinations and modifications. Furthermore, prior art references may arise from common assignees or multiple companies operating within the relevant subject matter. The motivation to combine references includes the common objectives and subject matter of the identified references. Accordingly, the teachings of the individual prior art references, combined with the industry knowledge of a person of ordinary skill in the art at the time of the alleged invention of the Asserted Patents, would render obvious the Asserted Claims.

Many of the charted references teach knitted footwear. *See* Exhibits A0 through C10. For similar reasons as described in the materials incorporated by reference, including IPR2025-01392, IPR2025-01393, IPR2025-01394 and IPR2025-01395, a person of ordinary skill in the art would have been motivated to apply the teachings from one reference disclosing knitted footwear to another reference disclosing knitted footwear. A person of ordinary skill in the art would have also been motivated—and would have found it straightforward and obvious—to combine the teachings of knitted footwear to improve characteristics of the footwear, such as breathability, permeability, or flexibility for a particular application. *See, e.g.*, Dua '256, [0022] ("greater permeability," and "flexibility").

In addition to the motivations to combine described in the materials incorporated by reference, including IPR2025-01392, IPR2025-01393, IPR2025-01394 and IPR2025-01395, a person of ordinary skill in the art would have found it obvious to try, and would have been motivated to implement, wingtip and broguing patterns as disclosed in, for example, Exhibits A4, A6, A8 as one of the well-known footwear styles when implementing the footwear disclosed in, for example, Exhibits A1-A3, A5, A7, A9, for the reasons described in the materials incorporated by reference. For example, the references are in the same field of footwear.

Further, for the Asserted Claims concerning "pointelle," there are a variety of inconsistent definitions for "pointelle" in the art. Regardless of the term's scope, it is either disclosed or rendered obvious by the teachings of the knit footwear references. *E.g.*, Dua '256, [0022] (teachings of an "apertured configuration," which is formed via the knitting process, *e.g.,* by omitting stitches or using "tuck" stitches (Dua '256, [0037])); '762, 5:31-44, 8:29-42; *see also* '011, 9:36-64 (incorporated by reference into Dua '256 (Dua '256, [0022])); *see* IPR2025-01392.

To the extent "pointelle" requires something more, regardless of its scope, it would have been obvious to a person of ordinary skill in the art to include the known openwork pointelle knit structure in knitted uppers because doing so would provide the known improvements of openwork knit structures, such as flexibility and breathability. *See, e.g.*, Dua '256, [0022]. A person of ordinary skill in the art would have found it obvious to use pointelle knit structure in a knit upper for such benefits. As an example, it would have been obvious to a person of ordinary skill in the art to include the known openwork pointelle knit structure in Dua '256's knit upper because doing so would have provided the improvements of "greater permeability," "flexibility," and aesthetics as Dua '256's openwork structures (i.e., apertures). Dua '256, [0022]. A person of ordinary skill in the art thus would have been motivated to apply the known pointelle structure using the same known

knitting techniques disclosed in knit uppers to form apertures to achieve these improvements (‘762, 5:31-44, 8:29-42; Dua ’256, [0022], [0037]; ‘011, 9:36-64) in a predictable manner and with a reasonable expectation of success. *See* IPR2025-01392-95.

For example, a person of ordinary skill in the art would have also found it obvious to try, and would have otherwise been motivated to implement, pointelle open knit structures in footwear as disclosed, for example, in Exhibits A0-A10, when implementing the footwear disclosed in Exhibits A0-A10. *See, e.g.*, Starbuck, [0006] (“Some knitting machines can knit only a first knit construction such as . . . a plain single jersey knit stitch. Other knitting machines can produce a second knit construction such as . . . a pointelle knit stitch . . . .”), [0009] (“[T]here is a need for garments having the first and second knit constructions seamlessly integrated therein.”); Mallen, [0008] (“[T]he disclosure provides a knitted component for an upper of an article of footwear. The knitted component includes a first portion formed by a first yarn . . . . The knitted component also has a second portion formed by a second yarn.”). A person of ordinary skill in the art would have understood that pointelle knit stitches are an interchangeable and versatile knit structure that can be applied to a myriad of knit products. Mallen, [0079] (“[I]n addition to footwear, the knitted components may be utilized in other types of apparel [], athletic equipment [], containers [], and upholstery for furniture [].

The knitted components may also be utilized in bed coverings [], table coverings, towels, flags, tents, sails, and parachutes. The knitted components may be utilized as technical textiles for industrial purposes, including structures for automotive and aerospace applications, filter materials, medical textiles [], geotextiles for reinforcing embankments, agrotextiles for crop protection, and industrial apparel that protects or insulates against heat and radiation. Accordingly, the knitted components and other concepts disclosed herein may be incorporated into a variety of products for both personal and industrial purposes.”).

For example, a person of ordinary skill in the art would have been motivated to apply teachings of yarns including spandex/elastane fibers (e.g., covered spandex yarn), having linear density between 50-150 denier, and another yarn such as a thermoplastic polyurethane (i.e., hot melt yarn) having a linear density between “100 and 300 denier” or “33 to 100 denier”, to the covered spandex yarn and hot melt yarn disclosed in other knit uppers (*see, e.g.*, Dua ’256; Ex. A), because doing so would, for example, have provided an upper with relatively low denier yarns that offer thinner/finer threads for a smoother appearance (for example, as taught by, e.g., Blakely, [0092]), flexibility, and low weight while being capable of being fused in locations containing hot melt yarn to provide increased stiffness and wear-resistance in desired locations (for example, as taught by Dua ’256). *See, e.g.*, Dua ’256, [0043]; ’762, 5:45-58, 4:39-56.

Further, a person of ordinary skill in the art would have had a reasonable expectation of success in doing so because yarns having different deniers can be used to alter the upper properties. For example, Dua ’256 discloses that yarns having “different deniers” can be used to alter the “properties of the upper” to achieve desired characteristics. Dua ’256, [0023]. Further, a person of ordinary skill in the art would have had a reasonable expectation of success in doing so because the Asserted Patents do not identify any unconventional techniques used to manufacture the claimed knitted upper. Instead, the Asserted Patents disclose the use of a generic “CNC knitting machine.” ’511 Patent, 5:61-64. Similarly, the Asserted Patents do not identify any advantages associated with the claimed pattern/configuration of the upper.

Top Glory also incorporates by reference the motivations to combine in Top Glory’s Petitions for *Inter Partes* Review of the ’511 Patent (IPR2025-01392), the ’163 Patent (IPR2025-01393), the ’262 Patent (IPR2025-01394), and the D’969 Patent (IPR2025-01395).

e. L. Pat. R. 3.3(c) – Claim Charts with Specific References to Prior Art

Exhibits A0–A10 provide exemplary claim chart citations to the identified prior art references in Appendix A. Top Glory incorporates by reference its Petition for *Inter Partes* Review of the ’511 Patent (IPR2025-01392) as setting forth additional prior art arguments and disclosures.

While Top Glory has endeavored to cite to relevant portions of the identified prior art, other portions of the prior art may additionally disclose, either expressly or inherently, and/or render obvious one or more elements of the charted claim. Top Glory reserves the right to rely on uncited portions of the identified prior art to establish the invalidity of the asserted claims. Top Glory further reserves the right to rely on uncited portions of the identified prior art, other prior art, fact witnesses, or expert testimony to provide context to or aid in understanding the cited portions of the identified prior art.

Additionally, where Top Glory cites to a particular drawing or figure, the citation encompasses both the description of the drawing or figure and any text associated with or related to the drawing or figure. Where Top Glory cites to particular text concerning a drawing or figure, the citation also encompasses that drawing or figure. Additional evidence regarding the features and elements of the prior art reference may be provided by witness testimony or by additional documents that describe the prior art reference that are discovered through the course of ongoing discovery. Each and every disclosure of the same limitation in the same reference is not necessarily identified.

Moreover, Top Glory intends to rely upon certain product prior art under 35 U.S.C. § 102(a)(1). While Top Glory has included representative photographs of certain shoes, it intends to rely upon the actual shoe for prior art purposes under

§ 102(a)(1). These products are available for inspection at Sheppard Mullin's New York office, 30 Rockefeller Plaza, New York, NY 10112.

f. L. Pat. R. 3.3(d) – Invalidity Grounds Under §§ 101 & 112

Top Glory asserts that the '511 Patent is invalid under §§ 101 and 112. The claims of the '511 Patent are directed to patent ineligible subject matter, and therefore invalid. The claims of the '511 Patent are also invalid because they are indefinite, and lack enablement and/or written description support. The claims dependent on these invalid claims are likewise invalid.

g. Patent Ineligible Subject Matter Under Section 101

The claims of the '511 Patent fail to meet the patent eligibility requirements of 35 U.S.C. § 101. *See* Section II.A.4.

h. Indefiniteness Under Section 112(b)

The claims of the '511 Patent fail to specify the claimed subject matter to be sufficiently definite under 35 U.S.C. § 112(b). *See* Section II.A.5.

i. Lack of Written Description and Enablement Under Section 112(a)

The specification of the '511 Patent does not provide adequate written description to support and enable the scope of the claims. *See* Section II.A.6.

j. Dependent Claims

Each dependent claim in the ’511 Patent is invalid for reasons above, as well as those detailed in Exhibits A0–A10.

2. The ’163 Patent

The asserted claims of the ’163 Patent have not been construed. Top Glory reserves the right to amend its invalidity contentions based on the Court’s claim construction. Any such amendments to the invalidity contentions may include new theories based on the references cited herein or additional references.

a. L. Pat. R. 3.3(a) – Identification of Prior Art

Top Glory identifies the prior art produced or made available for inspection concurrently with this pleading, as prior art that is presently available and in Top Glory’s possession. Top Glory asserts that the prior art listed in Appendices A-D, Exhibits A0 through C10, and IPR2025-01393, individually or in combination, invalidates the asserted claims of the ’163 Patent. The listed patents, publications, and products (as well as the methods and processes used to create those products) each qualify as prior art under 35 U.S.C. § 102(a)(1).

Appendices A-D and Exhibits A0 through C10 also include products that Top Glory intends to rely upon as prior art under 35. U.S.C. § 102(a)(1). For the products that Top Glory has in its possession, Top Glory has included photographs of those products in the contentions for Cole Haan’s convenience. However, Top

Glory intends to rely upon the physical product for prior art purposes and may rely upon additional photographs of these products in the future. These products are available for inspection at Sheppard Mullin's New York office, 30 Rockefeller Plaza, New York, NY 10112.

The attached Exhibits B0–B10 contain claim charts referencing these prior art references and identifying where each claim element is disclosed in the prior art.

b. Prior Art Under 35 U.S.C. § 102 (Anticipation)

Top Glory asserts that Appendix B includes a list of currently known anticipatory references for the '163 Patent. Top Glory reserves the right to amend or modify Appendix B.

c. Prior Art Under 35 U.S.C. § 103 (Obviousness)

Top Glory asserts that Appendix B further includes a list of currently known references that render the claims of the '163 Patent obvious. Top Glory reserves the right to amend or modify Appendix B.

d. L. Pat. R. 3.3(b) – Statement of Anticipation and Obviousness

See Section II.A.1.d.i, above. As indicated in Appendix B and further explained in Exhibits B0–B10 and IPR2025-01393, the cited prior art references either anticipate and/or render obvious the asserted claims of the '163 Patent. To the extent any limitation of an Asserted Claim is deemed not to be exactly

disclosed by an item of prior art in Appendix B, then the claim is rendered obvious by combination of the prior art item with one or more other items of prior art identified in these disclosures, including the prior art disclosures identified in Appendix B, IPR2025-01393, and Exhibit B0-B10.

Top Glory also reserves the right to rely on any claim chart in Exhibits A0 through C10 standing alone, in combination with the reference(s) in any other claim chart, in combination with any of the references listed in Exhibits A, B, or C, or IPR2025-01393, in combination with Applicant's Admitted Prior Art, and/or in view of the knowledge of a person of ordinary skill in the art. In addition, Top Glory reserves the right to rely on any reference listed in Exhibits A, B, or C alone, in combination with the reference(s) in any claim chart in Exhibits A0 through C10, in combination with any of the other references listed in Exhibits A, B, or C, or IPR2025-01393, in combination with Applicant's Admitted Prior Art, and/or in view of the knowledge of a person of ordinary skill in the art.

Though these claim charts provide illustrative citations to where each element may be found in the prior art references or in their combination, the cited references may contain other disclosures of each claim element as well, and Top Glory reserves the right to argue any claim elements of the Asserted Claims of the Asserted Patents are disclosed in non-cited portions of these references. For at least the reasons described above and below in the examples provided as well as in

the claim charts appended hereto, it would have been obvious to one of ordinary skill in the art to combine any of a number of prior art references.

Top Glory also incorporates by reference Top Glory's Petition for *Inter Partes* Review of the '163 Patent (IPR2025-01393). Top Glory intends to rely upon the prior art disclosures in IPR2025-01393 in combination with the art disclosed in Exhibits A0 through C10.

Additionally, any embodiment of the patents or publications relied upon and/or referenced in the invalidity contentions that were publicly available during the relevant time period also constitute prior art that Top Glory may rely upon in combination with prior art patents and printed publications.

In addition to the motivations to combine described in the materials incorporated by reference, including IPR2025-01393, Top Glory incorporates the rationales above in §II.A.1.d.i.

Any reference or combination of references that anticipates or makes obvious an asserted independent claim also makes obvious any asserted claim dependent on that independent claim. Accordingly, Top Glory contends that each claim of the '163 Patent would have been obvious not only by the combinations explicitly defined in these contentions, but also by any combination of references that renders obvious an asserted claim, including combinations of references not expressly recited herein.

e. L. Pat. R. 3.3(c) – Claim Charts with Specific References to Prior Art

Exhibits B0–B10 provide exemplary claim chart citations to the identified prior art references in Appendix B. Top Glory incorporates by reference its Petition for *Inter Partes* Review of the ’163 Patent (IPR2025-01393) as setting forth Top Glory’s additional prior art arguments and disclosures.

While Top Glory has endeavored to cite to relevant portions of the identified prior art, other portions of the prior art may additionally disclose, either expressly or inherently, and/or render obvious one or more elements of the charted claim. Top Glory reserves the right to rely on uncited portions of the identified prior art to establish the invalidity of the asserted claims. Top Glory further reserves the right to rely on uncited portions of the identified prior art, other prior art, fact witnesses, or expert testimony to provide context to or aid in understanding the cited portions of the identified prior art.

Additionally, where Top Glory cites to a particular drawing or figure, the citation encompasses both the description of the drawing or figure and any text associated with or related to the drawing or figure. Where Top Glory cites to particular text concerning a drawing or figure, the citation also encompasses that drawing or figure. Additional evidence regarding the features and elements of the prior art reference may be provided by witness testimony or by additional documents that describe the prior art reference that are discovered through the

course of ongoing discovery. Each and every disclosure of the same limitation in the same reference is not necessarily identified.

Moreover, Top Glory intends to rely upon certain product prior art under 35 U.S.C. § 102(a)(1). While Top Glory has included representative photographs of certain shoes, it intends to rely upon the actual shoe for prior art purposes under § 102(a)(1). These products are available for inspection at Sheppard Mullin's New York office, 30 Rockefeller Plaza, New York, NY 10112.

f. L. Pat. R. 3.3(d) – Invalidity Grounds Under §§ 101 & 112

Top Glory asserts that the '163 Patent is invalid under §§ 101 and 112. The claims of the '163 Patent are directed to patent ineligible subject matter, and therefore invalid. The claims of the '163 Patent are also invalid because they are indefinite, and lack enablement and/or written description support. The claims dependent on these invalid claims are likewise invalid.

g. Patent Ineligible Subject Matter Under Section 101

The claims of the '163 Patent fail to meet the patent eligibility requirements of 35 U.S.C. § 101. *See* Section II.A.4.

h. Indefiniteness Under Section 112(b)

The claims of the '163 Patent fail to specify the claimed subject matter to be sufficiently definite under 35 U.S.C. § 112(b). *See* Section II.A.5.

i. Lack of Written Description and Enablement Under Section 112(a)

The specification of the ’163 Patent does not provide adequate written description to support and enable the scope of the claims. *See* Section II.A.6.

j. Dependent Claims

Each dependent claim in the ’163 Patent is invalid for reasons above, as well as those detailed in Exhibits B0–B10.

3. The ’262 Patent

The asserted claims of the ’262 Patent have not been construed. Top Glory reserves the right to amend its invalidity contentions based on the Court’s claim construction. Any such amendments to the invalidity contentions may include new theories based on the references cited herein or additional references.

a. L. Pat. R. 3.3(a) – Identification of Prior Art

Top Glory identifies the prior art produced or made available for inspection concurrently with this pleading, as prior art that is presently available and in Top Glory’s possession. Top Glory asserts that the prior art listed in Appendices A-D, Exhibits A0 through C10, and IPR2025-01394, individually or in combination, invalidates the asserted claims of the ’262 Patent. The listed patents, publications, and products (as well as the methods and processes used to create those products) each qualify as prior art under 35 U.S.C. § 102(a)(1).

Appendices A-D and Exhibits A0 through C10 also include products that Top Glory intends to rely upon as prior art under 35. U.S.C. § 102(a)(1). For the products that Top Glory has in its possession, Top Glory has included photographs of those products in the contentions for Cole Haan's convenience. However, Top Glory intends to rely upon the physical product for prior art purposes and may rely upon additional photographs of these products in the future. These products are available for inspection at Sheppard Mullin's New York office, 30 Rockefeller Plaza, New York, NY 10112.

The attached Exhibits C0–C10 contain claim charts referencing these prior art references and identifying where each claim element is disclosed in the prior art.

b. Prior Art Under 35 U.S.C. § 102 (Anticipation)

Top Glory asserts that Appendix C includes a list of currently known anticipatory references for the '262 Patent. Top Glory reserves the right to amend or modify Appendix C.

c. Prior Art Under 35 U.S.C. § 103 (Obviousness)

Top Glory asserts that Appendix C further includes a list of currently known references that render the claims of the '262 Patent obvious. Top Glory reserves the right to amend or modify Appendix C.

d. L. Pat. R. 3.3(b) – Statement of Anticipation and Obviousness

See Section II.A.1.d.i. As indicated in Appendix C and further explained in Exhibits C0–C10 and IPR2025-01394, the cited prior art references either anticipate and/or render obvious the asserted claims of the ’262 Patent. To the extent any limitation of an Asserted Claim is deemed not to be exactly disclosed by an item of prior art in Appendix C, then the claim is rendered obvious by combination of the prior art item with one or more other items of prior art identified in these disclosures, including the prior art disclosures identified in Appendix C, IPR2025-01394, and Exhibit C0-C10.

Top Glory also reserves the right to rely on any claim chart in Exhibits A0 through C10 standing alone, in combination with the reference(s) in any other claim chart, in combination with any of the references listed in Exhibits A, B, or C, or IPR2025-01394 in combination with Applicant’s Admitted Prior Art, and/or in view of the knowledge of a person of ordinary skill in the art. In addition, Top Glory reserves the right to rely on any reference listed in Exhibits A, B, or C alone, in combination with the reference(s) in any claim chart in Exhibits A0 through C10, or IPR2025-01394, in combination with any of the other references listed in Exhibits A, B, or C in combination with Applicant’s Admitted Prior Art, and/or in view of the knowledge of a person of ordinary skill in the art.

Though these claim charts provide illustrative citations to where each element may be found in the prior art references or in their combination, the cited references may contain other disclosures of each claim element as well, and Top Glory reserves the right to argue any claim elements of the Asserted Claims of the Asserted Patents are disclosed in non-cited portions of these references. For at least the reasons described above and below in the examples provided as well as in the claim charts appended hereto, it would have been obvious to one of ordinary skill in the art to combine any of a number of prior art references.

Top Glory also incorporates by reference Top Glory's Petition for *Inter Partes* Review of the '262 Patent (IPR2025-01394). Top Glory intends to rely upon the prior art disclosures in IPR2025-01394 in combination with the art disclosed in Exhibits A0 through C10.

Additionally, any embodiment of the patents or publications relied upon and/or referenced in the invalidity contentions that were publicly available during the relevant time period also constitute prior art that Top Glory may rely upon in combination with prior art patents and printed publications.

In addition to the motivations to combine described in the materials incorporated by reference, including IPR2025-01394, Top Glory incorporates the rationales above in §II.A.1.d.i.

Any reference or combination of references that anticipates or makes obvious an asserted independent claim also makes obvious any asserted claim dependent on that independent claim. Accordingly, Top Glory contends that each claim of the '262 Patent would have been obvious not only by the combinations explicitly defined in these contentions, but also by any combination of references that renders obvious an asserted claim, including combinations of references not expressly recited herein.

e. L. Pat. R. 3.3(c) – Claim Charts with Specific References to Prior Art

Exhibits C0–C10 provide exemplary claim chart citations to the identified prior art references in Appendix C. Top Glory incorporates by reference its Petition for *Inter Partes* Review of the '262 Patent (IPR2025-01394) as setting forth Top Glory's additional prior art arguments and disclosures.

While Top Glory has endeavored to cite to relevant portions of the identified prior art, other portions of the prior art may additionally disclose, either expressly or inherently, and/or render obvious one or more elements of the charted claim. Top Glory reserves the right to rely on uncited portions of the identified prior art to establish the invalidity of the asserted claims. Top Glory further reserves the right to rely on uncited portions of the identified prior art, other prior art, fact witnesses, or expert testimony to provide context to or aid in understanding the cited portions of the identified prior art.

Additionally, where Top Glory cites to a particular drawing or figure, the citation encompasses both the description of the drawing or figure and any text associated with or related to the drawing or figure. Where Top Glory cites to particular text concerning a drawing or figure, the citation also encompasses that drawing or figure. Additional evidence regarding the features and elements of the prior art reference may be provided by witness testimony or by additional documents that describe the prior art reference that are discovered through the course of ongoing discovery. Each and every disclosure of the same limitation in the same reference is not necessarily identified.

Moreover, Top Glory intends to rely upon certain product prior art under 35 U.S.C. § 102(a)(1). While Top Glory has included representative photographs of certain shoes, it intends to rely upon the actual shoe for prior art purposes under § 102(a)(1). These products are available for inspection at Sheppard Mullin's New York office, 30 Rockefeller Plaza, New York, NY 10112.

f. L. Pat. R. 3.3(d) – Invalidity Grounds Under §§ 101 & 112

Top Glory asserts that the '262 Patent is invalid under §§ 101 and 112. The claims of the '262 Patent are directed to patent ineligible subject matter, and therefore invalid. The claims of the '262 Patent are also invalid because they are indefinite, and lack enablement and/or written description support. The claims dependent on these invalid claims are likewise invalid.

g. Patent Ineligible Subject Matter Under Section 101

The claims of the ’262 Patent fail to meet the patent eligibility requirements of 35 U.S.C. § 101. *See* Section II.A.4.

h. Indefiniteness Under Section 112(b)

The claims of the ’262 Patent fail to specify the claimed subject matter to be sufficiently definite under 35 U.S.C. § 112(b). *See* Section II.A.5.

i. Lack of Written Description and Enablement Under Section 112(a)

The specification of the ’262 Patent does not provide adequate written description to support and enable the scope of the claims. *See* Section II.A.6.

j. Dependent Claims

Each dependent claim in the ’262 Patent is invalid for reasons above, as well as those detailed in Exhibits C0–C10.

4. Patent Ineligible Subject Matter Under Section 101 (’511, ’163, and ’262 Patents)

The ’511, ’163, and ’262 Patents (“Asserted Utility Patents”) fail to satisfy Section 101 for multiple reasons:

a. The Utility Patents Are Directed to the Abstract Idea of Knitting and Recite Nothing More Than Conventional Knitting Techniques

The Asserted Utility Patents are directed to shoes having “a unitary, one-piece knit construction” where “various regions of the knitted element are formed together during the knitting process” by “seamlessly knitt[ing]” one region with an

adjacent region. *E.g.*, ’163 Patent, 3:56-4:20, 6:10-19, Fig. 5. The knit construction further includes a “wingtip pattern” defined by “holes 42a, 42b of the lateral and medial lines of broguing 40a, 40b” that extend forward from their respective metatarsal regions 28a, 28b to the upper toe region 32. *Id.* at 4:32-62, 6:25-28, Fig. 5. The knitted element additionally includes a wingtip pattern that is formed at a boundary line 60 between a “first area, generally indicated at 52, of a first type of knit structure,” such as a “more tightly knit” “jersey stitch knit,” and “a second area, generally indicated at 54, of a second type of knit structure,” such as a “pointelle stitch knit.” *Id.* at 4:63-5:28, Fig. 5.

The Applicant admits, however, that the alleged inventive concept of this shoe lies in the ornamental and aesthetic features of the shoe—namely, the wingtip pattern, broguing lines, and different knitting patterns. *See, e.g.*, ’551 File History, at 146-47 (4/3/2019 Applicant Amendments, at 11-12). These ornamental aspects are not even entitled to patentable weight. *See* §II.B.2.

Even to the extent that they were, the Asserted Utility Patents also admit that conventional knitting machines may be used to knit the unitary knit element—namely, a CNC knitting machine. *E.g.*, ’511 Patent, 5:61-64. This admission further confirms that the purported inventions of the Asserted Utility Patents are patent ineligible.

Claim 18 of the ’163 Patent is representative of the Asserted Claims and recites the following:

> A method of manufacturing an upper for an article of footwear, the method comprising:
>
> knitting with a knitting machine to form a knitted element of the upper such that the knitted element is of a unitary one-piece construction comprising a knitted upper heel region, a knitted upper lateral midfoot region, a knitted upper medial midfoot region, a knitted upper metatarsal region, a knitted upper lateral ball region, a knitted upper medial ball region, and a knitted upper toe region, the knitted upper metatarsal region including a knitted upper lateral metatarsal region and a knitted upper medial metatarsal region, the upper having a knitted upper lateral side region and a knitted upper medial side region, the upper lateral side region including the upper lateral midfoot region, the upper lateral metatarsal region and the upper lateral ball region, the upper medial side region including the upper medial midfoot region, the upper medial metatarsal region and the upper medial ball region, the upper toe region being seamlessly knitted with the upper medial and lateral ball regions during the knitting process, the upper medial and lateral ball regions being seamlessly knitted with the knitted upper metatarsal region during the knitting process, the knitted upper metatarsal region being seamlessly knitted with the upper lateral and medial midfoot regions during the knitting process, the knitted element including a wingtip pattern, the wingtip pattern being portions of at least the upper toe region, the upper lateral and medial ball regions, and the upper lateral and medial metatarsal regions, the knitted element comprising a first area of a first type of knit structure and a second area of a second type of knit structure, the second type of knit structure being different from the first type of knit structure, the first area having a rear boundary, the second area having a forward boundary, the rear boundary of the first area and the forward boundary of the second area being coincident and coextensive with each other and defining a boundary line between the first and second areas, the wingtip pattern comprising the boundary line, the boundary line having a medial boundary line and a lateral boundary line, the medial boundary line comprising a wing-shaped curved line having a medial side portion extending forward

> from at least the upper medial metatarsal region to the upper toe region and a central portion extending rearward from the upper toe region, the lateral boundary line comprising a wing-shaped curved line having a lateral side portion extending forward from at least the upper lateral metatarsal region to the upper toe region and a central portion extending rearward from the upper toe region, the rearwardly extending central portion of the medial boundary line converging toward the rearwardly extending central portion of the lateral boundary line;
>
> the upper toe region being seamlessly knitted with the upper medial and lateral ball regions during the knitting step;
>
> the upper medial and lateral ball regions being seamlessly knitted with the knitted upper metatarsal region during the knitting step;
>
> the knitted upper metatarsal region being seamlessly knitted with the upper lateral and medial midfoot regions during the knitting step;
>
> the first and second areas and the wingtip pattern being seamlessly knitted during the knitting step.

'163 Patent, cl. 18. On its face, claim 18 is directed to the abstract idea of, for example, knitting fabric patterns for shoes using conventional knitting machines—specifically, a "knit upper having a knitted element" with several regions and several aesthetic components such as "a wingtip pattern," "lines of broguing," and areas of different style stitch knits. Claim 18 does not include an inventive concept beyond this exemplary abstract idea—this claim simply attempts to capture conventional knitting techniques using existing technology.

The other independent claims of the Asserted Utility Patents recite similar limitations and suffer the same deficiencies. And some independent claims are, in fact, even broader. The dependent claims fare no better because they add further limitations on the placement of certain ornamental stitch patterns or specify the composition of conventional yarns used in the upper.

Regarding *Alice* step one: the alleged inventions are directed to, for example, the abstract idea of knitting fabric patterns for shoes. The Asserted Patents claim to improve upon the shoe by using a generic "CNC knitting machine" (5:61-6:17; '163 Patent, 5:63-6:19; '262 Patent, 6:10-33) to form particular patterns on the knit upper, but the Asserted Patents do not explain as to what advantages or improvements this adds—and they cannot. Knitting, the use of conventional knitting techniques, and the use of a conventional knitting machine are not inventive. The Asserted Patents do not describe any mechanical or structural aspects of the knitted upper or any improvement in the process of knitting the upper and instead describe only aesthetic aspects of the claimed uppers, which are not subject to utility patent protection under Section 101. *See* Section II.B.2.

There are numerous examples of similar claims being found unpatentable as abstract ideas. For example, a patent aimed at providing a "consistent and repeatable hair cut" which is "achieved through the recited steps of defining a head shape, designating zones, and assigning patterns to zones" is an abstract idea

because "[i]dentifying head shape and applying hair designs accordingly is an abstract idea capable . . . of being performed entirely in one's mind." *In re Brown, 645 F. App'x* 1014, 1016-17 (Fed. Cir. 2016) (per curiam). A patent directed to "improv[ing] the '[a]ccurate measuring, marking, and cutting of fabric . . . for many applications, including upholstery of furniture and the fabrication of garments, draperies linens and quilts'" is an abstract idea because "the invocation of a generic machine to automate a previously manual process is not inventive." *Tedesco v. Spoonflower, Inc.*, No. 23-cv-1030, 2025 WL 2778335, at *5 (M.D.N.C. Sept. 26, 2025) (citation omitted). Like here, knitting fabric patterns for shoes with those patterns accordingly is an abstract idea capable of being performed entirely in one's mind.

Regarding *Alice* step two: the Asserted Patents do not add an inventive concept to the abstract idea of knitting fabric in shoes because the patents do not describe a specific process or machinery for achieving the result. The patents describe the abstract concept and essentially say "apply it" using a nondescript "CNC knitting machine." 5:61-6:17; '163 Patent, 5:63-6:19; '262 Patent, 6:10-33. The use of a generic machine adds no inventive concept to the abstract idea. Moreover, the use of knitting machines to create knit uppers with a variety of patterns and textures was known and conventional. *See, e.g.*, Exhibits A0-C10.

b. The Utility Patents Improperly Claim Ornamental Features

As a second independent reason, the Asserted Utility Patents are invalid under Section 101 for improperly claiming ornamental features in a utility patent. A utility patent claim is directed to patent ineligible subject matter when, for example, the claim captures ornamental features. *In re Seid*, 161 F.2d 229, 231 (C.C.P.A. 1947) (holding that limitations of a utility patent claim that "relate to ornamentation only and have no mechanical function whatsoever" are not entitled to patentable weight); *In re Marco Guldenaar Holding B.V.*, 911 F.3d at 1161-62 (finding claimed markings on a die are patent-ineligible printed subject matter). Such claiming is prohibited and emphasizes an important distinction between the scope of utility and design patents. *Carman Indus., Inc. v. Wahl*, 724 F.2d 932, 939 (Fed. Cir. 1983) ("Design and utility patents are based on different statutory provisions and involve different subject matter.").

The Asserted Utility Patents improperly attempt to claim ornamental features such as "wingtip pattern," "a medial line of broguing and a lateral line of broguing," "wing-shaped curved line of holes having a medial side broguing portion extending forward," "central broguing portion," "lateral line of broguing comprising a wing-shaped curved line of holes having a lateral side broguing portion extending forward," "a first area of a jersey stitch knit," and "a second area of a pointelle stitch knit." However, these limitations provide no function or utility

and are not entitled to patentable weight. Indeed, this is confirmed by Cole Haan's Infringement Contentions for the Utility Patents, which point solely to ornamental aspects of the Accused Instrumentalities.

* * *

The claims are at least patent ineligible and invalid under § 101 for these reasons, though other theories may arise as discovery progresses. Top Glory reserves the right to amend its invalidity contentions regarding 35 U.S.C. § 101.

5. Indefiniteness Under Section 112(b) ('511, '163, and '262 Patents)

A patent is invalid for indefiniteness if "its claims, read in light of the specification delineating the patent, and the prosecution history, fail to inform, with reasonable certainty, those skilled in the art about the scope of the invention." 35 U.S.C. § 112(b); *Nautilus, Inc. v. Biosig Instruments, Inc.*, 572 U.S. 898, 901 (2014). A patent must be "precise enough to afford clear notice of what is claimed, thereby "'appris[ing] the public of what is still open to them.'" *Id.* at 909 (quoting *Markman v. Westview Instruments, Inc.*, 517 U.S. 370, 373 (1996)).

The claims of the Asserted Patents are wholly unclear—and Cole Haan's infringement contentions further emphasize the claims' ambiguity. The '511 Patent spells out several different regions of the shoe that are vague, ambiguous, undefined and fail to provide those skilled in the art about the scope of the invention with reasonable certainty:

1. a knitted upper heel region (’511 Patent claims 1, 17, 20, 21; ’163 Patent claims 1, 18, 21; ’262 Patent claims 1, 13)

2. a knitted upper lateral midfoot region (’511 Patent claims 1, 17, 20, 21; ’163 Patent claims 1, 18, 21; ’262 Patent claims 1, 7)

3. a knitted upper medial midfoot region (’511 Patent claims 1, 17, 20, 21; ’163 Patent claims 1, 18, 21; ’262 Patent claims 1, 7)

4. a knitted upper metatarsal region (’511 Patent claims 1, 17, 20, 21; ’163 Patent claims 1, 13, 18, 21; ’262 Patent claims 1, 7)

5. a knitted upper lateral ball region (’511 Patent claims 1, 17, 20, 21; ’163 Patent claims 1, 13, 18, 21; ’262 Patent claims 1, 7)

6. a knitted upper medial ball region (’511 Patent claims 1, 17, 20, 21; ’163 Patent claims 1, 13, 18, 21; ’262 Patent claims 1, 7)

7. a knitted upper toe region (’511 Patent claims 1, 17, 20, 21; ’163 Patent claims 1, 13, 18, 21; ’262 Patent claims 1, 7)

8. a first area (’511 Patent claims 4, 15, 17, 20, 21; ’163 Patent claims 1, 13, 18, 21; ’262 Patent claims 1, 7)

9. a second area (’511 Patent claims 4, 15, 17, 20, 21; ’163 Patent claims 1, 13, 18, 21; ’262 Patent claims 1, 7)

10. a forward boundary (’511 Patent claims 4, 15, 17, 20; ’163 Patent claims 1, 13, 18, 21; ’262 Patent claims 1, 7)

11. a rear boundary (’511 Patent claims 4, 15, 17, 20, 21; ’163 Patent claims 1, 13, 18, 21; ’262 Patent claims 1, 7)

12. a boundary line (’511 Patent claim 15; ’163 Patent claims 1, 13, 18, 21; ’262 Patent claims 1, 7)

Indeed, some of the foregoing regions even have their own subregions, further leaving a person of ordinary skill in the art to guess as to where, for instance, the medial toe region ends and where the medial ball region begins.

Top Glory further contends that the following other limitation of the Asserted Patents is indefinite:

1. "pointelle" ('511 Patent claims 6, 16, 18, 21; '163 Patent claims 4, 16, 21; '262 Patent claims 1, 7)

The claims are at least invalid under § 112(b) for this reason, though other theories may arise as discovery progresses. Top Glory reserves the right to amend its invalidity contentions regarding 35 U.S.C. § 112(b).

6. Lack of Written Description and Enablement Under Section 112(a) ('511, '163, and '262 Patents)

The patent specification must contain "a written description of the invention" that "clearly allow[s] persons of ordinary skill in the art to recognize that the inventor invented what is claimed." 35 U.S.C. § 112(a); *Ariad Pharm., Inc. v. Eli Lilly & Co.*, 598 F.3d 1336, 1351 (Fed. Cir. 2010) (en banc) (citation omitted). A patent's written description is inadequate where the claim exceeds the scope of what the patent discloses. *ICU Med., Inc. v. Alaris Med. Sys., Inc.*, 558 F.3d 1368, 1377-78 (Fed. Cir. 2009).

Relatedly, the patent specification must disclose sufficient information to enable a person of ordinary skill in the art to make and use the full scope of the

claimed invention without undue experimentation. 35 U.S.C. § 112(a); *Amgen Inc. v. Sanofi*, 598 U.S. 594, 610 (2023). The specification must enable the full scope of the invention as defined by its claims—thus, "the more one claims, the more one must enable." *Amgen*, 598 U.S. at 610.

Top Glory reserves the right to amend its invalidity contentions regarding 35 U.S.C. § 112(a).

B. The D'969 Patent

Claim 1 of the D'969 Patent has not been construed. Top Glory reserves the right to amend its invalidity contentions based on the Court's claim construction. Any such amendments to the invalidity contentions may include new theories based on the references cited herein or additional references.

1. L. Pat. R. 3.3(a) – Identification of Prior Art

Top Glory identifies the prior art produced or made available for inspection concurrently with this pleading, as prior art that is presently available and in Top Glory's possession. Top Glory asserts that the prior art listed in Appendix D, individually or in combination, invalidates the asserted claims of the D'969 Patent. The listed patents, publications, and products each qualify as prior art under 35 U.S.C. § 102(b).

Additionally, Top Glory intends to rely upon product prior art. Top Glory has included photographs of certain products in its contentions for convenience.

However, Top Glory intends to rely upon the physical product for purposes of prior art under 35. U.S.C. § 102(a)(1). These products are available for inspection at Sheppard Mullin's New York office, 30 Rockefeller Plaza, New York, NY 10112.

a. Prior Art Under 35 U.S.C. § 102 (Anticipation)

Top Glory asserts that Appendix D includes a list of currently known anticipatory references for the D'969 Patent. Top Glory reserves the right to amend or modify Appendix D.

b. Prior Art Under 35 U.S.C. § 103 (Obviousness)

Top Glory asserts that Appendix D further includes a list of currently known references that render the claims of the D'969 Patent obvious. Top Glory reserves the right to amend or modify Appendix D.

2. L. Pat. R. 3.3(b) – Statement of Anticipation and Obviousness

See Section II.A.1.d, above. As indicated in Appendix D, the cited prior art references either anticipate and/or render obvious the asserted claims of the D'969 Patent.

Top Glory also incorporates by reference Top Glory's Petition for *Inter Partes* Review of the D'969 Patent (IPR2025-01395) as setting forth Top Glory's invalidity position.

Additionally, any embodiment of the patents or publications relied upon and/or referenced in the invalidity contentions that were publicly available during the relevant time period also constitute prior art. The obviousness combinations listed in Appendix D reflect Top Glory's present understanding of the potential scope of the claims. Top Glory does not acquiesce to a broader interpretation of the D'969 Patent claims.

Top Glory incorporates by reference its Petition for *Inter Partes* Review of the D'969 Patent (IPR2025-01395) as setting forth additional evidence demonstrating that the D'969 Patent is invalid as anticipated and obvious in view of the prior art.

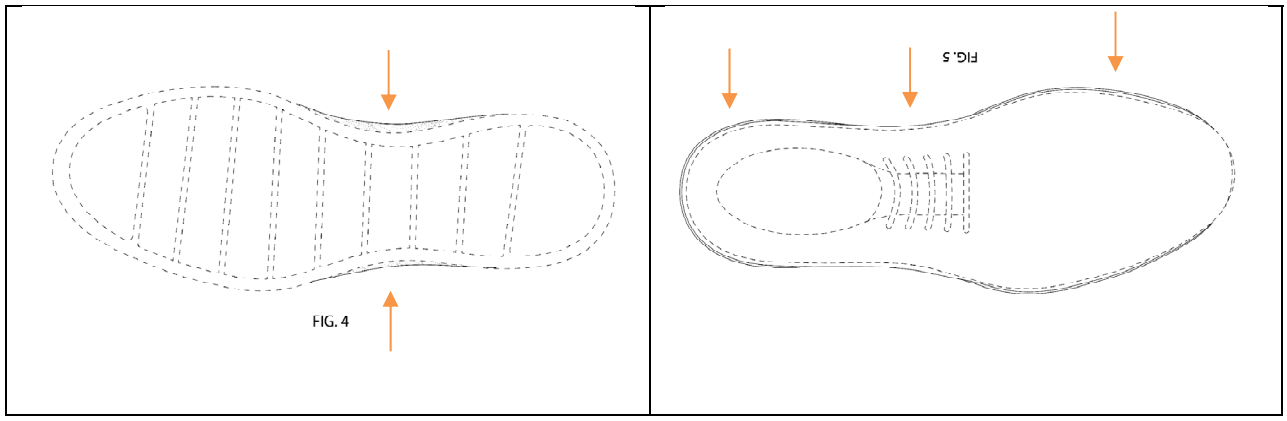
Any reference or combination of references that anticipates or makes obvious an asserted independent claim also makes obvious any asserted claim dependent on that independent claim. Accordingly, Top Glory contends that each claim of the D'969 Patent would have been obvious not only by the combinations explicitly defined in these contentions, but also by any combination of references that renders obvious an asserted claim, including combinations of references not expressly recited herein.

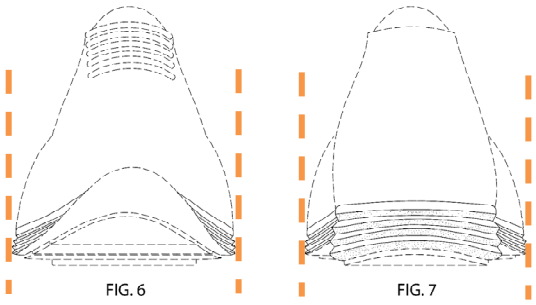
3. L. Pat. R. 3.3(d) – Invalidity Grounds Under § 112

Claim 1 of the D'969 fails to specify the claimed subject matter to be sufficiently definite under 35 U.S.C. § 112(b).

"A visual disclosure may be inadequate—and its associated claim indefinite—if it includes multiple, internally inconsistent drawings." *In re Maatita*, 900 F.3d 1369, 1375 (Fed. Cir. 2018). Errors and inconsistencies merit a § 112 rejection when it precludes the overall understanding of the drawing as a whole. *Id.*

At least Figure 4 of the D'969 patent includes an important inconsistency with Figures 5-7. Beginning from the toe section, the ridged layers (solid lines) of Figure 5 curve outward, then pinch in the middle, then curve out again and wrap around the heel (see orange arrows). In Figure 5, the ridged layers protrude past the upper around the entire shoe. In Figure 4, however, it is only the pinched middle area where the ridged layers protrude. And with reference to Figures 6 and 7, the ridged layers should protrude around the entirety of the shoe (see dashed orange lines). Figure 4 is the only figure that demonstrates a single area of protrusion:





Claim 1 is at least invalid under § 112(b) for this reason, though other theories may arise as discovery progresses. Top Glory reserves the right to amend its invalidity contentions regarding 35 U.S.C. § 112(b).

III. DOCUMENT PRODUCTION ACCOMPANYING INVALIDITY CONTENTIONS

Pursuant to L. Pat. R. 3.4(a), and based upon Cole Haan's statements at the scheduling conference that it is not seeking technical information and its Infringement Contentions which have focused on the visual features of the Accused Instrumentalities, Top Glory is making available for inspection at Sheppard Mullin's New York office, 30 Rockefeller Plaza, New York, NY 10112 the Accused Instrumentalities.

Pursuant to L. Pat. R. 3.4(b), Top Glory is producing documents of the prior art references currently within its possession, custody, or control, identified above and/or in the attached exhibits. This production set includes photographs of certain products charted in the contentions for convenience. However, Top Glory

intends to rely upon the physical product for purposes of prior art under 35. U.S.C. § 102(a)(1) and is concurrently making these products available for inspection at Sheppard Mullin's New York office, 30 Rockefeller Plaza, New York, NY 10112.

Pursuant to L. Pat. R. 3.4(c), Top Glory is producing documents currently within its possession, custody, or control of the *inter partes* review petitions filed against the Asserted Patents.

Pursuant to L. Pat. R. 3.4(d), Top Glory hereby specifies, by category, the documents produced and made available for inspection:

L. Pat. R. 3.4(a): Products are available for inspection at Sheppard Mullin's New York office, 30 Rockefeller Plaza, New York, NY 10112.

L. Pat. R. 3.4(b): TG176_0000001 – TG176_0000707. Products are available for inspection at Sheppard Mullin's New York office, 30 Rockefeller Plaza, New York, NY 10112

L. Pat. R. 3.4(c): TG176_0000721 – TG176_0005811.

IV. RESERVATIONS

Discovery in this case is ongoing. Top Glory's search for, and analysis of, the prior art is ongoing. Top Glory continues to investigate the public use, sale, or offer for sale of products and systems that may anticipate or render obvious one or more of the Asserted Claims. Top Glory also continues to investigate and analyze the Asserted Patents to develop new bases and grounds of invalidity, including,

but not limited to, the articles and methods of manufacturing various prior art instrumentalities. Top Glory reserves the right to modify, amend, and supplement its invalidity contentions and document production in the event that additional grounds or evidence of invalidity are identified or developed in this case. Top Glory reserves the right to revise its ultimate contentions concerning the invalidity of the Asserted Claims, which may change depending on the Court's construction of the Asserted Claims, any findings as to the priority date of the Asserted Claims, and/or positions that Cole Haan or expert witnesses may take concerning claim construction, infringement, and/or invalidity issues.

Cole Haan's September 4, 2025 Disclosure of Asserted Claims and Infringement Contentions fail to provide sufficient detail to identify the Accused Instrumentalities and how they allegedly infringe each element of the Asserted Claims. Accordingly, if and when Cole Haan modifies, amends, or supplements its infringement contentions, Top Glory reserves the right to modify, amend, and/or supplement its invalidity contentions and document production. Defendant also reserves the right to modify, amend, and/or supplement its invalidity contentions and document production during discovery, if and when Cole Haan provides further details as to its infringement contentions.

Prior art not included in this disclosure—whether known or not known to Top Glory—may become relevant. Top Glory is currently unaware of the extent,

if any, to which Cole Haan will contend that limitations of the Asserted Claims are not disclosed in the prior art identified by Top Glory. To the extent that Cole Haan asserts this position, Top Glory reserves the right to identify additional references or additional combinations of references that disclose, practice, or render obvious the allegedly missing limitation(s).

Top Glory's claim charts cite to particular exemplary teachings and disclosures of the prior art as applied to features of the Asserted Claims. Persons having ordinary skill in the art, however, may view an item of prior art in the context of other publications, literature, products, and understanding. As such, the cited portions are exemplary only, and Top Glory reserves the right to rely on uncited portions of the prior art references, other publications, and expert testimony as aids in understanding and interpreting the cited portions, as providing context thereto, as additional evidence that the prior art discloses or renders obvious a claim limitation or the invention as a whole, or as evidence of the obviousness factor of contemporaneous development by others. Top Glory further reserves the right to rely on uncited portions of the prior art references, other publications, and testimony, including expert testimony, to establish bases for combinations of certain cited references that render the Asserted Claims obvious.

The references discussed in the claim charts may disclose the elements of the Asserted Claims explicitly and/or inherently. Each prior art reference may be

relied upon to show the state of the art in the relevant time frame. The suggested obviousness combinations are provided in the alternative to Top Glory's anticipation contentions and are not to be construed to suggest that any reference included in the combinations is not by itself anticipatory.

Third party discovery is ongoing. Top Glory reserves the right to modify, amend, and/or supplement these invalidity contentions with further information related to other instrumentalities, including but not limited to witness testimony, documents and publications regarding the articles and/or methods of manufacturing of these instrumentalities, and/or demonstrations of the articles and methods themselves.

Top Glory also reserves its right to further challenge any of the claim terms herein under 35 U.S.C. § 112, including by arguing that they are indefinite, not supported by the written description, and/or not enabled. Accordingly, nothing stated herein shall be construed as a waiver of any argument available under 35 U.S.C. § 112.

Top Glory also reserves its right to assert additional grounds of invalidity under 35 U.S.C. § 101 based upon the claim construction process or positions taken by Cole Haan in this case or the ongoing *inter partes* reviews.

Top Glory further may rely upon persons identified as inventors of the patents and prior art systems and authors of the publications disclosed herein, as

well as individuals identified in Top Glory's initial disclosures, and others as they become identified in discovery, as prior inventors or as persons having knowledge of or having previously used or offered for sale the alleged inventions claimed in the Asserted Patents. In addition, Top Glory may rely upon the facts, as developed in discovery, of the prior invention or derivation of the alleged inventions claimed in the Asserted Patents.

Discovery is ongoing and Top Glory continues to investigate the prior art, including whether Cole Haan's predecessor(s)-in-interest may have publicly demonstrated and/or offered to sell a system that embodied all of the asserted claims more than one year prior to the priority dates of the Asserted Patents. Top Glory reserves its rights to supplement and/or amend these contentions with respect to public demonstrations and/or offers to sell as discovery progresses.

To the extent the invalidity contentions reflect constructions of claim limitations consistent with or implicit in Cole Haan's Disclosure of Asserted Claims and Infringement Contentions, no inference is intended and none should be drawn that Top Glory agrees with Cole Haan's claim constructions, and Top Glory expressly reserves the right to contest such claim constructions. Top Glory offers such contentions in response to Cole Haan's September 4, 2025 Disclosure of Asserted Claims and Infringement Contentions, without prejudice to any position they may ultimately take as to any claim construction issues.

Pursuant to Local Patent Rules 3.3–3.4, Top Glory hereby provides disclosures and related documents pertaining only to the Asserted Claims identified in Cole Haan's September 4, 2025 Disclosure of Asserted Claims and Infringement Contentions. Top Glory reserves the right to modify, amend, or supplement these invalidity contentions to show the invalidity of any additional claims that the Court may allow Cole Haan to later assert. Top Glory further reserves the right to supplement its document production should it later find additional, responsive documents or information.

Dated: October 21, 2025

Respectfully submitted,

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above document was served to all counsel of record by email on October 21, 2025.

/s/ Matthew R. Shapiro
Matthew R. Shapiro

	Asserted Claims of the ’511 Patent																						
Prior Art	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23
U.S. Patent App. Pub. No. 2010/0154256 (“Dua”) (§§ 102/103)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
U.S. Patent No. 6,931,762 (“Dua ’762”) (§§ 102/103)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
U.S. Patent No. 6,910,288 (“Dua ’288”) (§§ 102/103)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Flusser, Clothes and the Man (1985) (§ 103)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X			
U.S. Patent No. 7,949,570 (“Litke”) (§ 103)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X			
U.S. Patent App. Pub. No. 2014/0237856 (“Podhajny”) (§ 103)							X	X	X	X	X	X	X	X									
U.S. Patent App. Pub. No. 2014/0109286 (“Blakely”) (§ 103)													X										
U.S. Patent No. 9,877,536 (“Huffman”) (§ 103)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
U.S. Patent App. Pub. No. 2015/0059209 (“Dekovic”) (§ 103)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
U.S. Patent App. Pub. No. 2015/0237960 (“Mallen”) (§ 103)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
U.S. Patent App. Pub. No. 2005/0115282 (“Starbuck”) (§ 103)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
U.S. Patent No. 8,028,440 (“Sokolowski”) (§ 103)							X	X	X	X	X	X	X	X								X	
U.S. Patent App. Pub. No. 2015/0313316 (“Boucher”) (§ 103)							X	X	X	X	X	X	X	X								X	
U.S. Patent App. Pub. No. 2013/0260104 (“Dua ’104”) (§ 103)							X	X	X	X	X	X	X	X								X	
Man-Made Fiber and Textile Dictionary, (4th ed. Issued 1978, Reprinted 1983) (“Man-Made”) (§ 103)											X												
Wingate, Fairchild’s Dictionary of Textiles (6th ed. 1979) (“Wingate”) (§ 103)											X												
H. Stoll GmbH & Co, Stoll Training: Manual Flat Knitting Machine (2013) (“Stoll”) (§ 103)						X										X		X	X				
A. W. Koester, Fashion Terms: Apparel Fabric Glossary (1992) (“Koester”) (§ 103)						X										X		X	X				
Alan Flusser, Dressing the Man, HarperCollins, 2002 (“Flusser 2”) (§ 103)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Pointelle, Merriam-Webster’s Collegiate Dictionary (10th ed. 2001) (“Webster’s”) (§ 103)						X										X		X	X				
Pointelle, and The Oxford American College Dictionary (2002) (“Oxford”) (§ 103)						X										X		X	X				
Mark Nason by Skechers Embolden Oxfords (“Skechers”) (§§ 102/103)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Nike Lunar Flyknit Chukka (“Nike Chukka”) (§§ 102/103)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Cole Haan C11947 (§§ 102/103)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Nike Lunar Flyknit Trainer (“Nike Trainer”) (§§ 102/103)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Cole Haan C10226 (§§ 102/103)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Nike Lunar Flyknit HTM NRG (“Nike HTM NRG”) (§§ 102/103)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Applicant Admitted Prior Art (“AAPA”) (§§ 102/103)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Nike Flyknit Lunar 1+ (§§ 102/103)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X

	Asserted Claims of the ’163 Patent																								
Prior Art	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26
U.S. Patent App. Pub. No. 2010/0154256 (“Dua”) (§§ 102/103)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
U.S. Patent No. 6,931,762 (“Dua ’762”) (§§ 102/103)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
U.S. Patent No. 6,910,288 (“Dua ’288”) (§§ 102/103)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Flusser, Clothes and the Man (1985) (§ 103)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
U.S. Patent No. 7,949,570 (“Litke”) (§ 103)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
U.S. Patent App. Pub. No. 2014/0237856 (“Podhajny”) (§ 103)					X	X	X	X	X	X																
U.S. Patent App. Pub. No. 2014/0109286 (“Blakely”) (§ 103)										X																
U.S. Patent No. 9,877,536 (“Huffman”) (§ 103)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
U.S. Patent App. Pub. No. 2015/0059209 (“Dekovic”) (§ 103)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
U.S. Patent App. Pub. No. 2015/0237960 (“Mallen”) (§ 103)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
U.S. Patent App. Pub. No. 2005/0115282 (“Starbuck”) (§ 103)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
U.S. Patent No. 8,028,440 (“Sokolowski”) (§ 103)					X	X	X	X	X	X																
U.S. Patent App. Pub. No. 2015/0313316 (“Boucher”) (§ 103)					X	X	X	X	X	X																
U.S. Patent App. Pub. No. 2013/0260104 (“Dua ’104”) (§ 103)					X	X	X	X	X	X																
Man-Made Fiber and Textile Dictionary, (4th ed. Issued 1978, Reprinted 1983) (“Man-Made”) (§ 103)									X																	
Wingate, Fairchild’s Dictionary of Textiles (6th ed. 1979) (“Wingate”) (§ 103)									X																	
H. Stoll GmbH & Co, Stoll Training: Manual Flat Knitting Machine (2013) (“Stoll”) (§ 103)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
A. W. Koester, Fashion Terms: Apparel Fabric Glossary (1992) (“Koester”) (§ 103)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Alan Flusser, Dressing the Man, HarperCollins, 2002 (“Flusser 2”) (§ 103)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Pointelle, Merriam-Webster’s Collegiate Dictionary (10th ed. 2001) (“Webster’s”) (§ 103)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Pointelle, and The Oxford American College Dictionary (2002) (“Oxford”) (§ 103)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Mark Nason by Skechers Embolden Oxfords (“Skechers”) (§§ 102/103)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Nike Lunar Flyknit Chukka (“Nike Chukka”) (§§ 102/103)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Cole Haan C11947 (§§ 102/103)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Nike Lunar Flyknit Trainer (“Nike Trainer”) (§§ 102/103)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Cole Haan C10226 (§§ 102/103)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Nike Lunar Flyknit HTM NRG (“Nike HTM NRG”) (§§ 102/103)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Applicant Admitted Prior Art (“AAPA”) (§§ 102/103)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Nike Flyknit Lunar 1+ (§§ 102/103)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X

	Asserted Claims of the ’262 Patent								
Prior Art	1	2	3	4	7	8	9	10	13
U.S. Patent App. Pub. No. 2010/0154256 (“Dua”) (§§ 102/103)	X	X	X	X	X	X	X	X	X
U.S. Patent No. 6,931,762 (“Dua ’762”) (§§ 102/103)	X	X	X	X	X	X	X	X	X
U.S. Patent No. 6,910,288 (“Dua ’288”) (§§ 102/103)	X	X	X	X	X	X	X	X	X
Flusser, Clothes and the Man (1985) (§ 103)	X	X	X	X		X			
U.S. Patent No. 7,949,570 (“Litke”) (§ 103)	X	X	X	X		X			
U.S. Patent No. 9,877,536 (“Huffman”) (§ 103)	X	X	X	X	X	X	X	X	X
U.S. Patent App. Pub. No. 2015/0059209 (“Dekovic”) (§ 103)	X	X	X	X	X	X	X	X	X
U.S. Patent App. Pub. No. 2015/0237960 (“Mallen”) (§ 103)	X	X	X	X	X	X	X	X	X
U.S. Patent App. Pub. No. 2005/0115282 (“Starbuck”) (§ 103)	X	X	X	X	X	X	X	X	X
U.S. Patent App. Pub. No. 2015/0313316 (“Boucher”) (§ 103)			X	X			X	X	
U.S. Patent App. Pub. No. 2013/0260104 (“Dua ’104”) (§ 103)			X	X			X	X	
H. Stoll GmbH & Co, Stoll Training: Manual Flat Knitting Machine (2013) (“Stoll”) (§ 103)	X	X	X	X	X	X	X	X	X
A. W. Koester, Fashion Terms: Apparel Fabric Glossary (1992) (“Koester”) (§ 103)	X	X	X	X	X	X	X	X	X
Alan Flusser, Dressing the Man, HarperCollins, 2002 (“Flusser 2”) (§ 103)	X	X	X	X	X	X	X	X	X
Pointelle, Merriam-Webster’s Collegiate Dictionary (10th ed. 2001) (“Webster’s”) (§ 103)	X	X	X	X	X	X	X	X	X
Pointelle, and The Oxford American College Dictionary (2002) (“Oxford”) (§ 103)	X	X	X	X	X	X	X	X	X
Mark Nason by Skechers Embolden Oxfords (“Skechers”) (§§ 102/103)	X	X	X	X	X	X	X	X	X
Nike Lunar Flyknit Chukka (“Nike Chukka”) (§§ 102/103)	X	X	X	X	X	X	X	X	X
Cole Haan C11947 (§§ 102/103)	X	X	X	X	X	X	X	X	X
Nike Lunar Flyknit Trainer (“Nike Trainer”) (§§ 102/103)	X	X	X	X	X	X	X	X	X
Cole Haan C10226 (§§ 102/103)	X	X	X	X	X	X	X	X	X
Nike Lunar Flyknit HTM NRG (“Nike HTM NRG”) (§§ 102/103)	X	X	X	X	X	X	X	X	X
Applicant Admitted Prior Art (“AAPA”) (§§ 102/103)	X	X	X	X	X	X	X	X	X
Nike Flyknit Lunar 1+ (§§ 102/103)	X	X	X	X	X	X	X	X	X

	Asserted Claims of the D'969 Patent
Prior Art	1
Cole Haan C11947 (§§ 102/103)	X
Cole Haan C12652 (§§ 102/103)	X
EUIPO Design Registration App. No. 002413161-0028 (“Nike”) (§§ 102/103)	X
Mark Nason by Skechers Embolden Oxfords (“Skechers”) (§§ 102/103)	X
Cole Haan C12506 (§§ 102/103)	X
Cole Haan C10226 (§§ 102/103)	X
Cole Haan C12698 (§§ 102/103)	X
Nike Lunar Flyknit Chukka (§§ 102/103)	X
Nike Lunar Flyknit HTM Shoes Lightweight Running DV2440-100 (§§ 102/103)	X
Nike Flyknit Lunar 1+ Running (§§ 102/103)	X
Nike Lunar Flyknit HTM NRG (§§ 102/103)	X
Nike Lunar Flyknit HTM NRG 2012 Olympics Special Edition (§§ 102/103)	X
Nike Lunar Flyknit (§§ 102/103)	X
Deadstock 2012 Nike Lunar Flyknit HTM NRG (§§ 102/103)	X
Brazilian Design Registration App. No. 302014000968-0001 (“Raasch”) (§§ 102/103)	X
Chinese Design Registration App. No. 300949262 (“Hofer”) (§§ 102/103)	X
Chinese Design Registration App. No. 302344361 (“Zhiyuan”) (§§ 102/103)	X
Chinese Design Registration App. No. 302877387 (“Kasipuzhake”) (§§ 102/103)	X
Chinese Design Registration App. No. 303545969 (“Junchang”) (§§ 102/103)	X
Chinese Design Registration App. No. 303545976 (“Junchang”) (§§ 102/103)	X
EUIPO Design Registration App. No. 001391486-0027 (“Gabor Footwear”) (§§ 102/103)	X
EUIPO Design Registration App. No. 001424097-0025 (“Gabor Footwear”) (§§ 102/103)	X
EUIPO Design Registration App. No. 002127563-0013 (“NIKE Innovate”) (§§ 102/103)	X
EUIPO Design Registration App. No. 002127563-0014 (“NIKE Innovate”) (§§ 102/103)	X
EUIPO Design Registration App. No. 002189886-0011 (“NIKE Innovate”) (§§ 102/103)	X
EUIPO Design Registration App. No. 002199364-0006 (“APTA SRL”) (§§ 102/103)	X
EUIPO Design Registration App. No. 002749515-0034 (“J Choo Limited”) (§§ 102/103)	X
Great Britain Design Registration App. No. 9002247338-0009 (“NIKE Innovate”) (§§ 102/103)	X
Shutterstock Non-Patent Literature (“NPL 1”) (§§ 102/103)	X
Cole Haan Mens Lunargrand Leather & Suede Wingtip Oxford Shoes (§§ 102/103)	X
Cole Haan C10451 (§§ 102/103)	X
Cole Haan C10445 (§§ 102/103)	X
Cole Haan C10450 (§§ 102/103)	X
Cole Haan C10228 (§§ 102/103)	X
Cole Haan C10230 (§§ 102/103)	X
Cole Haan C10229 (§§ 102/103)	X
Cole Haan C10227 (§§ 102/103)	X
Cole Haan C13200 (§§ 102/103)	X
Cole Haan C13201 (§§ 102/103)	X
Cole Haan C13202 (§§ 102/103)	X
Cole Haan C13203 (§§ 102/103)	X
Cole Haan C13214 (§§ 102/103)	X
Cole Haan C13215 (§§ 102/103)	X
Cole Haan C13236 (§§ 102/103)	X
Cole Haan C13237 (§§ 102/103)	X
Cole Haan C13239 (§§ 102/103)	X
Cole Haan C13242 (§§ 102/103)	X
Cole Haan C13243 (§§ 102/103)	X
Cole Haan C13244 (§§ 102/103)	X
Cole Haan C12616 (§§ 102/103)	X
Cole Haan C12613 (§§ 102/103)	X
Cole Haan C12612 (§§ 102/103)	X
Cole Haan C12614 (§§ 102/103)	X
Cole Haan C12618 (§§ 102/103)	X
Cole Haan C12619 (§§ 102/103)	X
Cole Haan C12520 (§§ 102/103)	X
Cole Haan C13511 (§§ 102/103)	X
Cole Haan C13512 (§§ 102/103)	X