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12
13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**
15 **SOUTHERN DIVISION**

16
17 CARAVAN CANOPY INT’L, INC.,
18 Plaintiff,

19 v.

20 COSTCO WHOLESALE
CORPORATION, LOWE’S HOME
21 CENTERS, LLC, Z-SHADE CO. LTD.,
WALMART INC., SHELTERLOGIC
22 CORP., et al.,

23 Defendants.

Case No. 8:19-cv-01072-AG-ADS
(Lead Case)
Case No. 5:19-cv-01224-AG-ADS
Case No. 2:19-cv-06224-AG-ADS
Case No. 2:19-cv-06952-AG-ADS
Case No. 2:19-cv-06978-AG-ADS

**PLAINTIFF’S OPENING CLAIM
CONSTRUCTION BRIEF**

24
25 Pursuant to SPR 3.5, as follows is the Opening Claim Construction Brief
26 of Plaintiff Caravan Canopy Int’l, Inc. (“CCI”) concerning the patent-in-suit,
27
28

1 U.S. Patent No. 5,944,040 issued on August 31, 1999 and entitled “Collapsible
2 Tent Frame” (“the ‘040 patent”).¹

3 Introduction and Summary

4 As reflected in the parties’ “Joint Claim Construction and Prehearing
5 Statement” (Dkt. # 90), Plaintiff’s straightforward position on claim construction
6 is as follows. First, the prior 2002 analysis and construction from this very Court
7 (Judge Stephen V. Wilson) should control for the claim term “center pole.” *See*
8 Ex. B (April 16, 2002 Order and related briefing). Second, the remaining terms
9 raised by Defendants need no special construction at all; rather, these terms
10 should retain the “plain and ordinary meaning” of the language used. *See* Dkt. #
11 90-1 at 2-6. In view of the straightforward claim language, patent specification
12 and prosecution history, there is no reasonable ambiguity requiring any
13 specialized re-definition or “construction” of these other claim terms. As such,
14 the terms and phrases used in the claims—themselves, as written and phrased—
15 are sufficient to define the “metes and bounds” of the asserted patent rights.²

16 The Invention of the ‘040 Patent-in-Suit

17 The ‘040 patent (entitled “Collapsible Tent Frame”) issued on August 31,
18 1999 on an application filed on May 21, 1998.³ This was a long time ago, which
19 has special importance to the issue of claim construction, as follows: “The proper
20
21

22 _____
23 ¹ The ‘040 patent-in-suit is submitted as Exhibit A hereto in searchable PDF
24 format. Citations to the patent are to the column and line number(s), for
25 example, “Patent at column:line(s).”

26 ² While Plaintiff does not believe any construction beyond “plain and ordinary
27 meaning” is necessary, it may propose alternative constructions (with supporting
28 evidence) once Defendants fully explain the basis for their proposals.

³ The application claims priority from a foreign patent application filed in 1997.

1 claim construction is ‘the meaning that the term would have to a person of
2 ordinary skill in the art in question *at the time of the invention*, i.e., as of the
3 effective filing date of the patent application.’” *Convolve, Inc. v. Compaq*
4 *Computer Corp.*, 812 F.3d 1313, 1323 (Fed. Cir. 2016) (emphasis added)
5 (quoting *Phillips v. AWH Corp.*, 415 F.3d 1313 (Fed. Cir. 2005) (en banc)).
6 Here, the time of the invention was at least as long ago as 1997. *See supra* note
7 3. This fact should underscore the need to refrain from improper “hindsight;”
8 instead, the claims must be understood as they would have been understood over
9 23 years ago by “a person of ordinary skill in the art” at that time.

10 The ‘040 patent claims the now-familiar “collapsible tent frame” structure
11 used in millions of “pop-up” or “instant” tents and canopies seen in backyards
12 and at tailgate parties, farmers’ markets, street fairs and the like, all over America
13 (at least before the present public health crisis). *See* Dkt. # 1-1 at 2-8. The ‘040
14 patent has one independent claim (Claim 1), which includes just a few unique
15 mechanical elements (highlighted and/or underlined are Defendants’ proposed
16 terms for construction):

17 1. A collapsible tent frame, comprising:

18 *a center pole constructed for stretching and sustaining a*
19 *tent’s roof* when a tent is pitched with the tent frame;

20 a plurality of side poles coupled to each other through a
21 plurality of scissor-type ribs, with upper ends of said ribs being
22 hinged to connectors provided at top ends of said side poles and
23 lower ends of said ribs being hinged to sliders movably fitted over
24 said side poles; and

25 plurality of center pole ribs coupling said center pole to said
26 connectors of the side poles, said center pole ribs individually
27 comprising two rib members coupled to each other through *a hinge*
28 *joint* and being hinged to the slider of an associated side pole

1 through *a support link*, thus *being collapsible at the hinge joint in*
2 *accordance with a sliding motion of said slider along the side pole.*

3 See Patent at 4:27-42 (emphasis added).

4 The patent specification describes exemplary embodiments of the claimed
5 inventions in a plain, ordinary way, including summarizing the invention's utility
6 as follows:

7 [A]n object of the present invention is to provide a collapsible tent
8 frame, of which the center pole is coupled to the side poles, *thus*
9 *giving an enlarged and heightened interior space to users* when
10 pitching a tent and allowing a user to easily handle the frame when
11 pitching or striking the tent.

12 Patent at 2:7-12. In other words, for example, the system of the invention allows
13 the center supporting ribs to rise as the canopy is expanded, in order to provide
14 more headroom than previous designs.

15 Law of Claim Construction

16 The claims of a patent define the scope of the patent owner's rights. See
17 *In re Gabapentin Patent Litig.*, 503 F.3d 1254, 1263 (Fed. Cir. 2007). Words of
18 a claim are typically given their plain and ordinary meaning. See *Phillips v.*
19 *AWH Corp.*, 415 F.3d 1303, 1312 (Fed. Cir. 2005) (en banc). There is a heavy
20 presumption in favor of the plain and ordinary meaning of claim language, as
21 understood by one of skill in the art. See *Elbex Video Ltd. v. Sensormatic Elecs.*
22 *Corp.*, 508 F.3d 1366, 1371 (Fed. Cir. 2007). “[T]he context in which a term is
23 used in the asserted claim can be highly instructive;” thus, the “claims
24 themselves provide substantial guidance as to the meaning of particular claim
25 terms.” *Phillips*, 415 F.3d at 1314.

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1 The “ordinary meaning” of a claim term could be insufficient in just four
2 limited circumstances, where: (1) the patentee acted as her own lexicographer;⁴
3 (2) the patentee clearly distinguished the term from prior art on the basis of a
4 particular embodiment or expressly disclaimed subject matter; (3) the term
5 chosen by the patentee so deprives the claim of clarity as to require resort to the
6 other intrinsic evidence for a definite meaning; or (4) as a matter of statutory
7 authority, the claim term may cover nothing more than the corresponding
8 structure or step disclosed in the specification, as well as equivalents thereto, if
9 the patentee phrased the claim term in step- or means-plus function language.
10 *See CCS Fitness, Inc. v. Brunswick Corp.*, 288 F.3d 1359, 1366-67 (Fed. Cir.
11 2002).

12 When the ordinary meaning is confirmed as the proper construction for a
13 claim term (*i.e.*, the inventor has not imparted a “novel meaning” to the term), a
14 court need not provide any further “construction.” *See, e.g., ActiveVideo*
15 *Networks, Inc. v. Verizon Commc’ns, Inc.*, 694 F.3d 1312, 1325 (Fed. Cir. 2012)
16 (“The district court did not err in concluding that these terms have plain
17 meanings that do not require additional construction.”); *Typhoon Touch Techs.,*
18 *Inc. v. Dell, Inc.*, 659 F.3d 1376, 1381 (Fed. Cir. 2011) (affirming district court’s
19 holding that “no construction was necessary because the meaning was clear” for
20 claim phrase “operating in conjunction with said processor to execute said
21 application and said libraries to facilitate data collection operations”); *Finjan,*
22 *Inc. v. Secure Computing Corp.*, 626 F.3d 1197, 1206-07 (Fed. Cir. 2010)
23 (affirming jury instruction to “give . . . words in the claims their ordinary
24
25

26 ⁴ A patentee acts as his or her own “lexicographer” when the patentee clearly
27 gives a “special definition” to a claim term that differs from the meaning it would
28 otherwise possess. *See Schoenhaus v. Genesco, Inc.*, 440 F.3d 1354, 1358 (Fed.
Cir. 2006).

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