Filed on behalf of Bedgear, LLC

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FREDMAN BROS. FURNITURE COMPANY, INC.,
Petitioner

v.

BEDGEAR, LLC
Patent Owner

Case IPR2017-00351
U.S. Patent No. 9,015,883

PATENT OWNER'S OBSERVATIONS ON CROSS-EXAMINATION OF PETITIONER'S REPLY WITNESS JENNIFER FRANK RHODES

LIST OF EXHIBITS

Exhibit No.	Exhibit Description
2001	Declaration of Dr. Radhakrishnaiah Parachuru in Support of Patent Owner
2002	CV of Dr. R. Parachuru
2003	K. Bilisik et al., "3D Fabrics for Technical Textile Applications", *Non-woven Fabrics*, Chapter 4 ("3-D Fabrics")
2004	Declaration of Dr. Radhakrishnaiah Parachuru in Support of Patent Owner Response ("Parachuru")
2005	P.G. Tortora and I. Johnson, "The Fairchild Books Dictionary of Textiles", 8th Edition, Bloomsbury Publishing Inc., 2014 ("Dictionary of Textiles")
2006	ASTM D 737 : Standard Test Methods for Air Permeability of Textile Fabrics ("ASTM")
2007	J. Hu, "3-D fibrous assemblies - Properties, applications and modeling of three-dimensional textile structures", Woodhead Publishing Limited, 2008 ("3-D Fibrous Assemblies")
2008	The Reiter Manual of Spinning, Volume 1: The Technology of Short Staple Spinning ("Manual of Spinning")
2009	S.J. Kadolph, "Textiles", 11th Ed., Pearson Education, Inc., 2011 ("Kadolph Textiles")
2010	R. Thompson, "Manufacturing Processes for Textile and Fashion Design Professionals", Thames & Hudson Inc., 2014 ("Manufacturing Processes")
2011	J. Jerde, "Encyclopedia of Textiles", Facts On File, Inc., 1992 ("Encyclopedia of Textiles")
2012	Sleepgram Luxury Pillow

Exhibit No.	Exhibit Description
2013	Textileweb.com., "Meryl Nexten", Nylstar, Inc.
2014	G. Baugh, "The Fashion Designer's Textile Directory", Barron's, 2011 ("Textile Directory")
2015	U.S. Patent Publication No. 2009/0083908 to Fry ("Fry")
2016	Deposition Transcript of Jennifer Frank Rhodes, September 26, 2017 ("Rhodes Tr.")
2017	Defendant Fredman Bros. Furniture Company Inc.'s Responsive Claim Construction Brief, Civil Action No. 2:15cv06759
2018	Declaration of Dr. Radhakrishnaiah Parachuru in Support of Claim Construction Reply, Civil Action No. 2:15cv06759
2019	Affidavit of Alexander Walden
2020	Transcript of Deposition of Jennifer Frank Rhodes taken on January 30, 2018 ("Rhodes 2nd Tr.")

Pursuant to the scheduling order entered by the Board (paper no. 9 at 8), Patent Owner respectfully makes the following observations regarding the January 30, 2018 cross-examination testimony of Petitioner's Reply declarant, Jennifer Frank Rhodes (Ex. 2020):

1. In Exhibit 2020, on page 41, line 19 – page 45, line 14, Petitioner's expert, Ms. Rhodes, testified that paragraph 23 of Rasmussen describes "that reticulated foam has apertures present" and "how those apertures can be formed." *See also*, Ex. 1006, ¶23. Additionally, in Exhibit 2020, on page 45, line 16 – page 47, line 15, the witness testified "that the methods described in [paragraph 23 of Rasmussen] of creating reticulated foam would both result in having apertures in the foam" and that Rasmussen paragraph 23 describes "at least two, but not only two" methods for creating such apertures, "such [apertures] can be created by a destruction.· That's one.· Or other removal of cell window material, that's a second ambiguous one.· Or preventing the complete formation of the cell windows during the manufacturing process, that would be the third." *See also*, Ex. 2020, 53:1-54:14 (testifying that Rasmussen does not state that side wall 160 [i.e., the alleged gusset] is made of reticulated foam"). This testimony is relevant because it highlights the contrast between Rasmussen's detailed is a precise description regarding the construction of Rasmussen's its reticulated foam and that

in contrast highlights the lack of detail with which Rasmussen refers to, the cornerstone of the Petitioner's anticipation arguments, namely the use of 3D textiles is described by Rasmussen. In particular, this testimony is relevant to support Patent Owner's argument that Rasmussen does not anticipate the claims of the '883 Patent because Rasmussen's mention of 3D textiles is insufficient to disclose the physical configurations required of the various "open cell construction" claims (e.g., interlaced/spaced apart strands, apertures, mesh configuration, 3D spacer). PO Resp., pp. 3, 52-56. Similarly, this testimony is relevant to undermine Petitioner's and its expert's argument that the mere disclosure of "highly porous" 3D textiles is sufficient to anticipate the specific structures recited in these claims. Pet., pp. 55-56; Reply, pp. 14-21; Ex. 1059, ¶¶154-56; Ex. 1062, ¶¶7, 11-15; Ex. 2016, 104:16-105:16, 135:23-136:24, 137:18-138:10.

2. In Exhibit 2020, on page 100, line 4 – page 102, line 22, Petitioner's expert testified that "I would not say that every breathable fabric is a mesh" and that you can have a 3D textile that doesn't include a mesh." This testimony is relevant to support Patent Owner's argument that Rasmussen does not anticipate claim 18 of the '883 Patent because Rasmussen's description is insufficient to disclose the physical configuration required (i.e., a mesh configuration). PO Resp., pp. 3, 52-

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