

Allee, J. Lori

From: L Toft <ltoft@foxrothschild.com>
Sent: Thursday, January 10, 2019 9:43 AM
To: Elliott, Kyle L.; Bear Brian; Hare, Jaspal
Cc: e patton; A Hansen; Steve Moore; k ecia; Nicole Cunningham
Subject: IPR Service

Kyle, Brian, and Jaspal,

Fox Rothschild is in receipt of the three IPR Petitions that you sent to our office with respect to the three patents-in-suit in the underlying district court litigations. In those IPR Petitions, your client names Select Comfort Corporation as the patent owner. Select Comfort Corporation is not the patent owner. As you know, Select Comfort Corporation changed its name to Sleep Number Corporation over a year ago (*see* Am. Compl. fn.1; SN_0000046), Sleep Number Corporation is the named plaintiff in the underlying district court actions (*see* Am. Compl.), and all of the patents-in-suit were assigned to Sleep Number Corporation over a year ago (*e.g.*, SN_0000234, 236). Therefore, the IPR Petitions are invalid, cannot be treated as filed, and were not properly served on Sleep Number Corporation. This deficiency cannot now be corrected.

Please let us know if you are available to meet and confer on this issue today (Jan. 10) or Friday (Jan. 11) and to then jointly contact the Board requesting a telephone conference to address the issue. If you do not accept this request by 3pm CST, we will email the Board, copying you, to request a telephone conference with the parties.

Luke

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