

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TOP GLORY TRADING GROUP INC. and DP DREAM PAIRS, INC.

Petitioner,

v.

COLE HAAN LLC

Patent Owner.

Case No. IPR2025-01395

Patent No. D768,969

**PATENT OWNER'S OBJECTIONS TO PETITIONERS' REPLY
EVIDENCE**

Pursuant to 37 C.F.R. § 42.64(b)(1), Patent Owner Cole Haan LLC (“Patent Owner”) hereby submits the following objections to exhibits served by Petitioners Top Glory Trading Group Inc. and DP Dream Pairs, Inc. (collectively, “Petitioners”) with their Reply in Case No. IPR2025-01395. Patent Owner’s objections apply equally to Petitioners’ reliance on the exhibits in any papers, including those subsequently submitted. These objections are timely; they are being filed within five business days of service. 37 C.F.R. § 42.64(b)(1). Patent Owner further objects to Petitioners’ Reply and reply evidence to the extent they present new arguments, new grounds, new state-of-the-art or motivation evidence, or other gap-filling material that expands beyond the scope of the Petition and issues raised in Patent Owner’s Response. 37 C.F.R. §§ 42.23(b), 42.104(b); *see also* Consolidated Trial Practice Guide (Dec. 2025 ed.), § II.I (“Respond,” in the context of 37 C.F.R. § 42.23(b), does not mean proceed in a new direction as compared to the positions taken in a prior filing.”).

OBJECTIONS

1. Patent Owner objects to Exhibit 1033 (the Declaration of Mr. Grant Delgatty in Support of Petitioners’ Reply) under 37 C.F.R. § 42.65 and Federal Rules of Evidence 702, and 703. Patent Owner objects to Exhibit 1033 under Rules 702 and 703 to the extent the opinions are not the product of a reliable methodology,

including, for example, in paragraphs 22 through 49, comparing D'969 against various designs not identified in the Petition, including newly identified non-prior art designs identified in parallel district court proceedings. Patent Owner further objects to Exhibit 1033 under Rules 402 and 403 to the extent it relies on inadmissible exhibits, including Exhibits 1007, 1008, 1009, 1017, 1018, 1019, 1020, 1021, 1022, 1023, 1024, 1025, 1027, 1034, 1035, 1036, 1037, 1038, 1039, 1040, 1041, 1042, 1043, 1044, 1045, 1046, 1047, 1048, 1049, 1050, 1051, 1054, 1055, 1056, and 1057.

2. Patent Owner objects to Exhibit 1034 (Amended Complaint for Patent Infringement) under Rules 402 and 403 of the Federal Rules of Evidence because it is not sufficiently relevant to any determinations the Board will make and any limited probative value would be outweighed by the danger of unfair prejudice and issue confusion as it relates to accused products and Petitioners draw improper comparisons between the accused products and D'969 to suggest D'969 is unpatentable. Patent Owner objects to Exhibit 1034 under Federal Rule of Evidence 703 because it is not material upon which an expert would reasonably rely to formulate an opinion on validity of D'969. To the extent Petitioners rely on the contents of Exhibit 1034 for the truth of the matters asserted, Patent Owner objects to such content as inadmissible hearsay under Federal Rules of Evidence 801 and

802 that does not fall under any exceptions, including those of Federal Rules of Evidence 803, 804, 805, or 807.

3. Patent Owner objects to Exhibit 1035 (Factors Affecting Human Visual Behavior and Preference for Sneakers—An Eye-Tracking Study (2022)) under Federal Rules of Evidence 402 and 403 because it is not relevant and any limited probative value would be outweighed by the danger of unfair prejudice and issue confusion as it post-dates the priority of D'969's prior date and does not relate to the designs or ordinary observer at issue in this proceeding. Patent Owner further objects to Exhibit 1035 under Rules 901 and 902 of the Federal Rules of Evidence because it is an unauthenticated article that is not self-authenticating, and Petitioners have not provided an admissible declaration from an individual with knowledge who can attest to the article's authenticity. Moreover, to the extent Petitioners rely on the contents of Exhibit 1035 for the truth of the matter asserted, Patent Owner objects to such content as inadmissible hearsay under Federal Rules of Evidence 801 and 802 that does not fall under any exceptions, including those of Federal Rules of Evidence 803, 804, 805, or 807.

4. Patent Owner objects to Exhibits 1036, 1037, 1038, 1039, and 1040 under Rules 402 and 403 of the Federal Rules of Evidence because they are not relevant and any limited probative value would be outweighed by the danger of

unfair prejudice and issue confusion as they are used to support new theories that an unasserted OriginalGrand shoe line is a continuation of certain asserted LunarGrand shoes and that common use of Nike's Lunaracer in both LunarGrand and Nike Lunarlon shoes supports a motivation to modify certain asserted prior art designs. Patent Owner further objects to Exhibits 1036, 1037, 1038, 1039, and 1040 under Rules 901 and 902 of the Federal Rules of Evidence because they are unauthenticated Internet webpages that are not self-authenticating, and Petitioners have not provided an admissible declaration from an individual with knowledge who can attest that the webpages were publicly available during the relevant time period. Moreover, to the extent Petitioners rely on the contents of Exhibits 1036, 1037, 1038, 1039, and 1040 for the truth of the matter asserted, Patent Owner objects to such content as inadmissible hearsay under Federal Rules of Evidence 801 and 802 that does not fall under any exceptions, including those of Federal Rules of Evidence 803, 804, 805, or 807.

5. Patent Owner objects to Exhibits 1041, 1042, 1048, 1049, 1050, 1054, and 1055 under Rules 402 and 403 of the Federal Rules of Evidence because they are not relevant to whether the prior art anticipates or renders obvious D'969 and any limited probative value would be outweighed by the danger of unfair prejudice and issue confusion as they relate to Cole Haan shoes that are not D'969 itself and

Petitioners draw improper comparisons between those shoes and the prior art designs to suggest D'969 is unpatentable. Patent Owner further objects to Exhibits 1041, 1042, 1048, 1049, 1050, 1054, and 1055 under Rules 901 and 902 of the Federal Rules of Evidence because they are unauthenticated Internet webpages that are not self-authenticating, and Petitioners have not provided an admissible declaration from an individual with knowledge who can attest that the webpages were publicly available during the relevant time period. Moreover, to the extent Petitioners rely on the contents of Exhibits 1041, 1042, 1048, 1049, 1050, 1054, and 1055 for the truth of the matter asserted, Patent Owner objects to such content as inadmissible hearsay under Federal Rules of Evidence 801 and 802 that does not fall under any exceptions, including those of Federal Rules of Evidence 803, 804, 805, or 807.

6. Patent Owner objects to Exhibits 1043, 1044, and 1056 under Rules 402 and 403 of the Federal Rules of Evidence because they are not relevant to whether the prior art anticipates or renders obvious D'969 and any limited probative value would be outweighed by the danger of unfair prejudice and issue confusion as they have not been shown to be prior art. Patent Owner further objects to Exhibits 1043, 1044, and 1056 under Rules 901 and 902 of the Federal Rules of Evidence because they are unauthenticated Internet webpages that are not self-authenticating, and Petitioners have not provided an admissible declaration from an individual with

knowledge who can attest that the webpages were publicly available during the relevant time period. Moreover, to the extent Petitioners rely on the contents of Exhibits 1043, 1044, and 1056 for the truth of the matter asserted, Patent Owner objects to such content as inadmissible hearsay under Federal Rules of Evidence 801 and 802 that does not fall under any exceptions, including those of Federal Rules of Evidence 803, 804, 805, or 807.

7. Patent Owner objects to Exhibit 1045 (Bazaarvoice, Talking to Strangers: How Social Influences Millennials' Shopping Decisions) under Federal Rules of Evidence 402 and 403 because it is not relevant and any limited probative value would be outweighed by the danger of unfair prejudice and issue confusion as the archived capture post-dates the October 13, 2015 priority date of D'969 and does not relate to the ordinary observer at issue in this proceeding. Patent Owner further objects to Exhibit 1045 under Rules 901 and 902 of the Federal Rules of Evidence because it is an unauthenticated webpage that is not self-authenticating, and Petitioners have not provided an admissible declaration from an individual with knowledge who can attest to the webpage's authenticity. Moreover, to the extent Petitioners rely on the contents of Exhibit 1045 for the truth of the matter asserted, Patent Owner objects to such content as inadmissible hearsay under Federal Rules

of Evidence 801 and 802 that does not fall under any exceptions, including those of Federal Rules of Evidence 803, 804, 805, or 807.

8. Patent Owner objects to Exhibit 1046 (Matt Powell, Sneakernomics: What's Next For "Athleisure"? (Mar. 6, 2015)) under Federal Rules of Evidence 402 and 403 because it is not relevant and any limited probative value would be outweighed by the danger of unfair prejudice and issue confusion as it relates to Petitioners' newly added motivation to modify the prior art designs. Patent Owner further objects to Exhibit 1046 under Rules 901 and 902 of the Federal Rules of Evidence because it is an unauthenticated webpage that is not self-authenticating, and Petitioners have not provided an admissible declaration from an individual with knowledge who can attest to the webpage's authenticity. Moreover, to the extent Petitioners rely on the contents of Exhibit 1046 for the truth of the matter asserted, Patent Owner objects to such content as inadmissible hearsay under Federal Rules of Evidence 801 and 802 that does not fall under any exceptions, including those of Federal Rules of Evidence 803, 804, 805, or 807.

9. Patent Owner objects to Exhibit 1047 (Dan-Dan Xu et al., A Study on Perception of Visual-Tactile and Color-Texture Features of Footwear Leather for Symmetric Shoes (July 22, 2023)) under Federal Rules of Evidence 402 and 403 because it is not relevant and any limited probative value would be outweighed by

the danger of unfair prejudice and issue confusion as it post-dates the priority of D'969's prior date and does not relate to the ordinary observer at issue in this proceeding. Patent Owner further objects to Exhibit 1047 under Rules 901 and 902 of the Federal Rules of Evidence because it is an unauthenticated article that is not self-authenticating, and Petitioners have not provided an admissible declaration from an individual with knowledge who can attest to the article's authenticity. Moreover, to the extent Petitioners rely on the contents of Exhibit 1047 for the truth of the matter asserted, Patent Owner objects to such content as inadmissible hearsay under Federal Rules of Evidence 801 and 802 that does not fall under any exceptions, including those of Federal Rules of Evidence 803, 804, 805, or 807.

10. Patent Owner objects to Exhibit 1051 (Transcript of Lance Rake from unrelated litigation) under Rules 402 and 403 of the Federal Rules of Evidence because it is not relevant and any limited probative value would be outweighed by the danger of unfair prejudice and issue confusion as the testimony in Exhibit 1051 from Patent Owner's expert relates to a different patent, different article of manufacture, different parties, and different issues. Patent Owner further objects to Exhibit 1051 under Rule 613 of Federal Rules of Evidence because Petitioners have failed to show Patent Owner's expert's prior statement is inconsistent with his testimony in this proceeding. Moreover, to the extent Petitioners rely on the contents

of Exhibit 1051 for the truth of the matter asserted, Patent Owner objects to such content as inadmissible hearsay under Federal Rules of Evidence 801 and 802 that does not fall under any exceptions, including those of Federal Rules of Evidence 803, 804, 805, or 807.

11. Patent Owner objects to Exhibit 1057 (Declaration of Alexander Morozov) under Rules 402 and 403 of the Federal Rules of Evidence because it is not relevant and any limited probative value would be outweighed by the danger of unfair prejudice and issue confusion as Mr. Morozov lack sufficient knowledge to establish the authenticity of Petitioners' exhibits. Patent Owner further objects to Exhibit 1057 under Federal Rules of Evidence 801 and 802 because its content is inadmissible hearsay that does not fall under any exceptions, including those of Federal Rules of Evidence 803, 804, 805, or 807. Exhibit 1057 contains Mr. Morozov's out of court statement offer for the truth of the matters asserted, including the authenticity of Petitioners' exhibits.

Dated: August 18, 2026

Respectfully submitted,

/Chad C. Walters/

Chad C. Walters

Reg. No. 48,022

BAKER BOTTS L.L.P.

2001 Ross Ave., Suite 900

Dallas, TX 75201-2980

Phone: (214) 953-6511

Fax: (214) 661-4511

chad.walters@bakerbotts.com

Lindsay Volpenhein Cutié

Reg. No. 75,474

BAKER BOTTS L.L.P.

910 Louisiana Street

Houston, TX 77002

Phone: (713) 229-1234

lindsay.cutie@bakerbotts.com

Justine A. Gozzi

Reg. No. 60,513

BAKER BOTTS L.L.P.

30 Rockefeller Plaza

New York, NY 10112

Phone: (212) 408-2500

justine.gozzi@bakerbotts.com

Attorneys for Patent Owner

Cole Haan LLC

CERTIFICATE OF SERVICE

In accordance with 37 CFR §§ 42.6(e), the undersigned certifies that on August 18, 2026, a complete and entire copy of this **PATENT OWNER'S OBJECTIONS TO PETITIONERS' REPLY EVIDENCE** and all supporting exhibits were served on Petitioners via electronic mail to counsel for Petitioners at the following addresses:

- ☐ CT-TopGlory-ColeHaan@sheppardmullin.com
- ☐ jdavis@sheppard.com
- ☐ mshapiro@sheppardmullin.com
- ☐ nattalla@sheppardmullin.com

Dated: August 18, 2026

/Chad C. Walters/

Chad C. Walters (Reg. No. 48,022)

*Attorney for Patent Owner
Cole Haan LLC*