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Nike Resolves Bad Blood With Lil Nas X 'Satan Shoes' Seller

By [Hannah Albarazi](#)

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Law360 (April 8, 2021, 11:15 PM EDT) -- [Nike Inc.](#) settled a trademark dispute on Thursday with a Brooklyn-based artists collective over claims that consumers would be duped into thinking the company is affiliated with Lil Nas X's "Satan Shoes," which feature the Nike swoosh logo, with the art collective agreeing to recall the sneakers.

The settlement comes a week after U.S. District Judge Eric R. Komitee [granted](#) Nike's request for a temporary restraining order against MSCHF Product Studio Inc., the New York design studio behind rapper Lil Nas X's "Satan Shoes," blocking the sale of the allegedly trademark-infringing sneakers that feature a drop of human blood.

"As part of the settlement, Nike has asked MSCHF, and MSCHF has agreed, to initiate a voluntary recall to buy back any Satan Shoes and Jesus Shoes for their original retail prices, in order to remove them from circulation," a Nike spokesperson said Thursday, adding that MSCHF previously released Jesus Shoes, and that both designs

used a Nike Air Max 97 as the base.

"In both cases, MSCHF altered these shoes without Nike's authorization. Nike had nothing to do with the Satan Shoes or the Jesus Shoes," the Nike spokesperson said.

The parties reached the agreement on Thursday and "are pleased to put this dispute behind them," the Nike spokesperson said.

The Satan Shoe, unveiled in late March, is built on a modified black and red Air Max 97, featuring a pentagram, a biblical verse and, in a headline grabbing twist, "one drop of human blood."

MSCHF's attorney, David H. Bernstein of [Debevoise & Plimpton LLP](#), said in a statement to Law360 on Thursday that "MSCHF was pleased with the settlement."

On [March 29](#), Nike filed suit claiming trademark dilution. In this heightened type of protection afforded to famous trademarks, brand owners can win a dilution claim even if buyers wouldn't be confused by showing that an offending product would lessen the distinctiveness of a famous trademark.

While trademark law's so-called first-sale doctrine allows for the resale of branded goods, it's fairly limited. Courts have ruled that the use of marks on modified products could lead a consumer to think that the original brand owner is endorsing it.

Nike said in its suit that there is "already evidence of significant confusion and delusion occurring in the marketplace, including calls to boycott Nike in response to the launch of MSCHF's Satan Shoes based on the mistaken belief that Nike has authorized or approved this product."

During the litigation, attorneys for Nike said it was clear that buyers, and even the sophisticated "sneakerheads" that buy such limited release shoes, would be confused.

But MSCHF painted a very different image of the Satan Shoe.

Attorneys for MSCHF fired back in court documents, saying that the First Amendment protects this expression and that the shoes were not an infringing brand but "individually-numbered works of art that were sold to collectors," released by a company that was trying to "push the boundaries of today's culture through storytelling and performance art."

Following the settlement, Bernstein said, "With these Satan Shoes — which sold out in less than a minute — MSCHF intended to comment on the absurdity of the collaboration culture practiced by some brands, and about the perniciousness of intolerance."

"The 666 shoes (665 of which were already sold and shipped to collectors before the temporary restraining order hearing last week) were individually-numbered works of art that will continue to represent the ideals of equality and inclusion wherever they are displayed," Bernstein said.

Nike's lawsuit "brought extraordinary publicity to MSCHF and its works of art," Bernstein said.

Bernstein, who chairs Debevoise's intellectual property practice group, said that while they looked forward to making their case in court, "having already achieved its artistic purpose, MSCHF recognized that settlement was the best way to allow it to put this lawsuit behind it so that it could dedicate its time to new artistic and expressive projects."

Nike said on Thursday that if any purchasers were confused or wished to return the Satan Shoes, they may do so for a full refund. Nike said purchasers who choose not to return their shoes should contact MSCHF, not Nike, should they encounter a product issue, defect or health concern.

Nike is represented by Kyle A. Schneider, Christopher J. Renk, Michael J. Harris, Rhonda R. Trotter, Oscar Ramallo and Bridgette C. Boyd of [Arnold & Porter](#).

MSCHF is represented by David H. Bernstein and Megan K. Bannigan of Debevoise & Plimpton LLP.

The case is Nike Inc. v. MSCHF Product Studio Inc., case number [1:21-cv-01679](#), in the [U.S. District Court for the Eastern District of New York](#).

--Additional reporting by Bill Donahue. Editing by Nicole Bleier.

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