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SLEEP NUMBER CORPORATION

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION**

SLEEP NUMBER CORPORATION,

Plaintiff,

v.

AMERICAN NATIONAL
MANUFACTURING, INC.,

Defendant.

Case No. 5:18-cv-00357 AB (SPx)

**PLAINTIFF'S AMENDED
DISCLOSURE OF ASSERTED
CLAIMS AND INFRINGEMENT
CONTENTIONS**

Complaint Filed: February 20, 2018

Related Case:
5:18-cv-00356 AB (SPx)

1 Pursuant to the Patent Rule (“P.R.”) 3-1 and 3-2, the Orders issued by this
2 Court on August 14, 2018, October 22, 2018, and December 12, 2018, and the
3 parties’ Stipulation Regarding Amending Infringement and Invalidity Contentions,
4 Plaintiff Sleep Number Corporation (“Plaintiff” or “Sleep Number”) hereby serves
5 its Amended Disclosure of Asserted Claims and Infringement Contentions and
6 accompanying disclosure against Defendant American National Manufacturing, Inc.
7 (“Defendant” or “ANM”). Plaintiff hereby incorporates by reference its Amended
8 Disclosure of Asserted Claims and Infringement Contentions against Defendant
9 Sizewise Rentals, LLC (“Sizewise”).

10 These contentions are based on information reasonably available to Plaintiff
11 at this time. Plaintiff’s investigation of the facts relevant to this case is ongoing and
12 discovery is in its preliminary stages. Further, important information about many or
13 all of Defendant’s products is not publicly available, including information relevant
14 to the patents-in-suit and these Infringement Contentions. Further, despite the fact
15 that Plaintiff served timely discovery requests, Defendant has failed to meaningfully
16 respond and has refused to produce documents in advance of Plaintiff serving its
17 infringement contentions, including documents that disclose all of Defendant’s
18 products. Accordingly, Plaintiff reserves the right to modify and/or supplement
19 these disclosures as information becomes available from Defendant and/or non-
20 parties, including to identify additional accused products after Defendant has made a
21 fulsome document production.

22 **A. P.R. 3-1(a): Identification of Asserted Claims**

23 Pursuant to P.R. 3-1(a) and based on the information presently available,
24 Plaintiff incorporates herein by reference the identification of asserted claims set
25 forth in the Amended Complaint (*see* Dkt. No. 38) and further discloses below the
26 claims of each patent-in-suit that it contends are or have been infringed.

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1 Defendant directly infringes and/or has directly infringed (literally and/or
2 under the doctrine of equivalents) the patents-in-suit, by making, using, selling,
3 offering to sell, and/or importing the Accused Products into the United States.
4 Defendant indirectly infringes and/or has indirectly infringed the patents-in-suit by
5 inducing others to infringe, e.g., by providing manuals or instructions. Defendant is
6 further liable for indirect contributory infringement because it sells and/or has sold
7 air controllers that are and/or were especially made or adapted for use in
8 infringement of the patents-in-suit, which are and/or were not otherwise a staple
9 article or commodity of commerce suitable for substantial non-infringing uses, and
10 which do and/or did constitute a material part of the invention and are and/or were
11 used in practicing a patented method. Plaintiff asserts the following claims of the
12 patents-in-suit in connection with the Accused Products identified below and in the
13 attached Exhibits A1, B1, C1:

- 14 • U.S. Patent No. 5,904,172 (“the ’172 Patent”): Claims 2, 6, 12, 16, 20, 22,
15 and 24 (infringement through the expiration of the patent).
- 16 • U.S. Patent No. 9,737,154 (“the ’154 Patent”): Claims 1-19.
- 17 • U.S. Patent No. 8,769,747 (“the ’747 Patent”): Claims 1-19.

18 Plaintiff expressly reserves the right to modify, amend and/or supplement the
19 foregoing in light of new information made available to Plaintiff from Defendant
20 and/or non-parties.

21 **B. P.R. 3-1(b): Identification of Accused Products**

22 Pursuant to P.R. 3-1(b) and based on the information presently available,
23 Plaintiff incorporates herein by reference the identification of Accused Products set
24 forth in the Amended Complaint (*see* Dkt. No. 38) and the attached Exhibits A1, B1,
25 and C1, and further identifies the following Accused Products of which it is
26 currently aware:

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- ‘172 Patent, Claims 2, 6, 12, 16, 20, 22, and 24; ‘154 Patent, Claims 1-19; ‘747 Patent, Claims 1-19: Models of consumer air mattress systems sold by ANM under the Instant Comfort brand name that utilize or have utilized the Gen 3 Arco, Gen 3 Koge, or other versions or representations of those air controllers, including on information and belief the following models: Q2, Q3, Q4, Q5, Q6, Q7, Q7-T, Q8, Q9, S6, S7, S7-T, S8, and S9.
 - ‘172 Patent, Claims 2, 6, 12, 16, 20, 22, and 24: Models of consumer and/or medical air mattress systems sold by ANM that utilize or have utilized an as of yet unidentified air controller that does not include a model name or other identifier (herein referred to as the “Gen X” air controller, which Plaintiff understands to be part of the Gen 2 Pump series a/k/a Gen 1 digital).
 - ‘172 Patent, Claims 2, 6, 12, 16, 20, 22, and 24; ‘154 Patent, Claims 1-19; ‘747 Patent, Claims 1-19: Models of consumer air mattress systems sold since September 2012 by Dires, LLC under the Personal Comfort brand name that utilize or have utilized the Gen 3 Arco, Gen 3 Koge, Gen X, or other versions or representations of those air controllers, including on information and belief the following models: A2, A3, A4, A5, A6, A7, A8, A10, H5, H7, H9, H10, H11, H12, A10 Smart Bed, and H12 Smart Bed, Online Edition, Online Special, Silver, and Silver sLE.
 - ‘172 Patent, Claims 2, 6, 12, 16, 20, 22, and 24; ‘154 Patent, Claims 1-19; ‘747 Patent, Claims 1-19: Models of medical air mattress systems sold by ANM that utilize or have utilized the Gen 3 Arco, Gen 3 Koge, Gen X, or other versions or representations of those air controllers. Discovery will determine whether any of the medical air mattress systems currently or previously listed on ANM’s website, <http://www.americannationalmfg.com/medical-beds.html>, utilize or have

1 utilized any such air controllers or other air controllers with an air mattress
2 system that satisfy each of the elements of the asserted claims.

- 3 • ‘172 Patent, Claims 2, 6, 12, 16, 20, 22, and 24; ‘154 Patent, Claims 1-22;
4 ‘747 Patent, Claims 1-19: Models of medical air mattress systems sold by
5 Direct Supply, LLC that utilize the Platinum 5000 air controller imported
6 by ANM. These products are represented by the accused products
7 disclosed in Plaintiff’s Disclosure of Asserted Claims and Infringement
8 Contentions against Sizewise, particularly in light of the fact that
9 Sizewise’s response to Interrogatory No. 1 states that it never offered the
10 Platinum 5000.
- 11 • ‘172 Patent, Claims 2, 6, 12, 16, 20, 22, and 24; ‘154 Patent, Claims 1-19;
12 ‘747 Patent, Claims 1-19: Models of consumer air mattress systems with
13 air controllers sold by ANM to third-party entities that utilize or have
14 utilized the Gen 3 Arco, Gen 3 Koge, Gen X, or other versions or
15 representations of those air controllers. Discovery will determine those
16 third-party entities, which on information and belief may include
17 Advanced Sleep Technologies, LLC and Elements of Rest,
18 Inc./Responsive Surface Technology LLC.

19 The identification of the Accused Products above is based on information
20 reasonably available to Plaintiff at this time. Plaintiff reserves the right to
21 supplement these Infringement Contentions based on information developed in the
22 course of this lawsuit through discovery or additional factual investigation.
23 Additionally, to the extent any of the accused products disclosed in Plaintiff’s
24 Disclosure of Asserted Claims and Infringement Contentions against Sizewise,
25 which is being served on ANM’s counsel, are representative of any product made,
26 used, sold, offered for sale, or imported at a given time by ANM, Plaintiff hereby
27 incorporates those products herein pursuant to P.R. 3-1(b).

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