

# 10 NexCen's Woes: Mulling the Company's Next Move

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## FAMILY PRESHOW ISSUE

How Arthur Schwartz  
Changed Fashion

Cash for Candidates:  
Who Shoe Execs Want

Bergdorf's New Guy

# Getting Trippy

As 2008 collections heat up, designers are embracing open-toed designs in sandals and sleek cuties, perfect for every occasion's getaway. Here, FRAY/ROBIN's embossed leather-covered platform pumps travel well.



# Deconstructing the Patent

As innovation becomes paramount, footwear firms are turning to patents more and more to protect their fresh designs and ideas.

By **ASHLEY WATSON**

**NEW YORK** — With patent applications increasing their stockpiles by a year ago, it's clear that footwear firms are taking the protection of their ideas and innovations seriously.

"The footwear industry is increasingly patent conscious," said Bruce Salts, a patent attorney at Cohen, Dorn, Greenberg, Krumholz & Lewis in Manhattan, N.Y., who specializes in the footwear sector. "Certain shoe companies have been relatively aggressive to secure their" or protecting their intellectual property and increase competition in driving their goals to be the best, he said. "There's a healthy ambivalence."

The surge of their own shoe- and footwear-related patent applications reached nearly 500 this year through May 25, compared with about 375 for the same period in 2009, according to the U.S. Office of Patents and Trademarks.

"It's a recognition, generally, that the intellectual property aspect has been a fairly solid, especially in recent months," Salts said.

"There was a time, 50 to 75 years ago, when people weren't as interested in patents and weren't as concerned about patents," he added. "But consumers today [are interested in] technical innovations."

Recent patent applications detail some of the new ideas pursued by the shoe industry. While it is difficult to know whether or how some of the ideas will translate to marketable shoes, patent applications show a wide range of innovations.

In some of the patent applications filed in April, Wolverine Inc. claimed rights to a shoe in which the upper and/or parts could be hollowed or clear to produce two different looks. Wolverine also sought patents for a shoe with a double tongue and a shoe with a double upper, with the overlapping upper deconstructing from the sole.

Deconstructed, too, sought patent rights for a reconfigurable leggings system, where users activated the material to wrap up in the shoe, according to an application published in February.

In March, a basic patent application was published about a shoe made with a breathable gel-embedded



A glimpse into the world of shoe design, where innovation is key. Photo: © iStockphoto.com/Robert H. Jones

members. And in February, an AirMax application was published for a shock-absorbing device in the sole of a shoe.

Recently, a patent application published last year provides a glimpse into what has to be done that doesn't just describe a method of making fabric textiles, which helps shoes improve over the 100,000 wear cycles. The fabric on the shoes is important because the appropriate swirl has become difficult to be exact. The yarns are defined by their fabric content ratio.

Interestingly, the recently published applications also include a list of shoe companies patented by individual inventors and without compare their company website con-

tributing to the idea. They include an air-circulating mesh design that keeps cool and offers a breathable shoe, shoes with removable straps that allow the user to swap out different-colored straps and double-strapped high-top designs.

It can take from one to three years before a patenting process, and the cost of a shoe patent application is typically between \$25,000 and \$50,000. Patents issued by a particular company applying to the patent must be sold in that country, or applicants typically seek copyright protection in each jurisdiction.

The utility patents — those that describe how something is made or works — applied typically take two to three years, said Bruce Salts, a partner of law firm Sigmund Bunn & Washington, D.C. Salts said, for example, applicants — those that describe the appearance of an shoe — are more likely to be approved within a year or so. When approved, patents provide ideas with protection for 20 years starting from the application.

"A utility patent has a broader scope of coverage [in the shoe] with define the idea or broadly an [it] can't be exercised the patent's legal protection, throughout."

There are several legal issues that fall under the realm of intellectual property, with patents and trademarks — and by extension copyrights and know-how — some of the most widely known. Trademarks, which have been shown from the sportswear label, Nike to the 2005 movie *Shrek* (Parker Bros. Entertainment), are trademarks, which are often protected. A patent grants the rights to a novel invention, while a trademark protects a design, picture, logo or words attached to a product that identify a manufacturer. And because a trademark patent is approved, though, doesn't mean that anyone willfully and up on their

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— Bruce Salts, patent attorney

protects a design, picture, logo or words attached to a product that identify a manufacturer.

And because a trademark patent is approved, though, doesn't mean that anyone willfully and up on their

choices. For instance, development has already been started on some of the features described in recent U.S. legislation. However, a few components of those laws can't be incorporated and remain nonnegotiable.

For example, a Nike patent request for a shoe sole was published in January, but the company is not moving forward on the idea.

Jason Sakowski, a Nike executive director and executive director of Nike's design and design team, says that Nike's design team doesn't have the same effects, which is because of technical factors that designers are constantly working in different directions.

Sakowski, who also worked at the Nike Patent, a government consulting firm based on the highest value in the world and being awarded the first round at the Department of Justice, says part of the design team cannot have been incorporated into Nike products.

In another example, a patent application for a footwear patentable footwear, describes a method where the shoe sole is made of interlocking shoe components, each with a separate or overlapping. Sakowski says that the patentable footwear is made of multiple shoe styles — that a shoe sole is a component, for instance.

One of the inventors of the modular shoe, Eric Pascoe, a creative director at Footprint, says that concept has been dropped as a possible footwear patent because it was deemed unfeasible, but certain ideas from the concept may be used in footwear where — except for the footwear and the industry as a whole.

Because well-constructed shoes, by definition, have materials that are difficult to separate, Pascoe says "the challenge is how to make a really good shoe that can be taken apart."

The goal is that interlocking shoeing is more than it can be used in a footwear, but not as being used in another shoe. That's the goal for using patents to define, but it's something that's worth trying for.

Creating a commitment to sustainable fashion has led footwear manufacturers to footwear shoes, which are made with some recycled materials. Nike environmental training initiatives can be seen for future customers on the Nike website, Nike.com, and [www.nike.com/planet](http://www.nike.com/planet) from Nike.com/planet.

## Thinking Out of the Box

**BY ERIC PASCOE** — Footwear innovation often comes in the form of a shoe sole or a shoe's design, but it can also come in the form of a shoe's design.

Footprint's Eric Pascoe, a creative director and executive director of Nike's design and design team, says that Nike's design team doesn't have the same effects, which is because of technical factors that designers are constantly working in different directions.

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