

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

**PATENT OWNER'S RESPONSE
PURSUANT TO 37 C.F.R. §42.120**

TABLE OF CONTENTS

	Page(s)
I. INTRODUCTION	1
II. THE '040 PATENT	2
III. ORDINARY SKILL IN THE ART.....	4
IV. CLAIM CONSTRUCTION	4
A. "center pole"	5
B. "constructed for stretching and sustaining a tent's roof when a tent is pitched with the tent frame".....	6
1. Petitioner's Proposal Is Incorrect.....	6
2. Plain and Ordinary Meaning.....	9
V. PETITIONER FAILS TO PROVE UNPATENTABILITY OF THE '040 PATENT.....	13
A. Ground 1: Yang in view of Lynch	14
1. Translation of Yang	14
2. Overview of Yang.....	15
3. Petitioner's Modified Yang Fails To Provide Claim 1, Element A.....	17
a) Yang.....	18
b) Lynch	19
4. Petitioner Set Forth No Sufficient Reason To Combine These References	20
a) Modified Yang Would Not Have Increased Headroom	22
b) Petitioner's Reasoning For Increasing Canopy Pitch Is Incorrect And Contradicted By Contemporaneous Art	24
(1) Petitioner's Modification Would Impede Rainwater Shedding	25
(2) Petitioner's Modification Would Not Increase Aesthetic Appeal.....	27

c)	Petitioner’s “Arranging Old Elements” Rationale Is Conclusory And Incomplete.....	28
d)	Contemporaneous Art Counters All of Petitioner’s Alleged Motivations To Combine Yang and Lynch	32
B.	Ground 2: Yang in view of AAPA.....	33
1.	Petitioner’s Proposed Combination Fails To Disclose Claim 1, Element A	33
2.	There Is No Reasonable Expectation Of Success In Petitioner’s Combination.....	34
3.	Yang Teaches Away From This Modification	39
4.	Petitioner’s Proposed Motivations For This Combination Fail.....	40
5.	Petitioner’s “Arranging Old Elements” Rationale Remains Deficient	41
C.	Ground 3: Yang in view of Berg.....	42
1.	Modified Yang Does Not Provide Claim 1, Element A.....	42
2.	Petitioner Sets Forth No Reasonable Motivation To Combine Yang And Berg	43
D.	Ground 4: Tsai in view of Lynch	45
1.	Tsai.....	45
2.	Modified Tsai Does Not Disclose Claim 1, Element A.	46
3.	Tsai Does Not Disclose Claim 1, Element C3.....	48
4.	Petitioner’s Recycled Motivations to Combine Remain Deficient	50
5.	Petitioner’s Recycled “Arranging Old Elements” Rationale Continues To Fail	51
E.	Ground 5: Tsai in view of AAPA.....	52
1.	Tsai Fails To Disclose Claim 1, Elements A And C3	52
2.	Petitioner’s Modified Tsai Would Not Provide Element A	52

3.	Petitioner’s Allegations Of Obviousness Are Legally Deficient	53
4.	Petitioner’s “Arranging Old Elements” R ationale Remains Deficient.....	56
F.	Grounds 6 and 7: Tsai in view of Berg (and Carter).....	57
1.	These Grounds Fail To Satisfy The Rules	57
2.	A POSITA Would Not Have Been Motivated To Make Either Modification	60
3.	Petitioner’s Second Interpretation Suffers Additional Deficiencies	62
4.	Petitioner’s “Arranging Old Elements” Rationale Remains Deficient	63
VI.	CONCLUSION.....	64

...

TABLE OF AUTHORITIES

	Page(s)
<i>ActiveVideo Networks, Inc. v. Verizon Commc'ns, Inc.</i> , 694 F.3d 1312 (Fed. Cir. 2012)	38
<i>Arctic Cat Inc. v. Bombardier Recreational Prod. Inc.</i> , 876 F.3d 1350 (Fed. Cir. 2017)	34
<i>Comcast Cable Comm's, LLC v. Rovi Guides, Inc.</i> , IPR2017-01066, Paper 36 (Oct.15, 2018)	30
<i>In re Cyclobenzaprine Hydrochloride</i> , 676 F.3d 1063 (Fed. Cir. 2012)	29
<i>DePuy Spine, Inc. v. Medtronic Sofamor Danek, Inc.</i> , 567 F.3d 1314 (Fed. Cir. 2009)	40
<i>Dynamic Drinkware, LLC v. National Graphics, Inc.</i> , 800 F.3d 1375 (Fed. Cir. 2015)	13
<i>Elbit Sys. of America, LLC v. Thales Visionix, Inc.</i> , 881 F.3d 1354 (Fed. Cir. 2018)	57
<i>Facebook, Inc. v. Uniloc USA, Inc., et al.</i> , IPR2017-01524, Paper 7 (Dec. 4, 2017).....	59, 61
<i>FedEx Corp. v. Flectere LLC</i> , IPR2020-00403, Paper 8 (June 26, 2020).....	27
<i>Freebit AS v. Bose Corp.</i> , IPR2017-01309, Paper 8 (Nov. 8, 2017)	22
<i>Harmonic Inc. v. Avid Tech., Inc.</i> , 815 F.3d 1356 (Fed. Cir. 2016)	1
<i>Helmsderfer v. Bobrick Washroom Equipment, Inc.</i> , 527 F.3d 1379 (Fed. Cir. 2008)	7
<i>In-Depth Geophysical, Inc. v. ConocoPhillips Co.</i> , IPR2019-00850, Paper 56 (Sept. 3, 2020).....	1
<i>InfoBionic, Inc. v. Braemar Manufacturing, LLC</i> , IPR2015-01704, Paper 11 (Feb. 16, 2016).....	21

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.