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3:03-CV-01205 MIRACLE BLADE V. FOWLER PRODUCTS

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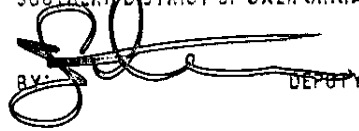
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CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY:  DEPUTY



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UNITED STATES DISTRICT COURT

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SOUTHERN DISTRICT OF CALIFORNIA

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12 Miracle Blade, LLC, a California limited  
liability company,

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Plaintiff,

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vs.

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16 Fowler Products, a Nevada company; Joe  
Fowler, LLC, a Nevada limited liability  
company; Ronald Blankenship, an individual;  
17 Joseph B. Fowler, and individual; Jamie  
Green, an individual; Mark Hyman, an  
18 individual; and Robert Payne, an individual,

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Defendants.

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22

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No. '03 CV 1205 J LSP

COMPLAINT OF MIRACLE BLADE,  
LLC FOR:

- 1. PATENT INFRINGEMENT;
- 2. UNFAIR COMPETITION UNDER THE LANHAM ACT § 43(a);
- 3. CALIFORNIA UNFAIR COMPETITION UNDER CAL. BUS. & PROF. CODE §§ 17200 ET SEQ. AND 17500;
- 4. COMMON LAW UNFAIR COMPETITION; AND
- 5. COMMON LAW TRADE DRESS INFRINGEMENT.

**DEMAND FOR JURY TRIAL**

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1 Plaintiff, Miracle Blade, LLC, through its attorneys of record, alleges as follows:

2 **INTRODUCTION**

3 This is a complaint for patent and trade dress infringement. This Complaint is based  
4 upon the Defendant's unauthorized manufacture, use, promotion, advertising and sale of  
5 Plaintiff's patented kitchen knives.

6 **JURISDICTION AND VENUE**

7 1. This is a civil action arising under the patent and trademark laws of the  
8 United States 15 U.S.C. § 1125 et seq. and 35 U.S.C. § 271 et seq. Accordingly, this court  
9 has jurisdiction under 28 U.S.C. §§ 1331, 1367, and 1338. On information and belief,  
10 jurisdiction is also proper under 28 U.S.C. § 1332. Plaintiff is informed and believes and  
11 thereon alleges that the amount in controversy, exclusive of interest and costs, exceeds the  
12 jurisdictional minimum.

13 2. Venue in this court is proper under 28 U.S.C. §§ 1391(b) and 1400.

14 **THE PARTIES**

15 3. Plaintiff MIRACLE BLADE, LLC, ("Miracle Blade") is a Delaware limited  
16 liability company having an address and principal place of business at 4929 Wilshire  
17 Boulevard, Suite 500, Los Angeles, California, 90010.

18 4. On information and belief, Defendant Fowler Products, is a company of  
19 unknown form, with a principle place of business and business address at PO Box 60131,  
20 Las Vegas, NV 89160.

21 5. On information and belief, Defendant Joe Fowler, LLC ("Fowler LLC"), is a  
22 limited liability company formed under the laws of the State of Nevada, with a principle  
23 place of business and business address at P.O. Box 60131, Las Vegas, NV 89160. On  
24 information and belief, the members of the limited liability company are residents of  
25 Nevada.

26 6. On information and belief, Defendant Joseph B. Fowler ("Fowler"), is an  
27 individual residing in Las Vegas, Nevada.

28

1           7.       On information and belief, Defendant Ronald Blankenship (“Blankenship”)  
2 is an individual residing in Las Vegas, Nevada.

3           8.       On information and belief, Defendant Jamie Green (“Green”) is an  
4 individual residing in Las Vegas, Nevada.

5           9.       On information and belief, Defendant Mark Hyman (“Hyman”) is an  
6 individual residing in Las Vegas, Nevada.

7           10.      On information and belief, Defendant Robert Payne (“Payne”) is an  
8 individual residing in Las Vegas, Nevada.

9           11.      Together each of the defendants described above shall be referred to herein  
10 as “Defendants.”

11          12.      Upon information and belief, Miracle Blade alleges that at all times relevant  
12 herein, each of the Defendants was acting in concert with the other Defendants and were the  
13 agents of with the other Defendants and were the agents, servants, employees, partners,  
14 joint venturers, and/or co-conspirators of the other defendants, and in doing the things  
15 alleged herein, acted within the scope of said agency, servitude, employment, partnership,  
16 joint venture and/or conspiracy.

17          13.      Miracle Blade is further informed and believes, and on that basis alleges,  
18 that the Defendants, and each of them, are responsible in some manner for the occurrences  
19 herein alleged, and that Miracle Blade’s damages as herein alleged were proximately  
20 caused by the acts or omissions of said defendants and each of them.

21          14.      Upon information and belief, Miracle Blade alleges that Defendants have  
22 knowingly and willfully conspired and agreed among themselves to commit the acts alleged  
23 herein.

24          15.      On information and belief, Miracle Blade alleges that Defendants  
25 manufacture, use, promote, sell, and offer to sell the products complained of herein (viz.,  
26 infringing copies of Miracle Blade’s patented kitchen knives) throughout the United States  
27 and within this judicial district.

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**MIRACLE BLADE'S PATENTED KITCHEN KNIVES**

1  
2 16. Miracle Blade designs, manufactures, advertises and sells uniquely designed  
3 kitchen knives called the Miracle Blade III. Miracle Blade has sold over twelve million of  
4 its uniquely designed and world famous Miracle Blade knives.

5 17. One of Miracle Blade's kitchen knives' most notable features is their  
6 distinctive appearance, including uniquely shaped handles, blades and decorative knobs on  
7 the knife blade. Miracle Blade's kitchen knives are exceptionally durable, as they are  
8 constructed of high quality materials and are skillfully assembled. Because of their durable  
9 construction, they can withstand heavy use in demanding environments, such as  
10 commercial and residential kitchens. Pictures of Miracle Blade's kitchen knives are  
11 attached hereto as Exhibit "A" and incorporated herein by reference.

12 18. As a result of their distinctive designs, on February 15, 2002, Miracle Blade  
13 applied for several patents on the design of their kitchen knives.

14 19. On August 20, 2002, the United States Patent and Trademark Office duly  
15 and lawfully issued U.S. Patent No. Des. 461,681 (the '681 patent). Miracle Blade is the  
16 assignee of all right, title and interest in the '681 patent. A true and correct copy of the  
17 '681 patent is attached hereto as Exhibit "B".

18 20. On August 20, 2002, the United States Patent and Trademark Office duly  
19 and lawfully issued U.S. Patent No. Des. 461,688 (the '688 patent). Miracle Blade is the  
20 assignee of all right, title and interest in the '688 patent. A true and correct copy of the  
21 '688 patent is attached hereto as Exhibit "C".

22 21. Collectively the '681, and '688 patents are referred to as the "Miracle Blade  
23 Patents" herein.

24 22. Miracle Blade's kitchen knives are a considerable success. The public  
25 instantly appreciated the distinctive and attractive design. Miracle Blade's kitchen knives  
26 are now ubiquitous; one sees the Miracle Blade kitchen knives marketed on television and  
27 in kitchens throughout the United States and worldwide.

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1 23. Miracle Blade has expended substantial time, money and effort in marketing  
2 its kitchen knives. As a result of these efforts, and, as a result of extensive sales, Miracle  
3 Blade’s trade dress, i.e., the overall appearance and style of its kitchen knives, have  
4 acquired significant and favorable value as a symbol of Miracle Blade and the quality and  
5 good will of its business. Miracle Blade’s trade dress has therefore acquired secondary  
6 meaning signifying that its kitchen knives come from a single source (i.e., Miracle Blade).

7 **DEFENDANTS INTENTIONAL COPYING, INFRINGEMENT AND FALSE**  
8 **ADVERTISING**

9 24. Recognizing that the design of Miracle Blade’s kitchen knives had captured  
10 the attention of the marketplace, Defendants, on information and belief, began to copy  
11 Miracle Blade’s design and sell those copies to the consuming public.

12 25. As late as June 13, 2003, Defendants sold copies of its unique kitchen knives  
13 at the San Diego County Fair from its space at Bing Crosby Hall #2159 and Exhibit Hall  
14 #4333.

15 26. On information and belief, Defendants, with knowledge of, and in direct  
16 contravention of Miracle Blade’s rights, have manufactured, distributed, advertised,  
17 marketed and sold kitchen knives throughout the United States and in this judicial district  
18 that are virtually indistinguishable from Miracle Blade’s patented kitchen knives. Pictures  
19 of Defendants’ infringing kitchen knives are attached hereto as Exhibit “D”.

20 27. Defendants’ infringing kitchen knives, including those depicted in Exhibit  
21 D, are unauthorized copies of Miracle Blade’s patented kitchen knives. On information and  
22 belief, Defendants manufacture the infringing kitchen knives in the absence of strict quality  
23 control standards. Such products are, moreover, not subject to Miracle Blade’s approval  
24 and have entered the market before Miracle Blade could determine whether or not they  
25 conform to Miracle Blade’s standards.

26 28. On information and belief, Miracle Blade alleges that Defendants  
27 intentionally copied the design and trade dress of Miracle Blade’s kitchen knives in order to  
28

1 free ride on the goodwill, reputation, success, and popularity of Miracle Blade's kitchen  
2 knives.

3 29. In promoting the infringing kitchen knives, Defendants also refer to the  
4 knives as "identical to those seen on TV", intentionally palming off on Miracle Blade's  
5 well recognized unique kitchen knives that have been extensively advertised since  
6 November of 2001 using thirty minute long commercials, commonly referred to as  
7 infomercials.

8 30. On information and belief, Defendants also inappropriately label their  
9 products as using special "Surgical Steel" without actually using said specialty steel.

10 **FIRST CAUSE OF ACTION**

11 **(Patent Infringement)**

12 31. Miracle Blade, re-alleges, and incorporates by reference, as though fully set  
13 forth herein, the allegations contained in paragraphs 1 through 30.

14 32. Defendants have notice of Miracle Blade's rights to the Miracle Blade  
15 Patents.

16 33. Defendants have infringed the Miracle Blade Patents by manufacturing,  
17 using, selling and/or offering for sale within the United States, kitchen knives which  
18 embody the patented designs of the Miracle Blade Patents. On information and belief,  
19 Defendants will continue to infringe the Miracle Blade Patents unless enjoined by this  
20 Court.

21 34. On information and belief, Defendants' infringement has been committed  
22 willfully and with knowledge of Miracle Blade's rights to the Miracle Blade Patents and  
23 has resulted and continues to result in substantial unjust profits and unjust enrichment on  
24 the part of Defendants in an amount yet to be determined.

25 35. On information and belief, Defendants have willfully contributed to and/or  
26 induced infringement of the Miracle Blade Patents and will continue to do so unless  
27 enjoined by this Court.

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1 falsely describes or represents Defendants' goods, with the intent to cause confusion and  
2 mistake, or to deceive the consuming public.

3 42. On information and belief, Defendants threaten to continue the conduct  
4 complained of herein and will continue such conduct unless enjoined by this Court.  
5 Miracle Blade has no adequate remedy at law for such conduct and is suffering and will  
6 continue to suffer irreparable harm as a result. Miracle Blade is also suffering damages in  
7 an amount not yet determined.

8 43. As a direct and proximate result of Defendants' unfair competitive acts,  
9 Miracle Blade is entitled to damages, and upon information and belief, a preliminary and  
10 permanent injunction enjoining and restraining Defendants, their respective agents,  
11 servants, employees, and all persons acting in concert with them from engaging in the  
12 aforesaid acts.

13 **THIRD CAUSE OF ACTION**

14 **(California State Unfair Competition Under California Business & Professions Code §**  
15 **17200 et seq. and 17500)**

16 44. Miracle Blade, re-alleges, and incorporates by reference, as though fully set  
17 forth herein, the allegations contained in paragraphs 1 through 45.

18 45. Defendants copied the trade dress of Miracle Blade with the intent to  
19 compete unfairly so as to create a demand for its products which Defendants would not  
20 otherwise enjoy. Defendants have deceived and confused the buying public by  
21 manufacturing, using, selling and/or offering for sale products which copy the trade dress of  
22 Miracle Blade, leading the public to believe the merchandise sold by Defendants are in fact  
23 merchandised, manufactured and/or distributed by Miracle Blade, and upon information  
24 and belief, Defendants continue to deceive and confuse the public in this manner.

25 46. Defendants have infringed the Miracle Blade Patents, and upon information  
26 and belief, continues to do so.

27 47. As a result of Defendants' acts of unfair competition complained of herein,  
28 the general reputation Miracle Blade's products, which have been manufactured and sold

1 solely by Miracle Blade, will be damaged, as will Miracle Blade's business, goodwill and  
2 reputation.

3 48. On information and belief, Defendants' acts of unfair competition as  
4 hereinabove alleged has been committed willfully and with knowledge that such acts  
5 infringe upon Miracle Blade's rights, with the intent to cause confusion and mistake, and/or  
6 to deceive the consuming public.

7 49. On information and belief, Defendants threaten to continue the conduct  
8 complained of herein and will continue such conduct unless enjoined by this Court.  
9 Miracle Blade has no adequate remedy at law for such conduct and is suffering and will  
10 continue to suffer irreparable harm as a result. Miracle Blade is also suffering damages in  
11 an amount not yet determined.

12 50. As a direct and proximate result of Defendants' unfair competitive acts,  
13 Miracle Blade is entitled to damages, and, upon information and belief, a preliminary and  
14 permanent injunction enjoining and restraining Defendants, and their respective agents,  
15 servants and employees, and all persons acting in concert with them, from engaging in the  
16 aforesaid acts pursuant to California Business and Professions Code § 17203.

17 **FOURTH CAUSE OF ACTION**

18 **(Common Law Unfair Competition)**

19 51. Miracle Blade, re-alleges, and incorporates by reference, as though fully set  
20 forth herein, the allegations contained in paragraphs 1 through 50.

21 52. The conduct of Defendants complained of herein constitutes unfair  
22 competition in violation of the common laws of the State of California, proximately causing  
23 Miracle Blade damages and bringing Defendants unfair profit.

24 53. On information and belief, Defendants' acts of unfair competition as  
25 hereinabove alleged have been committed willfully and with the knowledge that such acts  
26 infringe upon Miracle Blade's rights, with the intent to cause confusion and mistake, and/or  
27 to deceive the consuming public.

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1 54. On information and belief, Defendants threaten to continue the conduct  
2 complained of herein and will continue such conduct unless enjoined by this Court.  
3 Miracle Blade has no adequate remedy at law for such conduct and is suffering and will  
4 continue to suffer irreparable harm as a result. Miracle Blade is also suffering damages in  
5 an amount not yet determined.

6 55. As a direct and proximate result of Defendants' unfair competitive acts,  
7 Miracle Blade is entitled to damages, and upon information and belief, a preliminary and  
8 permanent injunction enjoining and restraining Defendants, their respective agents,  
9 servants, employees, and all persons acting in concert with them from engaging in the  
10 aforesaid acts.

11 **FIFTH CAUSE OF ACTION**

12 **(Common Law Trade Dress Infringement)**

13 56. Miracle Blade, re-alleges, and incorporates by reference, as though fully set  
14 forth herein, the allegations contained in paragraphs 1 through 55.

15 57. Defendants have copied Miracle Blade's trade dress in order to capitalize on  
16 the recognition, goodwill and reputation of Miracle Blade. Miracle Blade has been  
17 damaged and upon information and belief, continues to be damaged by Defendants' acts.

18 58. Miracle Blade's products and trade dress are well-known in the industry and  
19 are recognized by consumers due to Miracle Blade's long use of the trade dress, sale  
20 success, and extensive advertising expenditures made in promoting its kitchen knives.  
21 Defendants copying of Miracle Blade's trade dress directly harms Miracle Blade by  
22 confusing consumers as to the source or origin of the respective products in that such use is  
23 likely to mislead and deceive members of the public by causing them to believe that  
24 Defendants' products are produced, marketed, sponsored, approved of, or licensed by  
25 Miracle Blade, or that Defendants' products are in some manner affiliated or connected  
26 with Miracle Blade's business or its products. Defendants have unlawfully misappropriated  
27 and infringed upon Miracle Blade's trade dress in violation of the common law of  
28 California, and upon information and belief, continues to do so.

1 59. On information and belief, Defendants have willfully and intentionally  
2 copied Miracle Blade's well-known trade dress in order to unlawfully trade and capitalize  
3 on the recognition, goodwill and reputation that Miracle Blade has attained.

4 60. As a direct and proximate result of Defendants' infringing acts, Miracle  
5 Blade has sustained damages in an amount not presently ascertainable, to be determined at  
6 trial.

7 **PRAYER FOR RELIEF**

8 WHEREFORE, Miracle Blade requests that Judgment be granted as follows:

9 1. That this Court find that Defendants have infringed the Miracle Blade  
10 Patents and that such infringement was willful.

11 2. That this Court find that Defendants' acts have infringed Miracle Blade's  
12 trade dress, that such acts constitute federal unfair competition, state statutory unfair  
13 competition, and common law unfair competition, and that all of such acts have damages  
14 and will continue to damage Miracle Blade.

15 3. That Defendants pay to Miracle Blade damages in an amount to be proven at  
16 trial.

17 4. That his Court order Defendants to pay to Miracle Blade punitive and  
18 exemplary damages in an amount to be proven at trial.

19 5. That Defendants, their officers, directors, agents, servants, employees,  
20 representatives, attorneys, related companies, successors, assigns, and all others acting for,  
21 with, through or in concert with any of them be preliminarily and permanently enjoined

22 (a) from infringing the Miracle Blade Patents, whether directly,  
23 contributory, or by inducement;

24 (b) from using and/or copying Miracle Blade's trade dress, any colorable  
25 imitation of this trade dress, and any format or appearance confusingly similar thereto;

26 (c) from representing by any means whatsoever, directly or indirectly,  
27 that Defendants and its products are associated in any way with Miracle Blade or its  
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1 products, and from otherwise taking any other action likely to cause confusion, mistake or  
2 deception on the part of purchasers or consumers;

3 (d) from doing any other acts or things calculated to or likely to cause  
4 confusion or mistake in the mind of the public or to lead purchasers or consumers into the  
5 belief that products made by Defendants come from or are the products of Miracle Blade, or  
6 are somehow sponsored or underwritten by, or affiliated with, Miracle Blade, and from  
7 otherwise misappropriating that which rightfully belongs to Miracle Blade; and

8 (e) from committing any other acts of unfair competition against Miracle  
9 Blade.

10 6. That this Court order Defendants to deliver to this Court, or to such agents as  
11 the Court may designate, the following items in Defendants' possession, custody, or  
12 control, so that such items may be destroyed; any and all products, containers, labels,  
13 packaging materials, advertising materials, and other materials used in the preparation  
14 thereof which (a) contain or copy the trade dress of Miracle Blade or any colorable  
15 imitation thereof; or (b) infringe the Miracle Blade Patents.

16 7. That Defendants be required to prepare and deliver to the Court, or to such  
17 agents as the Court may designate, a complete list of entities from whom Defendants  
18 purchased, and to whom they distributed or sold, products which either infringe Miracle  
19 Blade's trade dress or Miracle Blade Patents, and that Defendants be required to serve a  
20 copy of such list on Miracle Blade's attorneys.

21 8. That Defendants, within thirty days after service of judgment with notice of  
22 entry thereof upon it, be required to file with the Court and serve upon Miracle Blade's  
23 attorneys a written report made under oath setting forth in detail the manner in which  
24 Defendants complied with paragraphs 5 through 7, supra.

25 9. That Miracle Blade is entitled to an accounting for profits and damages as  
26 determined by jury in this action.

27 10. That this Court grant Miracle Blade an award of all profits realized by  
28 Defendants on account of its infringement of Miracle Blade's Miracle Blade Patents, their

1 infringement of Miracle Blade's trade dress, their acts of unfair competition, and all other  
2 unlawful acts, and for an order requiring Defendants to account to Miracle Blade for all  
3 profits which Defendants have made, received, or is entitled to as a result of such unlawful  
4 acts.

5 11. That this Court grant Miracle Blade any other relief provided by 15 U.S.C.  
6 §§ 1114 and 1116 for Defendants' acts of trade dress infringement and unfair competition.

7 12. That Miracle Blade be awarded its attorneys' fees and that all damages  
8 awarded to Miracle Blade be trebled for Defendants' acts of trade dress infringement and  
9 unfair competition as provided for in 15 U.S.C. §§ 1114, 1116, 1117.

10 13. That this Court grant Miracle Blade any other relief provided in 35 U.S.C.  
11 §§ 283, 284 and 285 for Defendants' acts of patent infringement.

12 14. That Miracle Blade be awarded its attorneys' fees and that all damages  
13 awarded to Miracle Blade be trebled for Defendants' acts of patent infringement as  
14 provided for in 35 U.S.C. §§ 284, 285 and 289.

15 15. That this Court grant Miracle Blade interest on its damages as provided for  
16 by law.

17 16. That this Court grant Miracle Blade such other and further relief as the Court  
18 finds just and proper.

19 Dated: June 19, 2003.

20 PILLSBURY WINTHROP LLP  
21 IAN R. BARRETT  
CHRISTOPHER J. CHAUDOIR

22  
23  
24 By Christopher J. Chaudoir by BC  
Christopher J. Chaudoir  
Attorneys for Plaintiff  
MIRACLE BLADE, LLC  
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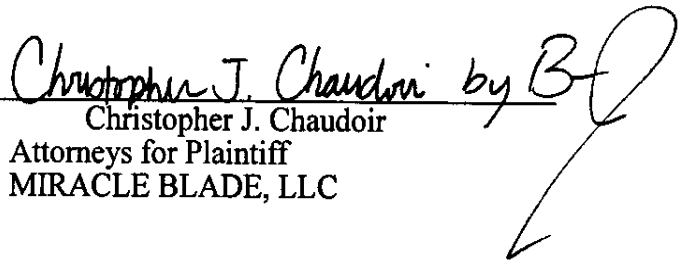
**DEMAND FOR JURY TRIAL**

Pursuant to Fed.R.Civ.P.38(b), Plaintiff Miracle Blade, LLC hereby demands a trial by jury on all issues so triable in this action.

Dated: June 19, 2003.

PILLSBURY WINTHROP LLP  
IAN R. BARRETT  
CHRISTOPHER J. CHAUDOIR

By Christopher J. Chaudoir by B  
Christopher J. Chaudoir  
Attorneys for Plaintiff  
MIRACLE BLADE, LLC





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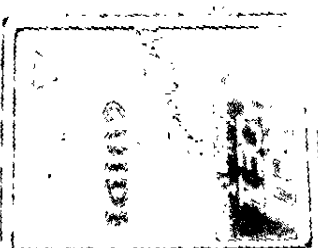
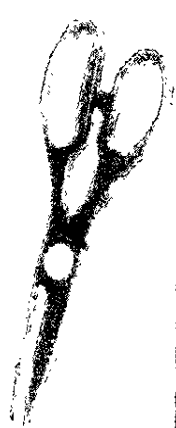
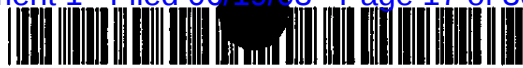


EXHIBIT - A





US00D461681S

(12) **United States Design Patent** (10) Patent No.: **US D461,681 S**  
 Lothe (45) Date of Patent: **\*\* Aug. 20, 2002**

(54) **PORTION OF A CUTTING INSTRUMENT**

**DESCRIPTION**

- (75) Inventor: Arian Duane Lothe, Adams, WI (US)
- (73) Assignee: Miracle Blade, LLC, Los Angeles, CA (US)
- (\*\*) Term: 14 Years
- (21) Appl. No.: 29/155,759
- (22) Filed: Feb. 15, 2002
- (51) LOC (7) Cl. .... 07-03
- (52) U.S. Cl. .... D7/401.2; D7/649
- (58) Field of Search ..... D7/649, 650, 652, D7/401.2; 16/110.1, 404; 30/147-150, 158-160, 164, 283-286, 288, 295, 329, 339, 340, 342-346

FIG. 1 is a perspective view of a portion of a cutting instrument showing my new design in accordance with a first embodiment;  
 FIG. 2 is a left side elevational view thereof;  
 FIG. 3 is a top plan view thereof;  
 FIG. 4 is a bottom plan view thereof;  
 FIG. 5 is a right side elevational view thereof;  
 FIG. 6 is a front elevational view thereof;  
 FIG. 7 is a rear elevational view thereof;  
 FIG. 8 is a perspective view of a portion of a cutting instrument showing my new design in accordance with a second embodiment;  
 FIG. 9 is a left side elevational view of the portion of a cutting instrument shown in FIG. 8;  
 FIG. 10 is a top plan view of the portion of a cutting instrument shown in FIG. 8;  
 FIG. 11 is a bottom plan view of the portion of a cutting instrument shown in FIG. 8;  
 FIG. 12 is a right side elevational view of the portion of a cutting instrument shown in FIG. 8;  
 FIG. 13 is a front elevational view of the portion of a cutting instrument shown in FIG. 8;  
 FIG. 14 is a rear elevational view of the portion of a cutting instrument shown in FIG. 8;  
 FIG. 15 is a perspective view of a portion of a cutting instrument showing my new design in accordance with a third embodiment;  
 FIG. 16 is a left side elevational view of the portion of a cutting instrument shown in FIG. 15;  
 FIG. 17 is a top plan view of the portion of a cutting instrument shown in FIG. 15;  
 FIG. 18 is a bottom plan view of the portion of a cutting instrument shown in FIG. 15;  
 FIG. 19 is a right side elevational view of the portion of a cutting instrument shown in FIG. 15;  
 FIG. 20 is a front elevational view of the portion of a cutting instrument shown in FIG. 15; and  
 FIG. 21 is a rear elevational view of the portion of a cutting instrument shown in FIG. 15.  
 The broken line showing of the remainder of the cutting instrument is for illustrative purposes only and forms no part of the claim design.

(56) **References Cited**

**U.S. PATENT DOCUMENTS**

- 108,141 A 10/1870 Houseman et al.
- 369,314 A \* 9/1887 Brougher ..... 7/158
- 372,565 A 11/1887 Quosbarth

(List continued on next page.)

**FOREIGN PATENT DOCUMENTS**

- DE 885 136 5/1953
- DE 26 05 475 A1 8/1977
- FR 611 568 10/1926
- FR 2600574 A1 \* 6/1986
- GB 699005 10/1953
- GB 2 271 738 A 4/1994

**OTHER PUBLICATIONS**

U.S. Design patent application Ser. No. 29/155,747 filed Feb. 15, 2002; Inventor: A. Lothe; Title: Handle.

(List continued on next page.)

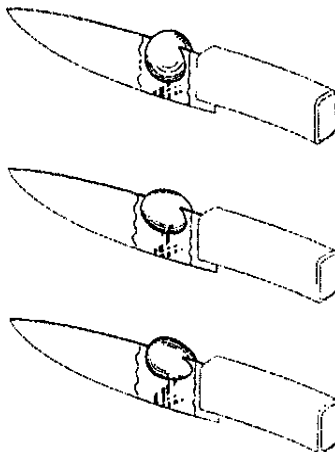
Primary Examiner—Caron D. Veynar

(74) Attorney, Agent, or Firm—Alston & Bird LLP

(57) **CLAIM**

The ornamental design for a portion of a cutting instrument, as shown and described.

1 Claim, 9 Drawing Sheets



## US D461,681 S

Page 2

## U.S. PATENT DOCUMENTS

432,928 A	7/1890	Bartlett	4,427,195 A	1/1984	Hufenus
490,577 A	1/1893	Memminger	4,526,547 A	7/1985	Rusk
492,409 A	2/1893	May	4,563,816 A	1/1986	Jagger
D28,925 S	6/1898	Peck	4,578,864 A	4/1986	Hoffman
605,577 A	6/1898	Hutchinson	4,832,604 A	5/1989	Rusk
649,059 A	5/1900	Kern	D306,675 S	3/1990	Stiggers
673,506 A	5/1901	Pitts	D316,015 S	4/1991	DiGangi
682,624 A	9/1901	Klickman	5,003,850 A	4/1991	Harkins
682,938 A	9/1901	Ingram	5,009,008 A	4/1991	Yablonovitch
734,909 A	7/1903	MacLean	5,052,253 A	10/1991	Lin
983,736 A	2/1911	Maconochie	D324,326 S	3/1992	Lu
D43,729 S	3/1913	Teller	D330,405 S	10/1992	Luchak
D57,935 S	5/1921	Shively	D339,719 S	9/1993	Thelen
1,444,659 A	2/1923	Carlson	5,263,257 A	11/1993	Takigawa
1,491,623 A	4/1924	Pitchur	D346,722 S	5/1994	Burdick et al.
1,505,444 A	8/1924	Swanson	D358,968 S	6/1995	Hirai
1,750,577 A	3/1930	Bracht	5,431,075 A	7/1995	Cruz et al.
2,075,302 A	3/1937	Poe	D372,635 S	8/1996	Gebhardt
2,115,686 A	4/1938	Zimmer	D374,387 S	10/1996	Schaffer
2,153,759 A	4/1939	Katzinger	D387,959 S	12/1997	Cousins
2,168,237 A	8/1939	Polacsek	D391,115 S	* 2/1998	Robertson ..... D7/401.2
2,217,100 A	10/1940	Burns	D397,282 S	8/1998	Derkatz
D131,224 S	1/1942	Parisi	D403,204 S	12/1998	Kwok
D149,677 S	5/1948	Roblin	D403,556 S	1/1999	Juhlin et al.
2,494,306 A	1/1950	Morvey	D403,559 S	1/1999	Terenzio
D158,459 S	5/1950	Gustafson	D407,267 S	3/1999	Juhlin et al.
D161,633 S	1/1951	Kevorkain et al.	D407,268 S	3/1999	Juhlin et al.
D162,777 S	4/1951	Berger et al.	5,950,280 A	9/1999	Taylor
2,650,424 A	9/1953	Kalmon	5,967,006 A	10/1999	Hillinger
D173,115 S	9/1954	Lamb	D416,440 S	11/1999	Juhlin et al.
D173,117 S	9/1954	Lamb	D416,464 S	11/1999	Eason
D173,124 S	9/1954	Niblack	D425,377 S	5/2000	Lion et al.
D176,540 S	1/1956	Lewis	6,070,329 A	6/2000	Gibbs
D180,306 S	5/1957	Wagner	D431,962 S	10/2000	Demers
D182,293 S	3/1958	Lamb	D433,288 S	11/2000	Chien
2,884,972 A	5/1959	Harris	D435,199 S	12/2000	Cohen et al.
D185,567 S	6/1959	Polk	D439,806 S	4/2001	Juhlin et al.
D192,961 S	6/1962	Baer	D442,826 S	5/2001	Chien
3,388,622 A	6/1968	Klang	D445,643 S	* 7/2001	Kazaklaris ..... D7/401.2
3,447,580 A	6/1969	Keymer	D450,544 S	11/2001	Rowe et al.
D216,180 S	11/1969	Kobayashi			
3,772,781 A	11/1973	Newman			
4,087,911 A	5/1978	Schrock et al.			
D248,166 S	6/1978	Kanai			
D248,167 S	6/1978	Kanai			
4,095,337 A	6/1978	Pharr			
4,178,684 A	12/1979	Mightly			
D255,974 S	7/1980	Jacboy			
D257,877 S	1/1981	Patterson			
D268,244 S	3/1983	Morin			
4,380,122 A	4/1983	Jagger			
4,389,777 A	6/1983	Landsberger			

## OTHER PUBLICATIONS

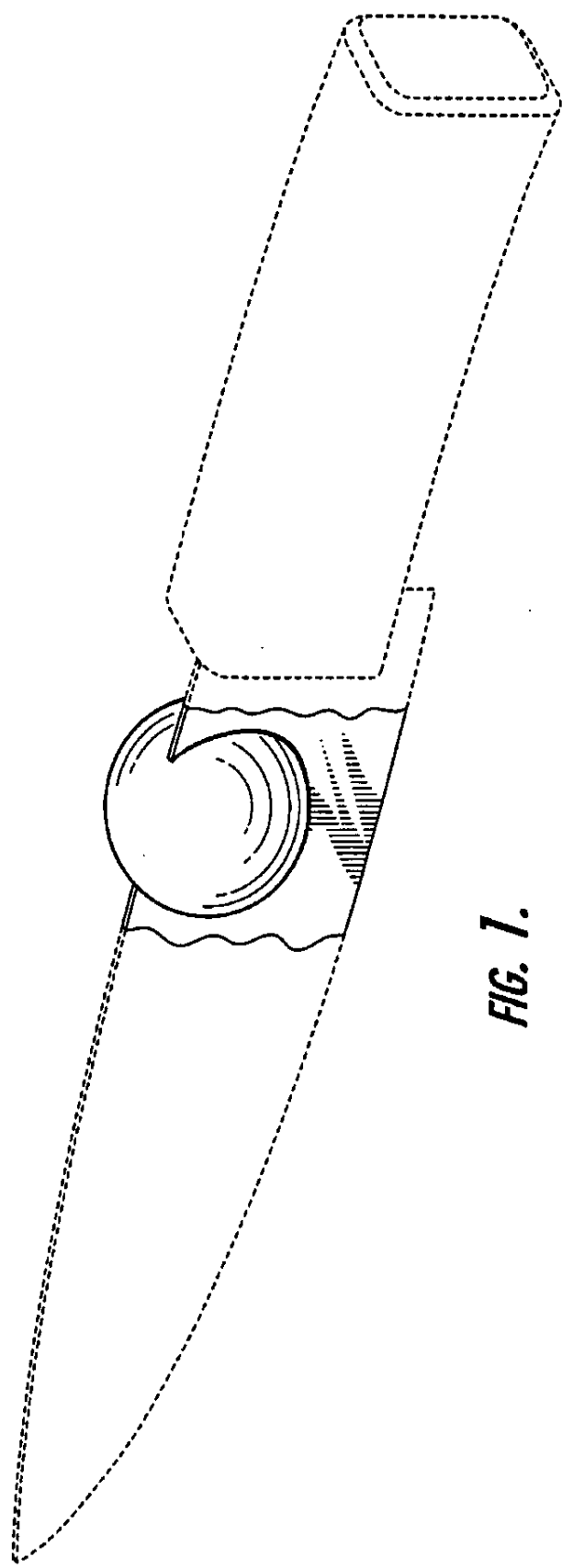
U.S. Design patent application Ser. No. 29/155,758 filed Feb. 15, 2002; Inventor: A. Lothe; Title: Knife.

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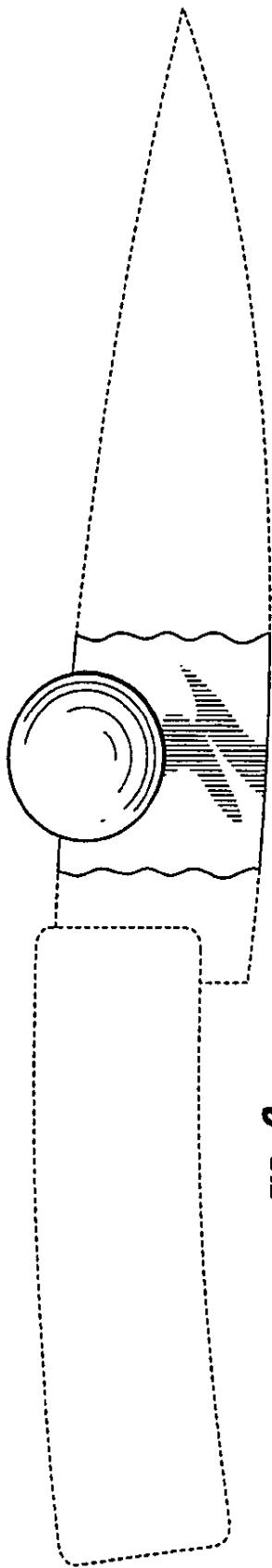
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U.S. Utility patent application Ser. No. 09/946,896 filed Sep. 4, 2001; Inventor: A. Lothe; Title: Control System for a Handheld Tool.

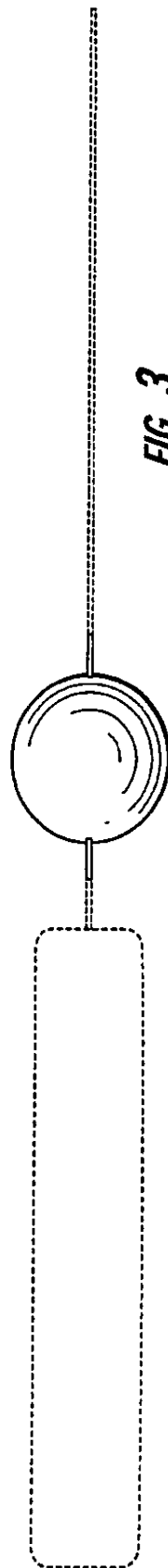
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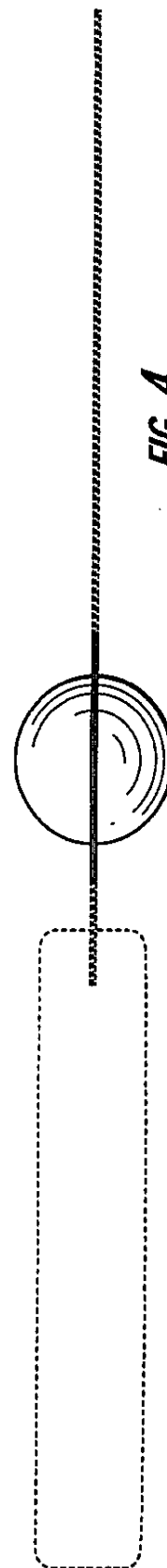
**FIG. 1.**



*FIG. 2.*



*FIG. 3.*



*FIG. 4.*

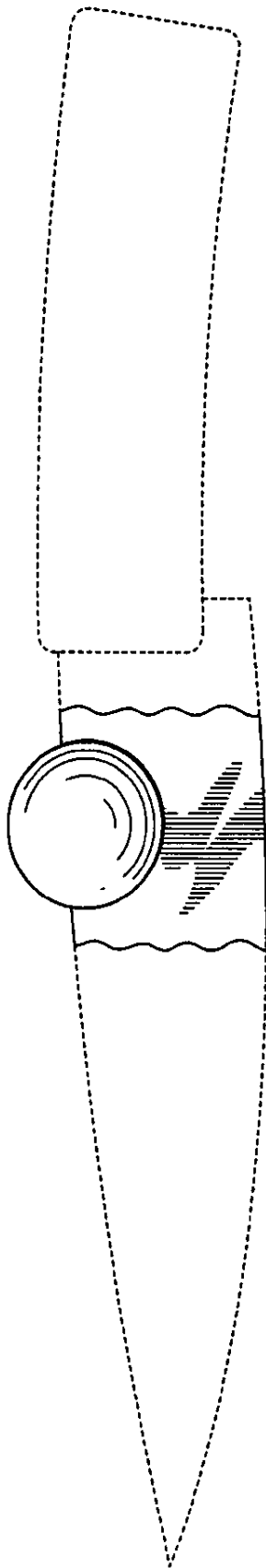


FIG. 5.

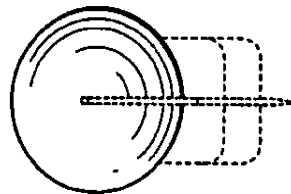


FIG. 6.

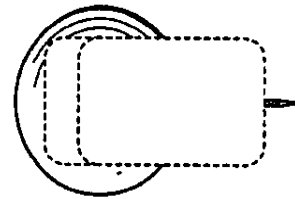
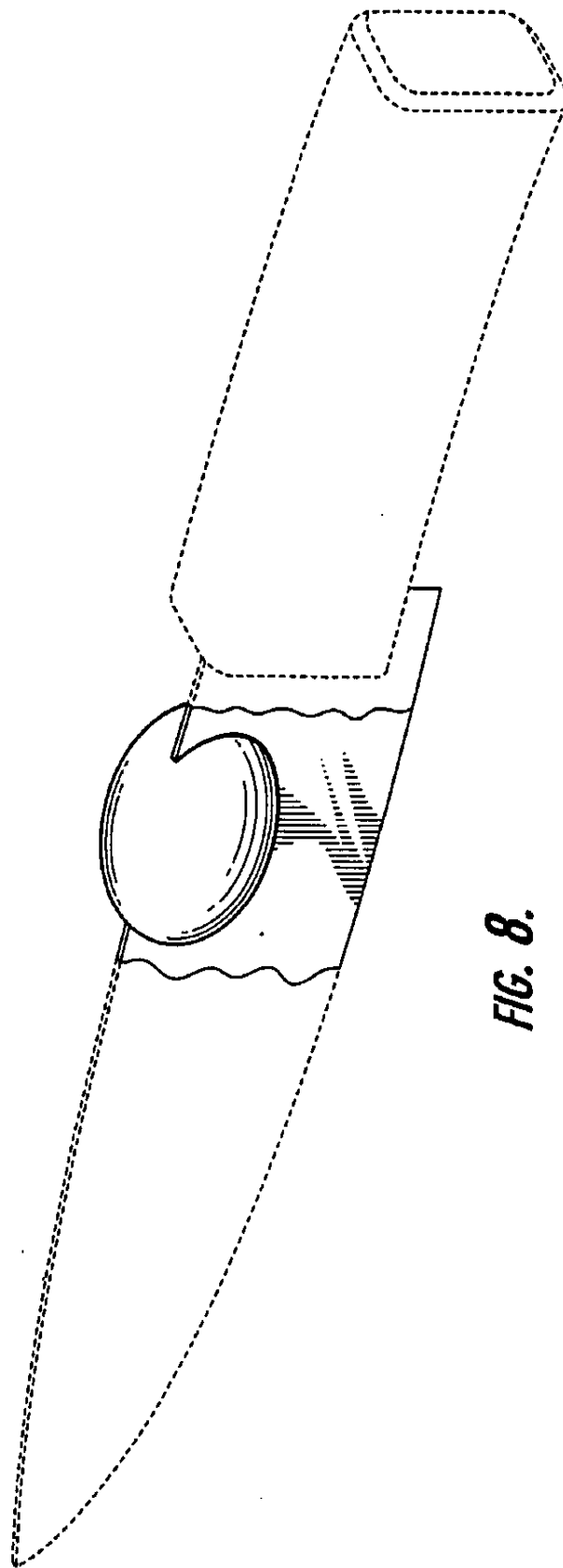
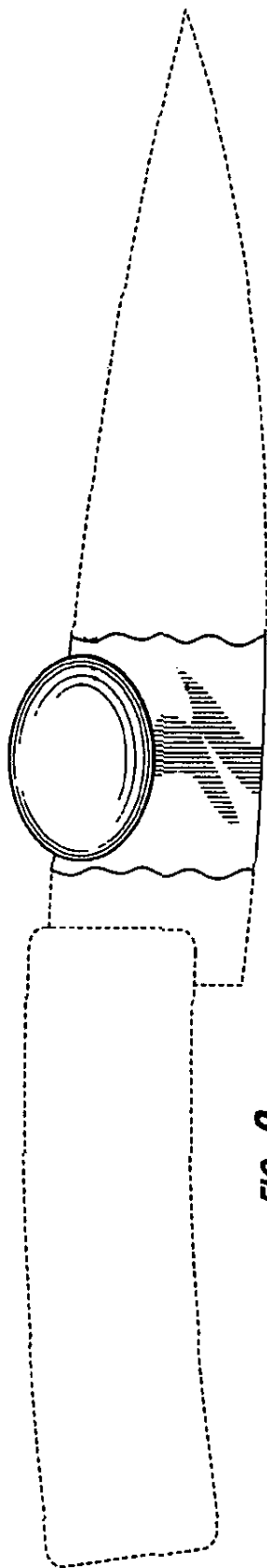


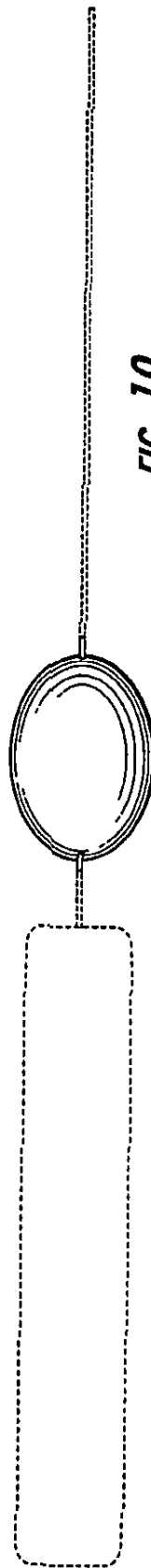
FIG. 7.



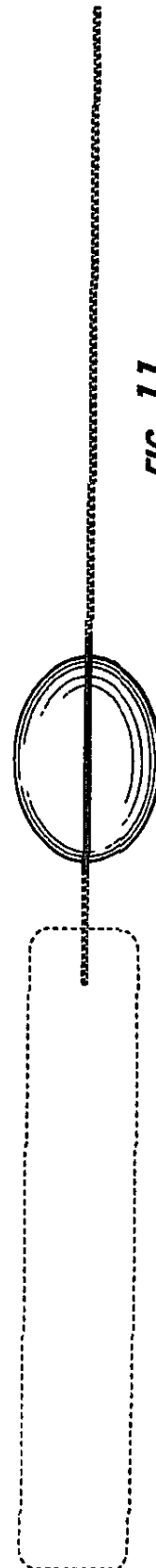
**FIG. 8.**



*FIG. 9.*



*FIG. 10.*



*FIG. 11.*

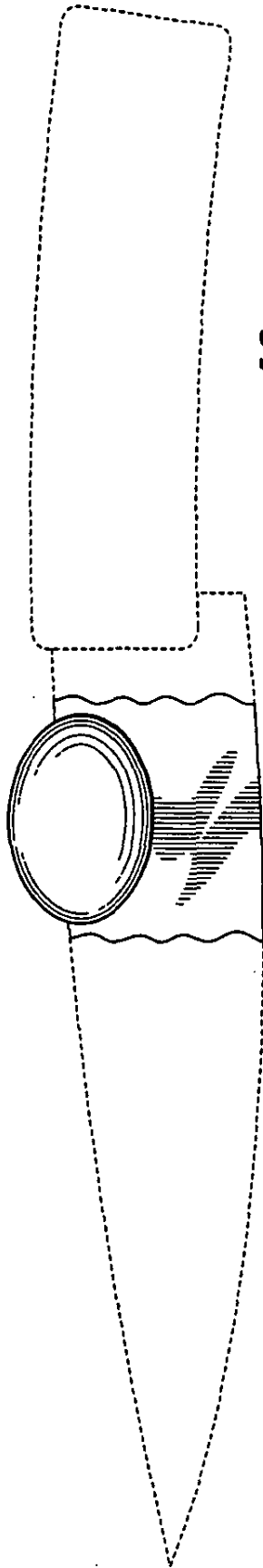


FIG. 12.

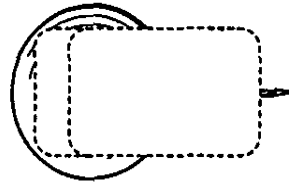


FIG. 14.

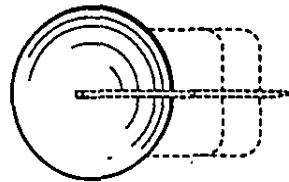
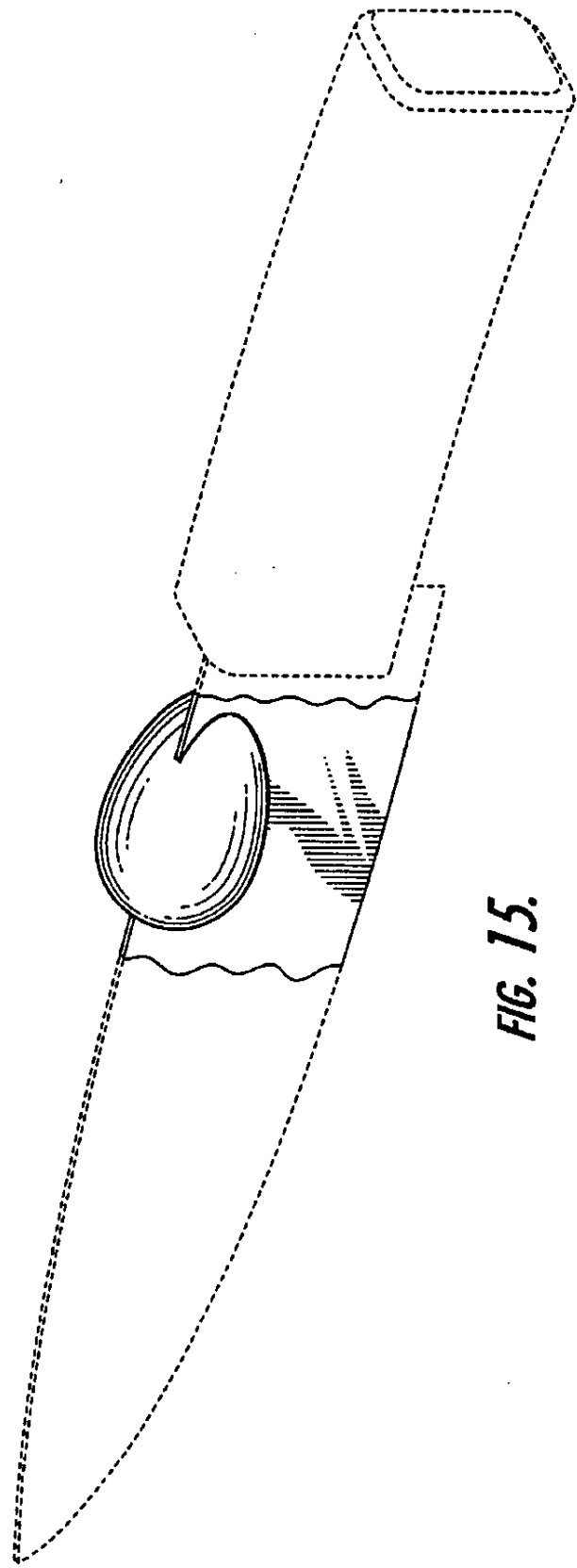
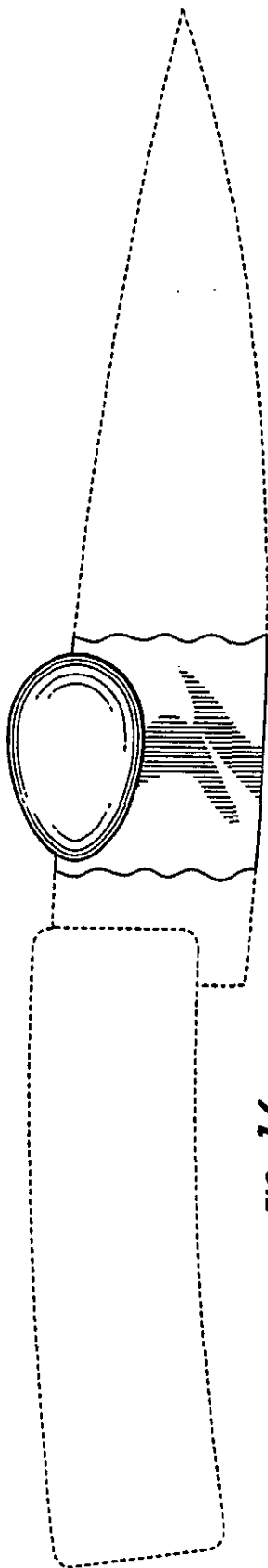


FIG. 13.

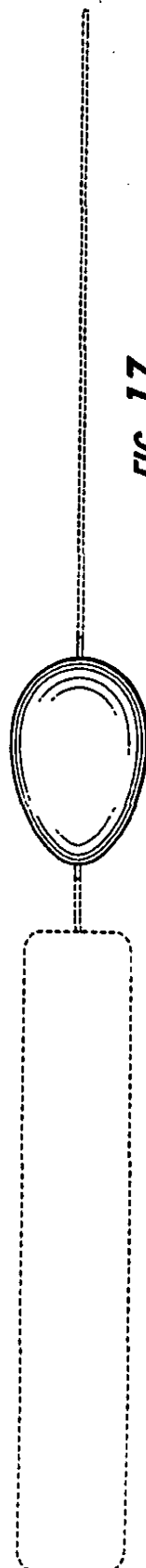




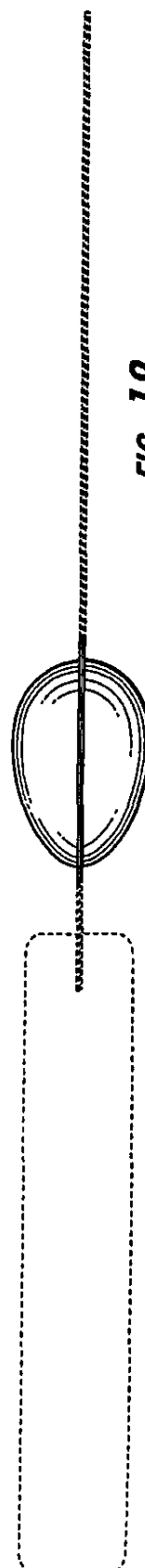
*FIG. 15.*



*FIG. 16.*



*FIG. 17.*



*FIG. 18.*

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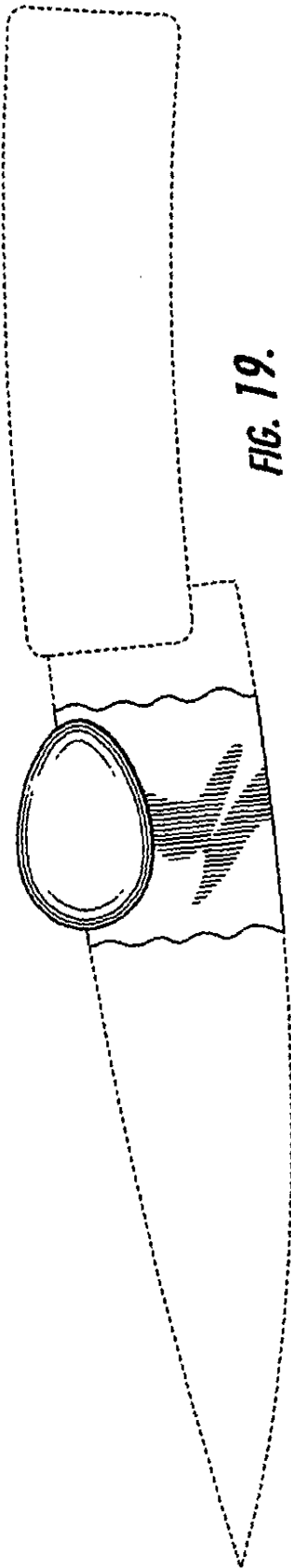


FIG. 19.

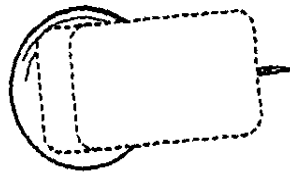


FIG. 21.

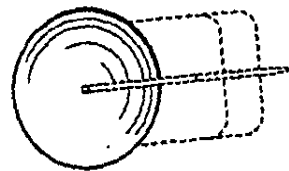
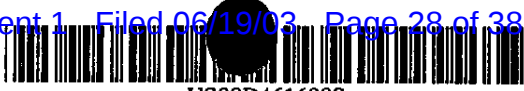


FIG. 20.



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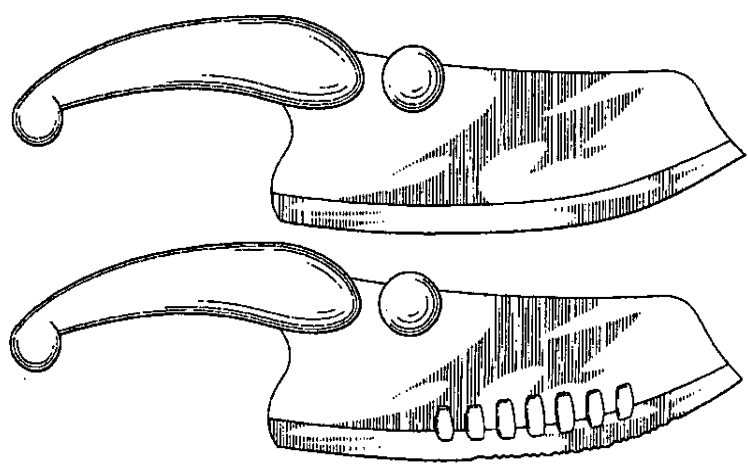
(12) **United States Design Patent** (10) Patent No.: **US D461,688 S**  
**Lothe** (45) Date of Patent: **\*\* Aug. 20, 2002**

(54) **KNIFE**  
 (75) Inventor: **Arlan Duane Lothe, Adams, WI (US)**  
 (73) Assignee: **Miracle Blade, LLC, Los Angeles, CA (US)**  
 (\*\*) Term: **14 Years**  
 (21) Appl. No.: **29/155,756**  
 (22) Filed: **Feb. 15, 2002**  
 (51) LOC (7) Cl. .... **07-03**  
 (52) U.S. Cl. .... **D7/649**  
 (58) Field of Search ..... **D7/649, 650, 652, D7/401.2; 30/147-150, 329, 339, 340, 342-346, 158-160, 164, 283-286, 288, 295; 16/110.1, 404**

D131,224 S 1/1942 Parisi  
 D149,677 S 5/1948 Roblin  
 2,494,306 A 1/1950 Morvey  
 D158,459 S 5/1950 Gustafson  
 D161,633 S 1/1951 Kevorkian et al.  
 D162,777 S 4/1951 Berger et al.  
 2,650,424 A 9/1953 Kalmon  
 D173,115 S 9/1954 Lamb  
 D173,117 S 9/1954 Lamb  
 D173,124 S 9/1954 Niblack  
 D176,540 S 1/1956 Lewis  
 D180,306 S 4/1957 Wagner  
 D182,293 S 3/1958 Lamb  
 2,884,972 A 5/1959 Harris  
 D185,567 S 6/1959 Polk  
 D192,961 S 6/1962 Baer  
 3,388,622 A 6/1968 Klang  
 3,447,580 A 6/1969 Keymer  
 D216,180 S 11/1969 Kobayashi  
 3,772,781 A 11/1973 Newman  
 4,087,911 A 5/1978 Schrock et al.  
 D248,166 S 6/1978 Kanai  
 D248,167 S 6/1978 Kanai  
 4,095,337 A 6/1978 Pharr  
 4,178,684 A 12/1979 Mightly  
 D255,974 S 7/1980 Jacoby  
 D256,086 S \* 7/1980 Seibel ..... D7/649  
 D257,877 S 1/1981 Patterson  
 D264,422 S \* 5/1982 Jagger ..... D7/650  
 D268,244 S 3/1983 Morin  
 4,380,122 A 4/1983 Jagger  
 4,389,777 A 6/1983 Landsberger  
 4,427,195 A 1/1984 Hufenus  
 4,526,547 A 7/1985 Rusk  
 4,563,816 A 1/1986 Jagger  
 4,574,431 A \* 3/1986 Colling ..... 452/137  
 4,578,864 A 4/1986 Hoffman  
 4,832,604 A 5/1989 Rusk  
 D306,675 S 3/1990 Stiggers  
 D316,015 S 4/1991 DiGangi  
 5,003,850 A 4/1991 Harkins  
 5,009,008 A 4/1991 Yablonovitch  
 5,052,253 A 10/1991 Lin  
 D324,326 S 3/1992 Lu  
 D330,405 S 10/1992 Luchak  
 D339,719 S 9/1993 Thelen  
 5,263,257 A 11/1993 Takigawa  
 D346,722 S 5/1994 Burdick et al.  
 D358,968 S 6/1995 Hirai

(56) **References Cited**  
**U.S. PATENT DOCUMENTS**

108,141 A 10/1870 Houseman et al.  
 372,565 A 11/1887 Quosbarth  
 432,928 A 7/1890 Bartlett  
 490,577 A 1/1893 Memminger  
 492,409 A 2/1893 May  
 D28,925 S 6/1898 Peck  
 605,577 A 6/1898 Hutchinson  
 649,059 A 5/1900 Kern  
 673,506 A 5/1901 Pitts  
 682,624 A 9/1901 Klickman  
 682,938 A 9/1901 Ingram  
 734,909 A 7/1903 MacLean  
 983,736 A 2/1911 Maconochie  
 D43,729 S 3/1913 Teller  
 D57,935 S 5/1921 Shively  
 1,444,659 A 2/1923 Carlson  
 1,491,623 A 4/1924 Pitchur  
 1,505,444 A 8/1924 Swanson  
 1,750,577 A 3/1930 Bracht  
 2,075,302 A 3/1937 Poe  
 2,115,686 A 4/1938 Zimmer  
 2,153,759 A 4/1939 Katzinger  
 2,168,237 A 8/1939 Polacsek  
 2,217,100 A 10/1940 Burns



## US D461,688 S

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5,431,075 A	7/1995	Cruz et al.
D372,635 S	8/1996	Gebhardt
D374,387 S	10/1996	Schaffer
D387,959 S	12/1997	Cousins
D397,282 S	8/1998	Derkatz
D403,204 S	12/1998	Kwok
D403,556 S	1/1999	Juhlin et al.
D403,559 S	1/1999	Terenzio
D407,267 S	3/1999	Juhlin et al.
D407,268 S	3/1999	Juhlin et al.
5,950,280 A	9/1999	Taylor
5,967,006 A	10/1999	Hillinger
D416,440 S	11/1999	Juhlin et al.
D416,464 S	11/1999	Eason
D425,377 S	5/2000	Lion et al.
6,070,329 A	6/2000	Gibbs
D431,962 S	10/2000	Demers
D433,288 S	11/2000	Chien
D435,199 S	12/2000	Cohen et al.
D439,806 S	4/2001	Juhlin et al.
D442,826 S	5/2001	Chien
D445,643 S	7/2001	Kazaklaris
D450,544 S	11/2001	Rowe et al.

## FOREIGN PATENT DOCUMENTS

DE	885 136	8/1953
DE	26 05 475 A1	8/1977
FR	611 568	10/1926
GB	699005	10/1953
GB	2 271 738 A	4/1994

## OTHER PUBLICATIONS

U.S. Design patent application Ser. No. 29/155,747 filed Feb. 15, 2002; Inventor: A. Lothe; Title: Handle.

U.S. Design patent application Ser. No. 29/155,759 filed Feb. 15, 2002; Inventor: A. Lothe; Title: Portion of a Cutting Instrument.

U.S. Design patent application Ser. No. 29/155,758 filed Feb. 15, 2002; Inventor: A. Lothe; Title: Knife.

U.S. Design patent application Ser. No. 29/155,777 filed Feb. 15, 2002, Inventor: A. Title: Knife.

U.S. Utility patent application Ser. No. 09/946,896 filed Sep. 4, 2001; Inventor: A. Lothe; Title: control System for a Handheld Tool.

\* cited by examiner

Primary Examiner—Caron D. Veynar  
(74) Attorney, Agent, or Firm—Alston & Bird LLP

(57)

## CLAIM

The ornamental design for a knife, as shown and described.

## DESCRIPTION

FIG. 1 is a perspective view of a knife showing my new design in accordance with a first embodiment;  
FIG. 2 is a left side elevational view thereof;  
FIG. 3 is a top plan view thereof;  
FIG. 4 is a bottom plan view thereof;  
FIG. 5 is a right side elevational view thereof;  
FIG. 6 is a rear elevational view thereof;  
FIG. 7 is a front elevational view thereof;  
FIG. 8 is a perspective view of a knife showing my new design in accordance with a second embodiment;  
FIG. 9 is a left side elevational view of the knife shown in FIG. 8;  
FIG. 10 is a top plan view of the knife shown in FIG. 8;  
FIG. 11 is a bottom plan view of the knife shown in FIG. 8;  
FIG. 12 is a right side elevational view of the knife shown in FIG. 8;  
FIG. 13 is a rear elevational view of the knife shown in FIG. 8; and,  
FIG. 14 is a front elevational view of the knife shown in FIG. 8.

1 Claim, 6 Drawing Sheets

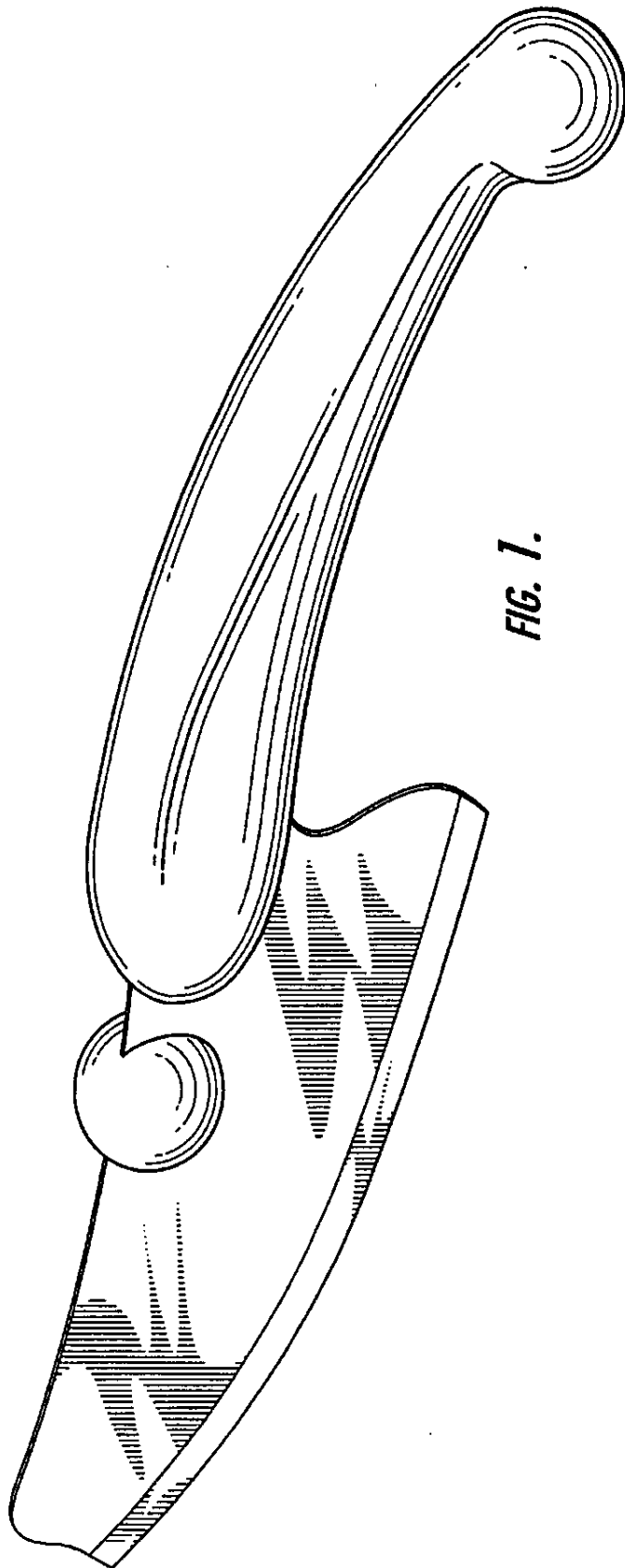


FIG. 1.

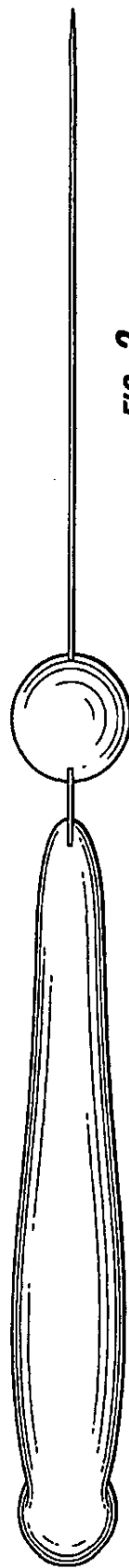
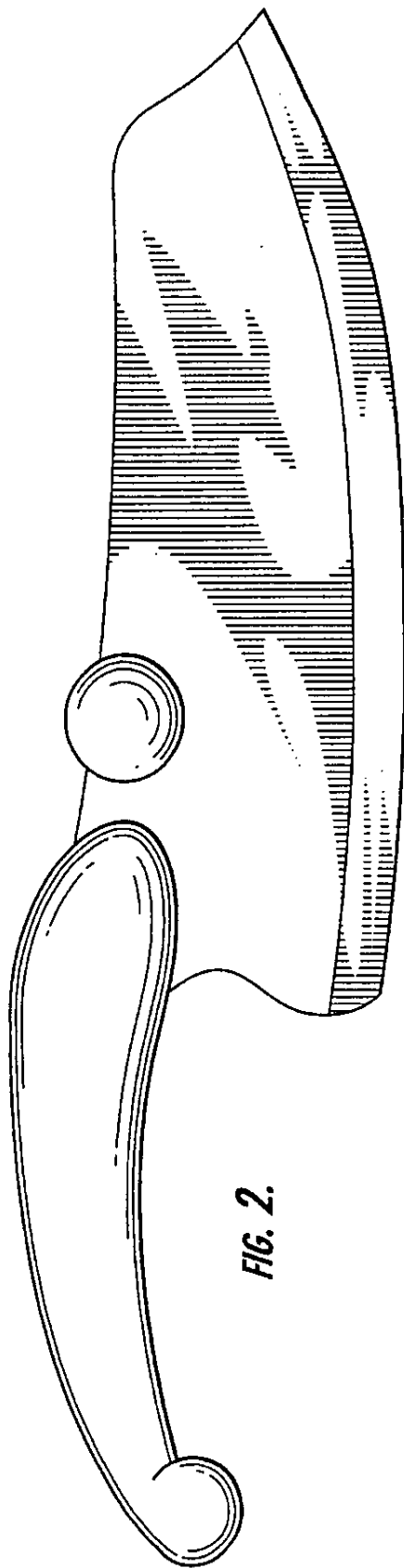


FIG. 3.

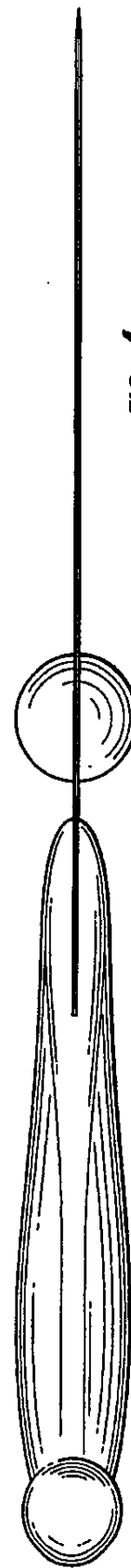


FIG. 4.

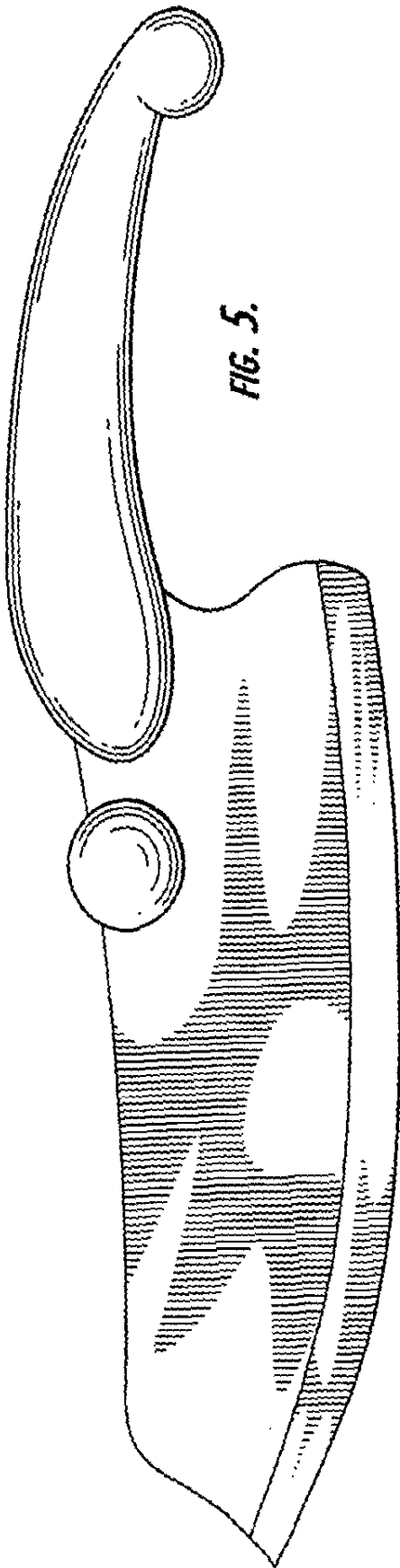


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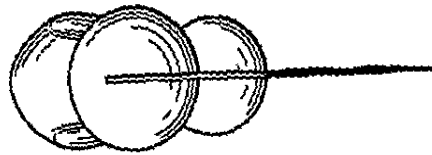


FIG. 7.

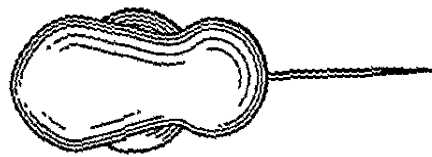
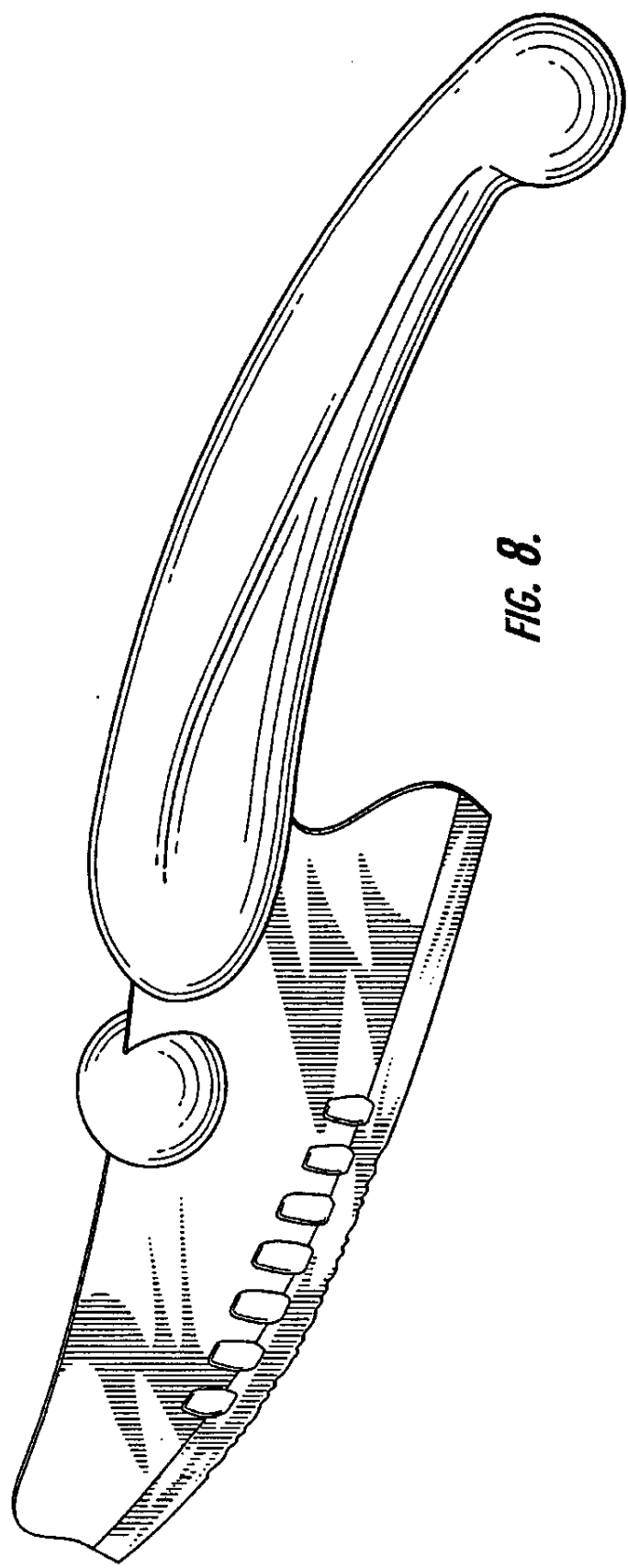
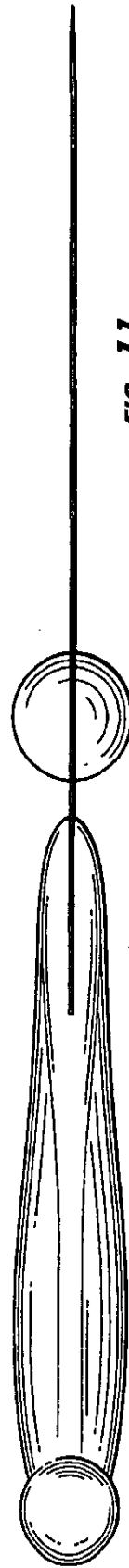
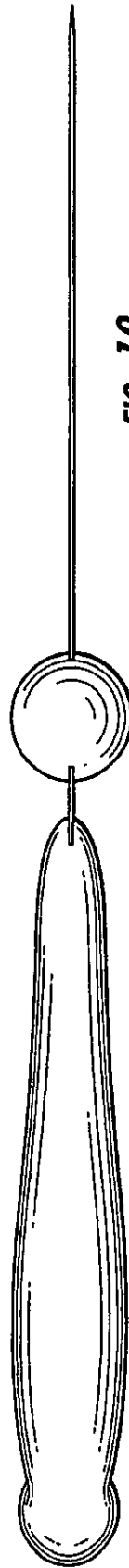
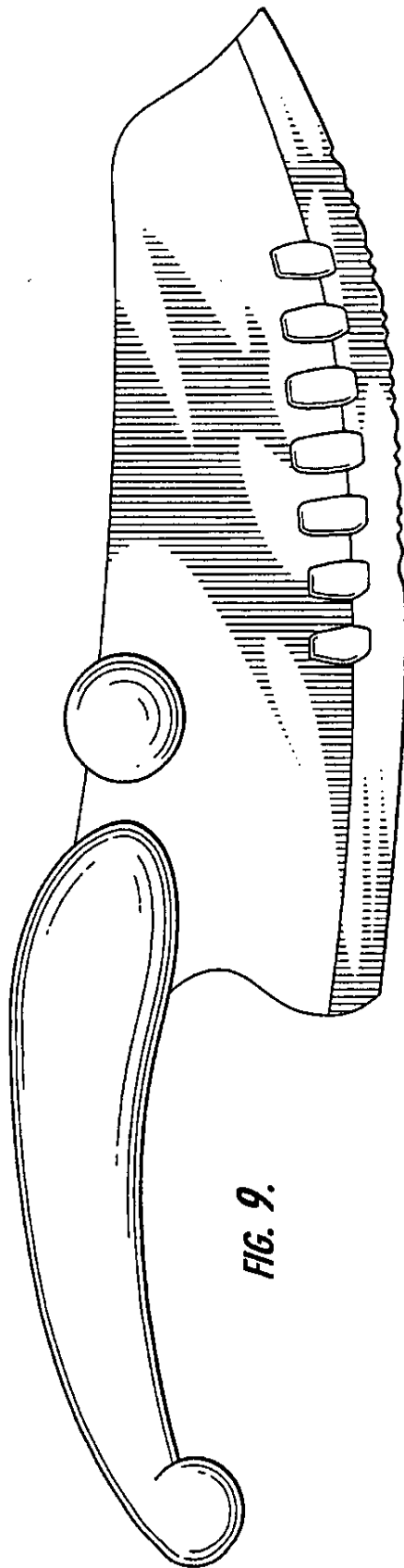


FIG. 6.





**FIG. 8.**



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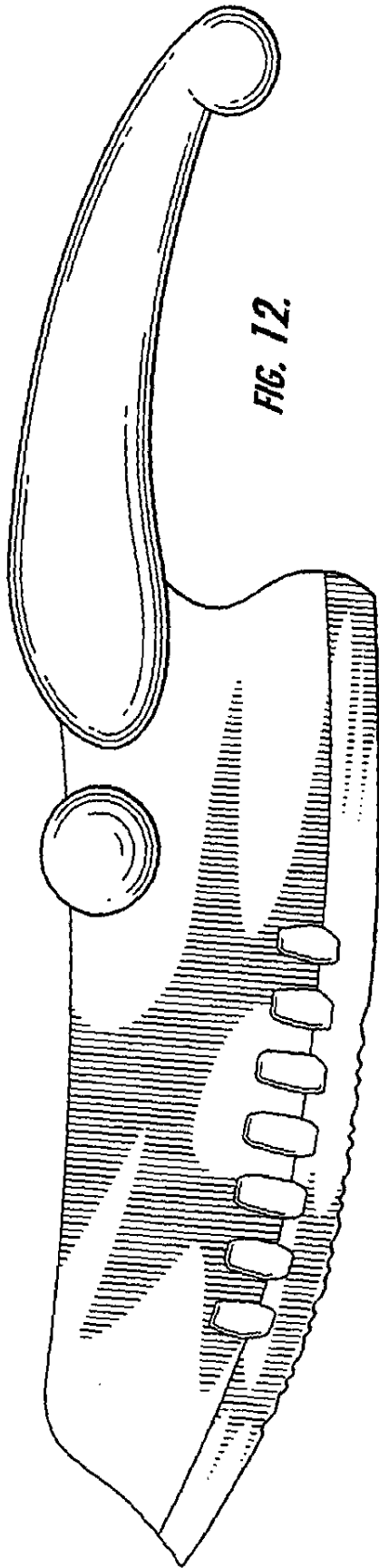


FIG. 12.

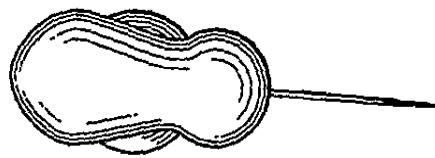


FIG. 13.

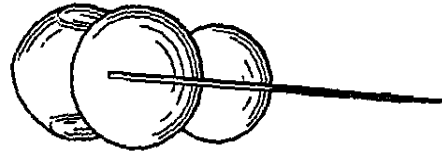
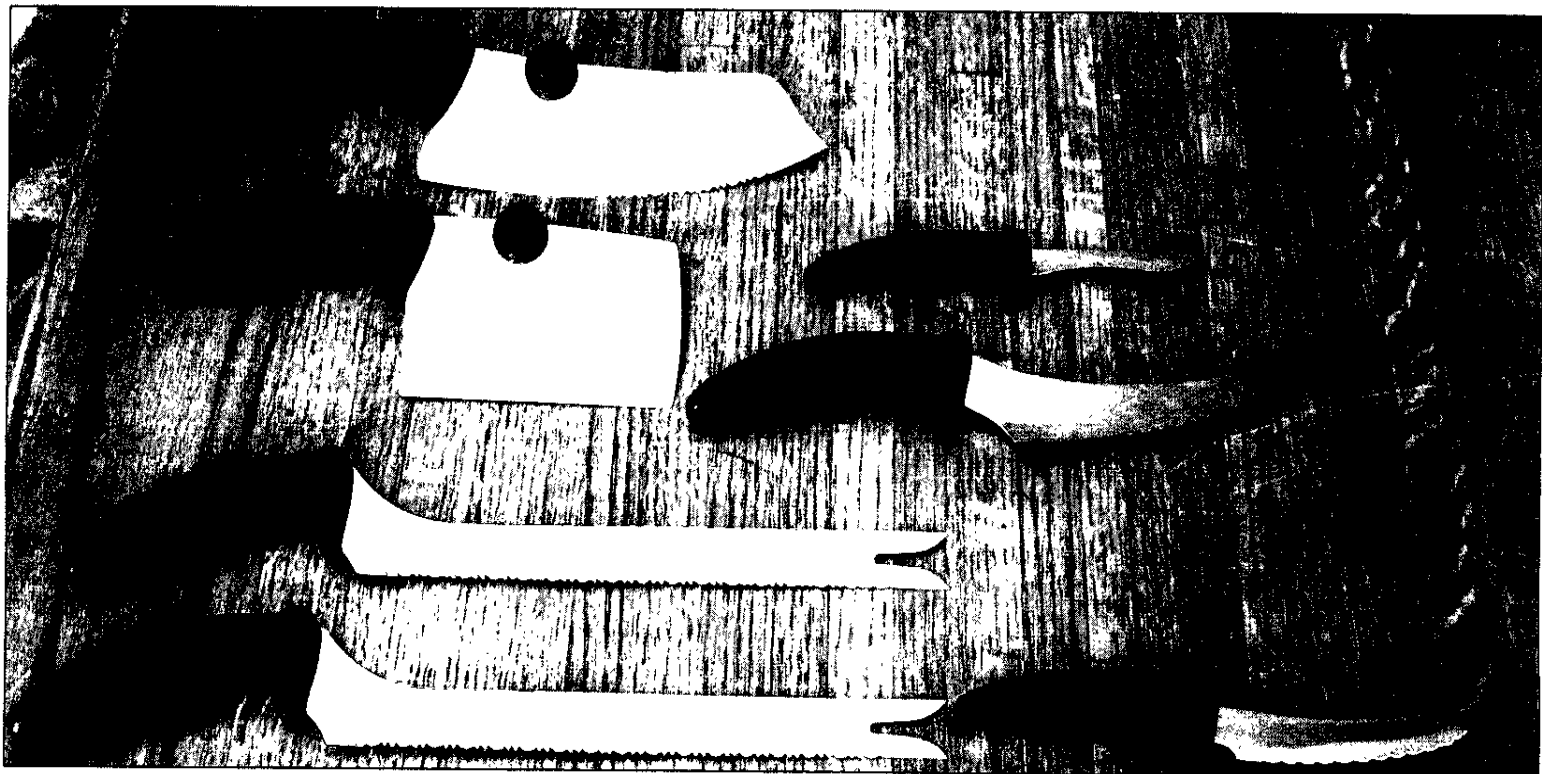


FIG. 14.



AO 120 (3/85)

TO: <b>Commissioner of Patents and Trademarks</b> <b>Washington, D.C. 20231</b>	<b>REPORT ON THE</b> <b>FILING OR DETERMINATION OF AN</b> <b>ACTION REGARDING A PATENT</b>
---	--

In compliance with the Act of July 19, 1952 (66 Stat. 814; 35 U.S.C. 290) you are hereby advised  
 that a court action has been filed on the following patent(s) in the U.S. District Court:

DOCKET NO. 03-CV-1205 J(LSP)	DATE FILED 6-19-03	U.S. DISTRICT COURT United States District Court, Southern District of California
PLAINTIFF Miracle Blade LLC		DEFENDANT Fowler Products et al
<b>PATENT NO.</b>	<b>DATE OF PATENT</b>	<b>PATENTEE</b>
1 US D461,681 S	8-20-02	Miracle Blade
2 US D461,688 S	8-20-02	Miracle Blade
3		
4		
5		

In the above-entitled case, the following patent(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading			
<b>PATENT NO.</b>	<b>DATE OF PATENT</b>	<b>PATENTEE</b>		
1				
2				
3				
4				
5				

In the above-entitled case, the following decision has been rendered or judgment issued:

DECISION/JUDGMENT		
CLERK	(BY) DEPUTY CLERK	DATE

Copy 1 - Upon initiation of action, mail this copy to Commissioner    Copy 3 - Upon termination of action, mail this copy to Commissioner  
 Copy 2 - Upon filing document adding patent(s), mail this copy to Commissioner    Copy 4 - Case file copy

# CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**  
Miracle Blade, LLC

**DEFENDANTS**  
Fowler Products, a Nevada Co.; Joe Fowler, LLC, a Nevada Limited Liability Company; Ronald Blankenship, an individual; Joseph B. Fowler, an individual; Jamie Green, an individual; Mark Hyman, an individual, and Robert Payne, an individual.

03 JUN 19 AM 9:48

CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Los Angeles Co., CA  
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Clark Co., NV  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)  
**PILLSBURY WINTHROP LLP**  
Ian R. Barrett  
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ATTORNEYS (IF KNOWN)

'03 CV 1205 J LSP

**II. BASIS OF JURISDICTION** (PLACE AN 'X' IN ONE BOX ONLY)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (PLACE AN 'X' IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- |   |                            |                            |   |                            |                            |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
|   | PT                         | DEF                        |   | PT                         | DEF                        |
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. CAUSE OF ACTION**

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)  
15 U.S.C. § 1125 et seq., and 35 U.S.C. § 271 et seq. Patent infringement and violations of Federal Lanham Act.

**V. NATURE OF SUIT** (PLACE AN 'X' IN ONE BOX ONLY)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Medical Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability  <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 680 Occupational Safety/Health <input type="checkbox"/> 690 Other  <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark  <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (13958) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))  <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reappointment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motion to Vacate Sentence <b>HABES CORPUS:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Conditions			

**VI. ORIGIN**

(PLACE AN 'X' IN ONE BOX ONLY)

- 1 Original Proceeding
- 2 Removal from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$

CHECK YES only if demanded in complaint:  
JURY DEMAND:  YES  NO

**VIII. RELATED CASE(S) IF ANY**

(See instructions): JUDGE \_\_\_\_\_ Docket Number \_\_\_\_\_

DATE: June 19, 2003 SIGNATURE OF ATTORNEY OF RECORD

*Christopher J. Chaudoir by B...*

Christopher J. Chaudoir

PD # 94954 6/19/03 \$150.00 VB