

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.

CARAVAN CANOPY INTERNATIONAL, INC.
Patent Owner

Case IPR2021-00449
Patent No. 5,944,040

DECLARATION OF DR. JOHN D. PRATT

Petitioners Exhibit 1024 Patent 5,944,040
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TABLE OF CONTENTS

Page No.

I.	INTRODUCTION	3
II.	LEGAL STANDARDS FOR PATENTABILITY.....	5
III.	PERSON OF ORDINARY SKILL IN THE ART.....	10
IV.	U.S. PATENT NO. 5,944,040.....	11
V.	CLAIM INTERPRETATION.....	17
VI.	GROUND 1: CLAIMS 1-3 OF THE '040 PATENT ARE OBVIOUS OVER YANG IN VIEW OF LYNCH.....	24
VII.	GROUND 2: CLAIMS 1-3 OF THE '040 PATENT ARE OBVIOUS OVER YANG IN VIEW OF ADMITTED PRIOR ART.....	46
VIII.	GROUND 3: CLAIMS 1-3 OF THE '040 PATENT ARE OBVIOUS OVER YANG IN VIEW OF BERG.....	55
IX.	GROUND 4: CLAIMS 1-3 OF THE '040 PATENT ARE OBVIOUS OVER TSAI IN VIEW OF LYNCH.....	65
X.	GROUND 5: CLAIMS 1-3 OF THE '040 PATENT ARE OBVIOUS OVER TSAI IN VIEW OF ADMITTED PRIOR ART	79
XI.	GROUND 6: CLAIMS 1-2 OF THE '040 PATENT ARE OBVIOUS OVER TSAI IN VIEW OF BERG.....	86
XII.	GROUND 7: CLAIMS 1-3 OF THE '040 PATENT ARE OBVIOUS OVER TSAI IN VIEW OF BERG AND CARTER.....	91

I, John D. Pratt, declare as follows:

I. INTRODUCTION

1. My name is John D. Pratt, and I reside in Laguna Niguel, California. I am a Principal of Argos Forensic Engineering (“Argos”). I am over eighteen years of age, and I would be competent to testify as to the matters set forth herein if I am called upon to do so.

2. I have been retained by Z-Shade Co., Ltd.; Costco Wholesale Corporation; Lowe’s Home Centers, LLC; and Shelterlogic Corp. (collectively “Petitioner”) in connection with the above-captioned petition for *inter partes* review (“IPR”) of U.S. Patent No. 5,944,040 (the “’040 Patent” or “the Challenged Patent,” Ex-1001). The ’040 patent will be cited herein as “Ex. 1001” with additional column, line, and similar references to specific portions. I understand the ’040 Patent is currently assigned to CARAVAN CANOPY INTERNATIONAL, INC. (“Patent Owner”).

3. I have been asked by Petitioner to offer opinions regarding the ’040 Patent, including whether claims 1-3 (which I will refer to collectively as the “Challenged Claims”) are unpatentable because they were obvious in view of certain prior art. This declaration sets forth the opinions I have reached to date regarding these matters.

4. In forming my opinions, I rely on my knowledge, training, and experience in the field and on documents and information referenced in this Declaration.

5. I am being compensated by Petitioner at my standard hourly consulting rate for my time spent on this matter. My compensation is not contingent on the substance of my opinions, on the outcome of the IPR, or on the outcome of any related dispute between Petitioner and Patent Owner.

6. Neither Argos nor I have a conflict of interest with respect to Petitioner or Patent Owner.

7. I reserve my ability to offer additional opinions in other dispute venues.

A. Background and Expertise

8. My CV is shown in Exhibit A to this declaration.

B. Information Considered

9. In forming my opinions, I have reviewed the '040 Patent and considered each document listed in Exhibit B and any other references cited in this Declaration. In reaching my opinions, I have considered the viewpoint of a person of ordinary skill in the art at the time of the '040 Patent's claimed priority date of May 23, 1997. As explained below, I am familiar with the level of skill of a person of ordinary skill in the art regarding the relevant technology at issue as of that time.

I consider myself to have been a person of at least ordinary skill in the art as of the claimed priority date.

II. LEGAL STANDARDS FOR PATENTABILITY

10. In expressing my opinions and considering the subject matter of the claims of the '040 Patent, I am relying upon certain legal principles that counsel has explained to me and that I have encountered in other work on intellectual property matters.

11. First, I understand that for a claimed invention to be patentable, among other things, it must be new and not obvious in light of the information known to exist before the invention was made.

12. I understand the information that is used to evaluate whether an invention is new and not obvious is generally referred to as “prior art” and generally includes patents and printed publications (e.g., books, articles, product manuals, company publications, etc.).

13. I understand that the “prior art” includes patents and printed publications that existed before the earliest filing date (the “effective filing date”) of the patent. I also understand that a patent will be prior art if it was filed before the effective filing date, while a printed publication will be prior art if it was publicly available before that date.

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