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 12 *Deckers Outdoor Corporation*

13 UNITED STATES DISTRICT COURT
 14 CENTRAL DISTRICT OF CALIFORNIA

15 DECKERS OUTDOOR
 16 CORPORATION, a Delaware
 17 Corporation,

18 Plaintiff,

19 v.

20 AIR RIDER INTERNATIONAL CORP.,
 21 a California Corporation; and DOES 1-
 22 10, inclusive,

23 Defendant.

24) CASE NO.

25) **PLAINTIFF'S COMPLAINT FOR**
 26) **DAMAGES AND EQUITABLE**
 27) **RELIEF:**

- 28) **1. TRADE DRESS INFRINGEMENT;**
- 29) **2. PATENT INFRINGEMENT - U.S.**
 30) **PATENT NO. D599,999;**
- 31) **3. PATENT INFRINGEMENT - U.S.**
 32) **PATENT NO. D616,189;**
- 33) **4. TRADE DRESS INFRINGEMENT**
 34) **UNDER CALIFORNIA COMMON**
 35) **LAW;**
- 36) **5. UNFAIR COMPETITION UNDER**
 37) **CALIFORNIA UNFAIR BUSINESS**
 38) **PRACTICES ACT, CAL. BUS. &**
 39) **PROF. CODE, § 17200, ET. SEQ.;**
- 40) **6. UNFAIR COMPETITION UNDER**
 41) **CALIFORNIA COMMON LAW**

42) **JURY TRIAL DEMANDED**

1 ascertained. Deckers is informed and believes and based thereon alleges that said
2 Defendant and DOES 1 through 10, inclusive, are in some manner responsible for the
3 wrongs alleged herein, and that at all times referenced each was the agent and servant
4 of the other Defendants and was acting within the course and scope of said agency and
5 employment.

6 7. Deckers is informed and believes, and based thereon alleges, that at all
7 relevant times herein, Defendant and DOES 1 through 10, inclusive, knew or
8 reasonably should have known of the acts and behavior alleged herein and the damages
9 caused thereby, and by their inaction ratified and encouraged such acts and behavior.
10 Deckers further alleges that Defendant and DOES 1 through 10, inclusive, have a non-
11 delegable duty to prevent or not further such acts and the behavior described herein,
12 which duty Defendant and DOES 1 through 10, inclusive, failed and/or refused to
13 perform.

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

15 **A. Deckers' UGG® Brand**

16 8. Deckers has been engaged in the design, distribution, marketing, offering
17 for sale, and sale of footwear since 1975. Deckers owns several brands of footwear
18 that are offered nationwide and worldwide including UGG®, Koolaburra®, Teva®,
19 Sanuk®, Ahnu®, and Hoka One One®.

20 9. Deckers' UGG® brand remains one of the most recognized and relevant
21 comfort shoe brands in the industry. Since 1978, when the UGG® brand was founded,
22 the popularity of UGG® boots has steadily grown across the nation and even the
23 globe. The UGG® brand has always been and remains highly coveted by consumers.
24 This commitment to quality has helped to propel the UGG® brand to its current,
25 overwhelming level of popularity and cemented its status as a luxury brand.

26 10. It has now been fifteen years since UGG® boots were first featured on
27 Oprah's Favorite Things® in the year 2000, and Oprah emphatically declared on
28 national television how much she "LOOOOOVES her UGG boots." The popularity of

1 UGG® brand footwear has grown exponentially since then with celebrities including
2 Kate Hudson and Sarah Jessica Parker among a myriad of others regularly donning
3 them. UGG® sheepskin boots have become a high fashion luxury item and can be
4 found on fashion runways around the world.

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

8 **B. Defendant's Infringing Activities**

9 12. Upon information and belief, Defendant Air Rider is engaged in the
10 business of manufacturing, designing, advertising, marketing, distributing, offering for
11 sale, and/or sale of footwear under the brand name "Reneeze".

12 13. The present lawsuit arises from Defendant's willful infringement of
13 Deckers' UGG® boot designs, to which Deckers owns design patent and/or trade dress
14 rights, including rights to the UGG® "Bailey Button" and "Bailey Button Triplet"
15 boots, by certain of Defendant's footwear products ("Infringing Products"), exemplars
16 of which are shown below.



25 14. Infringing Products have been advertised, displayed, offered for sale,
26 and/or sold on Defendants' website - www.fashionugo.com - as well as on
27 Amazon.com.

28 15. Deckers is informed and believes and herein alleges that Defendant is a

1 competitor and has copied Deckers' boot designs in an effort to exploit Deckers'
2 reputation in the market.

3 16. Upon information and belief, Defendant may have sold additional
4 products that infringe upon Deckers' design patents and trade dresses. Deckers may
5 seek leave to amend as additional information becomes available through discovery.

6 17. Deckers has not granted a license or any other form of permission to
7 Defendant with respect to any of its trademarks, design patents, trade dress, or other
8 intellectual property.

9 18. Deckers is informed and believes and herein alleges that Defendant has
10 acted in bad faith and that Defendant's acts have misled and confused and were
11 intended to cause confusion, or to cause mistake, or to deceive as to the affiliation,
12 connection, or association of Defendant's Infringing Products with Deckers, or as to
13 the origin, sponsorship, or approval of Defendant's Infringing Products by Deckers.

14 **FIRST CLAIM FOR RELIEF**

15 **(Trade Dress Infringement - 15 U.S.C. § 1125(a))**

16 19. Deckers incorporates herein by reference the averments of the preceding
17 paragraphs as though fully set forth herein.

18 20. The UGG® Bailey Button boot was introduced in 2009 and the "Bailey
19 Button Boot Trade Dress" is unique and distinctive, consisting of a combination of the
20 following key features:

- 21 • Classic suede boot styling made famous by the UGG® brand;
- 22 • Overlapping of front and rear panels on the lateral side of the boot shaft;
- 23 • Curved top edges on the overlapping panels;
- 24 • Exposed fleece-type lining edging the overlapping panels and top of the
25 boot shaft; and
- 26 • One or more buttons (depending on the height of the boot) prominently
27 featured on the lateral side of the boot shaft adjacent the overlapping panels.

28 (hereinafter "Bailey Button Boot Trade Dress")



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21. The Bailey Button Boot Trade Dress, which is a composite of the above-referenced features, is non-functional in its entirety, visually distinctive, and is unique in the footwear industry.

22. The design of the Bailey Button Boot Trade Dress is neither essential to its use or purpose nor does it affect the cost or quality of the boot. There are numerous other designs available that are equally feasible and efficient, none of which necessitate copying or imitating the Bailey Button Boot Trade Dress. The aforesaid combination of features provides no cost advantages to the manufacturer or utilitarian advantages to the consumer. These features, in combination, serve only to render Deckers' UGG® Bailey Button boots distinct and recognizable as goods originating from Deckers' UGG® brand.

23. The Bailey Button Boot Trade Dress is an original design by Deckers and has achieved a high degree of consumer recognition and secondary meaning, which serves to identify Deckers as the source of footwear featuring said trade dress.

24. The Bailey Button Boot Trade Dress is one of the most well recognized and commercially successful styles of Deckers' UGG® brand of footwear, having been featured on Deckers' advertising and promotional materials as well as in various trade publications. Furthermore, the Bailey Button Boot Trade Dress has been featured in connection with various celebrities, has received a large volume of unsolicited media

1 attention, and has graced the pages of many popular magazines nationwide and
2 internationally.

3 25. Deckers has spent substantial time, effort, and money in designing,
4 developing, advertising, promoting, and marketing the UGG® brand and its line of
5 footwear embodying the Bailey Button Boot Trade Dress. Deckers spends millions of
6 dollars annually on advertising of UGG® products, which include products bearing the
7 Bailey Button Boot Trade Dress.

8 26. Deckers has sold hundreds of millions of dollars worth of UGG®
9 products bearing the Bailey Button Boot Trade Dress.

10 27. Due to its long use, extensive sales, and significant advertising and
11 promotional activities, Deckers' Bailey Button Boot Trade Dress has achieved
12 widespread acceptance and recognition among the consuming public and trade
13 throughout the United States.

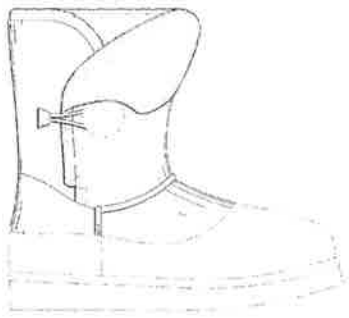
14 28. There are numerous other boot designs in the footwear industry, none of
15 which necessitate copying or imitating the Bailey Button Boot Trade Dress. However,
16 due to the popularity and consumer recognition achieved by the Bailey Button Boot,
17 said design has often been the subject of infringement by third-parties, including
18 Defendant.

19 29. Deckers is informed and believes and herein alleges that Defendant is a
20 competitor and has copied Deckers' Bailey Button Boot Trade Dress in an effort to
21 exploit Deckers' reputation in the market.

22 30. The Infringing Products produced, distributed, advertised and offered for
23 sale by Defendant bear nearly identical reproductions of the Bailey Button Boot Trade
24 Dress, such as to cause a likelihood of confusion as to the source, sponsorship or
25 approval by Deckers of Defendant's products.

26 31. Defendant's use of Deckers' Bailey Button Boot Trade Dress is without
27 Deckers' permission or authority and in total disregard of Deckers' rights to control its
28 intellectual property.

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**UGG® Bailey Button Boot
Design Patent D599,999**

UGG® Bailey Button Boot

Defendant's Infringing Boot

39. Defendant's aforesaid infringing acts are without Deckers' permission or authority and are in total disregard of Deckers' right to control its intellectual property.

40. As a direct and proximate result of Defendant's infringing conduct, Deckers has been injured and will continue to suffer injury to its business and reputation unless Defendant is restrained by this Court from infringing Deckers' '999 Patent.

41. Defendant's acts have damaged and will continue to damage Deckers, and Deckers has no adequate remedy at law.

42. Deckers marks all footwear products embodying the design of the '999 Patent with "Pat. No. 599,999" on a product label in compliance with 35 U.S.C. § 287.

43. Given the widespread popularity and recognition of Deckers' Bailey Button boot and the patent notice provided on the products themselves, Deckers avers and hereon alleges that Defendant had pre-suit knowledge of Deckers' rights to the '999 Patent and have intentionally copied said design on its own brand of products in an effort to pass them off as if they originated, are associated with, are affiliated with, are sponsored by, are authorized by, and/or are approved by Deckers.

44. On information and belief, Defendant's acts herein complained of constitute willful acts and intentional infringement of the '999 Patent.

45. In light of the foregoing, Deckers is entitled to injunctive relief prohibiting Defendant from infringing the '999 Patent and to recover damages adequate to compensate for the infringement, including Defendant's profits pursuant to

1 35 U.S.C. § 289. Deckers is also entitled to recover any other damages as appropriate
2 pursuant to 35 U.S.C. § 284.

3 **THIRD CLAIM FOR RELIEF**

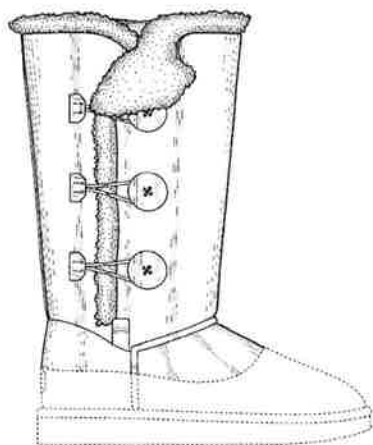
4 **(Patent Infringement - U.S. Patent No. D616,189)**

5 46. Deckers incorporates herein by reference the averments of the preceding
6 paragraphs as though fully set forth herein.

7 47. Deckers is the owner of numerous design patents to the various styles of
8 footwear it offers under its UGG® brand. These design patents include but are not
9 limited to the “Bailey Button Triplet” boot (U.S. Patent No. D616,189 issued on May
10 25, 2010), a true and correct copy of which is attached hereto and incorporated herein
11 as Exhibit B (hereinafter “ ‘189 Patent”).

12 48. Deckers is the owner by assignment of all right, title and interest in and to
13 the ‘189 Patent.

14 49. Defendant has used, offered for sale, sold within the United States, and/or
15 has imported into the United States footwear that is substantially similar to the ‘189
16 Patent in direct violation of 35 U.S.C. § 271. An example of the Infringing Product is
17 shown at the far rights of the ‘189 Patent drawing and genuine Bailey Button Triplet
18 boot below:



26 **UGG® Bailey Button Boot**
27 **Design Patent D616,189**



28 **UGG® Bailey Button Boot**



Defendant's Infringing Boot

1 50. Defendant's aforesaid infringing acts are without Deckers' permission or
2 authority and are in total disregard of Deckers' right to control its intellectual property.

3 51. As a direct and proximate result of Defendant's infringing conduct,
4 Deckers has been injured and will continue to suffer injury to its business and
5 reputation unless Defendant is restrained by this Court from infringing Deckers' '189
6 Patent.

7 52. Defendant's acts have damaged and will continue to damage Deckers, and
8 Deckers has no adequate remedy at law.

9 53. Deckers marks all footwear products embodying the design of the '189
10 Patent with "Pat. No. 616,189" on a product label in compliance with 35 U.S.C. § 287.

11 54. Given the widespread popularity and recognition of Deckers' Bailey
12 Button Triplet boot and the patent notice provided on the products themselves, Deckers
13 avers and hereon alleges that Defendant had pre-suit knowledge of Deckers' rights to
14 the '189 Patent and have intentionally copied said design on its own brand of products
15 in an effort to pass them off as if they originated, are associated with, are affiliated
16 with, are sponsored by, are authorized by, and/or are approved by Deckers.

17 55. On information and belief, Defendant's acts herein complained of
18 constitute willful acts and intentional infringement of the '189 Patent.

19 56. In light of the foregoing, Deckers is entitled to injunctive relief
20 prohibiting Defendant from infringing the '189 Patent and to recover damages
21 adequate to compensate for the infringement, including Defendant's profits pursuant to
22 35 U.S.C. § 289. Deckers is also entitled to recover any other damages as appropriate
23 pursuant to 35 U.S.C. § 284.

24 **FOURTH CLAIM FOR RELIEF**

25 **(Trade Dress Infringement under California Common Law)**

26 57. Deckers incorporates herein by reference the averments of the preceding
27 paragraphs as though fully set forth herein.

28

1 58. Defendant's infringement of the Bailey Button Boot Trade Dress
2 constitutes common law trade dress infringement in violation of the common law of
3 the state of California.

4 59. Defendant's unauthorized use of the Bailey Button Boot Trade Dress has
5 caused and is likely to cause confusion as to the source of Defendant's products, all to
6 the detriment of Deckers.

7 60. Defendant's acts are willful, deliberate, and intended to confuse the public
8 and to injure Deckers.

9 61. Deckers has no adequate remedy at law to compensate it fully for the
10 damages that have been caused and which will continue to be caused by Defendant's
11 infringing conduct, unless they are enjoined by this Court.

12 62. The conduct herein complained of was extreme, outrageous, and was
13 inflicted on Deckers in reckless disregard of Deckers' rights. Said conduct was
14 despicable and harmful to Deckers and as such supports an award of exemplary and
15 punitive damages in an amount sufficient to punish and make an example of
16 Defendant, and to deter it from similar such conduct in the future.

17 63. In light of the foregoing, Deckers is entitled to injunctive relief
18 prohibiting Defendant from infringing the Bailey Button Boot Trade Dress, and to
19 recover all damages, including attorneys' fees, that Deckers has sustained and will
20 sustain, and all gains, profits and advantages obtained by Defendant as a result of its
21 infringing acts alleged above in an amount not yet known, and the costs of this action.

22 **FIFTH CLAIM FOR RELIEF**

23 **(Unfair Competition Under California Unfair Business Practices Act, Cal. Bus. &**
24 **Prof. Code, § 17200, et. seq.)**

25 64. Deckers incorporates herein by reference the averments of the preceding
26 paragraphs as though fully set forth herein.

27 65. Defendant's appropriation, adoption and use of the Bailey Button Boot
28 Trade Dress and '999 and '189 Patents (collectively UGG® Design Patents), or in

1 connection with the sale and offering for sale of footwear is likely to confuse or
2 mislead consumers into believing that Defendant's goods are authorized, licensed,
3 affiliated, sponsored, and/or approved by Deckers, thus constituting a violation of the
4 California Unfair Business Practices Act, Cal. Bus. & Prof. Code, § 17200, et. seq.

5 66. The deceptive, unfair and fraudulent practices set forth herein have been
6 undertaken with knowledge by Defendant willfully with the intention of causing harm
7 to Deckers and for the calculated purpose of misappropriating Deckers' goodwill and
8 business reputation.

9 67. Defendant's use of Deckers' Bailey Button Boot Trade Dress and UGG®
10 Design Patents has deprived Deckers of the right to control the use of its intellectual
11 property.

12 68. As a direct and proximate result of Defendant's unlawful infringement,
13 Deckers has suffered damages and will continue to suffer damages in an amount that is
14 not presently ascertainable but will be proven at trial. Deckers is entitled to all
15 available relief provided for in California Unfair Business Practices Act, Cal. Bus. &
16 Prof. Code, § 17200, et. seq. including permanent injunctive relief.

17 69. Defendant committed the acts alleged herein intentionally, fraudulently,
18 maliciously, willfully, wantonly and oppressively, with intent to injure Deckers in its
19 business and with conscious disregard for Deckers' rights, thereby justifying awards of
20 punitive and exemplary damages in amounts sufficient to punish and to set an example
21 for others.

22 **SIXTH CLAIM FOR RELIEF**

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

24 70. Deckers incorporates herein by reference the averments of the preceding
25 paragraphs as though fully set forth herein.

26 71. Defendant's infringement of the Bailey Button Boot Trade Dress and
27 UGG® Design Patents constitutes unfair competition in violation of the common law
28 of the state of California.

1 2. An order granting temporary, preliminary and permanent injunctive relief
2 restraining and enjoining Defendant, its agents, servants, employees, officers,
3 associates, attorneys, and all persons acting by, through, or in concert with any of them
4 from using Deckers' intellectual property, including, but not limited to:

5 a. manufacturing, importing, advertising, marketing, promoting,
6 supplying, distributing, offering for sale, or selling the Infringing Products or any other
7 products which bear Deckers' Bailey Button Trade Dress and/or any designs
8 confusingly similar thereto as well as any products bearing designs that infringe upon
9 the UGG® Design Patents and/or the overall appearance thereof;

10 b. engaging in any other activity constituting unfair competition with
11 Deckers, or acts and practices that deceive consumers, the public, and/or trade,
12 including without limitation, the use of designations and design elements used or
13 owned by or associated with Deckers; and

14 c. committing any other act which falsely represents or which has the
15 effect of falsely representing that the goods and services of Defendant are licensed by,
16 authorized by, offered by, produced by, sponsored by, or in any other way associated
17 with Deckers;

18 3. Ordering Defendant to recall from any distributors and retailers and to
19 deliver to Deckers for destruction or other disposition all remaining inventory of all
20 Infringing Products and related items, including all advertisements, promotional and
21 marketing materials therefore, as well as means of making same;

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

25 5. Ordering an accounting by Defendant of all gains, profits and advantages
26 derived from its wrongful acts pursuant to 15 U.S.C. § 1117(a) and 35 U.S.C. § 289;

27 6. Awarding Deckers all of Defendant's profits and all damages sustained by
28 Deckers as a result of Defendant's wrongful acts, and such other compensatory

1 damages as the Court determines to be fair and appropriate;


2 7. Awarding treble damages in the amount of Defendant’s profits or
3 Deckers’ damages, whichever is greater, for willful infringement;

4 8. Awarding applicable interest, costs, disbursements and attorneys’ fees;

5 9. Awarding Deckers’ punitive damages in connection with its claims under
6 California law; and

7 10. Such other relief as may be just and proper.

8
9 Dated: September 4, 2015 BLAKELY LAW GROUP

10
11 By: 
12 Brent H. Blakely
13 Cindy Chan
14 Jessica C. Covington
15 *Attorneys for Plaintiff*
16 *Deckers Outdoor Corporation*

17 **DEMAND FOR JURY TRIAL**

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

20 Dated: September 4, 2015 BLAKELY LAW GROUP


21
22 By: 
23 Brent H. Blakely
24 Cindy Chan
25 Jessica C. Covington
26 *Attorneys for Plaintiff*
27 *Deckers Outdoor Corporation*
28

EXHIBIT A



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**

EP 00718002-0006 4/2007

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

OTHER PUBLICATIONS

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

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

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

* cited by examiner

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

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

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

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

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

(58) **Field of Classification Search** D2/896,
 D2/909–915, 946, 970, 973, 974; 36/45,
 36/50.1, 83, 3 A, 7.1 R, 113
 See application file for complete search history.

(57) **CLAIM**

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

(56) **References Cited**

DESCRIPTION

U.S. PATENT DOCUMENTS

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

FIG. 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



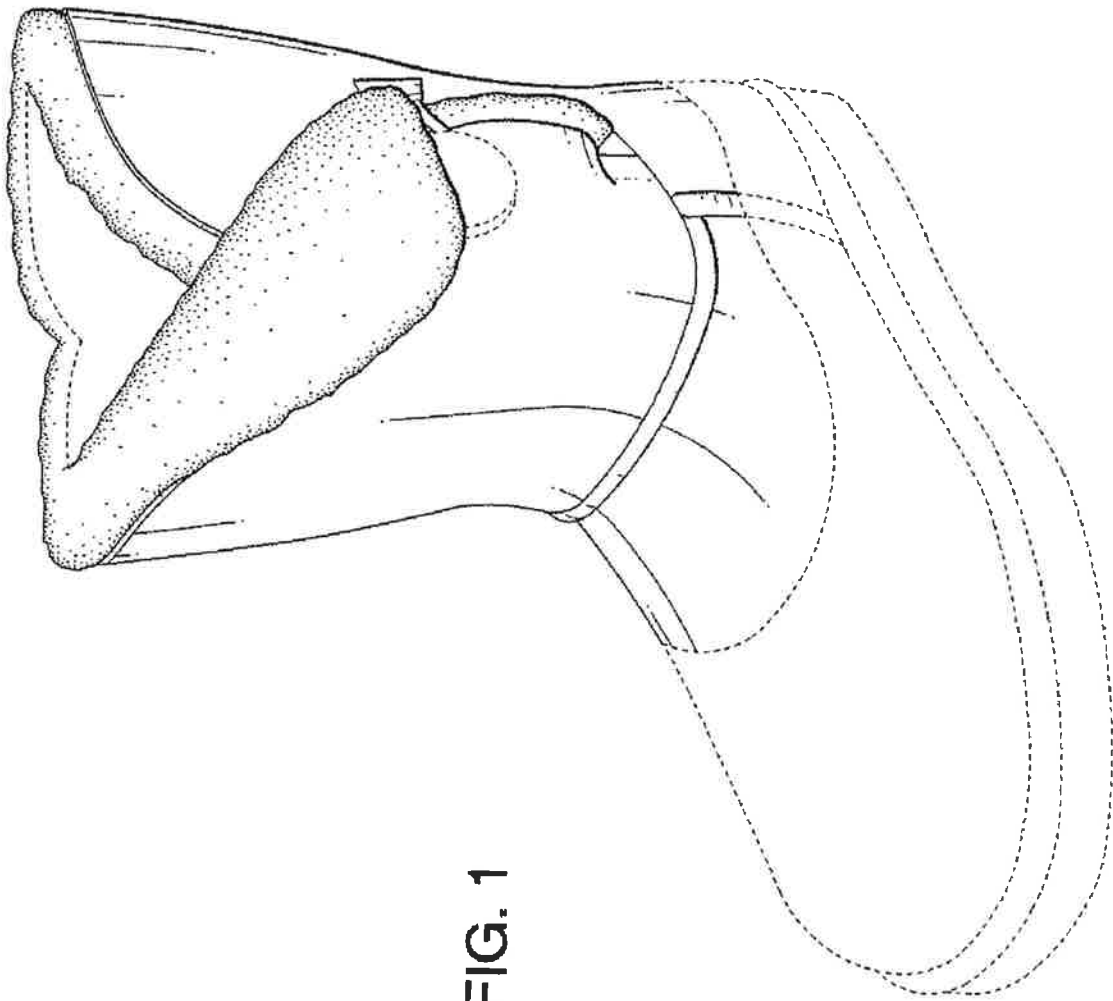


FIG. 1

U.S. Patent

Sep. 15, 2009

Sheet 2 of 6

US D599,999 S

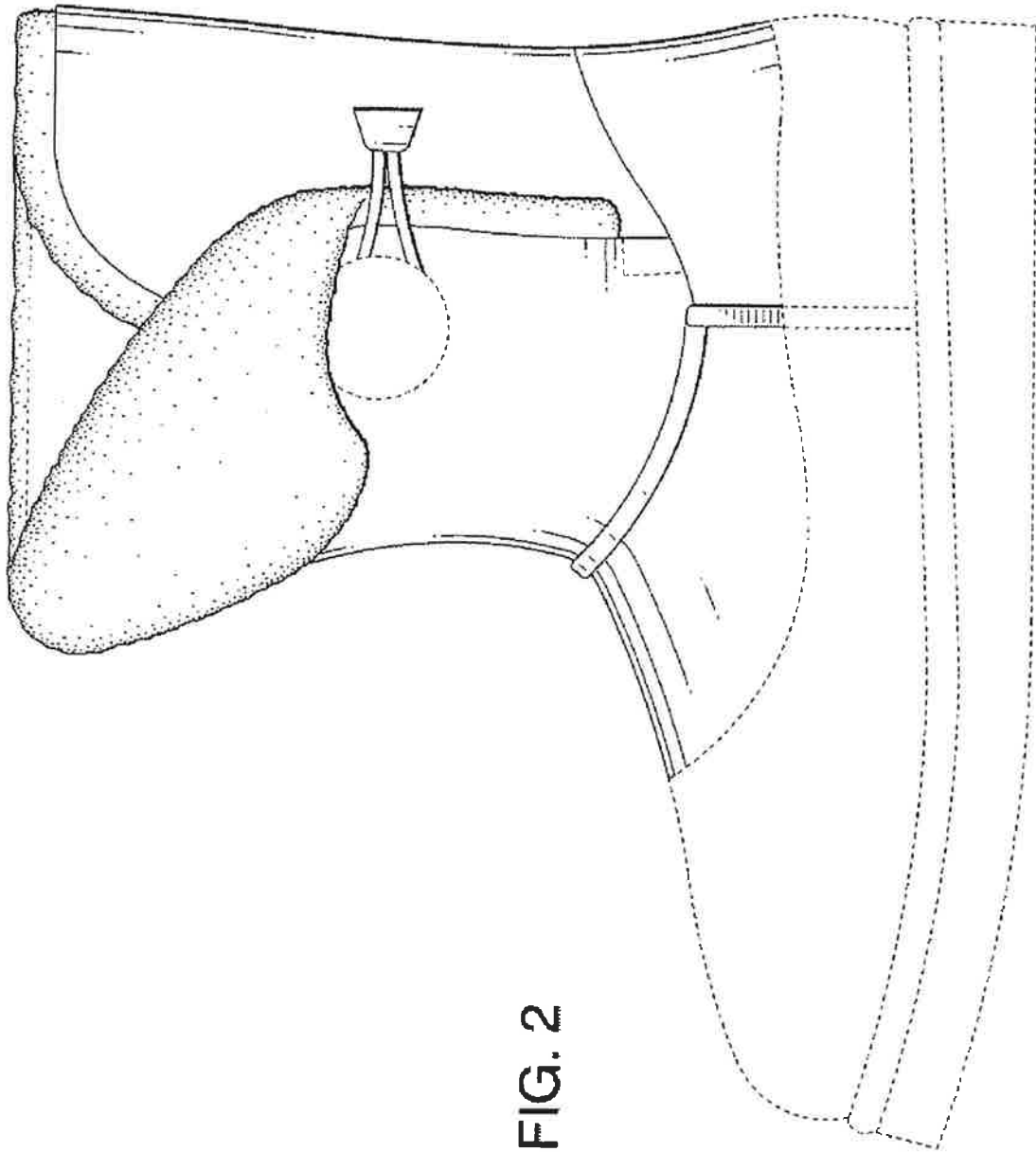


FIG. 2

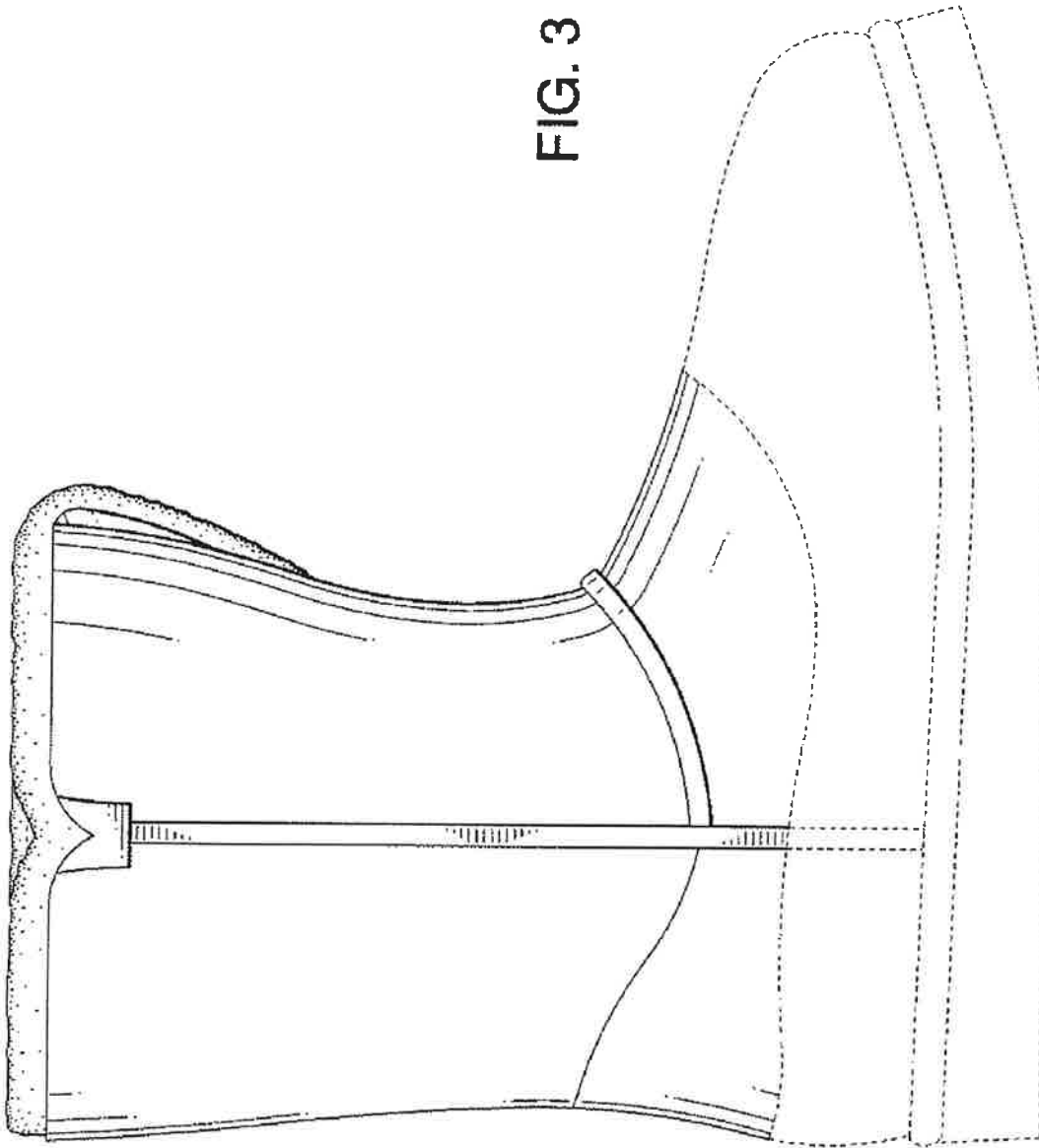


FIG. 5

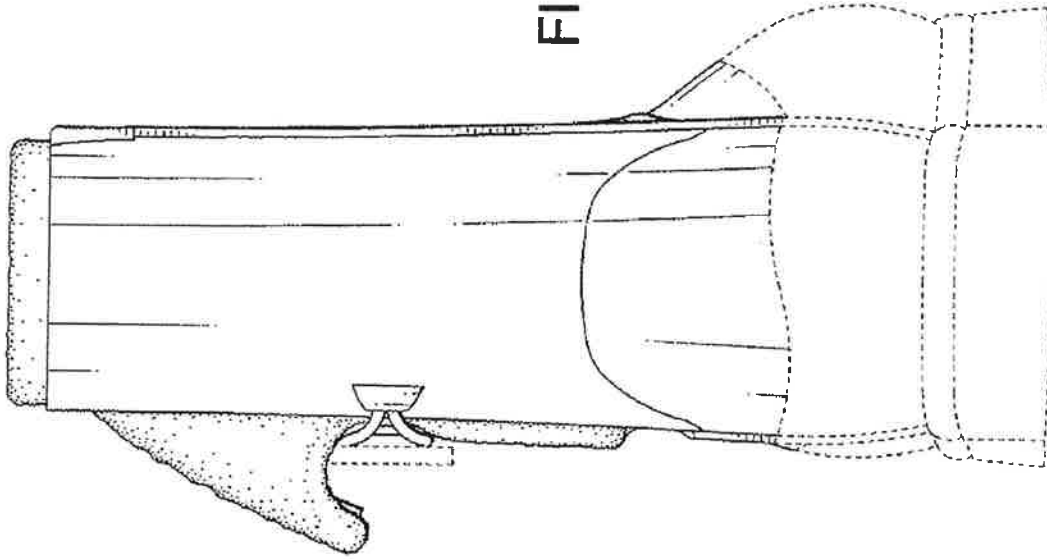
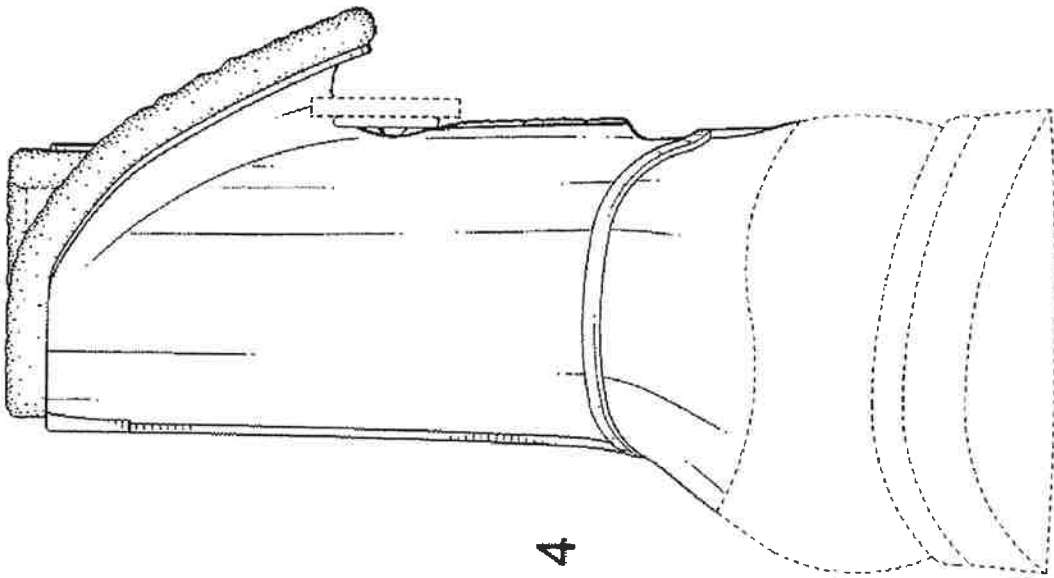


FIG. 4



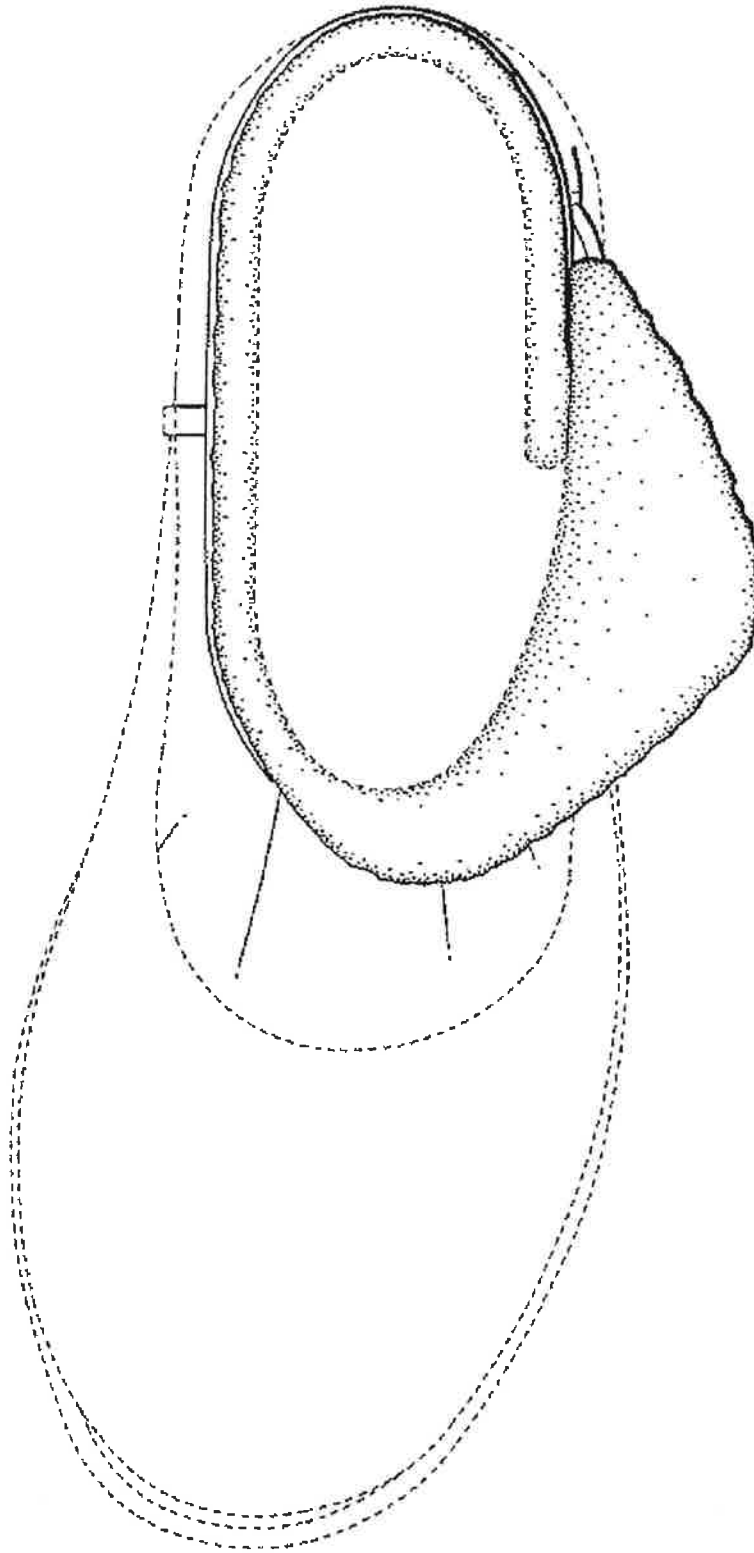


FIG. 6

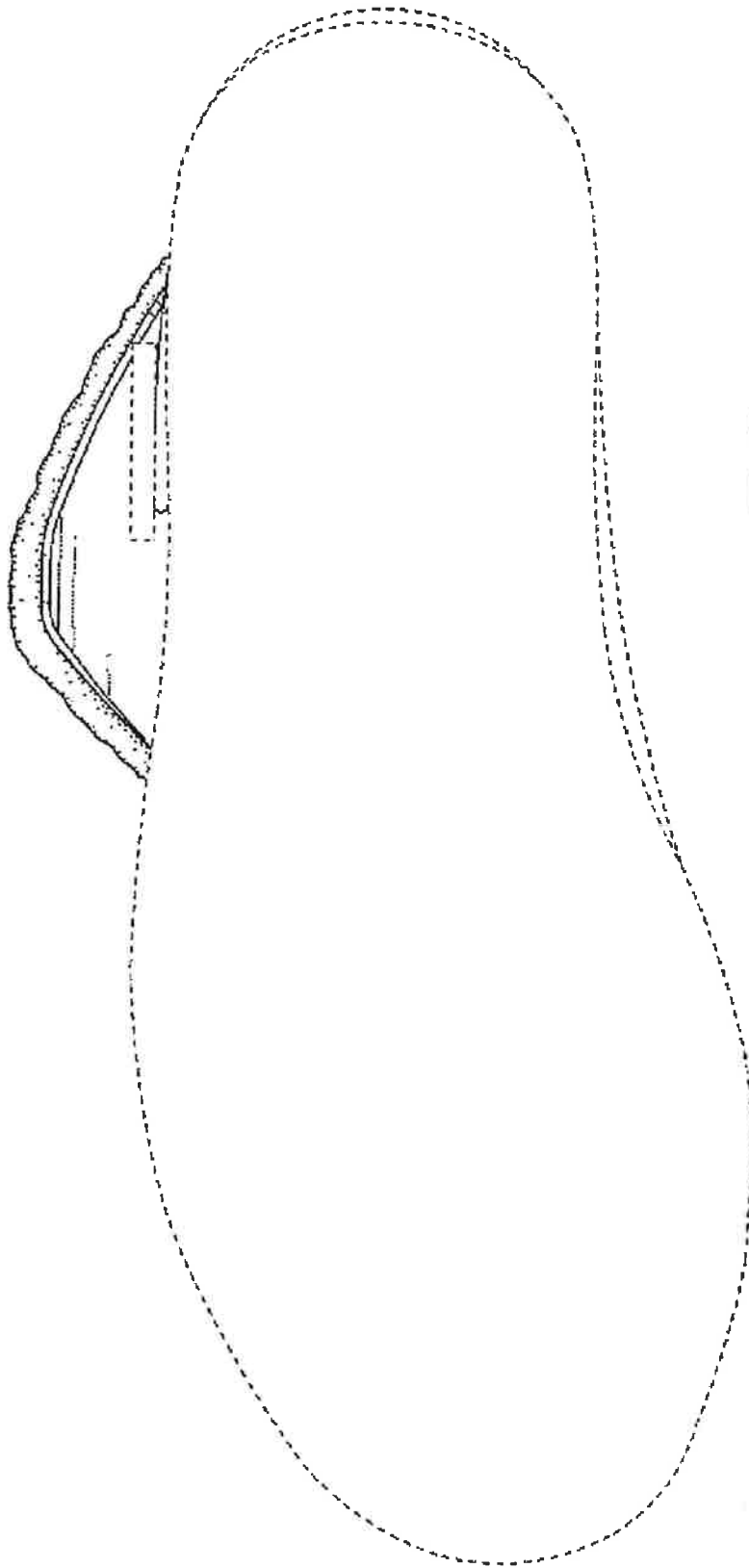


FIG. 7

EXHIBIT B



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
D575,495 S 8/2008 Le
D580,158 S 11/2008 Belley et al.

(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

OTHER PUBLICATIONS

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

UGG Australia, Bipster model, p. 1, Oct. 3, 2008.

(Continued)

(51) **LOC (9) CI.** **02-99**
(52) **U.S. CI.** **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**

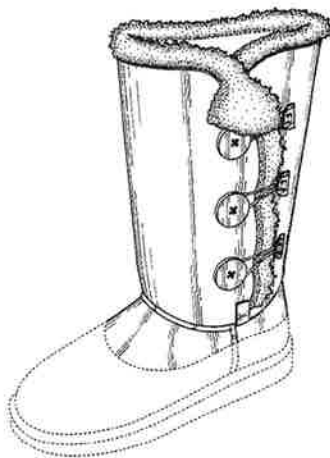
DESCRIPTION

U.S. PATENT DOCUMENTS

D21,954 S * 11/1892 Richardson D2/910
D125,568 S 3/1941 Hard
D155,573 S 10/1949 Bingham, Jr.
D159,577 S * 8/1950 Stromberg D2/900
D159,761 S * 8/1950 Barron D2/910
D227,197 S 6/1973 Fukuoka
D284,805 S * 7/1986 Smith D2/900
D319,332 S 8/1991 Itzkowitz
D357,572 S * 4/1995 Seiler et al. D2/910
D386,292 S * 11/1997 Brooks et al. D2/970
D386,294 S * 11/1997 Brooks et al. D2/970
D400,342 S * 11/1998 Davidowitz et al. D2/909
D481,863 S 11/2003 Belley et al.
D497,476 S * 10/2004 Huard et al. D2/970
D521,228 S * 5/2006 Kelsey D2/976
D529,269 S 10/2006 Belley et al.
D539,024 S * 3/2007 Belley et al. D2/970

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.

1 Claim, 6 Drawing Sheets



US D616,189 S

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U.S. PATENT DOCUMENTS

D581,140 S 11/2008 Earle
D585,636 S 2/2009 Earle
D591,496 S 5/2009 Earle

FOREIGN PATENT DOCUMENTS

EP 00718002-0006 4/2007
EP 001159008-0005 8/2009

OTHER PUBLICATIONS

UGG Australia, Henry model, p. 1, Oct. 3, 2008.
UGG Australia, Erin model, p. 1, Oct. 3, 2008.

UGG Australia, Cove model, p. 1, Oct. 27, 2008.

UGG Australia, Kona model, p. 1, Oct. 27, 2008.

Steve Madden MISSYY Brown Suede boot. www.jildorshoes.com,
Dec. 9, 2008.

Catalogue Moscow Shoes, summer 2006, p. 2 top center.

UGG Australia 1990 Catalog, Classic Tall model, 1990.

UGG Australia Fall/Winter 2004 Catalog, Larkspur model, 2004.

Sportsmaster, Russian Federation, Autumn/Winter 2008-2009.

* cited by examiner

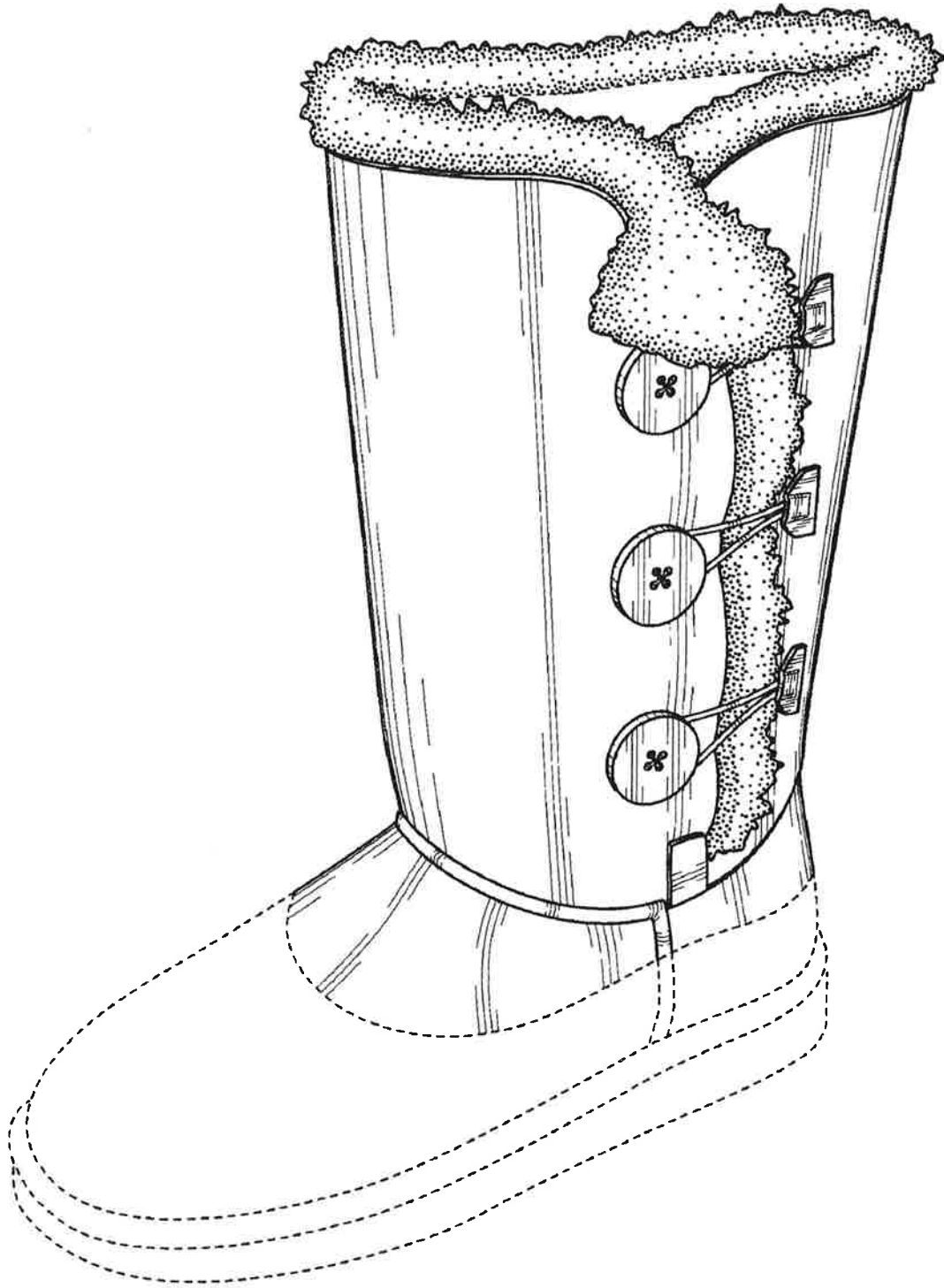


FIG. 1

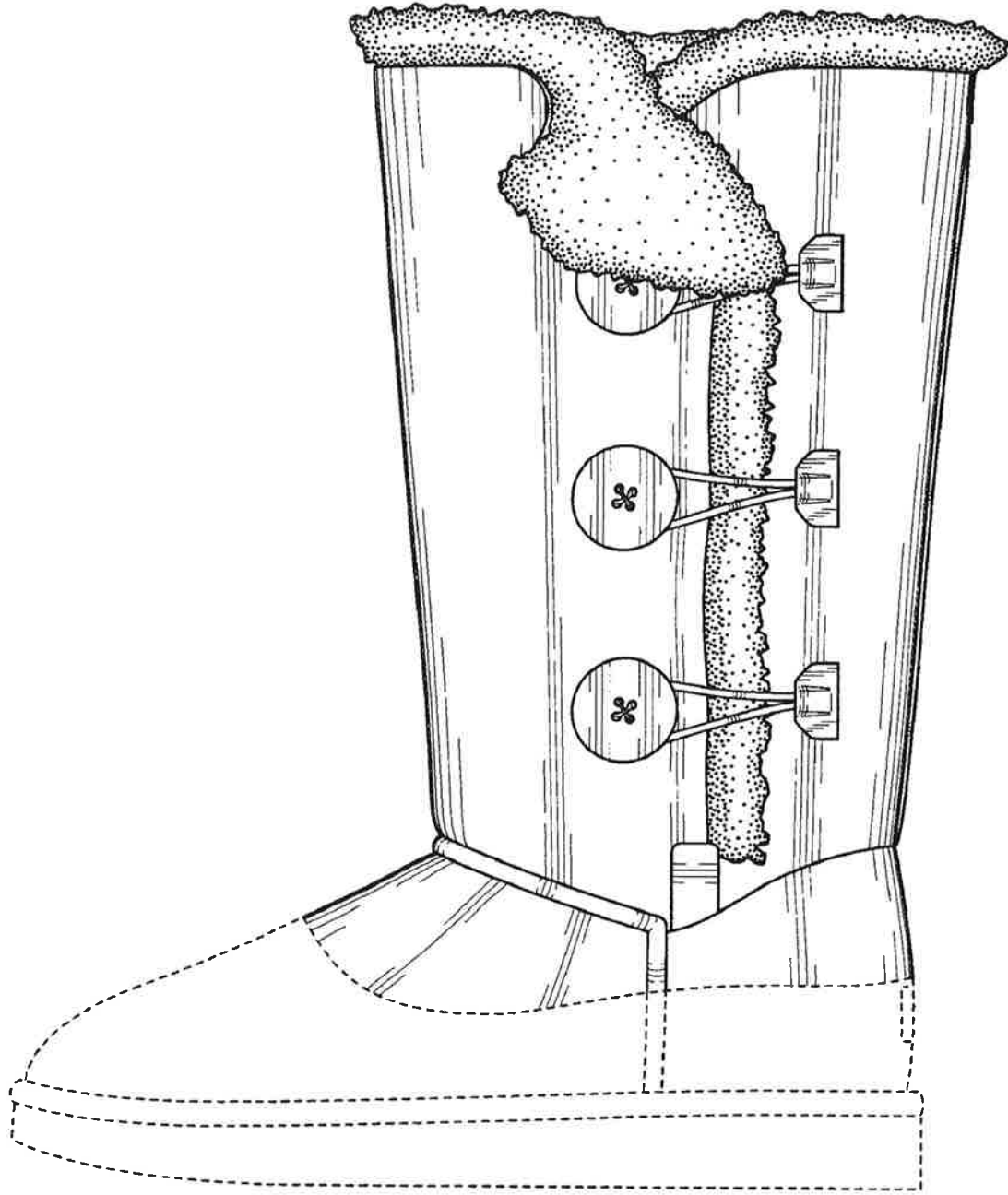


FIG. 2

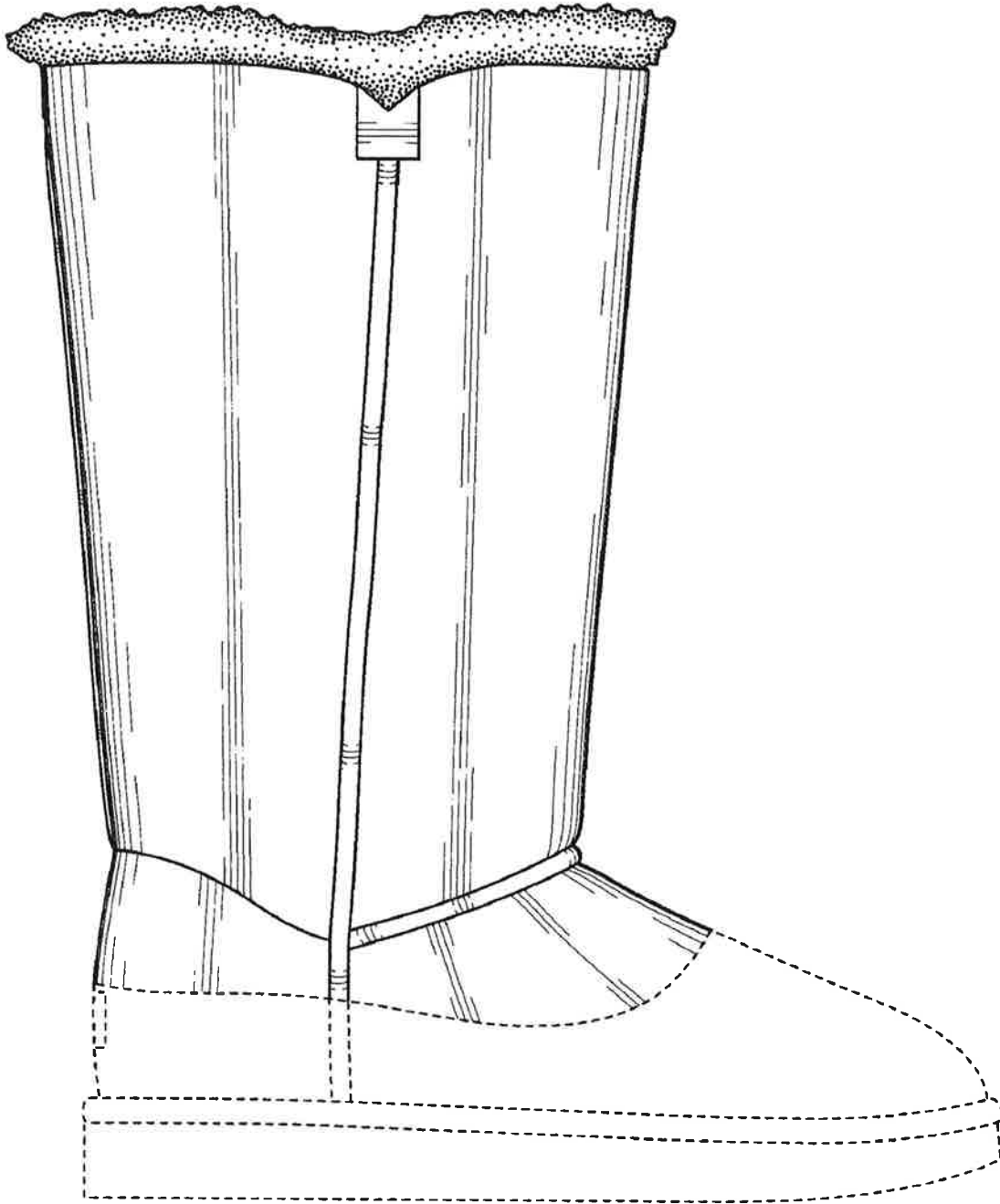


FIG. 3

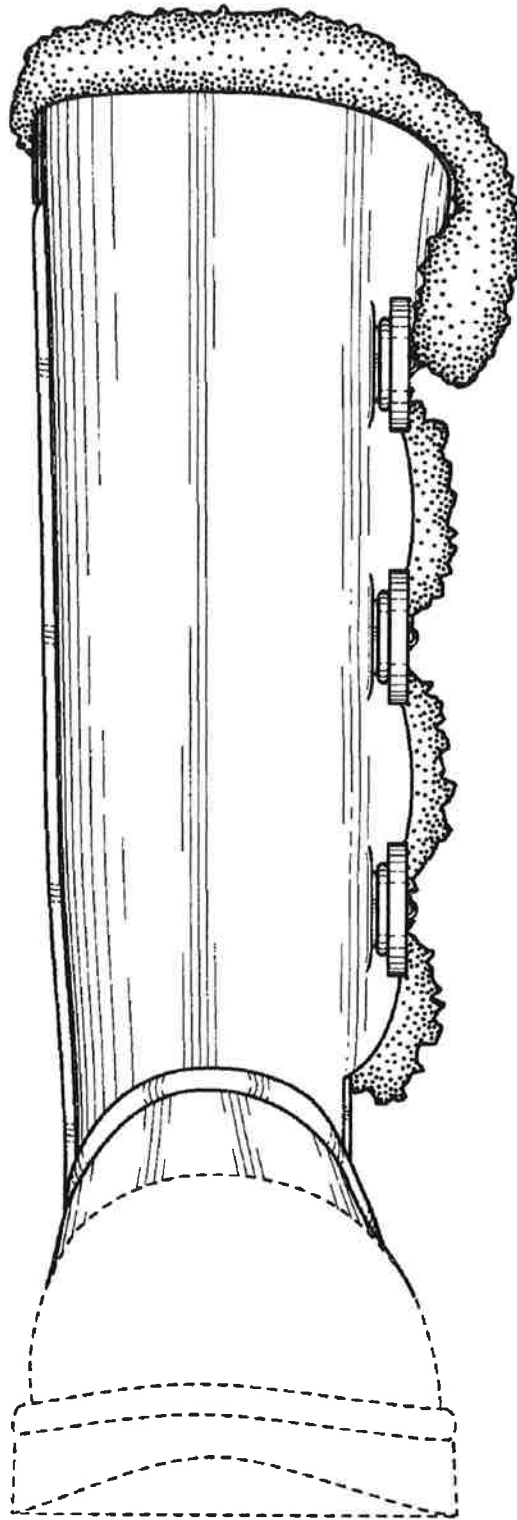


FIG. 4

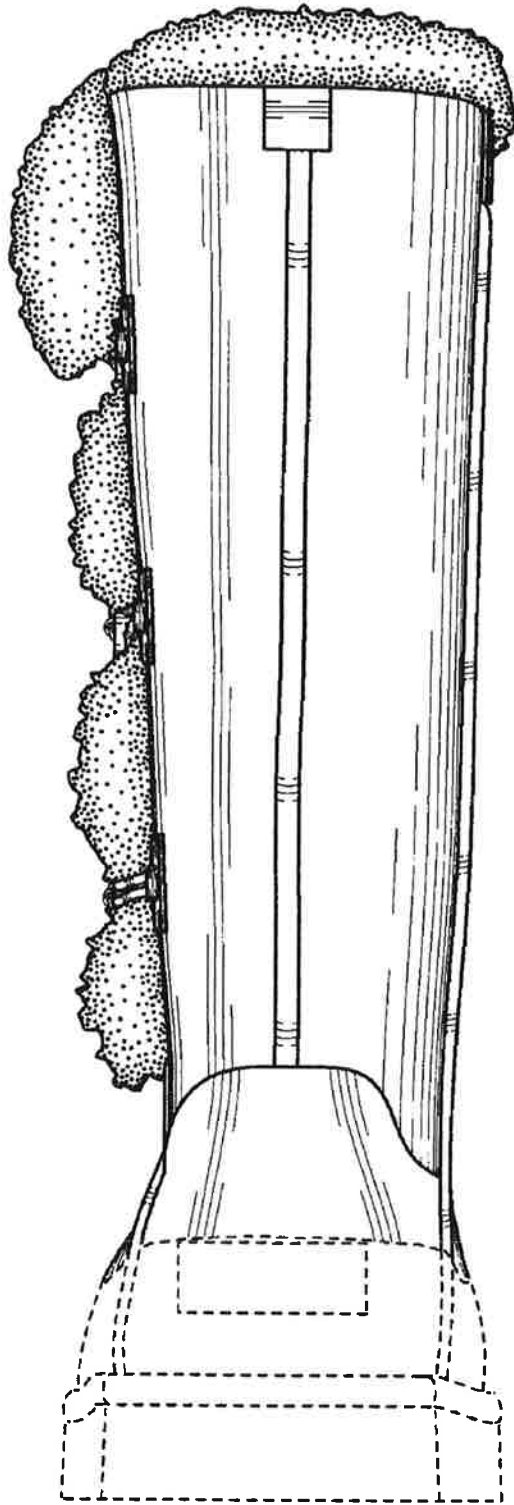


FIG. 5

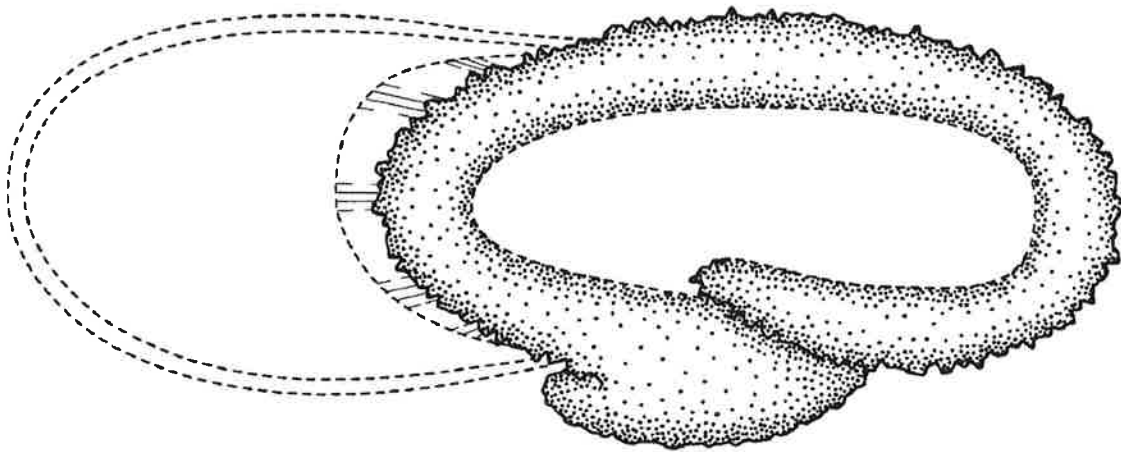


FIG. 6