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7 *Deckers Outdoor Corporation*



8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10
11 DECKERS OUTDOOR CORPORATION,) **CV13- 4642** SNW (JLx)
a Delaware Corporation,) CASE NO.
12)
13 Plaintiff,)
14 v.)
15 KIDS DREAM LAND, an unknown)
business entity; and DOES 1-10, inclusive,)
16)
17 Defendants.)

COMPLAINT FOR DAMAGES:
1. PATENT INFRINGEMENT;
2. COMMON LAW UNFAIR COMPETITION

JURY TRIAL DEMANDED

18 Plaintiff **Deckers Outdoor Corporation** for its claims against Defendant **Kids**
19 **Dream Land** respectfully alleges as follows:

20 **JURISDICTION AND VENUE**

- 21 1. Plaintiff files this action against Defendant for patent infringement arising
22 under the patent laws of the United States. This Court has subject matter jurisdiction
23 over the claims alleged in this action pursuant to 28 U.S.C. §§ 1331, 1338.
- 24 2. This Court has personal jurisdiction over Defendant because Defendant
25 does business within this judicial district.
- 26 3. This action arises out of wrongful acts by Defendant within this judicial
27 district and Plaintiff is located and has been injured in this judicial district by
28

1 Defendant's alleged wrongful acts. Venue is proper in this district pursuant to 28
2 U.S.C. § 1391 because the claims asserted arise in this district.

3 **THE PARTIES**

4 4. Plaintiff Deckers Outdoor Corporation ("Deckers") is a corporation
5 organized and existing under the laws of the state of Delaware with an office and
6 principal place of business in Goleta, California. Deckers designs and markets
7 footwear identified by its famous UGG® trademark and other famous trademarks.

8 5. Upon information and belief, Defendant Kids Dream Land is an unknown
9 business entity located in Torrance, California.

10 6. Plaintiff is unaware of the names and true capacities of Defendants,
11 whether individual, corporate and/or partnership entities named herein as DOES 1
12 through 10, inclusive, and therefore sues them by their fictitious names. Plaintiff will
13 seek leave to amend this complaint when their true names and capacities are
14 ascertained. Plaintiff is informed and believes and based thereon alleges that said
15 Defendant and DOES 1 through 10, inclusive, are in some manner responsible for the
16 wrongs alleged herein, and that at all times referenced each was the agent and servant
17 of the other Defendant and was acting within the course and scope of said agency and
18 employment.

19 7. Plaintiff is informed and believes, and based thereon alleges, that at all
20 relevant times herein, Defendant and DOES 1 through 10, inclusive, knew or
21 reasonably should have known of the acts and behavior alleged herein and the damages
22 caused thereby, and by their inaction ratified and encouraged such acts and behavior.
23 Plaintiff further alleges that Defendant and DOES 1 through 10, inclusive, have a non-
24 delegable duty to prevent or not further such acts and the behavior described herein,
25 which duty Defendant and DOES 1 though 10, inclusive, failed and/or refused to
26 perform.

1 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

2 **A. Deckers' UGG® Brand**

3 8. Deckers has become well known throughout the United States and
4 elsewhere as a source of high quality footwear products identified at least by its
5 UGG® brand of premium footwear.

6 9. Deckers' UGG® products are distributed and sold to consumers through
7 retailers throughout the United States at point of sale and on the Internet, including
8 through its website www.uggaustralia.com.

9 10. Deckers has spent substantial time, effort, and money in designing,
10 developing, advertising, promoting, and marketing its famous UGG® Australia line of
11 footwear. Deckers' efforts have been successful and Deckers has sold a substantial
12 amount of UGG® Australia footwear.

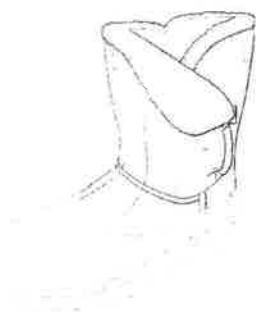
13 11. Many of Deckers' UGG® footwear designs are protected by design
14 patents issued by the United States Patent and Trademark Office, which include but are
15 not limited to U.S. Reg. No. D599,999 for the "Single Bailey Button Boot" (issued on
16 September 15, 2009). Attached hereto and incorporated herein as Exhibit 1 is a true
17 and correct copy of the design patent registration for Deckers' Single Bailey Button
18 Boot.

19 12. Deckers is the lawful assignee of all right, title, and interest in and to the
20 design patent for the Single Bailey Button Boot.

21 **B. Defendant's Infringement of the Single Bailey Button Boot Design**
22 **Patent**

23 13. It has recently come to Plaintiff's attention that Defendant has offered and
24 is currently advertising, offering for sale, and selling footwear bearing a design that
25 infringes upon Plaintiff's Single Bailey Button Boot ("Infringing Products")
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Ugg Design Patent No. D599,999

Boot from Kids Dream Land

14. Deckers has not granted a license or any other form of permission to Defendant with respect to the Single Bailey Button Boot design.

FIRST CLAIM FOR RELIEF

(Patent Infringement – 35 U.S.C. § 271)

15. Plaintiff incorporates herein by reference the averments of the preceding paragraphs as though fully set forth herein.

16. Plaintiff Deckers Outdoor Corporation is the owner by assignment of all right, title and interest in and to the design patent for the Single Bailey Button Boot.

17. Defendant has knowingly and intentionally manufactured, caused to be produced, distributed, advertised, marketed, offered for sale, and/or sold footwear that infringes upon the design patent for the Single Bailey Button Boot in direct violation of 35 U.S.C. § 271.

18. Defendant’s use of the Single Bailey Button Boot design is without Plaintiff’s permission or authority and is in total disregard of Plaintiff’s right to control its intellectual property.

19. As a direct and proximate result of Defendant’s infringing conduct, Plaintiff has been injured and will continue to suffer injury to its business and reputation unless Defendant is restrained by this Court from infringing Plaintiff’s design patents.

20. Defendant’s acts have damaged and will continue to damage Plaintiff, and Plaintiff has no adequate remedy at law.

1 and punitive damages in an amount sufficient to punish and make an example of
2 Defendant, and to deter it from similar such conduct in the future.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiff respectfully prays for judgment against Defendant, as
5 follows:

6 1. A Judgment that Defendant has infringed upon Plaintiff's design patent
7 for the Single Bailey Button Boot in violation of 35 U.S.C. § 271 and that Defendant's
8 infringement was willful;

9 2. An order granting temporary, preliminary and permanent injunctive relief
10 restraining and enjoining Defendant, its officers, agents, employees, and attorneys, and
11 all those persons or entities in active concert or participation with them from:

12 (a) manufacturing, importing, advertising, marketing, promoting,
13 supplying, distributing, offering for sale, or selling any products that infringe upon any
14 of Deckers' design patents, including but not limited to the Infringing Products;

15 (b) engaging in any other activity constituting unfair competition with
16 Plaintiff, or acts and practices that deceive consumers, the public, and/or trade,
17 including without limitation, the use of designations and design elements used or
18 owned by or associated with Plaintiff; and

19 (c) committing any other act which falsely represents or which has the
20 effect of falsely representing that the goods and services of Defendant are licensed by,
21 authorized by, offered by, produced by, sponsored by, or in any other way associated
22 with Plaintiff;

23 3. Ordering Defendant to recall from any distributors and retailers and to
24 deliver to Plaintiff for destruction or other disposition all remaining inventory of all
25 Infringing Products and related items, including all advertisements, promotional and
26 marketing materials therefore, as well as means of making same;

1 4. Ordering Defendant to file with this Court and serve on Plaintiff within
2 thirty (30) days after entry of the injunction a report in writing, under oath setting forth
3 in detail the manner and form in which Defendant has complied with the injunction;

4 5. Ordering an accounting by Defendant of all gains, profits and advantages
5 derived from their wrongful acts;

6 6. Awarding Plaintiff all of Defendant's profits and all damages sustained by
7 Plaintiff as a result of Defendant's wrongful acts, and such other compensatory
8 damages as the Court determines to be fair and appropriate;

9 7. Increasing the damages up to three times the amount found or assessed
10 under 35 U.S.C. § 284;

11 8. Awarding applicable interest, costs, disbursements and attorneys' fees;

12 9. Finding that this is an exceptional case under 35 U.S.C. § 285 and
13 awarding attorneys' fees there under;

14 10. Awarding Plaintiff's punitive damages in connection with its claims under
15 California law; and

16 11. Such other relief as may be just and proper.

17
18 Dated: June 24, 2013

BLAKELY LAW GROUP

19
20 By: 

21 Brent H. Blakely
22 Cindy Chan

23 *Attorneys for Plaintiff*
24 *Deckers Outdoor Corporation*
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DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff hereby demands a trial by jury as to all claims in this litigation.

Dated: June 24, 2013

BLAKELY LAW GROUP

By: 
Brent H. Blakely
Cindy Chan
Attorneys for Plaintiff
Deckers Outdoor Corporation



US00D59999S

(12) **United States Design Patent**
MacIntyre

(10) **Patent No.:** **US D599,999 S**
(45) **Date of Patent:** **** Sep. 15, 2009**

(54) **PORTION OF A FOOTWEAR UPPER**

EP 00718002-0006 4/2007

OTHER PUBLICATIONS

(75) Inventor: **Jennifer MacIntyre**, Santa Barbara, CA (US)

UGG Australia, Bipster model, p. 1, Oct. 3, 2008.
UGG Australia, Henry model, p. 1, Oct. 3, 2008.
UGG Australia, Erin model, p. 1, Oct. 3, 2008.
UGG Australia, Cove model, p. 1, Oct. 27, 2008.
UGG Australia, Kona model, p. 1, Oct. 27, 2008.
Catalogue Moscow Shoes, summer 2006, p. 2 top center.
Steve Madden MISSYY Brown Suede boot. www.jildorshoes.com, Dec. 9, 2008

(73) Assignee: **Deckers Outdoor Corporation**, Goleta, CA (US)

(**) Term: **14 Years**

* cited by examiner

(21) Appl. No.: **29/326,868**

(22) Filed: **Oct. 27, 2008**

Primary Examiner—Stella M Reid
Assistant Examiner—Rashida C McCoy
(74) *Attorney, Agent, or Firm*—Greer, Burns & Crain, Ltd.

(51) **LOC (9) Cl.** **02-99**

(52) **U.S. Cl.** **D2/970; D2/911; D2/946**

(58) **Field of Classification Search** D2/896,
D2/909-915, 946, 970, 973, 974; 36/45,
36/50.1, 83, 3 A, 7.1 R, 113

(57) **CLAIM**

See application file for complete search history.

The ornamental design for a portion of a footwear upper, as shown and described.

(56) **References Cited**

DESCRIPTION

U.S. PATENT DOCUMENTS

FIG. 1 is a perspective view of a portion of a footwear upper showing my new design;

D125,568 S *	3/1941	Hard	.....	D2 911
D155,573 S *	10/1949	Bingham	.....	D2 910
D159,577 S *	8/1950	Stromberg	.....	D2 900
D159,761 S *	8/1950	Barron	.....	D2 910
D227,197 S *	6/1973	Fukuoka	.....	D2 910
D319,332 S *	8/1991	Itzkowitz	.....	D2 910
D481,863 S *	11/2003	Belley et al.	.....	D2 970
D529,269 S *	10/2006	Belley et al.	.....	D2 970
D539,024 S	3/2007	Belley et al.		
D581,140 S	11/2008	Earle		

FIG. 2 is a side elevational view thereof;
FIG. 3 is an opposite side elevational view thereof;
FIG. 4 is a front elevational view thereof;
FIG. 5 is a rear elevational view thereof;
FIG. 6 is a top plan view thereof; and,
FIG. 7 is a bottom plan view thereof.

The broken lines in FIGS. 1-7 represent portions of the footwear that form no part of the claimed design. The broken line which defines the bounds of the claimed design forms no part thereof.

FOREIGN PATENT DOCUMENTS

DE 40702148 8/2007

1 Claim, 6 Drawing Sheets

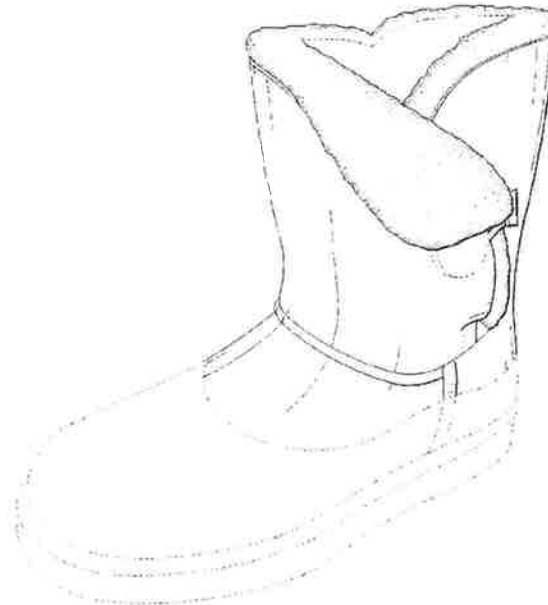


EXHIBIT 1

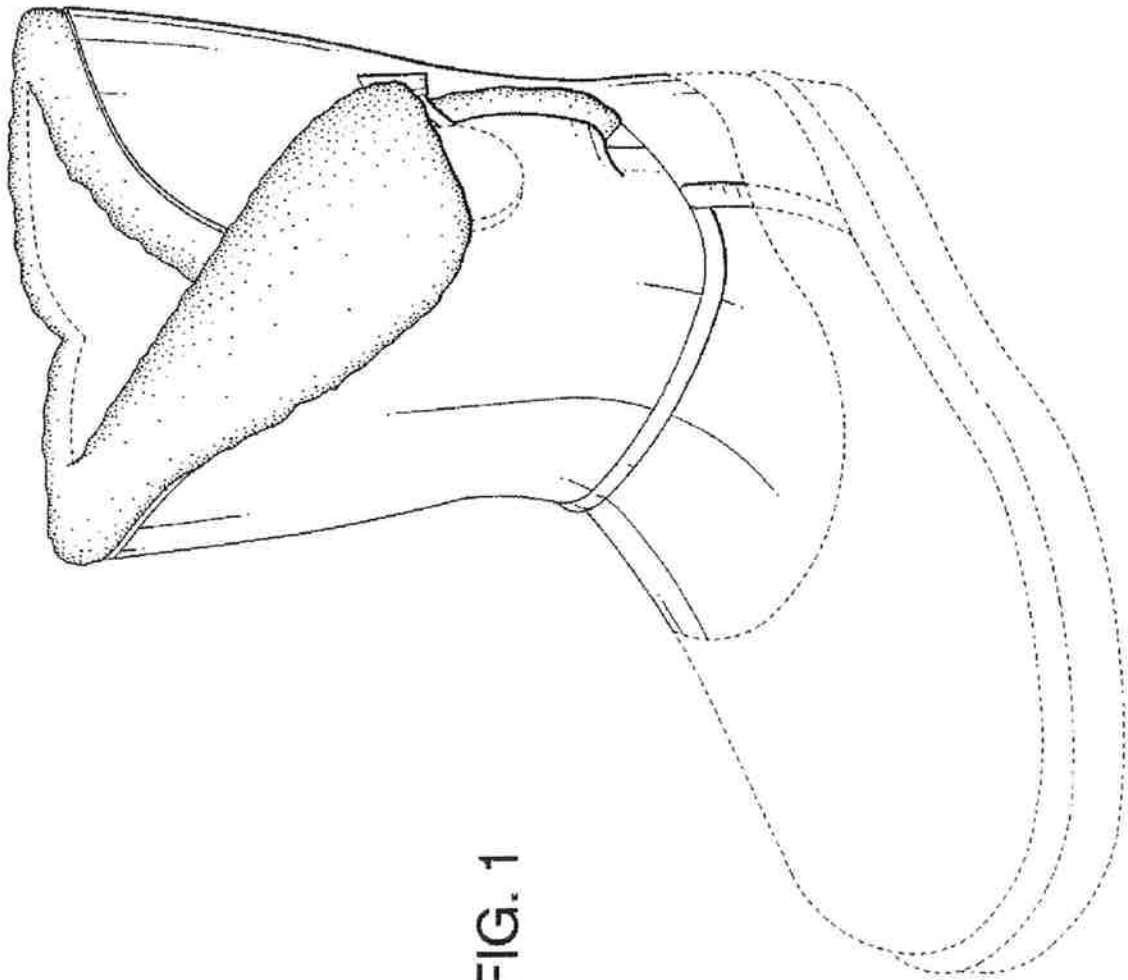


FIG. 1

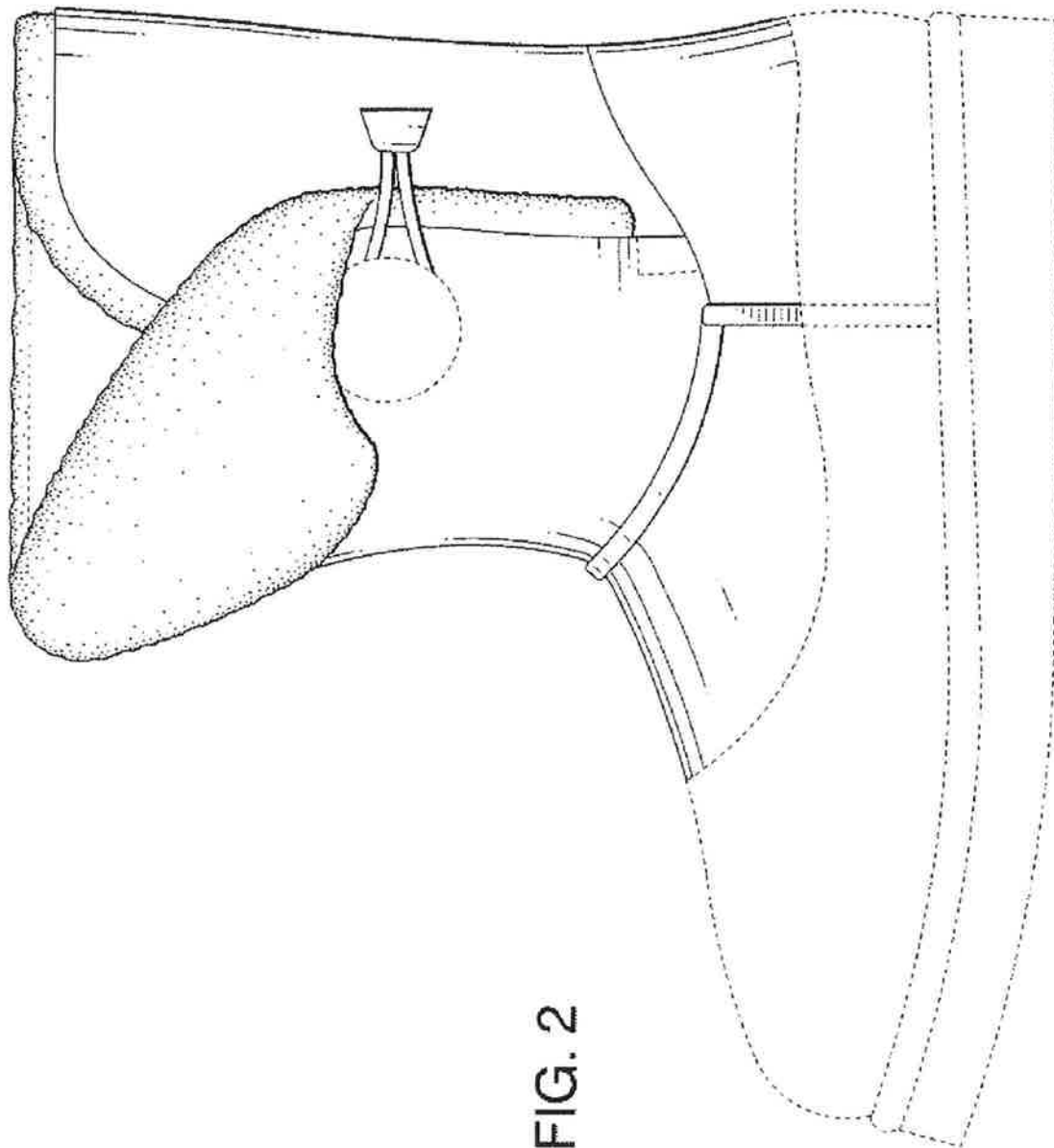


FIG. 2

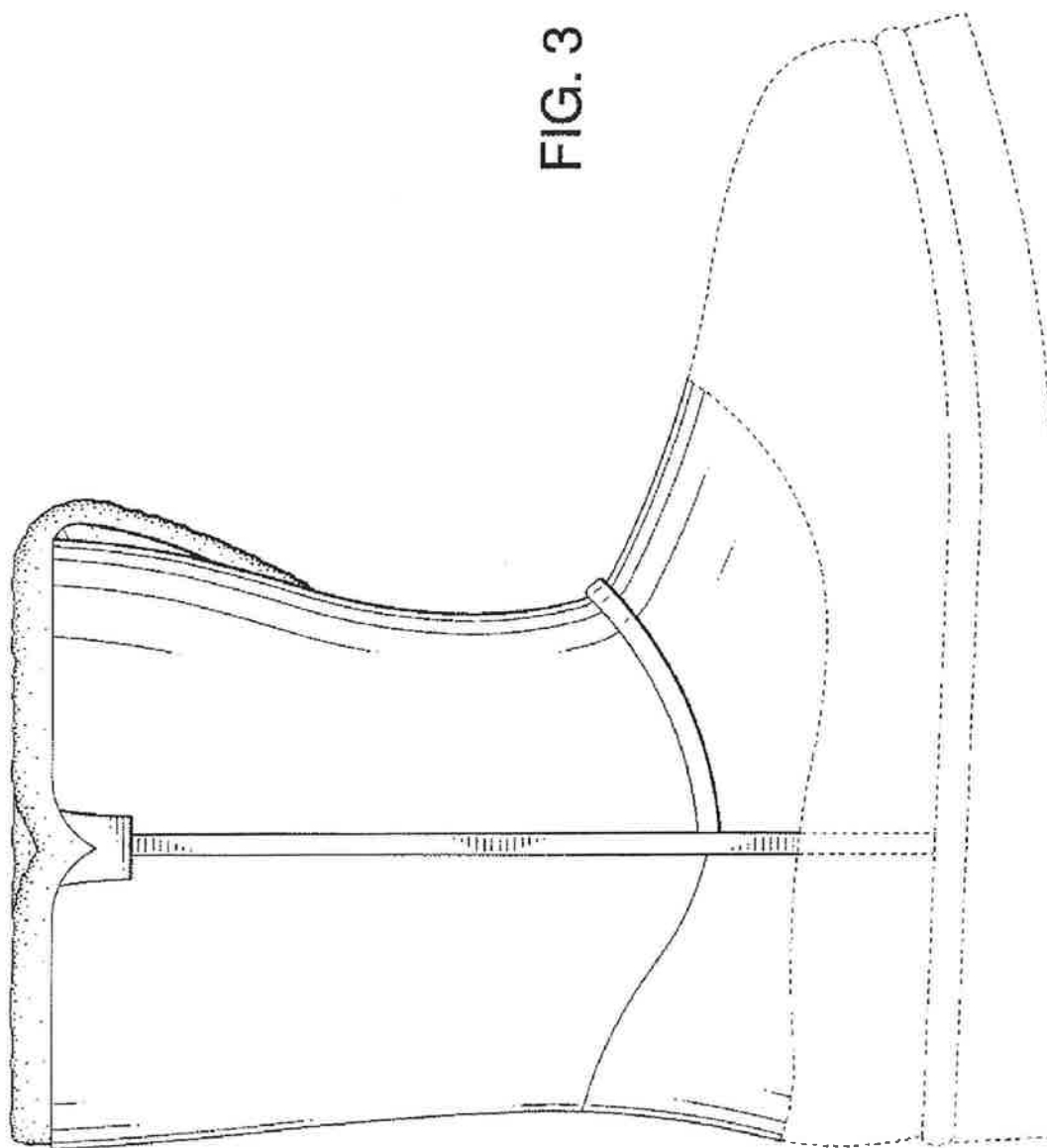


FIG. 5

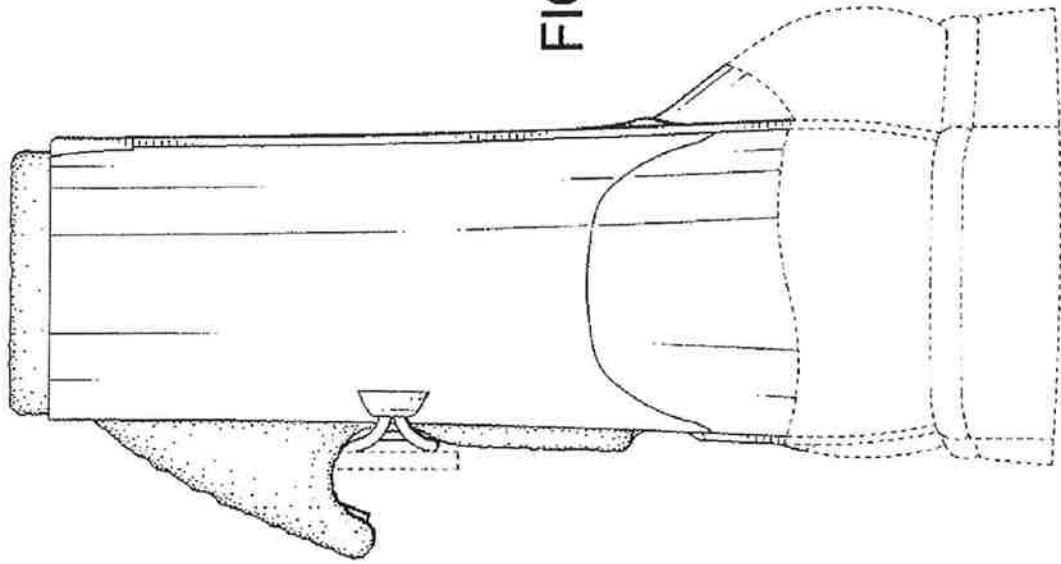
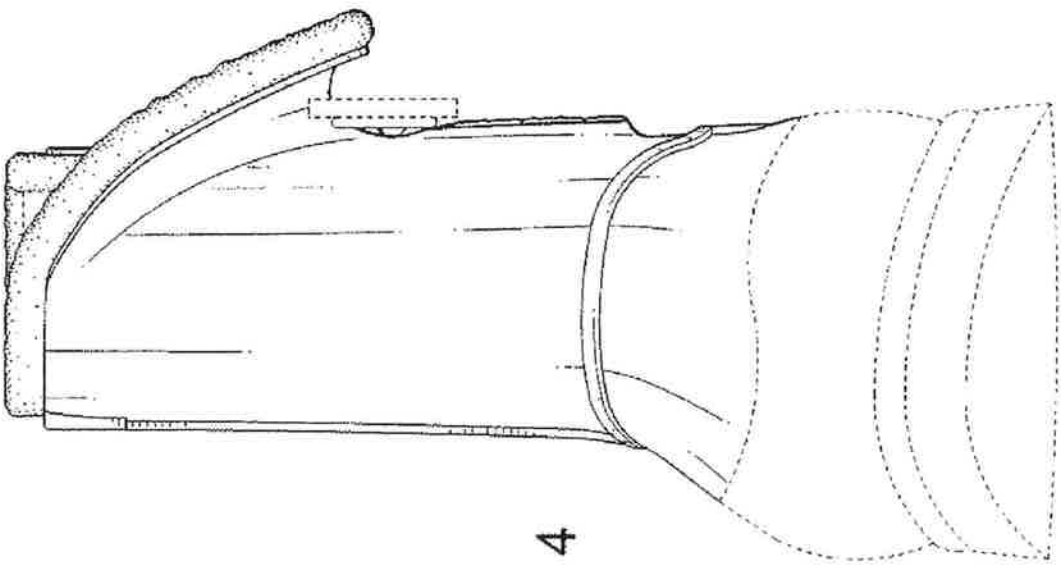


FIG. 4



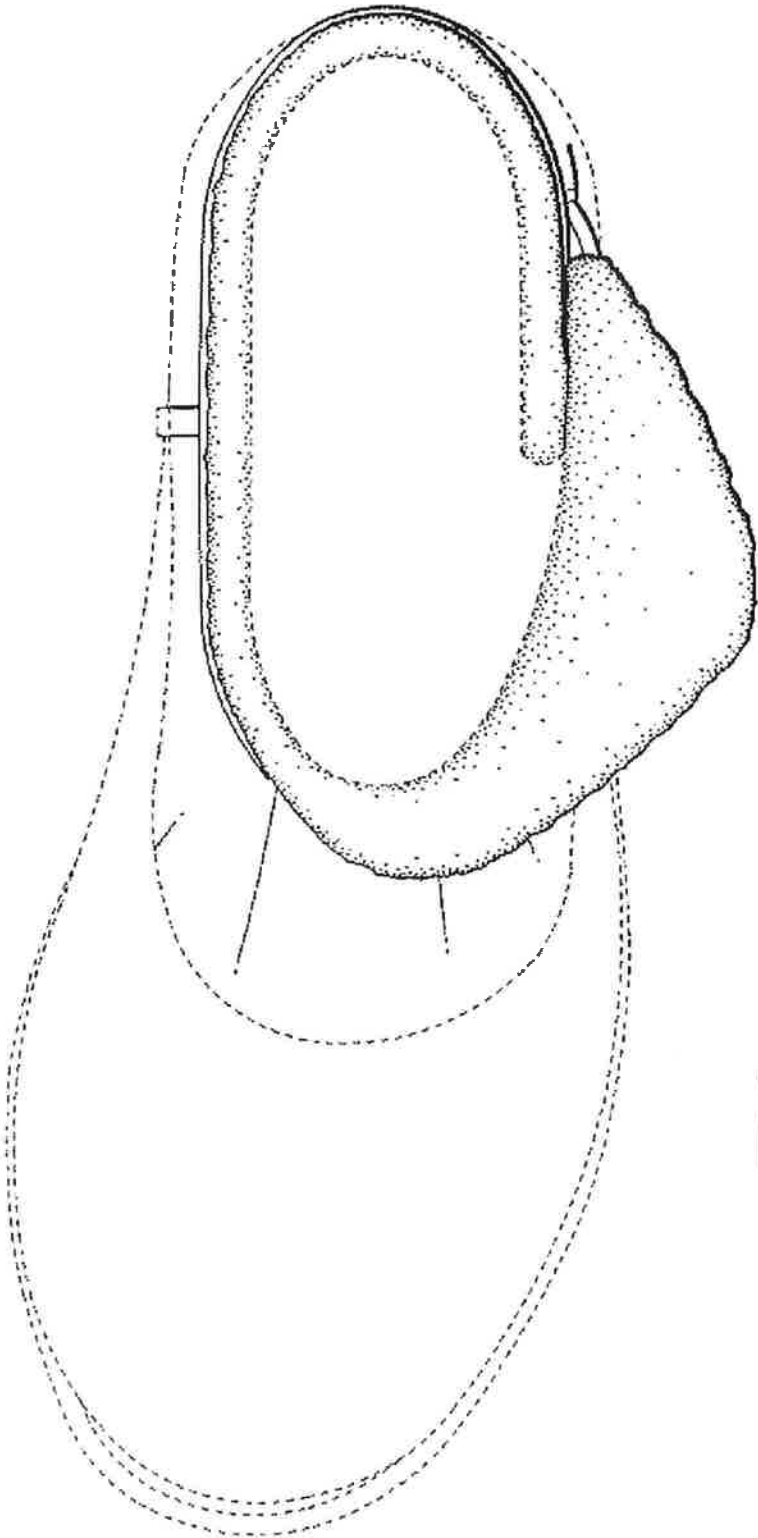


FIG. 6

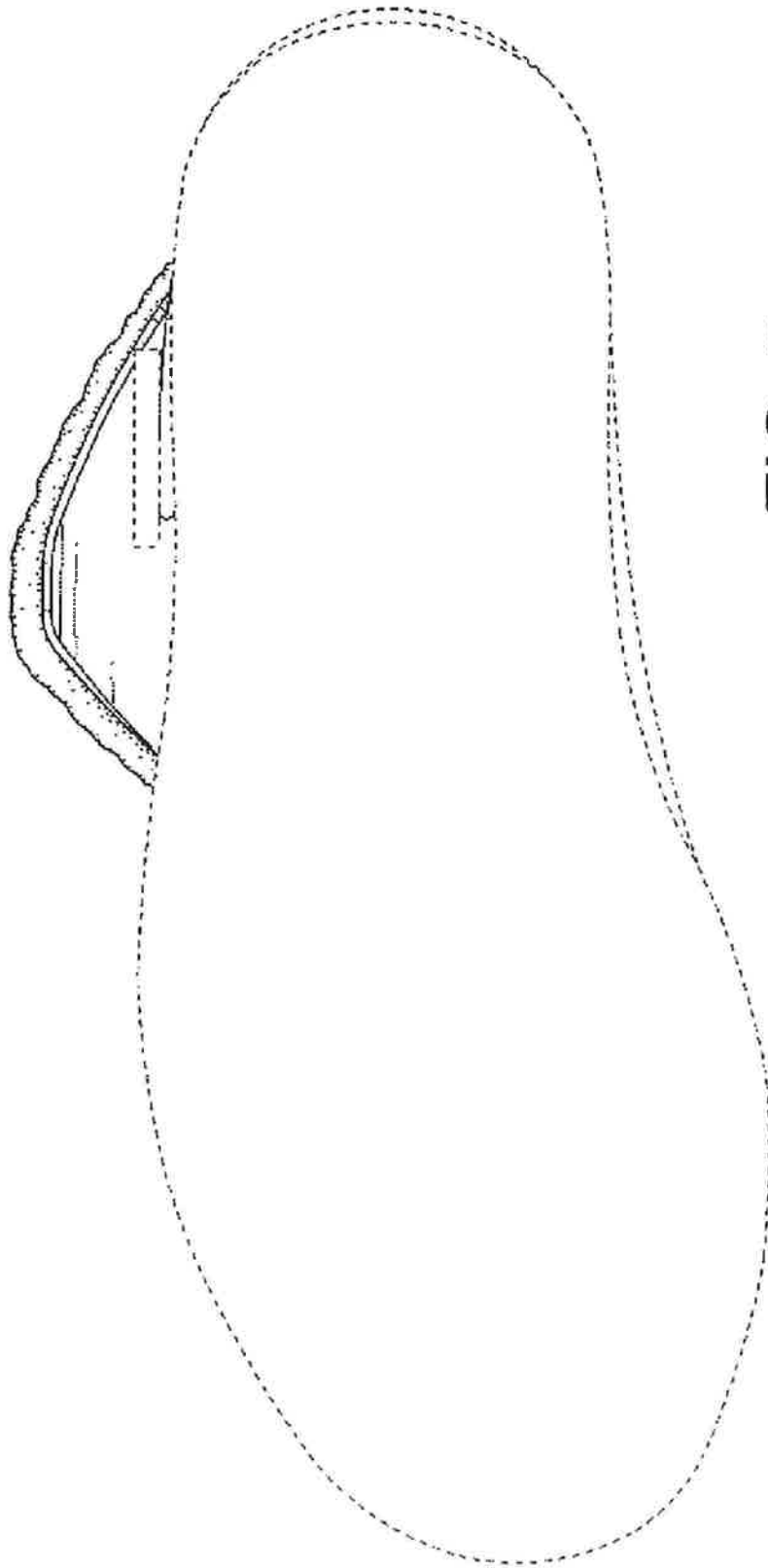


FIG. 7

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

I. (a) PLAINTIFFS (Check box if you are representing yourself)

DEFENDANTS (Check box if you are representing yourself)

DECKERS OUTDOOR CORPORATION

KIDS DREAM LAND

(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)

BLAKELY LAW GROUP
915 North Citrus Avenue, Hollywood, California 90038
Telephone: (323) 464-7400

(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)

II. BASIS OF JURISDICTION (Place an X in one box only.)

1. U.S. Government Plaintiff
 2. U.S. Government Defendant
 3. Federal Question (U.S. Government Not a Party)
 4. Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES-For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant)

- | | | | | | |
|---|--------------------------------|--------------------------------|---|--------------------------------|--------------------------------|
| Citizen of This State | <input type="checkbox"/> PTF 1 | <input type="checkbox"/> DEF 1 | Incorporated or Principal Place of Business in this State | <input type="checkbox"/> PTF 4 | <input type="checkbox"/> DEF 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. ORIGIN (Place an X in one box only.)

1. Original Proceeding
 2. Removed from State Court
 3. Remanded from Appellate Court
 4. Reinstated or Reopened
 5. Transferred from Another District (Specify)
 6. Multi-District Litigation

V. REQUESTED IN COMPLAINT: JURY DEMAND: Yes No (Check "Yes" only if demanded in complaint.)

CLASS ACTION under F.R.Cv.P. 23: Yes No **MONEY DEMANDED IN COMPLAINT:** \$ 100,000+

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Patent Infringement

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES	CONTRACT	REAL PROPERTY CONT.	IMMIGRATION	PRISONER PETITIONS	PROPERTY RIGHTS
<input type="checkbox"/> 375 False Claims Act	<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input checked="" type="checkbox"/> 830 Patent
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 290 All Other Real Property	TORTS	<input type="checkbox"/> 530 General	<input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 140 Negotiable Instrument	TORTS	PERSONAL PROPERTY	<input type="checkbox"/> 535 Death Penalty	SOCIAL SECURITY
<input type="checkbox"/> 450 Commerce/ICC Rates/Etc.	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	PERSONAL INJURY	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 540 Mandamus/Other	<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 470 Racketeer Influenced & Corrupt Org.	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Vet.)	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 863 DIWC/DIWW (405 (g))
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 153 Recovery of Overpayment of Vet. Benefits	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 560 Civil Detainee Conditions of Confinement	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 330 Fed. Employers' Liability	BANKRUPTCY	FORFEITURE/PENALTY	<input type="checkbox"/> 865 RSI (405 (g))
<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 162 Stockholders' Suits	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	FEDERAL TAX SUITS
<input type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 891 Agricultural Acts	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 350 Motor Vehicle	CIVIL RIGHTS	LABOR	<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
<input type="checkbox"/> 893 Environmental Matters	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 710 Fair Labor Standards Act	
<input type="checkbox"/> 895 Freedom of Info. Act	<input type="checkbox"/> 210 Land	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 720 Labor/Mgmt. Relations	
<input type="checkbox"/> 896 Arbitration	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 740 Railway Labor Act	
<input type="checkbox"/> 899 Admin. Procedures Act/Review of Appeal of Agency Decision	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 751 Family and Medical Leave Act	
<input type="checkbox"/> 950 Constitutionality of State Statutes		<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 445 American with Disabilities-Employment	<input type="checkbox"/> 790 Other Labor Litigation	
		<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 446 American with Disabilities-Other	<input type="checkbox"/> 791 Employee Ret. Inc. Security Act	
		<input type="checkbox"/> 448 Education			

FOR OFFICE USE ONLY: Case Number:

CV13-4642

AFTER COMPLETING PAGE 1 OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED ON PAGE 2.

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? NO YES

If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? NO YES

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) A. Arise from the same or closely related transactions, happenings, or events; or
 B. Call for determination of the same or substantially related or similar questions of law and fact; or
 C. For other reasons would entail substantial duplication of labor if heard by different judges; or
 D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.

Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
SANTA BARBARA	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.

Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

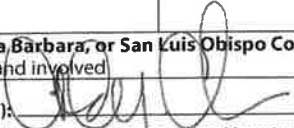
County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
LOS ANGELES	

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.
NOTE: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
LOS ANGELES	

*Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR SELF-REPRESENTED LITIGANT):  DATE: 6/21/2013

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet).

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405 (g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))