

JENNIFER FRANK RHODES  
FREDMAN BROS. FURNITURE vs BEDGEAR

September 21, 2017

1-4

Page 1		Page 3	
1	UNITED STATES PATENT AND TRADEMARK OFFICE	1	I N D E X
2	BEFORE THE PATENT TRIAL AND APPEAL BOARD	2	WITNESS EXAMINATION PAGE
3		3	JENNIFER FRANK RHODES
4	FREDMAN BROS. FURNITURE) No. IPR2017-00350	4	
5	COMPANY, INC. ) 8,887,332	5	By: Mr. Walden 5
6	- vs - ) No. IPR2017-00351	6	
7	) 9,015,883	7	
8	BEDGEAR, LLC ) No. IPR2017-00352	8	E X H I B I T S
9	) 8,646,134	9	NO. DESCRIPTION PAGE
10		10	Rhodes A Table of Contents 20
11		11	Fredman Declaration --
12	Oral deposition of JENNIFER FRANK RHODES, held	12	EX1060
13	at 1717 Arch Street, Philadelphia, Pennsylvania,	13	Fredman Patent --
14	on September 21, 2017, at 9:30 a.m., before	14	EX1049
15	Dolores M. Horne, Professional Reporter and Notary	15	Fredman Patent --
16	Public, in and for the Commonwealth of	16	EX1006
17	Pennsylvania.	17	
18		18	
19	ESQUIRE DEPOSITION SOLUTIONS	19	
20	1835 Market Street, Suite 2600	20	
21	Philadelphia, Pennsylvania 19103	21	
22	215-988-9191	22	
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24		24	

Page 2		Page 4	
1	APPEARANCES:	1	DEPOSITION SUPPORT INDEX
2		2	
3	ERISE IP	3	Direction to Witness Not to Answer
4	BY: JASON R. MUDD, ESQUIRE	4	Page Line Page Line Page Line
5	ADAM M. SANDWELL, ESQUIRE	5	
6	6201 College Boulevard	6	
7	Suite 300	7	
8	Overland Park, Kansas 66211	8	Request for Production of Documents
9	(913) 777-5600	9	Page Line Page Line Page Line
10	jason.mudd@eriseip.com	10	
11	adam.sandwell@eriseip.com	11	
12	Attorneys for the Petitioner	12	
13		13	Stipulations
14		14	Page Line Page Line Page Line
15	BRYAN CAVE	15	
16	BY: ALEXANDER WALDEN, ESQUIRE	16	
17	FRANK FABIANI, ESQUIRE	17	
18	1290 Avenue of the Americas	18	
19	New York, New York 10104	19	Question Marked
20	(212) 541-3089	20	Page Line Page Line Page Line
21	alexander.walden@bryancave.com	21	
22	frank.fabiani@bryancave.com	22	
23	Attorneys for the Patent Owner	23	
24		24	

Bedgear 2016  
Fredman v. Bedgear  
IPR2017-00351

<p style="text-align: right;">Page 5</p> <p>1 JENNIFER FRANK RHODES, After 2 having been first duly sworn, was examined and 3 testified as follows: 4 * * * 5 EXAMINATION 6 * * * 7 BY MR. WALDEN: 8 Q. Good morning. Can I have you just state 9 your full name and address for the record? 10 A. Jennifer Frank Rhodes. My address is 11 127 Fourth Avenue, Haddon Heights, New Jersey 12 08035. 13 Q. Ms. Rhodes, do you know why you're here 14 to testify today? 15 A. Yes, I do. 16 Q. Why is that? 17 A. In the patent case between Bedgear and 18 Fredman Brothers. 19 Q. And is it your understand today that 20 specifically involves three different IPR 21 proceedings? 22 A. Yes. 23 Q. Just to make the record clear, what 24 we're referring to is IPR No. 2017-00352, which</p>	<p style="text-align: right;">Page 7</p> <p>1 sound fair? 2 A. Yes. 3 Q. Again, because it's being transcribed, 4 you know, I will try to let you finish speaking 5 and giving your full response before asking 6 another question. You know, likewise, if you 7 could just let me finish my question before you 8 start responding. It tends to go a little better 9 that way. Is there any reason whatsoever that you 10 are not able to give your full, complete, accurate 11 testimony today? 12 A. No. 13 Q. Great. I'm sorry. Lastly, if at any 14 time you need to take a break, just let me know. 15 The only thing I ask is if we're going to do that, 16 if you could just at least finish -- we could 17 finish the question we're on before taking a break 18 but otherwise, you know, please feel free to just 19 let me know if you need a short break. Otherwise, 20 we'll try to take breaks every hour or so. 21 So, when were you first -- when did you 22 first get involved in the case? 23 A. Late June of 2016. 24 Q. And have you had any prior relationship</p>
<p style="text-align: right;">Page 6</p> <p>1 covers U.S. Patent No. 8,646,134, IPR No. 2 2017-00350, covering U.S. Patent No. 8,887,332, 3 and lastly, IPR No. 2017-00351, covering Patent 4 No. 9,015,993. Is that correct? 5 A. Yes. 6 Q. And I may refer to the patents by 7 shorthand as the 332 patent, 134 patent. Is that 8 okay? 9 A. Yes. 10 Q. Have you been deposed before? 11 A. No, I have not. 12 Q. So, I'll go over a few ground rules. If 13 you have any questions, feel free to ask me. As 14 this is not being videotaped, it's being 15 transcribed, and I'm going to ask a series of 16 questions. You're going to provide some 17 responses. If you could just try and make sure to 18 give verbal responses and try to stay away from 19 nods of the head and things like that because 20 obviously they can't get recorded. 21 If you don't understand anything, any 22 questions that I ask or you didn't hear it 23 properly, please feel free to ask me to repeat the 24 question or rephrase the question. Does that</p>	<p style="text-align: right;">Page 8</p> <p>1 with Glideaway before that? 2 A. No. 3 Q. You never heard of Glideaway or Fredman 4 Brothers when I say Glideaway? 5 A. No. 6 Q. Have you ever heard of Bedgear before -- 7 A. No. 8 Q. -- that time? So, if you don't mind, if 9 you could just give me a general high level 10 overview of your, you know, background from -- 11 obviously from college kind of onward. I'm not 12 expecting any detailed kind of thing but just -- 13 you know, it's not a memory test but an overview 14 of kind of the different places you've been 15 employed and the work that you've done and the 16 experience that you've had, you know, leading up 17 to now? 18 A. Sure. I graduated in 1996 from 19 Philadelphia College of Textiles and Science, 20 which later became known as Philadelphia 21 University, and as recently as July 1st is now -- 22 we've merged. We're now Jefferson University. My 23 degree is in -- I have a bachelor of science in 24 textile design with a concentration in wovens.</p>

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<p style="text-align: right;">Page 9</p> <p>1 When I graduated, I went to work for 2 Collins &amp; Aikman Corporation. I went through 3 their new management training course and then went 4 to my assigned plant where I spent a few months 5 learning some specialty weaving defects and 6 things. And I assumed the role of third shift 7 supervisor. I had 150 machines and 30 employees 8 in the middle of the night. 9 Then I was working in the doobby 10 automotive velvet weave room. After a year on 11 shift, I went into a product development role as 12 the flat woven technical designer for automotive, 13 flat woven automotive upholstery. And I was there 14 for about a year and one-half or so when I moved 15 back to the Northeast, which is where I'm from. 16 I was working for a computer design 17 company in Queens. And my client base was a 18 national base of the textile market. And from 19 there I went to work for one of my customers doing 20 design and product development for a domestic mill 21 that was headquartered -- we had facilities in 22 Virginia and North Carolina but our sales and 23 design office was in Manhattan. I was doing work 24 for primarily decorative fabrics for bedding,</p>	<p style="text-align: right;">Page 11</p> <p>1 Q. Is that for the company, I believe you 2 said -- called Twin Gingers? 3 A. Yes, that's my LLC filing, yes. 4 Q. So, what kind of consulting are you 5 doing at the moment through that? 6 A. At the moment I'm not doing any active 7 development work. 8 Q. You said you are currently teaching a 9 course. I guess now it's Jefferson University? 10 A. Uh-huh, yes. 11 Q. What does that course cover? 12 A. The course that I teach is called survey 13 of the textile industry. It's an entry level 14 textile course for all of our textile majors. So, 15 I teach mostly freshmen, textile design and 16 fashion design majors. The upper classmen that 17 are in my class are typically fashion 18 merchandising majors. It's a broad overview of 19 the industry at large. It's a tremendous amount 20 of content to cover in 15 weeks, but we spend a 21 lot of time on all of the generic fiber classes 22 commonly used in apparel and home furnishings. 23 And we do an overview of all of the processes 24 those fibers go through, from fiber to yarn,</p>
<p style="text-align: right;">Page 10</p> <p>1 drapery, residential interior decorative fabrics. 2 I also did some work in the contract facet of the 3 industry. And I was there for roughly seven 4 years. 5 And then I went to work for FXI, which 6 is headquartered in Media, Pennsylvania. And 7 there -- I was there for three and one-half years 8 doing product development and design. I was 9 charged with all of the product design and 10 creation from textile components, for memory foam 11 sleep products. I worked very closely with our 12 engineering team, with our R&amp;D team in the product 13 development role. So it wasn't just in textiles. 14 It was also pairing foams and fabrics together. 15 I left that position at the end of June 16 in 2012 and began doing some independent 17 consulting in the -- in the sleep products 18 industry, basically what I was doing at FXI. And 19 in August of 2015 I started teaching at 20 Philadelphia University, now Jefferson. 21 And so I'm still teaching. I'm an 22 adjunct there. I teach in the textile design 23 department. And I also continue to do some 24 independent consulting in the industry.</p>	<p style="text-align: right;">Page 12</p> <p>1 through fabric formation, dying, finishing, 2 printing. We talk about laws. We talk about 3 labeling. We talk about testing, new 4 developments, new emerging technologies. It is -- 5 like I said, it's the prerequisite for all of the 6 additional textile course work that the textile 7 majors do. And it's one of only two textile 8 courses that the fashion majors have to take. I 9 additionally do more recent development as I'm 10 more involved in department roles there with 11 branding and recruiting. 12 Q. So, when you say textile design, I 13 apologize, I'm not -- obviously not as familiar 14 with all of this stuff as you are. When you say 15 textile design, just so I understand the framework 16 for that, what does textile design refer to, I 17 mean, at a high level? 18 A. It's a very open-ended question. 19 MR. MUDD: Objection to form. 20 BY MR. WALDEN: 21 Q. What is a textile? 22 A. What is a textile? 23 Q. Right. 24 A. A textile could be any number of things.</p>

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<p style="text-align: right;">Page 13</p> <p>1 Traditionally, categorically speaking, a textile 2 is something that is made from fiber, and it can 3 be -- the fabric can be formed in a number of 4 different fashions. 5 Q. So, when you refer to fiber, what is -- 6 again, what does that mean to you? 7 A. To me it means a lot of things. There 8 are numerous different types of fibers. But a 9 fiber is something that is the primary component 10 of building a textile. It is something that can 11 be as short as three-eighths of an inch or 12 something that is endless in length, which we 13 refer to as a continuous filament fiber. It can 14 be a monofilament fiber, as coarse as a ten pound 15 test fishing line. It can be a micro fiber, which 16 is something less than a -- a micron of less than 17 one denier. The measurement of the fiber diameter 18 is less than one denier, which is a unit of 19 measure in fiber and yarn manufacture. So, a 20 fiber could be any number of things by that 21 definition. 22 Q. And that covers synthetic and -- 23 A. Absolutely, natural fibers. So, we 24 have -- for natural fibers we have plant, animal,</p>	<p style="text-align: right;">Page 15</p> <p>1 we use for the consumer market in apparel and home 2 furnishings, the primary categories are wovens, 3 knits and non-wovens. 4 Q. So, what is the typical way to create a 5 woven fabric? 6 MR. MUDD: Object to form. 7 THE WITNESS: A typical way -- 8 well, the most basic definition of a woven fabric 9 is a fabric that is made from two sets of yarns 10 that interlace at right angles. You have a 11 vertical set of yarns. You have a horizontal set 12 of yarns, the warp and the weft. They interlace 13 at right angles, 90 degree angles. And it is the 14 pattern of interlacement that defines the fabric 15 structure. 16 BY MR. WALDEN: 17 Q. And the same question for knitting, and 18 I'm not trying to say it's the only way, again, 19 just so we have a basis for -- 20 A. For knitting, it's a knit fabric and 21 most basic definition is a fabric constructed from 22 a series of loops. 23 Q. And then finally for non-woven, I know 24 you said there were lots of different ways, but is</p>
<p style="text-align: right;">Page 14</p> <p>1 mineral fibers. And then for manmade fibers we 2 have a tremendous category of both synthetic and 3 artificial fibers. 4 Q. So, what is the difference between a -- 5 what are some differences between a fiber and a 6 yarn? 7 A. You make yarn from fiber. 8 Q. So, is it fair to say you make textiles 9 from yarn or -- 10 A. Not necessarily, a non-woven textile is 11 not made from yarn. A non-woven textile is made 12 from fiber. 13 Q. What is a non-woven textile so I 14 understand? 15 A. A non-woven is one of the three primary 16 categories of fabric formation. There are 17 numerous ways to create a non-woven fabric. 18 Q. So, what are the three categories, 19 non-woven is one and then what are the others? 20 A. The three primary categories of fabric 21 formation are weaving, knitting and non-wovens. 22 And there are additional fabric formations beyond 23 that, such as braiding and tufting and things like 24 that. But that's -- in terms of the fabrics that</p>	<p style="text-align: right;">Page 16</p> <p>1 there any kind of basic way, just sort of a 2 framework of -- as compared to the other two? 3 A. There's air jet entanglement, hydro 4 entanglement, needle punch, wet spun, lace spun, 5 there are a variety of different ways to create a 6 non-woven fabric. Felting is probably the one 7 that most consumers are familiar with. 8 Q. So, you said there were a couple of 9 others. I believe you referred to braiding and 10 tufting. Am I correct you said those weren't as 11 commonly used in furnishings? 12 A. Correct. 13 Q. Okay. 14 A. Tufting and braiding, while we do 15 interact with them in the marketplace -- for 16 instance, our shoe laces are usually braided. 17 Carpets are often tufted. But in terms of apparel 18 and home furnishing fabrics, it's not something 19 that we see as much of considering the others. 20 Q. You mentioned there were lots of 21 different types of fabrics or fibers -- 22 A. Uh-huh. 23 Q. -- not fabrics. Can most or all of 24 those fibers be used with weaving and knitting and</p>

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<p style="text-align: right;">Page 17</p> <p>1 non-woven techniques?</p> <p>2 A. That's a very broad question. And I</p> <p>3 would say not every fiber is suited for every</p> <p>4 application. There are some fibers that are very</p> <p>5 difficult to knit based on their properties and</p> <p>6 characteristics. Some fabrics particularly, say,</p> <p>7 a cotton fiber, is not something you would</p> <p>8 typically see in a spun lace non-woven. It just</p> <p>9 depends upon -- fibers are always -- fiber content</p> <p>10 is always carefully chosen based upon the end use</p> <p>11 and application.</p> <p>12 Q. And many of those end use and</p> <p>13 applications may involve multiple different</p> <p>14 fibers, right?</p> <p>15 A. Absolutely.</p> <p>16 Q. So, is that part of what you did at some</p> <p>17 of the places that you worked at, I believe one of</p> <p>18 them was FXI, was some of what you did coming up</p> <p>19 with the actual fabric composition and the fibers</p> <p>20 being used?</p> <p>21 A. Absolutely, that's what a textile</p> <p>22 designer does.</p> <p>23 Q. So when you talk about creating custom</p> <p>24 fabrics, that's what that -- part of what that</p>	<p style="text-align: right;">Page 19</p> <p>1 fibers.</p> <p>2 Q. A few minutes ago you mentioned -- you</p> <p>3 were talking about weaving and you were saying</p> <p>4 that there were two, weft and a warp, interlace --</p> <p>5 what do you mean when you say interlace?</p> <p>6 A. Interlace?</p> <p>7 Q. Yes.</p> <p>8 MR. MUDD: Objection to the form.</p> <p>9 THE WITNESS: I mean that when</p> <p>10 you're weaving the yarns go over and under. They</p> <p>11 overlap each other. They interlace.</p> <p>12 BY MR. WALDEN:</p> <p>13 Q. Is every woven fabric interlaced?</p> <p>14 MR. MUDD: Objection to the form.</p> <p>15 THE WITNESS: Yes.</p> <p>16 BY MR. WALDEN:</p> <p>17 Q. In other words, that's your opinion</p> <p>18 that's a requirement of a woven fabric --</p> <p>19 A. It's the definition of a woven fabric,</p> <p>20 two yarns that interlace at right angles, two sets</p> <p>21 of yarns.</p> <p>22 Q. Is it fair to say at least two sets of</p> <p>23 yarns?</p> <p>24 A. Excuse me?</p>
<p style="text-align: right;">Page 18</p> <p>1 involves, at least, is deciding on the fiber</p> <p>2 contents and that kind of thing?</p> <p>3 A. Yes.</p> <p>4 Q. Are you able to hazard a guess, even</p> <p>5 rough estimate of the number of different fibers</p> <p>6 that exist?</p> <p>7 A. The number of different fibers?</p> <p>8 Q. Right, different types of fibers?</p> <p>9 A. Well, different types of fibers. You</p> <p>10 have two, you have natural and manmade. Generic</p> <p>11 fiber classes recognized by the FTC, if you give</p> <p>12 me a moment -- in terms of broad categories, for</p> <p>13 instance, just what I cover in my classroom alone,</p> <p>14 we have in terms of broad category, broad -- and</p> <p>15 by broad I mean broad. There are roughly 15</p> <p>16 different fiber types that I cover in my class.</p> <p>17 Now, under the broad category of wool, I can give</p> <p>18 you eight different fiber names that are accepted</p> <p>19 on a tag by the FTC. Under the broad category of</p> <p>20 alternative plant fibers, there are probably</p> <p>21 another eight. When it comes to manmade fibers,</p> <p>22 the list is a bit more concise. Because generic</p> <p>23 fiber class is one thing and then there are</p> <p>24 variations beyond that when we get into branded</p>	<p style="text-align: right;">Page 20</p> <p>1 Q. Is it fair to say at least two sets of</p> <p>2 yarns?</p> <p>3 A. Absolutely.</p> <p>4 MR. WALDEN: At this time I'm</p> <p>5 going to mark -- it's already been marked as</p> <p>6 Exhibit Fredman Exhibit 1060, Declaration of</p> <p>7 Jennifer Frank Rhodes, in IPR 2017-00352.</p> <p>8 MR. MUDD: Counsel, we've</p> <p>9 generated a table of contents for Ms. Rhodes'</p> <p>10 declaration since the declaration didn't have a</p> <p>11 table of contents just to speed things up and ease</p> <p>12 in finding materials. Is that all right?</p> <p>13 MR. WALDEN: I have no problem</p> <p>14 with that.</p> <p>15 MR. MUDD: So I'll just</p> <p>16 introduce -- we can call this Rhodes Deposition A.</p> <p>17 This is a table of contents for the 134</p> <p>18 declaration.</p> <p>19 (Document marked Exhibit Rhodes A</p> <p>20 for identification.)</p> <p>21 BY MR. WALDEN:</p> <p>22 Q. Have you seen this document before?</p> <p>23 A. Yes, I have.</p> <p>24 Q. What is it?</p>

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