

WALMART’S INITIAL INVALIDITY CONTENTIONS¹

Exhibit A – U.S. Patent No. 5,638,853 (“Tsai 1”); Tsai 1 in view of U.S. Patent No. 4,779,635 (“Lynch”) 1,449,894 (“Dial”); Tsai 1 in view of 1,502,898 (“Berg”) Prior Art Under 35 U.S.C. § 102 and

The following chart identifies prior art that anticipates under 35 U.S.C. § 102, or those disclosures can be obvious under 35 U.S.C § 103, asserted claims 1-3 of U.S. Patent No. 5,944,040 (“the ’040 Patent”).

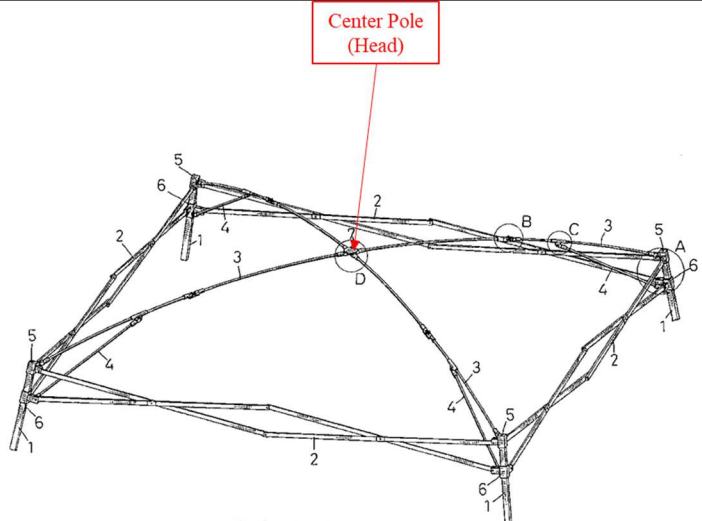
- The application that published as Tsai 1 was filed on March 7, 1996 and was published on June 17, 1997 and qualifies as prior art at least under pre-AIA 35 U.S.C. § 102(e).
- The application that matured into Lynch was filed on August 26, 1987 and published on October 25, 1988 and qualifies as prior art at least under pre-AIA 35 U.S.C. § 102(b).
- The application that matured into Dial was filed on August 10, 1920 and published on March 27, 1923. It qualifies as prior art at least under pre-AIA 35 U.S.C. § 102(b).
- The application that matured into Berg was filed on January 12, 1924 and published on July 29, 1924. It qualifies as prior art at least under pre-AIA 35 U.S.C. § 102(b).

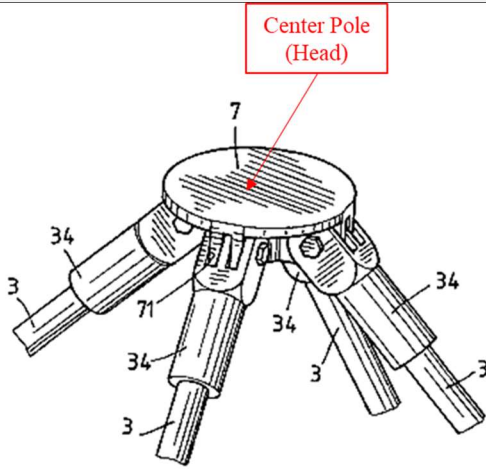
Defendant serves additional charts at Exhibits B, C, D, E, and F, identifying prior art that, combined with one or more of the references below, also renders obvious the asserted claims.

Claim No.	Claim Element	Exemplary Citations to Prior Art References
1a	A collapsible tent frame, comprising;	To the extent the preamble is limiting, Tsai 1 discloses a collapsible tent frame at ¶ 1:5-7 (“This invention relates to the structure of a tent, and more particularly to a tent which is easy to open and to close.”); ¶ 1:29-36 (“It is the primary object of the present invention to provide a tent structure which is Solid and strong. It is another object of the present invention to provide a tent structure which makes the opening and closing of the tent a further object of the present invention to provide a tent structure which sets forth in ¶ 2:37-38 (“In operation, the tent of the present invention [sic] very easy to open, erect and folded.”).

¹ Defendant Walmart Inc.’s Contentions herein are based on its present understanding of the Asserted Claims and its present understanding of the claim construction positions Caravan Canopy International, Inc. (“Caravan”) appears to be asserting in its Infringement Contentions, even though Defendant does not agree with such claim constructions.

Claim No.	Claim Element	Exemplary Citations to Prior Art References
1b	a center pole constructed for stretching and sustaining a tent's roof when a tent is pitched with the tent frame;	<p>Tsai 1 discloses a center pole (head connector 7) constructed for stretching and sustaining a tent's roof when a tent is pitched with the tent frame.</p> <p>Tsai 1 discloses "The head connector 7, as shown in FIG. 9, includes four pairs of walls extending from one end and equally spaced from each other." Tsai 1, 2:37-47.</p> <p>Tsai 1 discloses "In operation, the tent of the present invention very easy to erect and folded. When erecting, manually pull the four poles 1 outwardly which rotate the intermediate pivot members 31 to move upwardly which rotate the rod members 3 upwardly and the sliding connector 6 on each pole 1 to slide upwardly along the intermediate pivot members 31 have reached to the upmost, the tent is in a stable configuration with the four poles 1 spread by the scissors-type linkage connector 7 is spread by the rod members 3 and the linkage rod members 3 in a spread position." Tsai 1, 2:37-47 (emphasis added); Claim 1 ("a head connector 7 having a first end and a second end of each of said four rods"); Claim 2 ("said head connector 7 having radially spaced recesses for receiving said second ends of said four rods the recesses being defined between a pair of spaced integrally formed wall members").</p> <p>If this term is determined to be a means-plus-function element, the corresponding structure performing the claimed function is the head connector 7. <i>See, e.g.</i>, Tsai 1, 2:37-47; Claim 1 ("a head connector 7, as shown in FIG. 9, includes four pair of walls extending from one end and equally spaced from each other. Each pair of walls defining a recess 71 therein and a sliding connector 34."); Fig. 9. Alternatively, the corresponding structure for performing the claimed function is the head connector 7 and the rod members 3. <i>See, e.g.</i>, Tsai 1, 2:37-47.</p>

Claim No.	Claim Element	Exemplary Citations to Prior Art References
		 <p data-bbox="909 1249 1023 1291">FIG. 1</p>

Claim No.	Claim Element	Exemplary Citations to Prior Art References
		 <p data-bbox="906 1297 1107 1350">F I G . 15</p> <p data-bbox="678 1402 1624 1732"> To the extent Tsai 1 does not disclose “a center pole constructed for stretching a tent’s roof when a tent is pitched with the tent frame,” Lynch discloses this feature. A person of ordinary skill in the art would have been motivated to combine the teachings of Lynch with the teachings of Tsai 1. For example, Tsai 1’s head 7 can be modified to include an extended apex portion 50. This modification is nothing other than a simple modification of a known element for another to yield predictable results of collapsing the canopy and Tsai 1 are both directed to collapsible canopy products in the same field of endeavor. It would have been obvious to modify the head 7 to increase head room, reduce canopy weight, and facilitate the canopy to unfold and fold. <i>See</i> Tsai 1, 1:31-33; Lynch, 1:57-62; 2:15-18. </p> <p data-bbox="678 1770 1624 1837"> Lynch discloses a center pole (apex portion 50) constructed for stretching a tent’s roof when a tent is pitched with the tent frame. <i>See, e.g.,</i> Lynch, AB </p>

Claim No.	Claim Element	Exemplary Citations to Prior Art References
		<p>6:3; 6:31-35; Figs. 1-2.</p> <p>Lynch discloses “[a] canopy structure is provided and includes framework covering. The framework unit is formed by a plurality of upright corner members and a plurality of roof support members that are pivotally connected at the top ends to the corner members and, in an erected position, extend upwardly and inwardly to a central apex portion where they are pivotally connected to one another.” Lynch, Abstract (emphasis added).</p> <p>“The apex portion of the framework unit preferably includes a central post assembly 50 that may be spring loaded so that it is upwardly biased against the central portion of the framework covering. Further, an upper end of the central post assembly may terminate in a central post assembly 50 thereby increasing the surface area of contact between the post assembly and the framework covering.” Lynch, 3:57-63 (emphasis added).</p> <p>“Roof support member 40 projects radially inwardly to apex portion 50 so that the first end of roof support member 40 is pivotally secured to the apex portion 50 of the framework covering below.” Lynch, 5:67-6:3 (emphasis added).</p> <p>“As noted above, apex portion 50 is located at an end of roof support member 40 opposite corner support member 22. Apex portion 50 includes a center post assembly 50 which includes a cross bracket 54 that provides four pairs of ears, such as ears 55 and 56.” Lynch, 5:67-6:3 (emphasis added).</p> <p>If this term is determined to be a means-plus-function element, the corresponding structure performing the claimed function is the center post assembly 50. <i>See, e.g.,</i> Lynch, 5:67-6:3; 6:31-46 (“As noted above, apex portion 50 is located at an end of roof support member 40 opposite corner support member 22. Apex portion 50 includes a center post assembly 50 which includes a cross bracket 54 that provides four pairs of ears, such as ears 55 and 56. The end of inner telescoping member 42 of roof support member 40 is thus pivotally secured to the center post assembly 50 between a pair of ears 55 by means of a pin 56, with this end terminating in a pin 56.” Lynch, 5:67-6:3 (emphasis added)).</p>

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