

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 SUPPORT OF PATENT
OWNER'S SUR REPLY TO PETITIONER'S REPLY**

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 am not being compensated for this declaration. I am making this declaration in support of Patent Owners' Rugged Cross Hunting Blinds ("RCHB" or "PO") sur-reply to Petitioner's, DBR's, Reply to Patent Owner's Response (Paper 28).

2. I provide this declaration to a) address the mischaracterization of my cross-examination testimony referred to in Petitioner's Reply; and b) provide opinions and statements, as a PHOSITA, as to the written description of the provisional application, 62/301,007.

3. My qualifications to testify as a PHOSITA are set forth in paragraphs 9-14 of my previous declaration. Ex. 2034: ¶¶ 2-14.

AMERISTEP PENTHOUSE TSC BLIND INSTRUCTION MANUAL

4. I have reviewed my deposition transcript and pages 28-30 of Petitioner's Reply that refers to the Ameristep Penthouse TSC blind that my company, Ameristep, sold in or around 2005. I also reviewed Exhibit 1014.

5. I take exception to the Petitioners' gross mischaracterization of my testimony and the TSC instruction manual (Ex. 1014). More specifically, the Petitioner suggests that I testified that the shoot-through mesh at the windows of the

Penthouse blind had camouflage printed on one side and had a black lining on the other side. Paper 28: p. 29.

6. That was not my testimony because the shoot-through mesh material of the Penthouse blind never had a black coating or lining on a side or inside surface. I testified that the Penthouse blind had black interior lining and that's it. I did not testify that the black interior lining was on the shoot-through mesh because it was not. Petitioner never specifically asked if black lining was on the mesh material of the Penthouse blind. *See*, 28:30; and Ex. 1022; p. 62, lines 1-24. I was asked only about a black interior lining but not if the lining was on the mesh material. *Id.*

7. Like many of the pop-up ground blinds then and now, the Penthouse blind had a black interior lining on the non-mesh walls of the blind to promote concealment of an occupant of the blind. I reference this feature in paragraph 40 of my previous declaration. Ex. 2034, 15:¶40.

8. The walls of the pop-up style ground blinds, prior to February 29, 2016k, were and now are made of a non-mesh material that had a black interior lining on the wall fabric. Many of these blinds included a mesh material (shoot-through mesh) at the windows. Ex. 2034, pp18-21; ¶¶51-57. This mesh at the windows was a very light weight fabric with a camouflage pattern on both sides, but the mesh never had a black coating or lining on an internal side. If the lining used for the

walls was applied to the mesh, assuming that could be done, one could not see through the mesh at the windows.

9. The ShadowGuard lining referred to in Exhibit 1014 is a reference to the black lining on the walls of the blind, but this black interior lining was not on the mesh material. (Ex. 1014: 5)

10. The windows of the Ameristep Penthouse TSC blind included a “shoot-through” mesh fabric facing an exterior of the blind and a cellophane membrane facing an interior of the blind. Ex. 1014, p. 5; Ex. 1022: p. 51, line 8 - p. 52, line 4. The cellophane membrane was provided for scent containment. *Id.* However, Ameristep took the blind off the market because it did not work for its intended purpose. *Id.* The cellophane membrane reflected light and gave away the location of the blind and the see-through clarity was not acceptable. Ex. 1022: p. 51, line 8 - p. 52, line 4; p. 71, lines 9-19.

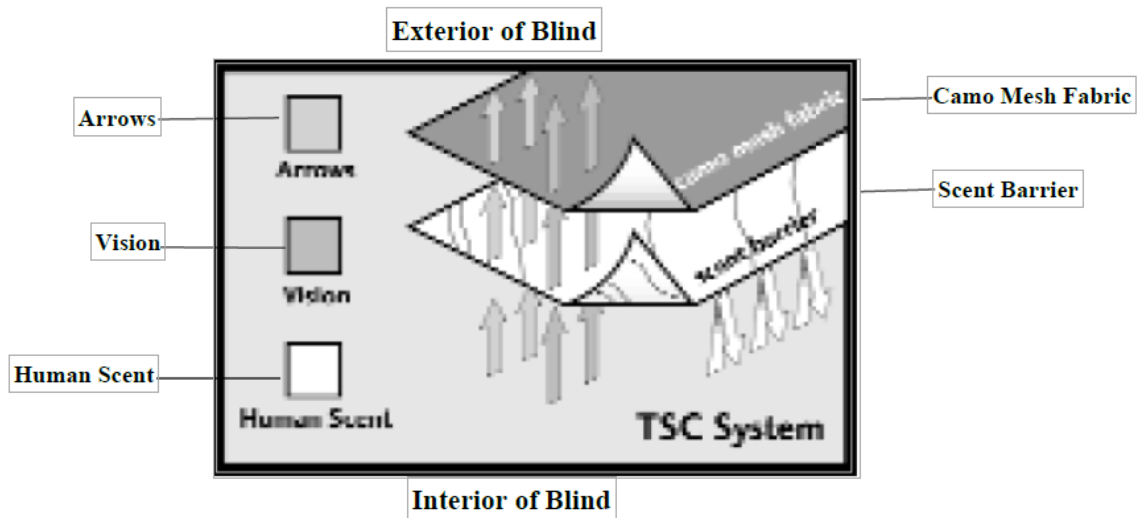
11. The images on pages 29 and 30 of the Reply, taken from Exhibit 1014, include annotations that were not in that document when it was presented to me during my cross-examination. The annotations with respect to FIG. C on page 30 of the Reply are incorrect and not an accurate representation of the disclosure of that document (Exhibit 1014).

12. In fact, I was never asked about the image of FIG C (the schematic representation of the TSC system), or the photograph above the schematic illustration.

13. The FIG. C image of page 30 of the Reply includes the annotation “Black interior lining on second side of mesh fabric” to identify a surface of a camouflage mesh fabric. Paper 28; p. 30. This annotation suggests that a mesh fabric has a black interior lining. However, as I explained above the shoot-through mesh of this blind did not have a black lining, and that is not what Exhibit 1014 discloses.

14. The FIG. C of Petitioners Reply is a partial schematic representation of the TSC (Total Scent Containment) system at a window of a hunting blind. Ex. 1014: p. 5. On page 30 of the Reply, Petitioner references a gray colored “sheet” as “Black interior lining on second side of mesh fabric”. However, the gray colored sheet is labeled “camo mesh fabric” and the color gray does not represent a black lining “interior lining on second side of mesh fabric.”

15. The below annotated image accurately represents the schematic drawing of Ex. 1014.



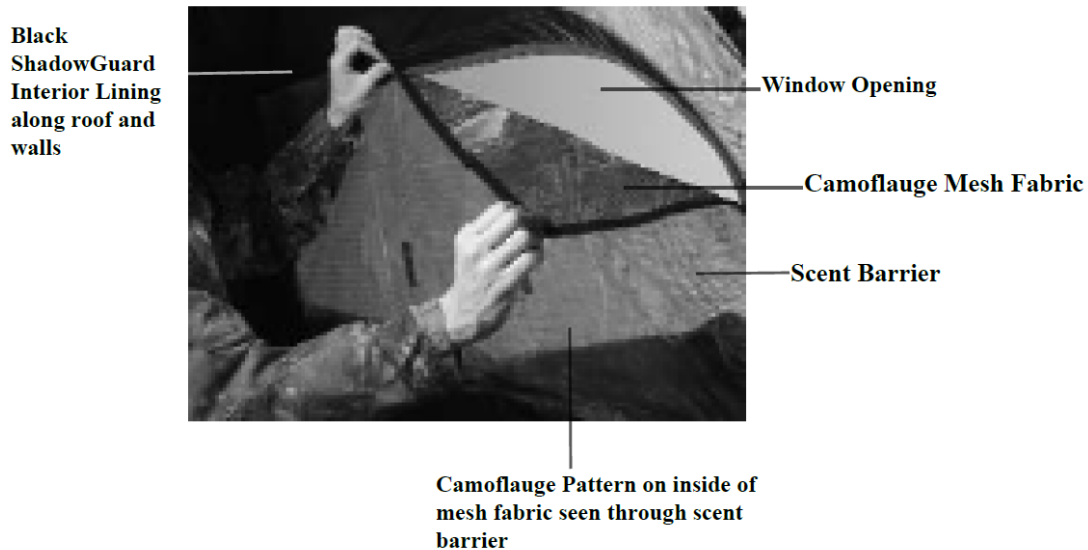
16. As shown above, the gray colored sheet represents the shoot-through mesh at a window facing an exterior of the blind and is labeled “camo mesh fabric.” The lower white sheet is labeled “scent barrier,” which is the cellophane (Saran wrap) membrane that faced an interior of the blind.

17. The color legend to the left of these two sheets identifies the arrows shown in the schematic representation of the TSC. The gray colored arrows represent 1) the direction of travel of arrows through the shoot-through mesh and 2) the line of vision of someone inside blind. As shown, the gray arrows representing direction of travel of arrows and a line of vision originate from an interior of a blind and pass through the membrane and mesh fabric to an exterior of the blind.

18. The white arrows represent the “human scent” containment which shows scent directed toward the interior of the blind. The camouflage mesh fabric is facing an exterior of the blind and the “scent barrier” is facing an interior of the

blind. More importantly, as I stated above, the shoot-through mesh did not include a black lining on either side and included only a camouflage pattern; therefore, this image does not reference a black lining on the TSC system, because a black lining was not on the mesh. The black ShadowGuard lining was along the non-mesh walls.

19. My interpretation of the TSC system schematic is consistent with the below photograph, which has been annotated, taken from page 5 of Exhibit 1014 and is above the TSC schematic. The below image shows a TSC system (window covering) installed over a window opening of the Penthouse blind.



20. The TSC system shown in the photograph includes a shoot-through mesh and the transparent scent barrier is attached to the shoot-through mesh, which had a camouflage pattern on both sides. The camouflage pattern can be seen through the scent barrier. The mesh does not have a black lining. The individual in the photo has folded a corner of the TSC system back to show the camouflage pattern of the

mesh material, which can be seen through the scent barrier. The TSC system, as taught in this document, is fixed at the window opening using Velcro (hook & loop).

21. If the ShadowGuard lining was on the mesh fabric one could not see outside the blind through the window. The ShadowGuard lining is shown in the photograph on the non-mesh walls/roof. This lining was an extruded lining applied to a non-mesh fabric used for the walls of the blind. The black lining consisted of a black PVC (polyvinyl chloride) that seemed to have the consistency of tar when applied to non-mesh fabric. The non-mesh fabric with the PVC substance was then baked to dry the PVC and fix the lining to the non-mesh fabric.

**PROVISIONAL APPLICATION DESCRIBES A POP-UP FRAME
WITH FLEXIBLE AND FOLDABLE FRAME MEMBERS**

22. I have also reviewed the specification of the provisional patent application, U.S. Provisional 62/301,007, which has a filing date of February 29, 2016. Ex. 1016. In addition, I have reviewed the claims of the '535 Patent which include the limitations of a pop-frame including flexible frame members that are spaced apart along the sides and roof of the blind.

23. My understanding is that Petitioner has taken the position that the specification does not provide a written description of the claimed invention. More specifically, the Petitioner argues that by referring to a pop-up frame in paragraph 32 of the specification as having foldable frame members, there is not a description

of a frame having flexible frame members that are along the sides and roof of the frame or camouflage structure.

24. Based on discussions with PO counsel I understand that written description is a statutory requirement set forth in *35 U.S.C. § 112. Section 112* provides, in relevant part, that:

The specification *shall contain a written description of the invention*, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same . . .

25. Again, based on discussions with PO counsel, it is my understanding that the test for the written description requirement is whether the disclosure relied upon reasonably conveys to those skilled in the art that the inventor had possession of the claimed subject matter as of the filing date. This test requires an objective inquiry into the four corners of the specification from the perspective of a person of ordinary skill in the art

26. It is also my understanding that the PO may rely on information that is or was "well-known in the art" to satisfy the written description; and, that the written description does not need to re-describe known prior art.

27. For as long as I can remember, the term “pop-up” blind was and is used to refer to hunting blinds that included flexible frame members to which a camouflage material was attached for concealing an occupant of the blind. The flexible frame members were foldable relative to one another to collapse the blind for storage or carrying, and to deploy the blind for use in the field.

28. As explained in my previous declaration, paragraphs 4 and 29-41, there were and are two types of pop-up blinds including the spring steel blinds and the hub-style blinds and that I am familiar with. Ex. 2034; ¶4 and ¶¶ 29-41. Indeed, the term “pop-up” blinds was and is used interchangeably with “hub-style” blinds.

29. As I previously testified in paragraph 38 of my declaration, 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. Ex. 2034; ¶ 38. The blinds typically included four sides and for each side there are four diagonal rods each having an end seated in a central hub. *Id.* The opposite ends of flexible rods were and are typically seated in a pocket (in red on our blinds) that is attached to the outer camouflage material forming the enclosure. *Id.* The roof includes a similar arrangement of flexible rods and a central hub. *Id.* Of course, the flexible frame members along the sides and roof were spaced apart and foldable to collapse and deploy the blind.

30. The configuration of these blinds has not substantively changed since their introduction into the market in 1996. An example of such a pop-up frame can also be seen in U.S. Patent No. 7,565,909 (Reis) (Ex. 2036-M) and U.S. Pub. No. 2008/0083443 (Eastman) (Ex. 2036-N) both of which disclose hub-style (pop-up) blinds including a frame composed of flexible frame members along sides and a roof, and the frame members are spaced relative to one another. Reis was published September 21, 2006, and issued on July 28, 2009; and, Eastman was published April 10, 2008.

31. Both Reis and Eastman disclose hub-style frames for portable enclosures (ground hunting blinds). Indeed, Reis and Eastman disclose a hub-style frame 70 that includes sub-frames 72 forming sides and the roof of the frame. Ex. 2036-M, Fig. 5; Ex. 2036-N, Fig. 2. Each sub-frame 72 includes four poles 76 which are described as flexible and, as shown, are spaced apart along the sides and roof and connected to a central hub 74. Ex. 2036-M, 7:37-45, 8:9-21; Ex. 2036-N, ¶¶0050, 0054.

32. In addition, both Reis and Eastman refer to the sub-frame 72 in an **“unfolded”** and open position in reference to FIG. 2 (Eastman) and FIG. 5 (Reis). (Ex. 2036-M, 8:22-28; Eastman, ¶ 0055). Accordingly, a PHOSITA, as of February 29, 2016, would have understand that the term “foldable” when used describe frame

members of a “pop-up” blind necessarily included a frame with flexible frame members which are foldable relative to one another to collapse and deploy the blind.

33. Exhibit 1014 including the Ameristep Penthouse blind is an example of a pop-blind of the steel spring variety. I am familiar with these types of blinds because my company, Ameristep introduce several such blinds during my tenure there. In addition, my company Primal Treestands sells such blinds. I am also a named inventor on U.S. Patent No. 7,137,399 which discloses a steel spring blind.

34. The term pop-up is a reference to the deployment of the blind in which the different frames are unfolded by pulling on straps that are on the outer covering and are adjacent the hubs. Given the flexible nature of the blinds when the straps are pulled the frame of the blind “pops-up” into a deployed position for use. I refer to this characteristic in paragraph 41 of my declaration in reference to a video on how to setup a hub-style blind [How To Set Up Your SurroundView – An Alternative Way - YouTube](#) which shows the set-up of a Double Bull Surroundview blind. Ex. 2034: ¶ 41. Again, this basic design has been around since 1996.

35. As of February 29, 2016, the filing date of the provisional application, and to this day the term “pop-up” was and is used to refer to the above-referenced hub-style blinds as those terms were used interchangeably. Indeed, pop-up blinds, including hub-style blinds, were well known to a PHOSITA as of that date, to include a frame having flexible frame members that are spaced apart along the sides

and the roof of the blind or camouflage structure. In addition, it was well known to a PHOSITA as of the filing date that the flexible frame members of a pop-frame were not only foldable but also flexible.

36. In my opinion, the written description reasonably conveys to a PHOSITA that the inventors had possession of the claimed subject matter as of the filing date of the provisional application, February 29, 2016. More specifically, a PHOSITA would understand that the reference to a pop-up frame in paragraph 32 of the specification included a reference to hub-style blinds and/or spring steel blinds which were widely sold and used as of the filing date.

37. Indeed, as a PHOSITA when I read the specification for the provisional application and in particular paragraph 32, I understood the reference to a “pop-up” as including hub-style frames and/or spring steel frames which were well known at the time.

38. To that end, a PHOSITA would understand that the term “pop-up” frame as used in the specification of the provisional application necessarily included a frame having flexible frame members along the sides of the blind or frame that were spaced apart, and flexible frame members along the roof of the frame that were spaced apart. A PHOSITA in the art would also appreciate the flexible frame member and hub connections allowed one to fold and unfold the frame members

relative to one another to collapse the frame/blind or deploy the frame/blind.

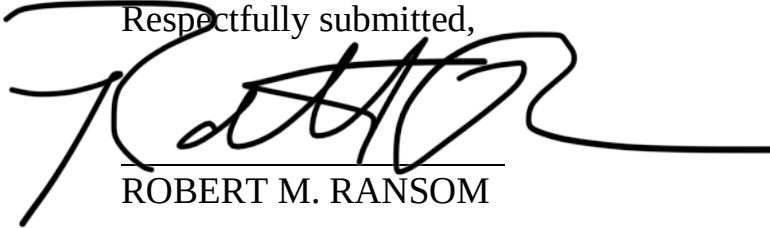
39. I understand that the specification does not include a drawing of a pop-up blind, however, the pop-up blinds were so popular and prevalent as of the filing date, a PHOSITA would understand what is being referred to in the written description and it was not necessary to include a drawing or further description to meet the written description requirement.

40. In summary, it is my opinion the specification of the provisional application reasonably conveys to a PHOSITA that the inventors had possession of the claimed subject matter as of the filing date of the provisional application, February 29, 2016. The claimed subject matter in question includes a camouflage structure comprising a pop frame including flexible frame members that are spaced apart along a side and a roof of the camouflage structure.

41. 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,



Handwritten signature of Robert M. Ransom, consisting of a large, stylized 'R' followed by a series of loops and a horizontal line extending to the right.

ROBERT M. RANSOM

1-23-25
Date