



US00D461628S

(12) **United States Design Patent**
Neely et al.

(10) **Patent No.:** **US D461,628 S**
(45) **Date of Patent:** **** Aug. 20, 2002**

- (54) **PORTION OF A SHOE UPPER**
- (75) Inventors: **Caprice Neely; Stephen Mellor**, both of Portland, OR (US)
- (73) Assignee: **Nike, Inc.**, Beaverton, OR (US)
- (**) Term: **14 Years**
- (21) Appl. No.: **29/153,602**
- (22) Filed: **Jan. 14, 2002**
- (51) **LOC (7) Cl.** **02-99**
- (52) **U.S. Cl.** **D2/972**
- (58) **Field of Search** D2/896, 902, 907, D2/946, 969, 972, 973; D5/47, 54, 56, 9 R; 36/45, 50.1, 51, 77 M, 77 R, 81, 83, 88, 113, 114, 126-130

- D367,754 S 3/1996 James
- D370,118 S 5/1996 Avar
- D371,899 S 7/1996 Keating
- D383,085 S 9/1997 Nyqvist
- D385,996 S 11/1997 Tresser
- D393,939 S 5/1998 Greene
- D397,855 S 9/1998 Clarke
- D398,754 S 9/1998 McCourt
- D404,194 S 1/1999 Smith
- D407,545 S 4/1999 Kelchak
- D412,241 S 7/1999 Hatfield et al.
- D412,242 S 7/1999 Hatfield et al.
- D420,500 S 2/2000 Hudson
- D420,501 S 2/2000 Hlavacs
- D422,132 S 4/2000 Fogg
- D424,798 S 5/2000 McDowell
- D438,697 S * 3/2001 Matis et al. D2/969
- D453,064 S 1/2002 Jacobs

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

- D4,228 S * 7/1870 Jefford D5/54
- 349,562 A 9/1886 Blum
- 586,137 A 7/1897 Medger
- 1,879,144 A 9/1932 Emery
- 1,949,318 A 2/1934 Markowsky
- D93,908 S 11/1934 Benjamin
- 2,001,962 A 5/1935 Kantrow
- D97,989 S * 12/1935 Chassman D5/47
- D98,509 S 2/1936 Goldberg
- 2,106,457 A * 1/1938 Hyman D5/47 X
- D109,070 S * 3/1938 Minoff D5/47
- 2,129,226 A 9/1938 Montano
- D117,386 S * 10/1939 Werner D5/47
- 3,370,363 A 2/1968 Kaplan
- 3,698,107 A 10/1972 Fukuoka
- D301,657 S 6/1989 Brown
- D326,766 S 6/1992 Kittle et al.
- D327,162 S 6/1992 Hatfield
- D348,767 S 7/1994 Hatfield et al.
- D349,395 S 8/1994 Kelchak
- D349,396 S 8/1994 Hatfield
- D356,209 S 3/1995 Avar
- D361,884 S 9/1995 Lozano
- D362,953 S 10/1995 Greene

OTHER PUBLICATIONS

- Nike Footwear Catalog Spring 1990, p. 142, published Jun. 1989.
- Nike Footwear Catalog Fall 1990, p. 30, published Dec. 1989.
- Nike Footwear Catalog Spring 1992, p. 70, published May 1991.

(List continued on next page.)

Primary Examiner—Dominic Simone
(74) *Attorney, Agent, or Firm*—Banner & Witcoff, Ltd.

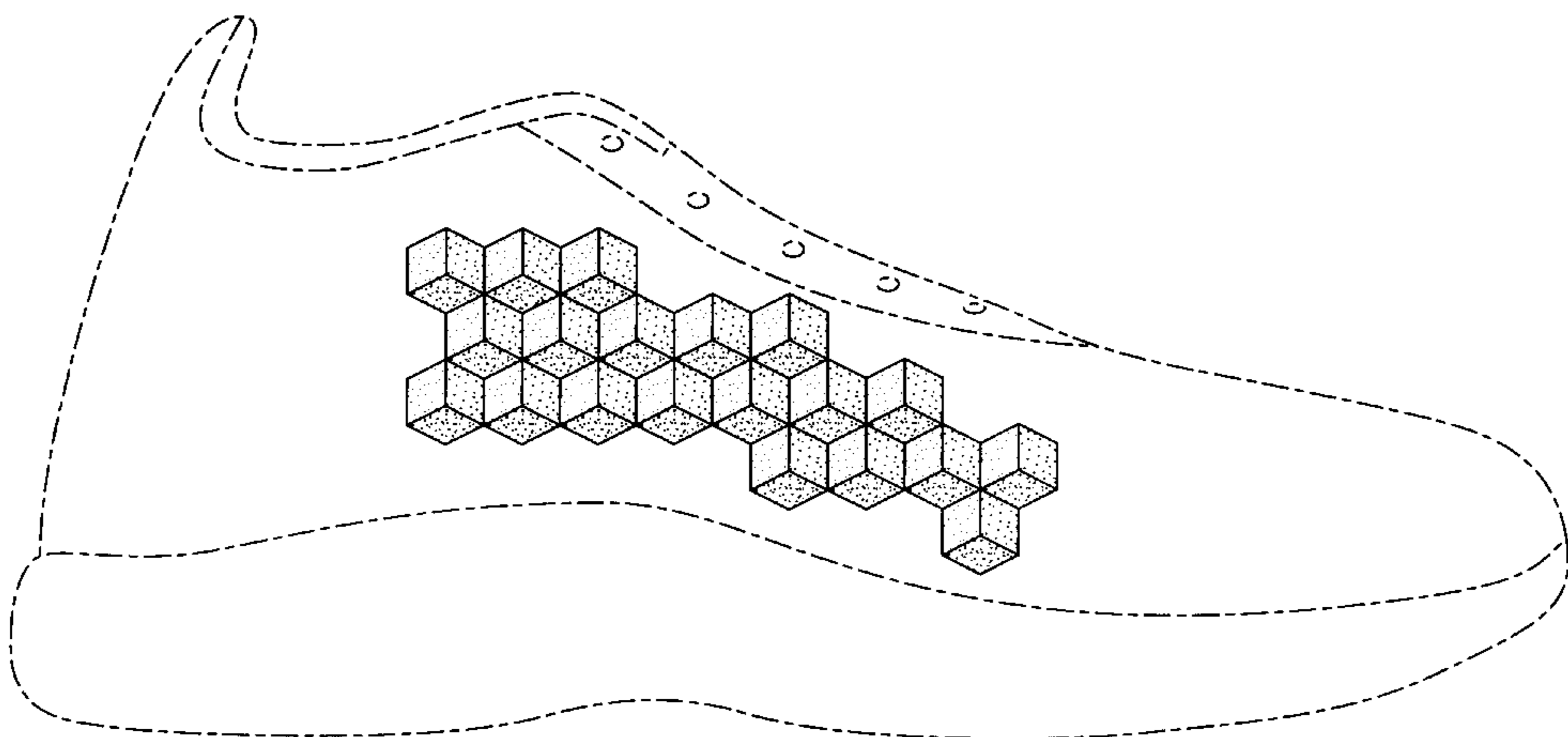
(57) **CLAIM**

The ornamental design for a portion of a shoe upper, as shown and described.

DESCRIPTION

FIG. 1 is a perspective view of a portion of a shoe upper showing our new design; and, FIG. 2 is a side view thereof. The three different shading presentations represent three contrasting appearances, differing by color, texture, and/or material. The broken line showing of the remainder of the shoe is for illustrative purposes only and forms no part of the claimed design.

1 Claim, 2 Drawing Sheets



OTHER PUBLICATIONS

Nike Footwear Catalog Spring 1996, p. 121, published Jun. 1995.

Nike Footwear Catalog Spring 1997, p. 113, published Jun. 1996.

Nike Footwear Catalog Late Spring 1997, pp. 8, 11, 46, 165, 168, 202, published Sep. 1996.

Nike Footwear Catalog Spring 1999, p. W72, published Jun. 1998.

Nike Footwear Catalog Fall 1999, p. M73, W23, published Nov. 1998.

Nike Footwear Catalog Holiday 1999, p. W52, published Mar. 1999.

Nike Footwear Catalog Spring 2000, p. M6, published Jul. 1999.

Nike Footwear Catalog Fall 2000, p. W46, published Nov. 1999.

Nike Footwear Catalog Spring 2001, pp. M9, W30 and cover, published Jun. 2000.

Nike Footwear Catalog Spring 2002, pp. M6, M16, W2, W17, W22, W28, W29, W43, published Jun. 2001.

Nike Footwear Catalog Late Spring 2002, pp. W4, W6, W30, M12, M26, M37, published Sep. 2001.

Nike Footwear Catalog Fall 2002, pp. M1, M13, W27, W30, published Nov. 2001.

Van's Classic Slip-On Model, advertisements, 2 color pages, date prior to Sep. 24, 2001.

Fila GH5, 2 color photographs, date prior to Sep. 24, 2001.

Nike Air Woven, 4 color photographs of prior models, date prior to Sep. 24, 2001.

Nike Air Footscape 2, color photograph, date prior to Jan. 14, 2002.

* cited by examiner

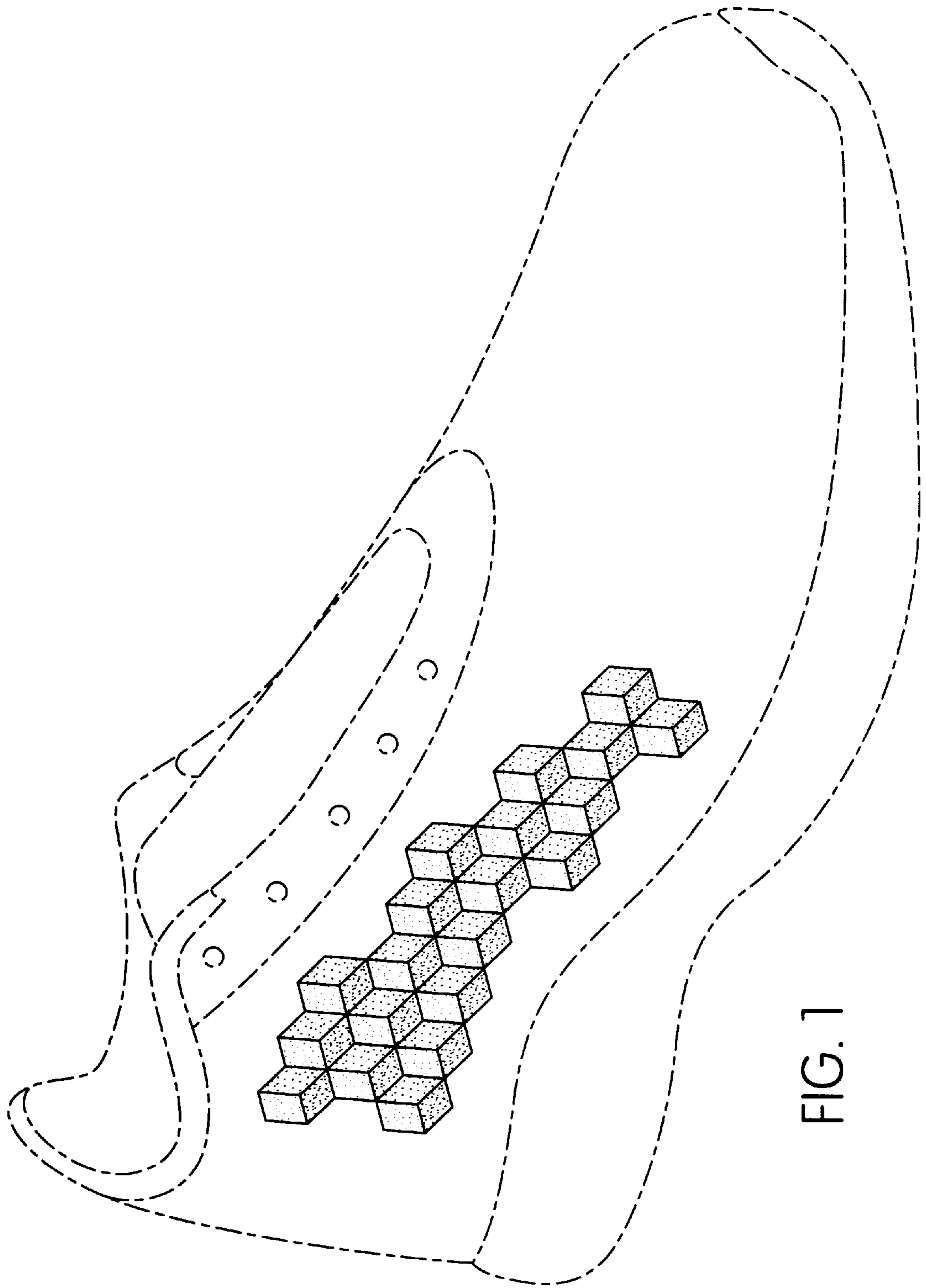


FIG. 1

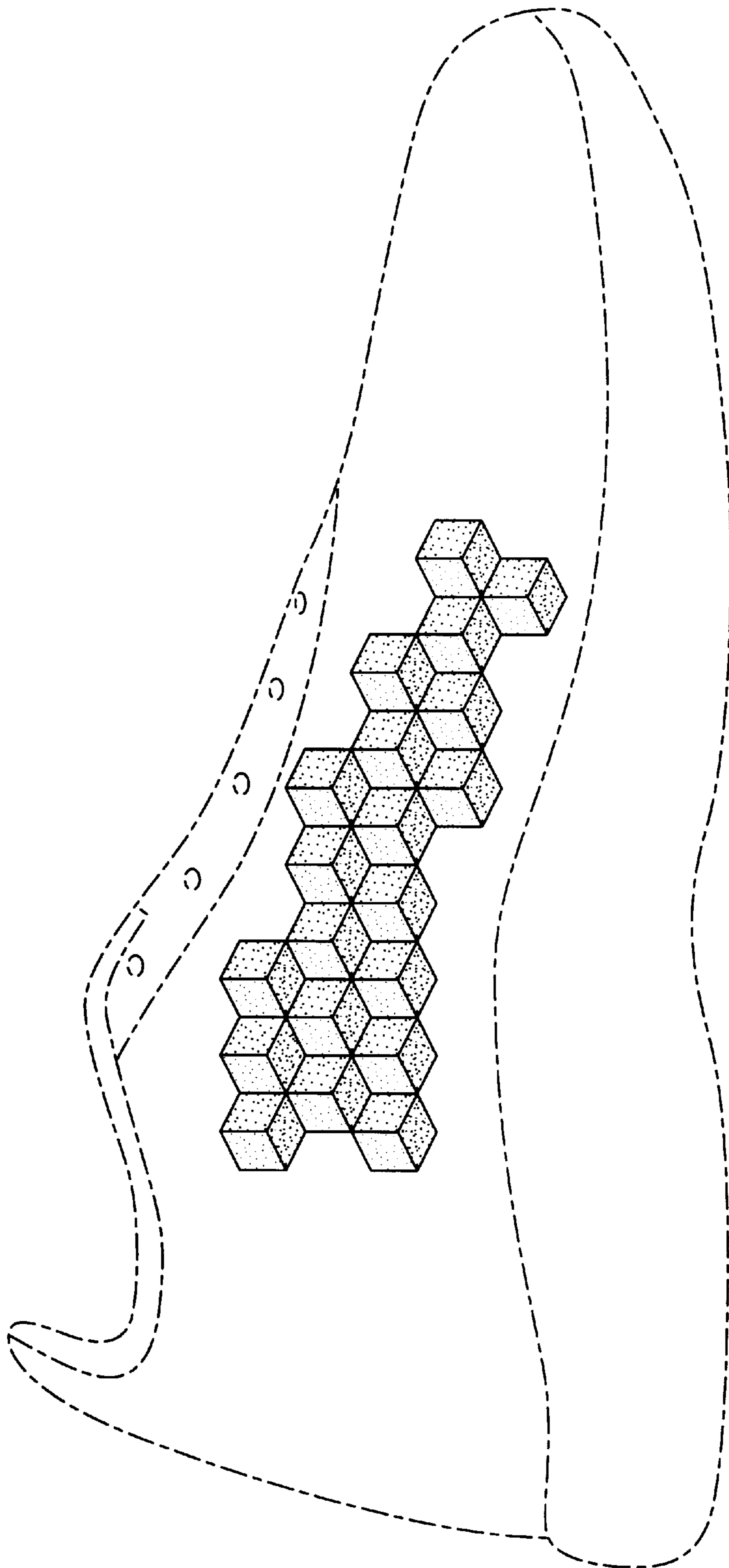


FIG. 2