

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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**JOINT MOTION TO PRESERVE THE RECORD PENDING APPEAL**

Patent Owner and Petitioner (collectively “the Parties”) jointly move that the entire docket in IPR2019-00500 be preserved pending an anticipated appeal, including preservation of all sealed documents in non-public form. The Parties filed a Joint Stipulation for Entry of a Stipulated Protective Order in this proceeding, and the Board issued a Final Written Decision (“FWD”) conditionally granting the Parties’ Motions to Seal as to the exhibits referred to therein. The Board also approved the Protective Order with required modifications, and thereafter, the Parties submitted a Revised Joint Stipulated Protective Order addressing the required modifications.

On September 8, 2020, the Board issued an order with respect to this proceeding directing the parties to “file a motion to expunge or a motion to preserve the record pending appeal after we enter our decisions on Petitioner’s Request for Rehearing.” Paper 110 at 3. The Board issued a decision on Petitioner’s Requests for Rehearing on September 24, 2020. Paper 111.

The Parties have met and conferred regarding the Board’s September 8, 2020 order, and the Parties believe that an appeal is anticipated. Although the Parties have not identified all the specific issues that may be part of such an appeal and/or cross appeal, given the FWD’s reliance, in part, on confidential exhibits, the Parties believe it would be in the public interest to preserve the entirety of the record as it currently exists in anticipation of and pending the outcome of any appeal that is

Case No. IPR2019-00500

Patent No. 9,737,154

taken. Other Board panels have adopted the same approach and granted similar requests. *See e.g. Tetra Tech Canada v. Georgetown Rail Equipment Company*, IPR2019-00662, Paper 41 at 53-4 (P.T.A.B. August 25, 2020); *Illumina, Inc. v. Columbia Univ.*, IPR2012-00006, Paper 133 at 3-4 (P.T.A.B. April 25, 2014); *Intelligent Bio-Systems, Inc. v. Illumina Cambridge Ltd.*, IPR2013-00128, Paper 93 at 2-3 (P.T.A.B. Sep. 10, 2014); *LKQ Corp. v. Clearlamp, LLC*, IPR2013-00020, Paper 77 at 2 (P.T.A.B. Dec. 19, 2014).

As such, the Parties jointly move the Board to enter an order preserving the record in its current form pending the filing of an appeal, and during the pendency of any appeal, with exhibits that have been marked confidential or have otherwise been sealed being maintained in their current status. The Parties further believe it would be appropriate for the Board to order that any motion to expunge the record in this proceeding should be filed within 14 days after the time period for filing a notice of appeal is exhausted (if no appeal is filed), or 14 days after the Federal Circuit issues its final mandate (if an appeal is filed).

Case No. IPR2019-00500

Patent No. 9,737,154

Date: October 30, 2020

Respectfully Submitted,

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Case No. IPR2019-00500

Patent No. 9,737,154

Date: October 30, 2020

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