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 12 Attorneys for Plaintiffs, NIKE, Inc. and Converse Inc.

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 14 **UNITED STATES DISTRICT COURT**
 15 **DISTRICT OF NEVADA**

16	NIKE, INC.)	
17	and)	Case No. 2:12-cv-00191-GMN-GWF
18	CONVERSE INC.,)	
19	Plaintiffs,)	FIRST AMENDED COMPLAINT
20	vs.)	
21	QILOO INTERNATIONAL LIMITED)	Jury Trial Demanded
22	Defendant.)	

23
 24 Plaintiffs, NIKE, Inc. and Converse Inc., for their First Amended Complaint against
 25 Defendant, QiLoo International Limited, state as follows:

26 **I. PARTIES**

27 1. NIKE, Inc. is a corporation organized under the laws of the State of Oregon and
 28 has a principal place of business at One Bowerman Drive, Beaverton, Oregon 97005.

1 For example, NIKE is the owner of various United States design patents relating to its footwear
2 designs. In particular, NIKE is and has been the owner of all right, title, and interest to each of
3 the United States design patents identified in Table 1 (hereafter, the “NIKE Design Patents”)
4 since the date each patent duly and legally issued to NIKE. A copy of each NIKE Design Patent
5 is attached to this Complaint as indicated in Table 1.
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TABLE 1: NIKE DESIGN PATENTS		
United States Design Patent No.	Issue Date of Patent	Complaint Exhibit
D361,884	September 5, 1995	A
D429,877	August 29, 2000	B
D462,830	September 17, 2002	C
D475,523	June 10, 2003	D
D494,353	August 17, 2004	E
D499,247	December 7, 2004	F
D500,585	January 11, 2005	G
D500,917	January 18, 2005	H
D523,618	June 27, 2006	I
D524,028	July 4, 2006	J
D524,529	July 11, 2006	K
D532,600	November 28, 2006	L
D546,541	July 17, 2007	M
D547,541	July 31, 2007	N
D555,332	November 20, 2007	O
D573,338	July 22, 2008	P

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TABLE 1: NIKE DESIGN PATENTS		
United States Design Patent No.	Issue Date of Patent	Complaint Exhibit
D573,339	July 22, 2008	Q
D575,046	August 19, 2008	R
D578,294	October 14, 2008	S
D579,186	October 28, 2008	T
D580,636	November 18, 2008	U
D580,646	November 18, 2008	V
D586,548	February 17, 2009	W
D641,968	July 26, 2011	FFF
D642,369	August 2, 2011	GGG

B. Plaintiffs’ Asserted Trademarks

10. As a result of continuous and long-standing promotion, substantial sales, and consumer recognition of certain of their footwear designs, Plaintiffs have developed trademark rights in the ornamental appearance of those designs. Specifically, Converse and NIKE own common law and registered trademark rights in the appearance of the footwear designs identified in Table 2 (hereafter, the “Converse and NIKE Trademarks”). A copy of the registration certificates for each of the Converse and NIKE Trademarks is attached to this Complaint as indicated in Table 2.

Table 2: CONVERSE AND NIKE TRADEMARKS			
United States Trademark Reg. No.	Trademark	Trademark Registration Date	Complaint Exhibit
Registration No. 1,588,960	Chuck Taylor Outsole Design	March 27, 1990	X

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Table 2: CONVERSE AND NIKE TRADEMARKS			
United States Trademark Reg. No.	Trademark	Trademark Registration Date	Complaint Exhibit
Registration No. 3,258,103	Chuck Taylor Outsole Design	July 3, 2007	Y
Registration No. 3,451,905	Air Force One Low Design	June 24, 2008	Z
Registration No. 4,062,112	Chuck Taylor Low Design	November 29, 2011	AA
Registration No. 4,065,482	Chuck Taylor High Design	December 6, 2011	BB
Registration No. 1,998,884	Jack Purcell Toe Smile	September 10, 1996	EEE

C. QiLoo’s Infringing Activities

11. Without Plaintiffs’ authorization, QiLoo has made, used, offered to sell, promoted, distributed, sold, and/or imported into the United States numerous shoes, including shoes having designs that are substantially the same as the designs covered by the NIKE Design Patents and that are counterfeits of the Converse and NIKE Trademarks (hereafter, the “Infringing Shoes”).

12. On information and belief, Defendant imports Infringing Shoes into the United States, and promotes, distributes, offers to sell, and sells the Infringing Shoes at the WSA show in Las Vegas, Nevada. According to the WSA’s website, the WSA “is the most comprehensive footwear and accessories show in the world. The twice-yearly event gathers exhibitors showcasing, thousands of brands, attracting category leaders, industry newsmakers, top designers, as well as retailers from every market segment, retail and distribution channel.” (Compl. Ex. MM, http://www.wsashow.com/media_information/landing, last visited February 3, 2012).

13. Plaintiffs’ representatives visit the WSA trade shows in Las Vegas and have

1 observed QiLoo promoting and offering to sell Infringing Shoes. Pursuant to 35 U.S.C. § 287,
2 Plaintiffs notified QiLoo that it is infringing Plaintiffs' rights by promoting and offering to sell
3 Infringing Shoes, including shoes identified by QiLoo Model Numbers: QL-20756, QL-21126,
4 QL-21193, QL-21212, QL-21533, QL-21784, QL-21810, QL-23416, QL-23548, QL-23550, QL-
5 23832, QL-23860, QL-24108, QL-24213, QL-24297, QL-24715, QL-25322, QL-25470, QL-
6 25472, QL-25216, QL-25733, QL-26294, QL-27141, QL-27188, QL-28504, QL-28529, QL-
7 28607, and QL-28608. Many of the infringing models are shown in the QiLoo catalog excerpts
8 attached as Complaint Exhibits JJ, KK, and LL, and specific examples of Infringing Shoes are
9 compared to NIKE Patents and Converse and NIKE Trademarks in Table 3 below. Notably,
10 however, because QiLoo does not provide identifying indicia on all of its Infringing Shoes and
11 because Plaintiffs have not been able to secure an image of each Infringing Shoe, Table 3 does
12 not set forth all of QiLoo's infringements.
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Table 3: QILOO'S INFRINGEMENTS

<u>Plaintiffs' Asserted Patent/Trademark</u>	<u>QiLoo's Infringing Shoes</u>
 <p data-bbox="524 640 652 674">D429,877</p> <p data-bbox="474 703 703 737"><i>See Compl. Ex. B</i></p>	 <p data-bbox="1154 625 1289 659">QL-21810</p> <p data-bbox="919 695 1484 800">QL-21810 has appeared in QiLoo catalogs during at least the August 2007 WSA show. (See Compl. Ex. JJ, at p.19).</p>
 <p data-bbox="524 1108 652 1142">D462,830</p> <p data-bbox="474 1171 703 1205"><i>See Compl. Ex. C</i></p>	 <p data-bbox="1154 1100 1289 1134">QL-21533</p> <p data-bbox="919 1171 1484 1276">QL-21533 has appeared in QiLoo catalogs during at least the August 2007 WSA show. (See Compl. Ex. JJ, at p.30).</p>
 <p data-bbox="524 1583 652 1617">D475,523</p> <p data-bbox="474 1646 703 1680"><i>See Compl. Ex. D</i></p>	 <p data-bbox="1154 1575 1289 1608">QL-21810</p> <p data-bbox="919 1646 1484 1751">QL-21810 has appeared in QiLoo catalogs during at least the August 2007 WSA show. (See Compl. Ex. JJ, at p.19).</p>

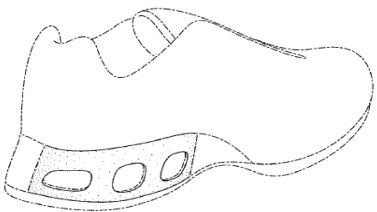

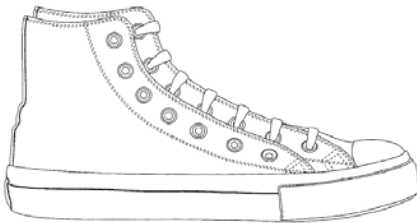

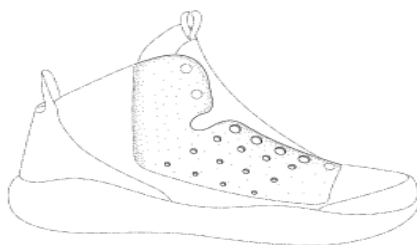

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Table 3: QILOO'S INFRINGEMENTS

<u>Plaintiffs' Asserted Patent/Trademark</u>	<u>QiLoo's Infringing Shoes</u>
 <p data-bbox="470 672 706 766">D494,353 <i>See Compl. Ex. E</i></p>	 <p data-bbox="1153 661 1291 693">QL-21193</p> <p data-bbox="917 735 1526 871">QL-21193 was first noticed of infringement on February 2, 2007, and has appeared in QiLoo catalogs during at least the August 2007 WSA show. (<i>See Compl. Exs. CC and JJ at p.13</i>).</p>
 <p data-bbox="470 1239 706 1333">D499,247 <i>See Compl. Ex. F</i></p>	 <p data-bbox="1153 1176 1291 1207">QL-21712</p> <p data-bbox="917 1249 1485 1354">QL-21712 has appeared in QiLoo catalogs during at least the August 2007 WSA show. (<i>See Compl. Ex. JJ, at p.36</i>).</p>
 <p data-bbox="470 1764 706 1858">D500,585 <i>See Compl. Ex. G</i></p>	 <p data-bbox="1153 1711 1291 1743">QL-21712</p> <p data-bbox="917 1774 1485 1879">QL-21712 has appeared in QiLoo catalogs during at least the August 2007 WSA show. (<i>See Compl. Ex. JJ, at p.36</i>).</p>

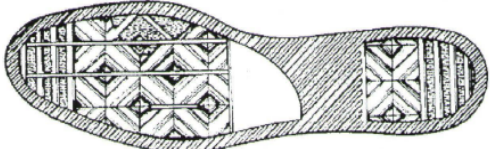

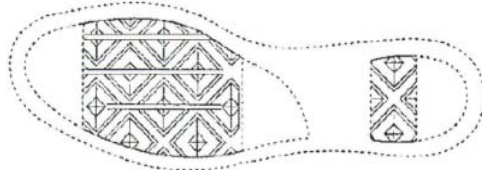


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Table 3: QILOO'S INFRINGEMENTS

<u>Plaintiffs' Asserted Patent/Trademark</u>	<u>QiLoo's Infringing Shoes</u>
 <p>D532,600 <i>See Ex. L</i></p>	 <p>QL-21712 QL-21712 has appeared in QiLoo catalogs during at least the August 2007 WSA show. (<i>See Compl. Ex. JJ, at p.36</i>).</p>
 <p>D555,332 <i>See Compl. Ex. O</i></p>	 <p>QL-24715 QL-24715 has appeared in QiLoo catalogs during at least the Feb. 2010 WSA show (<i>See Compl. Ex. KK, at p.23</i>); and July 2011 WSA show. (<i>See Compl. Ex. LL, at p.23</i>).</p>
 <p>D586,548 <i>See Compl. Ex. W</i></p>	 <p>QL-26294 QL-26294 has appeared in QiLoo catalogs during at least the Feb. 2010 WSA show (<i>See Compl. Ex. KK, at p.1</i>); and July 2011 WSA show. (<i>See Compl. Ex. LL, at p.1</i>).</p>

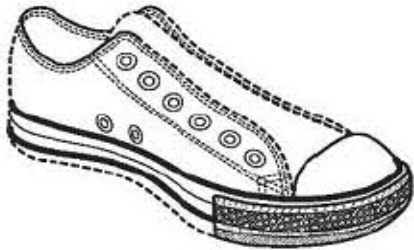

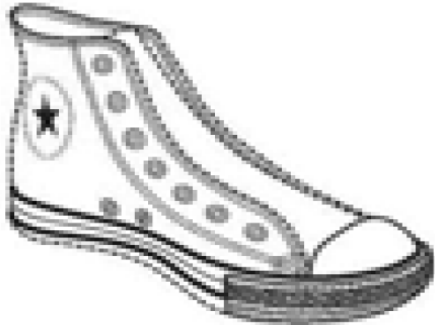

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Table 3: QILOO'S INFRINGEMENTS

<u>Plaintiffs' Asserted Patent/Trademark</u>	<u>QiLoo's Infringing Shoes</u>
 <p>TM Reg. No. 1,588,960 <i>See Compl. Ex. X</i></p>	 <p>QL-25472; QL-27141; QL-27188; QL-23860</p>
 <p>TM Reg. No. 3,258,103 <i>See Compl. Ex. Y</i></p>	<p>QiLoo models QL-27188, QL-25472, QL-27141, and QL-23860 have appeared in QiLoo catalogs during at least the Feb. 2010 WSA show (<i>See Compl. Ex. KK, at p.23-24</i>); and July 2011 WSA show. (<i>See Compl. Ex. LL, at p.23-24</i>).</p>
 <p>TM Reg. No. 3,451,905 <i>See Compl. Ex. Z</i></p>	 <p>QL-23416</p> <p>QL-23416 has appeared in QiLoo catalogs during at least the Feb. 2010 WSA show (<i>See Compl. Ex. KK, at p.20</i>); and July 2011 WSA show (<i>See Compl. Ex. LL, at p.20</i>).</p>

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Table 3: QILOO'S INFRINGEMENTS

<u>Plaintiffs' Asserted Patent/Trademark</u>	<u>QiLoo's Infringing Shoes</u>
 <p data-bbox="435 747 743 848">TM Reg. No. 4,062,112 <i>See Compl. Ex. AA</i></p>	 <p data-bbox="919 663 1503 919">QL-25216; QL-25472; QL-27188; QL-27141 QiLoo models QL-25472, QL-25216, QL-7188, and QL-27141 have appeared in QiLoo catalogs during at least the Feb. 2010 WSA show (<i>See Compl. Ex. KK, at p.23-25</i>); and July 2011 WSA show. (<i>See Compl. Ex. LL, at p.23-25</i>).</p>
 <p data-bbox="435 1381 743 1482">TM Reg. No. 4,065,482 <i>See Compl. Ex. BB</i></p>	 <p data-bbox="1156 1356 1292 1394">QL-23860</p> <p data-bbox="919 1432 1513 1579">QL-23860 has appeared in QiLoo catalogs during at least the Feb. 2010 WSA show (<i>See Compl. Ex. KK, at p.23</i>); and July 2011 WSA show. (<i>See Compl. Ex. LL, at p.23</i>).</p>

14. A detailed history of Plaintiffs' infringement notices to QiLoo follows. On February 2, 2007, NIKE hand delivered a first notice letter to QiLoo representatives at the QiLoo booth at the WSA Show in Las Vegas, Nevada, and sent a copy of the letter to QiLoo's business address in China. The letter attached as Complaint Exhibit CC, gave the Defendant notice under

1 35 U.S.C. § 287 that various shoes the Defendant promoted, offered to sell, and was selling at the
2 WSA trade show, including model numbers QL-21212, QL-20756, QL-21784, QL-21193, QL-
3 21533, and QL-21810 infringe one or more of NIKE's U.S. Pat Nos. D532,599; D532,600;
4 D500,585; D499,247; D500,917; D361,884; D494,353; D475,523; D429,877; D524,529;
5 D523,618; and D462,830.

6
7 15. On July 30, 2008, NIKE hand delivered a second notice letter to QiLoo
8 representatives at the QiLoo booth at the WSA Show in Las Vegas, Nevada, and sent a copy of
9 the letter to QiLoo's business address in China. The letter attached as Complaint Exhibit DD,
10 gave the Defendant notice under 35 U.S.C. § 287 that various shoes the Defendant promoted,
11 offered to sell and was selling at the WSA trade show, including model numbers QL-23832, QL-
12 25733, QL-24108, and QL-25322 infringe one or more of NIKE's U.S. Pat Nos. D499,247;
13 D500,585; D546,541; and D547,541.

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15 16. On August 1, 2009, NIKE hand delivered a third notice letter to QiLoo
16 representatives at the QiLoo booth at the WSA Show in Las Vegas, Nevada, and sent a copy of
17 the letter to QiLoo's business address in China. The letter attached as Complaint Exhibit EE,
18 gave the Defendant notice under 35 U.S.C. § 287 that various shoes the Defendant promoted,
19 offered to sell and was selling at the WSA trade show, including model numbers QL-25322 and
20 QL-26294 infringe one or more of NIKE's U.S. Pat Nos. D578,294; D586,548; and D579,186.
21 This letter also notified QiLoo as to NIKE's ownership of U.S. Trademark Registrations for the
22 appearance of its Air Force 1 shoes, including Air Force 1 "low" shoe design (U.S. Reg. No.
23 3,451,905).

24
25 17. On February 3, 2010, NIKE hand delivered a fourth notice letter to QiLoo
26 representatives at the QiLoo booth at the WSA Show in Las Vegas, Nevada, and sent a copy of
27 the letter to QiLoo's business address in China. The letter attached as Complaint Exhibit FF,
28

1 gave the Defendant notice under 35 U.S.C. § 287 that various shoes the Defendant promoted,
2 offered to sell and was selling at the WSA trade show, including model number QL-26294
3 infringe one or more of NIKE's U.S. Pat Nos. D573,338; D573,339; D575,046; D580,636;
4 D580,646; D586,548; and D575,045. This letter also notified QiLoo that its model number QL-
5 23416 bears a confusingly similar design to Plaintiffs' U.S. Trademark Reg. No. 3,451,905
6 relating to the Air Force 1 "low" shoe design.
7

8 18. On August 11, 2010, NIKE hand delivered a fifth notice letter to QiLoo
9 representatives at the QiLoo booth at the WSA Show in Las Vegas, Nevada, and sent a copy of
10 the letter to QiLoo's business address in China. The letter attached as Complaint Exhibit GG,
11 gave the Defendant notice under 35 U.S.C. § 287 that various shoes the Defendant promoted,
12 offered to sell and was selling at the WSA trade show, including model numbers QL-24715 and
13 QL-26294 infringe one or more of NIKE's U.S. Pat Nos. D555,332 and D586,548. This letter
14 also notified QiLoo that its model numbers QL-27141, QL-27188, QL-23860, QL-25472, QL-
15 23416 bear a confusingly similar design to Plaintiffs' U.S. Trademark Reg. Nos. 1,588,960,
16 3,258,103, and 3,451,905, directed to the Chuck Taylor All Star outsole tread designs and Air
17 Force 1 "low" design.
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19 19. On February 9, 2011, NIKE hand delivered a sixth notice letter to QiLoo
20 representatives at the QiLoo booth at the WSA Show in Las Vegas, Nevada, and sent a copy of
21 the letter to QiLoo's business address in China. The letter attached as Complaint Exhibit HH,
22 gave Defendant notice under 35 U.S.C. § 287 that various shoes Defendant promoted, offered to
23 sell and was selling at the WSA trade show infringe NIKE's U.S. Pat. No. D524,028 and
24 Converse's common law trademark rights and U.S. Trademark Reg. Nos. 1,588,960, 3,258,103,
25 directed to the Chuck Taylor All Star outsole tread designs.
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27 20. On July 28, 2011, NIKE hand delivered a seventh notice letter to QiLoo
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1 representatives at the QiLoo booth at the WSA Show in Las Vegas, Nevada, and sent a copy of
2 the letter to QiLoo's business in China. The letter attached as Complaint Exhibit II, gave QiLoo
3 notice that it was infringing the Converse and NIKE Trademarks.

4 21. On information and belief, QiLoo ignored Plaintiffs' repeated warnings and
5 continued to import into the United States, promote, distribute, offer to sell, and sell Infringing
6 Shoes.

7 22. QiLoo's knowing and repeated infringements of the NIKE Design Patents and the
8 Converse and NIKE Trademarks has been and continues to be intentional and willful.

9 23. On February 7, 2012, pursuant to this Court's Emergency *Ex Parte* Temporary
10 Restraining Order and Seizure Order (CM/ECF Dckt. No. 12), Plaintiffs' counsel identified
11 "Additional Infringing Shoes" that QiLoo was promoting and offering to sell at its Booth No.
12 12736 at the WSA Trade Show in Las Vegas, NV. Specifically, QiLoo was promoting and
13 offering to sell the following:
14

15 a. Models QL-21103274A, QL-21103630A, and QL-21104050A bearing upper
16 designs that are substantially identical to Converse's Chuck Taylor All Star high
17 design shown in U.S. Trademark Reg. No. 4,065,482;

18 b. Models QL-21103472A and QL-21103929A bearing upper designs that are
19 substantially identical to Converse's Chuck Taylor All Star low design shown in
20 U.S. Trademark Reg. No. 4,062,112;

21 c. Models QL-21103274A, QL-21103631A, QL-21103631B, and QL-21104050A
22 bearing outsole designs that are substantially identical to Converse's Chuck
23 Taylor All Star outsole designs shown in U.S. Trademark Reg. Nos. 1,588,960
24 and 3,258,103;


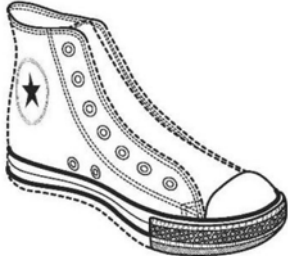
25 d. Models QL-21103631A and QL-21103631B bearing toe cap designs that are
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1 substantially identical to Converse’s Jack Purcell “Toe Smile” cap design that is
 2 shown in incontestable U.S. Trademark Reg. No. 1,998,884 owned by Converse;
 3 Converse has used its Toe Smile design trademark in connection with its
 4 promotion, distribution, offers to sell, and sales of millions of pairs of Jack Purcell
 5 shoe designs throughout the United States since the 1930s; and
 6

7 e. Model QL-21103107A bearing an upper design that is substantially identical to
 8 the upper designs claimed in NIKE’s U.S. Design Patent Numbers D641,968 and
 9 D642,369 that are owned by NIKE and that are presumed valid and enforceable
 10 since their issuance in 2011.

11 24. Example images of the Additional Infringing Shoes and relevant Converse
 12 Trademarks and NIKE Design Patents are shown in Table 4 below. Images of the Additional
 13 Infringing Shoes, their hang tags (where available), and the relevant Converse Trademarks and
 14 NIKE Design Patents are appended to this First Amended Complaint as indicated in Table 4.
 15

16 **Table 4: QILOO’s ADDITIONAL INFRINGING SHOES**

18 Additional Alleged Infringing Product and Model Number(s)	18 Asserted Converse/NIKE Trademarks/Patents
19  20 21 22 23 24 25 QL-21103274A and QL-21104050A, 26 Compl. Exs. NN-SS	19  20 21 22 23 24 25 U.S. Reg. No. 26 4,065,482, 27 Compl. Ex. BB

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Table 4: QILOO's ADDITIONAL INFRINGING SHOES

Additional Alleged Infringing Product and Model Number(s)

Asserted Converse/NIKE Trademarks/Patents



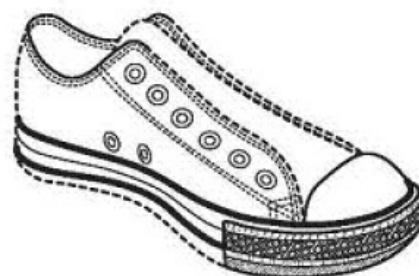
QL-21103630A, Compl. Exs. TT-UU



U.S. Reg. No.
4,065,482,
Compl. Ex. BB



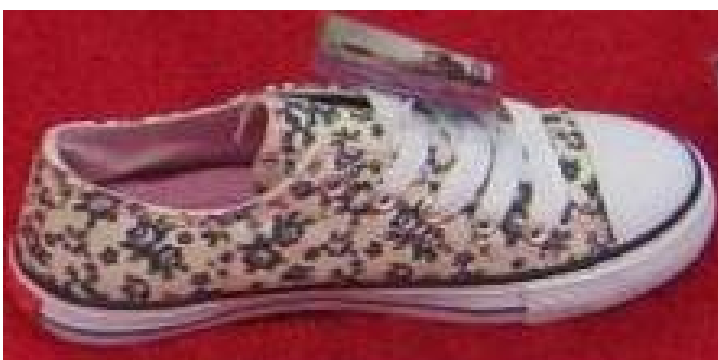
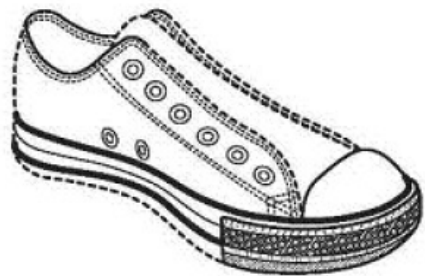

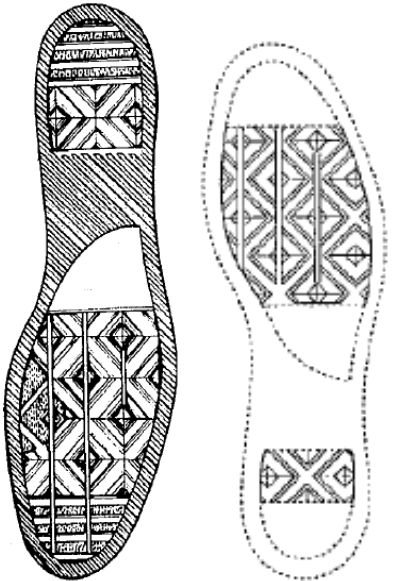
QL-21103472A, Compl. Exs. VV-WW



U.S. Reg. No.
4,062,112,
Compl. Ex. AA

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Table 4: QILOO's ADDITIONAL INFRINGING SHOES

Additional Alleged Infringing Product and Model Number(s)	Asserted Converse/NIKE Trademarks/Patents
 <p data-bbox="397 850 885 892">QL-21103929A, Compl. Exs. XX-YY</p>	 <p data-bbox="1153 798 1364 913">U.S. Reg. No. 4,062,112, Compl. Ex. AA</p>
 <p data-bbox="284 1585 998 1659">QL-21103274A; QL-21103631A; QL-21103631B; and QL-21104050A, Compl. Ex. QQ</p>	 <p data-bbox="1063 1585 1453 1701">U.S. Reg. No. 1,588,960, Compl. Ex. X; U.S. Reg. No. 3,258,103, Compl. Ex. Y</p>

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Table 4: QILOO's ADDITIONAL INFRINGING SHOES

Additional Alleged Infringing Product and Model Number(s)	Asserted Converse/NIKE Trademarks/Patents
 <p>QL-21103631A and QL-21103631B, Compl. Exs. ZZ-BBB</p>	 <p>U.S. Reg. No. 1,998,884, Compl. Ex. EEE</p>
 <p>QL-21103107A, Compl. Exs. CCC and DDD</p>	 <p>U.S. Pat. D641,968, Compl. Ex. FFF</p>  <p>U.S. Pat. D642,369, Compl. Ex. GGG</p>

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COUNT I:
PATENT INFRINGEMENT

25. Plaintiffs re-allege each and every allegation set forth in paragraphs 1 through 24 above, inclusive, and incorporate them by reference herein.

26. Defendant has made, used, offered to sell, sold, and/or imported into the United States, and still is making, using, offering to sell, selling, and/or importing into the United States, shoes having designs that infringe NIKE Design Patents without NIKE's authorization.

27. Upon information and belief, Defendant has been and still is inducing others to infringe the NIKE Design Patents.

28. Defendant's infringements have been intentional and willful, making this an exceptional case.

29. NIKE has been and will continue to be irreparably harmed by Defendant's infringements of the NIKE Design Patents.

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COUNT II:
TRADEMARK INFRINGEMENT UNDER SECTION 32(1) OF THE LANHAM ACT

30. Plaintiffs re-allege each and every allegation set forth in paragraphs 1 through 29 above, inclusive, and incorporate them by reference herein.

31. Defendant has knowingly used and continues to use in commerce the Converse and NIKE Trademarks, including counterfeits, reproductions, copies, or colorable imitations thereof, in connection with shoes Defendant manufactures, advertises, promotes, and sells in the United States. Defendant has used the Converse and NIKE Trademarks with the knowledge of, and the intent to call to mind and create a likelihood of confusion with regard to, and/or trade off Plaintiffs' fame and the registered Converse and NIKE Trademarks.

32. Plaintiffs have given notice of its registrations and claimed trademark rights pursuant to section 29 of the Lanham Act, 15 U.S.C. § 1111. Nevertheless, Defendant continues

1 to use the Converse and NIKE Trademarks.

2 33. Defendant's use of the Converse and NIKE Trademarks (A) constitutes trademark
3 counterfeiting, (B) is likely to confuse, mislead, or deceive customers, purchasers, and members
4 of the general public as to the origin, source, sponsorship, or affiliation of Defendant and
5 Plaintiffs and/or Defendant's products and Plaintiffs' products, and (C) is likely to cause such
6 people to believe in error that Defendant's products have been authorized, sponsored, approved,
7 endorsed, or licensed by Plaintiffs or that the Defendant is in some way affiliated with Plaintiffs.
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9 34. Plaintiffs have no control over the nature and quality of the goods or services
10 Defendant offers, and Plaintiffs' reputation and goodwill will be damaged – and the value of the
11 Converse and NIKE Trademarks jeopardized – by Defendant's continued use of the Converse
12 and NIKE Trademarks and colorable imitations thereof. Because of the likelihood of confusion
13 between Defendant's designs and the Converse and NIKE Trademarks, any defects, objections,
14 or faults found with Defendant's products will negatively reflect upon and injure the reputation
15 that Plaintiffs have established for the product and services it offers in connection with the
16 Converse and NIKE Trademarks. As such, Defendant is liable to Plaintiffs for infringement of
17 their registered marks under 15 U.S.C. §1114.
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19 35. Defendant's acts alleged above have caused, and if not enjoined will continue to
20 cause, irreparable and continuing harm to Plaintiffs' trademarks, business, reputation, and
21 goodwill. Plaintiffs have no adequate remedy at law as monetary damages are inadequate to
22 compensate Plaintiffs for the injuries caused by Defendant.
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24 36. As a direct and proximate result of Defendant's conduct, Plaintiffs have suffered
25 damages to the valuable Converse and NIKE Trademarks, and other damages in an amount to be
26 proved at trial.

27 37. Defendant's infringement of Plaintiffs' registered trademarks is deliberate,
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1 willful, fraudulent and without any extenuating circumstances, and constitutes a knowing use of
2 the Converse and NIKE Trademarks, and an exceptional case within the meaning of 15 U.S.C. §
3 1117(b).

4 38. Plaintiffs are entitled to injunctive relief, a seizure order, and Plaintiffs are also
5 entitled to recover QiLoo's profits, actual damages, enhanced profits and damages, costs, and
6 reasonable attorney fees under 15 U.S.C. §§ 1114, 1116, and 1117.
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9 **COUNT III:**
10 **FALSE DESIGNATION OF ORIGIN/UNFAIR COMPETITION UNDER**
11 **SECTION 43(a) OF THE LANHAM ACT**

12 39. Plaintiffs re-allege each and every allegation set forth in paragraphs 1 through 38
13 above, inclusive, and incorporate them by reference herein.

14 40. QiLoo's use, promotion, offers to sell, sale, and/or importation of Infringing
15 Shoes violates Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

16 41. The Converse and NIKE Trademarks are federally registered, and are entitled to
17 protection under both federal and common law. The Converse and NIKE Trademarks have
18 distinctive appearances with unique and non-functional design. Plaintiffs have extensively and
19 continuously promoted and used the Converse and NIKE Trademarks for many decades in the
20 United States and worldwide. Through that extensive and continuous use, the Converse and
21 NIKE Trademarks have become famous and well-known indicators of the origin and quality of
22 NIKE footwear. The Converse and NIKE Trademarks have also acquired substantial secondary
23 meaning in the marketplace.

24 42. QiLoo's use of colorable imitations of the Converse and NIKE Trademarks
25 constitutes a false designation of origin that is likely to cause consumer confusion, mistake, or
26 deception as to the origin, sponsorship, or approval of the Infringing Shoes by creating the false
27 and misleading impression that the Infringing Shoes are manufactured by, authorized by, or
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1 otherwise associated with Plaintiffs.

2 43. QiLoo's use of colorable imitations of the Converse and NIKE Trademarks has
3 caused, and unless enjoined, will continue to cause substantial and irreparable injury to Plaintiffs
4 for which Plaintiffs have no adequate remedy at law, including at least substantial and
5 irreparable injury to the goodwill and reputation for quality associated with the Converse and
6 NIKE Trademarks.

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8 44. On information and belief, QiLoo's use of colorable imitations of the Converse
9 and NIKE Trademarks has been intentional and willful. QiLoo's bad faith is evidenced at least
10 by the identical similarity of the Infringing Shoes to the Converse and NIKE Trademarks as well
11 as by QiLoo's repeated refusal to acknowledge or abide by Plaintiffs' infringement notices.

12 45. Plaintiffs are entitled to injunctive relief, and Plaintiffs are also entitled to recover
13 QiLoo's profits, actual damages, enhanced profits and damages, costs, and reasonable attorney
14 fees under 15 U.S.C. §§ 1125(a), 1116, and 1117.
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17 **COUNT IV:**
DILUTION UNDER SECTION 43(c) OF THE LANHAM ACT

18 46. Plaintiffs re-allege each and every allegation set forth in paragraphs 1 through 45
19 above, inclusive, and incorporate them by reference herein.

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21 47. The Converse and NIKE Trademarks have become famous throughout the United
22 States as a result of the duration, extent, and geographical reach of advertising and publicity, the
23 amount, volume, and geographical extent of Plaintiffs' sales and trading areas, their channels of
24 trade, their degree of recognition, and registration of the marks.

25 48. The Converse and NIKE Trademarks became famous before Defendant used the
26 marks.

27 49. Because Plaintiffs' products bearing the Converse and NIKE Trademarks have
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1 gained a reputation synonymous with fashion, quality, styling, and authenticity, the Converse
2 and NIKE Trademarks have gained substantial renown.

3 50. Defendant has used and continues to use in commerce the Converse and NIKE
4 Trademarks in connection with the advertisement, promotion, and sale of Defendant's products.

5 51. Defendant's use of the Converse and NIKE Trademarks, and colorable imitations
6 thereof, is likely to cause, has caused, and continues to cause irreparable injury to and dilution of
7 the distinctive quality of the Converse and NIKE Trademarks in violation of Plaintiffs' rights
8 under 15 U.S.C. § 1125(c). Defendant's wrongful use of the Converse and NIKE Trademarks is
9 likely to cause dilution by blurring and the whittling away of the distinctiveness and fame of the
10 Converse and NIKE Trademarks.
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12 52. Defendant's acts alleged above have caused, and if not enjoined will continue to
13 cause, irreparable and continuing harm to Plaintiffs' trademarks, business, reputation, and
14 goodwill. Plaintiffs have no adequate remedy at law because monetary damages are inadequate
15 to compensate for the injuries Defendant is causing.
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17 53. As a direct and proximate result of Defendant's conduct, NIKE has suffered
18 damages to the valuable Converse and NIKE Trademarks, and other damages in an amount to be
19 proved at trial.
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21 54. Defendant's wrongful use of the Converse and NIKE Trademarks is deliberate,
22 and constitutes a willful intent to trade on the recognition of the Converse and NIKE
23 Trademarks, making this an exceptional case within the meaning of 15 U.S.C. § 1117.

24 55. Plaintiffs are entitled to injunctive relief, and Plaintiffs are also entitled to recover
25 QiLoo's profits, actual damages, enhanced profits and damages, costs, and reasonable attorney
26 fees under 15 U.S.C. §§ 1125(c), 1116, and 1117.
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1 **COUNT V:**
2 **COMMON LAW TRADEMARK INFRINGEMENT AND UNFAIR COMPETITION**

3 56. Plaintiffs re-allege each and every allegation set forth in paragraphs 1 through 55
4 above, inclusive, and incorporate them by reference herein.

5 57. Plaintiffs were the first to use the Converse and NIKE Trademarks. As a result of
6 Plaintiffs' continuous promotion and sales of products bearing the Converse and NIKE
7 Trademarks for many decades, the Converse and NIKE Trademarks have become widely known
8 and Plaintiffs have been identified in the public mind as the manufacturer of the products to
9 which the Converse and NIKE Trademarks are applied.
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11 58. As a result of the experience, care, and service of Plaintiffs in producing the
12 products to which the Converse and NIKE Trademarks are applied, these products have become
13 widely known and have acquired a worldwide reputation for fashion, quality, styling, and
14 authenticity. Moreover, the Converse and NIKE Trademarks have come to symbolize Plaintiffs'
15 reputation for quality and excellence. The Converse and NIKE Trademarks have also acquired
16 secondary meaning in the marketplace, and are non-functional.
17

18 59. Defendant, with knowledge of and with intentional disregard of Plaintiffs' rights,
19 continues to advertise, promote, and sell products using the Converse and NIKE Trademarks, or
20 colorable and confusing imitations thereof. Defendant's acts are likely to cause, have caused,
21 and will continue to cause confusion as to the source and/or sponsorship of Plaintiffs' products
22 and services.

23 60. Defendant's acts alleged herein and specifically, without limitation, Defendant's
24 use, manufacture, promotion, offers to sell, selling, and/or importing into the United States
25 numerous products that are confusingly similar to products bearing the Converse and NIKE
26 Trademarks, infringe Plaintiffs' exclusive trademark rights in violation of the common law.
27

28 61. Defendant's acts alleged above have caused, and if not enjoined will continue to

1 cause, irreparable and continuing harm to Plaintiffs' trademarks, business, reputation, and
2 goodwill. Plaintiffs have no adequate remedy at law because monetary damages are inadequate
3 to compensate Plaintiffs for the injuries caused by Defendant.

4 62. On information and belief, QiLoo's use of colorable imitations of the Converse
5 and NIKE Trademarks has been intentional and willful. QiLoo's bad faith is evidenced at least
6 by the similarity of the Infringing Shoes to the Converse and NIKE Trademark.
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8 63. Plaintiffs are entitled to injunctive relief, and Plaintiffs are also entitled to recover
9 QiLoo's profits, actual damages, punitive damages, costs, and reasonable attorney fees.

10
11 **PRAYER FOR RELIEF**

12 **WHEREFORE**, Plaintiffs respectfully pray for

13 A. Judgment that Defendant has (i) willfully infringed the NIKE Design Patents in
14 violation of 35 U.S.C. §§ 271 (a) and (b), (ii) willfully infringed the Converse and NIKE
15 Trademarks in violation of §1114 of Title 15 in the United States Code, (iii) willfully used false
16 designations of origin/unfair competition in violation of § 1125(a) of Title 15 in the United
17 States Code, (iv) willfully diluted the Converse and NIKE Trademarks in violation of § 1125(c)
18 of Title 15 in the United States Code, and (v) willfully violated Plaintiffs' common law rights in
19 the Converse and NIKE Trademarks;
20

21 B. A preliminary and permanent injunction against further infringement, direct and
22 indirect, of the NIKE Design Patents and colorable imitations thereof by Defendant, its officers,
23 agents, servants, employees, and attorneys, and all others in active concert or participation with
24 any of them;
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26 C. A preliminary and permanent injunction against further infringement, false
27 designation of origin, unfair competition, and dilution of the Converse and NIKE Trademarks by
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1 QiLoo, its officers, agents, servants, employees, and attorneys, and all others in active concert or
2 participation with any of them;

3 D. An order directing the destruction of all Infringing Shoes and Additional
4 Infringing Shoes, or any other products that use a copy, reproduction, or colorable imitation of
5 the Converse or NIKE Trademarks in QiLoo's possession or control, including the destruction of
6 all advertising materials related to the Infringing Shoes and Additional Infringing Shoes in
7 QiLoo's possession or control, including on the Internet;

9 E. An award of damages adequate to compensate NIKE for the patent infringements
10 that have occurred pursuant to 35 U.S.C. § 284, which shall be trebled as a result of Defendant's
11 willful patent infringement, or an award of Defendant's profits from its infringements pursuant to
12 35 U.S.C. § 289, whichever is greater, together with prejudgment interest and costs;

14 F. An assessment of costs, including reasonable attorney fees and expenses, pursuant
15 to 35 U.S.C. § 285, with prejudgment interest;

16 G. An award of QiLoo's profits, actual damages, enhanced profits and damages,
17 costs, and reasonable attorney fees under 15 U.S.C. §§ 1114, 1116, and 1117 for QiLoo's
18 trademark infringements and dilution; and

19 H. Such other and further relief as this Court deems just and proper.
20

21 **IV. DEMAND FOR JURY TRIAL**

22 Pursuant to Fed. R. Civ. P. 28, Plaintiffs hereby demand a trial by jury on all issues for
23 which a trial by jury may be had.

24 Dated: February 8, 2012

Respectfully submitted,

25
26 /s/ Jonathan W. Fountain
Michael J. McCue
27 *MMcCue@LRLaw.com*
Jonathan W. Fountain (Nevada Bar #10351)
28 *JFountain@LRLaw.com*
Lewis and Roca, LLP

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(Pro Hav Vice to be Submitted)

Attorneys for Plaintiffs,
NIKE, Inc. and Converse Inc.

1 **CERTIFICATE OF SERVICE**

2 I, Erik S. Maurer, hereby certify that on February 8, 2012, I caused a copy of the
3 foregoing document entitled FIRST AMENDED COMPLANT along with Exhibits NN, MM,
4 OO, PP, QQ, RR, SS, TT< UU, VV, WW, XX, YY, ZZ, AAA, BBB, CCC, DDD, EEE, FFF,
5 and GGG, to be served as follows:

6 By Hand Delivery To:

7 QiLoo International Limited
8 World Shoe Association Tradeshow
9 Booth #12736
10 Sands Expo & Convention Center
11 201 Sands Avenue
12 Las Vegas, Nevada 89169

By International Federal Express:

QiLoo International Limited
2-2303 (2-2358), No. 2 Bldg.,
Fuxin Garden Castle, Fengze Street,
QuanZhou, 362000, Fujian, China

13 Dated: this 8th day of February, 2012.

14 /s/ Erik S. Maurer
15 Erik S. Maurer
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