

1 Brent H. Blakely (SBN 157292)
2 bblakely@blakelylawgroup.com
3 Cindy Chan (SBN 247495)
4 cchan@blakelylawgroup.com
5 Jessica C. Covington (SBN 301816)
6 jcovington@blakelylawgroup.com
7 **BLAKELY LAW GROUP**
8 1334 Parkview Avenue, Suite 280
9 Manhattan Beach, California 90266
10 Telephone: (310) 546-7400
11 Facsimile: (310) 546-7401

12 ***Attorneys for Plaintiff***
13 ***Deckers Outdoor Corporation***

14 UNITED STATES DISTRICT COURT
15 CENTRAL DISTRICT OF CALIFORNIA

16 DECKERS OUTDOOR
17 CORPORATION, a Delaware
18 Corporation,

19 Plaintiff,

20 v.

21 DB SHOE COMPANY, LLC, a
22 California Limited Liability Company;
23 and DOES 1-10, inclusive,

24 Defendant.

25) CASE NO.

26) **COMPLAINT FOR DAMAGES AND**
27) **EQUITABLE RELIEF FOR PATENT**
28) **INFRINGEMENT – U.S. PATENT NO.**
) **D500,400**

) **JURY TRIAL DEMANDED**

19 **Plaintiff Deckers Outdoor Corporation** for its claim against **Defendant DB**
20 **Shoe Company, LLC** respectfully alleges as follows:

21 **JURISDICTION AND VENUE**

22 1. Plaintiff files this action against Defendant for patent infringement arising
23 under the patent laws of the United States. This Court has subject matter jurisdiction
24 over the claims alleged in this action pursuant to 28 U.S.C. §§ 1331, 1338.

25 2. This Court has personal jurisdiction over Defendant because Defendant
26 does business within this judicial district.

27 3. This action arises out of wrongful acts by Defendant within this judicial
28 district and Plaintiff is located and has been injured in this judicial district by

1 Defendant's alleged wrongful acts. Venue is proper in this district pursuant to 28
2 U.S.C. § 1391 because the claims asserted arise in this district.

3 **THE PARTIES**

4 4. Plaintiff Deckers Outdoor Corporation ("Deckers") is a corporation
5 organized and existing under the laws of the state of Delaware with an office and
6 principal place of business in Goleta, California. Deckers designs and markets
7 footwear identified by its many famous trademarks including its UGG® trademark.

8 5. Upon information and belief, Defendant DB Shoe Company, LLC
9 ("Defendant") is a limited liability company organized and existing under the laws of
10 the state of California with an office and principle place of business located at 5455
11 Hollywood Boulevard, Los Angeles, California 90027.

12 6. Deckers is unaware of the names and true capacities of Defendants,
13 whether individual, corporate and/or partnership entities named herein as DOES 1
14 through 10, inclusive, and therefore sues them by their fictitious names. Deckers will
15 seek leave to amend this complaint when their true names and capacities are
16 ascertained. Deckers is informed and believes and based thereon alleges that said
17 Defendant and DOES 1 through 10, inclusive, are in some manner responsible for the
18 wrongs alleged herein, and that at all times referenced each was the agent and servant
19 of the other Defendant and was acting within the course and scope of said agency and
20 employment.

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

ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

A. Deckers' UGG® Brand

8. Deckers has been engaged in the design, distribution, marketing, offering for sale, and sale of footwear since 1975. Deckers owns several brands of footwear including UGG®, Koolaburra®, Teva®, Sanuk®, and Hoka One One®.

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

10. It has now been seventeen years since UGG® boots were first featured on Oprah's Favorite Things® in the year 2000, and Oprah emphatically declared on national television how much she "LOOOOOVES her UGG boots." The popularity of UGG® brand footwear has grown exponentially since then with celebrities including Kate Hudson and Sarah Jessica Parker among a myriad of others regularly donning them. UGG® sheepskin boots have become a high fashion luxury item and can be found on fashion runways around the world.

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

B. Defendant's Infringing Activities

12. Upon information and belief, Defendant manufactures, designs, advertises, markets, distributes, offers for sale, and/or sells footwear for men, women, and children at various retail locations nationwide, including within this judicial district. Defendant also offers footwear through its online retail store, www.dbshoes.net.

13. The present lawsuit arises from Defendant's willful infringement of

Deckers' "Essential Outsole" design, to which Deckers owns design patent rights, by certain of Defendant's slipper products ("Accused Products"), an example of which is shown below.



Defendant's Accused Product

14. Deckers is informed and believes and herein alleges that Defendant is a competitor and has copied Deckers' outsole design in an effort to exploit Deckers' reputation in the market.

15. Upon information and belief, Defendant may have sold additional products that infringe upon intellectual property owned by Deckers. Deckers may seek leave to amend as additional information becomes available through discovery.

16. Deckers has not granted a license or any other form of permission to Defendant with respect to its trademarks, design patents, trade dresses, or other intellectual property.

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

FIRST CLAIM FOR RELIEF

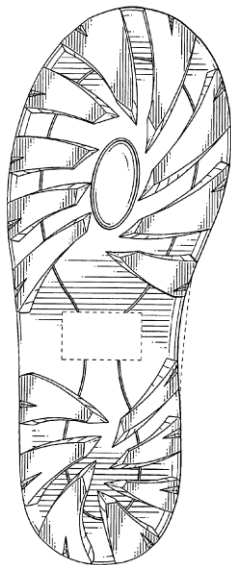
(Patent Infringement - U.S. Patent No. D500,400)

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

19. Deckers is the owner of numerous design patents to the various styles of footwear and/or slippers it offers under its UGG® brand. These design patents include but are not limited to outsole designs, one of which is the “Essential Outsole,” U.S. Patent No. D500,400 (issued on January 4, 2005), a true and correct copy of which is attached hereto and incorporated herein as Exhibit A (“‘400 Patent”).

20. Deckers is the owner by assignment of all right, title and interest in and to the ‘400 Patent.

21. Defendant has used, caused to be produced, distributed, advertised, marketed, offered for sale, sold within the United States, and/or has imported into the United States slippers that bear an outsole substantially similar to the ‘400 Patent in direct violation of 35 U.S.C. § 271. An example of the Accused Product is shown at the far right of the ‘400 Patent drawing and an authentic UGG® slipper featuring the registered outsole design below:



Design Patent D500,400



**Authentic UGG® Slipper
Featuring Essential Outsole**



**Infringing Outsole Design
on Defendant's Accused
Products**

1 said infringement was willful;

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

6 a. manufacturing, importing, advertising, marketing, promoting,
7 supplying, distributing, offering for sale, or selling the Accused Products or any other
8 products bearing designs that infringe upon the '400 Patent and/or the overall
9 appearance thereof;

10 b. committing any other act which falsely represents or which has the
11 effect of falsely representing that the goods and services of Defendant are licensed by,
12 authorized by, offered by, produced by, sponsored by, or in any other way associated
13 with Deckers;

14 3. Ordering Defendant to recall from any distributors and retailers and to
15 deliver to Deckers for destruction or other disposition all remaining inventory of all
16 Accused Products and related items, including all advertisements, promotional and
17 marketing materials therefore, as well as means of making same;

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

21 5. Ordering an accounting by Defendant of all gains, profits and advantages
22 derived from their wrongful acts pursuant to 35 U.S.C. § 289;

23 6. Awarding Deckers all of Defendant's profits and all damages sustained by
24 Deckers as a result of Defendant's wrongful acts, and such other compensatory
25 damages as the Court determines to be fair and appropriate;

26 7. Awarding treble damages in the amount of Defendant's profits or
27 Deckers' damages, whichever is greater, for willful infringement;

28 8. Awarding applicable interest, costs, disbursements and attorneys' fees;

1 9. Such other relief as may be just and proper.

2
3 Dated: April 17, 2017

BLAKELY LAW GROUP

4
5 By:



6 Brent H. Blakely
7 Cindy Chan
8 Jessica C. Covington
9 ***Attorneys for Plaintiff***
10 ***Deckers Outdoor Corporation***

11 **DEMAND FOR JURY TRIAL**

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

14
15 Dated: April 17, 2017

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16
17 By:



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22 ***Deckers Outdoor Corporation***

EXHIBIT A



US00D500400S

(12) **United States Design Patent** (10) **Patent No.:** **US D500,400 S**
Le (45) **Date of Patent:** **** Jan. 4, 2005**

(54) **PORTION OF AN ARTICLE OF FOOTWEAR**

(75) **Inventor:** **Tuan Le**, Portland, OR (US)

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

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

(21) **Appl. No.:** **29/203,666**

(22) **Filed:** **Apr. 15, 2004**

(51) **LOC (7) Cl.** **02-04**

(52) **U.S. Cl.** **D2/957; D2/959**

(58) **Field of Search** **D2/947, 950-957,**
D2/959, 960; 36/3 B, 22 R, 25 R, 30 R,
32 A, 32 R, 35 R, 59 R, 59 C, 67 A, 67 B,
7.6, 7.7, 24.5, 114, 37

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* cited by examiner

Primary Examiner—Celia A. Murphy

(74) *Attorney, Agent, or Firm*—Greer, Burns & Crain, Ltd.

(57) **CLAIM**

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

DESCRIPTION

FIG. 1 is a bottom perspective view of a portion of an article of footwear showing my new design;

FIG. 2 is a bottom plan view thereof;

FIG. 3 is a right side elevational view thereof;

FIG. 4 is a left side elevational view thereof;

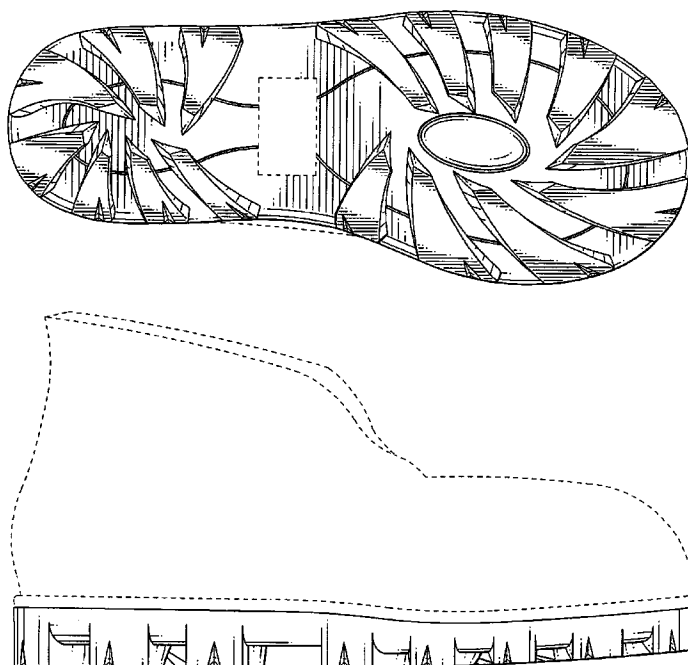
FIG. 5 is a front elevational view thereof; and,

FIG. 6 is a rear elevational view thereof.

The broken line illustration is not part of the design sought to be patented.

The broken-line rectangle in FIGS. 1 & 2 forms the boundary of the design. The broken lines and the area within, form no part of the claim.

1 Claim, 5 Drawing Sheets



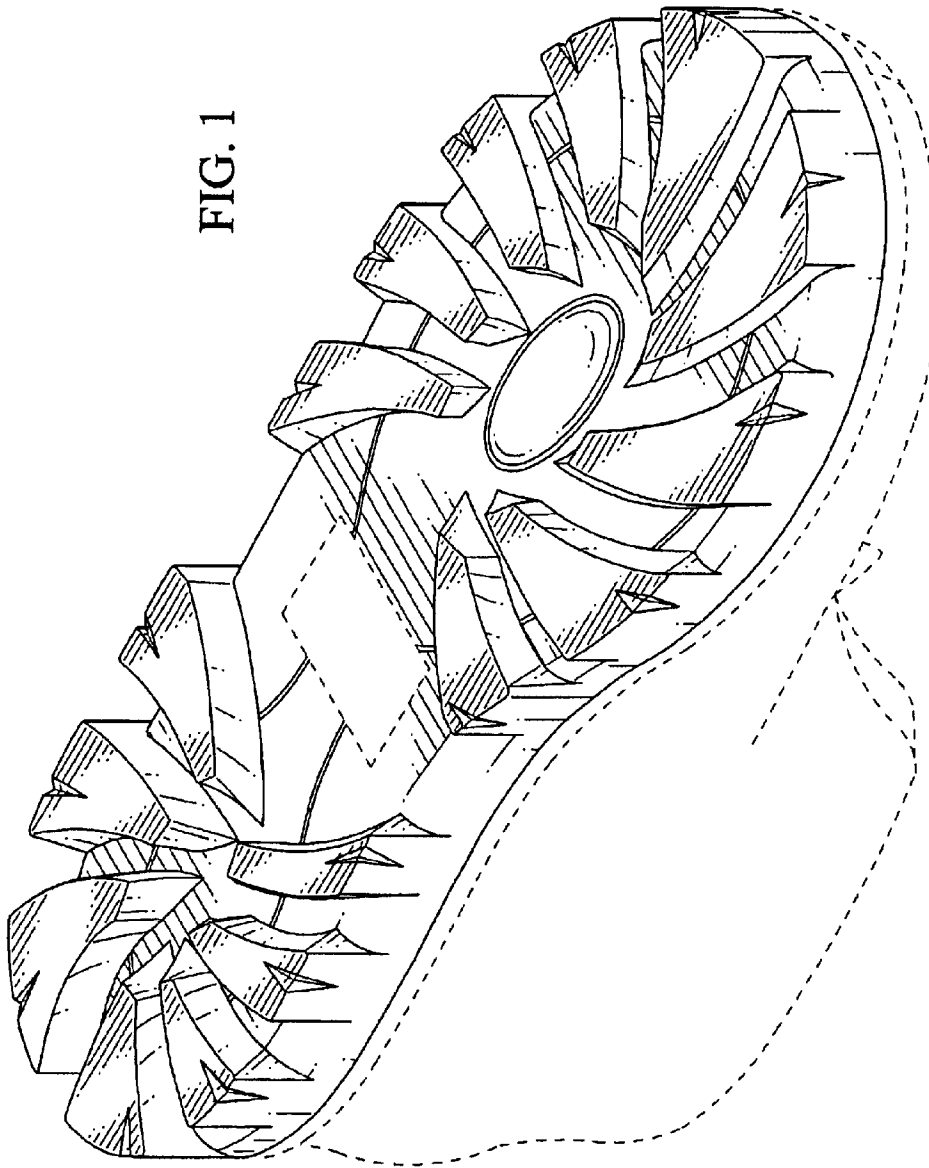
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FIG. 1



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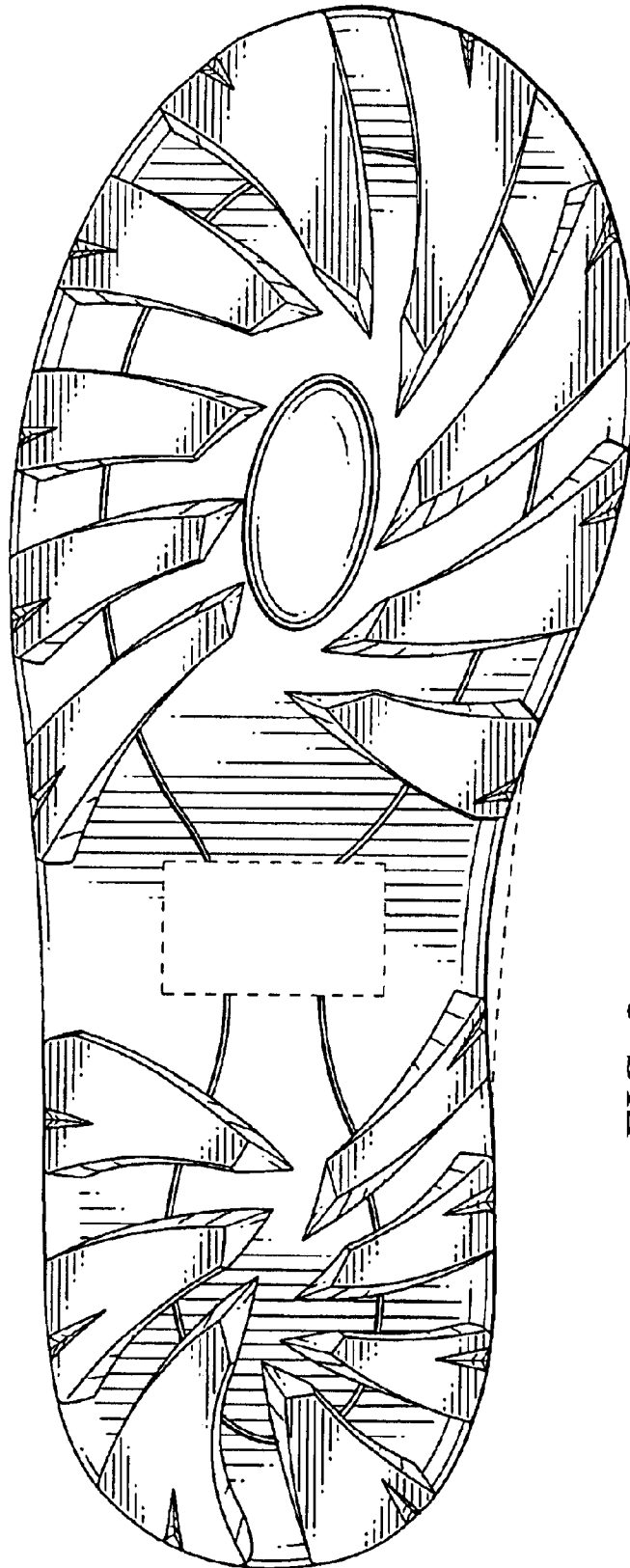


FIG. 2

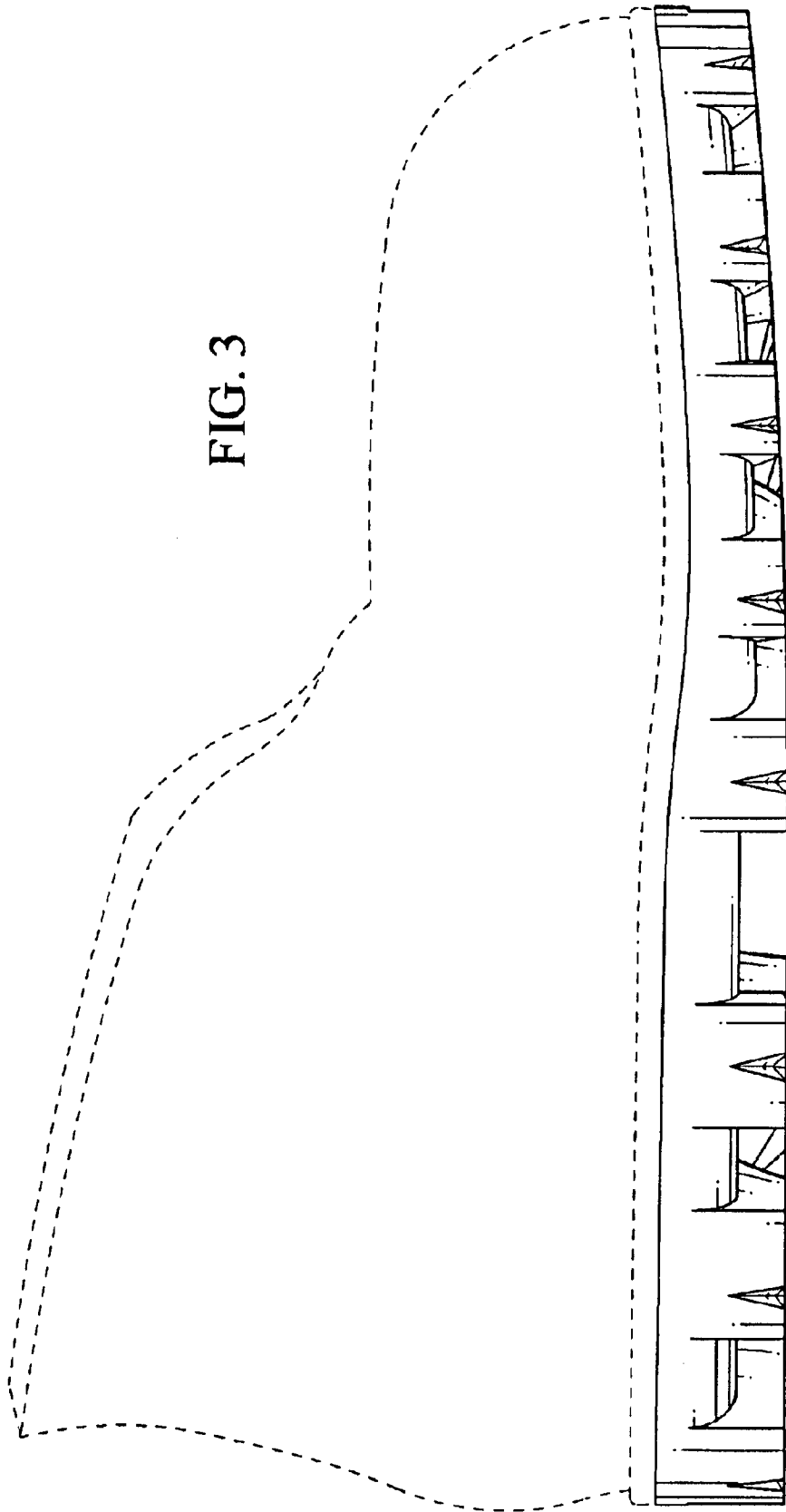
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FIG. 3



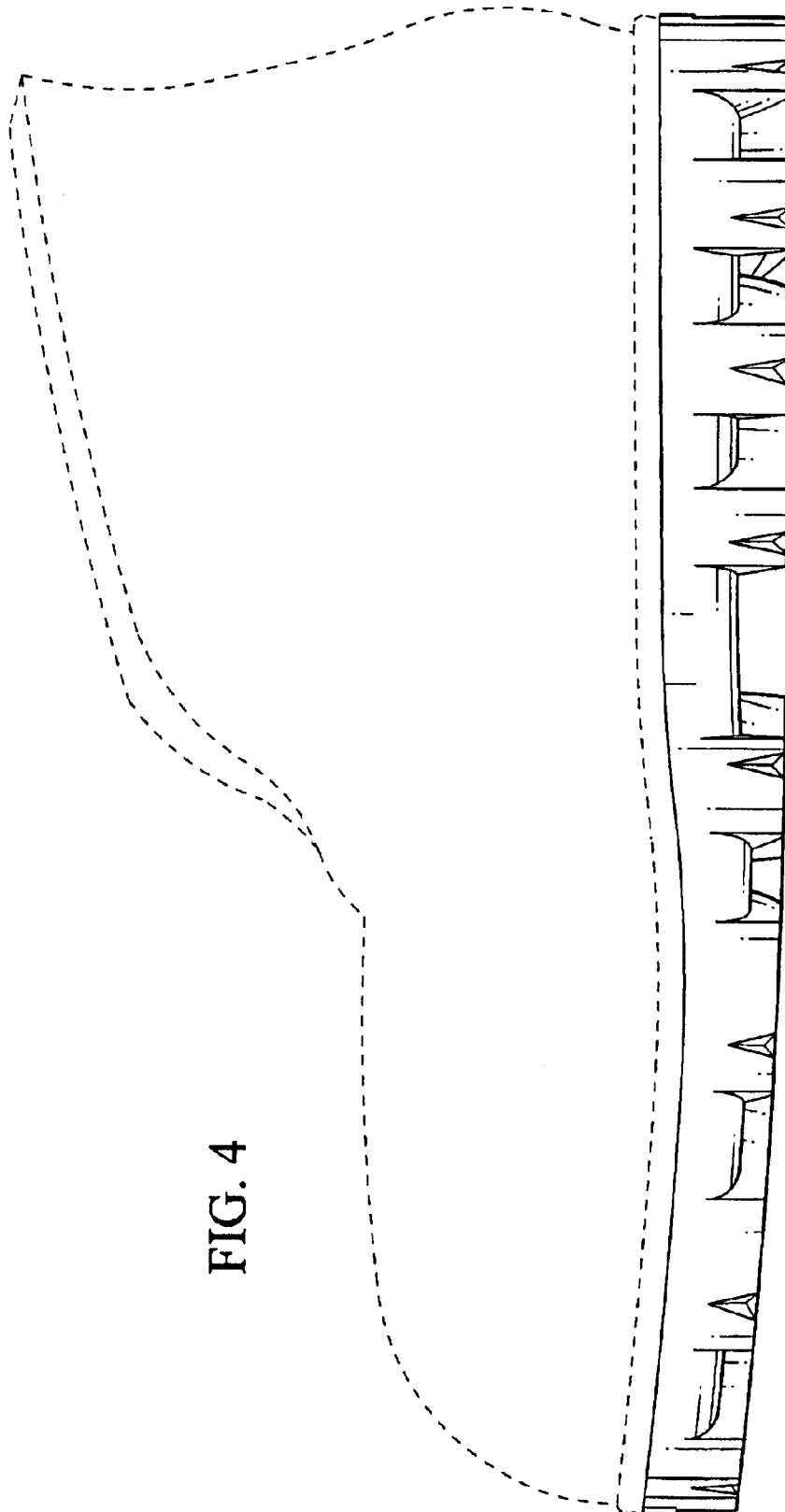
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FIG. 4



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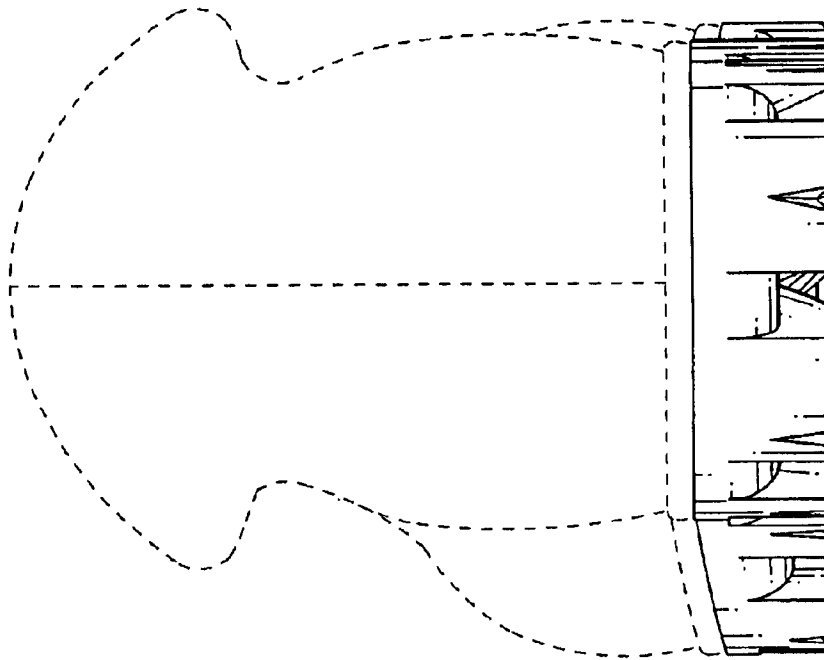


FIG. 6

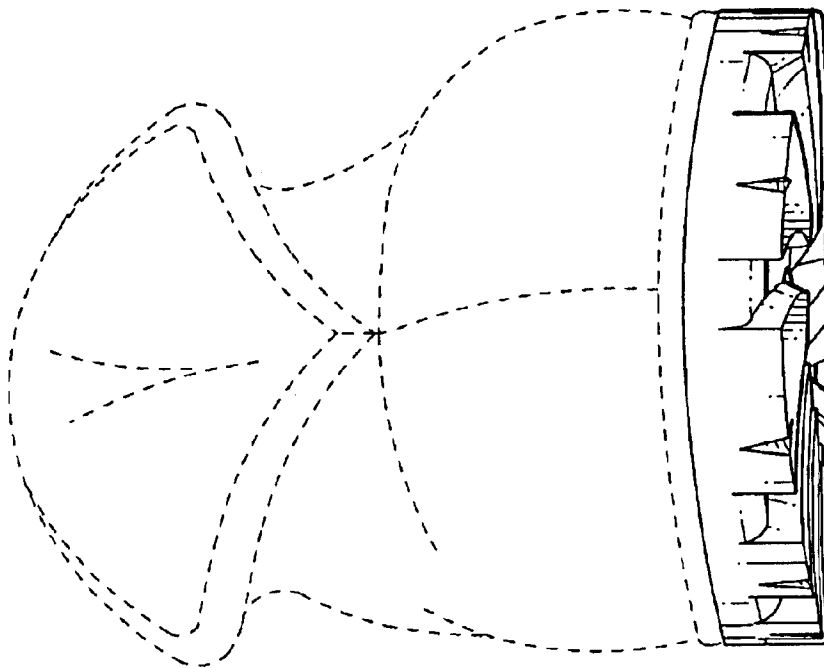


FIG. 5