

NIKE INC

FORM 8-K (Current report filing)

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**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, DC 20549

FORM 8-K

CURRENT REPORT
Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): December 28, 2004

NIKE, INC.

(Exact Name of Registrant as Specified in Charter)

Oregon	1-10635	93-0584541
_____	_____	_____
(State of Incorporation)	(Commission File Number)	(I.R.S. Employer Identification No.)

One Bowerman Drive
Beaverton, Oregon 97005-6453

(Address of Principal Executive Offices)

(503) 671-6453

(Registrant's telephone number, including area code)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (See General Instruction A.2. below):

Written communications pursuant to Rule 425 under the Securities Act

(17 CFR 230.425)

Soliciting material pursuant to Rule 14a-12 under Exchange Act (17 CFR 240.14a-12)

Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17CFR 240.14d-2(b))

Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 1.01 Entry into a Material Definitive Agreement.

On December 28, 2004, NIKE, Inc. and each of its NIKE Brand Presidents, Mark G. Parker and Charles D. Denson, agreed to amend their existing Covenant Not to Compete and Non-Disclosure Agreements dated October 6, 1994 and March 26, 2001, respectively.

The following descriptions of each of the amended Covenant Not to Compete and Non-Disclosure Agreements briefly summarizes the terms and conditions that are material to us and are qualified in their entirety by reference to the full text of the Agreements, which are filed as exhibits 10.1 and 10.2 to this current report on Form 8-K.

The amended agreement between the Company and Mark G. Parker contains a covenant not to compete that extends for two years following

the termination of his employment with the Company. The amended agreement provides that if Mr. Parker voluntarily resigns prior to December 31, 2006 or after December 31, 2007, the Company will make monthly payments to him during the two-year noncompetition period in an amount equal to 1/24th of his then current annual salary and target performance bonus ("Annual Nike Income"). The agreement provides further that if Mr. Parker's employment is terminated by the Company or if he voluntarily resigns after December 31, 2006 but before December 31, 2007, the Company will make monthly payments to him during the two-year noncompetition period in an amount equal to 1/12th of his then current Annual Nike Income. If Mr. Parker is terminated without cause, the parties may mutually agree to waive the covenant not to compete, and if Mr. Parker is terminated for cause, the Company may unilaterally waive the covenant. If the covenant is waived, the Company will not be required to make the payments described above for the months as to which the waiver applies.

The amended agreement between the Company and Charles D. Denson is similar to the agreement with Mr. Parker and extends for two years following the termination of his employment with the Company. The amended agreement provides that if Mr. Denson voluntarily resigns prior to December 31, 2006 or after December 31, 2007, the Company will make monthly payments to him during the two-year noncompetition period in an amount equal to 1/24th of his then current annual salary and target performance bonus ("Annual Nike Income"). The agreement provides further that if his employment is terminated by the Company or if he voluntarily resigns after December 31, 2006 but before December 31, 2007, the Company will make monthly payments to him during the two-year noncompetition period in an amount equal to 1/12th of his then current Annual Nike Income. If Mr. Denson is terminated without cause, the parties may mutually agree to waive the covenant not to compete, and if Mr. Denson is terminated for cause, the Company may unilaterally waive the covenant. If the covenant is waived, the Company will not be required to make the payments described above for the months as to which the waiver applies.

Item 5.02 Departure of Directors or Principal Officers; Election of Directors; Appointment of Principal Officers.

On December 28, 2004 Thomas E. Clarke resigned from the NIKE, Inc. Board of Directors, which includes resignation from his position on the Executive Committee of the Board of Directors. Dr. Clarke, 53, will continue to serve as President of New Business Ventures.

Item 9.01 Financial Statements and Exhibits.

(c) Exhibits

10.1 Covenant Not to Compete and Non-Disclosure Agreement, as amended and dated December 28, 2004 between NIKE, Inc. and Mark G. Parker

10.2 Covenant Not to Compete and Non-Disclosure Agreement, as amended and dated December 28, 2004 between NIKE, Inc. and Charles D. Denson

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

NIKE, Inc.
(Registrant)

Date: December 30, 2004

/s/ Donald W. Blair
By: _____
Donald W. Blair,
Chief Financial Officer

EXHIBIT 10.1

Amended portions of the agreement below are indicated with underscore.

COVENANT NOT TO COMPETE AND NON-DISCLOSURE AGREEMENT AS AMENDED

PARTIES:

Mark G. Parker (EMPLOYEE)

NIKE, Inc., an Oregon corporation, and its divisions, subsidiaries and affiliates (NIKE)

DATE: December 28, 2004

RECITALS:

A. This Covenant Not to Compete is executed upon the EMPLOYEE's assumption of additional responsibilities for worldwide marketing and development activities of NIKE.

B. Over the course of EMPLOYEE's employment with NIKE, EMPLOYEE will be or has been exposed to and/or in a position to generate confidential information including but not limited to confidential techniques, methods, styles, designs and design concepts, developments, customer lists, vendor lists, contract factory lists, pricing information, manufacturing plans, business plans, marketing plans, sales information, methods of operation, knowledge and data relating to processes, products, machines, compounds and compositions, formulae, lasts and molds. It is anticipated that EMPLOYEE will continue to be exposed to confidential information, will be exposed to more confidential information and to confidential information of greater sensitivity as EMPLOYEE advances in the company. This confidential information is information peculiar to NIKE's business. The nature of NIKE's business is highly competitive and disclosure of any confidential information would result in severe damage to NIKE and be difficult to measure.

C. NIKE makes use of the confidential information described in paragraph B above throughout the world. This confidential information of NIKE can be used to NIKE's detriment anywhere in the world.

D. The provisions of the Covenant Not to Compete and Non-Disclosure Agreement are a condition of EMPLOYEE's employment advancement with NIKE.

E. The provisions of this Covenant Not to Compete and Non-Disclosure Agreement are reasonable.

AGREEMENTS:

1. COVENANT NOT TO COMPETE. During the period of time EMPLOYEE is employed by NIKE, under the terms of any employment contract or otherwise, and for two (2) years thereafter, EMPLOYEE will not

directly or indirectly, own, manage, operate, join, control, or participate in the ownership, management, operation or control of, or be employed by or connected in any manner with, any business engaged anywhere in the world in the athletic footwear business, athletic apparel business, or any other business which directly competes with NIKE or any of its subsidiaries or affiliated corporations. This provision is (a) subject to NIKE's option to waive, but only with the concurrence of the EMPLOYEE, all or any portion of the two (2) year time period of non-competition following termination more specifically provided for in paragraph 2; and (b) subject to NIKE's option to specifically identify, at the time of termination, those businesses which EMPLOYEE may not be employed by or connected with for the period of non-competition. NIKE agrees to act in good faith in its exercise of the above-noted options.

2. ADDITIONAL CONSIDERATION.

a. As additional consideration for the covenant not to compete described in paragraph 1 above, it is agreed that:

(i) If EMPLOYEE voluntarily leaves the employ of **Nike prior to December 31, 2006 or after December 31, 2007, Nike shall pay EMPLOYEE an amount per month equal to one-twenty-fourth (1/24) of EMPLOYEE's then current "Annual Nike Income" (defined herein to mean base salary and annual Performance Sharing Plan bonus calculated at 100% of EMPLOYEE's targeted rate) for the two (2) year period of non-competition following voluntary termination of employment, payable on**

the first day of each month, or

(ii) If EMPLOYEE is involuntarily terminated by

Nike at any time during the term hereof, or voluntarily leaves the employ of Nike after December 31, 2006 but before December 31, 2007, Nike shall pay EMPLOYEE an amount per month equal to one-twelfth (1/12) of EMPLOYEE's then current Annual Nike Income for the two (2) year period of non-competition following termination of employment, payable on the first day of each month.

b. Nike may waive all or any portion of the two (2)

year period of non-competition following termination, subject to the following provisions:

(i) At any time during, or prior to the

commencement of, the two (2) year period, Nike may tender to EMPLOYEE thirty (30) days' written notice of its desire to waive all or the then remaining portion of the two (2) year period of non-competition. Within the thirty (30) day notice period, EMPLOYEE will have the option of accepting or rejecting Nike's tender by advising Nike in writing of EMPLOYEE's election to accept the waiver, in which event EMPLOYEE would be free to compete at the end of the thirty (30) day notice period and all payments to EMPLOYEE hereunder would cease, or to reject the waiver, in which event EMPLOYEE would continue to be prohibited from competing for the remaining portion of the two (2) year period of non-competition and payments to EMPLOYEE would continue as herein provided.

(ii) However, notwithstanding anything contained in

subparagraph 2(b)(i) above, if EMPLOYEE is terminated by Nike "for cause" (defined herein to include only continual and repeated neglect of duties and dishonesty) Nike shall have the unqualified right to waive, without EMPLOYEE's consent, all or any portion of the two (2) year period of non-competition following termination, by giving EMPLOYEE written notice of such election not less than thirty (30) days prior to the effective date of the waiver. In that event, Nike shall not be obligated to pay EMPLOYEE hereunder for any months as to which the Covenant Not To Compete has been waived.

3. LESSER RESTRICTIONS. Should any of the terms of paragraphs 1 and 2 above be found unreasonable or invalid by any court of competent jurisdiction, the parties agree to accept as binding, in lieu thereof, the maximum terms enforceable by law.

4. EXTENSION OF TIME. The covenant not to compete described in paragraphs 1, 2 and 3 above shall be extended by a time period equal to any time consumed in enforcement of the obligations hereunder during which EMPLOYEE engaged in activities violating the covenant not to compete.

5. NON-DISCLOSURE AGREEMENT. During the period of employment by NIKE and forever thereafter, EMPLOYEE will hold in confidence all information of a confidential nature, including but not limited to the information described in Recital "B," (all of which information of a confidential nature shall hereinafter be referred to as "confidential information") and will not, at any time, directly or indirectly, use any confidential information for any purpose outside the scope of EMPLOYEE's employment with NIKE or disclose any confidential information to any person or organization without the prior written consent of NIKE. Specifically, but not by way of limitation, EMPLOYEE shall not ever copy, transmit, reproduce, summarize, quote, publish or make any commercial or other use whatsoever of any confidential information without the prior written consent of NIKE.

6. RETURN OF CONFIDENTIAL INFORMATION. Upon termination and upon written request by NIKE at any time, EMPLOYEE shall return to NIKE all documents, records, notebooks and other similar repositories of or containing confidential information, including all copies thereof, then in EMPLOYEE's possession, whether prepared by EMPLOYEE or others, and deliver to NIKE any and all other confidential information, in whatever form, that may be in EMPLOYEE's possession or under EMPLOYEE's control.

7. UNAUTHORIZED USE. During the period of employment with NIKE and thereafter, EMPLOYEE shall notify NIKE immediately of the unauthorized possession, use or knowledge of any confidential information by any person employed or not employed by NIKE at the time of such possession, use or knowledge. EMPLOYEE shall promptly furnish details of such possession, use or knowledge to NIKE, will assist in preventing the reoccurrence of such possession, use or knowledge, and shall cooperate with NIKE in any litigation against third parties deemed necessary by NIKE to protect the confidential information. EMPLOYEE's compliance with this paragraph shall not be construed in any way as a waiver of any of NIKE's rights or remedies against EMPLOYEE arising out of or related to such unauthorized possession, use or knowledge.

8. INJUNCTIVE RELIEF. The remedy at law for any breach of this Covenant Not to Compete and Non-Disclosure Agreement will be

inadequate. It is reasonable to require that EMPLOYEE not compete with NIKE in order to protect NIKE from unfair use of the confidential information. NIKE shall be entitled to injunctive relief in addition to any other remedy it may have. A breach of this Covenant Not to Compete and Non-Disclosure Agreement during the period of EMPLOYEE's employment with NIKE shall be considered a breach of the terms of that employment and NIKE shall have the right to terminate EMPLOYEE's employment in addition to any other rights or remedies NIKE may have.

9. WAIVER, AMENDMENT, MODIFICATION OR CANCELLATION. No waiver, amendment, modification or cancellation of any term or condition of this Covenant Not to Compete and Non-Disclosure Agreement shall be effective unless executed in writing by the party charged therewith. No written waiver shall excuse the performance of any act other than the act or acts specifically referred to therein.

10. APPLICABLE LAW/JURISDICTION/VENUE. This Covenant Not to Compete and Non-Disclosure Agreement and EMPLOYEE's employment hereunder, shall be construed according to the laws of the state of Oregon and EMPLOYEE hereby submits to the jurisdiction of the courts of the state of Oregon and waives application of any foreign law relating to this Agreement and EMPLOYEE's employment by NIKE. Any suit or action of any kind relating to this Agreement or the subject matter hereof shall be brought in a court located in Washington County, Oregon.

EMPLOYEE

NIKE, INC.

By: _____
Name: Mark G. Parker

By: _____
Name: Philip H. Knight

EXHIBIT 10.2

Amended portions of the agreement below are indicated with underscore.

COVENANT NOT TO COMPETE AND NON-DISCLOSURE AGREEMENT AS AMENDED

PARTIES:

Charles D. Denson (EMPLOYEE)

NIKE, Inc., and its parent, divisions,

subsidiaries and affiliates (NIKE)

DATE: December 28, 2004

RECITALS:

A. This Covenant Not to Compete and Non-Disclosure Agreement is executed upon the EMPLOYEE's advancement to the position of President of the NIKE brand and is a condition of such advancement.

B. Over the course of EMPLOYEE's employment with NIKE, EMPLOYEE will be or has been exposed to and/or is in a position to develop confidential information peculiar to NIKE's business and not generally known to the public as defined below ("Protected Information"). It is anticipated that EMPLOYEE will continue to be exposed to Protected Information of greater sensitivity as EMPLOYEE advances in the company.

C. The nature of NIKE's business is highly competitive and disclosure of any Protected Information would result in severe damage to NIKE and be difficult to measure.

D. NIKE makes use of its Protective Information throughout the world. Protective Information of NIKE can be used to NIKE's detriment anywhere in the world.

AGREEMENT:

In consideration of the foregoing, and the terms and conditions set forth below, the parties agree as follows:

1. Covenant Not to Compete.

(a) Competition Restriction. During EMPLOYEE's employment by NIKE, under the terms of any employment contract or otherwise, and for twenty-four (24) months thereafter, (the "Restriction Period"), EMPLOYEE will not directly or indirectly, own, manage, control, or participate in the ownership, management or control of, or be employed by, consult for, or be connected in any manner with, any business engaged anywhere in the world in the athletic footwear, athletic apparel or sports equipment and accessories business, or any other business which directly competes with NIKE or any of its parent, subsidiaries or affiliated corporations ("Competitor"). By way of illustration only, examples of NIKE competitors include but are not limited to: Adidas, FILA, Reebok, Puma, Champion, Oakley, DKNY, Converse, Asics, Saucony, New Balance, Ralph Lauren/Polo Sport, B.U.M., FUBU, The Gap, Tommy Hilfiger, Umbro, Northface, Venator (Footlockers), Sports Authority, Columbia Sportswear, Wilson, Mizuno, Callaway Golf and Titleist. This provision is subject to NIKE's option to waive all or any portion of the Restriction Period as more specifically provided below.

(b) Extension of Time. In the event that EMPLOYEE breaches this covenant not to compete, the Restriction Period shall automatically toll from the date of the first breach, and all subsequent breaches, until the resolution of the breach through private settlement, judicial or other action, including all appeals. The Restriction Period shall continue upon the effective date of any such settlement judicial or other resolution. NIKE shall not be obligated to pay EMPLOYEE the additional compensation described in paragraph 1(d) below during any period of time in which this Agreement is tolled due to EMPLOYEE's breach. In the event EMPLOYEE receives such additional compensation for any such breach, EMPLOYEE must immediately reimburse NIKE in the amount of all such compensation upon the receipt of a written request by NIKE.

(c) Waiver of Non-Compete. NIKE has the option to elect to waive all or a portion of the Restriction Period or to limit the definition of Competitor; provided, however, unless EMPLOYEE is terminated "for cause" (which shall only include continual and repeated neglect of duties and acts of dishonesty), any waiver of the Restriction Period must be with the consent of EMPLOYEE. In the event all or a portion of the Restriction Period is waived, NIKE shall not be obligated to pay EMPLOYEE for any period of time as to which the Covenant Not to Compete has been waived.

(d) Additional Consideration. As additional consideration for the Covenant Not To Compete described above, should Nike terminate EMPLOYEE's employment and the Covenant Not To Compete is enforced, Nike shall pay EMPLOYEE a monthly payment equal to one-twelfth (1/12) of EMPLOYEE's then current Annual Nike Income (defined herein to mean base salary and annual Performance Sharing Plan bonus calculated at 100% of EMPLOYEE's targeted rate) while the Restriction Period is in effect. If EMPLOYEE voluntarily terminates employment and the Covenant Not To Compete is enforced, Nike shall pay EMPLOYEE a monthly payment equal to one-twenty-fourth (1/24) of EMPLOYEE's then current Annual Nike Income while the Restriction Period is in effect; provided, however, if EMPLOYEE voluntarily terminates employment after December 31, 2006, but prior to December 31, 2007, and the Covenant Not To Compete is enforced, Nike shall pay EMPLOYEE a monthly payment equal to one-twelfth (1/12) of EMPLOYEE's then current Annual Nike Income while the Restriction Period is in effect.

2. Subsequent Employer. EMPLOYEE agrees to notify NIKE at the time of separation of employment of the name of EMPLOYEE's new employer, if known. EMPLOYEE further agrees to disclose to NIKE the name of any subsequent employer during the Restriction Period, wherever located and regardless of whether such employer is a competitor of NIKE.

3. Non-Disclosure Agreement.

(a) Protectable Information Defined. "Protected Information" shall mean all proprietary information, in whatever form and format, of NIKE and all information provided to NIKE by third parties which NIKE is obligated to keep confidential. EMPLOYEE agrees that any and all information to which EMPLOYEE has access concerning NIKE projects and internal NIKE information is Protected Information, whether in verbal form, machine-readable form, written or other tangible form, and whether designated as confidential or unmarked. Without limiting the foregoing, Protected Information includes information relating to NIKE's research and development activities, its intellectual property and the filing or pendency of patent applications, confidential techniques, methods, styles, designs, design concepts and ideas, customer and vendor lists, contract factory lists, pricing information, manufacturing plans, business and marketing plans, sales information, methods of operation, manufacturing processes and methods, products, and personnel information.

(b) Excluded Information. Notwithstanding paragraph

3(a), Protected Information excludes any information that is or becomes part of the public domain through no act or failure to act on the part of the EMPLOYEE. Specifically, employees shall be permitted to retain as part of their personal portfolio copies of the employees' original artwork and designs, provided the artwork or designs have become part of the public domain. In any dispute between the parties with respect to this exclusion, the burden of proof will be on EMPLOYEE and such proof will be by clear and convincing evidence.

(c) Employee's Obligations. During the period of employment by NIKE and for a period of two (2) years thereafter, EMPLOYEE will hold in confidence and protect all Protected Information and will not, at any time, directly or indirectly, use and Protected Information for any purpose outside the scope of EMPLOYEE's employment with NIKE or disclose any Protected Information to any third person or organization without the prior written consent of NIKE. Specifically, but not by way of limitation, EMPLOYEE will not ever copy, transmit, reproduce, summarize, quote, publish or make any commercial or other use whatsoever of any Protected Information without the prior written consent of NIKE. EMPLOYEE will also take reasonable security precautions and such other actions as may be necessary to insure that there is no use or disclosure, intentional or inadvertent, of Protected Information in violation of this Agreement.

4. Return of Protected Information. At the request of NIKE at anytime, and in any event, upon termination of employment, EMPLOYEE shall immediately return to NIKE all confidential documents, including tapes, notebooks, drawings, computer disks and other similar repositories of or containing Protected Information, and all copies thereof, then in EMPLOYEE's possession or under EMPLOYEE's control.

5. Unauthorized Use. During the period of employment with NIKE and thereafter, EMPLOYEE will notify NIKE immediately if EMPLOYEE becomes aware of the unauthorized possession, use or knowledge of any Protected Information by any person employed or not employed by NIKE at the time of such possession, use or knowledge. EMPLOYEE will cooperate with NIKE in the investigation of any such incident and will cooperate with NIKE in any litigation with third parties deemed necessary by NIKE to protect the Protected Information. NIKE shall provide reasonable reimbursement to EMPLOYEE for each hour so engaged and that amount shall not be diminished by operation of any payment under Paragraph 1(d) of this Agreement.

6. Non-Recruitment. During the term of this Agreement and for a period of one (1) year thereafter, EMPLOYEE will not directly or indirectly, solicit, divert or hire away (or attempt to solicit, divert or hire away) to or for himself or any other company or business organization, any NIKE employee, whether or not such employee is a full-time employee or temporary employee and whether or not such employment is pursuant to a written agreement or is at will.

7. Accounting of Profits. EMPLOYEE agrees that, if EMPLOYEE should violate any term of this Agreement, NIKE shall be entitled to an accounting and repayment of all profits, compensation, commissions, remuneration or benefits which EMPLOYEE directly or indirectly has realized and/or may realize as a result of or in connection with any such violation (including return of any additional consideration paid by NIKE pursuant to Paragraph 1 (d) above). Such remedy shall be in addition to and not in limitation of any injunctive relief or other rights or

remedies to which NIKE may be entitled at law or in equity.

8. General Provisions.

(a) Survival. This Agreement shall continue in effect after the termination of EMPLOYEE's employment, regardless of the reason for termination.

(b) Waiver. No waiver, amendment, modification or cancellation of any term or condition of this Agreement will be effective unless executed in writing by both parties. No written waiver will excuse the performance of any act other than the act or acts specifically referred to therein.

(c) Severability. Each provision herein will be treated as a separate and independent clause and unenforceability of any one clause will in no way impact the enforceability of any other clause. Should any of the provisions in this Agreement be found to be unreasonable or invalid by a court of competent jurisdiction, such provision will be enforceable to the maximum extent enforceable by the law of that jurisdiction.

(d) Applicable Law/Jurisdiction. This Agreement, and EMPLOYEE's employment hereunder, shall be construed according to the laws of the State of Oregon. EMPLOYEE further hereby submits to the jurisdiction of, and agrees that exclusive jurisdiction over and venue for any action or proceeding arising out of or relating to this Agreement shall lie in the state and federal courts located in Oregon.

EMPLOYEE

NIKE, Inc.

By: _____
Name: Charles D. Denson
Title: President, NIKE Brand

By: _____
Name: Philip H. Knight
Title: President & CEO