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12 Attorneys for Plaintiff
 13 KAWHI LEONARD

14 UNITED STATES DISTRICT COURT
 15 SOUTHERN DISTRICT OF CALIFORNIA

17 KAWHI LEONARD,
 18 Plaintiff,
 19 v.
 20 NIKE, INC.
 21 Defendant.

CASE NO.: '19CV1035 BAS BGS

COMPLAINT FOR:
 DECLARATORY RELIEF
 [JURY TRIAL DEMANDED]

Action Filed:
 Trial Date: None set

24 Plaintiff KAWHI LEONARD (“Plaintiff” or “Leonard”), an individual, by
 25 and through his undersigned attorneys, hereby alleges as follows against Defendant
 26 NIKE, INC. (“Defendant” or “Nike”):

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1 **INTRODUCTION**

2 1. In 2011, just after being drafted to the National Basketball Association
3 (the “NBA”), Kawhi Leonard authored a unique logo that included elements that
4 were meaningful and unique to him. Leonard traced his notably large hand, and,
5 inside the hand, drew stylized versions of his initials “KL” and the number that he
6 had worn for much of his career, “2.” The drawing Leonard authored was an
7 extension and continuation of drawings he had been creating since early in his
8 college career.

9 2. Several years later, as part of an endorsement deal with Nike, Leonard
10 allowed Nike to use on certain merchandise the logo he created while Leonard
11 continued to use the logo on non-Nike goods.

12 3. Unbeknownst to Leonard and without his consent, Nike filed an
13 application for copyright registration of his logo and falsely represented in the
14 application that Nike had authored the logo.

15 4. Leonard intends to use the logo on clothing lines, footwear and on
16 other products and, among other things, in connection with sports camps and
17 charity functions, but Nike explicitly has objected to such uses.

18 5. As set forth below, Leonard brings this action seeking a declaratory
19 judgment of non-infringement and that Leonard is the author of the logo and Nike,
20 in registering for copyright of Leonard’s logo, committed fraud on the Copyright
21 Office.

22 **JURISDICTION AND VENUE**

23 6. This Court has original subject matter jurisdiction over Leonard’s
24 claims pursuant to the Federal Declaratory Judgments Act, 28 U.S.C. §§ 2201 and
25 2202, as well as under 28 U.S.C. § 1338.

26 7. Personal jurisdiction exists over Nike pursuant to California Code of
27 Civil Procedure § 410.10.

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1 16. Leonard has worn jersey number “2” through much of his career and,
2 at times before that, the number “22.”

3 **B. Leonard Authors the Logo**

4 17. Since at least his college years, Leonard contemplated and conceived
5 of ideas for a personal logo which would be unique to him and reflect something
6 meaningful relating to his own image.

7 18. In late December 2011 or January 2012, Leonard refined a logo he had
8 been creating for several years that encompassed his large and powerful hands, his
9 initials and his jersey number (the “Leonard Logo”).

10 19. Leonard shared his original work of authorship with family and
11 friends, solicited the advice and expertise of a creative designer, received comments
12 and suggestions, and made modifications to his design.

13 **C. Leonard and Nike**

14 20. On October 26, 2011, Nike and Leonard signed a “Men’s Pro
15 Basketball Contract” (the “Nike Agreement”).

16 21. The Nike Agreement term was from October 1, 2011 to September 30,
17 2014, and thereafter extended in a series of agreements finally expiring on
18 September 30, 2018.

19 22. The purpose of the Nike Agreement was for Leonard to provide
20 “personal services and expertise in the sport of professional basketball and
21 endorsement of the Nike brand and use of Nike products.”

22 23. At some point during the term of the Nike Agreement, Nike began
23 discussions with Leonard about creating a unique logo to affix to merchandise to be
24 sold under the Nike Agreement.

25 24. Nike provided to Leonard its ideas for modifying the logo that Leonard
26 had designed.

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1 25. Leonard for the most part rejected Nike's concepts and, instead,
2 forwarded to Nike the Leonard Logo which Leonard said he would permit Nike to
3 use during the term of the Nike Agreement (under his supervision and control).

4 26. Nike reviewed the Leonard Logo, modified it, and returned pro formas
5 to Leonard in the Spring 2014.

6 27. Leonard rejected those proposals as well.

7 28. In early Summer 2014, Nike provided additional proposals to Leonard
8 using the Leonard Logo.

9 29. Leonard accepted one of the June 2014 proposals and granted Nike
10 permission to affix that logo, based upon the Leonard Logo, on Nike merchandise
11 during the term of the Nike Agreement.

12 30. Nike confirmed that the agreed-upon logo had not previously been
13 registered by any third-party.

14 31. At the same time, Leonard's representatives confirmed that Leonard
15 continued to own the Leonard Logo.

16 32. Leonard never transferred the rights to the Leonard Logo to Nike –
17 conversely, as the many communications, including text and e-mails show, Leonard
18 permitted Nike to use the Leonard Logo for their mutual benefit and for the specific
19 purpose of effectuating the Nike Agreement for the term of the contract.

20 33. Indeed, Nike representatives recognized Leonard's rights to the
21 Leonard Logo – referring to it as "Kawhi's logo" in written communications with
22 Leonard.

23 34. Leonard, without dispute or challenge from Nike, continued to use the
24 Leonard Logo on non-Nike goods, including apparel and merchandise used for
25 basketball camps, appearances and charity events, even while Nike was affixing
26 Leonard's Logo to Nike merchandise.

27 35. Consistent with Nike's position as a party without any ownership in
28 the Leonard Logo, Nike refused to act several times when Leonard's

1 representatives learned that third-parties were using the Leonard Logo without
2 authorization and reached out to Nike for assistance and advice in halting the
3 unauthorized use.

4 **D. Nike’s Copyright Registration**

5 36. Without Leonard’s knowledge or consent, Nike filed an application
6 with the United States Copyright Office to register the “Kawhi Leonard Logo.”

7 37. On or about May 11, 2017, the application was granted and the
8 Leonard Logo was given Registration No. VA0002097900.

9 38. On the application, Nike claimed authorship of the Logo and rights
10 and permissions to the Leonard Logo.

11 39. Further, Nike claimed that the Leonard Logo was authored in 2014 and
12 first published on October 28, 2014.

13 40. Nike’s claim to ownership of the Leonard Logo is premised on the
14 false representations Nike made in its copyright application that it authored the
15 logo.

16 41. Nike never notified Leonard of its intention to attempt to copyright the
17 Leonard Logo nor did it notify Leonard when the copyright was awarded.

18 **E. Leonard’s Trademark Registration**

19 42. On November 9, 2017, Leonard applied for, and subsequently received
20 registration of, two trademarks in three different categories of registration
21 consisting of, and inspired by, Leonard’s creation of the Leonard Logo, one an
22 image of his hand, his initials and jersey number and a second logo based upon
23 letters and numbers corresponding to Leonard’s initials and jersey number (the
24 “Leonard Trademarks”).

25 43. As set forth above, Leonard had been developing, and authored, the
26 Leonard Logo on his own, independent of Nike, and continued to use the Leonard
27 Logo for non-Nike products while also permitting Nike to borrow the Leonard

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1 Logo in his joint pursuit with Nike to merchandise products within the scope of the
2 Nike Agreement and for the term of the Nike Agreement.

3 **F. The Controversy**

4 44. Leonard intends in the near future to use the Leonard Logo on apparel
5 and footwear that he is actively developing and intends to bring to market and to
6 affix on items he intends to distribute in connection with sports camps and charity
7 events, and to affix on other products to be determined. Use of the Leonard Logo
8 is vital to Leonard's ability to continue to grow his brand and expand both his
9 commercial reach and influence with charities with which he is involved.

10 45. On December 21, 2018, John Matterazzo, Nike's VP & Global
11 Counsel for Sports Marketing, wrote to one of Leonard's representatives, stating
12 that Nike owns the Leonard Logo pursuant to the Nike Agreement and Nike's
13 copyright registration of the Leonard Logo. Matterazzo demanded that Leonard
14 cease using the Leonard Logo on non-Nike merchandise.

15 46. On January 30, 2019, Leonard's counsel responded by requesting that
16 Nike rescind its copyrights in the Leonard Logo and informing Nike that Leonard
17 intended to continue to use the Leonard Logo and Leonard Trademarks on non-
18 Nike merchandise and might affix the Leonard Logo and Leonard Trademarks to
19 the shoes he would be wearing as a player for the Raptors.

20 47. On March 11, 2019, Nike responded that it owns all intellectual
21 property rights in the Leonard Logo and demanding that Leonard immediately
22 cease and desist from what Nike claimed was the unauthorized use of the Leonard
23 Logo.

24 **CLAIM FOR RELIEF**

25 (Declaratory Judgment)

26 48. Plaintiff incorporates by reference each and every allegation in the
27 foregoing paragraphs of this Complaint.

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- 1 (iii) Defendant committed fraud on the Copyright Office in
- 2 registering the Leonard Logo; and
- 3 (b) Any such other and further relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff Kahwi Leonard, an individual, hereby demands a jury trial.

7 DATED: June 3, 2019

8 **SULLIVAN & WORCESTER LLP**
 By: PETER R. GINSBERG
 (PRO HAC VICE PENDING)
 MITCHELL C. STEIN
 CLARK A. FREEMAN

11 **DUCKOR SPRADLING METZGER &**
WYNNE
 A Law Corporation

14 Bv: /s/ Scott L. Metzger
 SCOTT L. METZGER
 WILLIAM P. KEITH

17 Attorneys for Plaintiff
 KAWHI LEONARD

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The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
KAWHI LEONARD
(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)
(c) Attorneys (Firm Name, Address, and Telephone Number)
Duckor Spradling Metzger & Wynne
101 W. Broadway, Ste. 1700
San Diego, CA 92101 (619) 209-3000

DEFENDANTS
NIKE, INC.
County of Residence of First Listed Defendant Washington Co. OR
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known) '19CV1035 BAS BGS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff, and One Box for Defendant)
(For Diversity Cases Only)
Citizen of This State PTF DEF
Citizen of Another State PTF DEF
Citizen or Subject of a Foreign Country PTF DEF

IV. NATURE OF SUIT (Place an "X" in One Box Only)
CONTRACT: 110 Insurance, 120 Marine, 130 Miller Act, 140 Negotiable Instrument, 150 Recovery of Overpayment & Enforcement of Judgment, 151 Medicare Act, 152 Recovery of Defaulted Student Loans (Excludes Veterans), 153 Recovery of Overpayment of Veteran's Benefits, 160 Stockholders' Suits, 190 Other Contract, 195 Contract Product Liability, 196 Franchise
REAL PROPERTY: 210 Land Condemnation, 220 Foreclosure, 230 Rent Lease & Ejectment, 240 Torts to Land, 245 Tort Product Liability, 290 All Other Real Property
TORTS: PERSONAL INJURY: 310 Airplane, 315 Airplane Product Liability, 320 Assault, Libel & Slander, 330 Federal Employers' Liability, 340 Marine, 345 Marine Product Liability, 350 Motor Vehicle, 355 Motor Vehicle Product Liability, 360 Other Personal Injury, 362 Personal Injury - Medical Malpractice
PERSONAL INJURY: 365 Personal Injury - Product Liability, 367 Health Care/Pharmaceutical Personal Injury Product Liability, 368 Asbestos Personal Injury Product Liability, 370 Other Fraud, 371 Truth in Lending, 380 Other Personal Property Damage, 385 Property Damage Product Liability
PRISONER PETITIONS: Habeas Corpus: 463 Alien Detainee, 510 Motions to Vacate Sentence, 530 General, 535 Death Penalty; Other: 540 Mandamus & Other, 550 Civil Rights, 555 Prison Condition, 560 Civil Detainee - Conditions of Confinement
FORFEITURE/PENALTY: 625 Drug Related Seizure of Property 21 USC 881, 690 Other
LABOR: 710 Fair Labor Standards Act, 720 Labor/Management Relations, 740 Railway Labor Act, 751 Family and Medical Leave Act, 790 Other Labor Litigation, 791 Employee Retirement Income Security Act
IMMIGRATION: 462 Naturalization Application, 465 Other Immigration Actions
BANKRUPTCY: 422 Appeal 28 USC 158, 423 Withdrawal 28 USC 157
PROPERTY RIGHTS: 820 Copyrights, 830 Patent, 840 Trademark
SOCIAL SECURITY: 861 HIA (1395ff), 862 Black Lung (923), 863 DIWC/DIWW (405(g)), 864 SSID Title XVI, 865 RSI (405(g))
FEDERAL TAX SUITS: 870 Taxes (U.S. Plaintiff or Defendant), 871 IRS - Third Party 26 USC 7609
OTHER STATUTES: 375 False Claims Act, 400 State Reapportionment, 410 Antitrust, 430 Banks and Banking, 450 Commerce, 460 Deportation, 470 Racketeer Influenced and Corrupt Organizations, 480 Consumer Credit, 490 Cable/Sat TV, 850 Securities/Commodities/Exchange, 890 Other Statutory Actions, 891 Agricultural Acts, 893 Environmental Matters, 895 Freedom of Information Act, 896 Arbitration, 899 Administrative Procedure Act/Review or Appeal of Agency Decision, 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multi-district Litigation

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. secs. 2201 and 2202, 28 U.S.C. sec. 1338
Brief description of cause:
Declaratory Relief

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ N/A
CHECK YES only if demanded in complaint: JURY DEMAND: [X] Yes [] No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE DOCKET NUMBER

DATE June 3, 2019 SIGNATURE OF ATTORNEY OF RECORD /s/ Scott L. Metzger

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE



INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I. (a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

AO 121 (6/90)

TO: <p style="text-align: center;">Register of Copyrights Copyright Office Library of Congress Washington, D.C. 20559</p>	<p>REPORT ON THE FILING OR DETERMINATION OF AN ACTION OR APPEAL REGARDING A COPYRIGHT</p>
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In compliance with the provisions of 17 U.S.C. 508, you are hereby advised that a court action or appeal has been filed on the following copyright(s):

<input checked="" type="checkbox"/> ACTION <input type="checkbox"/> APPEAL		COURT NAME AND LOCATION United States District Court, Southern District of California 333 West Broadway, Suite 420 San Diego, CA 92101
DOCKET NO. 19CV1035 BAS BGS	DATE FILED 6/3/2019	
PLAINTIFF Kawhi Leonard		DEFENDANT Nike, Inc.
COPYRIGHT REGISTRATION NO.	TITLE OF WORK	AUTHOR OR WORK
1 VA0002097900.	Kawhi Leonard Logo	Nike, Inc.
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3		
4		
5		

In the above-entitled case, the following copyright(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading			
COPYRIGHT REGISTRATION NO.	TITLE OF WORK		AUTHOR OF WORK	
1				
2				
3				

In the above-entitled case, a final decision was rendered on the date entered below. A copy of the order or judgment together with the written opinion, if any, of the court is attached.

COPY ATTACHED <input type="checkbox"/> Order <input type="checkbox"/> Judgment	WRITTEN OPINION ATTACHED <input type="checkbox"/> Yes <input type="checkbox"/> No	DATE RENDERED
CLERK	(BY) DEPUTY CLERK	DATE

- DISTRIBUTION:**
- 1) Upon initiation of action, mail copy to Register of Copyrights
 - 2) Upon filing of document adding copyright(s), mail copy to Register of Copyrights
 - 3) Upon termination of action, mail copy to Register of Copyrights
 - 4) In the event of an appeal, forward copy to Appellate Court
 - 5) Case File Copy