

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

WALMART INC.,
Petitioner,

v.

CARAVAN CANOPY INTERNATIONAL, INC.,
Patent Owner.

Case No. IPR2020-01026
Patent No. 5,944,040
Issue Date: AUGUST 31, 1999
Title: COLLAPSIBLE TENT FRAME

EX. 2029
SECOND DECLARATION OF LANCE RAKE

TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION	1
II. BACKGROUND AND QUALIFICATIONS	2
III. APPLICABLE LAW	2
IV. LEVEL OF ORDINARY SKILL IN THE ART	2
V. THE '040 PATENT	3
VI. CLAIM CONSTRUCTION.....	15
A. “Center Pole”	16
B. “Constructed for stretching and sustaining a tent’s roof when a tent is pitched with the tent frame”.....	20
1. Walmart’s Proposed Construction Is Incorrect.....	20
2. This Term Should Be Given Its Ordinary And Customary Meaning	26
VII. WALMART’S GROUNDS OF UNPATENTABILITY.....	34
A. Walmart’s Alleged Motivations To Combine The References Are Deficient.....	34
1. Losi Contradicts Each Of Walmart’s Alleged Motivations And Would Deter A POSITA From Making Walmart’s Proposed Modifications	35
2. Increasing The Pitch In Yang And Tsai Would Not Increase Rainwater Shedding.....	40
a) The Tents Of Yang And Tsai Provide Adequate Rainwater Shedding	40
b) Walmart’s Modifications Would Hinder, Not Increase, Rainwater Shedding.....	43
c) Walmart Does Not Explain How Its Proposed Modifications Of Yang And Tsai Would Provide Or Increase Rainwater Shedding.....	47
B. Individual Grounds	51

1.	Ground 1: Yang In View Of Lynch	51
	a) Walmart’s Modification Of Yang Fails To Provide All Elements Of Claim 1.....	52
	(1) The Roof Beam Bearing 8 Of Yang	53
	(2) The Apex Portion 50 Of Lynch In Walmart’s Modification Of Yang.....	59
	b) Walmart’s Modification Of Yang By Lynch Would Not Be A Simple Arrangement Of Old Elements With Each Performing Their Same Respective Functions	62
	c) If Petitioner’s Modified Yang Has A Tensioned Roof, There Is No Reasonable Expectation Of Success In The Combination.....	67
2.	Ground 2: Yang In View Of The Alleged AAPA.....	68
	a) Walmart’s Modification Of Yang Fails To Disclose All Elements Of Claim 1.....	69
	b) There Is No Reasonable Expectation Of Success In Combining Yang And The Alleged AAPA	70
	c) Yang Teaches Away From Walmart’s Proposed Modification.....	78
	d) Walmart’s “Arranging Old Elements” Rationale Continues To Be Deficient.....	80
3.	Ground 3: Yang In View Of Berg.....	83
	a) Walmart’s Modification Of Yang Fails To Disclose All Elements Of Claim 1.....	83
	b) Walmart’s Proposed Modification Of Yang Would Negate The Time-Saving, Automatic Mechanisms Of Yang And Deter A POSITA.....	86
4.	Ground 4: Tsai In View Of Lynch.....	90
	a) Walmart’s Modification Of Tsai Fails To Disclose All Elements Of Claim 1.....	90
	(1) Element: “a center pole constructed for stretching ... a tent’s roof when a tent is pitched with the tent frame”	90

	(a)	The Head Connector 7 Of Tsai	91
	(b)	The Apex Portion 50 Of Lynch In Walmart’s Modification Of Tsai By Lynch.....	97
	(2)	Element: “thus being collapsible at the hinge joint in accordance with a sliding motion of said slider along the side pole”	99
	b)	Walmart’s Modification Does Not Improve Collapsible Canopies Being Difficult To Open And Close	103
	c)	Walmart’s “Arranging Old Elements” Rationale Fails.....	105
5.		Ground 5: Tsai In View Of The Alleged AAPA	108
	a)	Walmart’s Modification Of Tsai By The Alleged AAPA Does Not Provide All Of The Elements Of Claim 1	109
	(1)	Element: “a center pole constructed for stretching and sustaining a tent’s roof when a tent is pitched with the tent frame”	109
	(2)	Element: “thus being collapsible at the hinge joint in accordance with a sliding motion of said slider along the side pole”	111
	b)	There Is No Reasonable Expectation Of Success In Combining Yang And The Alleged AAPA	111
	c)	Walmart’s “Arranging Old Elements” Rationale Continues To Fail.....	116
6.		Grounds 6 and 7: Tsai In View Of Berg.....	118
	a)	Walmart’s Modification Of Tsai By Berg Does Not Provide All Of The Elements Of Claim 1	119
	(1)	Element: “a center pole constructed for stretching and sustaining a tent’s roof when a tent is pitched with the tent frame”	119
	(2)	Element: “thus being collapsible at the hinge joint in accordance with a sliding motion of said slider along the side pole”	121
	b)	Walmart’s “Arranging Old Elements” Rationale Continues To Fail.....	121

VIII. CONCLUSION..... 123

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.