

Priority
Send
Enter
Closed
JS-5/JS-6
JS-2/JS-3
Scan Only

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV 01-6530-SVW(CTx)

Date: April 16, 2002

Title: Int'l E-Z Up, Inc., et al. -v- Caravan Canopy Int'l, Inc., et al.

PRESENT: THE HONORABLE STEPHEN V. WILSON, JUDGE

K. Leigh Ray
Courtroom Deputy

Lena Villegas
Court Reporter

ATTORNEYS FOR PLAINTIFFS:

ATTORNEYS FOR DEFENDANTS:

James Paul
John Fitzgerald
Timothy Martin

Michael Tu
Anthony Shaw
Joerge-Uwe Szipl

PROCEEDINGS: MARKMAN HEARING

Cause called, and counsel make their appearances. The Court makes the following rulings:

In relation to the '001 patent, claims 1 and 18:

On the meaning of "socket," the Court adopts the plaintiff's definition.

On the meaning of "close fitting engagement," the Court adopts the plaintiff's definition.

In relation to the '040 patent:

On the meaning of "center pole," the Court adopts the defendant's definition.

On the meaning of "parallel," in the '001 patent, claims 1 and 18, the parties shall simultaneously file further briefing. Opening Briefs due no later than April 23, 2002; Reply Briefs due no later than April 30, 2002. The Court will take under submission once reply briefs are received. Order will issue thereafter.

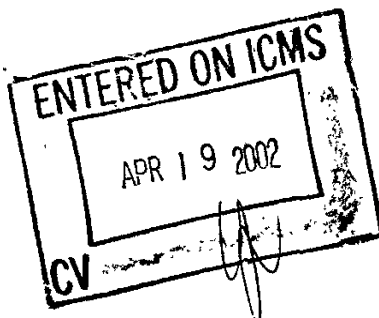
Pretrial Conference September 23, 2002, at 3:30 PM

Jury Trial October 8, 2002, at 9:00 AM

IT IS SO ORDERED.

Handwritten initials

MINUTES FORM 11
CIVIL - GEN



Initials of Deputy Clerk *(Handwritten initials)*

Petitioners Exhibit 1013
Patent 5,944,040

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

ANTHONY W. SHAW (Admitted Pro Hac Vice)
BROBECK, PHLEGER & HARRISON LLP
1333 H Street, N.W., Suite 800
Washington, D.C. 20005
Telephone: (202) 220-6000
Facsimile: (202) 220-5200

MICHAEL C. TU (State Bar No. 186793)
BROBECK, PHLEGER & HARRISON LLP
550 South Hope Street
Los Angeles, California 90071-2604
Telephone: (213) 489-4060
Facsimile: (213) 745-3345

JOERG-UWE SZIPL (Admitted Pro Hac Vice)
GRIFFIN & SZIPL, PC
Suite PH-1
2300 9th Street, South
Arlington, Virginia 22204
Telephone: (703) 979-5700
Facsimile: (703) 979-7429

Attorneys for Defendants
AFFORDABLE INSTANT SHELTERS,
ALLREDY PRODUCTS, CANVAS
SPECIALTY, INC., CANOPIES BY FRED,
CARAVAN CANOPY INTERNATIONAL,
INC., RAGE PERFORMANCE, and
CANOPY CONNECTIONS LLC

FILED
CLERK, U.S. DISTRICT COURT
349
MAR 20 2002
CENTRAL DISTRICT OF CALIFORNIA
BY A DEPUTY

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

INTERNATIONAL E-Z UP, INC., a
California corporation; and

JAMES P. LYNCH, an individual, and
K.D. KANOPY, INC., a Colorado
corporation,

Plaintiffs,

v.

CARAVAN CANOPY
INTERNATIONAL, INC., a California
corporation; AFFORDABLE INSTANT
SHELTERS, a Florida corporation;
ALLREDY PRODUCTS, a California
proprietorship; CANVAS SPECIALTY

Case No. CV-01-06530 SVW (CTx)

**CARAVAN'S OPENING BRIEF
FOR MARKMAN HEARING**

DATE: April 16, 2002
TIME: 10:00 a.m.

CTRM: Courtroom 6
Hon. Steven V. Wilson

ENTERED ON ICMS
MAR 21 2002

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

INC., a California corporation;
CANOPIES BY FRED, a Washington
proprietorship; RAGE PERFORMANCE,
a California proprietorship; JOHN MEE
CANOPIES, an Alabama proprietorship;
and CANOPY CONNECTIONS LLC, a
Colorado corporation.

Defendants.

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

TABLE OF CONTENTS

	<u>Page</u>
I. BACKGROUND FACTS	1
II. RELEVANT LAW	1
III. INTERPRETATION OF DISPUTED CLAIM TERMS OF U. S. PATENT NO. 5,244,001	3
A. Interpretation Of The Claim Term "Socket"	4
1. The '001 Patent Defines "Socket" In Accordance With Its Ordinary Meaning To Be A Structure Or Hollow Which Substantially Encloses Or Captures The Scissor Edge Assembly	4
2. Lynch Defined The Term "Socket" Consistently With The Ordinary Meaning In Representations Made To USPTO	8
3. Lynch Is Estopped By The Principles of Judicial Estoppel From Asserting A Meaning Of The Term "Socket" Different From That Given During The Prosecution Of The '356 Patent	10
4. The Term "Socket" Cannot Be Interpreted So As To Ensnare The Prior Art and Thus Invalidate The '001 Patent's Claim	12
B. Interpretation Of The Term "Parallel"	15
C. Interpretation Of "Planar Contact Surfaces"	16
D. Interpretation Of "Close Fitting Engagement"	17
IV. INTERPRETATION OF DISPUTED CLAIM TERMS OF U. S. PATENT NO. 5,944,040	18
A. Interpretation Of "Center Pole" And "Center Pole Ribs"	18
B. Interpretation Of "Claw Member"	21
V. CONCLUSION	22

TABLE OF AUTHORITIES

Page(s)

Cases

Avery Dennison v. Acco Brands, Inc.,
1999 WL 33117262 (C.D. Cal. 1999).....12

Bayer AG v. Elan Pharmaceutical Research Corp.,
212 F.3d 1241 (Fed. Cir. 2000).....16

Carroll Touch Inc. v. Electro Mech. Sys., Inc.,
15 F.3d 1573, 27 USPQ2d 1836 (Fed. Cir. 1993).....2

Decca, Ltd. V. United States,
210 Ct. Cl. 546, 544 F.2d 1070, 191 USPQ 439 (Ct. Cl. 1976).....13,15

Dreamwerks Production Group, Inc. v. SKG Studio,
142 F.3d 1127 (9th Cir. 1997).....12

EMI Group N. Am., Inc. v. Intel Corp.,
157 F.3d 887, 48 USPQ2d 1181 (Fed. Cir. 1998).....2

Elkay Mfg. Co. v. Ebco Mfg. Co.,
192 F.3d 973, 52 USPQ2d 1109 (Fed. Cir. 1999).....2,9

Embrex, Inc. v. Serv. Eng'g Corp.,
216 F.3d 1343, 55 USPQ2d 1161 (Fed. Cir. 2000).....1

Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.,
234 F.3d 558, 56 USPQ2d 1865 (Fed. Cir. 2000),
cert. granted, 69 U.S.L.W. 3779 (U.S. June 18, 2001) (No. 001543).....11

Hamilton v. State Farm Fire & Casualty Co.,
270 F.3d 778 (9th Cir. 2001).....10,11

Harris Corp. v. IXYS Corp.,
114 F.3d 1149, 43 USPQ2d 1018 (Fed. Cir. 1997).....3,13

John Hopkins University v. Cellpro, Inc.,
152 F.3d 1342, 47 USPQ2d 1705 (Fed. Cir. 1998).....21

Jonsson v. The Stanley Works,
903 F.2d 812, 14 USPQ2d 1863 (Fed. Cir. 1990).....2

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.