

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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IPR2019-00497 (Patent 8,769,747 B2)  
IPR2019-00500 (Patent 9,737,154 B2)  
IPR2019-00514 (Patent 5,904,172)<sup>1</sup>

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Before SCOTT A. DANIELS, FRANCES L. IPPOLITO, and  
ALYSSA A. FINAMORE, *Administrative Patent Judges*.

DANIELS, *Administrative Patent Judge*.

ORDER

Granting Petitioner's Unopposed Motion for *Pro Hac Vice* Admission of  
Mark A. Thornhill  
*37 C.F.R. § 42.10*

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<sup>1</sup> We issue one Order and enter it in each proceeding.

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IPR2019-00514 (Patent 5,904,172)

American National Manufacturing Inc., (“Petitioner”) filed a motion for *pro hac vice* admission of Mark A. Thornhill in each of the above-listed proceedings (“Motion”).<sup>2</sup> Paper 54. Petitioner also filed a supporting Declaration (“Thornhill Dec.”) from Mr. Thornhill attached to the Motion. *Id.* at 2. Petitioner states that the Motion is unopposed. *Id.*

Pursuant to 37 C.F.R. § 42.10(c), the Board may recognize counsel *pro hac vice* during a proceeding upon a showing of good cause, subject to the condition that lead counsel be a registered practitioner. In its notice authorizing motions for *pro hac vice* admission, the Board requires a statement of facts showing there is good cause for the Board to recognize counsel *pro hac vice*, and an affidavit or declaration of the individual seeking to appear in this proceeding. *See* Paper 3, 2 (citing *Unified Patents, Inc. v. Parallel Iron, LLC*, Case IPR2013-00639 (PTAB Oct. 15, 2013) (Paper 7) (representative “Order – Authorizing Motion for *Pro Hac Vice* Admission”).

The Board has reviewed the submissions and determined that the requirements of 37 C.F.R. § 42.10 have been met, and that there is good cause to admit Mr. Thornhill *pro hac vice*.

It is, therefore,

ORDERED that the Motion for Admission *Pro Hac Vice* of Mark A. Thornhill is *granted* and Mr. Thornhill is authorized to represent Petitioner only as back-up counsel in each of the above-listed proceedings;

FURTHER ORDERED that, in each proceeding, Petitioner must file a Power of Attorney in accordance with 37 C.F.R. § 42.10(b) and an updated

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<sup>2</sup> For brevity we refer only to papers in IPR2019-00497.

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mandatory notice identifying Mr. Thornhill as back-up counsel in accordance with 37 C.F.R. § 42.8(b)(3);

FURTHER ORDERED that a registered practitioner will continue to represent Petitioner as lead counsel in the above-listed proceedings;

FURTHER ORDERED that Mr. Thornhill shall comply with the Office Patent Trial Practice Guide, as updated by the Consolidated Office Patent Trial Practice Guide (84 Fed. Reg. 64,280 (Nov. 21, 2019)) and the Board's Rules of Practice for Trials, as set forth in Part 42 of Title 37, Code of Federal Regulations;<sup>3</sup> and

FURTHER ORDERED that Mr. Thornhill is subject to the USPTO's Rules of Professional Conduct set forth in 37 C.F.R. §§ 11.101 *et seq.* and to the USPTO's disciplinary jurisdiction under 37 C.F.R. § 11.19(a).

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<sup>3</sup> The Declaration states that "I have read and will comply with the Office Patent Trial Practice Guide and its updates, and the Board's Rules of Practice for Trials set forth in part 42 of the C.F.R." Thornhill Dec. ¶ v. The Office Patent Trial Practice Guide and the Board's Rules of Practice for Trials are set forth in Part 42 of *Title 37*, Code of Federal Regulations. We deem this harmless error.

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