

The Abstract Idea Defense in a Patent Infringement Suit Jumped the Shark in Nike v Puma

Thursday, October 18, 2018

Nike sued Puma for infringing its fly knit shoes. Puma filed a motion to dismiss because the patents asserted by Nike are directed to an abstract idea. As can be seen below, the Nike claims clearly are directed to a SHOE!!!! The judge in the case denied Puma's motion this week. A bit of sanity in a patent world gone mad.

9078488:

1. An article of footwear including an upper and a sole structure attached to the upper, the upper incorporating a knitted component formed of unitary knit construction, the knitted component comprising: at least one lenticular knit structure including a first portion and a second portion disposed on opposite sides of the lenticular knit structure; and a base portion disposed adjacent to the at least one lenticular knit structure; wherein the at least one lenticular knit structure extends away from the base portion on an exterior surface of the upper; and wherein the first portion of the at least one lenticular knit structure is associated with a first visual effect when the upper is viewed from a first viewing angle and the second portion of the at least one lenticular knit structure is associated with a second visual effect when the upper is viewed from a second viewing angle that is different than the first viewing angle.

8266749:

1. A method of manufacturing an article of footwear, the method comprising: simultaneously knitting a textile element with a surrounding textile structure, the knitted textile element having at least one knitted texture that differs from a knitted texture in the surrounding knitted textile structure; removing the knitted textile element from the surrounding knitted textile structure; incorporating the knitted textile element into the article of footwear.

7637032:

1. An article of footwear, comprising: an upper member substantially constructed from textile material, wherein the upper member includes an exterior portion substantially constructed from knitted textile material, the exterior portion including a first region having stability ribs integrally formed in the knitted textile material and a second region continuous with the first region, the second region not including stability ribs; wherein a first portion of the first region extends along a forefoot portion of the exterior portion of the upper member and a second portion of the first region extends along a lateral midfoot side of the exterior portion of the upper member; wherein a portion of the second region extends along a junction between the upper member and the sole member and between the first portion of the first region and the second portion of the first region on a lateral midfoot side of the exterior portion of the upper member; and a sole member engaged with the upper member.

[Nike's response to Puma's motion.](#)

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