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10 **UNITED STATES DISTRICT COURT**  
11 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**  
12 **SOUTHERN DIVISION**  
13

14 CARAVAN CANOPY INT’L, INC.,  
15 A CALIFORNIA CORPORATION,

16 Plaintiff,

17 v.

18 WALMART INC., A DELAWARE  
19 CORPORATION, AND DOES 1  
20 THROUGH 10, INCLUSIVE,

21 Defendants.  
22

Case No.: 2:19-cv-06978-ADS-PSG

**Consolidated with Case No. 8:19-cv-01072-PSG-ADS**

**WALMART’S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF ITS MOTION TO STAY LITIGATION PENDING INTER PARTES REVIEW**

DATE: August 24, 2020  
TIME: 1:30 p.m.  
DEPT: Courtroom 6A

Judge: Hon. Philip S. Gutierrez

**NO ORAL ARGUMENT UNLESS REQUESTED BY THE COURT**

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1 **I. INTRODUCTION**

2 On June 1, 2020, Walmart, Inc. (“Defendant” or “Walmart”) filed a petition  
3 for *inter partes* review (“IPR”) with the U.S. Patent and Trademark Office (“Patent  
4 Office”) that challenges all claims of U.S. Patent No. 5,944,040 (the “’040 patent”).  
5 The ’040 patent claims a “collapsible tent frame,” and is the only patent at issue  
6 here. It expired in May 2018, well before Caravan sued Walmart. Thus, Caravan’s  
7 only claim for relief is for alleged past damages, making this case ideally suited for  
8 a stay.

9 This case is in its early stages. The Court has not yet held a *Markman* hearing  
10 nor construed the disputed claim terms. The parties are in the early stages of fact  
11 discovery and far away from costly expert discovery. While fact discovery is  
12 underway, the parties have not taken any depositions and only limited discovery has  
13 occurred. Dkt. 36 at 4 (“Claim construction proceedings are just getting underway.  
14 Fact discovery will not close until 119 days after the claim construction order  
15 issues.”). A stay will simplify the issues for trial and may resolve the entire  
16 proceeding if Walmart’s IPR petition results in the cancellation of all of the asserted  
17 claims. Moreover, a stay will not prejudice Caravan, where the patent has long  
18 expired. Finally, a stay will conserve the resources of the parties and the Court  
19 during the current public health crisis.

20 Because all of the relevant factors favor a stay, Walmart thus respectfully  
21 moves for a stay pending resolution of its petition by the Patent Trial and Appeal  
22 Board (“PTAB”).

23 **II. FACTUAL AND PROCEDURAL BACKGROUND**

24 **A. Caravan’s Lawsuit Against Walmart**

25 Caravan filed its Complaint on August 12, 2019 alleging infringement of the  
26 ’040 patent. Dkt. 1. The ’040 patent expired in May 2018, over one year before the  
27 Complaint was filed.

28 A schedule was entered in this case in February 2020, setting the *Markman*

WALMART’S MEMORISUMOTION TO STAY LITIGATION

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