

UNITED STATES OF AMERICA

BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of

NINE WEST GROUP INC.,
a corporation.

Docket
No. C-3937

PUBLIC

SUPPLEMENTAL DECLARATION IN SUPPORT OF
PETITION TO REOPEN AND MODIFY ORDER

ANDREW COHEN, Chief Executive Officer and President of Nine West Footwear Corporation, successor-in-interest to Nine West Group Inc. (hereinafter "Nine West") hereby states as follows:

1. My name is Andrew Cohen, and I am Chief Executive Officer and President of Nine West. I am familiar with Nine West's operations and the competitive environment in which it operates.

2. I have read and am familiar with the Commission's Decision and Order, issued April 11, 2000 in the above-captioned matter (hereinafter the "Order"), Nine West's Petition to Reopen and Modify filed with the Commission on October 29, 2007 (hereinafter the "Petition") and Nine West's Supplemental Memorandum in Support of its Petition to Reopen and Modify the Order (hereinafter the "Supplemental Memorandum").

3. The information in this Supplemental Declaration is based on my personal knowledge and on information conveyed to me by other senior executives at Nine West.

4. I affirm that to the best of my knowledge and belief, all of the facts and statements contained in the Supplemental Memorandum are true.

5. Consumers differentiate women's footwear brands on the basis of criteria in addition to price.

6. Nine West depends on retailers to operate in convenient, aesthetically pleasing locations during desirable hours. Although Nine West does provide certain benefits to retailers who designate sales personnel to devote additional time specifically to selling Nine West products, Nine West does not automatically provide benefits for other important retailer services such as desirable location, hours, floor space, etc.

7. Nine West cannot rely solely on retailers owned by its parent company, Jones Apparel Group, to provide these desired services. Jones derived only about 17% of its Q3 2007 revenues from its retail stores selling Nine West and other brands. At the end of 2000, Jones Apparel Group had 773 stores selling primarily women's footwear (432 specialty stores and 341 outlet stores). At the end of 2006, Jones had 796 stores selling primarily women's footwear (398 specialty stores and 398 outlet stores). Outlet stores provide a broad selection of Jones brands at value prices, offering a distribution channel for residual inventories of current and proven prior season's styles, with the remainder of the merchandise consisting of discontinued styles.

8. Free riding by discount retailers on the efforts of those retailers who provide desired services has been a problem for Nine West. Specifically, intrabrand competition from deep-discounting dealers has in some cases deterred other retailers from providing additional services that would enhance Nine West's ability to compete with other manufacturers.

9. In one instance, an independent retailer with minimal floor space who provided little customer service offered Nine West styles at rock-bottom prices, taking advantage of a nearby retailer's superior customer service, displays and advertising. Nine West unilaterally terminated the independent retailer to prevent harm to Nine West brands and other nearby retailers, but would have preferred to utilize a less drastic response. Similar free riding among Nine West retailers has occurred in other regions.

10. On numerous occasions, Nine West executives have been forced to decide between unilaterally terminating deep-discounting retailers who were harming brand integrity and other service-providing retailers, or abiding the discounters' harmful pricing. In such instances, less extreme measures, such as suspension of — or at least discussion with — the deep-discounting retailer would have been preferable.

11. Nine West has retained outside counsel to train its sales staff and executives regarding antitrust compliance. Nine West attorneys have drafted scripts to guide divisional management and sales employees through retailer-initiated conversations relating to pricing. New Nine West employees holding management or sales positions in the wholesale divisions receive (and are required to certify receipt of) an antitrust compliance handbook and watch a videotaped training program on Nine West pricing

policies and antitrust compliance under the Order. Additional training sessions are scheduled regularly approximately once per year to keep wholesale sales employees apprised of Nine West's pricing policies. Employees also are instructed that they must direct questions regarding retailer pricing to one of two specially designated company executives.

12. In 2007, Nine West brands accounted for about 10.4% of the relevant women's footwear market, based upon available total department store and national chain store sales in that market. Nine West's top competitors and their approximate market shares were as follows:

- Brown Shoe Co. — 6.2%
- Vince Camuto Group — 4.4%
- Coach, Inc. — 3.7%
- Nike, Inc. — 2.9%
- C&J Clarks International Ltd. — 2.7%
- Steve Madden Ltd. — 2.5%
- Kenneth Cole Productions, Inc. — 2.0%
- Wolverine World Wide, Inc. — 1.5%
- Marc Fisher LLC — 1.3%
- Nina Footwear Corporation — 1.1%
- Liz Claiborne — 1.0%

13. I am told by Nine West executives that they believe that Coach, Inc., Deckers Outdoor Corporation, C&J Clark International Limited, Born Footwear, Ecco and Brown Shoe Company all use some type of minimum resale price maintenance. Also, Coach, Merrell, Born, Ecco, Sofft, Clarks, Kate Spade, UGG and BCBG/BCBG Max Azria are all competitor brands that have been excluded from department store point-of-sale coupons, based on a review of fine-print exclusions in Macy's,

Bloomingdale's and Lord & Taylor's point-of-sale coupons appearing in publications such as *The New York Times*, the *Stamford Advocate* and direct mail promotions.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 7, 2008



Andrew Cohen