

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

**DBR FINANCE, INC.,
Petitioner,**

v.

**RUGGED CROSS HUNTING BLINDS, LLC,
Patent Owner**

**Case IPR 2024-00291
Patent 11,399,535
Issue Date: August 2, 2022**

Title: CAMOUFLAGE MATERIAL, FOR A HUNTING BLIND

**DECLARATION OF ROBERT M. RANSOM IN OPPOSITION TO
PETITION FOR *INTER PARTES* REVIEW
OF U.S. PATENT NO. 11,399,535**

1. My name is Robert M. Ransom, and I am over the age of majority and competent to make this declaration based on my personal and professional knowledge. I have not been retained by the Patent Owner, Rugged Cross Hunting Blinds, LLC. (“RCHB”) to provide this declaration. I am not being compensated for this declaration. I am making this declaration in support of RCHB’S response in Opposition to Petitioner’s, DBR Inc.’s, Petition for Inter Partes Review of U.S. Patent 11,399,535.

My Background and Work Experience

2. I am the founder and an owner of Primal Treestands, Inc. (“Primal”), which sells a variety of hunting equipment. For example, Primal sells ladder stands, hang-on and climbing stands, tripod and quad pod stands, ground blinds, climbing systems and various hunting accessories such as hunting chairs, outdoor cameras, safety harnesses etc.

3. I am providing this declaration based on my over 30 years of experience in the outdoor industry including the design and development of hunting/outdoor products such as portable ground blinds, tree steps, etc.

4. Primal sells a variety of ground hunting blinds including, for example, pop-up ground blinds. The type of pop-up blinds we sell include the hub-style blind and the spring steel blinds, which I will describe in more detail below.

5. With respect to the hub-style blind we sell five different models. Three of the hub-style blind models that Primal sells include one-way see-through mesh window panels that provide a 270° field of view for an occupant within the blinds. Panels of this mesh material serve as window panels along three sides of the four-sided blinds. Even with the panels covering the window openings, or when in a closed position, an occupant can see through the mesh material. In addition, one cannot see into the blinds through this mesh material.

6. The blinds Primal sells including this mesh material include the Vision 270, the Harvester 270 and the Outlook 270.

7. In July 2022, Primal entered into a non-exclusive license with Rugged Cross Hunting Blinds, LLC (RCHB) with respect to the sale of our hub-style blinds that incorporated this one-way see-through mesh material. I will refer to this licensing arrangement in more detail below

8. I started Primal in 2017; however, I have worked in the outdoor industry since 1990. From 1990 to 1993 I worked for a company called Gametracker as an assistant national sales manager selling hunting and archery accessories such as broadhead arrows, gear bags, string trackers, folding saws and shears.

9. In June 1993 I founded the company Ameristep and the first products we developed and sold were affordable, inexpensive tree steps that are nailed to the

trunk of a tree to form a ladder to access a chair or platform chair mounted in or to the tree for an elevated view of a hunting area.

10. From 1993 until the time I sold the Ameristep, in 2012, I served as its President in charge of most phases of the businesses, including product development and management, sales, marketing, and hunting expert. During that time, I worked with Jay Scholes of Outtech, in sales, marketing and product development of products including ground blinds. While our initial product line at Ameristep was the tree step, we also developed and brought to market products such as tree/ladder stands, climbing stands, ground blinds including spring steel blinds and hub style blinds, and various hunting accessory products. Notably in 1998, Ameristep introduced its spring steel blind, called the Outhouse, which are a pop-up dome-style portable hunting blind.

11. I am a named inventor on at least eight different patents relating to hunting or outdoor products including the following that cover portable or collapsible hunting blinds such as the above-referenced steel spring blinds:

- U.S. Patent No. 7,178,538 for a Portable, Selectively-Reversible enclosure;
- U.S. Patent No. 7,137,399 for a Collapsible Structure with Top Supporting Elements;

- U.S. Patent No. 7,040,333 for a Collapsible Enclosure with Interchangeable and Reversible Covering Elements; and,
- U.S. Patent No. 7,225,823 for a Collapsible enclosure with 3-Dimensional Trim Elements.

12. Ameristep also introduced its first hub-style ground blind, the Brickhouse, a couple years after the introduction of the Outhouse spring steel blind. Both the Outhouse and Brickhouse models are still sold by GSM Outdoors, which now owns the Ameristep brand.

13. Ameristep was sold to Synergy Outdoors in 2012. I continued as the Brand Manager of Ameristep for the following two years, and eventually started Primal in 2017.

14. I was elected to the Treestand Manufacturer's Association (TMA) board and served on this board for fifteen years. The TMA is a nonprofit trade association that devotes its resources to promoting and improving treestand safety.

General Background of Ground Blinds

15. At least in the United States, hunting wild game has been a past-time shared by Americans for a long time, maybe hundreds of years. Some of the most popular wild game to hunt includes for example, whitetail deer, mule deer, elk, wild turkey, wild hogs, and waterfowl.

16. The key to any successful hunt is for the hunter to, as much as possible, remain undetected by the game, while being able to find and see the game to harvest. Wild game have several advantages over the hunter, not the least of which is that the hunter is trying to find and hunt the wild game in the game's home environment. In addition, wild game may have very acute senses such as eyesight and smell to detect the hunter.

17. To that end, a key to a successful hunt is to spot the wild game before it detects the presence of the hunter. In this manner the hunter can prepare for a shot at the wild game.

18. People typically hunt wild game using ranged weapons including firearms such as, for example, rifles, shot guns, and archery devices such as long bow, compound bows and crossbows. Indeed, the choice of firearm or bow may factor into a hunting strategy.

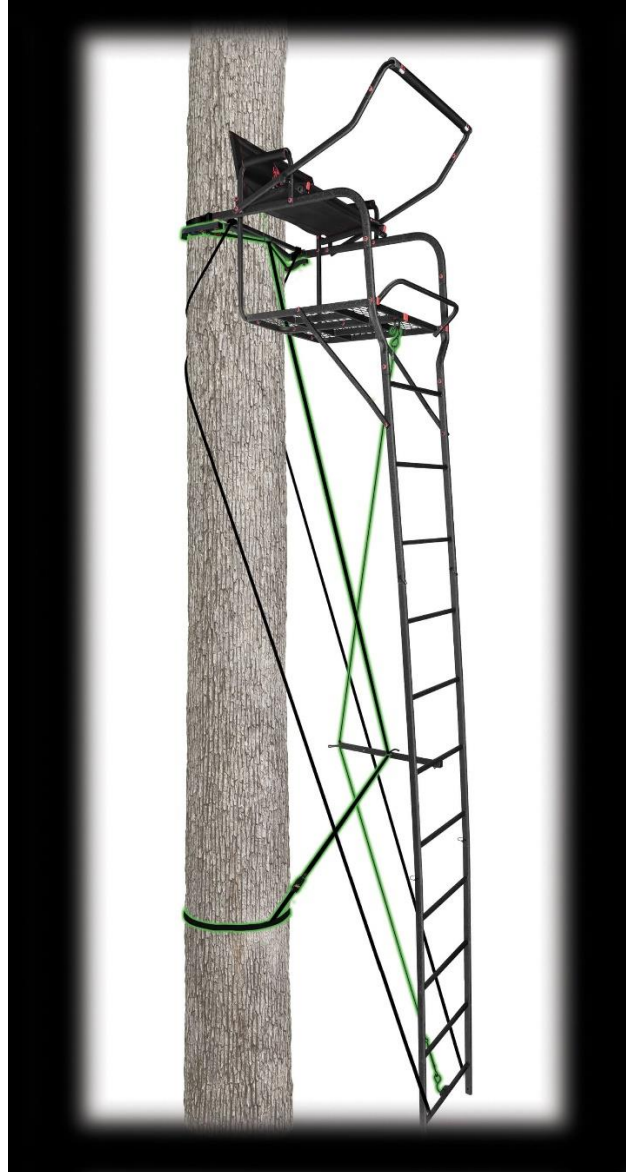
19. There are several tactics that are employed by hunters to, as much as possible, remain undetected including wearing camouflage clothing and applying formulations to the clothing and person's body to mask any human scent.

20. Hunters often remain stationary or in a single location patiently waiting for the game to appear. Hunters may scout locations to find game trails and identify patterns the game may follow or identify a trail to a food or water source. While being in a stationary location hunters anticipate and hope the game will appear.

21. If the hunters are not further hidden, they risk being seen or their scent is detected by the game, especially if the hunters remain on the ground. Accordingly, hunters may use, for example, ground blinds that are collapsible and portable, permanent blinds that may be on the ground or elevated on a platform, tree stands, tree climbing stands, or seats with foot platforms that are mounted in a tree and accessed via steps nailed to the tree. These systems allow the hunters to minimize their risk of being seen, heard or smelled by game.

22. Tree stands, also known as ladder stands, include a ladder on the top of which a seat and/or platform is securely mounted or connected. The ladder is leaned against a tall tree, so the seat is elevated. The ladder may include detachable rungs to make the ladder shorter or taller. The ladder and seat are secured against the tree using adjustable straps.

23. These ladder stands have been on the market since as long as I've been involved in the outdoor industry or since at least 1990. While I was with Ameristep we sold several different models. Primal sells five models of ladder stands including the below depicted Single Vantage ladder stand, which can be viewed at [Ladder Stands | Primal Outdoors](#):



24. The basic design of these stands, including the ladder and connected seat/platform has not changed much over the decades.

25. The climbing tree stand also enables a hunter to view surroundings from elevated positions. Climbing stands include a foot platform and a seat both with gripping arms that enable a hunter to climb a tree to a desired height. Again, these climbing stands have been on the market for decades. Primal sells the Vulcan Steel

Climber one which is depicted below and can be viewed at [Hang-Ons & Climbers | Primal Outdoors](#):



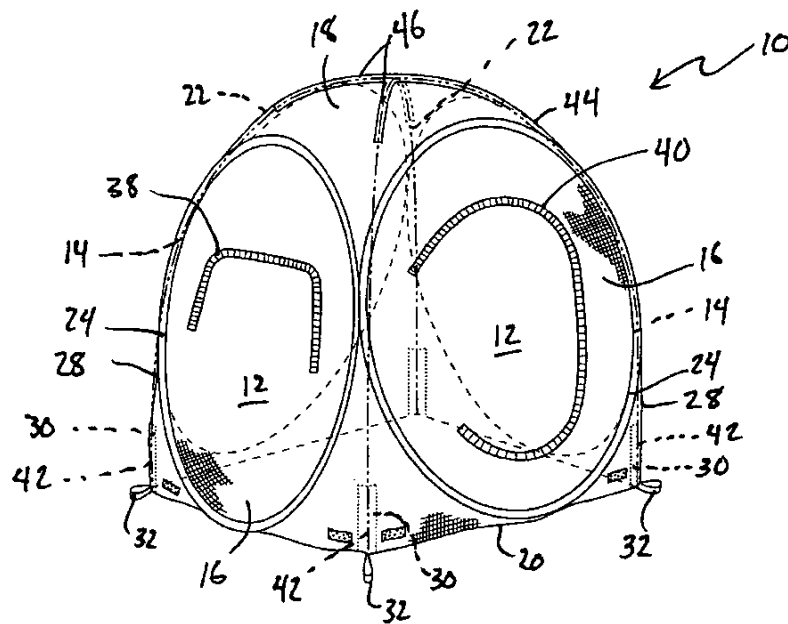
26. An advantage of the tree/ladder stands and climbing stands is that the hunter is elevated above a line of sight and smell of the game. In addition, from an elevated position the hunter has an expansive, mostly unrestricted (restricted by natural obstructions such as trees and foliage) field of view as compared to hunting from the ground. Hunters may be as high as fifteen (15) to twenty (20) feet, sometimes higher, off the ground when utilizing the tree/ladder stands.

27. That is, there are no artificial barriers such as walls or sides of an enclosure, as in a ground hunting blind, that may form blind spots or restrict a field of view. A disadvantage of the ladder and climbing stands is that the hunter is exposed and runs the risk of being seen or smelled by the hunted game as well as the risk of falling from the treestands.

28. Many hunters prefer to hunt game from the ground as they may feel more comfortable on the ground. To that end, ground blinds, for example, provide the hunter with an enclosure to remain, to a degree, hidden from game and protected from the elements (rains, wind, cold etc.).

29. Portable, collapsible ground blinds have been around for over twenty years and generally comprise a collapsible frame that supports a camouflage material to form an enclosure. An advantage of portable ground blinds is that the enclosure of the ground blind provides a comfortable and protected enclosure, which can fit chairs for sitting and room for equipment (guns, bows, cameras etc.). The ground blinds are typically sold with camouflage patterns that provide some level of concealment.

30. In 1998, Ameristep introduced its affordable ground blinds in the form of what is known as the spring steel blind. An example of such a blind is depicted below, which is figure taken from U.S. Patent No. 7,137,399, on which I am a named inventor.



31. Primal also sells the Thunderdome spring steel ground blind which is depicted below and can be viewed at [Ground Blinds | Primal Outdoors](#):



32. The spring steel ground blind includes a frame of steel spring loaded circular frame members that are interconnected to allow the frame members to fold or collapsed for carrying the blind. These frames members support a camouflage material, typically made from a nylon or polyester blend fabric having a denier rating anywhere from 210 – 600. These blinds also include windows and panels that cover the window openings when closed.

33. The hub-style ground blind was first introduced to the outdoor industry by Double Bull Archery in 1996. I personally know one of the Double Archery founders, Mr. Keith Beam, and as mentioned above, Ameristep came out with its collapsible coil spring blind in 1998.

34. Then in 2000 or 2001, Ameristep came out with its more affordable hub style blind Brickhouse; however, the introduction of the hub-style blind by Double Bull Archery in 1996 was probably the most significant advancement in ground blinds up to that time. To that end, these types of blinds provided a portable blind that was easy to set up and carry, yet the hub-style blind was large enough for one or two people to comfortably sit.

35. The hub-style blind was originally designed with bow hunters in mind. More specifically, the hub-style blind provided enough room in an enclosure for a hunter with a bow to sit and then stand, if necessary to shoot the bow. Whether sitting or standing the bow hunter needed, and needs, room to move and position the

body to aim and shoot. The hunter must fully extend one arm to present the bow for aiming (when using a compound bow), and then the other arm is used to draw the arrow for shooting.

36. The basic design and structure of the hub-style has not changed since 1996, and the hub-style blinds that Ameristep sold and that Primal currently sell include this design. In fact, this basic hub-style blind is incorporated into blinds sold today by companies like Primos, GSM (Muddy and Ameristep brands), Barronet, FeraDyne (the Rhino series of blinds), and others.

37. Below are images taken from the Primal Tree stands website, [Outlook 270 One-Way, See-Through Deluxe Blind | Primal Outdoors](#), depicting our Outlook 270 blind that includes a one-way see-through mesh material.





38. More specifically, these hub-style blinds, then and now, include a frame including bendable or flexible rods interconnected at central hubs at the sides and roof of the blind. The blinds typically included four sides and for each side there are four diagonal rods each having an end seated in a central hub. The opposite end of flexible rod is seated in a pocket (in red on our blinds) that is attached to the outer camouflage material forming the enclosure. The roof includes a similar arrangement of flexible rods and a central hub.

39. A camouflaged patterned material with the frame formed the enclosure of the blind and was typically made of a nylon or polyester blend material that ranged anywhere from a 210 denier to a 600 denier.

40. Since these blinds came out in 1996, the interior surfaces of the blind walls/sides of the non-mesh camouflage material typically were black to prevent light from entering the blind or minimize the reflection of light entering the blind through the windows to minimize the risk of game detecting or seeing an occupant in the blind.

41. A video on how to setup a hub-style blind can be found at [How To Set Up Your SurroundView – An Alternative Way \(youtube.com\)](https://www.youtube.com/watch?v=...) which shows the setup of a Double Bull Surroundview blind, and the video is dated 2018. Again, this basic design has been around since 1996.

Long-felt Need – Problems with Ground Blinds

42. An inherent problem with ground blinds in general including the hub-style ground blind since its introduction to the outdoor industry in 1996, is that the blinds included significant “blind spots” and the opened windows for viewing and shooting exposed the hunters to the sight of the wild game.

43. As noted above four sides of the blind were typically made of a nylon or polyester blend with camouflage pattern on an exterior and a black surface or

internal black coating facing the interior of the blind, and which did not allow light to pass into the blind.

44. Accordingly, ground blinds necessarily included windows that had to be opened so the hunter can see outside to see the environment and wild game. The window designs have varied over the years, but originally included large windows that spanned the width of a side of the blind, and these windows may have been included on multiple sides of the blinds. Moveable flaps of camouflage material covered the windows, to open and close the windows for viewing and shooting. Note, initially the blinds did not include any mesh material that covered window openings.

45. Upper and lower adjustable flaps covered the windows so the occupant could adjust the size of the window opening. One could create small openings to see out, but this strategy severely limited the field of view. While the blinds were well hidden given the camouflage exterior, the limited field of view was still a problem.

46. The hunters, then and now, had or have the option of opening windows on multiple sides of the blind to expand their field of view. Of course, the problem with opening windows on multiple sides of the blind, the hunter is exposed to the sight of game. A solution to the problem was to **not** open windows on multiple sides and this obviously severely limited one's viewing area.

47. The adjustable panels or flaps enabled the hunter to create much smaller openings to at least temporarily see out the blind. So, the hunter could have one window open more widely than the others with the expectation of shooting out the larger window opening while viewing through the smaller openings. In some cases, the window flaps are, or were left closed, but the hunter can, or could, move to temporarily create a small “slit” to see through.

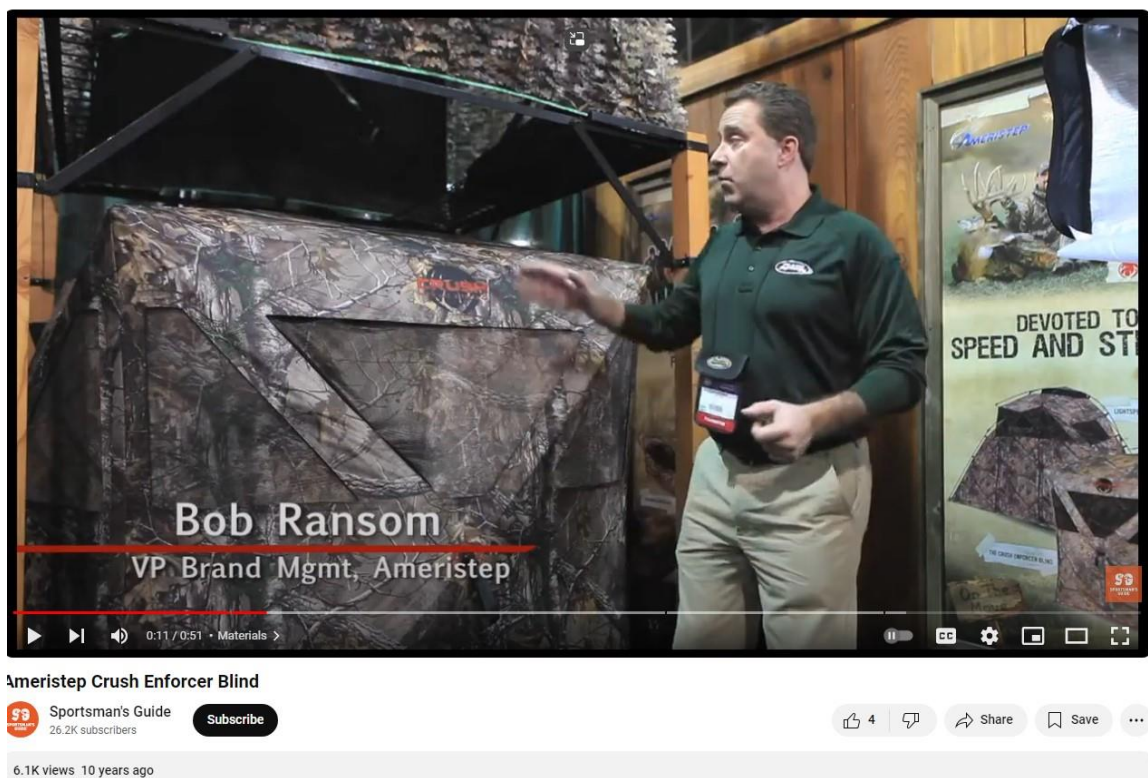
48. There are two problems with this approach: a) the hunter has to move in the blind to open the other windows, which movement can be seen through the larger window opening by the game; and, b) the small opening provides only a very limited field of view.

49. Suppliers of these blinds, including Ameristep when I was in charge of product development management and sales, have attempted to resolve these problems, by changing the size, shape, placement, and configuration of the windows; however, the problem has persisted. That is, the blinds continued to have windows on multiple sides that had to be opened simultaneously, even if temporarily, to expand a field of view. Moreover, the windows were made smaller and spaced apart creating more area of non-mesh material and thereby creating blinds spots.

50. Below are images of our hub-style blind, The Den, that has window configurations that are similar to what has been used in the past, including the time frame leading up to the year 2015:



51. You can also view a Youtube video at [Ameristep Crush Enforcer Blind \(youtube.com\)](#), which is a video from the 2014 Shot Show including my presentation of the Ameristep Crush Enforcer blind that included multiple triangular windows that are configured to fit in respective quadrants of sides of the blinds. This is another example of window designs used in hub-style blinds. The below image is taken from time interval 00:11 second of the video [Ameristep Crush Enforcer Blind \(youtube.com\)](#)



52. This particular blind, the Crush, included mesh material or a screen that covered the windows that had a camouflage pattern printed on both sides but did not include a black solid color on the inside surface. This type of material was and is referred to as a “shoot through” mesh. This is a technique that has been used to minimize the exposure of hunters at an open window. That is the mesh material is designed to hide the hunter who can see through the mesh. “Shoot through” mesh was introduced in the year 2000, as I recall.

53. These see-through mesh or screen materials have relatively large holes such that one can see into blind. So, while the hunter is partially hidden, one can see into the blind and see the hunter. Another problem associated with seeing someone

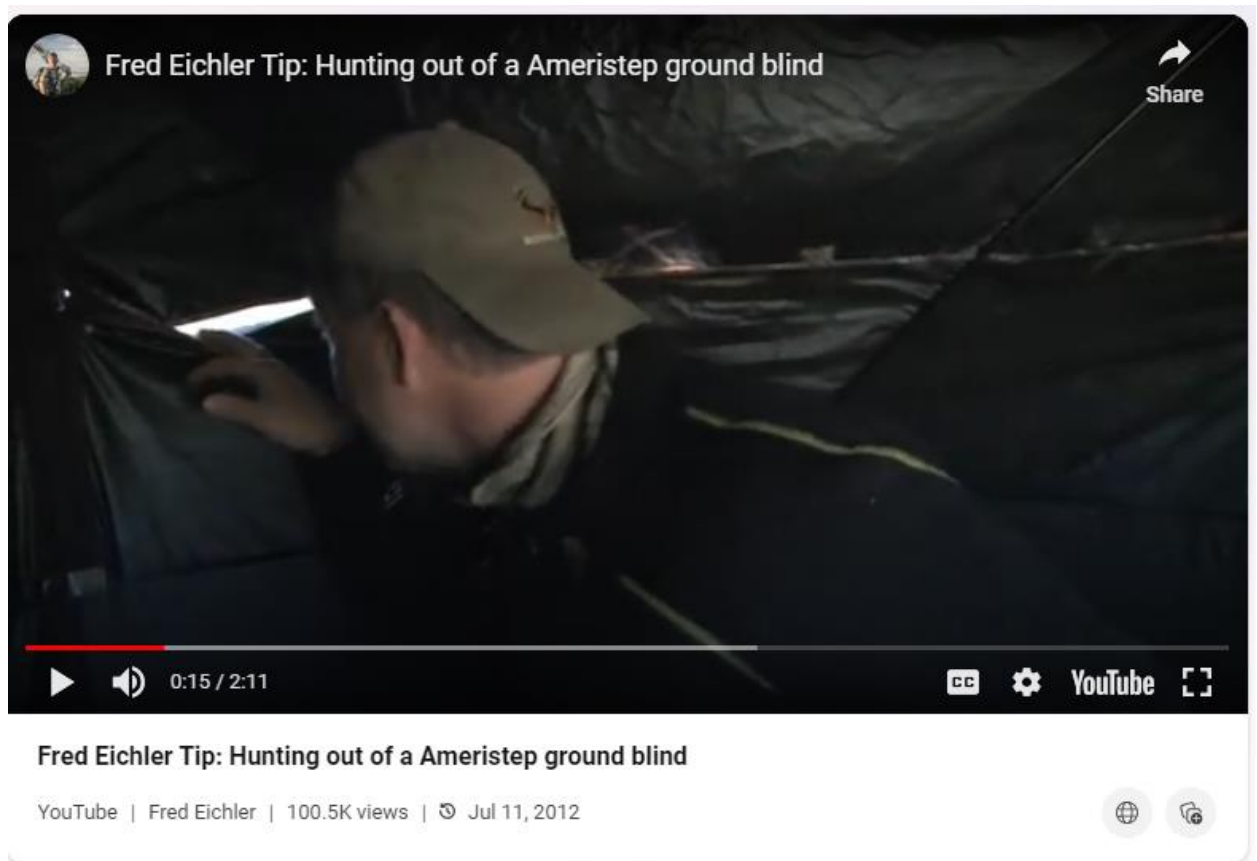
in the blind, was (and is) referred to as “silhouetting,” which can happen with the see through mesh.

54. Silhouetting is described in the Youtube video which shows the inside and of an Ameristep hub blind at [Fred Eichler Tip: Hunting out of a Ameristep ground blind \(youtube.com\)](https://www.youtube.com/watch?v=...), and the video is dated July 11, 2012. The video explains the problem with windows opened on multiple sides which may allow light into the blind creating at a minimum a silhouette of the occupant which game can see and get spooked by.

55. The below first image shows a silhouette effect in the blind having a shoot-through mesh. As shown, a window is left open behind the hunter which allows light to enter the blind creating the silhouette shown below, which was taken at time interval 1:32, one minute thirty-two seconds:



56. The below second image is from the same video (0:15 seconds) and shows the hunter creating a small slit, or opening, for temporarily viewing through. I am providing this as an example of one the Ameristep blind that included the feature of the flap on the window in an attempt to resolve blind spots. One could open the window slightly to view through it but the opening is small and restricts the field of view of the hunter:



57. Again, the inherent problem was that in order to see outside the blind the windows had to be opened and regardless of the number of windows, the occupant still had to move to see from different angles to potentially identify approaching game.

58. In addition, because the blinds have or had blind spots, which may be described as areas of the hunting blind through which the hunter cannot see through to the outside, occupants had to, and must move to adjust their view from as many angles as possible. That is, at a minimum, the hunter had to, and must, crane or pivot their neck, or lean forward and crane the neck, to expand their field of view.

59. In my opinion since as long as ground blinds have been in existence, and certainly from the introduction of the hub-style blind in 1996, there has been a long-felt need for a ground hunting blind that did not include blinds spots, or minimized the blind spots that required an occupant to move to expand a field of view. Accordingly, a need has existed for a ground blind that provided a more panoramic view for the hunter without risking the hunter being seen by moving within the blinds. Indeed, the design and development of the portable ground blinds has always revolved around minimizing the hunter's visual exposure to game while maximizing the viewing area of the hunters. However, despite this goal others have not solved the inherent problems with the ground blind.

60. Over the years since the introduction of the hub-style collapsible blind, suppliers of these blinds have not been able to, or failed to, resolve this age-old problem and long-felt need. These suppliers, including Ameristep, when I was an owner and managed the product lines for Ameristep, tried different window designs in an attempt to provide concealment options to the hunter. In addition, different

shoot-through mesh materials were provided over the windows; however, these designs never had the potential to eliminate the blind spots as the one-way see through hunting blinds introduced by RCHB and Primos. The prior ground blinds worked in terms of a hunter was able to successfully hunt game, but these above-identified problems and needs have persisted and gone unresolved.

61. Another potential solution to these problems we, at Ameristep, tried was the use of covering the windows with a net-like mesh material. The mesh material was also referred to as a “shoot-through” mesh, and was attached to the enclosure material along the edges of a window, and which is shown in the images of paragraphs 51 and 55 above; however, one could still see into the blind from outside the blind

62. Again, this shoot-through mesh did not solve the problem of exposing the hunter within the blind, nor did it eliminate the problems associated with the blind spot which require the occupant to move within the blind to improve the field of view, and which movement can be detected from outside the blind by the game. In addition, there was the above-described issue of “silhouetting” the exposed the hunter to the view of game.

63. These inherent problems and this long-felt need had gone unresolved from at least as early as 1996 until the introduction of the one-way see-through mesh by Rugged Cross and/or Primos. This one-way see-through mesh, especially when

on multiple sides of a blind provide a clear panoramic view for the occupant within the blind so the occupant of the blind may move within the blind without being seen or otherwise drawing the attention of the wild game. In particular, the occupant can spot game approaching, that the occupant may not have seen the typical ground blinds with blind spots. In as much as the occupant spots the game approaching, the occupant is also free to move within the blind to prepare for a shot.

64. To that end, the invention for a pop-up blind that includes a one-way see-through mesh that has a camouflage pattern on one side (outside surface) and a black coating on the other side (inside surface) has met the above identified needs and solved the problems associated with ground blinds, especially the hub style blinds. In fact a testament to the commercial success of this product and the fact that it has solved these long-felt needs is that all the major brands including Primos, Primal, GSM, FeraDyne and Barronett, who were all making hub-style before this technology came out, adopted this technology and are now using it in their hub-style blinds.

Licensing

65. In 2021 given the continued increase in popularity and success of the hub-style blinds with one-way see-through mesh, I made the decision that Primal develop and start selling hub-style blinds with a one-way see-through mesh. These

blinds provided the “ultimate” concealment and Primal saw a void in the market it felt it could fill.

66. At the time, the most popular brands, and only brands for that matter that included one-way see-through mesh was the Primos Double SurroundView, the GSM Muddy Outdoors brands, and the Rhino 180 blinds. Of course, Primos was the first to introduce these hub-style blinds with a one-way see-through mesh material.

67. Sometime after we introduced our first blind with a one-way see-through mesh in 2021, Chris Seaton contacted me to inform me that Rugged Cross owned patents covering hunting blinds with the one-way see-through mesh material. Rugged Cross and Chris Seaton never threatened to sue Primal for patent infringement. Primal had a patent attorney review the patent(s) in question, and Primal made the decision to accept a license offered by Rugged Cross. Primal and Rugged Cross entered into a license agreement in July 2022 and still have a license to this day.

68. I hereby declare that all statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true; and further that these statements were made with knowledge that with false statement and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false

statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'R. M. Ransom', written over a horizontal line.

ROBERT M. RANSOM

Dated: 9-5-2024