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Ways to Protect Intellectual Property

- Patents
 - Utility Patents
 - Design Patents *
- Trademarks
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EXAMPLES OF DESIGN PATENTS

Sporting Goods and Footwear

Golf-Related Design Patents

US 483,943 S

(12) United States Design Patent (30) Patent No.: US 483,943 S
Ferrara, Jr. (45) Date of Patent: Dec. 23, 2003

(51) GOLF BAG 110/430 S * 1,300 Design class 110/333
110/430 S * 1,200 Index 110/222
(52) Int. Cl. 14 110/430 S * 10,202 Index 110/222

(73) Inventor: Daniel A. Ferrara, Jr., Merris, CT
(74) Attorney: Mark Aronsonman, Albany, NJ (US)

(57) Term: 14 Years

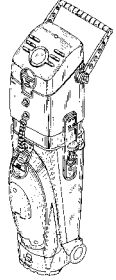
(21) Appl. No. 29/176,797

(22) Filed: Feb. 10, 2003

(51) Int. Cl. 14 03/01
(52) U.S. Cl. 110/225
(58) Field of Search 110/225, 226, 276, 315.5, 315.6, 315.7, 190 (N.A.), 210-17-20

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6,946,296 S * 7/1999 Hines et al. 110/225
6,957,497 S * 11/1999 Hines et al. 110/225
6,958,448 S * 10/1997 Hines et al. 110/225
6,974,959 S * 8/1998 Kilo 110/225
6,983,638 S * 8/2000 Haddock et al. 110/225

1 Claim, 4 Drawing Sheets

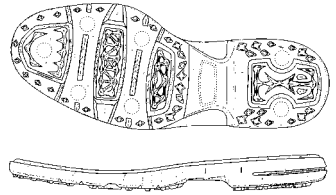


US 483,943 S

(12) United States Design Patent (30) Patent No.:
Robinson, Jr. et al. (45) Date of Patent:
Dec. 23, 2003

(51) FORE SHOULDER 110/278 S * 1,340-1
110/278 S * 1,340-2
110/278 S * 1,340-3
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110/278 S * 1,340-100

1 Claim, 2 Drawing Sheets



US 489,780 S

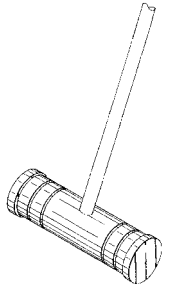
(12) United States Design Patent (30) Patent No.:
Shahoda (45) Date of Patent:
May 11, 2004

(51) GOLF PUTTER HEAD 110/736
(52) Int. Cl. 14 110/736
(73) Inventor: Stephen M. Shahoda, 2370 Emmick, Princeton, Tenn. 37220-1428
(74) Attorney: James M. Hays, Esq., 1100 Lakeside, Lake Forest, Ill. 60045
(57) Term: 14 Years

(21) Appl. No. 29/184,141
(22) Filed: May 9, 2003

(51) Int. Cl. 14 110/736
(52) U.S. Cl. 110/736
(58) Field of Search 110/736, 736.01, 736.02, 736.03, 736.04, 736.05, 736.06, 736.07, 736.08, 736.09, 736.10, 736.11, 736.12, 736.13, 736.14, 736.15, 736.16, 736.17, 736.18, 736.19, 736.20, 736.21, 736.22, 736.23, 736.24, 736.25, 736.26, 736.27, 736.28, 736.29, 736.30, 736.31, 736.32, 736.33, 736.34, 736.35, 736.36, 736.37, 736.38, 736.39, 736.40, 736.41, 736.42, 736.43, 736.44, 736.45, 736.46, 736.47, 736.48, 736.49, 736.50, 736.51, 736.52, 736.53, 736.54, 736.55, 736.56, 736.57, 736.58, 736.59, 736.60, 736.61, 736.62, 736.63, 736.64, 736.65, 736.66, 736.67, 736.68, 736.69, 736.70, 736.71, 736.72, 736.73, 736.74, 736.75, 736.76, 736.77, 736.78, 736.79, 736.80, 736.81, 736.82, 736.83, 736.84, 736.85, 736.86, 736.87, 736.88, 736.89, 736.90, 736.91, 736.92, 736.93, 736.94, 736.95, 736.96, 736.97, 736.98, 736.99, 736.100

1 Claim, 2 Drawing Sheets



US 492,743 S

(12) United States Design Patent (30) Patent No.:
Boyoak (45) Date of Patent:
Jul. 6, 2004

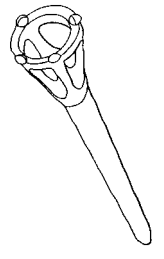
(51) GOLF TEE 110/290 S * 8,000 Design 110/290
110/290 S * 8,000 Index 110/290
(52) Int. Cl. 14 110/290 S * 8,000 Design 110/290
110/290 S * 8,000 Index 110/290
(73) Inventor: Bruce W. Boyoak, 2377 Valley View, Dr., Rocky River, OH 44131-4116
(74) Attorney: James M. Hays, Esq., 1100 Lakeside, Lake Forest, Ill. 60045
(57) Term: 14 Years

(21) Appl. No. 29/184,997
(22) Filed: May 16, 2003

(51) Int. Cl. 14 110/290
(52) U.S. Cl. 110/290
(58) Field of Search 110/290, 320, 330, 375, 387-405

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1 Claim, 1 Drawing Sheet



US 492,743 S

(12) United States Design Patent (30) Patent No.:
Boyoak (45) Date of Patent:
Jul. 6, 2004

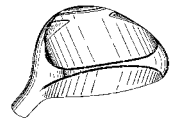
(51) GOLF TEE 110/290 S * 8,000 Design 110/290
110/290 S * 8,000 Index 110/290
(52) Int. Cl. 14 110/290 S * 8,000 Design 110/290
110/290 S * 8,000 Index 110/290
(73) Inventor: Bruce W. Boyoak, 2377 Valley View, Dr., Rocky River, OH 44131-4116
(74) Attorney: James M. Hays, Esq., 1100 Lakeside, Lake Forest, Ill. 60045
(57) Term: 14 Years

(21) Appl. No. 29/184,997
(22) Filed: May 16, 2003

(51) Int. Cl. 14 110/290
(52) U.S. Cl. 110/290
(58) Field of Search 110/290, 320, 330, 375, 387-405

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6,598,314 A 1/2008 Indeck
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6,697,505 S 12/2003 Boyoak et al.
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6,707,506 S 1/2005 Indeck
6,707,507 A 1/2005 Indeck
6,707,508 A 1/2005 Indeck

1 Claim, 1 Drawing Sheet



Fishing-Related Design Patents

(15) United States Design Patent (16) Patent No.: **US D491,998 S**
 Burke (15) Date of Patent: **Jun. 22, 2004**

(54) **SPINCAST FISHING REEL BODY**
 (73) Inventor: **Minister Burke, Ocala, FL (US)**
 (75) Assignee: **WGL, Breders-Zabner Holdings, Inc., Tulsa, OK (US)**
 (71) Term: **14 Years**
 (21) Appl. No.: **29/150,431**
 (22) Filed: **Apr. 22, 2002**

Related U.S. Application Data
 (35) Continuation in part of application No. 29/114,511, filed on Jul. 7, 2000.

(51) **LOC. 75, CL.** **25,06**
 (52) **U.S. CL.** **D22/140**
 (53) **Field of Search** **D22/140, 141, 142, 143, 144, 145, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217**

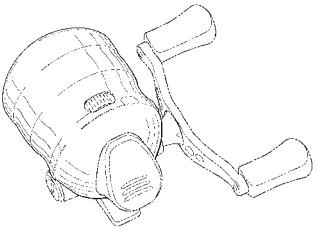
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 048,601 N. 5/1999. *Lawler* 02/141

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WGL Book and Broch Catalog 2001, 14 pp.
 * cited by examiner
 Primary Examiner: *Sullivan R. Oliver*
 (77) Literature: *Japan or Foreign Offices*: *Shaker, Haskins/Hay, Bartel & Tappan, PC*

(57) **CLAIM**
 The ornamental design for a spincast fishing reel body, as shown.

DESCRIPTION
 FIG. 1 is a top perspective view of a spincast fishing reel body showing one view thereof.
 FIG. 2 is a left side elevational view thereof.
 FIG. 3 is a front elevational view thereof.
 FIG. 4 is a right side elevational view thereof.
 FIG. 5 is a top plan view of a slightly reduced scale thereof.
 FIG. 6 is a perspective view of a slightly reduced scale thereof.

1 Claim, 7 Drawing Sheets



United States Patent (15) Patent Number: **Des. 370,520**
 Kahng (15) Date of Patent: **Jun. 4, 1996**

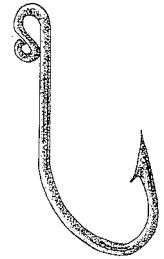
(54) **FISHING HOOK** (57) **CLAIM**
 (73) Inventor: **Gordon W. Kahng, 1510 Spilloe Ln., Houston, TX 77043**
 (71) Term: **14 Years**
 (21) Appl. No. **6,681**
 (22) Filed: **Apr. 1, 1993**
 (53) **U.S. CL.** **D22/140**
 (53) **Field of Search** **D22/140, 202/140, 204/28, 44/23, 44/30, 43/2, 43/1, 43/6, 44/21, 44/26, 41/83**

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 1,275,055 10/1952. *Madewey* 4/44/43
 1,746,702 1/1928. *Lacey* 2/44/43
 1,843,266 2/1931. *Lacey* 2/44/43
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 1,275,055 10/1952. *Madewey* 4/44/43
 1,746,702 1/1928. *Lacey* 2/44/43
 1,843,266 2/1931. *Lacey* 2/44/43
 1,755,316 4/1929. *Lobby et al.* 2/44/43
 1,774,075 10/1929. *Shaw* 2/44/43
 1,914,071 10/1931. *Shaw* 2/44/43
 2,515,162 5/1951. *Pa* 2/44/43
 5,208,156 10/1953. *Haguen* 2/44/43

Primary Examiner: *James V. Cates*

1 Claim, 2 Drawing Sheets



United States Patent (15) Patent Number: **Des. 346,197**
 Onishi et al. (15) Date of Patent: **Apr. 19, 1994**

(54) **FISHING ROD** (57) **CLAIM**
 (73) Inventors: **Kunji Onishi, Sakai, Tochiho Yasui, Tochiho Yasui, Sakai, Japan**
 (75) Assignee: **Shimano Inc., Osaka, Japan**
 (71) Term: **14 Years**
 (21) Appl. No.: **727,135**
 (22) Filed: **Jul. 9, 1991**

Foreign Application Priority Data
 Jun. 17, 1991 (JP) Japan D.A. 3-746
 Jul. 17, 1991 (JP) Japan D.A. 3-847

(51) **U.S. CL.** **D22/142**
 (53) **Field of Search** **43/18, 18, 19, 18, 2, 43/22-23, 52/12/13-142**

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 D. 294,625 3/1938. *Rumhaugh et al.* D22/142
 D. 315,502 2/1991. *Onishi* D22/142
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 3,026,704 5/1962. *Park* 43/18
 3,138,023 4/1964. *Coak* 43/23

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 212004 7/1936. *United Kingdom* 43/23

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 Primary Examiner: *A. Hugo Wood*
 Assistant Examiner: *Cathy Anne MacCormac*
 Attorney, Agent, or Firm: *Dickinson, Shapiro & Morris*

The ornamental design of a fishing rod, as shown and described.

DESCRIPTION
 FIG. 1 is a plan view of a fishing rod showing its new design.
 FIG. 2 is a front view of the fishing rod.
 FIG. 3 is a bottom view of the fishing rod.
 FIG. 4 is an enlarged left side view of the fishing rod.
 FIG. 5 is an enlarged right side view of the fishing rod.
 FIG. 6 is a fragmentary enlarged plan view of the fishing rod.
 FIG. 7 is a fragmentary enlarged front view of the fishing rod.
 FIG. 8 is a fragmentary enlarged view of the fishing rod.
 FIG. 9 is a fragmentary enlarged perspective view, and
 FIG. 10 is a perspective view.

(15) United States Design Patent (16) Patent No.: **US D4**
 Sarnacki (15) Date of Patent: **Jun. 22, 2004**

(54) **FISHING LURE** (57) **CLAIM**
 (73) Inventor: **Stanley S. Sarnacki, 5675 6th York, York, PA, 17402, PA (US)**
 (71) Term: **14 Years**
 (21) Appl. No.: **29/088,282**
 (22) Filed: **Aug. 18, 2003**

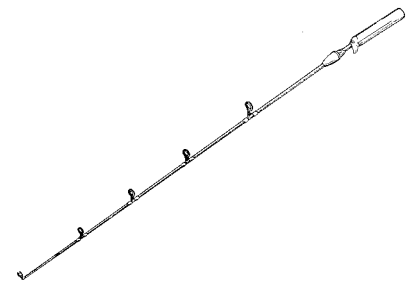
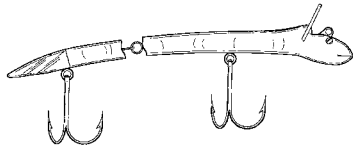
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 048,601 N. 5/1999. *Lawler* 02/141

OTHER PUBLICATIONS
 048,601 N. 3/1999. *Prater et al.* 02/141
 048,601 N. 5/1999. *Lawler* 02/141


The ornamental design for a fishing lure, as shown.

DESCRIPTION
 FIG. 1 is a front elevational view of a fishing lure showing one view thereof.
 FIG. 2 is a side elevational view thereof.
 FIG. 3 is a top elevational view thereof.
 FIG. 4 is a perspective view thereof.
 FIG. 5 is a bottom plan view thereof.
 FIG. 6 is a perspective view thereof.

1 Claim, 4 Drawing Sheets



Sole Design



US000496148S1

(12) **United States Design Patent** (10) Patent No.: **US D496,148 S**
 Kayano et al. (45) Date of Patent: **Sep. 21, 2004**

(54) **PAIR OF SHOE OUTSOLES** D347936 S * 6/1994 Isaka D2 984
 D334717 S * 10/1994 Kayano et al. D2 987
 D333458 S * 9/1994 Isaka et al. D2 987
 D387899 S * 12/1997 Fontana et al. D2 988
 D401366 S * 11/1998 Kayano D2 984
 D401399 S * 2/1999 Gosh D2 987
 D414923 S * 9/1999 Evenson et al. D3 052
 D427277 S * 7/2000 Roth D2 987
 D433791 S * 11/2000 Laberge D3 052
 D433791 S * 12/2000 Laberge D2 987
 D434996 S * 3/2003 Beccit D3 969

(75) Inventors: **Toshihazu Kayano, Kobe (JP);**
Kiyomasa Kurotaki, Kobe (JP)

(73) Assignor: **Asics Corporation, Kobe (JP)**

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

(21) Appl. No.: **29/195,131**

(22) Filed: **Dec. 8, 2003** * cited by examiner

(30) **Foreign Application Priority Data**
 Jul. 18, 2003 (JP) 2003-029685
 (51) **LOC. (7) CL.** **D2-04**
 (52) **U.S. CL.** **D2 959; D2 953; D2 957;**
 D2 961

(58) **Field of Search** D2 947, 949, 951,
 D2 953-960, 36, 3 B, 22 R, 24 A, 25 R,
 32 A, 32 R, 103, 104, 117 A, 117 B

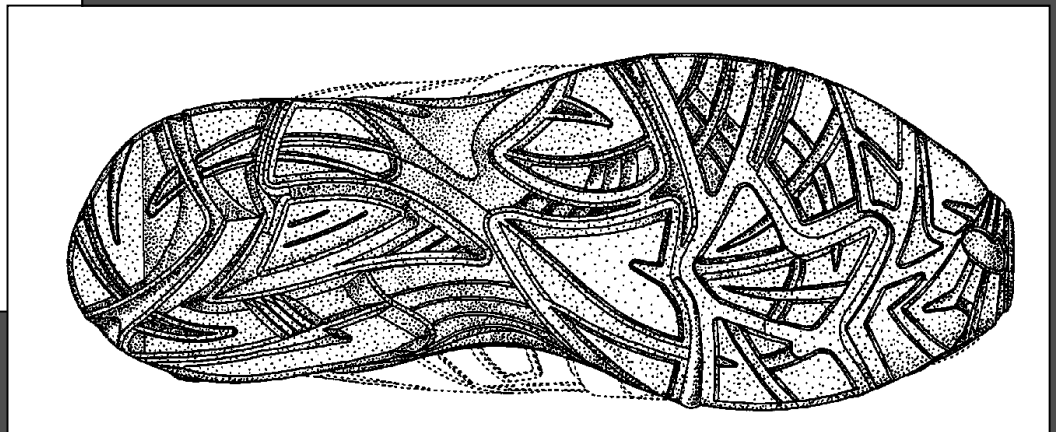
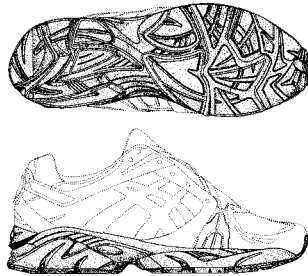
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 0307483 S * 4/1991 Kayano D2 987
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 0336740 S * 9/1995 Kayano et al. D2 986
 0331489 S * 12/1992 Isaka D2 960
 0336458 S * 9/1993 Kayano D2 984
 0339461 S * 9/1993 Kayano D2 987
 0340126 S * 10/1993 Mison D2 987
 0345726 S * 2/1994 Sawasaki D2 960

(74) **Attorney, Agent or Firm—Michael Zill**

(57) **CLAIM**
 I claim the ornamental design for a pair of shoe outsoles, as shown and described.

DESCRIPTION
 FIG. 1 is a perspective view of the right outsole of a pair of shoe outsoles showing my new design of the outsole being a mirror image, and being removed for convenience of illustration. And the broken lines showing a shoe upper illustrates the portion of the design that forms no part of the claim.
 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.

1 Claim, 6 Drawing Sheets



Sandal Designs



US000496147S1

(12) **United States Design Patent** (10) Patent No.: **US D496,147 S**
 Comcau (45) Date of Patent: **** Sep. 21, 2004**

(54) **PAIR OF SANDALS**

(75) Inventor: **Dennis Comcau**, New York, NY (US)

(73) Assignee: **Bernardo Footwear, LLC**, Stafford, TX (US)

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

(21) Appl. No.: **29/196,276**

(22) Filed: **Dec. 29, 2003**

(51) LOC (7) CL: **02-04**

(52) U.S. CL: **D2/917**

(58) Field of Search: **D2:916-918, 919-922, D2:969; 36/8.1, 11.5**

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JP	07039403	2/1995	A43B/3:12

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Shoes, A Lexicon of Style by Valerie Steele; Rizzoli, New York, 1999; p. 93; Sergio Rossi sling back thong (bottom)*

* cited by examiner

Primary Examiner—Dominic Simone
(74) Attorney, Agent, or Firm—Lieberman & Brandsdorfer, L.L.C.

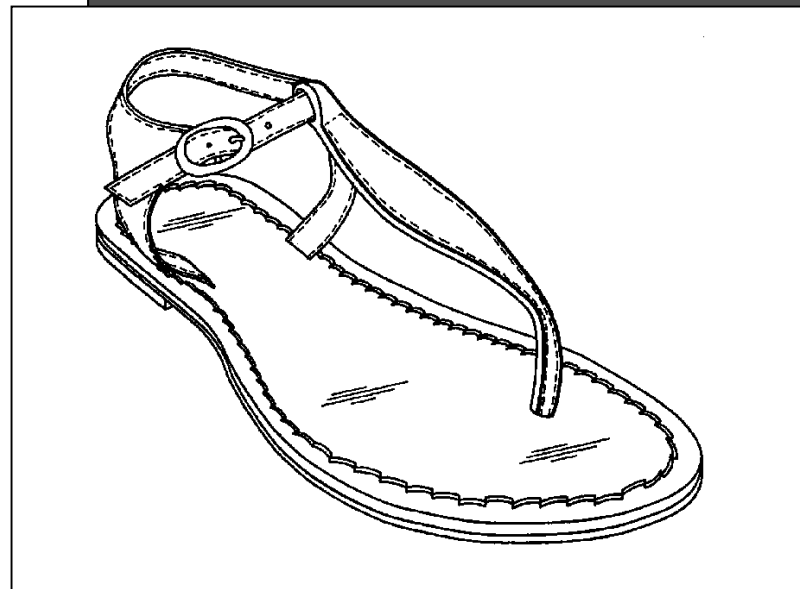
(57) **CLAIM**

The ornamental design for the pair of sandals, as shown and described.

DESCRIPTION

FIG. 1 is a top perspective view of a right sandal of the pair of sandals, showing the new design.
 FIG. 2 is a front elevational view taken from FIG. 1;
 FIG. 3 is a rear elevational view taken from FIG. 1;
 FIG. 4 is a right side elevational view taken from FIG. 1;
 FIG. 5 is a left side elevational view taken from FIG. 1;
 FIG. 6 is a top plan view taken from FIG. 1; and,
 FIG. 7 is a bottom plan taken from FIG. 1.
 The sandals for the left foot is the mirror image of the sandal depicted in FIGS. 1 through 7.

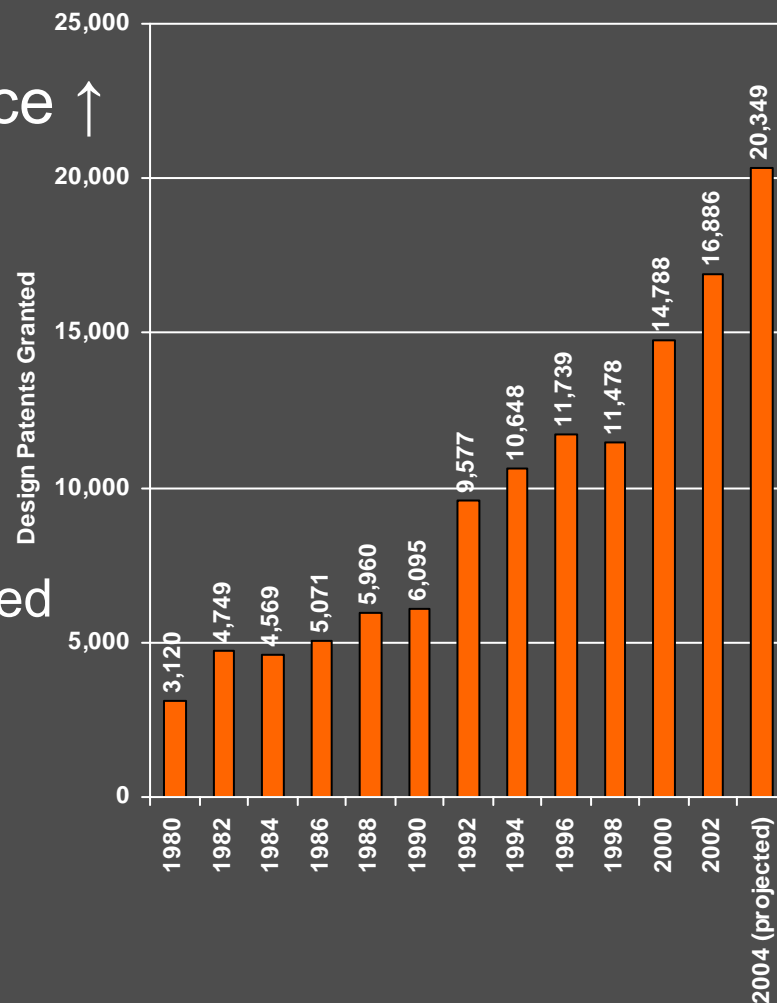
1 Claim, 5 Drawing Sheets





U.S. Design Patents on The Rise

- Applications & Issuance ↑
- Worldwide
 - E.U. ↑
 - China ↑
- Why?
 - Looks Matter
 - More importance placed on design
 - Insidious reason
 - S.Ct. Commentary



Recent Design Patent Infringement Awards

- Nike, Inc. v. Wal-Mart Stores, Inc. (shoes)
 - \$5.65 million and injunction
- Door-Master, Inc. v. Yorktowne, Inc. (cabinet doors)
 - ~\$1.0 million and injunction
- Braun, Inc. v. Dynamics Corp. of America (blender)
 - ~ \$1.0 million and injunction
- Catalina Lighting Inc. v. Lamps Plus, Inc. (lightning fixture)
 - ~ \$900,000 and injunction

DESIGN PATENT BASICS

Strategies and Pitfalls

What does it protect?

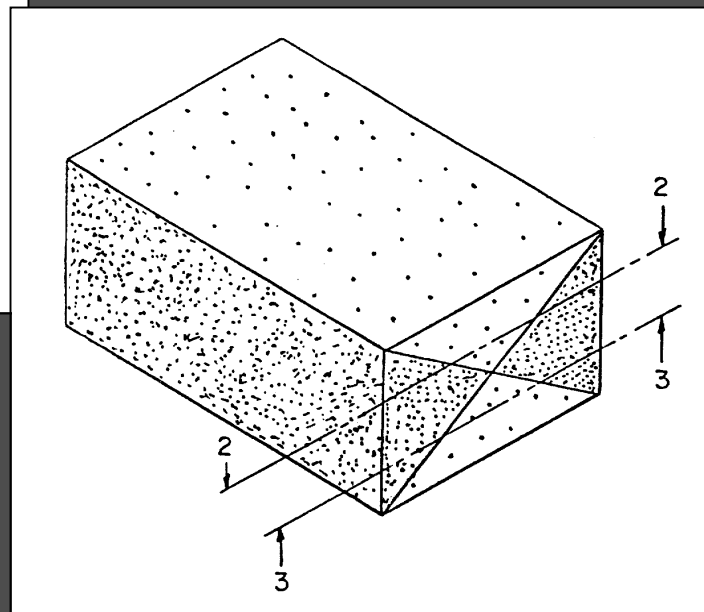
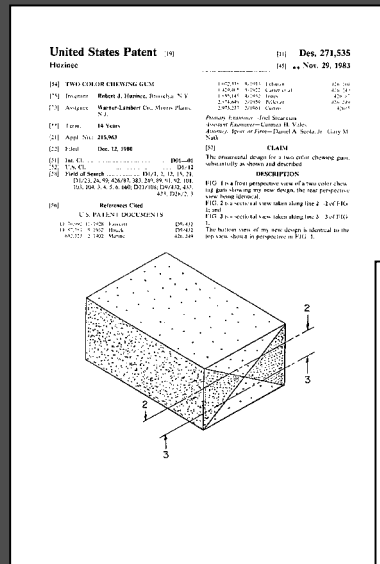
- Appearance of the article of Manufacture
 - Shape
 - Surface Ornamentation
 - Color
 - Or Combination of all

Statutory Requirements

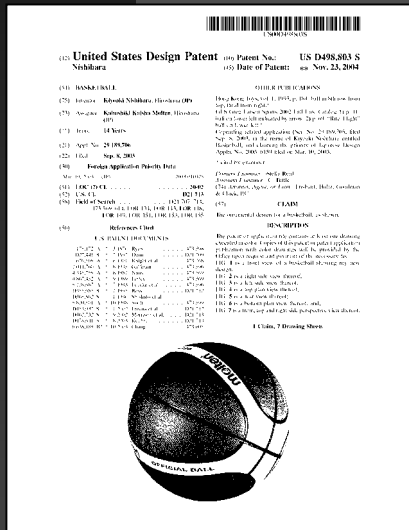
THREE MAIN REQUIREMENTS

- Ornamental
- Novel
- Non-Obvious

Yes, you can claim color But be careful....



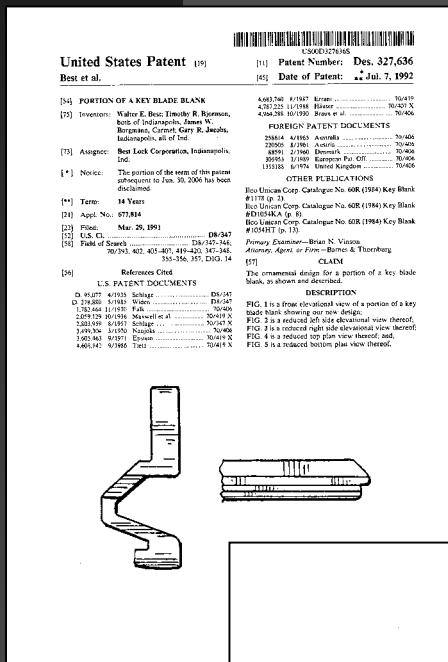
Color Combinations - Contrast



“Ornamental” ... Need not be beautiful...

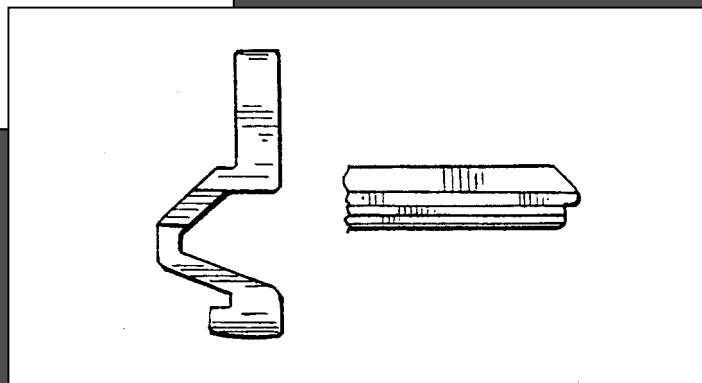
- “the beauty and ornamentation requisite in design patents is not confined to such as may be found in the aesthetic or fine arts.” In re Koehring, 17 C.C.P.A. 774, 37 F.2d 421, 422 (CCPA 1930)
- TEST: Does the patent include “design choice(s)”?

Example of Design Patent Item Held to be Invalid



NO “DESIGN” –Why? To fit into the key hole this is the way the blade must look

Best Lock Corp. v. Ilco Unican Corp., 94 F.3d 1563 (Fed.Cir. 1997)



Avoid Problem – Include Ornamental Aspects

US00491788S

(12) **United States Design Patent** (10) Patent No.: **US D491,788 S**
Kim (45) Date of Patent: **Jun. 22, 2004**

(54) **KEY** (59) 0394,470 S * 3 1998 Johnson et al. 08:347

(70) Inventor: **Jung Kyu Kim, 1223-6, Sullyokse (Kang), Bldg-69, Yeosu 762-614 (KR)** OTHER PUBLICATIONS
 Home Security, 1979 Catalog, p. 20,*
 * cited by examiner

(**) Term: **14 Years** Primary Examiner: **Prabhakar Deshmukhi**
 (73) Attorney, Agent, or Firm: **Falk & Sottem LLP, John K. Park**

(21) Appl. No.: **29/187,019** (57) **CLAIM**

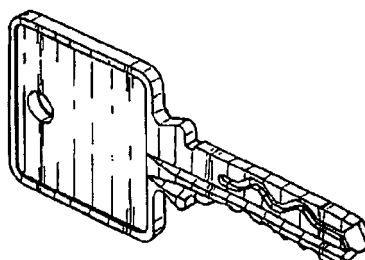
(22) Filed: **Jul. 25, 2003** (52) **U.S. CL.** **D06347**
 (51) **LOC. INT. CL.** **08:47**
 (58) **Field of Search** **D8 347, 343, 348, 70 336, 343, 346, 348, 367, 393, 405, 409**

(56) **References Cited**
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 4,176,581 A * 3 1983 Mann 70:527
 4,987,263 S * 5 1991 Hong 08:347
 5,016,455 A * 5 1991 Hennessy 70:493
 5,532,358 S * 1 1993 Maecher 08:347

DESCRIPTION
 The ornamental design for a key, as shown and described.

FIG. 1 is a perspective view of a key showing my new design.
FIG. 2 is another perspective view of the key;
FIG. 3 is a front elevational view thereof;
FIG. 4 is a top plan view thereof;
FIG. 5 is a left side view thereof;
FIG. 6 is a rear elevational view thereof;
FIG. 7 is a right side view thereof; and,
FIG. 8 is a bottom view thereof.

1 Claim, 2 Drawing Sheets



Key Handle + Key Blade

US00495238S

(12) **United States Design Patent** (10) Patent No.: **US D495,238 S**
Handel et al. (45) Date of Patent: **Aug. 31, 2004**

(54) **KEY** (59) 0430,626 S * 12 2000 Van Der Aalst et al. 08:347
 0488,624 S * 2 2004 Simchak 08:347

(75) Inventors: **Mark Van Handel, Milwaukee, WI** * cited by examiner
Oliver Grier, Chicago, IL (US) Primary Examiner: **Prabhakar Deshmukhi**
 (73) Assignee: **Master Lock Company, Oak Brook, WI 60110** (US) Attorney, Agent, or Firm: **Colfax, Haber & Goswold LLP**

(**) Term: **14 Years** (57) **CLAIM**

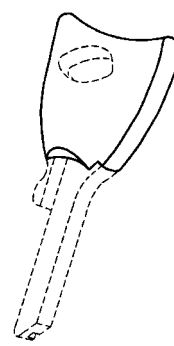
(21) Appl. No.: **29/190,772** The ornamental design for a key, as shown and described.

(22) Filed: **Sep. 25, 2003** (52) **U.S. CL.** **D06347**
 (51) **LOC. INT. CL.** **08:47**
 (58) **Field of Search** **D8 347, 348, 70 6, 70 33, 336, 341, 348, 362, 367, 398, 400**

(56) **References Cited**
 U.S. PATENT DOCUMENTS
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 4,047,662 A * 8 1976 Inoué 70:401
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 6,056,116 A * 4 2000 Kilo 70:450 R

DESCRIPTION
FIG. 1 is a perspective view of a key of the present invention;
FIG. 2 is top view of the design shown in FIG. 1;
FIG. 3 is a front view of the design shown in FIG. 1;
FIG. 4 is a side view of the design shown in FIG. 1;
FIG. 5 is a back view of the design shown in FIG. 1;
FIG. 6 is a side view of the design shown in FIG. 1; and,
FIG. 7 is a bottom view of the design shown in FIG. 1.
 The portions of the figures shown in phantom lines are not part of the claimed design but are for illustration only.

1 Claim, 1 Drawing Sheet



Key Handle

Hard Facts

- Filing to Issuance 12-18 month avg.
- 35 U.S.C. § 282, Presumption of Validity
- One claim
- Duration: 14 years
- No Maintenance Fees

Rocket Docket

Request to Expedite
"Rocket Docket"

-37 C.F.R. § 1.155

-Seasonal Goods

US00D380417S

[11] Patent Number: **Des. 380,417**
 [45] Date of Patent: ****Jul. 1, 1997**

[76] Inventor: **Christopher Hardy**, 2500 Stockyard Rd., Springfield, Ill. 62072

[**] Term: **14 Years**

[21] Appl. No.: **65,718**

[22] Filed: **May 2, 1997**

[51] LOC (6) Cl. **26-01**

US00D380417S

United States Patent [19] [11] Patent Number: **Des. 380,417**
Hardy [45] Date of Patent: ****Jul. 1, 1997**

[54] CANDLE HOLDER
 [76] Inventor: **Christopher Hardy**, 2500 Stockyard Rd., Springfield, Ill. 62072

[**] Term: **14 Years**

[21] Appl. No.: **65,718**

[22] Filed: **May 2, 1997**

[51] LOC (6) Cl. **26-01**

[52] U.S. Cl. **D26/16; D9/432; D11/125; D11/157**

[58] Field of Search **D26/6, 7, 9, 10; D26/13-15, 20-23; 431/125, 288-292; 362/161-163; D9/432; D11/125, 157**

[56] References Cited

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The Horchow Collection, Aug. 1979, p. 48, Item (D), Fastened Clear Acrylic Candlestick Holder.
 The Gallery of Amsterdam, 1984, Item (G), Beveled and Leaded Glass Candle Cluster & Glows.
 Global Design Catalog, Jul. 29, 1991, Classic Cube Candle Holder.
 Illuminations Catalog, Holiday 1996, p. 16, Item (D), Ready-To-Give Candles; Item (E), Good Fortune Candle.

Primary Examiner—Alan P. Douglas
 Assistant Examiner—Robin V. Taylor

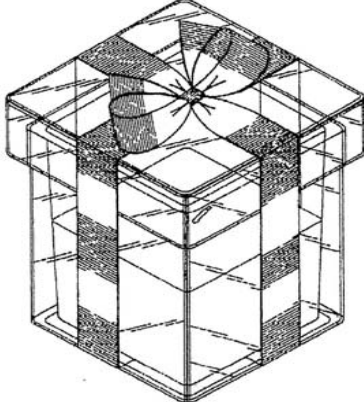
[57] CLAIM

The ornamental design for a candle holder, as shown and described.

DESCRIPTION

FIG. 1 is a perspective view of a candle holder showing my new design;
 FIG. 2 is a side view in elevation thereof;
 FIG. 3 is a top view thereof; and
 FIG. 4 is a bottom view thereof.

1 Claim, 2 Drawing Sheets

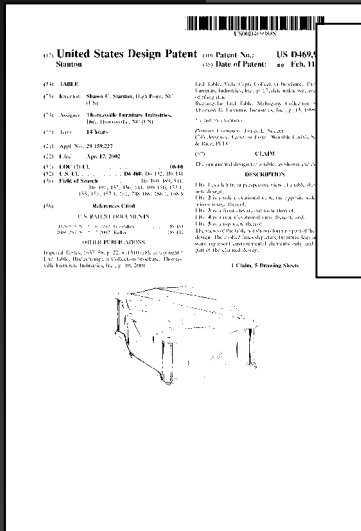


4 WAYS TO INCREASE SCOPE OF DESIGN PATENTS

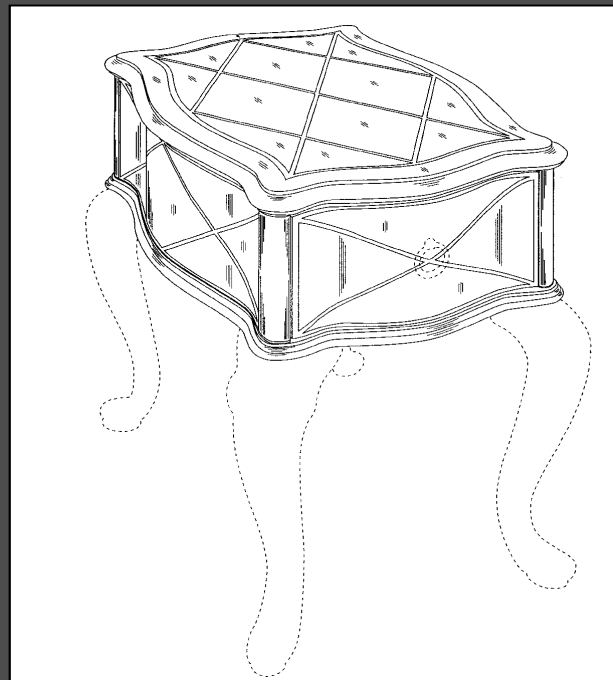
- Broken Lines (“Dotted Lines”)
- Indeterminate Length
- Multiple Embodiments
- Multiple Applications

Broken Lines

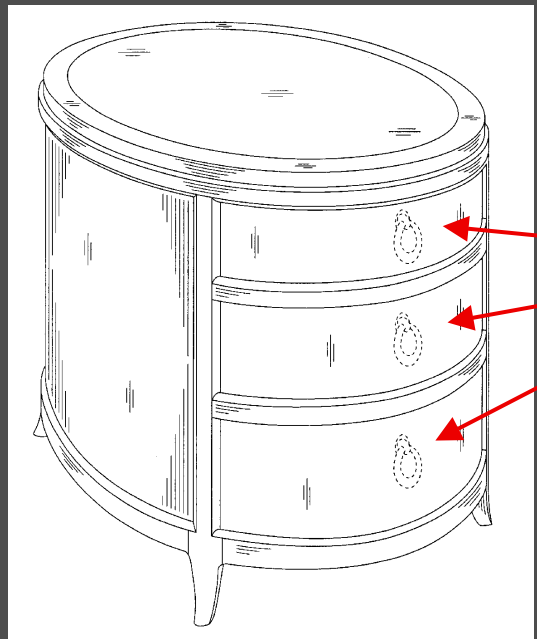
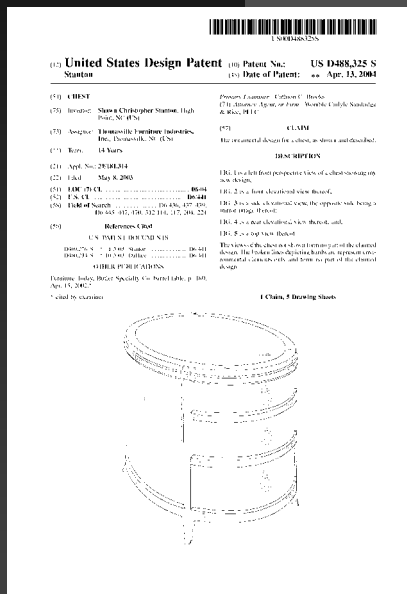
Disclaim Hardware – Add Scope



The views of the table not shown form no part of the claimed design. The dashed lines depicting furniture legs and hardware represent environmental elements only and form no part of the claimed design.



Disclaim Hardware – Add Scope



**DISCLAIM
HARDWARE**

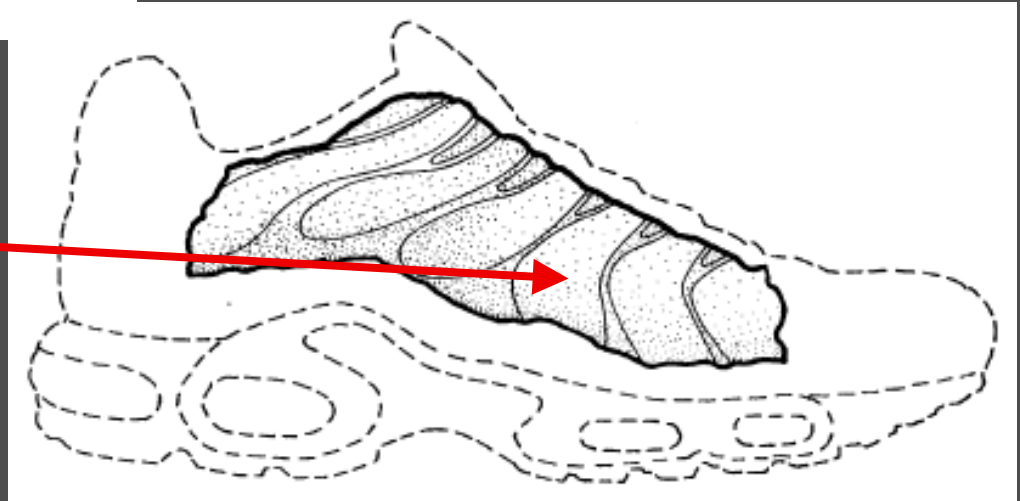
The broken lines depicting hardware represent environmental elements only and form no part of the claimed design.

Feature Omission Practice



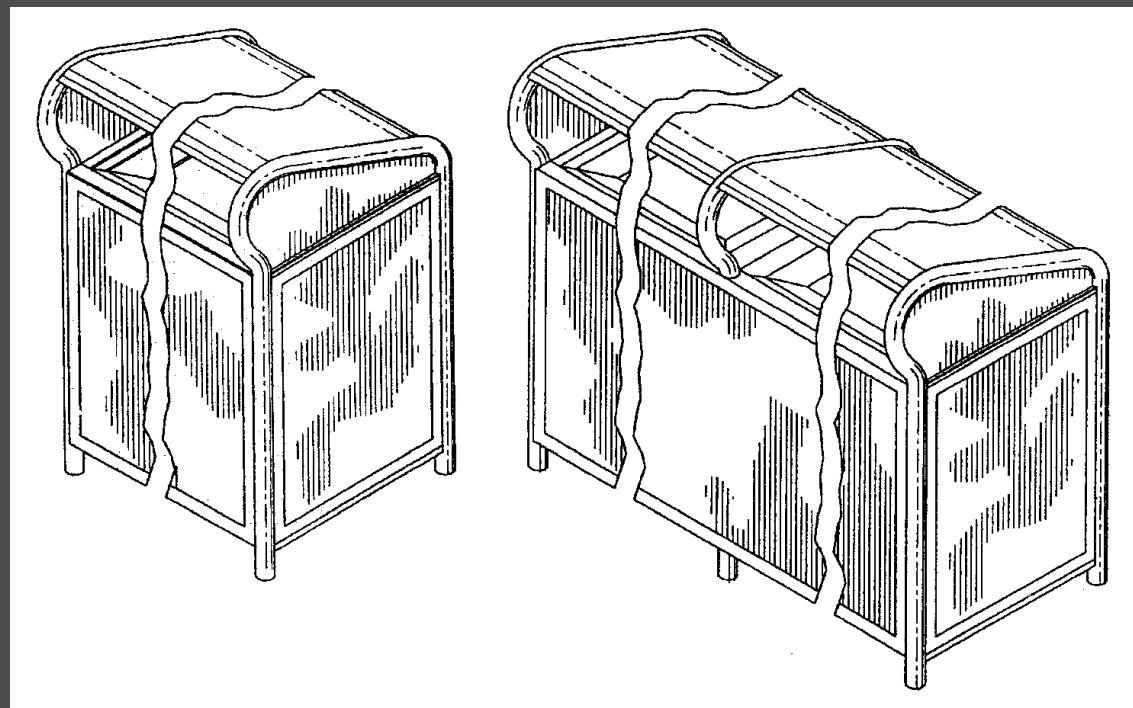
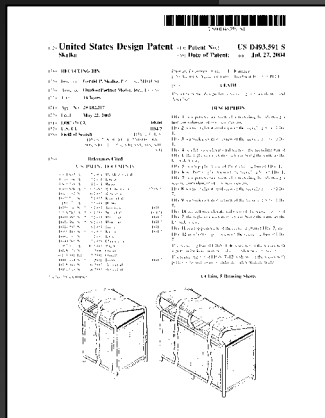
Nike Air Max Plus
Shoe and Upper
Design Patent

Trademark
omitted
in design
claim



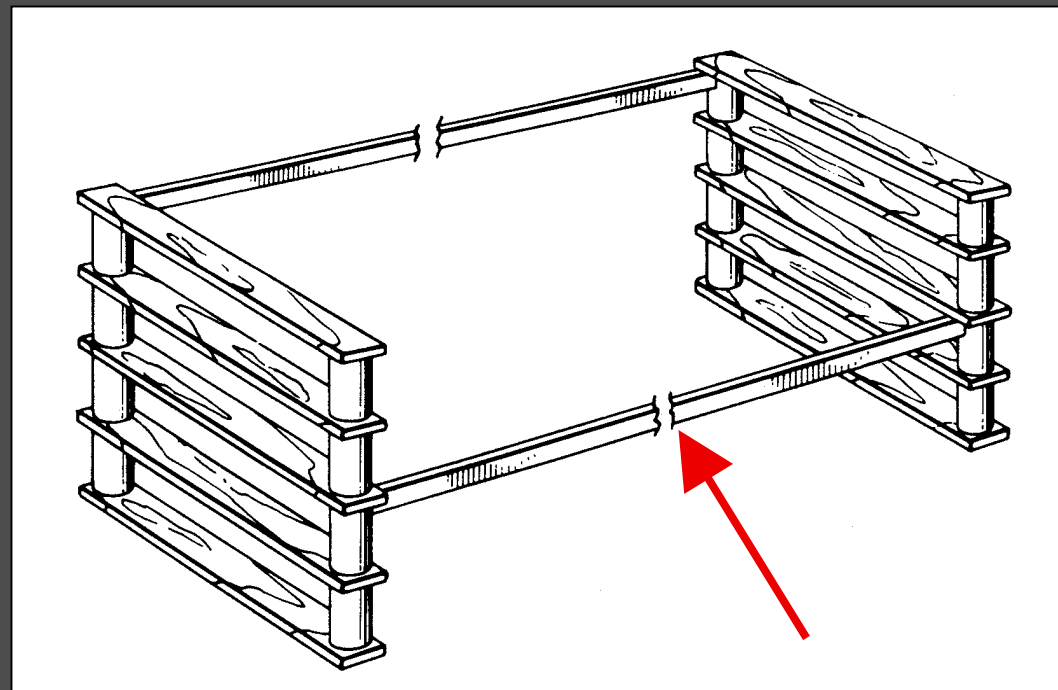
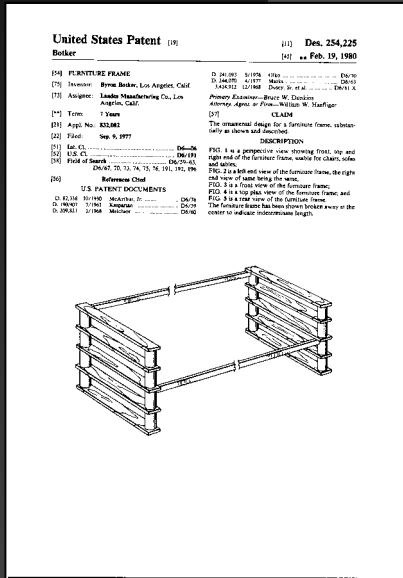
Indeterminate Length

Adding Scope – Indeterminate Length

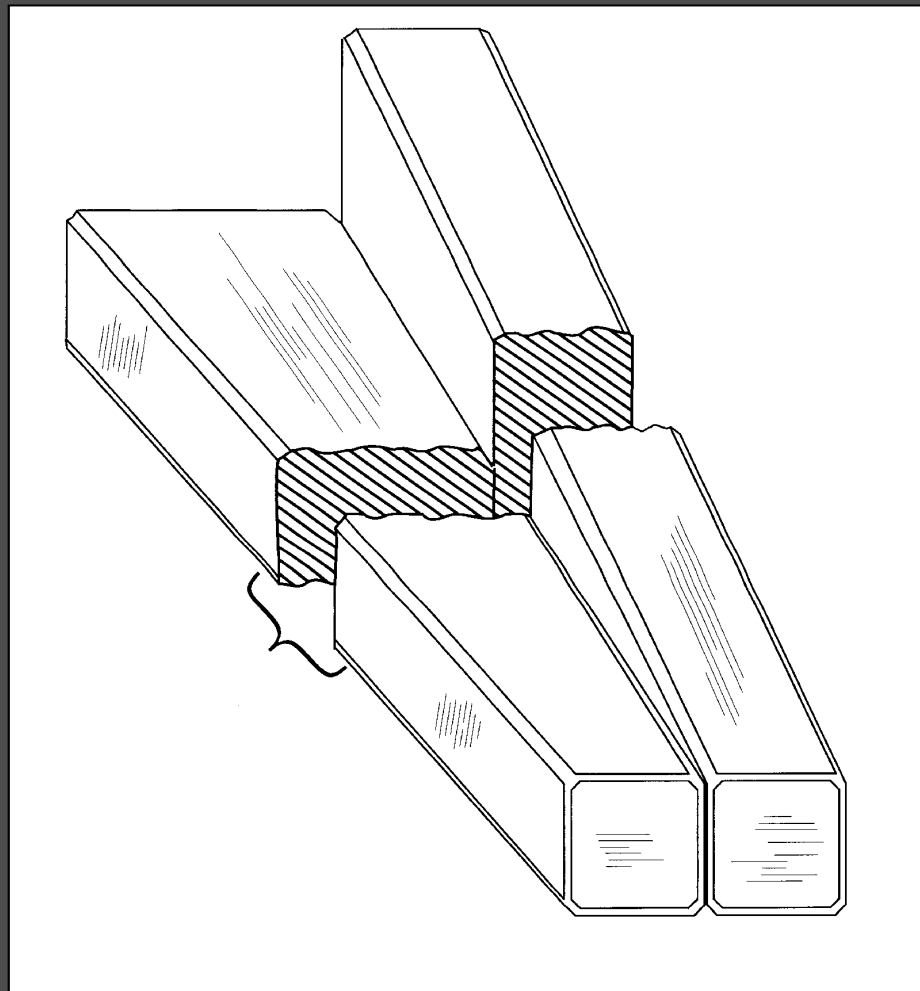
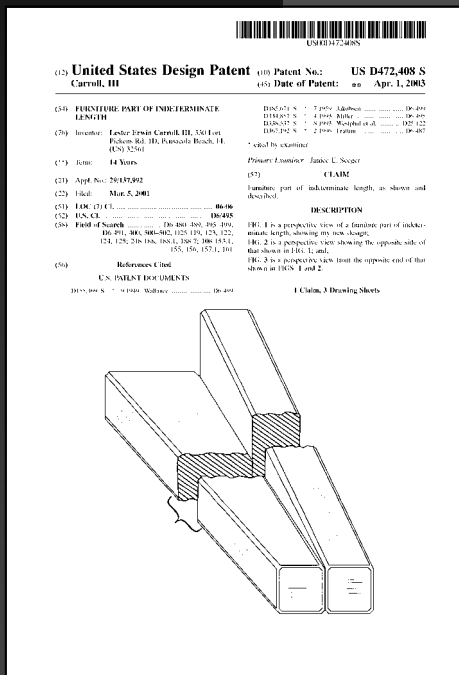


Relative Width of Structure

Add Scope – Indeterminate Length

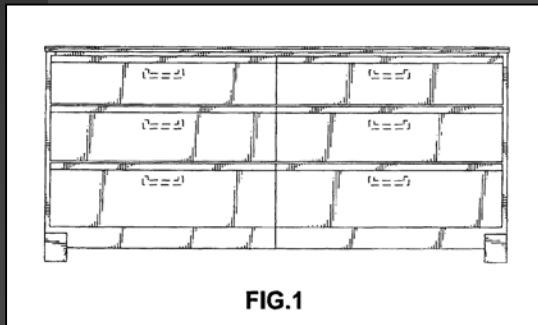
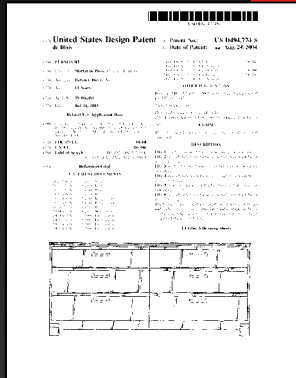


Adding Scope – Indeterminate Length

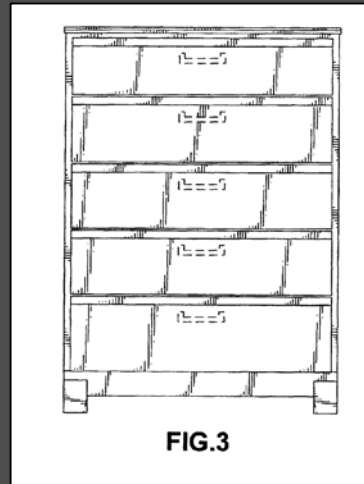


Multiple Embodiments

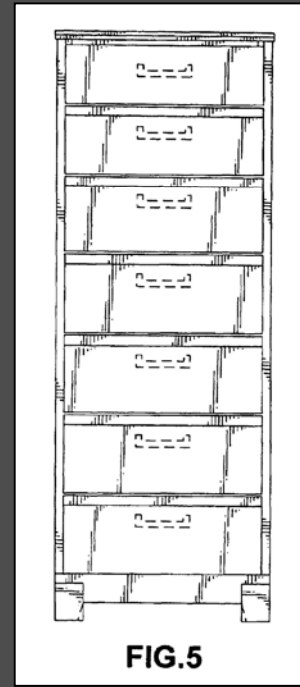
Multiple Embodiments Save money – Increase Scope



First Embodiment



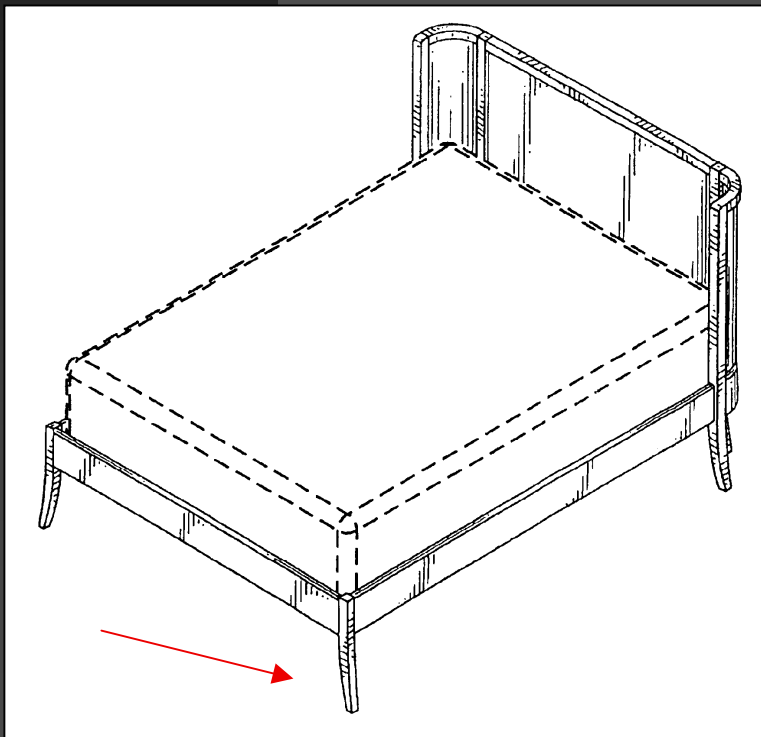
Second Embodiment



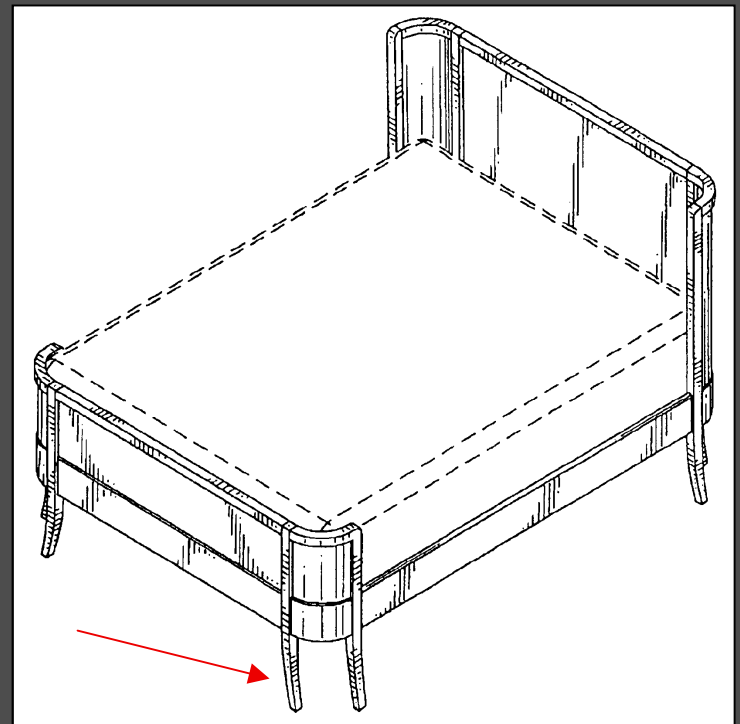
Third Embodiment

Multiple Embodiments Save money – Increase Scope

One Application, One Claim – But Two Embodiments



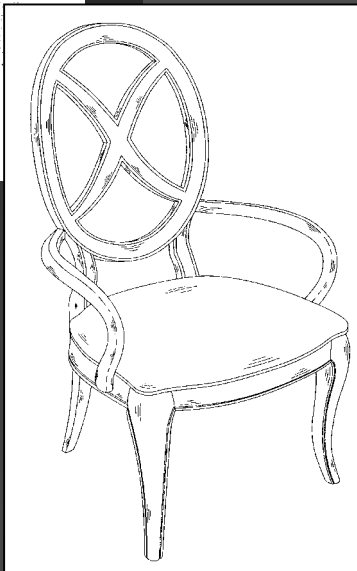
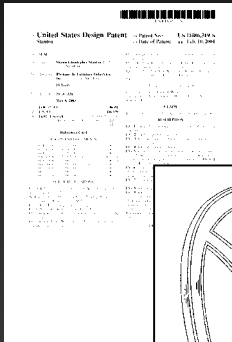
First Embodiment



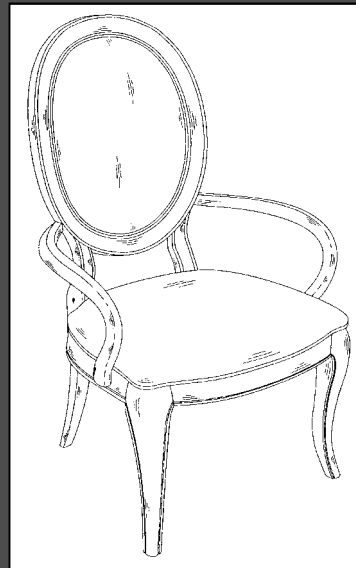
Second Embodiment

Multiple Embodiments – Save money – Increase Scope

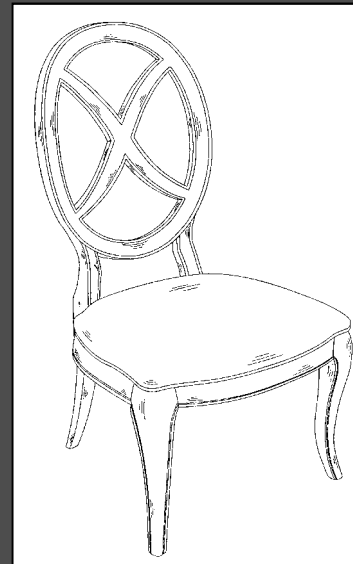
One Application – Four Embodiments



First
Embodiment



Second
Embodiment



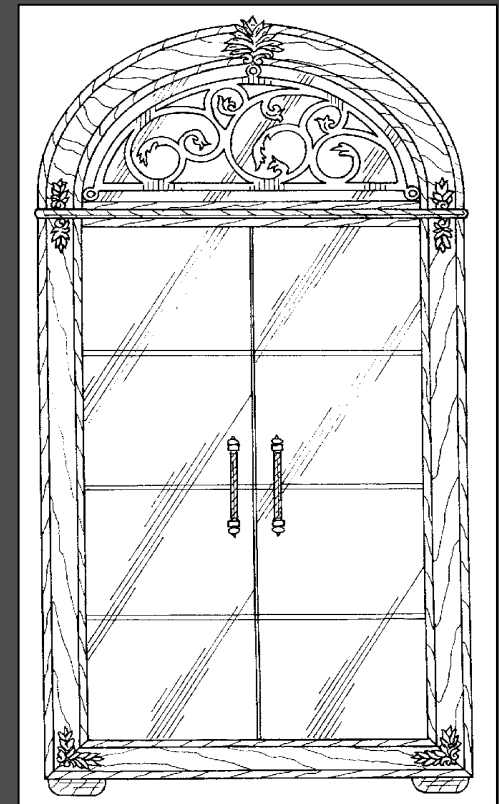
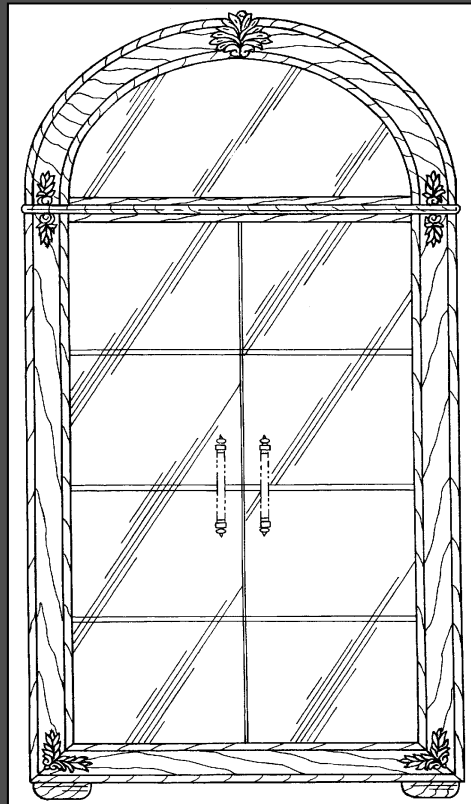
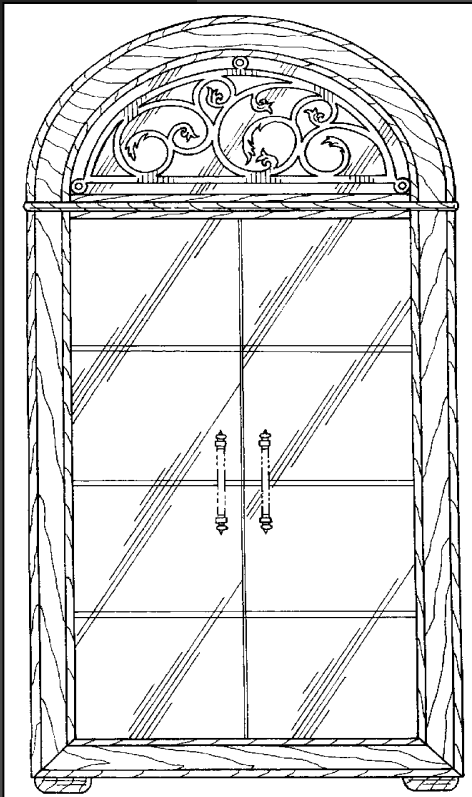
Third
Embodiment



Fourth
Embodiment

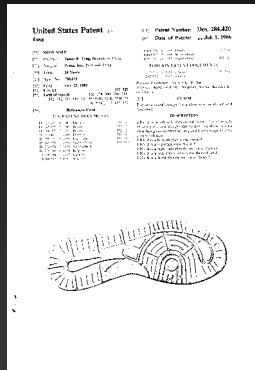
Multiple Embodiments Furniture Save money – Increase Scope

One Application – Three Embodiments

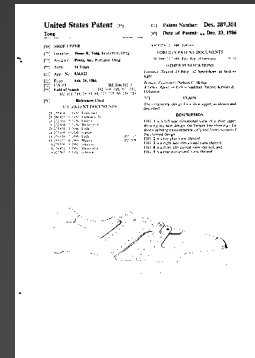
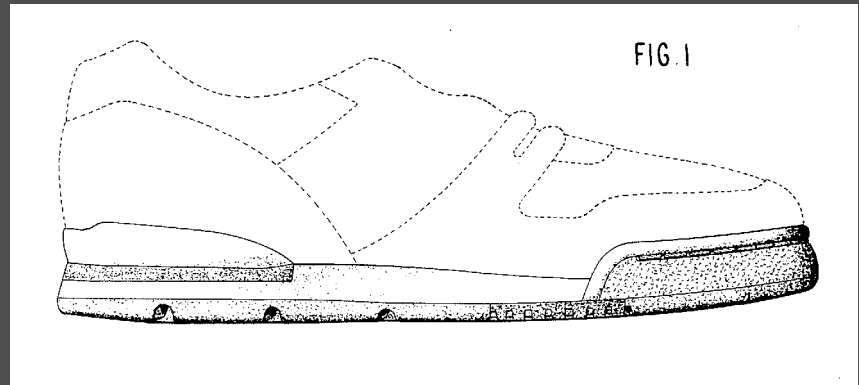


Multiple Applications

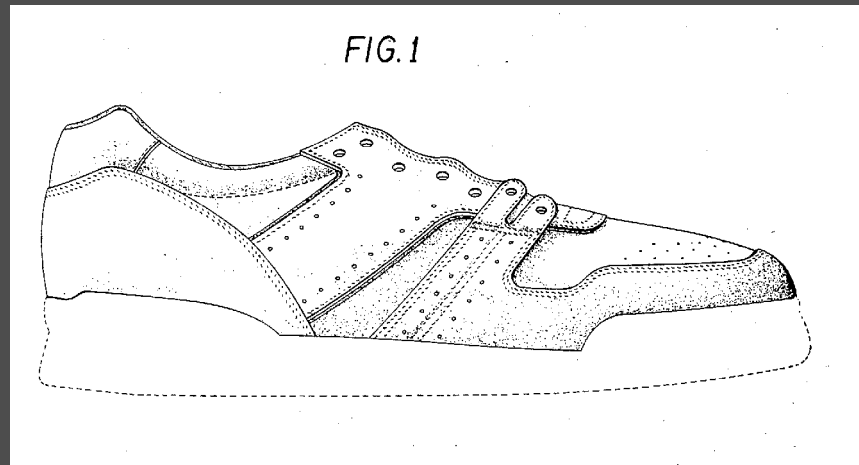
Multiple Applications Maximize Coverage - Shoes



Des. 284,420
"SHOE SOLE"



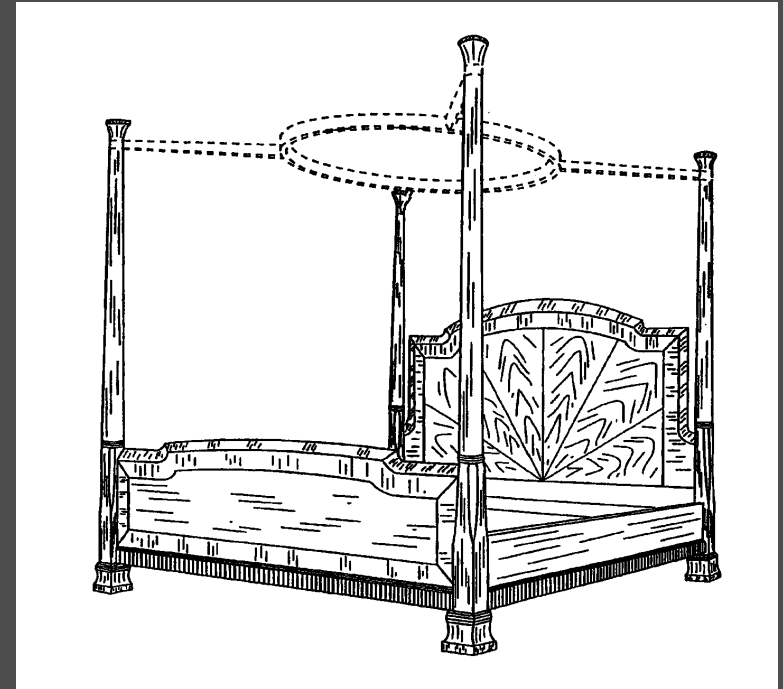
Des. 287,301
"SHOE UPPER"



Multiple Applications – Maximize Coverage



U.S. Design 492, 501



U.S. Design 494, 774

Multiple Embodiments and Broken Lines

First Embodiment



Second Embodiment
w/broken lines



Be Creative to Capture Design

- What drives the design?
 - Shape
 - Surface ornamentation
 - Color contrast
 - Texture contrast
- What will competitors simulate/copy?



Drafting Tips

- Remember every solid line is a potential limitation – Use Broken Lines
- Use Indeterminate Length to give breadth to proportions
- Multiple Embodiments provide scope
- Multiple novel features → use multiple applications
- Know thy Prior Art

ENFORCEMENT

O.K., YOU HAVE A
DESIGN
PATENT...NOW
WHAT?

DESIGN PATENT INFRINGEMENT

- Two tests – both must be satisfied
 1. Ordinary Observer
 2. Point of Novelty

Ordinary Observer Test

- Does the accused design have a substantially similar overall visual appearance?
 - Ordinary Purchaser
 - Ordinary Purchasing Conditions
 - Not an expert's opinion
 - Minor differences will not prevent finding of infringement

Point of Novelty Test

- Does the accused design incorporate the novel aspects of the design?
- Why do we have the test?
- Differences between claimed design and the prior art
- Can reside in the combination
- Dominant Feature Statement

DAMAGES

- Infringer's Profits
- Lost Profits
- Reasonable Royalty

What to Take Away

- Quick, Cheap, and Effective
- With Proper Strategy, Broad Protection Available
- No Maintenance Fees
- No Need for “Secondary Meaning”
- Damages include Infringer’s Profits
- Preliminary Injunctions
- Infringement Test Relatively Straightforward
- Centralized Appeals Court Provides Certainty

Humorous Design Patents

