

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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AMERICAN NATIONAL MANUFACTURING INC.,  
Petitioner,

v.

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

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Case No. IPR2019-00500

Patent No. 9,737,154

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**PETITIONER'S UNOPPOSED MOTION TO SEAL**

Pursuant to 37 C.F.R. §§ 42.14 and 42.54, Petitioner respectfully submits this Unopposed Motion to Seal certain confidential exhibits concurrently filed with Petitioner's Reply ("Motion") in accordance with the parties pending Joint Stipulation for Entry of the Stipulated Protective Order (Paper 39) and the Proposed Stipulated Protective Order (Ex. 2024).

### **I. Good Cause Exists**

Petitioner moves to seal three categories of documents containing information designated by Petitioner as confidential (collectively, the "Confidential Documents"):

1. A Patent Owner expert witness deposition transcript, Exhibit 1055, which quotes certain Petitioner sales data designated as Highly Confidential-Outside Counsel Only as governed by the provisions of the modified District Court Protective Order ("DCPO") enforceable by the District Court;
2. A declaration of an economic expert who analyzes and cites to Petitioner's financial data and sales data, Exhibit 1056, which have been designated as Highly Confidential – Outside Counsel Only.
3. A client declaration, Exhibit 1057, which refers to Petitioner's data designated as Highly Confidential – Outside Counsel Only; and

4. Petitioner-produced document in this IPR proceeding, Exhibit 1060, which is designated as Highly Confidential – Outside Counsel Only and contains financial information of Dires, LLC.

The disclosure of these Confidential Documents to the public would harm Petitioner in that it would provide competitors, including Patent Owner, as to consumer products, or the public with proprietary and competitively sensitive information. Patent Owner does not currently dispute that the documents contain confidential information and that good cause exists to seal such documents, and request that the Board grant this Motion so that the documents remain protected under both the DCPO and the Stipulated Protective Order in this proceeding.

This Motion involves both documents being filed fully under seal and those being filed under seal with a redacted version being filed publicly. First, pursuant to the Stipulated Protective Order § 10(A)(i), Petitioner moves to seal the following Confidential Document that contains only confidential information and must be entirely sealed: Exhibit 1060. Accordingly, Petitioner is filing a fully sealed version of such document. The parties request that the Board maintain this exhibit under seal.

Second, pursuant to the Stipulated Protective Order § 10(A)(ii), Petitioner moves to seal the following Confidential Documents that contain *both* confidential

information and non-confidential information, and thus must be filed with the confidential portions redacted: Exhibits 1055, 1056, and 1057. Accordingly, Petitioner is filing a redacted version of such documents publicly and a non-redacted version of such documents under seal. The parties request that the Board maintain these exhibits as under seal with redactions for the public version.

The following table includes reasons Petitioner has provided to Patent Owner for the confidentiality designations for each of the Confidential Documents at issue in this Motion:

Exhibit No.	Description	Reason For Confidentiality
1055	January 8, 2020 Deposition Transcript of Carl Degen	In the deposition, Mr. Degen was asked questions regarding portions of his declaration that have already been the subject of a motion to seal as they reference highly confidential non-public financial information of Petitioner. This information has been designed by Petitioner as Highly Confidential – Outside Counsel Only.
1056	Declaration of Matthew Lynde in Support of Petitioner’s Reply	Portions of Mr. Lynde’s declaration cites to highly confidential non-public financial information of Petitioner and portions of Mr. Degen’s Declaration and Deposition where Petitioner’s Financial Information is discussed. This information has been designed by Petitioner as Highly Confidential – Outside Counsel Only.

1057	Declaration of Craig Miller, Jr. in Support of Petitioner's Reply	Portions of Mr. Miller's declaration cites to highly confidential non-public financial information of Petitioner and portions of Mr. Degen's Declaration and Deposition where Petitioner's Financial Information is discussed. This information has been designed by Petitioner as Highly Confidential – Outside Counsel Only.
1060	Exhibit to Miller Declaration – Dires, LLC Advertising expenditure	The entire exhibit sets forth Dires's non-public financial expenditures related to advertising costs and which is highly confidential non-public information. This information has been designed by Petitioner as Highly Confidential – Outside Counsel Only.

## II. Certification of Non-Public Status

Petitioner certifies counsel for Patent Owner that the information sought to be sealed as not been published or otherwise been made available to the public. Patent Owner has also certified to undersigned counsel for Petitioner that Patent Owner has also not published or otherwise made the information available to the public.

## III. Certification of Conference Between the Parties Pursuant to 37 C.F.R. § 42.54(a).

The undersigned counsel for Petitioner certifies that they have in good faith met and conferred with counsel for Patent Owner and agreed that, due to the protections afforded by the modified DCPO and the pending Stipulated Protective Order, the Confidential Documents should be filed under seal.

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