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CLERK U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
LOS ANGELES  
BY: \_\_\_\_\_

6 *Attorneys for Plaintiff*  
7 *Deckers Outdoor Corporation*

8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA

11 DECKERS OUTDOOR CORPORATION, 12 a Delaware Corporation, 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	Plaintiff,  v.  TARGET CORPORATION, a Minnesota Corporation; DYNASTY FOOTWEAR, LTD., a California Corporation; and DOES 1-10, inclusive,  Defendants.	) CASE NO. CV 13-00329 ABC (FFMx) ) ) <b>PLAINTIFF'S SECOND AMENDED</b> ) <b>COMPLAINT</b> ) ) <b>1. PATENT INFRINGEMENT;</b> ) <b>2. COMMON LAW UNFAIR</b> ) <b>COMPETITION</b> ) ) <b>JURY TRIAL DEMANDED</b>
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18 Plaintiff **Deckers Outdoor Corporation** for its claims against Defendants  
19 **Target Corporation** and **Dynasty Footwear, Ltd.** (collectively "Defendants")  
20 respectfully alleges as follows:

21 **JURISDICTION AND VENUE**

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

1 Defendants' 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 Target Corporation is a  
9 corporation duly organized and existing under the laws of the state of Minnesota with  
10 an office and principal place of business at 1000 Nicollet Mall, Minneapolis,  
11 Minnesota 55403.

12 6. Upon information and belief, Defendant Dynasty Footwear, Ltd. is a  
13 corporation duly organized and existing under the laws of the state of California with  
14 an office and principal place of business at 800 North Sepulveda Boulevard, El  
15 Segundo, California 90245.

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

25 8. Plaintiff is informed and believes, and based thereon alleges, that at all  
26 relevant times herein, Defendants and DOES 1 through 10, inclusive, knew or  
27 reasonably should have known of the acts and behavior alleged herein and the damages  
28 caused thereby, and by their inaction ratified and encouraged such acts and behavior.

1 Plaintiff further alleges that Defendants and DOES 1 through 10, inclusive, have a  
2 non-delegable duty to prevent or not further such acts and the behavior described  
3 herein, which duty Defendants and DOES 1 though 10, inclusive, failed and/or refused  
4 to perform.

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

6 **A. Deckers' UGG® Brand**

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

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

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

17 12. Many of Deckers' UGG® footwear designs are also protected by design  
18 patents issued by the United States Patent and Trademark Office. One of Deckers'  
19 most well recognized UGG® footwear designs is U.S. Patent No. D599,999 for the  
20 "Single Bailey Button Boot" (issued on September 15, 2009). Attached hereto and  
21 incorporated herein as Exhibit 1 is a true and correct copy of the registration for the  
22 Single Bailey Button Boot design patent.

23 13. Deckers is the lawful assignee of all right, title, and interest in and to the  
24 UGG® footwear designs, including the design patent for the Single Bailey Button  
25 Boot.

26 **B. Defendants' Infringement of Deckers' Single Bailey Button Boot**

27 14. Upon information and belief, Plaintiff hereon avers that Defendant Target  
28 Corporation ("Target") is a company engaged in the retail sale of a wide variety of

1 products, including house wares, apparel, footwear, and furniture, with retail stores  
2 nationwide, including 248 retail locations in the state of California, many of which are  
3 located in this judicial district.

4 15. Target also offers its products online at [www.target.com](http://www.target.com), where customers  
5 nationwide, including those within this judicial district, can purchase its products.

6 16. Plaintiff has recently discovered that Target has offered and is currently  
7 advertising, offering for sale, and selling footwear with designs that infringe upon  
8 Deckers' Single Bailey Button Boot ("Infringing Products"), examples of which are  
9 shown below. These Infringing Products can be purchased online at [www.target.com](http://www.target.com)  
10 as well as at Target's retail stores.



16 **Xhilaration "KALISA"**



17 **Circo "DASHA"**



18 **Circo "GELSEY"**

19 17. Upon information and belief, both the "XHILARATION" and "CIRCO"  
20 brands private labels owned by Target.

21 18. Upon information and belief, Defendant Dynasty Footwear, Ltd.  
22 participated in the manufacture, design, distribution, offering for sale, and/or sale of  
23 the Infringing Products and supplied same to Target.

24 19. Upon information and belief, Target may have sold additional products in  
25 addition to the examples above which infringe upon Plaintiff's design patents.

26 20. Deckers has not granted a license or any other form of permission to  
27 Defendants with respect to any of its design patents, including the Single Bailey  
28 Button design patent.

1           21. All of Deckers' UGG footwear products, including products embodying  
2 the design patents referenced above, bear a label on the product itself that gives notice  
3 to the public of its patent registration.

4           22. Given the widespread popularity and recognition of Deckers' Single  
5 Bailey Button Boot design and the patent notice provided on the products themselves,  
6 Plaintiff avers and hereon alleges that Defendants had knowledge of Deckers' rights to  
7 the Single Bailey Button Boot design and intentionally copied said design on their own  
8 brand of products in an effort to pass them off as if they originated, are associated  
9 with, are affiliated with, are sponsored by, are authorized by, and/or are approved by  
10 Deckers.

11           23. Deckers is informed and believes and hereon alleges that Defendants have  
12 acted in bad faith and that Defendants' deceptive acts have misled and confused and  
13 were intended to cause confusion, or to cause mistake, or to deceive as to the  
14 affiliation, connection, or association of Defendants' Infringing Products with Deckers,  
15 or as to the origin, sponsorship, or approval of Defendants' Infringing Products by  
16 Deckers.

17                                   **FIRST CLAIM FOR RELIEF**  
18                                   **(Patent Infringement – 35 U.S.C. § 271)**

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

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

23           26. Defendants have knowingly and intentionally manufactured, caused to be  
24 produced, distributed, advertised, marketed, offered for sale, and/or sold footwear that  
25 infringes upon Deckers' Single Bailey Button Boot in direct violation of 35 U.S.C. §  
26 271.

27  
28

1 27. Defendants' use of the Single Bailey Button Boot design is without  
2 Plaintiff's permission or authority and is in total disregard of Plaintiff's right to control  
3 its intellectual property.

4 28. As a direct and proximate result of Defendants' infringing conduct,  
5 Plaintiff has been injured and will continue to suffer injury to its business and  
6 reputation unless Defendants are restrained by this Court from infringing Plaintiff's  
7 design patents.

8 29. Defendants' acts have damaged and will continue to damage Plaintiff, and  
9 Plaintiff has no adequate remedy at law.

10 30. On information and belief, Defendants' acts herein complained of  
11 constitute willful acts and intentional infringement of the Single Bailey Button Boot  
12 design.

13 31. In light of the foregoing, Plaintiff is entitled to injunctive relief  
14 prohibiting Defendants from using the Single Bailey Button Boot design, and to  
15 recover from Defendants all damages, including attorneys' fees, that Plaintiff has  
16 sustained and will sustain as a result of such infringing acts, and all gains, profits and  
17 advantages obtained by Defendants as a result thereof, in an amount to be determined,  
18 which amount can be trebled under 35 U.S.C. § 284.

19 **SECOND CLAIM FOR RELIEF**

20 **(Unfair Competition Under California Common Law)**

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

23 33. Defendants' infringement of Plaintiff's Single Bailey Button Boot design  
24 patent constitutes unfair competition in violation of the common law of the State of  
25 California.

26 34. Plaintiff has no adequate remedy at law to compensate it fully for the  
27 damages that have been caused and which will continue to be caused by Defendants'  
28 infringing conduct, unless it is enjoined by this Court.

1           35. In light of the foregoing, Plaintiff is entitled to injunctive relief  
2 prohibiting Defendants from using the Single Bailey Button Boot design patent, and to  
3 recover all damages, including attorneys' fees, that Plaintiff has sustained and will  
4 sustain, and all gains, profits and advantages obtained by Defendants as a result of its  
5 infringing acts alleged above in an amount not yet known, and the costs of this action.

6           36. The conduct herein complained of was extreme, outrageous, willful, and  
7 was inflicted on Plaintiff in reckless disregard of Plaintiff's rights. Said conduct was  
8 despicable and harmful to Plaintiff and as such supports an award of exemplary and  
9 punitive damages in an amount sufficient to punish and make an example of  
10 Defendants, and to deter them from similar such conduct in the future.

11 **PRAYER FOR RELIEF**

12           WHEREFORE, Plaintiff respectfully prays for judgment against Defendants, as  
13 follows:

14           1. A Judgment that Defendants have infringed Deckers' design patent for the  
15 Single Bailey Button Boot in violation of 35 U.S.C. § 271 and that Defendants'  
16 infringement was willful;

17           2. An order granting temporary, preliminary and permanent injunctive relief  
18 restraining and enjoining Defendants, their officers, agents, employees, and attorneys,  
19 and all those persons or entities in active concert or participation with them from:

20           (a) manufacturing, importing, advertising, marketing, promoting,  
21 supplying, distributing, offering for sale, or selling any products that infringe upon the  
22 Single Bailey Button Boot design patent, including but not limited to the Infringing  
23 Products;

24           (b) engaging in any other activity constituting unfair competition with  
25 Plaintiff, or acts and practices that deceive consumers, the public, and/or trade,  
26 including without limitation, the use of designations and design elements used or  
27 owned by or associated with Plaintiff; and  
28

1 (c) committing any other act which falsely represents or which has the  
2 effect of falsely representing that the goods and services of Defendants are licensed by,  
3 authorized by, offered by, produced by, sponsored by, or in any other way associated  
4 with Plaintiff;

5 3. Ordering Defendants to recall from any distributors and retailers and to  
6 deliver to Plaintiff for destruction or other disposition all remaining inventory of all  
7 Infringing Products and related items, including all advertisements, promotional and  
8 marketing materials therefore, as well as means of making same;

9 4. Ordering Defendants to file with this Court and serve on Plaintiff within  
10 thirty (30) days after entry of the injunction a report in writing, under oath setting forth  
11 in detail the manner and form in which Defendants have complied with the injunction;

12 5. Ordering an accounting by Defendants of all gains, profits and advantages  
13 derived from their wrongful acts;

14 6. Awarding Plaintiff all of Defendants' profits and all damages sustained by  
15 Plaintiff as a result of Defendants' wrongful acts, and such other compensatory  
16 damages as the Court determines to be fair and appropriate;

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

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

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

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

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

25 Dated: October 4, 2013

BLAKELY LAW GROUP

26 By: 

Brent H. Blakely  
Cindy Chan

*Attorneys for Plaintiff  
Deckers Outdoor Corporation*



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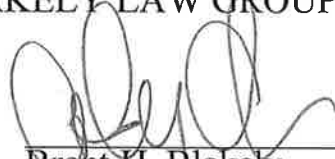
**DEMAND FOR JURY TRIAL**

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

Dated: October 4, 2013

BLAKELY LAW GROUP

By:



\_\_\_\_\_  
Brent H. Blakely  
Cindy Chan  
*Attorneys for Plaintiff  
Deckers Outdoor Corporation*



(12) **United States Design Patent** (10) **Patent No.:** **US D599,999 S**  
**MacIntyre** (45) **Date of Patent:** **\*\* Sep. 15, 2009**

(54) **PORTION OF A FOOTWEAR UPPER**  
 (75) Inventor: **Jennifer MacIntyre**, Santa Barbara, CA (US)  
 (73) Assignee: **Deckers Outdoor Corporation**, Goleta, CA (US)  
 (\*\*) Term: **14 Years**  
 (21) Appl. No.: **29/326,868**  
 (22) Filed: **Oct. 27, 2008**  
 (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**  
 See application file for complete search history.

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 Steve Madden MISSYY Brown Suede boot, www.jildorshoes.com, Dec. 9, 2008.  
 \* cited by examiner  
 Primary Examiner—Stella M Reid  
 Assistant Examiner—Rashida C McCoy  
 (74) Attorney, Agent, or Firm—Greer, Burns & Crain, Ltd.

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(57) **CLAIM**  
 The ornamental design for a portion of a footwear upper, as shown and described.

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

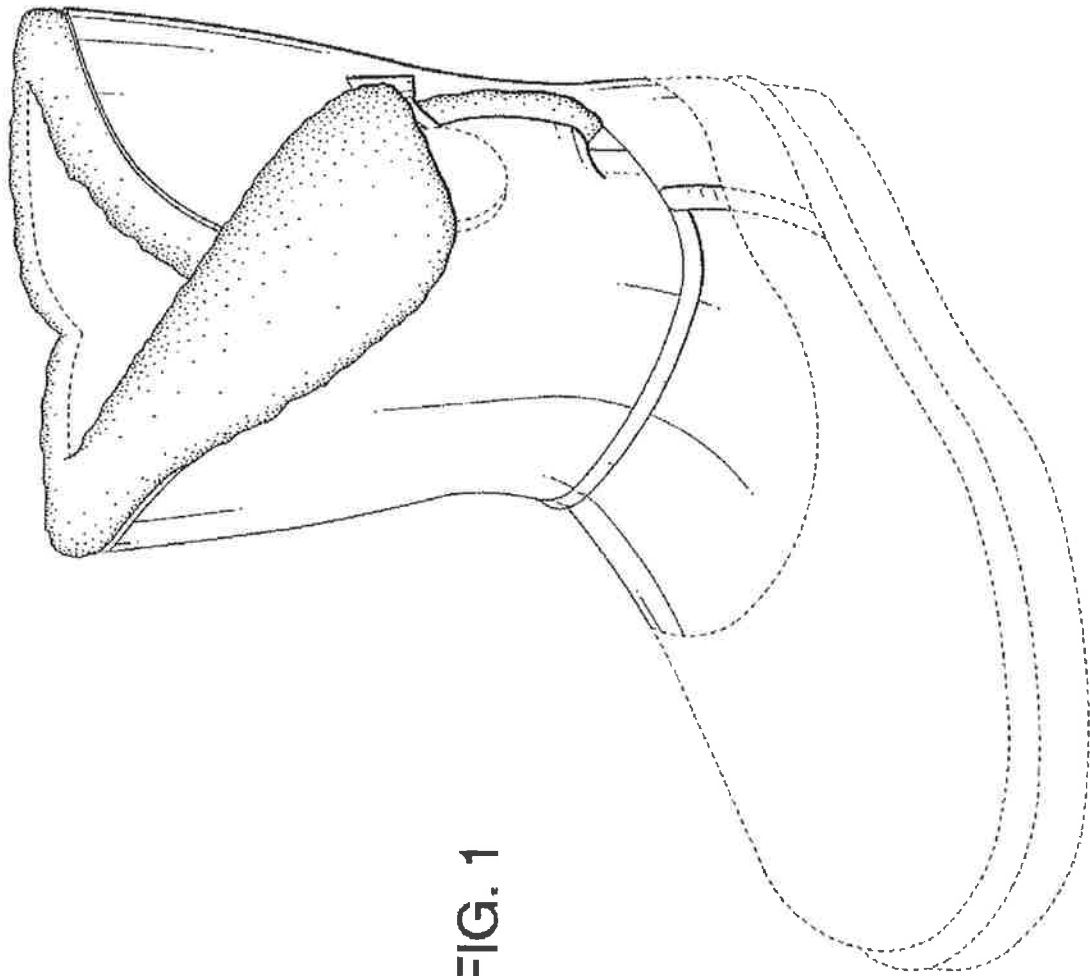


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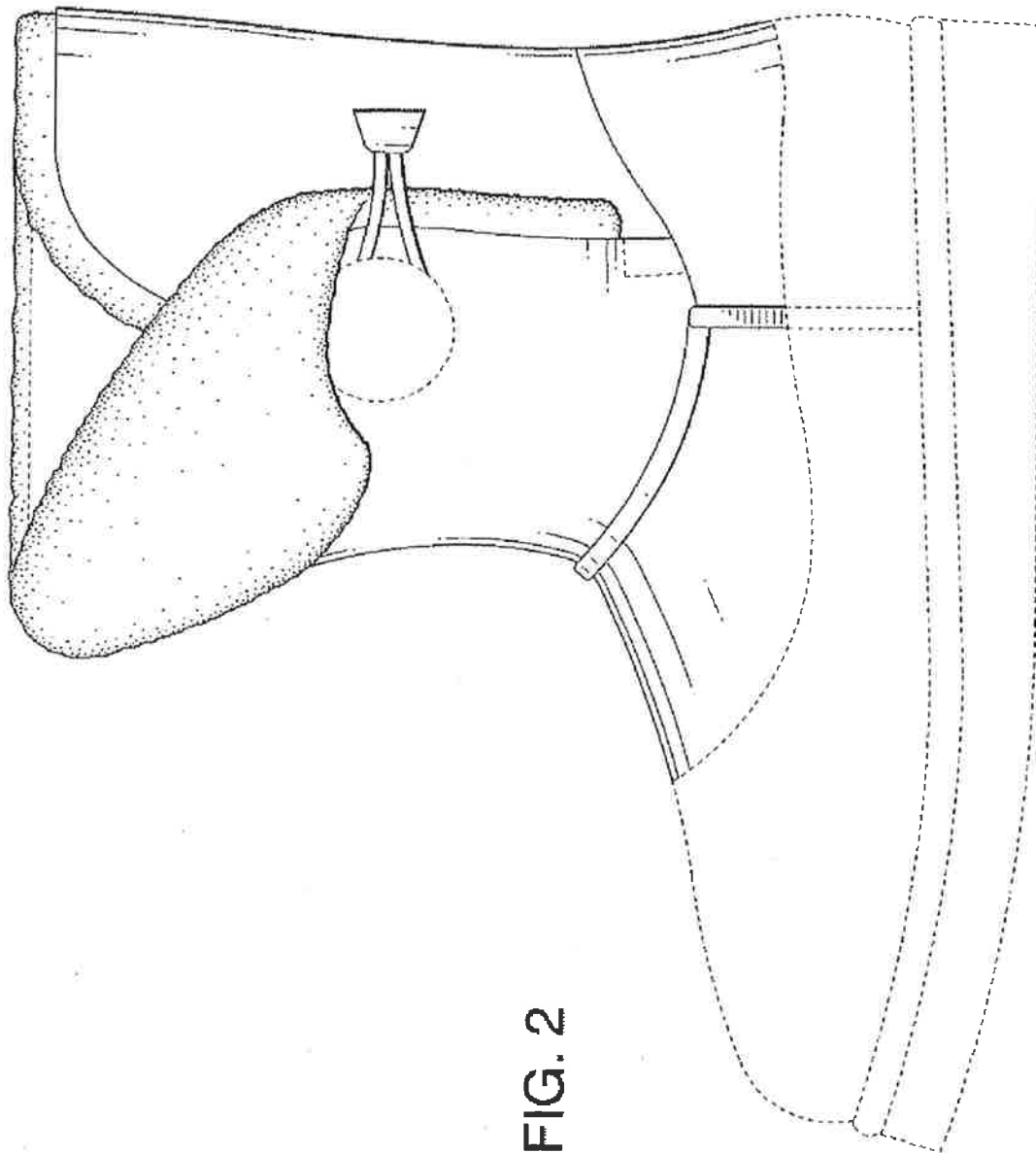
**FIG. 1**

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**FIG. 2**

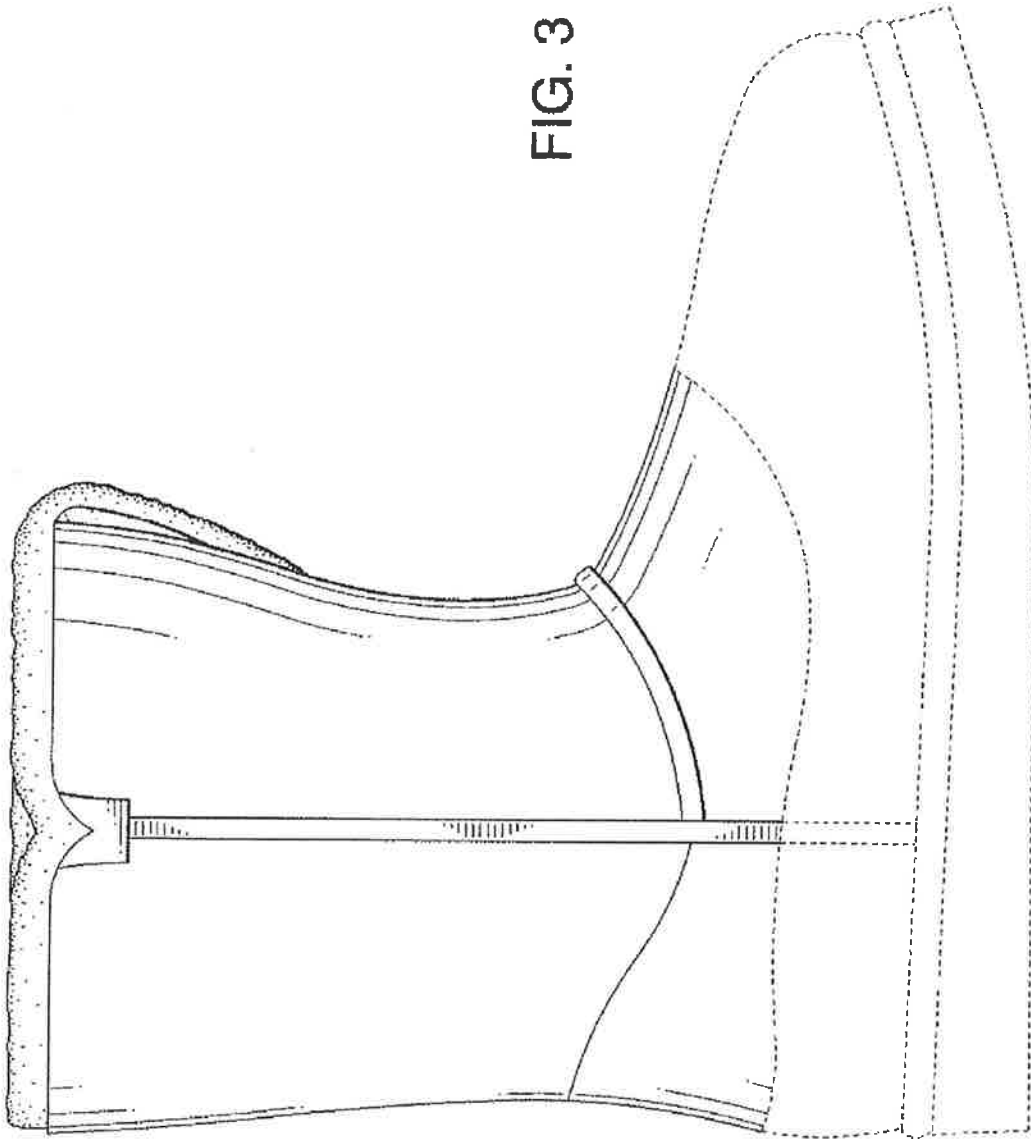
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**FIG. 3**



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FIG. 5

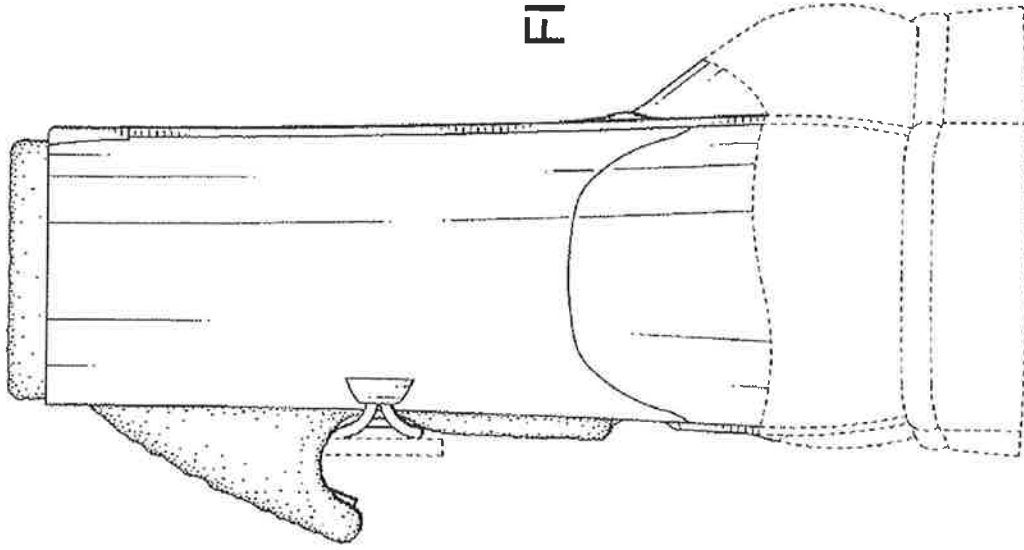
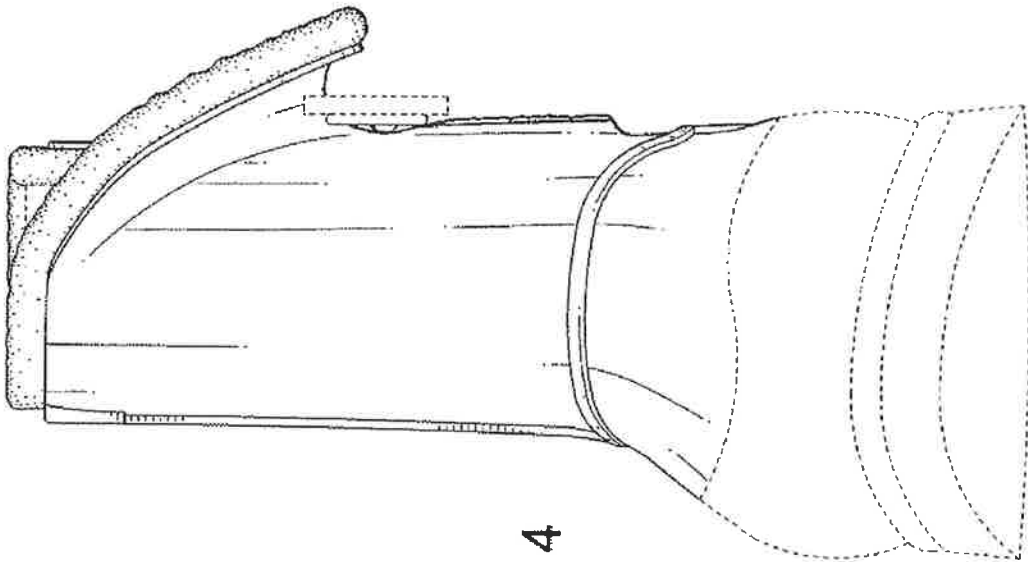


FIG. 4



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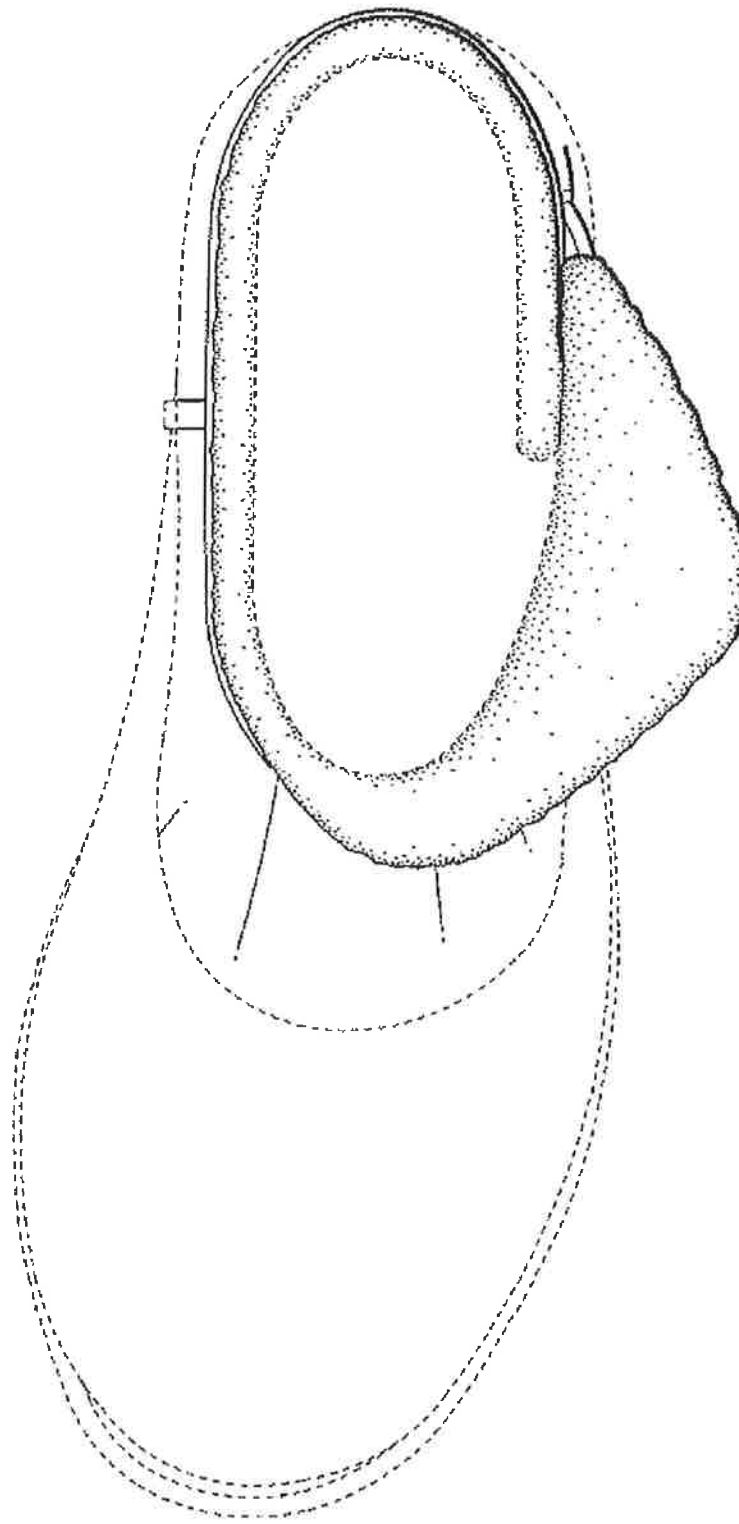


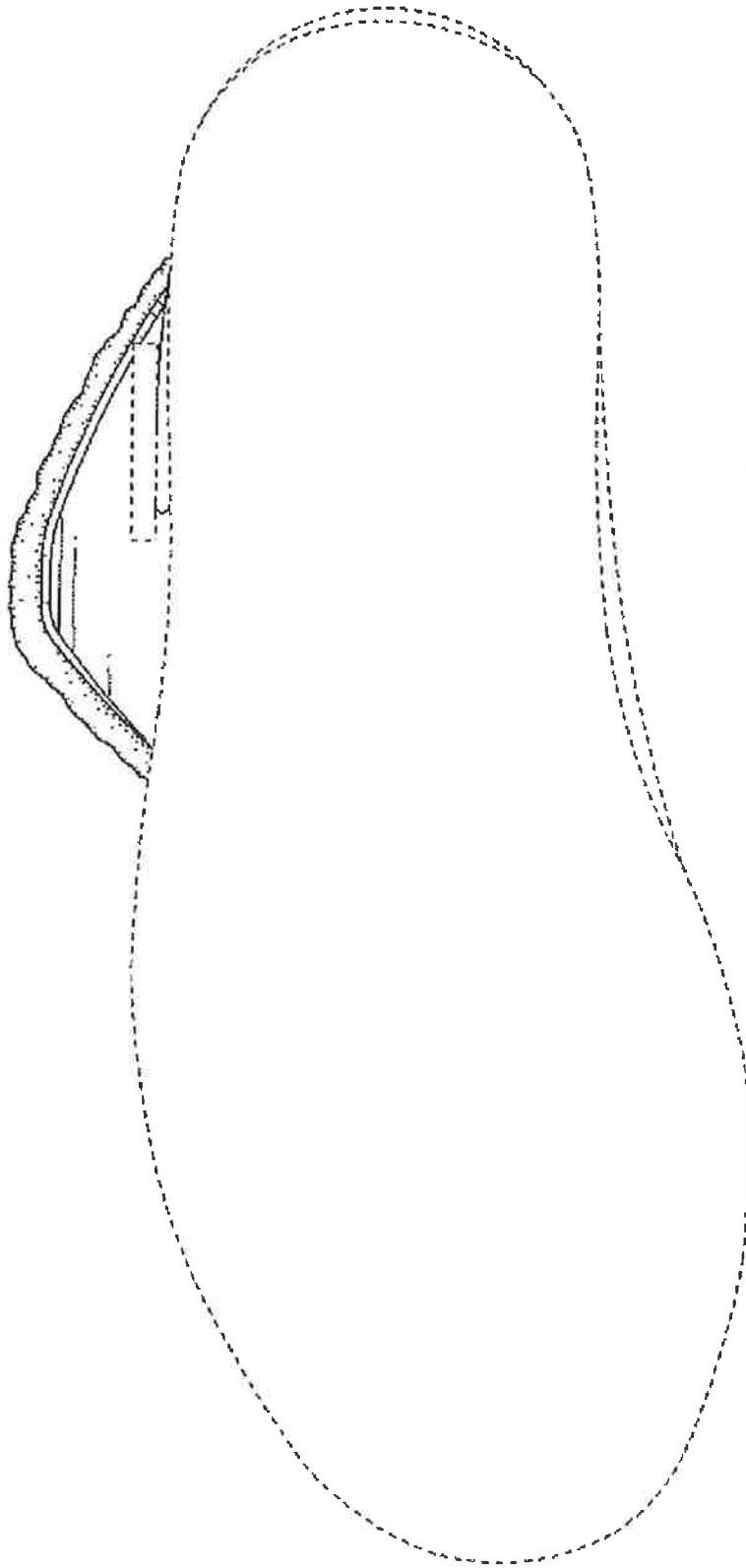
FIG. 6

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**FIG. 7**