UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

AMERICAN NATIONAL MANUFACTURING, INC.

Petitioner,

v.

SLEEP NUMBER CORPORATION, f/k/a
SELECT COMFORT CORPORATION

Patent Owner.

Case IPR: IPR2019-00514 U.S. Patent 5,904,172

Case IPR: IPR2019-00497 U.S. Patent 8,769,747

Case IPR: IPR2019-00500 U.S. Patent 9,737,154

DEPOSITION OF MATTHEW R. LYNDE

February 18, 2020

Redwood Shores, California

REPORTED BY:

LYNNE M. LEDANOIS, CSR 6811

Job No: 27003



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1	DEPOSITION OF MATTHEW R. LYNDE	1	INDEX OF EXAMINATION
2	DATE: Tuesday, February 18, 2020	$\begin{vmatrix} 1 \\ 2 \end{vmatrix}$	INDEX OF EXAMINATION
3	TIME: 8:17 a.m.	3	Examination by: Page
4	LOCATION: Lewis Roca Rothgerber Christie	4	Mr. Toft 7
	203 Redwood Shores Parkway	5	Mr. Elliott 180
5	Redwood Shores, California 94065	6	
6 7		7	
8		8 9	
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24		24 25	111
25	D		///
	Page 3	1.	Page 5
	APPEARANCES:		INDEX OF EXHIBITS
2 3	For the Petitioner:	2 3	Deposition Description Page Exhibit 1 Document headed, G1 Blower,
4	For the retubbler.	4	G1 Pump, etc., with years
5	SPENCER FANE LLP	5	1998-2018,
6	BY: KYLE L. ELLIOTT, ESQ.	6	ANM100133414-422; 27
7	1000 Walnut Street	7	Exhibit 2 Declaration of Matthew R.
8	Suite 1400	8	Lynde, Ph.D., in Support
9	Kansas City, Missouri 64106-2140	9	of Petitioner's Reply to
10 11	(816) 474-8100	10 11	Patent Owner's Response dated 1/22/20; 56
12	kelliott@spencerfane.com	12	dated 1/22/20; 56 Exhibit 3 Document headed, ANM
13	For the Patent Owner:	13	Accused Controller Unit
14		14	Sales, Before and After
15	FOX ROTHSCHILD LLP	15	Correction; 90
16	BY: LUKE D. TOFT, ESQ.	16	Exhibit 4 Document headed, Dires'
17	222 South Ninth Street	17	Disapproval Suspension
18 19	Suite 2000 Minneapolis, Minneapte 55402, 2228	18	Timeline - Private Search- Engine Companies; 97
20	Minneapolis, Minnesota 55402-3338 (612) 607-7000	19 20	Engine Companies; 97 Exhibit 5 Declaration of Carl G.
21	ltoft@foxrothschild.com	21	Degen in Support of Owner's
22		22	Response; 108
23		23	,
24		24	
25		25	///

2 (Pages 2 to 5)



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1	INDEX OF EXHIBITS		1	
2			2	Q And we can take a break at any time.
3	Deposition Description Page Exhibit 6 Document headed, Invoice		3	But I would ask that you answer any pending question before we do so.
			4	*
4	Date, Month, Qtrs, etc.; 154			
5	Exhibit 7 Dires Advertising Spend		5	Q And if there's any questions that I
6	Periods 1-4;		6	ask that you don't understand, you'll ask for
7	(Designated Highly		7	clarification?
8	Confidential and Bound		8	A I will.
9	Separately.) 161		9	Q Is there any reason that you're unable
10			10	to provide truthful testimony under oath today?
11			11	A No.
12			12	Q There's no you don't have any
13			13	medications not on any medications that would
14			14	alter
15			15	A No, I'm not.
16			16	Q And do you have any devices on you
17			17	that would allow you to communicate with others?
18			18	A I've got my cell phone.
19			19	Q Okay. And that's anything else?
20			20	A No.
21			21	Q What did you do to prepare for today's
22			22	deposition?
23			23	A I reviewed the declarations that have
24			24	been filed by me and Mr. Miller and Mr. Degan,
25	///		25	some of the supporting materials in those
	1	Page 7		Page 9
1	Redwood Shores, California		1	declaration and I met with counsel.
2	Tuesday, February 18, 2020		2	Q What supporting materials did you
3	8:17 a.m.		3	review?
4			4	A There were referred to, especially in
5	MATTHEW R. LYNDE,		5	my declaration, supporting data in terms of
6	having been duly sworn, testified as follows:		6	advertising costs, for example. So I looked at
7	EXAMINATION		7	the supporting documents in my declaration.
8	BY MR. LOFT:		8	Q And those documents are specifically
9	Q Will you please state your name for		9	described in your declaration?
10	the record?		10	A Yes, they are.
11	A Matthew R. Lynde.		11	Q Did you identify any documents not
12	Q And Lynde? Kyle told us that and		12	specifically described in your declaration?
13	we've been working under that assumption but		13	A No, I don't think so. I reviewed the
14	it's Lynde is how I would normally pronounce		14	declaration.
15	it.		15	Q Did you review any supplemental
16	A It's Lynde.		16	declarations submitted by yourself?
17	Q You've been deposed before?		17	A By "declarations" I mean both the
18	A I have.		18	original declarations and the supplemental
19	Q So you're generally aware of the		19	declarations.
20	deposition rules?		20	Q Is that true of Mr. Lynde sorry, of
21	A I generally am, yes.		21	Mr. Miller?
22	Q You'll need to give verbal answers,		22	A Of Mr. Miller, yes.
23	not a nod of the head.		23	Q And Mr. Degan?
24	Do you understand that?		24	A Correct.
	A I do.		25	Q Other than Mr. Elliott here today, did
25	A 1 00.		Z	O Oliner man joir Edmon nere moay ono

3 (Pages 6 to 9)



	Page 10		Page 12
1	you discuss your deposition with anyone?	1	Q And what are the general duties as
2	A Well, at the meeting with Mr. Elliott	2	head of the intellectual practice?
3	yesterday on the phone call was also two other	3	A I'm responsible for developing experts
4	counsel from Spencer Fane.	4	and developing methods and techniques and
5	Q And who were those counsel?	5	supporting experts in usually litigation
6	A They were Mark Thornhill and Brian	6	assignments.
7	I'm blanking on his name.	7	Q Is your primary role working with
8	Q Brian Bear?	8	intellectual property litigation?
9	A Yes.	9	A That's my primary role, yes.
10	Q Anyone else that you discussed your	10	Q What other duties do you have?
11	deposition did you discuss your deposition	11	A I'm on some of the marketing
12	with anyone other than those three?	12	committees and one of the compensation
13	A No. My staff were also in attendance	13	committees. So generally administrative duties.
14	at that meeting.	14	Q Okay. Have you given testimony in
15	Q And what were the names of the staff	15	other cases prior to this?
16	that were in attendance?	16	A Yes.
17	A Ms. Liu and Mr. Rondeau.	17	Q And are you generally do you
18	Q Anyone else?	18	generally "represent" is the wrong word.
19	A No, that was it.	19	But are you generally employed by the
20	Q Can you give me a quick overview of	20	patent owner or the challenger?
21	your education?	21	A I've been employed by both types of
22	A Yes. I have an undergraduate and	22	parties over the years.
23	Ph.D. doctorate in economics from the University	23	Q Are the cases that you have testified
24	of California at Berkeley.	24	in generally intellectual property cases?
25	Q Okay. And when did you receive that?	25	A Generally, yes.
	Page 11		Page 13
			1436 13
1		1	
1 2	A The Ph.D. was in '88 and the	1 2	Q What percentage of the cases that you
2	A The Ph.D. was in '88 and the undergraduate degree in '79.	2	Q What percentage of the cases that you worked on are IP?
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competition from my client. And so the evidence clearly showed that, but the president who did not have access to the information I had was of the view that that was the case. Since I never presumed, of course, to read his mind, I was not offering any testimony about his state of mind. But that was excluded. Q What was the basis for exclusion? A That I wouldn't well, it was excluded. Q What was the basis for exclusion? A That I wouldn't well, it was excluded. Q Any other instances where your testimony has been excluded? A I think there may be one or two other? A I was been excluded? A Well, these have never been about qualifications. The one other I can remember at the moment is a methodology dust vonement is a methodology that you employed? Page 15 A Correct. Q And what case was that? A Correct. Q And what case was that? A I'm going to have to refresh my memory form my C.V. It was everal years ago. I think it was Metaswitch, ed. A Metaswitch, ed. A Not that I can recall. Q I have many discussions with Craig Miller; correct? A Not that I can recall. Q How many discussions with Mr. Miller discussed? A Not was the excended on the methodology that you used? A Not that I can recall. Q How many discussions with Mr. Miller discussed? A Not that I can recall. Q How many discussions with Mr. Miller discussed? A Not that I can recall. Q How many discussions with Mr. Miller discussed? A Not that I can recall. Q How many discussions with Mr. Miller discussed? A Not that I can recall. Q How many discussions with Mr. Miller discussed as late and the mispact on sales; timpact sales, things like thatous date, unattended. Q Do day unatembate where your testimony has been excluded based upon the methodology that you and Mr. Miller discussed? A Not that I can recall. Q How many discussions with Mr. Miller discussed in the sales. BYMR. LIGIT: A Yes. Q When did you talk to Mr. Miller discuss? A Net law discussions with Mr. Miller discussed as alse and sales trends. Q When did you talk to Mr. Miller discuss? A Well, we d		Page 14		Page 16
a that, but the president who did not have access to the information I had was of the view that the through the did not have access to the information I had was of the view that the through that was the case. 5	1	competition from my client.	1	of applying his technology.
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