

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

NIKE, INC.,

Plaintiff,

v.

STOCKX LLC,

Defendant.

Case No. 22-cv- 983

COMPLAINT

JURY TRIAL REQUESTED

Plaintiff Nike, Inc. (“Nike” or “Plaintiff”) for its Complaint against Defendant StockX LLC (“StockX” or “Defendant”) for trademark infringement, trademark dilution, and related causes of action alleges as follows:

PRELIMINARY STATEMENT

1. This lawsuit arises from Defendant StockX’s unauthorized and infringing use of Nike’s famous marks in connection with StockX’s entry into the Non-Fungible Token market. Non-Fungible Tokens or “NFTs” have quickly become pervasive in their use by brand owners seeking to enter the nascent marketplace of virtual or digital products connected to a token on the blockchain. NFTs are commonly understood to be blockchain-based virtual products that can be collected, sold, and traded in the marketplace. They are an exciting way for brands to interact with their consumers in and out of the “metaverse,” and diverse commercial applications of NFTs have emerged throughout the past two years. Far more than a fleeting trend, NFTs are part of the future of commerce.

2. Unfortunately, novel product offerings, burgeoning technologies, and gold rush markets tend to create opportunities for third parties to capitalize on the goodwill of reputable brands and create confusion in the marketplace. NFTs are, not surprisingly, no exception to the rule, and this new frontier has swiftly become a virtual playground for infringers to usurp the

goodwill of some of the most famous trademarks in the world and use those trademarks without authorization to market their virtual products and generate ill-gotten profits.

3. Enter Defendant StockX, the operator of an online resale platform for various brands of sneakers, apparel, luxury handbags, electronics, and other collectible goods that purports to provide authentication services to its customers. StockX publicly touts the fact that Nike products drive more sales on its e-commerce platform than any other brand, and StockX advertisements and social media accounts are teeming with images of Nike goods. Recognizing firsthand the immense value of Nike's brands, StockX has chosen to compete in the NFT market not by taking the time to develop its own intellectual property rights, but rather by blatantly freeriding, almost exclusively, on the back of Nike's famous trademarks and associated goodwill.

4. Specifically, without Nike's authorization or approval, StockX is "minting" NFTs that prominently use Nike's trademarks, marketing those NFTs using Nike's goodwill, and selling those NFTs at heavily inflated prices to unsuspecting consumers who believe or are likely to believe that those "investible digital assets" (as StockX calls them) are, in fact, authorized by Nike when they are not. Unlike its e-commerce business which caters to buyers and sellers of goods originating from various companies, nearly all the NFTs minted by StockX to date are Nike-branded NFTs, yet none of those NFTs originate from Nike. Examples of StockX's infringing NFTs appear below:



5. StockX claims that its “100% Authentic” Nike-branded “Vault NFTs” do no more than track ownership of a physical Nike product safely secured in its “vault.” But StockX’s Vault NFTs are far more than just physical Nike shoes, and StockX’s claim that a Vault NFT exclusively functions as a traceable digital receipt is belied by its statements. Those statements reflect the fact that StockX’s Nike-branded Vault NFTs, whose purchasers can trade or collect and display in their portfolio, are new virtual products that StockX has bundled with additional StockX services and unspecified benefits (“exclusive access to StockX releases, promotions, events”). Nike does not sell StockX’s services or exclusive access to such benefits. Yet StockX’s new virtual products have been created, marketed, offered for sale, and sold by StockX using Nike’s trademarks without Nike’s consent. And, according to StockX, it is “just getting started.” See <https://stockx.com/about/stockx-launches-vault-nfts/>.

6. Just as troubling are other StockX statements that appear to negate StockX’s primary claim that a Vault NFT can be readily traded in for the associated physical shoes stored in a StockX facility. For example, while StockX claims that Vault NFT owners may “redeem” the NFT and take possession of the shoes (for an additional fee), it also states that “the redemption process is not currently available” to NFT owners. StockX also, shockingly, retains the right to *unilaterally* redeem a Vault NFT for a so-called “Experiential Component,” and take away the NFT, completely depriving the Vault NFT owner of possession of the shoes that are supposedly connected to the NFT.

7. Nike did not approve of or authorize StockX’s Nike-branded Vault NFTs. Those unsanctioned products are likely to confuse consumers, create a false association between those products and Nike, and dilute Nike’s famous trademarks. Indeed, consumers are already questioning whether Nike authorized StockX to sell its infringing NFT products, asking how

StockX received “the licensing to sell NFTs with [N]ike branding.” *See* Paragraph 82, *infra*. StockX’s misappropriation of Nike’s famous trademarks and goodwill to buoy its entry into the lucrative NFT and digital collectible market deprives Nike of its exclusive right to use its marks in connection with this new commercial medium. In addition, the Vault NFTs’ inflated prices and murky terms of purchase and ownership, as discussed further below, have already led to public criticism of StockX and allegations that the Vault NFTs are a scam. StockX’s prominent use of Nike’s trademarks in connection with these dubious virtual products has already generated negative associations with Nike in a way that harms Nike’s reputation and the immense goodwill that Nike has amassed in its brands. Consumers have even attributed StockX’s conduct to Nike, with one consumer expressing that the Vault NFTs are “just a stupid scam for *Nike* to make money.” *See* Paragraph 84, *infra* (emphasis added).

8. Despite StockX’s prominent use of Nike’s trademarks in connection with the Vault NFTs, Nike has no control over the quality of the Vault NFTs whatsoever. Nike has no say in how many Vault NFTs bearing its trademarks are released, where the Vault NFTs are released and traded, when the Vault NFTs are released, how the Vault NFTs are released, traded, or redeemed, and at what price the Vault NFTs are sold.

9. Nike’s widely publicized December 13, 2021 acquisition of RTFKT, a digital art and collectible creative studio, demonstrates its recent investment in NFT technology and services, but Nike has been using its famous trademarks in connection with virtual goods and digital applications for years. Given Nike’s longstanding use in this space, StockX’s unauthorized and unapproved branding of Vault NFTs with Nike trademarks is all the more likely to confuse consumers, create a false association between the parties, jeopardize the capacity of Nike’s famous marks to identify its own digital goods in the metaverse and beyond, and harm Nike’s reputation

through an association with inferior digital products. Nike therefore requests that the Court swiftly and permanently stop StockX from continuing to sell Vault NFTs bearing Nike's famous marks.

THE PARTIES

10. Nike is a corporation organized under the laws of the State of Oregon with a principal place of business at One Bowerman Drive, Beaverton, Oregon 97005.

11. On information and belief, StockX LLC is organized as a Michigan LLC with its principal place of business located at 1046 Woodward Avenue, Detroit, Michigan 48226. StockX LLC is an online marketplace and reseller of sneakers, streetwear, electronics, luxury handbags, and other collectibles. StockX maintains various offices and/or facilities located in New York, California, and Oregon, including a store and drop-off facility located at 237 Lafayette Street, New York, New York 10012.

12. On information and belief, StockX is the owner and operator of <https://stockx.com> (the "StockX Website") and StockX mobile application (the "StockX App"), where StockX conducts, *inter alia*, its online commercial activities.

JURISDICTION AND VENUE

13. This action arises under the trademark and anti-dilution laws of the United States, 15 U.S.C. § 1051, *et seq.*, and under statutory and common law unfair competition. This Court has subject matter jurisdiction at least under 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331 and 1338 because this action arises under federal trademark law. This Court has supplemental jurisdiction over the remaining claims pursuant to 28 U.S.C. § 1367.

14. This Court has personal jurisdiction over StockX because StockX has committed, and continues to commit, acts of infringement and dilution in this District, has conducted, and continues to conduct, business in this District through the StockX Website, StockX App, and a

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