

**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.

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

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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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:

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This __th day of _____, 2013.

Natasha H. Moffitt

Exhibit A

US00D606285S

(12) **United States Design Patent**
Schindler(10) **Patent No.:** **US D606,285 S**(45) **Date of Patent:** **** Dec. 22, 2009**(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**(51) **LOC (9) Cl.** **02-02**(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.

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 D453,255 S * 2/2002 Kim D2/702

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JP 2006-316359 11/2006
 JP 2007-146337 6/2007
 JP 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;

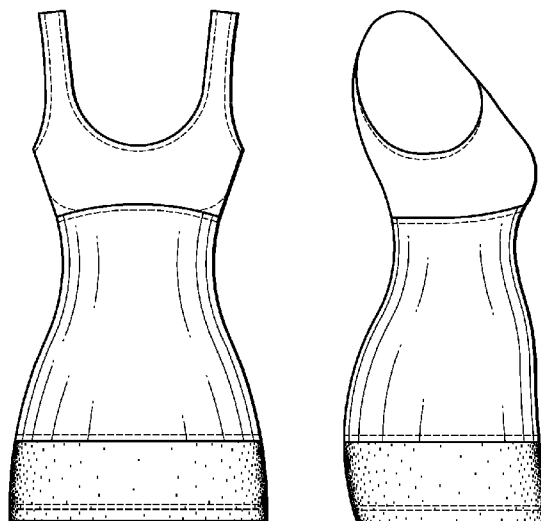
FIG. 4 is a left elevation view thereof;

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 multi-fabric 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

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US D606,285 S

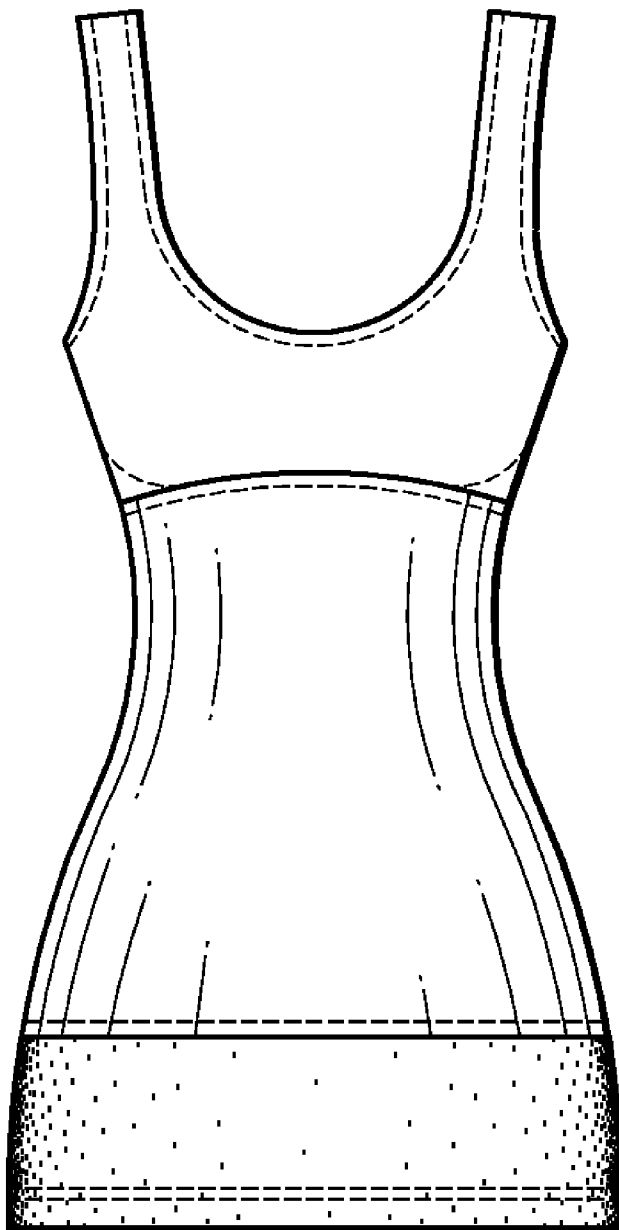


FIG. 1

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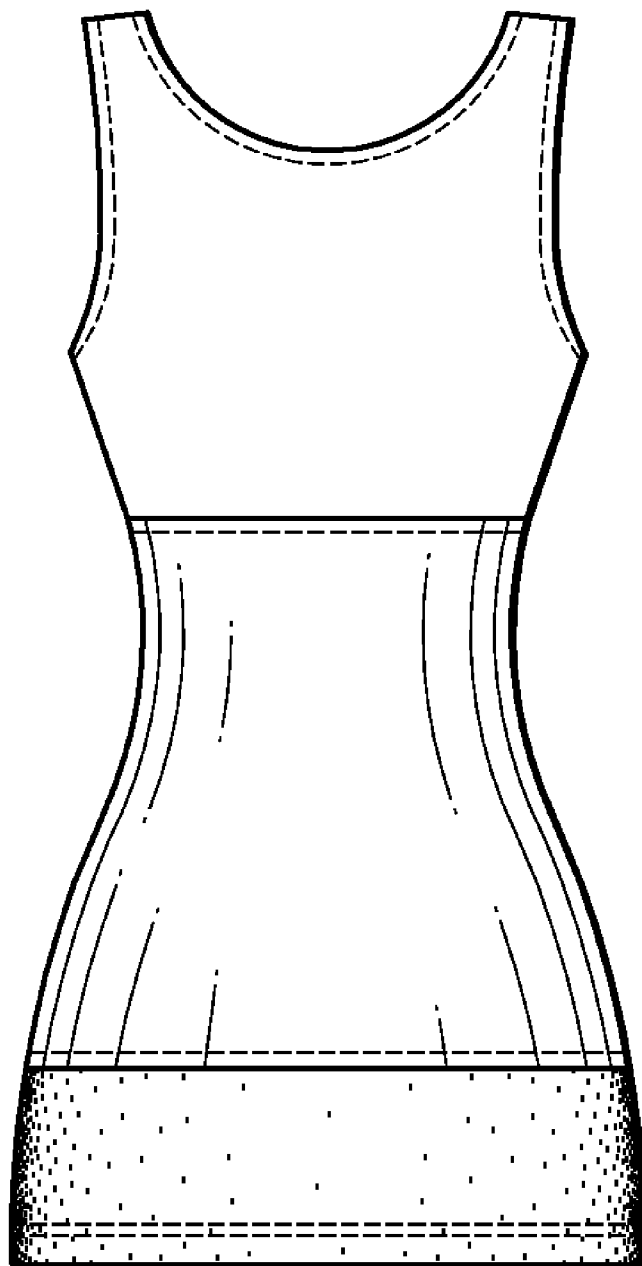


FIG. 2

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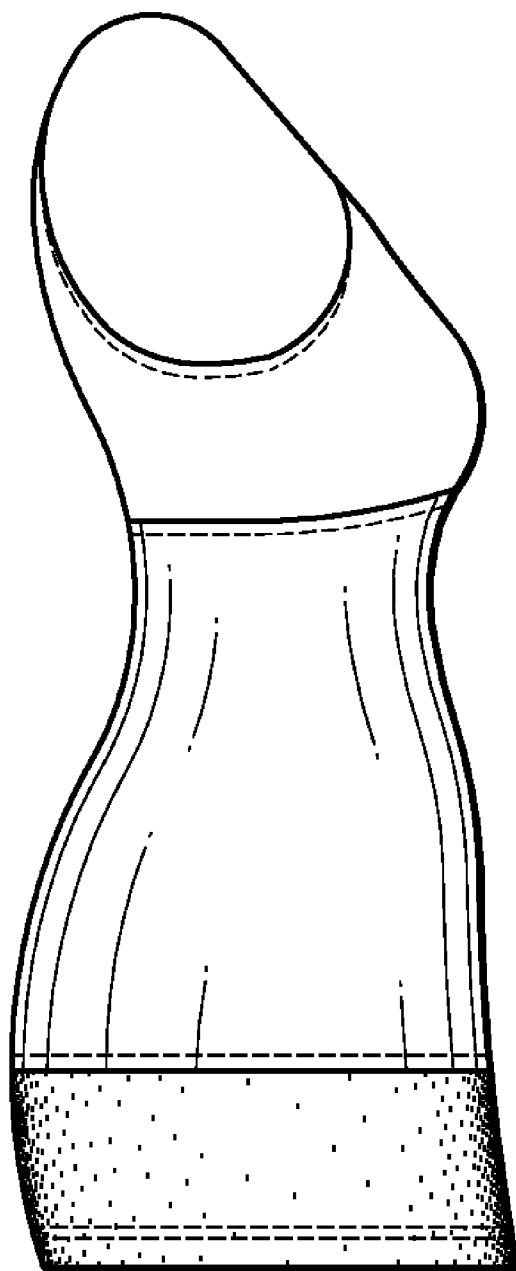


FIG. 3

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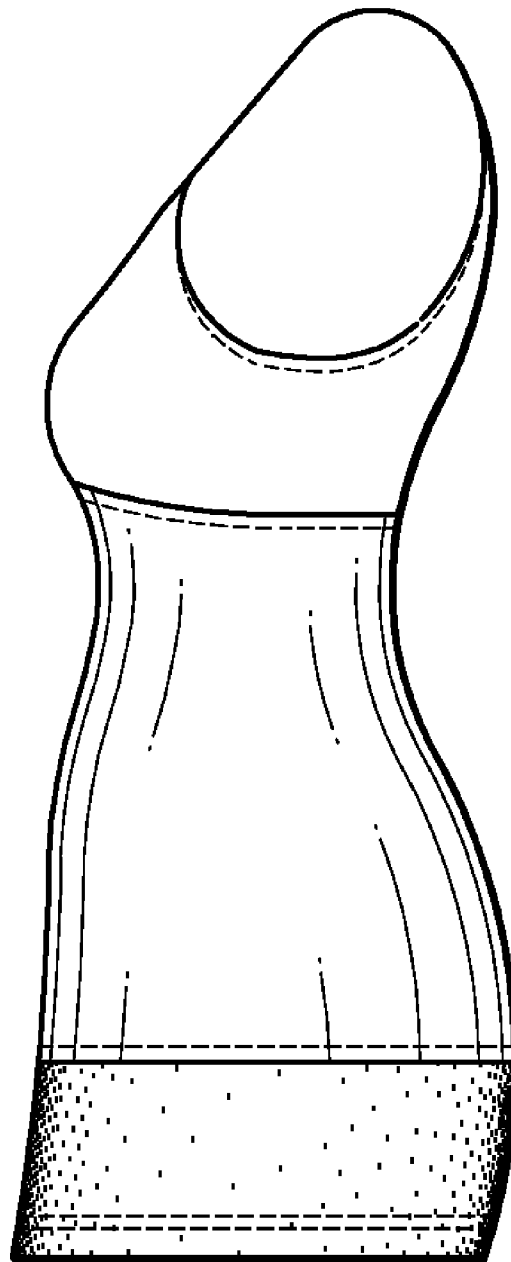


FIG. 4

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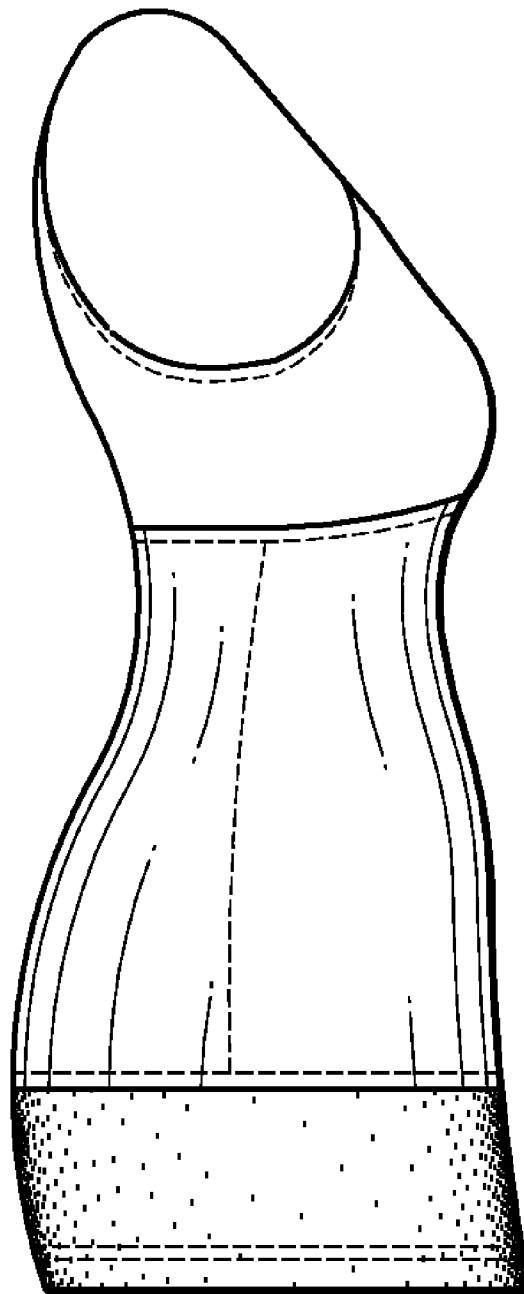


FIG. 5

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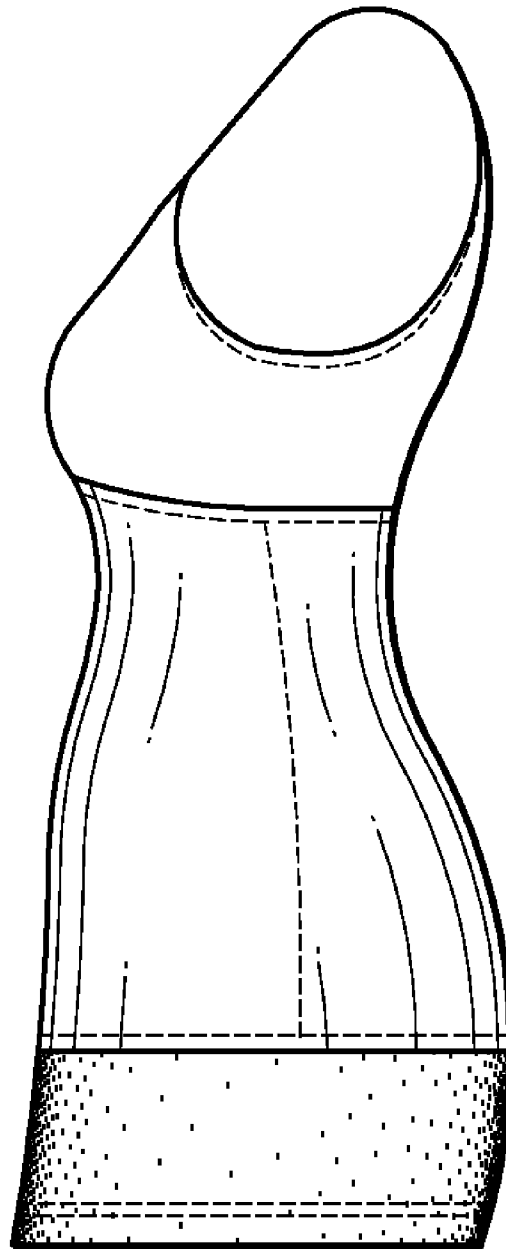


FIG. 6

Exhibit B

US00D616627S

**(12) United States Design Patent
Schindler****(10) Patent No.: US D616,627 S**
(45) Date of Patent: ** Jun. 1, 2010**(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.

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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;

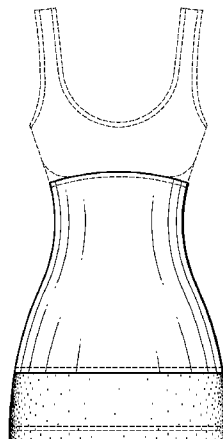
FIG. 3 is a right elevation view thereof;

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

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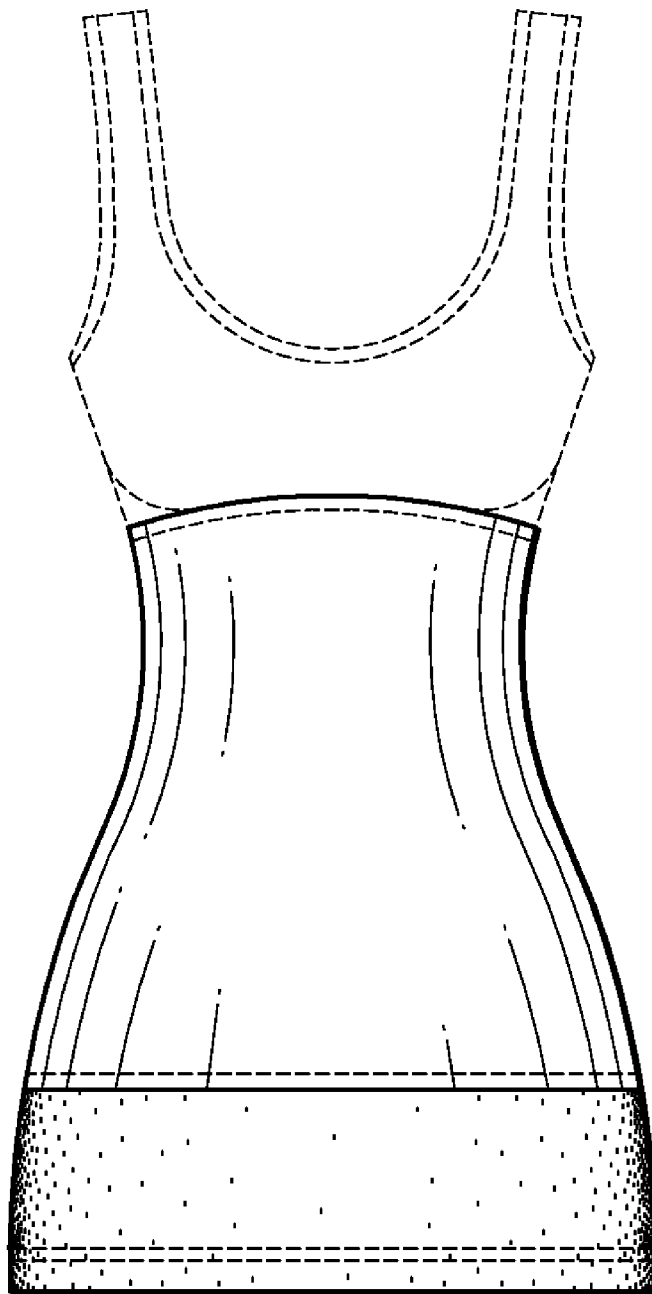


FIG. 1

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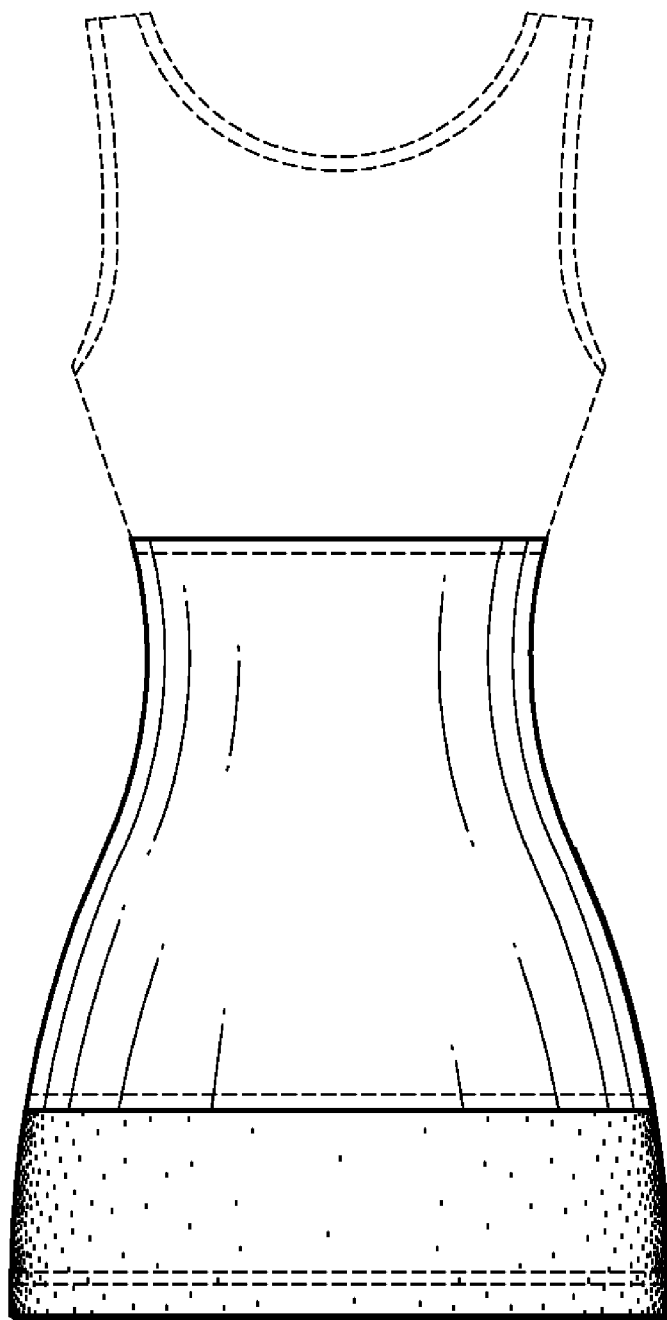


FIG. 2

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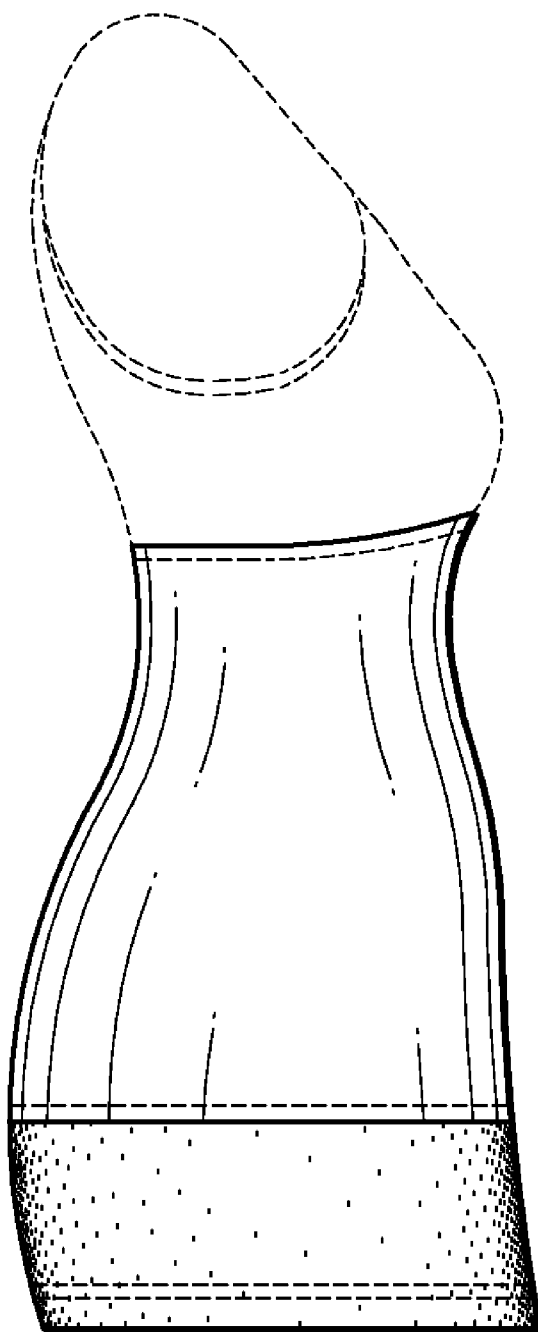


FIG. 3

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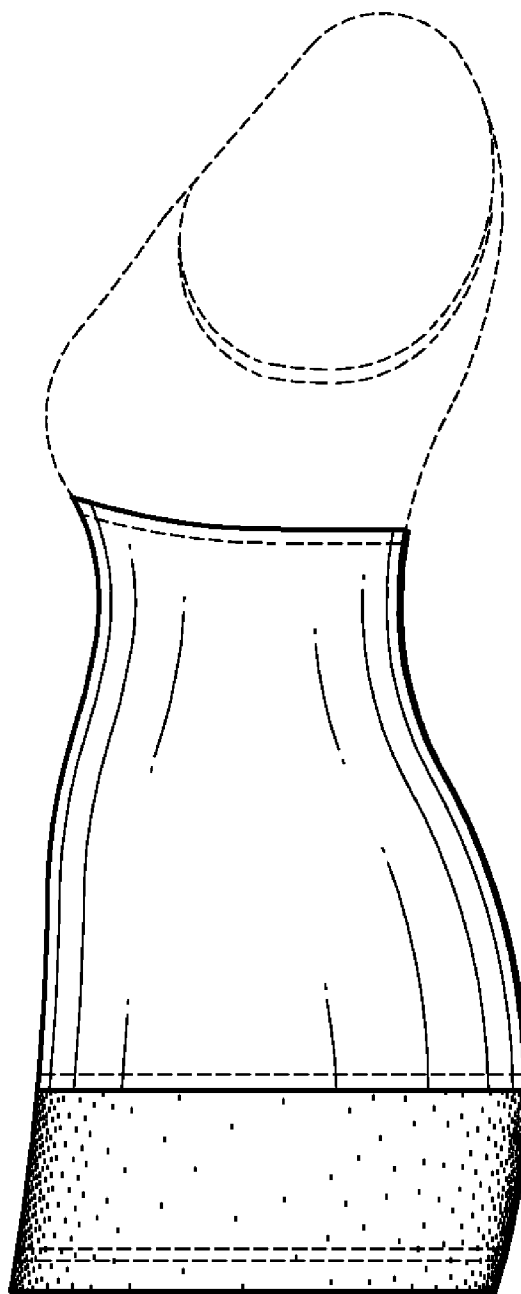


FIG. 4

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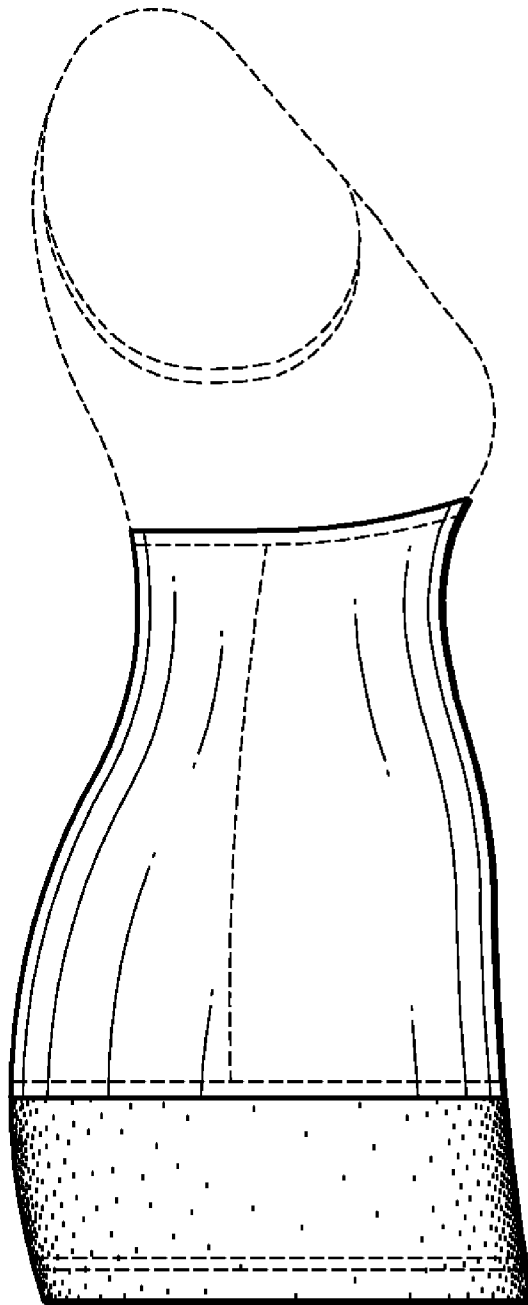


FIG. 5

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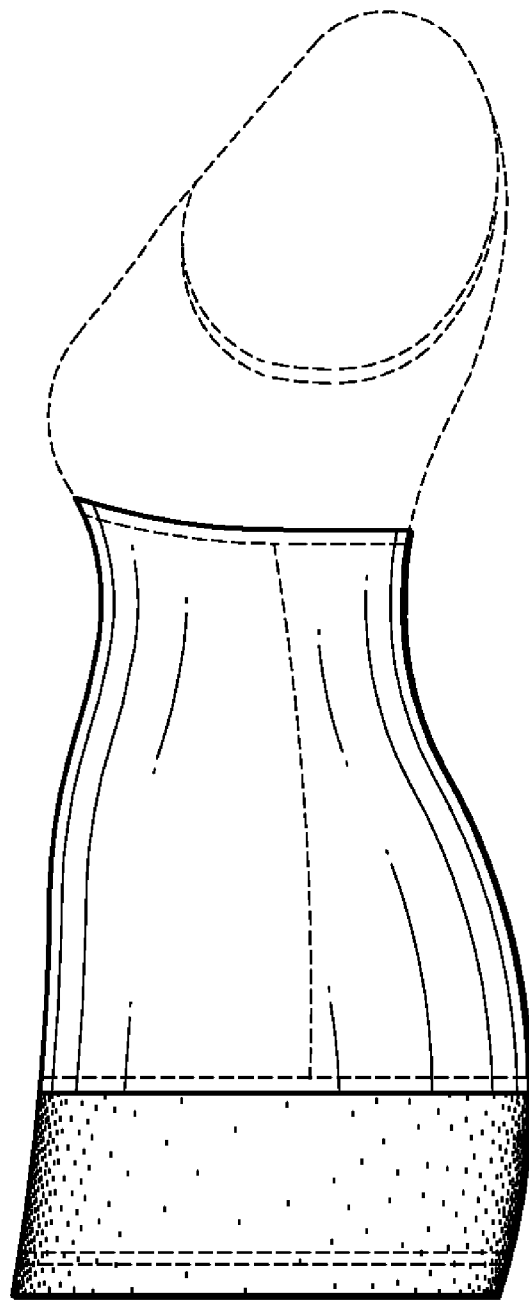


FIG. 6

Exhibit C

US00D622477S

**(12) United States Design Patent
Schindler****(10) Patent No.: US D622,477 S****(45) Date of Patent: ** Aug. 31, 2010****(54) GARMENT**2,310,103 A 2/1943 McDonald
D152,981 S 3/1949 Kaupp**(75) Inventor: Heather Thomson Schindler**, New York, NY (US)

(Continued)

(73) Assignee: Times Three Clothier, LLC, New York, NY (US)

FOREIGN PATENT DOCUMENTS

() Term: 14 Years**

JP 2006-316359 11/2006

(21) Appl. No.: 29/362,498

(Continued)

(22) Filed: May 26, 2010*Primary Examiner*—Philip S Hyder
Assistant Examiner—Anna J Burmeister
(74) Attorney, Agent, or Firm—Stroock & Stroock & Lavan LLP**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.**(57) CLAIM**

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

(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.**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;

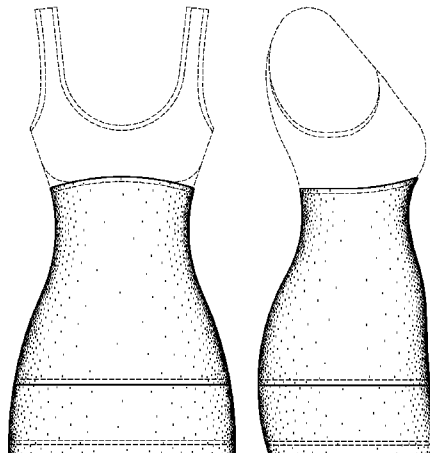
FIG. 5 is a right side elevation view of embodiment 2, of a garment, where the front and rear elevation views are the same as FIGS. 1–2; and,

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.

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D129,894 S	10/1941	Abeles

1 Claim, 6 Drawing Sheets

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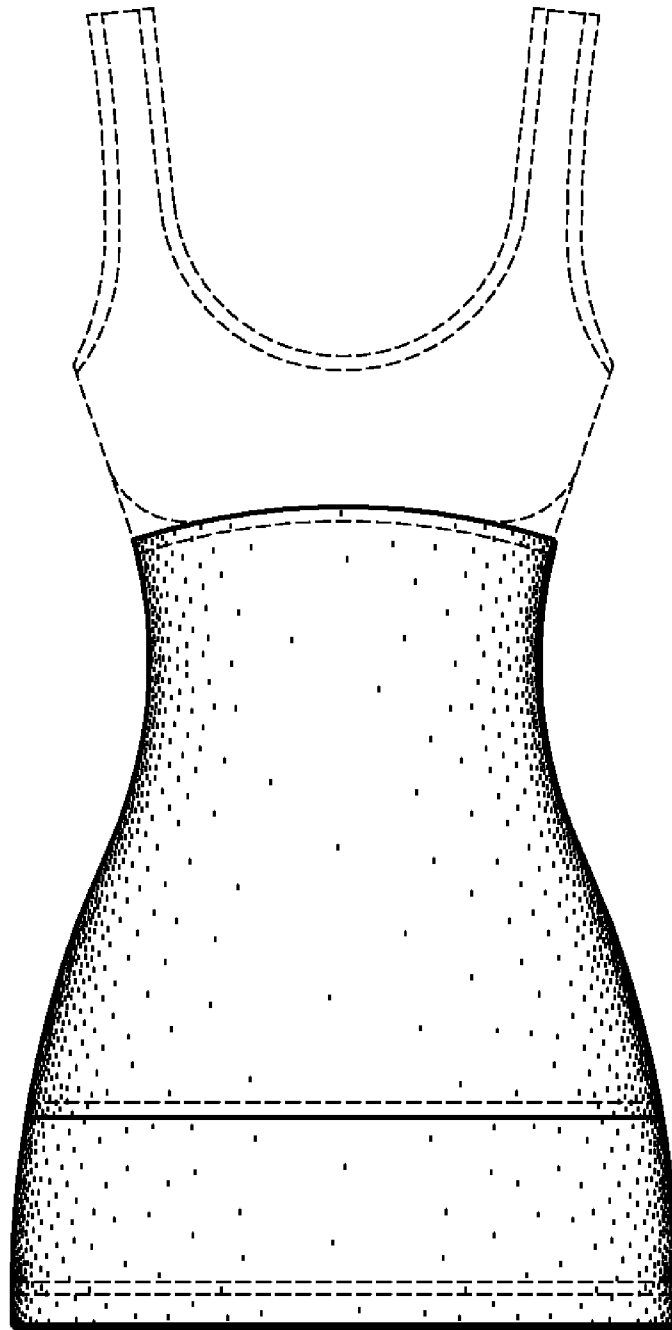


FIG. 1

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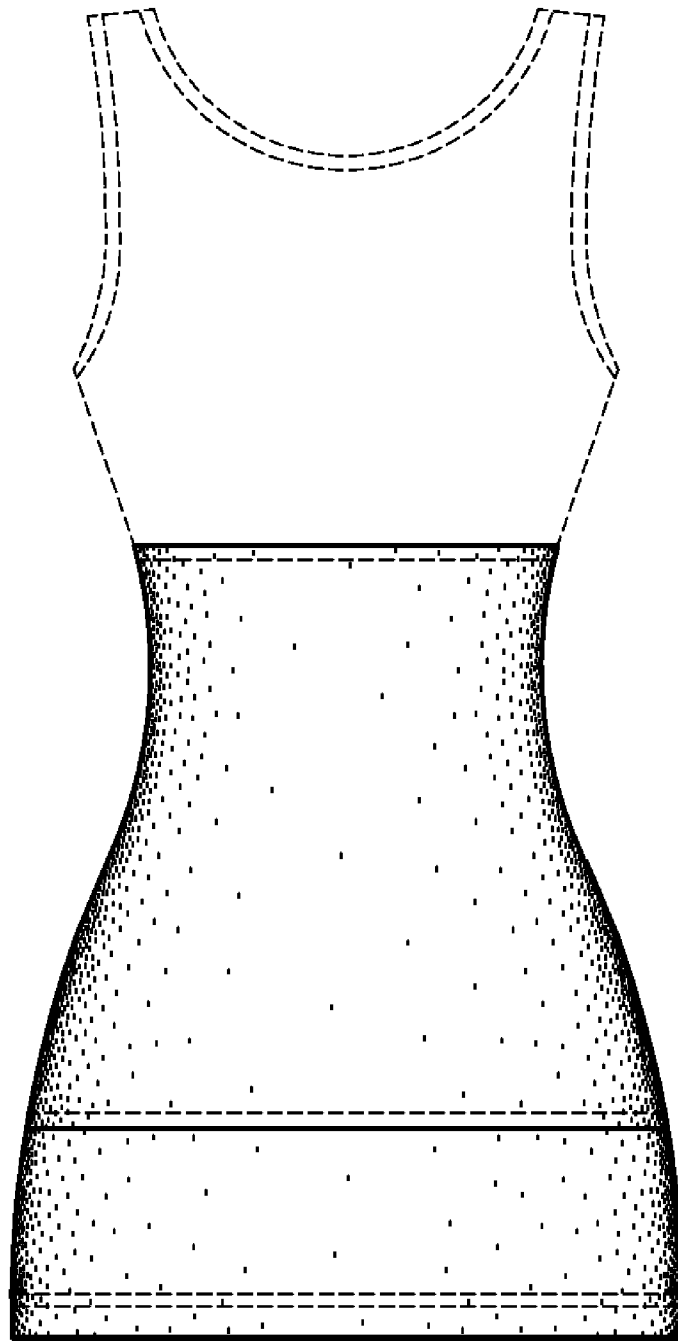


FIG. 2

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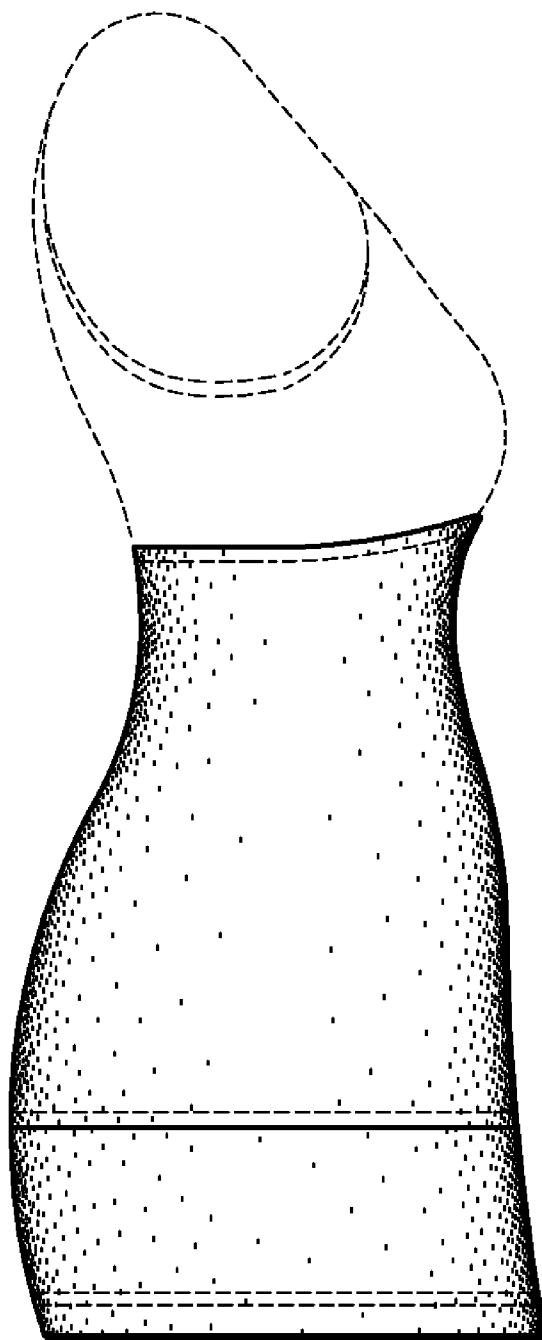


FIG. 3

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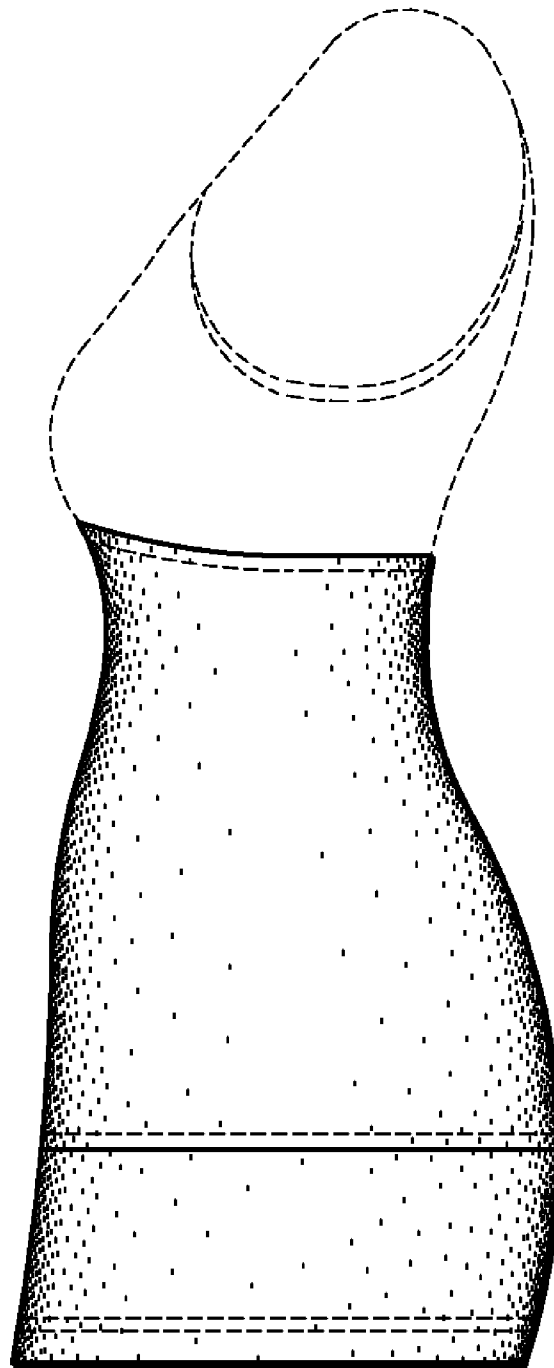


FIG. 4

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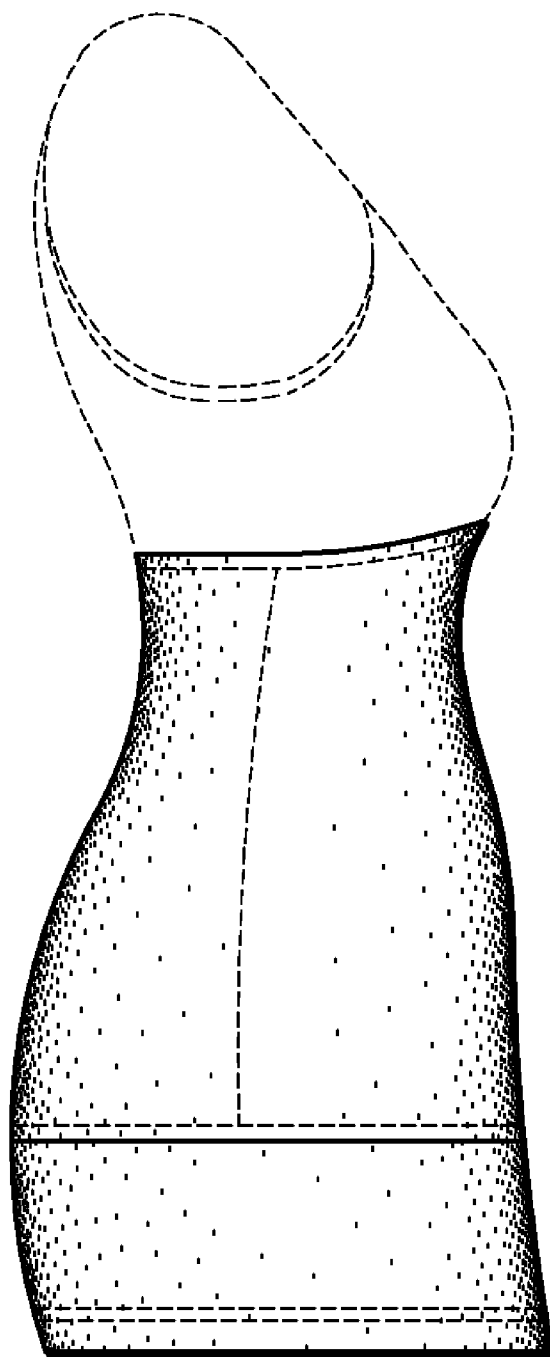


FIG. 5

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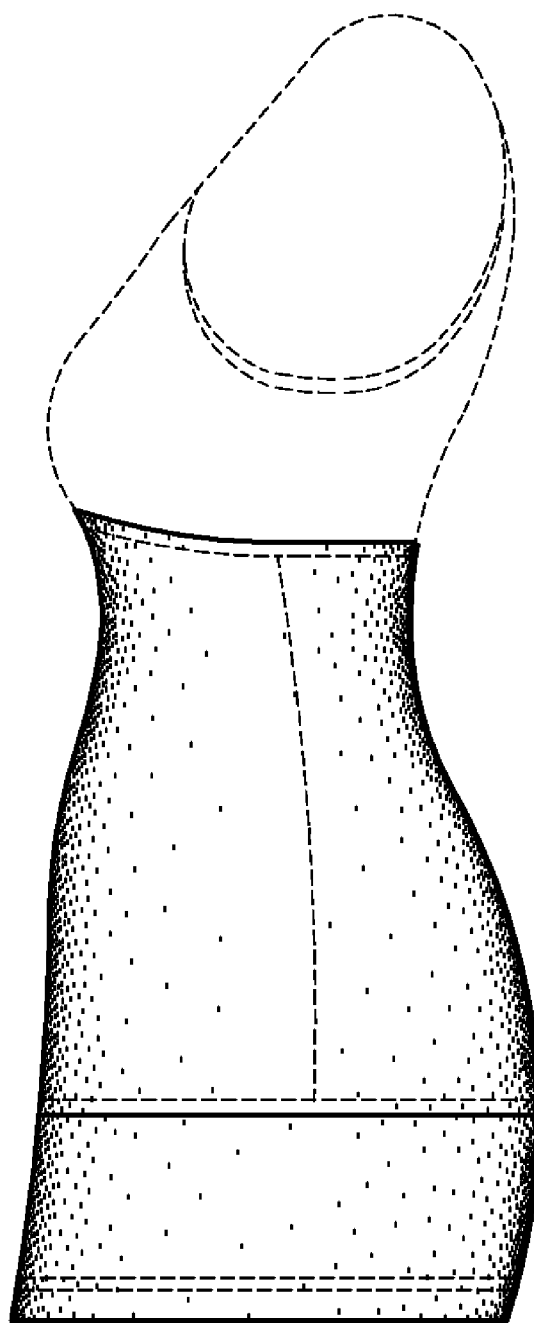


FIG. 6

Exhibit D

US00D623377S

(12) **United States Design Patent**
Schindler(10) **Patent No.:** **US D623,377 S**(45) **Date of Patent:** **** Sep. 14, 2010**(54) **GARMENT**2,579,547 A 12/1951 Cadous
D170,694 S 10/1953 Kahn(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**(22) Filed: **May 25, 2010****Related U.S. Application Data**(63) 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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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;

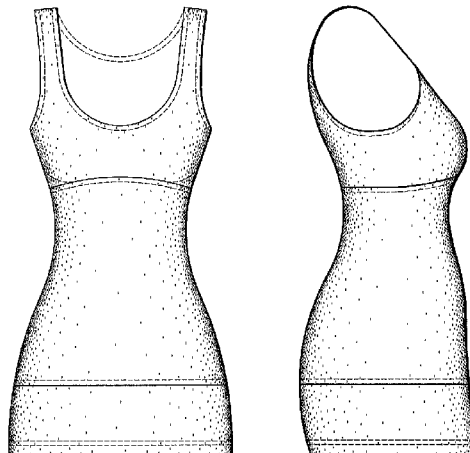
FIG. 2 is a rear elevation view thereof;

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 environ-
mental 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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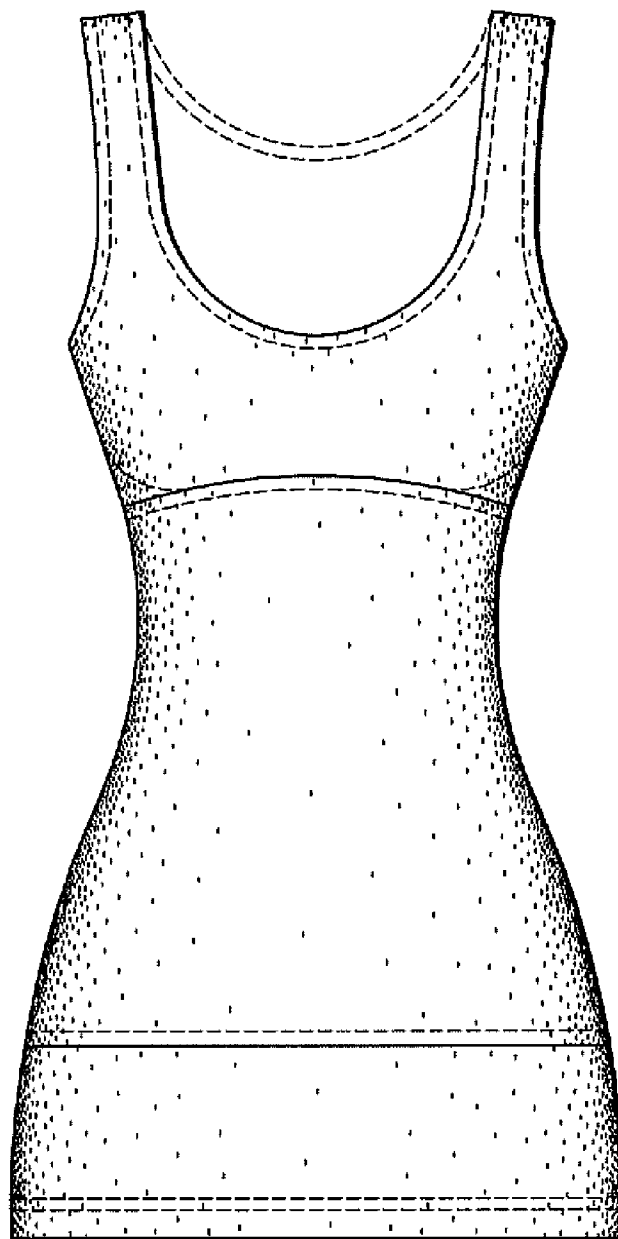


FIG. 1

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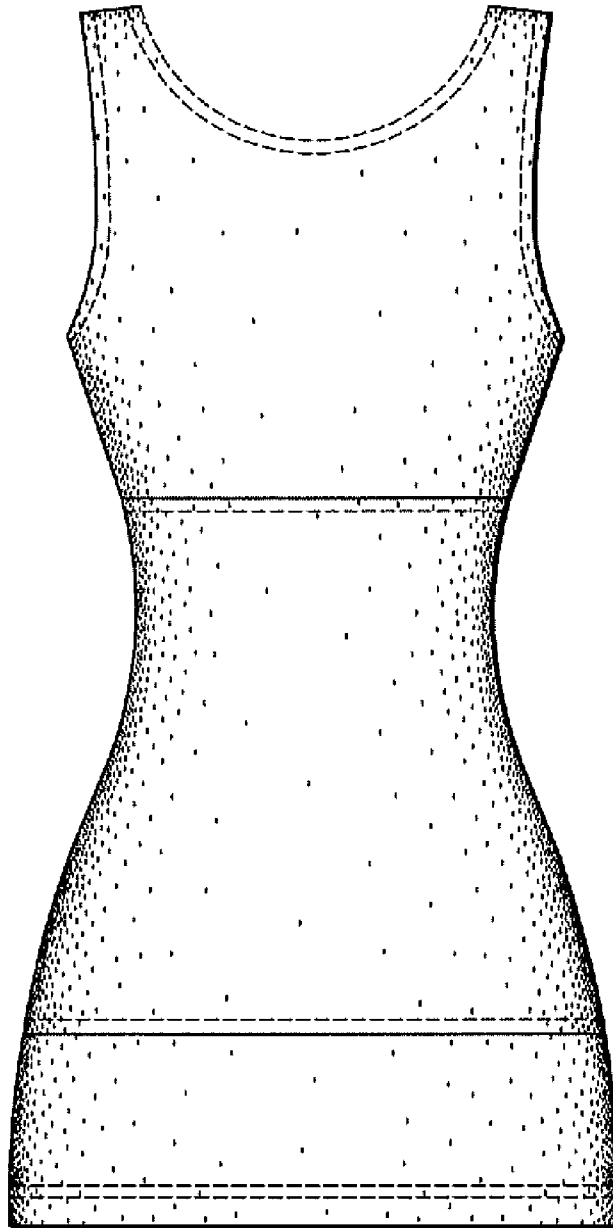


FIG. 2

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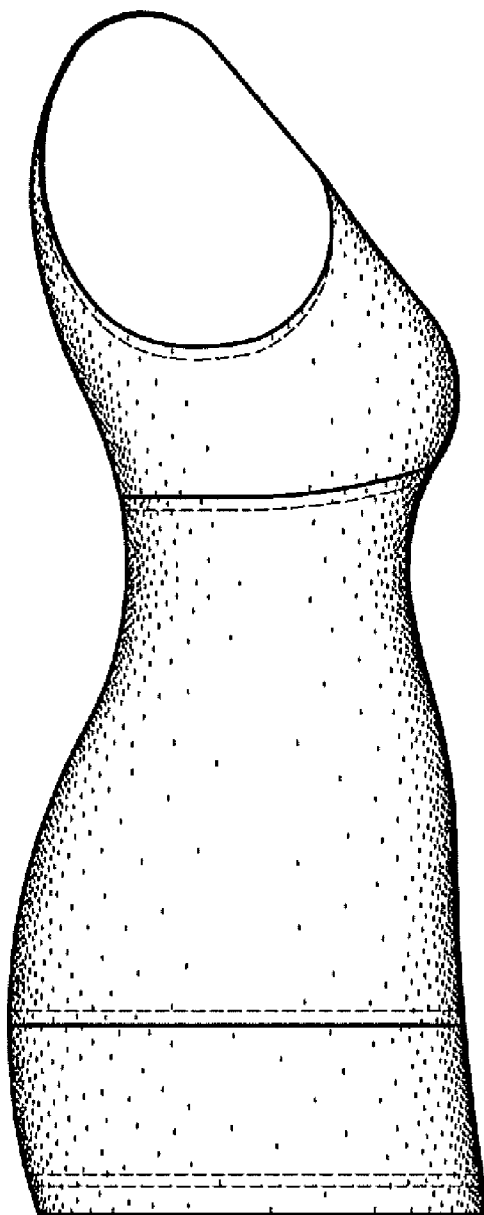


FIG. 3

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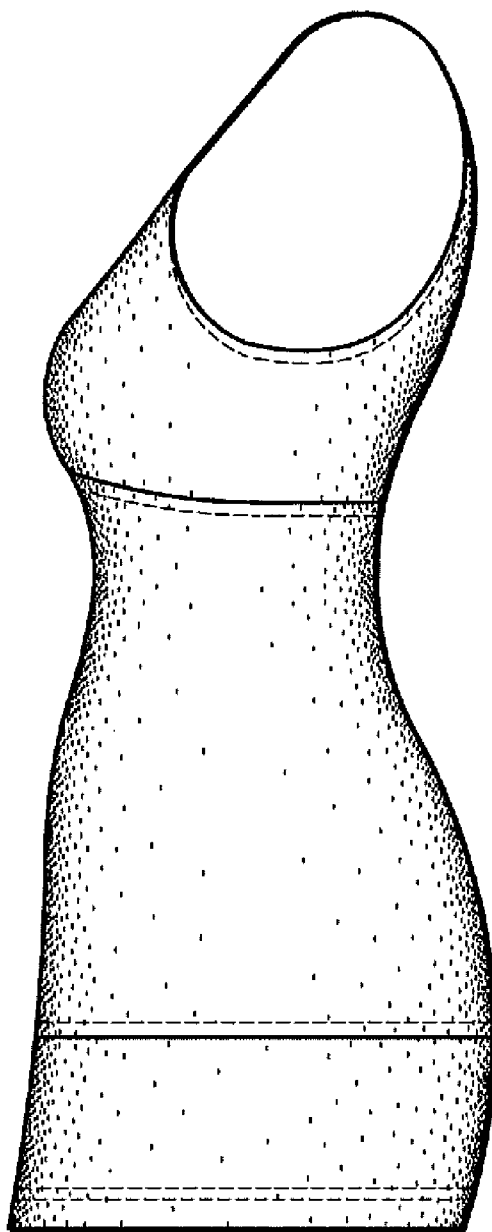


FIG. 4

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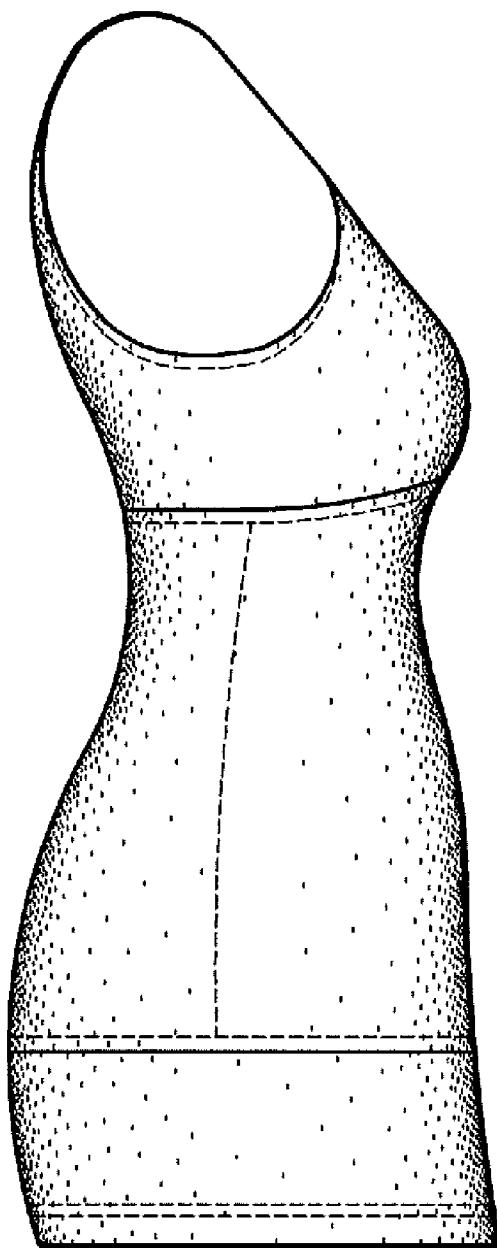


FIG. 5

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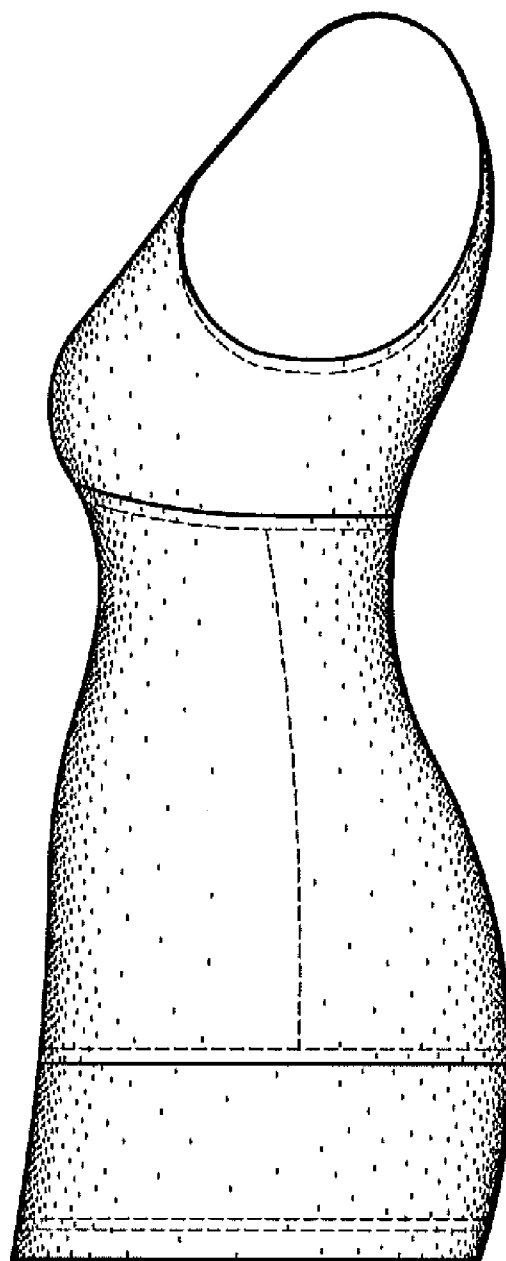


FIG. 6

Exhibit E

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

(10) **Patent No.:** **US D665,558 S**

(45) **Date of Patent:** **** *Aug. 21, 2012**

(54) **GARMENT**

(75) Inventor: **Heather Thomson Schindler**, New York, NY (US)

(73) Assignee: **Times Three Clothier, LLC**, New York, NY (US)

(*) Notice: This patent is subject to a terminal disclaimer.

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

(21) Appl. No.: **29/350,288**

(22) Filed: **Nov. 13, 2009**

Related U.S. Application Data

(60) Division of application No. 29/302,500, filed on Jan. 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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Primary Examiner — Karen E. Eldridge Powers

(74) *Attorney, Agent, or Firm* — Stroock & Stroock & Lavan LLP

(57) **CLAIM**

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;

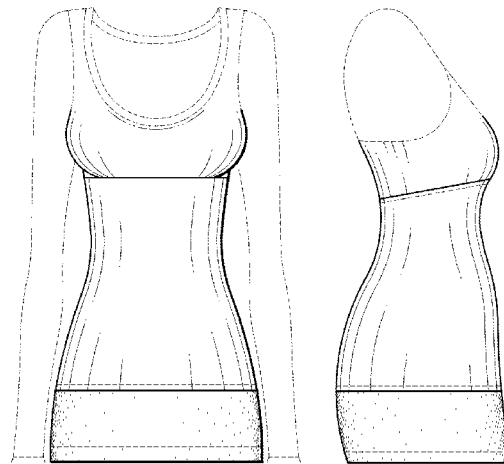
FIG. 5 is a right side elevation view of Embodiment 2, of a garment, where the front and rear elevation views are the same as FIGS. 1-2; and,

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-dot-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.

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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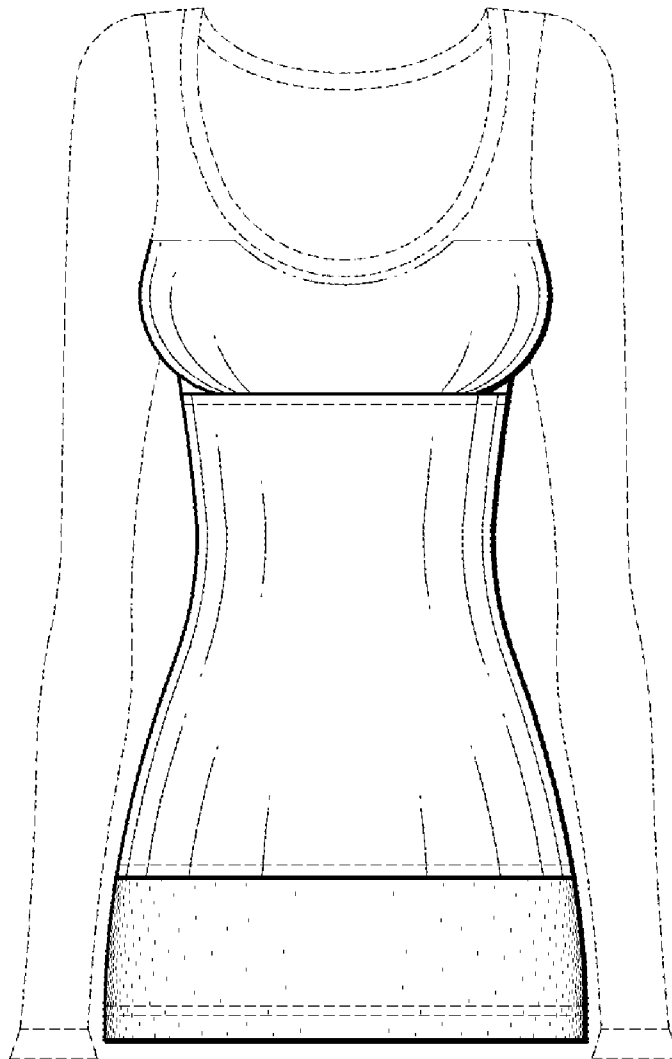


FIG. 1

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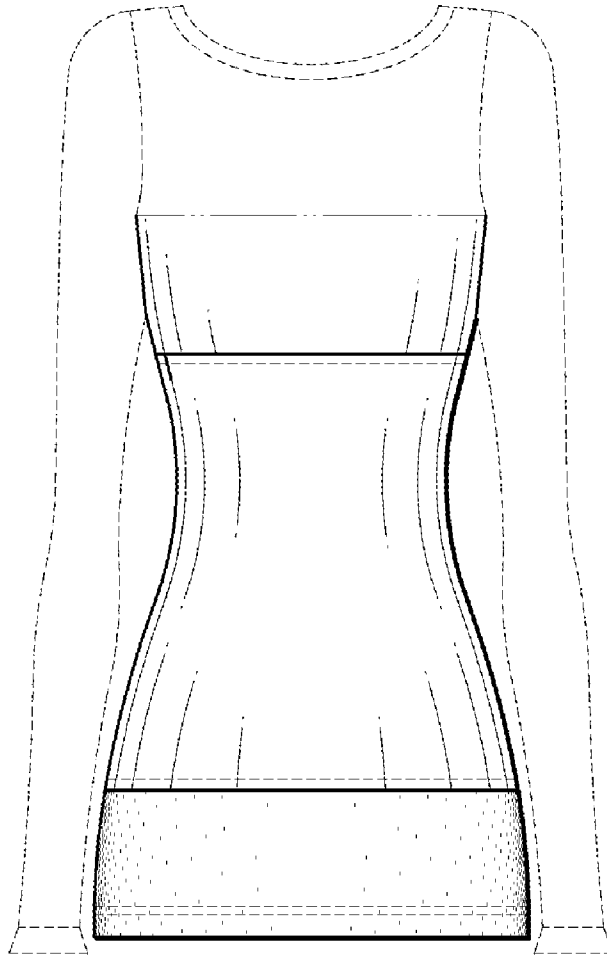


FIG. 2

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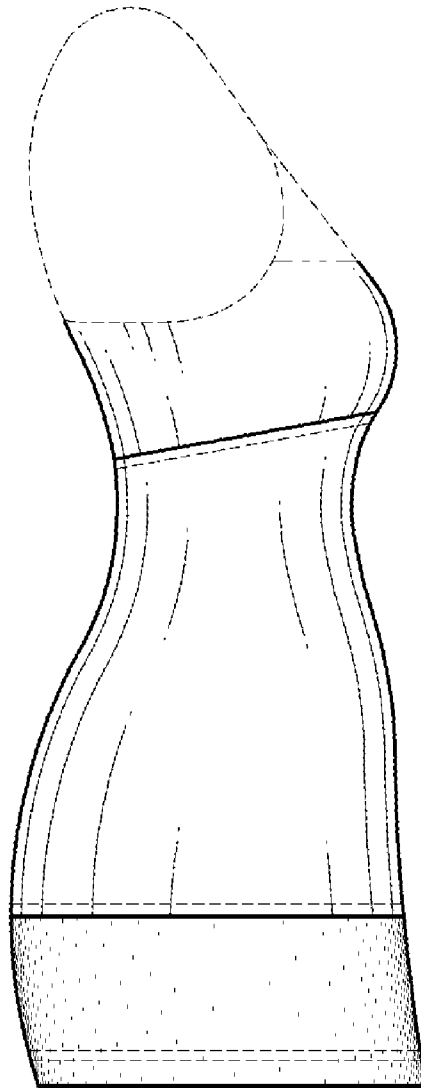


FIG. 3

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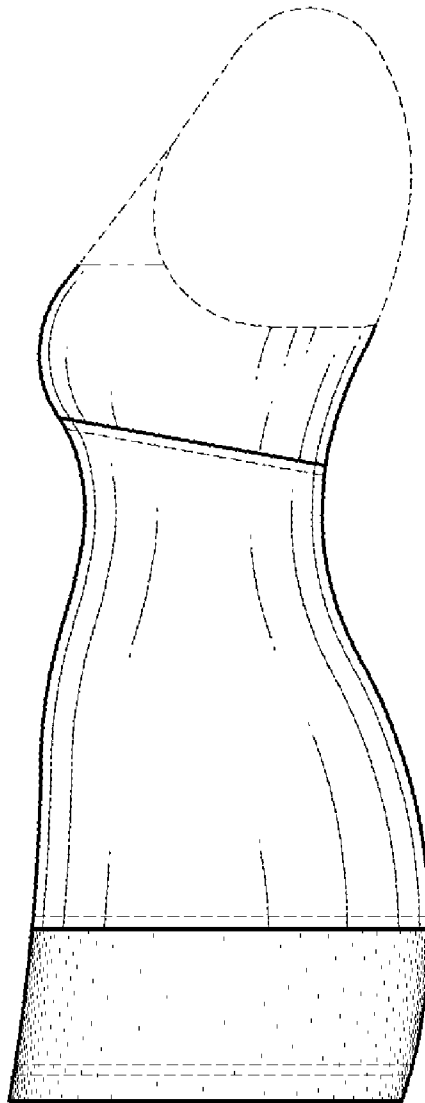


FIG. 4

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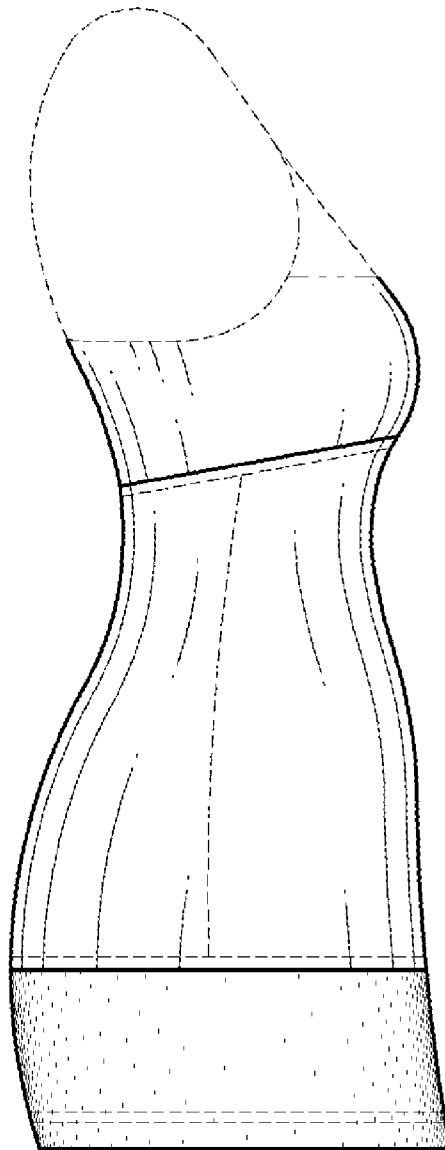


FIG. 5

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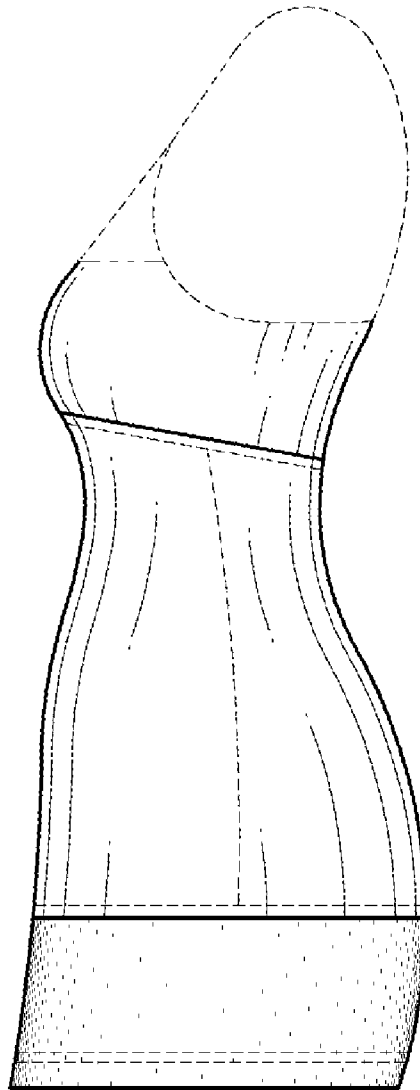


FIG. 6

Exhibit F

US00D666384S

(12) **United States Design Patent**
Schindler(10) **Patent No.:** **US D666,384 S**(45) **Date of Patent:** **** Sep. 4, 2012**(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.: **29/392,830**(22) Filed: **May 26, 2011****Related U.S. Application Data**

(60) Continuation of application No. 29/350,290, filed on 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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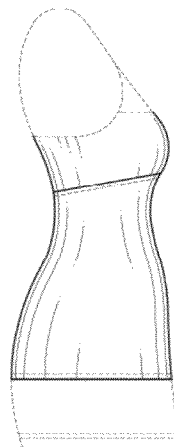
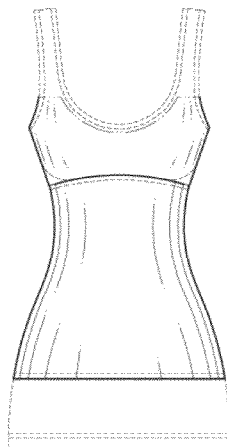
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Primary Examiner — Karen E Eldridge Powers(74) *Attorney, Agent, or Firm* — Stroock & Stroock & Lavan LLP(57) **CLAIM**

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-dot-dot-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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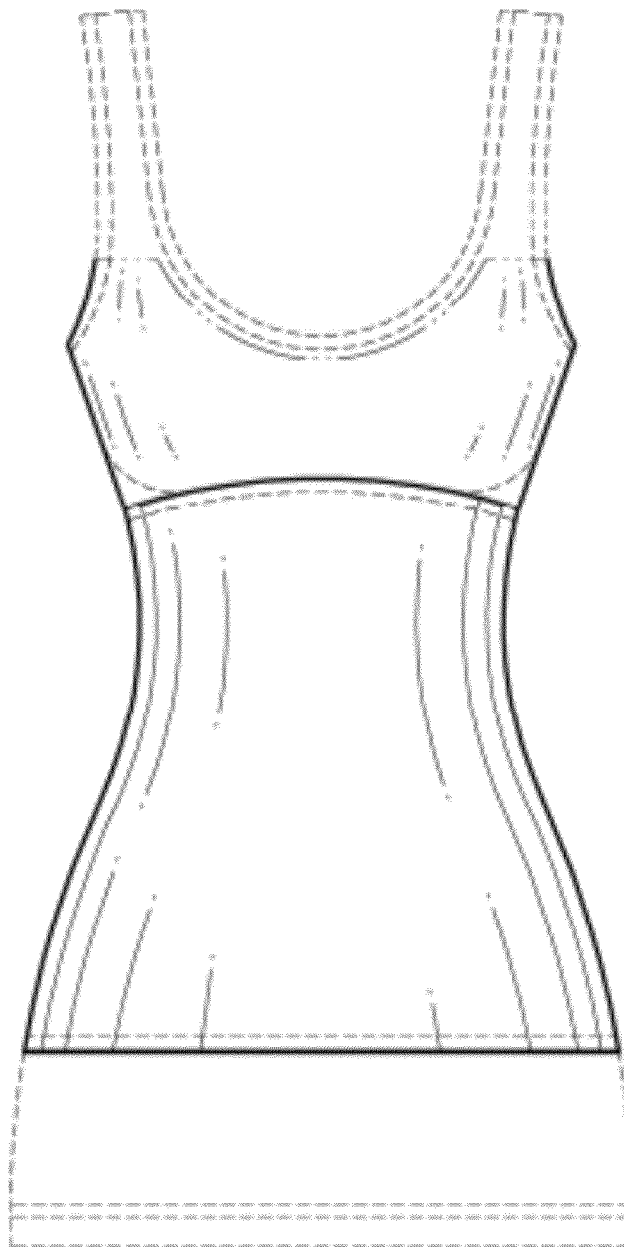


FIG. 1

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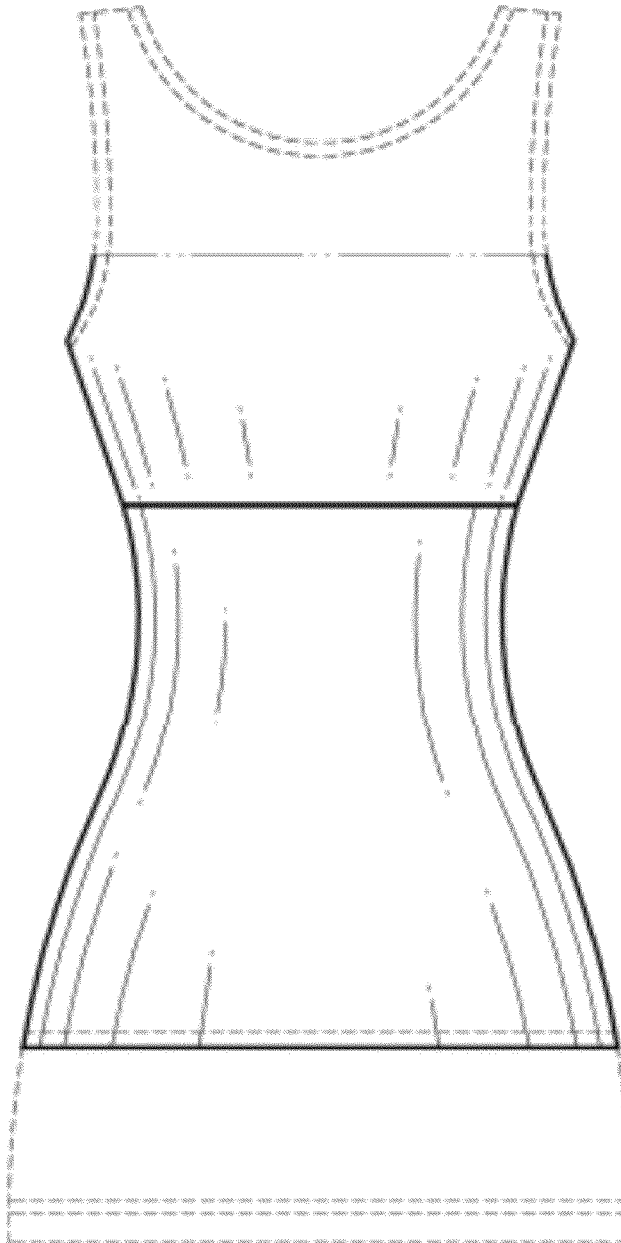


FIG. 2

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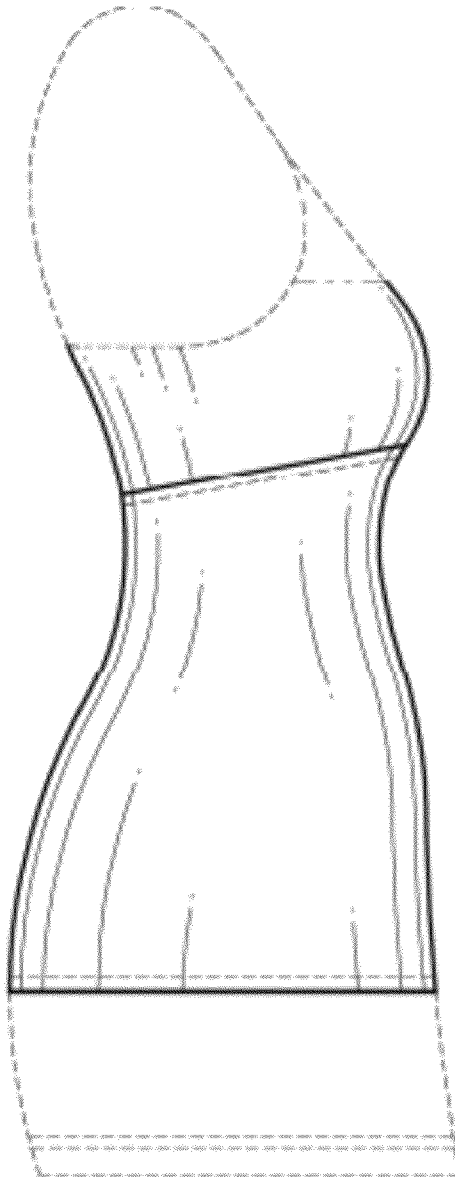


FIG. 3

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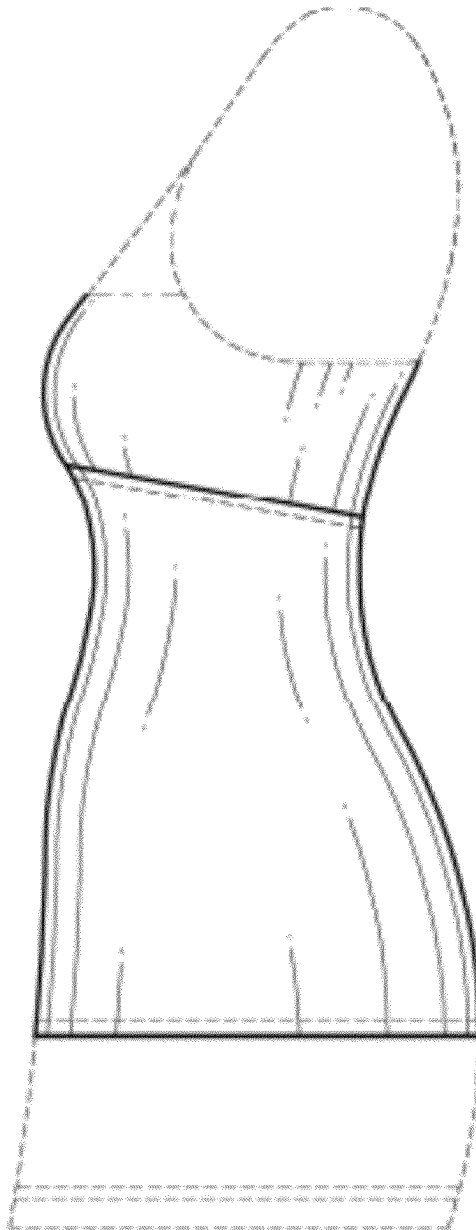


FIG. 4

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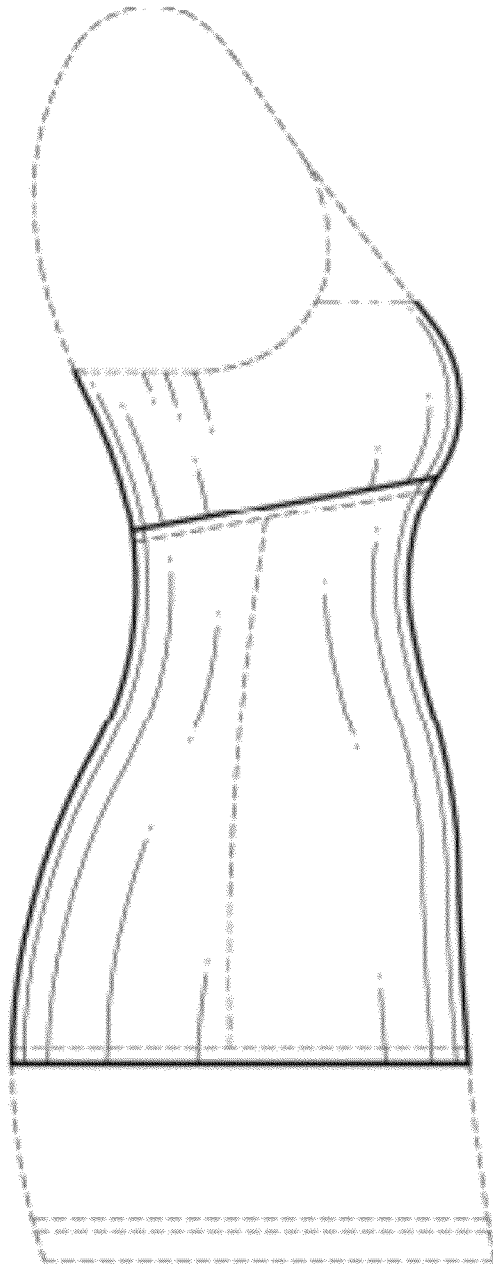


FIG. 5

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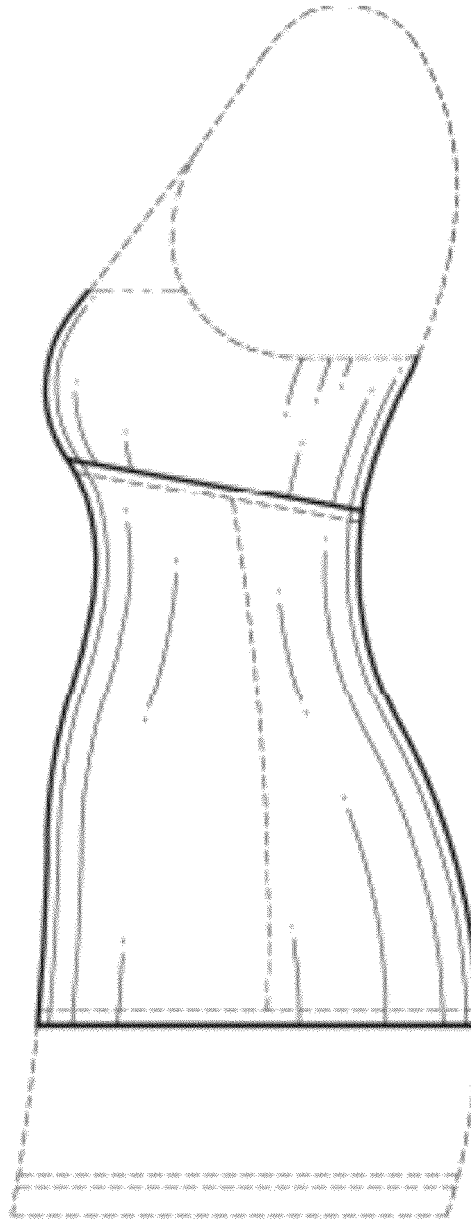


FIG. 6

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

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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

A handwritten signature in black ink that reads "David J. Kappos". The signature is written in a cursive, flowing style.

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