



US00D969306S

(12) **United States Design Patent** (10) **Patent No.:** **US D969,306 S**
Bornholdt et al. (45) **Date of Patent:** **** Nov. 8, 2022**

(54) **CUSHION ASSEMBLY FOR BREATHING MASK ASSEMBLY**

FOREIGN PATENT DOCUMENTS

(71) Applicant: **Fisher & Paykel Healthcare Limited,**
Auckland (NZ)

AU 744593 2/2002
AU 2003246441 12/2003
(Continued)

(72) Inventors: **Melissa Catherine Bornholdt,**
Auckland (NZ); **Max Leon Betteridge,**
Auckland (NZ); **Hamish Joshua Rose,**
Auckland (NZ); **Tony William Spear,**
Auckland (NZ)

OTHER PUBLICATIONS

U.S. Appl. No. 60/842,741, filed Sep. 7, 2006, Ho et al.
(Continued)

(73) Assignee: **Fisher & Paykel Healthcare Limited,**
Auckland (NZ)

Primary Examiner — Mary Shannon Malley
Assistant Examiner — Lee D. Starr
(74) *Attorney, Agent, or Firm* — Knobbe, Martens, Olson
and Bear, LLP

(**) Term: **15 Years**

(21) Appl. No.: **29/670,347**

(22) Filed: **Nov. 15, 2018**

(57) **CLAIM**

Related U.S. Application Data

The ornamental design for a cushion assembly for breathing mask assembly, as shown and described.

(63) Continuation of application No. 29/653,066, filed on Jun. 12, 2018, now Pat. No. Des. 837,973, which is a
(Continued)

(51) **LOC (13) Cl.** **29-02**

(52) **U.S. Cl.**
USPC **D24/110.4**

(58) **Field of Classification Search**
USPC D24/110, 110.1–110.4, 110.6, 127;
D29/108, 122; D32/21–24, 31–33
CPC A61M 16/06; A61M 16/0605; A61M
16/0616; A61M 16/0622; A61M 16/0633;
A61M 16/0644; A61M 16/0666; A61M
16/0672; A61M 16/0683

See application file for complete search history.

DESCRIPTION

FIG. 1 is a front, top, and side perspective view of a cushion assembly for breathing mask assembly embodying our new design;
FIG. 2 is a rear, top, and side perspective view thereof;
FIG. 3 is a front view thereof;
FIG. 4 is a rear view thereof;
FIG. 5 is a first side view thereof;
FIG. 6 is a second side view thereof;
FIG. 7 is a top view thereof;
FIG. 8 is a bottom view thereof; and,
FIG. 9 is a cross-sectional view taken along line 9-9 of FIG. 3.

Broken lines are used to illustrate portions of the cushion assembly for breathing mask assembly that form no part of the claimed design.

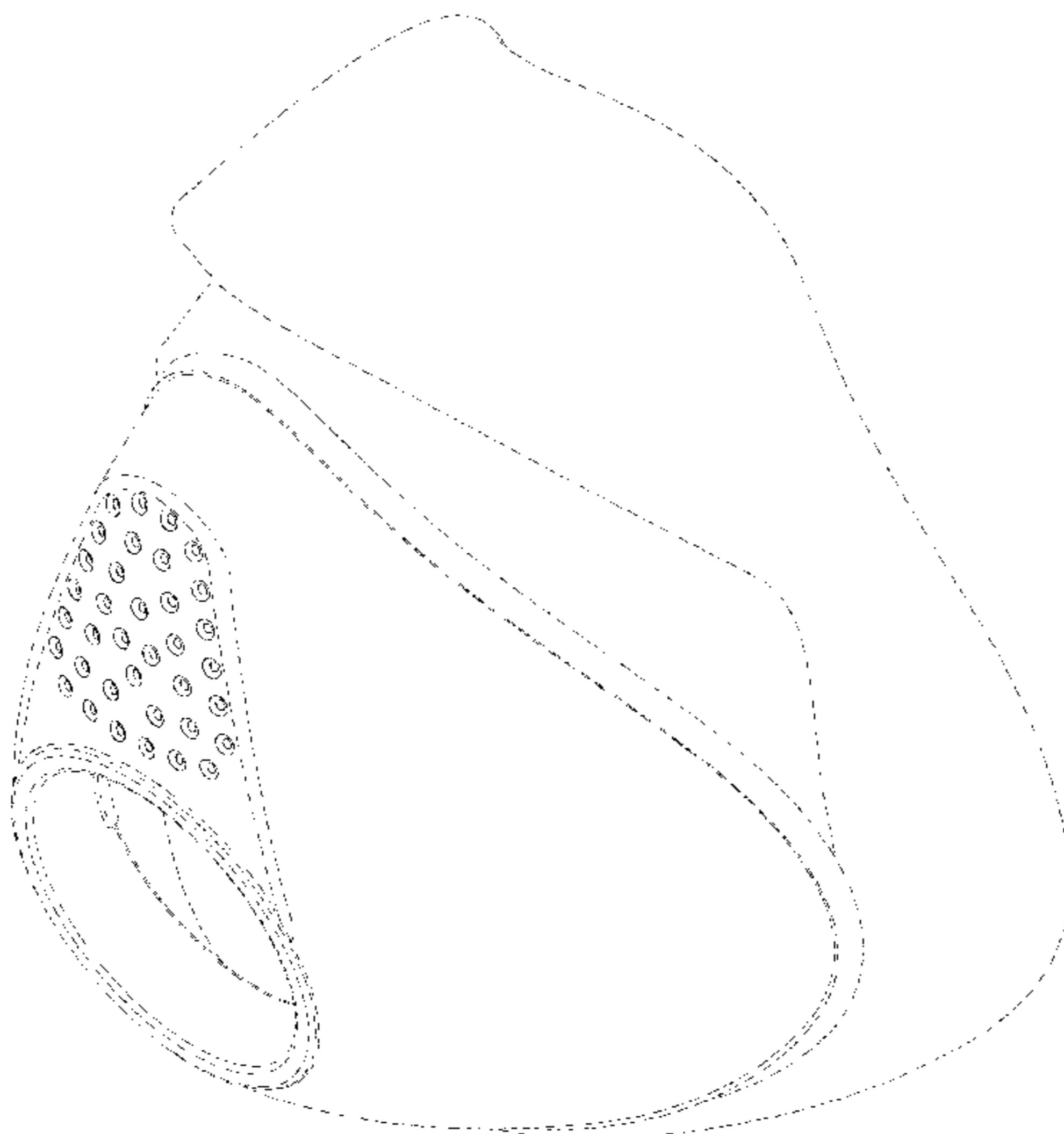
(56) **References Cited**

U.S. PATENT DOCUMENTS

301,111 A 7/1884 Genese
443,191 A 12/1890 Iling

(Continued)

1 Claim, 9 Drawing Sheets



(56)

References Cited

FOREIGN PATENT DOCUMENTS

WO	WO 2014/020468	2/2014
WO	WO 2014/020481	2/2014
WO	WO 2014/045245	3/2014
WO	WO 2014/110622	7/2014
WO	WO 2014/141029	9/2014
WO	WO 2014/165906	10/2014
WO	WO 2014/175753	10/2014
WO	WO 2014/181214	11/2014
WO	WO 2014/183167	11/2014
WO	WO 2015/006826	1/2015
WO	WO 2015/022629	2/2015
WO	WO 15/033287	3/2015
WO	WO 2015/057087	4/2015
WO	WO 2015/068067	5/2015
WO	WO 2015/092621	6/2015
WO	WO 2015/161345	10/2015
WO	WO 16/000040	1/2016
WO	WO 2016/009393	1/2016
WO	WO 2016/032343	3/2016
WO	WO 2016/033857	3/2016
WO	WO 2016/041008	3/2016
WO	WO 2016/041019	3/2016
WO	WO 2016/075658	5/2016
WO	WO 17/049356	3/2017
WO	WO 17/049357	3/2017

OTHER PUBLICATIONS

- U.S. Appl. No. 61/064,406, filed Mar. 4, 2008, Wehbeh.
- U.S. Appl. No. 61/071,893, filed May 23, 2008, Wehbeh et al.
- U.S. Appl. No. 61/136,617, filed Feb. 23, 2009, Wehbeh et al.
- Aug. 13, 2012, International Search Report And Written Opinion for Application No. PCT/IB2012/000858 filed Apr. 13, 2012.
- Australian Examination Report in patent application No. 2010241390, dated Jan. 9, 2015, 4 pages.
- Australian Examination Report in patent application No. 2010241390, dated Sep. 28, 2016, 4 pages.
- Australian Examination Report in patent application No. 2010246985, dated Mar. 4, 2014, 5 pages.
- Australian Examination Report in patent application No. 2015202814, dated Aug. 14, 2015, 8 pages.
- Australian Examination Report in patent application No. 2016202799, dated May 31, 2016, 2 pages.
- Australian examination report in patent application No. 2016202801, dated Jun. 20, 2016, 2 pages.
- Australian Examination Report in patent application No. 2016204384, dated Aug. 5, 2016, 2 pages.
- Australian examination report in patent application No. 2017200991, dated Oct. 13, 2017, 3 pages.
- Australian examination report in patent application No. 2017201021, dated Apr. 7, 2017, 6 pages.
- Canadian Examination Report in patent application No. 2655839, dated Oct. 4, 2013, 2 pages.
- Canadian Examination Report in patent application No. 2780310, dated Jul. 26, 2016, 4 pages.
- Canadian Examination Report in patent application No. 2890556, dated Jan. 27, 2016, 3 pages.
- Canadian Examination Report in patent application No. 2890556, dated Nov. 28, 2016, 4 pages.
- Canadian Examination Report in patent application No. 2918167, dated Oct. 3, 2016, 4 pages.
- Chinese Examination Report in patent application No. 2007800266164, 5 pages.
- Chinese Examination Report in patent application No. 201080028029, 0, dated Mar. 27, 2014, 16 pages.
- Chinese Examination Report in patent application No. 201080028029, 0, dated Sep. 14, 2015, 3 pages.
- Chinese Examination Report in patent application No. 201080061122, 1, dated Jul. 17, 2015, 10 pages.
- Chinese Examination Report in patent application No. 201080061122, 1, dated Sep. 3, 2014, 9 pages.
- Chinese First Office Action in patent application No. 201210080441, 8, dated Mar. 24, 2014, 5 pages.
- Chinese Office Action in patent application No. 201610116121.1, dated Sep. 28, 2017, 5 pages.
- Chinese Second Office Action in patent application No. 201080028029, 0, dated Jan. 19, 2015, 16 pages.
- Chinese Third Office Action in patent application No. 201080061122, 1, dated Apr. 1, 2016, 5 pages.
- Decision Denying Institution of Inter Partes Review of U.S. Pat. No. 8,443,807 Pursuant to 37 C.F.R. § 42.108, IPR2016-01726, entered Mar. 6, 2017.
- Decision Denying Institution of Inter Partes Review of U.S. Pat. No. 8,443,807 Pursuant to 37 C.F.R. § 42.108, IPR2016-01734, entered Mar. 13, 2017.
- Decision Denying Institution of Inter Partes Review of U.S. Pat. No. 8,479,741 Pursuant to 37 C.F.R. § 42.108, IPR2016-01714, entered Mar. 10, 2017.
- Decision Denying Institution of Inter Partes Review of U.S. Pat. No. 8,479,741 Pursuant to 37 C.F.R. § 42.108, IPR2016-01718, entered Mar. 13, 2017.
- Declaration of Dr. John Izuchukwu, Ph.D., P.E., U.S. Pat. No. 8,443,807, IPR Nos. 2016-1726 & 2016-1734, dated Sep. 7, 2016, 232 pages.
- Declaration of Dr. John Izuchukwu, Ph.D., P.E., U.S. Pat. No. 8,479,741, IPR Nos. 2016-1714 & 2016-1718, dated Sep. 7, 2016, 155 pages.
- European Examination Report in patent application No. 07808683, 2, dated Jul. 8, 2015, 8 pages.
- European Examination Report in patent application No. 09746823, 5, dated Apr. 3, 2017, 2 pages.
- European Extended Search Report in patent application No. 10774623, 2, dated Sep. 8, 2015, 7 pages.
- European Extended Search Report in patent application No. 10830251, 4, dated Sep. 4, 2015, 7 pages.
- European Extended Search Report in patent application No. 17179765, 7, dated Dec. 11, 2017, 8 pages.
- European Extended Search Report, Application No. 09819444.2, dated Apr. 2, 2014, 8 pages.
- European Patent Office, PCT/IB/2015/055412, Search Report and Written Opinion, dated Jan. 26, 2018, in 12 pages.
- European Search Report and Written Opinion in patent application No. 09746823.5, dated May 12, 2016, 11 pages.
- European Search Report in patent application No. 11830981.4, dated Aug. 24, 2015, 6 pages.
- European Summons to Attend Oral Proceedings and Written Opinion in patent application No. 09746823.5, dated Dec. 13, 2017, 7 pages.
- Extended European Search Report for Patent Application No. EP12770681.0, dated Oct. 15, 2014, 6 pages.
- File History of U.S. Pat. No. 8,443,807 to McAuley et al., published Jan. 7, 2010.
- File History of U.S. Pat. No. 8,479,741 to McAuley et al., published Oct. 1, 2009.
- Fisher & Paykel Healthcare Limited, Simplus Full Face Mask, 185048005 REVA, 2012.
- Great Britain Combined Search and Examination Report in patent application No. GB1406401.8, dated May 7, 2014, 4 pages.
- Great Britain Combined Search and Examination Report in patent application No. GB1406402.6, dated May 7, 2014, 6 pages.
- Great Britain Examination Report in patent application No. GB1119385.1, dated May 9, 2013, 4 pages.
- Great Britain Search and Examination Report, in patent application No. GB1210075.6, dated Mar. 14, 2013, 2 pages.
- Indian Office Action in Patent Application No. 5250/KOLNP/2008, dated May 23, 2017, 8 pages.
- International Preliminary Report on Patentability (IPRP), International application No. PCT/NZ2009/000219, dated Apr. 12, 2011, 9 pages.
- International Preliminary Report on Patentability and Written Opinion of the ISA, International application No. PCT/NZ2010/000229, dated May 22, 2012, 14 pages.

(56)

References Cited

OTHER PUBLICATIONS

International Search Report for Application No. PCT/NZ2005/000062—dated May 27, 2005.

International Search Report for International application No. PCT/NZ2007/000185, dated Oct. 31, 2007, in 3 pages.

International Search Report for International application No. PCT/NZ2014/000021, filed Feb. 21, 2014, 10 pages.

International Search Report for PCT/IB2016/054365, dated Feb. 2, 2017 in 8 pages.

International Search Report, Application No. PCT/IB2016/051212, dated Jun. 8, 2016, in 10 pages.

International Search Report, Application No. PCT/IB2016/054365, dated Oct. 5, 2016, in 7 pages.

International Search Report, Application No. PCT/IB2016/054539; 6 pages; dated Dec. 6, 2016.

International Search Report, application No. PCT/NZ2013/000138, dated Nov. 1, 2013, 5 pages.

International Search Report, International application No. PCT/NZ2009/000219, dated Feb. 2, 2010, 3 pages.

International Search Report, PCT/IB2015/055412, dated Oct. 12, 2015 in 6 pages.

International Search Report, PCT/NZ2009/000072, dated Jul. 28, 2009, 4 pages.

International Search Report, PCT/NZ2010/000229, dated Mar. 18, 2011, 8 pages.

International Search Report, PCT/NZ2011/000211, dated Feb. 17, 2012, 4 pages.

International Search Report, PCT/NZ2015/050119, dated Nov. 20, 2015 in 6 pages.

International Search Report; PCT/IB2012/000858; dated Jul. 30, 2012; 7 pages.

International Search Report; PCT/NZ2012/000199; dated Jan. 21, 2013; 4 pages.

Japanese Examination Report in patent application No. 2012-510418, dated Feb. 10, 2014, 4 pages.

Japanese Examination Report in patent application No. 2012-538784, dated Aug. 25, 2014, 3 pages.

Japanese Examination Report in patent application No. 2012-538784, dated Aug. 5, 2015, 8 pages.

Japanese Examination Report in patent application No. 2012-538784, dated Jul. 25, 2016, 2 pages.

Japanese Examination Report in patent application No. 2015-098324, dated Jul. 22, 2015, 8 pages.

Malloy, Robert A., Plastic Part Design for Injection Molding: An Introduction, pp. 336-345 (Hanser Gardner Publications, Inc. 1994).

Patent Owner Preliminary Response to Petition for Inter Partes Review of U.S. Pat. No. 8,443,807, IPR2016-01726, filed Dec. 13, 2016.

Patent Owner Preliminary Response to Petition for Inter Partes Review of U.S. Pat. No. 8,443,807, IPR2016-01734, filed Dec. 22, 2016.

Patent Owner Preliminary Response to Petition for Inter Partes Review of U.S. Pat. No. 8,479,741, IPR2016-01714, filed Dec. 14, 2016.

Patent Owner Preliminary Response to Petition for Inter Partes Review of U.S. Pat. No. 8,479,741, IPR2016-01718, filed Dec. 16, 2016.

Patent Owner's Complaint for *Fisher & Paykel Healthcare Ltd. v. ResMed Corp.*, Case No. 2:16-cv-06099-R-AJW (C.D. Cal.), dated Aug. 15, 2016.

Patent Owner's Complaint for *Fisher & Paykel Healthcare Ltd. v. ResMed Corp.*, Case No. 3:16-cv-02068-GPC-WVG (S.D. Cal.), dated Aug. 16, 2016.

Patent Owner's Notice of Voluntary Dismissal Without Prejudice for *Fisher & Paykel Healthcare Ltd. v. ResMed Corp.*, Case No. 2:16-cv-06099-R-AJW (C.D. Cal.), dated Aug. 16, 2016.

Petition for Inter Partes Review of U.S. Pat. No. 8,443,807 Pursuant to 35 U.S.C. §§ 311-19, 37 C.F.R. § 42, IPR2016-01726, dated Sep. 7, 2016.

Petition for Inter Partes Review of U.S. Pat. No. 8,443,807 Pursuant to 35 U.S.C. §§ 311-19, 37 C.F.R. § 42, IPR2016-01734, dated Sep. 7, 2016.

Petition for Inter Partes Review of U.S. Pat. No. 8,479,741 Pursuant to 35 U.S.C. §§ 311-19, 37 C.F.R. § 42, IPR2016-01714, dated Sep. 7, 2016.

Petition for Inter Partes Review of U.S. Pat. No. 8,479,741 Pursuant to 35 U.S.C. §§ 311-19, 37 C.F.R. § 42, IPR2016-01718, dated Sep. 7, 2016.

Petitioners' Complaint for *ResMed Inc., et al. v. Fisher & Paykel Healthcare Corp. Ltd., et al.*, Case No. 3:16-cv-02072-JAH-MDD (S.D. Cal.), dated Aug. 16, 2016.

Petitioners' Notice of Voluntary Dismissal Without Prejudice for *ResMed Inc., et al. v. Fisher & Paykel Healthcare Corp. Ltd., et al.*, Case No. 3:16-cv-02072-JAH-MDD (S.D. Cal.) , dated Aug. 18, 2016.

Second Chinese Office Action for Chinese Patent Application No. 201210080441.8, dated Dec. 1, 2014, 11 pages (with English translation).

Statutory Declaration made by Alistair Edwin McAuley, Apr. 9, 2015, in the matter of an Opposition by Fisher & Paykel Healthcare Limited of Australian patent application 2009221630 in the name of ResMed Limited.

Written Opinion of the International Searching Authority, PCT/NZ2013/000139, dated Nov. 1, 2013, 5 pages.

Written Opinion of the International Searching Authority; PCT/NZ2012/000199; dated Jan. 21, 2013; 4 pages.

Written Opinion of the ISA; PCT/IB2012/000858, dated Jul. 30, 2012; 7 pages.

Written Opinion, PCT/NZ2011/000211, dated Feb. 17, 2012, 7 pages.

* cited by examiner

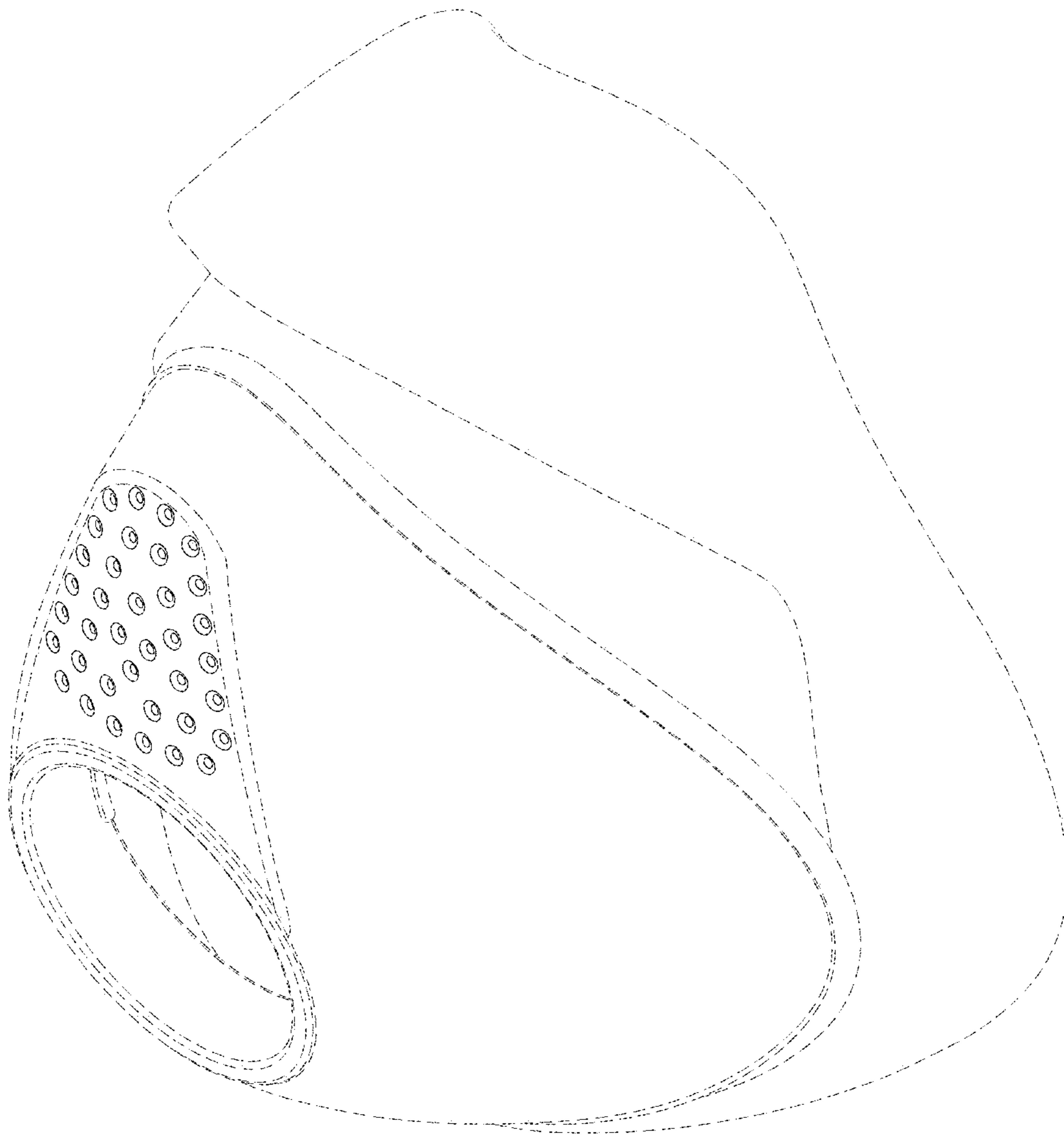


FIG. 1



FIG. 2

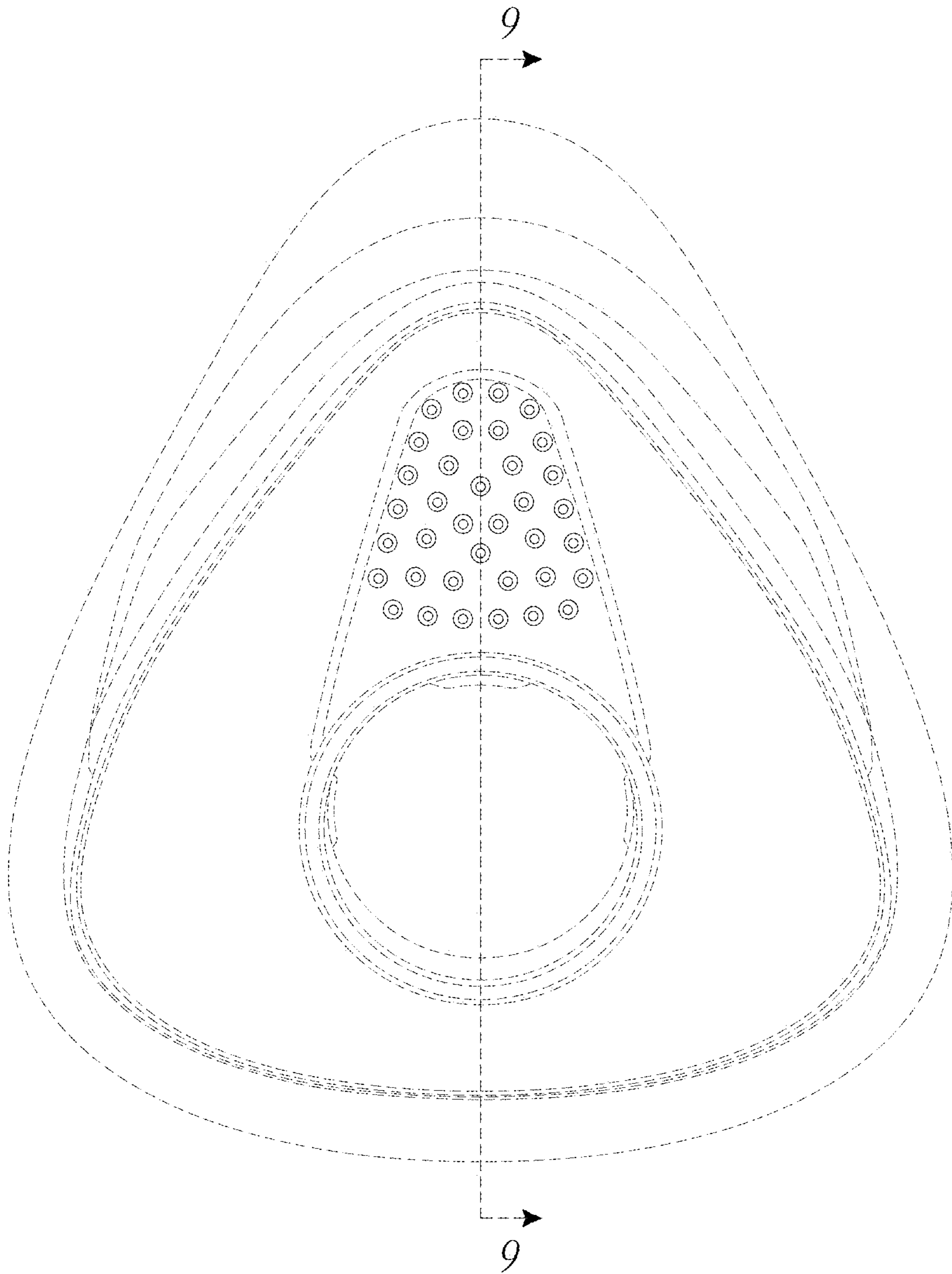


FIG. 3

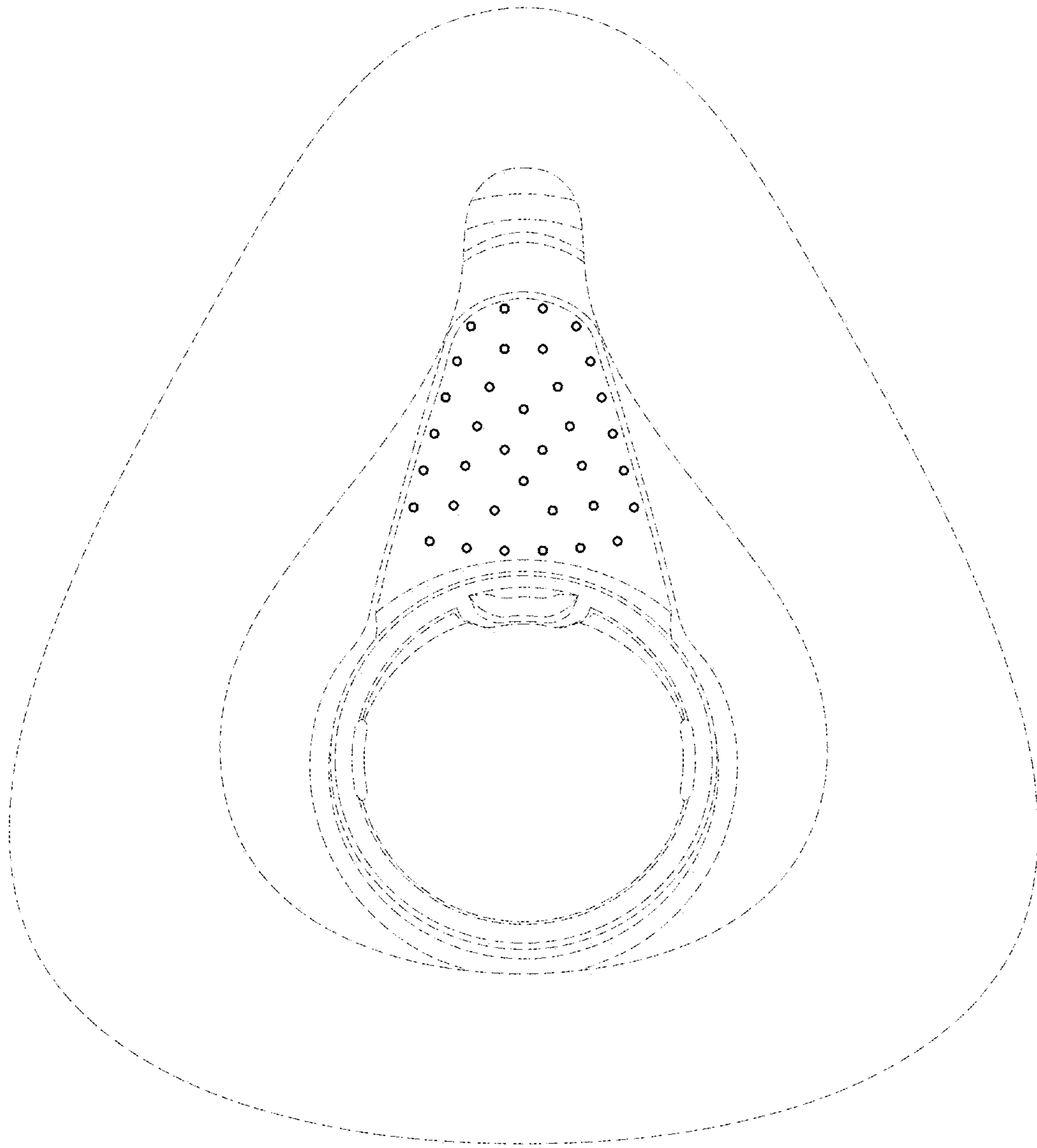


FIG. 4

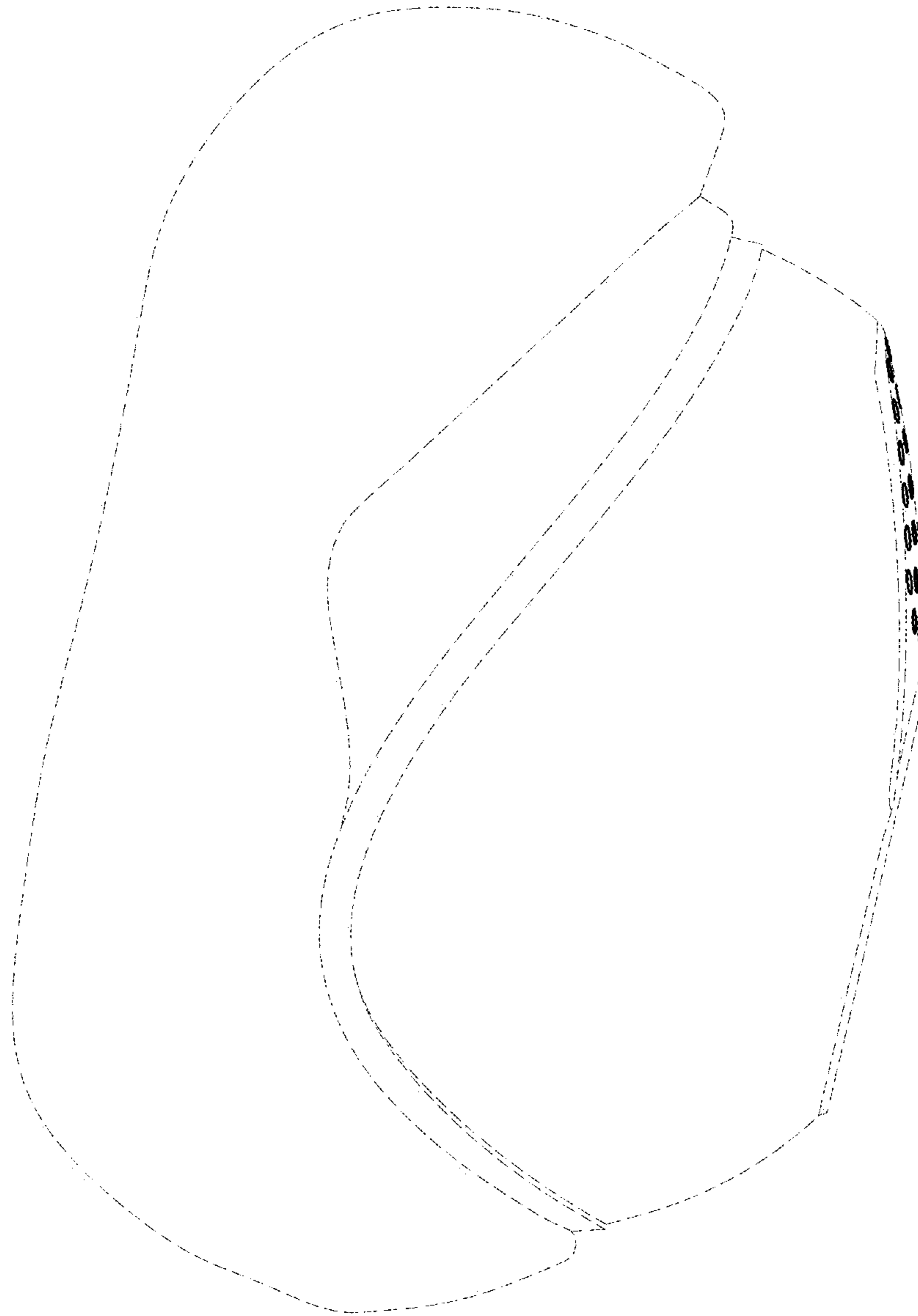


FIG. 5

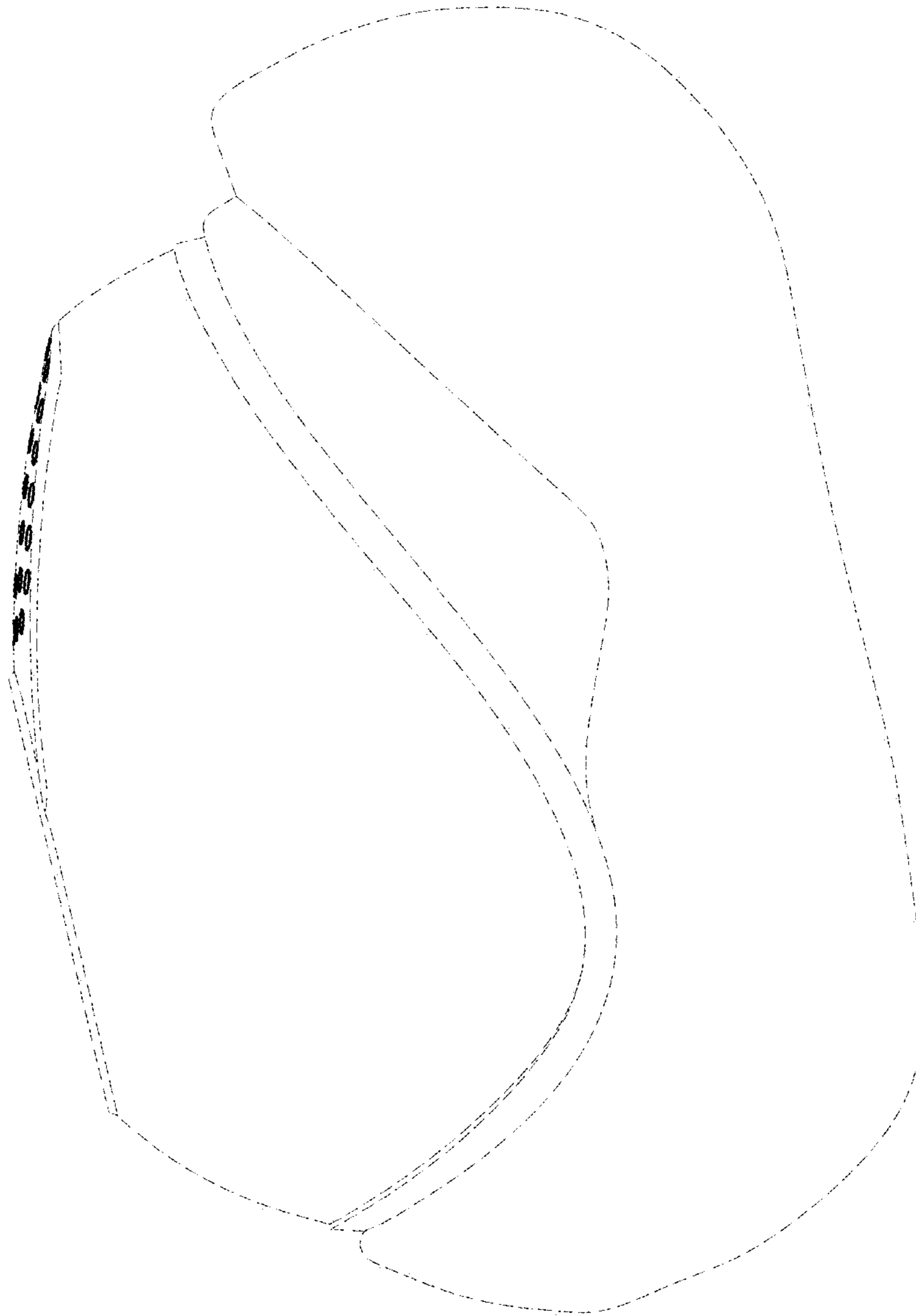


FIG. 6

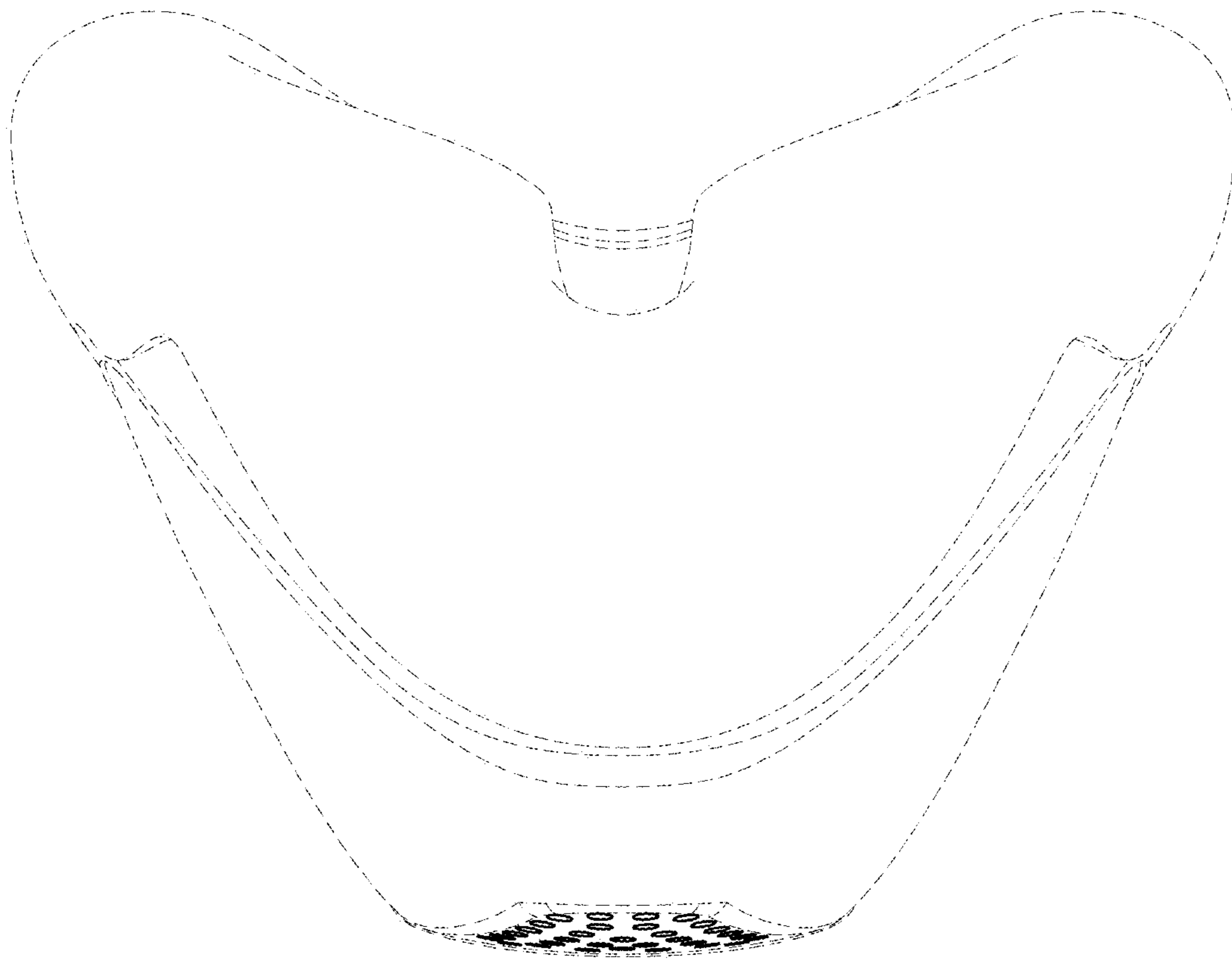


FIG. 7

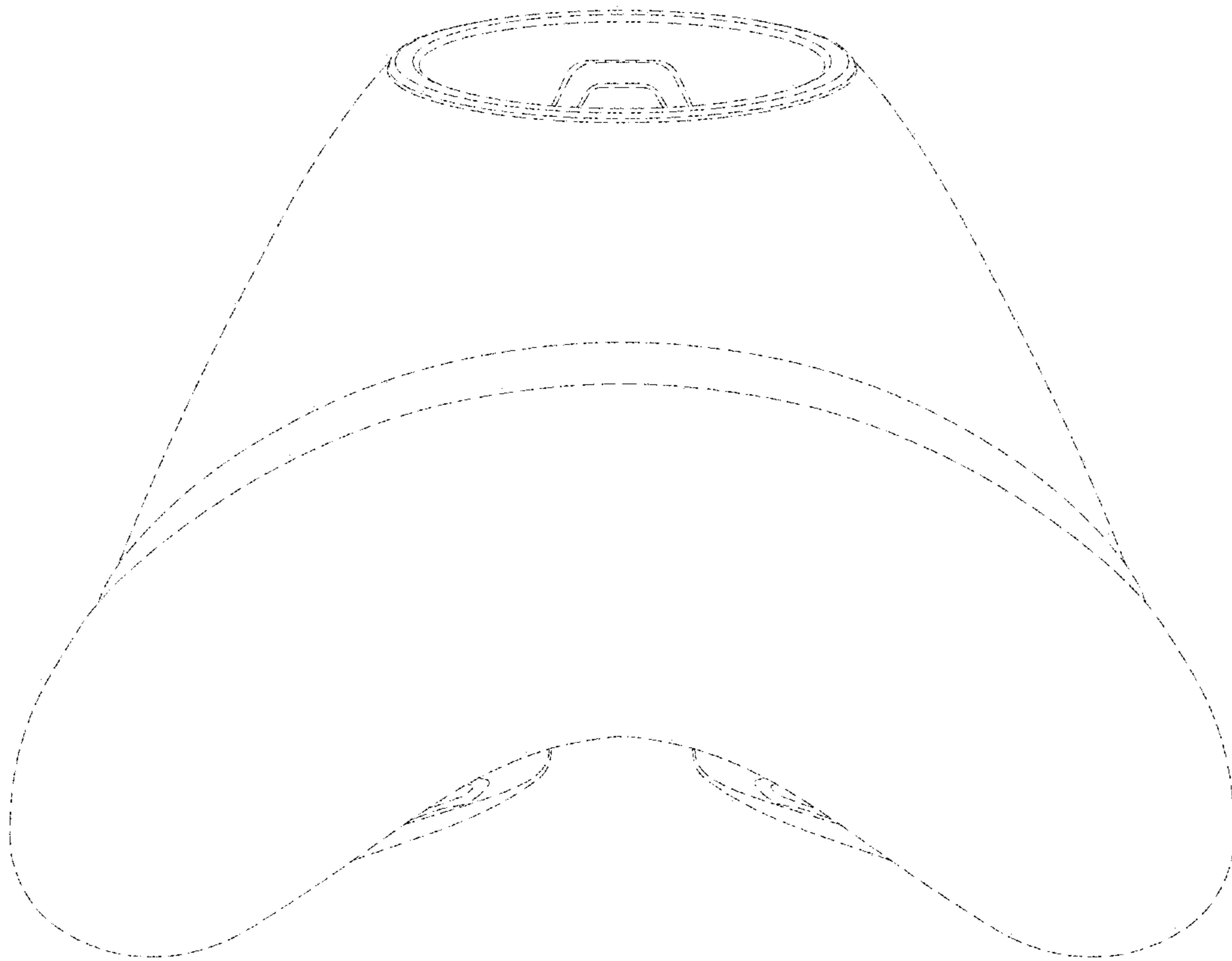


FIG. 8

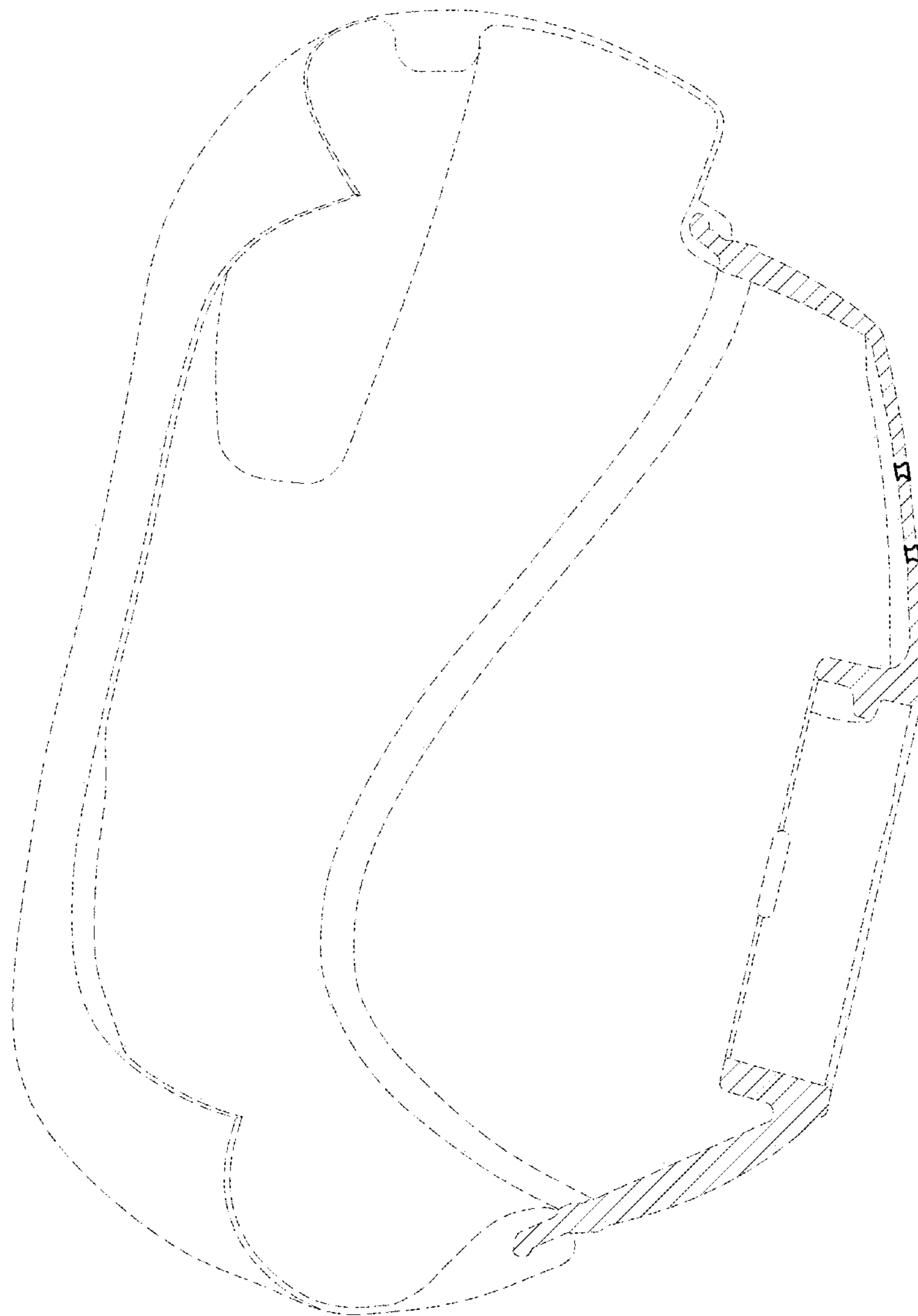


FIG. 9