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

14
15 CARAVAN CANOPY INT'L,
16 INC., a California Corporation,

17 Plaintiff,

18 v.

19 WALMART INC., a Delaware
20 Corporation; and DOES 1 through
10, inclusive,

21 Defendants.

Case No. 8:19-cv-01072-PSG-ADS
Case No. 5:19-cv-01224-PSG-ADS
Case No. 2:19-cv-06224-PSG-ADS
Case No. 2:19-cv-06952-PSG-ADS
Case No. 2:19-cv-06978-PSG-ADS

**DEFENDANTS' JOINT OPENING
CLAIM CONSTRUCTION BRIEF**

Judge: Hon. Philip S. Gutierrez

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26
27
28

TABLE OF CONTENTS

I. Introduction 1

II. The '040 Patent 1

 A. Relevant Disclosures from the Specification..... 1

 B. Relevant Prosecution History 5

 C. Prior Litigation Involving the '040 Patent..... 5

III. Level of Ordinary Skill in the Art 6

IV. Claim Construction Legal Principles 6

V. Construction of the Disputed Terms 7

 A. The claim term “center pole” should be construed to mean a “centrally-disposed, long, slender object” 7

 i. The Court should adopt Defendants’ construction..... 7

 ii. Plaintiff’s proposal is wrong..... 10

 iii. This Court is not bound by the *E-Z Up* construction..... 12

 B. The term “constructed for stretching and sustaining a tent’s roof” should be construed as “made to heighten and hold up the tent covering”..... 13

 C. The term “being collapsible at the hinge joint in accordance with a sliding motion of said slider along a side pole” means “when the tent frame is collapsed, the center pole ribs bend at the hinge joint, and the slider slides along the side pole.” 15

 D. The term “hinge joint” means “a connector that pivots to raise or lower the collapsible tent frame”..... 16

 E. The “support link” should be construed as “a structure that connects a rib member with a slider associated with a side pole”..... 18

 F. “[S]ubstantially equal length” is indefinite..... 20

TABLE OF AUTHORITIES

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Page(s)

Cases

Aubin Indus., Inc. v. Caster Concepts, Inc.,
No. 2:14-cv-02082-MCE-CKD, 2017 WL 4284715 (E.D. Cal. Sept. 27, 2017)..... 20

Aug. Tech. Corp. v. Camtek, Ltd.,
655 F.3d 1278 (Fed. Cir. 2011)..... 6

Baxter HealthCare Corp. v. Mylan Lab. Ltd.,
2016 WL 1337279 (D.N.J. 2016)..... 17

Biosig Instruments, Inc. v. Nautilus, Inc.,
783 F.3d 1374 (Fed. Cir. 2015)..... 20

Effective Exploration, LLC v. Bluestone Natural Res. II, LLC,
No. 2:16-CV-00607-JRG-RSP, 2017 WL 3193322 (E.D. Tex. July 27, 2017)..... 21

Fin Control Sys. Pty., Ltd. v. OAM, Inc.,
265 F.3d 1311 (Fed. Cir. 2001)..... 8

GE Lighting Solutions, LLC v. AgiLight, Inc.,
750 F.3d 1304 (Fed. Cir. 2014)..... 10

GE Lighting Solutions, LLC v. Lights of Am., Inc.,
663 Fed. App’x 938 (Fed. Cir. 2016)..... 20

Geodynamics, Inc. v. Dynaenergetics US, Inc.,
No. 2:15-CV-1546-RSP, 2016 WL 6217181 (E.D. Tex. Oct. 25, 2016)..... 21

GPNE Corp. v. Apple, Inc.,
No. 12-CV-02885-LHK, 2013 WL 4446819 (N.D. Cal. Aug. 13, 2013)..... 15, 16

Guardian Media Techs. Inc. v. Amazon.com, Inc.,
No. CV 13-8369 PSG, 2015 WL 12656953 (C.D.Cal. Apr. 1, 2015) 19

Halliburton Energy Servs., Inc. v. M-I LLC,
514 F.3d 1244 (Fed. Cir. 2008)..... 20

1 *HZNP Meds. LLC v. Acavis Labs. UT, Inc.*,
 2 940 F.3d 680 (Fed. Cir. 2019) 11

3 *Int’l E-Z Up, Inc., et al. v. Caravan Canopy Int’l, Inc., et al.*,
 4 No. 2:01-cv-06530 (C.D. Cal. July 30, 2001) *passim*

5 *Jackson Jordan, Inc. v. Plasser American Corp.*,
 6 747 F.2d 1567 (Fed. Cir. 1984) 12

7 *Liberty Ammunition, Inc. v. United States*,
 8 835 F.3d 1388 (Fed. Cir. 2016) 20

9 *Markman v. Westview Instruments, Inc.*,
 517 U.S. 370 (1996) 6, 12, 13

10 *Maytag Corp. v. Electrolux Home Products, Inc.*,
 11 411 F. Supp. 2d 1008 (N.D. Iowa 2006) 14

12 *NobelBiz, Inc. v. Global Connect, LLC*,
 13 2017 WL 3044641 (Fed. Cir. 2017) 17

14 *NuVasive, Inc. v. Globus Medial, Inc.*,
 15 2013 WL 3705731 (D. Del. 2013) 17

16 *Phillips v. AHW Corp.*,
 17 415 F.3d 1303 (Fed. Cir. 2005) 6, 13, 18, 19

18 *Power-One, Inc. v. Artesyn Techs., Inc.*,
 19 599 F.3d 1343 (Fed. Cir. 2010) 15

20 *Rheox, Inc. v. Entact, Inc.*,
 21 276 F.3d 1319 (Fed. Cir. 2002) 17

22 *Stumbo v. Eastman Outdoors, Inc.*,
 508 F.3d 1358 (Fed. Cir. 2007) 11

23 *Teleflex, Inc. v. Ficosa N. Am. Corp.*,
 24 299 F.3d 1313 (Fed. Cir. 2002) 11

25 *Thorner v. Sony Computer Entm’t Am. LLC*,
 26 669 F.3d 1362 (Fed. Cir. 2012) 6

27 *Townshend Intellectual Prop., L.L.C. v. Broadcom Corp.*,
 28 No. C-06-05118 JF (RS), 2008 WL 171039 (N.D. Cal. Jan. 18, 2008)..... 13

1	<i>Valmont Indus., Inc. v. Reinke Mfg. Co.</i> ,	
2	983 F.2d 1039 (Fed. Cir. 1993)	12
3	<i>In re Walter</i> ,	
4	698 Fed. App'x 1022 (Fed. Cir. 2017)	20
5	<i>Williamson v. Citrix Online, LLC</i> ,	
6	792 F.3d 1339 (Fed. Cir. 2015)	12
7	<i>Wilson Sporting Goods Co. v. Hillerich & Bradsby Co.</i> ,	
8	442 F.3d 1322 (Fed. Cir. 2006)	10
9	Statutes	
10	35 U.S.C. § 112(6)	12
11		
12		
13		
14		
15		
16		
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