

1 Michael J. McCue (Nevada Bar #6055)
 2 *MMcCue@LRLaw.com*
 3 Jonathan W. Fountain (Nevada Bar #10351)
 4 *JFountain@LRLaw.com*
 5 Lewis and Roca LLP
 3993 Howard Hughes Parkway, Suite 600
 Las Vegas, Nevada 89109
 Telephone: (702) 949-8224
 Facsimile: (702) 949-8363

6 Christopher J. Renk
 Erik S. Maurer
 7 Michael J. Harris
 Azuka C. Dike
 8 Banner & Witcoff, Ltd.
 10 10 South Wacker Drive, Suite 3000
 Chicago, Illinois 60606
 Telephone: (312) 463-5000
 Facsimile: (312) 463-5001
 (Pro Hac Vice to be Submitted)

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

13
 14 **UNITED STATES DISTRICT COURT**
 15 **DISTRICT OF NEVADA**

15 NIKE, INC.)
 16 and)
 17 CONVERSE, INC.,)
 18 Plaintiffs,)
 19 vs.)
 20 QILOO INTERNATIONAL LIMITED)
 21 Defendant.)

**DECLARATION AND LOCAL RULE
 7-5 CERTIFICATION OF ERIK S.
 MAURER IN SUPPORT OF
 PLAINTIFFS' EMERGENCY
 MOTION FOR TEMPORARY
 RESTRAINING ORDER, SEIZURE
 ORDER, AND PRELIMINARY
 INJUNCTION**

22
 23
 24 I, Erik S. Maurer declare and state as follows:

25 1. I am one of the attorneys for Plaintiffs, NIKE, Inc., ("NIKE") and Converse, Inc.,
 26 ("Converse") in this matter and have personal knowledge and observation of the facts attested to
 27 herein.

28 2. I make this Declaration in support of Plaintiffs' Emergency Motion and

1 Supporting Memorandum for Entry of Temporary Restraining Order, Seizure Order, and
2 Preliminary Injunction.

3 3. NIKE is one of the largest and best known manufacturers of innovative footwear
4 designs and fashion products in the world. Together with its wholly owned subsidiary,
5 Converse, Inc., Plaintiffs are known for producing well-recognized, iconic footwear designs.
6 ([http://investors.nikeinc.com/Theme/Nike/files/doc_financials/AnnualReports/2011/index.html#](http://investors.nikeinc.com/Theme/Nike/files/doc_financials/AnnualReports/2011/index.html#mark_parker_letter)
7 [mark_parker_letter](http://investors.nikeinc.com/Theme/Nike/files/doc_financials/AnnualReports/2011/index.html#mark_parker_letter); and <http://nikeinc.com/pages/our-portfolio-of-brands> last visited February 3,
8 2012).

9
10 4. NIKE spends substantial time and resources every year designing the ornamental
11 and distinctive features of its footwear products and takes steps to protect its innovative designs
12 against unauthorized copying. To that end, NIKE owns all the United States design patents
13 attached as Exhibits A-W of this declaration (the “NIKE Design Patents”). Converse owns
14 common law and federal trademark rights in the footwear designs shown in the United States
15 Trademark Registrations attached to this declaration as Exhibits X-Y and AA-BB. NIKE owns
16 common law and federal trademark rights in the footwear designs shown in the United States
17 Trademark Registrations attached to this declaration as Exhibit Z. (Collectively, Converse’s and
18 NIKE’s common law and federal trademark rights are referred to hereafter as the “Converse and
19 NIKE Trademarks”).
20

21
22 5. Plaintiffs’ footwear products bearing designs covered by the NIKE Design Patents
23 or the Converse and NIKE Trademarks are sold throughout the United States, on the Internet, at
24 large, chain shoe retailers, and at small, mom-and-pop shoe retailers. Shoes sold by Plaintiffs
25 bearing the Chuck Taylor All Star designs shown in Exhibits X-Y and AA-BB typically range in
26 retail price from \$25 to \$75, and shoes bearing the Air Force One design shown in Exhibit Z
27 typically range in retail price from \$40 to \$80.
28

1 6. Defendant, QiLoo International Limited (“QiLoo”) is a manufacturer of footwear
2 products in Fujian Province, China. (See <http://www.qiloo.com/company.asp/>, last visited,
3 February 3, 2012). QiLoo identifies its business address as: 2-2303 (2-2358), No. 2 Bldg.,
4 Fuxin Garden Castle, Fengze Street, QuanZhou, 362000, Fujian, China. With the exception of
5 its temporary presence in the United States during World Shoe Association (“WSA”) trade
6 shows in Las Vegas, Plaintiffs’ counsel has been unable to locate any domestic QiLoo business
7 operations or assets.

9 7. The WSA trade show is the “the most comprehensive footwear and accessories
10 show in the world. The twice-yearly event gathers exhibitors showcasing, thousands of brands,
11 attracting category leaders, industry newsmakers, top designers, as well as retailers from every
12 market segment, retail and distribution channel.”
13 (http://www.wsashow.com/media_information/landing, last visited February 3, 2012). The
14 current WSA trade show began today, February 6, 2012, and runs through February 8, 2006.

16 8. I have attended ten WSA trade shows since 2006. Based on my observations,
17 manufacturing exhibitors at WSA, like QiLoo, meet with and offer to sell their products to
18 retailers during the trade show. Typically, retailers (“buyers”) at WSA place bulk orders from
19 the manufacturing exhibitors for thousands or tens of thousands of pairs of shoes that will be sold
20 over the next six or more months. The manufacturing exhibitors typically record orders for their
21 products on laptops at the show.

23 9. Over the past four and one half years, I and other Plaintiffs’ representatives have
24 observed QiLoo at WSA promoting and offering to sell shoes bearing designs that infringe NIKE
25 Design Patents and/or Converse and NIKE Trademarks. Plaintiffs have hand served QiLoo at
26 WSA with seven cease and desist letters notifying QiLoo of the NIKE Design Patents and
27 Converse and NIKE Trademarks and of QiLoo’s infringements. True and correct copies of
28

1 Plaintiffs' cease and desist letters to QiLoo are attached to this declaration as Exhibits CC, DD,
2 EE, FF, GG, HH, and II. A confirmation copy of each letter was also delivered to QiLoo's
3 business address in China. Having personally served most of these letters upon QiLoo at its
4 WSA booth, my observation is that QiLoo ignores Plaintiffs' cease and desist letters, continues
5 to promote and offer to sell Infringing Shoes at WSA shows, and introduces
6 new/different/additional Infringing Shoes at successive WSA trade shows. QiLoo also Because
7 QiLoo leaves the country to fulfill the orders it takes at WSA, Plaintiffs have no way of knowing
8 or tracking QiLoo's infringements.

10 10. Today, February 6, 2012, Plaintiffs' representatives visited QiLoo's booth at the
11 WSA Show at the Sands Expo and Convention Center in Las Vegas, Nevada. Plaintiffs
12 representatives inspected numerous footwear products bearing designs that are substantially the
13 same as the designs claimed in NIKE's Design Patents and Converse and NIKE Trademarks
14 ("Infringing Shoes."). In fact, QiLoo's Infringing Shoes appear to be virtually identical copies of
15 Plaintiffs' patented and trademarked footwear designs. Specific information regarding the shoe
16 designs identified at QiLoo's booth today is set forth in the accompanying declaration of Thomas
17 Scavuzzo.

19 11. After learning of QiLoo's continuing infringements, I immediately finalized the
20 Complaint, Plaintiffs' emergency motion, and supporting papers.

22 12. I have no knowledge of any attorney who may presently represent QiLoo.

23 13. Plaintiffs have not publicized the requested seizure.

24 **LOCAL RULE 7-5(d)(3) CERTIFICATION**

25 14. For the reasons set forth above, Plaintiffs require the emergency assistance of this
26 Court to stop QiLoo's infringements. For the reasons set forth above, Plaintiffs have not notified
27 QiLoo of this motion because QiLoo has proven its intent to evade Plaintiffs' rights and will
28

1 likely do so again if provided notice.

2 **EXHIBITS SUBMITTED IN SUPPORT OF PLAINTIFFS' MOTION**

3 15. **Exhibit A** to this declaration is a true and correct copy of U.S. Design Patent No.
4 D361,884 from the United States Patent and Trademark Office records, filed on December 7,
5 1994, and issued on September 5, 1995.
6

7 16. **Exhibit B** to this declaration is a true and correct copy of U.S. Design Patent No.
8 D429,877 from the United States Patent and Trademark Office records, filed on March 27, 200,
9 and issued on August 29, 2000.

10 17. **Exhibit C** to this declaration is a true and correct copy of U.S. Design Patent No.
11 D462,830 from the United States Patent and Trademark Office records, filed on January 16,
12 2002, and issued on September 17, 2002.
13

14 18. **Exhibit D** to this declaration is a true and correct copy of U.S. Design Patent No.
15 D475,523 from the United States Patent and Trademark Office records, filed on February 26,
16 2003, and issued on June 10, 2003.

17 19. **Exhibit E** to this declaration is a true and correct copy of U.S. Design Patent No.
18 D494,353 from the United States Patent and Trademark Office records, filed on November 24,
19 2003, and issued on August 17, 2003.
20

21 20. **Exhibit F** to this declaration is a true and correct copy of U.S. Design Patent No.
22 D499,247 from the United States Patent and Trademark Office records, filed on March 22, 2004,
23 and issued on December 7, 2004.

24 21. **Exhibit G** to this declaration is a true and correct copy of U.S. Design Patent No.
25 D500,585 from the United States Patent and Trademark Office records, filed on May 21, 2004,
26 and issued on January 11, 2005.

27 22. **Exhibit H** to this declaration is a true and correct copy of U.S. Design Patent No.
28

1 D500,917 from the United States Patent and Trademark Office records, filed on May 21, 2004,
2 and issued on January 18, 2005.

3 23. **Exhibit I** to this declaration is a true and correct copy of U.S. Design Patent No.
4 D523,618 from the United States Patent and Trademark Office records, filed on May 4, 2005,
5 and issued on June 27, 2006.
6

7 24. **Exhibit J** to this declaration is a true and correct copy of U.S. Design Patent No.
8 D524,028 from the United States Patent and Trademark Office records, filed on August 31,
9 2005, and issued on July 4, 2006.

10 25. **Exhibit K** to this declaration is a true and correct copy of U.S. Design Patent No.
11 D524,529 from the United States Patent and Trademark Office records, filed on May 13, 2005,
12 and issued on July 11, 2006.
13

14 26. **Exhibit L** to this declaration is a true and correct copy of U.S. Design Patent No.
15 D532,600 from the United States Patent and Trademark Office records, filed on April 26, 2006,
16 and issued on November 28, 2006.

17 27. **Exhibit M** to this declaration is a true and correct copy of U.S. Design Patent No.
18 D546,541 from the United States Patent and Trademark Office records, filed on January 24,
19 2007, and issued on July 17, 2007.
20

21 28. **Exhibit N** to this declaration is a true and correct copy of U.S. Design Patent No.
22 D547,541 from the United States Patent and Trademark Office records, filed on December 29,
23 2006, and issued on July 31, 2007.

24 29. **Exhibit O** to this declaration is a true and correct copy of U.S. Design Patent No.
25 D555,332 from the United States Patent and Trademark Office records, filed on September 28,
26 2006, and issued on November 20, 2007.

27 30. **Exhibit P** to this declaration is a true and correct copy of U.S. Design Patent No.
28

1 D573,338 from the United States Patent and Trademark Office records, filed on April 28, 2008,
2 and issued on July 22, 2008.

3 31. **Exhibit Q** to this declaration is a true and correct copy of U.S. Design Patent No.
4 D573,339 from the United States Patent and Trademark Office records, filed on April 28, 2008,
5 and issued on July 22, 2008.

6 32. **Exhibit R** to this declaration is a true and correct copy of U.S. Design Patent No.
7 D575,046 from the United States Patent and Trademark Office records, filed on September 12,
8 2007, and issued on August 19, 2008.

9 33. **Exhibit S** to this declaration is a true and correct copy of U.S. Design Patent No.
10 D578,294 from the United States Patent and Trademark Office records, filed on June 12, 2008,
11 and issued on October 14, 2008.

12 34. **Exhibit T** to this declaration is a true and correct copy of U.S. Design Patent No.
13 D579,186 from the United States Patent and Trademark Office records, filed on June 12, 2008,
14 and issued on October 28, 2008.

15 35. **Exhibit U** to this declaration is a true and correct copy of U.S. Design Patent No.
16 D580,636 from the United States Patent and Trademark Office records, filed on May 30, 2008,
17 and issued on November 18, 2008.

18 36. **Exhibit V** to this declaration is a true and correct copy of U.S. Design Patent No.
19 D580,646 from the United States Patent and Trademark Office records, filed on May 30, 2008,
20 and issued on November 18, 2008.

21 37. **Exhibit W** to this declaration is a true and correct copy of U.S. Design Patent No.
22 D586,548 from the United States Patent and Trademark Office records, filed on October 16,
23 2008, and issued on February 17, 2009.

24 38. **Exhibit X** to this declaration is a true and correct copy of U.S. Trademark
25
26
27
28

1 Registration No. 1,588,960 from the United States Patent and Trademark Office records, issued
2 on March 27, 1990.

3 39. **Exhibit Y** to this declaration is a true and correct copy of U.S. Trademark
4 Registration No. 3,258,103 from the United States Patent and Trademark Office records, issued
5 on July 3, 2007.

6 40. **Exhibit Z** to this declaration is a true and correct copy of U.S. Trademark
7 Registration No. 3,451,905 from the United States Patent and Trademark Office records, issued
8 on June 24, 2008.

9 41. **Exhibit AA** to this declaration is a true and correct copy of U.S. Trademark
10 Registration No. 4,062,112 from the United States Patent and Trademark Office records, issued
11 on November 29, 2011.

12 42. **Exhibit BB** to this declaration is a true and correct copy of U.S. Trademark
13 Registration No. 4,062,112 from the United States Patent and Trademark Office records, issued
14 on November 29, 2011.

15 43. **Exhibit CC** to this declaration is a true and correct copy of a February 2, 2007
16 letter sent from Ms. Julianne Davis, General Counsel for NIKE, to the Defendant.

17 44. **Exhibit DD** to this declaration is a true and correct copy of a July 30, 2008 letter
18 sent from Ms. Davis, General Counsel for NIKE, to the Defendant.

19 45. **Exhibit EE** to this declaration is a true and correct copy of an August 1, 2009
20 letter sent from Ms. Davis, General Counsel for NIKE, to the Defendant.

21 46. **Exhibit FF** to this declaration is a true and correct copy of a February 3, 2010
22 letter sent from Ms. Davis, General Counsel for NIKE, to the Defendant.

23 47. **Exhibit GG** to this declaration is a true and correct copy of an August 11, 2010
24 letter sent from Ms. Davis, General Counsel for NIKE, to the Defendant.

1 48. **Exhibit HH** to this declaration is a true and correct copy of a February 9, 2011
2 letter sent from Ms. Davis, General Counsel for NIKE, to the Defendant.

3 49. **Exhibit II** to this declaration is a true and correct copy of a July 28, 2011 letter
4 sent from Ms. Davis, General Counsel for NIKE, to the Defendant.

5 50. **Exhibit JJ** to this declaration is a true and correct copy of excerpts from a QiLoo
6 sports footwear catalog obtained from Defendant during the August 2007 World Shoe
7 Association trade show in Las Vegas.

8 51. **Exhibit KK** to this declaration is a true and correct copy of excerpts from a
9 QiLoo sports footwear catalog obtained from Defendant during the February 2010 World Shoe
10 Association trade show in Las Vegas.

11 52. **Exhibit LL** to this declaration is a true and correct copy of excerpts from a QiLoo
12 sports footwear catalog obtained from Defendant during the July 2011 World Shoe Association
13 trade show in Las Vegas.

14 53. **Exhibit MM** to this declaration is a true and correct screenshot of the World
15 Show Association (“WSA”) website, available at,
16 www.wsashow.com/media_information/landing.

17 54. **Exhibit NN** to this declaration is a true and correct copy of a declaration and
18 supporting Secondary Meaning Survey for the Converse Chuck Taylor All Star low shoe design
19 submitted by Dr. Gerald L. Ford on November 30, 2011.

20 55. **Exhibit PP** to this declaration is a true and correct copy of “A Survey to
21 Determine Whether the Converse Chuck Taylor All Star Has Secondary Meaning,” submitted by
22 Dr. Susan S. McDonald on June 21, 2010.

23 56. **Exhibit QQ** to this declaration is a true and correct copy of “Assessing Whether
24 the Appearance of the NIKE Air Force 1 Sneaker Functions as a Source Identifier,” a report
25
26
27
28

1 conducted by The Mantis Group, Inc. in March 2008.

2 57. Exhibit RR to this declaration is a true and correct copy of the Preliminary
3 Injunction Order granted in *NIKE, Inc. v. Meitac Int'l*, 2006 WL 3883278 (D.Nev. 2006).
4

5
6 I, Erik S. Maurer, swear under penalty of perjury under the laws of the United
7 States of America that the foregoing is true and correct.

8
9
10 Dated: February 6, 2012

A handwritten signature in black ink, appearing to read "Erik S. Maurer", written over a horizontal line.

11 Erik S. Maurer
12 Counsel for Plaintiffs
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28