

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AMERICAN NATIONAL MANUFACTURING INC.
Petitioner

v.

SLEEP NUMBER CORPORATION
f/k/a SELECT COMFORT CORPORATION
Patent Owner

Case No. IPR2019-00500

Patent No. 9,737,154

**DECLARATION OF KYLE L. ELLIOTT IN SUPPORT OF
PETITIONER'S REPLY TO PATENT OWNER'S REQUEST TO RESCIND
THE FILING DATE OF THE PETITION AND DENY INSTUTION OF
THE PETTION FOR FAILURE TO TIMELY SERVE THE PETITION
UPON PATENT OWNER**

I, Kyle L. Elliott, declare and state as follows:

1. I am an attorney with the law firm of Spencer Fane LLP. I represent Petitioner, American National Manufacturing, Inc., in the above captioned proceeding. I make this Declaration in support of Petitioner's reply to Patent Owner's request to rescind the filing date as identified in Patent Owner's Preliminary Response. I am above eighteen years of age, of sound mind, and if called to testify I could and would competently testify hereto. I make this declaration of my own personal knowledge.

2. Attached as **Exhibit 1019** is a true and correct copy of the Court Order Granting Defendants' Motion to Stay Pending *Inter Partes Review* issued on February 12, 2019; 5:18-cv-0357AB(SP_x), Dkt. No. 142.

3. Attached as **Exhibit 1020** is a true and correct copy of the Federal Express package shipping and delivery confirmation notice of the served petition and accompanying materials to Ms. Elizabeth Patton at Fox Rothschild LLP, Minneapolis, MN.

4. Attached as **Exhibit 1021** is a true and correct copy of the Federal Express package shipping and delivery confirmation notice of the served petition and accompanying materials to Mr. Stuart Nelson at Fish & Richardson PC, Minneapolis, MN.

5. Attached as **Exhibit 1022** is a true and correct copy of Mr. Lukas Toft's January 10, 2019 email correspondence to Petitioner's counsel regarding the service of the petition.

6. Attached as **Exhibit 1023** is a true and correct copy of the Proof of Service of the first filed complaint against petitioner alleging infringement of U.S. Patent No. 9,737,154 dated January 2, 2018; 3:17-cv-03517, Dkt. No. 7.

7. Attached as **Exhibit 1024** is a true and correct copy of Change of Name Patent Assignment filed by Patent Owner on November 1, 2017 and recorded at Reel/Frame 044456/0132.

8. Attached as **Exhibit 1025** is a true and correct copy of Mr. Lukas Toft's January 11, 2019 email correspondence to the Board seeking guidance to challenge the service of the petition.

9. Attached as **Exhibit 1026** is a true and correct copy of the Joint Stipulation Regarding Stay of District Court Actions filed on February 12, 2019; 5:18-cv-0357AB(SPx), Dkt. No. 141.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Date: May 9, 2019

By /s/Kyle L. Elliott
Kyle L. Elliott, Reg. No. 39,485
Spencer Fane LLP
1000 Walnut Street, Suite 1400
Kansas City, Missouri 64106-2140
Telephone: (816) 474-8100

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), the undersigned hereby certifies that a copy of the foregoing DELCARATION OF KYLE L. ELLIOTT IN SUPPORT OF PETITIONER'S REPLY TO PATENT OWNER'S REQUEST TO RESCIND THE FILING DATE OF THE PETITION AND DENY INSTUTION OF THE PETTION FOR FAILURE TO TIMELY SERVE THE PETITION UPON PATENT OWNER and its exhibits were served in its entirety on May 9, 2019, by electronic mail, as authorized by Patent Owner's Mandatory Notices, directed to the attorneys of record for Patent Owner at the following correspondence address of record:

Steven A. Moore
Steve.moore@pillsburylaw.com

PILLSBURY WINTHORP SHAW PITTMAN LLP
501 West Broadway, Suite 1100
San Diego, CA 92101

Luke Toft
LToft@foxrothschild.com
FOX ROTHSCHILD LLP
Campbell Mithun Tower, Suite 2000
222 South Ninth Street
Minneapolis, MN 55402

Kecia J. Reynolds
kecia.reynolds@pillsburylaw.com
PILLSBURY WINTHORP SHAW PITTMAN LLP
1200 Seventeenth Street, NW
Washington, DC 20036

Date: May 9, 2019

/s/Kyle L. Elliot
Kyle L. Elliott (Reg. No. 39,485)

Attorney for Petitioner
American National Manufacturing, Inc.