UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No.	SACV 19-1072 PSG (ADSx) (LEAD consolidated case) EDCV 19-1224 PSG (ADSx) CV 19-6224 PSG (ADSx) CV 19-6978 PSG (ADSx) CV 19-6952 PSG (ADSx)	Date	June 23, 2020
Title	Caravan Canopy Intl, Inc. v. Home Depot U.S.A., Inc., et al. Caravan Canopy Intl, Inc. v. Lowe's Home Centers, LLC et al. Caravan Canopy Intl, Inc. v. Z-Shade Co. Ltd. et al. Caravan Canopy Intl, Inc. v. Walmart, Inc. et al. Caravan Canopy Intl, Inc. v. Shelterlogic Corp. et al.		

Present: The Honorable	Philip S. Gutierrez, United States District Judge	
Wendy Hernandez		Not Reported
Deputy Clerk		Court Reporter
Attorneys Present for Plaintiff(s):		Attorneys Present for Defendant(s):
Not Present		Not Present

Proceedings (In Chambers): **The Court CONSTRUES the Disputed Claim Terms as Stated Herein**

In 2019, Plaintiff Caravan Canopy Intl, Inc. ("Plaintiff") filed the above-captioned actions for patent infringement in this District, asserting U.S. Patent No. 5,944,040 ("the '040 Patent"). The actions were consolidated for pretrial purposes. Dkt. # 52.[1] Plaintiff and the remaining consolidated Defendants—Z-Shade Co. Ltd., Shelterlogic Corp., Lowe's Home Center, LLC, Walmart, Inc., and Costco Wholesale Corporation (collectively, "Defendants")—have now submitted disputed claim terms for construction.

A Joint Claim Construction and Prehearing Statement reflecting the parties' competing claim construction positions was filed on May 18, 2020. Dkt. # 90 ("*Joint Statement*"). On

[1] All docket citations in this Order refer to Lead Case No. SACV 19-1072 PSG (ADSx) unless otherwise noted.

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May 26, 2020, Plaintiff and Defendants filed their respective opening claim construction briefs. Dkt. # 95 ("*Pl.'s Opening Br.*"); Dkt. # 94 ("*Defs.' Opening Br.*"). On June 8, 2020, Plaintiff and Defendants filed their respective responsive claim construction briefs. Dkt. # 99 ("*Pl.'s Responsive Br.*"); Dkt. # 96 ("*Defs.' Responsive Br.*"). The Court finds this matter suitable for resolution without oral argument, thus the Court **VACATES** the Claim Construction Hearing presently set for June 29, 2020. *See* Fed. R. Civ. P. 78(b); C.D. Cal. L.R. 7-15.

Having considered the moving papers, the Court **CONSTRUES** the disputed claim terms as stated herein.

I. Background

The '040 Patent issued on August 31, 1999 and is titled "Collapsible Tent Frame." *Complaint*, Dkt. # 1 ("*Compl.*"), ¶ 19. Plaintiff alleges Defendants' manufactured "products infringe claims 1–3 of the '040 Patent." *Id.* ¶¶ 36–37. The '040 Patent recites three total claims, and the parties' disputed claim terms relate to claims 1 and 2. The three claims recite:

> 1. A collapsible tent frame, comprising:
> a center pole constructed for stretching and sustaining a tent's roof when a tent is pitched with the tent frame;
> a plurality of side poles coupled to each other through a plurality of scissor-type ribs, with upper ends of said ribs being hinged to connectors provided at top ends of said side poles and lower ends of said ribs being hinged to sliders movably fitted over said side poles; and

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plurality of center pole ribs coupling said center pole to said connectors of the side poles, said center pole ribs individually comprising two rib members coupled to each other through a hinge joint and being hinged to the slider of an associated side pole through a support link, thus being collapsible at the hinge joint in accordance with a sliding motion of said slider along the side pole.

2. A collapsible tent frame according to claim 1, wherein said rib members of the center pole ribs have a substantially equal length.

3. A collapsible tent frame, according to claim 2, further comprising a claw member disposed at a lower end of each side pole.

'040 Patent, Claims 1–3. Additional explanation and discussion of the technology claimed by the '040 Patent will be provided in the relevant discussion sections of this Order.

II. Legal Standards

A. General Claim Construction Principles

"The purpose of claim construction is to 'determin[e] the meaning and scope of the patent claims asserted to be infringed.'" *O2 Micro Int'l Ltd. v. Beyond Innovation Tech. Co.*, 521 F.3d 1351, 1360 (Fed. Cir. 2008) (quoting *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 976 (Fed. Cir. 1995) (en banc), *aff'd* 517 U.S. 370 (1996)). The Supreme Court has held

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that claim construction is a matter of law "exclusively within the province of the court." *Markman*, 517 U.S. at 372. "That is so even where the construction of a term of art has 'evidentiary underpinnings.'" *Teva Pharm. USA, Inc. v. Sandoz, Inc.*, 135 S. Ct. 831, 835 (2015) (quoting *Markman*, 517 U.S. at 390).

When construing claim terms, a court must first "look to the words of the claims themselves . . . to define the scope of the patent invention." *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1582 (Fed. Cir. 1996). Words of the claims are "generally given their ordinary and customary meaning," which is the meaning they "would have to a person of ordinary skill in the art in question at the time of the invention, i.e., as of the effective filing date of the patent application." *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312–13 (Fed. Cir. 2005) (en banc) (citation omitted).

However, a claim term should be construed "not only in the context of the particular claim in which the disputed term appears, but in the context of the entire patent, including the specification." *Id.* at 1313. The specification is "the single best guide to the meaning of a disputed term," and the court should "rely heavily" on it for guidance. *Id.* at 1315, 1317.

Further, a court should consider the patent's prosecution history—the complete record of the proceedings before the United States Patent and Trademark Office ("PTO") and the prior art cited during the patent's examination—because it "provides evidence of how the PTO and the inventor understood the patent." *Id.* at 1317. "[B]ecause the prosecution history represents an ongoing negotiation between the PTO and the applicant, rather than the final product of that negotiation, it often lacks the clarity of the specification and thus is less useful for claim construction purposes." *Id.*

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Lastly, although less significant than the intrinsic record, courts may "rely on extrinsic evidence, which 'consists of all evidence external to the patent and prosecution history, including expert and inventor testimony, dictionaries, and learned treatises.'" *Id.* (quoting *Markman*, 52 F.3d at 980). "Extrinsic evidence may be useful to the court, but it is unlikely to result in a reliable interpretation of patent claim scope unless considered in the context of the intrinsic evidence." *Id.* at 1319.

B. Claim Term Indefiniteness

"[A] patent's claims, viewed in light of the specification and prosecution history, [must] inform those skilled in the art about the scope of the invention with reasonable certainty." *Nautilus, Inc. v. Biosig Instruments, Inc.*, 572 U.S. 898, 910 (2014). A claim term is invalid as indefinite if it fails to "particularly point[] out and distinctly claim[] the subject matter which the inventor or a joint inventor regards as the invention." 35 U.S.C. § 112 ¶ 2.[2]

Nautilus recognized that absolute precision is unobtainable in patent claim language given "the inherent limitations of language." *Id.* at 910. However, it stated that patent language must be precise enough to afford clear notice of what is claimed, thereby "appris[ing] the public of what is still open to them." *Id.* at 899 (quoting *Markman*, 517 U.S. at 373).

[2] The America Invents Act ("AIA") changed the sub-section designations for § 112 from numbered paragraphs to lettered sub-sections. Thus, for instance, 35 U.S.C. § 112(b) applies to patents with an effective filing date after relevant provisions of the AIA went into effect. The language of the section was not otherwise altered by the AIA. Because the '040 Patent asserts a priority claim to an application filed May 23, 1997, the Court will refer to the older paragraph designation for the relevant sub-section of § 112, *i.e.*, "§ 112, ¶ 2."

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