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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

11 DECKERS OUTDOOR
12 CORPORATION, a Delaware
13 Corporation,

13 Plaintiff,

14 v.

15 RUE SERVICES CORPORATION dba
16 RUE21, a Delaware Corporation; GINA
17 GROUP LLC, a New York Limited
18 Liability Company; STYLES FOR LESS
19 INC., a California Corporation; LTD
20 COMMODITIES, INC., an Illinois
21 Corporation; and DOES 1-10, inclusive,

19 Defendants.

CASE NO. 2:13-CV-06303 JVS (VBKx)

**PLAINTIFF'S FIRST AMENDED
COMPLAINT**

- 1. PATENT INFRINGEMENT;
- 2. TRADE DRESS INFRINGEMENT;
- 3. FALSE DESIGNATIONS OF ORIGIN AND FALSE DESCRIPTIONS;
- 4. FEDERAL UNFAIR COMPETITION;
- 5. COMMON LAW UNFAIR COMPETITION;
- 6. TRADEMARK INFRINGEMENT;
- 7. COMMON LAW TRADEMARK INFRINGEMENT

JURY TRIAL DEMANDED

25 Plaintiff **Deckers Outdoor Corporation** in support of its claims against
26 Defendants **Rue Services Corporation dba Rue21, Gina Group LLC, Styles for**
27 **Less, Inc., and LTD Commodities, Inc.** (collectively "Defendants") alleges as
28 follows:

1 **JURISDICTION AND VENUE**

2 1. Plaintiff files this action against Defendants for patent infringement
3 arising under the patent laws of the United States and for trade dress infringement and
4 unfair competition under the Lanham Trademark Act of 1946, 15 U.S.C. §1051 et seq.
5 (the “Lanham Act”), and related claims of unfair competition under the statutory and
6 common law of the state of California. Additionally, Plaintiff files this action against
7 Defendant Rue21 for trademark infringement and related claims. This Court has
8 subject matter jurisdiction over the claims alleged in this action pursuant to 28 U.S.C.
9 §§ 1331, 1338.

10 2. This Court has personal jurisdiction over Defendants because Defendants
11 conduct business within this judicial district.

12 3. This action arises out of wrongful acts by Defendants within this judicial
13 district and Plaintiff is located and has been injured in this judicial district by
14 Defendants’ alleged wrongful acts. Venue is proper in this district pursuant to 28
15 U.S.C. § 1391 because the claims asserted arise in this district.

16 **THE PARTIES**

17 4. Plaintiff Deckers Outdoor Corporation (“Deckers”) is a corporation
18 organized and existing under the laws of the state of Delaware with an office and
19 principal place of business in Goleta, California. Deckers designs, manufactures and
20 markets footwear for six different brands, including the famous UGG® brand (the
21 “UGG Brand”), which is identified by its famous UGG® trademark and stylized
22 variations thereof (collectively, the “UGG Mark”).

23 5. Upon information and belief, Defendant Rue Services Corporation dba
24 Rue21 (“Rue21”) is a corporation duly organized and existing under the laws of the
25 state of Delaware with an office and principal place of business at 800 Commonwealth
26 Drive, Warrendale, Pennsylvania 15086.

27 6. Upon information and belief, Defendant Gina Group LLC (“Gina Group”)
28 is a limited liability company duly organized and existing under the laws of the state of

1 New York with an office and principal place of business at 10 West 33rd Street, 3rd
2 Floor, New York, New York 10001.

3 7. Upon information and belief, Defendant Styles for Less Inc. (“Styles For
4 Less”) is a corporation duly organized and existing under the laws of the state of
5 California with an office and principal place of business at 12728 S. Shoemaker Ave.,
6 Santa Fe Springs, California 90670.

7 8. Upon information and belief, Defendant LTD Commodities, Inc. (“LTD”)
8 is a corporation duly organized and existing under the laws of the state of Illinois with
9 an office and principal place of business at 2800 Lakeside Drive, Bannockburn, Illinois
10 60015.

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

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

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ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

A. Deckers’ UGG® Brand, Bailey Button Boot Trade Dress and Bailey Button Design Patents

11. Deckers has become well known throughout the United States and elsewhere as a source of high quality footwear products identified at least by its UGG® brand (“UGG Brand”) of premium footwear.

12. Deckers owns several trademark registrations in the United States and has many applications pending in connection with various goods and services that it sells and/or provides in connection with its famous UGG® Brand. Deckers’ United States trademark registrations for the word mark “UGG” (hereinafter “UGG Mark”) include but are not limited to the following:

U.S. Reg. No.	Reg. Date	International Class
3,050,902	01/24/2006	1
3,050,903	01/24/2006	3
3,050,925	01/24/2006	25
3,050,865	01/24/2006	35
3,061,278	02/21/2006	18
3,166,352	10/31/2006	24
3,166,351	10/31/2006	27
3,166,350	10/31/2006	20
3,360,442	12/25/2007	25
3,412,734	04/15/2008	18

13. Registrations for the UGG Mark are valid and subsisting. At all times relevant hereto, the UGG Mark has been continually used by Deckers in most of the world and in the United States, on or in connection with the manufacture, distribution, sale and promotion of its products.

14. The UGG Mark is distinctive when applied to high-quality footwear and related merchandise, signifying to the purchaser that the products come from Deckers and are manufactured to Deckers’ quality standards.

15. Since 1978, when the UGG® Brand was founded, the popularity of UGG® boots has steadily grown across the nation and even the globe. The UGG® Brand has always been and remains highly coveted by consumers. This commitment

1 to quality has helped to propel the UGG® Brand to its current, overwhelming level of
2 popularity and cemented its status as a luxury brand.

3 16. It has now been thirteen years since UGG® boots were first featured on
4 Oprah’s Favorite Things® in the year 2000, and Oprah emphatically declared on
5 national television how much she “LOOOOOVES her UGG boots.” The popularity of
6 UGG® Brand footwear has grown exponentially since then with celebrities including
7 Kate Hudson and Sarah Jessica Parker among myriad others regularly donning them.
8 UGG® sheepskin boots have become a high fashion luxury item and can be found on
9 fashion runways around the world.

10 17. 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 18. Some of the more widely recognized styles within the UGG® family of
14 sheepskin boots are the “Bailey Button” styles. The Bailey Button styles (examples of
15 which are shown below) are characterized, *inter alia*, by

16 • Classic suede boot styling made famous by the UGG brand;
17 • Overlapping of front and rear panels on the lateral side of the boot shaft;
18 • Curved top edges on the overlapping panels;
19 • Exposed fleece-type lining edging the overlapping panels and top of the
20 boot shaft; and

21 • One or more buttons (depending on the height of the boot) prominently
22 featured on the lateral side of the boot shaft adjacent the overlapping panels.

23 (hereinafter “Bailey Button Boot Trade Dress”).
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19. The Bailey Button Boot Trade Dress was an original design by Deckers and the key elements thereof are non-functional and serve primarily to identify Deckers and its UGG® brand as its source.

20. Introduced in 2009, the Bailey Button Boot Trade Dress has continuously appeared on UGG® boots, which have been featured on Deckers’ advertising and promotional materials as well as in the trade publications set forth above. Deckers has extensively used and promoted the Bailey Button Boot Trade Dress such that it is closely identified with the UGG® brand and has gained widespread public recognition.

21. Deckers has spent substantial time, effort, and money in designing, developing, advertising, promoting, and marketing the UGG® brand and its line of footwear embodying the Bailey Button Boot Trade Dress. Deckers’ efforts have been successful and Deckers has sold a substantial amount of UGG® boots bearing the Bailey Button Boot Trade Dress.

22. Due to its long use, extensive sales, and significant advertising and promotional activities, Deckers’ UGG Mark and Bailey Button Boot Trade Dress have achieved widespread acceptance and recognition among the consuming public and trade throughout the United States.

23. Many of Deckers’ UGG® footwear designs, including those with the Bailey Button Boot Trade Dress, are also protected by design patents issued by the United States Patent and Trademark Office. Design Patents for UGG® Bailey Button Boot styles include, but are not limited to, U.S. Patent Nos. D599,999 for the “Bailey

1 Button Single” boot (registered on September 15, 2009) and D616,189 for the “Bailey
2 Button Triplet” boot (registered on May 25, 2010) (hereinafter “Bailey Button Design
3 Patents”). Attached hereto and incorporated herein as Exhibit 1 are true and correct
4 copies of the Bailey Button Design Patents.

5 24. Deckers is the lawful assignee of all right, title, and interest in and to the
6 Bailey Button Design Patents.

7 **B. Defendants’ Infringement of the Bailey Button Boot Trade Dress and**
8 **Bailey Button Design Patents**

9 25. Upon information and belief, Plaintiff hereon avers that Defendants have
10 manufactured, designed, advertised, marketed, distributed, offered for sale, and/or sold
11 footwear that infringe upon Plaintiff’s Bailey Button Boot Trade Dress and Bailey
12 Button Design Patents (“Infringing Products”).

13 26. Upon information and belief, Plaintiff hereon avers that Defendants
14 Rue21, Styles for Less, and LTD are retailers of various types of consumer products,
15 including footwear. Products from said retailer Defendants are available to consumers
16 nationwide and can be purchased at their respective retail stores, some of which are
17 located in this judicial district, or on their respective websites.

18 27. Upon information and belief, Defendant Gina Group has designed,
19 manufactured and/or caused to be manufactured, distributed, offered for sale, and/or
20 sold Infringing Products to various wholesalers and retailers nationwide, including
21 Defendants Rue21, Styles for Less, and LTD.

22 28. Indeed, Infringing Products have been offered for sale and/or sold by
23 Defendants Rue21, Styles for Less, and LTD and have been made available for
24 purchase to customers in this judicial district.

25 29. Deckers has not granted a license or any other form of permission to
26 Defendants with respect to the Bailey Button Boot Trade Dress and/or the Bailey
27 Button Design Patents.

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

4 37. 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 Bailey Button Design Patents.

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

10 39. On information and belief, Defendants' acts herein complained of
11 constitute willful acts and intentional infringement of the Bailey Button Design
12 Patents.

13 40. All of Deckers' UGG® footwear products, including products embodying
14 the Bailey Button Design Patents, bear a label on the products themselves that gives
15 notice to the public of its patent registration.

16 41. Given the widespread popularity and recognition of Deckers' Bailey
17 Button Boot style and the patent notice provided on the products themselves, Plaintiff
18 avers and hereon alleges that Defendants had knowledge of Deckers' rights to the
19 Bailey Button Design Patents and has intentionally copied said designs on their own
20 brand of products in an effort to pass them off as if they originated, are associated
21 with, are affiliated with, are sponsored by, are authorized by, and/or are approved by
22 Deckers.

23 42. Deckers is informed and believes and hereon alleges that Defendants are
24 competitors and have copied Deckers' Bailey Button Boot style in an effort to exploit
25 Deckers' reputation in the market.

26 43. In light of the foregoing, Plaintiff is entitled to injunctive relief
27 prohibiting Defendants from infringing the Bailey Button Design Patents and to
28 recover from Defendants all damages, including attorneys' fees, that Plaintiff has

1 sustained and will sustain as a result of such infringing acts, and all gains, profits and
2 advantages obtained by Defendants as a result thereof, in an amount to be determined,
3 which amount can be trebled under 35 U.S.C. § 284.

4 **SECOND CLAIM FOR RELIEF**

5 **(Trade Dress Infringement Against All Defendants)**

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

8 45. Elements of Plaintiff's Bailey Button Boot Trade Dress are nonfunctional
9 and its inherently distinctive quality has achieved a high degree of consumer
10 recognition and serves to identify Plaintiff as the source of high-quality goods.

11 46. The Bailey Button Boot Trade Dress is of such a unique and unusual
12 quality that a customer would immediately rely on said design to differentiate the
13 source of goods.

14 47. Furthermore, the Bailey Button Boot Trade Dress has been featured in
15 connection with various celebrities, has received a large volume of unsolicited media
16 attention, and has graced the pages of many popular magazines nationwide and
17 internationally.

18 48. The Infringing Products produced, distributed, advertised and offered for
19 sale by Defendants bear nearly identical reproductions of the Bailey Button Boot Trade
20 Dress, such as to cause a likelihood of confusion as to the sources, sponsorship or
21 approval of Defendants' products.

22 49. Defendants' unauthorized use of Plaintiff's Bailey Button Boot Trade
23 Dress on their merchandise in interstate commerce and advertising relating to same
24 constitutes false designation of origin and a false representation that the goods and
25 services are manufactured, offered, sponsored, authorized, licensed by or otherwise
26 connected with Plaintiff or come from the same source as Plaintiff's goods when, in
27 fact, they do not.

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1 64. Plaintiff's Bailey Button Boot Trade Dress is nationally recognized,
2 including within the Central District of California, as being affixed to goods and
3 merchandise of the highest quality and coming from Plaintiff.

4 65. The Infringing Products produced, distributed, advertised and offered for
5 sale by Defendants bear exact and/or confusingly similar reproductions of the Bailey
6 Button Boot Trade Dress elements, such as to cause a likelihood of confusion between
7 Defendants' products and Plaintiff's products.

8 66. Defendants' unauthorized use of Plaintiff's Bailey Button Boot Trade
9 Dress on merchandise that do not meet Plaintiff's standards of quality in interstate
10 commerce and advertising relating to same constitutes false designation of origin and a
11 false representation that the goods and services are manufactured, offered, sponsored,
12 authorized, licensed by or otherwise connected with Plaintiff or come from the same
13 source as Plaintiff's goods and are of the same quality as that assured by Plaintiff's
14 Bailey Button Boot Trade Dress.

15 67. Furthermore, Defendant Rue21's unauthorized use of Plaintiff's UGG
16 Mark in connection with the advertisement and sale of competitive products, including
17 the Infringing Products, in interstate commerce constitutes a false designation of origin
18 and a false representation that the goods are manufactured, offered, sponsored,
19 authorized, licensed by or otherwise connected with Plaintiff or come from the same
20 source as Plaintiff's goods when in fact they do not.

21 68. Defendants' use of Plaintiff's Bailey Button Boot Trade Dress and/or
22 UGG Mark is without Plaintiff's permission or authority and in total disregard of
23 Plaintiff's rights to control its intellectual property.

24 69. Upon information and belief, Defendants' acts are deliberate and intended
25 to confuse the public as to the source of Defendants' goods or services and to injure
26 Plaintiff and reap the benefits of the good will associated with Plaintiff's UGG®
27 brand.

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1 83. Plaintiff's UGG Mark is nationally recognized, including within the
2 Central District of California, as being affixed to goods and merchandise of the highest
3 quality and coming from Deckers.

4 84. The registrations for the UGG Mark are in full force and effect, and
5 Plaintiff has authorized responsible manufacturers and vendors to sell merchandise
6 bearing said mark.

7 85. Upon information and belief, Plaintiff hereon avers that Defendant Rue21
8 advertises, offers for sale, and sells its products, including the Infringing Products, at
9 retail stores nationwide, including those located in this judicial district, as well as on its
10 website - www.rue21.com (hereinafter "Rue21 Website").

11 86. Upon information and belief, Plaintiff hereon avers that Defendant Rue21
12 has used the UGG Mark and similar designations in connection with its sales and
13 advertising of its competitive products, including the Infringing Products, at least
14 through the use of such mark in Internet search engine advertising, when Rue21 has no
15 rights to the UGG Mark and the UGG Mark is not descriptive of Rue21's products.

16 87. The RUE21 Website includes on each of its pages a product search bar
17 that enables internet users to perform a targeted search within the RUE21 Website.
18 When the word "UGG" is typed in the product search bar alone or in connection with a
19 search phrase on the RUE21 Website, boots that look confusingly similar and/or nearly
20 identical to UGG boots, including the Infringing Products, are retrieved as search
21 results. None of these boots however are actually UGG® products. (See Exhibit 2
22 attached hereto) Such use by Rue21 of Deckers' UGG Mark creates initial interest
23 confusion, directing consumers to products confusingly similar to Deckers UGG®
24 products.

25 88. Rue21's offering of products in connection with the UGG Mark
26 improperly trades off the goodwill Deckers has established in the UGG Mark in order
27 to improperly attract consumers to Rue21's competitive products.
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1 89. Customers familiar with UGG® boots and looking for same by entering
2 the search term “UGG” on the Rue21 Website would likely believe, incorrectly, that
3 the confusingly similar product retrieved is somehow endorsed, sponsored or affiliated
4 with the UGG® brand.

5 90. Furthermore, once a consumer types in “UGG” on Rue21 Website and
6 retrieves the results, even if the consumer recognizes that the products offered are not
7 authentic UGG® products. Deckers is harmed by weakening the association of the
8 UGG Mark with Deckers’ products, and such consumers are likely to instead purchase
9 confusingly similar competitive products.

10 91. Defendant Rue21 is not an authorized retailer of UGG® boots.
11 Furthermore, Deckers has not approved, authorized, sponsored, or endorsed any of the
12 products offered on Rue21 Website.

13 92. Defendant Rue21’s unauthorized use of the UGG Mark in interstate
14 commerce and in advertising to promote goods that are not UGG® products but which
15 instead are knock-offs and/or confusingly similar constitutes trademark infringement
16 under Section 32 of the Lanham Act, 15 U.S.C. § 1114 of Plaintiff’s UGG® Marks.

17 93. Defendant Rue21’s use of the UGG Mark is without Plaintiff’s permission
18 or authority and is in total disregard of Plaintiff’s rights to control its trademarks.

19 94. Defendant Rue21’s infringing activities are likely to lead to and result in
20 consumer confusion, mistake or deception, and are likely to cause the public to believe
21 that Plaintiff has produced, sponsored, authorized, licensed or is otherwise connected
22 or affiliated with Defendant Rue21’s commercial and business activities, all to the
23 detriment of Plaintiff.

24 95. Upon information and belief, Defendant Rue21 has knowledge of
25 Plaintiff’s rights in the UGG Mark. Further, upon information and belief, Defendant
26 Rue21’s acts are deliberate, willful and intended to confuse the public as to the source
27 of Defendant Rue21’s goods or services and to injure Plaintiff and reap the benefit of
28 Plaintiff’s goodwill associated with the UGG Mark.

1 the detriment of Plaintiff and constitutes common law trademark infringement and
2 unfair competition under the common law of the state of California.

3 103. Defendant Rue21's are willful, deliberate, and intended to confuse the
4 public and to injure Plaintiff.

5 104. Plaintiff has been irreparably harmed and will continue to be irreparably
6 harmed as a result of Defendant Rue21's infringing activities unless Defendant Rue21
7 is permanently enjoined there from.

8 105. The conduct herein complained of is extreme, outrageous, fraudulent, and
9 was inflicted on Plaintiff in reckless disregard of Plaintiff's rights. Said conduct is
10 despicable and harmful to Plaintiff and as such supports an award of exemplary and
11 punitive damages in an amount sufficient to punish and make an example of the
12 Defendant Rue21 and to deter it from similar such conduct in the future.

13 106. Plaintiff has no adequate remedy at law.

14 107. In light of the foregoing, Plaintiff is entitled to injunctive relief
15 prohibiting Defendants from using the UGG Mark, and/or any other mark confusingly
16 similar thereto, and to recover all damages, including attorneys' fees, that Plaintiff has
17 sustained and will sustain and all gains, profits and advantages obtained by Defendants
18 as a result of their infringing acts alleged above in an amount not yet known, and the
19 costs of this action.

20 **PRAYER FOR RELIEF**

21 WHEREFORE, Plaintiff respectfully prays that this Court enter judgment in its
22 favor and against Defendants as follows:

23 1. A Judgment that Defendants have infringed Deckers' Bailey Button
24 Design Patents in violation of 35 U.S.C. § 271 as well as Deckers' Bailey Button Boot
25 Trade Dress in violation of 15 U.S.C. § 1125 and that Defendants' infringement was
26 willful;

27 2. A Judgment that Defendant Rue21 has infringed Deckers' UGG Mark in
28 violation of 15 U.S.C. § 1114 and § 1125 and that said infringement was willful;

1 3. An order granting temporary, preliminary and permanent injunctive relief
2 restraining and enjoining Defendants, their agents, servants, employees, officers,
3 associates, attorneys, and all persons acting by, through, or in concert with any of
4 them, are hereby temporarily, preliminarily, and permanently enjoined from using
5 Deckers' trademarks, trade dress, and/or design patents, including, but not limited to

6 (a) manufacturing, importing, advertising, marketing, promoting,
7 supplying, distributing, offering for sale, or selling the Infringing Products or any other
8 products which bear Plaintiff's Bailey Button Boot Trade Dress or any designs
9 confusingly similar thereto and/or products bearing designs that infringe upon the
10 Bailey Button Design Patents and/or the overall appearance thereof;

11 (b) using the UGG Mark or the word "UGG" (however spelled,
12 whether capitalized, abbreviated, singular or plural, printed or stylized, used alone or
13 in combination with any other words, used in caption or text, or used orally or
14 otherwise) or any other reproduction, counterfeit, copy, colorable imitation, or
15 confusingly similar variation of the UGG Mark in Defendants' advertising of its
16 products, including using the UGG Mark in metatags, in keyword or other pay-per-
17 click advertising, in any sponsored search engine advertising, in other Internet uses, or
18 in any manner that suggests that Defendants or their products, services, or activities
19 originate from, are affiliated with, are connected to, are associated with, or are
20 sponsored, endorsed, or approved by Deckers;

21 (c) engaging in any other activity constituting unfair competition with
22 Plaintiff, or acts and practices that deceive consumers, the public, and/or trade,
23 including without limitation, the use of designations and design elements associated
24 with Plaintiff;

25 (d) engaging in any other activity that will dilute the distinctiveness of
26 the UGG Mark;

27 (e) committing any other act which falsely represents or which has the
28 effect of falsely representing that the goods and services of Defendants are licensed by,

1 authorized by, offered by, produced by, sponsored by, or in any other way associated
2 with Plaintiff;

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

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

10 6. Ordering an accounting by Defendants of all gains, profits and advantages
11 derived from their wrongful acts;

12 7. Awarding Plaintiff all of Defendants' profits and all damages sustained by
13 Plaintiff as a result of Defendants' wrongful acts, statutory damages, and such other
14 compensatory damages as the Court determines to be fair and appropriate.

15 8. Awarding treble damages in the amount of Defendants' profits or
16 Plaintiff's damages, whichever is greater, for willful infringement;

17 9. Awarding statutory damages pursuant to 15 U.S.C. § 1117(c)(1) of up to
18 \$200,000 for each and every use of the UGG Mark or, if the Court finds that
19 Defendants' infringement is willful, awarding statutory damages pursuant to 15 U.S.C.
20 § 1117(c)(2) of up to \$2,000,000 for each and every use of the UGG Mark;

21 10. Finding that this is an exceptional case and awarding Plaintiff's attorneys'
22 fees pursuant to 15 U.S.C. §1117(a) and/or 35 U.S.C. § 285;

23 11. Awarding applicable interest, costs, and disbursements;

24 12. Awarding Plaintiff's punitive damages in connection with its claims under
25 California law; and

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1 13. Such other relief as may be just and proper.

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DATED: March 3, 2014

BLAKELY LAW GROUP

By: 


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

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: March 3, 2014

BLAKELY LAW GROUP

By: 

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

EXHIBIT 1



US00D599999S

(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.

EP 00718002-0006 4/2007
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 Steve Madden MISSYY Brown Suede boot, www.jildorshoes.com, Dec. 9, 2008.
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Primary Examiner—Stella M Reid
Assistant Examiner—Rashida C McCoy
 (74) *Attorney, Agent, or Firm*—Greer, Burns & Crain, Ltd.

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 D319,332 S * 8/1991 Itzkowitz D2:910
 D481,863 S * 11/2003 Belley et al. D2:970
 D529,269 S * 10/2006 Belley et al. D2:970
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FOREIGN PATENT DOCUMENTS
 DE 40702148 8/2007

(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.

1 Claim, 6 Drawing Sheets



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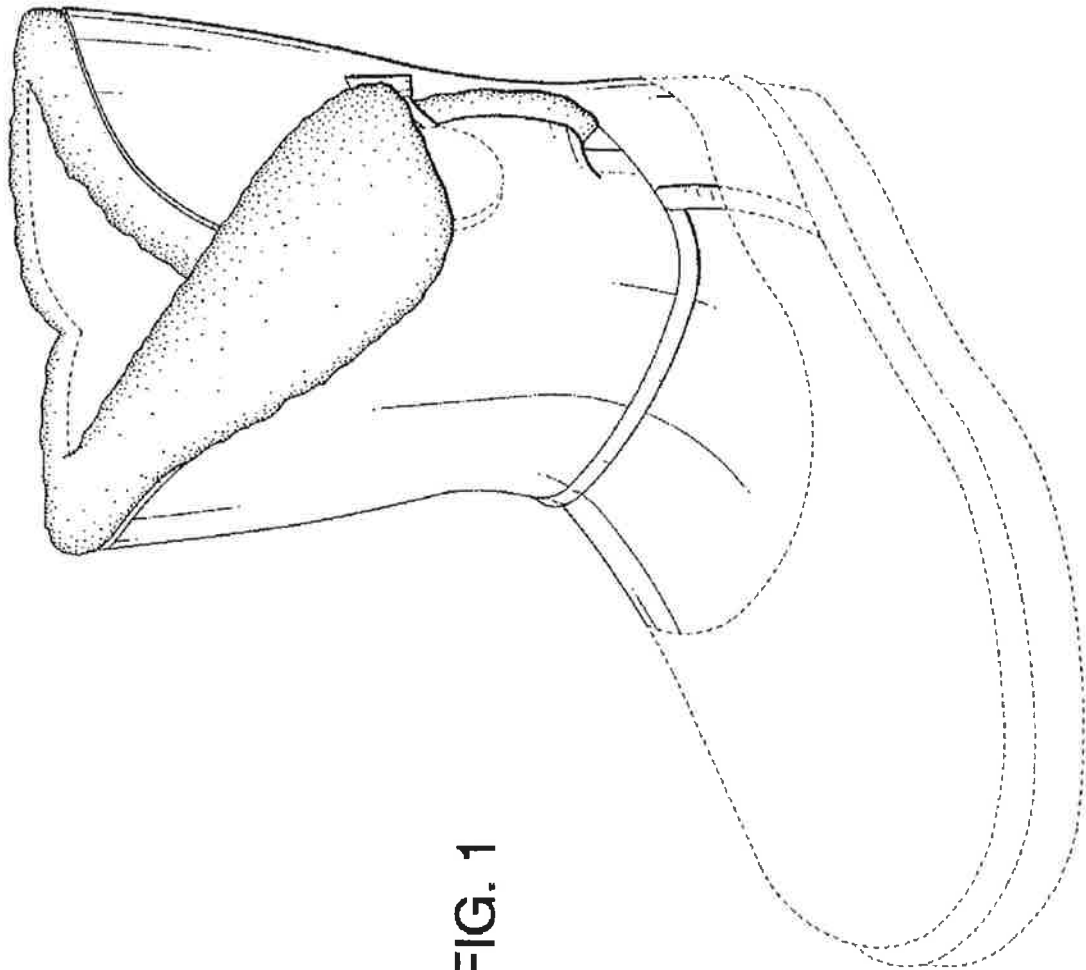


FIG. 1

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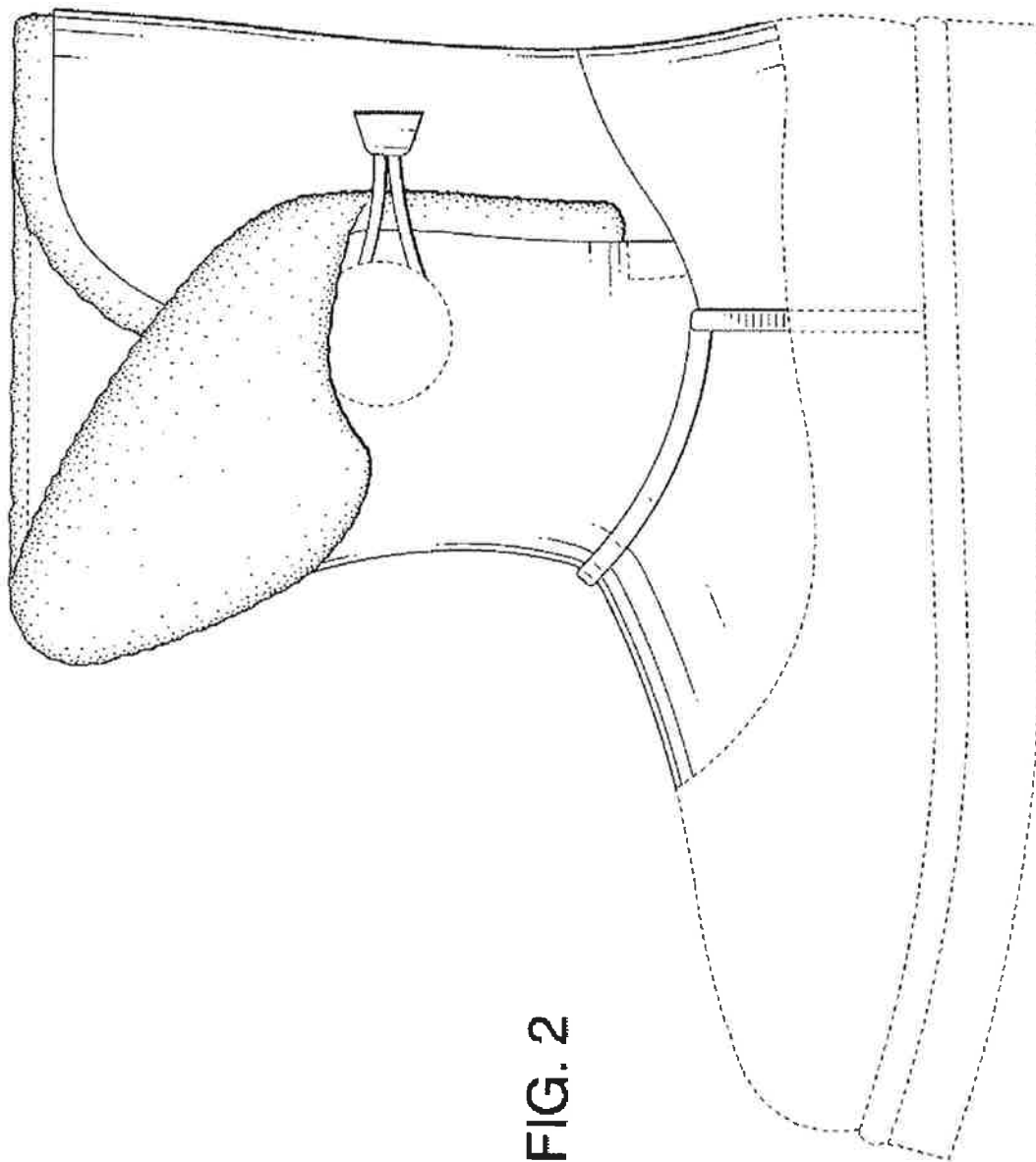


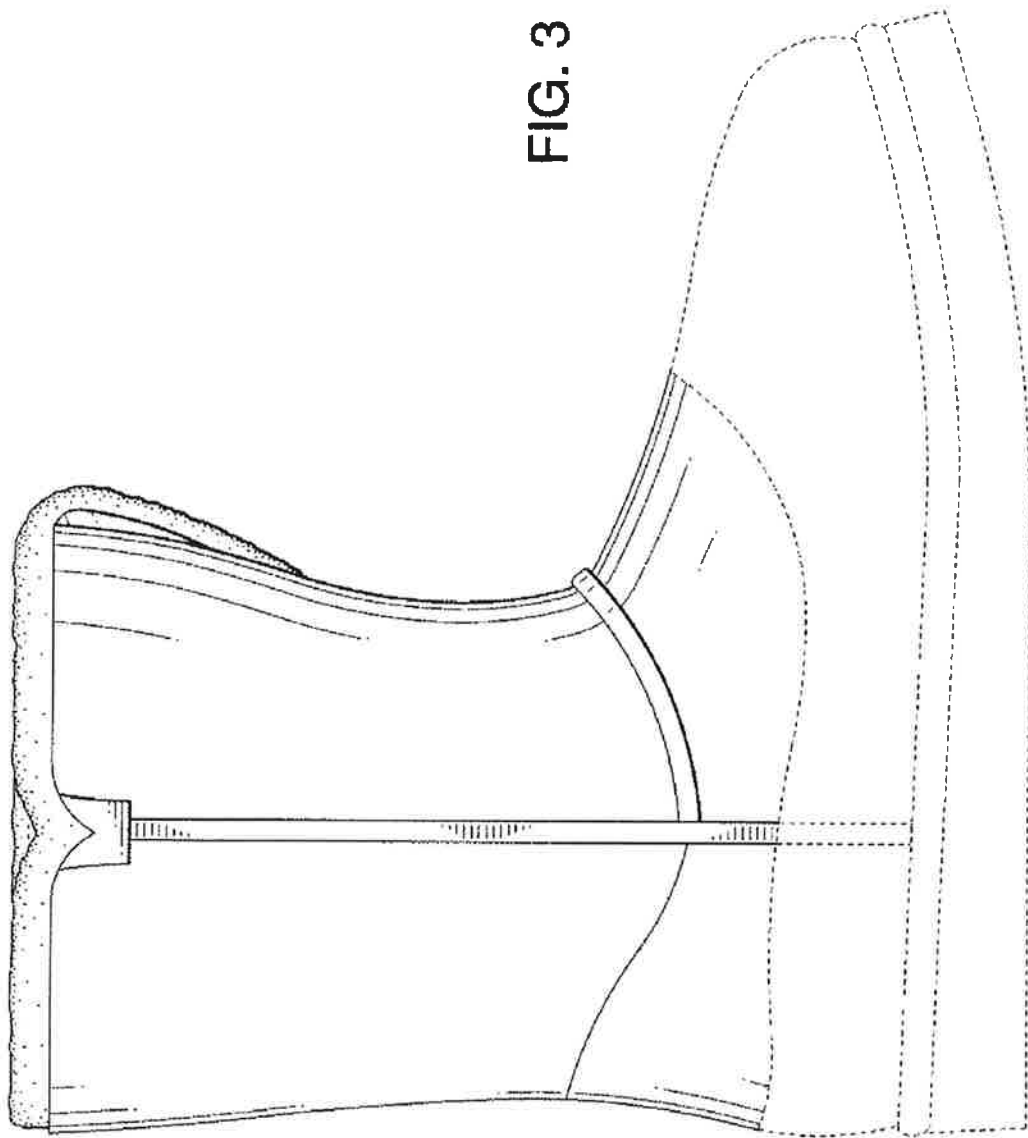
FIG. 2

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FIG. 5

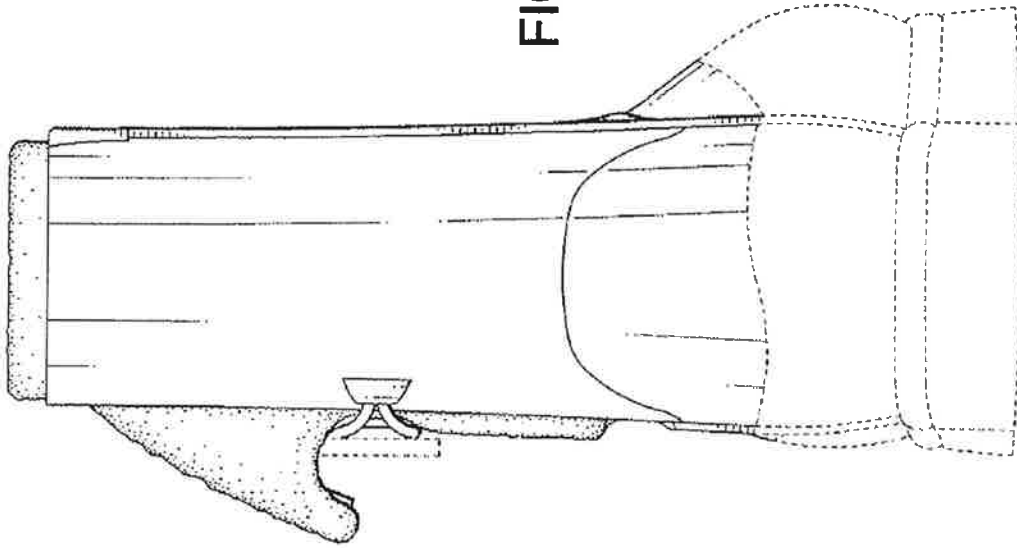
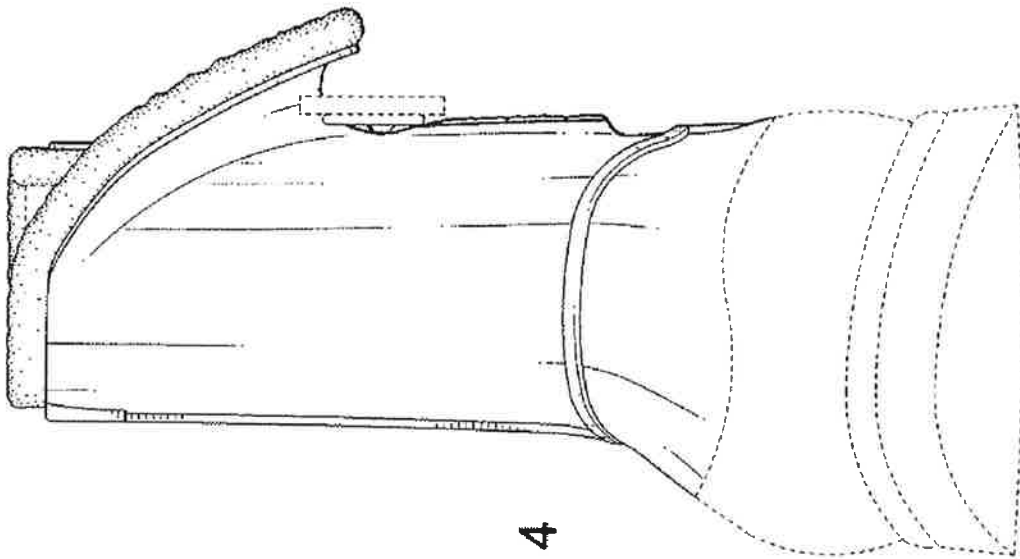


FIG. 4



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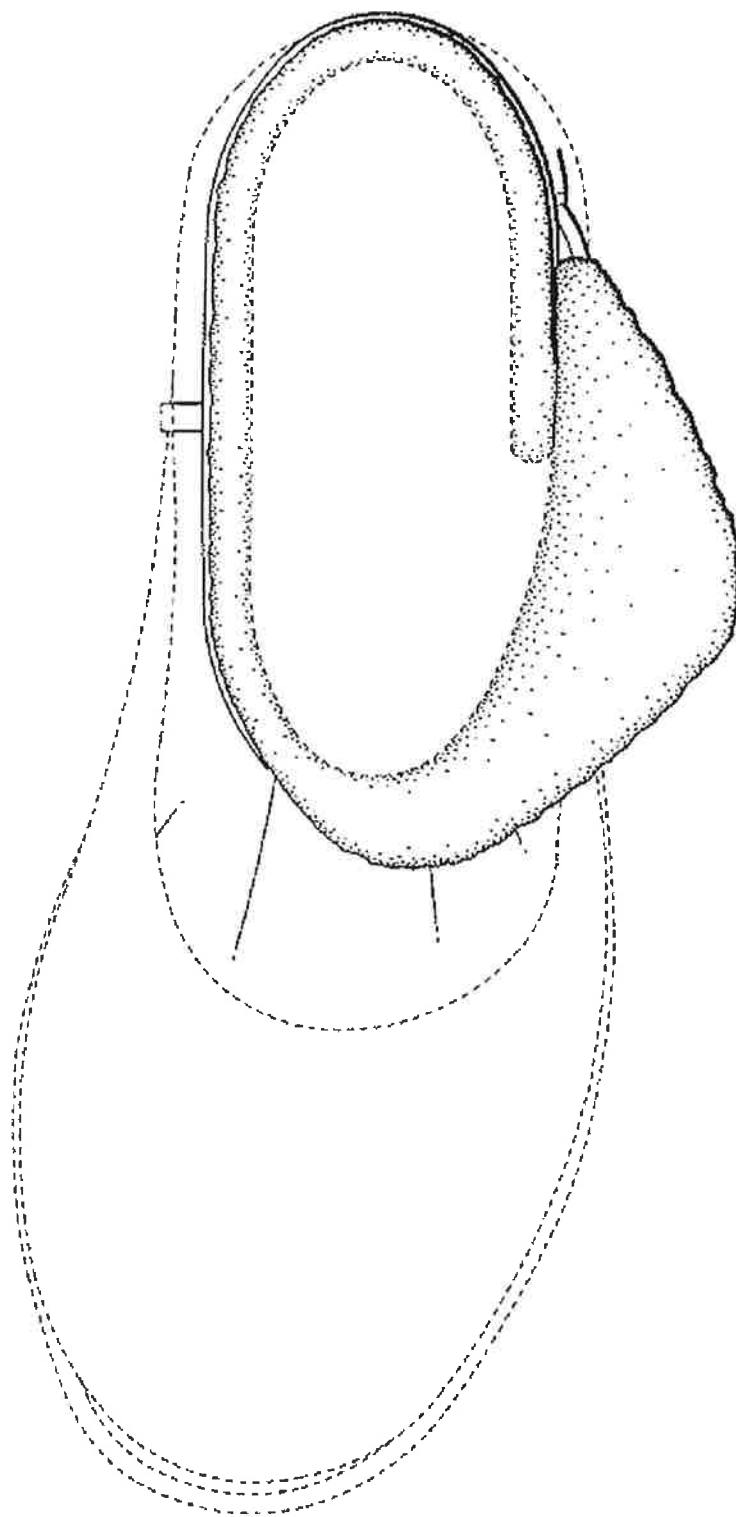


FIG. 6

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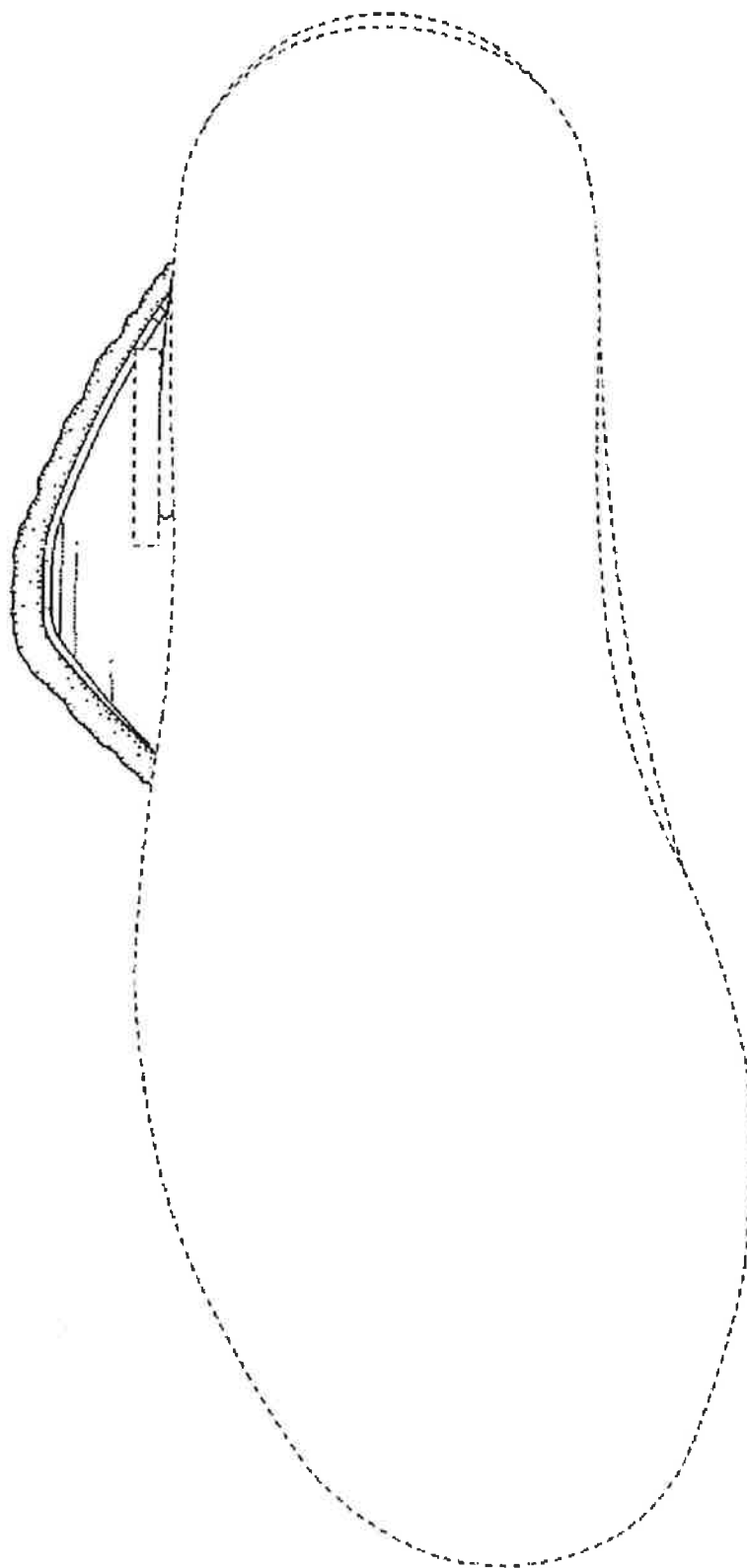


FIG. 7



US00D616189S

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

(10) **Patent No.:** **US D616,189 S**
(45) **Date of Patent:** **** *May 25, 2010**

(54) **PORTION OF A FOOTWEAR UPPER**
(75) Inventor: **Jennifer MacIntyre**, Santa Barbara, CA (US)

D554,341 S * 11/2007 Belley et al. D2:970
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(73) Assignee: **Deckers Outdoor Corporation**, Goleta, CA (US)

(Continued)

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

FOREIGN PATENT DOCUMENTS

(21) Appl. No.: **29/343,479**

DE 40702148 8/2007

(22) Filed: **Sep. 14, 2009**

(Continued)

Related U.S. Application Data

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(63) Continuation-in-part of application No. 29/326,868, filed on Oct. 27, 2008, now Pat. No. Des. 599,999.

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(Continued)

(51) **LOC (9) Cl.** **02-99**
(52) **U.S. Cl.** **D2/970**
(58) **Field of Classification Search** D2/896,
D2/902, 903, 905-915, 946, 970, 972, 974,
D2/976; 36/45, 50.1, 83, 3 A, 7.1 R, 113,
36/101, 112, 114, 116, 126-130, 48
See application file for complete search history.

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

(57) **CLAIM**

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

(56) **References Cited**

DESCRIPTION

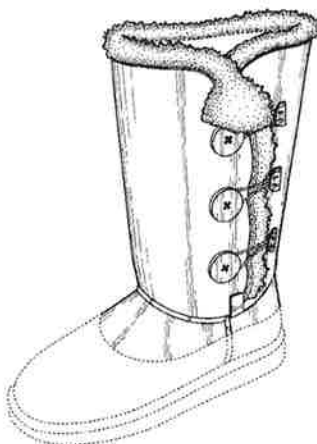
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FIG. 1 is a perspective view of a portion of a footwear upper showing my new design;
FIG. 2 is a side elevational view thereof;
FIG. 3 is an opposite side elevational view thereof;
FIG. 4 is a front elevational view thereof;
FIG. 5 is a rear elevational view thereof; and,
FIG. 6 is a top plan view thereof.

The broken lines in FIGS. 1-6 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.

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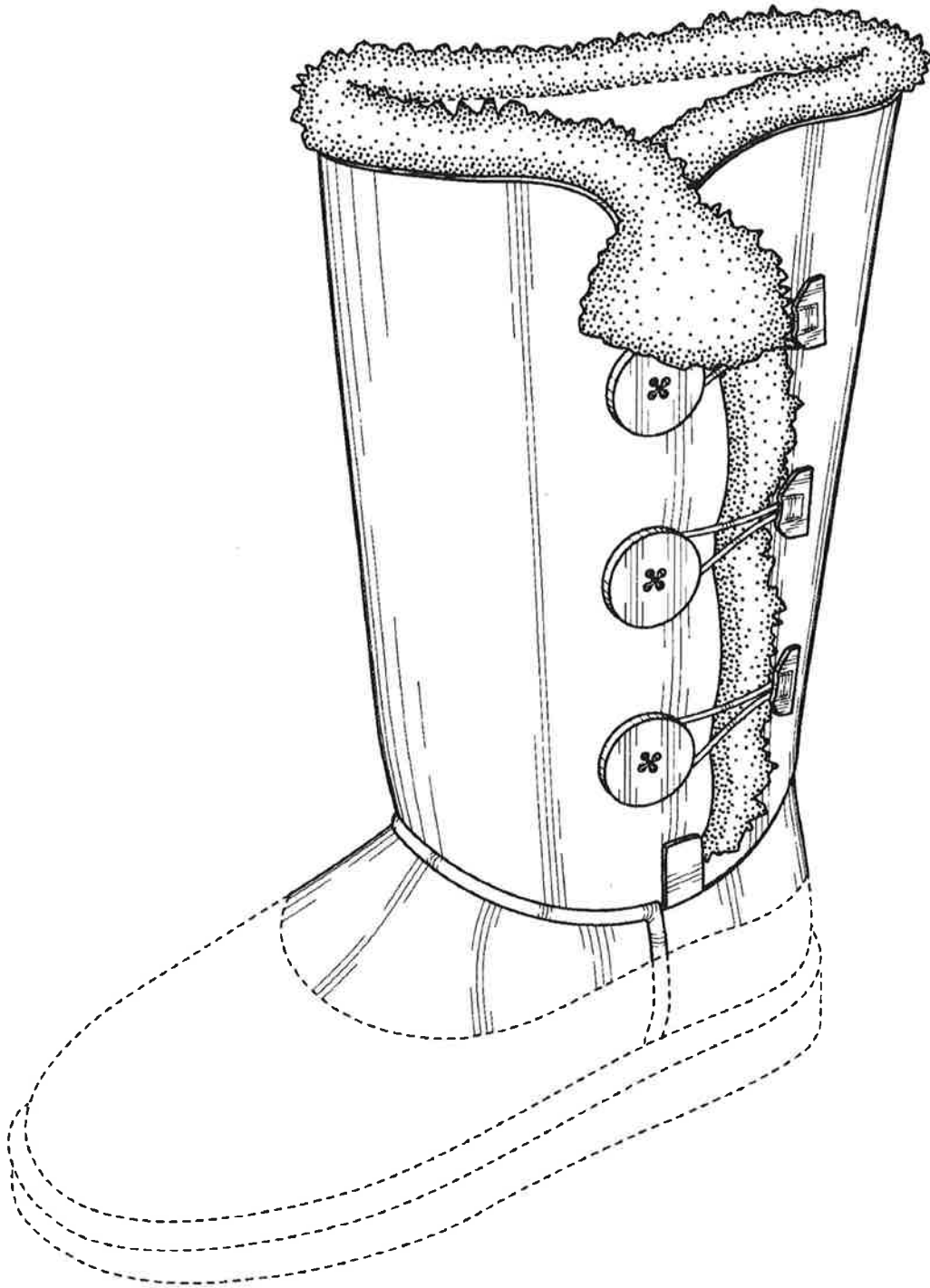


FIG. 1

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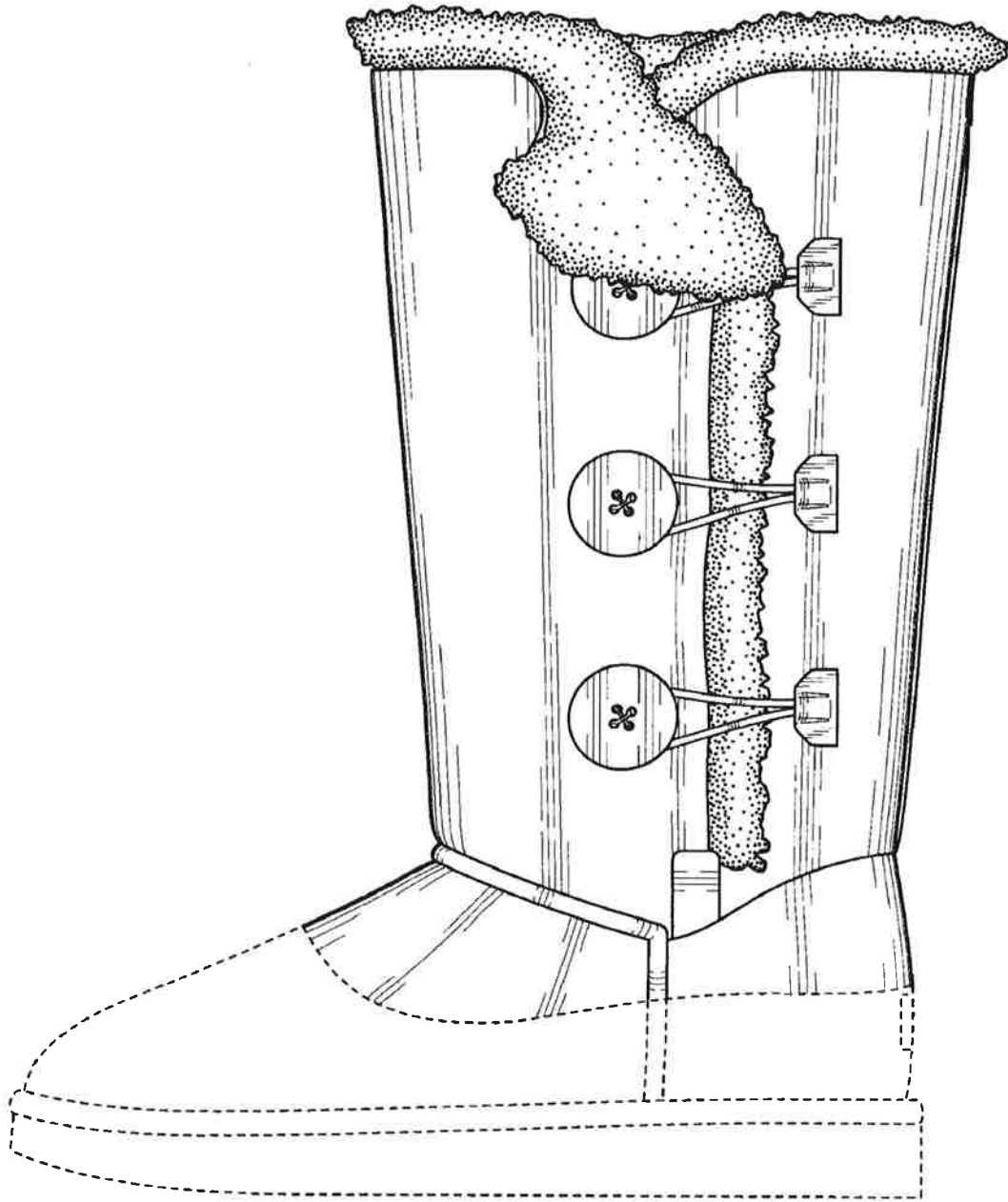


FIG. 2

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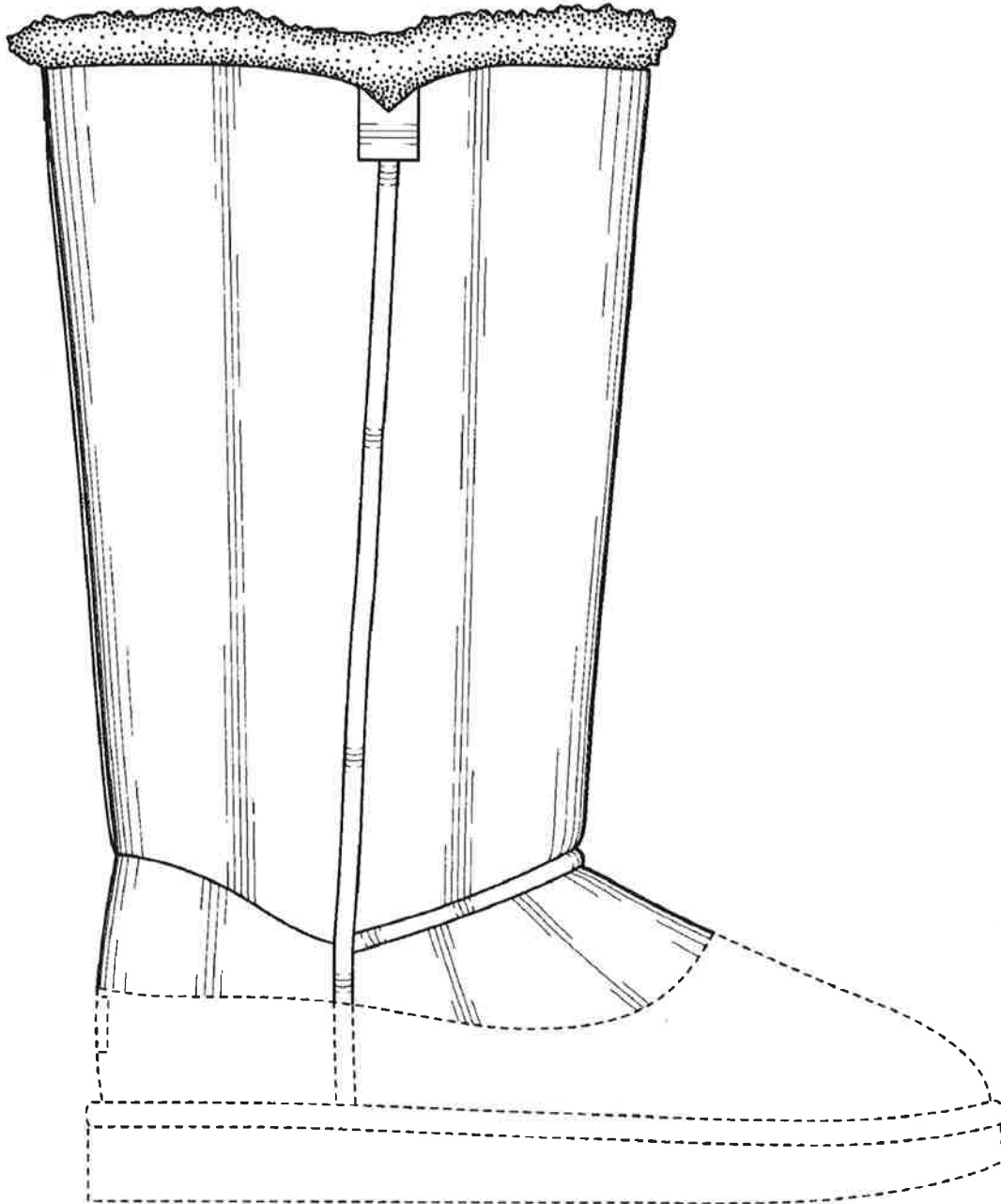


FIG. 3

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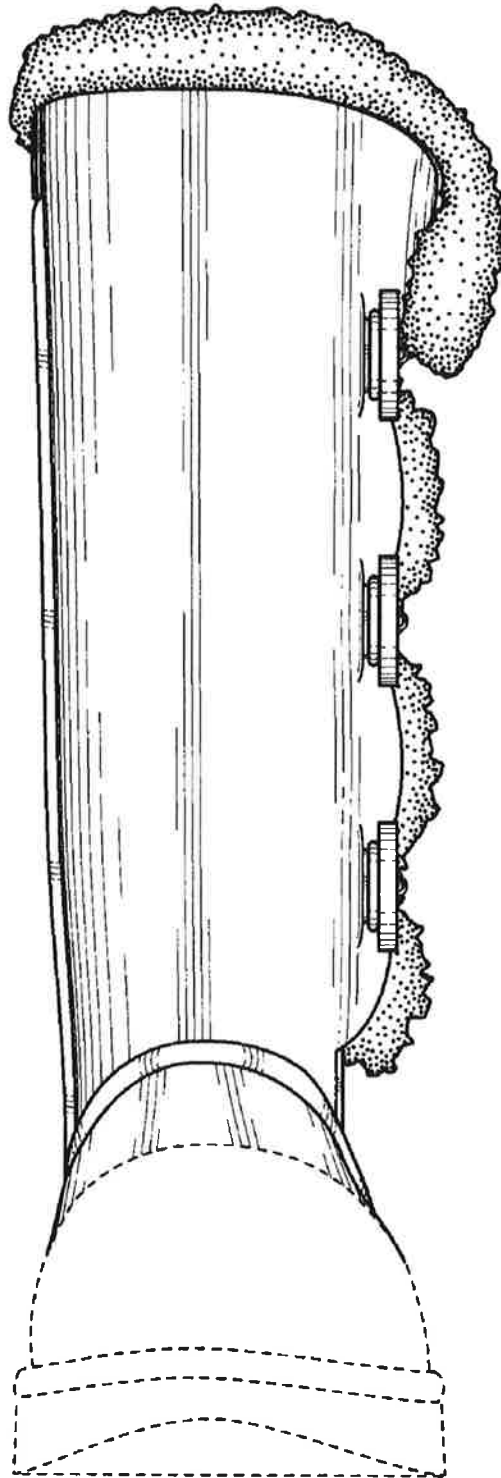


FIG. 4

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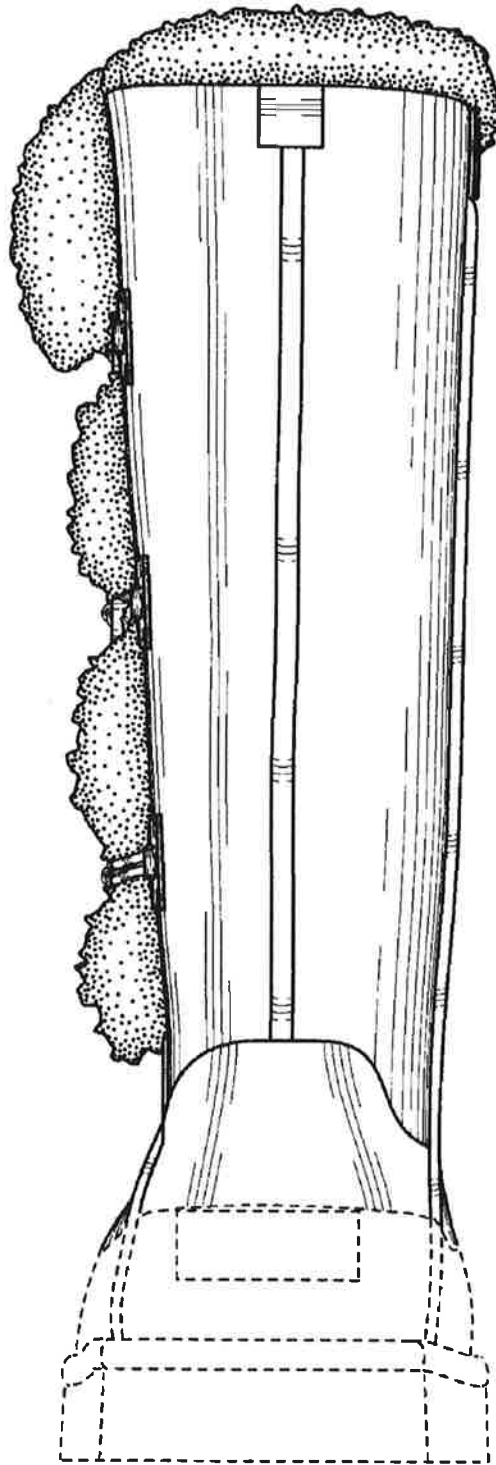


FIG. 5

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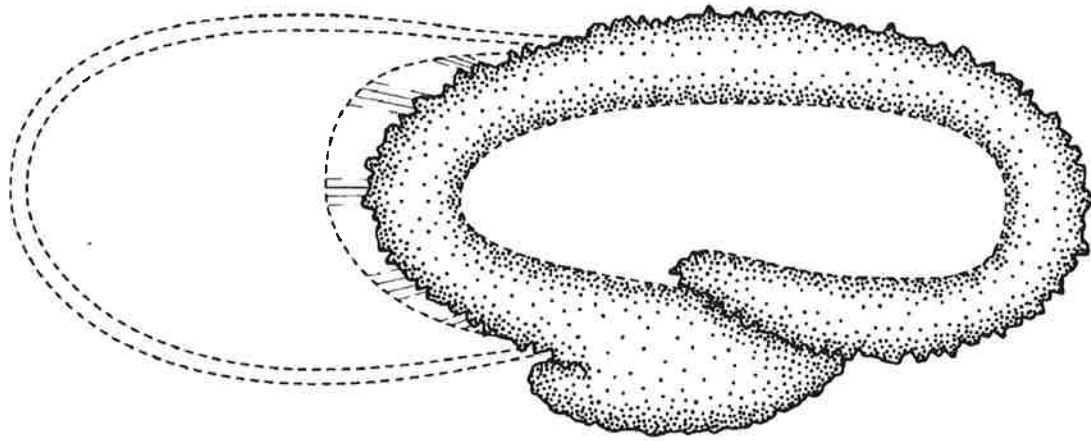


FIG. 6

EXHIBIT 2

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