

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

CHRISHA CREATIONS, LTD.,

Plaintiff,

v.

DOLGENCORP, INC., DOLLAR GENERAL
CORPORATION, AND FAMILY DOLLAR
STORES, INC.,

Defendants.

Civil Action No. 08-CV-1065 (MGC)

**PRELIMINARY INVALIDITY
CONTENTIONS**

DEFENDANTS PRELIMINARY INVALIDITY CONTENTIONS

Pursuant to the Parties' agreement made in Court on June 18, 2009, the Defendants provide the following Invalidity Contentions to Plaintiff regarding U.S. Patent Nos. 7,216,446 and 7,302,769 ("Patents In Suit").

Defendants make these disclosures based on their current knowledge, recognizing that investigations are continuing, discovery is continuing, no claims have been construed by the Court, the Plaintiff's allegations made in its Complaint are overly broad, vague and conclusory, and, Plaintiff has not provided its infringement contentions nor has it identified any accused products nor identified which claims in the asserted patents are being infringed.

These contentions should not be used as an indication of Defendants position concerning proper construction of any claim term. Defendants reserve the right to update or modify these contentions as a result of any construction of claim terms by the Court.

Defendants make these disclosures based on the assumption that the asserted claims will be reasonably construed. Defendants reserve the right to amend and supplement this production

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to the full extent and in view of any further discovery or re-evaluation of prior art, fact or expert discovery, evaluation of the scope and content of the prior art, any claim construction and the contentions of Plaintiff during the litigation. These contentions are provided without prejudice to the rights of Defendants to introduce at trial any subsequently discovered evidence or expert opinions relating to currently known facts and to produce and introduce at trial all evidence, whenever discovered, relating to the proof of subsequently discovered or newly understood facts. Defendants reserve the right to conduct further discovery with reference to, or offer into evidence at the time of trial, all facts, expert opinion testimony, documents and things notwithstanding these contentions.

These contentions are provided without waiving the right to object to the use of any statement for any purpose, in this action or any other, on the grounds of privilege, relevance, materiality or any other appropriate grounds; the right to object to any request involving or relating to the subject matter of the statements herein; or the right to revise, correct, supplement or clarify any of the statements herein at any time.

I. IDENTIFICATION OF PRIOR ART REFERENCES FOR THE PATENTS IN SUIT

Defendants incorporate in full all prior art references cited in the Patents in Suit and in their prosecution histories, and any related patents and applications, whether filed in the United States or a foreign country.

Defendants contend that certain references anticipate certain claims of the Patents in Suit, combinations of these references render the Patents in Suit obvious, certain references provide motivation to practice the claimed subject matter and provide the state of the art regarding the claimed subject matter as of February 27, 2004 or November 23, 2004.

The following references were available as prior art as of February 27, 2004 or November 23, 2004.

For U.S. 7,302,769:

U.S. Patent No. 5,125,177 to Colting

U.S. Patent No. 6,764,201 to Chi-Cheng

U.S. Patent No. 6,644,843 to Chin-Cheng

For U.S. 7,216,446:

U.S. Patent No. 6,447,361 to Akiyama

U.S. Patent No. 4,271,620 to Vicino

U.S. Patent No. 6,644,843 to Chin-Cheng

U.S. Patent No. 5,088,952 to Goldblatt

**Claim Chart of Invalidity Contentions Under 35 U.S.C. §§101, 102, 103 and 112 for U.S.
Patent No. 7,302,769**

U.S. Patent No. 7,302,769 to Machala	U.S. Patent No. 5,125,177 to Colting	U.S. Patent No. 6,764,201 to Chi-Cheng	U.S. Patent No. 6,644,843 to Chin-Cheng
<p>1. A cold-air inflatable display comprising:</p> <p>a permeable fabric forming an inflatable figure with a hollow body;</p> <p>an interchangeable fan assembly for continuously-blowing air into said hollow body, said fan assembly comprising:</p> <p>at least one fan,</p> <p>a housing for said fan secured to a piece of fabric having</p> <p>a male securing device disposed along a border of said standard-sized fabric for receipt by</p> <p>a female securing device disposed along a border of a receiving opening joining said fan assembly to said permeable fabric through said receiving opening positioned on said hollow body above a surface-touching bottom to allow optimum airflow through said fan into said hollow body;</p> <p>a lighting arrangement extending through an interior portion of said hollow body, comprising:</p> <p>a power cord,</p> <p>at least one light fixture, including a light bulb with a protective cover, secured to said power cord and</p> <p>an electrical connector disposed at an end of said power cord mating with a</p>	<p>Inflatable device (col. 1, lines 27 and 60-64).</p> <p>"pliable shell contoured to a desired shape when inflated" (col. 1, lines 16-18).</p> <p>Interchangeable fan assembly (Figs. 1 and 2).</p> <p>Blower (col. 2, lines 24-25).</p> <p>Fan is attached to housing which is in turn zipped interchangeably into the inflatable device (Figure 2).</p> <p>Zipper (col. 3, line 12).</p> <p>Zipper surrounding the Blower opening (col. 2, lines 26-28).</p> <p>Position of blower in use is above a surface touching bottom (Figs. 1 and 2).</p> <p>Position of blower in use is above a surface touching bottom (Figs. 1 and 2).</p> <p>Position of blower in use is</p>	<p>Inflatable figure assembly (Abstract).</p> <p>Permeable fabrics such as Nylon (col. 1, lines 44-45).</p> <p>Interchangeable fan assembly with zippers (col. 2, lines 10-28) provides continuous airflow (col. 3, lines 14-15).</p> <p>Base unit with continuously operating fan (Abstract).</p> <p>Fan has housing (Figs. 3 and 4)</p> <p>"fabric ring" (col. 3, Lines 53-55).</p> <p>"First and second cooperating zipper portions" are present on the fabric ring and the figure body (col. 2, lines 10-20). Zippers inherently possess male and female securing devices.</p> <p>Power cord connected to Lighting (Fig. 2, col. 18-19; Fig. 5).</p> <p>Internal lighting is optionally provided (Abstract).</p> <p>Bulb unit has cover that can be used to "prevent direct contact between an incandescent bulb and</p>	<p>Air-filled displays and inflatable figure assembly (col. 1, lines 5-37).</p> <p>"soft, permeable fabric" (col. 1, line 27; col. 2, lines 5-6).</p> <p>Lighting system inside inflatable device (col. 1, lines 24-27).</p> <p>Power cord (col. 2, line 21).</p> <p>Light fixtures having light bulbs (col. 2, line 22) that can be covered (col. 2, lines 23-31; Fig. 4).</p> <p>Lighting system comprises a power cord extending to the fan (col. 3, lines 6-8).</p>

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