

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

WALMART INC.
Petitioner

v.

CARAVAN CANOPY INTERNATIONAL, INC.
Patent Owner

Case IPR2020-01026
Patent No. 5,944,040

**PETITIONER'S OBJECTIONS TO EVIDENCE
SERVED BY PATENT OWNER IN *INTER PARTES* REVIEW**

Pursuant to 37 C.F.R. § 42.64(b), Petitioner Walmart Inc. (“Petitioner”) objects as follows to the admissibility of the supplemental evidence served by Patent Owner Caravan Canopy International, Inc. (“Patent Owner”) on January 14, 2021. The applicable rules specifically provide that “[t]he Board may exclude or give no weight to the evidence where a party has failed to state its relevance or to identify specific portions of the evidence that support the challenge.” 37 C.F.R. § 42.104(b)(5). Petitioner specifically objects to Patent Owner’s failure to specifically describe the relevance of its exhibits and Patent Owner’s failure to identify specific portions of evidence that support its challenge. Petitioner maintains its objections previously served on December 30, 2020 regarding the Declaration of Lance Rake (Ex. 2014). Petitioner further objects to the admissibility of evidence as follows.

Evidence	Objections
Ex. 2028 – First Supplemental Declaration of Lance Rake	<p>37 C.F.R. § 42.65: The exhibit contains expert testimony that does not disclose the underlying facts or data on which the opinion is based. Mr. Rake has provided insufficient description or explanation of his “seven example projects involving mechanical engineering” or his involvement, or any relevance to the subject matter of this case.</p> <p>FRE 702/703 (Unreliable Expert Testimony): The exhibit contains statements and opinions that are not admissible under FRE 702 or 703. For</p>

Evidence	Objections
	<p>example, the witness lacks specialized knowledge in the relevant field of art (mechanical engineering) that will help the trier of fact to understand the evidence or to determine a fact in issue. Further, the exhibit fails to identify facts or data supporting the witness's conclusory testimony, and that testimony thus is not based on sufficient facts or data. Further the testimony is not the product of reliable principles and methods, and the witness fails to reliably apply the principles and methods of the facts of the case.</p> <p>FRE 402: The exhibit includes information regarding “seven example projects involving mechanical engineering” that is not relevant to any ground upon which trial was instituted.</p> <p>FRE 403: The exhibit includes information whose probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly presenting cumulative evidence.</p>

Dated: January 25, 2021

Respectfully submitted,

/ David A. Reed /

David A. Reed

Reg. No. 61,226

Counsel for Petitioner

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the date below copies of this **PETITIONER'S OBJECTIONS TO EVIDENCE SERVED BY PATENT OWNER IN *INTER PARTES* REVIEW** were served electronically via e-mail upon the following:

Kyle W. Kellar
KKellar@lrrc.com

Jason C. Martone
Jmartone@lrrc.com

Sami I. Schilly
SSchilly@lrrc.com

Dated: January 25, 2021

Respectfully submitted,

/ David A. Reed /

David A. Reed
Reg. No. 61,226
Counsel for Petitioner