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6 Attorney for Plaintiffs 3FORM, INC. and

HUNTER DOUGLAS INDUSTRIES SWITZERLAND GMBH

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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
10 **SACRAMENTO DIVISION**

11 3FORM, INC., a Utah corporation; and HUNTER
12 DOUGLAS INDUSTRIES SWITZERLAND
13 GmbH, a Swiss limited liability company,

14 Plaintiffs,

15 v.

16 ROWE FENESTRATION, INC., a California
17 corporation ,

18 Defendant.

Case No.: _____

COMPLAINT FOR:

- (1) Patent Infringement (35 U.S.C. § 271);
- (2) Trademark Infringement and Unfair Competition (Lanham Act); and
- (3) Unfair Competition (Cal. Bus. & Prof. Code § 17200).

Demand for Jury Trial

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21 Plaintiffs 3form, Inc. (“3form”) and Hunter Douglas Industries Switzerland GmbH (“Hunter
22 Douglas”) [hereinafter, 3form and Hunter Douglas are sometimes referred to collectively as “Plaintiffs”]
23 hereby complain against defendant Rowe Fenestration, Inc. (“Defendant”) and for claims for relief
24 against Defendant allege as follows:

25 **PARTIES**

26 1. 3form is a Utah corporation with its principal executive offices located at 2300 South
27 2300 West, Salt Lake City, Utah 84119.

1 State of California, and is therefore subject to this Court's exercise of personal jurisdiction over it
2 pursuant to Rule 4(k)(1)(A) of the Federal Rules of Civil Procedure.

3 **VENUE**

4 12. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400(b).

5 **FIRST CLAIM FOR RELIEF**

6 (By 3form for Infringement of U.S. Patent No. D621,068)

7 13. 3form hereby incorporates the allegations of the preceding paragraphs 1 through 12 of
8 this Complaint into this First Claim for Relief, as though fully set forth hereat.

9 14. U.S. Patent No. D621,068 ("the '068 Patent") issued from the United States Patent and
10 Trademark Office ("USPTO") on August 3, 2010, bearing the title "Architectural Panel with Thatch
11 Reed Design." (A true and correct copy of the '068 Patent is attached hereto as Exhibit A and
12 incorporated herein by this reference.)

13 15. 3form is the owner of all right, title, and interest in and to the '068 Patent, including the
14 right to sue for and recover all past, present, and future damages for infringement of the '068 Patent, and
15 to enjoin acts of infringement of the '068 Patent.

16 16. Neither 3form nor any authorized third party has licensed or otherwise authorized
17 Defendant to practice the '068 Patent.

18 17. Defendant, directly or through its subsidiaries, divisions, affiliates, or groups, has
19 infringed and continues to infringe the claim of the '068 Patent by using, selling, and/or offering to sell,
20 or inducing others to make, use, sell, and/or offer for sale, in the United States and this judicial district,
21 products that are covered by the claim of the '068 Patent, including but not limited to, those designated
22 by the manufacturer, New GlasPro, Inc. ("GlasPro"), as "Polychrome Bamboo." Therefore, Defendant
23 is liable for infringement of the '068 Patent pursuant to 35 U.S.C. § 271.

24 18. Defendant's acts of infringement have caused damage to 3form, and 3form is entitled to
25 recover from Defendant the actual damages sustained by 3form as a result of Defendant's wrongful acts
26 in an amount subject to proof at trial pursuant to 35 U.S.C. § 284, or an award of Defendant's profits
27 from its infringements pursuant to 35 U.S.C. § 289, whichever is greater.
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1 19. As a consequence of the infringement complained of herein, 3form has been irreparably
2 damaged to an extent not yet determined, and will continue to be irreparably damaged by such acts in
3 the future unless Defendant is enjoined by this Court from committing further acts of infringement of the
4 '068 Patent.

5 **SECOND CLAIM FOR RELIEF**

6 (By 3form for Infringement of U.S. Patent No. D608,022)

7 20. 3form hereby incorporates the allegations of the preceding paragraphs 1 through 12 of
8 this Complaint into this Second Claim for Relief, as though fully set forth hereat.

9 21. U.S. Patent No. D,608,022 (“the '022 Patent”) issued from the USPTO on January 12,
10 2010, bearing the title “Architectural Panel with Large Blade Grass and Flower.” (A true and correct
11 copy of the '022 Patent is attached hereto as Exhibit B and incorporated herein by this reference.)

12 22. 3form is the owner of all right, title, and interest in and to the '022 Patent, including the
13 right to sue for and recover all past, present, and future damages for infringement of the '022 Patent, and
14 to enjoin acts of infringement of the '022 Patent.

15 23. Neither 3form nor any authorized third party has licensed or otherwise authorized
16 Defendant to practice the '022 Patent.

17 24. Defendant, directly or through its subsidiaries, divisions, affiliates, or groups, has
18 infringed and continues to infringe the claim of the '022 Patent by using, selling, and/or offering to sell,
19 or inducing others to make, use, sell, and/or offer for sale, in the United States and this judicial district,
20 products that are covered by the claim of the '022 Patent, including but not limited to, those designated
21 by the manufacturer, GlasPro, as “Asian Harvest” and “Asian Harvest Spring.” Therefore, Defendant is
22 liable for infringement of the '022 Patent pursuant to 35 U.S.C. § 271.

23 25. Defendant’s acts of infringement have caused damage to 3form, and 3form is entitled to
24 recover from Defendant the actual damages sustained by 3form as a result of Defendant’s wrongful acts
25 in an amount subject to proof at trial pursuant to 35 U.S.C. § 284, or an award of Defendant’s profits
26 from its infringements pursuant to 35 U.S.C. § 289, whichever is greater.

27 26. As a consequence of the infringement complained of herein, 3form has been irreparably
28 damaged to an extent not yet determined, and will continue to be irreparably damaged by such acts in

1 the future unless Defendant is enjoined by this Court from committing further acts of infringement of the
2 '022 Patent.

3 **THIRD CLAIM FOR RELIEF**

4 (By 3form for Infringement of U.S. Patent No. D608,026)

5 27. 3form hereby incorporates the allegations of the preceding paragraphs 1 through 12 of
6 this Complaint into this Third Claim for Relief, as though fully set forth hereat.

7 28. U.S. Patent No. D608,026 ("the '026 Patent") issued from the USPTO on January 12,
8 2010, bearing the title "Architectural Panel with Plant Stem and Leaf." (A true and correct copy of the
9 '026 Patent is attached hereto as Exhibit C and incorporated herein by this reference.)

10 29. 3form is the owner of all right, title, and interest in and to the '026 Patent, including the
11 right to sue for and recover all past, present, and future damages for infringement of the '026 Patent, and
12 to enjoin acts of infringement of the '026 Patent.

13 30. Neither 3form nor any authorized third party has licensed or otherwise authorized
14 Defendant to practice the '026 Patent.

15 31. Defendant, directly or through its subsidiaries, divisions, affiliates, or groups, has
16 infringed and continues to infringe the claim of the '026 Patent by using, selling, and/or offering to sell,
17 or inducing others to make, use, sell, and/or offer for sale, in the United States and this judicial district,
18 products that are covered by the claim of the '026 Patent, including but not limited to, those designated
19 by the manufacturer, GlasPro, as "Ting Ting Flowers Red" and "Ting Ting Flowers." Therefore,
20 Defendant is liable for infringement of the '026 Patent pursuant to 35 U.S.C. § 271.

21 32. Defendant's acts of infringement have caused damage to 3form, and 3form is entitled to
22 recover from Defendant the actual damages sustained by 3form as a result of Defendant's wrongful acts
23 in an amount subject to proof at trial pursuant to 35 U.S.C. § 284, or an award of Defendant's profits
24 from its infringements pursuant to 35 U.S.C. § 289, whichever is greater.

25 33. As a consequence of the infringement complained of herein, 3form has been irreparably
26 damaged to an extent not yet determined, and will continue to be irreparably damaged by such acts in
27 the future unless Defendant is enjoined by this Court from committing further acts of infringement of the
28 '026 Patent.

FOURTH CLAIM FOR RELIEF

(By 3form for Infringement of U.S. Patent No. D609,826)

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3 34. 3form hereby incorporates the allegations of the preceding paragraphs 1 through 12 of
4 this Complaint into this Fourth Claim for Relief, as though fully set forth hereat.

5 35. U.S. Patent No. D609,826 (“the ’826 Patent”) issued from the USPTO on February 9,
6 2010, bearing the title “Architectural Panel with Translucent Wood Design.” (A true and correct copy
7 of the ’826 Patent is attached hereto as Exhibit D and incorporated herein by this reference.)

8 36. 3form is the owner of all right, title, and interest in and to the ’826 Patent, including the
9 right to sue for and recover all past, present, and future damages for infringement of the ’826 Patent, and
10 to enjoin acts of infringement of the ’826 Patent.

11 37. Neither 3form nor any authorized third party has licensed or otherwise authorized
12 Defendant to practice the ’826 Patent.

13 38. Defendant, directly or through its subsidiaries, divisions, affiliates, or groups, has
14 infringed and continues to infringe the claim of the ’826 Patent by using, selling, and/or offering to sell,
15 or inducing others to make, use, sell, and/or offer for sale, in the United States and this judicial district,
16 products that are covered by the claim of the ’826 Patent, including but not limited to, those designated
17 by the manufacturer, GlasPro, as “Echo Woods in Glass.” Therefore, Defendant is liable for
18 infringement of the ’826 Patent pursuant to 35 U.S.C. § 271.

19 39. Defendant’s acts of infringement have caused damage to 3form, and 3form is entitled to
20 recover from Defendant the actual damages sustained by 3form as a result of Defendant’s wrongful acts
21 in an amount subject to proof at trial pursuant to 35 U.S.C. § 284, or an award of Defendant’s profits
22 from its infringements pursuant to 35 U.S.C. § 289, whichever is greater.

23 40. As a consequence of the infringement complained of herein, 3form has been irreparably
24 damaged to an extent not yet determined, and will continue to be irreparably damaged by such acts in
25 the future unless Defendant is enjoined by this Court from committing further acts of infringement of the
26 ’826 Patent.

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FIFTH CLAIM FOR RELIEF

(By 3form for Infringement of U.S. Patent No. D608,474)

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3 41. 3form hereby incorporates the allegations of the preceding paragraphs 1 through 12 of
4 this Complaint into this Fifth Claim for Relief, as though fully set forth hereat.

5 42. U.S. Patent No. D608,474 (“the ’474 Patent”) issued from the USPTO on January 19,
6 2010, bearing the title “Architectural Panel with Buri Palm and Reed.” (A true and correct copy of the
7 ’474 Patent is attached hereto as Exhibit E and incorporated herein by this reference.)

8 43. 3form is the owner of all right, title, and interest in and to the ’474 Patent, including the
9 right to sue for and recover all past, present, and future damages for infringement of the ’474 Patent, and
10 to enjoin acts of infringement of the ’474 Patent.

11 44. Neither 3form nor any authorized third party has licensed or otherwise authorized
12 Defendant to practice the ’474 Patent.

13 45. Defendant, directly or through its subsidiaries, divisions, affiliates, or groups, has
14 infringed and continues to infringe the claim of the ’474 Patent by using, selling, and/or offering to sell,
15 or inducing others to make, use, sell, and/or offer for sale, in the United States and this judicial district,
16 products that are covered by the claim of the ’474 Patent, including but not limited to, those designated
17 by the manufacturer, GlasPro, as “Baileys Buri Palm.” Therefore, Defendant is liable for infringement
18 of the ’474 Patent pursuant to 35 U.S.C. § 271.

19 46. Defendant’s acts of infringement have caused damage to 3form, and 3form is entitled to
20 recover from Defendant the actual damages sustained by 3form as a result of Defendant’s wrongful acts
21 in an amount subject to proof at trial pursuant to 35 U.S.C. § 284, or an award of Defendant’s profits
22 from its infringements pursuant to 35 U.S.C. § 289, whichever is greater.

23 47. As a consequence of the infringement complained of herein, 3form has been irreparably
24 damaged to an extent not yet determined, and will continue to be irreparably damaged by such acts in
25 the future unless Defendant is enjoined by this Court from committing further acts of infringement of the
26 ’474 Patent.

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SIXTH CLAIM FOR RELIEF

(By 3form for Infringement of U.S. Patent No. D608,023)

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3 48. 3form hereby incorporates the allegations of the preceding paragraphs 1 through 12 of
4 this Complaint into this Sixth Claim for Relief, as though fully set forth hereat.

5 49. U.S. Patent No. D608,023 (“the ’023 Patent”) issued from the USPTO on January 12,
6 2010, bearing the title “Architectural Panel with Large Blade Grass and Thatch Reed.” (A true and
7 correct copy of the ’023 Patent is attached hereto as Exhibit F and incorporated herein by this reference.)

8 50. 3form is the owner of all right, title, and interest in and to the ’023 Patent, including the
9 right to sue for and recover all past, present, and future damages for infringement of the ’023 Patent, and
10 to enjoin acts of infringement of the ’023 Patent.

11 51. Neither 3form nor any authorized third party has licensed or otherwise authorized
12 Defendant to practice the ’023 Patent.

13 52. Defendant, directly or through its subsidiaries, divisions, affiliates, or groups, has
14 infringed and continues to infringe the claim of the ’023 Patent by using, selling, and/or offering to sell,
15 or inducing others to make, use, sell, and/or offer for sale, in the United States and this judicial district,
16 products that are covered by the claim of the ’023 Patent, including but not limited to, those designated
17 by the manufacturer, GlasPro, as “Sea Grass.” Therefore, Defendant is liable for infringement of the
18 ’023 Patent pursuant to 35 U.S.C. § 271.

19 53. Defendant’s acts of infringement have caused damage to 3form, and 3form is entitled to
20 recover from Defendant the actual damages sustained by 3form as a result of Defendant’s wrongful acts
21 in an amount subject to proof at trial pursuant to 35 U.S.C. § 284, or an award of Defendant’s profits
22 from its infringements pursuant to 35 U.S.C. § 289, whichever is greater.

23 54. As a consequence of the infringement complained of herein, 3form has been irreparably
24 damaged to an extent not yet determined, and will continue to be irreparably damaged by such acts in
25 the future unless Defendant is enjoined by this Court from committing further acts of infringement of the
26 ’023 Patent.

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SEVENTH CLAIM FOR RELIEF

(By 3form for Infringement of U.S. Patent No. D644,340)

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3 55. 3form hereby incorporates the allegations of the preceding paragraphs 1 through 12 of
4 this Complaint into this Seventh Claim for Relief, as though fully set forth hereat.

5 56. U.S. Patent No. D644,340 (“the ’340 Patent”) issued from the USPTO on August 30,
6 2011 bearing the title “Architectural Panel with Line and Bunch Interlayer Design.” (A true and correct
7 copy of the ’340 Patent is attached hereto as Exhibit G and incorporated herein by this reference.)

8 57. 3form is the owner of all right, title, and interest in and to the ’340 Patent, including the
9 right to sue for and recover all past, present, and future damages for infringement of the ’340 Patent, and
10 to enjoin acts of infringement of the ’340 Patent.

11 58. Neither 3form nor any authorized third party has licensed or otherwise authorized
12 Defendant to practice the ’340 Patent.

13 59. Defendant, directly or through its subsidiaries, divisions, affiliates, or groups, has
14 infringed and continues to infringe the claim of the ’340 Patent by using, selling, and/or offering to sell,
15 or inducing others to make, use, sell, and/or offer for sale, in the United States and this judicial district,
16 products that are covered by the claim of the ’340 Patent, including but not limited to, those designated
17 by the manufacturer, GlasPro, as “Linear Array Tea,” “Linear Array Bloom,” “Linear Array Gold,” and
18 “Linear Array Charcoal.” Therefore, Defendant is liable for infringement of the ’340 Patent pursuant to
19 35 U.S.C. § 271.

20 60. Defendant’s acts of infringement have caused damage to 3form, and 3form is entitled to
21 recover from Defendant the actual damages sustained by 3form as a result of Defendant’s wrongful acts
22 in an amount subject to proof at trial pursuant to 35 U.S.C. § 284, or an award of Defendant’s profits
23 from its infringements pursuant to 35 U.S.C. § 289, whichever is greater.

24 61. As a consequence of the infringement complained of herein, 3form has been irreparably
25 damaged to an extent not yet determined, and will continue to be irreparably damaged by such acts in
26 the future unless Defendant is enjoined by this Court from committing further acts of infringement of the
27 ’340 Patent.

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EIGHTH CLAIM FOR RELIEF

(By 3form for Infringement of U.S. Patent No. D632,811)

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3 62. 3form hereby incorporates the allegations of the preceding paragraphs 1 through 12 of
4 this Complaint into this Eighth Claim for Relief, as though fully set forth hereat.

5 63. U.S. Patent No. D632,811 (“the ’811 Patent”) issued from the USPTO on February 15,
6 2011, bearing the title “Architectural Panel with Woven Textile Interlayer.” (A true and correct copy of
7 the ’811 Patent is attached hereto as Exhibit H and incorporated herein by this reference.)

8 64. 3form is the owner of all right, title, and interest in and to the ’811 Patent, including the
9 right to sue for and recover all past, present, and future damages for infringement of the ’811 Patent, and
10 to enjoin acts of infringement of the ’811 Patent.

11 65. Neither 3form nor any authorized third party has licensed or otherwise authorized
12 Defendant to practice the ’811 Patent.

13 66. Defendant, directly or through its subsidiaries, divisions, affiliates, or groups, has
14 infringed and continues to infringe the claim of the ’811 Patent by using, selling, and/or offering to sell,
15 or inducing others to make, use, sell, and/or offer for sale, in the United States and this judicial district,
16 products that are covered by the claim of the ’811 Patent, including but not limited to, those designated
17 by the manufacturer, GlasPro, as “Linear Array Tea,” “Linear Array Bloom,” “Linear Array Gold,” and
18 “Linear Array Charcoal.” Therefore, Defendant is liable for infringement of the ’811 Patent pursuant to
19 35 U.S.C. § 271.

20 67. Defendant’s acts of infringement have caused damage to 3form, and 3form is entitled to
21 recover from Defendant the actual damages sustained by 3form as a result of Defendant’s wrongful acts
22 in an amount subject to proof at trial pursuant to 35 U.S.C. § 284, or an award of Defendant’s profits
23 from its infringements pursuant to 35 U.S.C. § 289, whichever is greater.

24 68. As a consequence of the infringement complained of herein, 3form has been irreparably
25 damaged to an extent not yet determined, and will continue to be irreparably damaged by such acts in
26 the future unless Defendant is enjoined by this Court from committing further acts of infringement of the
27 ’811 Patent.

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NINTH CLAIM FOR RELIEF

(By 3form for Infringement of U.S. Patent No. 7,504,159)

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3 69. 3form hereby incorporates the allegations of the preceding paragraphs 1 through 12 of
4 this Complaint into this Ninth Claim for Relief, as though fully set forth hereat.

5 70. U.S. Patent No. 7,504,159 (“the ’159 Patent”) issued from the USPTO on March 17,
6 2009, bearing the title “Resin-based Panels having Thin or Brittle Veneer Layers and Methods of
7 Making Same.” (A true and correct copy of the ’159 Patent is attached hereto as Exhibit I and
8 incorporated herein by this reference.)

9 71. 3form is the owner of all right, title, and interest in and to the ’159 Patent, including the
10 right to sue for and recover all past, present, and future damages for infringement of the ’159 Patent, and
11 to enjoin acts of infringement of the ’159 Patent.

12 72. Neither 3form nor any authorized third party has licensed or otherwise authorized
13 Defendant to practice the ’159 Patent.

14 73. Defendant, directly or through its subsidiaries, divisions, affiliates, or groups, has
15 infringed and continues to infringe the claim of the ’159 Patent by using, selling, and/or offering to sell,
16 or inducing others to make, use, sell, and/or offer for sale, in the United States and this judicial district,
17 products that are covered by at least claim 9 of the ’159 Patent, including but not limited to, those
18 designated by the manufacturer, GlasPro, as “Echo Woods” in resin. Therefore, Defendant is liable for
19 infringement of the ’159 Patent pursuant to 35 U.S.C. § 271.

20 74. Defendant’s acts of infringement have caused damage to 3form, and 3form is entitled to
21 recover from Defendant the actual damages sustained by 3form as a result of Defendant’s wrongful acts
22 in an amount subject to proof at trial pursuant to 35 U.S.C. § 284.

23 75. As a consequence of the infringement complained of herein, 3form has been irreparably
24 damaged to an extent not yet determined, and will continue to be irreparably damaged by such acts in
25 the future unless Defendant is enjoined by this Court from committing further acts of infringement of the
26 ’159 Patent.

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TENTH CLAIM FOR RELIEF

(By 3form for Infringement of U.S. Patent No. 7,691,486)

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3 76. 3form hereby incorporates the allegations of the preceding paragraphs 1 through 12 of
4 this Complaint into this Tenth Claim for Relief, as though fully set forth hereat.

5 77. U.S. Patent No. 7,691,486 (“the ’486 Patent”) issued from the USPTO on April 6, 2010,
6 bearing the title “Resin-based Panels having Translucent Veneer Layers.” (A true and correct copy of
7 the ’486 Patent is attached hereto as Exhibit J and incorporated herein by this reference.)

8 78. 3form is the owner of all right, title, and interest in and to the ’486 Patent, including the
9 right to sue for and recover all past, present, and future damages for infringement of the ’486 Patent, and
10 to enjoin acts of infringement of the ’486 Patent.

11 79. Neither 3form nor any authorized third party has licensed or otherwise authorized
12 Defendant to practice the ’486 Patent.

13 80. Defendant, directly or through its subsidiaries, divisions, affiliates, or groups, has
14 infringed and continues to infringe the claim of the ’486 Patent by using, selling, and/or offering to sell,
15 or inducing others to make, use, sell, and/or offer for sale, in the United States and this judicial district,
16 products that are covered by at least claim 1 of the ’486 Patent, including but not limited to, those
17 designated by the manufacturer, GlasPro, as “Echo Woods” in resin. Therefore, Defendant is liable for
18 infringement of the ’486 Patent pursuant to 35 U.S.C. § 271.

19 81. Defendant’s acts of infringement have caused damage to 3form, and 3form is entitled to
20 recover from Defendant the actual damages sustained by 3form as a result of Defendant’s wrongful acts
21 in an amount subject to proof at trial pursuant to 35 U.S.C. § 284.

22 82. As a consequence of the infringement complained of herein, 3form has been irreparably
23 damaged to an extent not yet determined, and will continue to be irreparably damaged by such acts in
24 the future unless Defendant is enjoined by this Court from committing further acts of infringement of the
25 ’486 Patent.

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ELEVENTH CLAIM FOR RELIEF

(By 3form for Infringement of U.S. Patent No. 7,940,459)

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3 83. 3form hereby incorporates the allegations of the preceding paragraphs 1 through 12 of
4 this Complaint into this Eleventh Claim for Relief, as though fully set forth hereat.

5 84. U.S. Patent No. 7,940,459 (“the ’459 Patent”) issued from the USPTO on May 10, 2011,
6 bearing the title “Formable Fused Polymer Panels Containing Light Refracting Films.” (A true and
7 correct copy of the ’459 Patent is attached hereto as Exhibit K and incorporated herein by this
8 reference.)

9 85. 3form is the owner of all right, title, and interest in and to the ’459 Patent, including the
10 right to sue for and recover all past, present, and future damages for infringement of the ’459 Patent, and
11 to enjoin acts of infringement of the ’459 Patent.

12 86. Neither 3form nor any authorized third party has licensed or otherwise authorized
13 Defendant to practice the ’459 Patent.

14 87. Defendant, directly or through its subsidiaries, divisions, affiliates, or groups, has
15 infringed and continues to infringe the claim of the ’459 Patent by using, selling, and/or offering to sell,
16 or inducing others to make, use, sell, and/or offer for sale, in the United States and this judicial district,
17 products that are covered by at least claim 1 of the ’459 Patent, including but not limited to, those
18 designated by the manufacturer, GlasPro, as “DS Dichroic” in resin. Therefore, Defendant is liable for
19 infringement of the ’459 Patent pursuant to 35 U.S.C. § 271.

20 88. Defendant’s acts of infringement have caused damage to 3form, and 3form is entitled to
21 recover from Defendant the actual damages sustained by 3form as a result of Defendant’s wrongful acts
22 in an amount subject to proof at trial pursuant to 35 U.S.C. § 284.

23 89. As a consequence of the infringement complained of herein, 3form has been irreparably
24 damaged to an extent not yet determined, and will continue to be irreparably damaged by such acts in
25 the future unless Defendant is enjoined by this Court from committing further acts of infringement of the
26 ’459 Patent.

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TWELFTH CLAIM FOR RELIEF

(By 3form for Infringement of U.S. Patent No. 8,241,714)

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3 90. 3form hereby incorporates the allegations of the preceding paragraphs 1 through 12 of
4 this Complaint into this Twelfth Claim for Relief, as though fully set forth hereat.

5 91. U.S. Patent No. 8,241,714 (“the ’714 Patent”) issued from the USPTO on August 14,
6 2012, bearing the title “Architectural Panels with Objects Embedded in Resin Interlayer.” (A true and
7 correct copy of the ’714 Patent is attached hereto as Exhibit L and incorporated herein by this reference.)

8 92. 3form is the owner of all right, title, and interest in and to the ’714 Patent, including the
9 right to sue for and recover all past, present, and future damages for infringement of the ’714 Patent, and
10 to enjoin acts of infringement of the ’714 Patent.

11 93. Neither 3form nor any authorized third party has licensed or otherwise authorized
12 Defendant to practice the ’714 Patent.

13 94. Defendant, directly or through its subsidiaries, divisions, affiliates, or groups, has
14 infringed and continues to infringe the claim of the ’714 Patent by using, selling, and/or offering to sell,
15 or inducing others to make, use, sell, and/or offer for sale, in the United States and this judicial district,
16 products that are covered by at least claim 1 of the ’714 Patent, including but not limited to, those
17 designated by the manufacturer, GlasPro, as “Naturals in Glass.” Therefore, Defendant is liable for
18 infringement of the ’714 Patent pursuant to 35 U.S.C. § 271.

19 95. Defendant’s acts of infringement have caused damage to 3form, and 3form is entitled to
20 recover from Defendant the actual damages sustained by 3form as a result of Defendant’s wrongful acts
21 in an amount subject to proof at trial pursuant to 35 U.S.C. § 284.

22 96. As a consequence of the infringement complained of herein, 3form has been irreparably
23 damaged to an extent not yet determined, and will continue to be irreparably damaged by such acts in
24 the future unless Defendant is enjoined by this Court from committing further acts of infringement of the
25 ’714 Patent.

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THIRTEENTH CLAIM FOR RELIEF

(By 3form for Infringement of U.S. Patent No. 8,088,457)

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3 97. 3form hereby incorporates the allegations of the preceding paragraphs 1 through 12 of
4 this Complaint into this Thirteenth Claim for Relief, as though fully set forth hereat.

5 98. U.S. Patent No. 8,088,457 (“the ’457 Patent”) issued from the USPTO on August 14,
6 2012, bearing the title “Architectural Panels with Objects Embedded in Resin Interlayer.” (A true and
7 correct copy of the ’457 Patent is attached hereto as Exhibit M and incorporated herein by this
8 reference.)

9 99. 3form is the owner of all right, title, and interest in and to the ’457 Patent, including the
10 right to sue for and recover all past, present, and future damages for infringement of the ’457 Patent, and
11 to enjoin acts of infringement of the ’457 Patent.

12 100. Neither 3form nor any authorized third party has licensed or otherwise authorized
13 Defendant to practice the ’457 Patent:

14 101. Defendant, directly or through its subsidiaries, divisions, affiliates, or groups, has
15 infringed and continues to infringe the claim of the ’457 Patent by using, selling, and/or offering to sell,
16 or inducing others to make, use, sell, and/or offer for sale, in the United States and this judicial district,
17 products that are covered by at least claim 1 of the ’457 Patent, including but not limited to, those
18 designated by the manufacturer, GlasPro, as “Naturals in Glass.” Therefore, Defendant is liable for
19 infringement of the ’457 Patent pursuant to 35 U.S.C. § 271.

20 102. Defendant’s acts of infringement have caused damage to 3form, and 3form is entitled to
21 recover from Defendant the actual damages sustained by 3form as a result of Defendant’s wrongful acts
22 in an amount subject to proof at trial pursuant to 35 U.S.C. § 284.

23 103. As a consequence of the infringement complained of herein, 3form has been irreparably
24 damaged to an extent not yet determined, and will continue to be irreparably damaged by such acts in
25 the future unless Defendant is enjoined by this Court from committing further acts of infringement of the
26 ’457 Patent.

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FOURTEENTH CLAIM FOR RELIEF

(By Plaintiffs for Infringement of U.S. Patent No. 5,958,539)

104. Plaintiffs hereby incorporate the allegations of the preceding paragraphs 1 through 12 of this Complaint into this Fourteenth Claim for Relief, as though fully set forth hereat.

105. U.S. Patent No. 5,958,539 (“the ’539 Patent”) issued from the USPTO on September 28, 1999, bearing the title “Thermoplastic Article Having Textile Fabric Embedded Therein.” (A true and correct copy of the ’539 Patent is attached hereto as Exhibit N and incorporated herein by this reference.)

106. Hunter Douglas is the owner by assignment of the ’539 Patent.

107. 3form is an exclusive licensee of the ’539 Patent, with the right to sue Defendant for and recover all past, present, and future damages for infringement of the ’539 Patent, and to enjoin acts of infringement of the ’539 Patent.

108. Neither Plaintiffs nor any authorized third party has licensed or otherwise authorized Defendant to practice the ’539 Patent.

109. Defendant, directly or through its subsidiaries, divisions, affiliates, or groups, has infringed and continues to infringe the claim of the ’539 Patent by using, selling, and/or offering to sell, or inducing others to make, use, sell, and/or offer for sale, in the United States and this judicial district, products that are covered by at least claim 1 of the ’539 Patent, including but not limited to, those designated by the manufacturer, GlasPro, as “GlasPro-RP Textiles in Resin.” Therefore, Defendant is liable for infringement of the ’539 Patent pursuant to 35 U.S.C. § 271.

110. Defendant’s acts of infringement have caused damage to 3form, and 3form is entitled to recover from Defendant the actual damages sustained by 3form as a result of Defendant’s wrongful acts in an amount subject to proof at trial pursuant to 35 U.S.C. § 284.

111. As a consequence of the infringement complained of herein, 3form has been irreparably damaged to an extent not yet determined, and will continue to be irreparably damaged by such acts in the future unless Defendant is enjoined by this Court from committing further acts of infringement of the ’539 Patent.

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FIFTEENTH CLAIM FOR RELIEF

(By 3form for Lanham Act Violation by Trademark Infringement)

112. 3form hereby incorporates the allegations of the preceding paragraphs 1 through 12 of this Complaint into this Fifteenth Claim for Relief as though fully set forth hereat.

113. 3form has successfully designed and developed decorative architectural panels that 3form markets in connection with the federally registered trademark “CHROMA.” The distinctive three-dimensional appearance of 3form’s CHROMA® products have also obtained recognition, goodwill, and secondary meaning in the relevant marketplace, thereby affording 3form common law trademark protection in a three-dimensional trademark for its CHROMA® products (3form’s “3D Trademark”). 3form advertises, markets, and sells decorative architectural panels that include 3form’s 3D Trademark in interstate commerce throughout the United States. As a result of, among other things, 3form’s substantial investment in its 3D Trademark, and the products marketed and sold under that trademark, the consuming public recognizes the 3D Trademark and associates products and features with that mark with a single source, namely 3form.

114. Defendant advertises, markets, and sells decorative architectural panels that include 3form’s 3D Trademark in interstate commerce including but not limited to, those designated by the manufacturer, GlasPro, as “GlasPro-CS.” These acts by Defendant constitute a trademark infringement, which is likely to cause confusion, mistake and/or to deceive the relevant consuming public as to affiliation, connection, or association of Defendant’s products with 3form in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a). Because both Defendant and 3form advertise, market, and sell their respective decorative architectural panels in interstate commerce, Defendant’s infringement of 3form’s 3D Trademark will affect interstate commerce.

115. By reason of Defendant’s acts alleged herein, 3form has and will suffer damage to its business, reputation, and goodwill and the loss of sales and profits 3form would have made, but for Defendant’s acts.

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SIXTEENTH CLAIM FOR RELIEF

(By 3form for Common Law Trademark and Unfair Competition)

116. 3form hereby incorporates the allegations of the preceding paragraphs 1 through 12 and 113 through 115 of this Complaint into this Sixteenth Claim for Relief as though fully set forth hereat.

117. Defendant, by its actions set forth hereinabove, has engaged in intentional business acts or practices that are unlawful, unfair, and/or fraudulent, including the infringement of 3form's 3D trademark.

118. Defendant's unauthorized use of the 3D trademark, including but not limited to, those designated by the manufacturer, GlasPro, as "GlasPro-CS," is likely to cause confusion, mistake, or deception as to the source, origin, affiliation, connection, or association of Defendant's products with 3form, or as to the approval of Defendant's products by 3form.

119. By reason of the foregoing, 3form has suffered damages and irreparable harm.

120. By reason of the foregoing, 3form is entitled to at least damages from Defendant.

SEVENTEENTH CLAIM FOR RELIEF

(By 3form for Violations of California Unfair Competition Law, Bus. & Prof. Code § 17200 et seq.)

121. 3form hereby incorporates the allegations of the preceding paragraphs 1 through 12 and 113 through 115 of this Complaint into this Seventeenth Claim for Relief as though fully set forth hereat.

122. Defendant's use of the 3D Trademark is likely to cause confusion, mistake, or deception as to the source, origin, affiliation, connection, or association of Defendant's products with 3form, or as to the approval of Defendant's products by 3form.

123. Defendant's use of the 3D Trademark constitutes unfair, deceptive, or misleading practices in violation of California Business and Professions Code section 17200 *et seq.*

124. 3form alleges on information and belief that Defendant has engaged in deceptive trade practices against 3form in willful and deliberate disregard of the rights of 3form and the consuming public.

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1 125. 3form has suffered injury in fact and has lost money or property as a result of
2 Defendant's unfair and unlawful business practices in the form of damage to its good will, lost sales, and
3 other actual damages.

4 126. Defendant's acts and conduct have caused and continue to cause 3form to suffer
5 irreparable harm.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Plaintiffs pray for entry of a final order and judgment against Defendant that:

- 8 1. Defendant has infringed the '068 Patent;
- 9 2. Defendant has infringed the '022 Patent;
- 10 3. Defendant has infringed the '026 Patent;
- 11 4. Defendant has infringed the '826 Patent;
- 12 5. Defendant has infringed the '474 Patent;
- 13 6. Defendant has infringed the '023 Patent
- 14 7. Defendant has infringed the '340 Patent;
- 15 8. Defendant has infringed the '811 Patent;
- 16 9. Defendant has infringed the '159 Patent;
- 17 10. Defendant has infringed the '486 Patent;
- 18 11. Defendant has infringed the '459 Patent;
- 19 12. Defendant has infringed the '714 Patent;
- 20 13. Defendant has infringed the '457 Patent;
- 21 14. Defendant has infringed the '539 Patent;
- 22 15. Defendant account for and pay to 3form all damages caused by its infringement of the
23 '068 Patent, the '022 Patent, the '026 Patent, the '826 Patent, the '474 Patent, the '023 Patent, the '340
24 Patent, the '811 Patent, the '159 Patent, the '486 Patent, the '459 Patent, the '714 Patent, the '457
25 Patent, and the '539 Patent (collectively the "Patents-In-Suit"), or an award of Defendant's profits from
26 its infringement pursuant to 35 U.S.C. § 289, whichever is greater;

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1 16. 3form be granted permanent injunctive relief pursuant to 35 U.S.C. § 283 enjoining
2 Defendant, its officers, agents, servants, employees, and all those persons in active concert or
3 participation with them from further acts of patent infringement;

4 17. 3form be granted pre-judgment and post-judgment interest on the damages caused to it by
5 reason of Defendant's infringement of the Patents-In-Suit;

6 18. This be declared an exceptional case and that 3form be granted its reasonable attorneys'
7 fees in accordance with 35 U.S.C. § 285;

8 19. Costs of suit be awarded to 3form to the fullest extent permitted by law;

9 20. A judgment be made and entered finding Defendant liable for infringement of the 3D
10 Trademark, unfair competition, and unfair, deceptive, or misleading practices in violation of the Lanham
11 Act, 15 U.S.C. § 1125;

12 21. An order of this Court be entered enjoining Defendant, its agents and servants, and any
13 and all persons acting in concert with any of them from producing, manufacturing, marketing,
14 advertising, promoting, offering for sale, selling, or distributing products, including Defendant's
15 products marketed in connection with the 3D Trademark, pursuant to at least the Lanham Act, 15 U.S.C.
16 § 1116(a) and California Business and Professions Code section 17200 *et seq.*;

17 22. An order of this Court be entered directing Defendant to destroy its entire stock of
18 infringing products, together with all labels, signs, prints, packages, wrappers, receptacles, and
19 advertisements, as well as all plates, molds, matrices, or other means of making the same pursuant to at
20 least the Lanham Act, 15 U.S.C. § 1118;

21 23. Damages be awarded in an amount to be proven at trial for trademark infringement under
22 the Lanham Act, 15 U.S.C. § 1125(a);

23 24. Damages be awarded in an amount to be proven at trial for trademark infringement under
24 the common law;

25 25. 3form be awarded its attorneys' fees, pursuant to all applicable law, including at least the
26 Lanham Act, 15 U.S.C. § 1117(a);

27 26. 3form be awarded its costs of suit; and
28

1 27. Plaintiffs be granted such other and further relief as the Court may deem just and proper
2 under the circumstances.

3 **DEMAND FOR JURY TRIAL**

4 Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiffs demand trial by jury on all
5 claims and issues so triable.

6 Dated: November 20, 2012

Sterling A. Brennan
WORKMAN | NYDEGGER A PROFESSIONAL CORPORATION

7
8 By: /s/ Sterling A. Brennan
Sterling A. Brennan
9 Attorneys for Plaintiffs 3FORM, INC. and
10 HUNTER DOUGLAS INDUSTRIES SWITZERLAND GMBH

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EXHIBIT A



US00D621068S

(12) **United States Design Patent** (10) **Patent No.:** **US D621,068 S**
Goodson et al. (45) **Date of Patent:** **** *Aug. 3, 2010**

(54) **ARCHITECTURAL PANEL WITH THATCH REED DESIGN** 3,560,600 A 2/1971 Gliniecki
 3,616,029 A 10/1971 Lerman
 3,833,537 A 9/1974 Jaquiss
 3,937,765 A 2/1976 Toy et al.

(75) Inventors: **Raymond Lynn Goodson**, Sandy, UT (US); **R. Talley Goodson**, Salt Lake City, UT (US); **Boyd T. Goodson**, Salt Lake City, UT (US)

(73) Assignee: **3Form, Inc.**, Salt Lake City, UT (US)

(*) Notice: This patent is subject to a terminal disclaimer.

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

(21) Appl. No.: **29/334,111**

(22) Filed: **Mar. 20, 2009**

(Continued)
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(Continued)

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Office Action mailed Feb. 26, 2009, U.S. Appl. No. 11/203,985.

(Continued)

Primary Examiner—Doris Clark
(74) Attorney, Agent, or Firm—Workman Nydegger

(57) **CLAIM**

The ornamental design for an architectural panel with thatch reed design, as shown and described.

DESCRIPTION

FIG. 1 is a front perspective view of an architectural panel portion incorporating the architectural panel with thatch reed design as used in a wall structure;

FIG. 2 is an enlarged view thereof;

FIG. 3 is a front elevational view thereof, the rear elevational view being a mirror image thereof;

FIG. 4 is a left elevational view thereof;

FIG. 5 is right elevational view thereof;

FIG. 6 is a top plan view thereof; and,

FIG. 7 is a bottom plan view thereof.

The broken lines are for illustrative purposes only and form no part of the claimed design.

1 Claim, 3 Drawing Sheets

Related U.S. Application Data

(60) Continuation of application No. 11/203,985, filed on Aug. 15, 2005, now Pat. No. 7,550,057, which is a division of application No. 10/821,307, filed on Apr. 9, 2004, now Pat. No. 7,008,700, which is a continuation-in-part of application No. 10/465,465, filed on Jun. 18, 2003, said application No. 10/821,307 is a continuation-in-part of application No. 10/086,269, filed on Mar. 1, 2002, now abandoned.

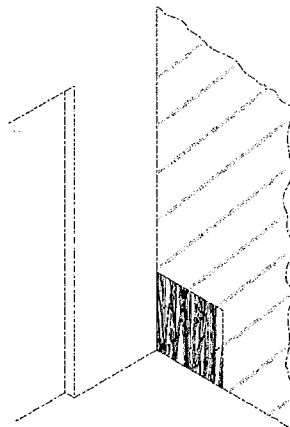
(51) **LOC (9) Cl.** **25-01**
 (52) **U.S. Cl.** **D25/108**
 (58) **Field of Classification Search** D25/103,
 D25/104, 105, 111, 108; 52/306, 307, 308,
 52/315; 428/325, 322.2, 323, 13, 17, 18,
 428/22

See application file for complete search history.

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Aug. 3, 2010

Sheet 1 of 3

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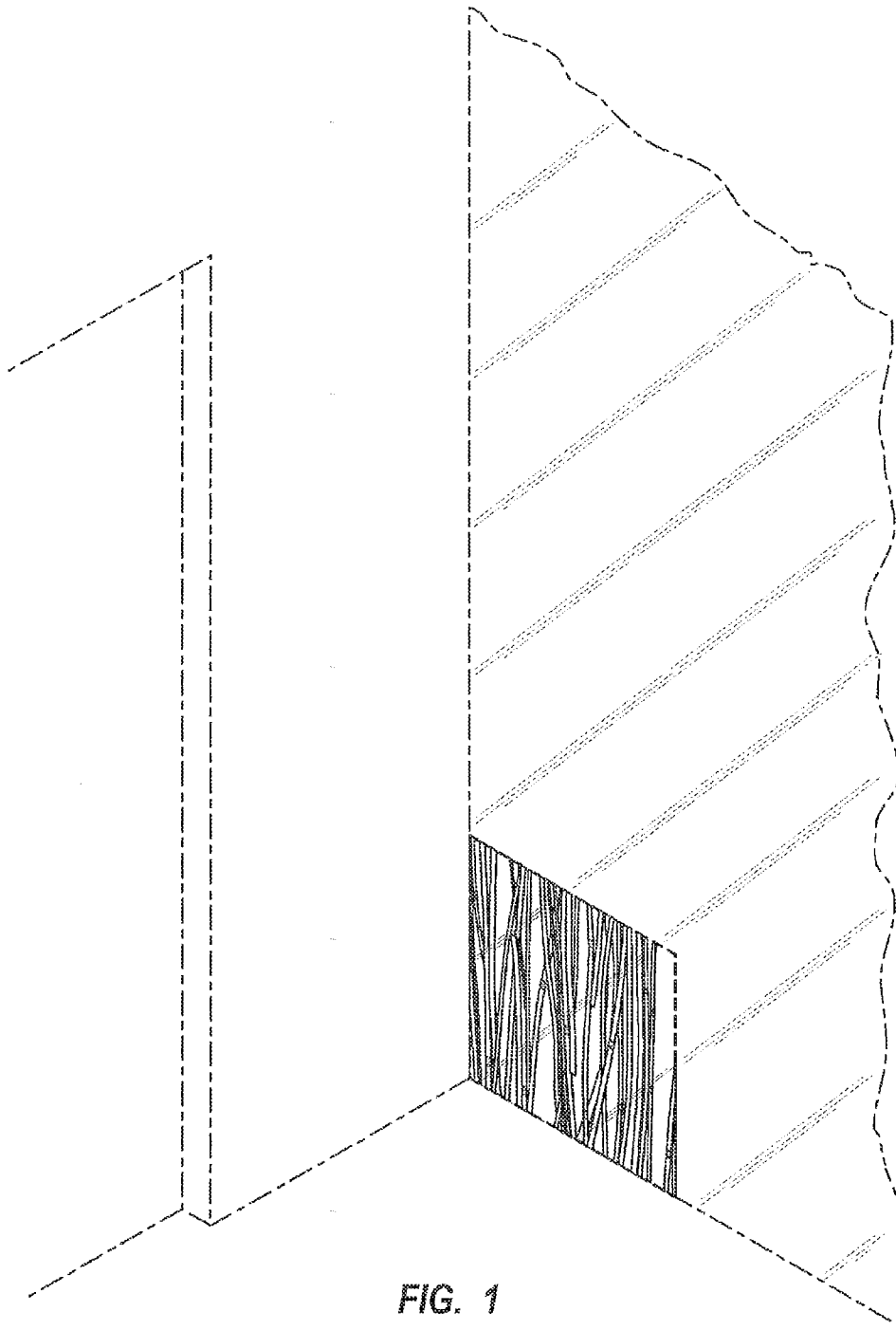


FIG. 1

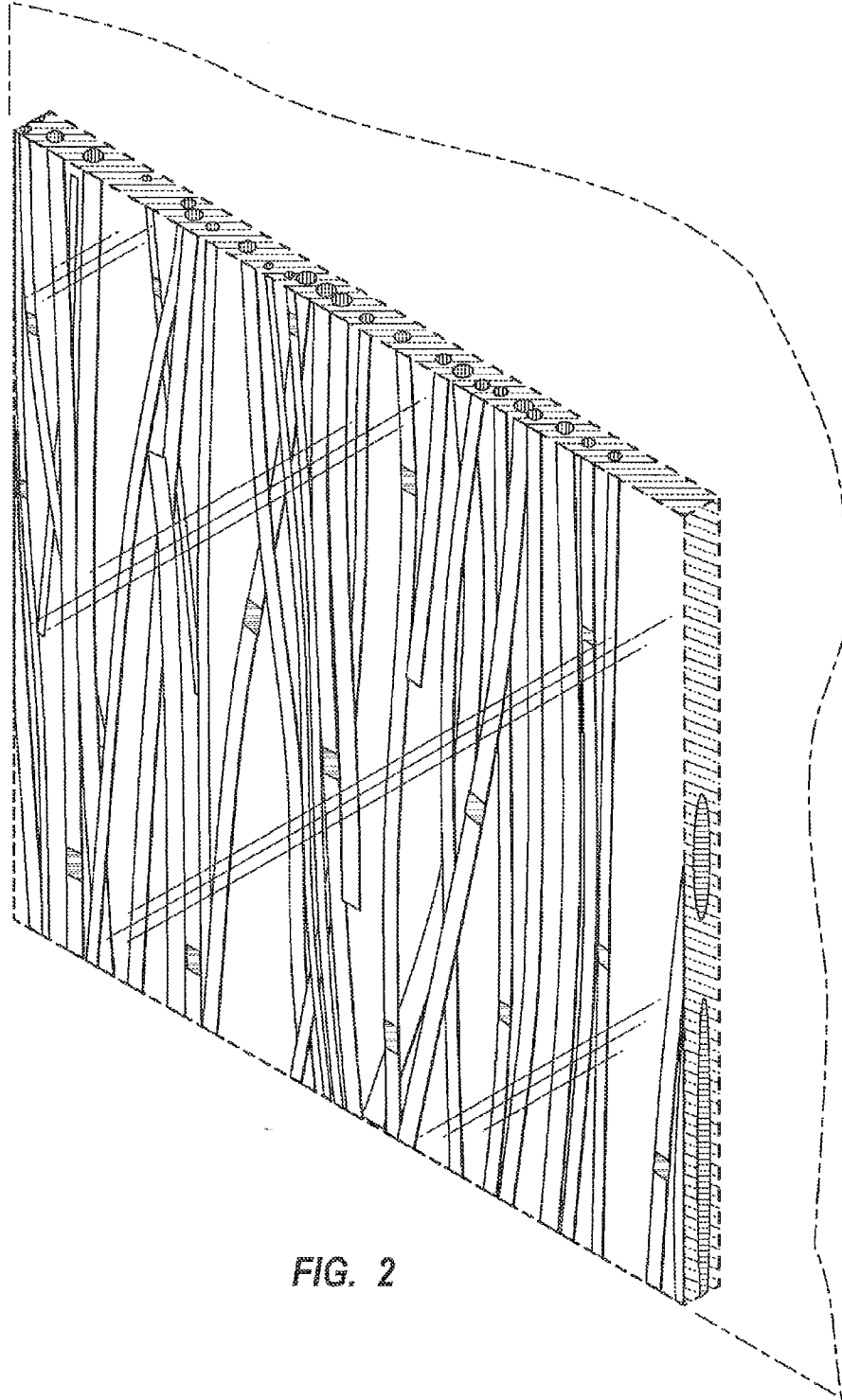


FIG. 2



FIG. 6

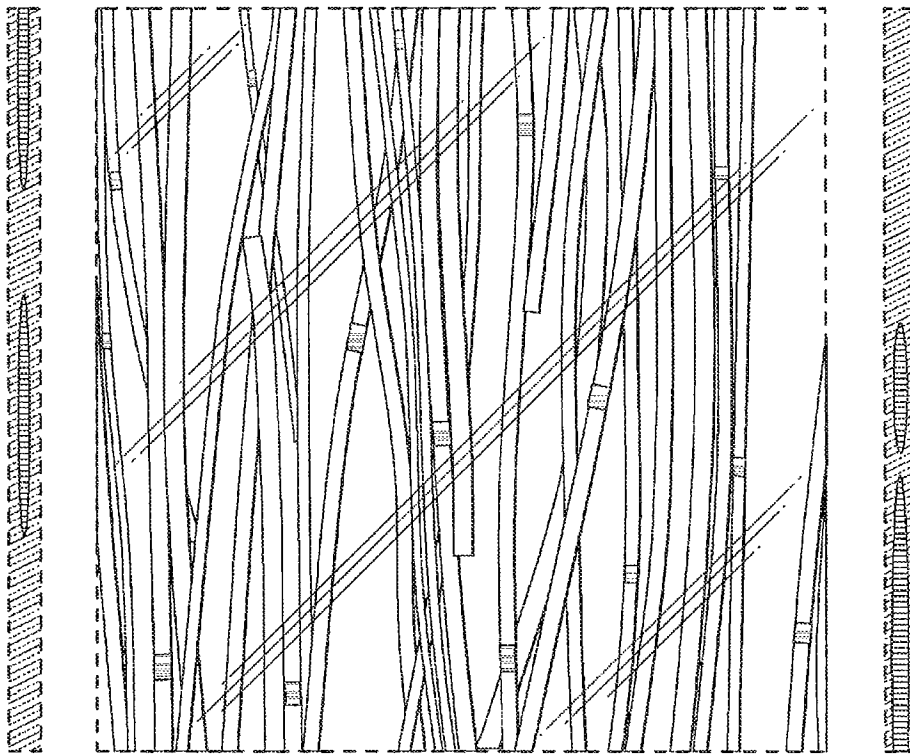


FIG. 4

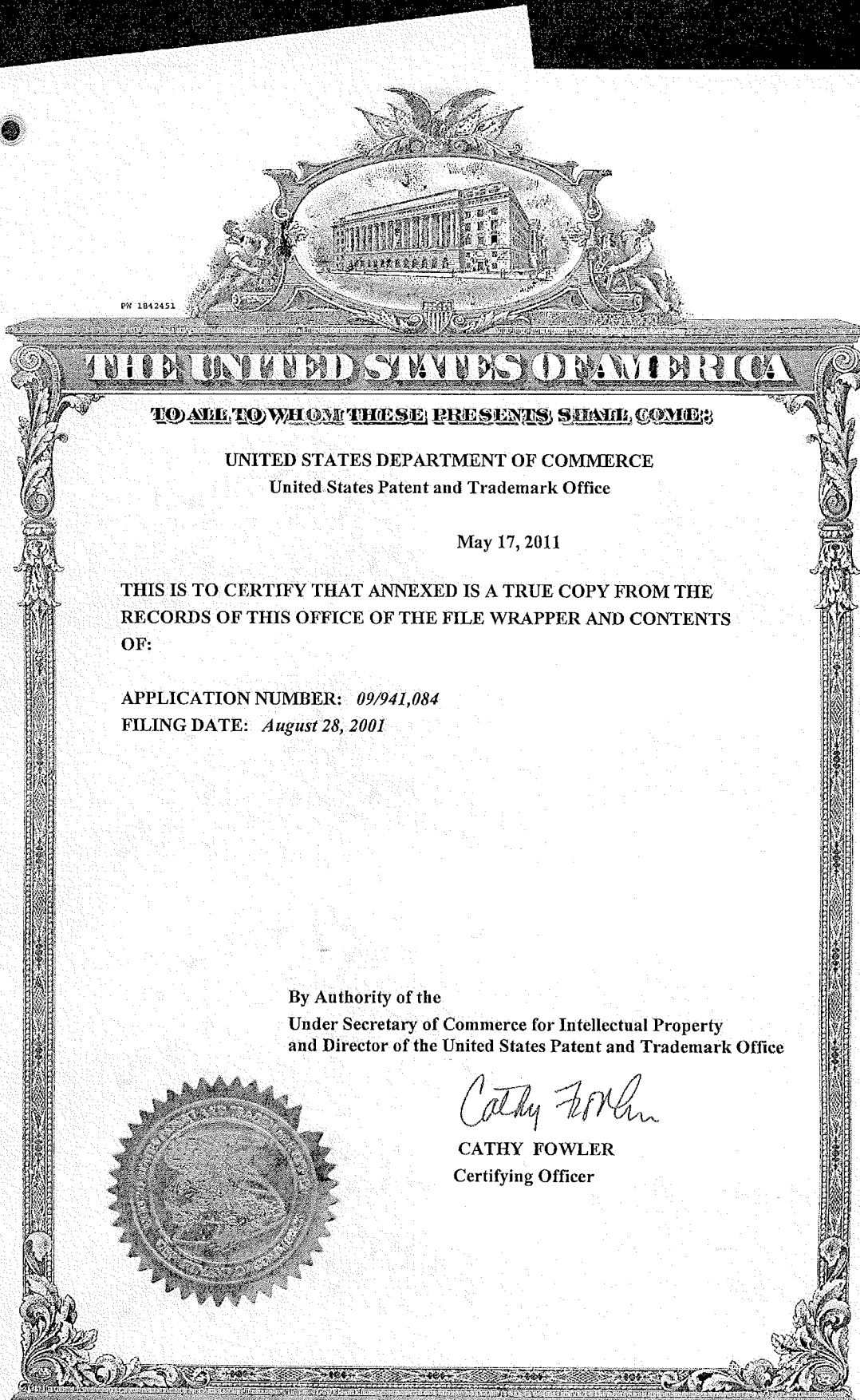
FIG. 3

FIG. 5



FIG. 7

EXHIBIT B



PW 1842451

THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

May 17, 2011

THIS IS TO CERTIFY THAT ANNEXED IS A TRUE COPY FROM THE
RECORDS OF THIS OFFICE OF THE FILE WRAPPER AND CONTENTS
OF:

APPLICATION NUMBER: 09/941,084
FILING DATE: August 28, 2001

By Authority of the
Under Secretary of Commerce for Intellectual Property
and Director of the United States Patent and Trademark Office



CATHY FOWLER
Certifying Officer





US00D608022S

(12) **United States Design Patent** (10) **Patent No.:** **US D608,022 S**
Metcalf et al. (45) **Date of Patent:** **** Jan. 12, 2010**

(54) **ARCHITECTURAL PANEL WITH LARGE BLADE GRASS AND FLOWER** 2,380,885 A * 7/1945 Wack 52/316
 D168,763 S * 2/1953 Prislant D25/163
 D180,884 S * 8/1957 Pomeroy D5/54

(75) Inventors: **Elizabeth Egan Metcalf**, Salt Lake City, UT (US); **Jill A. Canales**, Salt Lake City, UT (US)

(73) Assignee: **3Form, Inc.**, Salt Lake City, UT (US)

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

(21) Appl. No.: **29/336,954**

(22) Filed: **May 12, 2009**

(51) **LOC (9) Cl.** **25-01**

(52) **U.S. Cl.** **D25/138**

(58) **Field of Classification Search** D25/111, D25/138-145, 150-153, 156, 157, 163, 199, D25/102-105; D5/20, 24, 32, 54; 156/63; 52/81.4, 81.5, 81.6, 747.1, 783.11, 311.1, 52/313, 311.2, 316; 428/34, 34.1-34.9, 35.7, 428/36.1-36.4, 67, 446, 542.2, 542.6, 902, 428/904.4, 143, 147, 13, 332, 335, 336, 339, 428/480, 483

See application file for complete search history.

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(57) **CLAIM**

The ornamental design for architectural panel with large blade grass and flower, as shown and described.

DESCRIPTION

FIG. 1 is a front perspective view of an architectural panel with large blade grass and flower showing our new design in use condition;

FIG. 2 is an enlarged front perspective view thereof;

FIG. 3 is a front elevational view thereof, the rear elevational view being a mirror image thereof;

FIG. 4 is a left elevational view thereof in cross-section;

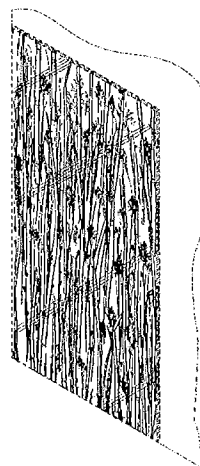
FIG. 5 is right elevational view thereof in cross-section;

FIG. 6 is a top plan cross-sectional view thereof; and,

FIG. 7 is a bottom plan cross-sectional view thereof.

The long dash short dash broken line showing of a wall structure in FIGS. 1 and 2 is included for the purpose of illustrating environmental structure and forms no part of the claimed design. The short dash broken line shown in FIGS. 1-7 is included for the purpose of illustrating the boundary of the architectural panel with large blade grass and flower and forms no part of the claimed design.

1 Claim, 3 Drawing Sheets



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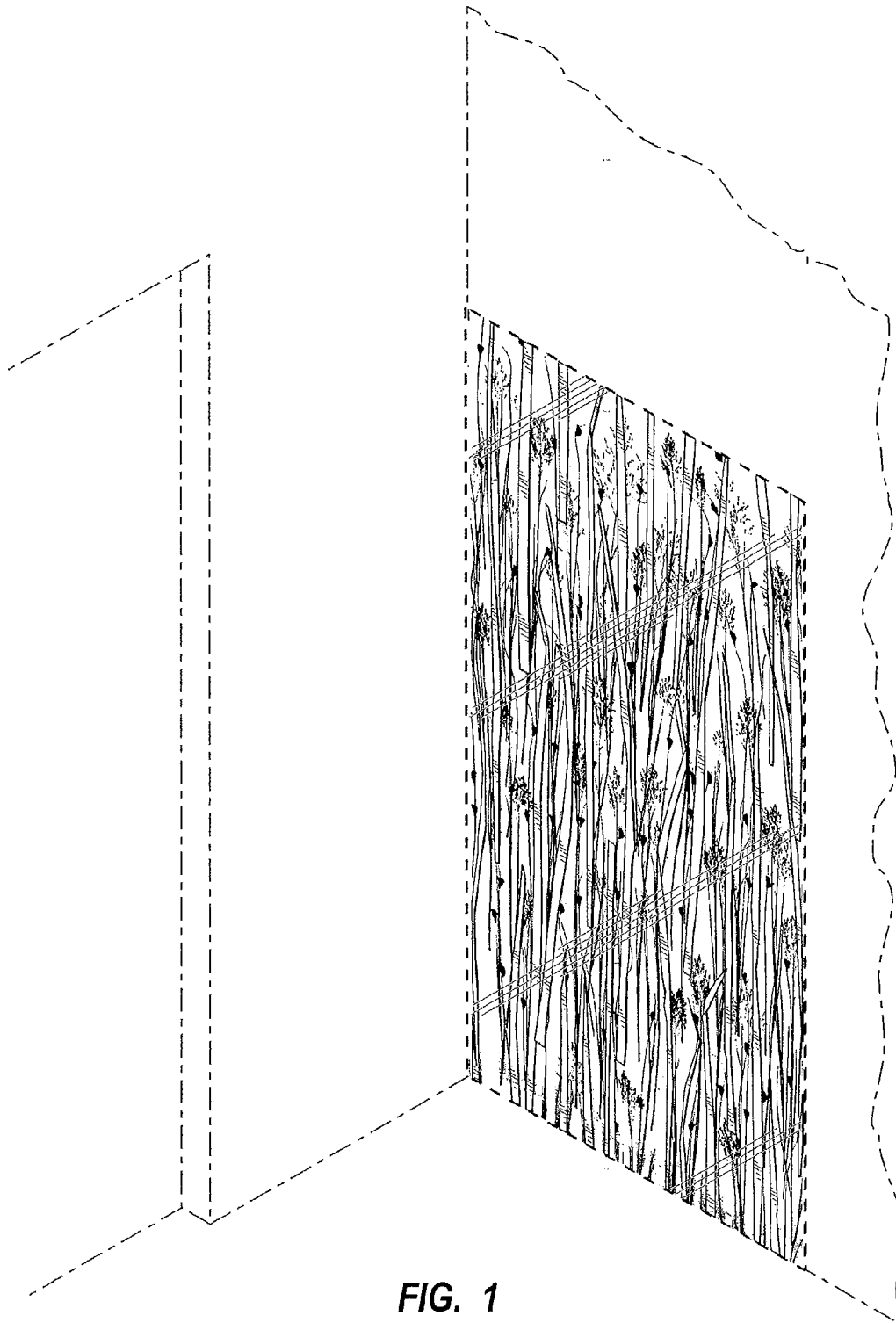


FIG. 1

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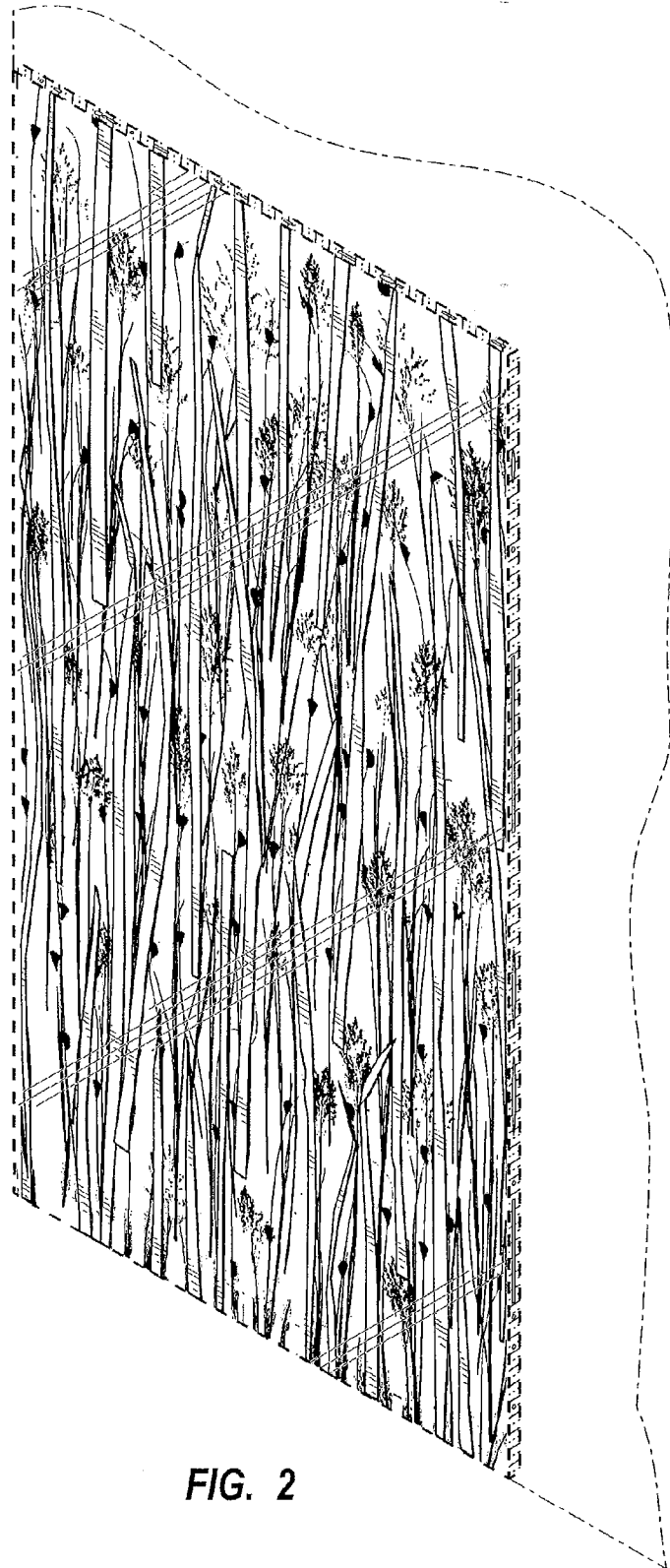


FIG. 2

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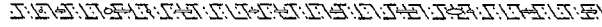


FIG. 6

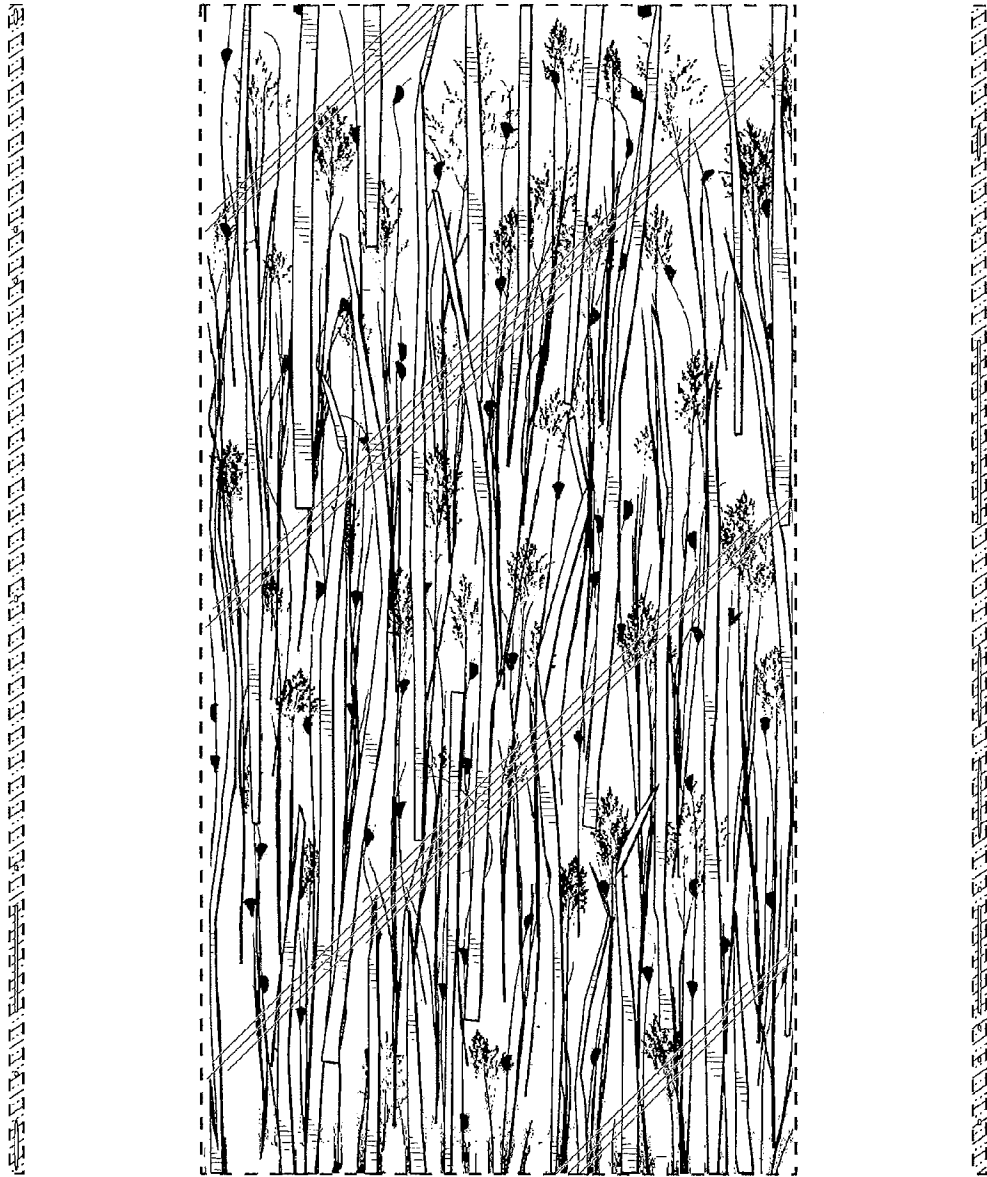


FIG. 4

FIG. 3

FIG. 5

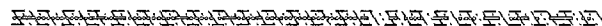


FIG. 7