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Transcript of Paul J. Mahoney

Date: January 9, 2020

Case: American National Manufacturing Inc. -v- Sleep Number Corporation, et al.
(PTAB)

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WORLDWIDE COURT REPORTING & LITIGATION TECHNOLOGY

Transcript of Paul J. Mahoney
Conducted on January 9, 2020

1 (1 to 4)

1	3
1 UNITED STATES PATENT AND TRADEMARK OFFICE	1 A P P E A R A N C E S
2 BEFORE THE PATENT TRIAL AND APPEAL BOARD	2
3 -----	3 REPRESENTING THE PETITIONER:
4 AMERICAN NATIONAL IPR2019-00497	4 Mr. Brian T. Bear
5 MANUFACTURING INC., IPR2019-00500	5 Attorney at Law
6 Petitioner, IPR2019-00514	6 Mr. Kyle L. Elliott (present a.m. session)
7 v.	7 Attorney at Law
8 SLEEP NUMBER CORPORATION U.S. PATENT 8,769,747	8 Spencer Fane LLP
9 f/k/a SELECT COMFORT U.S. PATENT 9,737,154	9 1000 Walnut Street, Suite 1400
10 CORPORATION, U.S. PATENT 5,904,172	10 Kansas City, MO 64106-2140
11 Patent Owner.	11 bbear@spencerfane.com
12 -----	12 kelliott@spencerfane.com
13 VIDEO DEPOSITION OF	13
14 PAUL J. MAHONEY	14
15 MINNEAPOLIS, MINNESOTA	15
16 THURSDAY, JANUARY 9, 2020	16
17 8:07 A.M.	17
18	18
19	19
20 JOB NO.: 278016	20
21 PAGES: 1 - 181	21
22 REPORTED BY: PATRICK J. MAHON, RMR, CRR	22 (continued...)
2	4
1 VIDEO DEPOSITION OF PAUL J. MAHONEY, HELD	1 APPEARANCES, continued:
2 AT THE OFFICES OF:	2
3	3 REPRESENTING THE PATENT OWNER:
4	4 Mr. Luke Toft
5 FOX ROTHSCHILD LLP	5 Attorney at Law
6 222 SOUTH 9TH STREET	6 Fox Rothschild LLP
7 MINNEAPOLIS, MINNESOTA 55402-3338	7 222 South 9th Street, Suite 2000
8	8 Minneapolis, MN 55402
9	9 ltoft@foxrothschild.com
10	10
11	11 ALSO PRESENT: Kyle Stolis, Videographer
12	12
13 Pursuant to Notice, before Patrick J.	13 * * *
14 Mahon, Notary Public in and for the County of	14
15 Hennepin, State of Minnesota.	15
16	16
17	17
18	18
19	19
20	20
21 * * * * *	21
22	22

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5		7	
1	I N D E X	1	P R O C E E D I N G S
2		2	WHEREUPON, the following proceedings were
3	EXAMINATION:	3	duly had:
4	BY MR. BEAR - PAGES 8 and 174	4	THE VIDEOGRAPHER: Good morning. Here
5	BY MR. TOFT - PAGE 163	5	begins Disk Number 1 in the videotaped deposition
6	EXHIBITS:	6	of Paul Mahoney in the matter of American National
7	NUMBER/DESCRIPTION PAGE	7	Manufacturing Inc. versus Sleep Number
8	Exhibit 1..... 142	8	Corporation, et al., in the United States Patent
9	Videotape Deposition transcript	9	and Trademark Office before the Patent Trial and
10	of Paul James Mahoney on 2/17/16	10	Appeal Board, case numbers IPR2019-00497, -00500,
11	(123 pages)	11	and -00514.
12	Exhibit 1001..... 45	12	Today's date is Thursday, January 9, 2020.
13	Patent No.: 5,904,172	13	The time on the video monitor is 8:07 a.m.
14	(17 pages)	14	The videographer today is Kyle Stolis,
15	Exhibit 1001..... 105	15	representing Planet Depos.
16	Patent No.: US 8,769,747 B2	16	This video deposition is taking place at
17	AMERICAN NATIONAL MANUFACTURING,	17	the law office of Fox Rothschild LLP in
18	INC. - EX 1001 - Page 1 - Page 16	18	Minneapolis, Minnesota.
19		19	Would counsel please voice-identify
20		20	themselves and state whom they represent.
21		21	MR. BEAR: Brian Bear of the Spencer Fane
22	(continued...)	22	LLP law firm on behalf of Petitioner, American
6		8	
1	EXHIBITS, continued:	1	National Manufacturing, Incorporated.
2		2	MR. TOFT: And Luke Toft with Fox
3	EXHIBIT/DESCRIPTION PAGE	3	Rothschild LLP, representing Sleep Number
4	Exhibit 2079..... 25	4	Corporation.
5	Historical FCS Timeline	5	THE VIDEOGRAPHER: Thank you.
6	Sleep Number Corp. EXHIBIT 2079	6	The court reporter today is Patrick Mahon,
7	IPR2019-00514, Page 1 - Page 21	7	representing Planet Depos.
8	SN_0021013 - 33	8	Would the reporter please swear in the
9	Exhibit 1001..... 106	9	witness.
10	Patent No.: US 9,737,154 B2	10	(The oath was administered by the
11	AMERICAN NATIONAL MANUFACTURING,	11	reporter.)
12	INC. - EX 1001 - Page 1 - Page 20	12	THE WITNESS RESPONSE: I do.
13	Exhibit 2056..... 12	13	PAUL J. MAHONEY,
14	Declaration of Paul Mahoney In	14	a witness in the above-entitled proceedings, after
15	Support Of Patent Owner's Response	15	having been first duly sworn, deposed under oath
16	Sleep Number Corp. EXHIBIT 2056,	16	as follows:
17	IPR2019-00514, Page 1 - Page 12	17	EXAMINATION
18		18	BY MR. BEAR:
19		19	Q Could you state your name for the record,
20		20	please.
21		21	A Paul James Mahoney.
22		22	Q Mr. Mahoney, where do you currently

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9	<p>1 reside?</p> <p>2 A Stillwater, Minnesota.</p> <p>3 Q Stillwater, Minnesota.</p> <p>4 I know from some documents in front of me</p> <p>5 that you have been deposed before; is that</p> <p>6 correct?</p> <p>7 A That is correct.</p> <p>8 Q Okay. You were deposed on or about</p> <p>9 March 10, 2016, in an International Trade</p> <p>10 Commission case; do you recall that, sir?</p> <p>11 A I recall the case, but I don't remember</p> <p>12 the date.</p> <p>13 Q Is it approximately 2016? Would that be</p> <p>14 consistent with your memory?</p> <p>15 A I just don't remember.</p> <p>16 Q Okay. You were also deposed on or about</p> <p>17 February 17, 2016, in a case, Select Comfort</p> <p>18 versus Tempur Sealy; do you recall that, sir?</p> <p>19 A Tempur Sealy?</p> <p>20 Q Yes.</p> <p>21 A I didn't think it was Tempur Sealy, but...</p> <p>22 Q Do you recall a gentleman by the name</p>	11
10	<p>1 of -- well, let's see. But you recall giving more</p> <p>2 than one deposition in 2016; is that correct?</p> <p>3 A I've given more than one deposition. I</p> <p>4 just don't remember the dates.</p> <p>5 Q Okay. And those depositions, were they</p> <p>6 regarding one of the patents that you are a named</p> <p>7 inventor on?</p> <p>8 A Yes.</p> <p>9 Q Okay. Besides those two depositions, have</p> <p>10 you given any depositions since that time and</p> <p>11 today?</p> <p>12 A Not that --</p> <p>13 MR. TOFT: Object to form.</p> <p>14 A Not that I know of.</p> <p>15 BY MR. BEAR:</p> <p>16 Q Okay. Have you given any type of sworn</p> <p>17 testimony in a proceeding between that time and</p> <p>18 today?</p> <p>19 A Not that I know of.</p> <p>20 Q Okay. So I want to go through some of the</p> <p>21 ground rules, although you probably heard them</p> <p>22 before, about the deposition. Okay?</p>	12

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13	1 BY MR. BEAR: 2 Q So as I ask you questions about this, 3 although I have one of these, it would equally 4 apply to all three of your declarations. Okay? 5 A (Witness nods in affirmative.) 6 Q All righty. Did you draft this document 7 yourself? 8 A (Reviewing.) Which portion? 9 Q Any portion of the document? 10 A I drafted my CV. 11 Q Okay. Beyond that, any other portions did 12 you draft yourself? 13 A No, I did not. 14 Q Okay. Who did prepare the draft for you? 15 A I think it was Liz. 16 Q Liz, Elizabeth Patton? 17 A I can't remember her last name. 18 MR. TOFT: If it's the person that we were 19 just meeting with, then that is her last name. 20 THE WITNESS: Okay. 21 A Yes. 22 BY MR. BEAR:	15	1 Q Okay. I notice, as well, in paragraph 2, 2 you talk about your educational background. You 3 have a BS in science in electrical engineering; is 4 that correct? 5 A Yes, I do. 6 Q And you also have a master's in biomedical 7 engineering from Southern Methodist; is that 8 correct? 9 A Yes, it is. 10 Q What is biomedical engineering? 11 A It kind of builds on engineering 12 principles and also biology. 13 Q Biology. So what are some of the 14 applications that a biomedical engineering 15 discipline would address? 16 A It all would depend on what your specialty 17 is. 18 Q What was your specialty? 19 A Mine was more general. 20 Q So what sorts of problems would you work 21 on as a biomedical engineer? 22 A It all depended on the company that I
14	1 Q Okay. And did you make any changes to the 2 draft that she provided to you? 3 A Yes, I did. 4 Q Okay. Did Ms. Patton consult you prior to 5 providing a draft of this document to you, as in, 6 like, a telephone conference or an in-person 7 meeting? 8 MR. TOFT: And I'm just going to instruct 9 you, to the extent you can answer the question 10 without revealing the content of the 11 conversations, you can answer. Please don't -- 12 A Yes, I did. 13 BY MR. BEAR: 14 Q Okay. I'd like to talk about some of the 15 statements you make in this document. It says 16 that you were employed, in paragraph 3, as a 17 "Senior Product Design Engineer from June 1995 to 18 July 2011"; do you see that, sir? 19 A Yes, I do. 20 Q Okay. And that was at Sleep Number 21 Corporation; is that correct? 22 A That is correct.	16	1 would work for and what my role was in the 2 company. 3 Q Okay. After you got that degree, what was 4 the first company you worked for? 5 A I worked for a hospital. 6 Q Okay. And were you employed as an 7 engineer for the hospital or in a different 8 capacity? 9 A A different capacity. 10 Q What was your capacity? 11 A Respiratory therapist. 12 Q Okay. And then how long did you work at 13 that hospital for, approximately? 14 A Three or four years, I think. 15 Q Okay. And then what did you do? 16 A I worked for 3M. 17 Q Did you work as an engineer for 3M? 18 A Yes, I did. 19 Q What sorts of problems or products did you 20 work on at 3M? 21 A Designing a neonatal intensive care 22 ventilator.

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