

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

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

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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
 18 CONVERSE, INC.,
 19 Plaintiffs,
 20 vs.
 21 QILOO INTERNATIONAL LIMITED
 22 Defendant.

Case No.
EMERGENCY EX PARTE
TEMPORARY RESTRAINING
ORDER AND SEIZURE ORDER

23 Plaintiffs, NIKE, Inc., and Converse, Inc., have moved *ex parte* for a Temporary
 24 Restraining Order, Seizure Order, and an Order for Preliminary Injunction, pursuant to Rule 65
 25 of the Federal Rules of Civil Procedure, Lanham Act Section 34 (15 U.S.C. § 1116), the Patent
 26 Act, 35 U.S.C. § 283, and Local Rule 7-5. Plaintiffs allege that Defendant QiLoo International
 27 Ltd. (“QiLoo”) has imported into the United States, and is distributing, promoting, offering to
 28

1 sell, and selling footwear products at the World Shoe Association (“WSA”) trade show in Las
2 Vegas, Nevada, that infringe at least Converse Trademarks. The Court having duly considered
3 Plaintiffs’ Complaint, Emergency Motion and Supporting Memorandum for Entry of Temporary
4 Restraining Order and Preliminary Injunction, declarations and exhibits submitted therewith,
5 makes the following findings and conclusions:
6

7 1. Plaintiffs are likely to succeed in showing that the NIKE Design Patents and the
8 Converse and NIKE Trademarks that are appended to the Complaint as Exhibits A through BB
9 are owned by Plaintiffs, are valid, and are enforceable, and that QiLoo has imported, distributed,
10 promoted, offered for sale, and sold shoes bearing designs that infringe the NIKE Design Patents
11 and that are counterfeits of the Converse and NIKE Trademarks (hereafter, “Infringing Shoes”).
12

13 2. It appears to the Court that QiLoo is a China-based manufacturer of footwear
14 products that, with the exception of its temporary presence in Las Vegas during the biannual
15 WSA show, does not have a regular place of business or assets in the United States. Further,
16 over the past several WSA shows, QiLoo has established a pattern of importing Infringing Shoe
17 designs into the United States, promoting, offering to sell, and selling those shoe designs at the
18 WSA show, then leaving the United States.
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20 3. Absent an *ex parte* temporary restraining order and seizure order, QiLoo’s
21 importation, promotion, offers for sale, and sale of Infringing Shoes will result in immediate and
22 irreparable injury to Plaintiffs in the form of loss of control over their valuable intellectual
23 property rights, loss of consumer goodwill, and interference with Plaintiffs’ ability to exploit the
24 NIKE Design Patents and the NIKE and Converse Trademarks. Further, because QiLoo has no
25 presence in the United States, it may be difficult or impossible for Plaintiffs to recover a money
26 judgment against QiLoo.
27

28 4. It appears to the Court based on Plaintiffs’ representations that they have not

1 publicized their application for an *ex parte* temporary restraining order and seizure order.

2 5. The harm to Plaintiffs in denying the requested temporary restraining order and
3 seizure order outweighs the harm to the legitimate interests of QiLoo from granting such relief.

4 6. The public interest weighs in favor of granting Plaintiffs the requested temporary
5 restraining order and seizure order.

6 7. QiLoo's Infringing Shoes and materials evidencing QiLoo's infringements
7 alleged in the Complaint are in QiLoo's possession at the WSA show currently taking place in
8 Las Vegas, Nevada, but these materials would likely be destroyed, moved, hidden, or otherwise
9 made inaccessible to the Court if Plaintiffs were to proceed on notice to QiLoo.
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12 **TEMPORARY RESTRAINING ORDER**

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14 IT IS THEREFORE ORDERED that pending a decision by the Court on Plaintiffs'
15 application for a preliminary injunction, QiLoo and its officers, agents, servants, employees, and
16 attorneys; and all other persons acting in active concert or participation with any of them, are
17 hereby immediately, temporarily restrained from infringing NIKE's Design Patents and from
18 infringing Converse's and NIKE's Trademarks at the WSA show in Las Vegas, Nevada from
19 February 6-8, 2012. Specifically, QiLoo is hereby temporarily restrained from making, using,
20 selling, offering to sell, and importing into the United States footwear designs covered by U.S.
21 Patent Nos. D361,884; D429,877; D462,830; D475,523; D494,353; D499,247, D500,585;
22 D500,917; D523,618; D524,028; D524,529; D532,600; D546,541; D547,541; D555,332;
23 D573,338; D573,339; D575,046; D578,294; D579,186; D580,636; D580,646; and D586,548,
24 and colorable imitations thereof. In addition, QiLoo is hereby temporarily restrained from using
25 in commerce any reproduction, counterfeit, copy, or colorable imitation of the Converse and
26 NIKE Trademarks reflected in U.S. Trademark Registration Nos. 1,588,960; 3,258,103;
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1 3,451,905; 4,062,112; and 4,065,482, including selling, offering for sale, distributing, promoting,
2 or advertising goods or services in connection with those trademarks or colorable imitations
3 thereof; and transferring, moving, returning, destroying, or otherwise disposing of any Infringing
4 Shoes except pursuant to the below Seizure Order.
5

6
7 **SEIZURE ORDER**

8 IT IS FURTHER ORDERED that Defendant's infringing shoe products, records
9 (including computers and electronic evidence) of Defendant's sales and offers to sell infringing
10 products, and Defendant's promotional display(s), sales equipment, and materials used to
11 facilitate Defendant's infringements (collectively, "Materials") shall be seized by the United
12 States Marshals Service, assisted by one or more attorneys or representatives of Plaintiffs, at the
13 booth rented or occupied by the Defendant at the WSA trade show in Las Vegas, Nevada, during
14 the period of February 6 through 8, 2012. The United States Marshals Service may use all
15 reasonable force in conducting the seizure and may open doors, locks, boxes, brief cases, and
16 containers of any type or nature to locate and identify Materials to be seized. Attorneys and
17 other representatives of Plaintiffs shall accompany the United States Marshals Service during the
18 seizure to identify the Materials to be seized. Plaintiffs' counsel shall itemize and take
19 possession of the seized Materials, provide a copy of the inventory to the United States Marshals
20 Service, and file the inventory with the Court. In addition, Plaintiffs' counsel may record the
21 contents of QiLoo's booth and Materials by photographic and/or videographic means during the
22 seizure action. The United States Marshals Service shall not retain custody of seized Materials.
23 Plaintiffs agree to indemnify the United States Marshals Service and hold it harmless from any
24 suit, claim, cause of action, damage, loss, or injury arising from the execution of the seizure
25 described in this Order.
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1 IT IS FURTHER ORDERED that this Order and the Summons and Complaint must be
2 served upon the Defendant, if found, at the time of the seizure, and by other means reasonably
3 calculated to give the Defendant notice of this action.

4 IT IS FURTHER ORDERED that, Plaintiffs shall post a bond of \$25,000. To the extent
5 QiLoo believes that a higher bond is necessary pursuant to Rule 65(c), Fed. R. Civ. P., QiLoo
6 shall file an application to the Court and provide notice to counsel for Plaintiffs on or before ____
7 _____, 2012.

9 IT IS FURTHER ORDERED that a preliminary injunction hearing is set for _____
10 _____, 2012, at _____ a.m./p.m., in Courtroom ____
11 _____, before _____.

12 Defendant shall file and serve any opposition to Plaintiffs' motion for a preliminary
13 injunction on or before February _____, 2012.

15 Plaintiffs shall file and serve any reply in support of their motion for a preliminary
16 injunction on or before _____, 2012.

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19 **SIGNED AND ENTERED** this _____ day of February, 2012.

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23 UNITED STATES DISTRICT JUDGE