## IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA ATLANTA DIVISION

SPANX, INC.,	)	
Plaintiff,	) )	Civil Action
V.	)	No. 1:13-cv-00710-WSD
TIMES THREE CLOTHIER, LLC	)	
d/b/a Yummie Tummie,	)	
	)	
Defendant.	)	

## SECOND AMENDED COMPLAINT FOR DECLARATORY RELIEF

Plaintiff Spanx, Inc. ("Spanx") alleges as follows for its second amended complaint against Times Three Clothier d/b/a Yummie Tummie ("Yummie Tummie"):

### **PARTIES**

1. Plaintiff Spanx is a Georgia corporation with its principal place of business at 3344 Peachtree Road, NE, Suite 1700, Atlanta, Georgia 30326. Spanx is an apparel company that designs and manufactures, among other things, undergarments, slimming apparel and shapewear, hosiery, swimsuits, and activewear. 2. On information and belief, Defendant Yummie Tummie is a New York Limited Liability Company with its principal place of business at 561 Seventh Avenue, 12th Floor, New York, New York 10018. On information and belief, Yummie Tummie manufactures and sells bodyshaping undergarments and apparel.

### JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, Title 35 of the United States Code, § 1 *et seq.*, with a specific remedy sought under the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202. An actual, substantial, and continuing justiciable controversy exists between Spanx and Yummie Tummie that requires a declaration of rights by this Court.

4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has personal jurisdiction over Yummie Tummie by virtue of Yummie Tummie's purposeful contact with this district, including, on information and belief, Yummie Tummie's substantial business conducted with customers residing in this district; and Yummie Tummie's attempts to enforce design patents purportedly assigned to it against Spanx, an entity having a principal place of business in Georgia, for alleged infringing activity occurring in Georgia.

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6. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391.

### FACTUAL BACKGROUND

7. Defendant Yummie Tummie claims to be the owner by assignment of U.S. Design Patent Nos. D606,285S ("the '285 Patent," copy attached hereto as Exhibit A), D616,627S ("the '627 Patent," copy attached hereto as Exhibit B), D622,477S ("the '477 Patent," copy attached hereto as Exhibit C), and D623,377S ("the '377 Patent," copy attached hereto as Exhibit D), D665,558S ("the '558 Patent," copy attached hereto as Exhibit E) and D666,384S ("the '384 Patent," copy attached hereto as Exhibit F) (collectively, the "Patents-in-Suit").

8. The Patents-in-Suit are related to one another in that the '627 Patent, the '477 Patent, the '377 Patent, the '558 Patent, and the '384 Patent all claim priority to the '285 Patent.

9. Each of the Patents-in-Suit identifies Heather Thompson Schindler as the sole inventor.

10. On or about January 18, 2013, Yummie Tummie (through counsel) contacted Spanx by letter, informing Spanx that Yummie Tummie is the owner of some of the Patents-in-Suit, enclosing a copy of the said patents, and stating that "Spanx is making, offering for sale and selling shapewear products ... in the United States that contain Yummie's patented designs" and that the Spanx

products "appear substantially the same as the patented designs from the point of view of an ordinary observer, thereby, constituting design patent infringement." In its January 18 letter, Yummie Tummie identified the allegedly infringing Spanx products as including "The Total Taming Tank A226764, also known as The Spanx Total Taming Tank, the Top This Tank Style 1847 and The Top This Cami Style 1846" (collectively, the "Accused Products"). Yummie Tummie further noted in its letter that it "vigorously enforces the rights in its patents," referenced patent infringement litigation it recently settled with Maidenform, and demanded, among other things, that Spanx cease manufacturing, offering for sale, and selling the Accused Products.

11. On or about February 14, 2013, Spanx (through counsel) responded to Yummie Tummie's January 18, 2013 letter, describing in detail significant differences between the Accused Products and Yummie Tummie's patents that and stating, among other things, that it does not believe the Accused Products infringe Yummie Tummie's patents.

12. Since Yummie Tummie contacted Spanx in January 2013, counsel for Spanx and Yummie Tummie have communicated on several occasions by telephone and in writing concerning Yummie Tummie's claims. During these telephone conferences, Yummie Tummie continued to maintain that the Accused

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Products infringe its patents and expressed its willingness to enforce its patents against Spanx.

13. On April 2, 2013, a month after Spanx initially brought this action for declaratory relief, Yummie Tummie filed suit against Spanx in the Southern District of New York, asserting that the Accused Products infringe the Patents-in-Suit. Spanx has denied infringement in the New York action and has also asserted that the parties' dispute should not proceed in New York but in this, the first-filed court, the Northern District of Georgia.

14. As a result of Yummie Tummie's previous and continued assertions that Spanx is infringing the Patents-in-Suit, and Spanx's denial of the same, an actual and justiciable controversy exists between the parties of sufficient immediacy and reality to warrant issuance of a declaratory judgment under 28 U.S.C. §§ 2201 and 2202 as to the alleged infringement and invalidity of the designs claimed in the Patents-in-Suit.

### FIRST CLAIM FOR RELIEF

### (DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF THE PATENTS-IN-SUIT)

15. Spanx restates and incorporates by reference the allegations in paragraphs 1 through 14 above.

16. An actual controversy has arisen and now exists between the parties with respect to the alleged infringement of the Patents-in-Suit. Spanx contends that Spanx's products, including The Total Taming Tank A226764, also known as The Spanx Total Taming Tank, the Top This Tank Style 1847, and The Top This Cami Style 1846 have not infringed and do not infringe any valid claim of the Patents-in-Suit. Upon information and belief, Yummie Tummie currently disputes these contentions.

17. Pursuant to 28 U.S.C. §§ 2201 and 2202, a judicial determination of the respective rights of the parties with respect to the alleged infringement of the Patents-in-Suit is necessary and appropriate under the circumstances.

### SECOND CLAIM FOR RELIEF

### (DECLARATORY JUDGMENT OF INVALIDITY OF THE PATENTS-IN-SUIT)

18. Spanx restates and incorporates by reference the allegations in paragraphs 1 through 17 above.

19. Spanx contends that the Patents-in-Suit are invalid for failure to meet one or more of the conditions of patentability specified in 35 U.S.C. §§ 102, 103, 112, and/or 171. Upon information and belief, Yummie Tummie disputes these contentions. 20. Pursuant to 28 U.S.C. §§ 2201 and 2202, a judicial determination of the respective rights of the parties with respect to the alleged invalidity of the Patents-in-Suit is necessary and appropriate under the circumstances.

### **PRAYER FOR RELIEF**

WHEREFORE, Spanx prays for relief as follows:

A. For a judicial declaration that Spanx does not infringe any valid claim of U.S. Design Patent Nos. D606,285S, D616,627S, D622,477S, D623,377S, D665,558S, and D666,384S; and

B. For a judicial declaration that U.S. Design Patent Nos. D606,285S, D616,627S, D622,477S, D623,377S, D665,558S, and D666,384S are invalid; and

C. For an order awarding Spanx its costs, expenses, and reasonable attorneys' fees as provided by law; and

D. For such other and further relief as the Court deems just and proper.

### JURY DEMAND

Spanx demands a trial by jury on all issues so triable as a matter of right and law.

Respectfully submitted, this \_\_th day of \_\_\_\_, 2013.

### KING & SPALDING LLP

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Kathleen E. McCarthy (admitted *pro hac vice*) 1185 Avenue of the Americas New York, New York 10036 Telephone: (212) 556-2345 E-mail: kmccarthy@kslaw.com

Attorneys for Plaintiff SPANX, INC.

# **CERTIFICATE OF SERVICE**

I hereby certify that on this day, I electronically filed the foregoing

SECOND AMENDED COMPLAINT FOR DECLARATORY RELIEF with the

Clerk of Court using the CM/ECF system, which will send notification of such

filing to Defendant's counsel of record:

Theodore H. Davis Jr. Kilpatrick Townsend & Stockton LLP 1100 Peachtree Street Suite 2800 Atlanta, GA 30309

Steven B. Pokotilow Laura Goldbard George Binni N. Shah Stroock Stroock & Lavan 180 Maiden Lane New York, NY 10038-4982

This \_\_\_\_\_, 2013.

Natasha H. Moffitt

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# Exhibit A

Case 1:13-cv-00710-WSD Docume



### (12) United States Design Patent (10) Patent No.: Schindler (45) Date of Pate

#### (54) **GARMENT**

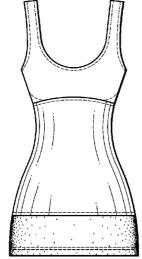
- (75) Inventor: **Heather Thomson Schindler**, New York, NY (US)
- (73) Assignee: **Times Three Clothier LLC**, New York, NY (US)
- (\*\*) Term: 14 Years
- (21) Appl. No.: 29/302,500
- (22) Filed: Jan. 17, 2008
- (52) U.S. Cl. ..... D2/840
- (58) Field of Classification Search ......... D2/700–703, D2/731, 732, 828, 840, 718, 737, 847; 2/112, 2/113; 450/96, 94, 115, 116, 122–124, 127, 450/132, 154

See application file for complete search history.

#### (56) **References Cited**

#### U.S. PATENT DOCUMENTS

1,977,329	А	*	10/1934	Tobin 2/113
2,052,935	Α	*	9/1936	Moran 450/10
D110,662	$\mathbf{S}$	*	7/1938	Rielly D2/714
D129,894	S	*	10/1941	Abeles D2/703
D174,115	S	*	3/1955	Dior D2/703
2,963,022	Α	*	12/1960	Spetalnik 450/15
3,026,875	А	*	3/1962	Kaupp 450/116
3,036,574	Α	*	5/1962	Jeffrey 450/30
D211,231	S	*	6/1968	Sallysy D2/702
3,454,013	Α	*	7/1969	Cahill 450/116
D234,649	S	*	4/1975	Cascio D2/703
D239,475	S	*	4/1976	Cascio D2/702
4,916,755	Α		4/1990	Feigenbaum et al.
5,915,531	А	*	6/1999	Hilpert et al 2/69
6,000,993	Α	*	12/1999	Erwin 450/7
D452,600	S	*	1/2002	Kim D2/702
D453.058		*	1/2002	Kim D2/703
D453.255		*	2/2002	Kim D2/702
133,233	5		2,2002	1xiiii



### 0) **Patent No.:** US D606,285 S

### (45) **Date of Patent: \*\* Dec. 22, 2009**

6,430,748 B1*	8/2002	Burkhart 2/78.1
D556,978 S *	12/2007	Thunstedt D2/847
2007/0094765 A1*	5/2007	Summers et al 2/113
2008/0134409 A1	6/2008	Karasina

#### FOREIGN PATENT DOCUMENTS

ЛЪ	2006-316359	11/2006
ЈР	2007-146337	6/2007
ЛЬ	2007-303002	11/2007

\* cited by examiner

Primary Examiner—Ian Simmons

Assistant Examiner—Anna J Burmeister

(74) Attorney, Agent, or Firm—Irah H. Donner, Wilmer Cutler Pickering Hale and Dorr LLP

#### (57) CLAIM

The ornamental design for a garment, as shown and described.

#### DESCRIPTION

FIG. 1 is a front elevation view of Embodiment 1, of a garment;

FIG. 2 is a rear elevation view thereof;

FIG. 3 is a right elevation view thereof;

FIG. **4** is a left elevation view thereof;

FIG. **5** is a right side elevation view of Embodiment **2**, of a multi-fabric garment, where the front and rear elevation views are the same as FIGS. **1–2**; and,

FIG. 6 is a left elevation view of Embodiment 2, of a multifabric garment.

The center section and lower section of the claimed design is shaded to illustrate contrasting materials.

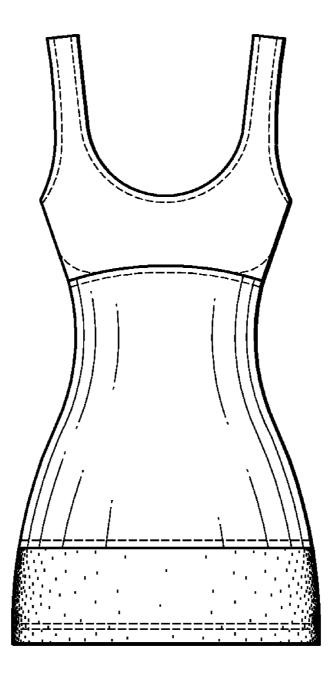
The broken lines depicting the stitching shown in the drawings are for environmental structure only and form no part of the claimed design.

#### 1 Claim, 6 Drawing Sheets

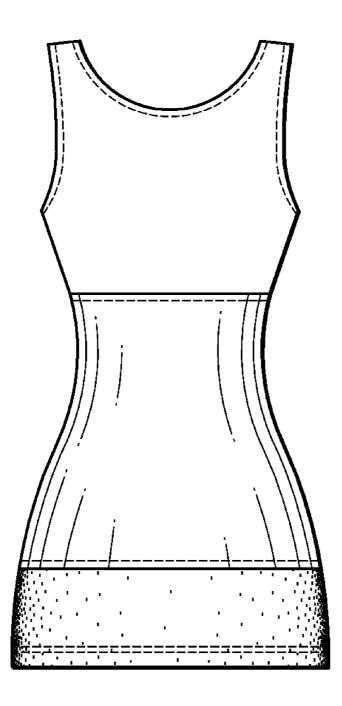
**Dec. 22, 2009** 

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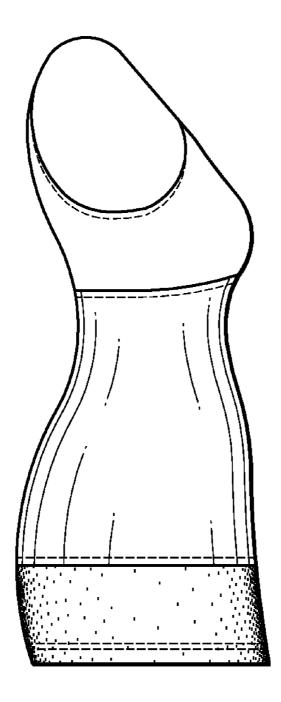






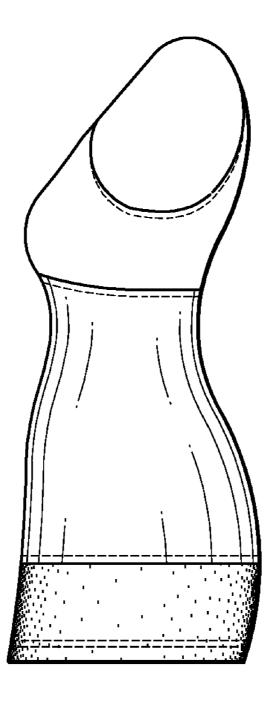
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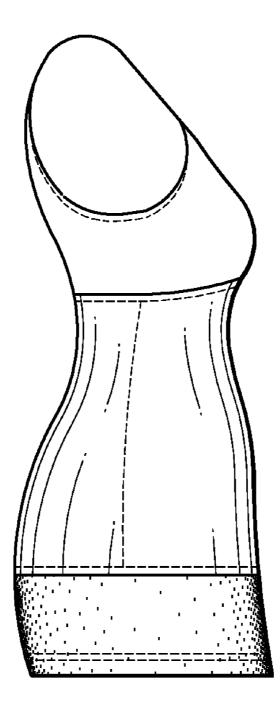
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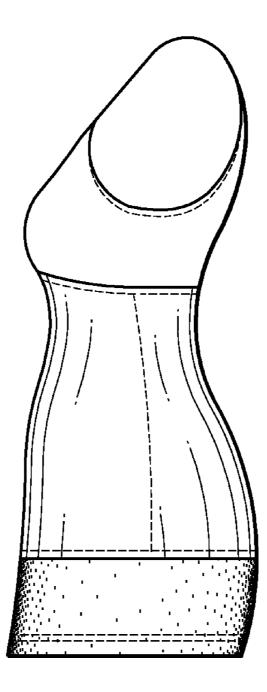
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# Exhibit B

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### (12) United States Design Patent Schindler

### (54) GARMENT

- (75) Inventor: Heather Thomson Schindler, New York, NY (US)
- (73) Assignee: Times Three Clothier, LLC., New York, NY (US)
- (\*\*) Term: 14 Years
- (21) Appl. No.: 29/350,198
- (22) Filed: Nov. 12, 2009

#### **Related U.S. Application Data**

- (63) Continuation of application No. 29/302,500, filed on Jan. 17, 2008, now Pat. No. Des. 606,285.
- (51) LOC (9) Cl. ..... 02-02
- (52) U.S. Cl. ..... D2/702
- (58) **Field of Classification Search** ....... D2/700–703, D2/731, 732, 828, 840, 718, 737, 847, 714; 2/112, 113, 69; 450/96, 94, 115, 116, 122–124, 450/127, 132, 154, 10, 15, 30

See application file for complete search history.

#### (56) **References Cited**

#### U.S. PATENT DOCUMENTS

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1,774,613	А		9/1930	Pidgeon
1,931,822	Α		10/1933	Hoffman
1,977,329	А		10/1934	Clarke
2,052,935	Α		9/1936	Moran
D110,662	S		7/1938	Rielly
D128,536	S	*	7/1941	Weil D2/702
D129,894	S		10/1941	Abeles
2,310,103	А		2/1943	McDonald
2,579,547	А	*	12/1951	Cadous 450/112
D170,694	S	*	10/1953	Kahn D2/702
D174,038	S	*	2/1955	Goldstein D2/702
D174,114	S	*	3/1955	Dior D2/702
D174,115	S		3/1955	Dior
D174,194	S	*	3/1955	Prochaska D2/702
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(10) Patent No.:

(45) Date of Patent:

#### (Continued)

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**US D616.627 S** 

Jun. 1, 2010

#### FOREIGN PATENT DOCUMENTS

JP 2006-316359 11/2006

#### (Continued)

Primary Examiner—Philip S Hyder

Assistant Examiner—Anna J Burmeister (74) Attorney, Agent, or Firm—Irah H. Donner; Wilmer Culter Pickering Hale and Dorr LLP

#### (57) **CLAIM**

The ornamental design for a garment, as shown and described herein.

#### DESCRIPTION

FIG. 1 is a front elevation view of Embodiment 1, of a garment;

FIG. 2 is a rear elevation view thereof;

FIG. 3 is a right elevation view thereof;

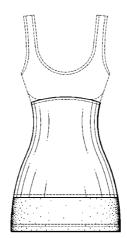
FIG. 4 is a left elevation view thereof;

FIG. **5** is a right side elevation view of Embodiment **2**, of a garment, where the front and rear elevation views are the same as FIGS. **1-2**; and,

FIG. 6 is a left elevation view of Embodiment 2, of a garment.

The center section and lower section of the claimed design is shaded to illustrate different appearance. The broken lines shown in the drawings are for environmental structure only and form no part of the claimed design.

#### 1 Claim, 6 Drawing Sheets



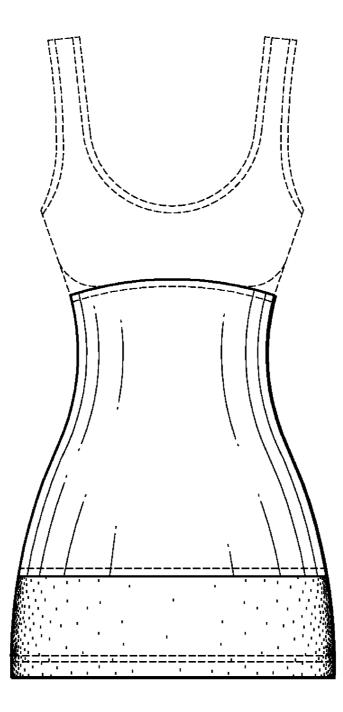
# US D616,627 S Page 2

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D453,255 S *		Kim D2/702	* cited by examiner	

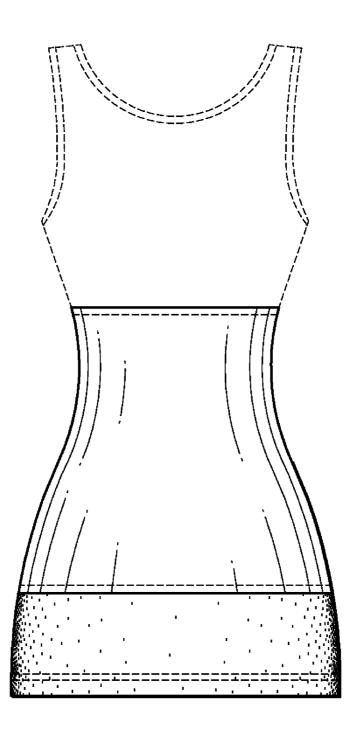
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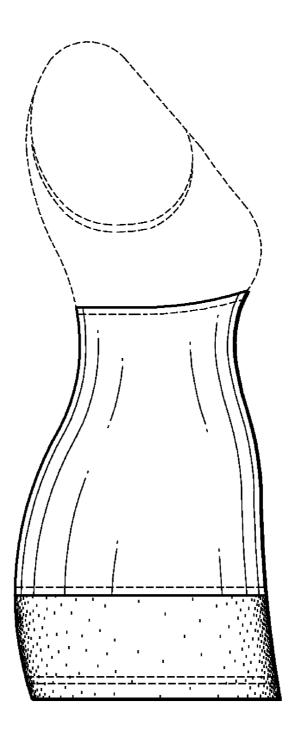




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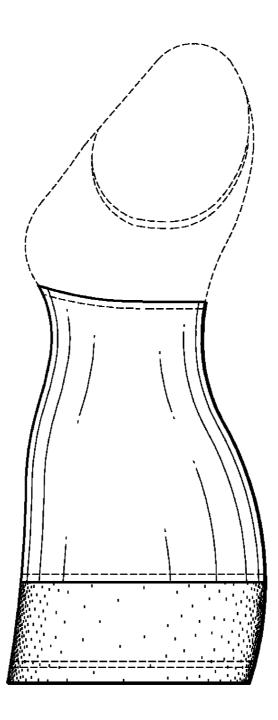
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Jun. 1, 2010

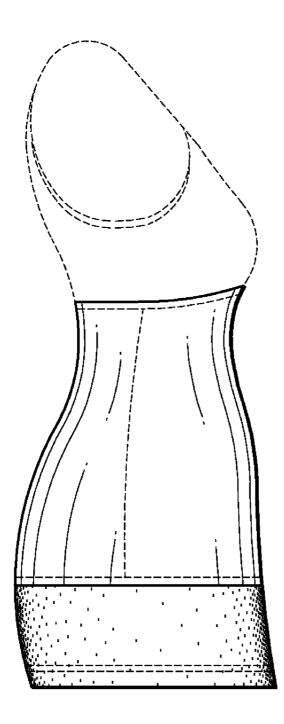
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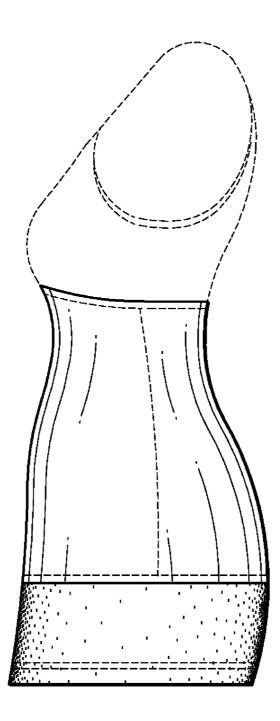
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# Exhibit C

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### (12) United States Design Patent Schindler

### (54) GARMENT

- (75) Inventor: Heather Thomson Schindler, New York, NY (US)
- (73)Assignee: Times Three Clothier, LLC, New York, NY (US)
- (\*\*) Term: 14 Years
- (21) Appl. No.: 29/362,498
- May 26, 2010 (22) Filed:

#### **Related U.S. Application Data**

- (63) Continuation of application No. 29/362,414, filed on May 25, 2010, which is a continuation of application No. 29/350,198, filed on Nov. 12, 2009, now Pat. No. Des. 616,627, which is a continuation of application No. 29/302,500, filed on Jan. 17, 2008, now Pat. No. Des. 606,285.
- (51) LOC (9) Cl. ..... 02-01
- (52) U.S. Cl. ..... D2/700
- (58) Field of Classification Search ...... D2/700-703, D2/731, 732, 828, 840, 718, 737, 847, 714; 2/112, 113, 69; 450/96, 94, 115, 116, 122-124, 450/127, 132, 154, 10, 15, 30 See application file for complete search history.

#### (56)**References** Cited

#### U.S. PATENT DOCUMENTS

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1,683,510	Α	9/1928	Wiese
1,774,613	Α	9/1930	Pidgeon
1,931,822	Α	10/1933	Hoffman
1,977,329	Α	10/1934	Clarke
2,052,784	Α	9/1936	Martin
2,052,935	Α	9/1936	Moran
D110,662	S	7/1938	Rielly
D128,536	S	7/1941	Weil
D129,078	S	8/1941	Monteil
D129,894	S	10/1941	Abeles

#### (10) Patent No.: **US D622,477 S**

#### (45) **Date of Patent:** \*\* Aug. 31, 2010

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D152,981	S	3/1949	Kaupp

(Continued)

#### FOREIGN PATENT DOCUMENTS

JP 2006-316359 11/2006

#### (Continued)

Primary Examiner-Philip S Hyder

Assistant Examiner-Anna J Burmeister (74) Attorney, Agent, or Firm-Stroock & Stroock & Lavan LLP

#### (57)CLAIM

The ornamental design for a garment, as shown and described herein.

#### DESCRIPTION

FIG. 1 is a front elevation view of embodiment 1, of a garment;

FIG. 2 is a rear elevation view thereof;

FIG. 3 is a right elevation view thereof;

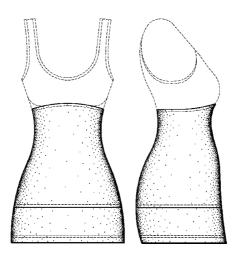
FIG. 4 is a left elevation view thereof;

FIG. 5 is a right side elevation view of embodiment 2, of a garment, where the front and rear elevation views are the same as FIGS. 1-2; and,

FIG. 6 is a left elevation view of embodiment 2, of a garment.

The phantom and/or broken lines are for illustrative purposes only and form no part of the claimed design. The broken lines depicting the stitching shown in the drawings are for environmental structure only and form no part of the claimed design. The broken lines depicting the human form shown in the drawings are for environmental structure only and form no part of the claimed design.

#### 1 Claim, 6 Drawing Sheets



### US D622,477 S

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### U.S. PATENT DOCUMENTS

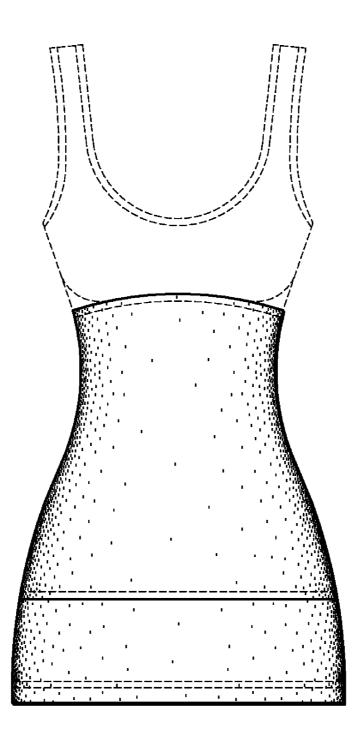
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D174,038	S	2/1955	Goldstein
D174,114	S	3/1955	Dior
D174,115	S	3/1955	Dior
D174,194	S	3/1955	Prochaska
D177,982	S	6/1956	Kahn
D181,626	S	12/1957	Cassini
2,963,022	A	12/1960	Spetalnik
3,026,875	A	3/1962	Kaupp
3,036,574	A	5/1962	Nellie
D211,231	S	6/1968	Sallysy
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D234,649	S	4/1975	Cascio
D239,475	S	4/1976	Cascio
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5,915,531	Α	6/1999	Hilpert et al.
6,000,993	Α	12/1999	Erwin
D452,600	S	1/2002	Kim
D453,058	S	1/2002	Kim et al.
D453,255	S	2/2002	Kim et al.
6,430,748	B1	8/2002	Burkhart
D556,978	S	12/2007	Thunstedt et al.
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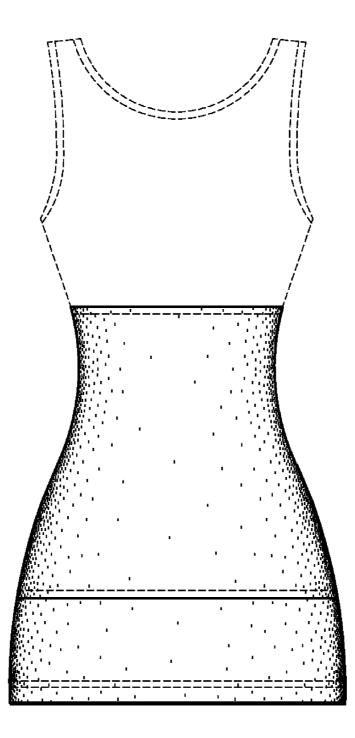
#### FOREIGN PATENT DOCUMENTS

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JP	2007-303002	11/2007



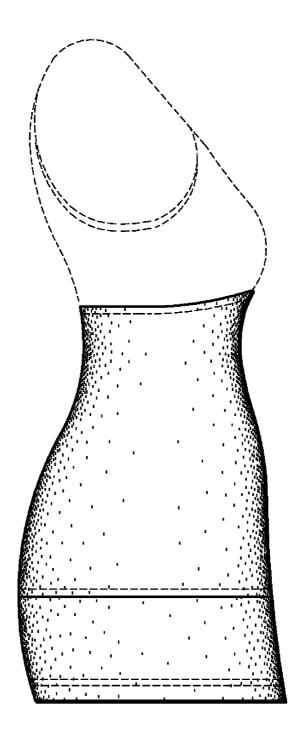






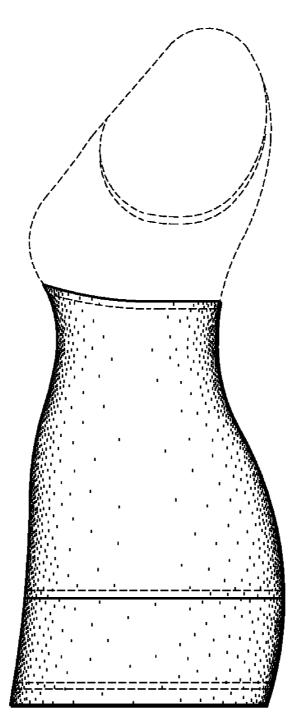
Sheet 3 of 6

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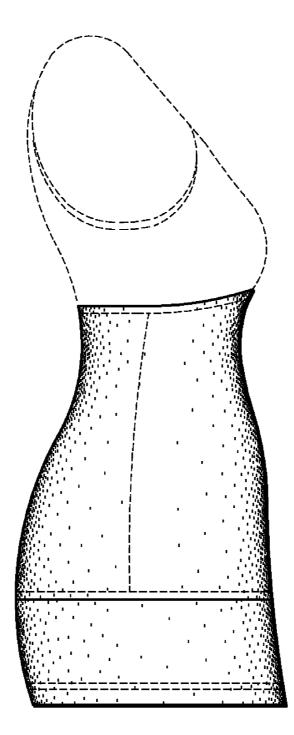
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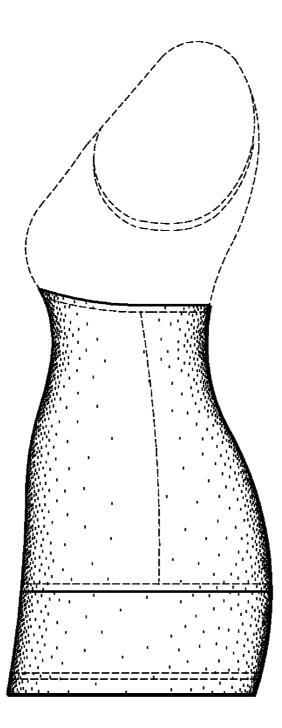
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# Exhibit D

Case 1:13-cv-00710-WSD Docum



### (12) United States Design Patent (10) Patent No.: Schindler

### (54) GARMENT

- (75) Inventor: Heather Thomson Schindler, New York, NY (US)
- (73)Assignee: Times Three Clothier, LLC, New York, NY (US)
- (\*\*) Term: 14 Years
- (21) Appl. No.: 29/362,414
- May 25, 2010 (22) Filed:

#### **Related U.S. Application Data**

- Continuation of application No. 29/350,198, filed on (63) Nov. 12, 2009, now Pat. No. Des. 616,627, which is a continuation of application No. 29/302,500, filed on Jan. 17, 2008, now Pat. No. Des. 606,285.
- (51) LOC (9) Cl. ..... 02-01
- (52) U.S. Cl. ..... D2/700
- (58) Field of Classification Search ......... D2/700-703, D2/731, 732, 828, 840, 718, 737, 847, 714; 2/112, 113, 69; 450/96, 94, 115, 116, 122-124, 450/127, 132, 154, 10, 15, 30 See application file for complete search history.

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#### (45) **Date of Patent:** Sep. 14, 2010 \*\*

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Primary Examiner-Philip S Hyder

Assistant Examiner-Anna J Burmeister (74) Attorney, Agent, or Firm-Stroock & Stroock & Lavan LLP

#### (57)CLAIM

The ornamental design for a garment, as shown and described herein.

#### DESCRIPTION

FIG. 1 is a front elevation view of Embodiment 1, of a garment;

FIG. 2 is a rear elevation view thereof;

FIG. 3 is a right elevation view thereof;

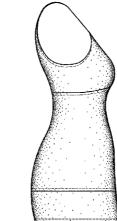
FIG. 4 is a left elevation view thereof;

FIG. 5 is a right side elevation view of Embodiment 2, of a garment, where the front and rear elevation views are the same as FIGS. 1-2; and,

FIG. 6 is a left elevation view of Embodiment 2, of a garment.

The phantom and/or broken lines are for illustrative purposes only and form no part of the claimed design. The broken lines depicting the stitching shown in the drawings are for environmental structure only and form no part of the claimed design. The broken lines depicting the human form shown in the drawings are for environmental structure only and form no part of the claimed design.

#### 1 Claim, 6 Drawing Sheets



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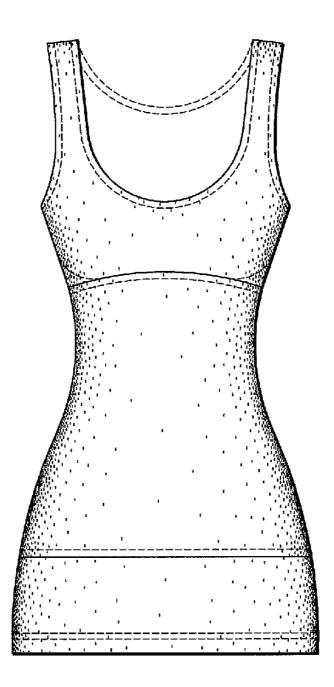
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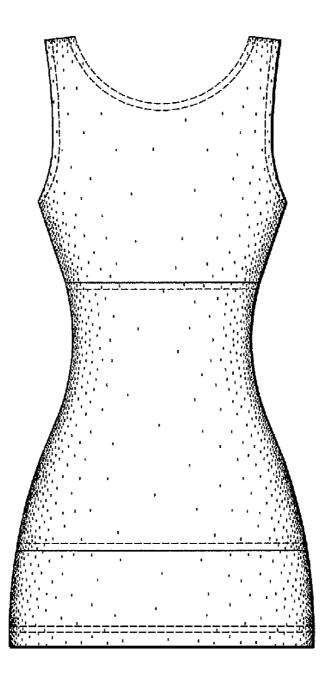
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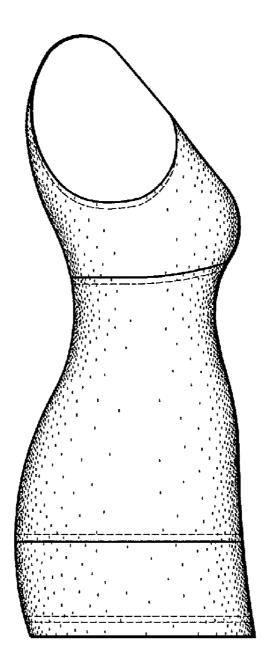
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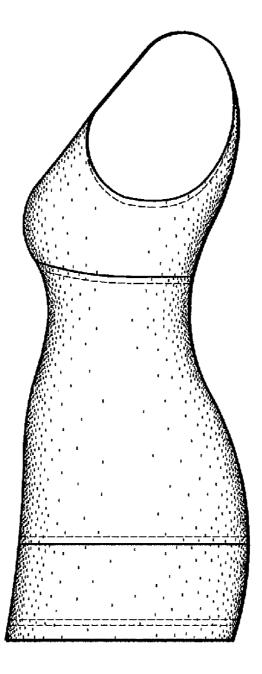
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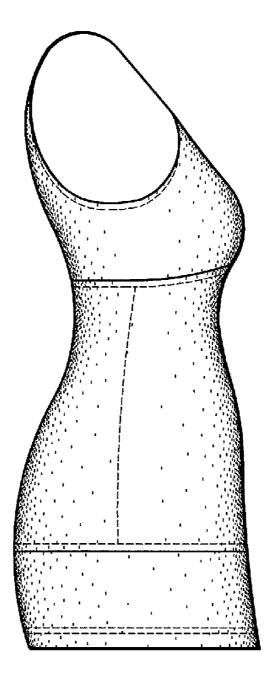
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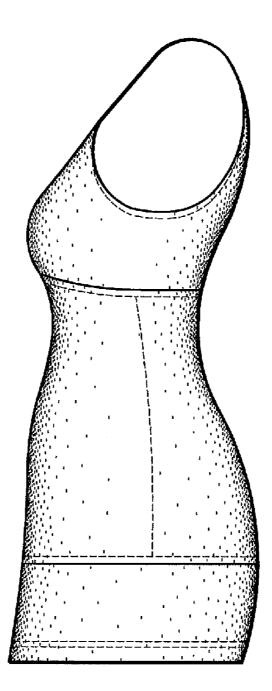
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# Exhibit E

Case 1:13-cv-00710-WSD Docume



US00D665558S

**US D665,558 S** 

### (12) United States Design Patent (10) Patent No.: Schindler

#### (54) GARMENT

- Heather Thomson Schindler, New (75)Inventor: York, NY (US)
- (73)Assignee: Times Three Clothier, LLC, New York, NY (US)
- This patent is subject to a terminal dis-(\*) Notice: claimer.
- (\*\*) Term: 14 Years
- Appl. No.: 29/350,288 (21)
- (22) Filed: Nov. 13, 2009

#### **Related U.S. Application Data**

- Division of application No. 29/302,500, filed on Jan. (60) 17, 2008, now Pat. No. Des. 606,285, and a division of application No. 29/350,198, filed on Nov. 12, 2009, which is a continuation of application No. 29/302,500.
- (51) LOC (9) Cl. ..... 02-01
- (52) U.S. Cl. ..... D2/701
- (58) Field of Classification Search ...... D2/700–703, D2/706, 708, 731, 732, 828, 840, 718, 737, D2/847, 714, 800, 717, 723, 756, 793, 841; 450/96, 94, 115, 116, 122-124, 127, 132, 450/154, 10, 15, 30, 112, 1, 3, 7, 11, 20, 450/31, 34, 63, 64, 86, 95; 2/112, 113, 69, 2/67, 70, 73, 78.1, 78.2, 78.3, 104, 105, 109, 2/110; 66/176

See application file for complete search history.

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### (45) **Date of Patent:** \*\* \*Aug. 21, 2012 OTHER PUBLICATIONS

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Primary Examiner - Karen E. Eldridge Powers (74) Attorney, Agent, or Firm — Stroock & Stroock & Lavan LLP

#### CLAIM

(57)

The ornamental design for a garment, as shown and described herein.

#### DESCRIPTION

This application is related to co-pending U.S. Design Application 29/350,290, filed on Nov. 13, 2009, the contents of which are hereby incorporated by reference.

FIG. 1 is a front elevation view of Embodiment 1, of a garment:

FIG. 2 is a rear elevation view thereof:

FIG. 3 is a right elevation view thereof;

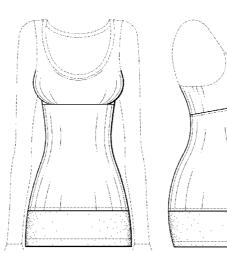
FIG. 4 is a left elevation view thereof;

FIG. 5 is a right side elevation view of Embodiment 2, of a garment, where the front and rear elevation views are the same as FIGS. 1-2; and,

FIG. 6 is a left elevation view of Embodiment 2, of a garment. The sleeves are not shown in FIGS. 3-6 for ease of illustration. The center section and lower section of the claimed design is shaded to illustrate a different appearance. The dashed broken lines shown in the drawings illustrate environmental features that form no part of the claimed design. The dash-dot-dotdash broken lines shown at the junction of the bodice with the sleeve and the interior of the bodice represent the bounds of the design and form no part of the claimed design.

The broken lines shown in the drawings are for environmental structure only and form no part of the claimed design.

#### 1 Claim, 6 Drawing Sheets



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2,076,748 / 2,097,777 / 2,098,881 / 2,098,882 / D110,662 \$ 2,190,030 / D128,536 \$ D129,898 \$ D129,898 \$ 2,274,382 / 2,310,103 / 2,335,751 /	A A A A A A A A A A A A A A A A A A A	*** *** *	4/1937 11/1937 11/1937 11/1937 7/1938 2/1940 7/1941 8/1941 10/1941 2/1942 2/1943 11/1943	Schweig Rothman Robbins
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2,076,748 / 2,097,777 / 2,098,881 / 2,098,882 / D110,662 § 2,190,030 / D128,536 § D129,078 § D129,894 § 2,274,382 / 2,310,103 / 2,335,751 / 2,579,547 / D170,694 §	A A A A A A A A A A A A A A A A A A A	*** *** * **	4/1937 11/1937 11/1937 11/1937 7/1938 2/1940 7/1941 8/1941 10/1941 2/1942 2/1943 11/1943 12/1951 10/1953	Schweig           Rothman           Robbins         450/27           Robbins         450/27           Robbins         02/714           Kops         02/702           Monteil         02/702           Monteil         02/703           Richman         02/703           McDonald         2/113           Friedman         Cadous           Cadous         450/112           Kahn         02/702
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2,076,748 / 2,097,777 / 2,098,881 / 2,098,882 / 2,098,882 / 2,190,030 / D128,536 / 2,190,030 / 2,192,894 / 2,310,103 / 2,335,751 / 2,379,547 / D170,694 / 2,174,114 / 2,174,124 / 2,174,124 / 2,174,124 / 2,174,124 / 2,174,124 / 2,174,124 / 2,174,124 / 2,174,124 / 2,174,124 / 2,174,124 / 2,174,124 / 2,174,124 / 2,174,229 / 2,174,220 / 2,174,200 / 2,174,200 / 2,174,200 / 2,174,200 / 2,174,200 / 2,174,20	A A A A S A S S S A A A A S S S S S	水水水 水水水 水 水水水	4/1937 11/1937 11/1937 11/1937 7/1938 2/1940 7/1941 8/1941 2/1942 2/1943 11/1943 12/1951 2/1955 3/1955 3/1955 3/1955 11/1955	Schweig           Rothman           Robbins         450/27           Robbins         450/27           Robbins         450/27           Rielly         D2/714           Kops         D2/702           Monteil         D2/800           Abeles         D2/703           Richman         D2/703           Friedman         2/113           Friedman         D2/702           Goldstein         D2/702           Dior         D2/702           Dior         D2/703           Prochaska         D2/703
2,076,748 / 2,097,777 / 2,098,881 / 2,098,881 / 2,098,882 / D110,662 \$ 2,190,030 / D128,536 \$ 5 D129,078 \$ D129,078 \$ D129,078 \$ 2,274,382 / 2,310,103 / 2,335,751 / 2,579,547 / D170,694 \$ D174,038 \$ D174,114 \$ D174,115 \$ D174,114 \$ D174,115 \$ D174,1194 \$ D174,129 \$ 2,723,396 / 2,723,396 / 2,723,396 / 2,0723,076 / 2,0723,076 / 2,0723,076 / 2,0723,076 / 2,0723,076 / 2,0723,076 / 2,0723,076 / 2,0723,076 / 2,0723,076 / 2,0723,076 / 2,072 / 2,	4444545554444555555	水水水 水水水 水水水	4/1937 11/1937 11/1937 11/1937 7/1938 2/1940 7/1941 8/1941 10/1941 2/1942 2/1943 11/1943 12/1951 10/1953 2/1955 3/1955 3/1955 3/1955	Schweig           Rothman           Robbins         450/27           Robbins         450/27           Robbins         450/27           Robbins         450/27           Rielly         D2/714           Kops         D2/702           Monteil         D2/800           Abeles         D2/703           Richman         2/113           Friedman         Cadous           Cadous         450/112           Kahn         D2/702           Dior         D2/702           Dior         D2/702           Dior         D2/703           Prochaska         D2/702           Katz         D2/702
2,076,748 / 2,097,777 / 2,098,881 / 2,098,881 / 2,098,882 / D110,662 \$ 2,190,030 / D128,536 \$ D129,078 \$ D129,894 \$ 2,274,382 / 2,310,103 / 2,335,751 / 2,579,547 / D170,694 \$ D174,038 \$ D174,114 \$ D174,115 \$ D174,115 \$ D174,194 \$ D174,115 \$ D174,194 \$ D	A A A A S A S S S A A A A S S S S S A	水水水 水水水 水 水水水 水水水	4/1937 11/1937 11/1937 11/1937 7/1938 2/1940 7/1941 8/1941 2/1942 2/1943 11/1943 12/1951 2/1955 3/1955 3/1955 3/1955 11/1955	$\begin{array}{llllllllllllllllllllllllllllllllllll$
2,076,748 / 2,097,777 / 2,098,881 / 2,098,881 / 2,098,882 / 2,098,882 / 2,190,030 / 2,190,030 / 2,190,038 / 2,274,382 / 2,274,382 / 2,310,103 / 2,335,751 / 2,579,547 / 2,579,547 / 2,579,547 / 2,579,547 / 2,579,547 / 2,174,048 / 2,174,114 / 2,174,115 / 2,723,396 / 2,723,296 / 2,723,296 / 2,723,296 / 2,723,296 / 2,723,296 / 2,723,296 / 2,723,296 / 2,723,296 / 2,723,296 / 2,723,296 / 2,723,296 / 2,723,296 / 2,723,296 / 2,723,296 / 2,723,296 / 2,723,296 / 2,723,296 / 2,723,200,200,200,200,200,200,200,200,200,2	A A A A S A S S S A A A A S S S S S S A S	米米米 水米米 米 米米米米米米米米	4/1937 11/1937 11/1937 11/1937 7/1938 2/1940 7/1941 8/1941 10/1941 2/1942 2/1943 11/1943 12/1951 3/1955 3/1955 3/1955 11/1955 6/1956	Schweig           Rothman           Robbins         450/27           Robbins         450/27           Robbins         450/27           Rielly         D2/714           Kops         D2/702           Monteil         D2/800           Abeles         D2/703           Richman         D2/703           McDonald         2/113           Friedman         Cadous           Cadous         450/112           Kahn         D2/702           Dior         D2/702           Dior         D2/702           Katz         D2/702           Katan         D2/702           Robert         450/58           Robert         450/58
2,076,748 / 2,097,777 / 2,098,881 / 2,098,881 / 2,098,882 / 2,098,882 / 2,190,030 / 2,190,030 / 2,190,030 / 2,274,382 / 2,274,382 / 2,310,103 / 2,335,751 / 2,579,547 / 2,579,547 / 2,579,547 / 2,579,547 / 2,579,547 / 2,579,547 / 2,579,547 / 2,579,547 / 2,723,396 / 2,723,396 / 2,2723,396 / 2,77,982 / 2,963,022 / 2,963,022 / 2,963,022 / 2,000,000 / 2,000 / 2,000 / 2,000,000,000,	44445455544445555554554	米米米 米米米 米 米米米米米米米米	4/1937 11/1937 11/1937 11/1937 11/1937 2/1940 7/1941 8/1941 10/1941 2/1942 2/1943 11/1943 12/1951 10/1953 2/1955 3/1955 3/1955 3/1955 3/1955 11/1956 12/1957 12/1960	$\begin{array}{llllllllllllllllllllllllllllllllllll$
2,076,748 / 2,097,777 / 2,098,881 / 2,098,882 / D110,662 \$ 2,190,030 / D128,536 \$ D129,078 \$ D129,894 \$ 2,274,382 / 2,310,103 / 2,335,751 / D170,694 \$ D174,038 \$ D174,114 \$ D174,115 \$ D174,115 \$ D174,114 \$ D174,129 \$ 2,723,396 / D177,982 \$ D177,982 \$ D181,626 \$ 2,963,022 / D191,347 \$	4444545554444555555645545	米米米 米米米 米 米米米米米米米米	4/1937 11/1937 11/1937 11/1937 7/1938 2/1940 7/1941 8/1941 10/1941 2/1943 12/1951 10/1953 2/1955 3/1955 3/1955 3/1955 3/1955 11/1955 6/1956 12/1957 12/1960 9/1961	Schweig           Rothman           Robbins         450/27           Robbins         450/27           Robbins         450/27           Rielly         D2/714           Kops         D2/702           Monteil         D2/800           Abeles         D2/703           Richman         McDonald         2/113           Friedman         Cadous         450/112           Kahn         D2/702         Dior         D2/702           Dior         D2/702         Dior         D2/702           Noto         D2/702         Cadous         450/112           Kahn         D2/702         Dior         D2/702           Dior         D2/702         Dior         D2/702           Katz         D2/702         Stack         450/58           Kahn         D2/702         Cassini         D2/800           Spetalnik         450/15         Herman
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2,076,748 / 2,097,777 / 2,098,881 / 2,098,881 / 2,098,882 / D110,662 \$ 2,190,030 / D128,536 \$ D129,894 \$ 2,274,382 / 2,310,103 / 2,335,751 / 2,579,547 / D170,694 \$ D174,038 \$ D174,114 \$ D174,115 \$ D174,115 \$ D174,129 \$ 2,723,396 / 2,723,396 / 2,723,396 / 2,732 / 2,733,396 / 2,732 / 2,733,396 / 2,732 / 2,733,396 / 2,732 / 2,733,396 / 2,732 / 2,722 / 2,732 / 2,732 / 2,722 / 2,732 / 2,732 / 2,722 / 2,732 /	A A A A S A S S S A A A A S S S S S S S	米米米 米米米 米 米米米米米米米米米 米	4/1937 11/1937 11/1937 11/1937 7/1938 2/1940 7/1941 8/1941 10/1941 2/1942 2/1943 11/1943 12/1951 3/1955 3/1955 3/1955 3/1955 3/1955 11/1955 6/1956 12/1957 12/1960 9/1961 3/1962 5/1962	Schweig           Rothman           Robbins         450/27           Robbins         450/27           Robbins         450/27           Rielly         D2/714           Kops         D2/702           Monteil         D2/800           Abeles         D2/703           Richman         McDonald         2/113           Friedman         Cadous         450/112           Kahn         D2/702         Dior         D2/702           Dior         D2/702         Dior         D2/702           Dior         D2/703         Prochaska         D2/703           Prochaska         D2/700         Stack         450/58           Kahn         D2/702         Cassini         D2/800           Spealanik         450/15         Herman         450/15           Kaupp         450/116         Jeffrey         450/30
2,076,748 / 2,097,777 / 2,098,881 / 2,098,881 / 2,098,882 / 2,098,882 / 2,098,882 / 2,190,030 / 2,190,030 / 2,190,078 / 2,274,382 / 2,274,382 / 2,310,103 / 2,335,751 / 2,579,547 / 2,579,547 / 2,579,547 / 2,579,547 / 2,579,547 / 2,174,048 / 2,174,114 / 2,174,114 / 2,174,115 / 2,174,114 / 2,174,115 / 2,174,124 / 2,174,	A A A A S A S S S A A A A S S S S S S S	米米米 米米米 米 米米米米米米米米米 米	$\begin{array}{c} 4/1937\\ 11/1937\\ 11/1937\\ 11/1937\\ 11/1937\\ 11/1937\\ 2/1940\\ 7/1941\\ 8/1941\\ 10/1941\\ 2/1942\\ 2/1943\\ 11/1943\\ 12/1951\\ 10/1955\\ 3/1955\\ 3/1955\\ 3/1955\\ 3/1955\\ 3/1955\\ 3/1955\\ 11/1955\\ 6/1956\\ 12/1957\\ 12/1960\\ 9/1961\\ 3/1962\\ 5/1962\\ 10/1962\\ \end{array}$	Schweig           Rothman           Robbins         450/27           Robbins         450/27           Rielly         D2/714           Kops         D2/702           Monteil         D2/800           Abeles         D2/703           Richman         McDonald         2/113           Friedman         Cadous         450/112           Kahn         D2/702         Dior         D2/702           Dior         D2/702         Dior         D2/702           Katz         D2/702         Katz         D2/702           Kakn         D2/702         Katz         D2/702           Kath         D2/702         Katz         D2/702           Kaup         D2/702         Katy         450/58           Kahn         D2/702         Katy         450/58           Kaup         D2/800         Spetalnik         450/15           Herman         Kaupp         450/116         Jeffrey         450/30           Horme         450/30         Horme         450/30         450/30
2,076,748 / 2,097,777 / 2,098,881 / 2,098,881 / 2,098,882 / 2,098,882 / 2,098,882 / 2,190,030 / 2,190,030 / 2,190,078 / 2,274,382 / 2,310,103 / 2,335,751 / 2,579,547 / 2,170,694 / 5,0174,014 / 5,0174,014 / 5,0174,014 / 5,0174,014 / 5,0174,014 / 5,0174,014 / 5,0174,014 / 5,0174,014 / 5,0174,014 / 5,0174,014 / 5,0174,014 / 5,0174,014 / 5,0174,014 / 5,0174,014 / 5,0174,014 / 5,016,014 / 3,026,875 / 4,3,060,446 / 3,066,675 / 4,000,446 / 3,066,675 / 4,000,000,000,000,000,000,000,000,000,0	A A A A S A S S S A A A A S S S S S S S	米米米 米米米 米 米米米米米米米米米 米	$\begin{array}{c} 4/1937\\ 11/1937\\ 11/1937\\ 11/1937\\ 11/1937\\ 11/1938\\ 2/1940\\ 7/1941\\ 8/1941\\ 10/1941\\ 2/1942\\ 2/1943\\ 11/1943\\ 12/1951\\ 10/1953\\ 3/1955\\ 3/1955\\ 3/1955\\ 3/1955\\ 3/1955\\ 11/1955\\ 3/1955\\ 11/1955\\ 12/1957\\ 12/1960\\ 9/1961\\ 3/1962\\ 5/1962\\ 10/1962\\ 12/1962\\ \end{array}$	Schweig           Rothman           Robbins         450/27           Robbins         450/27           Rielly         D2/714           Kops         D2/702           Monteil         D2/800           Abeles         D2/703           Richman         D2/703           McDonald         2/113           Friedman         Cadous           Cadous         450/112           Kahn         D2/702           Dior         D2/702           Dior         D2/702           Katz         D2/702           Stack         450/12           Kahn         D2/702           Dior         D2/702           Katz         D2/702           Kath         D2/702           Kaup         450/15           Herman         Kaupp           Kaupp         450/116           Jeffrey         450/30           Horne
2,076,748 / 2,097,777 / 2,098,881 / 2,098,882 / D110,662 \$ 2,190,030 / D128,536 \$ D129,078 \$ D129,078 \$ D129,894 \$ 2,274,382 / 2,310,103 / 2,335,751 / D170,694 \$ D174,038 \$ D174,114 \$ D174,115 \$ D174,114 \$ D174,119 \$ D174,129 \$ 2,723,396 / D177,982 \$ D177,982 \$ D177,982 \$ D177,982 \$ D191,347 \$ 3,026,875 / 3,036,574 / 3,060,446 / 3,066,75 / 3,217,713 /	AAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAA	水水水 水水水 水 水水水水水水水 水水	4/1937 11/1937 11/1937 7/1938 2/1940 7/1941 8/1941 10/1941 2/1942 2/1943 11/1943 12/1951 3/1955 3/1955 3/1955 3/1955 3/1955 11/1955 6/1956 12/1957 12/1960 9/1961 3/1962 5/1962 12/1962 4/1964	Schweig           Rothman           Robbins         450/27           Robbins         450/27           Robbins         450/27           Rielly         D2/714           Kops         Weil           Weil         D2/702           Monteil         D2/800           Abeles         D2/703           Richman         McDonald         2/113           Friedman         Cadous         450/112           Kahn         D2/702         Dior         D2/702           Dior         D2/702         Dior         D2/702           Dior         D2/702         Cadsus         450/112           Katz         D2/702         Cassini         D2/702           Stack         450/58         Kahn         D2/702           Cassini         D2/800         Spetalnik         450/15           Herman         Kaupp         450/116         Jeffrey         450/30           Horme         Herman         Kunel         450/30
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2,076,748 / 2,097,777 / 2,098,881 / 2,098,881 / 2,098,881 / 2,098,882 / 1,010,662 \$ 2,190,030 / 2,190,030 / 2,190,038 / 2,274,382 / 2,310,103 / 2,335,751 / 2,579,547 / 2,579,547 / 2,579,547 / 2,579,547 / 2,579,547 / 2,174,114 \$ D174,114 \$ D174,115 \$ D174,114 \$ D174,115 \$ D174,194 \$ 2,723,396 / 2,123,396 / 2,123,396 / 2,123,396 / 2,3036,574 / 3,060,446 / 3,066,675 / 3,217,713 / 2,211,231 \$ 3,422,818 / 2,21513 / 3,422,818 / 2,000,000 / 2,000 /	AAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAA	水水水 水水水 水 水水水水水水水 水水 水	4/1937 11/1937 11/1937 11/1937 7/1938 2/1940 7/1941 8/1941 10/1941 2/1942 2/1943 11/1943 12/1951 10/1953 3/1955 3/1955 3/1955 3/1955 3/1955 3/1955 3/1955 3/1955 3/1955 3/1955 3/1955 11/1955 6/1956 12/1957 12/1960 9/1961 3/1962 12/1962 12/1962 12/1962	Schweig           Rothman           Robbins         450/27           Robbins         450/27           Rielly         D2/714           Kops         D2/702           Monteil         D2/800           Abeles         D2/703           Richman         McDonald         2/113           Friedman         2/102           Goldstein         D2/702           Dior         D2/702           Dior         D2/702           Dior         D2/702           Kahn         D2/702           Kakn         D2/702           Kakn         D2/702           Katz         D2/702           Kakn         D2/702           Kakn         D2/702           Kakn         D2/702           Kake         450/58           Kahn         D2/702           Cassini         D2/800           Spetalnik         450/116           Jeffrey         450/30           Horme         Herman           Kunel         Sallasky           Sallasky         D2/702           Landau         Erteszek
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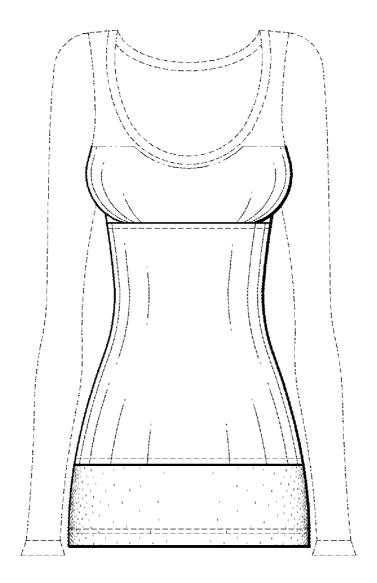
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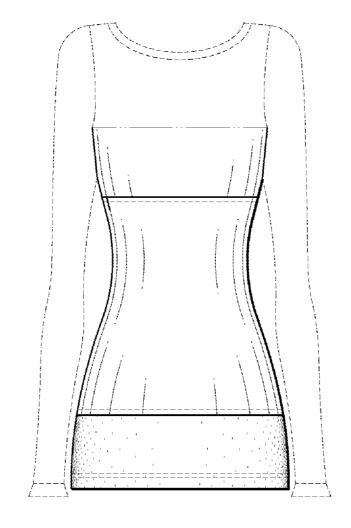
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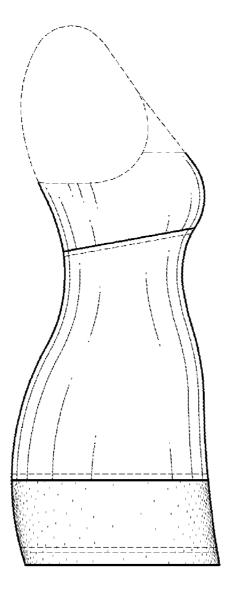
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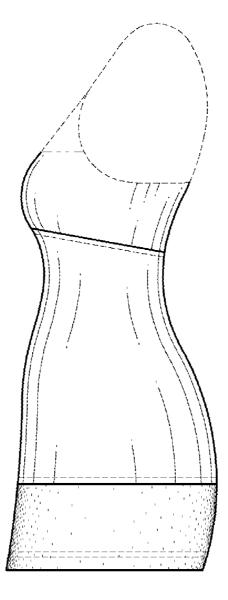
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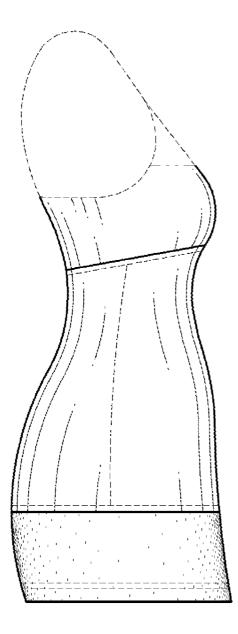
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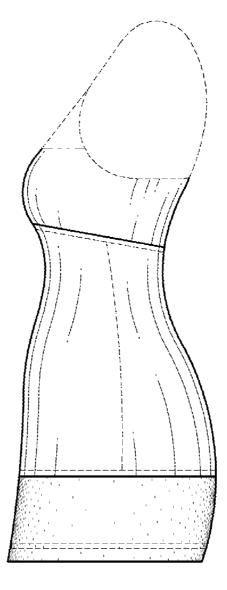
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# Exhibit F

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(10) Patent No.:

(45) Date of Patent:

US00D666384S

### (12) United States Design Patent Schindler

#### (54) GARMENT

- Heather Thomson Schindler, New (75)Inventor: York, NY (US)
- (73)Assignee: Times Three Clothier, LLC, New York, NY (US)
- (\*\*) 14 Years Term:
- Appl. No.: 29/392,830 (21)
- May 26, 2011 (22) Filed:

#### **Related U.S. Application Data**

- Continuation of application No. 29/350,290, filed on (60) Nov. 13, 2009, now abandoned, which is a division of application No. 29/302,500, filed on Jan. 17, 2008, now Pat. No. Des. 606,285, said application No. 29/392,830 is a continuation of application No. 29/350,288, filed on Nov. 13, 2009, which is a division of application No. 29/302,500.
- (51) LOC (9) Cl. ..... 02-01
- (52) U.S. Cl. ..... D2/701
- (58) Field of Classification Search ...... D2/700, D2/701, 702, 703, 706, 708, 714, 717, 718, D2/723, 731, 732, 756, 793, 800, 828, 840, D2/841, 847; 2/67, 69, 70, 73, 78.1, 78.2, 2/78.3, 104, 105, 109, 110, 112, 113; 66/176; 450/1, 3, 7, 10, 11, 15, 20, 30, 31, 34, 63, 450/64, 86, 94, 95, 96, 112, 115, 116, 122, 450/123, 124, 127, 132, 154

See application file for complete search history.

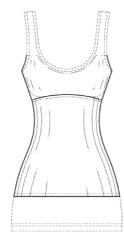
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Sep. 4, 2012

Left-hand image on Contents page, "Self" magazine, Jan. 2006 issue. (2 pages).\*

(Continued)

Primary Examiner ---- Karen E Eldridge Powers (74) Attorney, Agent, or Firm — Stroock & Stroock & Lavan LLP

#### CLAIM

(57)

I claim the ornamental design for a garment, as shown and described.

#### DESCRIPTION

This application is related to the following applications: U.S. Design application Ser. No. 29/362,414, filed on May 25, 2010 now U.S. Pat. No. D623,377,

U.S. Design application Ser. No. 29/362,498, filed on May 26, 2010 now U.S. Pat. No. D622,477,

U.S. Design application Ser. No. 29/350,198, filed on Nov. 12, 2009 now U.S. Pat. No. D616,627, the contents of each of the above applications are hereby incorporated by reference. FIG. 1 is a front elevation view of embodiment 1, of a garment:

FIG. 2 is a rear elevation view thereof;

FIG. 3 is a right elevation view thereof;

FIG. 4 is a left elevation view thereof;

FIG. 5 is a right side elevation view of embodiment 2, of a garment, where the front and rear elevation views are the same as FIGS. 1-2; and,

FIG. 6 is a left elevation view of embodiment 2, of a garment. The dashed broken lines depicting stitching and the human form shown in the drawings are for environmental structure only and form no part of the claimed design. The dash-dotdot-dash broken lines shown at the junction of the bodice with the sleeve and the interior of the bodice represent the bounds of the design and form no part of the claimed design.

#### 1 Claim, 6 Drawing Sheets



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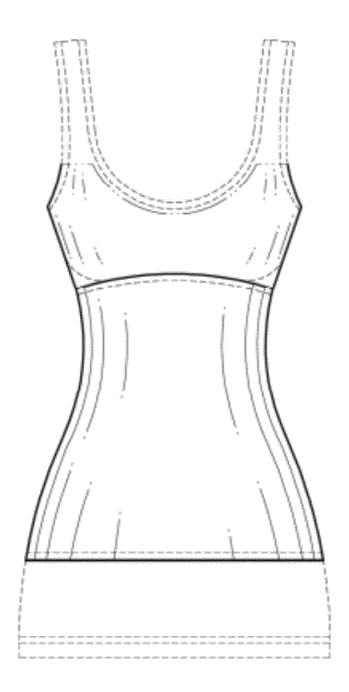
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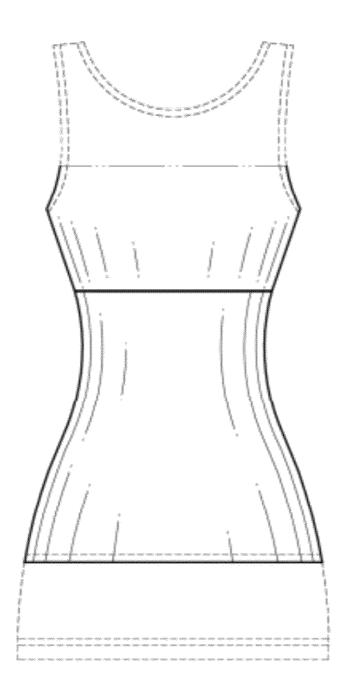
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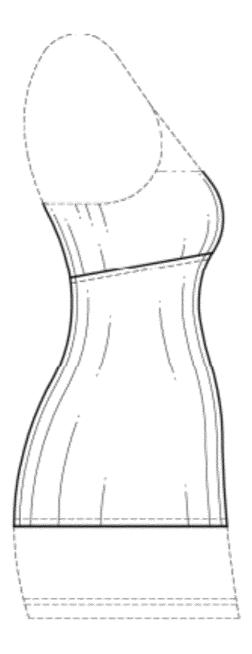
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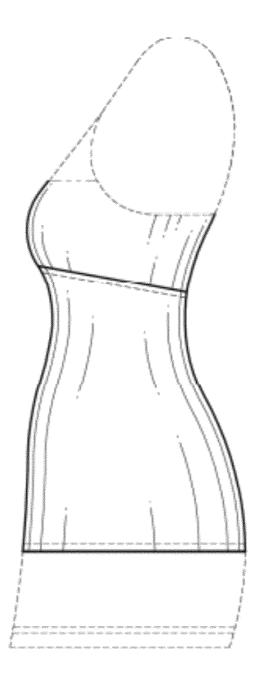
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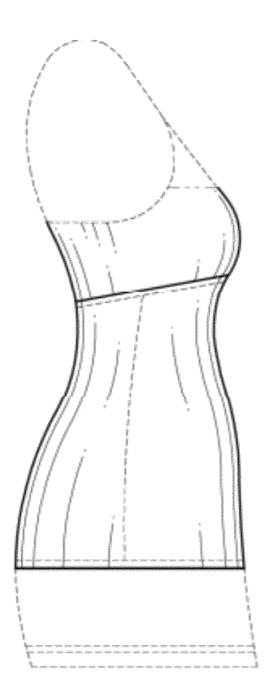
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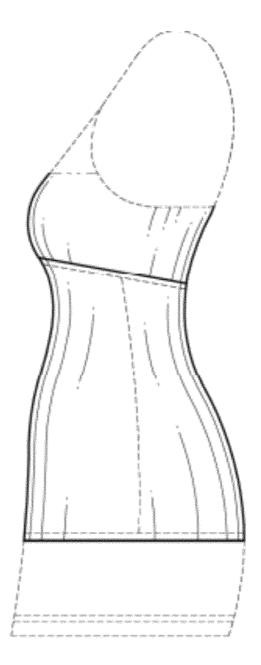
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### UNITED STATES PATENT AND TRADEMARK OFFICE CERTIFICATE OF CORRECTION

PATENT NO.	: D666,384 S
APPLICATION NO.	: 29/392830
DATED	: September 4, 2012
INVENTOR(S)	: Heather Thomson Schindler

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Title page:

Change the following from:

"Continuation of application No. 29/350,290, filed on November 13, 2009, now abandoned, which is..."

to

-- Continuation of application No. 29/350,290, filed on November 13, 2009, now Pat. No. Des. 667,607, which is... --

Signed and Sealed this Thirteenth Day of November, 2012

and

David J. Kappos Director of the United States Patent and Trademark Office

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