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OCW 1-38? William F. Highberger

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GIRARDI | KEESE
THOMAS V. GIRARDI, SBN 36603
tgirardi@girardikeese.com
GRAHAM B. LIPPSMITH, SBN 221984
glippsmith@girardikeese.com
1126 Wilshire Boulevard
Los Angeles, California 90017
Telephone: (213) 977-0211 / Facsimile: (213) 481-1554

FILED
LOS ANGELES SUPERIOR COURT
MAY 17 2013
JOHN A. CLARKE, CLERK
[Signature]
BY MARY FLORES, DEPUTY

LAW OFFICES OF PAUL N. PHILIPS, APLC
PAUL N. PHILIPS, CA Bar No. 187928
9255 West Sunset Boulevard, Suite 920
Los Angeles, California 90069
Telephone: (310) 854-6900 / Facsimile: (310) 854-6902

Attorneys for PLAINTIFFS and the CLASS

**SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES**

CAROLYN LEVIN, in Her Individual
and Representative Capacity on Behalf
of a Class of All Persons Similarly-
Situated,

Plaintiff,

v.

NIKE, INC.; an Oregon Corporation;
APPLE, INC., a California Corporation;
and DOES 1 through 10, inclusive,

Defendants.

CASE NO. BC 509363

COMPLAINT FOR DAMAGES

COUNTS:

- 1. NEGLIGENT MISREPRESENTATION;
- 2. FRAUDULENT MISREPRESENTATION;
- 3. VIOLATION OF CALIFORNIA BUSINESS & PROFESSIONS CODE § 17200, *ET SEQ.*;
- 4. VIOLATION OF CALIFORNIA BUSINESS & PROFESSIONS CODE § 17500, *ET SEQ.*

DEMAND FOR JURY TRIAL

BY FAX

RECEIPT #: CCH478057110
DATE PAID: 05/17/13 04:19 PM
PAYMENT: \$1,435.00
RECEIVED: 310
CHECK: \$1,435.00
CASH: \$0.00
CHANGE: \$0.00
TEND: \$0.00

CIT/CASE: BC509363
LEH/DEF#:

1
2
3 **COMPLAINT FOR DAMAGES**

4 COMES NOW PLAINTIFF Carolyn Levin, in her individual and representative
5 capacities and on behalf of herself and all persons similarly-situated, by her undersigned
6 attorneys, and alleges as follows:

7 **PARTIES**

8 1. Plaintiff Carolyn Levin (“Levin”) is an individual residing in Los Angeles
9 County, California. Levin purchased several Nike+ FuelBands during the class period set
10 forth below;

11 2. Defendant Nike, Inc. (“Nike”) is and was at all times relevant herein an Oregon
12 corporation doing substantial business in the State of California, County of Los Angeles.

13 3. Defendant Apple, Inc. (“Apple”) is and was at all times relevant herein a
14 California corporation, and therefore a citizen of California, operating out of and doing
15 substantial business in the State of California, County of Los Angeles.

16 4. Nike and Apple are referred to collectively herein as “Defendants.” For at least
17 some portion of and during the class period described below, each of the Defendants
18 advertised, marketed and sold Nike’s Nike+ FuelBand product.

19 5. The true names and capacities of Defendants DOES ONE through TEN are
20 unknown to Plaintiff, and Plaintiff will seek leave of court to amend this complaint to allege
21 such names and capacities as soon as they are ascertained. Each of the defendants
22 concerned herein was the agent, joint venturer or employee of each of the remaining
23 defendants, and in doing the things hereinafter alleged, each was acting in the course and
24 scope of said agency, employment or joint venture with advance knowledge of,
25 acquiescence in or subsequent ratification of the acts of each and every other remaining
26 defendant.

27
28 \\\

1 CLASS ACTION ALLEGATIONS

2 6. Plaintiff brings this action on behalf of herself and as a representative of all
3 others who are similarly-situated and who fall within the following class definition: All
4 individuals or entities who purchased from any of the Defendants a Nike+ FuelBand on or
5 after January 19, 2012 (the "Class Period").

6 7. Those individuals and entities are herein referred to as "Class Members" or
7 "the Class." The proposed "Class Representative" is Levin, who falls within the definition
8 of a Class Member.

9 8. The Class Members are so numerous and geographically diverse that joinder is
10 impracticable. On information and belief there have been hundreds of thousands of Nike+
11 FuelBands sold throughout the world, and also on information and belief, there are at least
12 tens of thousands of Class Members spread throughout the State of California.

13 9. The Class Representative will fairly, adequately, and vigorously represent the
14 interests of the Class, and is highly motivated to prosecute the within action.

15 10. Questions of law and fact common to all potential Class Members predominate
16 over any questions affecting only individual Class Members. Among the common
17 questions of law and fact to the Class Members are:

- 18 • Whether Defendants misrepresented the ability of the Nike+ FuelBand to
19 accurately track every calorie burned by a FuelBand user engaged in
20 physical activity while wearing the FuelBand;
- 21 • Whether Defendants perpetrated fraud by knowingly misrepresenting
22 that the Nike+ FuelBand could accurately track every calorie burned by
23 a FuelBand user engaged in physical activity while wearing the
24 FuelBand;
- 25 • Whether Defendants violated California Business & Professions Code
26 §§ 17200 *et seq.* by perpetrating unfair or fraudulent acts by means of
27 misrepresentations to the effect that the Nike+ FuelBand could
28 accurately track every calorie burned by a FuelBand user engaged in

1 physical activity while wearing the FuelBand;

- 2 • Whether Defendants violated California Business & Professions Code
- 3 §§ 17500 *et seq.* by affirmatively promulgating and implementing false
- 4 and misleading advertising to the specific effect that the Nike+ FuelBand
- 5 could accurately track every calorie burned by a FuelBand user engaged
- 6 in physical activity while wearing the FuelBand;
- 7 • Whether Defendants caused the Class Members damages by reason of
- 8 their misrepresentations;
- 9 • Whether Defendants caused the Class Members damages by reason of
- 10 their fraudulent conduct;
- 11 • Whether Defendants unfairly or fraudulently took money from the Class
- 12 Members by conduct perpetrated in violation of California Business &
- 13 Professions Code § 17200 *et seq.*;
- 14 • Whether Defendants unfairly or fraudulently took money from the Class
- 15 Members by conduct perpetrated in violation of California Business &
- 16 Professions Code § 17500 *et seq.*; and
- 17 • Whether Defendants committed acts with fraud, oppression, and/or
- 18 malice.

19 11. These common questions predominate over all Class Members' claims,
20 including those of the Class Representative. Indeed, there is essentially no difference
21 between the Class Representative's claims and the other Class Members' claims. As a
22 result, the Class Representative's claims are typical of, if not identical to, claims owned by
23 and to be asserted by the rest of the Class Members.

24 12. Class action treatment is superior to the alternatives, if any, for the fair and
25 efficient adjudication of the controversy alleged herein. Such treatment will permit a large
26 number of similarly situated persons to prosecute their common claims in a single forum
27 simultaneously, efficiently, and without duplication. Separate trials adjudicating
28 Defendants' liability will be inefficient, and will create the risk of producing inconsistent

1 verdicts. Consolidating the litigation of all Class Members will enhance judicial economy
2 and promote substantial justice. Class treatment will also permit the adjudication of
3 relatively small claims by many of the Class Members who could not individually afford to
4 litigate the claims asserted herein. There are no absolutely difficulties that would preclude
5 class action treatment of this lawsuit, and no superior alternative exists for the fair and
6 efficient adjudication of the controversies asserted herein.

7 13. Concentrating the Class Members' claims in the Los Angeles Superior Court is
8 preferable to maintaining this action in any other venue. This venue has a logical
9 connection to the events underlying action, since the lion's share of the conduct underlying
10 this suit occurred here, and since a substantial number of the Class Members purchased their
11 Nike+ FuelBands in Los Angeles County and reside here.

12 13 VENUE & JURISDICTION

14 14. Plaintiff files this action in Los Angeles Superior Court, where venue has been
15 and remains proper under California Code of Civil Procedure § 395.

16 15. The California Superior Court is the proper jurisdiction for this case pursuant
17 to 28 U.S.C. § 1332 because:

- 18 • All Class Members are California citizens;
- 19 • Apple is a California citizen from whom significant relief is sought by
20 the proposed Class and whose conduct described herein forms a
21 significant basis for the claims asserted by the proposed Class;
- 22 • Plaintiff and the proposed Class' principal injuries resulting from the
23 conduct of each Defendant were incurred in California, where this action
24 is originally filed; and
- 25 • Plaintiff is unaware of any other class action that has been filed asserting
26 the same or similar factual allegations against any of the defendants on
27 behalf of the same or other persons.

1 GENERAL ALLEGATIONS

2 16. Nike has dominated the sports apparel and technology industries for decades,
3 and has established itself as a global leader in both the professional and consumer sports and
4 fitness advertising and sales sectors. The Nike+ FuelBand has been a major component of
5 Nike's overall equipment sales since its early 2012 release.

6 17. Apple has dominated the personal technology industries for decades,
7 establishing itself as the most widely-known and prolific advertiser and distributor of
8 personal technology items available to consumers today.

9 18. Since approximately 2006, Nike and Apple have embarked upon various
10 partnership ventures in the sporting technology sector, forming a powerful alliance designed
11 to massively increase profit for both companies, and to supply evolving sporting technology
12 products to the purchasing consumer such as Levin and others similarly-situated.

13 19. The Nike+ FuelBand, one such product manufactured and sold by Defendants,
14 is wearable personal technology in the form of a wristband that Defendants advertise as
15 capable of tracking every calorie burned by a FuelBand user engaged in physical activity
16 while wearing the FuelBand. In particular, both Defendants consistently advertise to the
17 general public in the promotional materials and at points of sale that the FuelBand
18 "measures each step taken *and calorie burned*," "[t]racks steps, *calories*, and time of day"
19 and "tracks *calories burned*, steps taken and more" (emphasis added).

20 20. In truth, the Nike+ FuelBand cannot and does not track each calorie burned,
21 and users experience wildly inaccurate calorie burn readings when using the FuelBand.
22 Defendants were aware when the FuelBand was first marketed, advertised and sold to Levin
23 and the buying public, and remained aware throughout the Class Period, that the FuelBand
24 was incapable of accurately tracking ever calorie burned by FuelBand users, and that their
25 advertising was therefore false and misleading. As a result of Defendants' conduct, buyers
26 of the FuelBand, including the Class Members, were in fact misled into purchasing a device
27 that Defendants purported would track calories burned when it in fact cannot does not and
28 cannot track calories burned, misleading and damaging consumers.

1 21. Despite their knowledge of the FuelBand's inability to accurately track each of
2 a user's calories burned, during the Class Period Defendants promulgated and implemented
3 the false and misleading advertising alleged herein as part of a business scheme designed to
4 unfairly and unlawfully reap substantial profits at the expense of Levin and the Class.

5 22. To accomplish their scheme, Defendants each advertised and offered to the
6 Class Members, by means of various media, the opportunity to purchase the Nike+
7 FuelBand. Attached hereto as Exhibits 1-4 are some examples of Defendants'
8 advertisements. Levin witnessed and received several such offers throughout the Class
9 Period.

10 23. Levin, like all FuelBand purchasers, reasonably expected that the FuelBands
11 she purchased were capable of accurately tracking every calorie burned while wearing the
12 device and in fact bought the device because she believed it would in fact accurately track
13 calories burned. Based on that expectation, based further on the claims made by
14 Defendants, and also based upon what Levin believed were trustworthy reputations by
15 Defendants, Levin purchased multiple Nike+ FuelBands in Los Angeles County, for both
16 personal use and to give as gifts.

17 24. Despite Defendants' promises to Levin, the FuelBands purchased by Levin,
18 and in fact all of the FuelBands sold by Defendants, are and remain incapable of performing
19 that accurate calorie burn tracking function that Defendants represented they are able to
20 perform, and Defendants' misrepresentations as such have continued throughout the Class
21 Period.

22 25. Throughout the Class Period and continuing to this day, Defendants have
23 dramatically increased their sales of the Nike+ FuelBand by means of utilizing the false and
24 misleading representations and advertising promulgated and implemented by them as
25 alleged herein, and Defendants have failed to remedy the inability of the FuelBand to
26 accurately track the number of calories burned by a FuelBand user. As a result, despite
27 Defendants' claims that the Nike+ FuelBand accurately tracks every calorie burned, the
28 FuelBand remains wholly unable to calculate or provide an accurate caloric burn reading,

1 no matter who the user of the FuelBand is, and no matter what type of activity that user
2 engages in.

3
4 **CAUSES OF ACTION**

5 **FIRST CAUSE OF ACTION: NEGLIGENT MISREPRESENTATION**

6 (Against All Defendants by Plaintiff in Her Individual and Representative Capacity on
7 Behalf of the Class)

8 26. Plaintiff hereby incorporates by reference all of the above paragraphs as though
9 set forth fully herein in form and substance.

10 27. Throughout the Class Period, Defendants had a duty to accurately represent the
11 capabilities of the Nike+ FuelBand for sale to the public, and to refrain from making
12 representations about the FuelBand that were likely or certain to mislead the buying public,
13 including Levin and the Class Members and all others similarly-situated, and likewise had a
14 duty to refrain from making material representations they knew or should have known to be
15 false and misleading regarding the FuelBand and its technological capabilities.

16 28. By means of the conduct alleged herein, including without limitation the
17 making of misrepresentations regarding the FuelBand's ability to track every calorie
18 burned, which misrepresentations Defendants knew or should have known were false and
19 likely to mislead Levin and the Class Members and all those similarly-situated, Defendants
20 breached their duties to Levin and all Class Members.

21 29. At all times, Levin was unaware of the falsity of Defendants' representations.

22 30. As a direct and proximate result of Defendants' misrepresentations, Levin
23 purchased FuelBands that in fact do not accurately track calories burned, suffering damages
24 in amounts to be determined at trial within the jurisdiction of this Court, said damages to
25 include at least the full price paid by Levin for each Nike+ FuelBand.

26 31. Defendants' intentional conduct in misleading Levin and violating her rights,
27 and in willfully concealing from Plaintiff those facts Defendants knew made their
28 representations and advertisements false, was carried out with such depravity, malice and

1 fraudulent intent directed at Levin and all others similarly-situated, and with such conscious
2 disregard for Levin's rights and financial and other well-being, as to fall squarely within the
3 definition of conduct justifying an award of exemplary damages to punish and make an
4 example of Defendants and each of them.

5
6 **SECOND CAUSE OF ACTION: FRAUDULENT MISREPRESENTATION**

7 (Against All Defendants by Plaintiff in Her Individual and Representative Capacity on
8 Behalf of the Class)

9 32. Plaintiff hereby incorporates by reference all of the above paragraphs as though
10 set forth fully herein in form and substance.

11 33. Throughout the Class Period, Defendants represented to Levin that in exchange
12 for her payment of money, Defendants would provide a Nike+ FuelBand specifically
13 capable of accurately tracking every calorie burned by her as a result of her physical activity
14 undertaken while wearing the FuelBand on her wrist. Defendants made these
15 representations in various media, including without limitation Internet marketing, product
16 packaging and in-store advertising, some of which are attached hereto as Exhibits 1-4.

17 34. Defendants' representations were false at the time they made them because
18 Defendants in fact the FuelBand cannot and does not track every calorie burned by a
19 FuelBand user, and in fact Defendants knew that their FuelBand product was entirely
20 unable to track each calorie burned as Defendants had falsely represented. Defendants
21 knew their representations were false at the time they made them, and had no reason, at any
22 time, upon which to base a belief in their truth.

23 35. By Defendants' misrepresentations, Defendants wrongfully sought to induce
24 Levin to purchase one or more Nike+ FuelBands, and Levin was in fact induced to purchase
25 several FuelBands, believing that each would do as Defendants had represented, *to wit*,
26 track every calorie burned by a FuelBand user engaged in physical activity while wearing a
27 FuelBand.

28 \\\

1 36. At all times, Levin was unaware of the falsity of Defendants' representations.

2 37. As a direct and proximate result of Defendants' misrepresentations, Levin
3 purchased FuelBands that in fact do not accurately track calories burned, suffering damages
4 in amounts to be determined at trial within the jurisdiction of this Court, said damages to
5 include at least the full price paid by Levin for each Nike+ FuelBand.

6 38. Defendants' intentional conduct in misleading Levin and violating her rights,
7 and in willfully concealing from Plaintiff those facts Defendants knew made their
8 representations and advertisements false, was carried out with such depravity, malice and
9 fraudulent intent directed at Levin and all others similarly-situated, and with such conscious
10 disregard for Levin's rights and financial and other well-being, as to fall squarely within the
11 definition of conduct justifying an award of exemplary damages to punish and make an
12 example of Defendants and each of them.

13
14 **THIRD CAUSE OF ACTION: VIOLATION OF CALIFORNIA BUSINESS AND**
15 **PROFESSIONS CODE §§ 17200 ET SEQ.**

16 (Against All Defendants by Plaintiff in Her Individual and Representative Capacity on
17 Behalf of the Class)

18 39. Plaintiff hereby incorporates by reference all of the above paragraphs as though
19 set forth fully herein in form and substance.

20 40. By reason of the conduct alleged herein, Defendants engaged in unlawful,
21 fraudulent and unfair business practices that included, but were not limited to:

- 22 • Misleading Levin and the Class into purchasing the FuelBand, that
23 Defendants falsely represented was capable of accurately tracking every
24 calorie burned as a result of physical activity undertaken while wearing
25 the FuelBand, knowing that these statements were false and likely to
26 induce Levin and the Class Members into purchasing the FuelBand;
- 27 ■ Promulgating and implementing advertising that was false and was both
28 designed to and likely to mislead Levin and the Class in order to reap a

1 tremendous profit at Levin and the Class' expense; and

- 2 • Accepting from Levin and the Class payment for Nike+ FuelBands that
3 were sold under false pretenses and that Defendants knew were not as
4 Defendants represented them to be, namely, that they could not track
5 every calorie burned by a FuelBand user as Defendants represented they
6 could.

7 41. Defendants' actions constitute unlawful business acts or practices within the
8 meaning of California Business & Professions Code §§ 17200 *et seq.*

9 42. Accordingly, Plaintiff may obtain and is entitled to all remedies and penalties
10 authorized by the statute, including without limitation restitution, disgorgement, injunctive
11 relief, and other penalties for each illegal or fraudulent business act or practice, and
12 attorneys' fees pursuant to statute and the Court's equitable powers, in amounts subject to
13 proof.

14
15 **FOURTH CAUSE OF ACTION: VIOLATION OF CALIFORNIA BUSINESS AND**
16 **PROFESSIONS CODE §§ 17500 *ET SEQ.***

17 (Against All Defendants by Plaintiff in Her Individual and Representative Capacity on
18 Behalf of the Class)

19 43. Plaintiff hereby incorporates by reference all of the above paragraphs as though
20 set forth fully herein in form and substance.

21 44. As alleged herein, Defendants engaged in false advertising practices that
22 included, but were not limited to:

- 23 • Using false and misleading advertizing to offer and induce Levin and the
24 Class into purchasing the FuelBand, that Defendants falsely represented
25 was capable of accurately tracking every calorie burned as a result of
26 physical activity undertaken while wearing the FuelBand, knowing that
27 these statements were false and likely to induce Levin and the Class
28 Members into purchasing the FuelBand;

- 1 • Promulgating and implementing advertising that was false and was both
2 designed to and likely to mislead Levin and the Class in order to reap a
3 tremendous profit at Levin and the Class' expense; and
4 • Accepting from Levin and the Class payment for Nike+ FuelBands that
5 were marketed and sold under false pretense and that Defendants knew
6 were not as Defendants represented them to be, namely, that they could
7 not track every calorie burned by a FuelBand user as Defendants
8 represented they could.

9 45. Defendants' actions constitute unlawful business acts or practices within the
10 meaning of California Business & Professions Code §§ 17200, *et seq.*

11 46. Accordingly, Plaintiff may obtain and is entitled to all remedies and penalties
12 authorized by the statute, including without limitation restitution, disgorgement, and other
13 penalties for each illegal or fraudulent business act or practice, and attorneys' fees pursuant
14 to statute and the Court's equitable powers, in amounts subject to proof.

15
16 **PRAYER FOR RELIEF**

17
18 **WHEREFORE**, Plaintiff prays for judgment and relief as follows:

- 19 1. For a declaration that this lawsuit may properly maintained as a class action,
20 and a declaration certifying the Class Representative's claims herein;
21 2. For general damages in an amount to be proven at trial;
22 3. For special damages in an amount to be proven at trial;
23 4. For disgorgement of profits and for restitution in amounts to be proven at trial;
24 5. For injunctive relief;
25 6. For any other available penalties for each illegal or fraudulent business act or
26 practice;
27 7. For attorneys' fees pursuant to statute and the Court's equitable powers, in
28 amounts subject to proof;

- 1 8. For exemplary damages pursuant to California Code of Civil Procedure §3294;
2 9. For prejudgment interest; and
3 10. For such other and further relief as may be just and proper.
4

5 **DEMAND FOR JURY TRIAL**

6
7 Plaintiff hereby demands trial of the within causes by jury.
8

9 Dated: May 17, 2013

GIRARDI | KEESE

10
11 By: 

12 **THOMAS V. GIRARDI**
13 **GRAHAM B. LIPPSMITH**
14 Attorneys for Plaintiff

15 Dated: May 17, 2013

LAW OFFICES OF PAUL N. PHILIPS, APLC

16
17 By: 

18 **PAUL N. PHILIPS**
19 Attorneys for Plaintiff
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05 / 17 / 2013

EXHIBIT 1

NIKE+ FUEL BAND



GET SUPPORT

BUY

LOG IN TO NIKE

You must update your password to meet the following requirements:

- Be between 8-36 characters
- Include at least 1 number
- Include a mix of upper and lower case letters
- Cannot be same as screen name or username

Current Password

New Password

Password Requirements

- Contain between 8-36 characters
- Contain at least 1 mixed case letter
- Contain at least 1 number
- Not be the same as Screen Name
- Confirm New Password

Cancel Save

THANK YOU

Your password has successfully been updated.

Click for a different version of this web site containing similar content optimized for screen readers

[RETURN HOME](#) [SKIP TO MAIN CONTENT](#)

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- [CLOTHING](#)
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- [NEW RELEASES](#)
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- [NFL FAN GEAR](#)
- [CLEARANCE](#)

Your email or password was entered incorrectly.

Keep me logged in [Password help](#)

[LOG IN](#)

enter your email address and we'll email you instructions to reset your password.

[Send](#)

To reset your password, please follow the instructions sent to your email address.

You'll receive an email shortly.

BECOME A NIKE MEMBER

[JOIN](#)



RUNNING



BASKETBALL



FOOTBALL



SOCCER



MEN'S TRAINING



WOMEN'S TRAINING

-
- BASEBALL
 - GOLF
 - SKATEBOARDING
 - SNOWBOARDING
 - TENNIS

HOME

MEN

WOMEN

KIDS

NIKEiD

Customize our best products.



HOME



NIKE+ GEAR



PLACES



WHAT IS NIKEFUEL?

Nike+

MAKE IT COUNT WITH NIKE+

Stay motivated, challenged, and connected.

[LOG IN](#)

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DASHBOARD



ACTIVITY



PLACES



NIKE+ GEAR

Which Nike.com country or region do you want to visit?

[See all](#)

NOTIFICATIONS

{notification_image}

{notification_title} {notification_body}

{notification_time}

[See all >](#)

YOU HAVE NO NOTIFICATIONS.

BECOME A NIKE MEMBER

Create one account to manage everything you do with Nike, from your shopping preferences to your Nike+ activity. You'll enjoy personal services and great benefits including:

- Free shipping on orders of \$100 or more (excluding NIKEiD)
- Free returns on all orders
- Express checkout
- The ability to save and share products
- Easy order tracking

Make it count with Nike+

Your Nike membership includes access to all the benefits of Nike+. Track your athletic activity, get motivated and share or compare with friends.

First Name* Last Name* Email Address*

Password*

Password Requirements

Contain between 8-36 characters

Contain at least 1 mixed case letter

Contain at least 1 number

Not be the same as Screen Name

Confirm Password*

Screen Name*

Date of Birth* MM DD YYYY

Gender*

Female Male

Zipcode*

***Required Fields**

Sign up for Nike emails to hear about the latest styles and special offers
By clicking SIGN UP, you are agreeing to the [Nike Policy](#) and [Terms & Conditions](#).

Welcome to Nike

Your Nike account has been created. We'll send you a confirmation email shortly.

Your Nike account has been created, and you'll start receiving Nike emails soon. We'll send you a confirmation email shortly.

As a Nike member, you'll enjoy the following benefits:

Free shipping on orders of \$100 or more (excludes NIKEiD)

Just log in when you purchase on Nike.com for free shipping.

Free returns and exchanges on all orders (excludes NIKEiD)

It's easy. Just log in to your account and print a free return label.

The benefits of Nike+

Track your athletic activity, get motivated and share or compare with friends.

Rate and review products

Share your opinions with the Nike community and help us make our products even better.

Receive Nike emails

Be the first to know about special offers and new products.

Update Profile

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[ADDED TO CART](#)

[ADDED TO MYLOCKER](#)

Give a gift that fits everyone.

Size: Qty: @

Standard gift card delivery is free

Subtotal

[VIEW CART \(\) CHECKOUT](#)

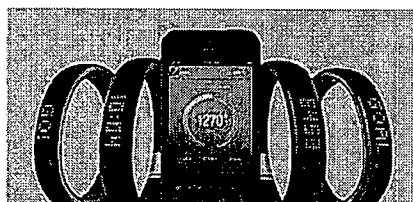
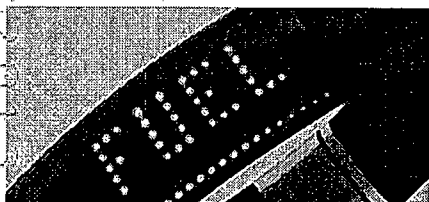
[VIEW MYLOCKER](#)

You have no items in your cart

BLACK WHITE ICE BLACK ICE

**LIFE IS A SPORT.
MAKE IT COUNT.**

See how active you are and get motivated to move more.





TRACK YOUR DAY

The Nike+ FuelBand uses a sports-tested accelerometer to measure your movement in NikeFuel, a universal metric of activity.



SET A GOAL

Decide how active you want to be by setting a daily NikeFuel goal. Then, get moving and see your progress along the way.



CONNECT AND GO

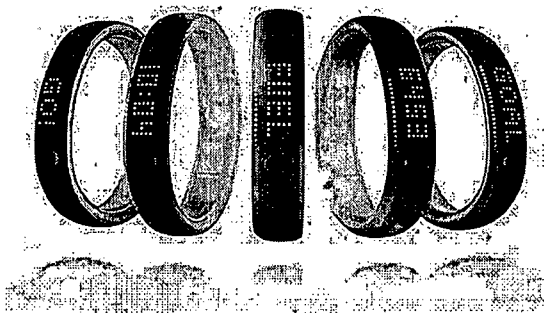
Sync with the Nike+ FuelBand app and see your activity history, stay motivated, and connect with your friends.

Already have a Nike+ FuelBand?

Visit Nikeplus.com/setup to get started and get moving with Nike+.



HOW IT WORKS



WHAT IT TRACKS

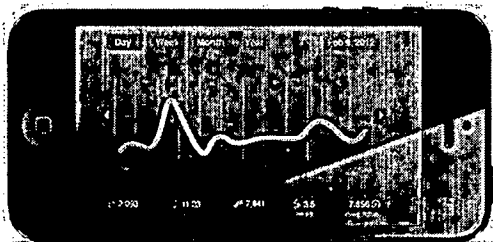
Through a sports-tested accelerometer, Nike+ FuelBand tracks your daily activity including running, walking, basketball, dancing and dozens of everyday activities. It tracks each step taken and calorie burned. It also tells the time of day.

SET A GOAL

Decide how active you want to be by setting a daily NikeFuel goal. The band's LED display lights up from red to green showing your progress throughout the day.

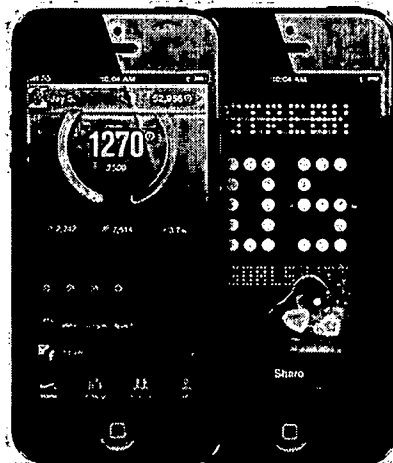


05/17/2013



SEE YOUR PROGRESS

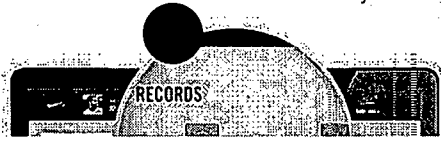
Visualize your daily activity to see when you're most active - and when you're not. Nike+ helps you understand your activity patterns to help you do more.



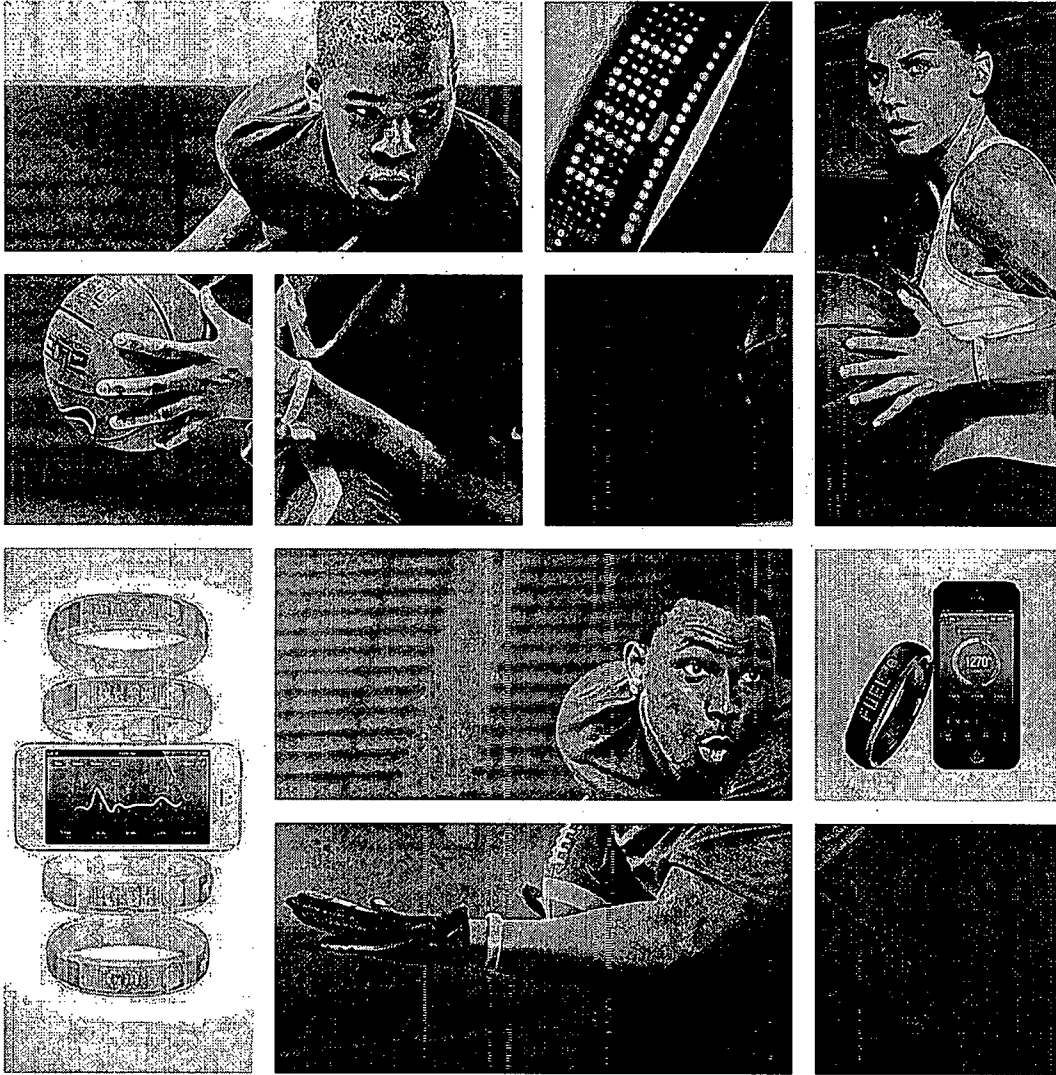
STAY MOTIVATED

Receive achievements and rewards as you do more. Get on a streak, exceed your goal, and hit milestones along the way.

05/17/2013



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05



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 AIR MAX Follow Like 1.5m



NIKE
 Follow Like 12m



NIKEiD
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SHAWN JOHNSON
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05 / 17 / 2013

05/17/2013

EXHIBIT 2

UPDATE YOUR PASSWORD

You must update your password to meet the following requirements:

- Be between 8-36 characters
- Include at least 1 number
- Include a mix of upper and lower case letters
- Cannot be same as screen name or username

Current Password

New Password

Password Requirements

- Contain between 8-36 characters
- Contain at least 1 mixed case letter
- Contain at least 1 number
- Not be the same as Screen Name

Confirm New Password

THANK YOU

Your password has successfully been updated.

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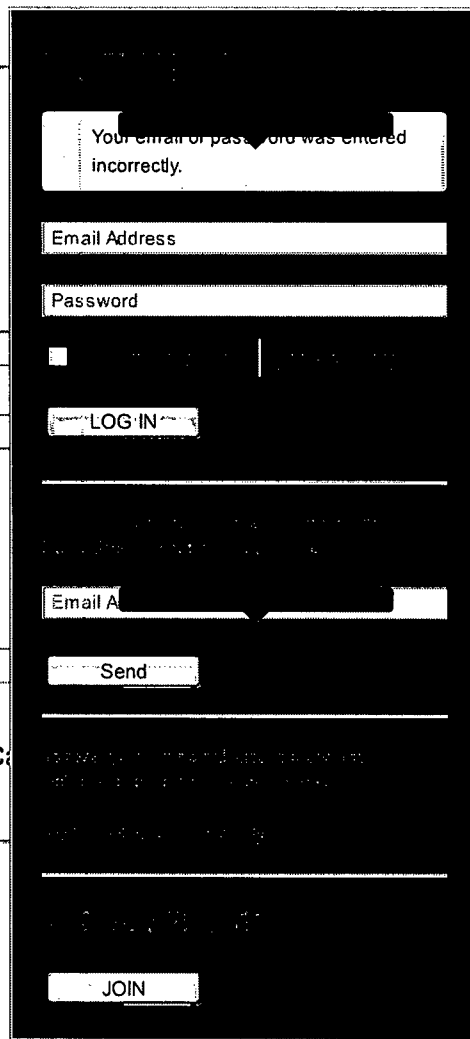
- [SHOES](#)
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[WOMEN](#)

- [SHOES](#)
- [CLOTHING](#)
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[MEN'S TRAINING](#)

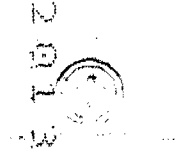


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Nike+

MAKE IT COUNT WITH NIKE+

Stay motivated, challenged, and connected.

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Which Nike.com country or region do you want to visit?

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NOTIFICATIONS

{notification_image}

{notification_title} {notification_body}

{notification_time}

[See all](#)

YOU HAVE NO NOTIFICATIONS.

BECOME A NIKE MEMBER

Create one account to manage everything you do with Nike, from your shopping preferences to your Nike+ activity. You'll enjoy personal services and great benefits including:

- Free shipping on orders of \$100 or more (excluding NIKEiD)
- Free returns on all orders
- Express checkout
- The ability to save and share products
- Easy order tracking

Make it count with Nike+

Your Nike membership includes access to all the benefits of Nike+. Track your athletic activity, get motivated and share or compare with friends.

First Name* Last Name* Email Address*

Password*

Password Requirements

- Contain between 8-36 characters
- Contain at least 1 mixed case letter
- Contain at least 1 number
- Not be the same as Screen Name

Confirm Password*

Screen Name*

Date of Birth* MM DD YYYY

Gender* Female Male

Zipcode*

*Required Fields

Sign up for Nike emails to hear about the latest styles and special offers
By clicking SIGN UP, you are agreeing to the [Nike Policy](#) and [Terms & Conditions](#).

Welcome to Nike

Your Nike account has been created. We'll send you a confirmation email shortly.
Your Nike account has been created, and you'll start receiving Nike emails soon. We'll send you a confirmation email shortly.
As a Nike member, you'll enjoy the following benefits:

Free shipping on orders of \$100 or more (excludes NIKEiD)

Just log in when you purchase on Nike.com for free shipping.

Free returns and exchanges on all orders (excludes NIKEiD)

It's easy. Just log in to your account and print a free return label.

The benefits of Nike+

Track your athletic activity, get motivated and share or compare with friends.

Rate and review products

Share your opinions with the Nike community and help us make our products even better.

Receive Nike emails

Be the first to know about special offers and new products.

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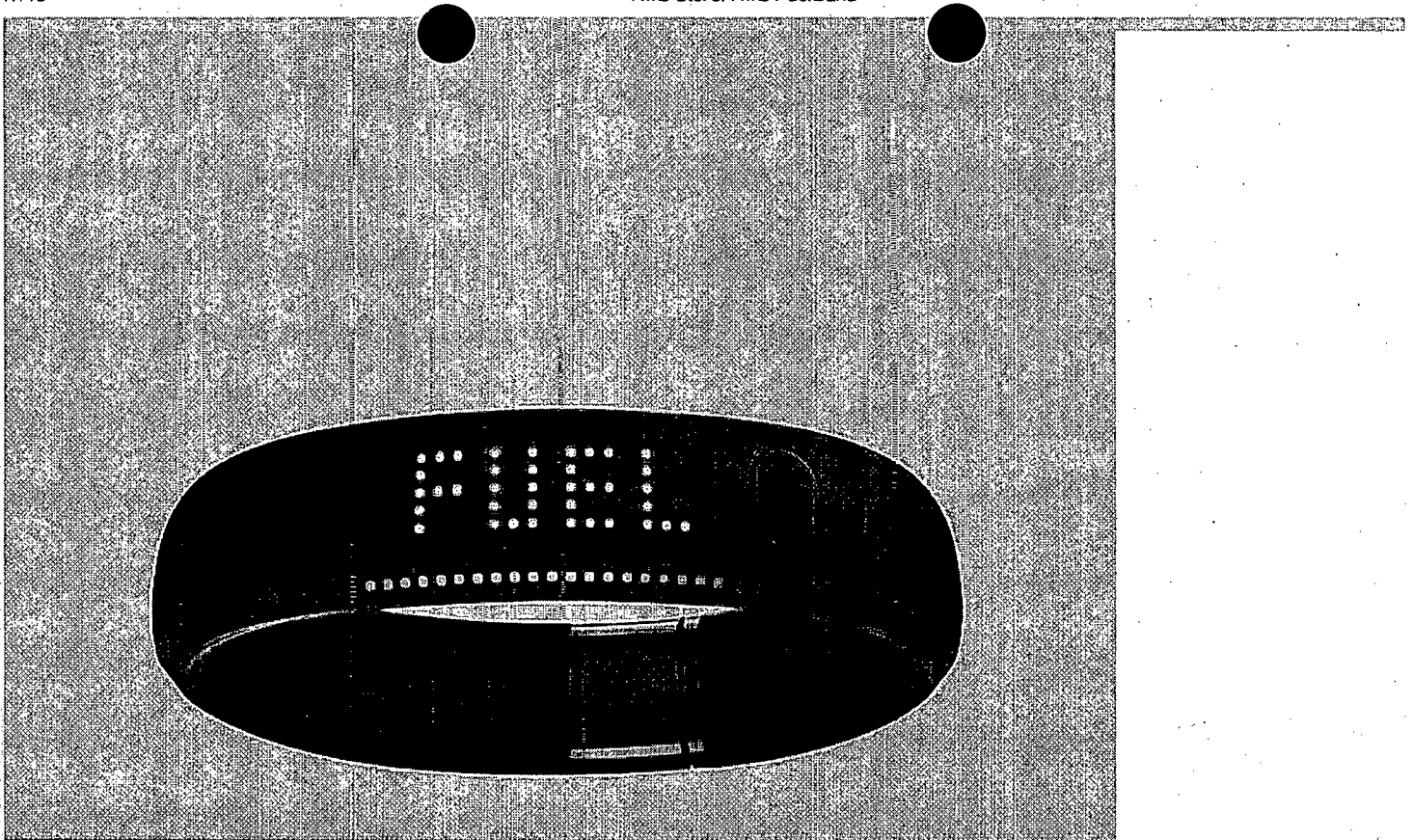
Subtotal

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You have no items in your cart

FREE SHIPPING on orders of \$100+ (excludes NIKEiD). [Login required](#)



Black, Style - Color # WM0105-001

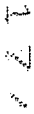
Loading...
Select a Color



- [Black Ice](#)



- [Black](#)



- [White Ice](#)

Black

Running Gear
(1,025)

NIKE+ FUELBAND

\$149

149

\$149

149

Style-Color # WM0105-001

Size & Fit Guide

Select a Size

Select a Size SIZE Select a Quantity QTY (1)

ADD TO CART

BENEFITS

View More

- Track Your Day
- Set a Goal
- Connect and Go

VIDEOS

This Is Your Nike+ FuelBand

What is NikeFuel?

Select a Size

ADD TO MYLOCKER

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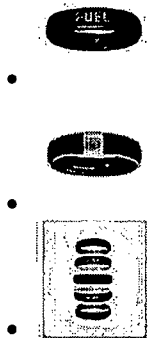


(1,025)

NIKE+ FUELBAND

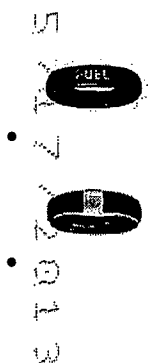
\$149

149



ZOOM Fullscreen Zoom Out Zoom In

(3)





Select a Color



- [Black Ice](#)



- [Black](#)



- [White Ice](#)

Black [MORE COLORS](#)

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ZOOM Fullscreen Zoom Out Zoom In

(3)



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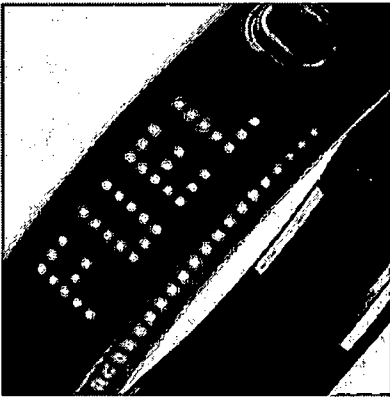


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LIFE IS A SPORT. MAKE IT COUNT.

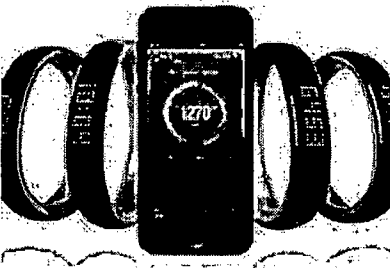
Nike+ FuelBand measures your everyday activity and turns it into NikeFuel. It tracks calories burned, steps taken and more. It's also a great watch. Nike+ FuelBand tracks running, walking, dancing, basketball and dozens of everyday activities. So put it on and get moving.

7
0
1
3



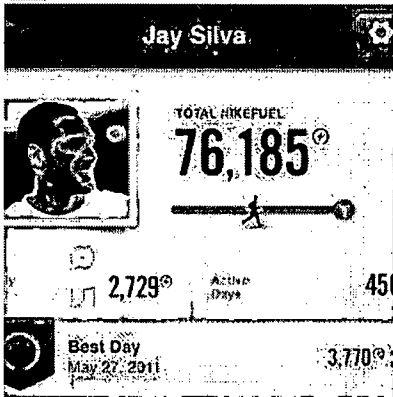
Track Your Day

The Nike+ FuelBand uses a sports-tested accelerometer to measure your movement in NikeFuel, a universal metric of activity.



Set a Goal

Decide how active you want to be by setting a daily NikeFuel goal. Then, get moving and see your progress along the way.



Connect and Go

Sync with the Nike+ FuelBand app and see your activity history, stay motivated and connect with your friends.



Go Mobile

Get the free Nike+ FuelBand mobile app to sync wirelessly, watch your progress and get extra motivation on the go. With the app you can compete with yourself or share results with your friends. [Get the app](#)

Get the Software

If you already have a Nike+ FuelBand, get started by downloading the Nike+ Connect software. This software allows your Nike+ FuelBand and computer to communicate with each other. It also lets you customize your Nike+ FuelBand settings. [Download Nike+ Connect](#)

Orders of More than Ten

To request an order for more than ten Nike+ FuelBands, please contact Customer Service at 1-800-806-6453.

Still Have Questions?

For answers to frequently asked questions, see the [FAQs page](#).

[Learn more](#)

Tech Specs

Sizes

Small 5.79 in (147 mm) circumference

Medium/Large 6.77 in (172 mm) circumference

X-Large 7.76 in (197 mm) circumference

Depth 0.6 in (16 mm) at LEDs, 0.75 in (19 mm) at latch Thickness: 0.27 in (6.90 mm) at LEDs, 0.32 in (8.00 mm) at latch

Nike+ FuelBand comes with two easy to insert links so you can fine tune your fit: 0.32 in (8 mm) and 0.63 in (16 mm)

What size is right for you?

[Find out with our sizing guide >](#)

Weight

Small 0.95 oz (27 g)

Medium/Large 1.06 oz (30 g)

X-Large 1.13 oz (32 g)

8 mm link 0.07 oz (2 g)

16 mm link 0.11 oz (3 g)

Sensors

A built-in 3 axis accelerometer measures your motion all day long.

An ambient light sensor detects environmental light levels. The brighter your environment, the brighter your display.

Display

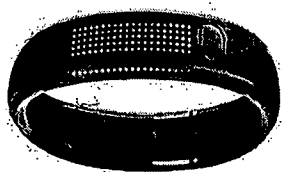
20 Color LED lights

show your Daily Goal progress from red to green.

Array of 100 white LED lights

shows time, NikeFuel earned, calories burned, and steps taken. You can cycle through all this with the push of a button.

The brightness level automatically adjusts according to your environment.



100 white LEDs

20 Color LEDs

Button

Water Resistance

The Nike+ FuelBand is water resistant. It is safe to wear in the shower or when dancing in the rain. Since it is not waterproof, it's not recommended for use while swimming.

Connect and Sync

Connect to your computer with the built-in USB 2.0 or use the included USB cable.

Bluetooth pairing to mobile phones for use with the Nike+ FuelBand app for iOS 5. Check back soon for compatibility with other handsets.

Battery

Two Lithium Polymer Batteries. Your Nike+ FuelBand should stay charged for up to four days.

In the Box

- Nike+ FuelBand
- 8mm and 16mm links (8mm link is already inserted into your Nike+ FuelBand)
- Sizing tool
- USB charging cable

Materials

TPE 43%, Polypropylene 34%, Magnesium 14%, Stainless Steel 9%
 PVC free
 Package is 100% recyclable paper.

TECH SPECS

Featured Technology



Nike+

Nike+ is an ecosystem of digital products and experiences designed to measure, motivate and empower you to improve. By tracking your progress and allowing you to share your sports data, Nike+ offers you ways to measure up, compare, compete and excel. [Learn more](#)



YOU MIGHT ALSO LIKE

11712011



9 Colors Nike Flyknit Lunar 1+Men's Running Shoe \$160



12 Colors Nike Element Half-Zip Men's Running Top \$60



35 Colors Nike Elite Crew Basketball Socks (Large) \$14



37 Colors Nike Elite Crew Basketball Socks (Medium) \$14

★★★★☆ 4.2

1,025 REVIEWS

86% OF REVIEWERS RECOMMEND THIS PRODUCT

ADD YOUR REVIEW

05/17/2013

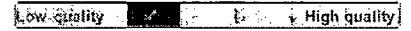


NEWEST MOST HELPFUL HIGHEST RATED LOWEST RATED

★★★★☆ May 15, 2013

2ND FUEL BAND - SAME PROBLEMS

leaveck77, Jacksonville, FL, USA, I run: Over 30 miles a week, I run primarily to: Stay in shape



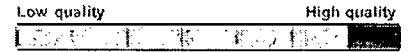
I am on my second Fuel Band in just over a year. Both times the button has broken completely where it won't press down at all. It's very disappointing because I use it every day. I just have issues with the quality here. Normally everything from Nike is high quality. Not with the Fuel Band.

COMMENT 0 1

★★★★★ May 14, 2013

NIKE+ FUEL BAND: A GREAT MOTIVATOR

BMK23, Oklahoma, USA, I run: 16-30 miles a week, I run primarily to: Stay in shape



The Nike+ FuelBand is a wonderful product. Its ease of use, and durable style makes it the top tier of wearable fitness technology. Bluetooth support (on iOS anyway) is fantastic from my experience. Seamless integration with Nike+ Running is a welcomed add-on. I recommend the jet black FuelBand due to the amount of dirt and debris the Fuelband will accumulate over time.

COMMENT 3 13

★★★★★ May 13, 2013

LOVE/HATE

CharlieD85, St. Thomas 00802, USVI, I run primarily to: Stay in shape



I love my Nike Fuel band because it is a great motivational tool. I love the fact that it tells me steps taken, calories burned, miles traveled, and being able to view the different metrics on my phone and computer. It doesn't do a good job of recording all exercise and movement. There is also no way to compare calories burned to calories eaten in the single app, or edit productivity to make up for workouts such as weight lifting. The last thing that I would like to see this product include is being fully water proof. I have to stay aware of my exercises and remove the band for most water activities. Great tool though.

COMMENT 10 33

★★★★★ May 12, 2013

LOVE IT

draquius, Onalaska, WI, USA, I run: 0-15 miles a week, I run primarily to: Stay in shape



I love my fuel band! It really makes me conscience of my activity level each day. If I don't reach my goal, then I will do an extra activity (such as walking my dog) to be sure I hit that goal. I absolutely love it, and would recommend to anyone that's looking for a bit of motivation. Everyone I show it to wants one! My dentist even went to get one after seeing mine, haha.

COMMENT 16 48

★★★★★ May 10, 2013

GIVE IT ONE GOOD UPDATE

kkaiza09, St. Louis, MO, USA, I run: 0-15 miles a week, I run primarily to: Stay in shape



The Fuel Band is amazing, it really mnotivates me to get moving, not that I wasn't before, but I

like a challenge. If Nike gave it one good update with long sleep patterns, distance, and
vibes for when you haven't moved in so long, or for a warm that would make this product
unbeatable. Just a few suggestions, other than that I LOVE the Fuel Band!!!

COMMENT

44

85



1 | 2 | 3 | 4 | 5 ... 205 >

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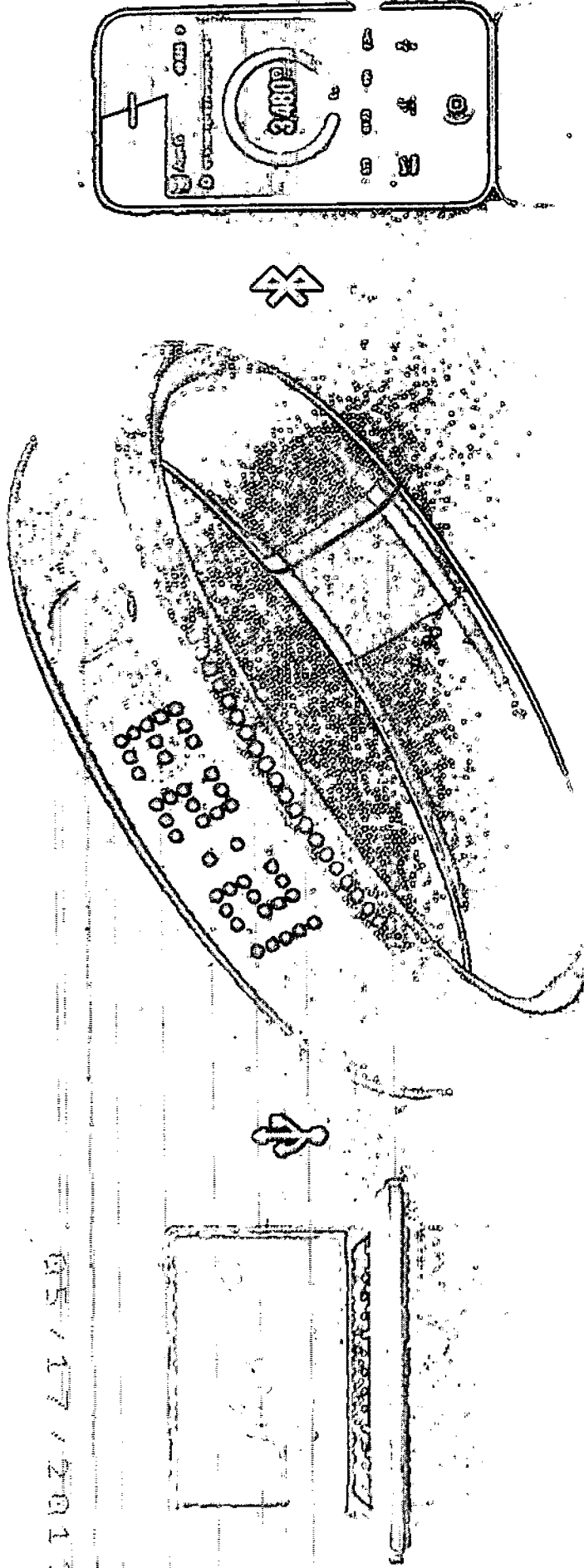
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05/17/2013

05/17/2013

EXHIBIT 3

SI 103 / 21 / 53



HOW IT WORKS

YOUR NIKE+ FUEL BAND MEASURES YOUR EVERYDAY ACTIVITY AND TURNS IT INTO NIKE FUEL. IT ALSO TRACKS EACH STEP AND CALORIE BURNED, DISPLAYING IT AT THE PRESS OF A BUTTON AND SYNC'S WITH YOUR MOBILE PHONE OR COMPUTER. IF THAT DOESN'T IMPRESS YOU, IT'S ALSO A GREAT WATCH.

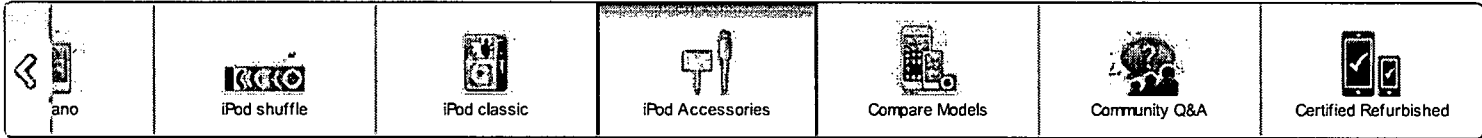
COMMENT ÇA MARCHÉ

VOIRE NIKE+ FUEL BAND ÉVALUE VOTRE ACTIVITÉ QUOTIDIENNE ET LA CONVERTIT EN NIKE FUEL. ELLE ENREGISTRE AUSSI CHAQUE FOULÉE ET CALORIE BRÛLÉE QUE VOUS POUVEZ FACILEMENT AFFICHER AU SIMPLE TOUCHER D'UN BOUTON. EN OUTRE, ELLE SE SYNCHRONISE AVEC VOTRE TÉLÉPHONE MOBILE AINSI QUE VOTRE ORDINATEUR. ET SI VOUS N'ÊTES TOUJOURS PAS ÉPATÉ(E), C'EST ÉGALEMENT UNE SUPER MONTRE.


05 / 17 / 2013


EXHIBIT 4


Shop iPod



Similar Products

- 

Nike+ FuelBand - Small
★★★★★
\$149.95
- 

Nike+ FuelBand - Medium/Large
★★★★★
\$149.95
- 

Philips Hue Connected...
★★★★★
\$199.95

Others Also Bought

- 

Nike+ FuelBand - Small
★★★★★
\$149.95
- 

Nike+ FuelBand - Medium/Large
★★★★★
\$149.95
- 

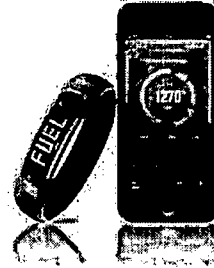
Nike+ FuelBand - Small
★★★★★
\$149.95

Nike+ FuelBand - Small

Make it count with Nike+ FuelBand.

Nike+ FuelBand tracks your all-day activity and helps you do more. Using a sport-tested accelerometer it measures your movement in NikeFuel—a universal metric of activity. So the more you move, the more NikeFuel you earn. It measures each step taken and calorie burned. It also tells the time of day.

- Measure daily activity in NikeFuel
- Track steps, calories, and time of day
- See progress at the push of a button via a bright LED display
- Connect via Bluetooth to your iPhone or iPod touch
- Connect via built-in USB on Mac or PC
- See your activity on Nikeplus.com
- Download the free Nike+ FuelBand App




Enlarge images ▶

Remember to download the Nike+ FuelBand app. See more details in iTunes.

Before you buy, it's important to find your perfect fit. Each band comes with two easy-to-insert links to make it larger—so when in doubt, select a smaller size. Limit 10 per customer.

 Share
  Tweet

 Questions & Answers
 77 Questions + 123 Answers

★★★★★
 Based on 13 reviews | [Write a review](#)

\$149.95

Free Shipping

[Add to Cart](#)

Available to ship:
Within 24 hours

Available for pickup:
[Check availability](#)

Select your product

- Small
- Medium/Large
- Extra Large

Select a Color

- Black Ice
- Silver
- Gold

Features

[Technical Specs](#)
[Compatibility](#)
[What's in the Box?](#)
[Manufacturer Information](#)

Apple Recommends For

Anyone who wants to be more active.

Nike+ FuelBand is the best way to track your all-day activity and helps you do more.

Earn NikeFuel

The more you move, the more NikeFuel you earn. NikeFuel is a universal measurement of activity. A single number that shows how much you move. It's calculated the same way for everyone. So everyone—no matter what they do—can compare and compete.

Track your day

Wear the Nike+ FuelBand on your wrist all-day to track your daily activity in NikeFuel. Also track each step taken and calorie burned.

Set your goal

Decide how active you want to be and set a daily NikeFuel goal. Get moving and work towards reaching it.

Highlights

- A streamlined design with bright LED display
- Available in small, medium/large, and extra large
- Includes sizing spacers for best fit
- Easy to use and set-up
- Free Nike+ FuelBand Mobile app available from App Store in iTunes

Did You Notice?

Sync via Bluetooth wireless to your Nike+ FuelBand app to visualize your results, see your peaks, progress, and trophies.

05/17/2013

See your progress

The band's red-to-green LED display shows your progress toward your goal throughout the day. Sync to your iOS device, Mac, or PC to see your activity history.

Stay motivated

Receive achievements and rewards as you do more. Get on a streak, exceed your goal, and hit milestones along the way.

Tell your world

Share your activity and achievements through Facebook, Twitter, and Path.

Technical Specs

General

- Usage: Sports, Health & Fitness, Working Out

Fit

- Form Factor: Armband

Power

- Charging Options: USB

Dimension

- Weight: 27 g
- Width: 147 mm/5.79 in. circumference

Compatibility



iPhone 5



iPhone 4S



iPhone 4



iPod touch
4th
generation



iPod touch
3rd
generation

What's in the Box?

- Nike+ FuelBand
- USB charging cable

- Sizing tool
- Includes two easy-to-insert links (.32 in./8 mm and .63 in./16 mm) for a fine-tuned fit

Manufacturer Information

Warranty

- Note: Products sold through this website that do not bear the Apple Brand name are serviced and supported exclusively by their manufacturers in accordance with terms and conditions packaged with the products. Apple's Limited Warranty does not apply to products that are not Apple-branded, even if packaged or sold with Apple products. Please contact the manufacturer directly for technical support and customer service.
- Warranty: One-year limited

Part Number

- UPC or EAN No.: 826220766072
- Mfr. Part Number: WM0105-008 US/CA

Ratings & Reviews



Based on 13 reviews

[Write a Review](#)

Most Useful Reviews



Keeps you mobile when your job doesn't

Written by Michael L from Hightstown
Nov 1, 2012

I've had this for about a month and its a pretty cool gadget. The first thing you should know is that it tracks ACTIVITY and not n...More

Most Recent Reviews



White Band is SO Ugly!

Written by Tracy R from Toronto
Apr 4, 2013

I've had it two weeks and it was yellowed in a few days! I want to return it to see if they will exchange for a black or grey band...More

05/17/2013

186 of 205 people found this useful

Was this useful? Yes No

★★★★★

It Works!

Written by PHILIP L N from Franklin
Nov 2, 2012

It doubles as a watch but in reality the Fuel Band is my motivation to set and attain daily/weekly activity goals. Set up was rel...More

135 of 153 people found this useful

Was this useful? Yes No

★★★★★

Like the device

Written by Glenn F from Minnetonka
Nov 6, 2012

I purchased the band about 45 days ago. I was shocked at how inactive I was. I am glad I brought the device but I think the calori...More

74 of 94 people found this useful

Was this useful? Yes No

[Read all the most useful reviews](#)

10 of 12 people found this useful

Was this useful? Yes No

★★★★★

the white ice fuelband yellows and looks disgusting & other issues

Written by Jennifer C from Pittsburgh
Mar 12, 2013

Do not buy the white ice, it turns yellow in a month and looks so ugly.

The device had other issues, too; the Nike IT departme...More

16 of 22 people found this useful

Was this useful? Yes No

★★★★★

inaccurate, does not work as marketed, do not buy

Written by MANUEL B from BRENTWOOD
Mar 9, 2013

The Nike fuelband looks good, and is comfortable to wear. It does not track steps or calories with accuracy. I called customer s...More

21 of 25 people found this useful

Was this useful? Yes No

[Read all the most recent reviews](#)

Questions & Answers

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Most Interesting

Does the Nike Fuelband measure steps or activity? Meaning, does it measure if you do other types of activity besides steps...like yoga or housework? 11 Answers

Asked by Rebecca S from Arlington Heights
Nov 1, 2012

Best Answer If you move your arms - or specially the arm with the band on - then yes, your effort is measured. I...More

Answered by John K from Kirkland | Nov 2, 2012

Can the Nike+ Fuelband be used around an ankle to better monitor activity? 1 Answer

Asked by Donald D from Pittsford | Apr 28, 2013

Answer According to the Technical specs ALL three sizes are 172 mm / 6.7 inches in circumference. Obviously...More

Answered by Mo L from Pontiac | May 2, 2013

Could you wear the Nike Fuel Band in the Shower? Can it work with the iPod Touch 5th Gen.? 3 Answers

Asked by Joshua S from Middletown
Nov 7, 2012

Best Answer On Nikes page, under FAQ, they state it's fine to shower with, just not recommended for swimming, su...More

Answered by Brett C from Gaines | Mar 19, 2013

Recently Answered

can you add additional spacers if your wrist is larger than extra large? 1 Answer

Asked by Chuck A from Indianapolis
Dec 18, 2012

Does the Nike Fuelband measure steps or activity? If you are a very active person that uses a manual wheelchair will it measure this activity? 1 Answer

Asked by Chad M from Chatham | Nov 17, 2012

what does nike do with the data collected? 1 Answer

Asked by Erica S from Palo Alto | Mar 29, 2013

Featured Question

Is the band durable will it last long

Asked by Jack O from Melbourne
Apr 29, 2013

05/17

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05/17/2013

LOS ANGELES SUPERIOR COURT

MAY 17 2013

JUDITH A. CLARKE, CLERK
BY MARY FLORES, DEPUTY

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Number, and address):
Graham B. LippSmith (SBN 221984)
GIRARDI | KEESE
1126 Wilshire Blvd.
Los Angeles, CA 90017
TELEPHONE NO.: 213-977-0211 FAX NO.: 213-481-1554
ATTORNEY FOR (Name): Plaintiff Carolyn Levin and the Class
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles
STREET ADDRESS: 111 N. Hill St.
MAILING ADDRESS:
CITY AND ZIP CODE: Los Angeles 90012
BRANCH NAME: Stanley Mosk Courthouse
CASE NAME: Levin, et al. v. Nike Inc., et al.

CASE NUMBER: BC 509363

CIVIL CASE COVER SHEET
 Unlimited (Amount demanded exceeds \$25,000) Limited (Amount demanded is \$25,000 or less)

Complex Case Designation
 Counter Joinder
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

JUDGE:
DEPT: BY FAX

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)
Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23)	Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26)	Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20)
Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input checked="" type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35)	Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38)	Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42)
Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)

2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
a. Large number of separately represented parties d. Large number of witnesses
b. Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
c. Substantial amount of documentary evidence f. Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive
4. Number of causes of action (specify): Four
5. This case is is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015)

Date: May 17, 2013
Graham B. LippSmith (SBN 221984)
(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

**CIVIL CASE COVER SHEET ADDENDUM AND
STATEMENT OF LOCATION
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)**

BY FAX

This form is required pursuant to Local Rule 2.0 in all new civil case filings in the Los Angeles Superior Court.

Item I. Check the types of hearing and fill in the estimated length of hearing expected for this case:

JURY TRIAL? YES CLASS ACTION? YES LIMITED CASE? YES TIME ESTIMATED FOR TRIAL 10 HOURS/ DAYS

Item II. Indicate the correct district and courthouse location (4 steps – If you checked “Limited Case”, skip to Item III, Pg. 4):

Step 1: After first completing the Civil Case Cover Sheet form, find the main Civil Case Cover Sheet heading for your case in the left margin below, and, to the right in Column **A**, the Civil Case Cover Sheet case type you selected.

Step 2: Check one Superior Court type of action in Column **B** below which best describes the nature of this case.

Step 3: In Column **C**, circle the reason for the court location choice that applies to the type of action you have checked. For any exception to the court location, see Local Rule 2.0.

Applicable Reasons for Choosing Courthouse Location (see Column C below)

- | | |
|--|--|
| 1. Class actions must be filed in the Stanley Mosk Courthouse, central district. | 6. Location of property or permanently garaged vehicle. |
| 2. May be filed in central (other county, or no bodily injury/property damage). | 7. Location where petitioner resides. |
| 3. Location where cause of action arose. | 8. Location wherein defendant/respondent functions wholly. |
| 4. Location where bodily injury, death or damage occurred. | 9. Location where one or more of the parties reside. |
| 5. Location where performance required or defendant resides. | 10. Location of Labor Commissioner Office |

Step 4: Fill in the information requested on page 4 in Item III; complete Item IV. Sign the declaration.

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Auto Tort	Auto (22)	<input type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1., 2., 4.
	Uninsured Motorist (46)	<input type="checkbox"/> A7110 Personal Injury/Property Damage/Wrongful Death – Uninsured Motorist	1., 2., 4.
Other Personal Injury/Property Damage/ Wrongful Death Tort	Asbestos (04)	<input type="checkbox"/> A6070 Asbestos Property Damage <input type="checkbox"/> A7221 Asbestos - Personal Injury/Wrongful Death	2. 2.
	Product Liability (24)	<input type="checkbox"/> A7260 Product Liability (not asbestos or toxic/environmental)	1., 2., 3., 4., 8.
	Medical Malpractice (45)	<input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons <input type="checkbox"/> A7240 Other Professional Health Care Malpractice	1., 4. 1., 4.
	Other Personal Injury Property Damage Wrongful Death (23)	<input type="checkbox"/> A7250 Premises Liability (e.g., slip and fall) <input type="checkbox"/> A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.) <input type="checkbox"/> A7270 Intentional Infliction of Emotional Distress <input type="checkbox"/> A7220 Other Personal Injury/Property Damage/Wrongful Death	1., 4. 1., 4. 1., 3. 1., 4.

SHORT TITLE: Levin, et al. v. Nike Inc., et al.

CASE NUMBER

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Non-Personal Injury/ Property Damage/ Wrongful Death Tort	Business Tort (07)	<input type="checkbox"/> A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1., 3.
	Civil Rights (08)	<input type="checkbox"/> A6005 Civil Rights/Discrimination	1., 2., 3.
	Defamation (13)	<input type="checkbox"/> A6010 Defamation (slander/libel)	1., 2., 3.
	Fraud (16)	<input checked="" type="checkbox"/> A6013 Fraud (no contract)	1., 2., 3.
	Professional Negligence (25)	<input type="checkbox"/> A6017 Legal Malpractice	1., 2., 3.
		<input type="checkbox"/> A6050 Other Professional Malpractice (not medical or legal)	1., 2., 3.
Other (35)	<input type="checkbox"/> A6025 Other Non-Personal Injury/Property Damage tort	2., 3.	
Employment	Wrongful Termination (36)	<input type="checkbox"/> A6037 Wrongful Termination	1., 2., 3.
	Other Employment (15)	<input type="checkbox"/> A6024 Other Employment Complaint Case	1., 2., 3.
		<input type="checkbox"/> A6109 Labor Commissioner Appeals	10.
Contract	Breach of Contract/ Warranty (06) (not insurance)	<input type="checkbox"/> A6004 Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction)	2., 5.
		<input type="checkbox"/> A6008 Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence)	2., 5.
		<input type="checkbox"/> A6019 Negligent Breach of Contract/Warranty (no fraud)	1., 2., 5.
		<input type="checkbox"/> A6028 Other Breach of Contract/Warranty (not fraud or negligence)	1., 2., 5.
	Collections (09)	<input type="checkbox"/> A6002 Collections Case-Seller Plaintiff	2., 5., 6.
		<input type="checkbox"/> A6012 Other Promissory Note/Collections Case	2., 5.
Insurance Coverage (18)	<input type="checkbox"/> A6015 Insurance Coverage (not complex)	1., 2., 5., 8.	
Other Contract (37)	<input type="checkbox"/> A6009 Contractual Fraud	1., 2., 3., 5.	
	<input type="checkbox"/> A6031 Tortious Interference	1., 2., 3., 5.	
	<input type="checkbox"/> A6027 Other Contract Dispute(not breach/insurance/fraud/negligence)	1., 2., 3., 8.	
Real Property	Eminent Domain/Inverse Condemnation (14)	<input type="checkbox"/> A7300 Eminent Domain/Condemnation Number of parcels _____	2.
	Wrongful Eviction (33)	<input type="checkbox"/> A6023 Wrongful Eviction Case	2., 6.
	Other Real Property (26)	<input type="checkbox"/> A6018 Mortgage Foreclosure	2., 6.
<input type="checkbox"/> A6032 Quiet Title		2., 6.	
	<input type="checkbox"/> A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure)	2., 6.	
Unlawful Detainer	Unlawful Detainer-Commercial (31)	<input type="checkbox"/> A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	2., 6.
	Unlawful Detainer-Residential (32)	<input type="checkbox"/> A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	2., 6.
	Unlawful Detainer- Post-Foreclosure (34)	<input type="checkbox"/> A6020F Unlawful Detainer-Post-Foreclosure	2., 6.
	Unlawful Detainer-Drugs (38)	<input type="checkbox"/> A6022 Unlawful Detainer-Drugs	2., 6.

SHORT TITLE: Levin, et al. v. Nike Inc., et al.

CASE NUMBER

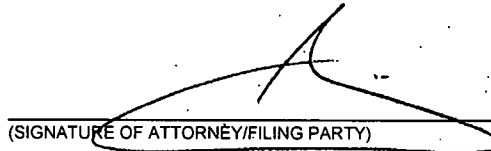
	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Judicial Review	Asset Forfeiture (05)	<input type="checkbox"/> A6108 Asset Forfeiture Case	2., 6.
	Petition re Arbitration (11)	<input type="checkbox"/> A6115 Petition to Compel/Confirm/Vacate Arbitration	2., 5.
	Writ of Mandate (02)	<input type="checkbox"/> A6151 Writ - Administrative Mandamus	2., 8.
		<input type="checkbox"/> A6152 Writ - Mandamus on Limited Court Case Matter	2.
		<input type="checkbox"/> A6153 Writ - Other Limited Court Case Review	2.
Other Judicial Review (39)	<input type="checkbox"/> A6150 Other Writ /Judicial Review	2., 8.	
Provisionally Complex Litigation	Antitrust/Trade Regulation (03)	<input type="checkbox"/> A6003 Antitrust/Trade Regulation	1., 2., 8.
	Construction Defect (10)	<input type="checkbox"/> A6007 Construction Defect	1., 2., 3.
	Claims Involving Mass Tort (40)	<input type="checkbox"/> A6006 Claims Involving Mass Tort	1., 2., 8.
	Securities Litigation (28)	<input type="checkbox"/> A6035 Securities Litigation Case	1., 2., 8.
	Toxic Tort Environmental (30)	<input type="checkbox"/> A6036 Toxic Tort/Environmental	1., 2., 3., 8.
	Insurance Coverage Claims from Complex Case (41)	<input type="checkbox"/> A6014 Insurance Coverage/Subrogation (complex case only)	1., 2., 5., 8.
Enforcement of Judgment	Enforcement of Judgment (20)	<input type="checkbox"/> A6141 Sister State Judgment	2., 9.
		<input type="checkbox"/> A6160 Abstract of Judgment	2., 6.
		<input type="checkbox"/> A6107 Confession of Judgment (non-domestic relations)	2., 9.
		<input type="checkbox"/> A6140 Administrative Agency Award (not unpaid taxes)	2., 8.
		<input type="checkbox"/> A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax	2., 8.
<input type="checkbox"/> A6112 Other Enforcement of Judgment Case	2., 8., 9.		
Miscellaneous Civil Complaints	RICO (27)	<input type="checkbox"/> A6033 Racketeering (RICO) Case	1., 2., 8.
	Other Complaints (Not Specified Above) (42)	<input type="checkbox"/> A6030 Declaratory Relief Only	1., 2., 8.
		<input type="checkbox"/> A6040 Injunctive Relief Only (not domestic/harassment)	2., 8.
		<input type="checkbox"/> A6011 Other Commercial Complaint Case (non-tort/non-complex)	1., 2., 8.
<input type="checkbox"/> A6000 Other Civil Complaint (non-tort/non-complex)	1., 2., 8.		
Miscellaneous Civil Petitions	Partnership Corporation Governance (21)	<input type="checkbox"/> A6113 Partnership and Corporate Governance Case	2., 8.
	Other Petitions (Not Specified Above) (43)	<input type="checkbox"/> A6121 Civil Harassment	2., 3., 9.
		<input type="checkbox"/> A6123 Workplace Harassment	2., 3., 9.
		<input type="checkbox"/> A6124 Elder/Dependent Adult Abuse Case	2., 3., 9.
		<input type="checkbox"/> A6190 Election Contest	2.
		<input type="checkbox"/> A6110 Petition for Change of Name	2., 7.
<input type="checkbox"/> A6170 Petition for Relief from Late Claim Law		2., 3., 4., 8.	
<input type="checkbox"/> A6100 Other Civil Petition	2., 9.		

Item III. Statement of Location: Enter the address of the accident, party's residence or place of business, performance, or other circumstance indicated in Item II., Step 3 on Page 1, as the proper reason for filing in the court location you selected.

REASON: Check the appropriate boxes for the numbers shown under Column C for the type of action that you have selected for this case. <input checked="" type="checkbox"/> 1. <input type="checkbox"/> 2. <input type="checkbox"/> 3. <input type="checkbox"/> 4. <input type="checkbox"/> 5. <input type="checkbox"/> 6. <input type="checkbox"/> 7. <input type="checkbox"/> 8. <input type="checkbox"/> 9. <input type="checkbox"/> 10.			ADDRESS: Class actions must be filed in Stanley Mosk Courthouse.
CITY: Los Angeles	STATE: CA	ZIP CODE: 90012	

Item IV. Declaration of Assignment: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that the above-entitled matter is properly filed for assignment to the Stanley Mosk courthouse in the Central District of the Superior Court of California, County of Los Angeles [Code Civ. Proc., § 392 et seq., and Local Rule 2.0, subds. (b), (c) and (d)].

Dated: May 17, 2013


 (SIGNATURE OF ATTORNEY/FILING PARTY)
 Graham B. LippSmith

PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet, Judicial Council form CM-010.
4. Civil Case Cover Sheet Addendum and Statement of Location form, LACIV 109, LASC Approved 03-04 (Rev. 03/11).
5. Payment in full of the filing fee, unless fees have been waived.
6. A signed order appointing the Guardian ad Litem, Judicial Council form CIV-010, if the plaintiff or petitioner is a minor under 18 years of age will be required by Court in order to issue a summons.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.

05/17/2013