

EXHIBIT D'641-C

Invalidity Combinations Chart for U.S. Patent No. D1,037,641

The Asserted Claims of U.S. Patent No. D1,037,641 ("the **D'641 Patent**") are rendered invalid under 35 U.S.C. §§ 102 and/or 103 by at least the following prior art references and products (collectively referred to as "references"), whether considered alone, or in any combination thereof:

Reference	Exhibit No.
U.S. Pat. No. D301,657 ("Brown")	D641-1
U.S. Pub. No. US 2017/0273404 (" <u>Doenges</u> ").	D641-40
U.S. Pat. No. D690,091 ("Dombrow 091")	D641-2
U.S. Pat. No. D690,092 ("Dombrow 092")	D641-3
U.S. Pat. No. D496,152 ("Doxey")	D641-4
EM 003011501-0011 ("EM-Nike")	D641-5
EM 003114537-0009 ("EM-Chiemsee")	D641-6
U.S. Pat. No. D876,050 (" <u>Eugene</u> ").	D641-39
U.S. Pat. No. D796,160 ("Guichot")	D641-7
U.S. Pat. No. D841,964 ("Kaiserworth")	D641-8
U.S. Pat. No. D578,294 ("Mervar-294")	D641-9
U.S. Pat. No. D579,186 ("Mervar-186")	D641-10
U.S. Pat. No. D796,832 ("Nethongkome")	D641-11
U.S. Pat. No. D862,869 ("Simone")	D641-12
U.S. Pat. No. D404,194 ("Smith")	D641-13

Reference	Exhibit No.
U.S. Pat. No. D856,653 ("Thompson")	D641-14
U.S. Pat. No. D801,646 ("Townsend")	D641-15
U.S. Pat. No. D687,622 ("Tzenos")	D641-16
Chinese Design Patent No. 304936370 ("Wan")	D641-17
AirJordan 5 Retro	D641-18
Endure	D641-19
Gel Delva	D641-20
Gel Kayano 22 ¹	D641-21
Gel Kayano 23	D641-22
Gel Kayano Trainer Knit	D641-23
Ignite Netfit	D641-24
Kyrie 1	D641-25
Kobe 11	D641-26
Kobe Venomenon	D641-27
Launch 3	D641-28
Micro G Neo Mantis	D641-29
On Cloud Runner	D641-30

¹ References throughout to "Gel Kayano" include both of Gel Kayano 22 and Gel Kayano 23.

Reference	Exhibit No.
Speedfit Hike	D641-31
Speedfit Hike Low	D641-32
Speedform Gemini 3	D641-33
Speedform Intake	D641-34
Spine Rebel Storm	D641-35
Spine RPM	D641-36
Stretch Fit	D641-38
Vomero 5	D641-37

Each of the foregoing prior art references anticipates the D'641 Patent under 35 U.S.C. § 102, expressly and/or inherently. Additionally and/or in the alternative, to the extent Plaintiffs allege that any particular prior art reference does not expressly or inherently disclose the overall visual appearance of the ornamental design of the D'641 Patent, the prior art referenced renders the D'641 Patent obvious under 35 U.S.C. § 103, including, for example and without limitation, based on the reference alone, or the reference in combination with any one or more of: (1) the knowledge of a person of ordinary skill in the field to which the claimed design pertains; (2) any admitted prior art, as explained in the D'641 Patent or discussed in its file history or in the file history of any related patent; (3) any of the prior art references identified in Skechers' Cover Pleading; (4) any of the prior art references charted for the feature of the claimed design in any Skechers Invalidity Chart; and/or (5) any of the prior art references identified as disclosing the feature of the claimed design in this Invalidity Combinations Chart for the D'641 Patent. The combinations of prior art references that render the D'641 Patent obvious are readily determinable as so described, which is the most efficient way of disclosing the combinations in light of the facts that, among other things, Plaintiffs have asserted 57 claims across 7 patents, and Plaintiffs' Infringement Contentions are deficient in multiple respects including as described in Skechers' Cover Pleading.

A person of ordinary skill in the field to which the claimed design pertains would have been motivated to combine any one or more of the foregoing references, with a reasonable expectation of success in doing so, including for at least the exemplary reasons described in Skechers' Cover Pleading and in Skechers' Invalidity Charts for each prior art reference. For example, a POSITA would have been motivated to combine any one or more of these references because such combination would have involved, for example and without limitation: (a) combining features of designs strikingly similar in overall appearance; (b) combining ornamental features that are commonplace to an ordinary designer in the field to which the claimed design pertains; (c) combining work from one field of endeavor that prompts variations of it for use in either the same field or a different one based on design incentives or other market forces that are predictable to a designer in the field to which the claimed design pertains; and/or (d) applying

some teaching suggestion, or motivation in the prior art that would have led an ordinary designer in the field to combine teachings of the prior art to create the same overall visual appearance as the claimed design. For example and without limitation, and for at least the foregoing reasons, a person of ordinary skill in the field to which the claimed design pertains would have been motivated to combine any one or more of the foregoing references in order to modify and/or combine the patterns in the design, the materials of the patterned elements, the placement of the decorative elements, and/or the shapes of the decorative elements, to create substantially the same overall visual appearance of the ornamental design of the D'641 Patent.

Claim construction has yet to occur. Skechers' Preliminary Invalidity Contentions, including this chart, are thus based in part on Plaintiffs' apparent claim construction positions that Plaintiffs have implied in their infringement contentions, to the extent such constructions are discernable. Skechers' Preliminary Invalidity Contentions thus may reflect alternative positions as to claim construction and scope, and comparisons of claimed ornamental features to the prior art herein may be based on Plaintiffs' overbroad claim constructions and interpretations as implied in Plaintiffs' infringement contentions, which constructions and interpretations Skechers reserves the right to dispute. For example, Plaintiffs appear to incorrectly interpret numerous features of the claimed designs in overbroad and sweeping ways in an attempt to read on the Accused Products, which constructions if adopted would also make such features of the claimed design read on the prior art. By including prior art that anticipates or renders obvious claims based on Plaintiffs' apparent claim constructions or any other constructions, Skechers is not adopting Plaintiffs' claim constructions or any other constructions. Skechers' Preliminary Invalidity Contentions, including this chart, are made in a variety of alternatives and do not represent Skechers' agreement or view as to the meaning, definiteness, originality, or enablement of the overall visual appearance of the ornamental design, including any feature of the claimed ornamental design. Further, to the extent that any of the prior art creates the overall visual appearance of any of the Accused Products, including by embodying any ornamental features in the claimed design, Skechers reserves the right to argue that said visual appearance, including said feature, does not embody the ornamental design claimed in the D'641 Patent, and to argue, in the alternative, that if said feature is found to create the same overall visual appearance as the D'641 Patent, then the prior art reference teaches the claimed design and the D'641 Patent is invalid.

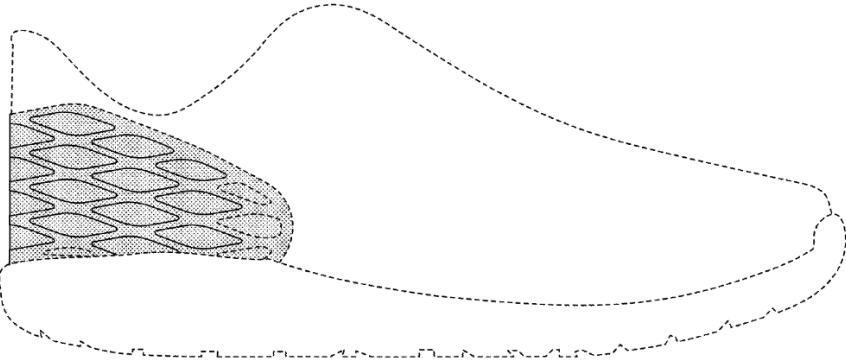
The citations and/or pictures herein are solely exemplary. Skechers' Preliminary Invalidity Contentions, including this chart, are intended to set forth Skechers' contentions, not all of the evidence that may support such contentions. For example, although Skechers has provided exemplary citations and/or pictures in this chart, Skechers reserves the right to rely on any and all portions of the prior art reference(s) discussed herein (in addition to the exemplary cited passages or pictures), and any and all evidence regarding the prior art product(s) discussed herein (in addition to the examples), to establish the invalidity of the D'641 Patent. As a further example, to the extent this chart cites any figures and/or pictures, Skechers may rely upon any and all text relating to said figures, and to the extent this chart cites any text, Skechers may rely upon any and all figures that relate to said text. Skechers additionally reserves the right to rely on all prior art that is in any way identified herein and/or identified directly or indirectly in any documents, photographs cited herein, including all cited prior art printed publications, and all prior art products described in those printed publications, regardless of the semantic format of this chart. Moreover, Skechers will rely upon other evidence, including expert opinions and supporting documents and testimony.

In many instances, Plaintiffs' infringement contentions fail to provide adequate notice of how Plaintiffs are construing the claims and fail to comply with the Court's scheduling order and other rules. Skechers reserves the right to revise and supplement its Preliminary Invalidity Contentions, including this chart, to the extent Plaintiffs are permitted to revise or supplement their contentions or otherwise make their positions known. Further, Skechers reserves the right to revise and supplement its Preliminary Invalidity Contentions, including this chart, following claim construction.

Skechers' investigation of the prior art, including but not limited to the reference(s) discussed herein, is ongoing. Skechers has not yet completed discovery from Plaintiffs or third parties, who may have relevant information concerning the prior art. Skechers reserves the right to supplement its Preliminary Invalidity Contentions, including this chart, after additional discovery is received. Moreover, Skechers does not yet have the benefit of Plaintiffs' positions on the prior art, including what (if any) feature of the claimed designs it contends are missing in each prior art reference, whether Plaintiffs agree that a reference is in fact prior art, and whether Plaintiffs agree that a person of ordinary skill in the field to which the claimed design pertains would have been motivated to combine specific references with a reasonable expectation of success in doing so. Skechers reserves the right to supplement its obviousness positions (including by identifying additional prior art combinations and the associated reasons to combine) as discovery in the case progresses, including expert discovery.

Nothing herein should be construed as an admission regarding infringement, claim construction, or the scope of any claim.

I. Claim 1

<u>Claim 1 of D'641 Patent</u>	<u>Exemplary Citations to Claimed Features Disclosed in the Prior Art References</u>
The ornamental design for footwear, as shown and described.	The references cited in the chart below each include an ornamental design that is substantially the same in overall visual appearance as the claimed ornamental design of the D'641 Patent. Moreover, the substantial similarity between the overall visual appearance of the ornamental design of each reference and the D'641 Patent's claimed ornamental design would be deceptive to an ordinary observer and would induce an ordinary observer, giving such attention as a purchaser usually gives, to purchase an article having one design supposing it to be the other.
FIG. 1 is a left side view of footwear showing the claimed design;  FIG. 1	The following references each include an ornamental design that is substantially the same in overall visual appearance as the claimed design as shown in FIG. 1 of the D'641 Patent. <i>See, e.g.,</i> <u>Zoom Vomero 5</u>, left side view:  <u>SpeedForm Intake</u>, left side view:



Spine Rebel Storm, left side view:



Zoom Kobe 11, left side view:



Spine RPM, left side view:



Jordan 5 Retro, left side view:



Gel Kayano Trainer Knit, left side view:



Speedfit Hike, left side view:



Asics Gel Kayano 23, left side view.



Wan, left side view:



On Cloud Run, left side view:



Zoom Venomenon, left side view:



Zoom Kyrie 1, left side view:



Gel Kayano, left side view:



Gel Delva, left side view.:



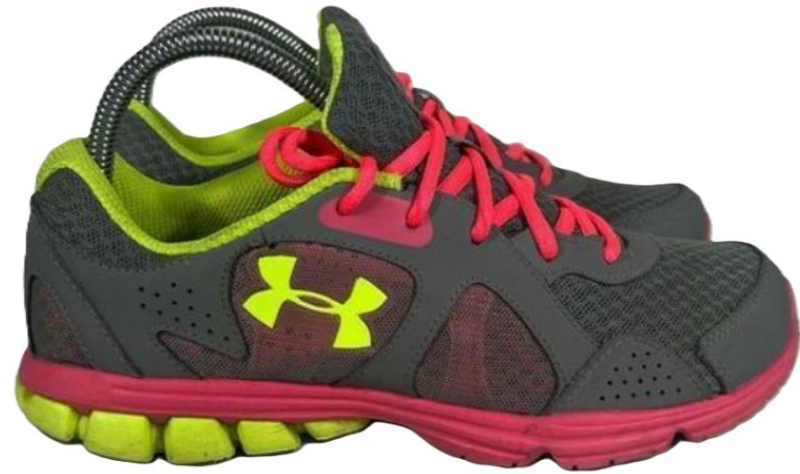
Gemini 3, left side view:



Micro G Neo Mantis, left side view (mirrored):



Endure, left side view.



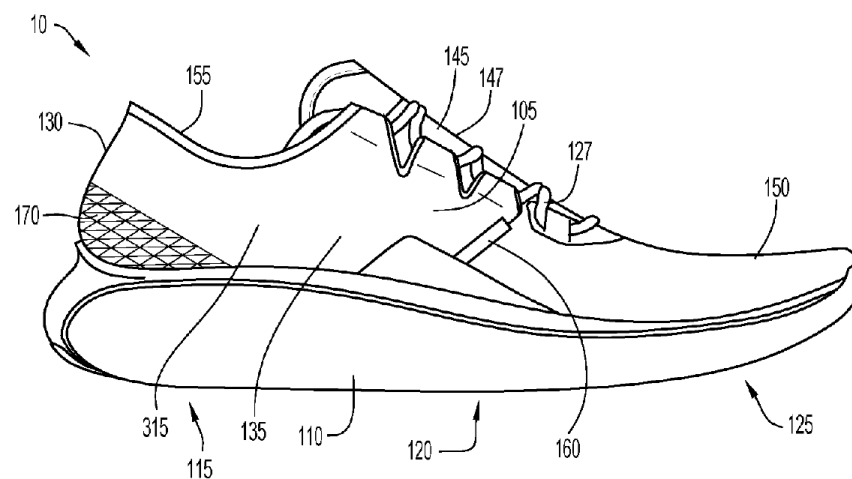
Ignite Netfit, left side view:



Skechers Stretch Fit, left side view:



Doenges et al., side view in elevation, lateral footwear side:



Nethongkome, side view:

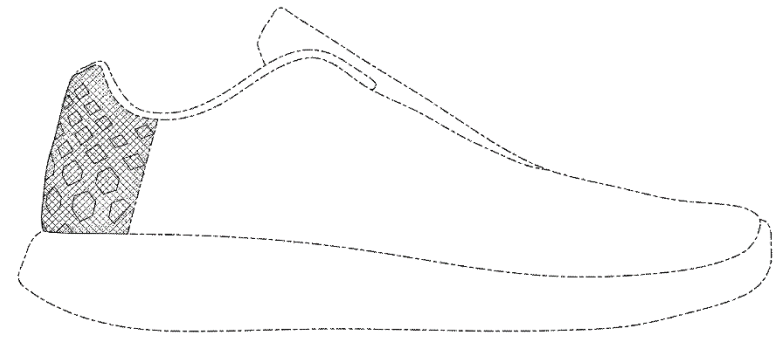
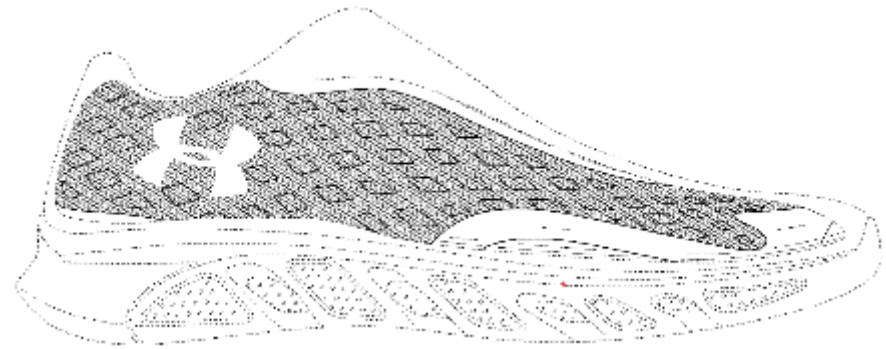


FIG. 2

Dombrow '091, right side view:



Tzenos, right side elevation view:

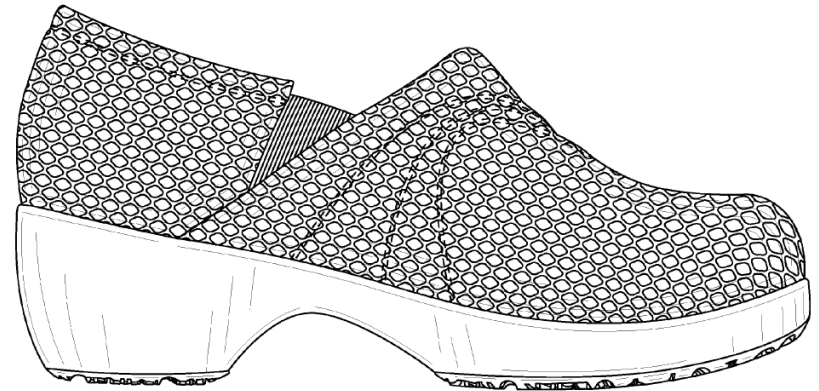


FIG. 5

Thompson, lateral side view:

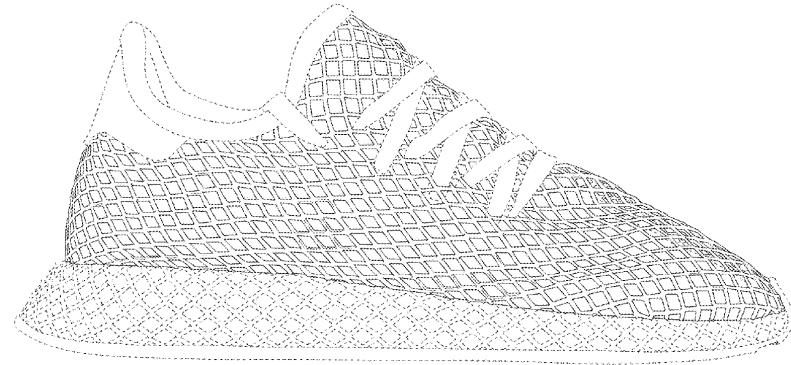
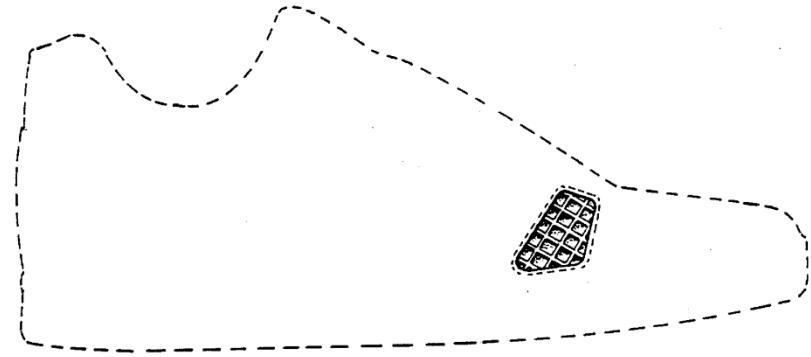


FIG. 2

Brown, left side elevational view:



Eugene, right side view:

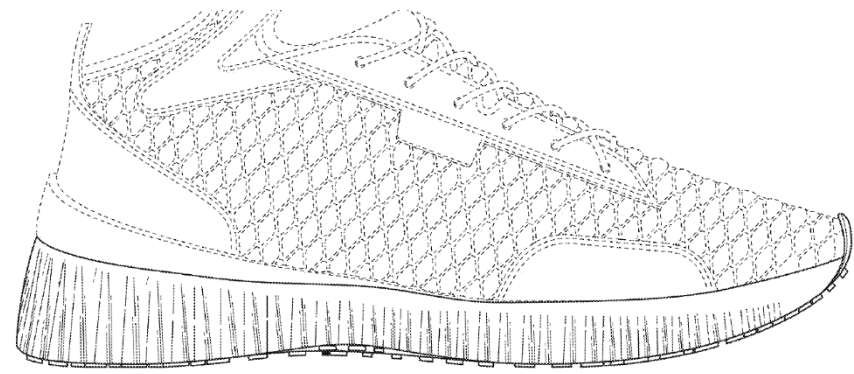
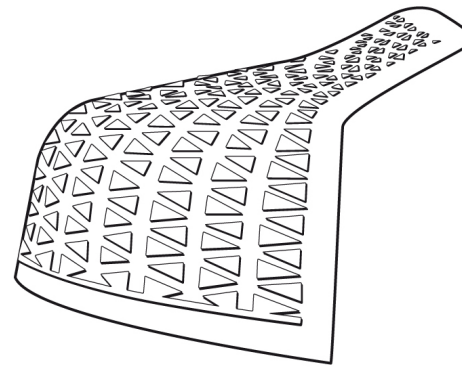


FIG. 4

Chiemsee, view of design:



Simone et al., left side view:

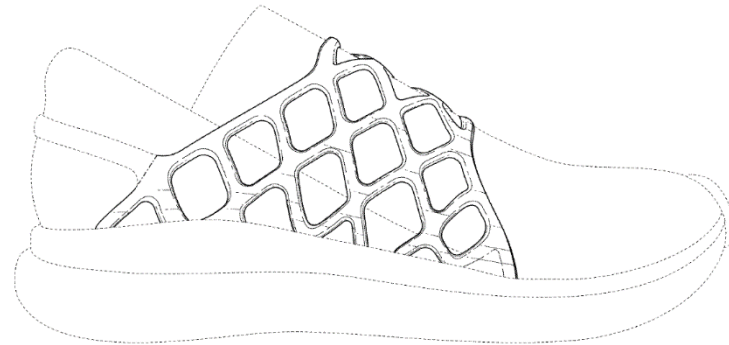


FIG. 4

Smith, top plan view:

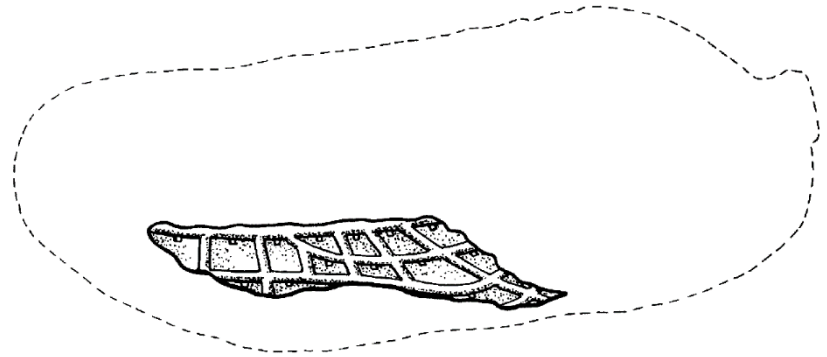


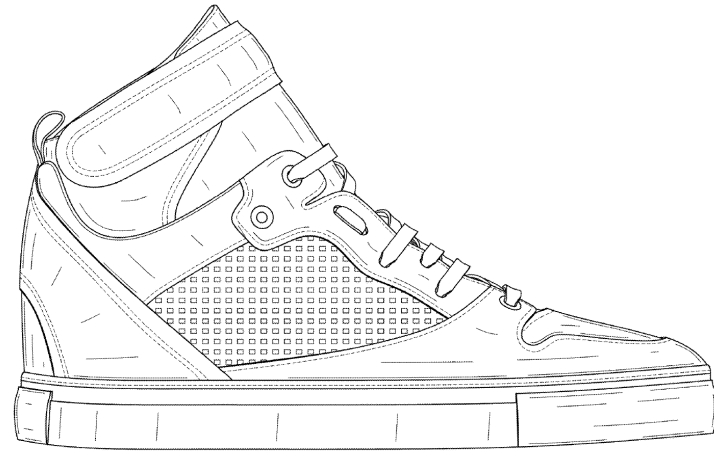
FIG. 2

Mervar – 294, lateral side view:

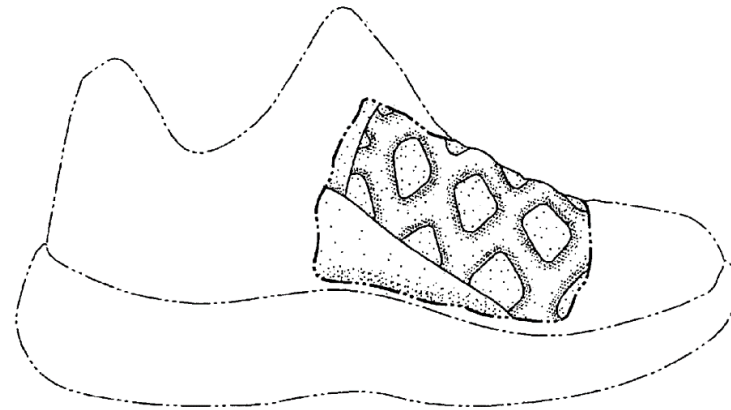


FIG. 1

Guichot, left side view:



Doxey, side view:



Kaiserwerth, left side view:

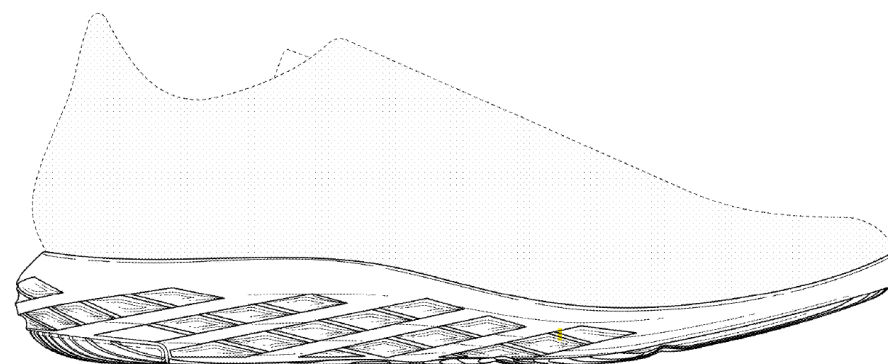


FIG. 4

Townsend, left-side view:

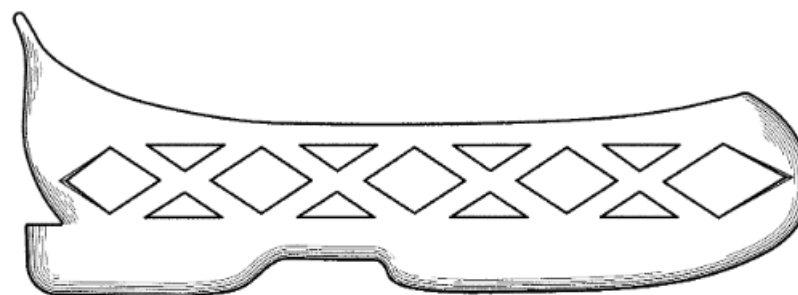


FIG. 2 is a right side thereof;

The following references each include an ornamental design that is substantially the same in overall visual appearance as the claimed design as shown in FIG. 2 of the D'641 Patent.

See e.g.,

Zoom Vomero 5, right side view:

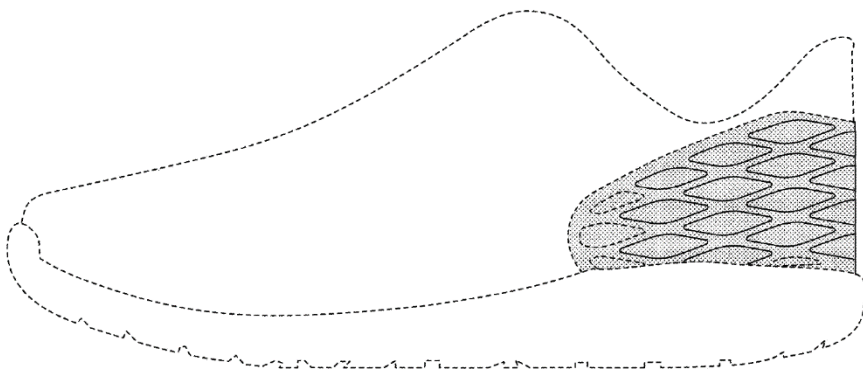


FIG. 2



On Cloud Run, right side view:



Zoom Kyrie 1, right side view:



Ignite Netfit, right side view:



Speedfit Hike Low, right side view:



Spine Rebel Storm, right side view:



Spine RPM, right side view:



Jordan 5 Retro, right side view:



Gel Kayano Trainer Knit, right side view:



Speedfit Hike, right side view:



SpeedForm Intake, right side view:



Gemini 3, right side view:



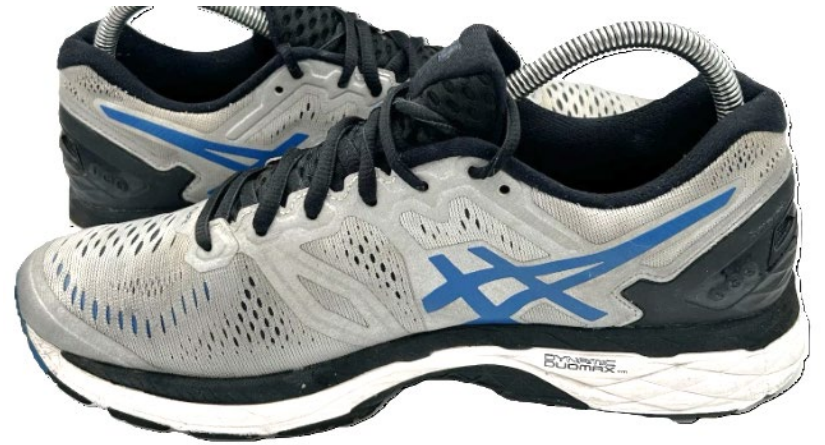
Zoom Venomenon, right side view:



Zoom Kobe 11, right side view:



Gel Kayano 23, right side view:



Gel Kayano, right side view:



Gel Delva, right side view.



Endure, right side view.



Wan, right side view:



Micro G Neo Mantis, right side view:



Doenges et al., side view in elevation, medial footwear side:

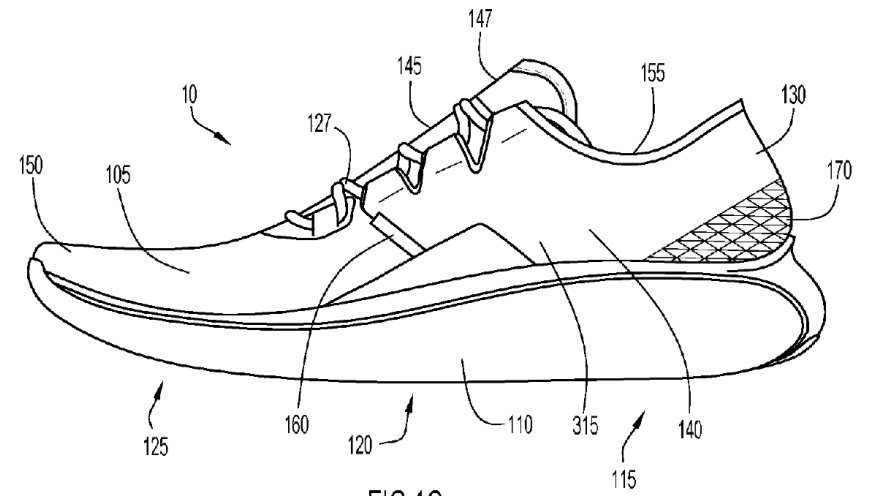


FIG.1C

Nethongkome, opposite side view:

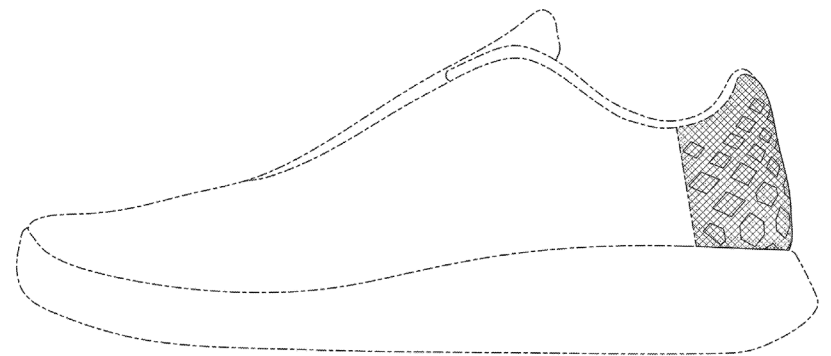


FIG.3

Dombrow '092, left side view:

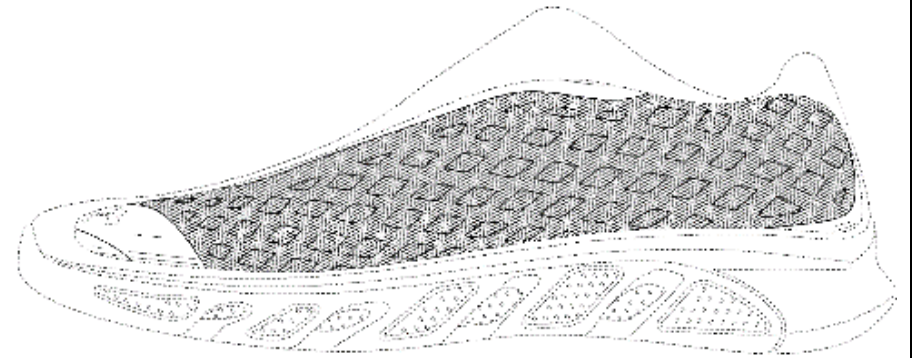
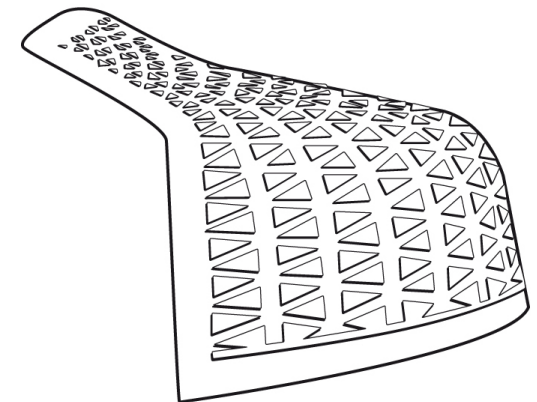


FIG. 2

EM-Chiemsee, view of design:



Eugene, left side view:

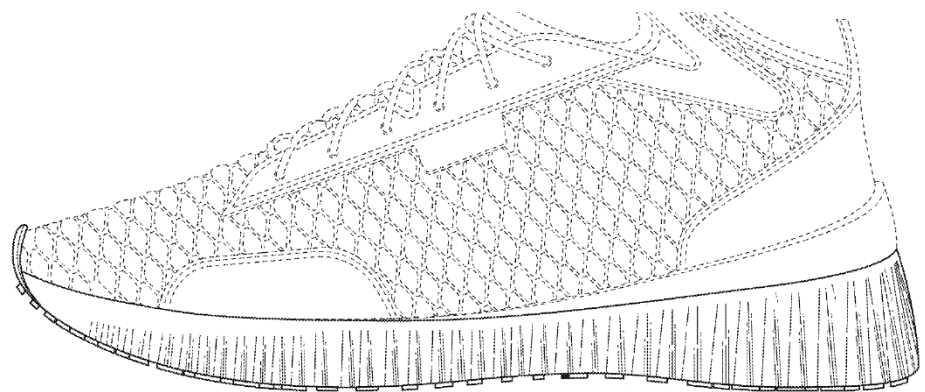


FIG. 5

Thompson, medial side view:

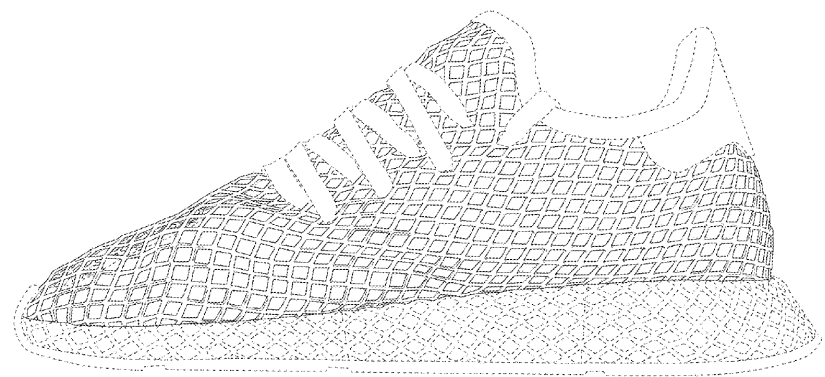


FIG. 3

Tzenos, left side elevation view:

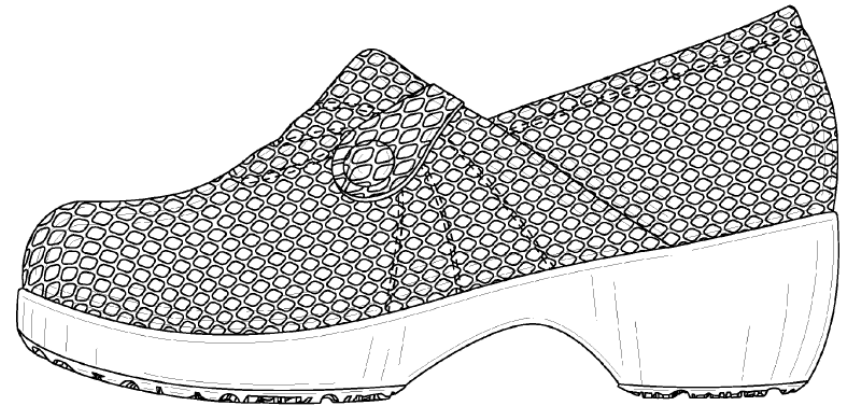


FIG. 4

Simone et al., right side view:

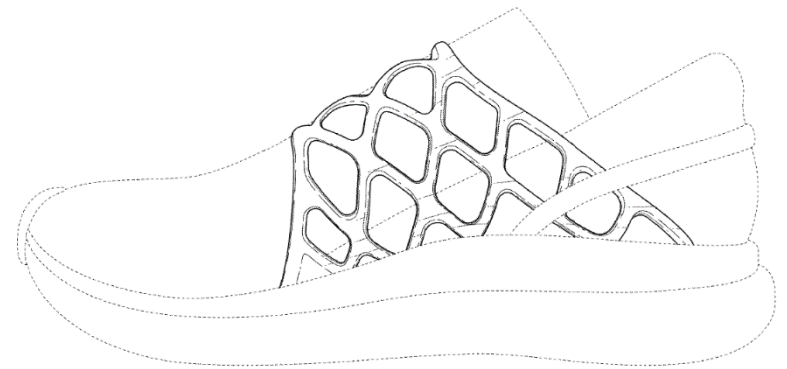


FIG. 5

Smith, side elevational view:

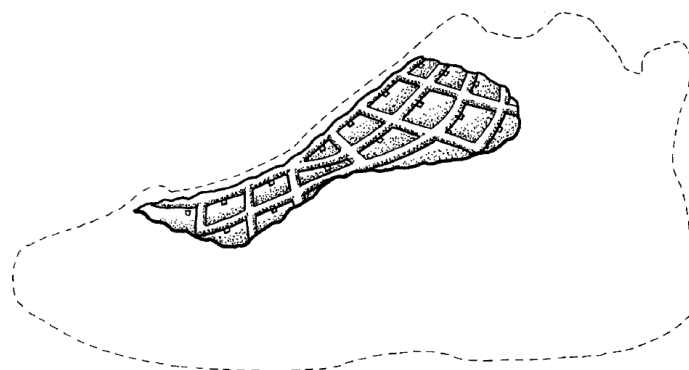
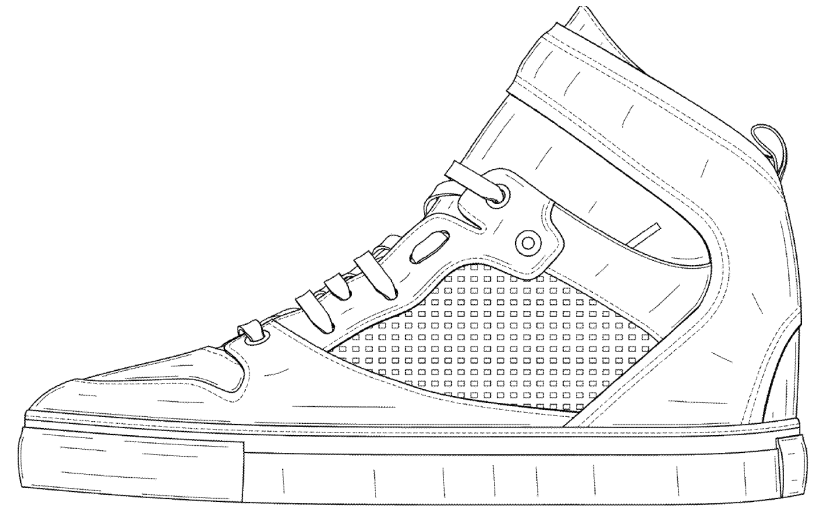


FIG. 1

Mervar – 294, left side view



Guichot, medial side view:



Brown, right side elevational view:

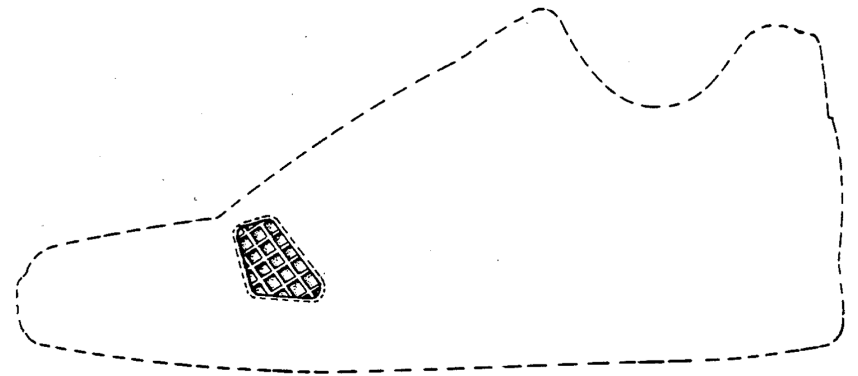


FIG.2

Dombrow '092, left side view:

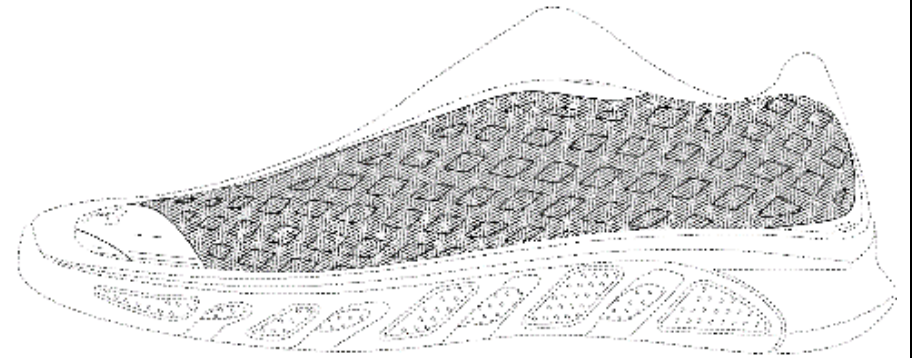


FIG. 2

Kaiserwerth, left side view:

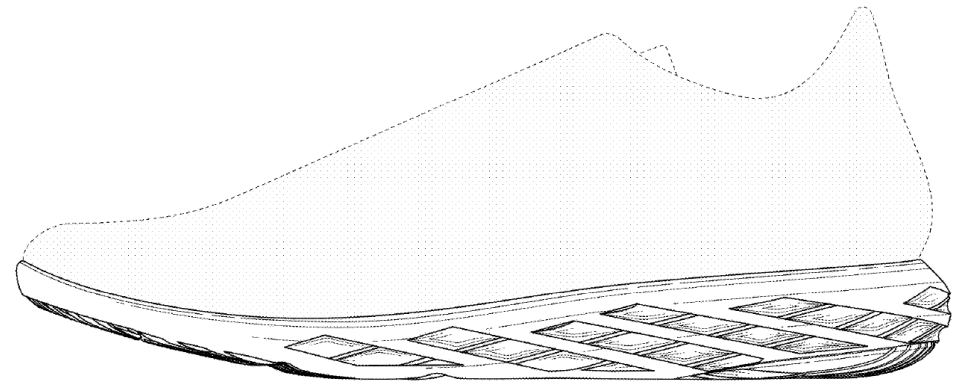


FIG. 5

FIG. 3 is a rear view thereof; and,

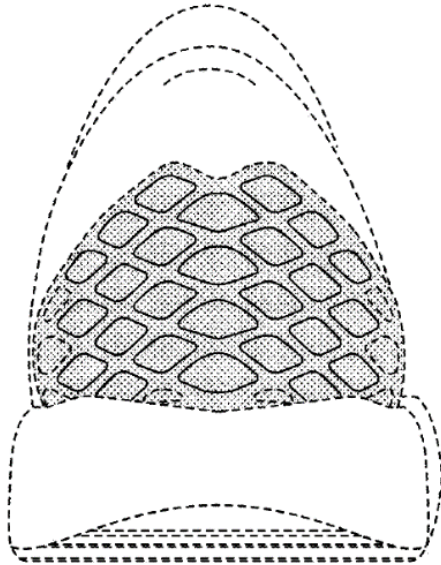


FIG. 3

The following references each include an ornamental design that is substantially the same in overall visual appearance as the claimed design as shown in FIG. 3 of the D'641 Patent.

See e.g.,

Zoom Vomero 5, rear view:



Jordan 5 Retro, rear view:



Thompson, rear view:

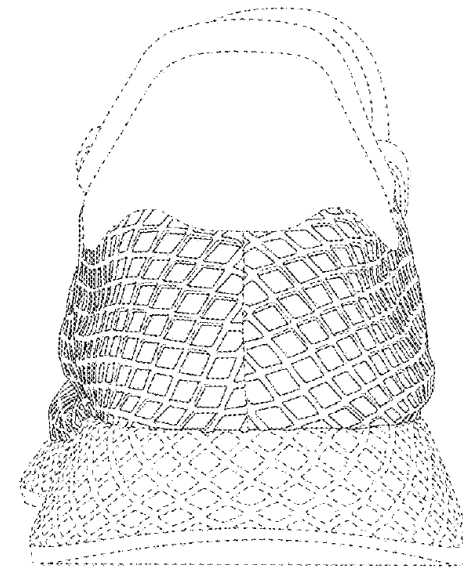


FIG. 5

On Cloud Run, rear view:



Ignite Netfit, rear view:



Nethongkome, rear view:

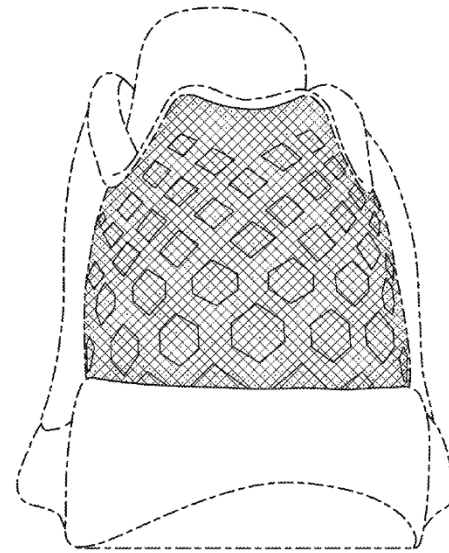
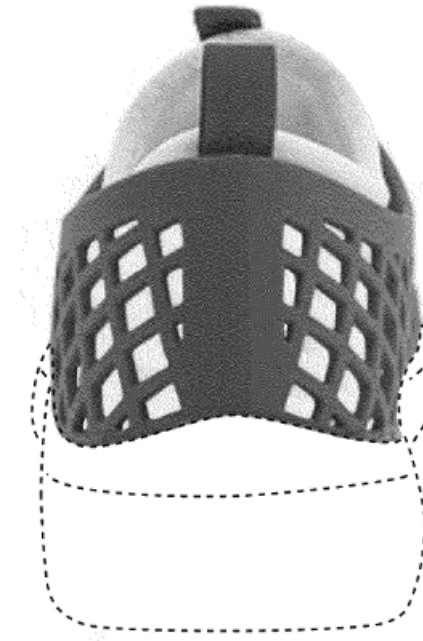


FIG.4

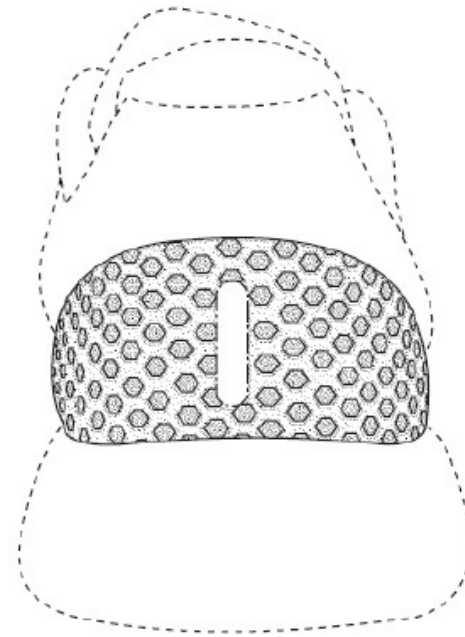
Gel Kayano Trainer Knit, rear view:



Mervar -294, rear view:



EM Nike, view of design:



SpeedForm Intake, rear view:



Zoom Venomenon, rear view:



Gel Kayano 23, rear view.



On Cloud Run, rear perspective view.



Zoom Kyrie 1, rear view:



Gemini 3, rear view:



Wan, rear view:



Gel Delva, rear view:



Gel Kayano, rear view:



Skechers Stretch Fit, rear view:



Tzenos, rear view:

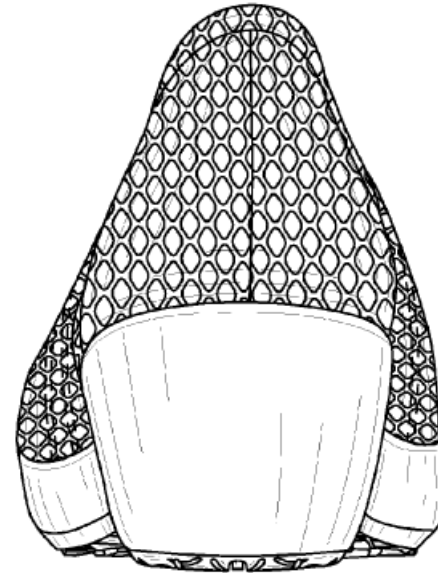
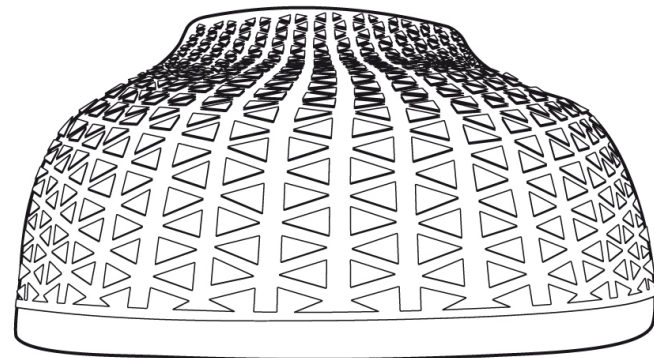


FIG. 3

EM-Chiemsee, view of design:



Eugene, rear view:

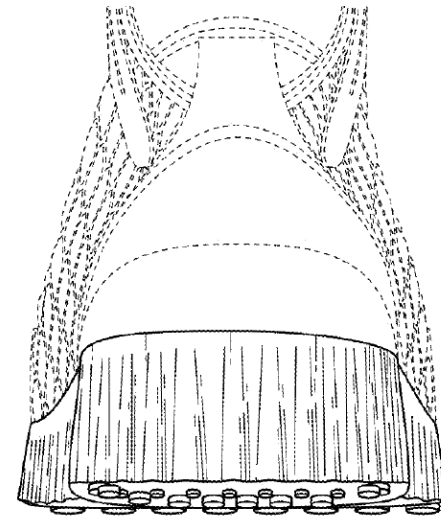
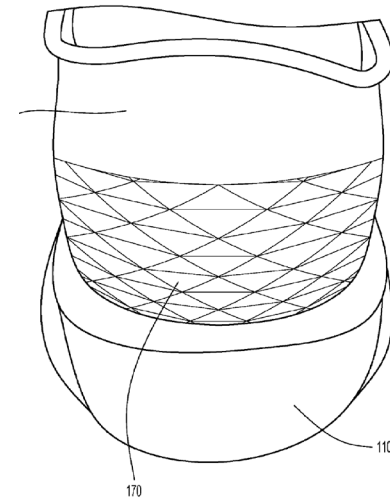


FIG. 3

Doenges et al., rear view in elevation:



Dombrow '091, rear perspective view:

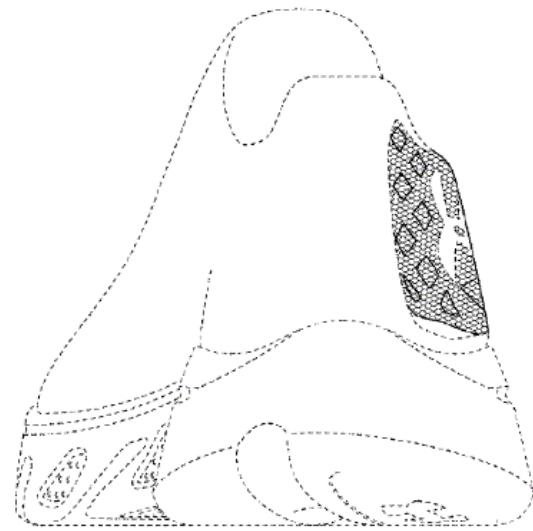


FIG. 4

Dombrow '092, rear perspective view:

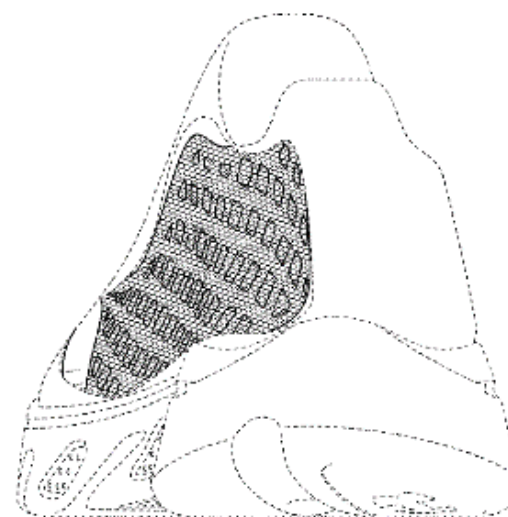


FIG. 4

Doxey, front view:

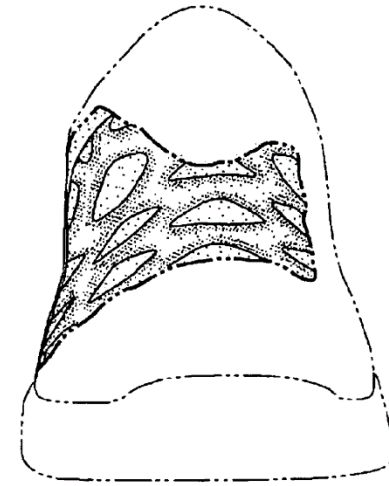


FIG. 3

FIG. 4 is a rear perspective view thereof.

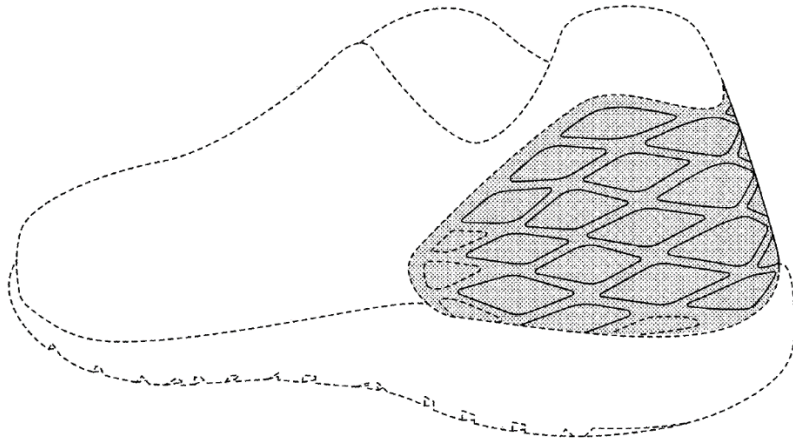


FIG. 4

The following references each include an ornamental design that is substantially the same in overall visual appearance as the claimed design as shown in FIG. 4 of the D'641 Patent.

See, e.g.,

Zoom Vomero 5, rear perspective view:



Gel Kayano Trainer Knit, rear perspective view:



Gel Delva, rear perspective view:



Gel Kayano, rear perspective view:



Gemini 3, rear perspective view:



SpeedForm Intake, rear perspective view:



Zoom Kobe 11, rear perspective view:



Spine RPM, rear perspective view:



Zoom Kyrie 1, perspective view:



Speedfit Hike, rear perspective view:



Speedfit Hike, rear perspective view:



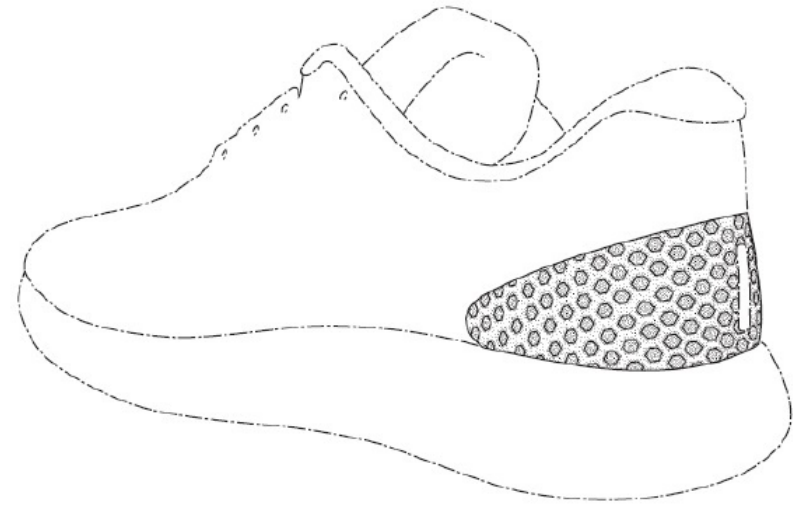
Zoom Venomenon, rear perspective view:



Gel Kayano 23, rear perspective view.



EM-Nike, view of design:



Nethongkome, rear perspective view (mirrored):

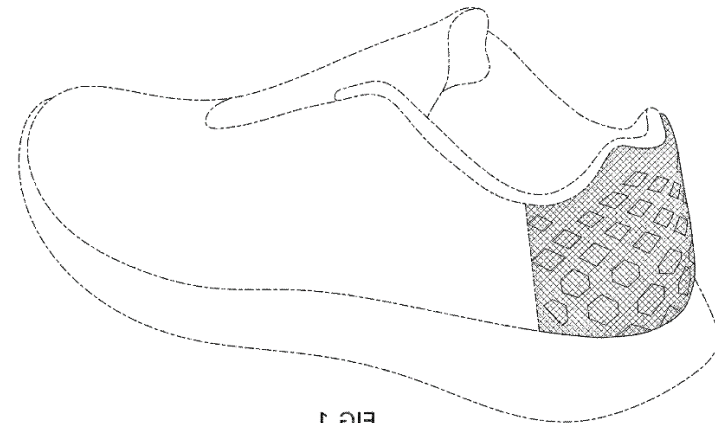
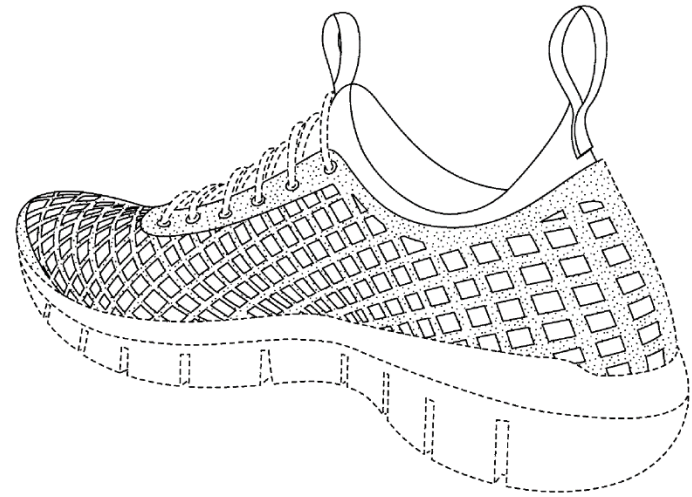
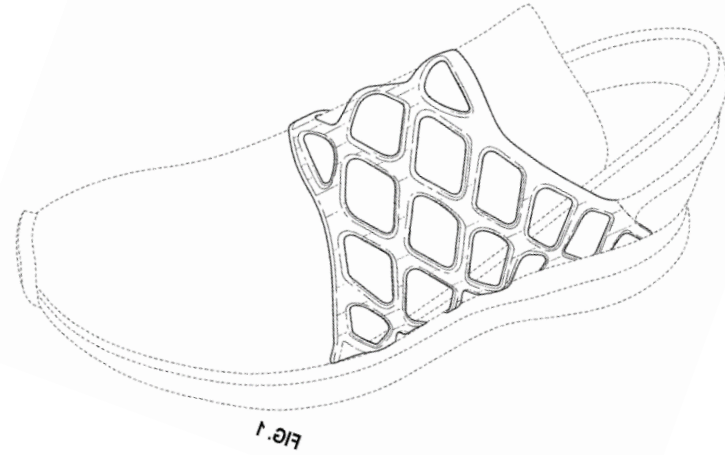


FIG. 1

Mervar -186., perspective view:



Simone et al., front perspective view:



Eugene, top left front perspective view:

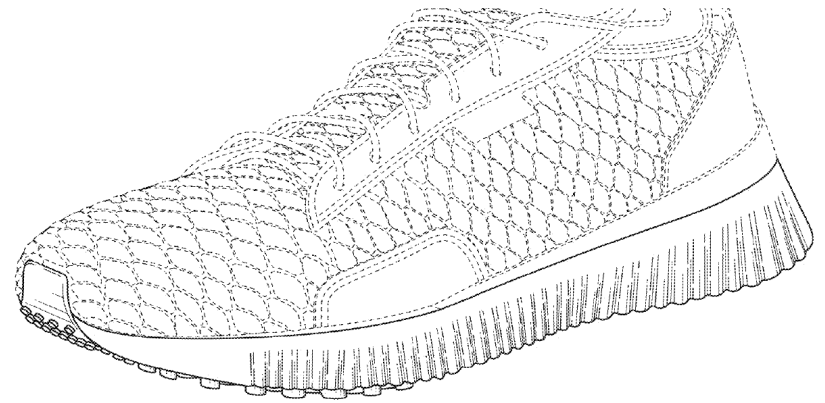


FIG. 1

Thompson, front medial perspective view:

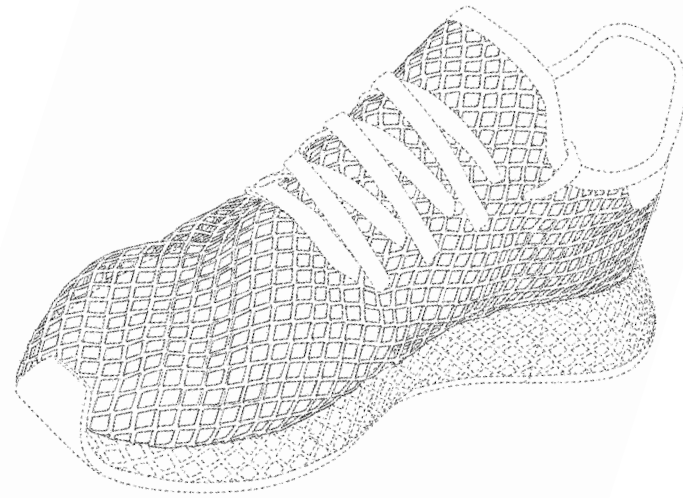


FIG. 1

Smith, side elevational view:

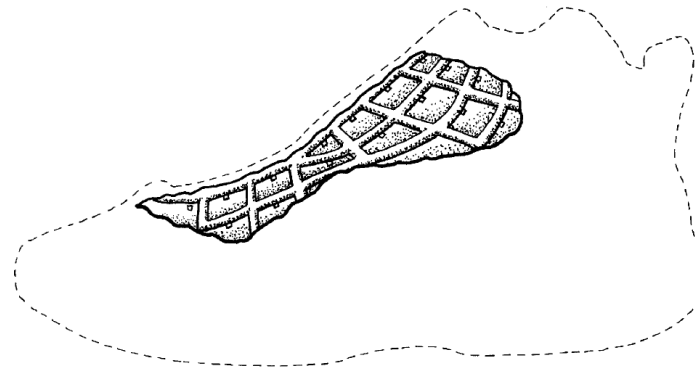


FIG. 1

Guichot, rear perspective view (mirrored):



Dombrow '092, rear perspective view:

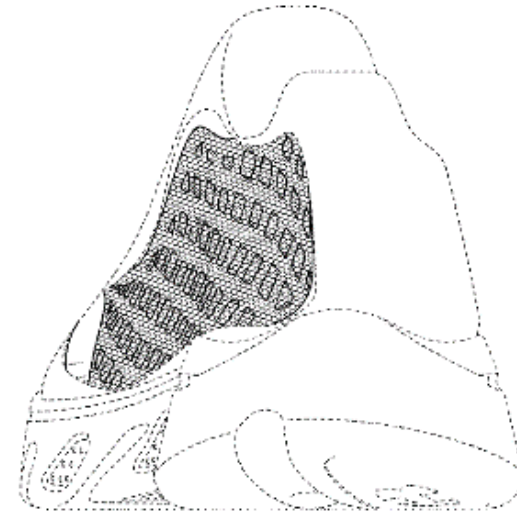


FIG. 4

Mervar - 186., perspective view:

