



Playing with IP rights: Toys in the spot-light

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(kindly supported by Damien Bagarry, Patent Examiner, EPO)



IP Rights

Patents

Trade Marks

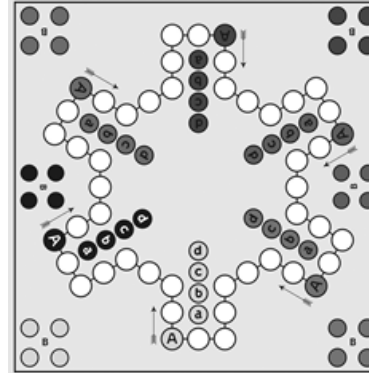
Designs

Copyrights

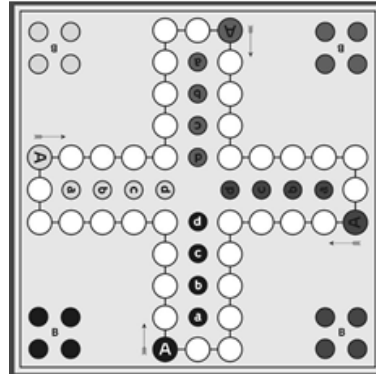
Board games

General Court – 03/03/2015,
T-492/13 & T-493/13,
Darstellung eines Spielbretts,
EU:T:2015:380

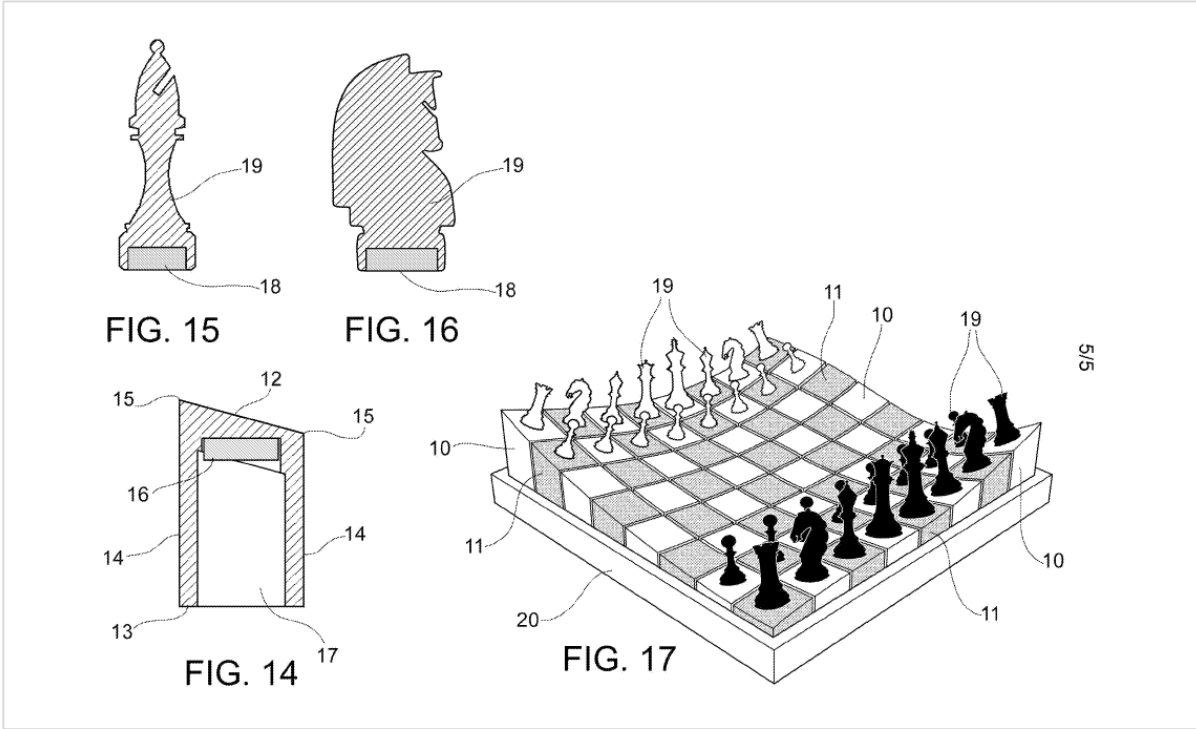
- Cl. 28 – Games, board games
- Article 7(1)(b) EUTMR



Not distinctive



Toy figures: Italian Patent Application IT201900012546



Shape of a plush toy

EUIPO, BoA – 25/09/2018, R1032/2018-4, Shape of a plush toy (3D)

Distinctive

- Cl. 28 – Toys and playthings; decorations for Christmas trees; plush toys; stuffed toys; puppets; toy models; dolls
- Article 7(1)(b) EUTMR



Toy with a given shape: U.S. Patent US 11,179,626 B2

U.S. Patent Nov. 23, 2021 Sheet 1 of 10 US 11,179,626 B2

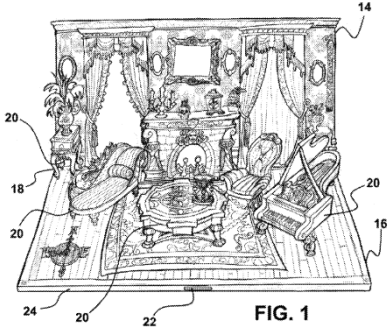


FIG. 1

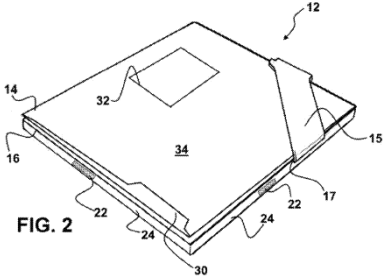


FIG. 2

U.S. Patent Nov. 23, 2021 Sheet 2 of 10 US 11,179,626 B2

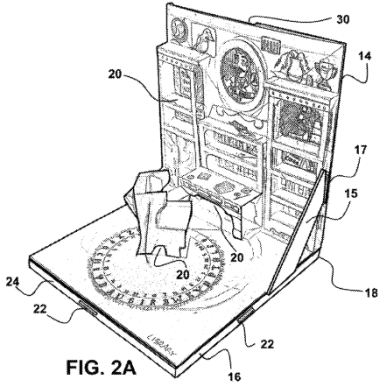
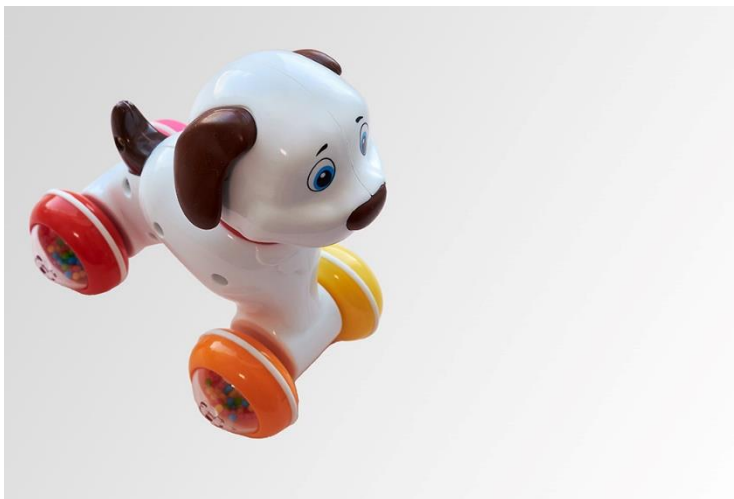


FIG. 2A

Shape of a toy figure

EUIPO, BoA – 08/01/2019, R0586/2018-5, Darstellung eines Hundes

- Cl. 21 – Ceramic products
- Cl. 28 – Games, toys, electronic games
- Article 7(1)(b) EUTMR

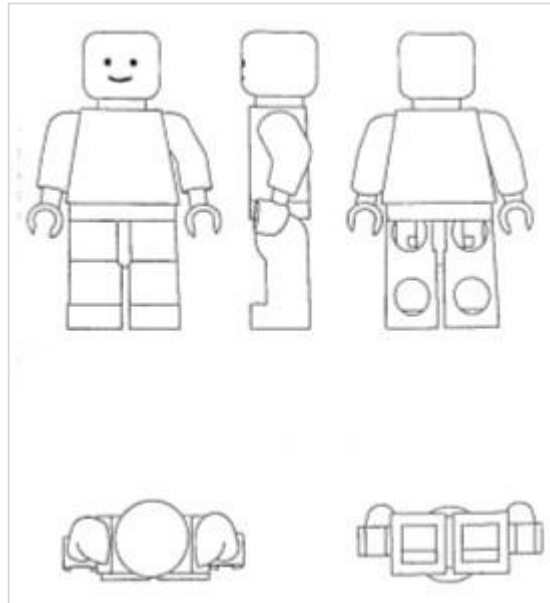


Not distinctive

Shape of a toy figure

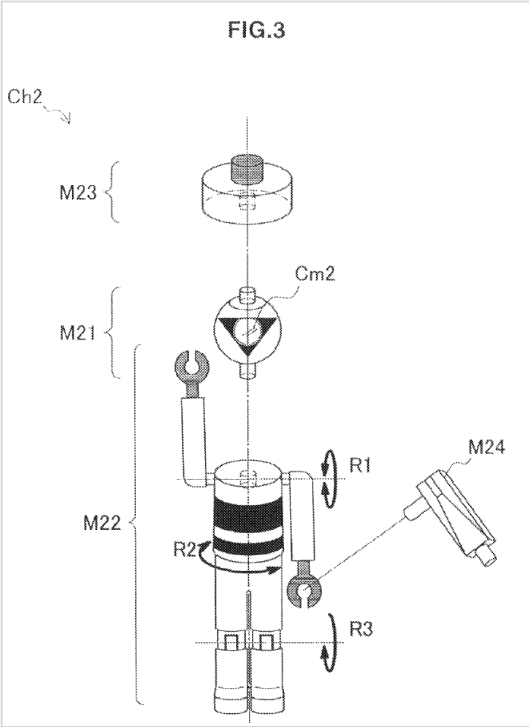
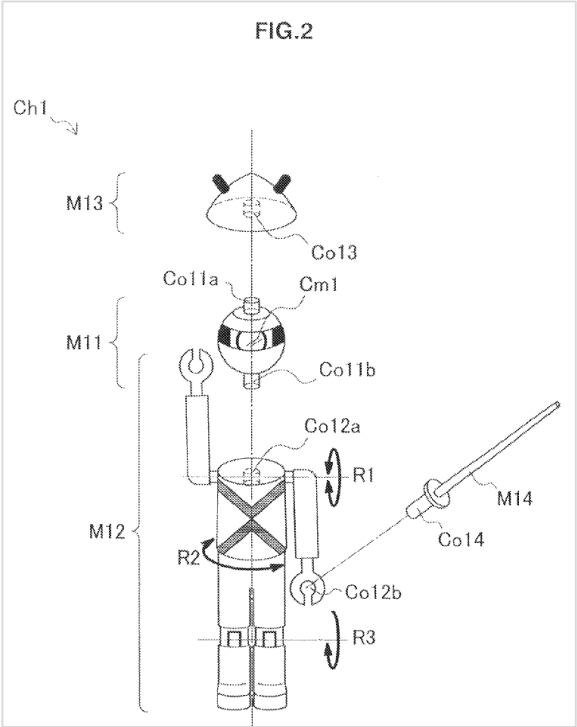
General Court - 16/05/2015, T-395/14, Spielzeugfigur II, EU:T:2015:380

- Cl. 28 – Games and playthings;
decorations for Christmas trees
- Article 7(1)(e)(i), (ii) EUTMR



Shape does not result from
nature of the goods –
Shape not necessary to
obtain a technical result

Toy figure with a given shape: U.S. Patent US 9,737,808 B2



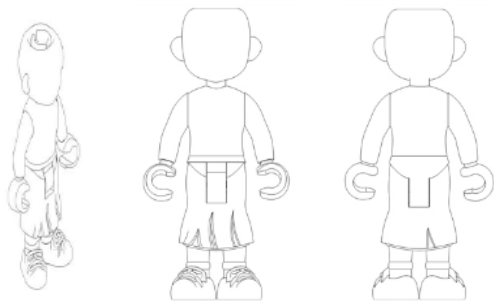
Toy figures

EUIPO, BoA – 20/07/2022, R-2024/2021-3, Spielzeug

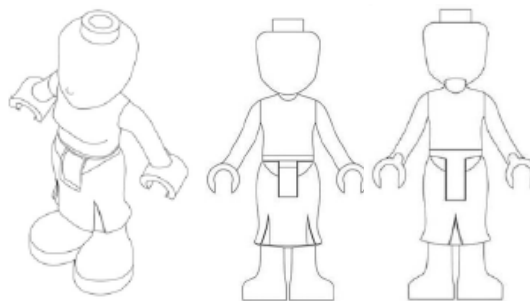
- Article 25(1)(b) in conjunction with Article 6 CDR

Contested decision has
no individual character

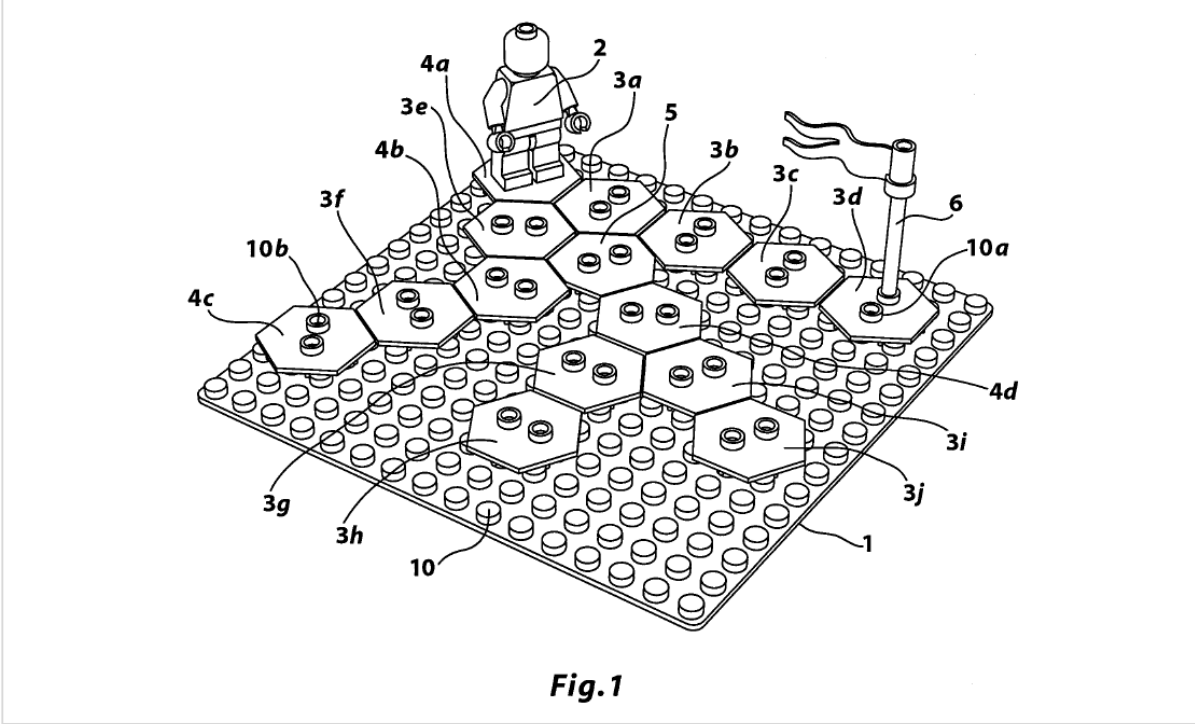
Contested design



Earlier design



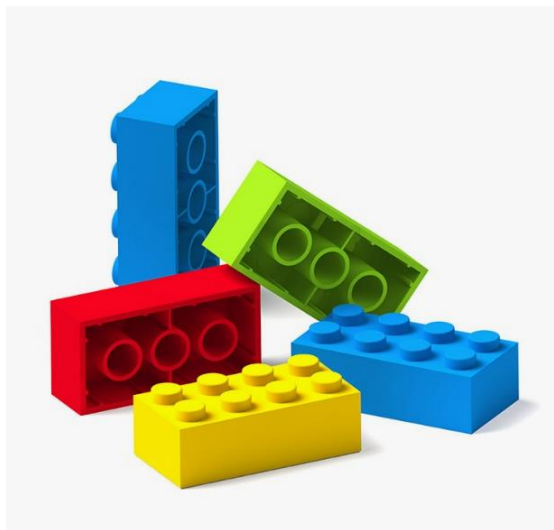
Toy figures and bricks: French Patent FR 2 979 251



Lego brick

Court of Justice – 14/09/2010, C-48/09P, Lego Brick, EU:C:2010:516

- Cl. 28 – Games and playthings;
decorations for Christmas trees
- Article 7(1)(e)(ii) EUTMR

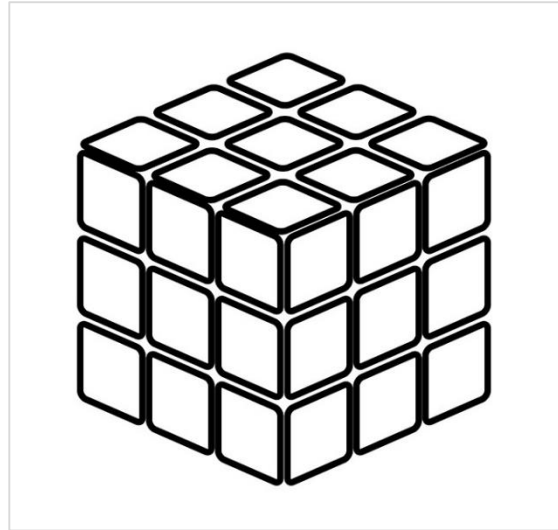


Shape necessary to
obtain a technical result

Rubik Cube

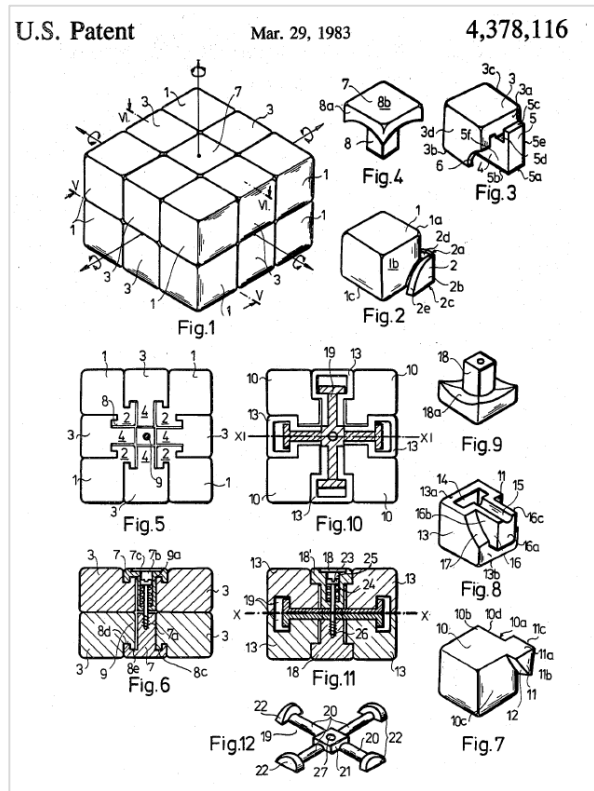
Court of Justice – 10/11/2016, C-30/15P, Cube (3D), EU:C:2016:849

- Cl. 28 – three-dimensional puzzles
- Article 7(1)(e)(ii) EUTMR



Shape necessary to
obtain a technical result

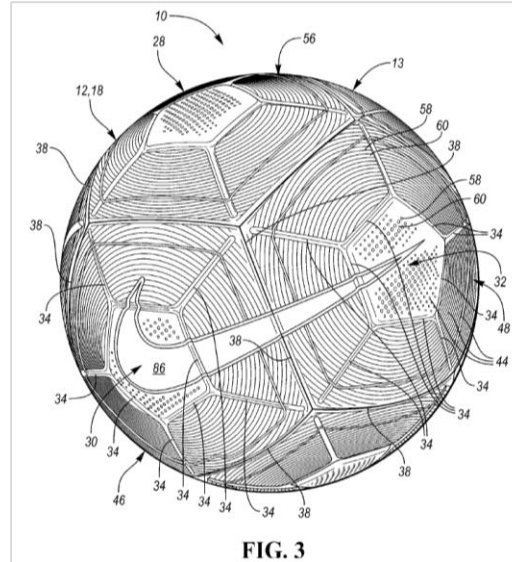
Rubik's Cube U.S. Patent



Ball for playing sports

WO 2018/217443 A1

[0063] As shown in FIGS. 3 - 12B, the feature surface 21 may include at least one topographic feature, such as a protrusion 58, indentation 38, 34, or the like. As illustrated throughout FIGS. 3-7C, the feature surface 21 includes at least one protrusion 58. The at least one protrusion 58 is disposed upon and additively applied to the outer substrate surface 18 of the cover 12. The at least one protrusion 58 may be defined as a plurality of protrusions 58 that are part of a surface texture 44 disposed on the outer substrate surface 18 of the cover 12. The protrusions 58 may form decorative or aesthetic arrangements or designs 46, 48, 56 upon the sports ball 10, display branding of the sports ball 10, via a logo 86 contained therein, and may further be applied in such an orientation as to optimize grip at the point of contact with the user's hand and/or foot, or to improve aerodynamics during flight.



Ball for playing sports

Design? Trade mark?

The protrusions 58 may form decorative or aesthetic arrangements or designs 46, 48, 56 upon the sports ball 10, display branding of the sports ball 10, via a logo 86 contained therein.

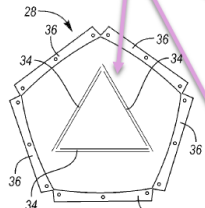


FIG. 10A

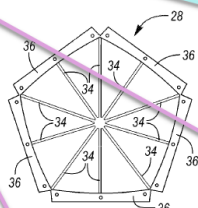


FIG. 10B

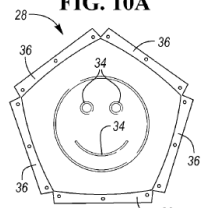


FIG. 10C

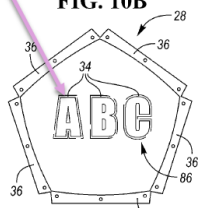


FIG. 10D

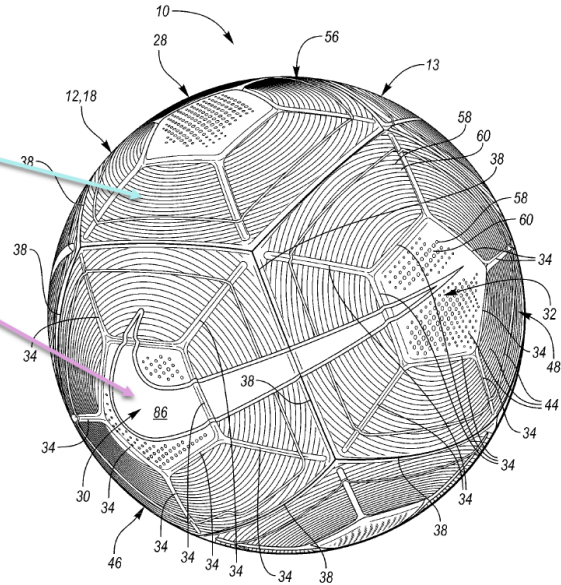


FIG. 3

Patent? (technical effect & technical problem)

The protrusions 58 and may further be applied in such an orientation as to optimize grip at the point of contact with the user's hand and/or foot, or to improve aerodynamics during flight.

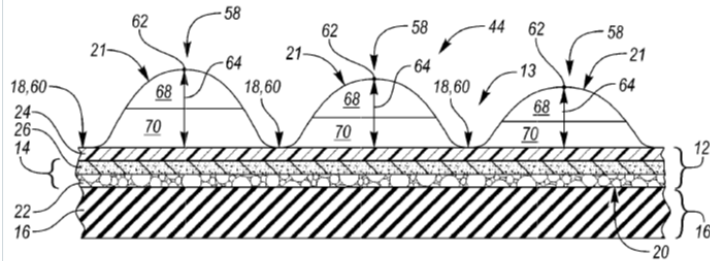


FIG. 7A

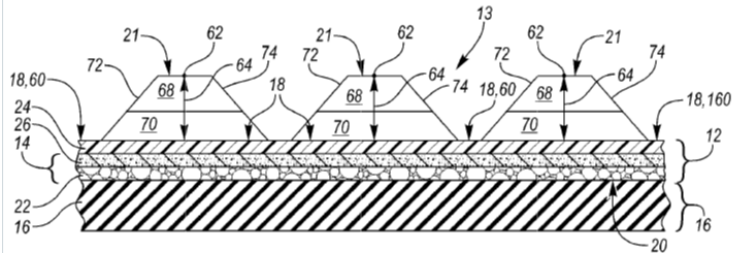


FIG. 7B



Thank you for your attention!

