

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No.:

CROCS, INC., a Delaware corporation; and
JIBBITZ, LLC, a Colorado limited liability company;

Plaintiffs,

v.

TAN AT THE BEACH TANNING SALON, INC., an Alabama corporation,
COLIN WELLS, an individual, and
DANE LASTER, an individual,

Defendants.

COMPLAINT AND JURY DEMAND

Plaintiffs Crocs, Inc. and Jibbitz, LLC (collectively “Plaintiffs”), for their Complaint against Defendants Tan at the Beach Tanning Salon, Inc., Colin Wells, and Dane Laster, state as follows:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff Crocs, Inc. (“Crocs”) is a Delaware corporation having its principal place of business at 6328 Monarch Park Place, Niwot, Colorado 80503.
2. Plaintiff Jibbitz, LLC (“Jibbitz”) is a Colorado limited liability company having its principal place of business at 3125 Sterling Circle, Boulder, Colorado 80301.
3. Defendant Tan at the Beach Tanning Salon, Inc. (“Tan at the Beach”) is an Alabama corporation having its principal place of business in Sulligent, Alabama.

4. Defendant Colin Wells (“Wells”) is an individual who, upon information and belief, resides in the State of Alabama.

5. Defendant Dane Laster (“Laster”) is an individual who, upon information and belief, resides in the State of Indiana.

6. The Court has subject matter jurisdiction over this case pursuant to 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331, 1332, and 1338(a) and (b). This case presents well-pleaded federal questions arising under the Patent Act, 35 U.S.C. §§ 1, et seq., the Lanham Act, 15 U.S.C. §§ 1051, et seq., and the Copyright Act, 17 U.S.C. §§ 101, et seq. Supplemental jurisdiction exists over Plaintiffs’ state law claims pursuant to 28 U.S.C. § 1367(a).

7. The exercise of *in personam* jurisdiction over Defendants comports with the laws of the State of Colorado and the constitutional requirements of due process because Defendants and/or their agents transact business and/or offer to transact business within Colorado.

8. Specifically, Defendant Tan at the Beach, acting through Defendant Wells and via the online stores located at <http://stores.eBay.com/Tan-At-The-Beach-Inc> and <http://www.tanatthebeachinc.com>, advertises, offers for sale, sells, and distributes foam clog footwear and accessories for foam clog footwear, throughout the United States, including within the State of Colorado. Defendant Laster, through the website <http://www.crocosshoes.com>, advertises, offers for sale, sells, and distributes foam clog footwear and accessories for foam clog footwear, throughout the United States, including within the State of Colorado.

9. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and (d) and 28 U.S.C. § 1400(b), as a substantial part of the events or omissions giving rise to Plaintiffs’ claims occurred within this District.

GENERAL ALLEGATIONS

CROCS, INC.

10. Crocs is a rapidly growing designer, manufacturer and marketer of Crocs™-branded footwear for men, women and children, which incorporate Crocs' proprietary closed-cell resin material, Croslite™ – a substantial innovation in footwear comfort and functionality. This proprietary material enables Crocs to produce soft and lightweight, non-marking, slip and odorresistant shoes, which are ideal for casual wear and recreational uses such as boating, hiking, fishing and gardening. Currently, Crocs offers a substantial number of models in a wide variety of colors. Crocs is constantly growing the number of new models offered.

11. Crocs was formed in July 2002, when its founders decided to market an innovative shoe. In November 2002, Crocs introduced its first model, originally intended as a boating or outdoor shoe; however, by 2003, Crocs™ brand footwear were universally accepted as all purpose footwear for comfort and fashion. In 2003-2004, Crocs expanded its product line, acquired Foam Creations, its Canadian manufacturer, and began speedy assembly and delivery.

12. Crocs™ footwear is sold through a wide range of distribution channels, including department stores, specialty footwear stores, sporting good and outdoor retailers. Crocs™ brand footwear are also sold through a variety of specialty channels, including gift shops, uniform suppliers, independent bicycle dealers, specialty food retailers, and health and beauty stores. Crocs distributes its products through over 6,500 store locations domestically and in over 40 countries worldwide. In addition, Crocs sells its footwear through its websites, including but not limited to, www.crocs.com and www.crocsrx.com, and in kiosks in shopping malls throughout the country. In the past three years, Crocs' sales have increased dramatically: Crocs recorded

\$1.2 million in revenues in 2003, which has grown to more than \$355 million in revenues in 2006 from sales of its footwear worldwide.

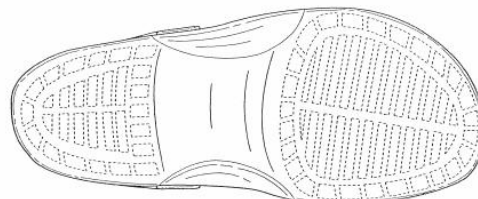
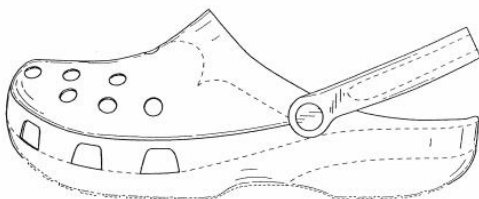
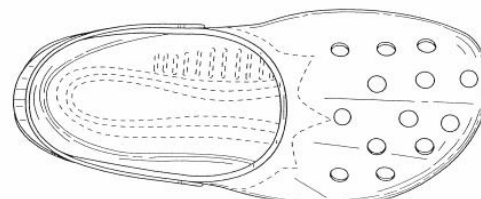
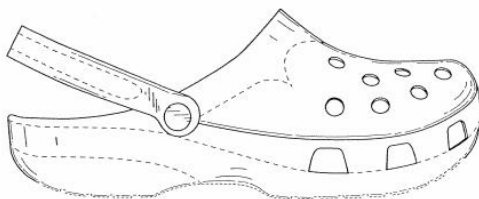
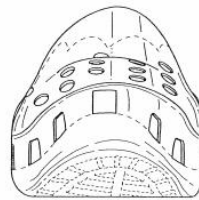
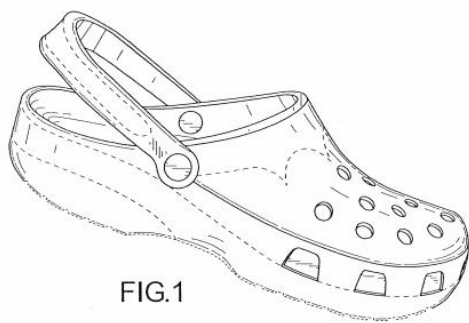
13. Crocs designs, manufactures, distributes, and sells its footwear under the CROCS trademark, and is the owner of the CROCS trademark (“the CROCS Mark”). Examples of these shoes are shown on the Crocs web site at <http://www.crocs.com>. Crocs has invested heavily in developing its trademark and its distinctive shoe designs, and in doing so, has acquired substantial trademark rights in connection with a wide variety of good and services, including footwear, clothing, and advertising and business, including retail stores.

14. On February 7, 2006, the U.S. Patent and Trademark Office issued U.S. Patent No. 6,993,858 B2, entitled “Breathable Footwear Pieces,” with Crocs as the assignee. A true and correct copy of the ‘858 Patent is attached hereto as **Exhibit A**.

15. The ‘858 Patent claims various footwear pieces. The claimed invention consists of comfortable footwear that is compatible with various work environments, such as a hospital setting, which may require secure and waterproof footwear. In some cases, the footwear pieces are molded from a lofted material. In some embodiments, the shoes also include liquid conductors formed around ventilators or openings that disperse liquids away from the individual’s feet. The ‘858 Patent discloses several embodiments of the claimed invention, including models that contain liquid conductors on the upper portion of the base section, and others that include a solid base section to protect the feet from direct contact with spilled liquids, for example. Other embodiments include models with an adjustable strap and/or open-toe.

16. On March 28, 2006, the U.S. Patent and Trademark Office issued U.S. Patent No. D 517,789, entitled “Footwear,” with Crocs as the assignee. A true and correct copy of the ‘789 Patent attached hereto as **Exhibit B**.

17. The ‘789 Patent claims an ornamental design for footwear as shown and described in the following figures:



18. Crocs’ footwear, accessories, displays and associated marketing and sales materials share an overall unique look and feel that serves to identify Crocs as their point of origin. Accordingly, the “Crocs Trade Dress” consists of the image and overall appearance of Crocs-brand footwear. In particular, Crocs™ shoes are typically characterized as colorful foam

clogs with a sporty European design. They have a distinctively quirky clog-like appearance, which could also be characterized as friendly, vibrant, fun and bubbly. The distinctively gentle slope of the upper gives the shoe a unique, recognizable outline.

19. In addition to its overall look and feel, the Crocs Trade Dress also includes one or more of the following specific elements:

- (a) A decorative strip or band along the upper opening perimeter, which may include a scallop pattern and/or raised bumps;
- (b) A strip along the vertical portion of the upper running between the points of attachment of the strap, the strip running along the forefoot and toe regions;
- (c) A lower strip paralleling the upper strip and separated from it by a line, the lower strip circumnavigating the entire shoe and gently rising toward the heel;
- (d) A distinctive tread pattern;
- (e) A distinctive pattern of holes on the horizontal portion of the upper;
- (f) A distinctive pattern of holes on the vertical portion of the upper;
- (g) A pattern of raised nubs in the footbed;
- (h) Characteristic black or black and white strap connectors;
- (i) A distinctive one-color design; and
- (j) A distinctive tread on the bottom of the shoe.

20. The Crocs Trade Dress is non-functional and serves to distinguish Crocs' shoes from competitive products. The Crocs Trade Dress is ornamental and has no utilitarian advantage. Furthermore, the virtually infinite number of different footwear styles in existence

today and throughout the past, evidence the unique nature of the Crocs Trade Dress and demonstrate that other styles are available to competing footwear manufacturers.

21. Crocs intentionally created its trade dress to distinguish its footwear from any other footwear and to indicate Crocs as its sole point of origin. In fact, the Crocs Trade Dress plays a central role in Crocs' business strategy; its prospectus affirmatively states that "[w]e seek to differentiate the crocs brand and our product offerings by focusing on several core strategies. Our principal strategies are to: [1] *Continue to highlight the unique characteristics of **crocs** footwear.* . . . [W]e believe our fun styles are an important element of our products and our brand image." On information and belief, no other manufacturer had used the Crocs Trade Dress prior to its introduction into and success in the market by Crocs.

22. As mentioned above, Crocs sells its footwear through a wide range of distribution channels, including specialty stores such as Barnes & Noble, sporting good and outdoor retailers such as REI, department stores such as Dillard's, Nordstrom and e-tail and catalog sources. Crocs™ brand footwear are also sold through a variety of specialty channels, including gift shops, uniform suppliers, independent bicycle dealers, specialty food retailers, and health and beauty stores. Crocs distributes its products through over 6,500 store locations domestically, and in over 40 countries worldwide. In addition, Crocs sells its footwear through its website and in kiosks in shopping malls throughout the United States. Crocs' sales and marketing efforts center around the presentation of its footwear products whose unique appearance showcases the Crocs™ brand and Crocs Trade Dress.

23. Last year alone Crocs sold approximately 20 million pairs of footwear amounting to \$355 million in sales worldwide. Crocs also spent nearly \$6 million on promoting the Crocs

Trade Dress and on total marketing. This dramatic increase over previous years evidences the popularity and appeal enjoyed by Crocs' footwear.

24. Crocs has been recognized as "Brand of the Year" by *Footwear News*, a leading industry publication. Crocs was also awarded the 2005 "Item of the Year" by *Footwear Plus* magazine, which called Crocs™ brand footwear the "'It' item of 2005." Also in 2005, Crocs won the "IQ Award" from the Boulder County Business Report, which seeks truly innovative products.

25. Due to the inherent distinctiveness of the Crocs Trade Dress, as well as the extensive sales, advertising and promotion making use of it, Crocs™ footwear has become well known throughout the United States as originating from Crocs.

26. The widespread and unauthorized imitation of the Crocs Trade Dress by the Defendants in order to trade on Crocs' goodwill and success, as well as the resulting high volume of infringing sales, are also strong evidence that the Crocs Trade Dress has acquired secondary meaning.

JIBBITZ, LLC

27. Founded in 2005 as a family business by a stay-at-home mom, her husband and their children, Jibbitz pioneered and popularized a unique accessory brand comprising colorful snap-on products specifically suited for closed-cell resin footwear such as Crocs shoes. Today, more than 400 Jibbitz designs are available to consumers for personalizing and customizing their Crocs footwear and for other uses. *See* www.jibbitz.com. The Jibbitz products are commonly known as "shoe charms." A photo of Jibbitz shoe charms on Crocs clogs (and their owners) is shown below:



28. Jibbitz develops creative and original designs for its footwear accessories. Jibbitz owns all right, title and interest in its shoe charm designs, including all copyright rights therein. Jibbitz has obtained numerous copyright registrations for its footwear accessories. A true and correct copy of examples of those copyrights is attached hereto as **Exhibit C** (the Jibbitz “Copyrighted Works”).

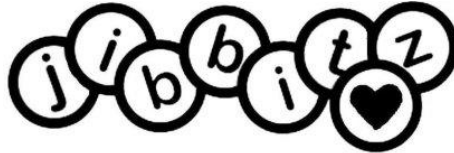
29. Jibbitz has an ongoing copyright registration program with the United States Customs service regarding the Copyrighted Works. Jibbitz has presented and presents, and has spent a significant amount of money developing, the Copyrighted Works and they are assets of immense value to Jibbitz.

30. Jibbitz owns three federal trademark registrations covering the mark JIBBITZ for: Small decorative objects made of rubber, plastic, paste, glass, non-precious stones or nonprecious metal, namely, shoe ornaments, buttons for clothing, snap fasteners, slide fasteners, and zipper fasteners:

- (i). JIBBITZ Reg. No. 3,180,450 Date: September 19, 2006
- (ii). JIBBITZ (w/color design) Reg. No. 3,183,380 Date: December 12, 2006



(iii). JIBBITZ (with b/w design) Reg. No. 3,183,379 Date: December 12, 2006



These registrations are valid, subsisting and owned by Jibbitz (the “Jibbitz Marks”). A true and correct copy of the registrations is attached hereto as **Exhibit D**.

31. The Jibbitz Marks are strong trademarks that are distinctive and source identifying for shoe charms and other products offered by Jibbitz. The aforementioned registrations give Jibbitz the presumption of exclusive trademark rights, validity, prior use and ownership of the Jibbitz Marks. The Jibbitz Marks consequently embody the valuable goodwill and reputation Jibbitz has earned in the marketplace.

32. Jibbitz shoe accessories are sold at over 3000 U.S. retailers. Jibbitz and its products have been featured in numerous media, including: CBS Saturday Early Show, The Wall Street Journal, Business 2.0, Westword, The Denver Business Journal, FOX 31 News (Denver) and 9 News (NBC -- Denver). In addition, in January, 2007 the Oprah Winfrey Show filmed a segment that featured Jibbitz, its products and its founders. Jibbitz is an official licensee of the Walt Disney Company.

33. In December, 2006, Crocs acquired Jibbitz, and Jibbitz is now a wholly-owned subsidiary of Crocs. Although Crocs’ and Jibbitz’s sales have increased in recent years, statements and advertising by various Defendants on their websites, online stores, and in search

engines indicate the increasingly successful nature of sales of their infringing products (identified below), as well as the widespread practice of unauthorized trading on the goodwill associated with the Crocs and Jibbitz names. But for the emergence of the infringing products into the marketplace, Crocs and Jibbitz would have captured a significant number of additional sales in the United States. If Defendants are permitted to continue their infringing activities as described below, their sales of the infringing products threaten to substantially drive down Crocs' and Jibbitz's sales and sales revenue, the number of infringers will multiply, and Crocs' and Jibbitz's ability to market its product and distinguish their brands will be diminished.

DEFENDANTS' INFRINGING ACTIVITIES

TAN AT THE BEACH TANNING SALON, INC. AND COLIN WELLS

34. On information and belief, Defendant Tan at the Beach manufactures, uses, offers for sale, sells, and/or imports foam clog footwear and accessories for foam clog footwear under the names CROCOS, CROCOS CLOGS, CROCOS SHOES, and CROCO CHARMS, and other foam clog footwear and footwear accessories, throughout the United States, including within the State of Colorado.

35. On information and belief, Defendant Colin Wells is the President and Owner of Defendant Tan at the Beach, and has otherwise directly participated in the acts described herein.

36. Defendant Wells operates an online store on the popular online auction site, eBay, located at <http://stores.eBay.com/Tan-At-The-Beach-Inc.>, at which foam clog footwear and footwear accessories under the names CROCOS, CROCOS CLOGS, CROCOS SHOES, and CROCO CHARMS are offered for sale and otherwise available for purchase and delivery

throughout the United States, including within the State of Colorado. A sample of items offered for sale at the Tan at the Beach eBay online store is attached hereto as **Exhibit E**.

37. In an effort to trade on and otherwise appropriate Crocs' goodwill, Defendant Wells applied for a federal trademark registration for the mark CROCO CHARMS on February 12, 2007 for use in connection with "shoe charms and shoes."

38. Plaintiffs have repeatedly notified Defendant Wells of his infringing activities, and on April 10, 2007, Plaintiffs sent Defendant Wells a cease-and-desist letter notifying Defendant Wells that his activities violated Plaintiffs' intellectual property rights and demanding that he cease infringing Plaintiffs' intellectual property rights and discontinue all use of the name "CROCO" for any purpose. A true and correct copy of Plaintiffs' April 10, 2007 letter is attached hereto as **Exhibit F**.

39. Defendant Wells assured Plaintiffs that he would cease infringing sales and abandon the federal application for CROCO CHARMS. Notwithstanding this agreement, Defendant Wells continued to sell infringing foam clog footwear under the CROCOS name variations, and has recently opened an additional online store located at <http://www.tanatthebeachinc.com>, at which foam clog footwear and footwear accessories under the names CROCOS, CROCOS CLOGS, CROCOS SHOES, and CROCO CHARMS are offered for sale and otherwise available for purchase and delivery. A sample of items offered for sale at the Tan at the Beach online store is attached hereto as **Exhibit G**. Moreover, in yet another attempt to appropriate Crocs' goodwill and dilute the value of the CROCS Mark, Defendant Wells applied for a federal trademark registration on the mark CROCOS SHOES on June 7, 2007 for use in connection with "beach shoes."

40. On information and belief, Defendant Tan at the Beach purchases and/or imports its foam clog footwear and footwear accessories from manufacturers in China, including, but not limited to Joinworld (China) Industrial & Trading Ltd. and Kevin Su.

41. On May 1, 2007, Jibbitz obtained a judgment from the United States District Court for the District of Nevada, Case No. 07-cv-00118-RLH-PAL, against Joinworld (China) Industrial & Trading Ltd. and Kevin Su, among other Defendants in the amount of \$1,800,000 for willful infringement of the Jibbitz Copyrighted Works. A true and correct copy of the Judgment is attached hereto as **Exhibit H**. The Judgment also permanently enjoined Joinworld (China) Industrial & Trading Ltd., Kevin Su, and “all other persons acting, or attempting to act, in concert or participation with them,” from “manufacturing, producing, distributing, importing, offering for sale, selling, or using any product bearing any of the [Jibbitz] Copyrighted Works . . . and any of the Jibbitz Marks.” Upon information and belief, despite having notice of the Joinworld Judgment, Defendant Wells has continued to sell foam clog footwear and footwear accessories from Joinworld and Kevin Su.

42. Defendant Well’s importing, exporting and distribution of foam clog footwear and footwear accessories under the CROCOS, CROCOS CLOGS, CROCOS SHOES, and CROCO CHARMS names, and other foam clog footwear and accessories infringe claims 1 and 2 of the ‘858 Patent, the ‘789 Patent, the Crocs Trade Dress, the Jibbitz Copyrighted Works, and otherwise constitute unfair competition. Defendants’ use of the CROCOS, CROCOS CLOGS, CROCOS SHOES, CROCO CHARMS and JIBBITZ marks in connection with such infringing foam clog footwear and footwear accessories infringes the CROCS and JIBBITZ Marks, resulting in irreparable harm to Plaintiffs for which Plaintiffs have no adequate remedy at law.

DANE LASTER

43. On information and belief, Defendant Dane Laster is the registrant and owner of the Crocos Shoes Web Site, located at *http://www.crocosshoes.com*, and has otherwise directly participated in the acts described herein.

44. On information and belief, Defendant Laster manufactures, uses, offers for sale, sells, and/or imports foam clog footwear and accessories for foam clog footwear under the CROCOS, CROCOS SHOES, CROCS, SHOE CHARMS FOR MUCKERS and JIBBITZ names, and other foam clog footwear and footwear accessories, throughout the United States, including within the State of Colorado.

45. Through the Crocos Shoes Web Site, foam clog footwear and accessories for foam clog footwear under the CROCOS, CROCOS SHOES, CROCS, SHOE CHARMS FOR MUCKERS and JIBBITZ names, and other foam clog footwear and footwear accessories are offered for sale and otherwise available for purchase and delivery throughout the United States, including within the State of Colorado. A sample of items offered for sale on the Crocos Shoes Web Site is attached hereto as **Exhibit I**.

46. Defendant Laster registered the *crocosshoes.com* domain with a bad faith intent to profit from the CROCS Mark. Defendant Laster has knowingly and repeatedly used the CROCS and JIBBITZ Marks on the Crocos Web Site to appropriate Plaintiffs' goodwill and mislead the public into thinking that Plaintiffs somehow sponsor or are affiliated with the Crocos Shoes Web Site. For example, Defendant Laster uses the CROCS Mark *no less than twenty-five times on each page on the Crocos Shoes Web Site*:

If you are looking for Crocs shoes, Crocs nursing shoes, wholesale crocs shoes, kid crocs shoes, croc shoes, clog crocs nursing shoes,

crocs beach shoes, crocs women shoes, child crocs shoes, crocs footwear nursing shoes, crocs toddler shoes, crocs islander shoes, crocs cayman shoes, discount crocs shoes, cheap crocs shoes, crocs professional shoes, crocs like shoes, man crocs shoes, crocs shoes for baby, crocs shoes for infant, crocs off road shoes, camouflage crocs shoes or Jibbitz check us out.

47. Plaintiffs have repeatedly notified Defendant Laster of his infringing activities, and on April 10, 2007, Plaintiffs sent Defendant Laster a cease-and-desist letter notifying Defendant Laster that his activities violated Plaintiffs' intellectual property rights and demanding that he cease infringing Plaintiffs' intellectual property rights and discontinue all use of the name "CROCOS SHOES" for any purpose. A true and correct copy of Plaintiffs' April 10, 2007 letter is attached hereto as **Exhibit J**. Defendant Laster has not responded to Plaintiffs' demands.

48. Defendant Laster's advertisement, marketing, offering for sale, and distribution of foam clog footwear and footwear accessories under the CROCOS, CROCOS SHOES, CROCS, SHOE CHARMS FOR MUCKERS and JIBBITZ names, and other foam clog footwear and accessories infringe claims 1 and 2 of the '858 Patent, the '789 Patent, the Crocs Trade Dress, the Jibbitz Copyrighted Works, and otherwise constitute unfair competition. Defendant Laster's use of the CROCOS, CROCOS SHOES, CROCS, and JIBBITZ Marks in connection with such foam clog footwear and footwear accessories infringes the CROCS and JIBBITZ Marks, resulting in irreparable harm to Plaintiffs for which Plaintiffs have no adequate remedy at law.

FIRST CLAIM FOR RELIEF

Copyright Infringement – 17 U.S.C. § 101 et seq.

49. Plaintiffs hereby incorporate each of the preceding paragraphs as if fully set forth herein.

50. Defendants infringe the Jibbitz Copyrighted Works; reproduce the Copyrighted Works in copies; prepare derivative works based upon the Jibbitz Copyrighted Works; and distribute and display copies of the Copyrighted Works to the public, thus infringing Jibbitz's exclusive rights in the Jibbitz Copyrighted Works in violation of 15 U.S.C. § 106.

51. Defendants are not authorized by Jibbitz to use the Jibbitz Copyrighted Works.

52. Defendants have obtained and/or will obtain sales and revenue as a direct result of their willful infringement of the Jibbitz Copyrighted Works.

53. The natural and foreseeable result of Defendants' conduct has been and will continue to be to deprive Jibbitz of the benefits of the exclusive right to reproduce the Jibbitz Copyrighted Works in copies; prepare derivative works based upon the Jibbitz Copyrighted Works; and distribute and display copies of the Copyrighted Works to the public; to deprive Jibbitz of goodwill; and to injure Jibbitz's relations with present and prospective customers.

54. Jibbitz has lost and will continue to lose revenue from the Defendants' unlawful use of its Copyrighted Works as the direct result of Defendants' conduct alleged herein and Defendants' conduct has deprived and will continue to deprive Jibbitz of opportunities for expanding its business and goodwill.

55. On information and belief, Defendants intend to continue their course of conduct and to wrongfully use, infringe upon, present and otherwise continue to profit from their infringement of the Copyrighted Works.

56. Defendants' conduct has caused, and, if not enjoined will continue to cause, irreparable harm to Jibbitz. Jibbitz has no adequate remedy at law.

SECOND CLAIM FOR RELIEF

Federal Trademark Infringement – 15 U.S.C. § 1114

57. Plaintiffs hereby incorporate each of the preceding paragraphs as if fully set forth herein.

58. Defendants are not authorized to use the JIBBITZ Marks or any mark confusingly similar or that in any way represents or implies that Defendants and/or Defendants goods are in any way associated with Jibbitz.

59. Defendants unauthorized use of the JIBBITZ Marks as alleged herein constitutes trademark infringement in violation of 15 U.S.C. § 1114. Defendants' use of the JIBBITZ Marks is likely to cause, and on information and belief, has actually caused, confusion, mistake, or deception in the market as to the source or origin of Defendants goods, and has falsely suggested that Defendants and/or their goods are sponsored by, connected to, or associated with Jibbitz.

60. As a direct and proximate result of Defendants knowing, deliberate and willful infringement of the JIBBITZ Marks, Jibbitz has suffered, and will continue to suffer, irreparable injury to its business, reputation, and goodwill, unless and until Defendants actions as alleged herein are permanently enjoined. Jibbitz has no adequate remedy at law.

THIRD CLAIM FOR RELIEF

Common Law Trademark Infringement

61. Plaintiffs hereby incorporate each of the preceding paragraphs as if fully set forth herein.

62. Crocs was the first to use the CROCS Mark or any marks similar thereto in association with the sale of foam clog footwear. As a result of the continued sale by Crocs of

products under the CROCS Mark, the CROCS Mark has become widely known and Crocs has become identified in the public mind as the manufacturer and/or licensor of the products to which the CROCS Mark is applied.

63. As a result of the experience, care, and service of Crocs in producing and providing Crocs' products, Crocs products have become widely known to have acquired a worldwide reputation for excellence. Moreover, the CROCS Mark has become associated with Crocs products, and has come to symbolize the reputation for quality and excellence of Crocs' products. As such the CROCS Mark has become inherently distinctive.

64. The CROCS Mark neither suggests nor describes any ingredient or characteristic of Crocs' goods or services. As such, the CROCS Mark is arbitrary and therefore distinctive.

65. Defendants' use of the names CROCOS, CROCOS CLOGS, CROCOS SHOES, and CROCO CHARMS in connection with foam clog footwear and accessories for foam clog footwear is likely to cause confusion, mistake, or deception as to the source, origin, sponsorship, or affiliation of Defendants' services by Crocs.

66. Defendants are not authorized to use the CROCS Mark or any mark confusingly similar or that in any way represents or implies that Defendants and/or Defendants' goods are in any way associated with Crocs.

67. Therefore, Defendants' use of the names CROCOS, CROCOS CLOGS, CROCOS SHOES, and CROCO CHARMS constitutes trademark infringement in violation of Colorado common law.

68. Crocs has suffered, and will continue to suffer, injury and irreparable harm to its goodwill and reputation unless Defendants are enjoined from their wrongful acts. Crocs has no adequate remedy at law.

FOURTH CLAIM FOR RELIEF

Anticybersquatting – 15 U.S.C. § 1125(d)(1)

69. Plaintiffs hereby incorporate each of the preceding paragraphs as if fully set forth herein.

70. Defendant Laster, as registrant of *www.crocosshoes.com*, has registered, trafficked in, and/or used a trademark that was distinctive at the time of registration of the domain name and was identical or confusingly similar to Crocs' CROCS mark, and/or registered, trafficked in, and/or used a famous trademark that was famous at the time of the registration of the domain name and was identical or confusingly similar to or dilutive of that mark.

71. The actions described herein evidence bad faith intent to profit by Defendant Laster from the registration and/or use of Crocs' distinctive CROCS mark in an Internet domain name.

72. Crocs is entitled to an order and injunction immediately transferring the domain name *www.crocosshoes.com* to Crocs.

FIFTH CLAIM FOR RELIEF

Infringement of the '858 Patent – 35 U.S.C. § 1, et seq.

73. Plaintiffs hereby incorporate each of the preceding paragraphs as if fully set forth herein.

74. Defendants have manufactured, used, offered for sale, sold, and/or imported, and continue to manufacture, use, offer to sell, and/or foam clog footwear, including but not limited “Crocos” clogs that infringe the claims of the ‘858 Patent.

75. As a result of Defendants’ infringement of Crocs’ rights in the ‘858 Patent, Crocs has suffered and will continue to suffer damages.

76. Defendants’ infringement of the ‘858 Patent has been with full knowledge of the ‘858 Patent and Crocs’ rights therein.

77. Defendants’ willful infringement of Crocs’ rights in the ‘858 Patent warrants an award of treble damages under 35 U.S.C. § 284 and makes this an exceptional case warranting an award of Crocs’ reasonable attorney’s fees and costs under 35 U.S.C. § 285.

78. As a result of Defendants’ continuing infringement of Crocs’ rights in the ‘858 Patent, Crocs is suffering irreparable harm. If Defendants’ infringing conduct is not enjoined, Crocs will continue to suffer irreparable harm, and otherwise has no adequate remedy at law. As a result, Crocs is entitled to injunctive relief pursuant to 35 U.S.C. § 283.

SIXTH CLAIM FOR RELIEF

Infringement of the ‘789 Patent – 35 U.S.C. § 1, et seq.

79. Plaintiffs hereby incorporate each of the preceding paragraphs as if fully set forth herein.

80. Defendants have manufactured, used, offered for sale, sold, and/or imported, and continue to manufacture, use, offer to sell, and/or foam clog footwear, including but not limited “Crocos” clogs that infringes the ‘789 Patent.

81. As a result of Defendants’ infringement of Crocs’ rights in the ‘789 Patent, Crocs has suffered and will continue to suffer damages.

82. Defendants' infringement of the '789 Patent has been with full knowledge of the '789 Patent and Crocs' rights therein.

83. Defendants' willful infringement of Crocs' rights in the '789 Patent warrants an award of treble damages under 35 U.S.C. § 284 and makes this an exceptional case warranting an award of Crocs' reasonable attorney's fees and costs under 35 U.S.C. § 285.

84. As a result of Defendants' continuing infringement of Crocs' rights in the '789 Patent, Crocs is suffering irreparable harm. If Defendants' infringing conduct is not enjoined, Crocs will continue to suffer irreparable harm, and otherwise has no adequate remedy at law. As a result, Crocs is entitled to injunctive relief pursuant to 35 U.S.C. § 283.

SEVENTH CLAIM FOR RELIEF

Trade Dress Infringement

85. Plaintiffs hereby incorporate each of the preceding paragraphs as if fully set forth herein.

86. Defendants market, import and/or sell footwear that infringes the Crocs Trade Dress, including but not limited to Croco Clogs, Crocos Shoes and other foam clog footwear.

87. Defendants' foam clog footwear, as described above, is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of such footwear with Crocs Trade Dress, or as to the origin, sponsorship, or approval of Defendants' footwear by Crocs in violation of section 43(a) of the Lanham Act, 15 U.S.C. § 1125.

88. On information and belief, Defendants copied the Crocs Trade Dress with the intent to trade on the goodwill developed by Crocs in establishing the Crocs Trade Dress. Defendants' intentional copying is further evidenced by the degree of similarity between the products. Furthermore, Defendants' intentional copying is further evidenced by its use of

confusingly similar designations (*e.g.*, Crocos Shoes) and Defendants' attempt to sell multiple products from Crocs' products line.

89. Crocs has not authorized, licensed or otherwise permitted Defendants to use the Crocs Trade Dress. Therefore, Defendants' unfair acts were committed in violation of section 43(a) of the Lanham Act, 15 U.S.C. § 1125.

90. Because the Defendants' imitation footwear are confusingly similar to the Crocs Trade Dress, they are likely to cause consumer confusion. Such consumer confusion has threatened and caused, and will continue to threaten and cause, substantial injury to Crocs.

EIGHTH CLAIM FOR RELIEF

Passing Off and Federal Unfair Competition – 15 U.S.C. § 1051 *et seq.*

91. Plaintiffs hereby incorporate each of the preceding paragraphs as if fully set forth herein.

92. Defendants have displayed, distributed, sold and used merchandise that that infringes the Crocs Trade Dress and the Jibbitz Copyrighted Works. Defendants' acts are likely to cause confusion, mistake, or deception as to the origin, sponsorship, or approval of Defendants' goods, and also misrepresent the nature, characteristics and qualities of Defendants' goods.

93. Defendants' actions constitute false designations of origin, unfair competition, false advertising, and passing off in violation of Section 43(a) of the Trademark Act of 1946, as amended, 15 U.S.C. § 1125(a). Such violations were and are willful and deliberate.

94. Defendants' conduct has caused, and, if not enjoined will continue to cause, irreparable harm to Plaintiffs. Plaintiffs have no adequate remedy at law.

NINTH CLAIM FOR RELIEF

Common Law Unfair Competition

95. Plaintiffs hereby incorporate each of the preceding paragraphs as if fully set forth herein.

96. Defendants have displayed, distributed, sold and used merchandise that that infringes the Crocs Trade Dress and the Jibbitz Copyrighted Works, thereby taking advantage of the good will and business reputation of Plaintiffs by unfair means. These activities constitute unfair competition.

97. Defendants have engaged in unfair competition willfully and with a bad faith intent to injure Plaintiffs.

98. Plaintiffs have sustained, and will continue to sustain, substantial injuries, loss and damage to its business by reason of the unfair competition of Defendants.

99. Defendants' unfair competition has caused, and, if not enjoined will continue to cause, irreparable harm to Plaintiffs. Plaintiffs have no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for entry of judgment granting:

A. A preliminary and permanent injunction restraining Defendants, their officers, agents, servants, employees, and attorneys, and those persons acting in concert with them from:

(i) manufacturing, use, marketing, distribution, sale, offers to sell, and importation of any foam clog footwear that infringes the '858 Patent, the '789 Patent and/or the Crocs Trade Dress;

(ii) directly or indirectly infringing Jibbitz's copyright rights in the Jibbitz Copyrighted Works, or any portion thereof, and any and all use of the Jibbitz Copyrighted Works, either alone or in conjunction with other materials;

(iii) using the marks CROCOS, CROCOS CLOGS, CROCOS SHOES, and CROCO CHARMS or any other mark that is deceptively similar to the CROCS Mark, in connection with their goods and services and otherwise engaging in unfair competition; and

(iv) directly or indirectly infringing and diluting Jibbitz's Lanham Act rights in the Jibbitz Marks and any and all use of the Jibbitz Marks, either alone or in conjunction with other materials and otherwise engaging in unfair competition;

(v) unfairly competing with Crocs and Jibbitz in any manner whatsoever.

B. Award Plaintiffs their actual damages in an amount according to proof;

C. Declare that Defendant's infringement and other wrongful acts herein alleged be determined deliberate, willful, and in conscious disregard of Plaintiffs' rights pursuant to 15 U.S.C. §§ 1117 and 1125(a), 35 U.S.C. § 284 and/or 18 U.S.C. § 1964(c), and at common law;

D. Declare that Defendants be required to account to Plaintiffs for any and all gross and net sales, revenues, and profits received or derived by Defendants from the manufacture, marketing, sale, offering for sale, and/or distribution of products or services bearing or using any copy or colorable imitation of the Crocs Trade Dress or the Jibbitz Copyrighted Works and award Plaintiffs Defendants' profits not taken into account in calculating actual damages;

E. For an order that Defendants be directed to file with this Court and serve on Crocs and Jibbitz within a period of time to be determined by the Court after the service of any injunction order, a report in writing, under oath, setting forth in detail the manner and form in which Defendants have complied with the injunction.

F. For an order that Defendants be required during this proceeding to preserve, surrender and deliver up to Crocs and Jibbitz all devices, clothing, printed matter, advertising, molds, plates, and designs bearing the words, designations, trademarks or symbols related or similar thereto which violate Crocs' and Jibbitz's respective federal, statutory, state, or common law rights.

G. For an order that upon the conclusion of this proceeding, Crocs and Jibbitz are authorized by this Court to destroy all devices, clothing, printed matter, advertising, molds, plates, and designs provided by Defendant to Crocs and Jibbitz that this Court finds to violate Crocs' and Jibbitz's respective federal, statutory, state, or common law rights.

H. For an order that Defendants be required at the conclusion of this proceeding to destroy in their possession any and all remaining devices, clothing, printed matter, advertising, molds, plates, and designs that this Court finds to violate Crocs' and Jibbitz's respective federal, statutory, state or common law rights.

I. For an order that the Internet domain name *www.crocosshoes.com* be transferred, pursuant to 15 U.S.C. § 1125(d)(1)(C) to Plaintiff Crocs;

J. An award of treble or punitive damages, as applicable, against Defendants;

K. Pre-judgment and post-judgment interest as allowed by law;

L. An award of reasonable attorney's fees and costs; and,

M. Such other and further equitable and legal relief as this Court deems just and proper.

JURY DEMAND

Plaintiffs hereby demand a trial by jury on all issues so triable.

Respectfully submitted this 16th day of July, 2007.

s/ Natalie Hanlon-Leh
Natalie Hanlon-Leh
Jared B. Briant
FAEGRE & BENSON LLP
1700 Lincoln Street, Suite 3200
Denver, Colorado 80203
Phone: (303) 607-3500
Fax: (303) 607-3600

Attorneys for Plaintiffs CROCS, INC. and
JIBBITZ, LLC

Plaintiff's Address:
6328 Monarch Park Place
Niwot, Colorado 80503

fb.us.2140675.06

EXHIBIT I

Muckers Shoes

| |
|--|
| Mens Muckers Sport Shoes-SAVE 50% |
| Ladies Muckers Sport Shoes-SAVE 50% |
| Youth Muckers Sport Shoes-SAVE 50% |
| Toddlers Muckers Sport Shoes-SAVE 50% |
| SALE SHOES-SAVE 75% |
| Shoe Charms |
| Shoe Size Conversion Chart |
| Testimonials |
| Crocos Youth Clogs (No Holes)-SAVE 75% |
| OVERSTOCKED SHOES \$9.99 |
| Camo Crocos Sport Shoes-SAVE 50% |

| |
|--------------------------------|
| Show Order |
| Info |
| Privacy Policy |
| Search |
| Index |
| Y! SHOPPING |



Muckers Shoes is the first and only closed cell foam resin shoe to feature ArchAware™ technology. This allows your shoes to correctly mold to the arch of your foot providing

excellent arch support while allowing extreme comfort. It does not matter if you are walking or standing for long periods of time. Once you try them you will not try any other shoes.

"As a nurse I own three pairs of Crocs shoes, but when I tried the Muckers I was hooked. They are more comfortable, have more arch support, fit better and costs considerably less. My next purchase will be Muckers too."-Joe S.

We are out of the Tie Dyed Crocos and the Muckers Easy G until April 30th. You can still order them, but they will not ship until then. Thanks



[Mens Muckers Sport Shoes](#)

-
[SAVE 50%](#)



[Ladies Muckers Sport Shoes](#)

-
[SAVE 50%](#)



[Youth Muckers Sport Shoes](#)

-
[SAVE 50%](#)



[Shoe Charms Frog](#)

Regular price: \$6.00
Sale price: **\$2.99, 2/ \$5.00**



[Shoe Charms Black Cat](#)

Regular price: \$6.00
Sale price: **\$2.99, 2/ \$5.00**



[Muckers Mens Sport Shoes](#)

-
[SAVE 60%](#)
Regular price: \$44.00
Sale price: **\$17.59**



[Muckers Ladies Sport Shoes](#)



[Orange Youth Muckers Sport Shoes](#)



[Orange Toddlers Muckers Sport Shoes](#)

=
[SAVE](#)
[75%](#)
 Regular
 price:
 \$40.00
 Sale
 price:
\$9.99

[Shoes](#)
 =
[SAVE](#)
[50%](#)
 Regular
 price:
 \$36.00
 Sale
 price:
\$17.99

[Shoes](#)
 =
[SAVE](#)
[50%](#)
 Regular
 price:
 \$34.00
 Sale
 price:
\$16.99



[BLOW](#)
[OUT](#)
 =
[Airwalk](#)
[Shoes](#)
[Pink](#)
 =
[SAVE](#)
[OVER](#)
[80%](#)
 =
[LIMITED](#)
[QTY](#)
 Regular
 price:
 \$40.00
 Sale
 price:
\$7.99



[Shoe](#)
[Charms](#)
[Flip](#)
[Flop](#)
 Regular
 price:
 \$6.00
 Sale
 price:
\$2.99,
2/
\$5.00



[Shoe](#)
[Charms](#)
[Gator](#)
[Orange](#)
[Tail](#)
 Regular
 price:
 \$6.00
 Sale
 price:
\$1.49,
2/
\$1.98

[Shoe](#)
[Charms](#)
[Gecko](#)
 Regular
 price:
 \$6.00
 Sale
 price:
\$1.49,
2/
\$1.98



[Mickey](#)
[Mouse](#)
[Shoe](#)
[Charm](#)
 Regular
 price:
 \$6.00
 Sale
 price:
\$2.99,
2/
\$5.00



[BLOW](#)
[OUT](#)
 =
[Airwalk](#)
[Shoes](#)
[Youth](#)
[LILAC](#)
 =
[SAVE](#)
[OVER](#)
[75%](#)
 =
[LIMITED](#)
[QTY](#)
 Regular
 price:
 \$40.00
 Sale
 price:
\$9.99




[BLOW](#)
[OUT](#)
 =
[Airwalk](#)
[Shoes](#)
[Ladies](#)
[Powder](#)



[Ladies](#)
[Muckers](#)
 =
[SAVE](#)
[75%](#)
 Regular
 price:

[MENS](#)
[MUCKERS](#)
 =
[SAVE](#)
[OVER](#)
[75%](#)
 Regular

| | | | |
|--------------------------|------------------------|---|-------------------------|
| Blue | \$40.00 | price: | |
| - | Sale | \$21.99 | |
| SAVE | price: | Sale | |
| OVER | \$9.99 | price: | |
| 80% | | \$9.99 | |
| - | | | |
| LIMITED | | | |
| QTY | | | |
| Regular | | | |
| price: | | | |
| \$40.00 | | | |
| Sale | | | |
| price: | | | |
| \$7.99 | | | |
| | | | |
| Shoe | Shoe |  | Muckers |
| Charms | Charms | | Mens |
| Dinosaur | Mad | | Sport |
| Regular | Cow | | Black |
| price: | Regular | | Shoes |
| \$6.00 | price: | | - |
| Sale | \$6.00 | | SAVE |
| price: | Sale | | 50% |
| \$2.99, | price: | | Regular |
| 2/ | \$2.99, | | price: |
| \$5.00 | 2/ | | \$44.00 |
| | \$5.00 | | Sale |
| | | | price: |
| | | | \$21.99 |



[Camo](#)
[Crocos](#)
[Youth](#)
[Sport](#)
[Shoes](#)

-
[SAVE](#)
[50%](#)
 Regular
 price:
 \$36.00
Sale
 price:
\$17.99

Welcome to Muckers Shoes. We think that you will find that the Muckers brand of shoes is second to none in comfort, styling and price. Muckers Shoes are a non-skidding, slip resistant, closed cell, foam resin shoe that is anti-bacterial. So you can wear Muckers Shoes with or without socks. Go ahead and discover the secret of comfortable feet, insist on Muckers Shoes.



[CLICK HERE FOR ORIGINAL CROCS .](#)

| [If you are looking for Crocs shoes, Crocs nursing shoes, wholesale crocs shoes, kid crocs shoes, croc shoes, clog crocs nursing shoes, crocs beach shoes, crocs women shoes, child crocs shoes, crocs footwear nursing shoes, crocs toddler shoes, crocs islander shoes, crocs cayman shoes, discount crocs shoes, cheap crocs shoes, crocs professional shoes, crocs like shoes, man crocs shoes, crocs shoes for baby, crocs shoes for infant, crocs off road shoes, camouflage crocs shoes or Jibbitz check us out](#)

| [tanning bed lotion](#)
| [indoor tanning lotion](#)

| [cheap tanning lotion](#)

| [Indoor tanning lotion | tanning bed info](#)

| [Cheap Tanning Lotion](#)

| [Cheap Indoor Tanning Lotion](#)

| [Mesothelioma | Lung Cancer | Asbestos](#)

| [Indoor tanning lotion | tanning bed info](#)

| [Penis Enlargement Pills | Penis Enlargement Creme | Male Enhancement | Penis](#)

[Enlargement Cream](#)

- | [Male Enhancement](#)
- | [Enhancement](#)

- | [Indoor tanning lotion](#)
- | [tanning lotion info](#)
- | [tanning](#)
- | [California Tan](#)
- | [Designer Skin tanning lotion](#)
- | [Florida](#)
- | [Supre tanning lotion](#)
- | [Fiji Blend tanning lotion](#)
- | [Fiesta Sun](#)
- | [Indoor tanning lotion | tanning bed info](#)
- | [cheap tanning lotion](#)
- | [Discount tanning lotion](#)
- | [Indoor tanning](#)
- | [Wholesale tanning lotion](#)
- | [Wholesale tanning](#)
- | [Mesothelioma | Lung Cancer | Asbestos](#)
- | [Mesothelioma | Lung Cancer | Asbestos](#)
- | [Mesothelioma | Lung Cancer | Asbestos](#)
- | [Mesothelioma Symptoms](#)
- | [tanning lotions](#)
- | [tanning lotion and skin care](#)
- | [Tanning Lotion Online](#)

| |
|--|
| Home |
| Mens Muckers Sport Shoes—SAVE 50% |
| Ladies Muckers Sport Shoes—SAVE 50% |
| Youth Muckers Sport Shoes—SAVE 50% |
| Toddlers Muckers Sport Shoes—SAVE 50% |
| SALE SHOES—SAVE 75% |
| Shoe Charms |
| Shoe Size Conversion Chart |
| Testimonials |
| Crocos Youth Clogs (No Holes)—SAVE 75% |
| OVERSTOCKED SHOES \$9.99 |
| Camo Crocos Sport Shoes—SAVE 50% |

| |
|--------------------------------|
| Show Order |
| Privacy Policy |
| Info |
| Search |
| Index |
| Y! SHOPPING |

Muckers Shoes



Shoe Charms

These are the famous shoe charms to insert in the holes of your Muckers Shoes, Crocs Shoes, Holey Soles, Airwalks, Crocos or any other shoes that have the holes in them. Collect them and personalize your shoes.



[Shoe Charms Lips](#)

Regular price:
\$6.00

Sale price:
**\$2.99, 2/
\$5.00**



[Shoe Charms Gator Yellow Tailed](#)

Regular price:
\$6.00

Sale price:
**\$2.99, 2/
\$5.00**



[Shoe Charms Gator Orange Tail](#)

Regular price:
\$6.00

Sale price:
**\$1.49, 2/
\$1.98**



[Shoe Charms Bulldog](#)

Regular price:
\$6.00

Sale price:
**\$2.99, 2/
\$5.00**



[Shoe Charms Black Cat](#)

Regular price:
\$6.00

Sale price:
**\$2.99, 2/
\$5.00**



[Shoe Charms Mad Cow](#)

Regular price:
\$6.00

Sale price:
**\$2.99, 2/
\$5.00**

[Shoe Charms Penguin](#)

Regular price:
\$6.00

Sale price:
**\$2.99, 2/
\$5.00**

[Shoe Charms Turtle](#)

Regular price:
\$6.00

Sale price:
**\$2.99, 2/
\$5.00**



[Shoe Charms Tiger](#)

Regular price:
\$6.00

Sale price:
\$2.99, 2/



[Shoe Charms Purple/Orange Butterfly](#)

Regular price:
\$6.00

Sale price:

\$5.00[Shoe Charms
Ladybug](#)Regular price:
\$6.00

Sale price:

\$2.99, 2/**\$5.00****\$2.99, 2/
\$5.00**[Shoe Charms
Heart](#)Regular price:
\$6.00

Sale price:

\$2.99, 2/**\$5.00**[Shoe Charms
Minnie Mouse](#)Regular price:
\$6.00

Sale price:

\$2.99, 2/**\$5.00**[Shoe Charms
Frog](#)Regular price:
\$6.00

Sale price:

\$2.99, 2/**\$5.00**[Shoe Charms
Green Flower](#)Regular price:
\$6.00

Sale price:

\$2.99, 2/**\$5.00**[Shoe Charms
Gecko](#)Regular price:
\$6.00

Sale price:

\$1.49, 2/**\$1.98**[Shoe Charms
Flip Flop](#)Regular price:
\$6.00

Sale price:

\$2.99, 2/**\$5.00**[Shoe Charms
Tree Frog](#)Regular price:
\$6.00

Sale price:

\$2.99, 2/**\$5.00**[Shoe Charms
Dinosaur](#)Regular price:
\$6.00

Sale price:

\$2.99, 2/**\$5.00**[Shoe Charms
Football](#)Regular price:
\$6.00

Sale price:

\$2.99, 2/**\$5.00**[Shoe Charms
White Horse](#)Regular price:
\$6.00

Sale price:

\$2.99, 2/**\$5.00**[Shoe Charms
Red Paw
Print](#)Regular price:
\$6.00

Sale price:

\$2.99, 2/**\$5.00**[Mickey
Mouse Shoe
Charm](#)Regular price:
\$6.00

Sale price:
**\$2.99, 2/
\$5.00**

[CLICK HERE FOR ORIGINAL CROCS .](#)

| [If you are looking for Crocs shoes, Crocs nursing shoes, wholesale crocs shoes, kid crocs shoes, croc shoes, clog crocs nursing shoes, crocs beach shoes, crocs women shoes, child crocs shoes, crocs footwear nursing shoes, crocs toddler shoes, crocs islander shoes, crocs cayman shoes, discount crocs shoes, cheap crocs shoes, crocs professional shoes, crocs like shoes, man crocs shoes, crocs shoes for baby, crocs shoes for infant, crocs off road shoes, camouflage crocs shoes or Jibbitz check us out](#)

| [tanning bed lotion](#)
| [indoor tanning lotion](#)

| [cheap tanning lotion](#)

| [Indoor tanning lotion | tanning bed info](#)

| [Cheap Tanning Lotion](#)

| [Cheap Indoor Tanning Lotion](#)

| [Mesothelioma | Lung Cancer | Asbestos](#)

- | [Indoor tanning lotion | tanning bed info](#)
- | [Penis Enlargement Pills | Penis Enlargement Creme | Male Enhancement | Penis Enlargement Cream](#)
- | [Male Enhancement](#)
- | [Enhancement](#)
- | [Indoor tanning lotion](#)
- | [tanning lotion info](#)
- | [tanning](#)
- | [California Tan](#)
- | [Designer Skin tanning lotion](#)
- | [Florida](#)
- | [Supre tanning lotion](#)
- | [Fiji Blend tanning lotion](#)
- | [Fiesta Sun](#)
- | [Indoor tanning lotion | tanning bed info](#)
- | [cheap tanning lotion](#)
- | [Discount tanning lotion](#)
- | [Indoor tanning](#)
- | [Wholesale tanning lotion](#)
- | [Wholesale tanning](#)
- | [Mesothelioma | Lung Cancer | Asbestos](#)
- | [Mesothelioma | Lung Cancer | Asbestos](#)
- | [Mesothelioma | Lung Cancer | Asbestos](#)
- | [Mesothelioma Symptoms](#)
- | [tanning lotions](#)
- | [tanning lotion and skin care](#)
- | [Tanning Lotion Online](#)

EXHIBIT E



Hello! [Sign in](#) or [register](#).

[Buy](#) | [Sell](#) | [My eBay](#) | [Community](#) | [Help](#)

[Site Map](#)

 All Categories [Advanced Search](#)

[Categories](#) ▾ [Motors](#) [Express](#) [Stores](#)



[Home](#) > [eBay Stores](#) > [Tan At The Beach Inc](#) > All Categories

[Add to My Favorite Stores](#) | [Sign up for Store newsletter](#)

Tan At The Beach Inc

Maintained by: [tanatthebeachinc2005](#) ([3260](#)



Tan At The Beach, Inc. We Welcome You To Our eBay Store. Please Look A Round At All Our Top Fashion Clogs And Pin Art For The Clogs. We Import & Export Worldwide And Currently Supply 7000 Customers Including Department Stores. We Take Pride In Our Customer Care & Thank You For Shopping With Us.



Store Search

€ in titles & descriptions

Store Categories

Store home

[Clog Pin Arts New!!](#) (151)
[Men's Clogs "New"](#) (4)
[Clogs For All](#) (34)
[Wholesale Cases Of Infants](#) (12)
[Wholesale Cases Of Lady Sizes](#) (2)
[New Croco Flip-Flops](#) (29)
[Toddler Clogs Sizes 6 - 11](#) (7)
[Youth Clogs Sizes 12 - 4](#) (23)
[New Tye Dye Clogs](#) (55)
[Other Items](#) (13)

Display

- [Gallery view](#)
- [View ending times](#) (Ends PDT)

New Arrivals!

n [CROCO CHARMS - W/SALE LOT OF 100 ASSORTED CHARMS](#)
 n [CROCO CHARMS SET OF 2 JIMMY CRICKETS](#)
[See all items...](#)











330 items found in All Categories

List View | [Picture Gallery](#)

View: **All Items** | [Auction only](#) | [Buy It Now only](#) | [On Sale only](#)

Sort by: Time: ending soonest ▾

| | Picture hide | Item Title | Price | Bids | Time Left ▲ |
|---|------------------------------|--|-----------|-----------------------|-----------------------------|
| € | | JIBBITZ SET OF 8 FLOWERS AS PICTURED | US \$5.00 | 12 | 56m |
| € | | CROCO CHARMS SET OF 10 TROPICAL CHARMS AS PICTURED | US \$8.99 | - | 1h 01m |
| € | | CROCO CHARMS SET OF 4 LARGE FLOWERS ASSORTED | US \$5.99 | Buy It Now | |

| | | | | | |
|---|---|--|-------------|-----------------------|------------|
| € |  | CROCO CHARMS SET OF 4 LARGE FLOWERS & PINK BUTTERFLY | US \$7.99 | Buy It Now | |
| € |  | CROCO CHARMS SET OF 2 YELLOW FLOWERS | US \$1.99 | Buy It Now | |
| € |  | White Clogs Size 10 Lady | US \$10.00 | Buy It Now | |
| € |  | White Clogs Size 11 Lady | US \$10.00 | Buy It Now | |
| € |  | CROCO CHARMS SET OF 12 LARGE FLOWERS AS PICTURED | US \$6.99 | - | 1d 04h 09m |
| € |  | Airwalk Clogs Size 6 Lady | US \$12.00 | Buy It Now | |
| € |  | CROCO CHARMS - SET OF 2 DISNEY TIGGERS | US \$1.99 | 1 | 1d 09h 25m |
| € |  | TYE DYE CROCO CLOGS WHOLESALE CASES OF 36 PAIRS ladies PERFECT SIZES - CHOICE OF THREE DIFFERENT COLORS | US \$226.00 | Buy It Now | |
| € |  | CROCO CHARMS SET OF 22 DISNEY CHARMS AS PICTURED | US \$19.99 | 1 | 1d 21h 14m |
| € |  | SET OF 10 ASSORTED BRACELETS / ANKLETS FOR YOUR JIBBITZ | US \$12.99 | Buy It Now | 1d 21h 16m |
| € | | CROCO CHARMS CHELSEA FC SOLD AS A SET | US \$2.99 | - | 1d 21h 22m |



OF 2

€



[CROCO](#)
[CHARMS MAN](#)
[UNITED FC SET](#)
[OF 13 AS](#)
[PICTURED](#)
["NEW"](#)

US \$21.99 - 1d 21h 59m

€



[CROCOS - P/R](#)
[TYE DYE SIZE 8](#)
[LADIES FOR](#)
[YOUR JIBBITZ](#)

US \$9.99 - 1d 22h 04m

€



[CROCO](#)
[CHARMS -](#)
[JIMMY CRICKET](#)
[- WINNERS](#)
[RECEIVE 2](#)

US \$1.99 - 1d 22h 11m

€



[CROCO](#)
[CHARMS -](#)
[JIMMY CRICKET](#)
[- WINNERS](#)
[RECEIVE 2](#)

US \$1.99 1 1d 22h 11m

€



[JIBBITZ SET OF](#)
[8 ASSORTED](#)
[FLOWERS](#)

US \$5.99 1 1d 22h 14m

€



[ORIGINAL](#)
[JIBBITZ SET OF](#)
[4 PINK PAWS](#)

US \$1.99 1 1d 22h 20m

€



[ORIGINAL](#)
[JIBBITZ SET OF](#)
[8 ASSORTED](#)
[CATS](#)

US \$6.99 3 1d 22h 23m

€



[CROCO SHOES](#)
[NOW IN W/SALE](#)
[BY THE CASE](#)
[RAINBOW](#)
[YOUTHS](#)

US \$226.00 ~~Buy It Now~~ 1d 22h 30m

€



[CROCO SHOES](#)
[W/SALE BY THE](#)
[CASE RAINBOW](#)
[LADIES 36](#)
[PAIRS](#)







US \$226.00 ~~Buy It Now~~ 1d 22h 31m

€



[CROCO SHOES](#)
[W/SALE BY THE](#)
[CASE](#)
[B/YELLOW](#)
[LADIES 36](#)
[PAIRS](#)

US \$226.00 ~~Buy It Now~~ 1d 22h 34m

- | | | | | | |
|---|--|--|-------------|-----------------------|------------|
| € |  | CROCO SHOES W/SALE BY THE CASE B/YELLOW YOUTHS 36 PAIRS | US \$226.00 | Buy It Now | 1d 22h 34m |
| € |  | CROCO SHOES W/SALE BY THE CASE Y/PINK YOUTHS 36 PAIRS | US \$226.00 | Buy It Now | 1d 22h 36m |
| € |  | CROCO SHOES W/SALE BY THE CASE Y/PINK YOUTHS 36 PAIRS | US \$226.00 | Buy It Now | 1d 22h 37m |
| € |  | JIBBITZ SET OF 22 DISNEY CHARMS AS PICTURED | US \$22.99 | Buy It Now | 1d 22h 40m |
| € |  | Wholesale Lady Easy Softies Clogs 36 prs per case | US \$185.00 | Buy It Now | |
| € |  | Wholesale Cases Of Easy Softies Clogs 48 prs per case INFANTS SIZES 8 COLORS PER CASE ALL SIZES | US \$198.00 | Buy It Now | |



Compare

To compare items side-by-side, select the check boxes and click the **Compare** button.

Page 1 of 11

Previous

1

2

3

4

5

6

7

8

9

Next

Go to page

Go

An eBay Store maintained by:

[tanatthebeachinc2005](#) (3260 ★)



[Seller, manage Store](#)



[Learn more about feeds](#)

Tools: [My eBay Favorites](#) | [Email this Store to a friend](#)

[eBay Pulse](#) | [eBay Reviews](#) | [eBay Stores](#) | [Half.com](#) | [eBay Express](#) | [Austria](#) | [China](#) | [France](#) | [Germany](#) | [Italy](#) | [Spain](#) | [United Kingdom](#) | [Popular Searches](#)

[Kijiji](#) | [PayPal](#) | [ProStores](#) | [Apartments for Rent](#) | [Shopping.com](#) | [Skype](#) | [Tickets](#)

[About eBay](#) | [Announcements](#) | [Security Center](#) | [Policies](#) | [Site Map](#) | [Help](#)

Copyright © 1995-2007 eBay Inc. All Rights Reserved. Designated trademarks and brands are the property of their respective owners. Use of this Web site constitutes acceptance of the eBay [User Agreement](#) and [Privacy Policy](#).

[eBay official time](#) Page last updated: Jul-12 11:36:24 PDT

EXHIBIT D

The United States of America



**CERTIFICATE OF REGISTRATION
PRINCIPAL REGISTER**

The Mark shown in this certificate has been registered in the United States Patent and Trademark Office to the named registrant.

The records of the United States Patent and Trademark Office show that an application for registration of the Mark shown in this Certificate was filed in the Office; that the application was examined and determined to be in compliance with the requirements of the law and with the regulations prescribed by the Director of the United States Patent and Trademark Office; and that the Applicant is entitled to registration of the Mark under the Trademark Act of 1946, as Amended.

A copy of the Mark and pertinent data from the application are part of this certificate.

To avoid CANCELLATION of the registration, the owner of the registration must submit a declaration of continued use or excusable non-use between the fifth and sixth years after the registration date. (See next page for more information.) Assuming such a declaration is properly filed, the registration will remain in force for ten (10) years, unless terminated by an order of the Commissioner for Trademarks or a federal court. (See next page for information on maintenance requirements for successive ten-year periods.)



Jon W. I. Dudas

Director of the United States Patent and Trademark Office

Int. Cl.: 26

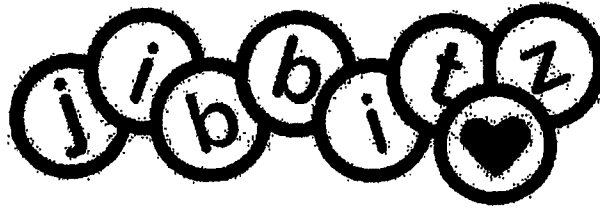
Prior U.S. Cls.: 37, 39, 40, 42 and 50

Reg. No. 3,183,379

United States Patent and Trademark Office

Registered Dec. 12, 2006

TRADEMARK
PRINCIPAL REGISTER



JIBBITZ, LLC (COLORADO LTD LIAB CO)
#202
1245 PEARL STREET
BOULDER, CO 80302

FIRST USE 8-4-2005; IN COMMERCE 8-10-2005.

THE MARK HAS A DESIGN FEATURE COM-
PRISED OF CIRCLES AND A HEART, WITH THE
LETTERS "JIBBITZ" INSIDE THE CIRCLES.

FOR: SMALL DECORATIVE OBJECTS MADE OF
RUBBER, PLASTIC, PASTE, GLASS, NON-PRE-
CIOUS STONES OR NON-PRECIOUS METAL,
NAMELY, SHOE ORNAMENTS, BUTTONS FOR
CLOTHING, SNAP FASTENERS, SLIDE FASTEN-
ERS, AND ZIPPER FASTENERS, IN CLASS 26 (U.S.
CLS. 37, 39, 40, 42 AND 50).

SER. NO. 78-771,251, FILED 12-12-2005.

ELLEN B. AWRICH, EXAMINING ATTORNEY

The United States of America



**CERTIFICATE OF REGISTRATION
PRINCIPAL REGISTER**

The Mark shown in this certificate has been registered in the United States Patent and Trademark Office to the named registrant.

The records of the United States Patent and Trademark Office show that an application for registration of the Mark shown in this Certificate was filed in the Office; that the application was examined and determined to be in compliance with the requirements of the law and with the regulations prescribed by the Director of the United States Patent and Trademark Office; and that the Applicant is entitled to registration of the Mark under the Trademark Act of 1946, as Amended.

A copy of the Mark and pertinent data from the application are part of this certificate.

To avoid CANCELLATION of the registration, the owner of the registration must submit a declaration of continued use or excusable non-use between the fifth and sixth years after the registration date. (See next page for more information.) Assuming such a declaration is properly filed, the registration will remain in force for ten (10) years, unless terminated by an order of the Commissioner for Trademarks or a federal court. (See next page for information on maintenance requirements for successive ten-year periods.)



Jon W. I. Dudas

Director of the United States Patent and Trademark Office

Int. Cl.: 26

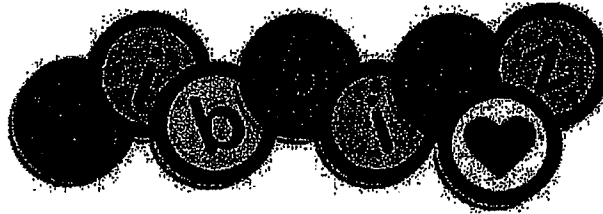
Prior U.S. Cls.: 37, 39, 40, 42 and 50

Reg. No. 3,183,380

United States Patent and Trademark Office

Registered Dec. 12, 2006

TRADEMARK
PRINCIPAL REGISTER



JIBBITZ, LLC (COLORADO LTD LIAB CO)
#202
1245 PEARL STREET
BOULDER, CO 80302

FOR: SMALL DECORATIVE OBJECTS OF RUBBER, PLASTIC, PASTE, GLASS, NON-PRECIOUS STONES OR NON-PRECIOUS METAL, NAMELY, SHOE ORNAMENTS, BUTTONS FOR CLOTHING, SNAP FASTENERS, SLIDE FASTENERS, AND ZIPPER FASTENERS, IN CLASS 26 (U.S. CLS. 37, 39, 40, 42 AND 50).

FIRST USE 8-4-2005; IN COMMERCE 8-10-2005.

THE COLOR(S) BLACK, RED, ORANGE, YELLOW, GREEN, BLUE, PURPLE, AND WHITE IS/ARE CLAIMED AS A FEATURE OF THE MARK.

THE MARK CONSISTS OF THE LETTERS "JIBBITZ" IN INDIVIDUAL CIRCLES AND A HEART INSIDE A CIRCLE UNDER THE "T" AND "Z." THE LETTERS AND OUTLINE OF EACH CIRCLE ARE BLACK AND THE HEART IS RED. THE INTERIOR OF THE CIRCLE CONTAINING THE HEART IS WHITE. THE INTERIOR OF THE OTHER CIRCLES, FROM LEFT TO RIGHT, ARE RED, ORANGE, YELLOW, GREEN, LIGHT BLUE, PURPLE, AND MEDIUM BLUE.

SER. NO. 78-771,254, FILED 12-12-2005.

ELLEN B. AWRICH, EXAMINING ATTORNEY

The United States of America



**CERTIFICATE OF REGISTRATION
PRINCIPAL REGISTER**

The Mark shown in this certificate has been registered in the United States Patent and Trademark Office to the named registrant.

The records of the United States Patent and Trademark Office show that an application for registration of the Mark shown in this Certificate was filed in the Office; that the application was examined and determined to be in compliance with the requirements of the law and with the regulations prescribed by the Director of the United States Patent and Trademark Office; and that the Applicant is entitled to registration of the Mark under the Trademark Act of 1946, as Amended.

A copy of the Mark and pertinent data from the application are part of this certificate.

To avoid CANCELLATION of the registration, the owner of the registration must submit a declaration of continued use or excusable non-use between the fifth and sixth years after the registration date. (See next page for more information.) Assuming such a declaration is properly filed, the registration will remain in force for ten (10) years, unless terminated by an order of the Commissioner for Trademarks or a federal court. (See next page for information on maintenance requirements for successive ten-year periods.)



Jon W. I. Dudas

Director of the United States Patent and Trademark Office

Int. Cl.: 26

Prior U.S. Cls.: 37, 39, 40, 42 and 50

Reg. No. 3,180,450

United States Patent and Trademark Office

Registered Dec. 5, 2006

**TRADEMARK
PRINCIPAL REGISTER**

JIBBITZ

JIBBITZ, LLC (COLORADO LTD LIAB CO)
1245 PEARL STREET, #202
BOULDER, CO 80302

FIRST USE 8-4-2005; IN COMMERCE 8-10-2005.

FOR: SMALL DECORATIVE OBJECTS MADE OF RUBBER, PLASTIC, PASTE, GLASS, NON-PRECIOUS STONES OR NON-PRECIOUS METAL, NAMELY, SHOE ORNAMENTS, BUTTONS FOR CLOTHING, SNAP FASTENERS, SLIDE FASTENERS, AND ZIPPER FASTENERS, IN CLASS 26 (U.S. CLS. 37, 39, 40, 42 AND 50).

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SER. NO. 78-771,256, FILED 12-12-2005.

ELLEN B. AWRICH, EXAMINING ATTORNEY

EXHIBIT G

Clog City, Alabama USA | (866) 3

Tan At The Beach, Inc.



Home

Online Store

Contact Us

Shoe's/Croco's

New Style



ONLINE STORE NOW OPEN

NEW TYE DYE COLORS NOW IN. LADIES, YOUTH AND INFANTS
IN - JULY 10TH 2007. CALL FOR DETAILS.

For Wholesale Prices Please Call Our Warehouse.

Your Source for All Your Clogs Needs.

Croco Charms™ - Crocos Shoes™

Highest Quality Swarovski Crystals.

No Minimum Orders.

Toll Free:

1-866-377-3161

Call Now For Prices.

Tye Dye, Camo, Solids, Original Soft Clogs, Flip Flops & Dress Shoes

Wholesale Croco Charms™.

Our New Style Flip Flops Coming Shortly.

Clog Prices Start As Low As \$3.50 per/pair. Wholesale Only Available

Cases.

We Also Sell Tanning Products, Beds And Lamps.

Super Hot 10.5 Lamps Available Here Only.

Tan at the Beach, Inc. Importers & Exporters Of high quality Fashion Shoes And Clogs. Pro customer service. Seven Shipping locations In The USA To Serve Our Customers Quickly. We Worldwide. Contact Us For Further Information About Our Products Please Call Our Customer Service Dept (205) 932 - 8267
email address for quick replies: info@tanatthebeachinc.com

| Products We Offer: | |
|---|---|
| <ul style="list-style-type: none"> Wholesale Tanning Beds Super Hot 10.5 Tanning Lamps Sandals. Flip-Flops. Dress Shoes Top Fashion, Croco's Purses. | <ul style="list-style-type: none"> Clog Charms <p>Crocos™ Crocos Charms™ & Crocos Shoes¹ Registered Trademarks Of: Tan At The Beach Inc.</p> <p>They Have No Connection With The Name I Crocs, Inc. or Jibbitz LLC.</p> <p>Worldwide Shipping. UPS. USPS, FEDEX & I</p> |
| Prices To Fit Everyone | |

The World Of Clogs Is Here At The Beach.

[Contact us](#) Get Your Happy Feet Here.

Memberships:

Authorized Distributor • Member Of The IST Association.

Service Area:
Worldwide

Hours of Operation:
Monday-Saturday 8am - 10pm. Sunday
9pm

Subscribe to our mailing list

E-mail:



[Home](#) | [Online Store](#) | [Contact Us](#) | [Shoe's/Croco's](#) | [New Styles](#) | [New Styles](#)

Tan at the Beach, Inc
Vernon, AL 35586

Toll Free: (866) 444-4444
info@tanatthebeach.com



Copyright © 2007 by Website Pros


[Shopping Cart](#)
[Checkout](#)
[Customer Service](#)
[Policies](#)
[About Us](#)


Search

Search Results

Found 72 product(s) for Ladies Crocos (1-6 of 72)

CATEGORIES

[Croco Charms](#)
[Bracelets](#)
[Charm Sets](#)
[Ladies Crocos](#)
[Men's Crocos](#)
[Youth Crocos](#)


Ladies Crocos

[Ladies Black](#)
[Size 10](#)

Regular \$39.99

PRICE: \$12.99

[Add to Cart -->](#)
[Ladies Black](#)
[Size 5](#)

Regular \$39.99

PRICE: \$12.99

[Add to Cart -->](#)

[Ladies Black](#)
[Size 7](#)

Regular \$39.99

PRICE: \$12.99

[Add to Cart -->](#)
[Ladies Black](#)
[Size 8](#)

Regular \$39.99

PRICE: \$12.99

[Add to Cart -->](#)
Result Pages: [1](#) [2](#) [3](#) [4](#) [5](#) [6](#) [7](#) [8](#) [9](#) [10](#) (11..12)
[Search](#) : [Shopping Cart](#) : [Checkout](#) : [Customer Service](#) : [Policies](#)

Are You Ready? Just 166 days 'til Christmas!

Copyright © 2007 Tan At The Beach, Inc.. All Rights Reserved.



Commerce enabled by ProStores


[Shopping Cart](#)
[Checkout](#)
[Customer Service](#)
[Policies](#)
[About Us](#)


Search

Search Results

Found 60 product(s) for Youth Crocos (1-6 of 60)

CATEGORIES

[Croco Charms](#)
[Bracelets](#)
[Charm Sets](#)
[Ladies Crocos](#)
[Men's Crocos](#)
[Youth Crocos](#)


Youth Crocos



Youth's Black Size 1

Regular \$39.99

PRICE: \$12.99

[Add to Cart -->](#)


Youth's Black

Regular \$39.99

PRICE: \$12.99

[Add to Cart -->](#)


Youth's Black Size 2

Regular \$39.99

PRICE: \$12.99

[Add to Cart -->](#)


Youth's Black

Regular \$39.99

PRICE: \$12.99

[Add to Cart -->](#)
Result Pages: [1](#) [2](#) [3](#) [4](#) [5](#) [6](#) [7](#) [8](#) [9](#) [10](#)
[Search](#) : [Shopping Cart](#) : [Checkout](#) : [Custo](#)

Are You Ready? Just 1

Copyright © 2007 Tan At The B

ProStc

Commerce enat


[Shopping Cart](#)
[Checkout](#)
[Customer Service](#)
[Policies](#)
[About Us](#)


Search

Search Results

Found 156 product(s) for Croco Charms (19-24 of 156)

CATEGORIES

[Croco Charms](#)
[Bracelets](#)
[Charm Sets](#)
[Ladies Crocos](#)
[Men's Crocos](#)
[Youth Crocos](#)


Croco Charms


[Cat \(Purple\)](#)

Purple Cat

PRICE: \$1.00

[Add to Cart -->](#)

[Cat \(White\)](#)

White Cat

PRICE: \$1.00

[Add to Cart -->](#)

[Cheer\(Green/White\)](#)

Green/White Cheer Out Of Stock

PRICE: \$1.00

[Add to Cart -->](#)

[Cheer\(Orange\)](#)

Orange/White Cheer Out Of Stock

PRICE: \$1.00

[Add to Cart -->](#)
Result Pages: [1](#) [2](#) [3](#) [4](#) [5](#) [6](#) [7](#) [8](#) [9](#) [10](#) (11..20)
[Search](#) : [Shopping Cart](#) : [Checkout](#) : [Custo](#)

Are You Ready? Just 1

Copyright © 2007 Tan At The B













ProSta

Commerce enab

EXHIBIT C

| | | |
|---|---|---|
|  |  |  |
| American Flag Vau703-504 | American Indian Vau693-947 | Angel Fish Vau709-557 |
|  |  |  |
| Antique Train Vau724-207 | Aquarius Vau725-629 | Aries Vau726-556 |
|  |  |  |
| Arrowhead Vau680-590 | Asian Face Vau719-605 | Bat Vau726-055 |



| | | |
|---|---|---|
|  |  |  |
| Bee Vau695-197 | Big Flowers Vau719-607 | Bike Vau703-500 |
|  |  |  |
| Black Panther Vau693-945 | Blue Eye Vau696-168 | Blue Jay Vau713-362 |
|  |  |  |
| Braces Vau707-075 | Brown Bear Vau707-164 | Buffalo Vau698-191 |

| | | |
|---|---|---|
|  |  |  |
| Butterflies Vau697-418 | Cancer Vau726-553 | Candy Cane Vau726-064 |
|  |  |  |
| Capricorn Vau727-021 | Cardinal Vau693-946 | Cat Vau703-503 |
|  |  |  |
| Cheerleader Vau701-964 | Chef Hat Vau727-022 | Cherries Vau707-074 |
|  |  |  |




| | | |
|---|---|---|
| Christmas Poinsettia Vau726-061 | Christmas Tree Vau718-124 | Clown Fish Vau713-358 |
|  |  |  |
| Comedy and Tragedy Vau726-195 | Cow Vau705-590 | Crayons Vau705-589 |
|  |  |  |
| Crown Vau724-447 | Dinosaurs Vau705-592 | Diver Vau724-219 |
|  |  |  |
| Dog Vau693-948 | Dolphin Vau698-190 | Dragon Vau724-203 |




| | | |
|---|---|---|
|  |  |  |
| Duck Vau726-059 | Eagle Vau698-189 | Easter Eggs Vau713-356 |
|  |  |  |
| Elephant Vau718-963 | Elf Vau726-060 | Falcon Vau693-949 |
|  |  |  |
| Fire Rescue Vau724-205 | Fish Vau693-951 | Flamingo Vau719-603 |
|  |  |  |
| Flip Flops Vau713-357 | Fox Vau724-224 | Gators Vau718-966 |

| | | |
|--|--|--|
| | | |
|--|--|--|

| | | |
|---|---|---|
|  |  |  |
| Gecko Vau726-057 | Gemini Vau724-208 | Golfer Vau696-170 |
|  |  |  |
| Green and Brown Palm Tree Vau713-359 | Green Frog Vau703-501 | Gymnast Vau724-226 |
|  |  |  |
| Hairbrush and Comb - Pink Vau718-964 | Hang Ten Vau724-229 | Heart with Wings Vau726-317 |
|  |  |  |

| | | |
|---|---|---|
| Helmets Vau698-192 | Hermit Crab Vau724-216 | Hockey Vau703-505 |
|  |  |  |
| Horse Vau693-944 | Ice Cream (Mint) Vau725-623 | Ice Cream (Pink) Vau724-206 |
|  |  | No Image Available |
| Ice Cream Cone (Soft) Vau726-192 | Ice Skates Vau726-551 | Jibbitz snake head Vau707-237 |
|  |  |  |
| Killer Whale Vau727-025 | Lacrosse Vau724-223 | Ladybug Vau700-067 |

| | | |
|---|---|---|
|  |  |  |
| Leo Vau727-023 | Libra Vau724-210 | Lion Vau680-591 |
|  |  |  |
| Lips with Teeth Vau709-719 | Love Vau724-211 | Mermaid (Blonde) Vau725-622 |
|  |  |  |
| Mermaid (Brunette) Vau725-789 | Mermaid (Green) Vau724-204 | Mermaid (Red) Vau724-214 |








| | | |
|---|---|---|
|  |  |  |
| <p>Modern Train Vau725-626</p> | <p>Monkey Vau724-200</p> | <p>Monster 1 Vau702-415</p> |








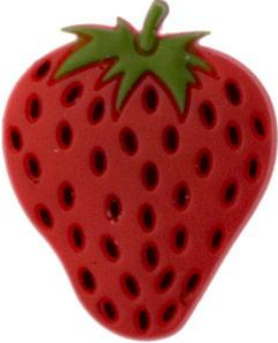

| | | |
|---|---|---|
|  |  |  |
| Monster 2 Vau705-594 | Monster 3 Vau705-593 | Monster 4 Vau705-591 |
|  |  |  |
| Moon Vau706-458 | Octopus Vau724-215 | Owl Vau709-722 |
|  |  |  |
| Paint Splat Vau727-020 | Peace Dove Vau725-624 | Penguin Vau707-821 |




| | | |
|---|---|---|
|  |  |  |
| Peppermint Candy Vau726-067 | Pilgrim Hat Vau724-218 | Pink Ballet Slippers Vau707-073 |
|  |  |  |
| Pink CROC Vau724-227 | Pink Pig Vau703-502 | Pirate Flag Vau724-209 |
|  |  |  |
| Pisces Vau725-627 | Poodle Vau709-718 | Pumpkin Vau718-965 |
|  |  |  |

| | | |
|---|---|---|
| Red hat (3 daises) Vau724-202 | Red Daisy Hat (large) Vau727-024 | Rocket (Blue) Vau725-068 |
|  |  |  |
| Rocket (light blue) Vau726-554 | Rocket (Red) Vau724-228 | Rocket (Yellow) Vau724-212 |
|  |  |  |
| Sagittarius Vau726-552 | Sailboat Vau724-217 | Santa Vau693-943 |
|  |  |  |
| Scary Cat Vau725-945 | Scissors Vau718-967 | Scorpio Vau726-555 |

| | | |
|---|---|---|
|  |  |  |
| Scorpion Vau724-230 | Seaturtle Vau724-201 | Silly Faces Eyes Male Vau706-457 |
|  |  |  |
| Silly Faces Female Ears Vau706-456 | Silly Faces female hair Vau709-721 | Silly Faces Male Ears Vau720-515 |
|  |  |  |
| Silly faces Nose Male Vau706-459 | Silly Faces Teeth Vau709-720 | Silly Faces woman's eyes Vau722-195 |

| | | |
|---|---|---|
|  |  |  |
| Skeleton (Left Arm/ Glow) Vau724-221 | Skeleton (Legs/Glow) Vau724-222 | Skeleton (Ribs/Glow) Vau725-621 |
|  |  |  |
| Skeleton (Right Arm/ Glow) Vau724-220 | Skeleton Glowhead Vau724-199 | Skier Vau726-062 |
|  |  |  |
| Skull & Cross Bones Vau713-360 | Snowflake B Vau726-058 | Snowflake C Vau718-961 |

| | | |
|---|---|---|
|  |  |  |
| Snowflake D Vau718-215 | Snowflake E Vau718-216 | Snowflake F Vau725-031 |
|  |  |  |
| Snowman Vau726-056 | Space Shuttle Vau724-231 | Spider Web Vau696-171 |
|  |  |  |
| Sports Dude Vau696-169 | Strawberry Vau719-604 | Sun Vau724-450 |

| | | |
|---|---|---|
|  |  |  |
| <p>Surfboard - Palm Tree Vau718-214</p> | <p>Surfboard- red/White Vau726-065</p> | <p>Surfboard-(guy on it) Vau726-063</p> |

| | | |
|---|---|---|
|  |  |  |
| Surfboard-Blue/White Vau726-068 | Surfboard-Blue/Yellow Vau726-066 | Swimmer Vau724-225 |
|  |  |  |
| Swordfish Vau725-625 | Taurus Vau727-026 | Tennis Player Vau697-112 |
|  |  |  |
| Tiger Vau693-950 | Tooth/Molar Vau680-593 | Tree frog Vau724-448 |
|  |  |  |
| Turkey Vau709-717 | Turtle Vau724-449 | Umbrellas Vau705-595 |

| | | |
|---|---|---|
|  |  |  |
| Virgo Vau724-213 | Watermelon Vau718-962 | White Daisies Vau713-361 |
|  |  |  |
| Fireman Hat Vau734-715 | French Horn Vau734-716 | Menorah Vau734-717 |
|  |  |  |
| Sunflower Vau737-203 | Snorkel Fins Vau737-204 | Bull Dog Vau737-205 |
|  |  |  |
| Pansy Vau737-206 | Snorkel Mask Vau737-207 | Hot Cocoa Mug Vau738-096 |



| | | |
|---|---|--|
|  |  | |
| Drill Vau737-449 | Snowflake A Vau735-958 | |

EXHIBIT A

(12) **United States Patent**
Seamans

(10) **Patent No.:** **US 6,993,858 B2**
(45) **Date of Patent:** **Feb. 7, 2006**

(54) **BREATHABLE FOOTWEAR PIECES**

(75) Inventor: **Scott Seamans**, Longmont, CO (US)

(73) Assignee: **Crocs, Inc.**, Niwot, CO (US)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 133 days.

(21) Appl. No.: **10/603,126**

(22) Filed: **Jun. 23, 2003**

(65) **Prior Publication Data**

US 2004/0231189 A1 Nov. 25, 2004

Related U.S. Application Data

(60) Provisional application No. 60/473,360, filed on May 23, 2003, provisional application No. 60/473,371, filed on May 23, 2003.

(51) **Int. Cl.**

A43B 7/06 (2006.01)

A43B 3/12 (2006.01)

(52) **U.S. Cl.** **36/3 A**; 36/11.5; 36/50.1

(58) **Field of Classification Search** 36/3 R,
36/3 A, 3 B, 7.5, 11.5, 98, 29
See application file for complete search history.

(56) **References Cited**

U.S. PATENT DOCUMENTS

2,180,924 A * 11/1939 Dunbar 36/3 B
4,476,600 A * 10/1984 Seidel et al. 12/142 V
4,888,887 A * 12/1989 Solow 36/3 R
4,967,750 A * 11/1990 Cherniak 36/140
5,369,895 A * 12/1994 Hammerschmidt 36/3 A
D381,794 S * 8/1997 Gelli D2/916
5,814,254 A 9/1998 Bisconti
D416,667 S * 11/1999 Lamstein D2/916

D431,346 S * 10/2000 Birkenstock D2/916
6,237,249 B1 * 5/2001 Aguerre 36/11.5
6,256,906 B1 * 7/2001 Matis et al. 36/11.5
6,640,464 B2 * 11/2003 Hsin et al. 36/11.5

FOREIGN PATENT DOCUMENTS

EP 0802039 A2 10/1997
EP 0802040 A2 10/1997
EP 0802041 A2 10/1997
EP 0884005 A1 12/1998

OTHER PUBLICATIONS

Rhoda Miel, *Snowshoe walks away with best design*, *Plastics News*, Apr. 22, 2002, v14, n8, p4 (2 pages).

Luisa Zargani, *One Fine Year; Anton Magnani's Quirky Dry-Shod Designs Have Gained the Italian Designer Respect, Recognition and a Deal With Comme Des Garcons*, *Footwear News*, Aug. 2, 1999, p. 102 (2 pages).

Finproject Brews an Extralight (Evasol Plastics and Finproject signed a joint venture agreement to introduce a range of new block and net-fit soles for shoes), *FN World*, Aug. 4, 1997, v. 53, n.31, p. 8 (1 page).

(Continued)

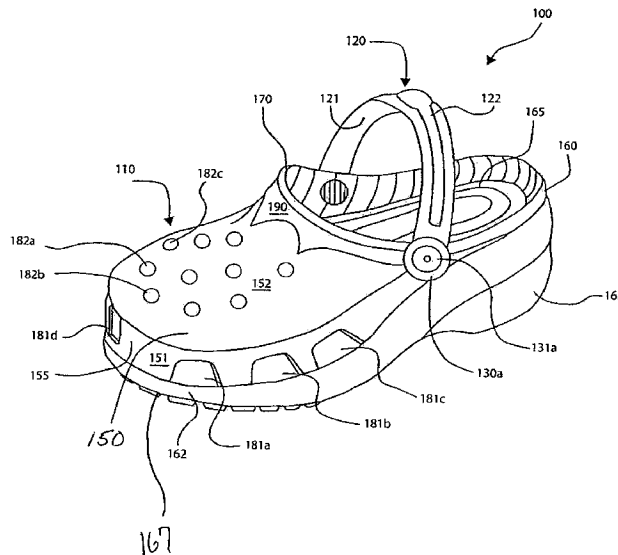
Primary Examiner—Jila M. Mohandesi

(74) *Attorney, Agent, or Firm*—Townsend and Townsend and Crew LLP

(57) **ABSTRACT**

Among other things, the present invention provides various footwear pieces, and methods for manufacturing such pieces. In various cases, the footwear pieces are molded from a lofting material. Further, in various cases, the footwear pieces include one or more ventilators formed in the footwear piece that are surrounded by liquid conductors capable of channeling liquid spilled on the surface of the footwear pieces away from a foot within the footwear pieces.

2 Claims, 12 Drawing Sheets



US 6,993,858 B2

Page 2

OTHER PUBLICATIONS

Cindy Macdonald, *The entrepreneurs: they're bilingual, multicultural and talented. Distance and language present no barriers to Quebec plastics processors and moldmakers as the province's plastics industry continues to increase its level of exports and welcome new companies*, *Canadian Plastics*, O'99, v. 57(10), p. 35-50 (9 pages).

The Elastomers Times: Engage Adds Comfort to Sporting Components, *Chemical Business NewsBase: The Elastomers Times*, Friday, Dec. 1, 2000, (1 page).

Comfortable Walking, *Italian Technology*, Oct., 1999, No. 3, p. 168, (abstract, 1 page).

Injected Eva, *Macplas International*, Aug., 1999, No. 10, p. 90, (abstract, 1 page).

Walking on Modified Eva, *Italian Technology*, May 1999, No. 2, p. 121, (abstract, 1 page).

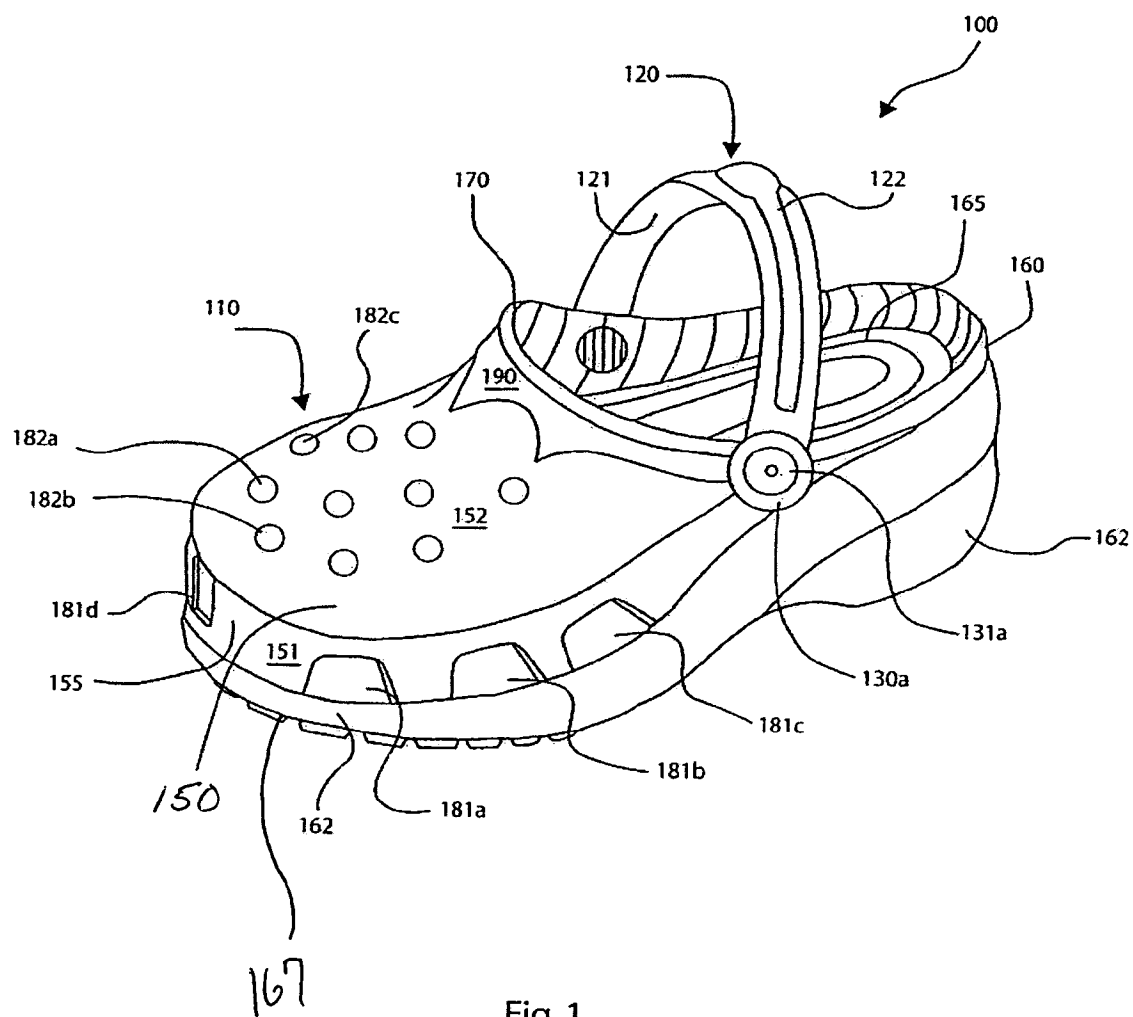
Trade Name Record, *Official Gazette of the US Patent and Trademarks Office*, Mar. 24, 1998, 1208, No. 4, p. 73, (abstract, 1 page).

Engage® polyolefin elastomers, the critical ingredient for success, DuPont Dow elastomers, Copyright @ 2000 DuPont Dow Elastomers, www.dupont-dow.com/engage (12 pages).

waldenstore.com, Footwear, Watdies, Aug. 4, 2003, <http://www.waldenstore.com/waldies.html>, (1 page).

Birkenstock®, Spring & Summer 2003 Catalog, *Birkenstock Orthopudie GmbH, Germany*.

* cited by examiner



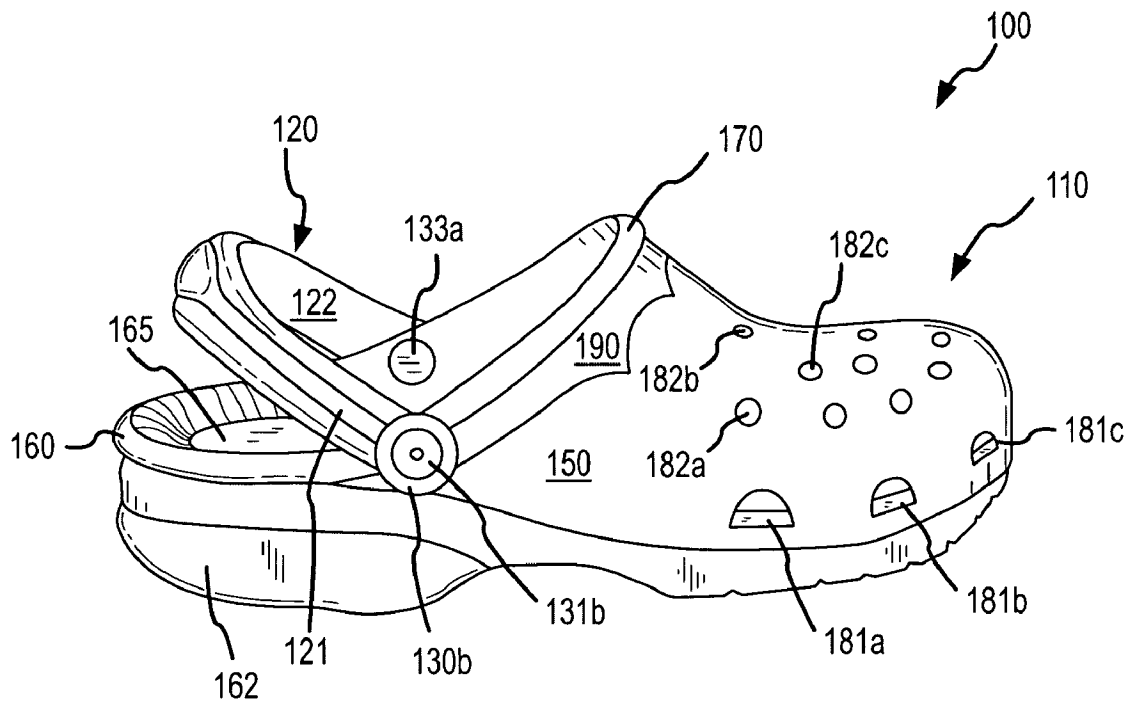


FIG.2

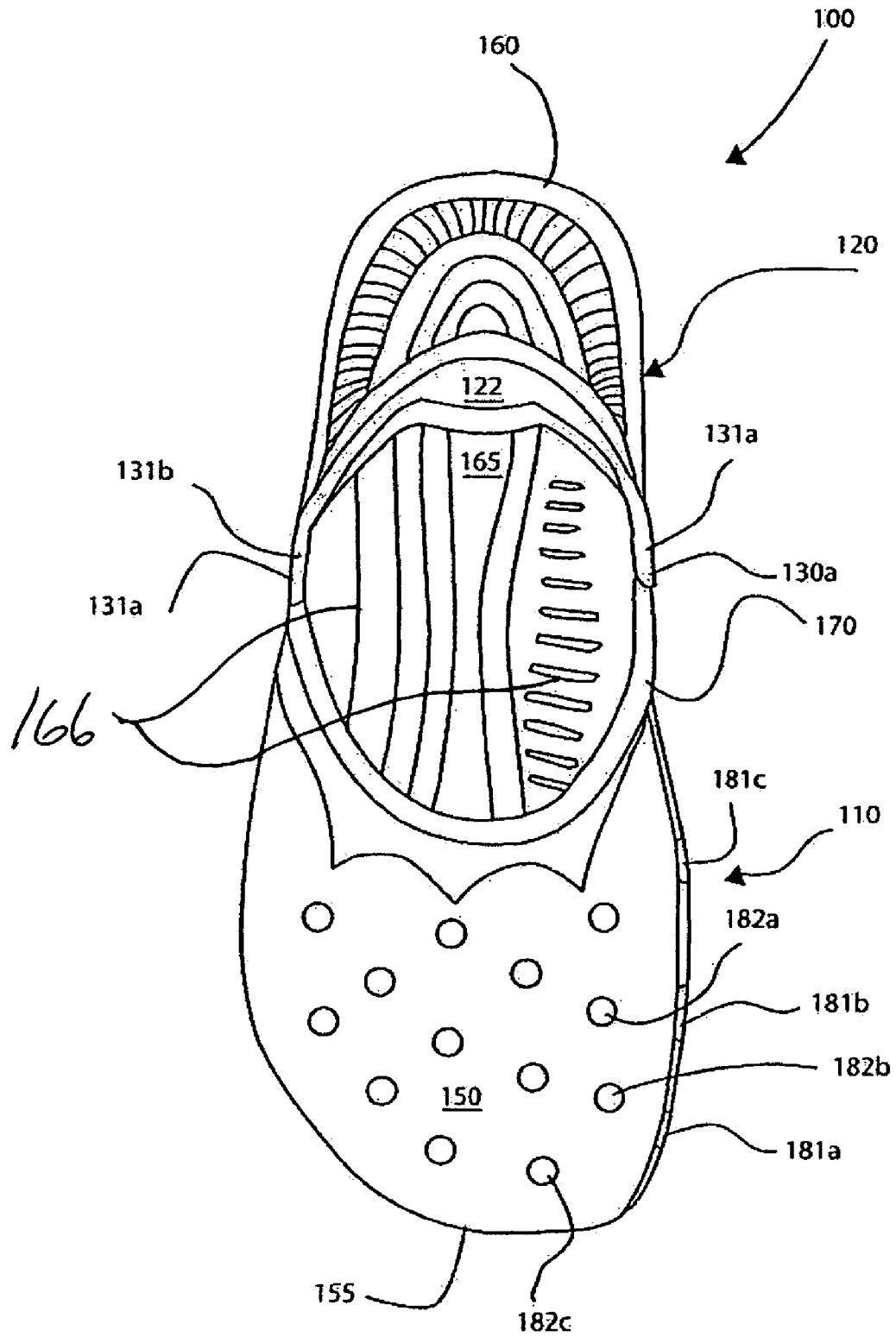


Fig. 3

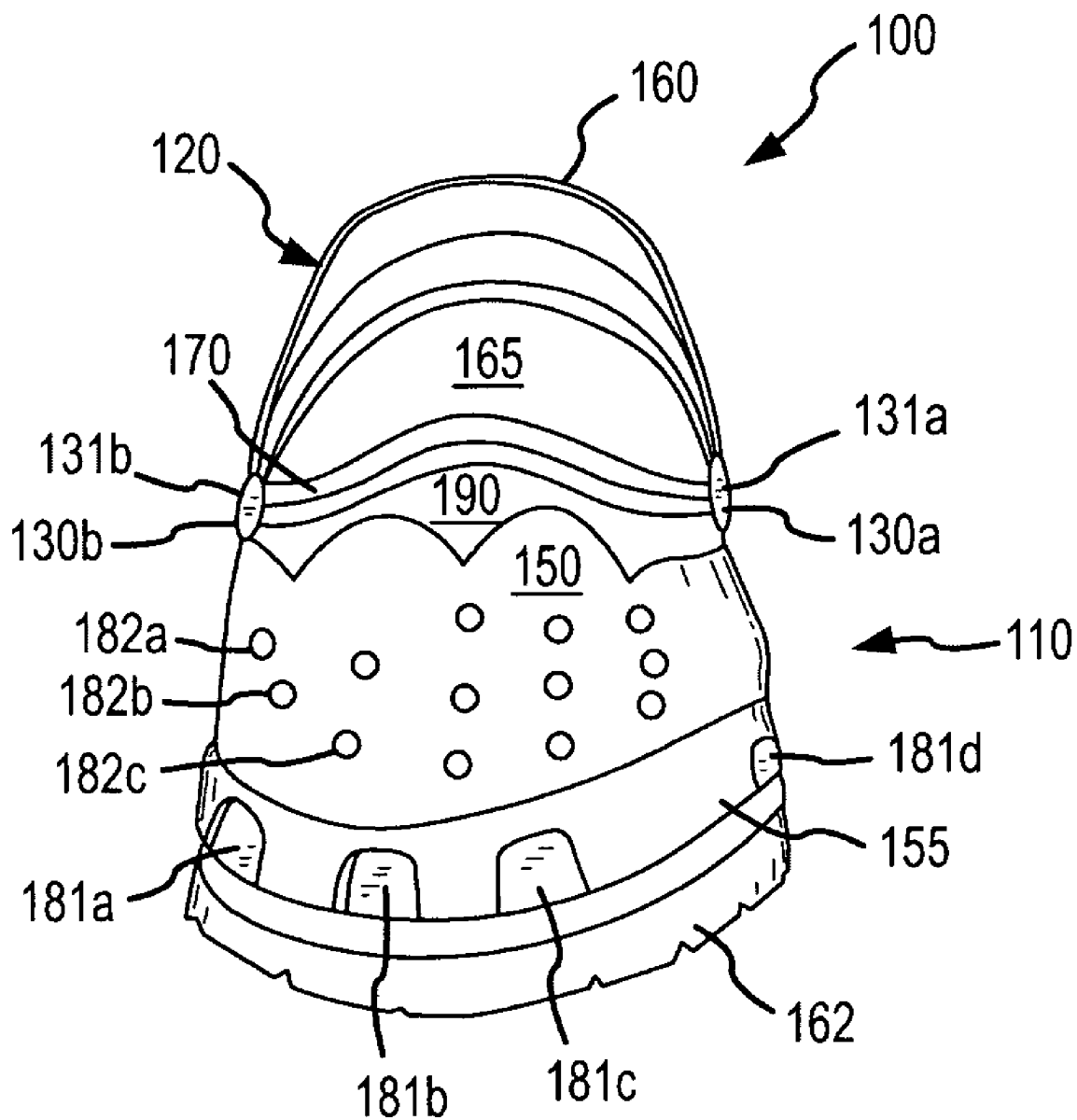


FIG.4

U.S. Patent

Feb. 7, 2006

Sheet 5 of 12

US 6,993,858 B2

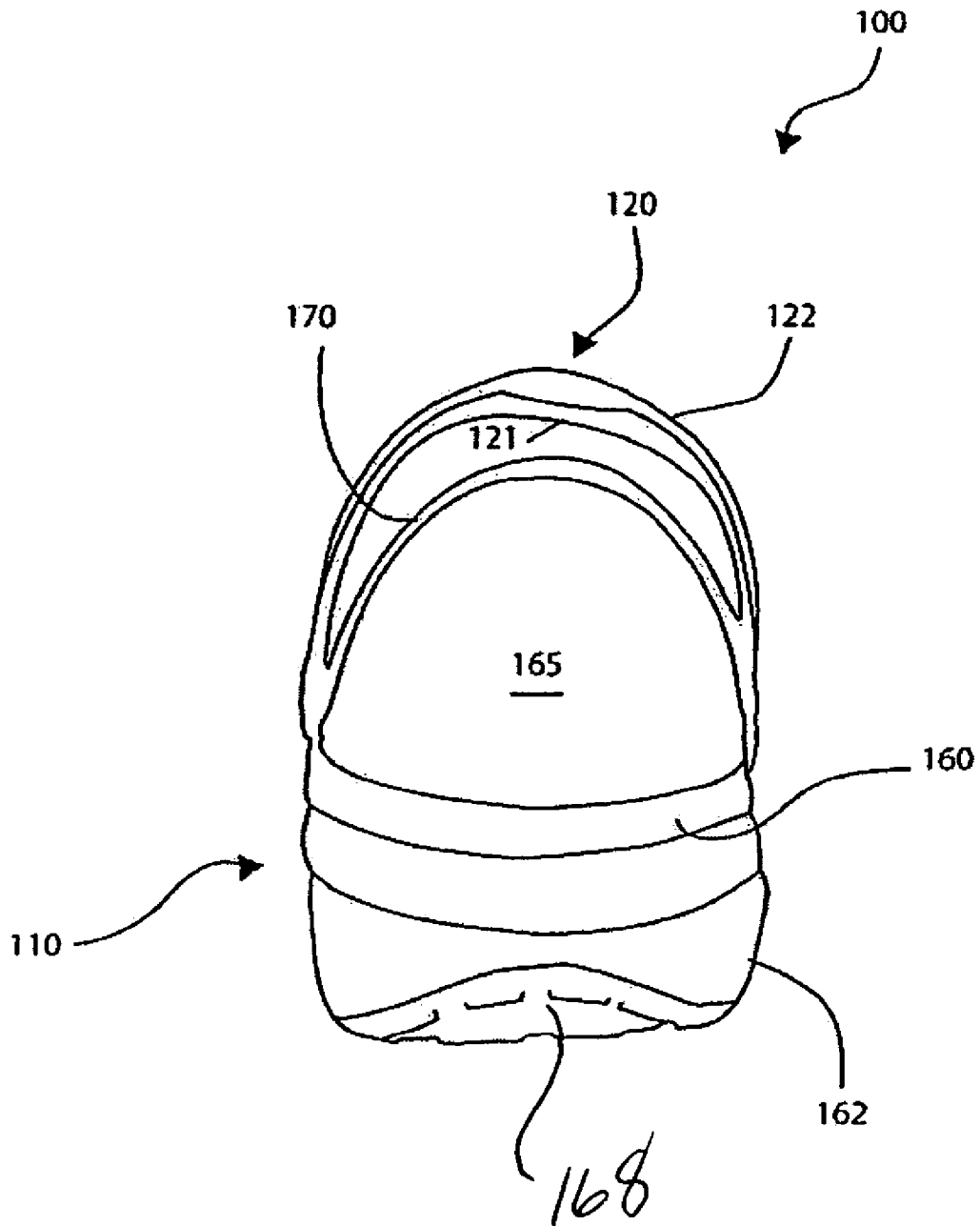


Fig. 5

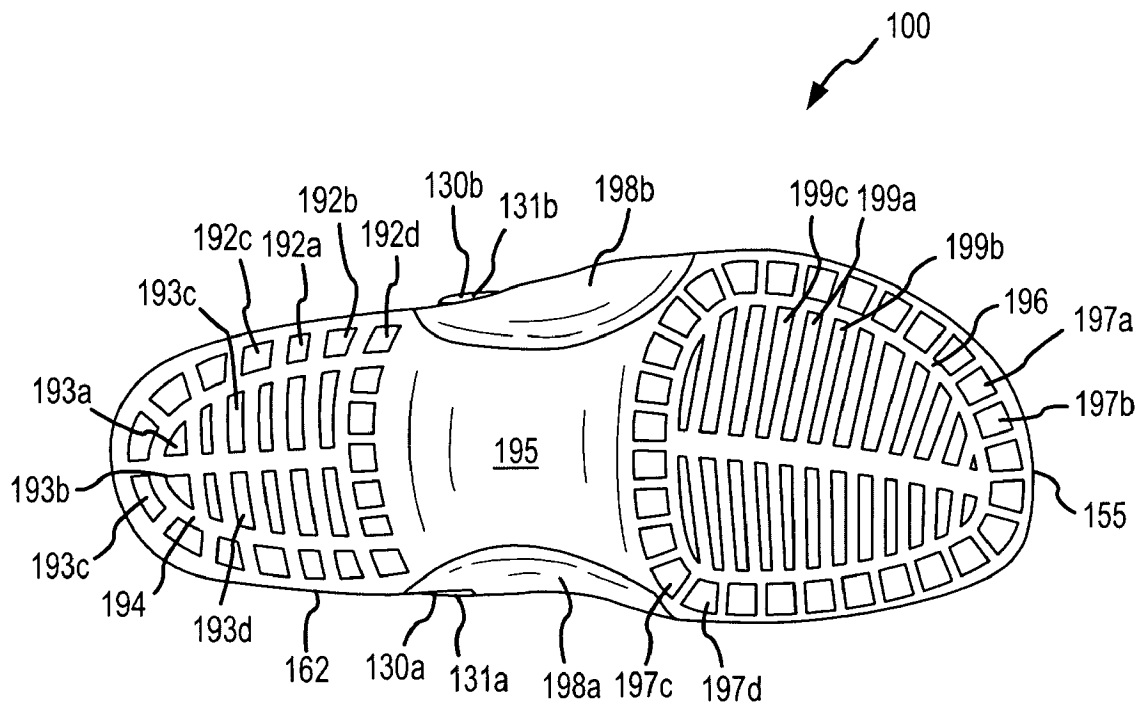


FIG. 6

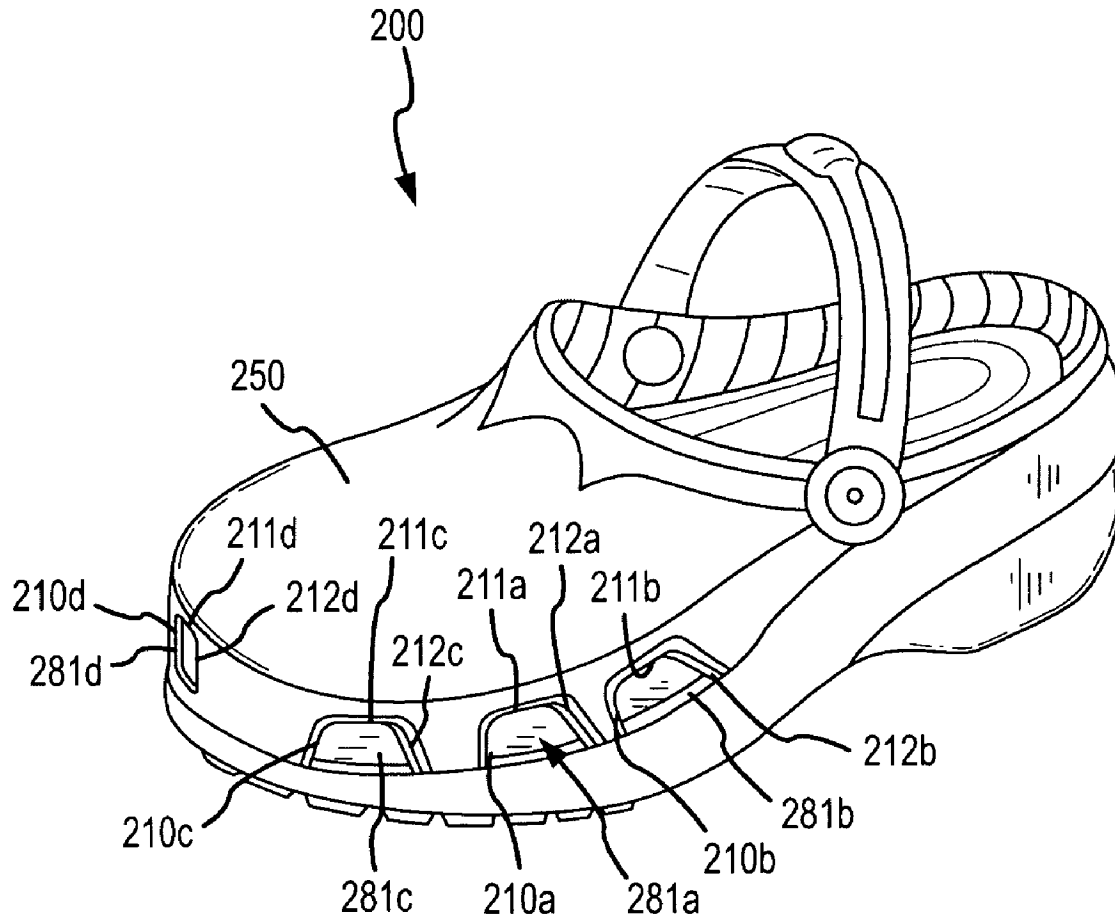


FIG. 7

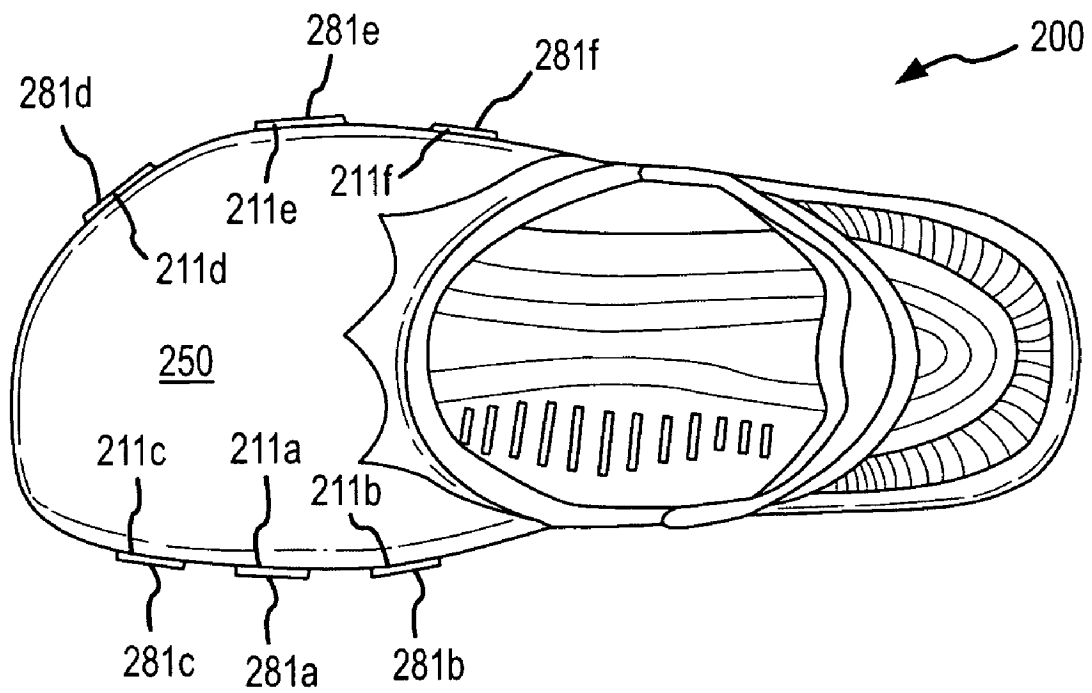


FIG. 8

U.S. Patent

Feb. 7, 2006

Sheet 9 of 12

US 6,993,858 B2

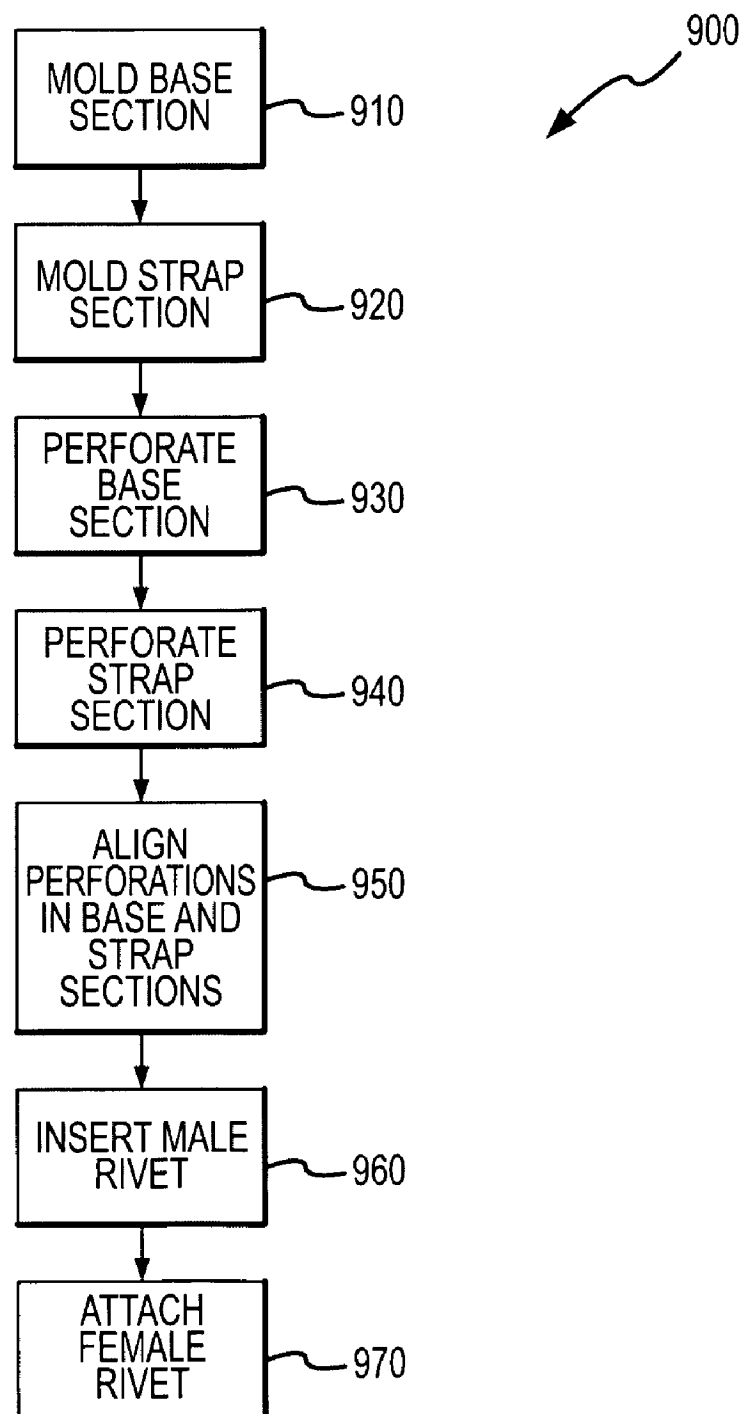


FIG.9

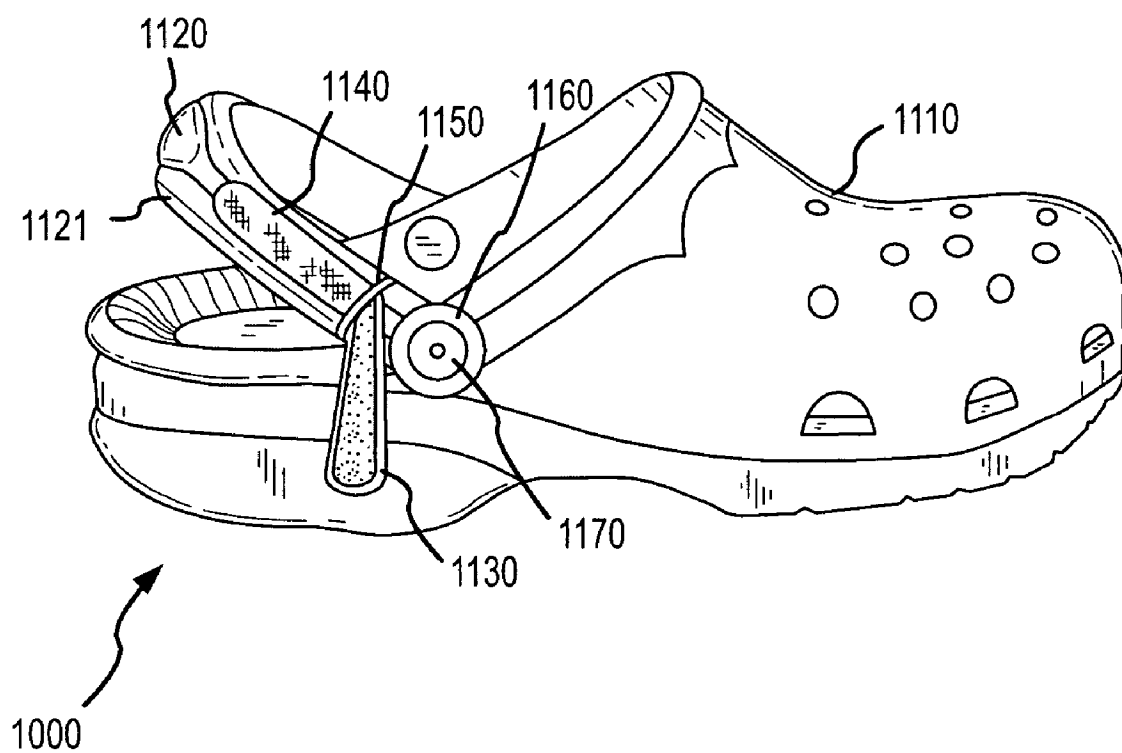


FIG. 10a

U.S. Patent

Feb. 7, 2006

Sheet 11 of 12

US 6,993,858 B2

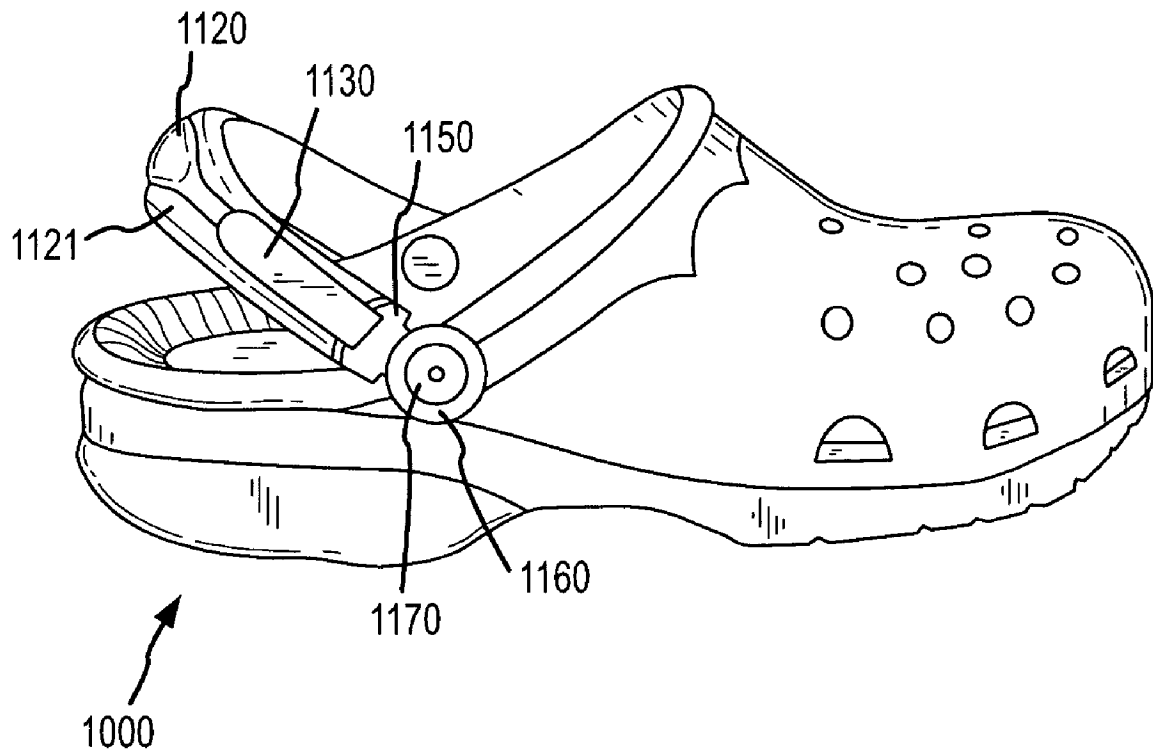


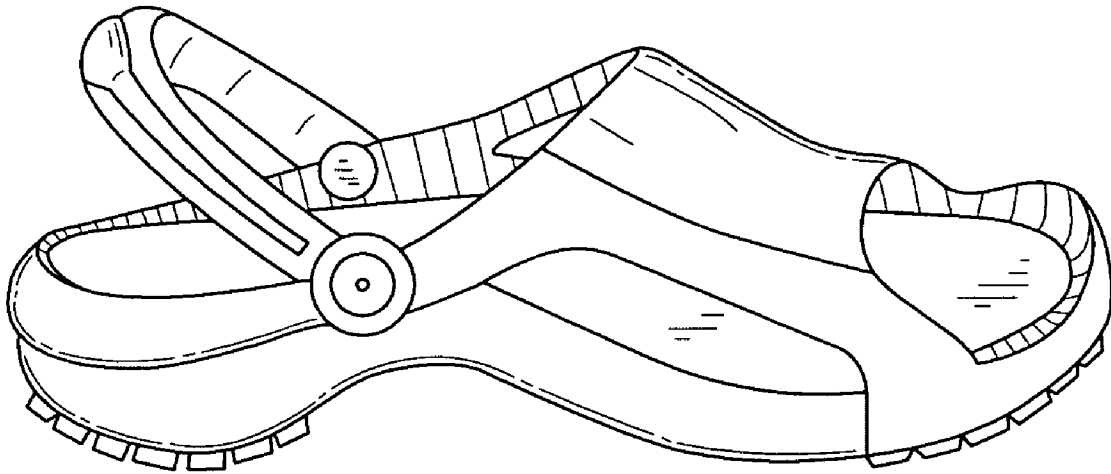
FIG.10b

U.S. Patent

Feb. 7, 2006

Sheet 12 of 12

US 6,993,858 B2



1100

FIG.11

US 6,993,858 B2

1

BREATHABLE FOOTWEAR PIECES

The present application claims priority to U.S. Provisional Pat. Appl. No. 60/473,360, entitled "FOOTWEAR PIECES AND METHODS FOR MANUFACTURING SUCH," filed May 23, 2003 and assigned to an entity common herewith; and U.S. Provisional Pat. Appl. No. 60/473,371, entitled "METHODS AND COMPOSITES FOR MANUFACTURING FOOTWEAR PIECES," also filed May 23, 2003 and assigned to an entity common herewith. Further, the present application is related to U.S. Pat. Appl. No. 10/602,416, entitled "FOOTWEAR PIECES AND METHODS FOR MANUFACTURING SUCH", filed on a date even herewith and assigned to an entity common herewith. The entirety of each of the aforementioned patent applications are incorporated herein by reference for all purposes.

BACKGROUND OF THE INVENTION

The present invention is related to footwear, and in particular to footwear including ventilation.

Current trends are toward wearing comfortable footwear in the work environment. However, many types of comfortable footwear are not compatible with various work environments. For example, many work environments would allow the use of the commonly known flip-flop, however, such flip-flops are typically not compatible with the work environment because they are not secure and are not waterproof. Similarly, sandals are not waterproof, and are thus not compatible with various work environments. As just one example, in a hospital setting it may be possible to wear comfortable shoes, however, it is common for liquids to be spilled. Thus, neither a flip-flop or sandal may not offer sufficient protection from such spilled liquids.

Thus, there exists a need in the art to address these and other limitations.

BRIEF SUMMARY OF THE INVENTION

Among other things, the present invention provides various footwear pieces, and methods for manufacturing such pieces. In various cases, the footwear pieces are molded from a lofted material. Further, in various cases, the footwear pieces include liquid conductors formed around ventilators, or openings in the upper of the footwear piece. Such liquid conductors operate to disperse liquids away from a foot inserted in the footwear piece.

Some embodiments of the present invention provide breathable footwear pieces that include a base section comprising an upper and a sole. The upper includes a substantially horizontal portion and a substantially vertical portion. The substantially horizontal portion is a solid portion, while the substantially vertical portion includes one or more ventilators formed in the substantially vertical portion. In particular instances, liquid conductors are formed around each of the ventilators. In some cases, the liquid conductors are molded as part of the upper, while in other cases, the liquid conductors are attached to the upper after the upper is otherwise formed. In one particular case, the material used to form the base section exhibits a final growth value of approximately 1.51. Such a growth value provides a lightweight, comfortable footwear piece that floats in water, and is slip resistant when used on, for example, wet floors.

Other embodiments of the present invention provide sectional shoe pieces that include a base section and a strap section. The base section includes an upper and a sole formed as a part. The strap section is formed as a second part

2

that is attached to the base section such that the strap pivots relative to the base section. In some instances, the base section is molded of a continuous piece of foam material. Such foam material can be lofted material manufactured using a resin. Where a resin material is used, it can be mixed to exhibit an expansion coefficient, and a contraction coefficient. In particular cases, multiplying the expansion coefficient and the contraction coefficient results in a product of between 1.46 and 1.58, inclusively.

In various instances, the base section and the strap section are formed of the same material. Such material can be the aforementioned foam material formed into different shapes. In other cases, the strap section and the base section are formed of different materials. For example, the base section may be formed of leather and/or rubber, while the strap section is formed of foam. As another example, the base section may be formed of one type of foam, while the strap section is formed of another type of foam.

In some cases, the strap section is attached to the base section by rivets. In particular, one end of the strap section is riveted to one side of the base section, while the other end of the strap is riveted to the other side of the base section. In some cases, both the base section and the strap are punched to form holes through which the rivet is placed. In other cases, holes are formed in the strap section and/or base section as part of the manufacturing process. Such holes can be subsequently used to receive the rivets attaching the strap section to the base section. The rivets can be plastic rivets, or rivets formed of other materials such as, for example, metal and rubber. In many cases, the rivets are formed of a material that is denser than that of either the base section or the strap section.

The rivets can be placed at attachment points located on either side of the base section. Such attachment points can be located near a rear sole perimeter and/or near a upper opening perimeter. In some cases, the distance from the one attachment point to the other attachment point along the rear sole perimeter is approximately the same as the distance between the attachment points measured along the strap section. Thus, the strap section can pivot relative to the base section such that an inner portion of the strap section contacts an outer portion of the rear sole perimeter. A frictional force between the strap section and the base section at the contact between the inner portion of the strap section and the outer portion of the rear sole perimeter maintains the strap section fixed relative to the base section. In such a position, the strap section forms what appears to be a decorative portion of the base section, and does not interfere with inserting and removing a foot from the base section.

Similarly, the distance from one attachment point to the other attachment point along the upper opening perimeter is approximately the same as the distance between the attachment points measured along the strap section. Thus, the strap section can pivot relative to the base section such that an inner portion of the strap section contacts an outer portion of the upper opening perimeter. A frictional force between the strap section and the base section at the contact between the inner portion of the strap section and the outer portion of the upper opening perimeter maintains the strap section fixed relative to the base section. Again, in such a position, the strap section forms what appears to be a decorative portion of the base section, and does not interfere with inserting and removing a foot from the base section. Further, in some cases, the strap can be fixed in contact with either the upper opening perimeter or the rear sole perimeter.

US 6,993,858 B2

3

In various cases, a number of ventilators are formed in the upper. Such ventilators can be holes of varying sizes that allow liquid and or air to pass through at prescribed locations in the upper. In some cases, such ventilators are formed in both a substantially horizontal portion of the upper and a substantially vertical portion of the upper. This provides for a significant amount of ventilation for applications where it is not necessary to protect the foot from exposure to liquids entering through the ventilators. Such applications can include, but are not limited to, boating, beach use, fishing, and the like.

Alternatively, some instances include a solid covering over the substantially horizontal portion of the upper, while including ventilators formed in the vertical portions of the uppers. This provides for sufficient ventilation, while at the same time protecting a foot from spilled liquids. Such an approach may be desirable for applications including use by medical personnel, chefs, and the like. Further, in some cases, a liquid conductor is formed around at least a portion of a perimeter of each of the plurality of ventilators. Such a liquid conductor transfers a liquid spilled on the upper around and away from the various ventilators formed in the substantially vertical portion. Such conductors can thus further protect the foot from exposure to spilled liquids.

In particular cases, the toe region of the upper is extended at a location corresponding to the larger toes of the human foot. Thus, the toe region of the upper generally follows the contour of a human foot from larger toes on the inside of the shoe to smaller toes on the outside of the shoe. Such an approach can provide increased comfort and/or functionality. Further, the rear perimeter of the sole can be raised above a support base further increasing the functionality of the shoe. This support base can include a raised pattern where the foot contacts the shoe.

Other embodiments of the present invention provide sectional shoe pieces that include a base section and a strap section. The strap section is attached to the base section using a rivet such that the strap is pivotable relative to the base section. The rivet can be made of metal, plastic, or some other material. In some cases, the base section is formed of a continuous piece of foam, while in other cases, the base section includes an assemblage of multiple constituent parts. The parts can be formed of various materials including, but not limited to, foam, plastic, rubber, leather, and/or the like.

Yet other embodiments of the present invention provide methods for manufacturing a sectional shoe. The methods include molding a base section and a strap section. The methods further include attaching the strap section to the base section such that the strap pivots relative to the base section. In some cases, the strap section is attached to the base section by riveting opposite ends of the strap to opposing sides of the base section. In various cases, holes are punched through the base section and the strap section prior to riveting the strap section in place. In other cases, the holes through which the rivet are placed are formed during the molding of the base section and/or strap section.

The base section can include a sole and an upper. The sole includes a rear sole perimeter, and the upper includes an upper opening perimeter. In particular cases, rivet holes are placed approximately equidistant from a midway point of the rear sole perimeter and from a midway point of the upper opening perimeter. Thus, the strap can be folded over the upper and the sole and worn as a decorative feature, or in contrast worn away from either the sole or the upper as a functional strap.

4

This summary provides only a general outline of some embodiments according to the present invention. Many other objects, features, advantages and other embodiments of the present invention will become more fully apparent from the following detailed description, the appended claims and the accompanying drawings.

BRIEF DESCRIPTION OF THE DRAWINGS

A further understanding of the various embodiments of the present invention may be realized by reference to the figures which are described in remaining portions of the specification. In the figures, like reference numerals are used throughout several to refer to similar components. In some instances, a sub-label consisting of a lower case letter is associated with a reference numeral to denote one of multiple similar components. When reference is made to a reference numeral without specification to an existing sub-label, it is intended to refer to all such multiple similar components.

FIGS. 1–6 are views of a footwear piece in accordance with embodiments of the present invention;

FIGS. 7–8 are views of another footwear piece in accordance with other embodiments of the present invention;

FIG. 9 is a flow diagram illustrating methods for manufacturing in accordance with embodiments of the present invention;

FIG. 10 illustrates another footwear piece in accordance with other embodiments of the present invention; and

FIG. 11 illustrates yet another footwear piece in accordance with various embodiments of the present invention.

DETAILED DESCRIPTION OF THE INVENTION

Among other things, the present invention provides various footwear pieces, and methods for manufacturing such pieces. In various cases, the footwear pieces are molded from a lofted, or foam material material. Further, in various cases, the footwear pieces include liquid conductors formed around ventilators, or holes, in the footwear piece. Such liquid conductors operate to disperse liquids away from a foot inserted in the footwear piece.

Turning to FIG. 1, a footwear piece **100** in accordance with some embodiments of the present invention is illustrated. Footwear piece **100** includes a base section **110** and a strap section **120**. Base section **110** includes an upper **150** and a sole **162**. In some embodiments, base section **110** is molded as a single piece of foam material. In other embodiments, sole **162** is molded from a foam or other foam like material, while upper **150** is manufactured of a different material that is later assembled with sole **162** to form base section **110**.

Upper **150** includes a substantially horizontal portion **152** that can include one or more ventilators **182**. Ventilators **182** can be, but are not limited to, openings that are formed in upper **150** as base section **110** is being molded. Alternatively, ventilators **182** can be openings formed in upper **150** after formation and/or assembly of upper **150**. As yet another alternative, ventilators **182** can be formed as part of an assembly process associated with upper **150**. Thus, for example, ventilators **182** can be openings between assembled parts of upper **150**. Based on the disclosure provided herein, one of ordinary skill in the art will appreciate a number of different ventilator types and methods for forming such.

US 6,993,858 B2

5

Upper 150 further includes a substantially vertical region 151 that includes one or more ventilators 181. FIG. 1 illustrates a preferred embodiment wherein each of the ventilators 181 extend up a majority of the height of vertical region 151. As with ventilators 182, ventilators 181 can be, but are not limited to, openings that are formed in upper 150 as base section 110 is being molded. Alternatively, ventilators 181 can be openings formed in upper 150 after formation and/or assembly of upper 150. As yet another alternative, ventilators 181 can be formed as part of an assembly process associated with upper 150. Thus, for example, ventilators 181 can be openings between assembled parts of upper 150. Based on the disclosure provided herein, one of ordinary skill in the art will appreciate a number of different ventilator types and methods for forming such.

Upper 150 further includes a toe region 155 that surrounds the toes of a human foot inserted into base section 110. In some embodiments, toe region 155 tapers from the inner area of base section 110 to the outer area of base section 110 such that it generally follows the contour of a human foot where larger toes exist at the inside of the foot, and the foot tapers to smaller toes on the outside. This can be functionally advantageous as the footwear piece 100 conforms to the shape of the human foot. In other embodiments, toe region 155 is a square cross section that does not exhibit tapering, while yet other embodiments provide a rounded square where the toe section has its greatest extension near the a central point of base section 110, and tapers in both directions from the central point. Based on the disclosure provided herein, one of ordinary skill in the art will appreciate a number of shapes for toe region 155.

As depicted, upper 150 includes a substantially horizontal region 152 that rises toward an upper opening perimeter 170. When worn, the upper opening perimeter can contact an area of the human foot in front of, and below the ankle. Upper 150 can be designed such that upper opening perimeter 170 is disposed only a short distance from toe region 155, in which case it will be formed in substantially horizontal region 152. Alternatively, upper 150 can be designed to extend farther up the foot toward the ankle, in which cases it will be in a more vertical region of upper 150. A decorative pattern 190 may or may not be molded or otherwise created near upper opening perimeter 170. As depicted, upper opening perimeter 170 and decorative pattern 190 can extend from the location of rivet 131a to that of rivet 131b (shown in other figures).

Sole 162 includes a rear sole perimeter 160 that defines the rear portion of sole 160. In some cases, this region is raised above a support base 165 that is the area that is in contact with the bottom part of the human foot. Such a raised rear sole perimeter provides some support to the heel of the human foot and helps maintain footwear piece 100 in position. In other embodiments, rear sole perimeter 160 is not raised. In addition, support base 165 includes a raised pattern 166 throughout the surface where the foot contacts support base 165. As shown in FIG. 1, the bottom surface of sole 162 includes a toe portion 167 that is raised slightly from the generally flat plane of sole 162. As best shown in FIG. 5, the bottom surface of sole 162 also preferably includes a heel portion 168 that is raised slightly from the generally flat plane of sole 162.

Strap section 120 includes an outer region 122, an inner region 121, and rounded ends 130. In some cases, strap section 120 is attached to base section 110 by rivets 131 that are placed through holes in both strap ends 130, and in upper 150 at an attachment point. Strap section 120 can be pivoted in relation to base section 110 such that strap section 120 can

6

contact upper opening perimeter 170 when pivoted in one direction, and rear sole perimeter 160 when pivoted in the other direction. In some embodiments strap section 120 includes dimensions such that when strap section 120 is pivoted forward, inner region 121 contacts an outer surface of upper opening perimeter 170. A frictional force at the contact of inner region 121 and upper opening perimeter 170 maintains strap section 120 in a fixed position relative to base section 110.

Alternatively, strap section 120 can include dimensions such that when strap section 120 is pivoted backward, inner region 121 contacts an outer surface of rear sole perimeter 160. A frictional force at the contact of inner region 121 and rear sole perimeter 160 maintains strap section 120 in a fixed position relative to base section 110. In such positions, strap 120 can be a decorative portion of footwear piece 100.

As yet another alternative, strap section 120 can be placed in an intermediary position between rear sole perimeter 160 upper opening perimeter 170. In this position, the strap serves the utilitarian purpose of lending support to the Achilles portion of the human foot, thus helping to maintain footwear piece 100 in position on the human foot. In some embodiments, a frictional force developed between strap 120 and upper 150 at the location of the rivets is sufficient to maintain strap 120 in place. This helps to assure that strap 120 remains in place even when the Achilles part of the foot is not pressing against strap 120. Without such friction, strap 120 would succumb to gravity and fall to a position where the foot would not be supported. At the same time, it can be desirable to reduce the friction at the contact point sufficient to allow strap 120 to be readily moved.

In particular embodiments, strap 120 is formed of a foam material capable of significant deformation making footwear piece 100 comfortable for a large number of foot types. In other embodiments, strap 120 is form of a less deformable material that provides a stronger security for the foot. Yet other embodiments include an adjustable strap that includes significant deformability, yet is capable of capable of being securely strapped to the foot. Such embodiments are discussed further in relation to FIG. 10 below.

FIG. 2 depicts a side view of footwear piece 100, while FIG. 3 provides a top view of footwear piece 100. FIGS. 4 and 5 provide front and rear views, respectively, of footwear piece 100. Further, FIG. 6 illustrates the bottom of sole 162. As illustrated, sole 162 includes raised side portions 198, front tread pattern 196, and rear tread pattern 194. Front tread pattern 196 includes inner longitudinal tread portions 199, and outer rectangular tread portions 197. Similarly, rear tread pattern 194 includes inner longitudinal tread portions 193, and outer rectangular tread portions 192. Based on this, one of ordinary skill in the art will appreciate a number of other tread patterns and/or formations that can be used in relation to footwear piece 100.

Turning to FIG. 7, another footwear piece 200 in accordance with other embodiments of the present invention is illustrated. Footwear piece 200 includes a number of features similar to that of the previously described footwear piece 100. In contrast, however, substantially horizontal portion 250 of the upper is of solid construction. As such, liquid materials that are spilled or otherwise contact substantially horizontal portion 250 do not permeate footwear piece 200. This can be advantageous in medical or other commercial applications where the foot needs at least some protection from spilled materials. Further, a number of ventilators 281 are formed in the substantially vertical portion of the upper. Liquid conductive portions 210, 211, 212 are formed around each of ventilators 281. Liquid

US 6,993,858 B2

7

conductive portions **210**, **211**, **212** can be any formation or structure that can divert a liquid falling from above footwear piece **200** from entering through ventilators **281**. In one embodiment, liquid conductive portions **210**, **211**, **212** are molded as part of the upper. FIG. **8** is a top view of footwear piece depicting the various liquid conductive portions.

FIG. **9** is a flow diagram **900** illustrating a method in accordance with the present invention for manufacturing footwear pieces. Following flow diagram **900**, a base section and strap section are molded (blocks **910**, **920**). The base section and strap section are perforated at the location where the two pieces are to be connected (blocks **930**, **940**). The perforations in the strap and base section are aligned (block **950**), a male portion of a rivet is inserted through the aligned perforations (block **960**), and a female portion of the rivet is mated to the male portion, thus securing the strap to the base section.

Turning to FIG. **10**, another footwear piece **1000** in accordance with other embodiments of the present invention is illustrated. Footwear piece **1000** is similar to previously described footwear piece **100**, except that strap **1120** has been modified to allow for adjustment. As illustrated, strap **1120** includes a main portion **1121** and a connection portion **1160**. Connection portion **1160** is attached to a base section **1110** of footwear piece **1000** by a rivet **1170**, or some other pivotable connection as is known in the art. Main portion **1121** is attached to the opposite side via a rivet (not shown), and includes a male Velcro portion **1140** attached thereon, and a female Velcro portion **1130** extending like a tongue therefrom.

Female Velcro portion **1130** is fed through a buckle **1150** that is attached to connection portion **1160** and pulled until the desired tightness is achieved. Female Velcro portion **1130** is then laid over male Velcro portion **1140** as depicted in FIG. **10b**. One of ordinary skill in the art will appreciate that other connection materials can be used in place of Velcro and that the male **1140** and female **1130** Velcro portions can be interchanged. Further, based on the disclosure provided herein, one of ordinary skill in the art will appreciate that an adjustment can be used on either or both sides of strap **1120**, or can be placed in the center of strap **1120**.

FIG. **11** illustrates yet another footwear piece **1100** in accordance with some embodiments of the present invention. Footwear piece **1100** is an open toe model with a pivotable strap. Based on the disclosure provided herein, one of ordinary skill in the art will appreciate that adjustable strap **1120** depicted in FIG. **10** can also be used in relation to footwear piece **1100**.

As previously suggested, the footwear pieces disclosed herein can be made of a lofted foam material. Manufacturing footwear pieces using such a lofted foam material can include providing a resin that includes a pre-mixture of resin, pigment, and a growth additive. The resin, originally in pellet form, is heated to a liquid state. This liquid resin is screwed into a mold that has been heated prior to receiving the resin. The volume of resin injected into the mold is controlled by the pitch of the screw that drives the liquid resin into the mold. The liquid resin is allowed to set, at which time the mold is opened and the formed footwear piece is removed from the mold. The formed footwear piece is then placed on a cooling last, where it is allowed to air dry.

During this process, a relatively small footwear piece confirming to the size of the mold is created, but when the mold opens, the footwear piece springs out as it expands in size. Then, as the footwear piece is air cooled, it contracts to a final size. Thus, the process involves both an expansion

8

characteristic and a contraction characteristic. Multiplying the size of the shoe in the mold by the expansion characteristic yields the size of the footwear piece after the mold is opened. Multiplying the expansion characteristic by the contraction characteristic provides a final growth value representative of the final size of the shoe relative to the mold.

In such a manufacturing process, a number of elements can be controlled to achieve the desired end result. These elements include, the volume of material introduced into the mold, the size of the mold, the composition of the material being used, and the size of the cooling last. Previous manufacturers of molded footwear products have used, for example, four sizes of molds to create six different sizes of footwear pieces. Thus, for example, to create two different sized shoes from the same mold, one volume of a material is screwed into a mold to create one shoe size, and another volume of the same material is screwed into the same mold to create a different shoe size. Once removed from the mold, the shoes are cooled on cooling lasts of different sizes. Thus, the process uses a modified volume and cooling last size to control the end product, while keeping the mold size and the composition fixed. While this creates shoes of different sizes, it has been found that control of the final sizes is somewhat limited and/or unpredictable.

In part to address this, embodiments of the present invention use a fixed volume and composition of material, and cooling last size, while varying mold sizes to control the size of the end product. It has been found that such an approach results in a heightened degree of control, when compared to the previously described approach. This approach is particularly valuable for shoes manufactured of the same color resin. Where different colors are involved, the composition of the resin may be varied across the colors to achieve size control between colors. This composition adjustment is more fully described below.

In one particular embodiment, the resin is Ethylene Vinyl Acetate copolymer (EVA) based material. In this particular case, additives are included with the EVA base to create an expansible and cross-linking material. More particularly, an expanding powder is added which decomposes at a specific temperature to produce gases which cause the material to rise as it sets within a mold. Accordingly, when the mold is opened, an instantaneous expansion of the molded part results. During this expansion, the dimensions of the part increase rapidly, while the proportions and shape remain reasonably constant providing a consistent shape of the end part relative to the original mold. Additional disclosure of such cross-linking and expansion is provided in European Patent 0 802 039 A2, filed on Mar. 25, 1997, and assigned to FINPROJECT™ of Italy.

Some embodiments of the present invention utilize an EVA as previously described that is known commercially as LEVIREX™, and is marketed by FINPROJECT™ of Italy. It has been found desirable to create a mixture of LEVIREX™ that exhibits a final growth value of between 1.47 and 1.58. In one particularly desirable embodiment, a final growth value of approximately 1.51 is used. This includes an expansion characteristic of approximately 2.5, and a contraction characteristic of approximately 0.6. This provides a relatively soft footwear piece that has very good anti-slip capabilities, and at the same time, size reproducibility and durability.

In some cases, the resin mixture (LEVIREX™, growth additive such as ENGAGE™ by DUPONT™, and pigment) is modified depending upon the desired color of the footwear piece. This is at least in part due to the density of the pigment

US 6,993,858 B2

9

associated with certain colors. Were the resin mixture not adjusted, a green shoe would be produced appreciably smaller than a khaki shoe where all other factors remain constant. This can be unacceptable where, for example, the footwear pieces are to be sold over the Internet and the consumer is not capable of trying the footwear piece on before purchasing. To alleviate this, the final growth value for a green resin is adjusted to approximately 1.515, where the final growth value for the khaki resin is adjusted to approximately 1.505. Thus, by modifying the mixture, shoes of accurate sizes across multiple colors can be produced.

While footwear pieces can be molded as previously described, based on the disclosure provided herein, one of ordinary skill in the art will appreciate that various embodiments of the present invention can be utilized in relation to other molding processes, and or assembly methods. For example, a hard plastic footwear piece could be injection molded using techniques known in the art, or a footwear piece could be at least partially made of leather or other natural materials. As another example, the footwear piece could be Freon cooled, rather than air cooled. This could be used to speed the manufacturing process.

The invention has now been described in detail for purposes of clarity and understanding. However, it will be appreciated that certain changes and modifications may be practiced within the scope of the appended claims. Accordingly, it should be recognized that many other systems, functions, methods, and combinations thereof are possible in accordance with the present invention. Thus, although the invention is described with reference to specific embodiments and figures thereof, the embodiments and figures are merely illustrative, and not limiting of the invention. Rather, the scope of the invention is to be determined solely by the appended claims.

What is claimed is:

1. A footwear piece comprising:

a base section including an upper and a sole formed as a single part manufactured from a moldable foam material; and
 a strap section formed of a moldable material that is attached at opposite ends thereof to the upper of the base section with plastic connectors such that the moldable foam material of the strap section is in direct contact with the moldable material of the base section and pivots relative to the base section at the connectors;
 wherein the upper includes an open rear region defined by an upper opening perimeter, and wherein frictional forces developed by the contact between the strap section and the base section at the plastic connectors are sufficient to maintain the strap section in place in an intermediary position after pivoting, whereby the strap section lends support to the Achilles portion of the human foot inserted in the open rear region; and
 wherein the upper includes a substantially horizontal portion and a substantially vertical portion forming a toe region that generally follows the contour of a human foot, wherein the toe region tapers from an inner area of the base section where the larger toes exist to an outer area of the base section where the smaller toes exist; and

10

wherein the sole includes a bottom surface having front and rear tread patterns longitudinally connected by a flat section.

2. A footwear piece comprising:

a base section including an upper and a sole formed as a single part manufactured from a moldable foam material; and

a strap section formed of a molded foam material attached at opposite ends thereof to the base section such that the strap section is in direct contact with the base section and pivots relative to the base section; and

wherein the upper includes an open rear region defined by an upper opening perimeter; and wherein the sole includes a rear perimeter; and wherein the strap section pivots between a first contact point on the upper opening perimeter and a second contact point on the rear perimeter, and wherein frictional forces developed by the contact between the strap section and the base section at the points of attachment are sufficient to maintain the strap section in place in an intermediary position after pivoting whereby the strap section lends support to the Achilles portion of a human foot inserted in the open rear region; and

wherein the upper includes a substantially horizontal portion and a substantially vertical portion forming a toe region that generally follows the contour of a human foot, wherein the toe region tapers from the inner area of the base section where the larger toes exist to the outer area of the base section where the smaller toes exist; and

wherein a decorative pattern of raised bumps is molded or otherwise created in the upper near to and extending the length of the upper opening perimeter; and

wherein a plurality of ventilators are formed in both the substantially vertical portion and the substantially horizontal portion, and wherein the ventilators extend up a majority of the height of the vertical portion;

wherein the vertical portion of the upper includes an upper strip, wherein the ventilators are formed in the upper strip, and wherein the upper strip extends from the toe region to the points of attachment for the strap section, and wherein the sole includes a lower strip that parallels the upper strip and is separated by a line that extends from the toe region to a heel of the footwear piece, and wherein the lower strip vertically rises in a direction toward the heel; and

wherein the sole includes a bottom surface having front and rear tread patterns longitudinally connected by a flat section without tread patterns bounded by raised side portions; and

wherein the sole further includes a top surface having a support base including a raised pattern where a foot contacts the support base.

* * * * *

EXHIBIT B

(12) **United States Design Patent** (10) **Patent No.:** **US D517,789 S**
Seamans (45) **Date of Patent:** **** Mar. 28, 2006**

(54) **FOOTWEAR**

FOREIGN PATENT DOCUMENTS

(75) Inventor: **Scott Seamans**, Boulder, CO (US)

| | | |
|----|--------------|---------|
| CA | 2375957 | 9/2002 |
| EP | 0 802 039 A2 | 10/1997 |
| EP | 0 802 040 A2 | 10/1997 |
| EP | 0 802 041 A2 | 10/1997 |
| EP | 0 884 005 A1 | 12/1998 |
| GB | 2322286 | 8/1998 |

(73) Assignee: **Crocs, Inc.**, Niwot, CO (US)

(**) Term: **14 Years**

(21) Appl. No.: **29/206,427**

(22) Filed: **May 28, 2004**

Related U.S. Application Data

(63) Continuation-in-part of application No. 10/803,569, filed on Mar. 17, 2004, which is a continuation-in-part of application No. 10/602,416, filed on Jun. 23, 2003, and a continuation-in-part of application No. 10/603,126, filed on Jun. 23, 2003.

(51) **LOC (8) Cl.** **02-99**

(52) **U.S. Cl.** **D2/969**

(58) **Field of Classification Search** D2/903,
D2/916-918, 919, 969, 926, 932; 36/4, 8.1,
36/10, 11.5

See application file for complete search history.

(56) **References Cited**

U.S. PATENT DOCUMENTS

| | | | |
|-------------|-----------|---------------|---------|
| 1,392,350 A | 10/1921 | O'Brien | |
| 2,180,924 A | 11/1939 | Dunbar | |
| 2,470,089 A | 5/1949 | Booth | |
| 3,407,517 A | * 10/1968 | Gessner | 36/11.5 |
| 3,698,107 A | 10/1972 | Fukuoka | |
| 4,032,611 A | 6/1977 | Fukuoka | |
| 4,100,685 A | 7/1978 | Dassler | |
| 4,408,401 A | 10/1983 | Seidel et al. | |
| 4,476,600 A | 10/1984 | Seidel et al. | |
| 4,888,887 A | 12/1989 | Solow | |
| 4,967,750 A | 11/1990 | Cherniak | |
| D350,021 S | * 8/1994 | Stein | D2/969 |
| 5,369,895 A | 12/1994 | Hammerschmidt | |
| 5,438,767 A | 8/1995 | Stein | |
| 5,528,841 A | 6/1996 | Pozzobon | |
| 5,561,919 A | 10/1996 | Gill | |
| D381,794 S | 8/1997 | Gelli | |

(Continued)

OTHER PUBLICATIONS

<http://web.archive.org/web/19980420230857/www.birkenstock.com/featprof.htm> (3 pages).

Birkenstock®, Spring & Summer 2003 Catalog, Birkenstock Orthopudie GmbH, Germany (82 pages).

Cindy MacDonald, *The Entrepreneurs: they're bilingual, multicultural and talented. Distance and language present no barriers to Quebec plastics processors and mold makers as the province's plastics industry continues to increase its level of exports and welcome new companies*, Canadian Plastics, O'99, v. 57(10), pp. 35-50 (9 pages).

Comfortable Walking, Italian Technology, Oct. 1999, n. 3, p. 168 (abstract, 1 page).

(Continued)

Primary Examiner—Dominc Simone

(74) *Attorney, Agent, or Firm*—Faegre & Benson, LLP

(57)

CLAIM

The ornamental design for footwear, as shown and described.

DESCRIPTION

FIG. 1 is a front perspective view.

FIG. 2 is a right side view.

FIG. 3 is a left side view.

FIG. 4 is a front view.

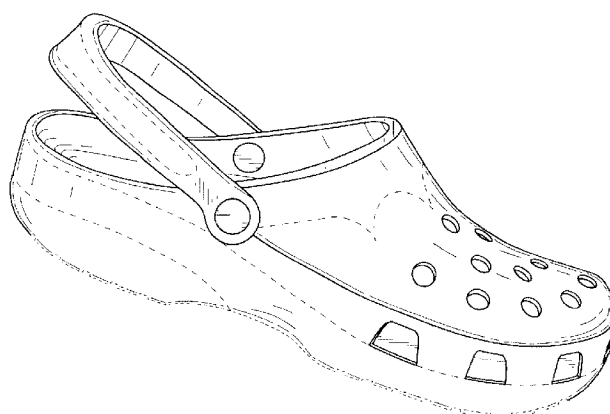
FIG. 5 is a rear view.

FIG. 6 is a top view; and,

FIG. 7 is a bottom view.

The broken line showing of the sole and surface treatment of the upper is for illustrative purpose only and forms no part of the claim design.

1 Claim, 4 Drawing Sheets



US D517,789 S

Page 2

U.S. PATENT DOCUMENTS

5,814,254 A 9/1998 Bisconti
 D416,667 S 11/1999 Lamstein
 6,052,920 A 4/2000 Bathum
 D431,346 S 10/2000 Birkenstock
 6,237,249 B1 5/2001 Aguerre
 6,237,250 B1 5/2001 Aguerre
 6,256,906 B1 7/2001 Matis et al.
 6,416,610 B1 7/2002 Matis et al.
 6,439,536 B1 8/2002 Piccolo
 D473,040 S * 4/2003 Hawker et al. D2/932
 D476,797 S 7/2003 Schenone
 D479,034 S * 9/2003 Tzenos D2/926
 D479,906 S * 9/2003 Hawker et al. D2/969
 6,640,464 B1 11/2003 Hsin et al.
 D499,234 S * 12/2004 Dal Magro et al. D2/916
 6,860,035 B1 3/2005 Girard
 2002/0124434 A1 9/2002 Hsin et al.
 2003/0074806 A1 4/2003 Urie et al.

OTHER PUBLICATIONS

Defendant's Response to Request for Particulars, Foam Creations Inc. vs. Holey Soles Holdings Ltd., Ontario, Canada Federal Court, Court File No. T-161-05, Apr. 22, 2005, Oyen Wiggs Green & Mutala LLP (including Appendices A-C, 236 pages).

Defendant's Statement of Defence, Foam Creations Inc. vs. Holey Soles Holdings Ltd., Ontario, Canada Federal Court, Court File No. T-161-05, Mar. 10, 2005, Oyen Wiggs Green & Mutala LLP (9 pages).

Engage® polyolefin elastomers, the critical ingredient for Success, DuPont Dow Elastomers, Copyright© 2000, DuPont Dow Elastomers, www.dupont-dow.com/engage (12 pages).

FinProject Brews an Extralight (Evasol Plastics and Finproject signed a joint venture agreement to introduce a range of new-block and net-fit soles for shoes), Footwear News, World Week, Aug. 4, 1997, v. 53, n. 31, p. 8 (3 pages).

Injected Eva, Macplas International, Aug. 1999, n. 10, p. 90. (abstract, 1 page).

Luisa Zargani, *One Fine Year; Anton Magnani's Quirky Dry-Shod Designs have Gained the Italian Designer Respect, Recognition and a Deal with Comme Des Garcons*, Footwear News, Aug. 2, 1999, p. 102 (2 pages).

Plaintiff's Further Request for Particulars, Foam Creations Inc. vs. Holey Soles Holdings Ltd., Ontario, Canada Federal Court, Court File No. T-161-05, May 12, 2005, Ridout & Maybee (including Schedule A, 6 pages).

Plaintiff's Reply, Foam Creations Inc. vs. Holey Soles Holdings Ltd., Ontario, Canada Federal Court, Court File No. T-161-05, Ridout & Maybee (7 pages).

Plaintiff's Request for Particulars of Defence, Foam Creations Inc. vs. Holey Soles Holdings Ltd., Ontario, Canada Federal Court, Court File No. T-161-05, May 1, 2005, Ridout & Maybee (5 pages).

Plaintiff's Statement of Claim, Foam Creations Inc. vs. Holey Soles Holdings Ltd., Ontario, Canada Federal Court, Jan. 28, 2005, Ridout & Maybee LLP (8 pages).

Rhoda Miel, *Snowshoe Walks Away with Best Design*, Plastic News, Apr. 22, 2002, v. 14, n. 8, p. 4 (2 pages).

The Elastomers Times: Engage Adds Comfort to Sporting Components, Chemical Business New Base: The Elastomers Times; Dec. 1, 2000 (2 pages).

Trade Name Record, Official Gazette of the U.S. Patents and Trademarks Office, Mar. 24, 1998, 1208, n. 4, p. 73, (abstract, 1 page).

waldenstore.com, *Footwear Waldies*, Aug. 4, 2003, <http://www.waldenstore.com/waldies.html>, (1 page).

Walking on Modified Eva, Italian Technology, May 1999, n. 2, p. 121, (abstract, 1 page).

* cited by examiner

U.S. Patent

Mar. 28, 2006

Sheet 1 of 4

US D517,789 S

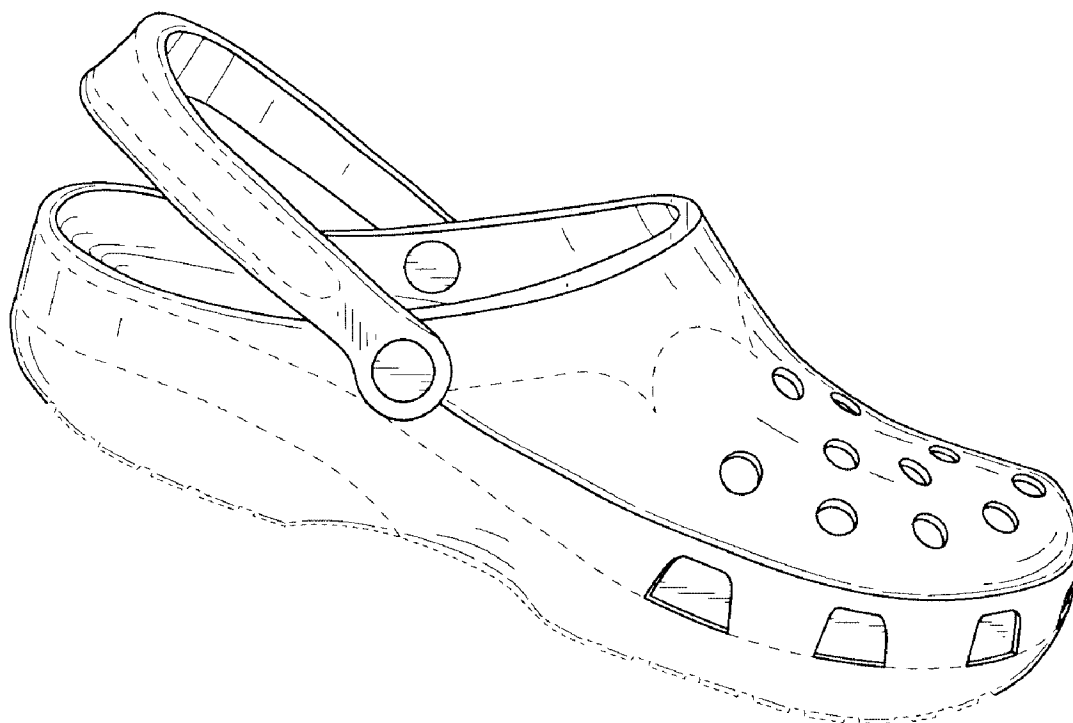


FIG.1

U.S. Patent

Mar. 28, 2006

Sheet 2 of 4

US D517,789 S

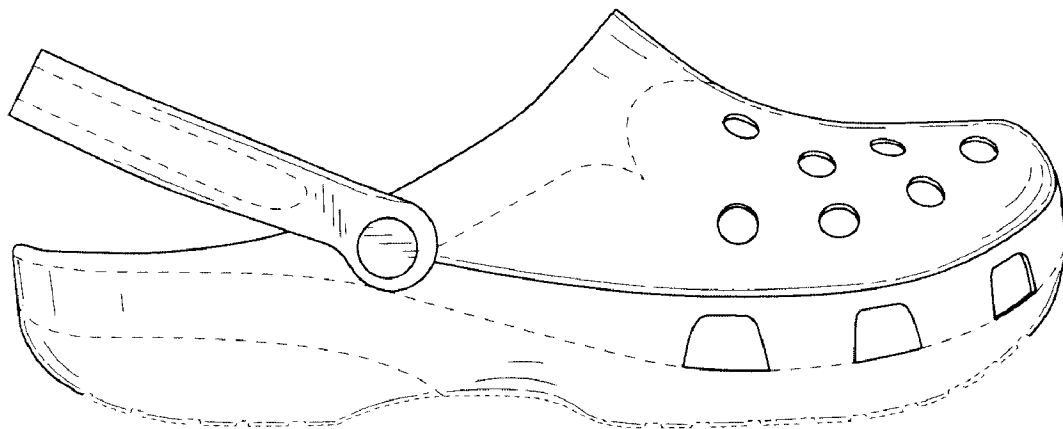


FIG.2

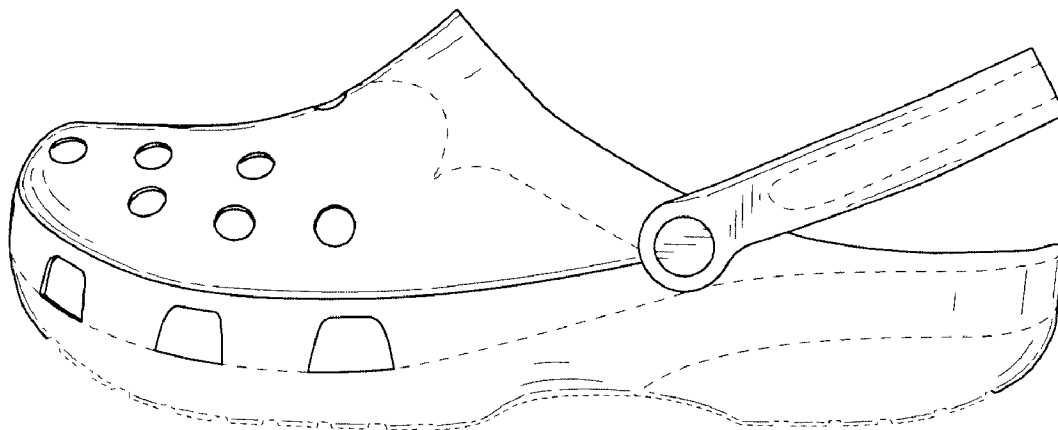


FIG.3

U.S. Patent

Mar. 28, 2006

Sheet 3 of 4

US D517,789 S

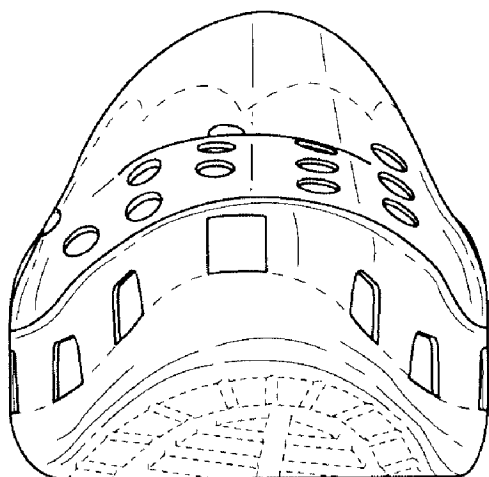


FIG.4

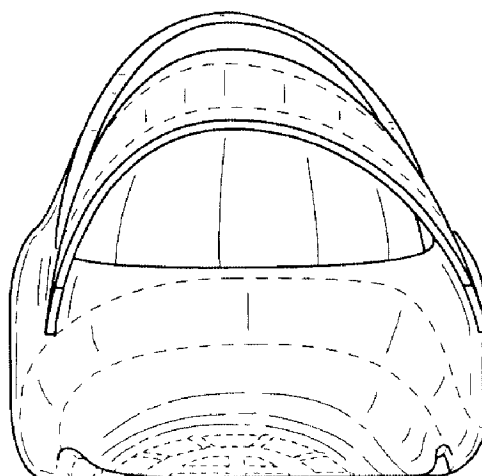


FIG.5

U.S. Patent

Mar. 28, 2006

Sheet 4 of 4

US D517,789 S

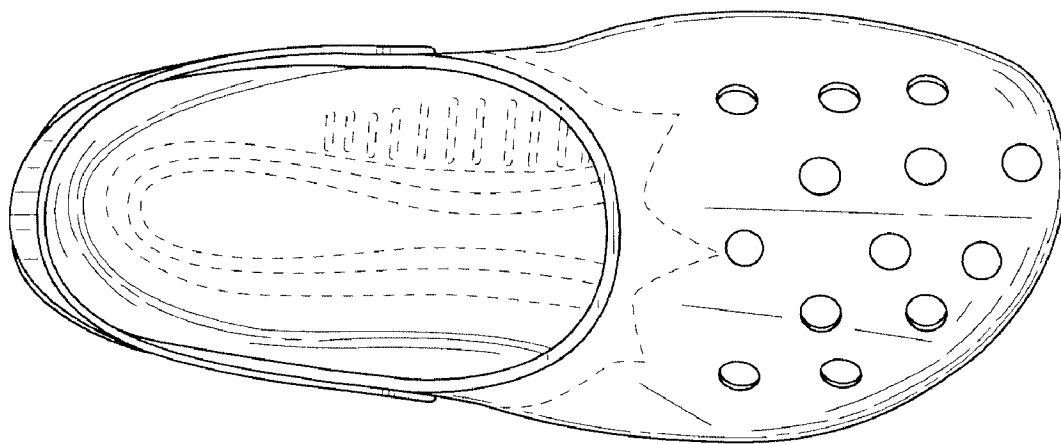


FIG.6

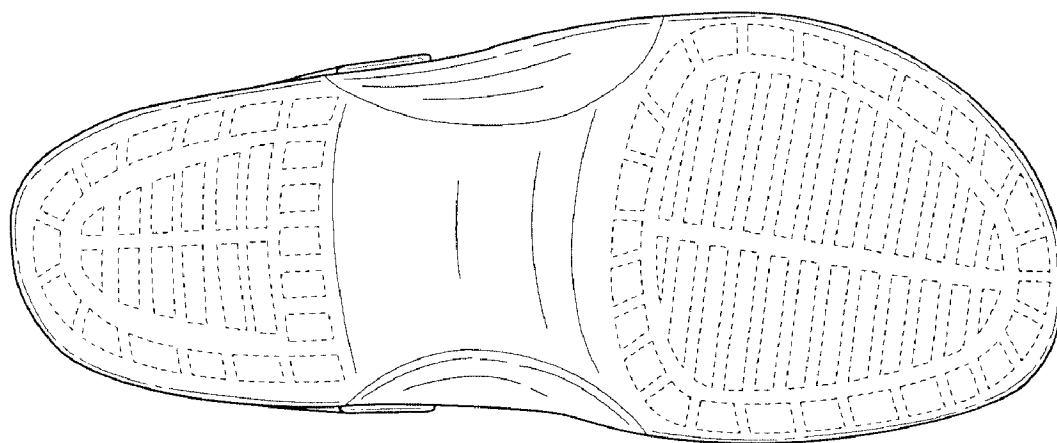


FIG.7

EXHIBIT H

Rodney M. Jean
Lionel Sawyer & Collins
300 S. 4th St., #1700
Las Vegas, Nevada 89101
702-383-8830
Telecopy: 702-383-8940

Attorneys for Jibbitz LLC

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JIBBITZ LLC, a Colorado limited
liability company,

Plaintiff,

v.

JOINWORLD (CHINA) INDUSTRIAL
& TRADING LIMITED; SU ZHENYAN,
a/k/a KEVIN SU; ROY KING; JOANNA
KANG, et al. ; and JOHN DOES and ABC
COMPANIES 1 – 100,
unknown individuals and entities
exhibiting at the WSA (World Shoe
Association) Las Vegas trade show,
February 1 – 4, 2007, and exhibiting at
the MAGIC MARKETPLACE Las
Vegas trade show, February 13 – 16, 2007,

Defendants.

Case No. 2:07-cv-00118-RLH-PAL

Default Judgment

This matter is before the Court on the motion of plaintiff Jibbitz, LLC ("Jibbitz") for a default judgment against defendants Joinworld (China) Industrial & Trading Limited ("Joinworld"), Su Zhenyan a/k/a Kevin Su ("Su"), and Joanna Kang ("Kang").

Jibbitz, the owner of certain copyrighted designs for shoe charms sold under the registered Jibbitz trademark, commenced this action on January 29, 2007, asserting claims against the defendants for copyright infringement under 17 U.S.C. § 101, *et seq.*, trademark infringement, counterfeiting, dilution, and unfair competition in violation of the Lanham Act, and 15 U.S.C. § 105, *et seq.*, and common law trademark infringement. The Court entered an *ex parte* temporary restraining order (the "TRO") on February 1, 2007, enjoining defendants from "manufacturing, producing, distributing, offering for sale, selling, or using" any product bearing the copyrighted designs, and any "display, promotion, sales, distribution,

1 or any public use of products, signage or documentation" bearing the copyrighted designs or
2 Jibbitz' registered trademark. The complaint, summonses, application for temporary
3 restraining order, and the TRO were all served that same day on defendants Joinworld, Su,
4 and Kang (collectively, the "Served Defendants") at Joinworld's booth at the Mandalay Bay
5 Convention Center during the World Shoe Association Trade Show. Numerous infringing
6 charms which the defendants had at their booth were seized pursuant to 15 U.S.C. § 1116(9).
7 Jibbitz identified more than 60 such infringing charms in Exhibit L to its points and
8 authorities in support of this default judgment.

9 February 15, 2007, at 3:30 p.m. was set for the preliminary injunction hearing in this
10 case. The Served Defendants neither appeared nor filed any opposition, and the Court
11 granted Jibbitz' motion. A preliminary injunction was entered on February 27.

12 The Served Defendants likewise neither answered nor otherwise responded to the
13 complaint. As a result, the clerk entered the default of defendants' Joinworld, Su, and Kang
14 on April 2, 2007. In filing its motion for default judgment, Jibbitz has elected to seek
15 statutory damages pursuant to 17 U.S.C. § 504(c)(1).

16 Based on the motion for default judgment and supporting points and authorities and
17 exhibits and the previous papers filed with the Court in connection with the temporary
18 restraining order and preliminary injunction, the Court makes the following findings of fact
19 and conclusions of law:

20 Findings Of Fact

- 21 1. Jibbitz has developed creative and original designs for its shoe charms.
- 22 2. Jibbitz owns all right, title and interest in its shoe charm designs, including all
23 copyright rights therein.
- 24 3. Jibbitz has obtained numerous copyright registrations for its Copyrighted
25 Works and has an ongoing copyright registration program with the United States Customs
26 service regarding its Copyrighted Works.
- 27 4. Jibbitz has presented and presents, and has spent a significant amount of money
28 developing, its Copyrighted Works, and they are assets of immense value to Jibbitz.

1 5. The Served Defendants have a history of infringing the Copyrighted Works.

2 6. The Served Defendants have used the internet and distributors in the United
3 States to unlawfully sell their infringing products. They were put on notice of their infringing
4 conduct on several occasions. Their infringing conduct is willful.

5 7. The Served Defendants offered more than 60 infringing copies of certain
6 Copyrighted Works for sale at the World Shoe Association Trade Show on February 1, 2007.
7 Those copies were identified in Group Exhibit A, a copy of which is attached to this default
8 judgment.

9 8. The Served Defendants' shoe charms also infringe Walt Disney characters. The
10 defendants sell their copies which infringe the Copyrighted Works and the Disney characters
11 via online sales, eBay auction, mail order, and/or by traditional routes.

12 9. Jibbitz timely elected to recover statutory damages pursuant to 17 U.S.C.
13 § 504(c)(1).

14 10. The Served Defendants conduct business overseas and fulfill orders for the
15 infringing products worldwide. Since they have defaulted and failed to meet their obligations
16 in this case, it is highly doubtful plaintiff could obtain reliable - or any - business records
17 from defendants regarding their sales of infringing product, therefore making it impossible
18 to determine the extent of ill gotten gain. The nature of the product (small lightweight
19 items) facilitates infringement on a massive scale. The nature of the sales channels (online
20 order taking and fulfillment by common carrier shipping) makes the potential volume of
21 infringement extremely large and the geographic scope global.

22 11. The Served Defendant's overseas location in China and the availability of sales
23 through the Internet and at various trade shows inside and outside of the United States will
24 make enforcement of the judgment in this case costly and difficult. A substantial monetary
25 judgment is therefore necessary to avoid making the amount at issue too small to justify the
26 costs of enforcement.

27

28

12. The Served Defendants have directly or vicariously reproduced the Copyrighted Works in copies; prepared derivative works based upon the Copyrighted Works; and distributed and displayed copies of the Copyrighted Works to the public.

13. If any of these findings of fact should more properly be deemed conclusions of law, they shall be so deemed.

Conclusions Of Law

The Court hereby enters the following conclusions of law:

1. The Served Defendants willfully have and continue to infringe Jibbitz' registered copyrights and trademark rights. Thus, Jibbitz is entitled to substantial statutory damages, attorneys' fees, and costs for such willful infringement.

2. Section 504(c) of the Copyright Act provides for a statutory minimum of \$750 and maximum of \$30,000 for infringement of a work, as the court considers just, for works registered prior to infringement. Where, as here, the Court finds willful conduct on the part of the infringers, statutory damages may increase to not more than \$150,000 per infringement.

3. In light of the willful nature of the Served Defendants' conduct, the Court concludes \$ 30,000.00 per infringement is appropriate to render enforcement by plaintiff economically feasible and to deter future infringements. The 60 registered copyrights infringed at \$ 30,000 per infringement resulting in \$1,800,000 statutory damages.

4. As the prevailing party, plaintiff is entitled to recover its costs, and may, in the Court's discretion, recover its full costs and attorneys' fees for works registered prior to infringement, pursuant to 17 U.S.C. §§ 412 and 505. The Court has considered the following five factors in determining whether to award attorneys' fees pursuant to § 505: (1) the degree of success obtained, (2) frivolousness, (3) motivation, (4) reasonableness of the losing party's legal and factual arguments, and (5) the need to advance considerations of compensation and deterrence. All of the factors favor awarding full costs and reasonable attorneys' fees in this case. Jibbitz obtained complete success on its *ex parte* seizure and its proof of infringement. Its case was uncontested and the economic impact of the infringement is substantial, so the

1 case was not frivolous. The Served Defendants' motivation was willful infringement. As the
2 Served Defendants submitted no defenses, *a fortiori*, they did not submit reasonable factual
3 and legal arguments. Finally, for the reasons set forth above, compensation and deterrence
4 warrants an award of reasonable attorneys' fees.

5 5. A claim of trademark infringement under § 1114(1)(a) of the Lanham Act
6 requires a trademark holder to demonstrate: (1) ownership of a valid mark (i.e., a protectable
7 interest), and (2) that the alleged infringer's use of the mark is likely to cause confusion or
8 mistake, or to deceive' consumers.

9 6. Jibbitz owns the valid trademark registrations covering the Jibbitz marks and
10 defendants misuse of the Jibbitz marks has caused confusion, mistake, and has deceived
11 Jibbitz' customers. Defendants' employment of counterfeit and spurious Jibbitz marks on
12 merchandise that is not genuine Jibbitz product constitutes trademark counterfeiting in
13 violation of 15 U.S.C. § 1114(1) and § 1116(d).

14 7. Jibbitz has a valid federal trademark registration for its JIBBITZ word mark
15 and JIBBITZ logo, in color and black and white (the "Jibbitz Marks"), Group Exhibit K,
16 attached to Jibbitz' motion for default judgment, constituted *prima facie* evidence of the
17 validity of the marks and its exclusive right to use them pursuant to 15 U.S.C. § 1115. A
18 copy of Group Exhibit K is attached to this default judgment. Moreover, the Jibbitz Marks
19 are strong and arbitrary marks that by no means have a descriptive relationship with the small
20 plastic snap-on devices under the designation. The Jibbitz Marks are arbitrary and fanciful,
21 the strongest form of trademarks, and they are therefore entitled to trademark protection by
22 an award of statutory damages, issuance of injunctive relief, and an award of costs and
23 attorneys' fees.

24 8. The relatedness or proximity of the products and their marketing channels
25 weigh strongly in Jibbitz' favor. Jibbitz created the market for shoe charms and its innovative
26 designs. The Served Defendants sell directly competing infringing shoe charms. Because
27 consumers are likely to associate identical product types, this factor weighs heavily in Jibbitz'
28 favor. Defendants have exhibited at the same trade shows as Jibbitz and attempted to

1 introduce their products into the same retail outlets where Jibbitz sells its products. The
2 Served Defendants used the Jibbitz Marks and consequent instances of confusion, including
3 among sophisticated show industry professionals, have already occurred. As such, the
4 Served Defendants' infringing use threatens "to dilute both the goodwill built up by the
5 plaintiff and its sales." The threat of damage to reputation and goodwill results from Jibbitz'
6 inability to control the nature and quality of the Served Defendants' infringing goods.

7 9. Absent a permanent injunction, confusion in the marketplace will likely erode
8 plaintiff's market position, undermine Jibbitz' ability to successfully market its product line
9 and, at a minimum, require Jibbitz to use its limited marketing resources to not only promote
10 its own product line, but to attempt to distinguish its products from the Served Defendants'
11 products, and otherwise to combat the effects of confusion in the marketplace. The Served
12 Defendants have sold products identical to the Jibbitz products both with and without the
13 Jibbitz Marks, in the same marketing channels as Jibbitz.

14 10. The Served Defendants' actions have created and continue to create confusion
15 among the general public and sophisticated show professionals.

16 11. The Served Defendants' actions have caused, and will threaten to continue to
17 cause Jibbitz to suffer irreparable harm for which it has no adequate remedy at law.

18 12. To demonstrate copyright infringement, the plaintiff must show ownership of
19 the copyright and copying by the defendant. Furthermore, companies and individuals who
20 knowingly facilitate the sale of infringing goods are vicariously liable for the infringing
21 activities of others. Jibbitz' Copyrighted Works are presumptively owned by Jibbitz due to
22 its copyright registrations. In addition, all the Copyrighted Works are creative works of
23 authorship fixed in a tangible means of expression that are solely owned by Jibbitz.

24 13. Defendants' actions described in finding of fact #12 constitute either direct or
25 vicarious infringements of the Copyrighted Works by violating the exclusive rights granted
26 to a copyright owner under 17 U.S.C. § 106.

27 14. To prevail on its federal trademark dilution claim, Jibbitz must demonstrate
28 that (1) the mark is famous; (2) the defendant is making a commercial use of the mark in

1 commerce; (3) the defendant's use began after the mark became famous; and (4) the
2 defendant's use of the mark dilutes the quality of the mark by diminishing the capacity of the
3 mark to identify and distinguish plaintiff's goods and services.

4 By virtue of its pioneering activities, federal registrations, distinctive nature of the
5 mark, national scope, and high number of retail outlets and sales, the Jibbitz Marks are
6 famous. The defendants are clearly making use of the Jibbitz Marks in commerce after the
7 marks became famous. Use by defendants constitutes dilution by blurring, by impairing the
8 distinctiveness of the famous marks, and dilution by tarnishment, by harming the reputation
9 of the Jibbitz Marks, by use in connection with shoddy products. As such, Jibbitz is entitled
10 to permanent equitable relief to prevent harm to its famous marks pursuant to 15 U.S.C.
11 §1125(c)(1).

12 15. If any of these conclusions of law should more properly be deemed findings
13 of fact, they shall be so deemed.

14 Judgment

15 Accordingly, it is hereby Ordered, Adjudged, and Decreed that plaintiff shall and
16 hereby does have judgment against defendants Joinworld, Su, and Kang, as follows:

17 1. Statutory damages pursuant to 17 U.S.C. § 504(c)(1), in the amount of
18 \$1,800,000.00 against defendants Joinworld, Su, and Kang, jointly and severally, for 60 counts
19 of willful copyright infringement;

20 2. Plaintiff's costs and reasonable attorneys' fees shall be and hereby are awarded
21 against Joinworld, Su, and Kang pursuant to 17 U.S.C. § 505. The costs shall be taxed in
22 accordance with 28 U.S.C. 1920 and reasonable attorneys' fees. Plaintiff shall submit an
23 affidavit setting forth its attorneys' fees within 10 days after entry of this default judgment,
24 and this default judgment shall be amended by the Court to reflect the fees awarded;

25 3 The Served Defendants, their officers, directors, agents, servants, employees,
26 attorneys, and all other persons acting, or attempting to act, in concert or participation with
27 them are permanently enjoined from manufacturing, producing, distributing, importing,
28 offering for sale, selling, or using any product bearing any of the Copyrighted Works, as

1 identified and depicted in Group Exhibit A, attached hereto, and any of the Jibbitz Marks,
2 as depicted in Group Exhibit K, attached hereto, or any portions thereof; and

3 4. The Served Defendants, their officers, directors, agents, servants, employees,
4 attorneys, and all other persons acting, or attempting to act, in concert or participation with
5 them are hereby ordered to recall and/or remove from all market locations any goods,
6 promotional materials, flyers, advertising, point of sale materials, signage, stationery, or other
7 materials bearing any of the Copyrighted Works or any Jibbitz Marks, or any portions
8 thereof.

9 Dated: May 1, 2007.

10 
United States District Judge

11 Submitted by:

12 Lionel Sawyer & Collins

13 /s/

14
15 By:

_____ Rodney M. Jean

16 Attorneys for plaintiff
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT J



UNITED STATES | ENGLAND | GERMANY | CHINA

NATALIE HANLON-LEH
nhanlon-leh@faegre.com
303/607-3639

April 10, 2007

Dane Laster
Crocus
5347 Madison Avenue
Indianapolis, IN 46227

VIA E-MAIL AND OVERNIGHT DELIVERY

crocus@yahoo.com

Re: Crocus, Inc. and Jibbitz, LLC

Dear Mr. Laster:

This firm represents Crocus, Inc ("Crocus"), and its wholly owned subsidiary Jibbitz, LLC ("Jibbitz"), in connection with their intellectual property matters. We are writing to you concerning certain content featured on the web site located at <http://www.crocoss shoes.com> ("the Crocus Web Site"). Through the Crocus Web Site, you are offering for sale foam clogs under the marks "CROCO" and "CROCOS," along with shoe charms for such shoes.

As you are no doubt aware, Crocus designs, manufactures, distributes, and sells a distinctive and popular line of footwear under the CROCS trademark, and is the owner of the CROCS trademark ("the CROCS Mark"). Examples of these shoes are shown on the Crocus web site at <http://www.crocus.com>. Crocus has invested heavily in developing its trademark and its distinctive line of shoe designs, and in doing so, Crocus has acquired substantial intellectual property rights. Likewise, Jibbitz designs and manufactures a line of handmade accessories that snap into foam clogs, such as Crocus, and other accessory items, under the JIBBITZ trademarks (collectively the "JIBBITZ Marks"). Examples of these accessories are shown on the Jibbitz, LLC web site at <http://www.jibbitz.com>. Jibbitz has also acquired substantial intellectual property rights, including trademark and copyright rights.

It has recently come to our attention that you have begun manufacturing, distributing and/or selling unauthorized look-alike versions of the CROCSTM line of footwear and the Jibbitz line of accessories on the Crocus Web Site. Indeed, it is clear that you have intentionally copied several models of CROCSTM shoes and JibbitzTM accessories and are now attempting to sell them in the marketplace under the near-identical name "CROCOS." By copying the distinctive features of Crocus' shoe designs and Jibbitz's accessory designs, and marketing them under confusingly similar names, you are infringing Crocus' and Jibbitz's intellectual property rights.

April 10, 2007
Page 2

We now write to formally put you on notice of Crocs' patent rights under U.S. Patent Nos. 6,993,858; 7,146,751; D535,088; D517,788; D517,789; D517,790; and D525,419. Copies are enclosed for your reference. Should you be found to infringe any claims of these patents, you may be found liable for, at a minimum, reasonable royalty damages at least as of the date you received this letter. Crocs also has numerous other pending patent applications directed to its other lines of shoes, including those which you are intentionally copying.

In addition to rights under these patents, Crocs' distinctive shoe designs and the CROCS Mark are also protected by copyright, trademark, trade dress and unfair competition laws of the United States and other countries. Your use of the marks "CROCO" and "CROCOS" creates a likelihood of confusion, dilutes the value of the CROCS Mark and is likely to deceive or mislead consumers to believe that there is some connection or affiliation between your company and Crocs. Such use trades on the goodwill associated with the CROCS Mark, which has been built up by Crocs at great expense. By copying the distinctive features of Crocs' footwear designs and offering them for sale on the Crocos Web Site under the nearly identical "CROCOS" name, you have also infringed Crocs' copyright, trademark, trade dress and engaged in unfair competition. Moreover, by copying the designs of the Jibbitz shoe accessories in their entirety, you have likewise infringed Jibbitz's copyright, trademark, trade dress and engaged in unfair competition.

Moreover, the domain names crococsshoes.com and crocosshoes.com/jibbitz, which are currently registered to you, are nearly identical, and in any event confusingly similar to, the CROCS Mark and the JIBBITZ Marks. You registered and are using the domain names in bad faith, to attract Internet users seeking Crocs' and Jibbitz's products by misleading them into thinking that your web site and domain name are somehow sponsored by or affiliated with Crocs and/or Jibbitz.

Accordingly, by this letter we hereby demand that you immediately:

1. Cease all further manufacture, offer for sale, sale, and/or distribution of any footwear anywhere in the world that incorporates Crocs' or Jibbitz's designs or is likely to cause confusion with Crocs' or Jibbitz's designs, including but not limited to all products currently marketed as "CROCO" or "CROCOS."
2. Remove from the Crocos Web Site all pictures, descriptions, and advertising of any footwear or shoe accessories that are copied from or likely to cause confusion with Crocs' or Jibbitz's distinctive designs.
3. Discontinue all use of the crocosshoes.com domain for any purpose, transfer it and any other domain names you have registered that are confusingly similar to the CROCS Mark or JIBBITZ Mark to Crocs, and remove all trademarks of Crocs and Jibbitz from the Crocos Web Site.

April 10, 2007
Page 3

4. Provide an accounting of all sales of footwear that incorporates Crocs' and Jibbitz's distinctive designs, including all footwear described on the Crocos Web Site using the marks "CROCO" or "CROCOS."
5. Confirm in writing that you have complied with these demands.

Should you fail to comply with these demands by **April 16, 2007**, Crocs and Jibbitz may pursue all available remedies against you, including compensatory and punitive damages, injunctive relief, and attorneys' fees, without further notice. Crocs and Jibbitz take their intellectual property rights very seriously, and we trust that you will do likewise and give this matter your prompt attention.

Very truly yours,


Natalie Hanlon-Leh

cc: Erik Rebich, Esq.
Sara Hoverstock, Esq.

EXHIBIT F



UNITED STATES | ENGLAND | GERMANY | CHINA

NATALIE HANLON-LEH
NHanlon-Leh@faegre.com
(303) 607-3639

April 10, 2007

BY UPS OVERNIGHT AND FACSIMILE

Amy Skillman
Tan at the Beach, Inc.
3650 Hindman Road
Fayette, AL 35555

Colin Wells
Tan at the Beach, Inc.
2423 Temple Ave. N.
Fayette, AL 35555
(205) 932-8267

Re: Infringement of Trademarks and Patents of Crocs, Inc.

Dear Ms. Skillman and Mr. Wells:

This law firm represents Crocs, Inc. in connection with its intellectual property interests.

We are writing to you concerning certain content featured on the web sites located at <http://stores.ebay.com/Tan-At-The-Beach-Inc> and http://www.tradekey.com/selloffer_listall/uid/223753/tan-at-the-beach-inc.htm (collectively the "Web Sites"). Through these Web Sites, your company, Tan at the Beach, Inc. ("Tan at the Beach"), is offering for sale clogs and flip flops under the marks "CROCO" and "CROCOS." It also appears that Tan at the Beach is importing and exporting clogs under the marks "CROCO" and "CROCOS."

As you are no doubt aware, Crocs, Inc. designs, manufactures, distributes, and sells a distinctive and popular line of footwear under the CROCS trademark, and is the owner of the CROCS trademark and logo (collectively, the "CROCS Mark"). Examples of these shoes are shown on the Crocs, Inc. web site at <http://www.crocs.com>. Crocs, Inc. has invested heavily in developing its distinctive line of shoe designs, and in doing so, Crocs, Inc. has acquired various intellectual property rights, including trademark rights. The CROCS Mark symbolizes the reputation and hard-earned, valuable goodwill the company has acquired.

Amy Skillman & Colin Wells
April 10, 2007
Page 2

Tan at the Beach, Inc.'s ("Tan at the Beach") use of the marks "CROCO" and "CROCOS" creates a likelihood of confusion, dilutes the value of the CROCS Mark and is likely to deceive or mislead consumers to believe that there is some connection or affiliation between your company and Crocs, Inc. Such use trades on the goodwill associated with the CROCS Mark, which has been built up by Crocs, Inc. at great expense. Thus, Tan at the Beach's use of "CROCO" and "CROCOS" is actionable under Section 43(a) of the Lanham Act.

We now write to formally put you on notice of Crocs' patent rights under U.S. Patent Nos. 6,993,858; 7,146,751; D535,088; D517,788; D517,789; D517,790; and D525,419. Copies are enclosed for your reference. Should you be found to infringe any claims of these patents, you may be found liable for, at a minimum, reasonable royalty damages at least as of the date you received this letter. Crocs also has numerous other pending patent applications directed to its other lines of shoes, including those which you are intentionally copying.

Please be advised that Crocs, Inc. hereby demands that Tan at the Beach take the following steps to ameliorate this matter by *April 16, 2007*:

1. Cease all further manufacture, offer for sale, sale, and/or distribution of any footwear anywhere in the world that incorporates Crocs' designs or is likely to cause confusion with Crocs' designs, including but not limited to all products currently marketed as "CROCO" or "CROCOS."
2. Remove from eBay and any other website all pictures, descriptions, and advertising of any footwear or shoe accessories that are copied from or likely to cause confusion with Crocs' distinctive designs.
3. Discontinue all use of the name "CROCO" for any purpose.
4. Provide an accounting of all sales of footwear that incorporates Crocs' distinctive designs, including all footwear described using the names "CROCO" or "CROCOS."
5. Confirm in writing that you have complied with these demands.

If you fail to comply with these demands by *April 16, 2007*, Crocs, Inc. may seek legal relief, including but not limited to a suit for injunctive relief and damages.

Amy Skillman & Colin Wells
April 10, 2007
Page 3

This matter is serious and requires your immediate attention. Please do not hesitate to contact me at NHanlon-Leh@faegre.com or (303)607-3639 with any questions you may have.

Regards,

A handwritten signature in cursive script that reads "Natalie Hanlon-Leh". The signature is written in black ink and is positioned to the right of the word "Regards,".

Natalie Hanlon-Leh

cc: Erik Rebich, Esq.
Sara Hoverstock, Esq.

Encs.

fb.us.1722285.02