

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

WALMART INC.; Z-SHADE CO., LTD.;
COSTCO WHOLESALE CORPORATION;
LOWE'S HOME CENTERS, LLC; and
SHELTERLOGIC CORP.

Petitioner

v.

CARAVAN CANOPY INTERNATIONAL, INC.

Patent Owner

Case IPR2020-01026
Patent No. 5,944,040

**PETITIONER'S INITIAL CLAIM CONSTRUCTION BRIEF REGARDING
"CONSTRUCTED FOR"**

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I. Introduction

The claims of the '040 patent are directed to a “collapsible tent frame.” The center pole is an element of the tent frame that the claims state is “constructed for” stretching and sustaining a tent’s roof when a tent is placed over the claimed frame. “Constructed for,” under the ordinary understanding of the term, limits the structure of the center pole. But this term cannot require a limitation on the structure of any other component of the tent frame, nor can it be a functional limitation. Moreover, it cannot require any specific configuration of a tent roof, which is not a claimed component of the tent frame. The intrinsic evidence shows that the specific structure of the center pole constructed for stretching and sustaining is a pole that extends above the apex of the center pole ribs, as opposed to, for example, extending downward into the interior of the tent frame. Nothing more is required of the center pole or the tent frame to satisfy the claim language.

In any event, the Board need not determine the precise construction of “constructed for” because the centers poles of Lynch, the AAPA, and Berg are each specifically designed to stretch and sustain a tent’s roof, capable of doing so, and are actually shown to do so in the prior art.

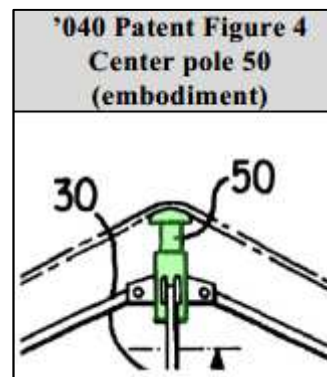
II. “Constructed For” Is a Structural, Not Functional, Limitation

“Constructed for” “should be construed to mean ‘made to,’ ‘designed to,’ or ‘configured to’ when the specification discloses structural features that render the

claimed apparatus suitable for a claimed function.” *Presidio Components Inc. v. AVX Corp.*, 825 F. App’x 909, 915 (Fed. Cir. 2020); *In re Giannelli*, 739 F.3d 1375, 1379 (Fed. Cir. 2014) (noting that the written description makes clear whether a term “is designed or constructed to be used” or “capable of”); *In re Man Mach. Interface Techs. LLC*, 822 F.3d 1282, 1286 (Fed. Cir. 2016) (same).

Here, the specification discloses the specific structural feature that makes a center pole “constructed for” stretching and sustaining a tent’s roof: the center pole is a pole that extends vertically above the apex of the center pole ribs. Ex. 1001, 3:26-28 (“[T]he center pole 50 moves upwardly and

sustains the center of the roof while stretching the roof as shown in FIG. 4.”); Fig. 3, 2:39-41 (describing Fig. 3 as the preferred embodiment); *see also* Ex. 1024, 58:2-6 (Mr.



Rake admitting the “center pole extends above the center pole ribs”). As shown in Fig. 4, by extending vertically above the ribs, the center pole stretches and sustains the tent’s roof.¹ By contrast, a center pole that extends downward to the ground (such as that contemplated in the discussion of the prior art in *Yang* (Ex. 1004, 4)) would serve as a support column for the frame but would not stretch and sustain

¹ The center pole in prior art Fig. 2 likewise extends vertically to stretch and sustain the tent’s roof.

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