

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DESTINATION MATERNITY
CORPORATION

Plaintiff,

v.

TARGET CORPORATION, CHEROKEE
INC. AND ELIZABETH LANGE LLC

Defendants.

CASE NO.:

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Destination Maternity Corporation ("DMC"), by their undersigned counsel, brings this action against defendants, Target Corporation ("Target"), Cherokee Inc. ("Cherokee") and Elizabeth Lange LLC ("Liz Lange LLC") (collectively, "Defendants"), and in support alleges as follows:

PARTIES

1. DMC is a Delaware corporation having its principal place of business at 456 North 5th Street, Philadelphia, PA 19123-4007.
2. Upon information and belief, Target is a Minnesota corporation with its principal place of business at 1000 Nicollet Mall, Minneapolis, MN 55403.
3. Upon information and belief, Cherokee is a Delaware corporation with its principal place of business at 6835 Valjean Avenue, Van Nuys, California 91406.

4. Upon information and belief, Liz Lange LLC is a New York limited liability company with its principal place of business at 347 West 36th Street, 2nd Floor, New York, NY 10018.

JURISDICTION AND VENUE

5. This court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, including 35 U.S.C. §§ 1 *et seq.*

6. Upon information and belief, the Court has personal jurisdiction over Defendants because specific acts of infringement occurred within this judicial district.

7. Upon information and belief, Defendants are doing business in this judicial district and the Court has personal jurisdiction for this additional reason.

8. Venue is proper in this Judicial District under 28 U.S.C. §§ 1391 and 1400.

FACTS

Destination Maternity Background

9. DMC was founded in Philadelphia in 1982 as a small mail-order maternity apparel catalog. As a pioneer and innovator of maternity clothing, DMC successfully grew from its humble beginnings into the United States' largest maternity apparel retailer with more than 2,000 retail locations.

10. As DMC grew, it preserved its Philadelphia roots, maintaining its corporate headquarters in Philadelphia in the Northern Liberties section. In addition, all of DMC's distribution centers

are located in Philadelphia, including a facility in the Philadelphia Naval Business Center, which is used for warehousing, distribution and raw material cutting.

11. Currently, DMC employs approximately 650 people in Philadelphia.

The Patents-in-Suit

12. On October 19, 2010, United States Patent No. 7,814,575 (the "'575 Patent") for "Belly Covering Garment" was legally issued by the United States Patent and Trademark Office ("USPTO") to inventors Lisa A. Hendrickson, James H. Gardner III and Richard Adelman. A copy of the '575 Patent is attached hereto as Exhibit A.

13. DMC is the owner of the entire right, title, and interest in and to the '575 Patent. DMC and/or its predecessors in interest owned the '575 Patent throughout the period of the Defendants' infringing acts.

14. On July 24, 2012, United States Patent No. RE 43,531 (the "'531 Patent") for "Belly Covering Garment" was legally issued by the USPTO to inventors Lisa A. Hendrickson, James H. Gardner III and Richard Adelman. A copy of the '531 Patent is attached hereto as Exhibit B.

15. The '531 Patent is a reissue of the '575 Patent.

16. DMC is the owner of the entire right, title, and interest in and to the '531 Patent. DMC owned the '531 Patent throughout the period of the Defendants' infringing acts and still owns the '531 Patent.

17. Claims 1-25 of the '531 Patent are identical to Claims 1-25 of the '575 Patent.

18. On March 8, 2011, United States Patent No. 7,900,276 (the "'276 Patent") for "Belly Covering Garment" was legally issued by the USPTO to inventors Lisa A. Hendrickson, James H. Gardner III and Richard Adelman. A copy of the '276 Patent is attached hereto as Exhibit C.

19. DMC is the owner of the entire right, title, and interest in and to the '276 Patent. DMC and/or its predecessors in interest owned the '276 Patent throughout the period of the Defendants' infringing acts.

20. On August 7, 2012, United States Patent No. RE 43,563 (the "'563 Patent") for "Belly Covering Garment" was legally issued by the USPTO to inventors Lisa A. Hendrickson, James H. Gardner III and Richard Adelman. A copy of the '563 Patent is attached hereto as Exhibit D.

21. The '563 Patent is a reissue of the '276 Patent.

22. Claims 1-16 of the '563 Patent are identical to Claims 1-16 of the '276 Patent.

23. DMC is the owner of the entire right, title, and interest in and to the '531 Patent. DMC owned the '531 Patent throughout the period of the Defendants' infringing acts and still owns the '531 Patent.

Patent Infringement

24. The Defendants have infringed, and are still infringing, directly and indirectly, the '531 Patent and the '563 Patent (collectively, the "Patents-in-Suit"), including prior infringement of the '575 Patent and the '276 Patent, by making, using, offering to sell, selling and/or importing garment bottoms that embody the Patents-in-Suit including, but not limited to, garment bottoms sold under the brand Liz Lange® (the "Accused Products").

25. The Accused Products include currently offered clothing named "Liz Lange® for Target® Maternity Extended-Sizes Flare Jeans - Dark Wash"; "Liz Lange® for Target® Maternity Beige-Band Bootcut Jeans - Kalena Blue"; "Liz Lange® for Target® Maternity Blue-Band Bootcut Jeans - Kalena Blue"; and "Liz Lange® for Target® Maternity Straight-Leg Pants - Light Peet."

26. Upon information and belief, the Accused Products are or were available, and are or were being offered for sale and sold, at stores carrying Defendants' products and at the following Target websites, including at stores and to consumers located in this Judicial District:

- a. <http://www.target.com/p/liz-lange-for-target-maternity-extended-sizes-flare-jeans-dark-wash/-/A-13510376>
- b. <http://www.target.com/p/liz-lange-for-target-maternity-beige-band-bootcut-jeans-kalena-blue/-/A-14171092>
- c. <http://www.target.com/p/liz-lange-for-target-maternity-blue-band-bootcut-jeans-kalena-blue/-/A-14170948>
- d. <http://www.target.com/p/liz-lange-for-target-maternity-straight-leg-pants-light-peet/-/A-14138496>

27. Upon information and belief, Cherokee owns the Liz Lange® brand.

28. Upon information and belief, Liz Lange LLC is a subsidiary of Cherokee.

29. Upon information and belief, Target, Liz Lange LLC and/or Cherokee are or were responsible for the design, manufacture, and marketing of garment bottoms sold under the Liz Lange® brand.

30. Liz Lange LLC and/or Cherokee direct customers to buy products at third party stores and websites, including Target, at the website <http://www.lizlange.com/where-to-buy/>.

31. Upon information and belief, Liz Lange LLC and/or Cherokee direct customers to buy products at third party stores and websites with the specific intent to induce infringement of the Patents-in-Suit.

32. Upon information and belief, Cherokee is expanding the territory for the Liz Lange® brand.

33. Upon information and belief, Target sells garment bottoms under the Liz Lange® brand at Target's more than 1,700 stores nationwide and online at www.target.com.

34. Upon information and belief, maternity patents sold under the Liz Lange® brand are exclusively sold by Target.

35. Target indirectly infringes the Patents-in-Suit because its customers use the Accused Products.

36. Upon information and belief, Target offers to sell and sells the Accused Products to customers with the specific intent to induce infringement of the Patents-in-Suit.

37. Upon information and belief, the Defendants had knowledge that the Accused Products are especially made or especially adapted for use in an infringement of the Patents-in-Suit and are not a staple article or commodity of commerce suitable for substantial non-infringing use.

38. Defendants are infringing and/or infringed the Patents-in-Suit because they are or were actively inducing others to infringe by providing Accused Products to third parties who are or were using, offering for sale, selling and/or importing the Accused Products.

39. The Defendants have infringed and are still infringing, directly and indirectly, the Patents-in-Suit by making, using, offering to sell, selling and/or importing pant products that embody the Patents-in-Suit including, but not limited to, the Accused Products.

40. The inventions covered by the Patents-in-Suit are of great value to DMC. Defendants' infringing conduct has taken place within the United States without license or permission of DMC and it is believed that such activity will continue unless enjoined by this Court.

41. DMC has suffered and will continue to suffer damages from the acts of infringement complained of herein.

Notice of Patent Infringement

42. Defendants' infringement has been, and continues to be, willful and deliberate. Defendants have been on constructive notice of the Patents-in-Suit by at least as early as December 4, 2008, when the applications relating to the '575 Patent and '276 Patent were published, and further on October 19, 2010 and March 8, 2011, when the '575 Patent and '276

Patent issued, respectively. The Defendants have had actual notice since at least as early as a letter dated June 26, 2009 from DMC to Target.

43. The Defendants continue to sell the Accused Products despite an objectively high likelihood that their actions constitute infringement of the Patents-in-Suit. The Defendants knew or should have known that their actions constituted direct and indirect infringement of the Patents-in-Suit.

44. DMC sells products in the United States that embody the Patents-in-Suit, including under the brand name Secret Fit Belly®.

45. DMC has complied with the statutory requirement of placing a notice of the Letters Patent on all garment bottoms that it manufactures and sells embodying the Patents-in-Suit and has given the Defendants written notice of infringement through Target.

46. In a letter dated June 26, 2009, DMC informed Target that DMC owned Patent Application Nos. 11/756,242 (the "'242 Application") and 12/117,004 (the "'004 Application"). DMC also provided Target with copies of the published '242 Application and '004 Application.

47. In a letter dated February 22, 2011, DMC informed Target that the '242 Application issued as the '575 Patent. DMC also informed Target that the '004 Application was granted a Notice of Allowance from the USPTO and that DMC paid the issue fee. DMC provided Target with a copy of the '575 Patent and the allowed claims of the '004 Application.

48. In its February 22, 2011 letter, DMC informed Target that "products being offered by Target under the 'Liz Lange Maternity for Target' brand appear to be identical or virtually identical to the Secret Fit Belly® features for which [DMC has] received patent protection."

49. In a letter dated February 25, 2011, Target responded to DMC requesting additional information.

50. In a letter dated March 16, 2011, counsel for DMC provided Target with additional information including a claim chart and Target website print-outs showing some of the garment bottoms in question. The claim charts specifically compared each claim element of the DMC patents to the identified Target garment bottoms. The identified garment bottoms in question were several Liz Lange® for Target® maternity pants.

51. Counsel for Target and counsel for DMC exchanged further correspondence without resolution.

COUNT I
(Infringement Of The '531 Patent)

52. DMC repeats and incorporates by reference the previous paragraphs of this Complaint as if set forth in full herein.

53. The Accused Products infringe the '531 Patent because they include the claim limitations of the '531 Patent either literally or under the doctrine of equivalents.

54. The Defendants have directly and indirectly infringed, and are still directly and indirectly infringing, the '531 Patent by making, using, offering to sell, selling and/or importing maternity

pant products that embody the '531 Patent including, but not limited to, the Accused Products. The Defendants will continue to infringe the '531 Patent unless enjoined by this Court.

55. Defendants' infringement has irreparably injured DMC and will continue to injure DMC unless and until the Court enters an injunction prohibiting further infringement, and specifically enjoins further manufacture, use, offers for sale, sale and importation of Defendants' products that fall within the scope of the '531 Patent.

56. Defendants' infringement of the '531 Patent has been and continues to be willful and deliberate.

57. The Defendants had actual notice of at least Claims 1-25 the '531 Patent and, despite that notice, the Defendants have persisted in infringing the '531 Patent. The Defendants have acted despite an objectively high likelihood that their actions constitute infringement of the '531 Patent, and knew or should have known of the risk associated with their deliberate actions.

58. The Defendants' infringement has injured DMC, and DMC is entitled to recover damages adequate to compensate for such infringement, including, but not limited to, lost profits, a reasonable royalty award, treble damages, costs, pre and post judgment interest at the maximum allowable rate, attorneys' fees, and such other and further relief this Court deems just and proper.

COUNT II
(Infringement Of The '563 Patent)

59. DMC repeats and incorporates by reference the previous paragraphs of this Complaint as if set forth in full herein.

60. The Accused Products infringe the '563 Patent because they include the claim limitations of the '563 Patent either literally or under the doctrine of equivalents.

61. The Defendants have directly and indirectly infringed, and are still directly and indirectly infringing, the '563 Patent by making, using, offering to sell, selling and/or importing maternity pant products that embody the '563 Patent including, but not limited to, the Accused Products. The Defendants will continue to infringe the '563 Patent unless enjoined by this Court.

62. Defendants' infringement has irreparably injured DMC and will continue to injure DMC unless and until the Court enters an injunction prohibiting further infringement, and specifically enjoins further manufacture, use, offers for sale, sale and importation of Defendants' products that fall within the scope of the '563 Patent.

63. Defendants' infringement of the '563 Patent has been and continues to be willful and deliberate.

64. The Defendants had actual notice of at least Claims 1-16 of the '563 Patent and, despite that notice, the Defendants have persisted in infringing the '563 Patent. The Defendants have acted despite an objectively high likelihood that their actions constitute infringement of the '563 Patent, and knew or should have known of the risk associated with their deliberate actions.

65. The Defendants' infringement has injured DMC, and DMC is entitled to recover damages adequate to compensate for such infringement, including, but not limited to, lost profits, a reasonable royalty award, treble damages, costs, pre and post judgment interest at the maximum allowable rate, attorneys' fees, and such other and further relief this Court deems just and proper.

PRAYER FOR RELIEF

WHEREFORE, DMC respectfully demands judgment against Defendants, their subsidiaries, affiliates, agents, servants, employees, attorneys and all persons in active concert or in participation with them, granting DMC the following relief:

(1) A permanent injunction prohibiting Defendants from further acts of infringement of the Patents-in-Suit;

(2) Damages sufficient to compensate DMC for the infringement by Defendants in an amount to be proved at trial, but in no event less than a reasonable royalty, together with prejudgment interest from the date infringement began;

(3) An award to DMC of three times the amount of damages so determined, as provided for in 35 U.S.C. § 284;

(4) A finding that this case is "exceptional," and an award to DMC of its costs and reasonable attorneys' fees, as provided in 35 U.S.C. § 285; and

(5) Such other and further relief as this Court or jury may determine to be proper and just.

JURY DEMAND

Pursuant to Fed. R. Civ. P. 38(b), plaintiffs hereby demand a trial by a jury on all issues so triable.

Date: October 4, 2012

Respectfully submitted,



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EXHIBIT A



US007814575B2

(12) **United States Patent**
Hendrickson et al.

(10) **Patent No.:** **US 7,814,575 B2**
(45) **Date of Patent:** **Oct. 19, 2010**

(54) **BELLY COVERING GARMENT** 4,506,390 A * 3/1985 Stern 2/221
5,946,730 A 9/1999 Blair
(75) Inventors: **Lisa A. Hendrickson**, Mount Laurel, NJ 6,311,333 B1 * 11/2001 Batra 2/237
(US); **James H. Gardner, III**, Ambler, PA (US); **Richard Adelman**, 2004/0210987 A1 10/2004 Carney
Greensboro, NC (US) 2006/0010571 A1 1/2006 Oakley

(73) Assignee: **Destination Maternity Corporation**,
Wilmington, DE (US)
(*) Notice: Subject to any disclaimer, the term of this
patent is extended or adjusted under 35
U.S.C. 154(b) by 647 days.

(21) Appl. No.: **11/756,242**

(22) Filed: **May 31, 2007**

(65) **Prior Publication Data**
US 2008/0295225 A1 Dec. 4, 2008

(51) **Int. Cl.**
A41D 13/00 (2006.01)
A41D 9/00 (2006.01)
(52) **U.S. Cl.** 2/227; 450/155
(58) **Field of Classification Search** 2/69,
2/228, 227, 238, 236, 237, 211, 212, 214;
450/155, 96-100
See application file for complete search history.

(56) **References Cited**
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3,045,678 A * 7/1962 Geimer 450/130
4,280,229 A * 7/1981 Stein 2/221

OTHER PUBLICATIONS

1 in the Oven's InvisiBelly™ Jeans, Trade Literature, Feb. 26, 2008,
http://www.1intheoven.com/index.php?p=product&id=88&parent=26&is_print_version=true.
International Search Report and Written Opinion dated Aug. 18, 2008
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Cody, Diablo, *Juno*, DVD, Fox Searchlight Pictures screenplay, Feb.
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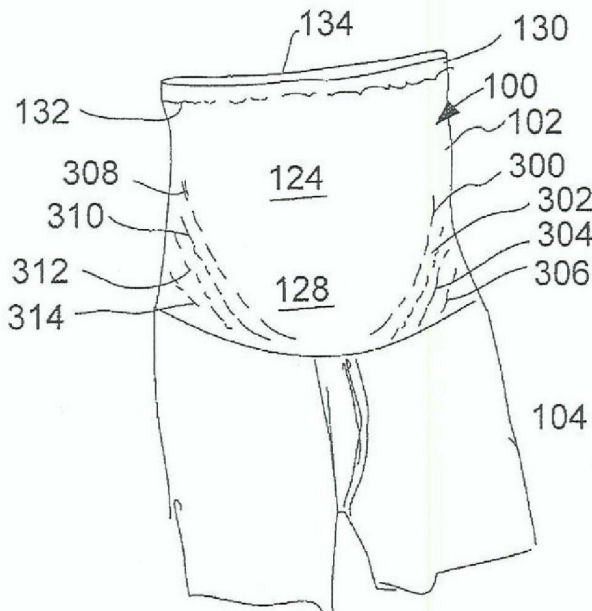
* cited by examiner

Primary Examiner—Gloria Hale
(74) *Attorney, Agent, or Firm*—DLA Piper LLP (US)

(57) **ABSTRACT**

The present invention relates to a garment worn during dif-
ferent stages of pregnancy and different stages of postpartum
body changes. A garment upper portion has a belly panel that
is expandable to cover and fit over a growing abdomen during
different stages of pregnancy, and a garment lower portion
having a first torso encircling circumference that recedes
downward to make way for expansion of the belly panel. The
garment upper portion has a second torso encircling circum-
ference to hold the garment up and in place over the torso.

25 Claims, 8 Drawing Sheets



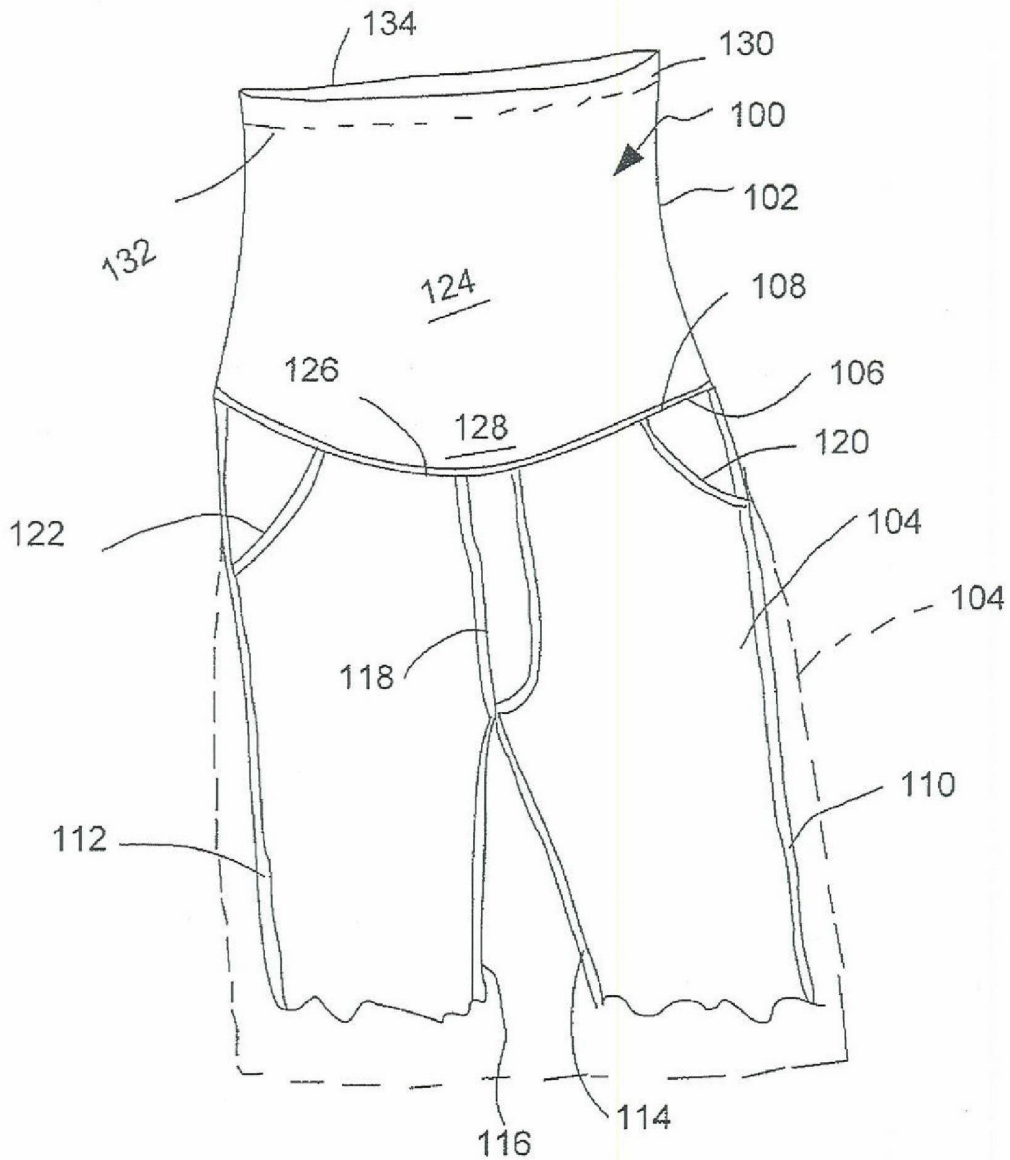


FIG. 1

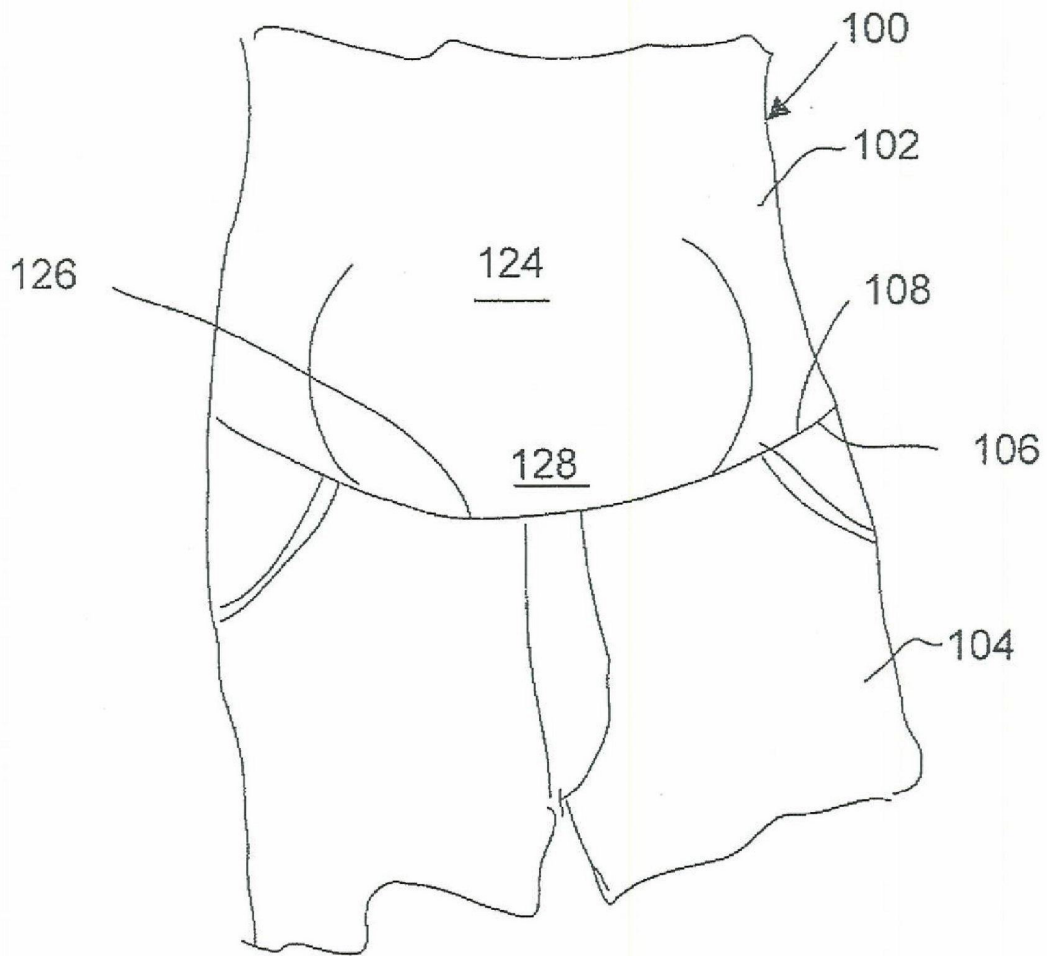


FIG. 1A

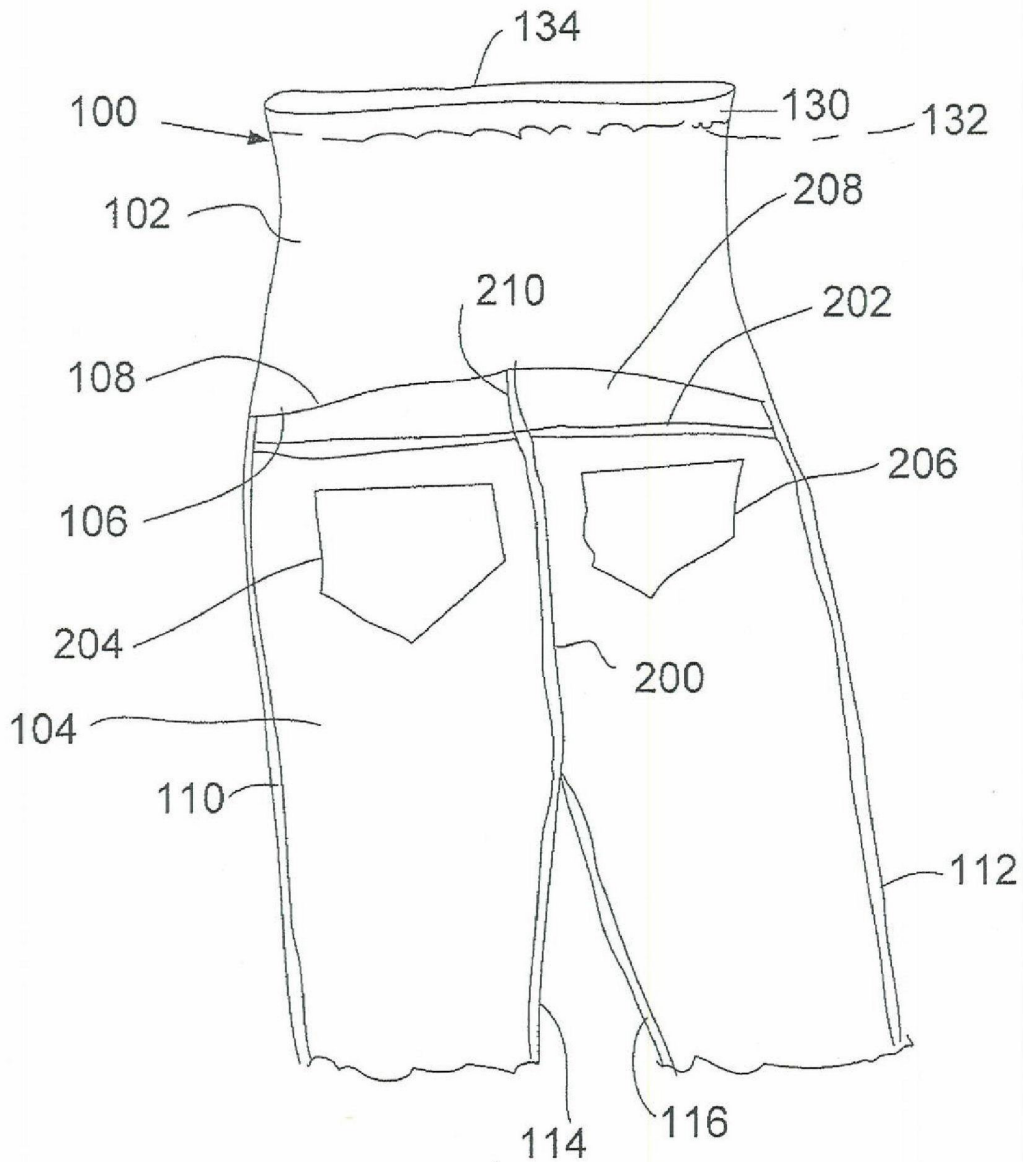


FIG. 2

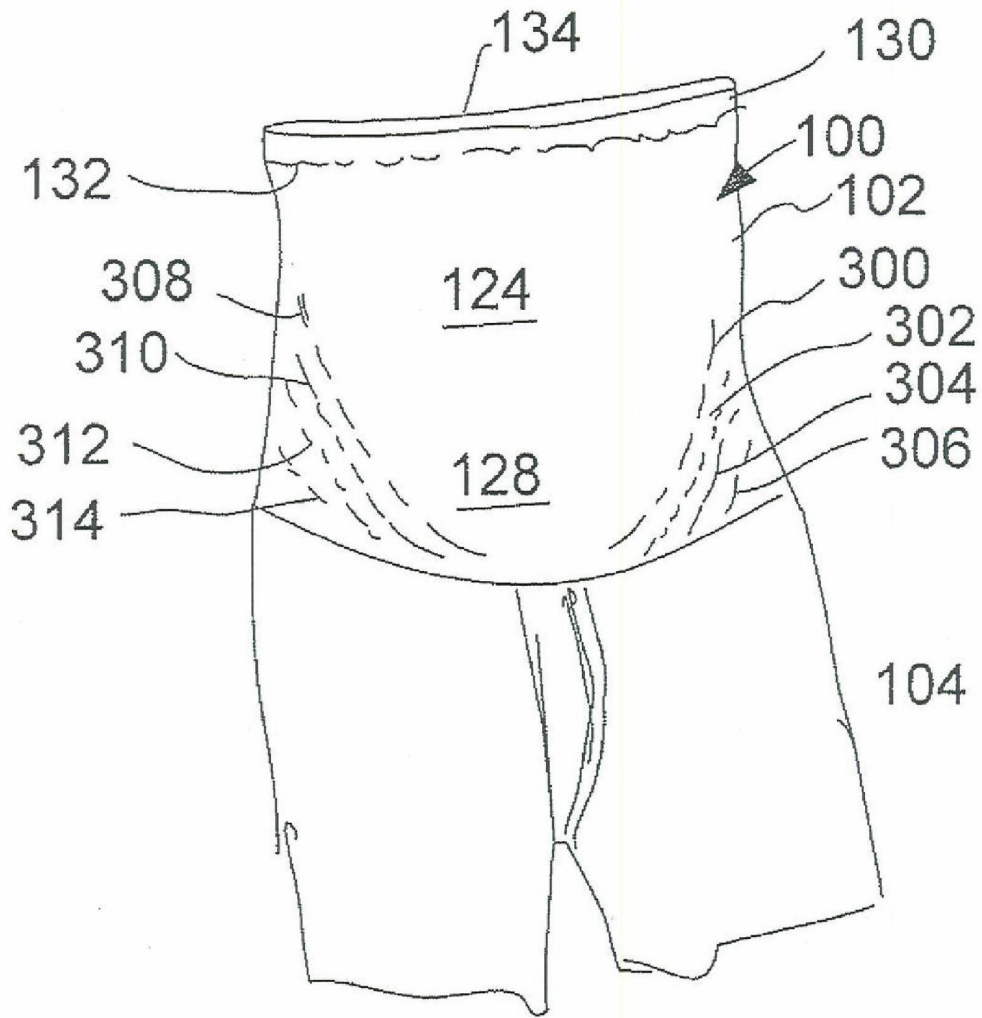


FIG. 3

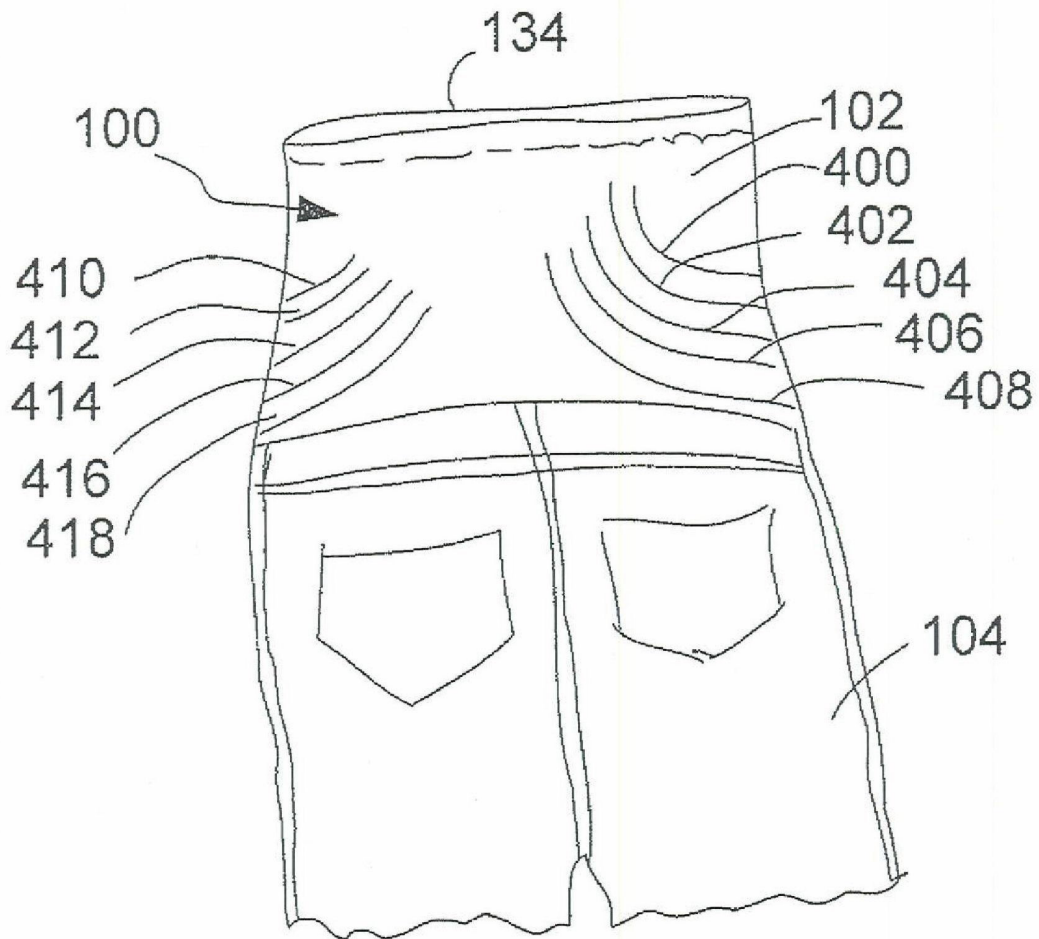


FIG. 4

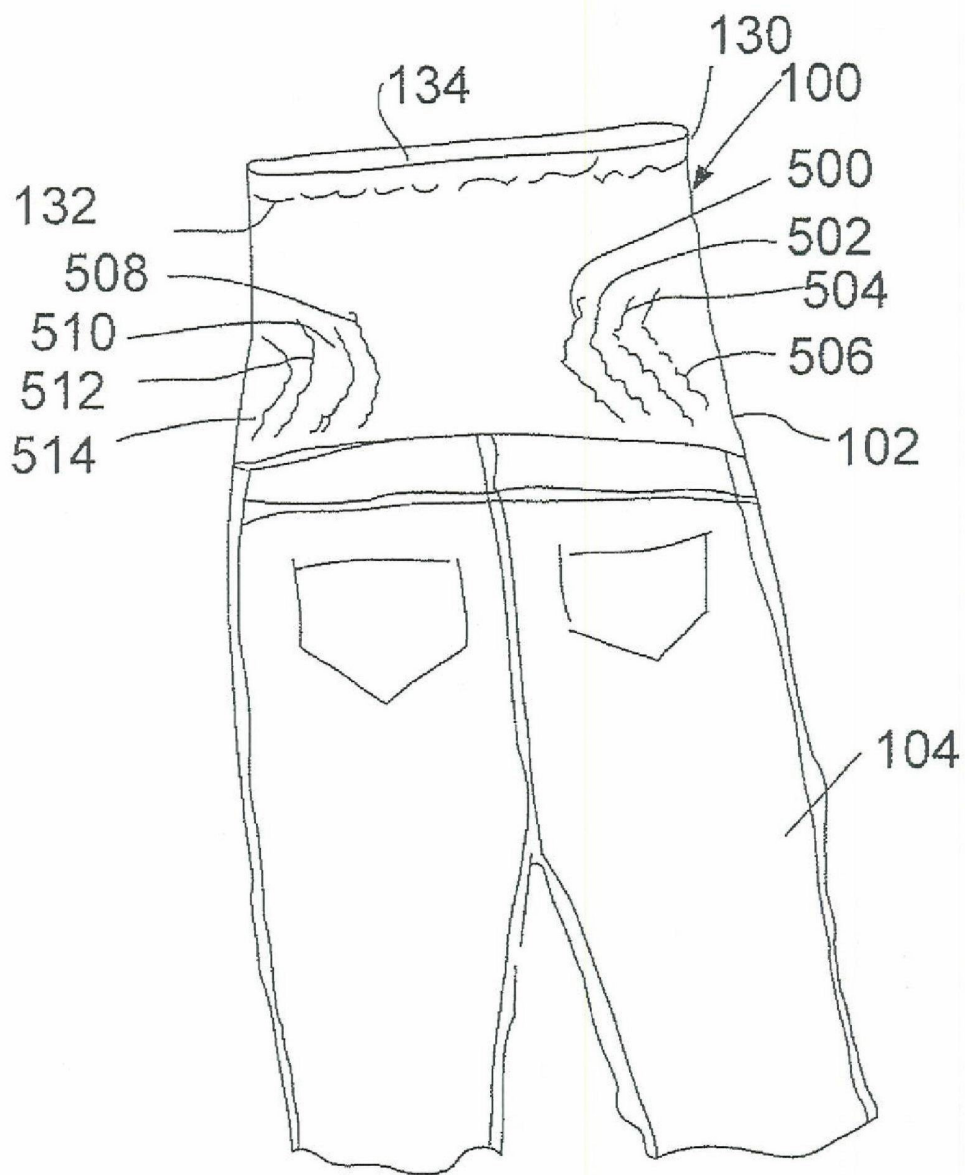


FIG. 5

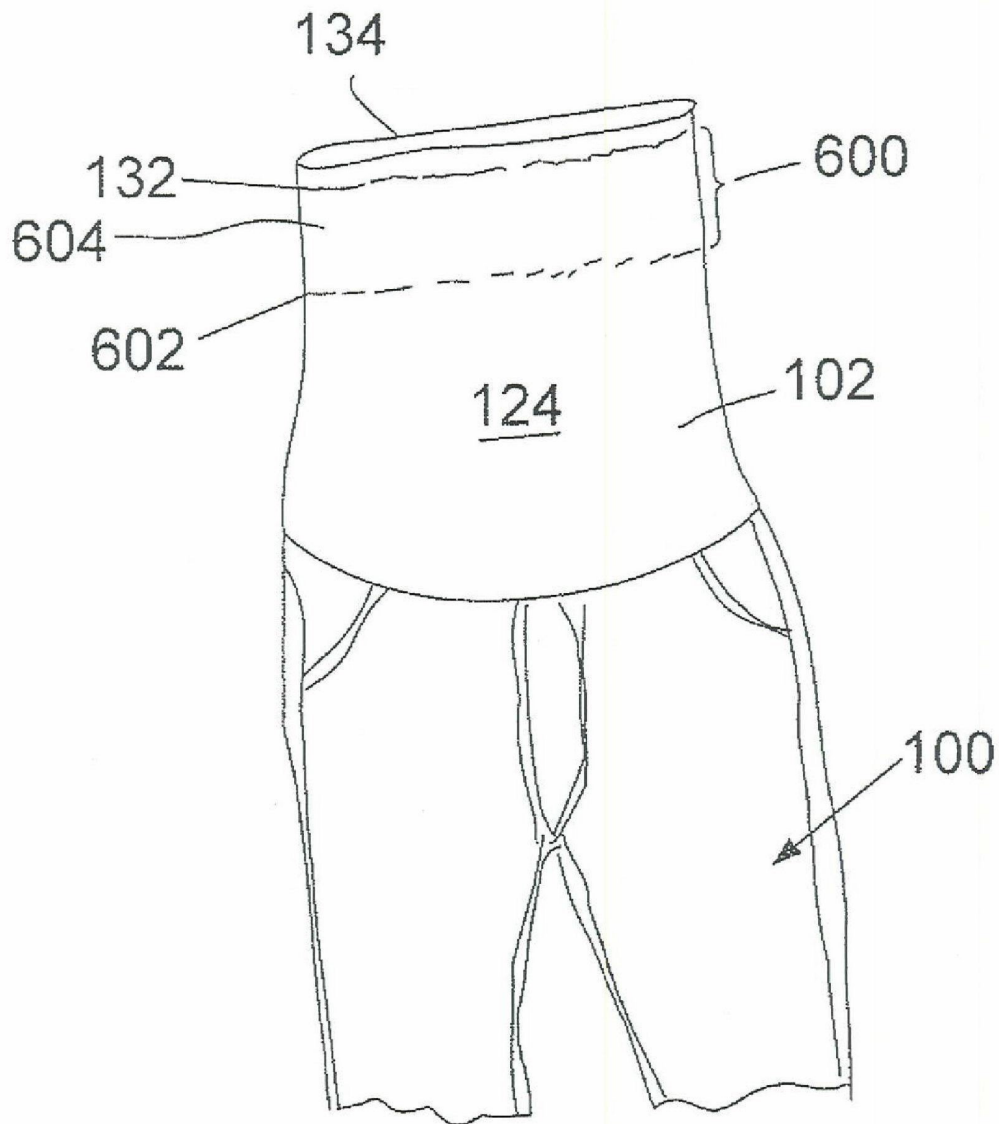


FIG. 6

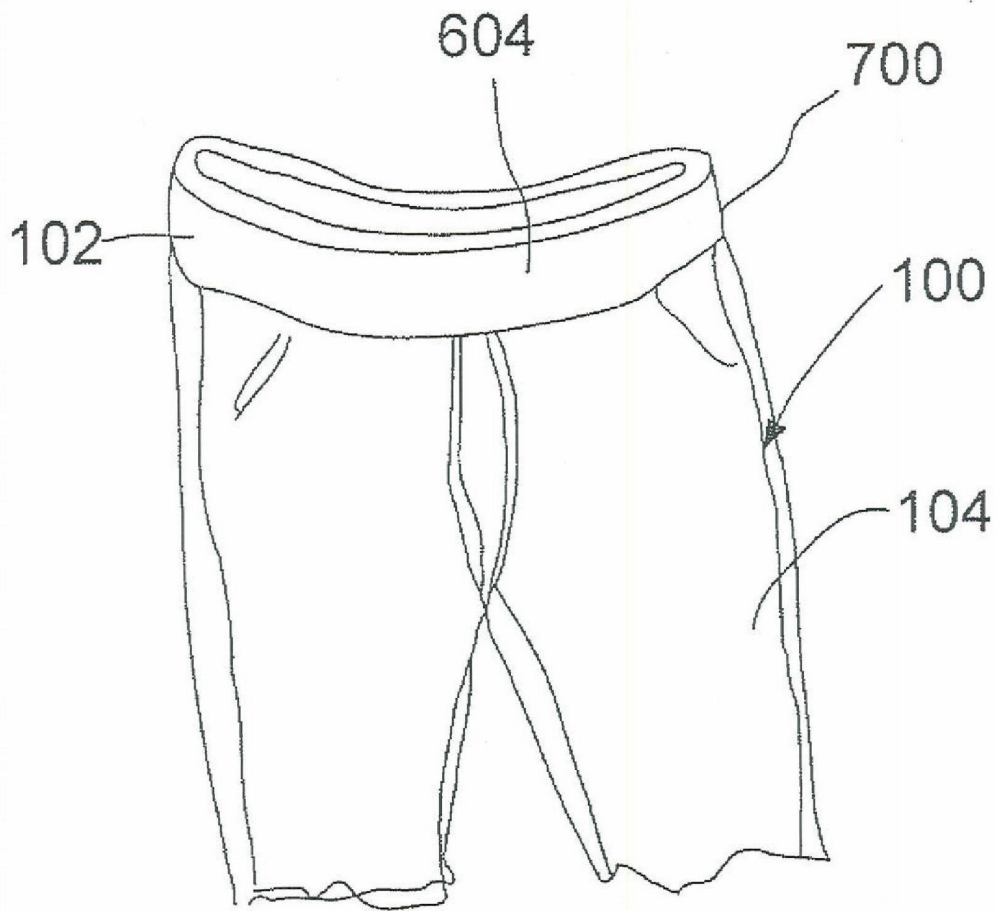


FIG. 7

US 7,814,575 B2

1

BELLY COVERING GARMENT

FIELD OF THE INVENTION

The present invention relates to a garment worn during different stages of pregnancy and different stages of postpartum body changes.

BACKGROUND OF THE INVENTION

Garments intended to cover a wearer's body below the abdomen or belly during various stages of pregnancy have been manufactured as knits or woven fabrics. Some of the knits or woven fabric garments are constructed with an elastic belt or waist band which caused discomfort when tightened about the body. Some of the garments have stretchable fabric panels sewn into place with sewn seams. Such garments cause discomfort due to the presence of the sewn seams, urged by elastic stretching of the panels pressing against the torso. Moreover, women have complained that such garments are difficult to keep in place, as they gradually slip downward while they are being worn.

Denim jeans or trousers have been recycled by removing the waistband at the front of the jeans and replacing the same with an elastic band that cradles a growing abdomen. Alternatively, denim jeans or trousers are manufactured without a waistband at the front so that a separate band can be attached at the front.

Accordingly, a need exists for a garment that covers and fits a growing abdomen during different stages of pregnancy. Such a garment is required to stay up, and desirably would fit comfortably while being worn. Moreover, such a garment would stay up when worn over different body types.

SUMMARY OF THE INVENTION

A purpose of the invention is to provide a garment that adapts to cover and fit a growing abdomen during pregnancy, wherein the garment stays up when worn.

A garment comprises a garment upper portion and a garment lower portion. The garment upper portion has a belly panel that is expansible to cover and fit over a growing abdomen during different stages of pregnancy. The garment lower portion has a first torso encircling circumference that recedes downward to make way for expansion of the belly panel. The garment upper portion has a second torso encircling circumference to hold the garment up and in place over the torso.

An embodiment of the garment is adjustable to encircle different body types. Another embodiment of the invention provides a garment that fits comfortably while being worn.

An embodiment of the garment comprises an adjustable torso encircling circumference that is adjustable in girth to encircle different body types.

An embodiment of the upper portion of the garment comprises a seamless tubular elastic fabric to stretch elastically and fit different body types.

An embodiment of the abdomen covering area comprises an elastic fabric.

An embodiment of the abdomen covering area comprises an elastic fabric that is contractible elastically to cover an abdomen during different stages of post partum body changes.

According to an embodiment of the invention, an expansible tubular upper portion of the garment is seamless to fit comfortably while being worn.

2

BRIEF DESCRIPTION OF THE DRAWINGS

FIG. 1 is a front view of a garment according to the present invention.

FIG. 1A is a view similar to FIG. 1, and discloses a body panel covering a growing abdomen.

FIG. 2 is a view of a backside portion of the garment disclosed by FIG. 1.

FIG. 3 is view of a front portion of another embodiment of a garment.

FIG. 4 is view of a backside portion of another embodiment of a garment.

FIG. 5 is a view of a backside portion of yet another embodiment of a garment.

FIG. 6 is front view of a portion of another embodiment of a garment.

FIG. 7 is front view of a portion of yet another embodiment of a garment.

DETAILED DESCRIPTION OF THE INVENTION

FIG. 1 discloses a garment 100 for encircling a lower torso portion of a wearer of the garment 100. The garment 100 comprises a garment upper portion 102 and a garment lower portion 104. A lower end perimeter 106 of the garment upper portion 102 is attached to a corresponding upper end perimeter 108 of the garment lower portion 104. The garment lower portion 104 comprises, for example, a pair of trousers, such as, denim jeans. Alternatively, the garment lower portion 104 comprises a skirt depicted in FIG. 1 in phantom outline.

With reference to FIGS. 1 and 2, each leg of the pair of trousers is constructed with sewn seams. Outer side seams 110, 112 extend continuously from top to bottom of the trousers, or garment lower portion 104. Further, each leg is constructed with inner side seams 114, 116 joining a front center seam 118 of the trousers and a back side, curved center seam 200, FIG. 2, of the trousers. For example, the front center seam 106 defines a sewn "zipper less" fly front. The back side of the trousers, FIG. 2, is sewn with a back side perimeter seam 202 extending horizontally across the back side of the trousers from the outer side seams 110, 112 to the back side center seam 200. If pockets are desired, the legs of the trousers are constructed, for example, with a front pockets 120, 122 and back pockets 204, 206.

FIG. 2 discloses an embodiment of the trousers, or garment lower portion 104, having a partial waistband 208 joining and extending from the side seams 110, 112 of the trousers and extending across a back side of the trousers or garment lower portion 104. The waistband 208 is sewn onto the perimeter seam 202 on the back side. The waistband 208 tapers toward the side seams 110, 112 and widens across the back side, and has a center seam 210 to shape the waistband 208 with a curvature above a wearer's pelvis, and for torso coverage especially when sitting or bending.

In FIG. 1, the garment upper portion 102 has a belly panel 124 to provide an abdomen covering area. The belly panel 124 is expansible, for example, when made of a stretchable fabric, to cover and fit over a growing abdomen during different stages of pregnancy, FIG. 1A. The belly panel 124 has a bottom portion 128 that projects downward with a parabolic shape, especially when covering a growing abdomen, FIG. 1A. The perimeter 108 of the garment lower portion 104 provides a first torso encircling circumference 126 that recedes downward with a parabolic shape adjacent to and below the bottom portion 128 of the belly panel 124 to make way for expansion of the belly panel 124 when covering a growing abdomen during various stages of pregnancy. The

US 7,814,575 B2

3

parabolic shape includes a shallow curvature, or, alternatively includes a more pronounced curvature. The belly panel 124 extends at least partially under the abdomen of the garment wearer to meet and join the bottom portion 128 of the belly panel 124 with the parabolic receding circumference 126 of the garment lower portion 104.

According to an embodiment of the invention, at least the belly panel 124 comprises a stretchable fabric that is woven or knitted with elastic, stretchable strands. The stretchable fabric is expandable by stretching elastically to cover and fit over the growing abdomen, FIG. 1A. Further, the stretchable fabric is contractible elastically to cover a shrinking abdomen during different stages of post partum body changes. The belly panel 124 also has foreseeable alternative functions, for example, to cover an abdomen during different stages of torso weight gains and losses, or to fit over respective torsos of different body types.

In FIGS. 1 and 2, the garment upper portion has a top tubular perimeter hem 130 made by folding over a top edge margin of the stretchable fabric, and either tubular knitting or sewing the folded fabric to the inside surface of the fabric, and to create a top perimeter knitted hem stitch 132 as disclosed in FIG. 1. The perimeter of the garment upper portion 102 has a torso encircling circumference 134 to hold the garment 100 up and in place over the torso. Advantageously, the entire garment 100 is held up and in place. An embodiment of the garment upper portion 102 comprises stretchable fabric to adjust the girth of the second torso encircling circumference 134 in conformance with different body types. According to an embodiment of the invention, the torso encircling circumference 134 extends along the upper end of the belly panel 124. In FIG. 1A, the belly panel 124 extends at least somewhat above the maximum girth of the abdomen, even during a later stage of pregnancy, such that the belly panel 124 positions the torso encircling circumference 134 at least somewhat above the location of maximum girth to resist slipping down over the abdomen.

An embodiment of the garment upper portion 102 comprises a tubular structure to encircle a torso of a wearer of the garment 100. The tubular structure comprises a stretchable fabric woven or knitted with elastic, stretchable strands. The belly panel 124 comprises a portion of the stretchable fabric. The tubular structure is adaptable to cover and fit different body types by being elastically expandable and contractible. Different body types have different muscle mass distributions and spinal columns of different curvatures, which make the tubular structure conform to the different body types by expanding and contracting in different locations and amounts when worn by the different body types. The tubular structure is elastically expandable to widen the tubular girth at selected locations and amounts where needed to fit a body type, and is elastically contractible to narrow the tubular girth at selected locations and amounts where needed to fit the body type.

In FIGS. 1 and 2, the tubular structure is shaped and formed as a one-sheet hyperboloid cylinder to fit a body type having a tapered torso that tapers approximately from shoulder to waist. The perimeter profile of the one-sheet hyperboloid cylinder has hyperbolic shaped sides. Alternatively, the tubular structure is shaped and formed as a straight-sided cylinder, for example, as disclosed in FIG. 6. The perimeter profile of the straight sided cylinder has substantially straight sides.

Preferably, the stretchable fabric is woven or knitted to form a continuous, seamless tubular structure, such that the garment 100 is comfortable to wear due to the absence of seams that would tend to press against the torso.

FIG. 3 discloses an alternative embodiment in which the garment upper portion 102 is provided with belly cradling support in the form of a series of sewn stitches or knitted tension at 300, 302, 304, 306, 308, 310, 312, and 314 in the belly panel 124. The knitted tension or stitches extend along

4

multiple stitch paths grouped in an elliptical pattern that curves so as to cradle a curved growing abdomen, FIG. 1A, during various stages of pregnancy.

FIG. 4 discloses an alternative embodiment in which the backside of the garment upper portion 102 is provided with spinal column and back support for a wearer of the garment, in the form of a series of sewn supporting stitches or knitted tension at 400, 402, 404, 406, 408, 410, 412, 414, 416, 418 in the fabric, wherein the supporting knitted tension or stitches stiffen the fabric at the backside of the garment upper portion 102 to provide spinal and back support of the wearer of the garment 100. For example, the series of supporting stitches are arranged along multiple stitch paths grouped in a hyperbolic pattern or other curved pattern along an axis extending substantially vertically along a spinal supporting section of the fabric. FIG. 5 discloses an alternative pattern of supporting stitches 500, 502, 504, 506, 508, 510, 512, 514 in the fabric, wherein the supporting stitches are arranged along multiple stitch paths. For example, the stitch paths are shown as being grouped in a truncated, v-shaped pattern.

FIG. 6 discloses the garment upper portion 102 comprising a fabric woven or knitted to form a tubular structure, wherein the fabric of the tubular structure is doubled back on itself downward from the top circumference 134 thereof to form a double-layer tubular structure 600 that extends downward at least for a portion of the garment upper portion 102. The layers of the double-layer tubular structure 600 are sewn together with a tubular perimeter drop stitch 602. The layers are further sewn with a top, tubular perimeter hem stitch 132 as described in FIG. 1. In an alternative embodiment disclosed by FIG. 6, the fabric is doubled back over an inner tubular layer of stretchable fabric 604, shown in phantom outline by and between the stitches 132, 602, that is flatly layered and sewn in between the two tubular layers of the double layer fabric. The three tubular layers are sewn together with the top, tubular perimeter drop stitch 602 and the top, tubular perimeter hem stitch 132 as described in FIG. 1. The inner layer 604 of stretchable fabric provides the belly panel 124 with the capability for resilient expansion. In another embodiment, the double layer fabric comprises a stretch fabric woven or knitted with elastically stretchable and contractible yarns, providing the belly panel with the capability for resilient expansion.

FIG. 7 discloses that the garment 100 of FIG. 6 is convertible to comprise a bottom garment without a top, the garment upper portion 102 is foldable toward the garment lower portion 104 to provide a folded band 700 on the garment lower portion 104, which is to be worn solely as a garment bottom 104 having the folded band 700, and having no top. Each of the other embodiments of the garment 100 is similarly convertible by adding the stretchable fabric 604 to the upper garment portion 102 of the other embodiment of the garment 100, and folding the garment upper portion 102 toward the garment lower portion 104 to provide a folded band 700 on the garment lower portion 104 of the other embodiment of the garment 100.

This description of the exemplary embodiments is intended to be read in connection with the accompanying drawings, which are to be considered part of the entire written description. In the description, relative terms such as "lower," "upper," "horizontal," "vertical," "above," "below," "up," "down," "top" and "bottom" as well as derivatives thereof (e.g., "horizontally," "downwardly," "upwardly," etc.) should be construed to refer to the orientation as then described or as shown in the drawing under discussion. These relative terms are for convenience of description and do not require that the apparatus be constructed or operated in a particular orientation. Terms concerning attachments, coupling and the like, such as "connected" and "interconnected," refer to a relationship wherein structures are secured or attached to one another

US 7,814,575 B2

5

either directly or indirectly through intervening structures, as well as both movable or rigid attachments or relationships, unless expressly described otherwise.

Although the invention has been described in terms of exemplary embodiments, it is not limited thereto. Rather, the appended claims should be construed broadly, to include other variants and embodiments of the invention, which may be made by those skilled in the art without departing from the scope and range of equivalents of the invention.

What is claimed is:

1. A garment, comprising:

a garment upper portion having a belly panel that is expandable to cover and fit over a growing abdomen during different stages of pregnancy;

a garment lower portion having a first torso encircling circumference that recedes downward to make way for expansion of the belly panel; and

the garment upper portion having a second torso encircling circumference defining an upper edge of the belly panel that encircles a wearer's torso just beneath the wearer's breast area configured to hold the garment up and in place about the torso in a position of a location of maximum girth of the abdomen thereby substantially covering the wearer's entire pregnant abdomen during all stages of pregnancy.

2. The garment of claim 1, wherein the second torso encircling circumference is adjustable in girth in conformance with different body types.

3. The garment of claim 1, wherein the garment upper portion comprises a seamless tubular structure that fits comfortably while being worn, and the belly panel comprises an expandable portion of the tubular structure.

4. The garment of claim 1, wherein the garment upper portion comprises a seamless tubular elastic fabric to stretch elastically.

5. The garment of claim 1, wherein the garment upper portion comprises an elastic fabric that is contractible elastically to cover an abdomen during different stages of postpartum body changes.

6. The garment of claim 1, wherein the garment lower portion has a partial waistband extending from side seams of the garment lower portion and extending across a back side of the garment lower portion where the partial waistband widens above a wearer's pelvis.

7. The garment of claim 1, further comprising a series of belly cradling stitches or knitted tension in the belly panel, wherein the knitted tension or stitches extend along multiple paths arranged in an elliptical pattern that curves, so as to cradle a curved growing abdomen during various stages of pregnancy.

8. The garment of claim 1, further comprising a series of stitches or knitted tension in the backside of the garment upper portion to provide spinal and back support against the wearer of the garment.

9. The garment of claim 8, wherein the series of stitches or knitted tension in the backside of the garment upper portion extends along a pattern of multiple stitch paths.

10. The garment of claim 1, wherein the garment upper portion is foldable toward the garment lower portion to comprise a folded band on the garment lower portion.

11. The garment of claim 1, wherein the garment lower portion has a partial waistband extending from side seams of the garment lower portion wherein the partial waistband tapers toward the side seams and widens above a wearer's pelvis across a back side of the garment lower portion.

6

12. The garment of claim 1, comprising:

knitted tension in the backside of the garment upper portion providing spinal column and back support for a wearer of the garment.

13. The garment of claim 1, comprising:

a series of sewn supporting stitches in the backside of the garment upper portion providing spinal column and back support for a wearer of the garment.

14. The garment of claim 1, comprising:

a series of sewn supporting stitches in the backside of the garment upper portion providing spinal column and back support for a wearer of the garment, wherein the stitches are arranged along multiple stitch paths grouped in a hyperbolic pattern, a curved pattern or a truncated, v-shaped pattern along an axis extending substantially vertically along a spinal supporting section of the fabric.

15. The garment of claim 1, wherein an edge margin of the garment upper portion is folded over and knitted to an inside of the fabric to provide a perimeter hem stitch.

16. The garment of claim 1, wherein an edge margin of the garment upper portion is folded over and sewn or knitted to an inside of the fabric to provide a perimeter hem stitch.

17. The garment of claim 1, wherein the second torso encircling circumference comprises stretchable fabric to adjust the girth in conformance with different body types.

18. The garment of claim 1, wherein the garment upper portion is a tubular structure, wherein the tubular structure is shaped and formed as a hyperboloid cylinder to fit a body type having a tapered torso.

19. The garment of claim 1, wherein the garment upper portion is a tubular structure, wherein the tubular structure is shaped and formed as a straight sided cylinder to fit a body type having a corresponding shaped torso.

20. The garment of claim 1, wherein the garment upper portion comprises a double layer tubular structure, and an inner layer of stretchable fabric between two layers of the double-layer tubular structure.

21. The garment of claim 1, wherein the garment upper portion comprises a fabric, and the fabric is doubled back on itself downward to form a double-layer tubular structure that extends downward for at least a portion of the garment upper portion, and the layers of the double-layer tubular structure are sewn together with a tubular perimeter drop stitch.

22. The garment of claim 1, wherein the garment upper portion comprises a fabric doubled back on itself downward to form a double-layer tubular structure that extends downward for at least a portion of the garment upper portion, the layer of the double-layer tubular structure are sewn together with a tubular perimeter drop stitch, and an edge margin of the garment upper portion is knitted to an inside of the fabric to provide a perimeter hem stitch.

23. The garment of claim 3, wherein the seamless tubular structure comprises a fabric doubled back on itself downward to form a double-layer tubular structure that extends downward for at least a portion of the garment upper portion, the layers of the double-layer tubular structure are sewn together with a tubular perimeter drop stitch, and an edge margin of the garment upper portion is folded over and sewn or knitted to an inside of the fabric to provide a perimeter hem stitch.

24. The garment of claim 1, wherein the garment upper portion is foldable toward the garment lower portion to provide a folded band on the garment lower portion to be worn as a garment bottom having no top.

25. The garment of claim 1, wherein the garment lower portion comprises one of a pair of trousers and a skirt.

* * * * *

EXHIBIT B



US00RE43531E

(19) **United States**
 (12) **Reissued Patent**
Hendrickson et al.

(10) **Patent Number:** **US RE43,531 E**
 (45) **Date of Reissued Patent:** ***Jul. 24, 2012**

(54) **BELLY COVERING GARMENT**
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(*) Notice: This patent is subject to a terminal disclaimer.

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(21) Appl. No.: **13/161,138**

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(22) Filed: **Jun. 15, 2011**

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 Issued: **Oct. 19, 2010**
 Appl. No.: **11/756,242**
 Filed: **May 31, 2007**

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(Continued)

(51) **Int. Cl.**
A41D 9/00 (2006.01)
A41D 13/00 (2006.01)

Primary Examiner — Gloria Hale
 (74) *Attorney, Agent, or Firm* — DLA Piper LLP (US)

(52) **U.S. Cl.** 2/227; 450/155
 (58) **Field of Classification Search** 2/69, 227, 2/228, 236-238, 211, 212, 214, 243.1; 450/155, 450/96-100

(57) **ABSTRACT**

See application file for complete search history.

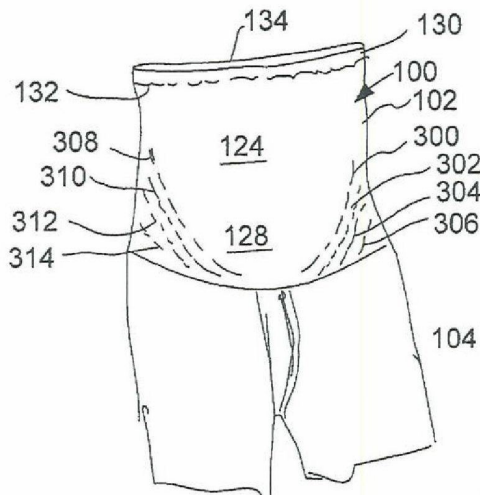
The present invention relates to a garment worn during different stages of pregnancy and different stages of postpartum body changes. A garment upper portion has a belly panel that is expansible to cover and fit over a growing abdomen during different stages of pregnancy, and a garment lower portion having a first torso encircling circumference that recedes downward to make way for expansion of the belly panel. The garment upper portion has a second torso encircling circumference to hold the garment up and in place over the torso.

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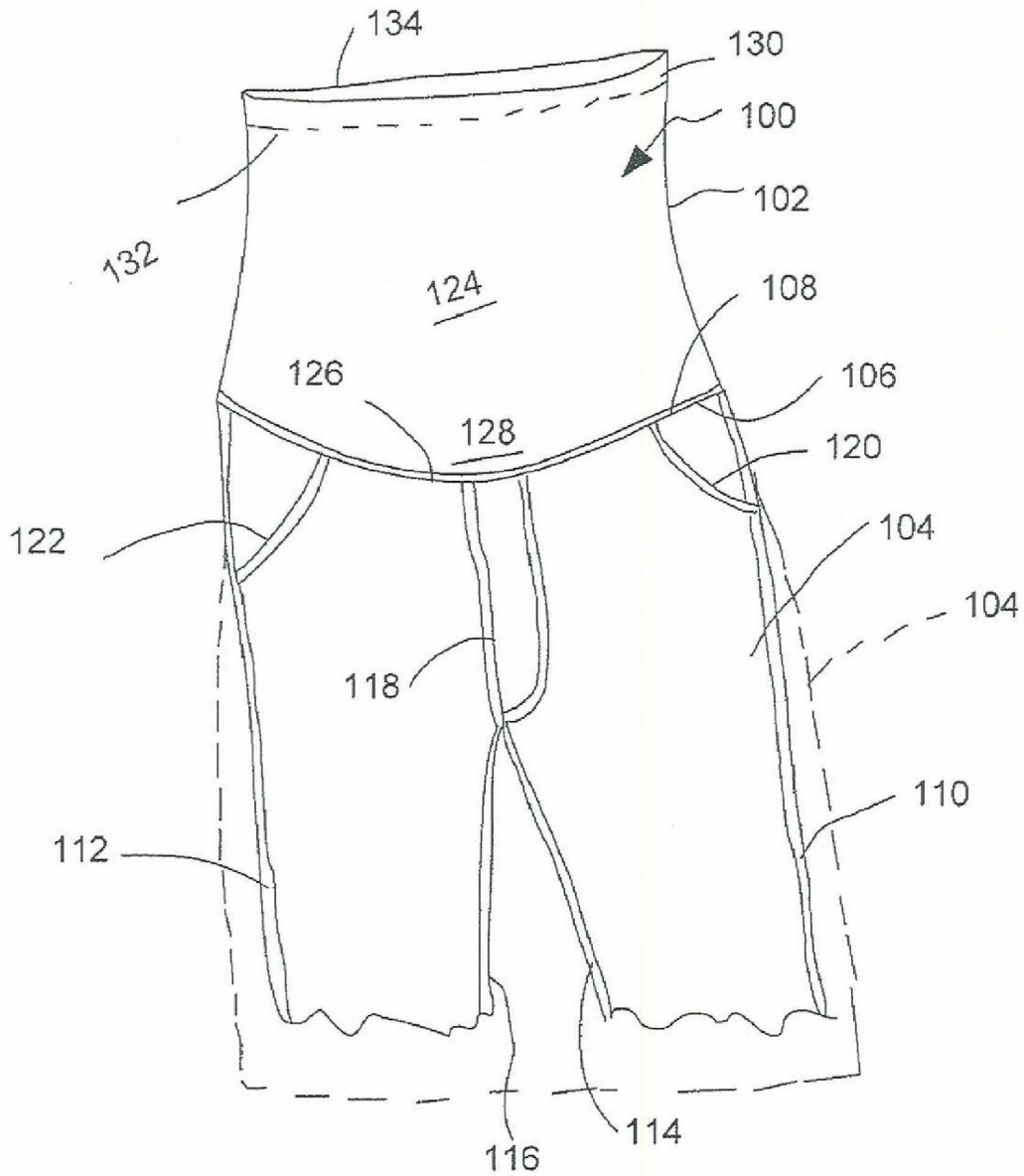


FIG. 1

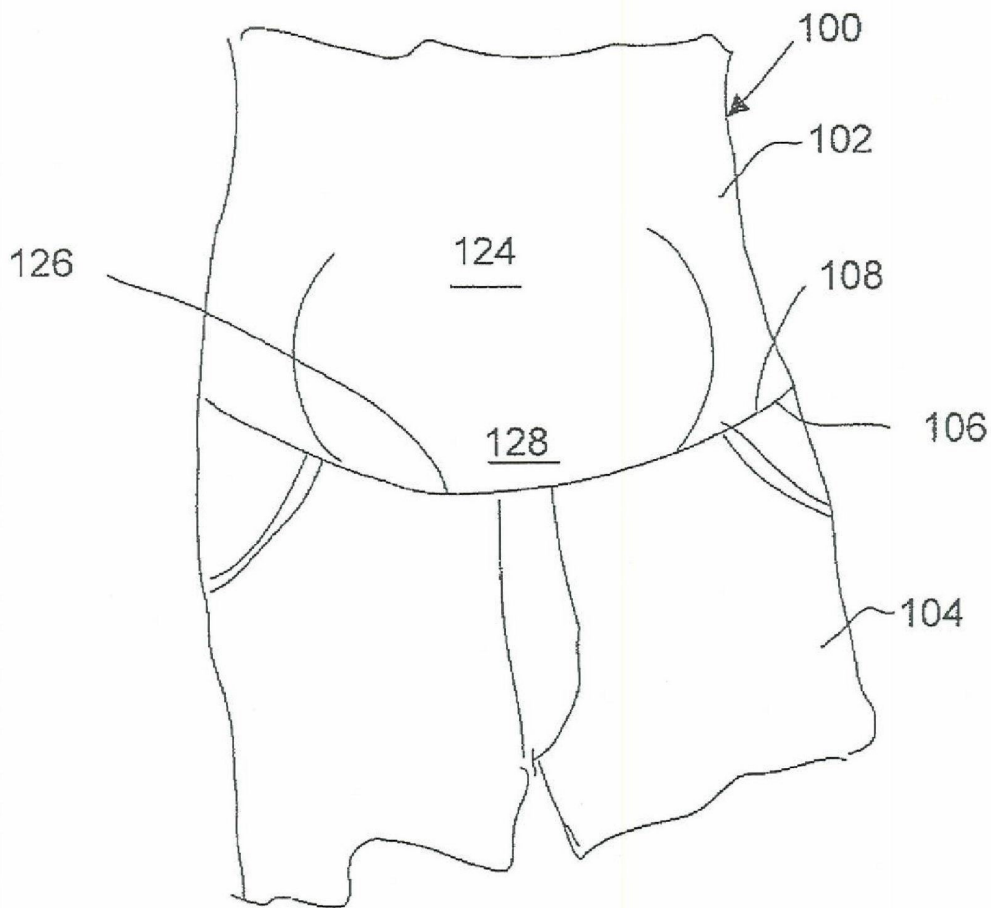


FIG. 1A

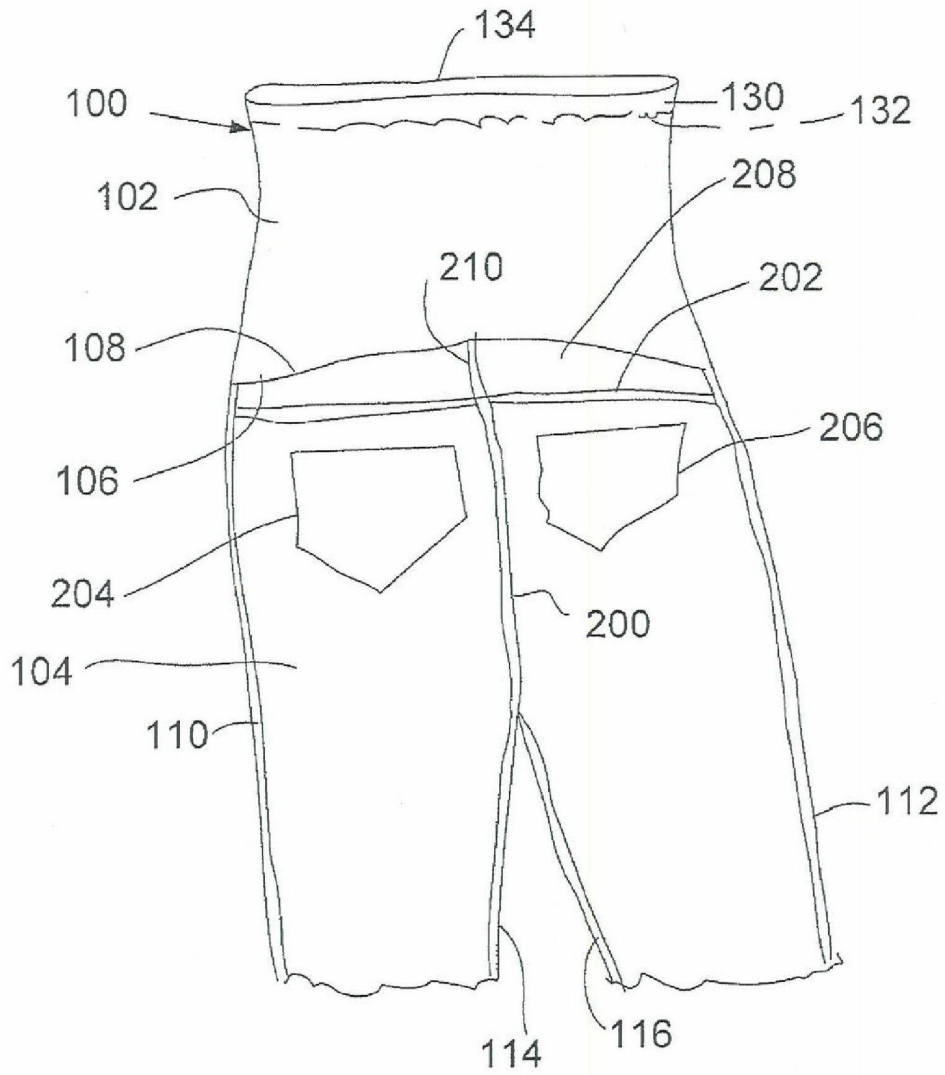


FIG. 2

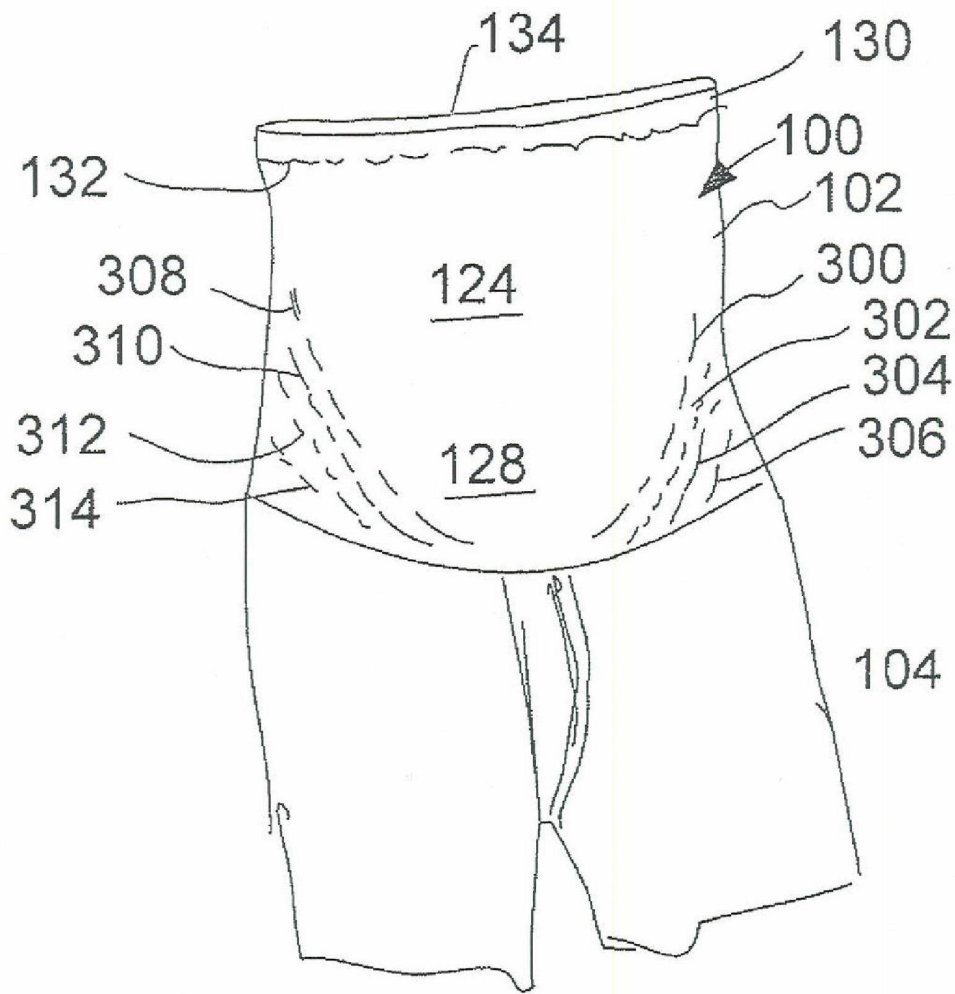


FIG. 3

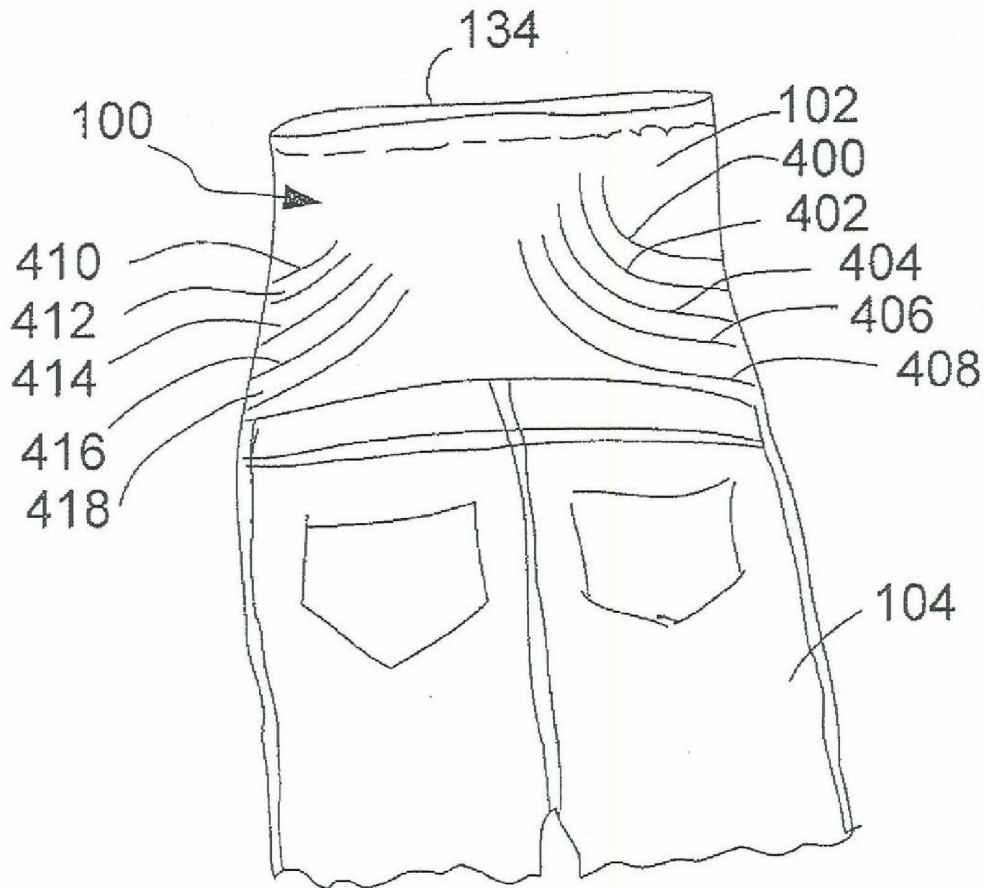


FIG. 4