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March 30, 2023

VIA ECF

The Honorable Valerie Caproni
United States District Court
Southern District of New York
40 Foley Square, Room 240
New York, New York 10007

Re: *Nike, Inc. v. StockX LLC*, No. 22 CV 00983 (VEC) (S.D.N.Y.)

Dear Judge Caproni:

Pursuant to the Court's April 11, 2022 Civil Case Management Plan and Scheduling Order, (Dkt. No. 25, the "Order"), plaintiff Nike, Inc. ("Nike") and defendant StockX LLC ("StockX," and together with Nike, the "Parties") respectfully submit this joint letter to update the Court on the status of discovery.

I. Existing Deadlines, Due Dates, and/or Cut-Off Dates

Pursuant to Magistrate Judge Netburn's February 28, 2023 Order, expert discovery must be completed by **July 14, 2023**. (Dkt. No. 131.) Pursuant to Magistrate Judge Netburn's March 21, 2023 Order, affirmative expert reports shall be exchanged by **May 5, 2023**, rebuttal expert reports shall be exchanged by **June 2, 2023**, and expert depositions shall be conducted between **June 5** and **July 14, 2023**. (Dkt. No. 147.) No other deadlines, due dates or cut-off dates have been scheduled.

II. Outstanding Motions

StockX's March 21, 2023 letter motion to compel Nike to produce additional relevant documents and to supplement inadequate 30(b)(6) deposition testimony remains outstanding. (Dkt. No. 144.) The motion was fully briefed as of March 24, 2023. (Dkt. No. 151).

III. Status of Discovery and Any Additional Discovery That Needs to Be Completed

Fact discovery concluded on March 21, 2023, with the exception of any additional discovery that may be ordered in connection with StockX's March 21 motion to compel (Dkt. No. 144). The Parties are proceeding with expert discovery, which pursuant to Magistrate Judge Netburn's February 28, 2023 Order, must be completed by July 14, 2023.



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IV. Status of Settlement Discussions and Whether the Parties Would Like a Settlement Conference

To date, settlement discussions have been unsuccessful. The Parties appeared before Magistrate Judge Netburn for a settlement conference on July 18, 2022. (Dkt. Nos. 28, 49.) The Parties were unable to reach a resolution during that conference. Since then, however, the Parties have continued settlement discussions, including a January 26, 2023 meeting between the Parties without outside counsel present, and a March 10, 2023, mediation session with outside counsel before a private mediator, the Honorable Kathleen O'Malley. The Parties are continuing to engage with Judge O'Malley and remain open to exploring the possibility of settlement, but do not request a settlement conference with the court at this time.

V. Anticipated Length of Trial and Whether the Case Is to Be Tried to a Jury

The Parties anticipate a five to seven-day jury trial.

VI. Whether Any Party Anticipates Filing a Motion for Summary Judgment or Motion to Exclude Expert Testimony

Nike's Statement: At this time, Nike anticipates filing a motion for summary judgment. Affirmative expert disclosures will be served on May 5, 2023, and rebuttal expert disclosures on June 2, 2023. In the event that the parties file motions to exclude expert testimony, Nike proposes that such motions be due concurrently with any motions for summary judgment.

StockX's Statement: At this time, StockX anticipates filing a cross-motion for summary judgment. As opening and rebuttal expert reports will not be fully submitted until June 2, 2023, StockX cannot yet determine whether it anticipates filing any motions to exclude expert testimony. StockX believes it would be appropriate for the Court to consider a schedule for any motions for summary judgment and motions to exclude expert testimony once expert discovery is complete and the Parties better understand the quantity of motions at issue.

VII. Other Issues the Parties Would Like to Address at the Pretrial Conference

None at this time.

VIII. Other Information that the Parties Believe May Assist the Court in Advancing the Case to Settlement or Trial

None at this time.

The Parties thank the Court for its attention to this matter.



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Respectfully submitted,

/s/ Tamar Y. Duvdevani
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