



US00D825969S

(12) **United States Design Patent** (10) **Patent No.:** **US D825,969 S**
Collette (45) **Date of Patent:** **** *Aug. 21, 2018**

- (54) **SHELF DIVIDER FOR DISPLAY OF BAGGED FOOD ITEMS** 1,688,003 A 10/1928 Darby
1,750,576 A * 3/1930 Cubberley A47B 65/00
211/11
- (71) Applicant: **Post Consumer Brands, LLC,** 1,919,568 A 7/1933 McCosh
Lakeville, MN (US) 1,952,749 A 3/1934 Ellis
2,082,667 A 6/1937 Vanderveld
2,118,444 A 5/1938 Mueller
- (72) Inventor: **Stephen Robert Collette,** Lakeville, 2,197,789 A 4/1940 Dalton
MN (US) 2,222,974 A 11/1940 Wilson
D150,315 S 7/1948 Richards
- (73) Assignee: **POST CONSUMER BRANDS, LLC,** 2,471,977 A 5/1949 Albert
Lakeville, MN (US) 2,516,122 A 7/1950 Hughes
D163,536 S * 6/1951 Morris D19/34.1
- (*) Notice: This patent is subject to a terminal dis- 2,586,925 A 2/1952 Drengberg
claimer. 2,658,628 A 11/1953 Hilgen
2,743,774 A 5/1956 Pinto
2,845,188 A 7/1958 Rosenquist
- (**) Term: **15 Years** 2,872,046 A * 2/1959 Polay A47B 65/00
211/42
- (21) Appl. No.: **29/617,480** 2,943,742 A * 7/1960 Colley A47F 1/12
211/59.2
- (22) Filed: **Sep. 14, 2017** 3,002,632 A * 10/1961 George A47F 7/144
211/184

Related U.S. Application Data

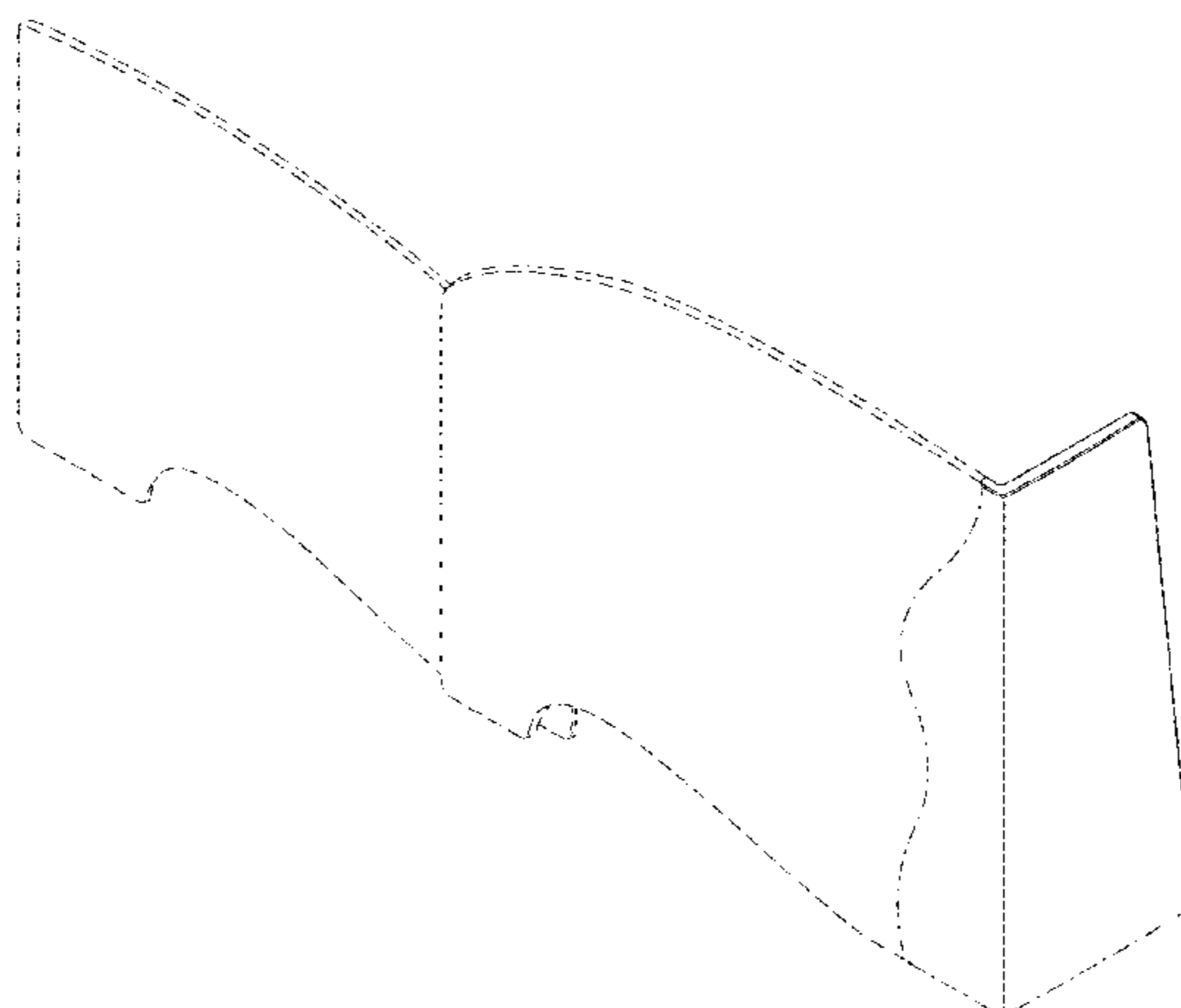
- (63) Continuation of application No. 29/560,041, filed on Apr. 1, 2016, now Pat. No. Des. 798,091.
- (51) **LOC (11) Cl.** **06-06**
- (52) **U.S. Cl.**
USPC **D6/706**
- (58) **Field of Classification Search**
USPC D6/705.2, 705.7, 706, 682.4, 678.2, 702,
D6/705, 678.3; D3/318, 319; D9/456;
D19/34.1, 34.2; D20/10, 19, 43
CPC A47B 57/58; A47B 96/04; A47B 57/583;
A47B 65/00; A47B 65/15; A47B 65/20;
A47F 5/005; A47F 5/0068; A47F
2005/0075
See application file for complete search history.

- D194,425 S * 1/1963 Hungerford D19/34.1
- 3,117,535 A 1/1964 Hendrickson
- D199,794 S * 12/1964 Lindley D19/34.1
- 3,301,408 A 1/1967 Craine
- 3,304,142 A 2/1967 Rockola
- 3,308,964 A 3/1967 Pistone
- 3,329,928 A 7/1967 Broske
- 3,410,445 A 11/1968 Pilley
- 3,468,426 A * 9/1969 Loewy A47B 61/04
211/35
- 3,491,909 A 1/1970 Ikelheimer
- 3,521,808 A * 7/1970 Weiss B65D 1/36
206/521
- 3,559,815 A 2/1971 Huddleston
- 3,592,344 A * 7/1971 Schade A47B 65/00
206/557
- D234,075 S * 1/1975 Clark D9/456
- D236,935 S * 9/1975 Frazelle et al. D6/683
- D241,295 S * 9/1976 Entin D19/34.1
- D242,198 S 11/1976 Geisler
- D246,303 S 11/1977 Davis
- D246,304 S 11/1977 Horn
- 4,111,307 A 9/1978 Peggs
- D252,436 S 7/1979 Elliott
- 4,178,047 A * 12/1979 Welch F16B 12/22
108/60
- D267,668 S * 1/1983 Rambusch D26/113
- 4,395,955 A 8/1983 Pfeifer
- D272,161 S 1/1984 Lodge et al.
- D274,491 S * 7/1984 Lietzke D6/672

(56) **References Cited**

U.S. PATENT DOCUMENTS

- 487,421 A * 12/1892 Lindberg B01D 21/0012
210/260
- 551,642 A 12/1895 Kleine
- 560,893 A 5/1896 Conant



US D825,969 S

D275,921 S *	10/1984	Ward	D6/706	D615,919 S *	5/2010	Bock	D12/345
4,491,137 A *	1/1985	Jingu	A61B 8/0833	D617,125 S	6/2010	Erickson	
			600/461	D619,393 S	7/2010	Golias et al.	
D279,151 S	6/1985	Weiller		D630,087 S *	1/2011	Stram	D8/356
4,595,105 A	6/1986	Gold		D635,379 S	4/2011	Klein et al.	
D285,152 S *	8/1986	Smith	D19/34.1	D650,596 S	12/2011	Thompson	
4,712,694 A	12/1987	Breslow		D651,416 S	1/2012	Martin et al.	
4,716,841 A	1/1988	Suttles		8,096,427 B2 *	1/2012	Hardy	A47F 1/126
4,762,235 A	8/1988	Howard et al.					211/59.3
4,765,492 A	8/1988	Howard et al.		8,113,360 B2	2/2012	Olson	
4,768,661 A	9/1988	Pfeifer		D657,421 S *	4/2012	Yan	D20/10
4,792,051 A	12/1988	Miller		D658,497 S *	5/2012	Paschke	D9/456
4,858,774 A	8/1989	Winter et al.		D661,112 S	6/2012	Grandin et al.	
D303,458 S	9/1989	Zapf		D661,519 S	6/2012	James et al.	
4,889,253 A	12/1989	Schmulian et al.		D665,196 S	8/2012	Plikat et al.	
4,889,397 A	12/1989	Ryan		D673,216 S	12/2012	Yuan	
D305,582 S	1/1990	Zapf		D674,216 S	1/2013	Erickson	
4,898,354 A	2/1990	Whittington et al.		8,342,340 B2 *	1/2013	Rataiczak, III	A47F 1/126
D306,670 S	3/1990	Pfleuger et al.					211/59.3
4,905,847 A	3/1990	Hanson		D679,329 S *	4/2013	Stravitz	D19/90
D308,394 S *	6/1990	Smith	D19/34.1	8,454,262 B2	6/2013	Norman	
D311,469 S	10/1990	Miller		D690,118 S *	9/2013	Grandin	D6/332
5,024,336 A	6/1991	Spamer		D690,139 S	9/2013	Trinh et al.	
D318,769 S *	8/1991	Marchiony	D6/706	D691,402 S	10/2013	Parker	
5,073,428 A	12/1991	Lancelot et al.		D699,990 S	2/2014	Martell et al.	
D327,190 S	6/1992	Wear et al.		D702,068 S	4/2014	Mitten et al.	
D328,539 S *	8/1992	Waterston	D19/92	D703,744 S *	4/2014	Harvey Pennaz	D19/86
D333,934 S *	3/1993	Ozawa	D6/683	D717,370 S *	11/2014	Hammer	D19/34.1
D336,933 S *	6/1993	Sharon	D20/43	D717,573 S	11/2014	Fishman et al.	
5,341,945 A	8/1994	Gibson		D723,842 S *	3/2015	Walker	D6/672
D351,524 S	10/1994	Belokin, Jr.		D726,256 S *	4/2015	Thomson	D19/34.1
5,432,391 A *	7/1995	Zawoysky	H02K 3/51	D726,463 S	4/2015	Andersson	
			310/201	D727,638 S	4/2015	Tsuchiyama et al.	
D365,933 S	1/1996	Spielvogel		D730,662 S	6/2015	Trinh et al.	
D369,700 S	5/1996	Sandy		9,090,195 B2	7/2015	Peters et al.	
D386,335 S	11/1997	LaFreniere		9,138,075 B2	9/2015	Hardy et al.	
5,682,824 A	11/1997	Visk		9,173,504 B2	11/2015	Hardy	
5,685,664 A	11/1997	Parham et al.		D754,251 S *	4/2016	Bigham	D20/10
5,695,077 A	12/1997	Jay		D760,519 S	7/2016	Le	
D393,005 S *	3/1998	Devito	D19/86	D761,369 S	7/2016	Elsea et al.	
5,803,276 A	9/1998	Vogler		9,392,884 B2	7/2016	Juric	
6,041,720 A	3/2000	Hardy		D766,023 S	9/2016	Coretti, Jr. et al.	
6,073,794 A	6/2000	Bidot		D773,219 S	12/2016	Clouse et al.	
6,161,320 A	12/2000	Peterson		D776,298 S	1/2017	Melin	
6,164,215 A	12/2000	Cook et al.		9,538,860 B2	1/2017	Brej et al.	
D436,772 S	1/2001	Soderstrom		9,549,623 B1	1/2017	Snell et al.	
D439,084 S	3/2001	Schacht et al.		D779,865 S	2/2017	Bram	
D443,895 S *	6/2001	Pfanner	D19/32	9,591,923 B2	3/2017	Zeidner et al.	
D445,019 S	7/2001	Vitetta		D784,746 S	4/2017	Jackson	
D445,615 S	7/2001	Burke		D784,747 S	4/2017	Jackson	
D453,161 S *	1/2002	Pentz	D14/436	9,723,934 B2	8/2017	Hardy	
D457,737 S	5/2002	Citterio		D798,091 S	9/2017	Collette	
D458,781 S	6/2002	Cook et al.		D800,485 S *	10/2017	Boni	D6/705
D470,684 S *	2/2003	Beauregard	D6/683	D803,601 S	11/2017	Schalk et al.	
D473,080 S	4/2003	Kellogg		D808,206 S	1/2018	Zeidner et al.	
D479,930 S	9/2003	Cook et al.		9,895,007 B2	2/2018	Hardy	
D490,103 S *	5/2004	Rangel	D19/10	D811,759 S *	3/2018	Woods	D6/342
D494,394 S	8/2004	Leong-Son et al.		D814,216 S *	4/2018	French	D6/675
D495,172 S	8/2004	Brownfield et al.		D815,690 S *	4/2018	Squillante	D20/10
D495,539 S *	9/2004	Sjoberg	D6/706	2001/0002659 A1	6/2001	Bada	
D505,809 S	6/2005	Cassidy et al.		2003/0010737 A1	1/2003	Lee	
D507,915 S *	8/2005	Nagel	D6/706	2003/0137227 A1	7/2003	Hoenig	
D511,060 S	11/2005	Linden		2003/0189018 A1 *	10/2003	Hopkins	A47F 5/0056
6,991,307 B2	1/2006	Hoenig					211/90.02
7,066,563 B2	6/2006	Berger		2004/0011754 A1	1/2004	Zadak	
7,163,119 B2	1/2007	Besselman		2004/0188444 A1	9/2004	Besselman	
D551,294 S *	9/2007	Goudy	D19/34.1	2004/0211739 A1	10/2004	Lembe	
D553,384 S	10/2007	Wilenius		2005/0150847 A1	7/2005	Hawkinson	
D554,912 S	11/2007	Sciicluna et al.		2005/0178696 A1	8/2005	Van Diepen	
D564,764 S *	3/2008	Springer	D6/332	2006/0049125 A1	3/2006	Stowell	
D566,760 S *	4/2008	Cristofaro	D19/32	2007/0175844 A1	8/2007	Schneider	
D568,645 S	5/2008	Gore et al.		2009/0159763 A1 *	6/2009	Kim	F16M 13/00
D569,141 S	5/2008	Tobias					248/174
D585,215 S	1/2009	Rosenberg		2010/0252519 A1	10/2010	Hanners et al.	
7,478,731 B1	1/2009	Mason		2011/0174750 A1 *	7/2011	Poulokefalos	A47F 1/126
D587,939 S	3/2009	Schloss					211/59.3
D594,313 S	6/2009	Clarke		2012/0031865 A1	2/2012	Paeth	
D596,431 S	7/2009	Berger		2012/0175327 A1	7/2012	Weiher	
7,703,866 B2	4/2010	Benz et al.		2013/0020270 A1	1/2013	Valiulis et al.	

2013/0112640	A1	5/2013	Desmond	
2014/0151313	A1	6/2014	Breslow et al.	
2014/0210331	A1	7/2014	Tunzi	
2015/0225122	A1	8/2015	Jones et al.	
2015/0359358	A1	12/2015	Miller, Jr. et al.	
2016/0029794	A1*	2/2016	Obitts	A47F 5/005 403/376
2016/0073776	A1	3/2016	Zeidner et al.	
2016/0242573	A1	8/2016	Colelman	
2017/0196355	A1	7/2017	Hardy et al.	
2017/0258248	A1	9/2017	Walker	
2017/0291555	A1*	10/2017	Keezer	A47B 96/02
2018/0020830	A1	1/2018	Leinonen et al.	

FOREIGN PATENT DOCUMENTS

CN	3229435	D	3/2002
CN	2547230	Y	4/2003
CN	3292377	D	5/2003
CN	3292378	D	5/2003
CN	3292379	D	5/2003
CN	3323544	D	9/2003
CN	2588875	Y	12/2003
DE	40210086-0001		5/2003
DE	40210086-0002		5/2003
DE	40210086-0005		5/2003
JP	2015-128559	A	7/2015
TW	D133117		1/2010
TW	M450299	U	4/2013

OTHER PUBLICATIONS

Declaration of Rob Naumoski in Support of General Mills, Inc. and General Mills Sales, Inc.'s Memorandum (with exhibits), Case No. 17-cv-04915-JNE-TNL, dated Nov. 16, 2017, pp. 1-16.

Declaration of Huijie Shao in Support of Defendants' Opposition to Plaintiffs' Motion for Preliminary Injunction (with exhibits), Case No. 17-cv-04915-JNE-TNL, dated Nov. 17, 2017, pp. 1-127.

Declaration of Stephanie Nelson in Support of General Mills, Inc. and General Mills Sales, Inc.'s Opposition to Plaintiff's Preliminary Injunction (with exhibits), Case No. 17-cv-04915-JNE-TNNL, dated Nov. 17, 2017, pp. 1-202.

Declaration of Yun (Louise) Lu in Support of Defendants' Opposition to Plaintiffs' Motion for Preliminary Injunction (with exhibits), Case No. 17-cv-04915-JNE-TNL, dated Nov. 16, 2017, pp. 1-92.

Defendants' Preliminary Invalidity Contentions, Case No. 17-cv-04915-JNE-TNL, dated Nov. 8, 2017, pp. 1-22.

Defendants' Preliminary Non-Infringement Contentions, Case No. 17-cv-04915-JNE-TNL, dated Nov. 8, 2017, pp. 1-13.

Memorandum re Post Consumer Brands, LLC motion for preliminary injunction and memorandum to unseal motion, United States District Court of Minnesota, Case No. 17-cv-04915-JNE-TNL, dated Dec. 7, 2017, pp. 1-13.

Declaration of Shane Obitts (with exhibits), Case No. 17-cv-04915-JNE-TNL, dated Nov. 17, 2017, pp. 1-10.

Office Action for U.S. Appl. No. 29/635,169 dated Mar. 26, 2018.

Affidavit of Richard Nathan in Support of General Mills, Inc. and General Mills Sales, Inc.'s Brief (with exhibits), Case No. 17-cv-04915-JNE-TNL, 2017, pp. 1-33.

Defendants' Opposition to Plaintiff's Motion for Preliminary Injunction, Case No. 17-cv-04915-JNE-TNL, dated Nov. 17, 2017, pp. 1-75.

Exhibits 1-7 from Videotaped Deposition of Ronald Kemnitzer in Case No. 17-cv-04915-JNE-TNL, Nov. 14, 2017.

Collette, et al., "Associated Food Trapezoid Merchandising Test", Exhibit R in Case No. 17-cv-04915-JNE-TNL, Apr. 2015, 3 pages.

Complaint, Case No. 17-cv-04915-JNE-SER, dated Sep. 26, 2017, pp. 1-20.

Declaration of Jesse R. Garcia (with exhibits), Case No. 17-cv-04915-JNE-SER, dated Sep. 27, 2017, pp. 1-148.

Declaration of Ronald Kemnitzer (with exhibits), Case No. 17-cv-04915-JNE-SER, dated Sep. 27, 2017, pp. 1-379.

Defendants' Amended Answer, Separate Defenses, and Counterclaims to Plaintiff's Complaint for Patent Infringement, Case No. 17-cv-04915-JNE-TNL, dated Apr. 13, 2018, pp. 1-14.

Defendants' Answer, Separate Defenses, and Counterclaims to Plaintiff's Complaint for Patent Infringement, Case No. 17-cv-04915-JNE-TNL, dated Nov. 11, 2017, pp. 1-14.

Expert Report of Paul Hatch, Exhibit A in Case No. 17-cv-04915-JNE-TNL, dated Nov. 11, 2017, pp. 1-133.

First Amended Complaint, Case No. 17-cv-04915-JNE-TNL, dated Mar. 30, 2018, pp. 1-24.

Hearing on Post's Motion for Preliminary Injunction, Powerpoint Presentation Final, Case No. 17-cv-04918, dated Dec. 1, 2017, pp. 1-34.

Hearing on Post's Motion for Preliminary Injunction, Powerpoint Presentation, Case No. 17-cv-04918, dated Dec. 1, 2017, pp. 1-43.

Memorandum in Support of Plaintiff's Motion for Preliminary Injunction, Case No. 17-cv-04915-JNE-SER, dated Sep. 27, 2017, pp. 1-43.

Plaintiff Post Consumer Brands, LLC's Answer to Defendants Amended Counterclaims, Case No. 17-cv-04915-JNE-TNL, dated Apr. 27, 2018, pp. 1-5.

Post's Reply in Support of Its Motion for Preliminary Injunction, Case No. 17-cv-04915-JNE-TNL, dated Nov. 27, 2017, pp. 1-38.

Supplemental Expert Report of Paul Hatch, Case No. 17-cv-04915-JNE-TNL, dated Nov. 30, 2017, pp. 1-14.

Transcript of Preliminary Injunction Hearing, Case No. 17-cv-04915-JNE-TNL, dated Dec. 1, 2017, pp. 1-53.

Transcript of Video Deposition of General Mills, Inc., Genral Mills Sales, Inc., and Paul D. Hatch Exhibit PP in Case No. 17-cv-04915-JNE-TNL, Nov. 22, 2017, 211 pages.

Transcript of Videotaped Deposition of Ronald Kemnitzer, Exhibit GG in Case No. 17-cv-04915-JNE-TNL, Nov. 14, 2017, 124 pages.

* cited by examiner

Primary Examiner — Kelley Donnelly
(74) *Attorney, Agent, or Firm* — Thompson Coburn LLP

(57) **CLAIM**

The ornamental design of a shelf divider for display of bagged food items, as shown and described.

DESCRIPTION

FIG. 1 is a perspective view of the design showing the left front and top sides thereof.

FIG. 2 is a front view of the design.

FIG. 3 is a rear view of the design.

FIG. 4 is a left side view of the design.

FIG. 5 is a right side view of the design.

FIG. 6 is a top view of the design; and,

FIG. 7 is a bottom view of the design.

The areas immediately adjacent to the dash dot dash lines in the drawing figures represent the bounds of the claimed design while the broken lines in the drawing figures represent environment and do not constitute part of the claimed design.

1 Claim, 3 Drawing Sheets

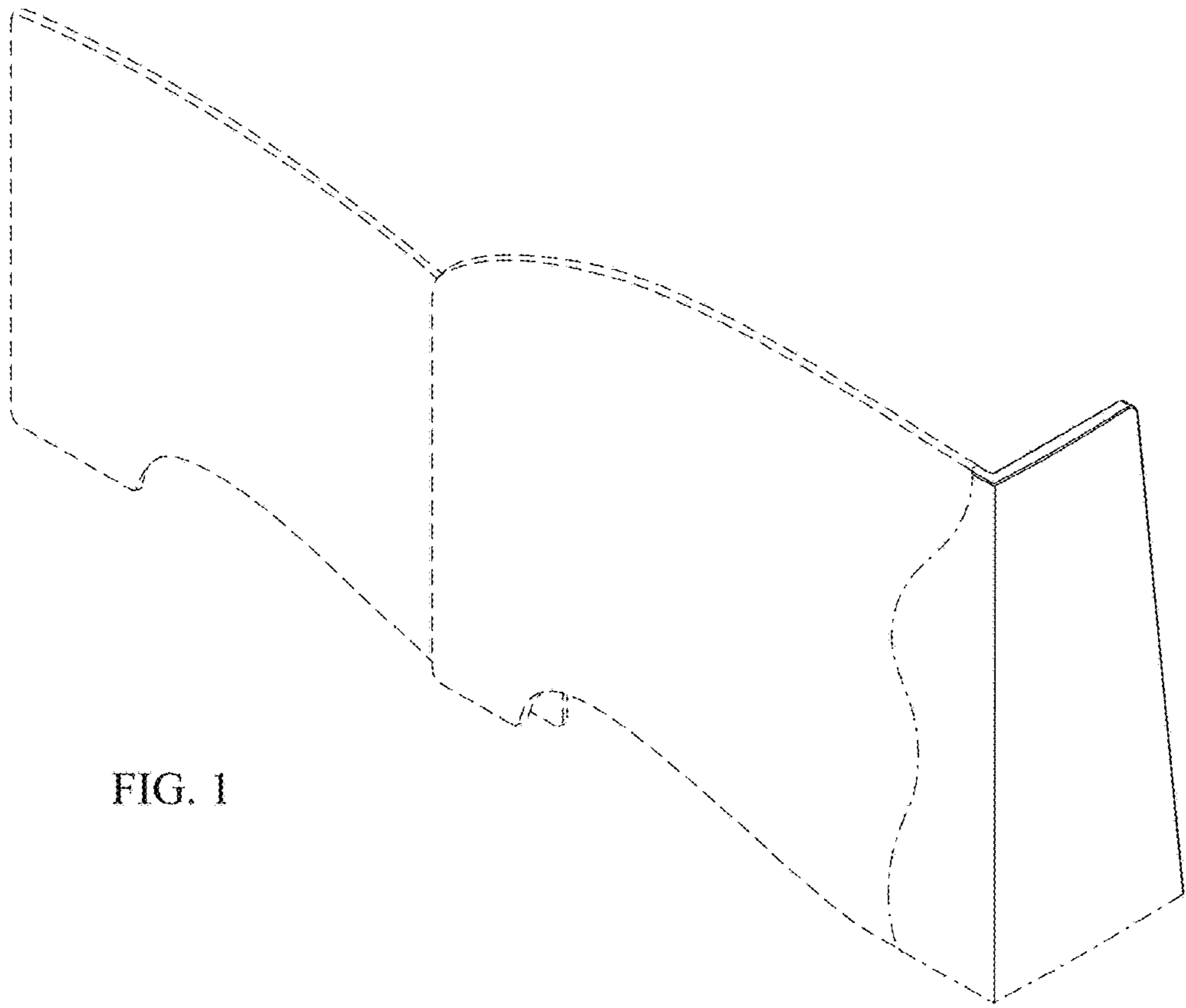


FIG. 1

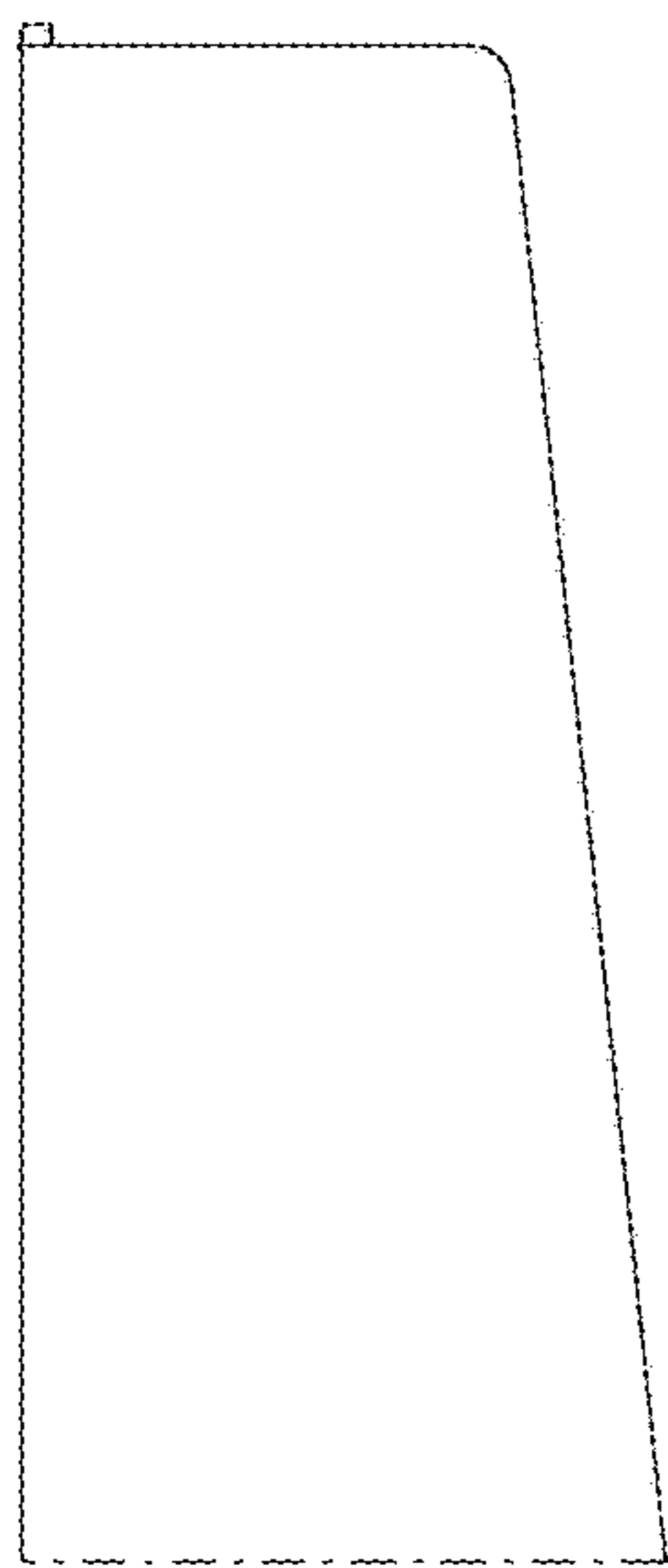


FIG. 2



FIG. 3

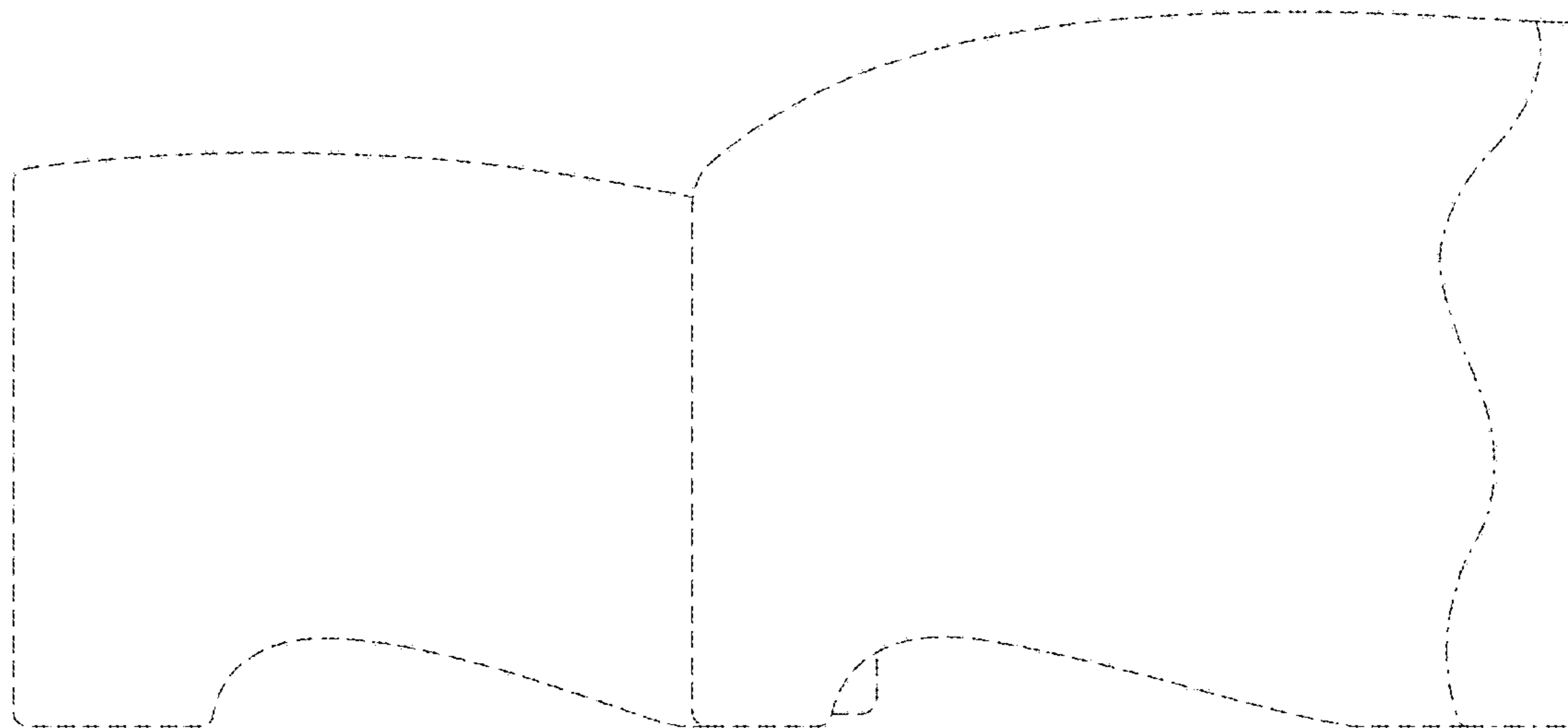


FIG. 4

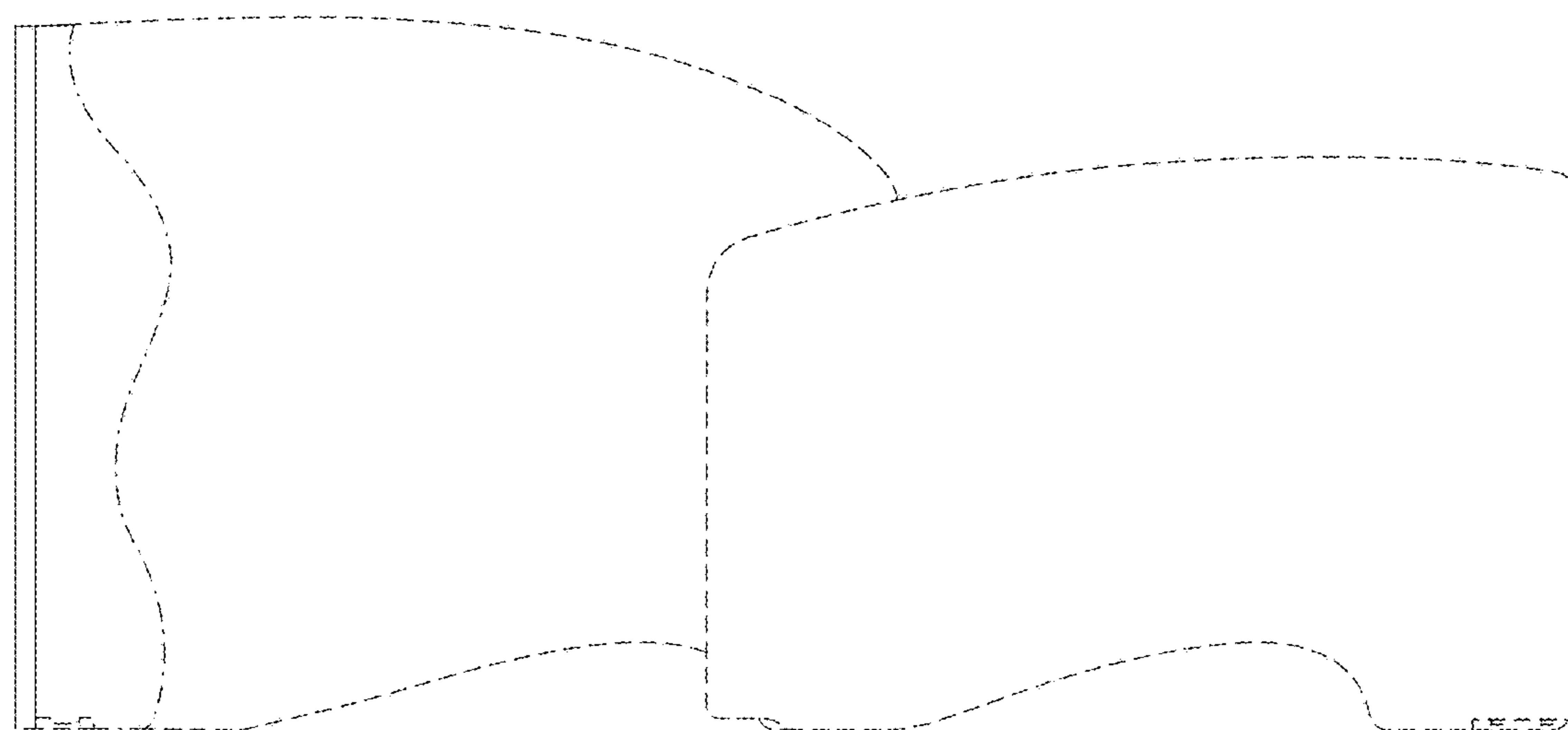


FIG. 5

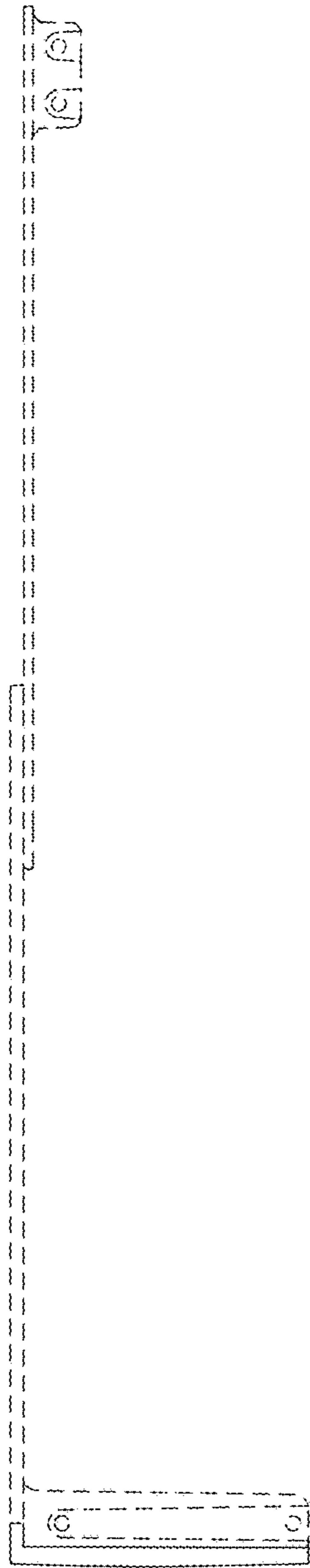


FIG. 6

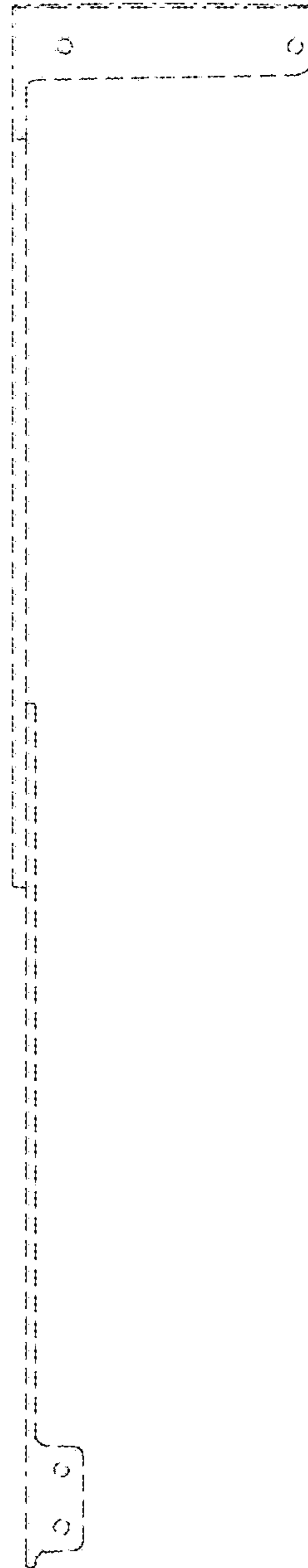


FIG. 7