



US00D543341S

(12) **United States Design Patent**
Seamans

(10) **Patent No.:** **US D543,341 S**

(45) **Date of Patent:** **** May 29, 2007**

(54) **FOOTWEAR UPPER**
(75) Inventor: **Scott Seamans**, Boulder, CO (US)
(73) Assignee: **Crocs, Inc.**, Niwot, CO (US)
(**) Term: **14 Years**

EP 0 884 005 A1 12/1998
FR 2 595 213 9/1987
GB 2322286 8/1998
WO WO 2004/105531 A1 12/2004
WO WO 2004/105534 A3 12/2004
WO WO 2004/105534 A2 12/2004

(21) Appl. No.: **29/243,850**
(22) Filed: **Nov. 30, 2005**

OTHER PUBLICATIONS

Related U.S. Application Data

(62) Division of application No. 29/226,870, filed on Mar. 31, 2005, now Pat. No. Des. 525,419.

(51) **LOC (8) Cl.** **02-99**

(52) **U.S. Cl.** **D2/969**

(58) **Field of Classification Search** D2/902,
D2/903, 907, 908, 919, 923, 926, 943, 944,
D2/969, 972-974; 36/45, 50.1, 77 M, 77 R,
36/83, 88, 113, 114, 123-131, 4, 8.1

See application file for complete search history.

Birkenstock®, *Spring & Summer 2003 Catalog*, Birkenstock Orthopudie GmbH, Germany (82 pages).

Comfortable Walking, Italian Technology, Oct. 1999, n. 3, p. 168 (abstract, 1 page).

COMPLAINT, *Holey Soles Holdings LTD v. Foam Creations, Inc. and CROCS, Inc.* (05CV6893 (MBM) (AJP) S.D.N.Y. filed Aug. 2, 2005) (including Appendices A-D, 59 pages).

Cindy MacDonald, *The Entrepreneurs: they're bilingual, multicultural and talented. Distance and language present no barriers to Quebec plastics processors and mold makers as the province's plastics industry continues to increase its level of exports and welcome new companies*, Canadian Plastics, O'99, v. 57(10), p. 35-50 (9 pages).

(56) **References Cited**

U.S. PATENT DOCUMENTS

1,392,350 A 10/1921 O'Brien
D66,083 S * 11/1924 Johnson D2/903
2,180,924 A 11/1939 Dunbar

(Continued)

FOREIGN PATENT DOCUMENTS

CA 2199084 10/1997
CA 2238842 12/1998
CA 2375957 9/2002
EM 000061122-001 11/2003
EM 000257001-001 2/2005
EM 000257001-002 2/2005
EM 000257001-003 2/2005
EM 000308903-001 5/2005
EM 000308903-002 5/2005
EM 000308903-003 5/2005
EM 000308903-004 5/2005
EP 0 802 039 A2 10/1997
EP 0 802 040 A2 10/1997
EP 0 802 041 A2 10/1997

(Continued)

Primary Examiner—Dominic Simone

(74) *Attorney, Agent, or Firm*—Faegre & Benson LLP

(57) **CLAIM**

The ornamental design for footwear upper, as shown and described.

DESCRIPTION

FIG. 1 is a front perspective view of a footwear upper showing my new design.

FIG. 2 is an outer side view.

FIG. 3 is an inner side view.

FIG. 4 is a front view.

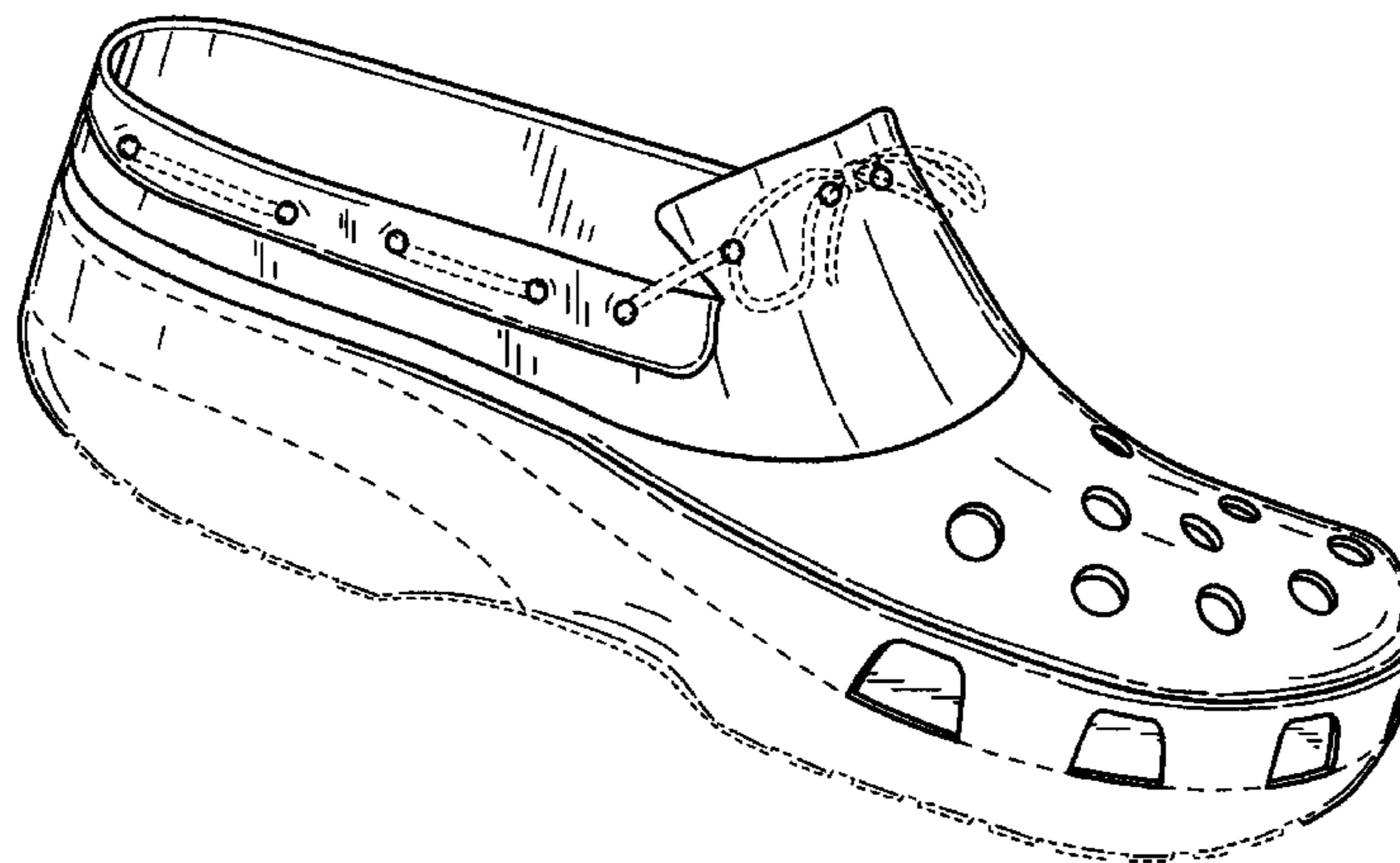
FIG. 5 is a back view.

FIG. 6 is a top view; and,

FIG. 7 is a bottom view.

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

1 Claim, 4 Drawing Sheets



U.S. PATENT DOCUMENTS

D151,304 S 10/1948 Walsh
 2,470,089 A 5/1949 Booth
 D155,956 S 11/1949 Wood
 2,897,566 A 8/1959 Albiniano
 3,407,517 A 10/1968 Gessner
 3,698,107 A 10/1972 Fukuoka
 4,032,611 A 6/1977 Fukuoka
 D247,136 S * 2/1978 Mizoguchi D2/907
 4,100,685 A 7/1978 Dassler
 D251,158 S * 2/1979 Edmonds D2/907
 4,408,401 A 10/1983 Seidel et al.
 4,476,600 A 10/1984 Seidel et al.
 4,888,887 A 12/1989 Solow
 4,967,750 A 11/1990 Cherniak
 D345,245 S 3/1994 McDonald
 D350,021 S 8/1994 Stein
 D350,223 S 9/1994 Buckner
 5,369,895 A 12/1994 Hammerschmidt
 D355,526 S * 2/1995 Duclos D2/973
 5,438,767 A 8/1995 Stein
 D368,797 S 4/1996 Brooks et al.
 5,528,841 A 6/1996 Pozzobon
 5,561,919 A 10/1996 Gill
 5,615,496 A 4/1997 Sharpstein
 5,651,195 A 7/1997 Clancy
 D381,794 S 8/1997 Gelli
 5,736,167 A 4/1998 Chang
 5,814,254 A 9/1998 Bisconti
 D415,606 S 10/1999 Bray, Jr. et al.
 D416,667 S 11/1999 Lamstein
 D418,281 S 1/2000 Bray, Jr. et al.
 D422,780 S 4/2000 Aguerre
 6,052,920 A 4/2000 Bathum
 D428,239 S 7/2000 Plamondon
 D431,346 S 10/2000 Birkenstock
 6,237,249 B1 5/2001 Aguerre
 6,237,250 B1 5/2001 Aguerre
 6,256,906 B1 7/2001 Matis et al.
 D448,918 S 10/2001 Hoyt et al.
 D452,366 S 12/2001 Wilson
 6,416,610 B1 7/2002 Matis et al.
 6,439,536 B1 8/2002 Piccolo
 D467,065 S * 12/2002 Chen D2/974
 D473,040 S 4/2003 Hawker et al.
 6,560,900 B2 5/2003 Bray, Jr. et al.
 D476,797 S 7/2003 Schenone
 D479,034 S 9/2003 Tzenos
 D479,906 S 9/2003 Hawker et al.
 6,625,904 B1 9/2003 Frederiksen
 6,640,464 B2 11/2003 Hsin et al.
 D483,929 S 12/2003 Tzenos
 D490,219 S 5/2004 Lu
 D492,095 S 6/2004 Sanchez et al.
 D492,096 S 6/2004 Sanchez et al.
 D492,841 S 7/2004 Magro
 D493,611 S 8/2004 Chen
 D494,345 S * 8/2004 Werman D2/923
 6,772,539 B1 8/2004 Tai
 D498,901 S 11/2004 Hawker et al.
 D499,234 S 12/2004 Dal Magro et al.
 6,860,035 B2 3/2005 Girard
 2001/0001350 A1 5/2001 Aguerre

2002/0124434 A1 9/2002 Hsin et al.
 2003/0009909 A1 1/2003 Chen
 2003/0074806 A1 4/2003 Urie et al.
 2004/0231189 A1 11/2004 Seamans
 2004/0231190 A1 11/2004 Seamans
 2004/0231191 A1 11/2004 Seamans

OTHER PUBLICATIONS

Defendant's Response to Request for Particulars, Foam Creations Inc. vs. Holey Soles Holdings Ltd., Ontario, Canada Federal Court, Court File No. T-161-05, Apr. 22, 2005, Oyen Wiggs Green & Mutala LLP (including appendices A-C, 236 pages).
Defendant's Statement of Defence, Foam Creations Inc. vs. Holey Soles Holdings Ltd., Ontario, Canada Federal Court, Court File No. T-161-05, Mar. 10, 2005, Oyen Wiggs Green & Mutala LLP (9 pages).
The Elastomers Times: Engage Adds Comfort to Sporting Components, Chemical Business New Base: The Elastomers Times, Dec. 1, 2000 (2 pages).
Engage® polyolefin elastomers, the critical ingredient for Success, DuPont Dow Elastomers, Copyright© 2000, DuPont Dow Elastomers, www.dupont-dow.com/engage (12 pages).
FinProject Brews an Extralight (Evasol Plastics and Fin-project signed a joint venture agreement to introduce a range of new-block and net-fit soles for shoes), Footwear News, World Week, Aug. 4, 1997, v. 53, n. 31, p. 8 (3 pages).
Injected Eva, Macplas International, Aug. 1999, n. 10, p. 90 (abstract, 1 page).
<http://web.archive.org/web/19980420230857/www.birkenstock.com/featprof.htm> (3 pages).
 Luisa Zargani, *One Fine Year; Anton Magnani's Quirky Dry-Shod Designs have Gained the Italian Designer Respect, Recognition and a Deal with Comme Des Garcons*, Footwear News, Aug. 2, 1999, p. 102 (2 pages).
Plaintiff's Statement of Claim, Foam Creations Inc. vs. Holey Soles Holdings Ltd., Ontario, Canada Federal Court, Jan. 28, 2005, Ridout & Maybee LLP (8 pages).
Plaintiff's Request for Particulars of Defence, Foam Creations Inc. vs. Holey Soles Holdings Ltd., Ontario, Canada Federal Court, Court File No. T-161-05, May 1, 2005, Ridout & Maybee (5 pages).
Plaintiff's Further Request for Particulars, Foam Creations Inc. vs. Holey Soles Holdings Ltd., Ontario, Canada Federal Court, Court File No. T-161-05, May 12, 2005, Ridout & Maybee (including Schedule A, 6 pages).
Plaintiff's Reply, Foam Creations Inc. vs. Holey Soles Holdings Ltd., Ontario, Canada Federal Court, Court File No. T-161-05, Ridout & Maybee (7 pages).
 Rhoda Miel, *Snowshoe Walks Away with Best Design*, Plastics News, Apr. 22, 2002, v. 14, n. 8, p. 4 (2 pages).
Trade Name Record, Official Gazette of the US Patents and Trademarks Office, Mar. 24, 1998, 1208, n. 4, p. 73, (abstract, 1 page).
waldenstore.com, *Footwear Waldies*, Aug. 4, 2003, <http://www.waldenstore.com/waldies.html>, (1 page).
Walking on Modified Eva, Italian Technology, May 1999, n. 2, p. 121, (abstract, 1 page).

* cited by examiner

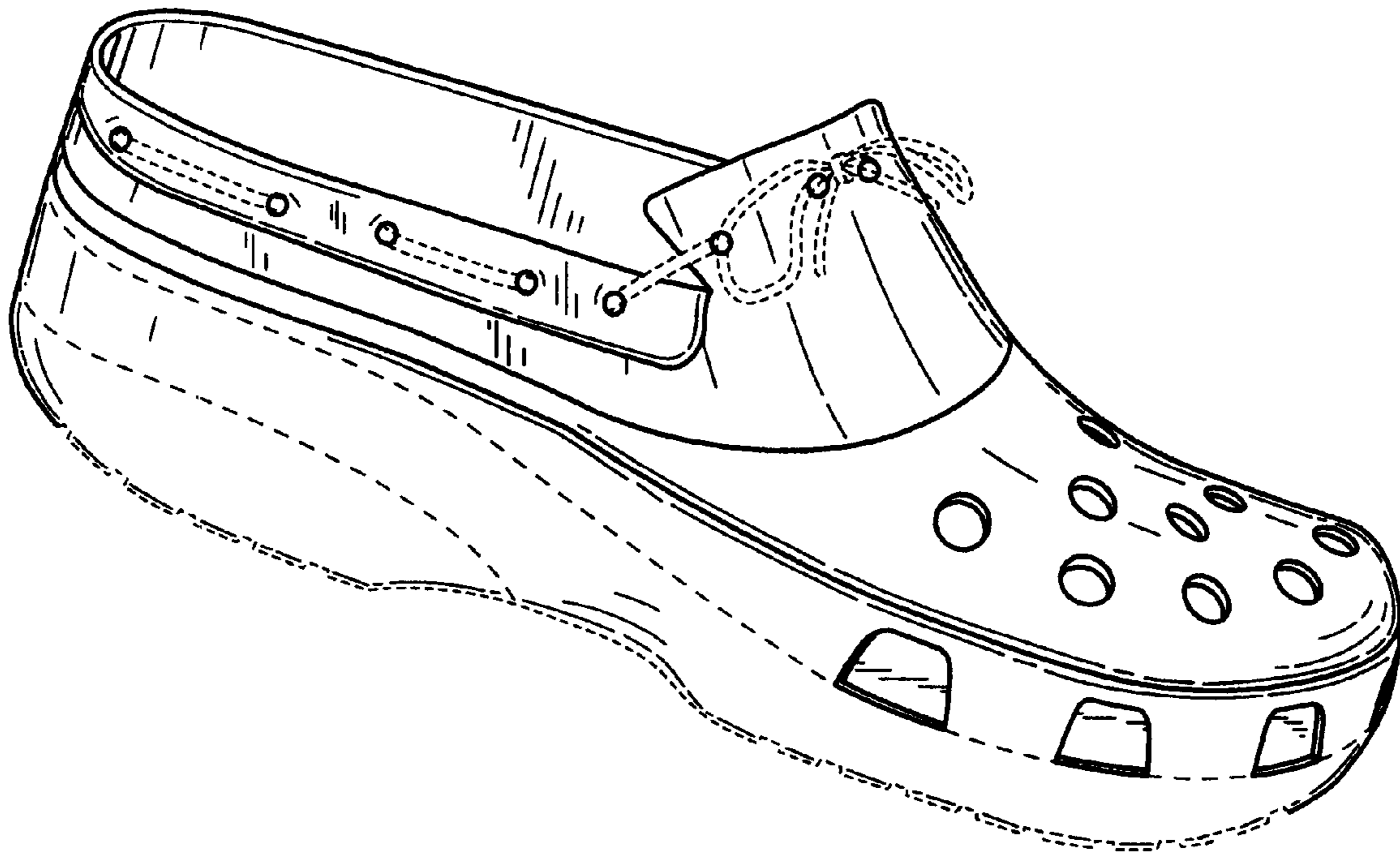


FIG. 1

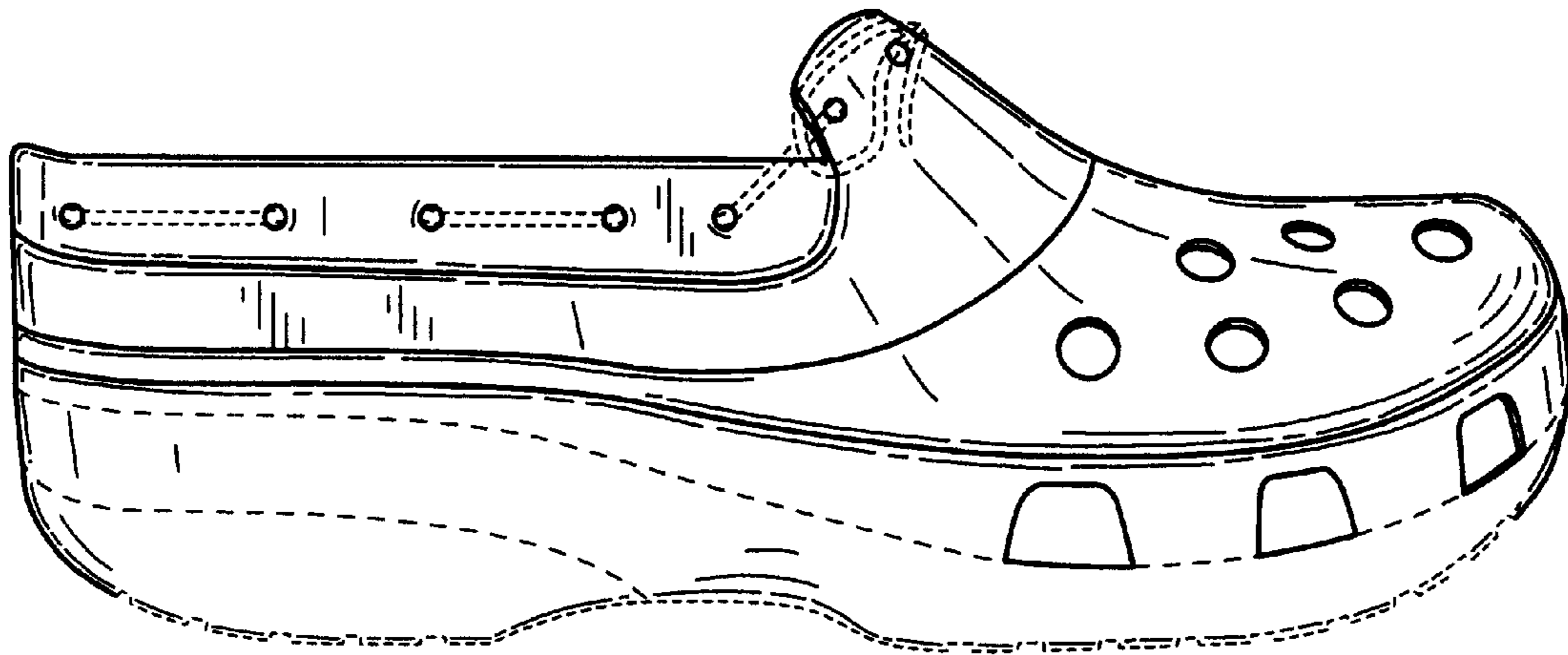


FIG. 2

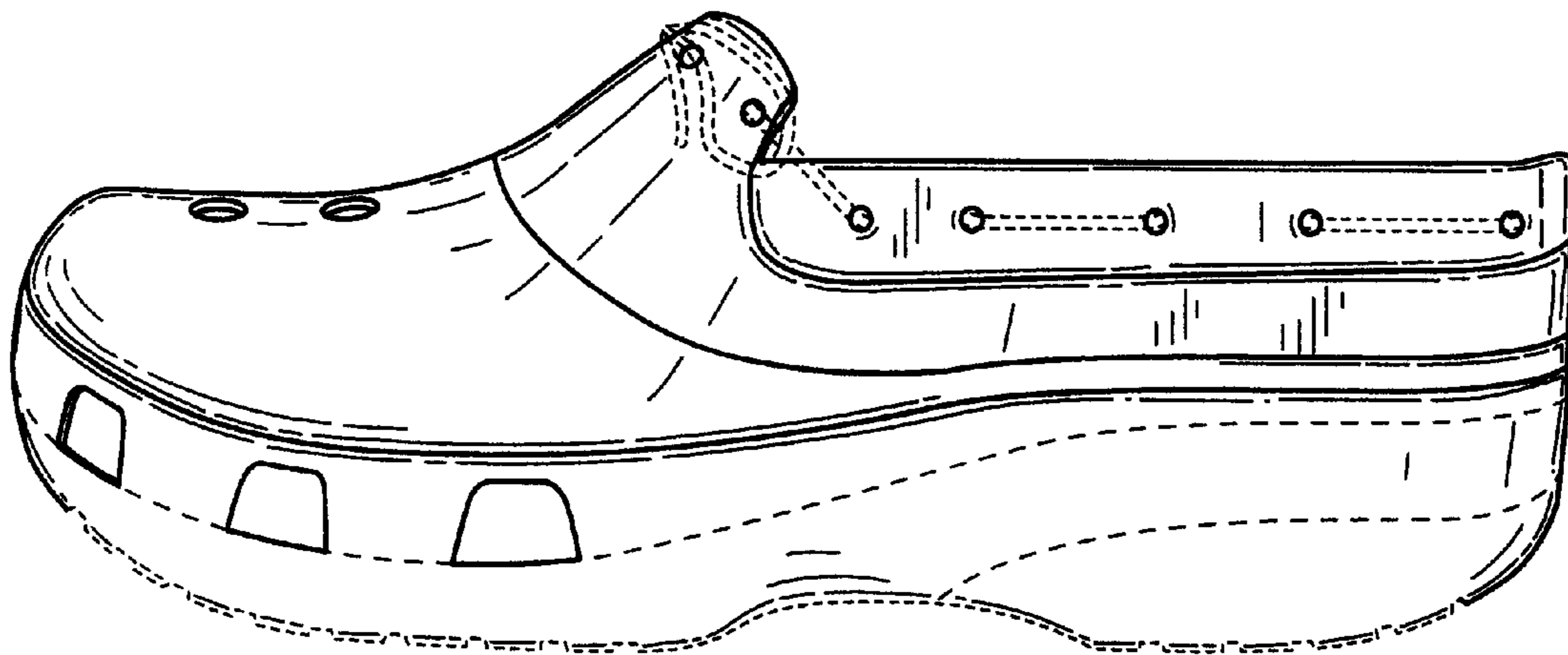


FIG. 3

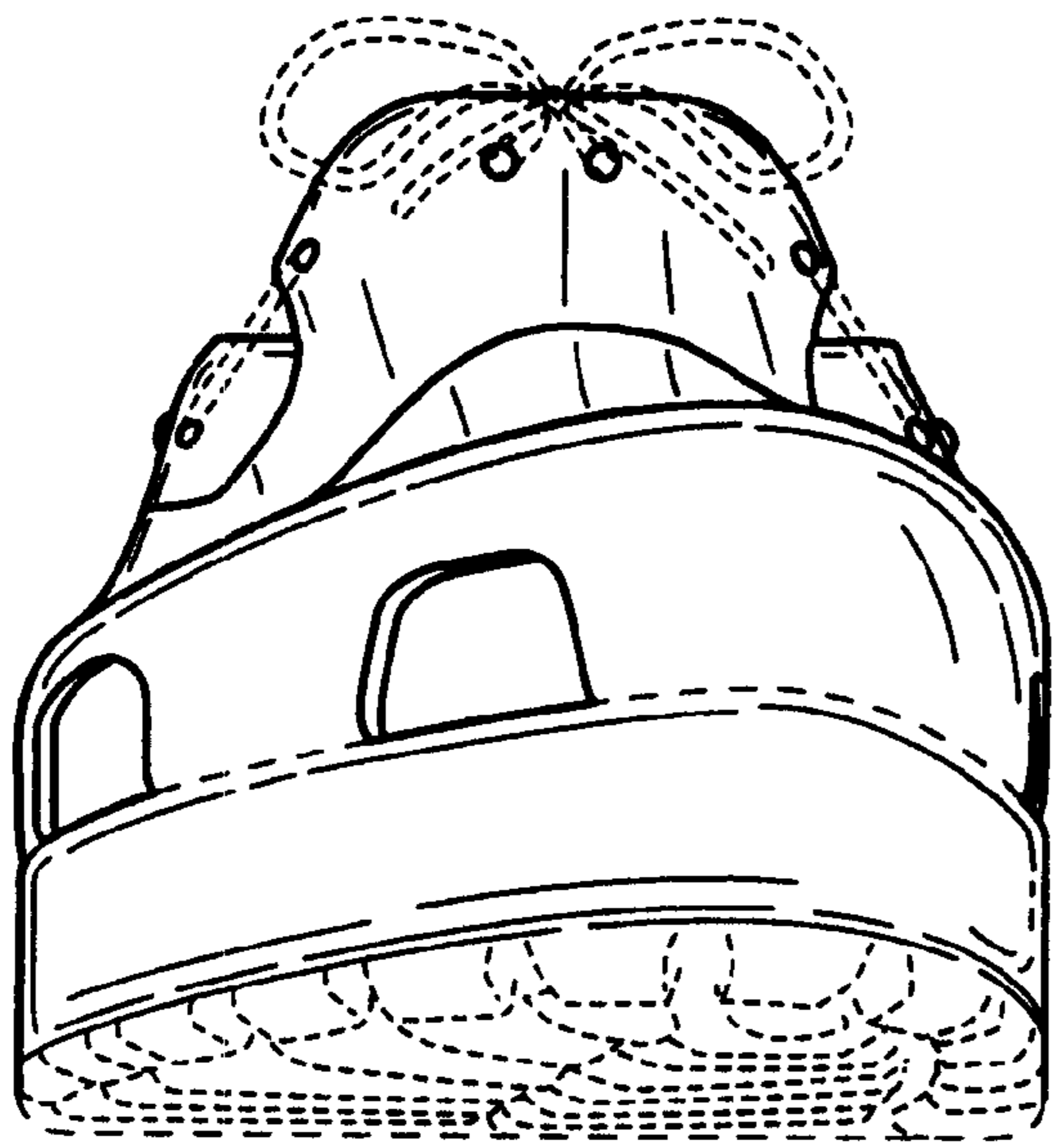


FIG. 4

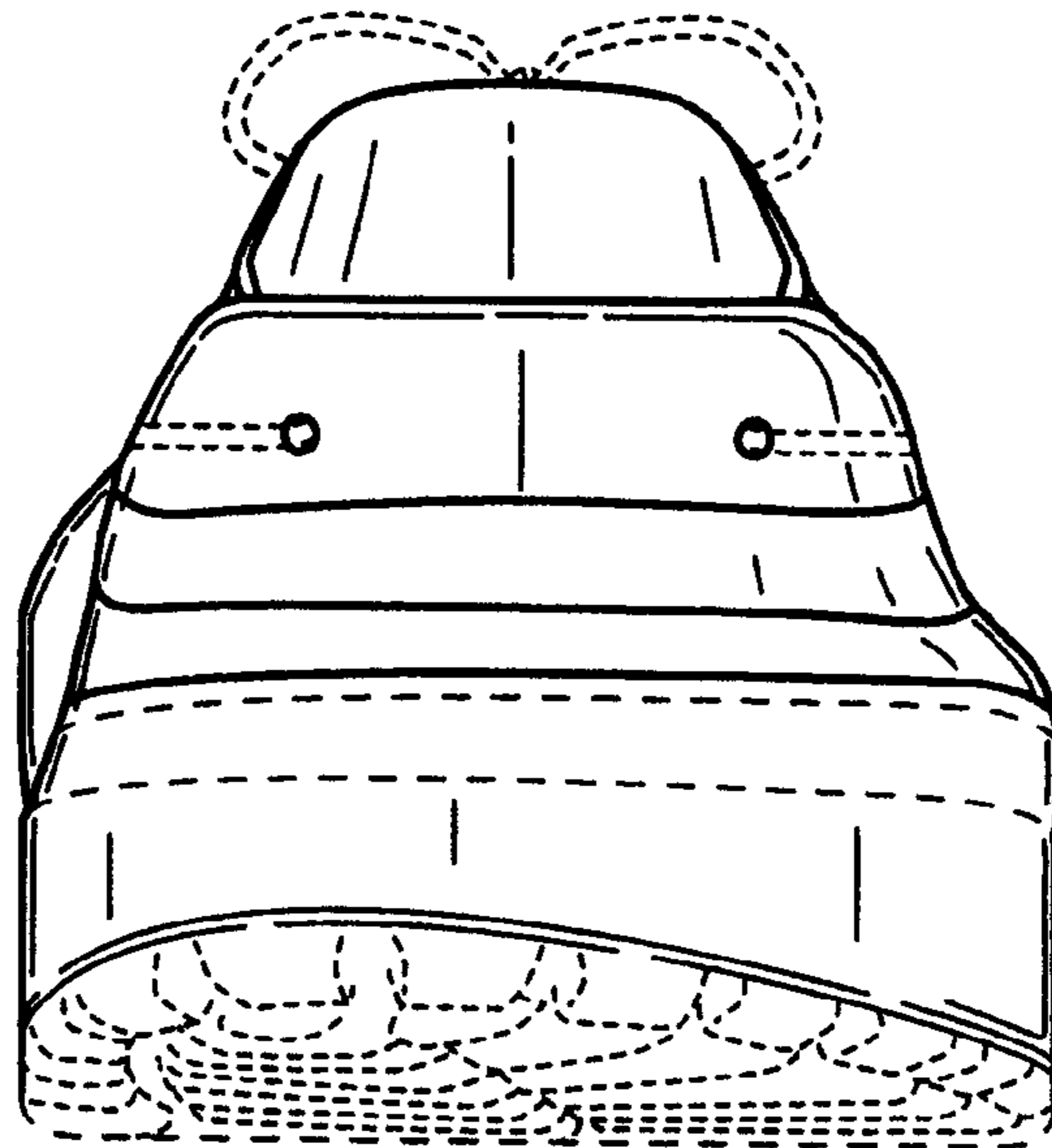


FIG. 5

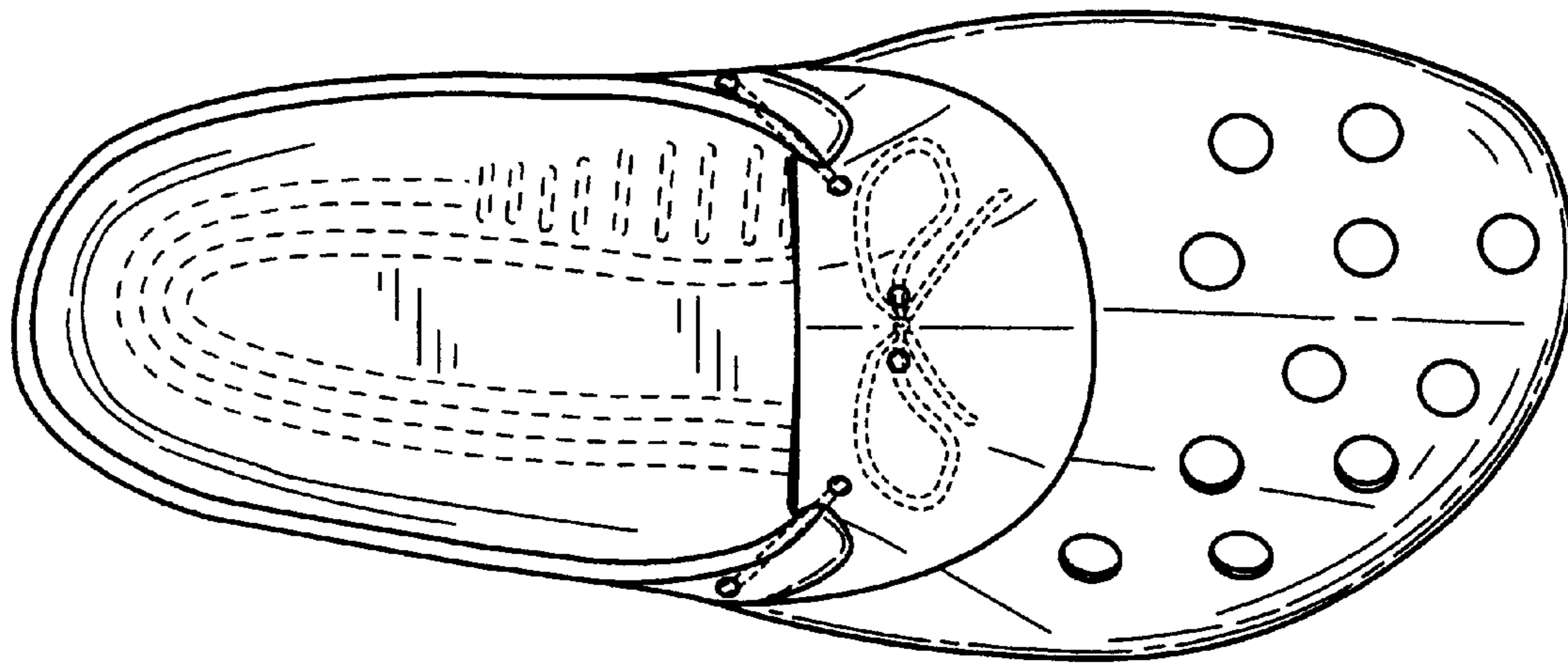


FIG. 6

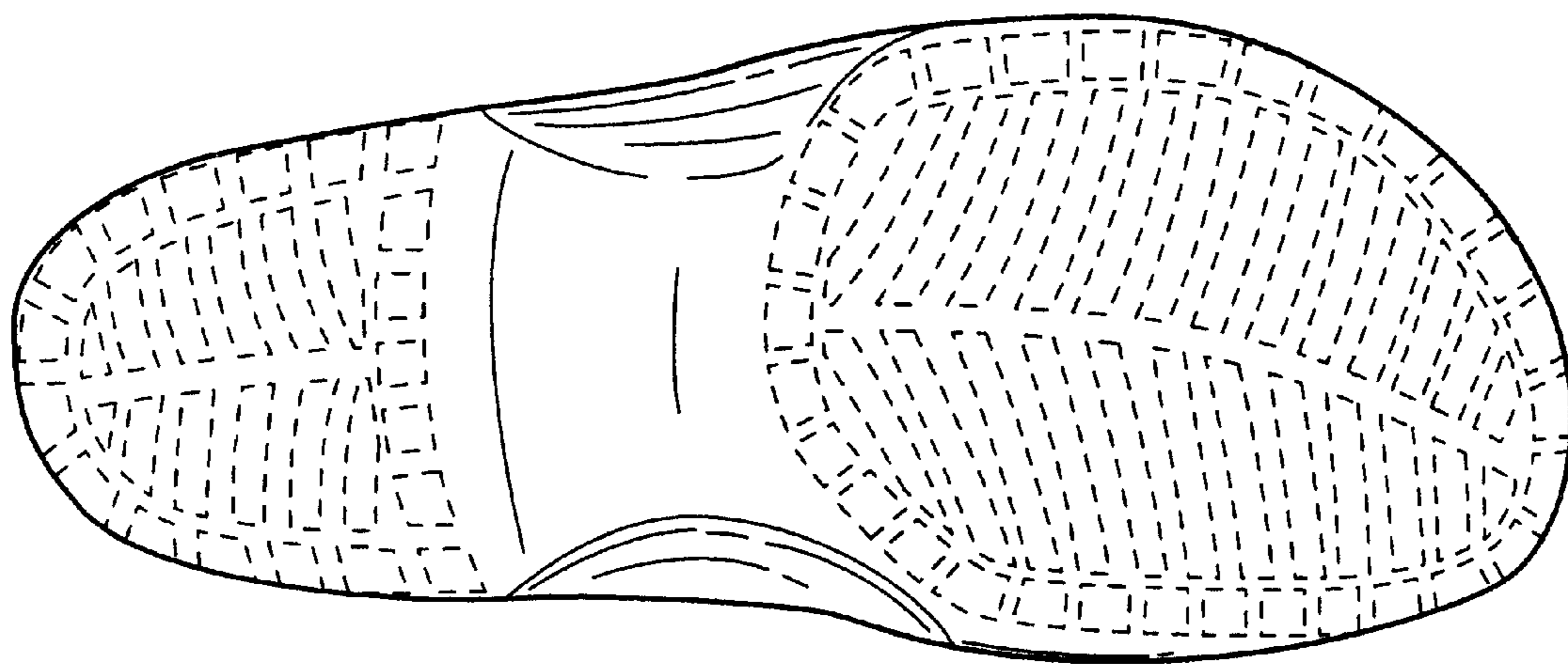


FIG. 7