

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LULULEMON ATHLETICA CANADA INC. and LULULEMON USA INC.
Petitioner

v.

NIKE, INC.
Patent Owner

Case IPR2023-00189
Patent 9,278,256

**PATENT OWNER'S OBJECTIONS TO EVIDENCE
SUBMITTED WITH PETITIONER'S REPLY**

Pursuant to 37 C.F.R. § 42.64(b)(1), Patent Owner Nike, Inc. (hereafter, “Nike”) objects to the following evidence submitted by Petitioners lululemon athletica canada inc. and lululemon usa inc. (hereafter, “lululemon”) with the Petitioner’s Reply in this *inter partes* review. Nike is filing and serving these objections within the designated five business days of service of evidence to which these objections are directed.

Nike objects to Exhibit 1017 in its entirety, and at least to its portions related to the aspects mentioned below.

I. EXHIBIT 1017 – REPLY DECLARATION OF DR. KEVIN LYNCH, PH.D.

Nike objects to the admissibility of Exhibit 1017 (Declaration of Dr. Kevin Lynch) and any reference to and/or reliance thereon under 37 C.F.R. § 42.65 and Federal Rules of Evidence 401, 402, 403, 702, 703, 801, 802, and 901. Exhibit 1017 does not comply with the rules for expert testimony pursuant to F.R.E. 702, F.R.E. 703, and 37 C.F.R. § 42.65, because Dr. Lynch’s testimony—e.g., regarding the validity of the ’256 patent is not based on sufficient facts, data, or scientific evidence, rendering his testimony improper and inadmissible. Dr. Lynch’s testimony is also not “the product of reliable principles and methods,” nor has he “reliably applied the principles and methods to the facts of the case.” F.R.E. 702.

Dated: November 6, 2023

Respectfully Submitted,

/s/ Christopher J. Renk

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CERTIFICATE OF SERVICE

Pursuant to 37 CFR §§42.6(e)(4)(i) *et seq.* and 42.105(b), the undersigned
Certifies that on November 6, 2023, a true and entire copy of **Patent Owner's
Objections to Evidence Submitted with Petitioner's Reply** was served via e-mail
upon Petitioner's correspondence address of record, indicated below.

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/s/ Timothy Haugh
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