
From: Kellar, Kyle W. <KKellar@lewisroca.com>

Sent: Monday, September 13, 2021 12:23 PM

To: Trials <Trials@USPTO.GOV>

Cc: Martone, Jason C. <JMartone@lewisroca.com>; Schilly, Sami I. <SSchilly@lewisroca.com>; French, Steven <SFrench@lewisroca.com>; 2KST@knobbe.com; 2AMD@knobbe.com; 2LXK@knobbe.com; BoxZSHADE-IPR@knobbe.com; RNeifeld <rneifeld@neifeld.com>; dgunningsmith@carmodylaw.com; bill@brownwegner.com; McAllister, Tyler <TMcAllister@kilpatricktownsend.com>; Geyer, Kate <KGeyer@kilpatricktownsend.com>; CaravanCanopy-WalmartLit <CaravanCanopy-WalmartLit@kilpatricktownsend.com>; Reed, David <DReed@kilpatricktownsend.com>

Subject: RE: Walmart v. Caravan Canopy, IPR2020-1026 - Request for authorization to file corrected exhibit

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Dear PTAB Trials and Honorable Board,

Patent Owner opposes Petitioner's request on two grounds. First, Petitioner's request is untimely as it comes after all substantive deadlines have passed and over a month after Petitioner discovered, or at least should have discovered, the discrepancy in Exhibit 1032. Second, Petitioner's request represents a selective supplement to the record of this proceeding.

As to the first point, Petitioner served, but did not file, Exhibit 1047 in response to Patent Owner's objections to Exhibit 1032 on July 22, 2021. (Paper 33, p. 5). Exhibit 1047 is similar, in content, to Petitioner's proposed corrected Exhibit 1032. Cognizant of the Board's instruction that emails to the Board should not include attachments absent authorization, Patent Owner is not attaching any unfiled exhibits to this email. (Paper 13, p. 2). Patent Owner will do so if authorized.

Petitioner's counsel represented via declaration testimony (served but not filed) accompanying Exhibit 1047 that "Exhibit 1032 is identical to Exhibit 1047, except the cover page" in spite of obvious differences therebetween. (Ex. 1048, ¶16). Thus, Petitioner should have discovered any discrepancy in Exhibit 1032 by at least July 22, 2021, when it served Exhibits 1047 and 1048. Nevertheless, Petitioner declined seek correction of Exhibit 1032 at that time or within any

reasonable amount of time thereafter.

As to the second point, Exhibit 1027 was filed without numerous images as explained in Patent Owner's Motion to Exclude Evidence. (Paper 38, p. 9). Petitioner previously served, but did not file, Exhibit 1046, which was another version of Exhibit 1027 including the omitted images. Again, Petitioner's counsel represented via declaration testimony that "Exhibit 1027 is identical to Exhibit 1046, except the cover page" in spite of at least the inclusion of the images. (Ex. 1048, ¶16). Notably, Petitioner makes no similar effort to file a corrected version of Exhibit 1027.

For these reasons, Patent Owner respectfully requests that Petitioner's request be denied.

Best Regards,
Kyle Kellar
Lead Counsel for Patent Owner

Kyle W Kellar
Associate

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D. 626.683.4590

LEWIS  ROCA

From: Trials <Trials@USPTO.GOV>

Sent: Monday, September 13, 2021 5:46 AM

To: Reed, David <DReed@kilpatricktownsend.com>; Trials <Trials@USPTO.GOV>

Cc: Kellar, Kyle W. <KKellar@lewisroca.com>; Martone, Jason C. <JMartone@lewisroca.com>; Schilly, Sami I. <SSchilly@lewisroca.com>; French, Steven <SFrench@lewisroca.com>; 2KST@knobbe.com; 2AMD@knobbe.com; 2LXK@knobbe.com; BoxZSHADE-IPR@knobbe.com; RNeifeld <rneifeld@neifeld.com>; dgunningsmith@carmodylaw.com; bill@brownwegner.com; McAllister, Tyler <TMcAllister@kilpatricktownsend.com>; Geyer, Kate <KGeyer@kilpatricktownsend.com>; CaravanCanopy-WalmartLit <CaravanCanopy-WalmartLit@kilpatricktownsend.com>

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[EXTERNAL]

Counsel for Patent Owner,

In order to assist the panel in ruling on Petitioner's request, please briefly explain the reasoning behind your opposition.

Regards,

Andrew Kellogg,
Supervisory Paralegal
Patent Trial and Appeal Board
USPTO

andrew.kellogg@uspto.gov

(571)272-7822

From: Reed, David <DReed@kilpatricktownsend.com>

Sent: Wednesday, September 8, 2021 4:00 PM

To: Trials <Trials@USPTO.GOV>

Cc: Kellar, Kyle W. <KKellar@lewisroca.com>; Martone, Jason C. <JMartone@lewisroca.com>; Schilly, Sami I. <SSchilly@lewisroca.com>; French, Steven <SFrench@lewisroca.com>; 2KST@knobbe.com; 2AMD@knobbe.com; 2LXK@knobbe.com; BoxZSHADE-IPR@knobbe.com; RNeifeld <rneifeld@neifeld.com>; dgunningsmith@carmodylaw.com; bill@brownwegner.com; McAllister, Tyler <TMcAllister@kilpatricktownsend.com>; Geyer, Kate <KGeyer@kilpatricktownsend.com>; CaravanCanopy-WalmartLit <CaravanCanopy-WalmartLit@kilpatricktownsend.com>

Subject: Walmart v. Caravan Canopy, IPR2020-1026 - Request for authorization to file corrected exhibit

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Walmart Inc. v. Caravan Canopy Int'l, Inc.

Case IPR2020-01026

Patent No. 5,944,040

Dear Board,

Petitioner respectfully requests authorization to file a corrected Exhibit 1032 in the above-referenced case. Exhibit 1032 a capture of the website <https://www.roofcorp.com/roof-systems/steep-slope/>, which is linked in Petitioner's Exhibit List. Petitioner discovered that the original exhibit, for unknown technical reasons, did not capture the complete text of the website as it appears at the URL. The attached corrected Exhibit 1032 accurately reflects the content of the URL linked in Petitioner's Reply.

Petitioner has conferred with counsel for Patent Owner, and Patent Owner opposes this request.

If the Board determines that a conference call is required, the parties will confer to identify mutually-acceptable dates/times.

Best regards,

David Reed
Counsel for Petitioner



David A. Reed

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