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### (54) SOLE ASSEMBLY FOR AN ARTICLE OF FOOTWEAR

(57) A footwear construction having a strobol-stitched bottomed upper and a sole assembly with a topsole disposed above the strobol board. The topsole is manufactured from a foam having an average modulus at a stress of 535 kilopascals from about 750 kilopascals to about 950 kilopascals. The foam also has an energy efficiency of at least about 78%, and a dynamic compression set of less than about 10%. The sole assembly may include an inner sole disposed above the topsole. The inner sole may be manufactured from EVA foam. The topsole may have a thickness of at least 1mm, the inner sole may have a thickness of at least 3mm, and the total thickness of the topsole and inner sole may be at least 5mm. The sole assembly may include a midsole, and possibly an outsole, disposed below the strobol board.

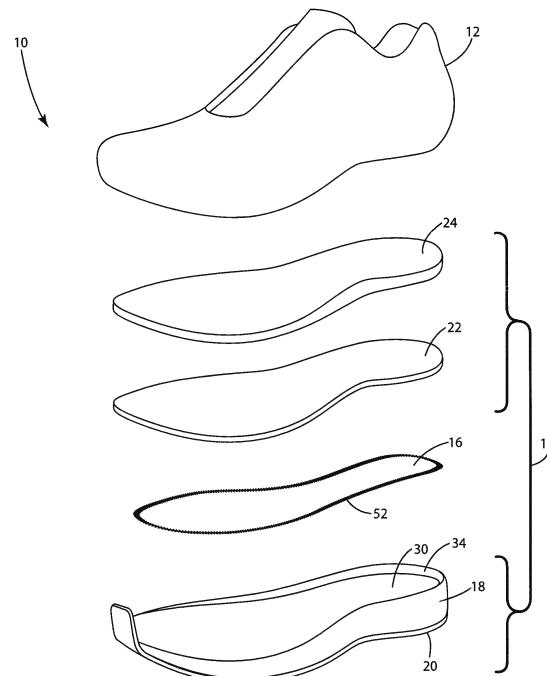


Fig. 2



Application Number

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## DECLARATION

which under Rule 63 of the European Patent Convention EP 16 16 5610  
shall be considered, for the purposes of subsequent  
proceedings, as the European search report

		CLASSIFICATION OF THE APPLICATION (IPC)	
10	The Search Division considers that the present application, does not comply with the provisions of the EPC to such an extent that it is not possible to carry out a meaningful search into the state of the art on the basis of all claims	INV. A43B13/12 A43B13/18 A43B5/06	
15	In the response to the invitation pursuant to Rule 62a(1) EPC, the applicant requested that the search report be drawn up on the basis of claim 6. Since in the said invitation pursuant to Rule 62a(1) EPC claim 1 was linked to said claim 6, the present report concerns claims 1 to 5 and claims 6 to 12. This means that present claims 13 to 15 are directed to subject matter that was not searched or examined.		
20	Present claims 1 and 6 relate to products (an article of footwear and a sole for an article of footwear) defined (inter alia) by reference to the following unusual parameter: "an average modulus at a stress of 535 kPa of between about 750 and 950 kPa and an energy efficiency of at least about 80% and a dynamic compression set of less than about 8%"		
25	The use of this unusual parameter in the present context is considered to lead to a lack of clarity, because the claim does not clearly identify the products encompassed by it as the parameter cannot be clearly and reliably determined by indications in the description or by objective procedures which are usual in the art. Paragraph [0036] of the description merely states that the protocol used for assessing the mechanical properties of the foam concerned using an electromagnetically driven impact test device (ElectroPuls E3000, Instron, Norwood MA) is a modified version of "ASTM F1614-99(2006) "Standard Test Method for Shock Attenuating Properties of Materials		
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55	Place of search The Hague	Date 9 December 2016	Examiner Chirvase, Lucian



Application Number

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## DECLARATION

which under Rule 63 of the European Patent Convention EP 16 16 5610 shall be considered, for the purposes of subsequent proceedings, as the European search report

<p>The Search Division considers that the present application, does not comply with the provisions of the EPC to such an extent that it is not possible to carry out a meaningful search into the state of the art on the basis of all claims</p> <p>Reason:</p> <p>Systems for Athletic Footwear Procedure C". Exactly how the protocol is modified is not evident from the description neither is it unambiguously clear whether this modified protocol is part of the standard knowledge of the person skilled in the art of making top soles from foams and using such an impact test device. This makes it impossible to compare the claims with the prior art. As a result, the application does not comply with the requirement of clarity under Article 84 EPC.</p> <p>The lack of clarity is such that a meaningful search of the whole claimed subject-matter of claims 1 and 6 and the claims dependent thereon could not be carried out (Rule 63 EPC).</p> <p>Obiter dictum, the above would also apply to claims 13 to 15.</p> <p>The applicant's attention is drawn to the fact that a search may be carried out during examination following a declaration of no search under Rule 63 EPC, should the problems which led to the declaration being issued be overcome (see EPC Guideline C-IV, 7.2).</p>		CLASSIFICATION OF THE APPLICATION (IPC)
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<p>Place of search</p> <p>The Hague</p> <p>Date</p> <p>9 December 2016</p> <p>Examiner</p> <p>Chirvase, Lucian</p>		