

GEP 6/22/04 9:07

3:04-CV-01244 PHOENIX FOOTWEAR V. MARK TUCKER INC

\*1\*

\*CMP.\*

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7  
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FILED  
04 JUN 21 PM 12:12

U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY: 

DEPUTY

10 UNITED STATES DISTRICT COURT  
11 SOUTHERN DISTRICT OF CALIFORNIA

12 PHOENIX FOOTWEAR GROUP, INC.,  
13 a Delaware corporation,

14 Plaintiff,

15 v.

16 MARK TUCKER, INC., a New York  
17 corporation; SAKS INCORPORATED, a  
18 Tennessee corporation; SAKS &  
19 COMPANY, a New York corporation;  
20 SACKS FIFTH AVENUE  
21 ENTERPRISES, INC., a New York  
22 corporation; SEARS, ROEBUCK AND  
23 CO., a New York corporation; and  
24 DOES 1 through 20, inclusive,

25 Defendants.

CASE NO.

04 CV 1244 JM

(RBB)

COMPLAINT FOR PATENT  
INFRINGEMENT

**[DEMAND FOR JURY TRIAL]**

26 Plaintiff PHOENIX FOOTWEAR GROUP INC. ("Phoenix Footwear") alleges as  
27 follows:

28 **PARTIES**

1. Plaintiff Phoenix Footwear is a Delaware corporation having its principal  
place of business at 5759 Fleet Street, Suite 220, Carlsbad, California 92008.

2. Upon information and belief, Defendant MARK TUCKER INC. ("Mark  
Tucker") is a New York corporation having places of business at 1 Penn Plaza, Suite  
1602, New York, New York 10119-1603, and 2525 Main Street, Santa Monica,  
California 90405.

3. Upon information and belief, Defendant SAKS INCORPORATED ("Saks Inc.") is a Tennessee corporation having its principal place of business at 750 Lakeshore Parkway, Birmingham, Alabama 35211.

4. Upon information and belief, Defendant Saks & Company ("Saks & Co.") is a New York corporation having a place of business at 12 East 49th Street, 19th Floor, New York, New York 10017.

5. Upon information and belief, Defendant SAKS FIFTH AVENUE ENTERPRISES, INC. ("SFAE") is a New York corporation having a place of business at 12 East 49th Street, 19th Floor, New York, New York 10017.

6. Upon information and belief, Defendant SEARS, ROEBUCK AND CO. ("Sears") is a New York corporation having its principal place of business at 3333 Beverly Road, Hoffman Estates, Illinois 60179.

### JURISDICTION

7. This is an action for patent infringement under Title 35 of the United States Code, Chapter 28, Section 271 for patent infringement. This Court has jurisdiction over this civil action under Title 28 of the United States Code, Chapter 85, Sections 1331 and 1338.

### VENUE

8. Venue is proper in this judicial district by virtue of Title 28 of the United States Code, Chapter 87, Sections 1391 and 1400, in that, upon information and belief, this is a district in which defendants Mark Tucker, Saks Inc., Saks & Co., SFAE, and Sears are subject to personal jurisdiction and therefore reside.

### FIRST COUNT

#### **(Patent Infringement)**

9. United States Letters Patent No. 6,675,501 ("the '501 patent"), entitled "Insole Construction for Footwear," duly and legally issued to Wilhelm Pfander on January 13, 2004. A copy of the '501 patent is attached hereto as Exhibit A.

///

1           10.    The '501 patent is valid and in full force and effect, and products produced  
2 under the claims of the '501 patent have enjoyed substantial commercial success and  
3 recognition in the trade.

4           11.    Phoenix Footwear is the owner of all rights, title and interest in the '501  
5 patent.

6           12.    Mark Tucker has infringed, and continues to infringe, the '501 patent  
7 directly, contributorily and/or by inducement by making, using, offering to sell, selling  
8 and/or importing into the United States without authority products that embody the  
9 inventions claimed in the '501 patent, literally or by equivalents.

10          13.    Upon information and belief, Mark Tucker's infringement of the '501 patent  
11 has been willful and will continue unabated unless enjoined by this Court.

12          14.    Saks Inc. has infringed, and continues to infringe, the '501 patent directly,  
13 contributorily and/or by inducement by making, using, offering to sell, selling and/or  
14 importing into the United States without authority products that embody the inventions  
15 claimed in the '501 patent, literally or by equivalents.

16          15.    Upon information and belief, Saks Inc.'s infringement of the '501 patent  
17 has been willful and will continue unabated unless enjoined by this Court.

18          16.    Saks & Co. has infringed, and continues to infringe, the '501 patent  
19 directly, contributorily and/or by inducement by making, using, offering to sell, selling  
20 and/or importing into the United States without authority products that embody the  
21 inventions claimed in the '501 patent, literally or by equivalents.

22          17.    Upon information and belief, Saks & Co.'s infringement of the '501 patent  
23 has been willful and will continue unabated unless enjoined by this Court.

24          18.    SFAE has infringed, and continues to infringe, the '501 patent directly,  
25 contributorily and/or by inducement by making, using, offering to sell, selling and/or  
26 importing into the United States without authority products that embody the inventions  
27 claimed in the '501 patent, literally or by equivalents.

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19. Upon information and belief, SFAE's infringement of the '501 patent has been willful and will continue unabated unless enjoined by this Court.

20. Sears has infringed, and continues to infringe, the '501 patent directly, contributorily and/or by inducement by making, using, offering to sell, selling and/or importing into the United States without authority products that embody the inventions claimed in the '501 patent, literally or by equivalents.

21. Upon information and belief, Sears' infringement of the '501 patent has been willful and will continue unabated unless enjoined by this Court.

22. Phoenix Footwear has been damaged and irreparably injured by defendants' infringing activities and will continue to be so damaged and irreparably injured unless defendants' infringing activities are enjoined by this Court.

**WHEREFORE**, Plaintiff PHOENIX FOOTWEAR GROUP, INC. demands:

a. An injunction against defendants enjoining each from continued infringement of the '501 patent;

b. An award to Phoenix Footwear of damages, not less than a reasonable royalty and including prejudgment interest, adequate to fully compensate Phoenix Footwear for the defendants' infringement of the '501 patent complained of herein, together with interest and costs as affixed by the Court, pursuant to 35 U.S.C. § 284;

c. An award to Phoenix Footwear of exemplary damages and attorneys fees from defendants pursuant to 35 U.S.C. §§ 284 and 285; and,

d. Such other and further relief as this Court deems just and proper.

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**JURY DEMAND**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure and the 7th Amendment to the Constitution of the United States, Phoenix Footwear demands a trial by jury of all issues triable as of right by jury in the above action.

DATED: June 21, 2004 MULVANEY, KAHAN & BARRY

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GEN.800.120370.1

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FIRST NATIONAL BANK CENTER  
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SAN DIEGO, CALIFORNIA 92101-7944  
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FACSIMILE 619 238-1981



US006675501B2

(12) **United States Patent**  
**Pfander**

(10) Patent No.: **US 6,675,501 B2**  
(45) Date of Patent: **\*Jan. 13, 2004**

(54) **INSOLE CONSTRUCTION FOR FOOTWEAR**

(75) Inventor: **Wilhelm Pfander, Brewer, ME (US)**

(73) Assignee: **Phoenix Footwear Group, Inc., Old Town, ME (US)**

(\*) Notice: This patent issued on a continued prosecution application filed under 37 CFR 1.53(d), and is subject to the twenty year patent term provisions of 35 U.S.C. 154(a)(2).

Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 195 days.

(21) Appl. No.: **09/360,155**

(22) Filed: **Jul. 26, 1999**

(65) **Prior Publication Data**

US 2001/0001905 A1 May 31, 2001

(51) Int. Cl.<sup>7</sup> ..... **A43B 13/18; A43B 13/38; A43B 13/20; A61F 5/14**

(52) U.S. Cl. .... **36/28; 36/44; 36/3 B; 36/141; 36/30 R**

(58) Field of Search ..... **36/11.5, 44, 43, 36/28, 30 R, 29, 31, 3 R, 3 B, 25 R, 7.5, 7.8, 141**

(56) **References Cited**

**U.S. PATENT DOCUMENTS**

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\* cited by examiner

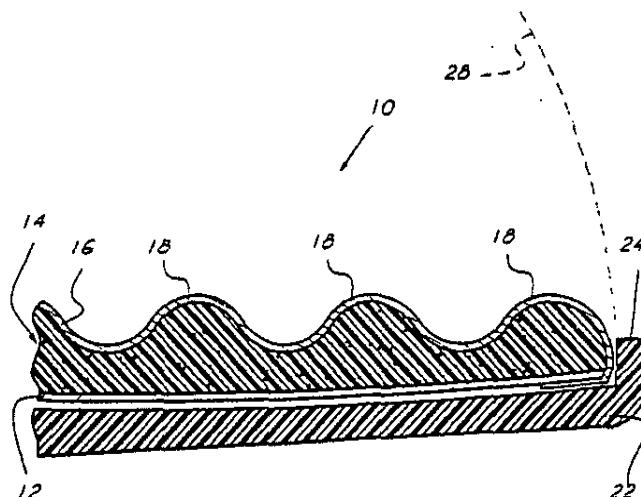
*Primary Examiner*—Anthony D. Stashick

(74) *Attorney, Agent, or Firm*—Nixon & Vanderhye, P.C.; Frank P. Presta

(57) **ABSTRACT**

An insole construction for footwear comprising a base member, an intermediate member formed of a soft foam and having a plurality of substantially uniformly spaced raised cushioning elements on the upper surface thereof, and a flexible cover member surrounding the intermediate member and extending beneath the base member. The intermediate member preferably is formed of a foam such as polyurethane foam having a density rating of approximately 60–90. The raised cushioning elements are of a height of approximately 6 millimeters above the upper surface of the intermediate member and are spaced approximately 10–30 millimeters from each other. The thickness of the intermediate member is approximately 6 millimeters.

**16 Claims, 4 Drawing Sheets**



**EXHIBIT A**

U.S. Patent

Jan. 13, 2004

Sheet 1 of 4

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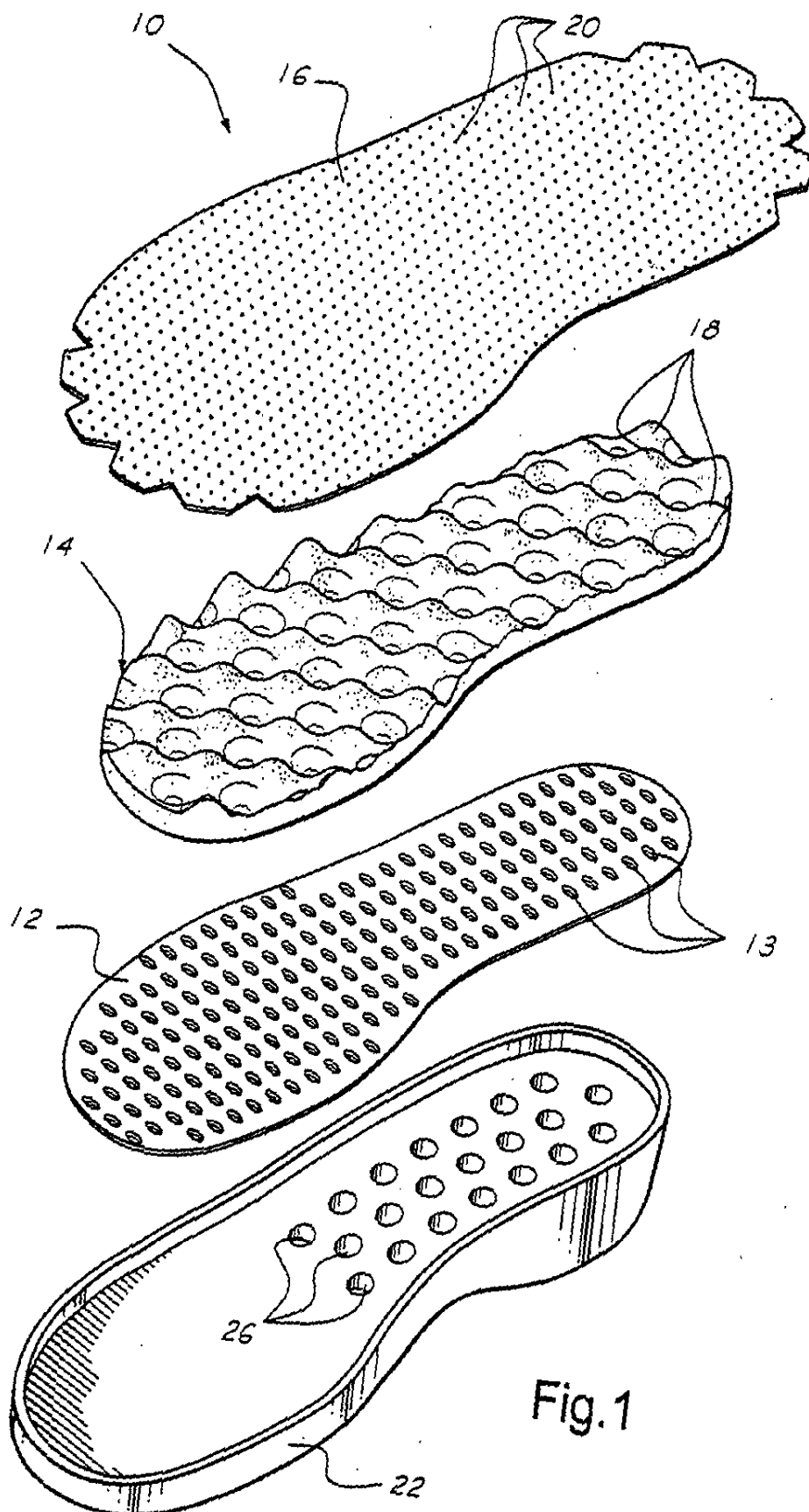


EXHIBIT A 1



U.S. Patent

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Sheet 2 of 4

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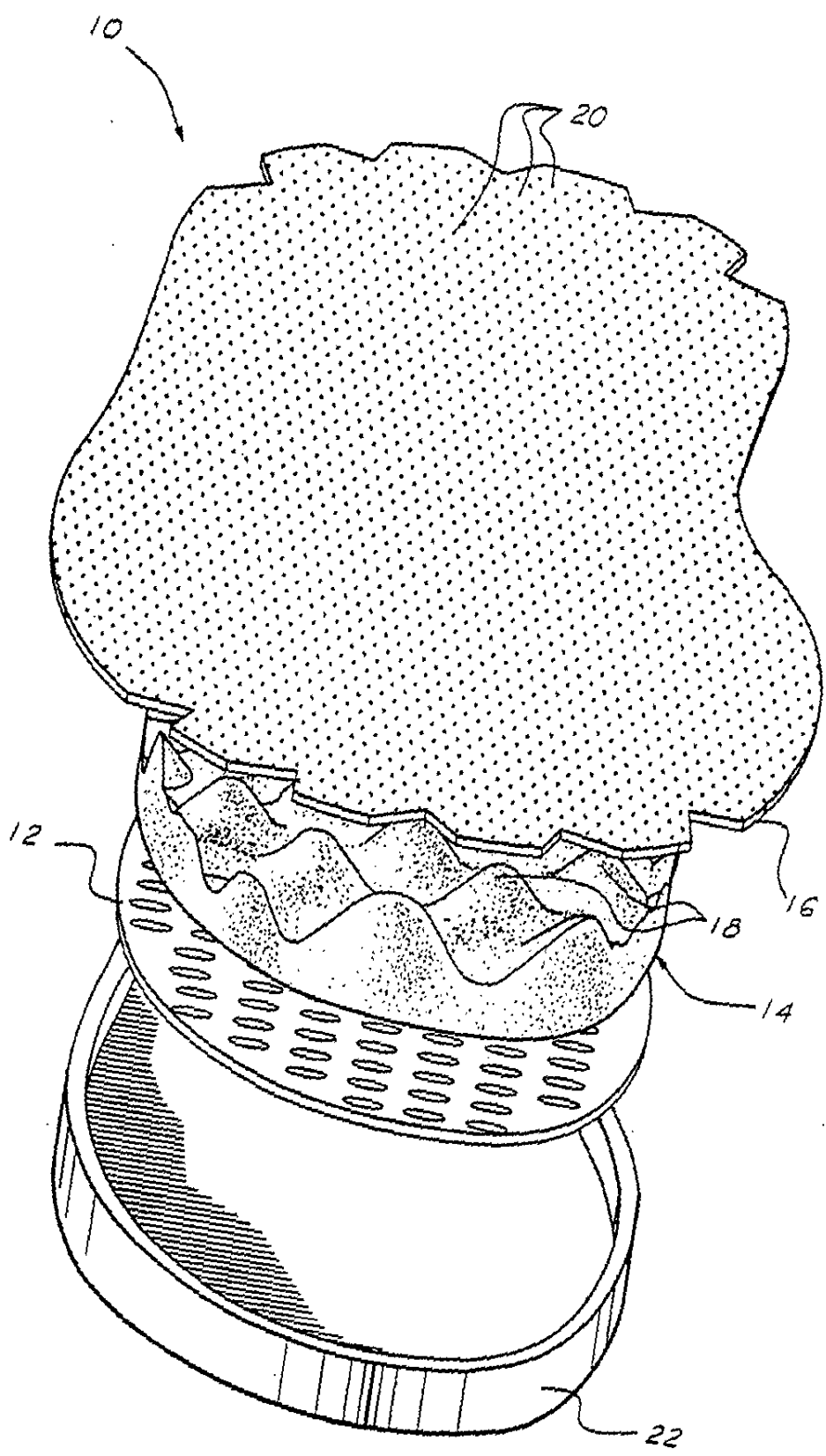


Fig.2

EXHIBIT A  
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U.S. Patent

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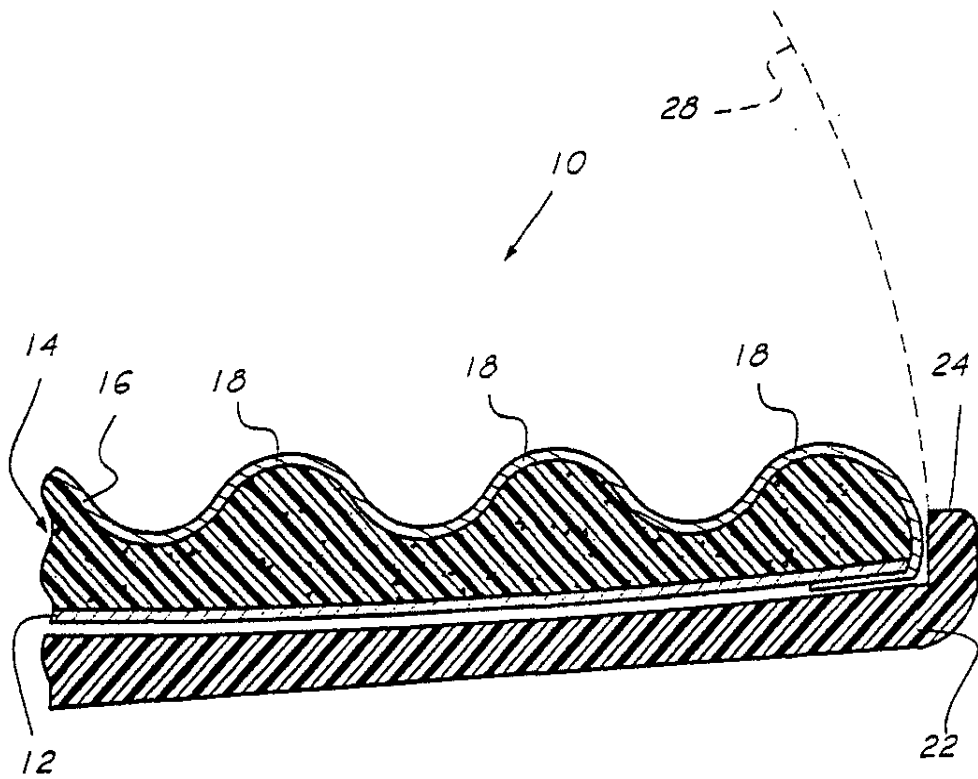


Fig.3

EXHIBIT A

U.S. Patent

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Sheet 4 of 4

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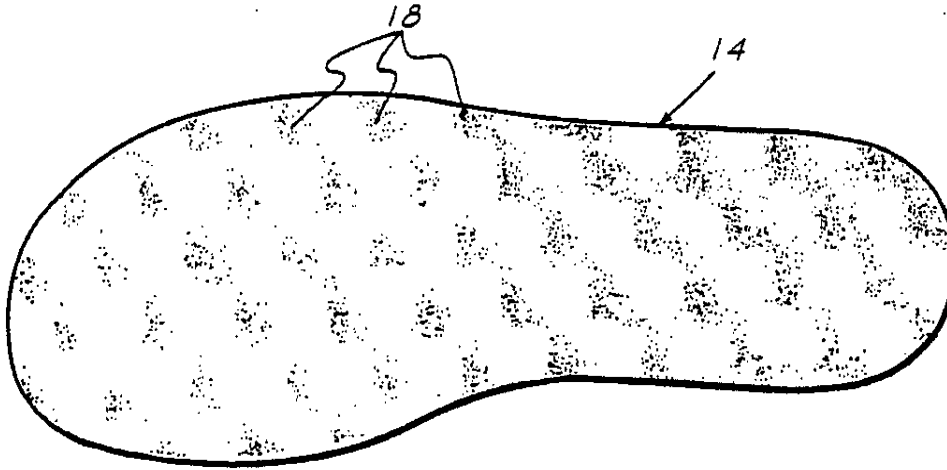


Fig. 4

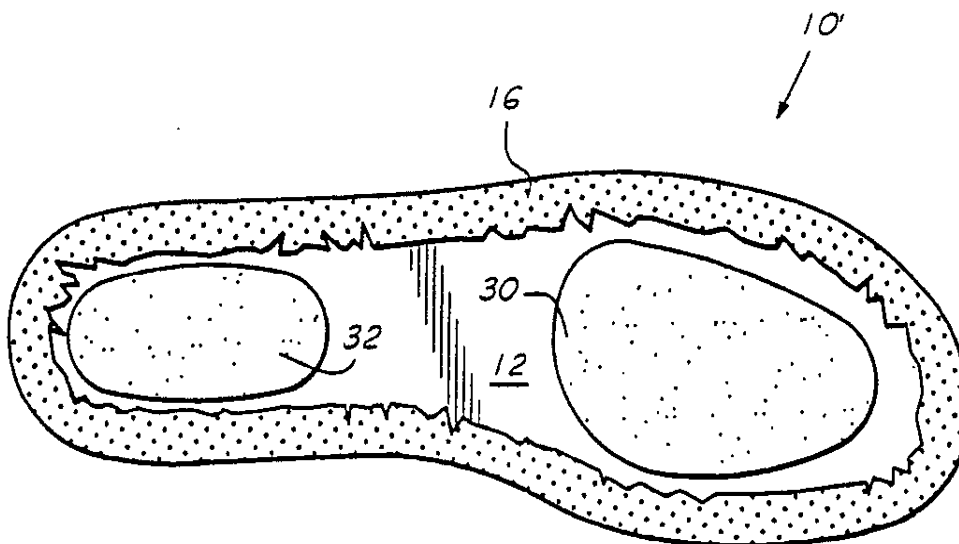


Fig. 5

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## INSOLE CONSTRUCTION FOR FOOTWEAR

## BACKGROUND

The present invention relates generally to an insole construction for footwear and, more particularly, to such an insole construction which provides increased comfort and support for the foot of the wearer.

Recent efforts to provide footwear which is both comfortable and anatomically beneficial to the wearer have resulted in many concepts having varying degrees of effectiveness. Most of these concepts are merely variations of other concepts which have been around for years. Historically, there have been a number of attempts to increase the cushioning and support of footwear by making modifications to the insole or midsole. These attempts have been subject to one or more of the following disadvantages:

1. They have been complicated in construction;
2. They have been difficult to manufacture;
3. They have been expensive to manufacture;
4. They have not been durable;
5. They have not been sufficiently comfortable; and,
6. They have not provided adequate support and stability for the foot of the wearer.

The insole construction of the present invention is not subject to any of the above listed disadvantages and provides advantages which have not been achieved in prior footwear constructions.

## SUMMARY OF THE INVENTION

The insole construction of the present invention comprises a relatively flat, flexible base member, an intermediate member formed of a relatively soft foam such as polyurethane foam and having a plurality of upstanding, spaced raised portions or cushioning elements on the upper surface thereof, and a flexible cover member which surrounds the intermediate member and extends below and is secured to the base member to provide a unitary construction.

The base member may be provided with a plurality of perforations to increase the flexibility thereof. The cover member may be formed of leather and also provided with a plurality of perforations for the purpose of increasing the breathability thereof.

The intermediate member preferably is formed of a polyurethane foam having a density rating so that it is relatively soft in the nature of foam used for a mattress, upholstered chair or the like. In a preferred embodiment, the intermediate member has a thickness of approximately 6 millimeters and the raised cushioning elements thereof are approximately 6 millimeters in height. The raised cushioning elements preferably are spaced approximately 10-30 millimeters from each other. Because of the flexibility, spacing and size of the raised cushioning elements, they provide enhanced comfort and support to the foot of the wearer and also are self-adjusting to the wearer's foot so that it does not slide on the insole and thus is very stable when positioned thereon during walking or the like.

In the use of the insole construction of the present invention, it is preferably mounted on and secured to an outsole of any suitable anatomical shape and construction. The insole construction of the present invention is especially advantageous in sandal-type footwear because of the support and stability it provides for the wearer's foot, and is also useful in other types of footwear having a conventional upper or the like.

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## BRIEF DESCRIPTION OF THE DRAWINGS

FIG. 1 is an exploded perspective view of the insole construction of the present invention and an outsole useable therewith;

FIG. 2 is an exploded front view of the insole construction and outsole shown in FIG. 1;

FIG. 3 is a sectional view of the insole construction showing its components in assembled relation;

FIG. 4 is a plan view of the top of the intermediate member of the insole construction; and

FIG. 5 is a plan view of the bottom of a modified embodiment of the insole construction.

## DESCRIPTION OF THE PREFERRED EMBODIMENTS

Referring to FIGS. 1 and 2, the insole construction 10 of the present invention generally comprises a base member 12, an intermediate member 14 and a cover member 16. The base member 12 preferably is of generally flat construction and is formed of a suitable flexible material, such as plastic, leather, fiberboard or the like. Also, the base member 12 may be provided with a plurality of perforations 13 to enhance the flexibility thereof.

The intermediate member 14 preferably is formed of a foam such as polyurethane foam having a density rating so as to be relatively soft in the nature of the foam used for mattresses, upholstered furniture or the like. As shown in FIGS. 1-4, the intermediate member 14 comprises a plurality of raised portions or cushioning elements 18 of generally curved shape on the upper surface thereof. Preferably, the intermediate member is approximately 6 millimeters in thickness and the raised cushioning elements 18 are approximately 6 millimeters in height above the upper surface of the intermediate member. Also, the raised cushioning elements 18 are substantially uniformly spaced on the intermediate member 14 at a distance of approximately 10-30 millimeters from each other.

The cover member 16 may be formed of any suitable flexible material such as leather and may be of any suitable construction. Preferably, the cover member 16 is provided with a plurality of perforations 20 therethrough for the purpose of enhancing the breathability thereof.

As shown in FIG. 3, in assembled form, the cover member 16 surrounds and encloses the intermediate member 14 and extends beneath and is secured to the lower surface of the base member 12 in any suitable manner, such as by suitable adhesive.

As shown in FIGS. 1-3, the insole construction 10 may be mounted on and secured to an outsole 22 of any suitable shape and construction. The outsole 22 may be provided with an upstanding rim 24 for enclosing the insole construction 10, and also with a plurality of perforations 26 for weight reduction. The outsole may be formed of any suitable material, such as polyurethane, or the like.

Any suitable type of upper 28 (shown in broken lines in FIG. 3) may be utilized in footwear constructed in accordance with the present invention. Although the present invention is particularly effective in sandal-type footwear, it may be used in other types of footwear wherein the upper encloses all or a portion of the foot of the wearer.

The insole construction 10 of the present invention, primarily because of the unique construction of the intermediate member 14, provides enhanced anatomical support, stability and comfort for the foot of the wearer. Because of

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the relatively soft foam and the size and spacing of the raised cushioning elements 18, the insole construction 10 is self-adjusting to the foot of the wearer such that there is enhanced support for the foot and it is prevented from slipping forwardly, rearwardly or sideways on the insole construction. Accordingly, the insole construction 10 of the present invention provides new and improved comfort, support and stability for the foot of the wearer.

FIG. 5 illustrates a modified embodiment of the insole construction 10 wherein the base member 12 comprises soft, compressible inserts 30 and 32 of any suitable material or construction in the front and rear portions thereof, respectively, to provide additional cushioning in those areas for the foot of the wearer.

While the invention has been described in connection with what is presently considered to be the most practical and preferred embodiment, it is to be understood that the invention is not to be limited to the disclosed embodiments, but on the contrary, is intended to cover various modifications and equivalent arrangements included within the spirit and scope of the appended claims.

What is claimed is:

1. An insole construction for footwear comprising:
  - a base member;
  - an intermediate member formed of a soft foam and having an upper surface and a plurality of raised cushioning elements on said upper surface thereof; and
  - a flexible cover member surrounding said intermediate member to conform substantially to the shape of said upper surface and the plurality of raised cushioning elements thereof, said cover member extending beneath said base member, and said raised cushioning elements being of a height, size and spacing so as to be self-adjusting to the foot of the wearer to surround it and prevent it from slipping thereon;
  - said raised cushioning elements having a height of approximately 6 millimeters above the upper surface of said intermediate member and being substantially uniformly spaced on said upper surface at a spacing of approximately 10-30 millimeters.
2. The insole of claim 1, wherein said base member is substantially flat and flexible.
3. The insole construction of claim 2, wherein said base member is provided with a plurality of perforations to increase the flexibility thereof.
4. The insole construction of claim 1 wherein said foam is polyurethane foam.
5. The insole construction of claim 1 wherein said intermediate member has a thickness of approximately 6 millimeters.
6. The insole construction of claim 1, wherein said cover member is perforated.
7. An insole construction for footwear comprising:
  - a relatively flat, flexible base member;
  - an intermediate member formed of a soft foam, and having an upper surface and a plurality of raised

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cushioning elements substantially uniformly spaced on said upper surface thereof, said intermediate member having a thickness of approximately 6 millimeters, and said raised cushioning elements having a height of approximately 6 millimeters above the upper surface of said intermediate member and being of a size and spacing to be self-adjusting to the foot of the wearer to surround it and prevent it from slipping thereon; and

a flexible cover member surrounding said intermediate member to conform substantially to the shape of said upper surface and the plurality of raised cushioning elements thereof, said cover member extending beneath said base member.

8. The insole construction of claim 7, wherein said raised cushioning elements are generally curved in shape and are spaced at approximately 10-30 millimeters from each other.

9. The insole construction of claim 8, wherein said flexible cover member is perforated and is secured to said base member.

10. The insole construction of claim 9 wherein said base member is perforated.

11. The insole construction of claim 7, wherein said base member comprises soft, compressible inserts in the front and rear portions thereof to provide additional cushioning for the foot of the wearer.

12. An article of footwear, comprising:

- an outsole; and
- an insole construction mounted on said outsole and comprising a base member, an intermediate member, and a cover member;
- said intermediate member being formed of a soft foam and having an upper surface and a plurality of raised cushioning elements on said upper surface thereof; and
- said cover member being flexible and surrounding said intermediate member to conform substantially to the shape of said upper surface and the plurality of raised cushioning elements thereof, said cover member extending beneath said base member, and said raised cushioning elements being of a height, size and spacing so as to be self-adjusting to the foot of the wearer to surround it and prevent it from slipping thereon; said raised cushioning elements having a height of approximately 6 millimeters above the upper surface of said intermediate member and being substantially uniformly spaced on said upper surface at a spacing of approximately 10-30 millimeters.

13. The footwear article of claim 12, wherein said intermediate member is approximately 6 millimeters in thickness.

14. The footwear article of claim 12, wherein an upper is secured to said outsole.

15. The footwear article of claim 12, wherein said outsole has perforations in the upper surface thereof.

16. The footwear article of claim 12, wherein said outsole has an upstanding rim surrounding said insole construction.

\* \* \* \* \*

AO 120 (3/85)

TO: <b>Commissioner of Patents and Trademarks Washington, D.C. 20231</b>	<b>REPORT ON THE FILING OR DETERMINATION OF AN 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. 04CV1244 JM (RBB)	DATE FILED June 21, 2004	U.S. DISTRICT COURT United States District Court, Southern District of California
PLAINTIFF Phoenix Footwear Group, Inc.		DEFENDANT Mark Tucker, Inc.
PATENT NO.	DATE OF PATENT	PATENTEE
1 6,675,501 B2	Jan. 13, 2004	Phoenix Footwear Group, Inc.
2		
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			
PATENT NO.	DATE OF PATENT	PATENTEE		
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



JS 44

(Rev. 11/95)

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 REVERSE OF THE FORM.)

## CIVIL COVER SHEET

## I. (a) PLAINTIFFS

PHOENIX FOOTWEAR GROUP, INC., a Delaware corporation,

04 JUN 21 PM 12:14

CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF  
(EXCEPT IN U.S. PLAINTIFF CASES)

San Diego County

BY:

DEPUTY

## DEFENDANTS

MARK TUCKER, INC., a New York corporation; SAKS & COMPANY, a New York corporation; SAKS FIFTH AVENUE ENTERPRISES, INC., a New York corporation; SEARS, ROEBUCK AND CO., a New York corporation; and DOES 1 through 20, inclusive,

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT

(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)

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San Diego, CA 92101  
619-238-1010

ATTORNEYS (IF KNOWN)

'04 CV 1244 JM (RBB)

## 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)

- |   | PTF                        | DEF                        |   | PTF                        | 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. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding  
☐ 2 Removed 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

## 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"/> 310 Airplane	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 424 Copyrights	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 630 Liquor Laws	<input checked="" type="checkbox"/> 830 Patent	<input type="checkbox"/> 450 Commerce/ICC Rates/etc.
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 650 Airline Regs	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 470 Racketeer Influenced and Control Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 660 Occupational Safety/Health	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 365 Personal Injury- Med Malpractice	<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 881 Agricultural Acts
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 892 Economic Stabilization Act
	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 893 Environmental Matters
	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 790 Other Labor Litigation		<input type="checkbox"/> 894 Energy Allocation Act
	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		<input type="checkbox"/> 895 Freedom of Information Act
	<input type="checkbox"/> 385 Property Damage Product Liability			<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

## VI. 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.) Title 28 of the United States Code, Chapter

85, Section 271 for patent infringement.

35:271 JP

## VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 ☐

DEMAND \$ According to Proof & Preliminary Injunction

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ YES ☐ NO

## VIII. RELATED CASE(S) (See instructions): IF ANY

JUDGE

DOCKET NUMBER

DATE JUNE 21, 2004

FOR OFFICE USE ONLY

RECEIPT# 104692

AMOUNT

150-

APPLYING IPP

ms

JUDGE

MAG. JUDGE