



US00D950226S

(12) **United States Design Patent** (10) **Patent No.:** **US D950,226 S**
Hawthornthwaite et al. (45) **Date of Patent:** **** May 3, 2022**

- (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: **ROTHYS, INC.**, San Francisco, CA (US)
- (**) Term: **15 Years**
- (21) Appl. No.: **29/764,087**
- (22) Filed: **Dec. 28, 2020**

Related U.S. Application Data

- (60) Continuation of application No. 29/718,121, filed on Dec. 20, 2019, now Pat. No. Des. 905,947, which is a 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 division of application No. 29/544,350, filed on Nov. 2, 2015, now Pat. No. Des. 805,276, which is a
(Continued)

- (51) **LOC (13) Cl.** **02-04**
- (52) **U.S. Cl.**
USPC **D2/971**; D2/939; D2/969
- (58) **Field of Classification Search**
USPC D2/896, 900, 902, 904, 906-908, D2/916-924, 925-945, 969-979; 36/1.5, 36/3 A, 83, 45, 99, 101, 112-116, 136
CPC A43B 1/00; A43B 1/02; A43B 1/04; A43B 3/00; A43B 3/02; A43B 3/06; A43B 3/10; A43B 3/12; A43B 3/14; A43B 5/00; A43B 5/001; A43B 5/002; A43B 5/008; A43B 5/06; A43B 5/10; A43B 5/12; A43B 23/00; A43B 23/02; A43B 23/04;

A43B 23/14; A43B 23/16; A43B 23/17; A43B 23/24; A43B 23/25; A43B 23/26; A43C 1/00; A43C 5/00; A43C 7/00; A43C 9/00; A43C 11/00
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 Rothy, 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)

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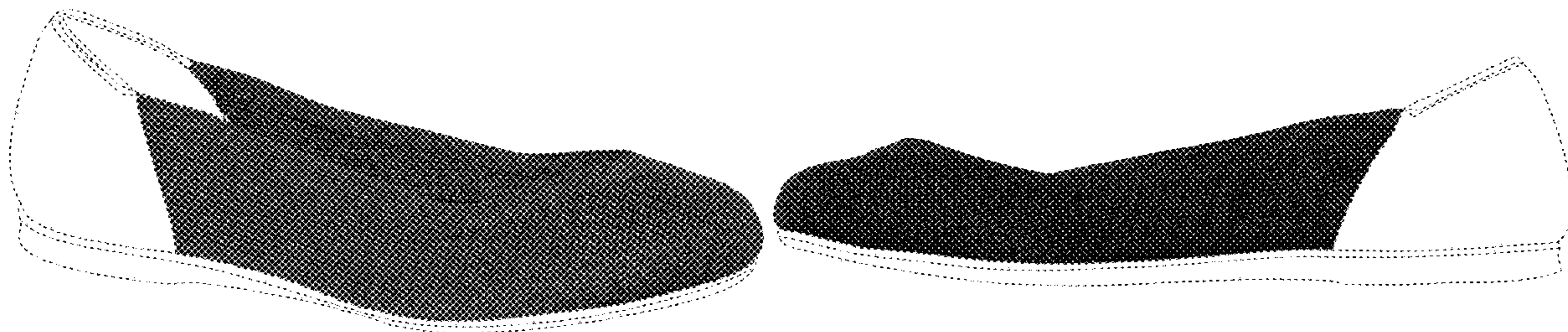
(57) **CLAIM**

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

DESCRIPTION

FIG. 1 is a front right perspective view of an 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 right side view of the design shown in FIG. 1; FIG. 5 is a left side view of the design shown in FIG. 1; FIG. 6 is a top view of the design shown in FIG. 1; and, FIG. 7 is a bottom view of the design shown in FIG. 1. The broken lines in the figures are included for the purpose of illustrating portions of the shoe that form no part of the claimed design.

1 Claim, 6 Drawing Sheets



Related U.S. Application Data

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 et al. 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
 D339,905 S * 10/1993 Bensley D2/913
 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
 D628,366 S * 12/2010 Ringdal D2/909
 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
 D681,927 S * 5/2013 Gavrieli A43B 13/141
 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
 D749,829 S * 2/2016 Gavrieli D2/939
 D750,360 S * 3/2016 Gavrieli D2/939
 D750,361 S * 3/2016 Gavrieli D2/939
 D750,873 S * 3/2016 Gavrieli D2/939
 D750,874 S * 3/2016 Gavrieli D2/939
 D751,278 S * 3/2016 Gavrieli D2/939
 D751,279 S * 3/2016 Gavrieli D2/939
 D751,280 S * 3/2016 Vasquez D2/939
 D755,485 S * 5/2016 Gavrieli D2/939
 D755,486 S * 5/2016 Gavrieli D2/939
 D755,487 S * 5/2016 Gavrieli D2/939
 D755,488 S * 5/2016 Gavrieli D2/939
 D756,081 S * 5/2016 Gavrieli D2/939
 D756,082 S * 5/2016 Gavrieli D2/939
 D756,083 S * 5/2016 Gavrieli D2/939
 D756,084 S * 5/2016 Gavrieli D2/939
 D757,407 S * 5/2016 Gavrieli D2/939
 D758,052 S * 6/2016 Gavrieli D2/939
 D761,529 S * 7/2016 Gavrieli D2/939

D761,530 S * 7/2016 Gavrieli D2/939
 D761,531 S * 7/2016 Gavrieli D2/939
 D761,532 S * 7/2016 Gavrieli D2/939
 D761,535 S * 7/2016 Gavrieli D2/939
 D763,556 S * 8/2016 Gavrieli D2/939
 D768,366 S 10/2016 Hawthornthwaite D2/939
 D775,798 S * 1/2017 Gavrieli D2/939
 D779,798 S * 2/2017 Gavrieli D2/939
 D783,242 S 4/2017 Arzegar D2/923
 D783,988 S 4/2017 da Costa Pereira Machado
 D803,528 S * 11/2017 Reynolds D2/923
 D804,156 S 12/2017 Hawthornthwaite D2/939
 D805,276 S 12/2017 Hawthornthwaite D2/939
 D805,277 S * 12/2017 Gavrieli D2/939
 D811,068 S 2/2018 Kim
 D812,867 S * 3/2018 Gavrieli D2/939
 D812,868 S * 3/2018 Gavrieli D2/939
 D814,153 S * 4/2018 Gavrieli D2/939
 D815,401 S 4/2018 Sassi D2/925
 D819,309 S * 6/2018 Reynolds D2/923
 D824,148 S * 7/2018 Gavrieli D2/939
 D824,149 S * 7/2018 Gavrieli D2/939
 D824,150 S * 7/2018 Gavrieli D2/939
 D825,156 S * 8/2018 Gavrieli D2/939
 D827,994 S 9/2018 Sassi D2/929
 D831,312 S * 10/2018 Gavrieli D2/939
 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
 D837,495 S * 1/2019 Gavrieli D2/939
 D842,593 S * 3/2019 Gavrieli D2/939
 D843,094 S * 3/2019 Gavrieli D2/939
 D844,305 S * 4/2019 Gavrieli D2/939
 D844,313 S 4/2019 Hawthornthwaite D2/971
 D846,844 S * 4/2019 Gavrieli D2/939
 D846,846 S * 4/2019 Gavrieli D2/939
 D851,872 S * 6/2019 Gavrieli D2/939
 D853,091 S * 7/2019 Gavrieli D2/939
 D853,092 S * 7/2019 Gavrieli D2/939
 D853,697 S * 7/2019 Gavrieli D2/939
 D853,698 S * 7/2019 Gavrieli D2/939
 D856,641 S 8/2019 Tewani D2/919
 D859,792 S * 9/2019 Subatella Sanchez D2/902
 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
 D885,018 S * 5/2020 Gavrieli D2/939
 D885,717 S * 6/2020 Radabaugh D2/939
 D886,421 S * 6/2020 Gavrieli D2/939
 D889,785 S * 7/2020 Gavrieli D2/939
 D890,483 S * 7/2020 Gavrieli D2/939
 D891,047 S * 7/2020 Gavrieli D2/939
 D891,073 S 7/2020 Barerra D2/971
 D895,237 S * 9/2020 Swierszczyk D2/939
 D895,255 S * 9/2020 Swierszczyk D2/971
 D901,861 S * 11/2020 Gavrieli D2/950
 D901,862 S * 11/2020 Gavrieli D2/950
 D903,988 S * 12/2020 Gavrieli D2/939
 D903,989 S * 12/2020 Gavrieli D2/939
 D905,940 S * 12/2020 Liu D2/939
 D905,947 S * 12/2020 Hawthornthwaite D2/971
 D909,718 S * 2/2021 Hawthornthwaite D2/923
 D920,654 S * 6/2021 Hawthornthwaite D2/971
 D931,580 S * 9/2021 Zeng D2/939

OTHER PUBLICATIONS

Rothy's, Inc. v. JKM Technologies, LLC d/b/a Oesh Shoes, and Dr. Casey Kerrigan, Defendants JKM 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

(56)

References Cited

OTHER PUBLICATIONS

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 Plaintiffs 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

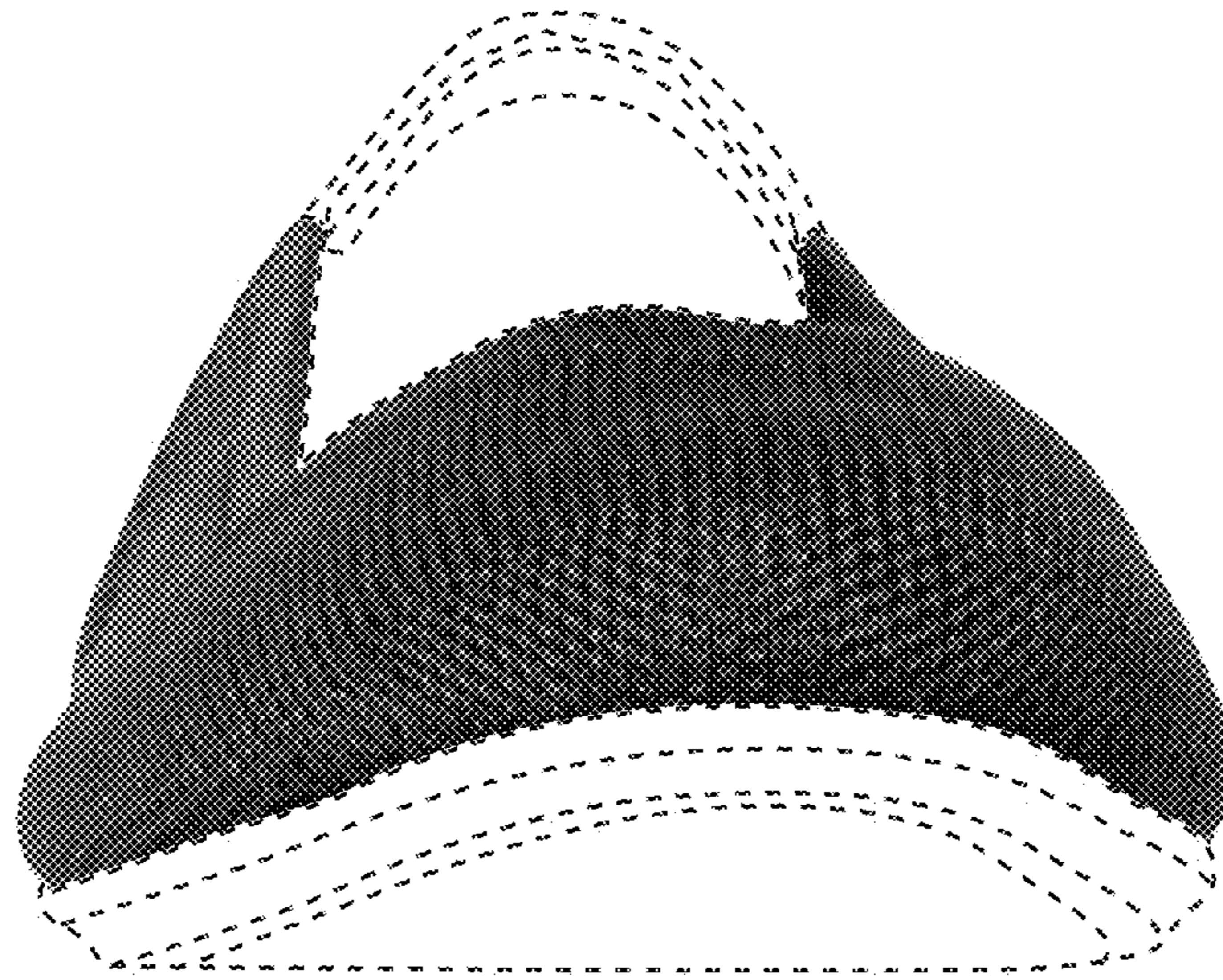


FIG. 2

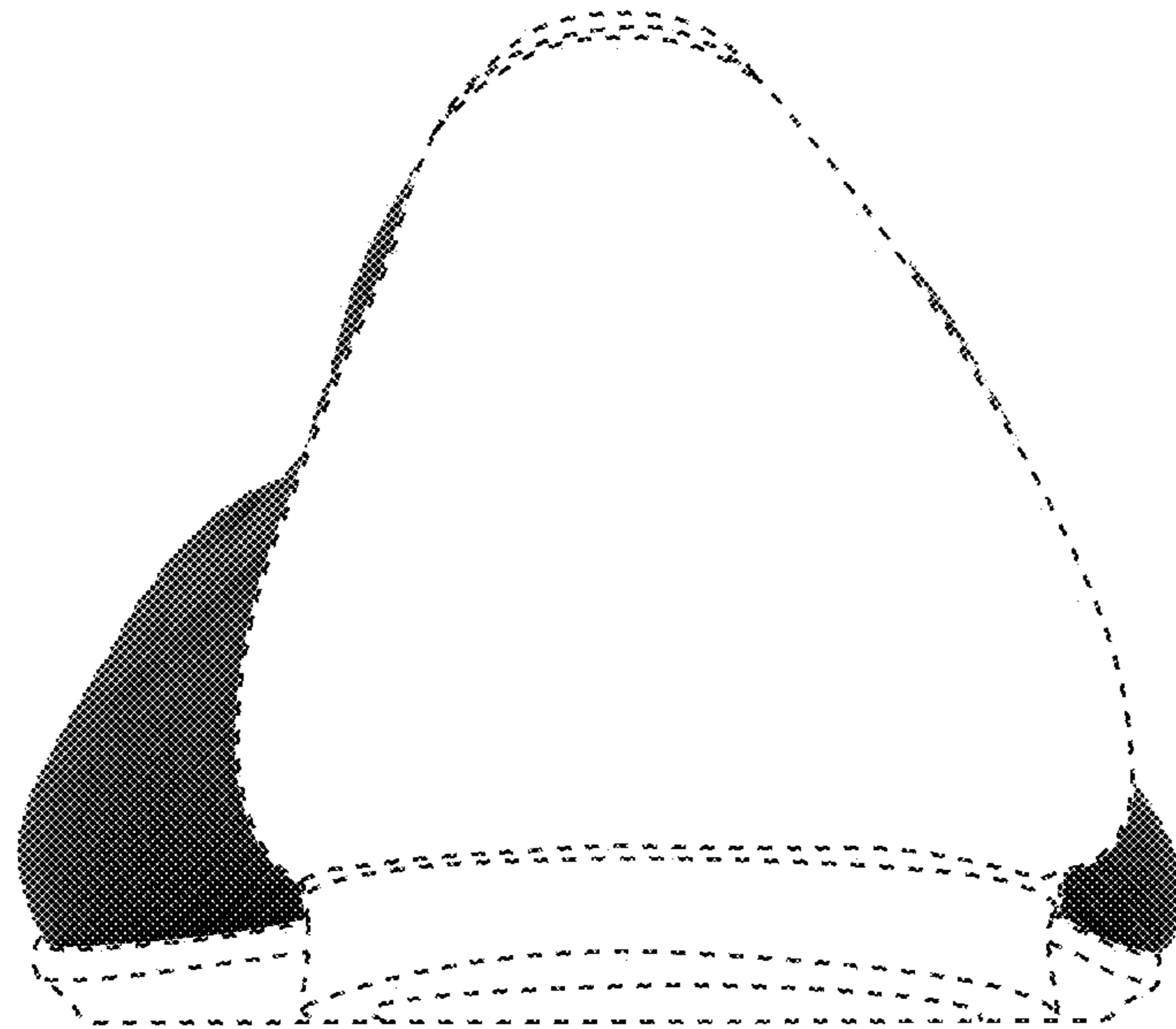


FIG. 3

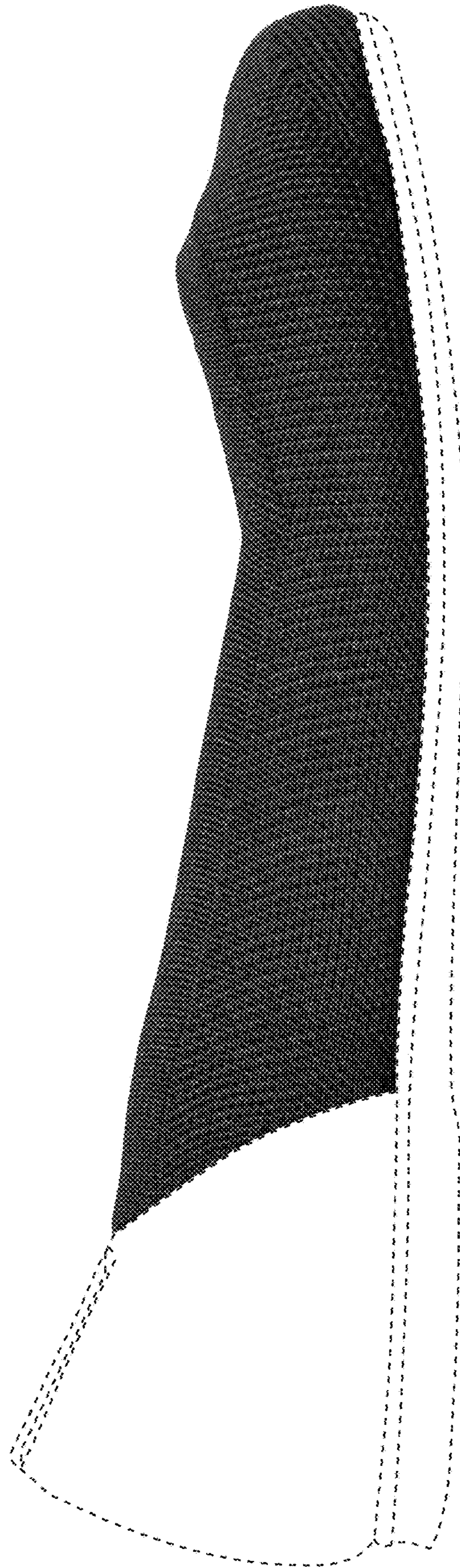


FIG. 4

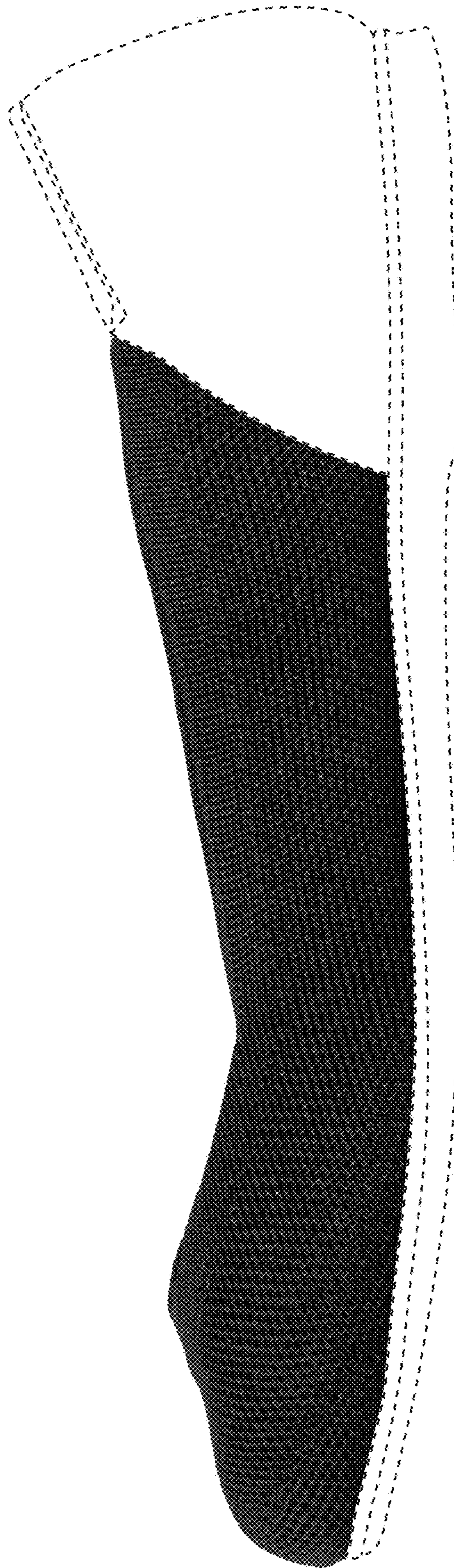


FIG. 5

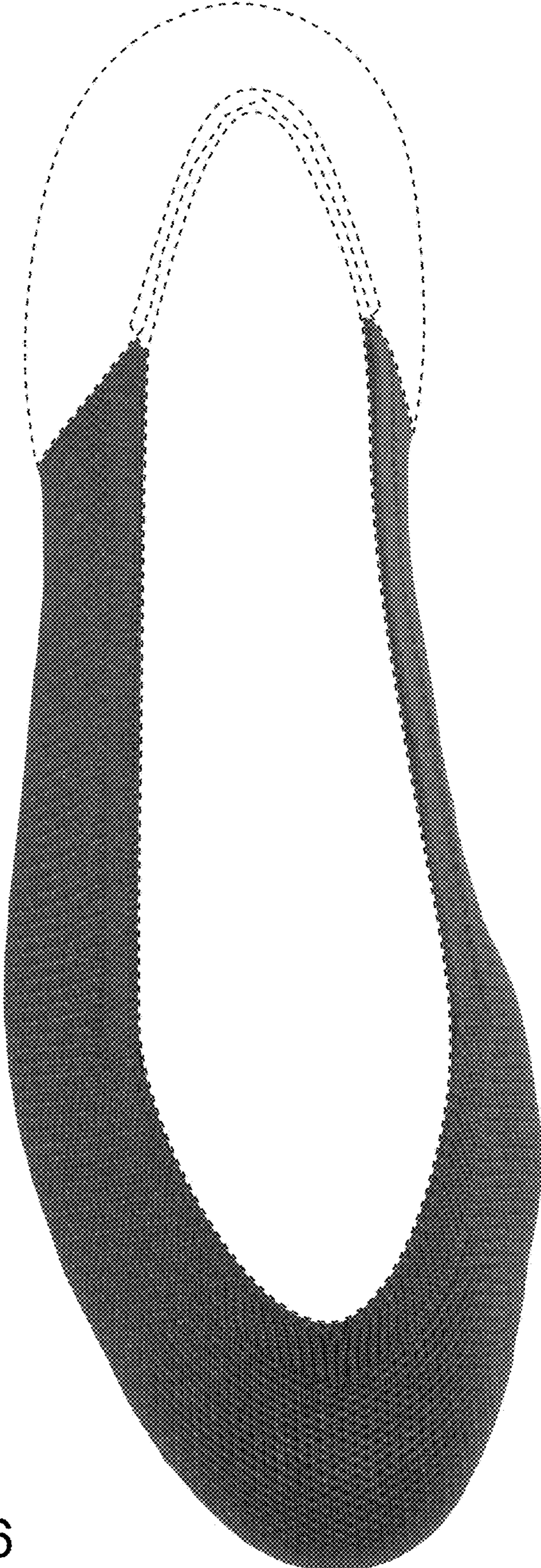


FIG. 6

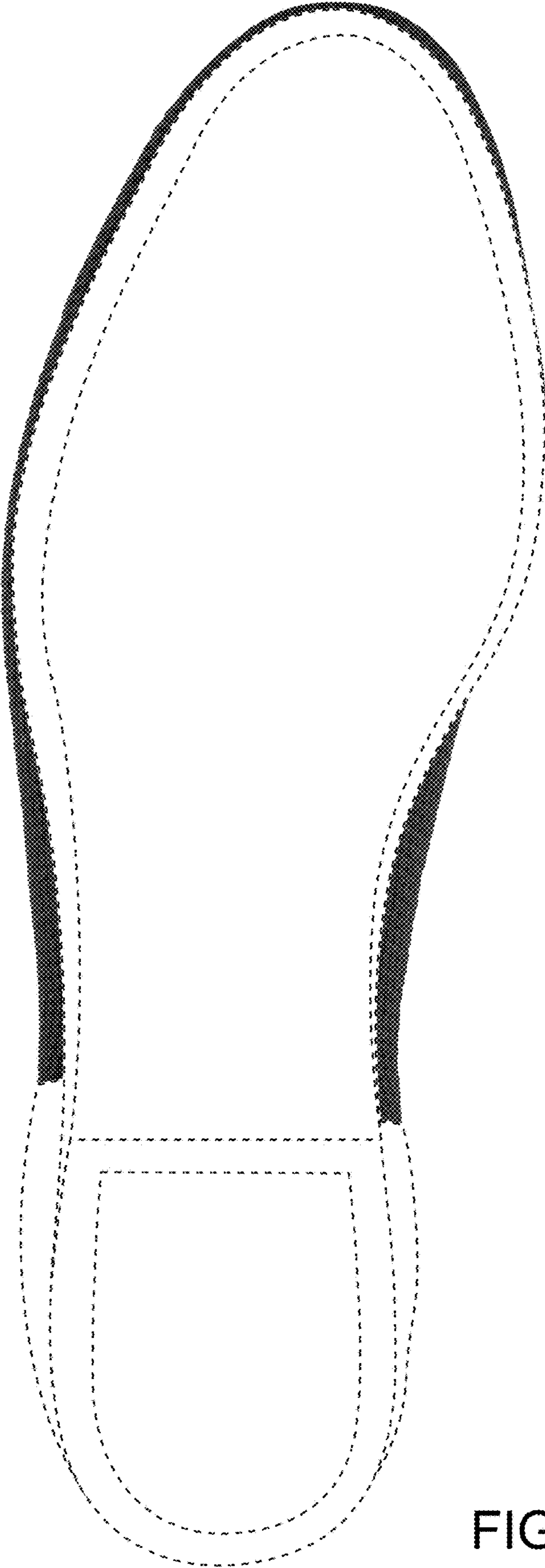


FIG. 7