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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X	
MOLINO'S DIAMONDS INC. d/b/a	:
MOLINO JEWELERS,	:
Plaintiff,	:
	: Civil Action No. 10-cv-1828 (JGK)(df)
	: ECF Case
- against -	:
	:
QUALITY GOLD, INC., GOLDIA OF NY, LLC,	:
UD JEWELRY, ABACUS JEWEL & GIFT,	:
and JOHN DOE	:
	:
Defendants.	:
-----X	

**COMPLAINT**

Plaintiff, Molino's Diamonds Inc. d/b/a Molino Jewelers (hereinafter "Molino" or "Plaintiff"), complains of Quality Gold, Inc. (hereinafter "QualityGold"), Goldia of NY, LLC (hereinafter "Goldia"), UD Jewelry (hereinafter "UD Jewelry"), Abacus Jewel & Gift (hereinafter "Abacus") and John Doe (hereinafter "DOE") (hereinafter collectively "Defendants"), as follows:

1. This action arises under the patent laws of the United States, 35 U.S.C. Section 101 et seq.

Jurisdiction and Venue

2. This Court has original subject matter jurisdiction over this action under Title 28, United States Code, Sections 1338(a) and (b).

3. Upon information and belief, Defendant QualityGold, through its officers, agents and/or employees, transacts or is doing business in this District, including soliciting business in, shipping goods into this district, sales and derives substantial revenue from intrastate and interstate commerce, which has an effect in this district. Accordingly, venue is proper in this judicial district pursuant to 28 U.S.C. Section 1391(c) and 1400(b).

4. Upon information and belief, Defendant Goldia, through its officers, agents and/or employees, transacts or is doing business in this District, including soliciting business in, shipping goods into this district, sales and derives substantial revenue from intrastate and interstate commerce, which has an effect in this district. Accordingly, venue is proper in this judicial district pursuant to 28 U.S.C. Section 1391(c) and 1400(b).

5. Upon information and belief, Defendant UD Jewelry, through its officers, agents and/or employees, transacts or is doing business in this District, including soliciting business in, shipping goods into this district, sales and derives substantial revenue from intrastate and interstate commerce, which has an effect in this district. Accordingly, venue is proper in this judicial district pursuant to 28 U.S.C. Section 1391(c) and 1400(b).

6. Upon information and belief, Defendant Abacus, through its officers, agents and/or employees, transacts or is doing business in this District, including soliciting business in, shipping goods into this district, sales and derives substantial revenue from intrastate and interstate commerce, which has an effect in this district. Accordingly, venue is proper in this judicial district pursuant to 28 U.S.C. Section 1391(c) and 1400(b).

7. Upon information and belief, Defendant DOE, through its officers, agents and/or

employees, transacts or is doing business in this District, including soliciting business in, shipping goods into this district, sales and derives substantial revenue from intrastate and interstate commerce, which has an effect in this district. Accordingly, venue is proper in this judicial district pursuant to 28 U.S.C. Section 1391(c) and 1400(b).

The Parties

8. Plaintiff is a New York corporation having a principal place of business at 324 Route 202, Pomona, New York 10970.

9. Upon information and belief, QualityGold is an Ohio corporation having a principal place of business at 500 Quality Boulevard, Fairfield, Ohio 45014.

10. Upon information and belief, Goldia is a New York limited liability company having a principal place of business at 22 West 48<sup>th</sup> Street, Suite 1405, New York, New York 10036.

11. Upon information and belief, UD Jewelry is a New Jersey company, having a place of business at 12 Calison Lane, Voorhees, NJ 08043.

12. Upon information and belief, Abacus is a New Jersey company, having a place of business at 908 Oaktree Avenue, Suite H, South Plainfield, NJ 07080.

13. Upon information and belief, DOE is a corporation, entity or individual, whose identity is not presently known, is involved in the transactions described below.

Facts

14. Plaintiff is the owner of all right, title and interest in and to the valid and subsisting U.S. Patent No. 6,789,395 for“Convertible Pendant Jewelry,”issued to William Molino, Igor Dranovsky and Mikhail Buryakov on September 14, 2004 (hereinafter“the ‘395 patent’ or“the

patent in suit'), a copy of which is attached hereto as Exhibit A.

15. Upon information and belief, Defendants have infringed the patent in suit, in this district and elsewhere by making, using and selling and inducing others to use and sell the following products: 'The Sterling Silver CZ Hearts Convertible Style Necklace', Style No. QG2128-16, ('Defendants' Product A'), 'Sterling Silver Red and Clear CZ Cross Convertible Style Necklace', Style No. QG2127-16, ('Defendants' Product B'), 'Sterling Silver Dark Red and Clear CA Convertible Style Necklace', Style No. QG2126-16, ('Defendants' Product C'), and 'Sterling Silver Blue and Clear CZ Convertible Style Necklace', Style No. QG2124-16, ('Defendants' Product D') (collectively hereinafter 'Defendants' Products'). QualityGold offered for sale Defendants' Products on its website [www.qgold.com](http://www.qgold.com). A copy from QualityGold's website, [www.qgold.com](http://www.qgold.com), displaying Defendants' Products is attached hereto as Exhibit B. A copy from QualityGold's website, [www.qgold.com](http://www.qgold.com), displaying the details of Defendant's Product A is attached hereto as Exhibit C. A copy from QualityGold's website, [www.qgold.com](http://www.qgold.com), displaying the details Defendant's Product B is attached hereto as Exhibit D. A copy from QualityGold's website, [www.qgold.com](http://www.qgold.com), displaying the details of Defendant's Product C is attached hereto as Exhibit E. A copy from QualityGold's website, [www.qgold.com](http://www.qgold.com), displaying Defendant's Product D is attached hereto as Exhibit F.

16. Goldia offered for sale Defendants' Products on its website [www.goldia.com](http://www.goldia.com). A copy from Goldia's website, [www.goldia.com](http://www.goldia.com), displaying Defendant's Product A is attached hereto as Exhibit G. A copy from Goldia's website, [www.goldia.com](http://www.goldia.com), displaying Defendant's Product B is attached hereto as Exhibit H. A copy from Goldia's website, [www.goldia.com](http://www.goldia.com), displaying Defendant's Product C is attached hereto as Exhibit I. A copy from Goldia's website, [www.goldia.com](http://www.goldia.com), displaying Defendant's Product D is attached hereto as Exhibit J.

17. UD Jewelry offered for sale Defendants' Products on its website [www.ud-jewelry.com](http://www.ud-jewelry.com). A copy from UD Jewelry's website, [www.ud-jewelry.com](http://www.ud-jewelry.com), displaying Defendant's Product A is attached hereto as Exhibit K. A copy from UD Jewelry's website, [www.ud-jewelry.com](http://www.ud-jewelry.com), displaying Defendant's Product B is attached hereto as Exhibit L. A copy from UD Jewelry's website, [www.ud-jewelry.com](http://www.ud-jewelry.com), displaying Defendant's Product C is attached hereto as Exhibit M. A copy from UD Jewelry's website, [www.ud-jewelry.com](http://www.ud-jewelry.com), displaying Defendant's Product D is attached hereto as Exhibit N.

18. Abacus offered for sale Defendants' Products on its website [www.abacusjewelift.stores.yahoo.net](http://www.abacusjewelift.stores.yahoo.net). A copy from Abacus's website, [www.abacusjewelift.stores.yahoo.net](http://www.abacusjewelift.stores.yahoo.net), displaying Defendant's Product A is attached hereto as Exhibit O. A copy from Abacus's website, [www.abacusjewelift.stores.yahoo.net](http://www.abacusjewelift.stores.yahoo.net), displaying Defendant's Product B is attached hereto as Exhibit P. A copy from Abacus's website, [www.abacusjewelift.stores.yahoo.net](http://www.abacusjewelift.stores.yahoo.net), displaying Defendant's Product C is attached hereto as Exhibit Q. A copy from Abacus's website, [www.abacusjewelift.stores.yahoo.net](http://www.abacusjewelift.stores.yahoo.net), displaying Defendant's Product D is attached hereto as Exhibit R.

19. Upon information and belief, DOE has infringed the patent in suit, in this district and elsewhere by making, using and selling and inducing others to use and sell Defendants' Products.

20. Upon information and belief, QualityGold has offered for sale and sold Defendants' Products to Goldia.

21. Upon information and belief, QualityGold has offered for sale and sold Defendants' Products to UD Jewelry.

22. Upon information and belief, QualityGold has offered for sale and sold Defendants' Products to Abacus.

23. On or about June 22, 2007, a cease and desist letter was sent to QualityGold giving QualityGold notice of the patent in suit and requesting that QualityGold discontinue all sales of Defendant's Product C and Defendant's Product D and account to Molino for past infringement.

24. Upon information and belief, on or about July 6, 2007, QualityGold represented that it had ceased sales of Defendant's Product C and Defendant's Product D.

25. Upon information and belief, subsequent to July 6, 2007, and at least as early as 2009, QualityGold began selling and offering to sell Defendants' Products.

26. On information and belief, QualityGold sold and offered to sell Defendants' Products.

Patent Infringement of U.S. Patent No. 6,789,395

27. Plaintiff repeats, re-alleges and incorporates by reference the allegations contained in paragraphs 1 through 26 as if fully set forth herein.

28. This is a claim for patent infringement, arising under the patent law of the United States, Title 35, United States Code, Sections 101 et seq.

29. Upon information and belief, QualityGold has infringed one or more claims of the '395 patent, in this district and elsewhere, by making, using and selling and inducing others to use and sell Defendants' Products embodying the '395 patent.

30. Upon information and belief, Goldia has infringed one or more claims of the '395 patent, in this district and elsewhere, by making, using and selling and inducing others to use and sell Defendants' Products embodying the '395 patent.

31. Upon information and belief, UD Jewelry has infringed one or more claims of the '395 patent, in this district and elsewhere, by making, using and selling and inducing others to use and sell Defendants' Products embodying the '395 patent.

32. Upon information and belief, Abacus has infringed one or more claims of the '395 patent, in this district and elsewhere, by making, using and selling and inducing others to use and sell Defendants' Products embodying the '395 patent.

33. On information and belief, QualityGold's infringement has been with notice and knowledge of the '395 patent and is deliberate, willful and wanton.

34. Upon information and belief, DOE has infringed one or more claims of the '395 patent, in this district and elsewhere, by making, using and selling and inducing others to use and sell Defendants' Products embodying the '395 patent.

35. By reason of the infringement by Defendants, Plaintiff has suffered damages in an amount to be ascertained upon an accounting.

36. By reason of the infringement by Defendants, Plaintiff has suffered irreparable harm for which there is no adequate remedy at law and will continue to suffer additional irreparable harm unless Defendants are permanently and perpetually enjoined from continuing their infringement.

WHEREFORE, Plaintiff prays for judgment:

- A. Finding the patent in suit valid and infringed by Defendants;
- B. Preliminarily and permanently enjoining Defendants, their employees, officers, directors, agents, servants and all others in privity from infringing the claims of the patent in suit as provided for in 35 U.S.C. Section 283;
- C. Ordering an accounting to assess and award damages to Plaintiff for Defendants'

infringement of the patent in suit, and increasing the damages awarded to Plaintiff to three times the amount found by reason of Defendants' willful continuing infringement as provided for in 35 U.S.C. Section 284;

D. Awarding Plaintiff its costs and reasonable attorney's fees;

E. Declaring this case exceptional by reason of Defendants' willful infringement and awarding Plaintiff its attorney's fees incurred in prosecuting this action as provided for in 35 U.S.C. Section 285; and

F. Granting Plaintiff such other and further relief as this Court may deem just and proper.

DEMAND FOR JURY TRIAL

Trial by jury is hereby demanded as to all issues in this action so triable.

Date: March 5, 2010  
New York, New York

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gloria@mt-iplaw.com



# **EXHIBIT A**



**(12) United States Patent**  
**Molino et al.**

**(10) Patent No.: US 6,789,395 B2**  
**(45) Date of Patent: Sep. 14, 2004**

**(54) CONVERTIBLE PENDANT JEWELRY**

**(75) Inventors:** William Molino, Valley Cottage, NY (US); Igor Dranovsky, New City, NY (US); Mikhail Buryakov, New City, NY (US)

**(73) Assignee:** Molino Jewellers, Pomona, NY (US)

**(\*) Notice:** Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.

1,797,703 A	*	3/1931	Sulger et al.	63/20
3,381,495 A	*	5/1968	Emerson	63/33
4,034,573 A	*	7/1977	Elkaim	63/31
D247,881 S	*	5/1978	Hitchens	D11/41
4,245,486 A	*	1/1981	Matsumoto et al.	63/23
4,381,653 A	*	5/1983	Diehl	63/33
4,461,158 A	*	7/1984	Diehl	63/33
4,512,748 A	*	4/1985	Matsumoto et al.	446/354
4,542,631 A	*	9/1985	Esser, III	63/31
4,967,574 A	*	11/1990	Bielka	63/23
4,970,878 A	*	11/1990	Lee	63/23
6,070,435 A	*	6/2000	Davidziak	63/23
6,082,139 A	*	7/2000	Davidziak	63/23

**(21) Appl. No.:** 10/456,188

**(22) Filed:** Jun. 6, 2003

**(65) Prior Publication Data**

US 2004/0020243 A1 Feb. 5, 2004

**Related U.S. Application Data**

**(60) Provisional application No. 60/399,281, filed on Jul. 30, 2002.**

**(51) Int. Cl.<sup>7</sup> ..... A44C 13/00**

**(52) U.S. Cl. .... 63/1.16; 63/29.1; 63/31; 63/40**

**(58) Field of Search ..... 63/29.1, 31, 40, 63/23, 1.16, 1.17**

**(56) References Cited**

**U.S. PATENT DOCUMENTS**

770,573 A	*	9/1904	Hacherelle	63/23
1,032,257 A	*	7/1912	Walrow	63/23
D59,529 S	*	10/1921	Weed	D11/79

**FOREIGN PATENT DOCUMENTS**

JP	2000106924	*	4/2000	
JP	2000106924 A	*	4/2000	A44C/25/00

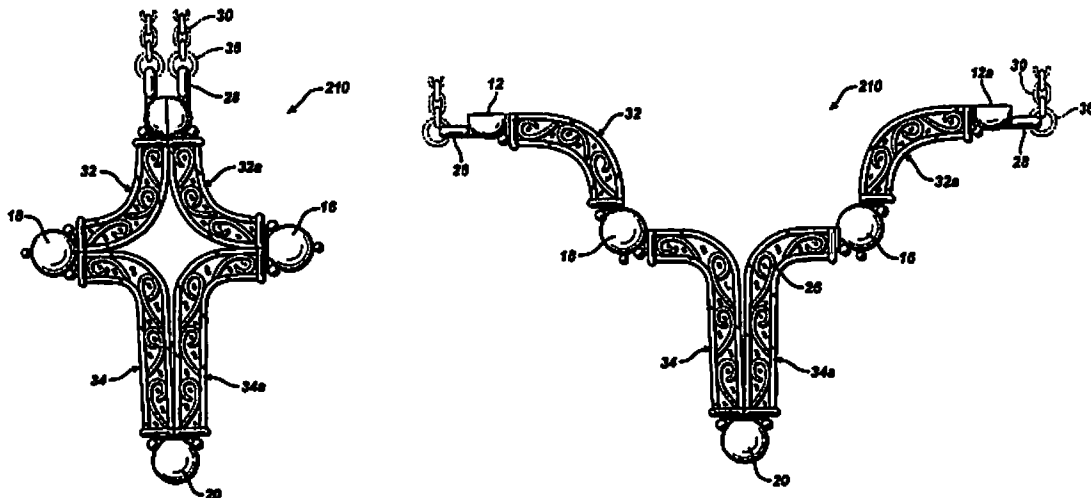
\* cited by examiner

**Primary Examiner—Robert J. Sandy**  
**Assistant Examiner—Katherine Mitchell**  
**(74) Attorney, Agent, or Firm—I. Zborovsky**

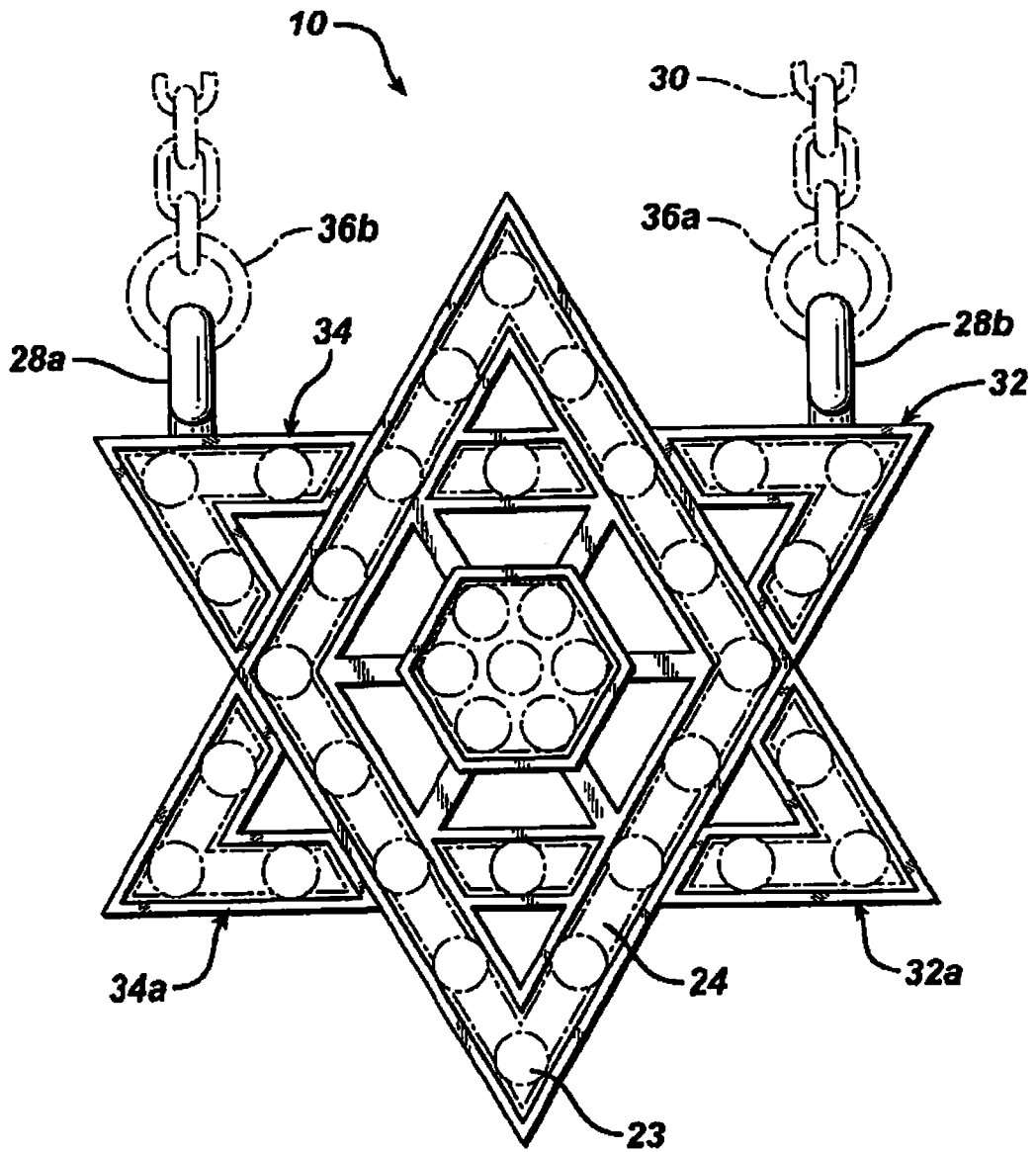
**(57) ABSTRACT**

A pendant necklace having a chain and a pendant. The pendant can convert from a first closed configuration, such as a Star of David, heart, or cross, to at least one open configuration such that multiple decorative looks are available. The pendant comprises at least three elements which are pivotably connected, and the pendant elements are prevented from pivoting about each other to a predetermined angle by pivot stops so that the open configuration does not inadvertently go to the closed configuration when in the open configuration.

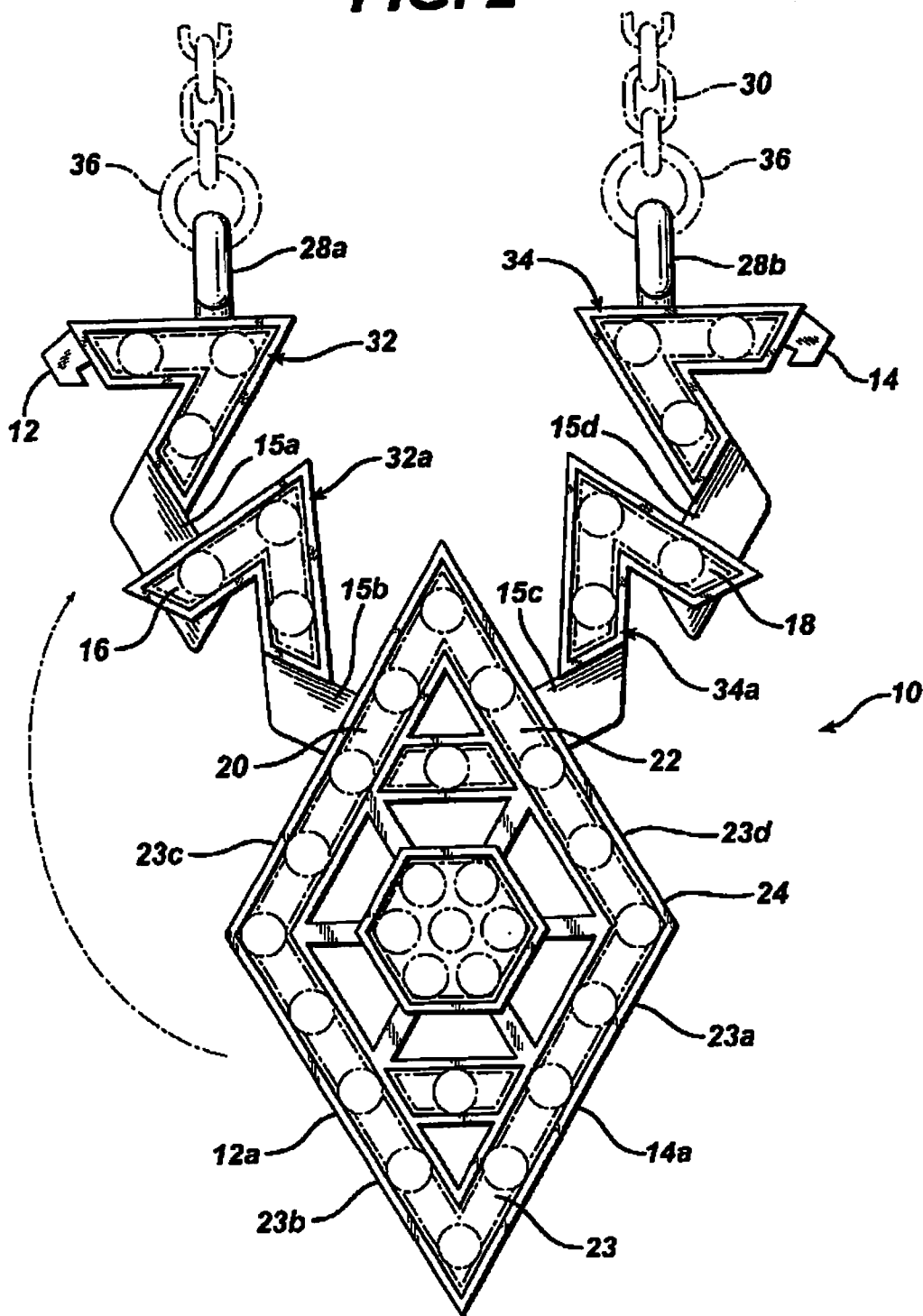
**9 Claims, 16 Drawing Sheets**



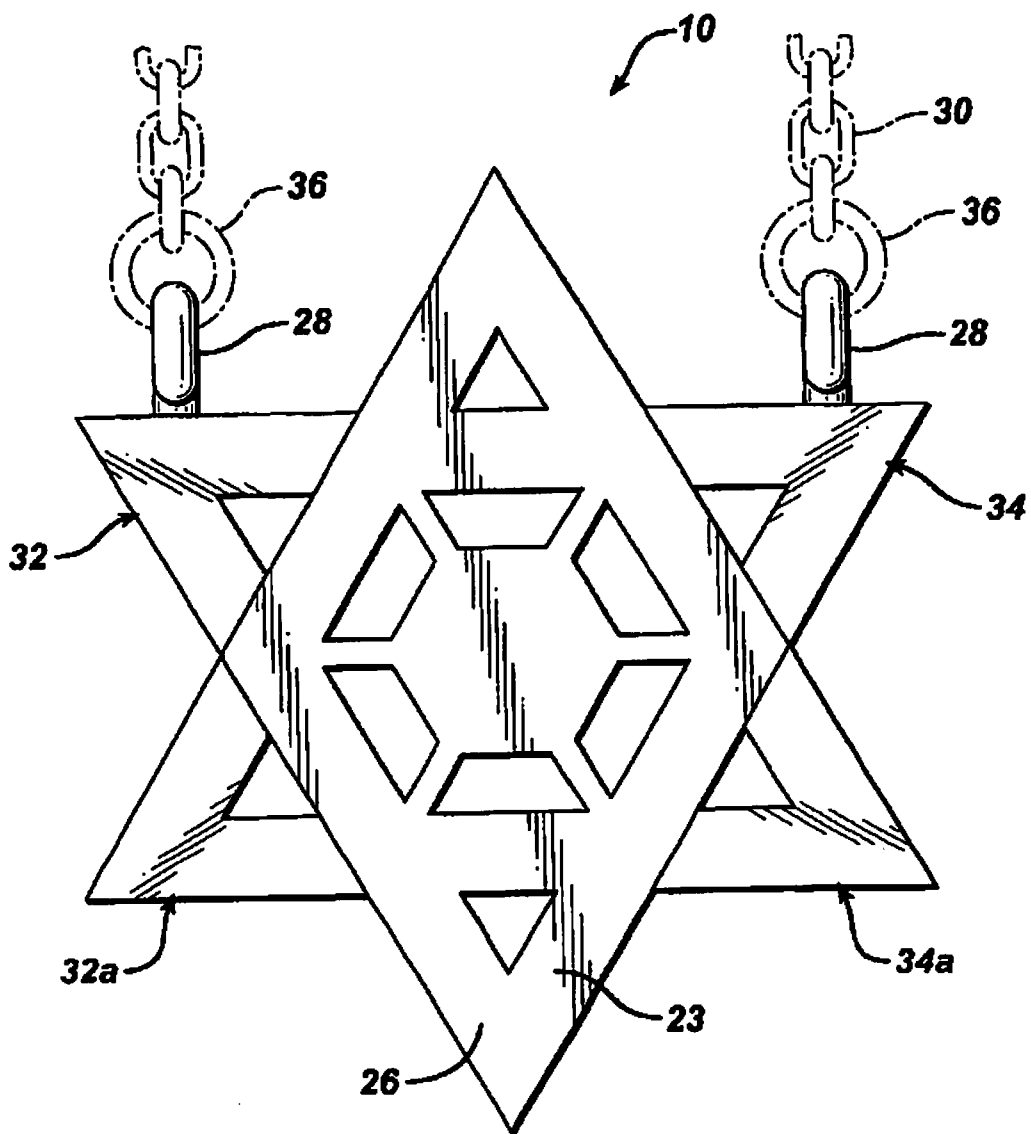
**FIG. 1**



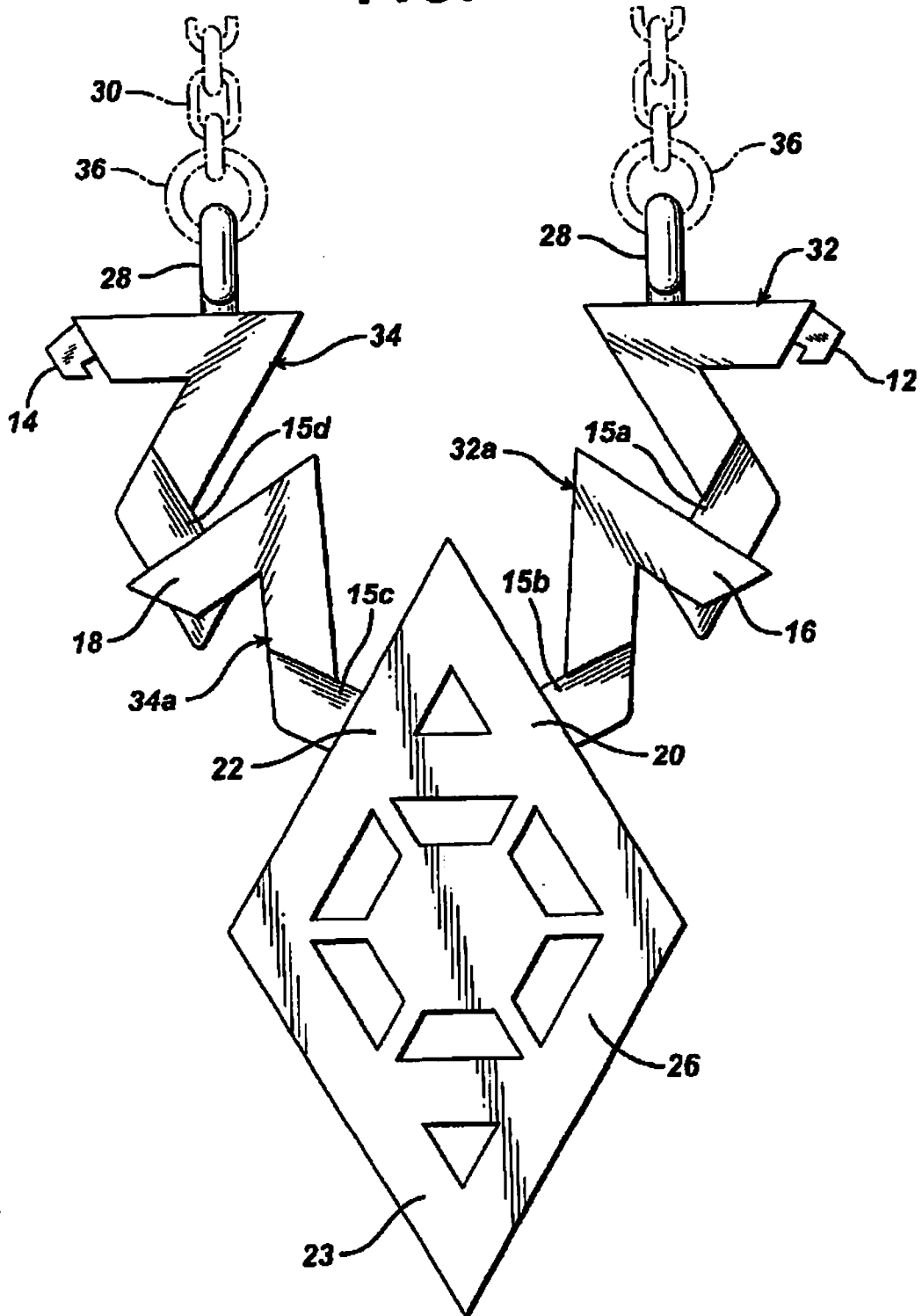
**FIG. 2**



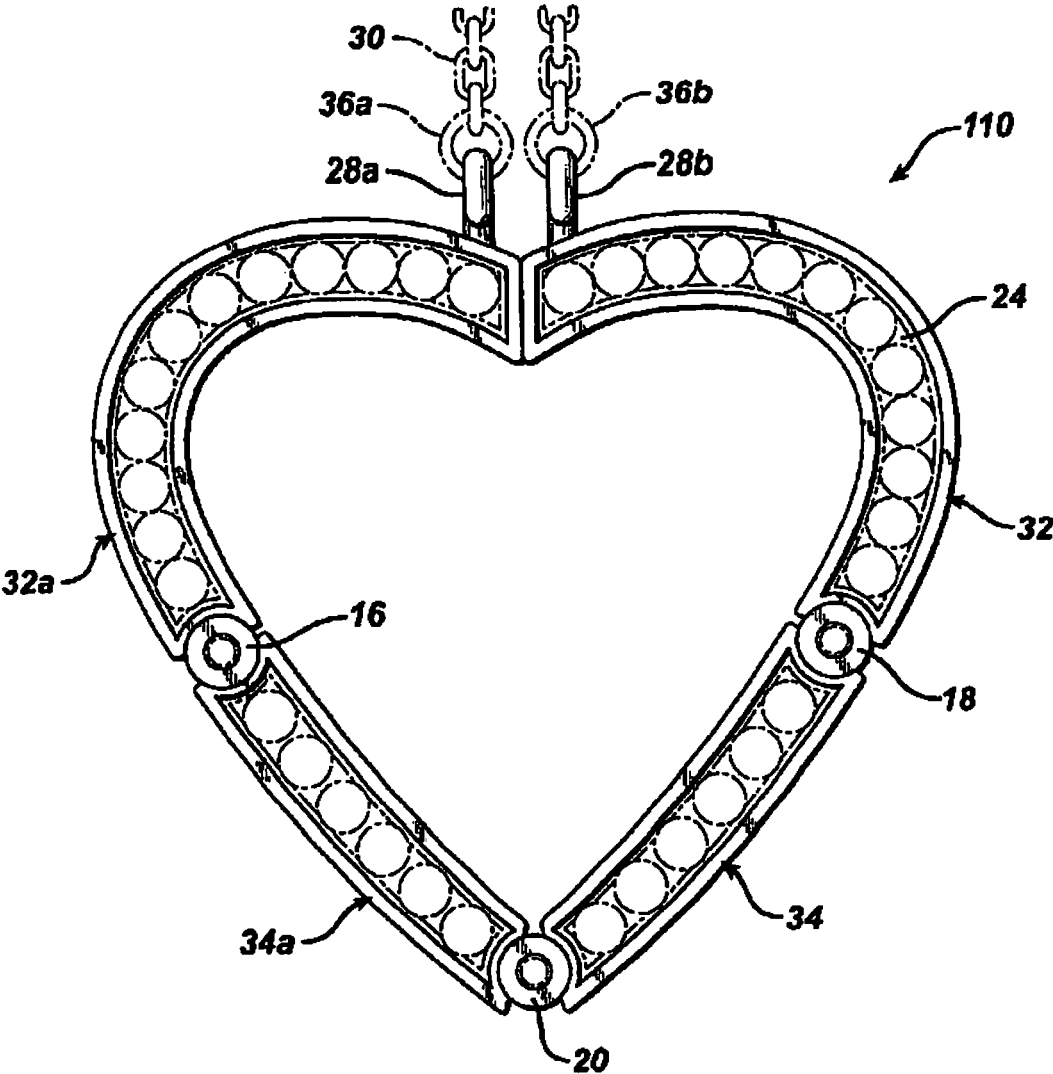
**FIG. 3**



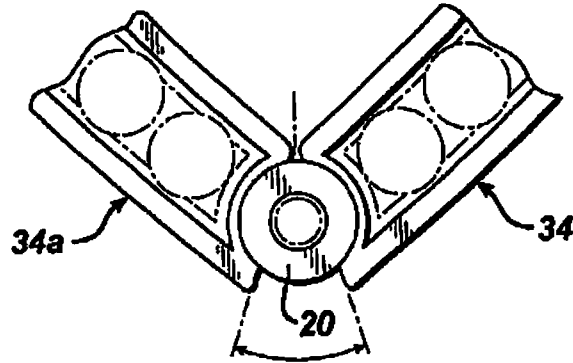
**FIG. 4**



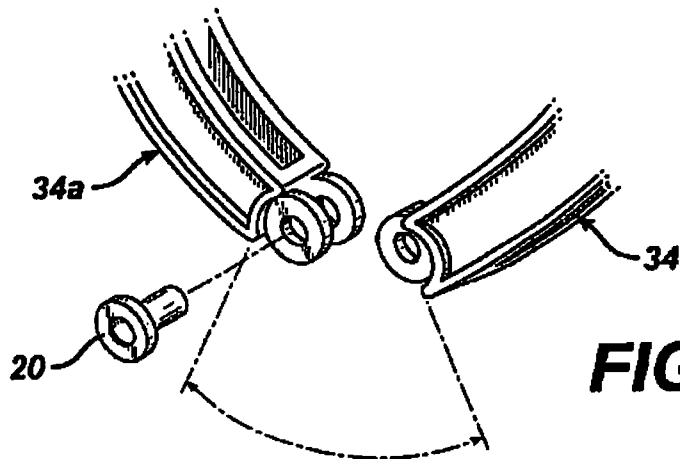
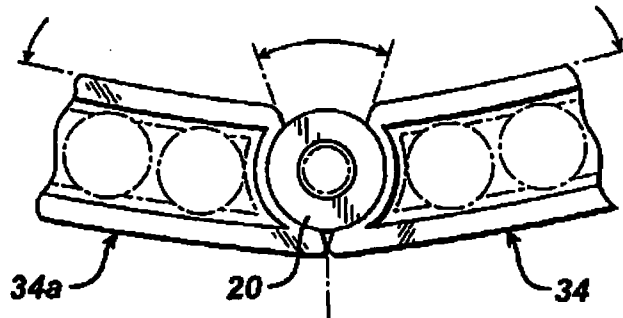
**FIG. 5**



**FIG. 5a**



**FIG. 5b**



**FIG. 5c**



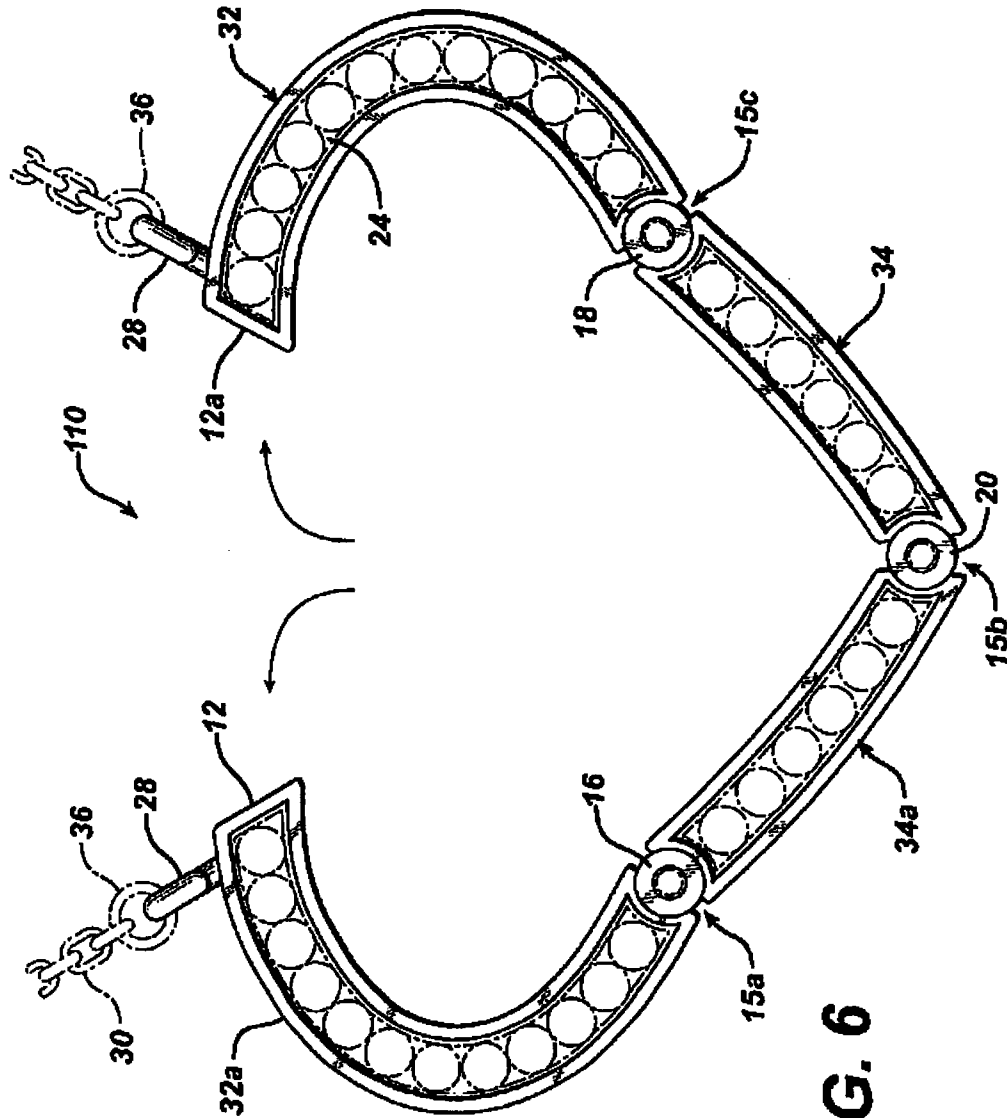


FIG. 6

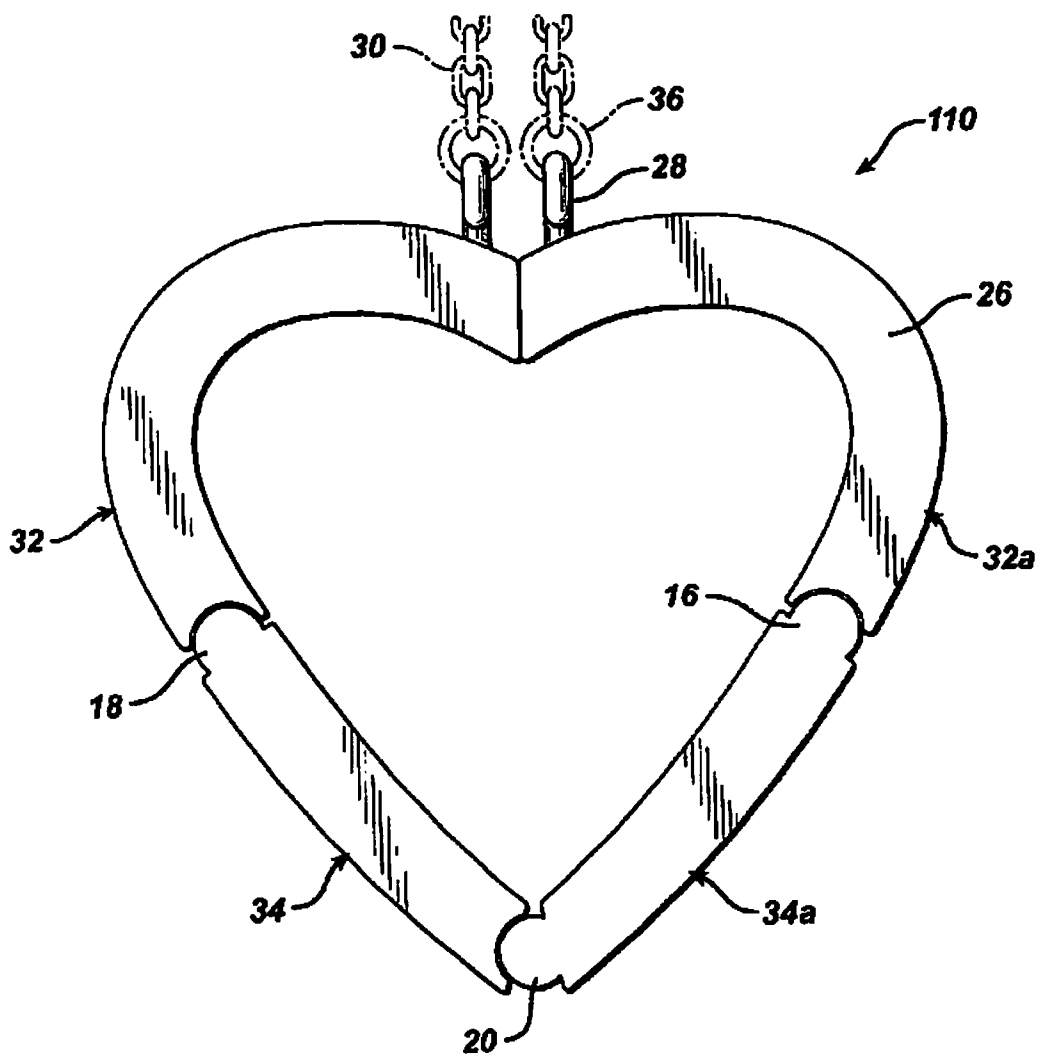
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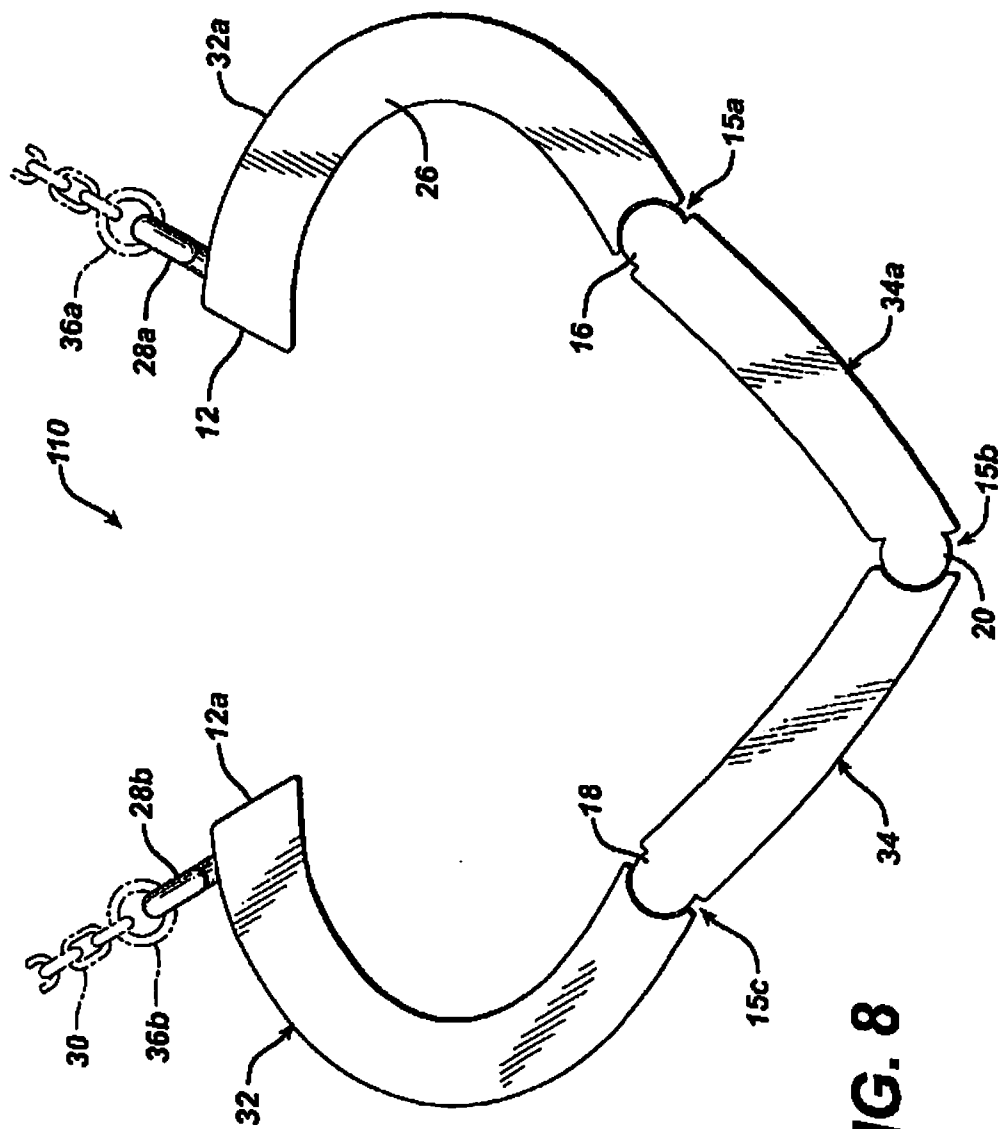
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**FIG. 7**





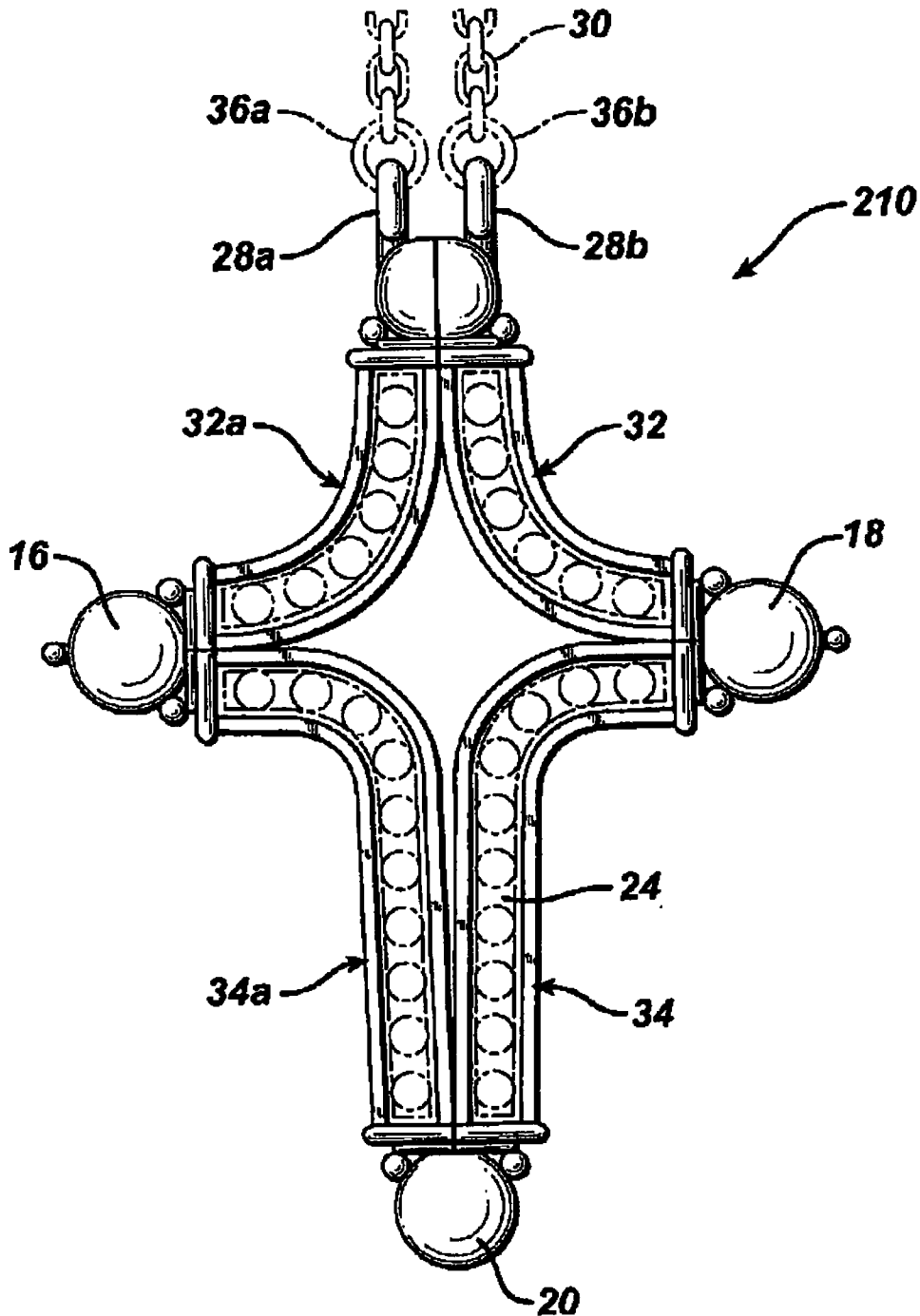
U.S. Patent

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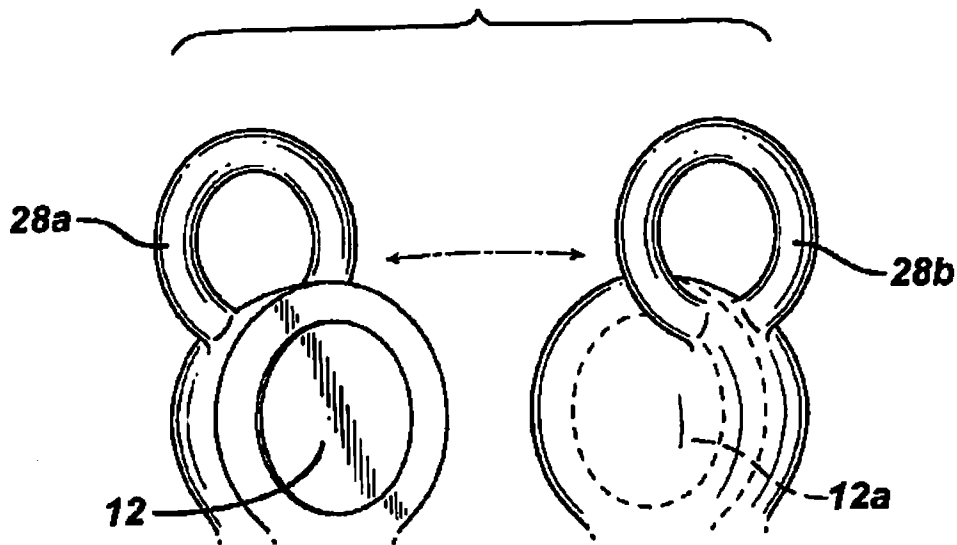
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**FIG. 9**



**FIG. 9a**



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FIG. 10

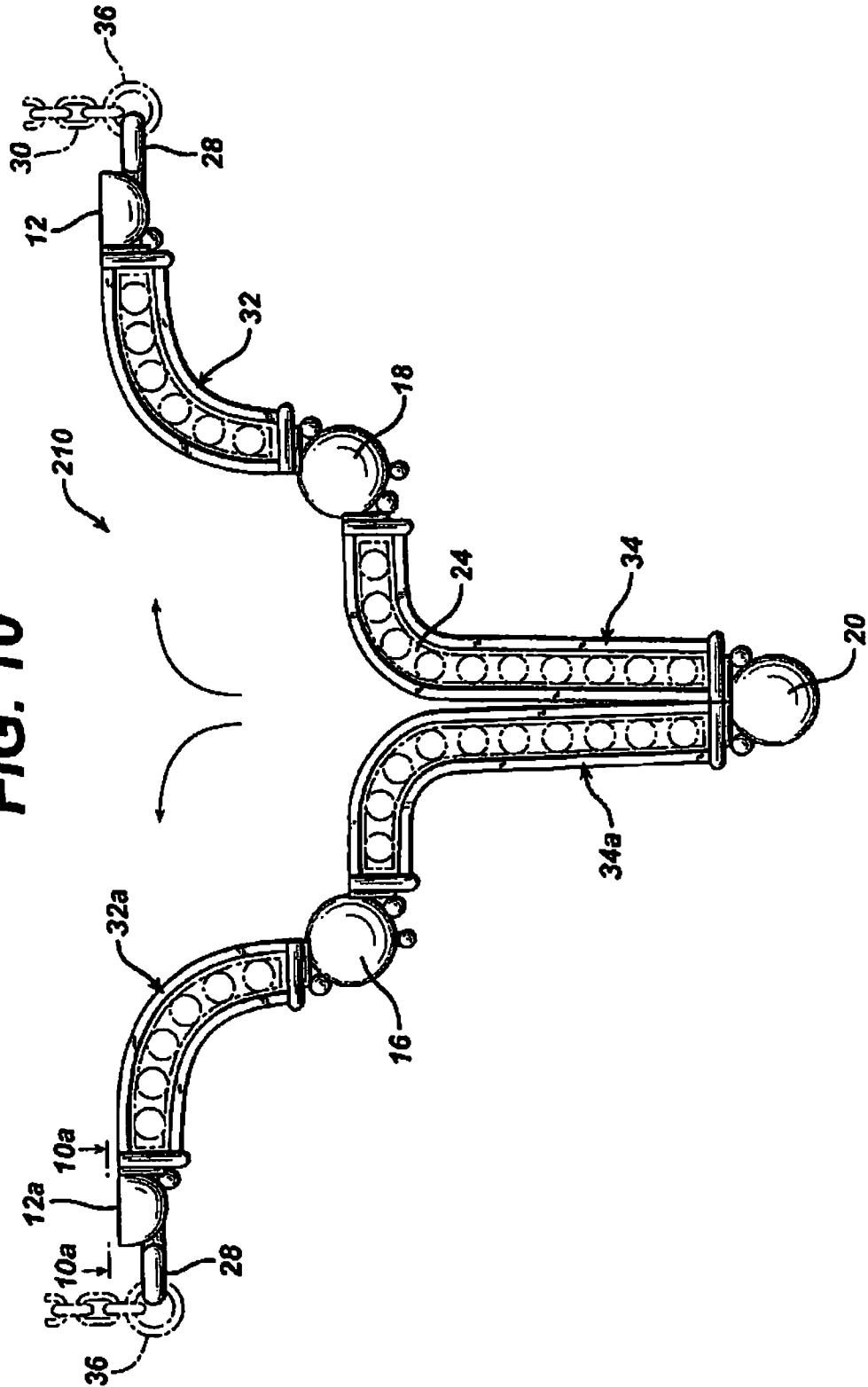
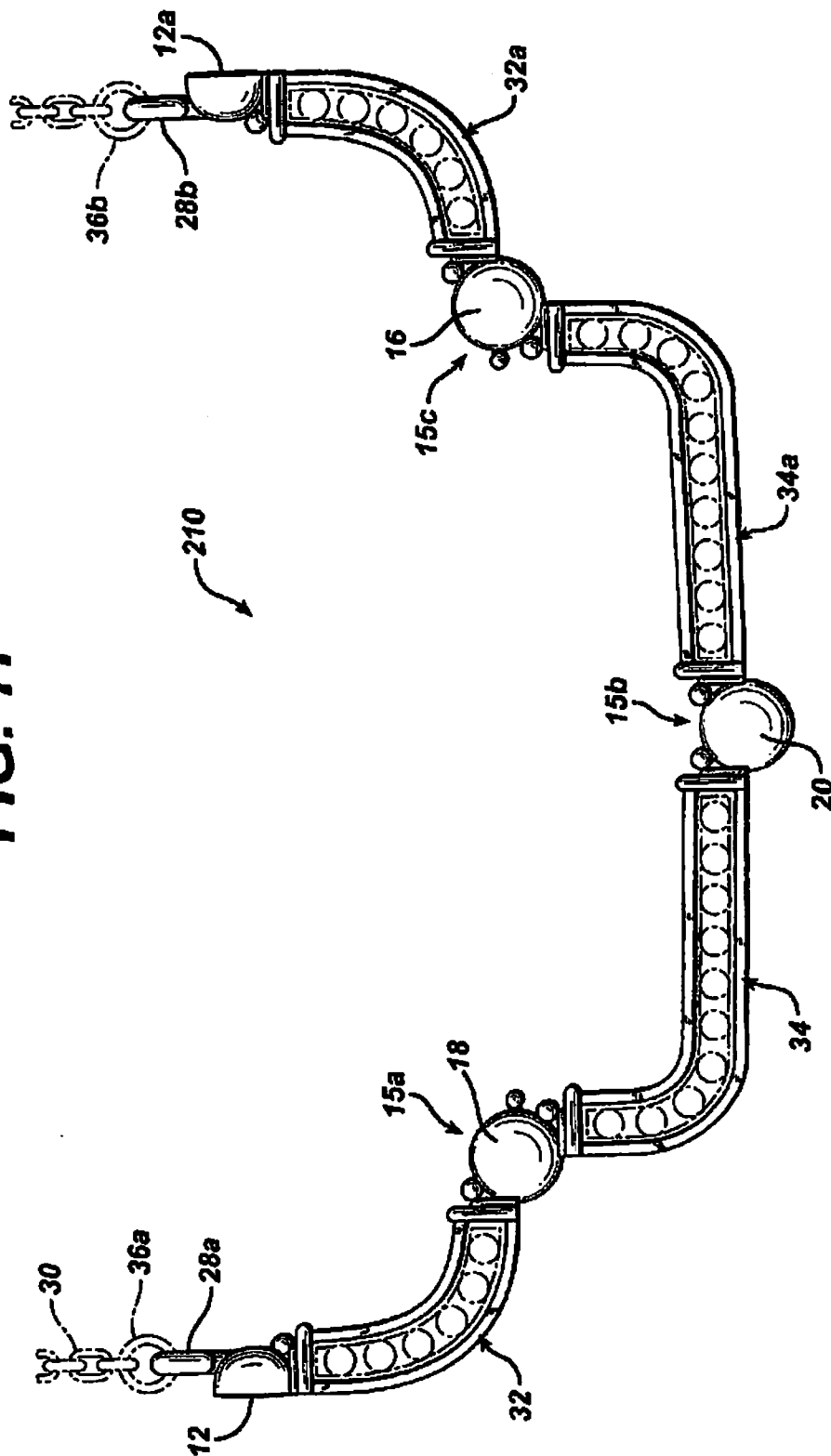


FIG. 11



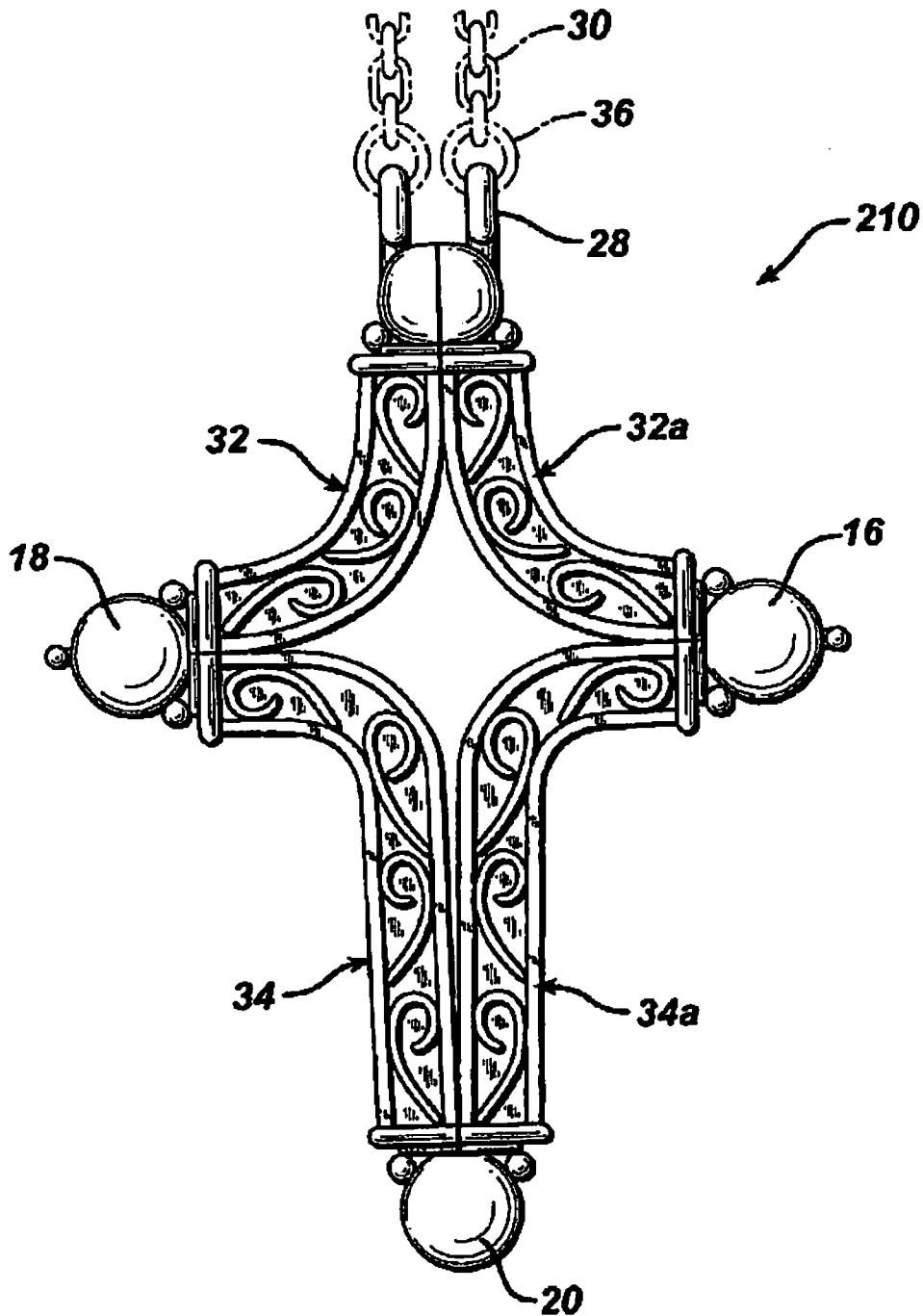
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**FIG. 12**





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FIG. 13

