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11 With-U E-Commerce (Shanghai) Co., Ltd.

12 **UNITED STATES DISTRICT COURT**
13 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

14 WITH-U E-COMMERCE (SHANGHAI)) Civil Case No.: 5:22-cv-1256
15 CO., LTD., a China limited corporation,)

16 Plaintiff,)

17 v.)

18 INTERNATIONAL E-Z UP, INC., a)
19 California corporation; and, DOES 1-10,)

20 Defendants.)

COMPLAINT FOR:

**(I) PATENT INFRINGEMENT OF
U.S. PATENT NO. 10,669,738**

JURY TRIAL DEMANDED

21 Plaintiff With-U E-Commerce (Shanghai) Co., Ltd. (“With-U” or “Plaintiff”) hereby
22 files this Complaint against Defendant International E-Z UP, Inc. and DOES 1-10. Plaintiff
23 alleges the follows:

THE PARTIES

24 1. Plaintiff With-U E-Commerce (Shanghai) Co., Ltd. is a China limited
25 corporation, having an address at RM 214B, No. 358 Building, No. 3663 N. Zhongshan Rd.,
26 Putuo District, Shanghai, China.

27 2. Plaintiff is informed and thereon alleges that Defendant International E-Z Up,
28 Inc. (“E-Z Up” or “Defendant”) is a corporation organized and existing under the laws of the

1 state of California with a principal place of business at 1900 Second Street, Norco, CA
2 92860. On information and belief, service of process is proper on E-Z UP on its registered
3 agent for service of process, Paracorp, Inc. at 2804 Gateway Oaks Dr., #100, Sacramento,
4 CA 95833.

5 3. Plaintiff is presently unaware of the true names of the Defendants identified in
6 the Complaint under the fictitious names DOES 1-10. On information and belief, DOES 1-
7 10 are infringing, engaging in contributory infringement, or inducing to infringe U.S. Pat.
8 No. 10,669,738. Plaintiff will amend its Complaint to identify the names of the DOE
9 Defendants as they are discovered.

10 **JURISDICTION AND VENUE**

11 4. This action arises under the patent laws of the United States, 35 U.S.C. § 1 *et*
12 *seq.*, and seeks damages and injunctive relief pursuant to 35 U.S.C. §§ 271, 281, and 283-
13 285.

14 5. This Court has subject matter jurisdiction over the action pursuant to 28 U.S.C.
15 §§1331 and 1338(a) because the actions below concern a federal question arising under the
16 laws of the United States, including 35 U.S.C. § 271.

17 6. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b), (c) and
18 1400 (b) because, among other reasons, E-Z UP's principal place of business is in this
19 district and it has a continuous, systematic and substantial presence in this District.
20 Defendant is also subject to jurisdiction in this judicial district because Defendant has
21 committed acts of infringement in this judicial district and a substantial part of the events
22 giving rise to the claims occurred, and continue to occur, in this judicial District.

23 **FACTUAL BACKGROUND**

24 7. With-U owns and operates the brand Crown Shades¹ (collectively "With-U" or
25 "Plaintiff"), which sells versions of a patented, collapsible canopy ("the Crown Shades
26 Canopy") shown below:

27 _____
28 ¹ With-U E-Commerce (Shanghai) Co., Ltd. is the owner of US Trademark Reg. No. 5,465,531 for CROWN SHADES in connection with, *inter alia*, canopies.

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With-U has been selling the Crown Shades Canopy throughout the United States on www.crown-shades.com and through various retail stores throughout the United States. The patented Crown Shades Canopy is a sought after product because it has a sturdy frame that is controlled by a “central lock” so that a single user to simply takedown (collapse) the canopy by disconnecting the lock’s center pole:



1 8. On June 2, 2020, the PTO issued U.S. Pat. No. 10,669,738 (“the ‘738 Patent”),
2 entitled *Collapsible Canopy Frame Having a Central Lock* (attached herein as Exhibit A is
3 U.S. Pat. No. 10,669,738). Shengyong (“Simon”) Yang and Jing Bian are the inventors of
4 the ‘738 patent and they properly executed an assignment of the Asserted Patents to With-U.
5 Accordingly, Plaintiff is the owner of the ‘738 Patent with the entire right, title, and interest
6 in the intellectual property.

7 9. Upon information and belief, E-Z UP owns and operates the website
8 www.ezup.com². E-Z UP made, used, sold, offered for sale, and imported pop-up canopies
9 that infringe the ‘738 Patent. Specifically, E-Z UP makes, uses, sells, offers for sale, and
10 imports several versions of the Patriot™ ONE-UP™ Vented and Non-Vented Shelters
11 (“Accused Products”) (attached herein as Exhibit C are photographs of the Accused
12 Products). E-Z UP sells the Accused Products on its website and, on information and belief,
13 through Amazon® (www.amazon.com).

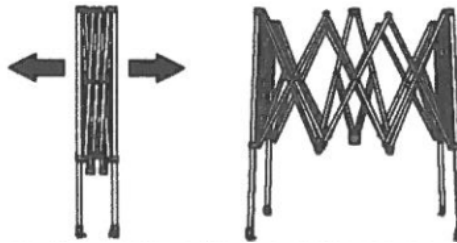
14 10. The Accused Products operating manual (attached herein as Exhibit B)
15 illustrates a collapsible canopy that reads on at least Claim 1 of the ‘738 Patent:



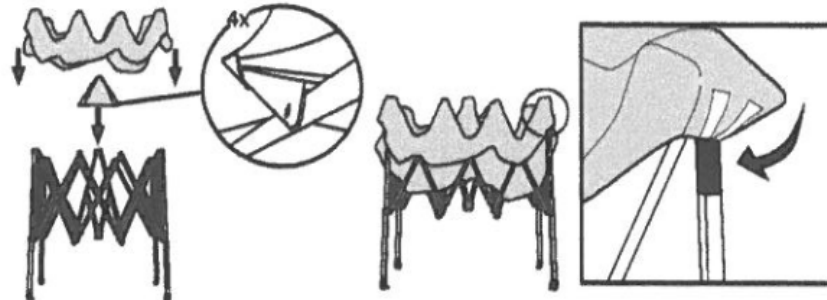
23
24 See Ex. B, p. 2. As taught in the instruction manual, the Accused Products can be popped up
25 via:

26
27 ² E-Z UP is identified as the owner of Trademark Reg. No. 5,011,283 for a logo that is
28 prominently displayed at ezup.com. E-Z UP’s warehouse address on its website is 1900
Second St. Norco, CA 92860, which is the same address as the principal place of business for
E-Z UP.

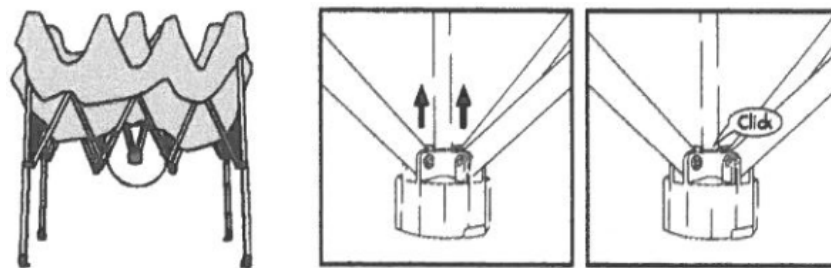
1 (1) “partially pull[ing] the shelter frame apart”



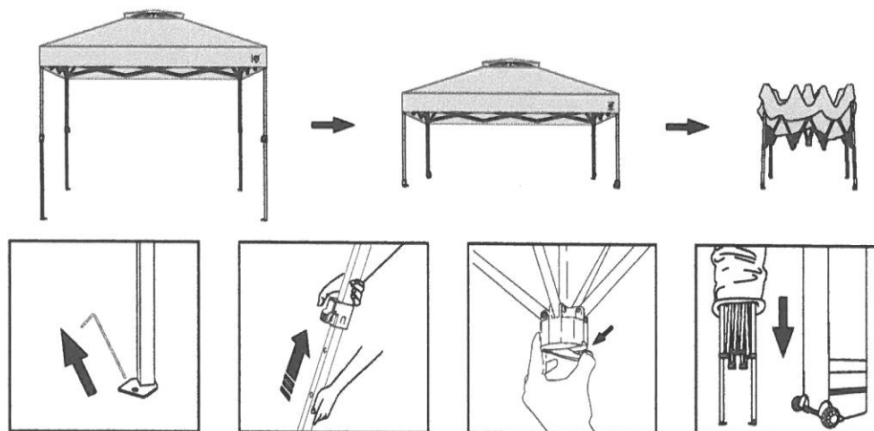
6 (2) “unfold[ing] the fabric top and plac[ing it] on the frame”



12 and, (3) “us[ing] one hand to push the ONE-UP™ hub straight up until it clicks into
13 the pole”



18 *Id.* The operating manual teaches that the Accused Products are taken down by, among other
19 acts, “[p]osition[ing] yourself underneath the shelter [and] pull[ing] the tab on the ONE-UP™
20 hub to unlock the frame”:



Id. at p. 2.

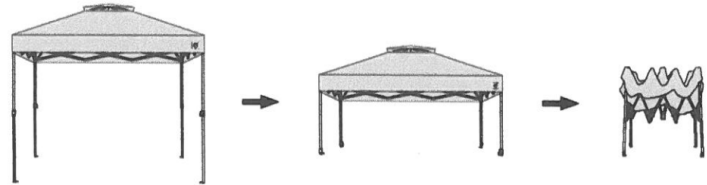
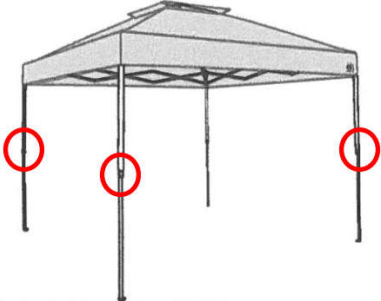

FIRST CAUSE OF ACTION

(Patent Infringement of U.S. Pat. No. 10,669,738)

11. Paragraphs 1–10 are hereby incorporated by reference.

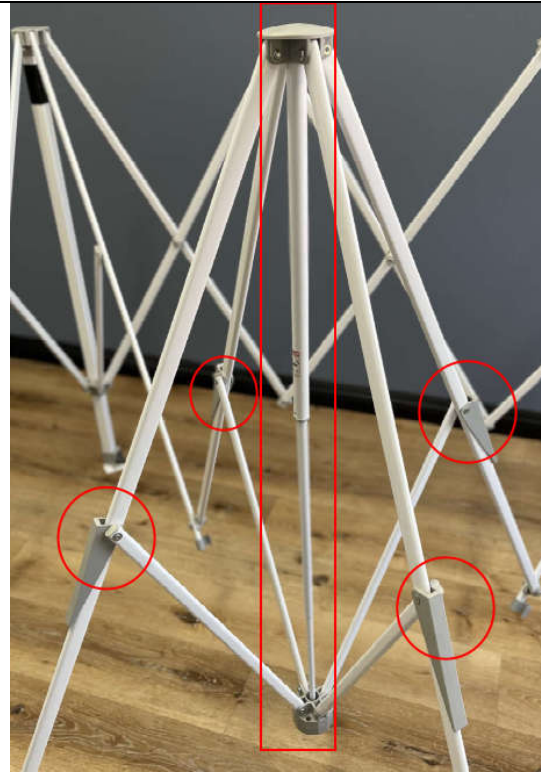
12. With-U has full rights to sue and recover damages and other relief for infringement of the ‘738 Patent. Pursuant to 35 U.S.C. §271, E-Z UP has directly or indirectly infringed at least Claim 1 of the ’738 Patent, literally and/or under the doctrine of equivalents by and through making, using, selling and/or importing the Accused Product in the United States. Additionally, E-Z UP instructs its customers to directly infringe the ‘738 Patent.

13. The Accused Products infringe each and every element of at least Claim 1 of the ‘738 Patent as follows:

<u>Claim 1</u>	<u>Basis of infringement</u>
A collapsible canopy frame comprising:	 <p>See Ex. B, p. 3.</p>
A. at least three supporting legs,	 <p>See Ex. B, p. 2.</p>
B. a plurality of outer retractable units connected between every two adjacent supporting legs, each said outer retractable unit comprises a plurality of hinged X-shaped rod members, each X-shaped rod member comprises a first eave pipe and a second eave pipe hinged to one another and	 <p>See <i>Id.</i>; see also Ex. C, p. 7</p>

C. a plurality of inner retractable units comprising connected to each supporting leg, each inner retractable unit connected to a supporting leg, wherein said outer retractable units and said inner retractable units form a roof frame for said collapsible canopy, and

D. a center lock, wherein said plurality of inner retractable units are connected through said center lock,



See Ex. C, p. 13.

said central lock comprising:

i. a center top cap,

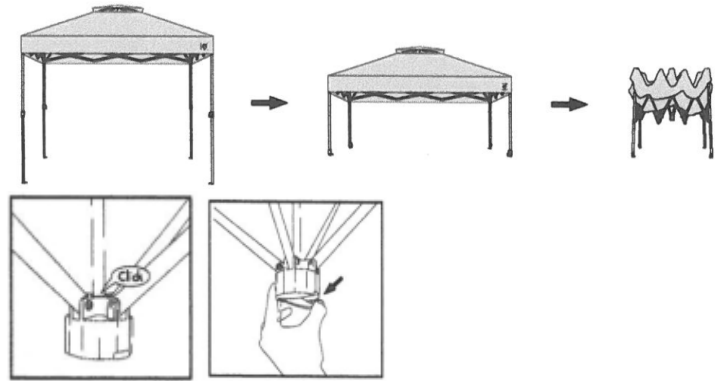
ii. a center bottom cap;

iii. a center pole positioned between said center bottom cap, wherein said central lock is locked when said center pole is connected to both said center top cap and said center bottom cap, and wherein said central lock is unlocked when there is a disconnection between said center bottom cap and said center pole,



See Ex. C, p. 2-3.

1 wherein said central lock locks
2 said collapsible canopy frame in
3 an unfolded state when said
4 central lock is locked and permits
5 said collapsible canopy frame to
6 be folded into a folded state when
7 said central lock is unlocked,
8 wherein said inner ends of said
9 inner retractable units are
10 connected through said central
11 lock.



See Ex. B, p. 2-3.

12 14. On information and belief, Defendant knew about the '738 Patent at the time
13 they willfully engaged in its infringing activities. Defendant's infringement of the '738
14 Patent has been without permission, consent, authorization, or license of Plaintiff. Therefore,
15 Defendant's actions constitute willful and intentional infringement of the '738 Patent.

16 15. As a direct and proximate result of Defendant's infringement of the '738 Patent,
17 Plaintiff has been damaged and is entitled to recover damages adequate to compensate it for
18 the infringement.

19 16. As a direct and proximate result of Defendant's infringement of the '738 Patent,
20 Defendant has derived and received gains, profits and advantages in an amount currently
21 unknown to Plaintiff. Plaintiff seeks its lost profits and/or no less than a reasonable royalty in
22 connection with all sales of the Accused Products.

23 17. Defendant has caused Plaintiff substantial damages and irreparable injury by
24 their infringement of the '738 Patent, and Plaintiff will continue to suffer damage and
25 irreparable injury unless and until the infringement by Defendant is enjoined by the Court.

26 18. On information and belief, pursuant to 35 U.S.C. § 271(b), Defendant has
27 induced the infringement of the '738 Patent by actively and knowingly encouraging and
28 assisting its customers to infringe the '738 Patent through the sale of its Accused Products.

19. Pursuant to 35 U.S.C. § 284, Plaintiff is entitled to damages for Defendant's
infringing acts and treble damages together with interest and costs as fixed by this Court.

1 20. Pursuant to 35 U.S.C. § 285, because of the exceptional nature of this case,
2 Plaintiff is entitled to its reasonable attorneys' fees for the necessity of bringing this claim.

3 **JURY DEMAND**

4 Plaintiff hereby demands a trial by jury on all issues so triable.

5 **PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiff respectfully requests that judgment be entered in favor of
7 Plaintiff and against Defendant and further prays that the Court grant the following relief to
8 Plaintiff:

- 9 a. A judgment that Defendant has infringed the '738 Patent;
- 10 b. A judgment that Defendant willfully infringed the '738 Patent;
- 11 c. An award to Plaintiff of its lost profits or a reasonable royalty for E-Z UP's
12 sales of the Accused Products;
- 13 d. Entry of a preliminary and a permanent injunction pursuant to 35 U.S.C. § 283
14 enjoining E-Z UP, as well as its officers, directors, servants, consultants, managers,
15 employees, agents, attorneys, successors, assigns, affiliates, subsidiaries, and all persons in
16 active concert or participation with any of them, from infringement of the '738 Patent,
17 including but not limited to making, using, offering to sell, selling, or importing any products
18 in the United States that infringe the '738 Patent;
- 19 e. An order for a trebling of damages and/or enhanced damages due to
20 Defendant's willful infringement under 35 U.S.C. § 284;
- 21 f. A declaration that this case is exceptional under 35 U.S.C. § 285, and an award
22 of Plaintiff's reasonable attorneys' fees under that statute and as may be permitted by other
23 statutes;
- 24 g. An award of pre-judgment and post-judgment interest and costs of this action
25 against E-Z UP; and,
- 26 h. For such other and further relief as the Court may deem just and proper.
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Dated: July 18, 2022

Respectfully Submitted,

BUCHE & ASSOCIATES, P.C.

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