



US00D905947S

(12) **United States Design Patent** (10) **Patent No.:** **US D905,947 S**
Hawthornthwaite et al. (45) **Date of Patent:** **** Dec. 29, 2020**

- (54) **PORTION OF A SHOE**
- (71) Applicant: **ROTHY'S, INC.**, San Francisco, CA (US)
- (72) Inventors: **Stephen Hawthornthwaite**, San Francisco, CA (US); **William Roth Martin**, San Francisco, CA (US)
- (73) Assignee: **ROTHY'S, INC.**, San Francisco, CA (US)
- (**) Term: **15 Years**
- (21) Appl. No.: **29/718,121**
- (22) Filed: **Dec. 20, 2019**

Related U.S. Application Data

- (60) Continuation of application No. 29/707,054, filed on Sep. 25, 2019, now Pat. No. Des. 872,987, which is a continuation of application No. 29/662,598, filed on Sep. 6, 2018, now Pat. No. Des. 866,943, which is a continuation of application No. 29/622,877, filed on Oct. 20, 2017, now Pat. No. Des. 831,313, which is a
(Continued)
- (51) **LOC (12) Cl.** **02-04**
- (52) **U.S. Cl.**
USPC **D2/971**
- (58) **Field of Classification Search**
USPC D2/896, 919, 925-942, 969, 971; D5/47, D5/49, 54
CPC A43B 21/00; A43B 21/02; A43B 21/06; A43B 9/14; A43B 1/0045; A43B 13/10; A43B 13/12; A43B 23/06; A43B 23/07; A43B 1/0036; A43B 5/12
See application file for complete search history.

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

20,439 A 6/1858 Michel et al.
D16,609 S 4/1886 Buchanan
(Continued)

OTHER PUBLICATIONS

Rothy's, Inc. vs. Giesswein Walkwaren AG, Defendant Giesswein Walkwaren Ag's Notice of Motion and Motion to Dismiss Roth, Inc.'s Complaint For Failure To State A Claim, Civil Action No. 3:19-cv-03071-JD, Document 29. 20 Pages Total, (Aug. 29, 2019).
(Continued)

Primary Examiner — Dominic V Simone
(74) *Attorney, Agent, or Firm* — Arent Fox LLP

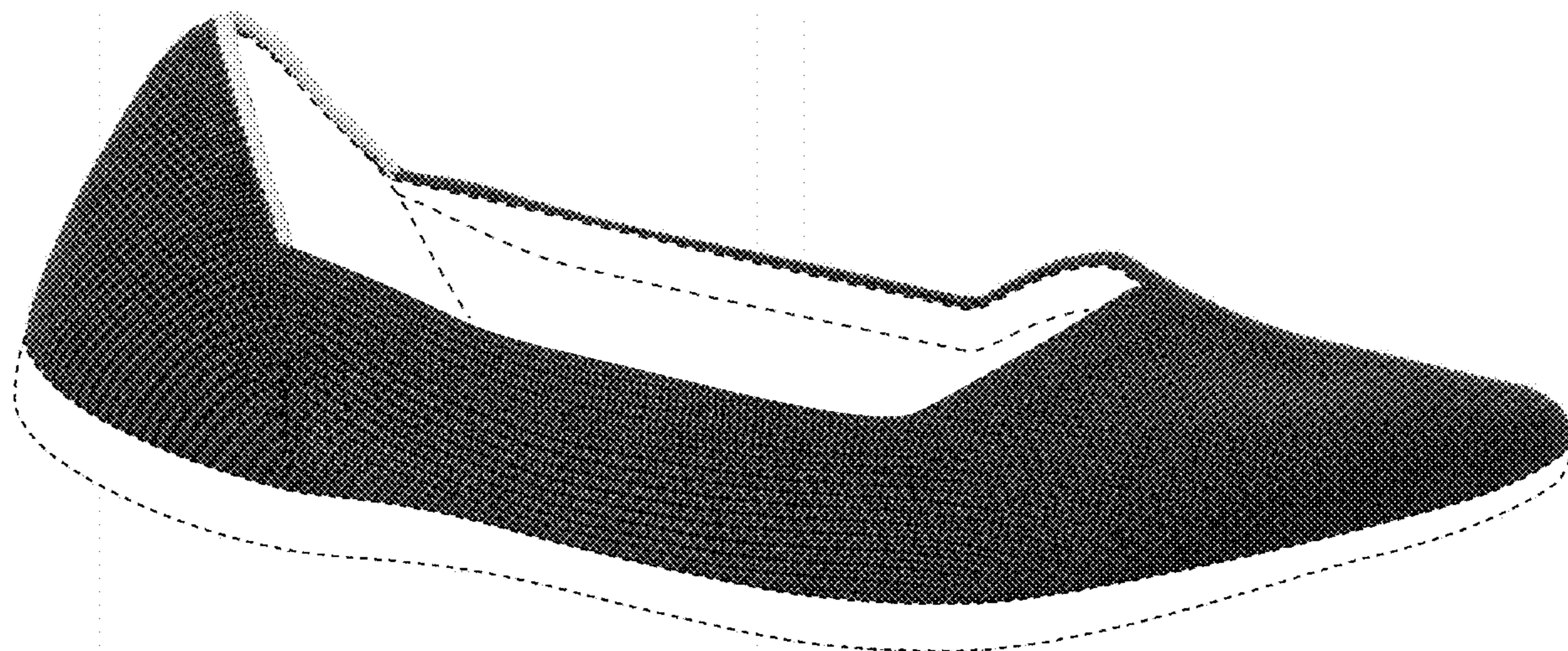
(57) **CLAIM**

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

DESCRIPTION

FIG. 1 is a front left perspective view of a first embodiment of a portion of a shoe showing our new design; FIG. 2 is front view of the design shown in FIG. 1; FIG. 3 is a rear view of the design shown in FIG. 1; FIG. 4 is a left side view of the design shown in FIG. 1; FIG. 5 is a right side view of the design shown in FIG. 1; FIG. 6 is a top view of the design shown in FIG. 1; FIG. 7 is a bottom view of the design shown in FIG. 1; FIG. 8 is front left perspective view of a second embodiment of a portion of a shoe showing our new design; FIG. 9 is front view of the design shown in FIG. 8; FIG. 10 is a rear view of the design shown in FIG. 8; FIG. 11 is a left side view of the design shown in FIG. 8; FIG. 12 is a right side view of the design shown in FIG. 8; FIG. 13 is a top view of the design shown in FIG. 8; and, FIG. 14 is a bottom view of the design shown in FIG. 8. The broken lines shown in the figures are included for the purpose of illustrating portions of the portion of the shoe and form no part of the claimed design.

1 Claim, 12 Drawing Sheets



Related U.S. Application Data

division of application No. 29/544,350, filed on Nov. 2, 2015, now Pat. No. Des. 805,276, which is a continuation-in-part of application No. 29/512,404, filed on Dec. 18, 2014, now Pat. No. Des. 768,366.

(56)

References Cited

U.S. PATENT DOCUMENTS

D25,492	S	*	5/1896	Pepper	.....	D5/47
687,513	A		11/1901	Bibikov		
D86,152	S		2/1932	Bellak		
D109,313	S		4/1938	Delman		
D133,819	S		9/1942	Harris		
D137,763	S		4/1944	Goldstein		
D137,765	S		4/1944	Goldstein		
D149,683	S		5/1948	Sandler		
D149,685	S	*	5/1948	Sandler	.....	D2/935
D149,695	S		5/1948	Sandler		
D163,185	S		5/1951	Joyce		
D167,503	S	*	8/1952	Diamant	.....	D2/935
D176,338	S		12/1955	Joyce		
D178,551	S	*	8/1956	Sherman	.....	D2/900
D180,334	S		5/1957	Keyes		
D190,900	S		7/1961	Grossman		
D204,390	S		4/1966	Bodicky		
D247,396	S		3/1978	Schlerth		
D247,932	S		5/1978	Katz		
D273,627	S		5/1984	Huberman		
D499,865	S		12/2004	Belley		
D500,191	S		12/2004	Belley		
D527,513	S		9/2006	Della Valle		
D545,037	S		6/2007	Shaffer		
D571,084	S		6/2008	Comeau		
D571,548	S		6/2008	Seamans		
D571,584	S		6/2008	Thompson		
D579,637	S		11/2008	Liow		
D591,491	S	*	5/2009	Truelsen	.....	D2/925
D593,307	S	*	6/2009	Belley	.....	D2/969
D611,693	S		3/2010	Schwartz		
D612,591	S		3/2010	Schwartz		
D660,565	S		5/2012	Della Valle		
D668,027	S		10/2012	Millieret		
D668,438	S		10/2012	Millieret		
D668,847	S		10/2012	Gavrieli		
D668,848	S		10/2012	Gavrieli		
D668,849	S		10/2012	Pozzi		
D668,850	S		10/2012	Pozzi		
D676,634	S		2/2013	Gavrieli		
D693,103	S	*	11/2013	McMillan	.....	D2/971
D730,030	S	*	5/2015	Della Valle	.....	D2/939
D730,635	S	*	6/2015	Lin	.....	D2/939
D730,636	S		6/2015	Della Valle et al.		
D731,764	S	*	6/2015	Yen	.....	D2/929
D741,581	S	*	10/2015	Del Biondi	.....	D2/939

D744,730	S		12/2015	Kirkwood		
D768,366	S	*	10/2016	Hawthornthwaite	.....	D2/939
D783,242	S	*	4/2017	Arzegar	.....	D2/923
D783,988	S	*	4/2017	da Costa Pereira Machado	.....	D2/972
D804,156	S	*	12/2017	Hawthornthwaite	.....	D2/939
D805,276	S	*	12/2017	Hawthornthwaite	.....	D2/939
D811,068	S		2/2018	Kim		
D815,401	S	*	4/2018	Sassi	.....	D2/925
D827,994	S	*	9/2018	Sassi	.....	D2/929
D831,313	S	*	10/2018	Hawthornthwaite	.....	D2/939
D831,325	S	*	10/2018	Hawthornthwaite	.....	D2/971
D833,729	S	*	11/2018	Hawthornthwaite	.....	D2/971
D836,314	S	*	12/2018	Hawthornthwaite	.....	D2/971
D844,313	S	*	4/2019	Hawthornthwaite	.....	D2/971
D856,641	S	*	8/2019	Tewani	.....	D2/919
D866,943	S	*	11/2019	Hawthornthwaite	.....	D2/971
D870,425	S	*	12/2019	Hawthornthwaite	.....	D2/923
D872,987	S	*	1/2020	Hawthornthwaite	.....	D2/971
D884,317	S	*	5/2020	Hawthornthwaite	.....	D2/923
D884,319	S	*	5/2020	Hawthornthwaite	.....	D2/923
D885,017	S	*	5/2020	Hawthornthwaite	.....	D2/923
D891,073	S	*	7/2020	Barerra	.....	D2/971

OTHER PUBLICATIONS

Rothy's, Inc. v. JKM Technologies, LLC d/b/a Oesh Shoes, and Dr. Casey Kerrigan, Defendants JJKM Technologies, LLC's and Dr. Casey Kerrigan's Answer to Complaint for Patent Infringement, Trade Dress Infringement, and Unfair Competition, Affirmative Defenses, and Counterclaims, Civil Action No. 3:18CV00067, Case 3:18-cv-00067-MFU-JCH. Document 49. 307 Pages Total, (Jan. 28, 2019).

Rothy's, Inc. v. JKM Technologies, LLC d/b/a Oesh Shoes, and Dr. Casey Kerrigan d/b/a Oesh Shoes, Rothy's Memorandum in Support of Motion to Strike Certain of Defendants' Affirmative Defenses, Civil Action No. 3:18CV00067 (MFU), Case 3:18-cv-00067-MFU-JCH, Document 53. 17 Pages Total, (Feb. 19, 2019).

Rothy's, Inc. v. JKM Technologies, LLC d/b/a Oesh Shoes and Dr. Casey Kerrigan, Defendants' Brief in Opposition to Plaintiff's Motion to Strike Certain of Defendants' Affirmative Defenses, Civil Action No. 3:18CV00067, Case 3:18-cv-00067-MFU-JCH, Document 55. 16 Pages Total, (Mar. 5, 2019).

Rothy's, Inc. v. JKM Technologies, LLC d/b/a Oesh Shoes and Dr. Casey Kerrigan d/b/a Oesh Shoes, Rothy's Reply Brief in Support of its Motion to Strike Certain of Defendants' Affirmative Defense, Civil Action No. 3:18CV00067 (MFU) Case 3:18-cv-00067-MFU-JCH, Document 56. 27 Pages Total, (Mar. 12, 2019).

Rothy's, Inc. v. JKM Technologies, LLC d/b/a Oesh Shoes, and Dr. Casey Kerrigan, Defendants' Surreply in Opposition to Plaintiff's Motion to Strike Certain of Defendants' Affirmative Defenses, Civil Action No. 3:18CV00067 Case 3:18-cv-00067-MFU-JCH, Document 57-1. 19 Pages Total, (Mar. 19, 2019).

* cited by examiner

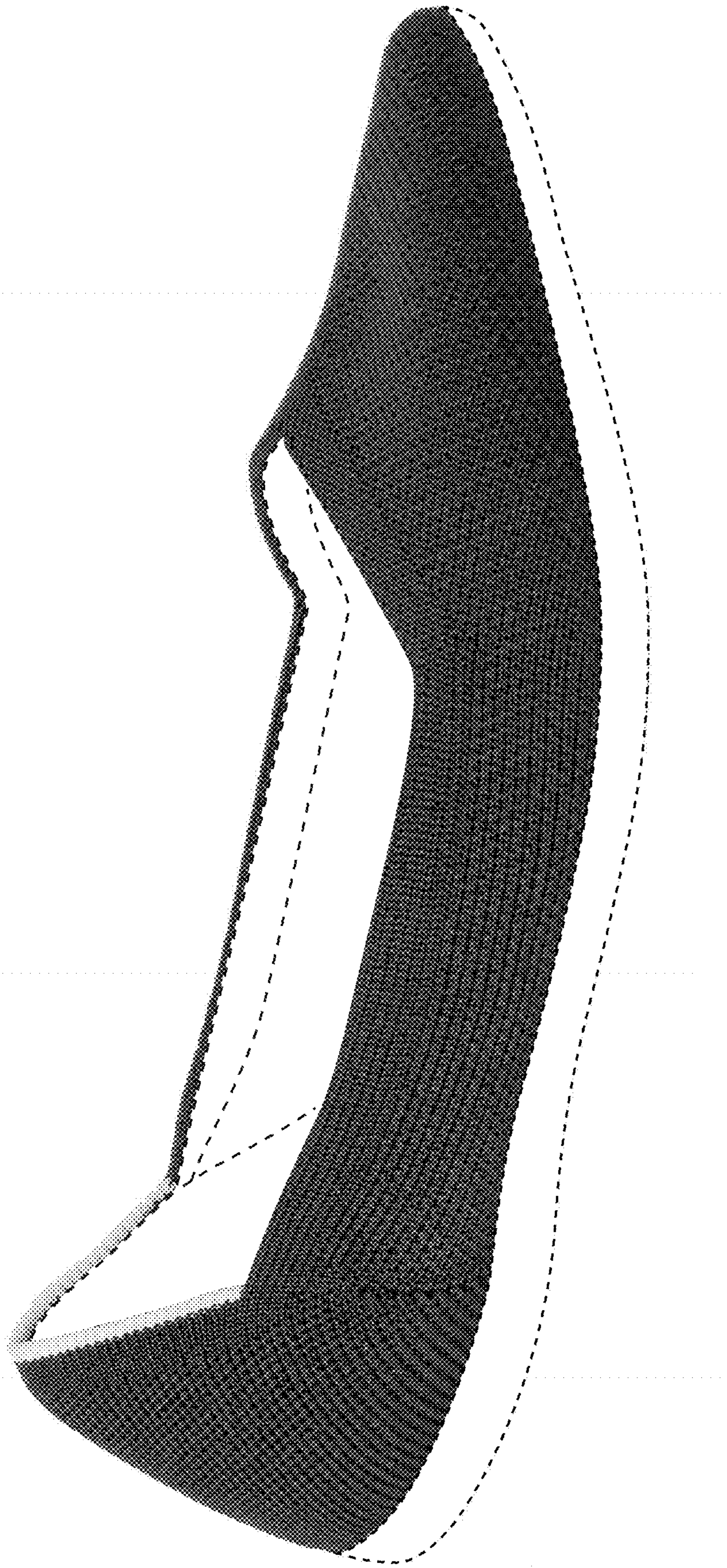


FIG. 1

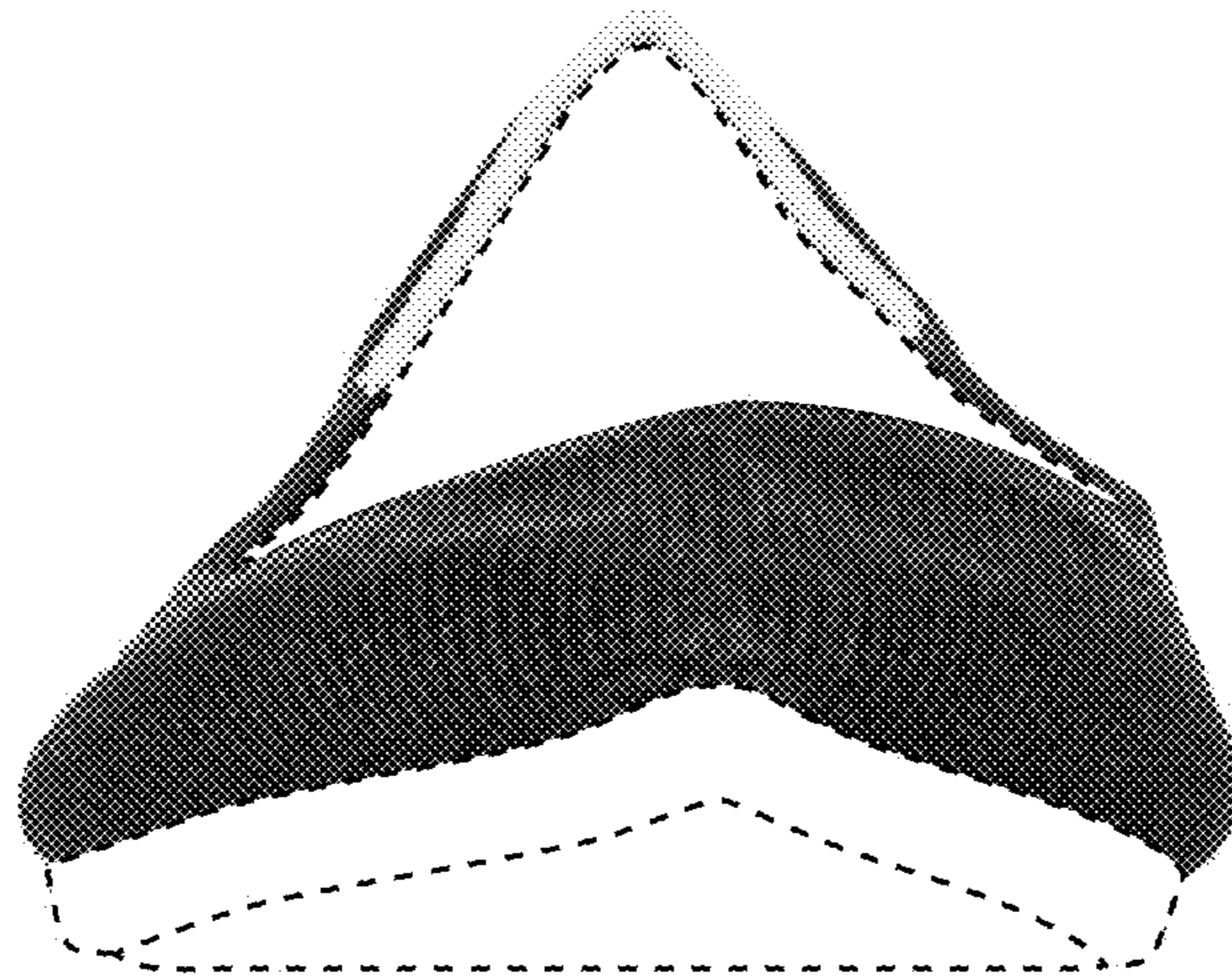


FIG. 2



FIG. 3



FIG. 4



FIG. 5



FIG. 6

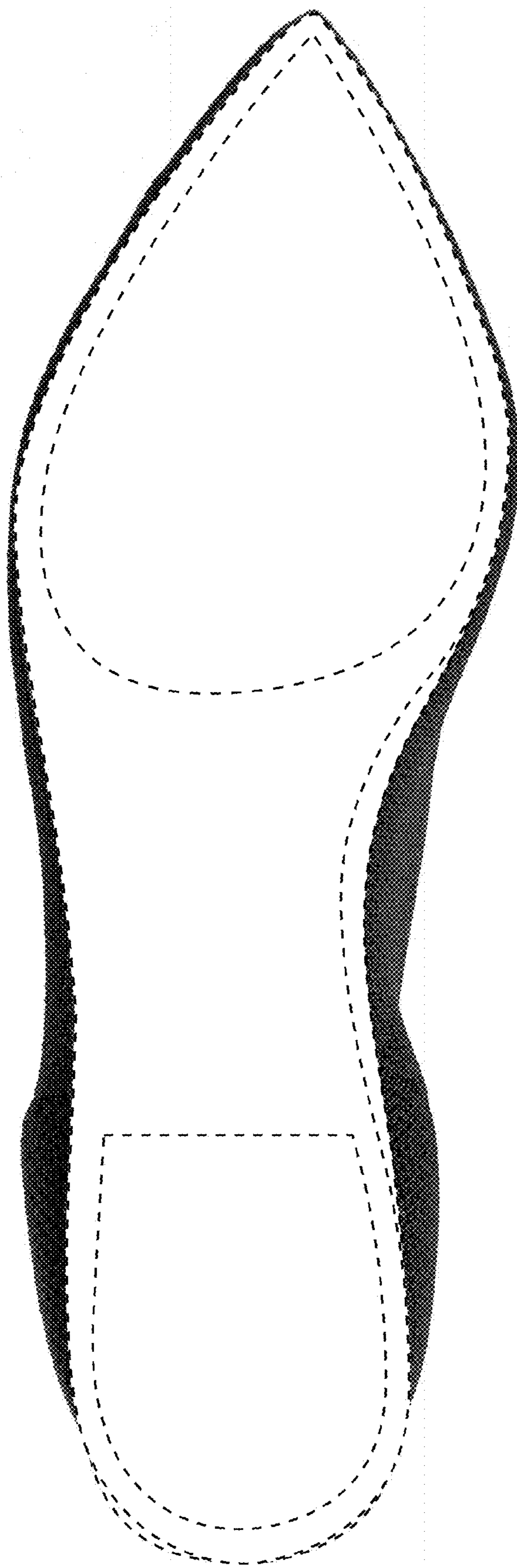


FIG. 7

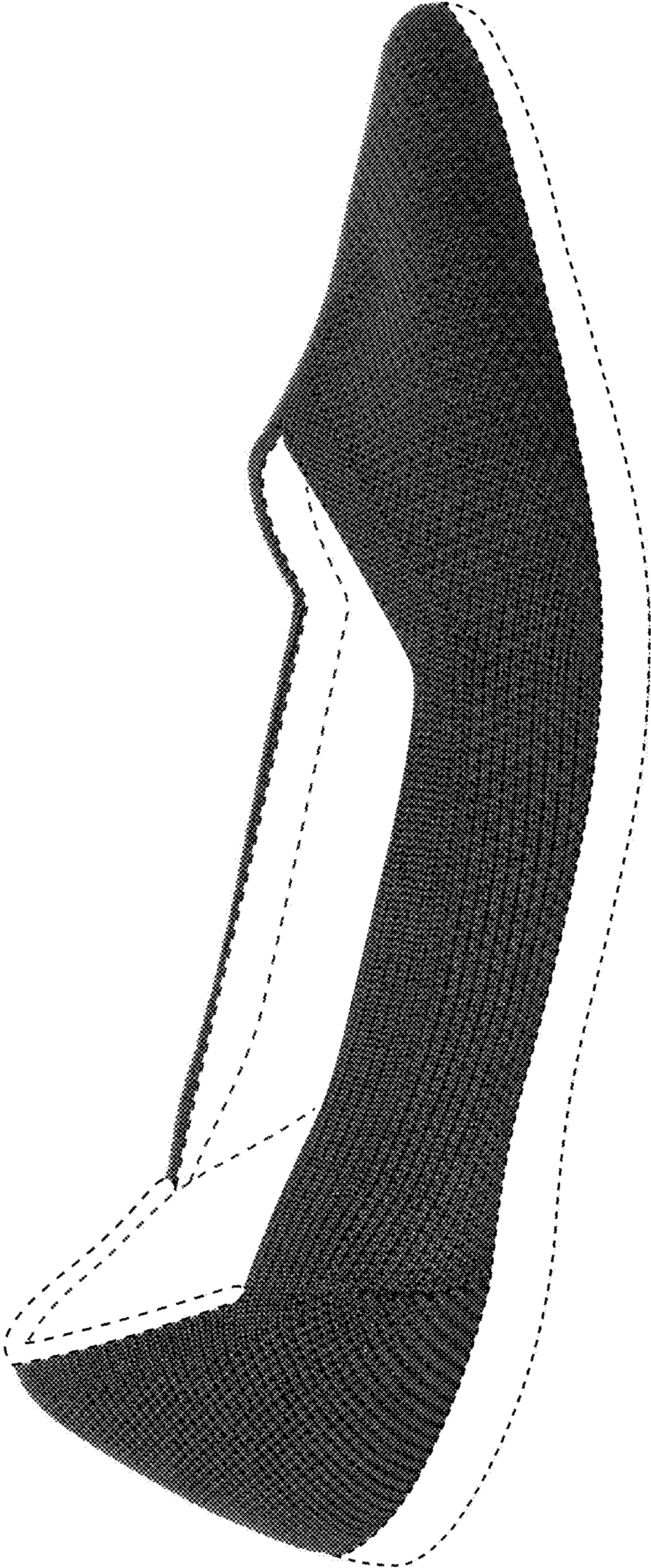


FIG. 8

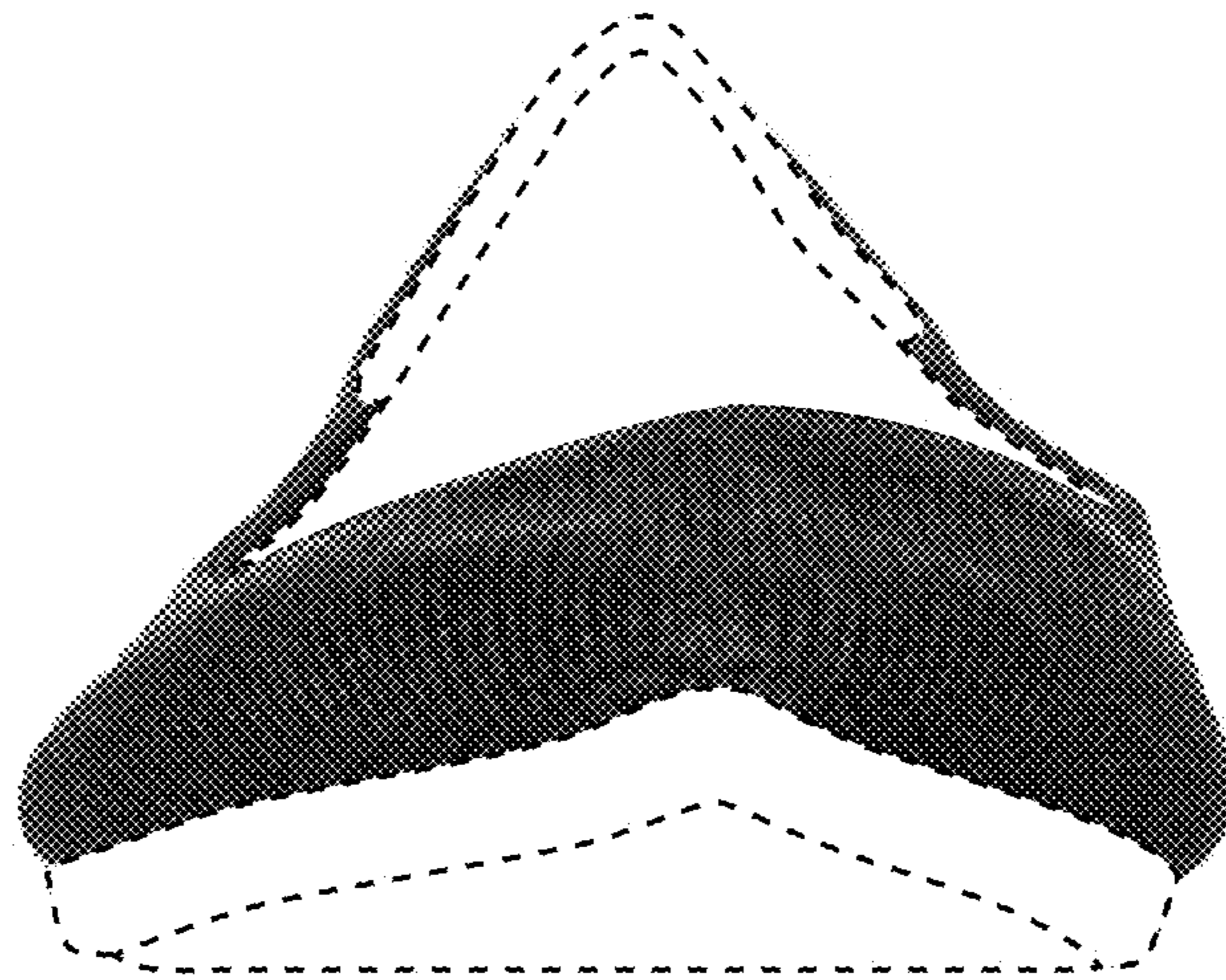


FIG. 9



FIG. 10



FIG. 11



FIG. 12



FIG. 13

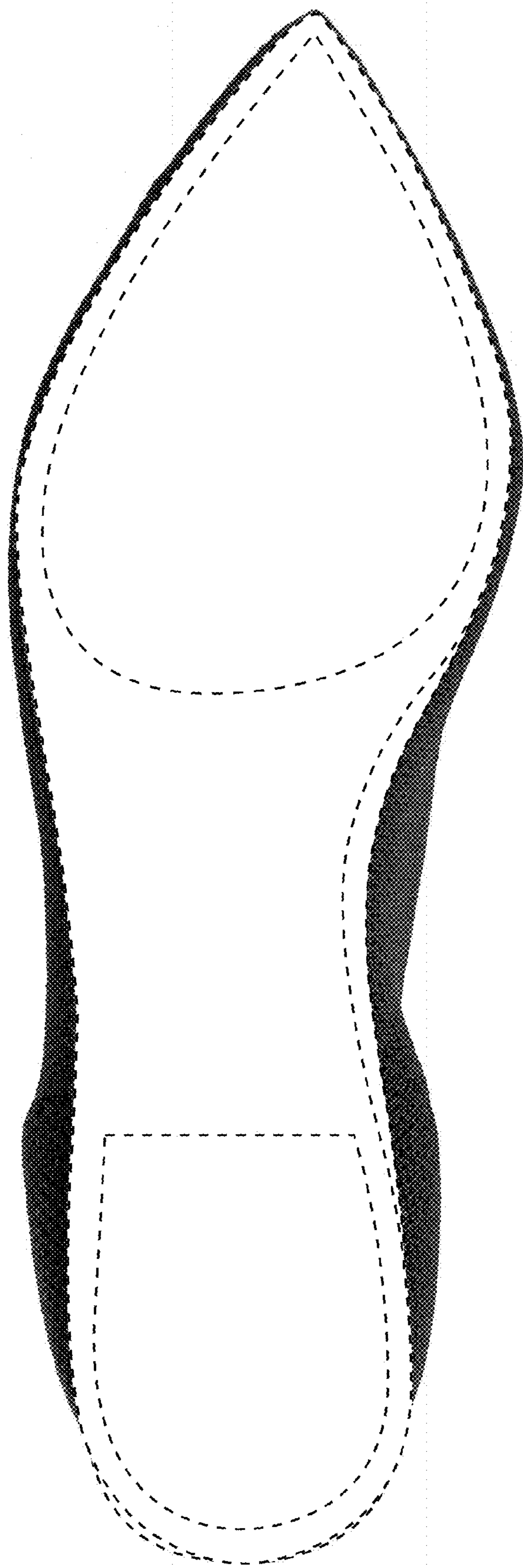


FIG. 14