

Expert Report and Declaration of Rosemary W. Wright

Background & Qualifications

I am a consultant in footwear design and the owner of Antoinette Designs an international design consultancy studio. I have worked in the Shoe Industry in various capacities for over 40 years and currently own a footwear design consultancy business which I founded in 1973. My father and grandfather worked in the industry before me and as a result my family's involvement in the industry spans 90 years. I effectively grew up with the shoe industry around me, knowing many of the people in the trade and being involved in my father's business at a very young age being trained in certain skills even whilst at school age. Through my work and my family's work I have amassed a large collection of footwear and allied trade related paraphernalia including amongst other things catalogues, books, magazines, photographs, pullovers, prototypes, lasts, components and materials from around the world including technical processes such as embossing. Also including high frequency welding, the production and fancy treatments of leather and synthetic materials. As far as I know I own one of the largest collections of private reference data on footwear design, materials, technical embellishments, trims, components and constructions in the World. I graduated in 1960 from Leicester Polytechnic (now know as De Montfort University) with a graduate of the British Boot and Shoe Institute (equivalent to an industrial degree) in pattern cutting/design, science of materials, shoe

technology and management. Later I also obtained by examination the Associateship of the British Boot & Shoe Institute.

During and following my training I worked for my father's design consultancy and pattern making company. As part of my training I was sent to other footwear firms to learn different aspects of shoemaking. During training I worked for Nu Stylo Footwear Co Ltd and Airbourne Shoes Ltd. After training I worked for Portland Shoes Ltd, Leicester and Finn Shoes Ltd as Senior Designer.

In 1973 I founded Antoinette Designs, an international footwear design consultancy which expanded over the years eventually employing 5 designers and 2 technicians. The consultancy specialised in designing and inventing new constructions, designing shoe ranges for all genders and styles. In addition we specialised in Brand creation and were often called to prepare concise drawings and photographs of shoes exhibited at shoe fairs around the world, As a result my employees and I regularly travelled the world to countries such as India, Hong Kong, Taiwan, USA, Italy, France, Germany, Netherlands and UK seeking information to fulfil our design remits. At this time I also developed a shoe accessories business making shoe trims and shoe bows, employing at one stage over 30 outworkers.

My own expertise is in fashion forecasting, design, colour predictions, material treatments including high frequency weld and embossing, pattern cutting, sole unit, last and heel designing (with technical drawings), pattern making and supervising tooling up to production, factory problem solving, making pullovers and prototypes. Creating and inventing new constructions and categories of footwear, coverage in photographic and drawing form shoe fairs and shops in Europe & USA. Marketing to ensure commercial identity with point of sales Artwork and logos etc including inventing commercial names.

I have experience in lecturing BA and MA degree courses in footwear design 1979-1982 and also, in 1982, as outside assessor for the BA degree in footwear design.

My expertise covers most constructions including stuck-on or cement lasted, welted, string lasted, turn shoes, force lasted, side stitched, Californian , slip lasted, injection moulded, vulcanised, veldtshoen and moccasins. I am experienced in all genders of footwear from the first size baby's through to Men's hiking boots and all types of footwear including fashion, sports, formal, sandals, boots, moccasins, slippers, hiking boots, trekking, football, golf shoes, horse riding, snow boarding, injection moulded jellies, Wellington boots and climbing footwear.

As part of my consultancy work I regularly travelled to trade fairs and fashion capitals throughout Europe and USA to review the latest trends and shoe designs in the market place. My employees regularly visited exhibitions/trade fairs and shops in Germany, France, Italy, Holland, UK and USA to photograph and draw as necessary.

In 1996 I was one of the founder members of Fashion Trends Incorporated, a design /information/colour consultancy business to service the USA shoe industry and I held the post of Vice President. FTI is now part of Antoinette Designs and the USA business is serviced through the UK.

During my career I have been an Associate of the BBSI, an Associate of the Clothing & Textile Institute and winner of several prestigious design competition awards including Winner of 1961 “Footwear” Design Competition, Winner of the British Footwear Manufacturer’s Federation Design competition 1961. Winner of the Malden Mills Apex Award for Excellence in Design and the use of Polar Tec fabrics 1st Annual World-Wide Award 1998 – USA.

Originator of numerous patents in both UK and the USA including Doc Marten’s Open Airwair welted sandals. (see Assignment letter-soles), JIBS Polar Tec draw string clog by Columbia Footwear Corp, USA, POD Ltd – Point

of Deflection System. Approved footwear design consultant with the Design Council, London. Skechers of California patents.

Most of the business undertaken by my company Antoinette Designs has been by yearly renewable contracts and below are some of the Companies we have had contracts with:

Columbia Footwear, USA, Penn Footwear, USA, Stride Rite Corporation, USA, Herbst Corporation, USA, Lyle Richards International, USA, R. G. Barry Corp, USA, Skechers USA Inc. USA, Finn Shoes Ltd., Fairystep Shoes Ltd., Dunncliffe Brothers Ltd., Baby Deer Ltd., Chasseurs Ravel Ltd., Cosa Lieberman, Airwair Ltd., M. & F. Jinks Ltd., Alex Ross Ltd., Burlington International Ltd., G. T. Hawkins Ltd., Edge Shoes Ltd, John Wilkes Footwear Ltd., Geo Olivers Plc., B.J. Shoes Ltd., Belmont Shoes Ltd, Norris Shoes Ltd, Polly Paget Ltd., Novi Importers Ltd., Ascot International Ltd., A & M Bolton Ltd., Mobbs Miller Ltd., Original Shoe Company Ltd., Doc Marten Ltd., Grinders Ltd., Pentland Industries Ltd., Rushton Ablett Ltd., Browning Enterprises, POD Shoes Ltd. Many of these Contracts were long term.

Below are a list of Companies we worked for from time to time but were not under contract to: Brown Shoe Corp., USA, Chatterbox Shoes Ltd., Jumping Jacks Inc., USA, British Shoe Corporation, Stylo Barratt Ltd, Hush Puppies Ltd., Padders Ltd., Tesco Plc., British Home Stores, Woolworths, Dunns of

Dublin, Penny's of Dublin, Neo's USA, DB Shoes Ltd., Howard & Hallam Ltd., Adams Children's wear Mini Mode, Mothercare, Playboy USA., Morris Shoes Ltd., Rocket Dog USA., Quiksilver USA., SAKS Slippers, Progressive Safety Footwear Ltd., Loydal Agencies, R. G. Jarratt, Next Plc., L. Kelaty Ltd., T, Grocock Ltd., La Filanto, Italy, Calzaturificio Romagnola, Italy, Marks & Spencer.

Specific design projects for large UK and USA multiples, working directly with their directors and buyers has earned Antoinette Designs a highly successful reputation within the footwear industry. Part of my consultancy work involved visiting trade fairs in the fashion capitals of Europe, USA and photographing and drawing trends of footwear. During each photographic season (usually twice per year minimum), we take 3500 approx photographs of Men's, Women's and Children's shoes.

The photographs are dated by the camera and we also colour code for country, Gender, month/year and catalogued. In this way I have collected many thousands of photographs of shoes taken over the years. The records are stored in CD form and in hard copy.

Being involved over many years in the footwear and allied trades materials and technical processes including leathersgoods, luggage, handbags and clothing

materials. I am very well versed in the embossing of materials both leather and synthetic. Embossing can be of various types from an overall pre-embossed skin of leather to embossed individual motifs in selected areas and I am experienced in all of these processes including having numerous examples in my archives.

During my years as a designer I have sourced trims of all types for footwear in most categories and genders. I have specifically sourced over many years metallic trims of the “snaffle” horse bit type for Men’s, Women’s and Children’s footwear from many different metal trim manufacturers both in the UK and in Europe. As a design consultant it was part of our service that we sourced the metal trims for various manufacturers over many years. Antoinette Designs was visited by the agents and manufacturers of these metal trims at frequent intervals with their ranges and we have examples in our archives.

In the Expert Report I explained my involvement and speciality in shoe constructions which in more detail consist of the following:

- 1) Cutting the sample patterns and preparing the shoe company involved for mass production. (This was a common occurrence) and involved perfecting the pattern for fit on the last and for maximum economy of material usage. Also fitting trials on the foot. Ordering the range of sizes to be graded (proportional

enlargement and reduction) according to my instructions. Many technical considerations are involved at this stage such as group grading etc to produce economy of production tooling costs. After supervising trials I would then be involved in instigating ordering the lasts, knives, dies, markers (including those used for computer and automatic stitching, embroidery, heat embossing, high frequency welding) and components in the size range required.

This process involves an intimate knowledge of shoe making in different constructions, an extensive knowledge of materials, production machinery and equipment, best practices and every aspect of mass production of shoes.

2) I have been employed on occasions to quality control troubleshoot to eliminate factory production problems. This again requires a wide knowledge of constructions, patterns, production machinery and methods, materials and working practices. This service has been carried out in factories in several parts of the world.

3) Through my business I have produced for sole manufacturing companies the first model soles (usually made from wood or sheet wax = precision from an engineer's blue-print) which is then used as a model to produce the moulds for production soles.

4) I have been involved in designing many soles for sole manufacturers and shoe manufacturers for numerous different constructions including a sole air system for a well known company.

5) I have been involved in the design of lasts (blocks or shape on which the shoe is made) Measurements to fit the foot are of the utmost importance. Knowledge of foot fitting is vital.

6) I have been fortunate to have worked with some of the leading most advanced and innovative materials in their time for producing shoes for extreme conditions. These include Thinsulate/Polar Fleece for snow/cold conditions. (Antoinette Designs was the winner of Malden Mills Apex Award Worldwide 1998) for this category. Neoprene/Stealth Rubber for water based conditions and non-slip aquatic activities and I have worked with materials that are breathable and waterproof and many other materials which are not extreme condition orientated.

7) As a consultant I have been involved in many different factories in various parts of the world and so have observed closely many different types of setups and practices.

8) I have been employed by companies to work with their in house designers to produce new constructions/products which have been patented. A perfect example of this is the Doc Marten Open Airwair Sandal. I am named on the USA patent. (This was the first welted footbed sandal). This was sold worldwide and in large quantities in the USA for both Men's, Women's and Children's. I am named on several other important patents including the Columbia Footwear Jibs drawn string clog and patents for Skechers USA Inc, California.

Expert Witness Work

In my role as Expert Witness I meet with solicitors/ lawyers and visit barristers chambers to discuss cases. In the majority of cases the dispute is settled out of court, however I have testified at the Royal Courts of Justice – London.

The case involved was W. L. Gore and Associates v Geox Spa and the presiding Judge, The Honourable Mr Justice Floyd, took the unusual step of commenting on the expert witnesses in the case. His views on my evidence and ability as an expert witness is therefore well documented.

Other Cases Dealt with as An Expert Witness

1) Fulbright and Jaworski LLP, New York USA

Louis Vuitton v Lederer de Paris

Handbag & embossed material
Design rights

2) M. J. P. Law, UK

Steven Henson v Sunseekers International Ltd

Suitability of footwear for a particular
Aquatic occupation...Injury based

3) D.L.A. Piper LLP

i) No Ordinary Shoes Ltd v D. Jacobson and Sons Ltd
Ted Baker v Gola - Design rights

ii) D. Jacobson & Sons v Crocs Inc - Design rights

iii) Barratts Priceless Ltd v River Island Clothing Ltd –

Design rights

4) DWF LLP

City Shoes Holdings Ltd v Office Holdings Ltd - Design
rights

5) Hamlins LLP, London

i) New Look v Prada - Design rights

ii) Dior v New Look - Design rights

iii) Airbourne Footwear Kickers v New Look Retail Ltd –
Design rights

iv) Karen Millen Ltd v New Look - Design rights

v) Intermedium BV v New Look - Design rights

vi) River Island v New Look - Design rights

6) Harvey Ingram LLP

i) Rocket Dog LLC USA v Shoe Zone Ltd - Design rights

ii) Airbourne Footwear Ltd v Shoe Zone Ltd - Design rights

7) R. R. Sandhvi LLP, London

La Coste v Fila Italy - Design rights

BB (UK) v Universal Gear FZCO

8) Pitmans LLP

Prada SA v Next Retail Ltd - Design rights

9) Ashurst LLP, London

i) Crocs v Skechers USA Inc - Design rights

ii) Pentland Industries La Coste v Skechers USA Inc – Design rights

iii) Pentland Industries Kickers v Skechers USA Inc – Design rights

iv) Speedo Holdings & Airbourne Footwear v Skechers USA Inc – Trade mark

v) Pentland Industries Kickers v Skechers USA Inc – Design rights

vi) Pauline Clifford Shoe v Skechers USA Inc - Design rights

10) Skechers USA Inc

i) Diesel v Skechers USA Inc - Design rights

ii) Superga v Skechers USA Inc - Trade mark

11) Fross Zelnick Lehrman and Zissu PC, New York

Skechers USA Inc v Crocs USA - Design rights

12) D. Young and Co LLP, London

Isabella Morant Bekket Shoes v Skechers USA Inc -
Design rights

13) Lowe Graham Jones PLLC, Seattle, USA

Deckers Outdoor Corp v Tom Romeo & Romeo & Juliette
Inc., California, USA - Design rights

14) Marks & Spencer Plc

Gucci v Marks & Spencer Plc - Designs rights

RAS Kids Pom'd'api v Marks & Spencer – Design rights

15) Taylor Wessing LLP, London

Gore (Gortex) v Geox Italy - Patents

16) TLT Solicitors LLP

Jacobson and Sons Ltd v Crocs USA Inc

17) Irell and Manella LLP USA

Converse/Nike v Skechers USA Inc – Design rights

18) Boyes Turner LLP

Guccio Gucci Spa v Next Retail Ltd – Design rights

19) Lewis Silkin LLP, London

Naked Wolfe v ASOS

20) Stobbs Cambridge LLP

Rothys Inc v Gresswein Walkwaren AG

Law Firms Worked for

Ashurst LLP, London

D. Young and Co LLP, London

Taylor Wessing LLP, London

Hamkins LLP, London

DLA Piper LLP, UK

Harvey Ingram LLP, UK

Fross, Zelnick, Lehrman & Zissu PC, New York, USA

Irell and Manella LLP, USA

Skechers USA Corp, USA

Lowe Graham Jones PLC, USA

TLT Solicitors LLP, UK

R. R. Sanghvi LLP, UK

Pitmans LLP, UK

Boyes Turner LLP, UK

Marks & Spencer Plc, UK

Fulbright and Jaworski LLP, New York, USA

*Owning one of the largest privately owned shoe related archives, Antoinette Designs are very well placed to research prior art and to provide evidence for the Courts to ensure that our clients cases are as successful as possible.

Next Step Group Inc v Deckers Outdoor Corporation

Design Patent Number D927,161

Case Number 2024

Petition for Inter Parties Review

I have been requested by Goldberg Cohen LLP, 1350, Avenue of the Americas, 3rd Floor, New York, NY10019, USA on behalf of Next Step Group Inc.

Petitioner to give my unbiased and independent assessment as an expert witness in footwear, of the paperwork sent to me and specifically the obviousness and non-obviousness of design patent No. D927161 in light of the prior art.

My assessment will be based on my knowledge and experience over many years as a design consultant, owner of a design consultancy business in both the UK and USA, as a lecturer in footwear design and as a creator of several famous patents, including several in the USA.

I have seen and reviewed the petition especially V – Claim Construction V1 = applicable Legal Standards and V11 –Designer of Ordinary Skill.

I am being compensated at \$350 per hour with other daily and cancellation fees.

My compensation is not contingent on the outcome of any matter or the specifics of my testimony. I have no financial interest in the outcome of this

matter and my evidence is my totally unbiased opinion based on considerable footwear knowledge and experience.

My CV Expert Witness Statement included is with my report (above).

I have read the paperwork sent by Goldberg Cohen which is entitled:

BEFORE THE PATENT TRIAL AND APPEAL BOARD –

Next Step Group Inc – Petitioner v Deckers Outdoor Corp – Patent Owner

Design Patent No. D927,161, Case No. 2024-[To Be Assigned]

This paperwork includes sections 1 – 12 plus sub sections and list of exhibits.

Legal Standards

I am a consultant in footwear design as explained in my Background & Qualifications statement and I base my analysis on the legal guidelines provided to me as outlined below. However, the opinions expressed, and reasoning applied are those of an experienced consultant in footwear design viewing the relevant questions from the relevant perspectives (e.g., designer of ordinary skill in the art.)

It is my understanding that to be a patentable design, a design cannot be rendered obvious by previous designs (known as the “prior art”). A design cannot simply copy or imitate what already exists. I further understand that a

design patent does not cover aspects of a design that are purely “functional” rather than ornamental.

Regarding whether a design is obvious or non-obvious, I have been informed that the following legal principles apply to the analysis of patentability pursuant to 35 U.S.C. § 103, a patent law provision that reads: “A patent for a claimed invention may not be obtained, notwithstanding that the claimed invention is not identically disclosed as set forth in section 102, if the differences between the claimed invention and the prior art are such that the claimed invention as a whole would have been obvious before the effective filing date of the claimed invention to a person having ordinary skill in the art to which the claimed invention pertains. Patentability shall not be negated by the manner in which the invention was made.”

I have been told that in an Inter Partes review proceeding, patent claims may be deemed unpatentable if it is shown by a preponderance of the evidence that they were rendered obvious by one or more prior art patents or publications.

For design patents, I have been told that the ultimate question is “whether the claimed design would have been obvious to a designer of ordinary skill who designs articles of the type involved.” I have been told that the inquiry for

obviousness is from the perspective of a hypothetical ordinary designer, who designs articles of the type involved (here, footwear).

When considering the issue of obviousness, I have been informed that I am to do the following:

- Determine the scope and content of the prior art;
- Ascertain the differences between the prior art and the claims at issue;
- Resolve the level of skill of an ordinary designer; and
- Consider evidence of secondary indicia of non-obviousness (if available).

I have been informed that obviousness is a determination of law based on underlying determinations of fact. I have been told that these factual determinations include the above four categories: scope and content of the prior art, the level of skill of an ordinary designer, the differences between the claimed design and the prior art, and secondary considerations of nonobviousness.

I have been told that there is a two-step test for determining whether a claimed design is obvious. First, there must be a “primary reference”: a single reference that creates basically the same visual impression as the claimed design. In order to be basically the same, the designs cannot have substantial differences in their overall visual appearances or require major modifications. I have used the UGG Classic Mini as the primary reference here because it creates basically

the same visual impression as the '161 design. The same is true for the UGG Classic short. They would both qualify as primary references in my view.

Then, after identifying a primary reference, a secondary reference may be used to modify the primary reference to create a design that has the same overall visual appearance as the claimed design. The secondary reference must be so related to the primary reference that the appearance of certain ornamental features in one would suggest the application of those features to the other.

I have also been told that a secondary reference is sometimes not necessary, and that the modification to the primary reference can come from the skill, knowledge, and creativity of an ordinary designer. In my opinion, the '161 design is obvious over the primary references (e.g., the UGG Classic Mini) alone, or in light of the secondary references (i.e., the footwear shown in AD 001 – AD 032).

I have been told that the relevant time for considering whether a claim would have been obvious to an ordinary designer is at the time of the alleged design, which I have been told to assume was shortly before the design patent application leading to the '161 patent was filed (shortly before November 8, 2019).

Designer of Ordinary Skill

In this instance, I have been informed that the designer of ordinary skill in the art would be a person who has a bachelor's degree in design or an equivalent field or alternatively two years of practical experience designing footwear. I am informed that this level of skill for an ordinary designer is a level of skill and not rigidly defined. A combination of education and experience can lead to the same level of skill, where a deficiency in one area (such as education) can be compensated for additional experience in the other (such as more work experience). In footwear design in and around 2019 in particular, much design was done in a development team, where different individuals provide their experience and knowledge to different aspects of the design, and they may come from diverse educational backgrounds. For instance, someone without a bachelors in footwear design might be able to satisfy the level of skill if they had a little more than two years of practical design experience, including that of working on a footwear development team.

I further understand that the designer of ordinary skill is a hypothetical person that is presumed to know the relevant prior art.

My opinions on obviousness are based on this level of skill. I believe I would meet and exceed this definition now and at the time the application for the '161 patent was filed (November 8, 2019).

Claim Construction

I have been told that the scope of a design patent is defined by the solid lines in the figures, as opposed to the broken lines. I can see that the '161 patent confirms this understanding as it includes statements specifically pointing out that the broken lines in the figures are not included in the scope of the claimed design.

I have been informed that in the analysis of design patents, detailed verbal descriptions are not usually preferred. I'm told that in some instances though, it can still be helpful to point out certain features of the claimed design that would be apparent to the designer of ordinary skill or the ordinary observer as they relate to the design and the prior art.

Throughout this expert report and declaration, I rely primary on the solid lines in the figures of the '161 patent for the scope of the claimed design.

Nonetheless, because this declaration is in written form, at times I have resorted to words to describe certain features of the claimed design and the prior art.

Based on my review of the '161 patent figures, including their solid lines, I understand the claimed design to be a footwear upper.

My understanding is that the ‘161 patent claims the “ornamental design for a footwear upper, as shown and described.” ‘161 patent, claim 1. The description of the figures notes that “[t]he broken line in FIGS. 1-7 represent portions of the footwear that form no part of the claimed design.” ‘161 patent, description.

My Opinions and Comments are below:

Having read the paperwork and knowing the UGG 161, the UGG Ultra Mini and the UGG Classic Mini Boot I believe that the 161 boot is merely a lower version of UGG boots which are already in existence.

It is my view that the 161, if patented, would be an unsafe decision. My reasoning here is that there is nothing new in a design that has only a different height of leg. This is especially pertinent in the footwear industry worldwide when the practice of producing different heights on the same design, Ie high tops, mid height and low top footwear with the same design is not only very common but historic practice and accepted as such by the market. In my opinion Design Patent No. D927,161 is therefore obvious in light of the prior art and Standards provided to me which are referred to herein.

Please refer to Prior Art, AD004, AD006, AD007, AD009, AD11, AD13, AD16, AD18, AD20, AD22. Exhibit 1014.

You will note that most of these examples are from catalogues, or shoe trade journals from the USA. I have many other examples from all era's of this standard practice up to the present date and worldwide. Also refer to AD23 – AD28; all photographs taken in countries indicated on dates supplied. All of these shoes were readily available and support the claims above.

DESIGNERS / SALES EXECUTIVES

It is perfectly normal and predicted / expected practice that a normal designer will realise that by keeping the same design but by altering the height of the boot leg, more categories and uses for the same design of footwear can be created.

-- This results in increased sales. (That is one of the designers main functions to increase sales)

There are also advantages of economy because parts of the expensive tooling up. Ie: Knives, dies etc to produce the shoe / boot will be used for more than one product.

The additional categories will result in the shoe / boot being utilised for indoor wear as a slide or slipper or outside wear as a low boot or as an extreme condition use as a high leg boot.

There is even a fourth advantage in that a high leg boot can be rolled over showing the fur to facilitate fashion.

By adapting a design to have several heights whilst keeping the same look it creates several advantages:

- 1) Create other categories and uses for the design.
- 2) Economy of production.
- 3) Increased sales.
- 4) Can facilitate fashion.

This is normal predicted and expected of any designer.

Back Straps / Pull Tabs

In the paperwork I have read there seems to be a question as to the functionality or otherwise of the back strap.

Back straps or pull tabs can be functional or non functional.

The reasons for using pull tabs or back straps are:

- 1) To assist with pulling on the footwear at the back.
- 2) To hide a back seam under the pull tab.
- 3) Can be used for branding purposes.
- 4) To give a casual sporty appearance.
- 5) Tradition.

A) To assist with pulling on the boot which in the case of 161 is reasonably high at the front. This is why I believe the pull tab is functional on the 161 because it is required to ease the foot into the boot and pull the back of the boot up.

Also the UGG boot has a reinforcing tape or strengthening tape on the back of the tab on the Ultra Mini Boots in my possession. That indicates to me that the pull tab is strengthened for use and is functional. (Strengthened tape inside the suede loop) Why strengthen the loop if it is not being pulled? This is a determining and important reason in my view why it is functional.

B) Back straps / pull tabs are often used to hide back seams. The seam is for economy of material usage. This is not the case in the UGG 161 which does not appear to have a back seam. The Ultra Mini Boots in my archive certainly do not have back seams under the pull tab.

C) The pull tab is not used for branding in the UGG boot which again importantly indicates functionality. The Doc Marten boot with Airwair branding is a perfect example of a back strap used for branding. It is not required to pull the boot on to the foot.

D) To give an appearance of sporty or casual and is non functional. The UGG pull tab is so basic as to make me think that it fulfils the No 1 above reason which is functional to assist in easing the back of the boot up onto the foot, especially as the material used, Ie sheep skin is so soft and the boot is unsupported in its construction. Ie No rigidity or support to hold the boot up, for instance there is no toe puff for technical reasons.

E) It is traditional especially in men's shoes, to have a back strap or pull tab and this has been the case for most of the 20th Century up to the present date. It is normal predictable and certainly not unusual.

UGG Classic Range

Short Boot 11, Mini Boot, Ultra Mini Boot 161

General Shoe Making Comments

Having studied the UGG Classic Range including Classic Short Boot, Classic Mini Boot and Classic Ultra Mini Boot including those in my archive I felt that it may be helpful to make some general comments I have regarding the product.

Much of the look of the very successful UGG Range is the result of technical restrictions in using wool on sheep skin as the material the footwear is made of.

The look of the design is the result of the steps / actions taken to remedy or overcome / resolve technical restrictions rather than a design creative decision or plan.

- 1) The inverted closed seams which are whipped are used because unlike ordinary leather the wool on the back makes the skiving process impossible. The reason for skiving is for comfort and to eliminate bulky uncomfortable seams in the boot. Skiving is where part of the edge of the leather is cut away to reduce the thickness. This cannot be done with wool attached. This results in the use of inverted closed seams. I.e protruding outwards rather than inwards.
- 2) The skived edge on leather is rubbed down to flatten the seam -- again this not possible due to technical restrictions. That is why the inverted closed seam is whipped to improve its appearance.
- 3) The outside counter is cut from suede without the fur on the back. The boot needs a stiffener to retain the shape of the finished boot, otherwise it would concertina down when the foot went into the boot and would look unattractive and shapeless. As the boot cannot have a lining because of the wool/fur the stiffener is inserted between the outside counter and the sueded side of the sheepskin. Again the stiffener is made of a heat activated material so impossible in contact with fur. There is no rigidity in the boot except that caused by the outside counter and the stiffener inserted between the two sueded surfaces.

- 4) The upper cannot use most methods of lasting because cement lasting etc which uses adhesive is not technically possible. That is why the wide binding is above the sole and on the lasting line to finish the upper neatly and to keep the adhesive away from the fur and to give a clean bond between upper and sole.
- 5) Last Shape -- A comment claimed in the paperwork about the rounded appearance. This has a purely technical reason for this look. A leather without thick wool on the flesh side would be lasted down to the last or mould and take on the features in a precise way. It is impossible for sheepskin with wool on to do this because of the thickness of the raw material. It also has a bridging effect from the highpoint of the toe to the instep. It is unlikely that the boots are heat set which is normal in leather shoes / boots; this helps to keep the shape of the last.
- 6) A toe puff which helps to keep the shape of the toe of the last and add more rigidity and shape retention to the shoe or boot is impossible because of the fur. The sheepskin boot cannot have a toe puff because it is a process which applies by heat plus pressure a thermoplastic toe puff to the toe. This is not possible on sheepskin with the wool on the inside of the footwear.

The restrictions on the technical issues when producing footwear from wool on sheepskin is what really designs the footwear and creative design flair is restricted. That is the reason that many sheepskin boots produced certainly in

the 1930's to the present date have a similar look. Refer to AD001, AD002 and note the O'Neil catalogue from the year 2000. This catalogue came from USA.

Neumel Boot

In my opinion the Neumel Boot apart from its UGG branding and the fact of it being produced in "wool on sheepskin", the style is a totally basic standard Chuka or Desert Boot. The standard desert boot often produced in suede has been made for much of the 20th Century and is very traditional and Classic.

It often has a back strap or pull tab which is not particularly needed but is just a classic traditional and predictable look on that style.

The reason the tab pull is not a necessity is that the entry of the foot into the ankle Neumel Boot is by the front Gibson lacing which when unlaced facilitates easy entry of the foot into the boot. The reason wearers could use the pull tab is if they do not unlace the Gibson facings so restricting the entry of the foot at the front.

I believe that many examples of prior art on the Neumel Boot could be found well before the Neumel Boot was first produced by UGG.

CONCLUSION

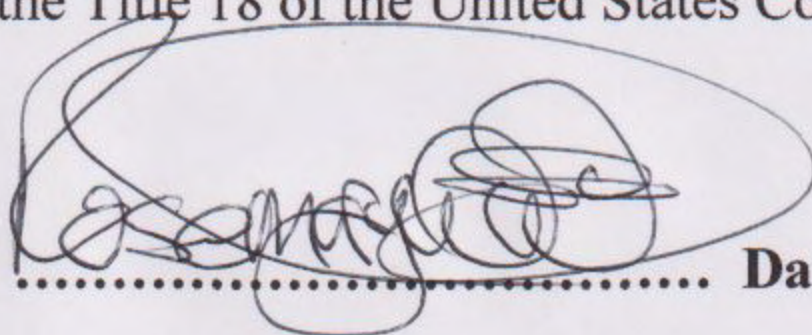
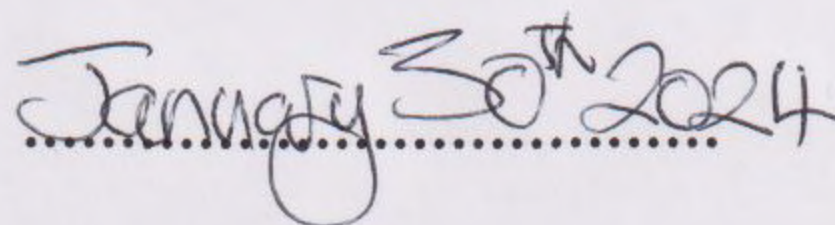
My conclusion on the D927,161 patent is that there is nothing creative or different in the product and in my view it is merely an entirely predictable step for a designer to take. It is the same as previous UGG boots but made lower in height. I also have reservations for others of the Classic Range for similar reasons. In my opinion Design Patent No. D927,161 is obvious over the prior art I have referred to herein.

Other brands of boots on the market have a similar appearance and this is often because of technical constraints in the production of footwear made from wool on sheepskin. Certainly the seams are usually inverted closed seams facing outwards. Some of the boots using lap seams are made from a thinner material with the wool on -- lambskin. This is a more expensive raw material because it is obviously smaller in size.

It is possible to use a clipped sheepskin but that again is more expensive. Some brands of boots can be made of suede leather without the wool on and separately lined in sheepskin or synthetic fur. This then allows more traditional shoe making practices and machinery, allows more creativity for the designer.

Declaration

I declare that all statements made herein of my knowledge are true, that all statements made on information and belief are believed to be true and that these statements are made with the knowledge that wilful false statements and the like so made are punishable by fine or imprisonment or both under Section 1001 of the Title 18 of the United States Code.

SignedA handwritten signature in black ink, consisting of a series of loops and flourishes, written over a dotted line.**Dated**A handwritten date in black ink, "January 30th 2024", written over a dotted line.