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Transcript of John Patrick Abraham, Ph.D.

Date: December 18, 2019

Case: American National Manufacturing Inc. -v- Sleep Number Corporation, et al.
(PTAB)

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Transcript of John Patrick Abraham, Ph.D.
Conducted on December 18, 2019

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1	3
1 UNITED STATES PATENT AND TRADEMARK OFFICE	1 A P P E A R A N C E S
2 BEFORE THE PATENT TRIAL AND APPEAL BOARD	2
3 -----	3 REPRESENTING THE PETITIONER:
4 AMERICAN NATIONAL	4 Mr. Jaspal Singh Hare
5 MANUFACTURING INC.,	5 Attorney at Law
6 Petitioner, IPR2019-00497	6 Spencer Fane LLP
7 v. U.S. PATENT 8,769,747	7 5700 Granite Parkway, Suite 650
8 SLEEP NUMBER CORPORATION IPR2019-00500	8 Plano, TX 75024-6622
9 f/k/a SELECT COMFORT U.S. PATENT 9,737,154	9 jhare@spencerfane.com
10 CORPORATION, IPR2019-00514	10
11 Patent Owner. U.S. PATENT 5,904,172	11 Mr. Brian T. Bear
12 -----	12 Attorney at Law
13 VIDEO DEPOSITION OF	13 Spencer Fane LLP
14 JOHN PATRICK ABRAHAM, Ph.D.	14 1000 Walnut Street, Suite 1400
15 MINNEAPOLIS, MINNESOTA	15 Kansas City, MO 64106-2140
16 WEDNESDAY, DECEMBER 18, 2019	16 bbear@spencerfane.com
17 9:06 A.M.	17
18	18
19	19
20 JOB NO.: 275005	20
21 PAGES: 1 - 190	21
22 REPORTED BY: PATRICK J. MAHON, RMR, CRR	22 (continued...)
2	4
1 DEPOSITION OF JOHN PATRICK ABRAHAM, Ph.D.,	1 APPEARANCES, continued:
2 HELD AT THE OFFICES OF:	2
3	3 REPRESENTING THE PATENT OWNER:
4	4 Ms. Archana Nath
5 FOX ROTHSCHILD LLP	5 Attorney at Law
6 222 SOUTH 9TH STREET	6 Mr. Luke Toft
7 MINNEAPOLIS, MINNESOTA 55402-3338	7 Attorney at Law
8	8 Fox Rothschild LLP
9	9 222 South 9th Street, Suite 2000
10	10 Minneapolis, MN 55402
11	11 anath@foxrothschild.com
12	12 ltoft@foxrothschild.com
13 Pursuant to Notice, before Patrick J.	13
14 Mahon, Notary Public in and for the County of	14 ALSO PRESENT:
15 Hennepin, State of Minnesota.	15 Mr. Kyle Stolis, Videographer
16	16
17	17 * * *
18	18
19	19
20	20
21 * * * * *	21
22	22

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 Conducted on December 18, 2019

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9	11
1 PROCEEDINGS	1 please.
2 WHEREUPON, the following proceedings were	2 A Yes. It's John, J-o-h-n, Patrick,
3 duly had:	3 P-a-t-r-i-c-k, Abraham, A-b-r-a-h-a-m.
4 THE VIDEOGRAPHER: Here begins disk number	4 Q Could you state your full name in one go?
5 1 in the videotaped deposition of Dr. John	5 A Pardon? Could you restate the question?
6 Abraham, in the matter of American National	6 Q Oh. Could you just state your name in one
7 Manufacturing Inc. versus Sleep Number	7 go?
8 Corporation, et al., in the United States Patent	8 A John Patrick Abraham.
9 and Trademark Office, before the Patent Trial and	9 Q Thank you. What's your address?
10 Appeal Board, case numbers IPR2019-00497, -00500,	10 A My address is 4232 29th Avenue South,
11 and -00514.	11 Minneapolis, Minnesota 55406.
12 Today's date is Wednesday, December 18th,	12 Q Is that your home address or your work
13 2019, at approximately 9:04 a.m.	13 address?
14 The videographer today is Kyle Stolis,	14 A That is my home address.
15 representing Planet Depos.	15 Q Okay. Thank you.
16 This video deposition is taking place at	16 Do you have a work address?
17 the law office of Fox Rothschild LLP in	17 A I do.
18 Minneapolis, Minnesota.	18 Q What's your work address?
19 Would counsel please voice identify	19 A I work at the University of St. Thomas,
20 themselves and state whom they represent.	20 which is at 2115 Summit Avenue, S-u-m-m-i-t,
21 MR. HARE: My name is Jaspal Hare with	21 St. Paul, Minnesota 55105.
22 Spencer Fane. We represent Petitioner, American	22 Q All right. I'd like to go over a few
10	12
1 National.	1 ground rules before we start. I'll be asking you
2 MR. BEAR: Brian Bear on behalf of	2 questions that will be recorded by the court
3 Petitioner, American National.	3 reporter; do you understand?
4 MS. NATH: Archana Nath on behalf of	4 A Yes.
5 Patent Owner, Sleep Number Corporation.	5 Q Do you understand that you need to speak
6 THE VIDEOGRAPHER: Thank you.	6 up so the court reporter can record your answers?
7 The court reporter today is Patrick Mahon,	7 A I do.
8 representing Planet Depos.	8 Q Do you understand that you need to keep
9 Would the reporter please swear in the	9 your answers clear and verbal, as nods and shakes
10 witness.	10 cannot be recorded?
11 (The oath was administered by the	11 A I do.
12 reporter.)	12 Q Do you understand that you're under oath?
13 WITNESS RESPONSE: I do.	13 A I do.
14 JOHN PATRICK ABRAHAM, Ph.D.,	14 Q Do you understand that that oath requires
15 a witness in the above-entitled proceedings, after	15 you to provide complete and candid answers to my
16 having been first duly sworn deposed under oath as	16 questions?
17 follows:	17 A I do.
18 EXAMINATION	18 Q Do you also understand that requires you
19 BY MR. HARE:	19 to answer my questions, not your own questions, or
20 Q Good morning. How are you doing?	20 provide information that is not responsive to my
21 A Very well. Thank you.	21 questions?
22 Q Could you state your name for the record,	22 A Can you restate that question?

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<p style="text-align: right;">13</p> <p>1 Q Do you understand that your oath requires</p> <p>2 you to answer my questions, not your own</p> <p>3 questions?</p> <p>4 A I do.</p> <p>5 MS. NATH: Object to the characterization</p> <p>6 of what the oath requires. Go ahead.</p> <p>7 BY MR. HARE:</p> <p>8 Q So, for example, if I ask a yes or no</p> <p>9 question, do you know how to answer a yes or no</p> <p>10 question?</p> <p>11 A I would have to hear the question that</p> <p>12 you're asking.</p> <p>13 Q Do you understand the penalty for</p> <p>14 violating your oath?</p> <p>15 A I do.</p> <p>16 Q What's your understanding?</p> <p>17 A Well, violating the oath would be a crime.</p> <p>18 That's my understanding.</p> <p>19 Q Okay. I'm going to try to ask clear,</p> <p>20 plain English questions, or if you don't</p> <p>21 understand my question, please don't answer it and</p> <p>22 let me know. Okay?</p>	<p style="text-align: right;">15</p> <p>1 Q Do you have any questions over the</p> <p>2 procedure we'll follow today?</p> <p>3 A None at this time.</p> <p>4 Q Have you ever been deposed before?</p> <p>5 A I have.</p> <p>6 Q Approximately how many times?</p> <p>7 A Approximately 14.</p> <p>8 Q Generally, what was the nature of those</p> <p>9 depositions? For example, were they patent</p> <p>10 matters or other types of law?</p> <p>11 A I have been deposed in patent matters, and</p> <p>12 I have been deposed in other matters of law.</p> <p>13 Q Okay. About how many of your depositions</p> <p>14 were on patent matters? And you can estimate.</p> <p>15 A Perhaps eight to ten.</p> <p>16 Q Do you have experience outside of this</p> <p>17 current proceeding, or this current set of</p> <p>18 proceedings, with PTO or IPR matters?</p> <p>19 A Yes.</p> <p>20 Q Do you know the caption or the case number</p> <p>21 of the last matter in the PTO that you were a part</p> <p>22 of?</p>
<p style="text-align: right;">14</p> <p>1 A Yes.</p> <p>2 Q If you realize at some point that your</p> <p>3 answer is inaccurate or incomplete, will you also</p> <p>4 please let me know?</p> <p>5 A I will.</p> <p>6 Q Also, if you're answering a question and</p> <p>7 you think of a document that may be helpful in</p> <p>8 answering that, please let me know, because we may</p> <p>9 have it here.</p> <p>10 A Thank you.</p> <p>11 Q I generally like to take breaks every</p> <p>12 hour, maybe hour and a half. If you need a break</p> <p>13 earlier, we'll try our best to accommodate you. I</p> <p>14 would just ask that you answer the pending</p> <p>15 question. Is that okay?</p> <p>16 A It is. Thank you.</p> <p>17 Q Is there any reason you cannot testify</p> <p>18 fully and accurately today?</p> <p>19 A No.</p> <p>20 Q You're not on any drugs or alcohol that</p> <p>21 would affect your testimony?</p> <p>22 A I am not.</p>	<p style="text-align: right;">16</p> <p>1 A I don't know what the acronym "PTO" means,</p> <p>2 sitting here now, but I have been involved in</p> <p>3 other IPR litigations.</p> <p>4 Q When I say PTO, I mean, the United States</p> <p>5 Patent and Trademark Office.</p> <p>6 A Thank you for that clarification.</p> <p>7 Q Do you understand it's commonly referred</p> <p>8 to as USPTO or PTO; correct?</p> <p>9 A That is how I understand it.</p> <p>10 Q Okay. And then IPR, that's inter partes</p> <p>11 review; do you understand that?</p> <p>12 A I do.</p> <p>13 Q All right. And just to make sure we're</p> <p>14 talking about these proceedings or this</p> <p>15 proceeding, we're talking about the three IPR</p> <p>16 proceedings instituted by American National</p> <p>17 challenging Sleep Number patents. And I'm just</p> <p>18 going to read those IPR numbers into the record.</p> <p>19 The first is IPR2019-00514 involving U.S. Patent</p> <p>20 5,904,172. If I refer to that as the -514</p> <p>21 proceeding or the proceeding involving the '172</p> <p>22 patent, does that make sense?</p>

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