

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 No. IPR2019-00514

Patent No. 5,904,172

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 40) and the Proposed Stipulated Protective Order (Ex. 2034).

I. Good Cause Exists

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

1. Three Patent Owner expert witness deposition transcript, Exhibit 1066, 1067, and 1068, two of which (Exhibit 1066 and 1068) contains an exchange with the witness regarding an exhibit which has been deemed "Highly Confidential-Outside Counsel Only" by Patent Owner under the provisions of the modified District Court Protective Order ("DCPO") enforceable by the District Court; and the third of which (Exhibit 1067) 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. Two expert declarations, Exhibit 1069 and 1071, one of which (Exhibit 1069) analyzes and references an exhibit 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; and the other of which (Exhibit 1071) analyzes and cites to Petitioner’s financial data and sales data which have been designated as Highly Confidential – Outside Counsel Only;
3. A client declaration, Exhibit 1072, which refers to Petitioner’s data designated as Highly Confidential – Outside Counsel Only;
4. Petitioner-produced document in this IPR proceeding, Exhibit 1075, which is designated as Highly Confidential – Outside Counsel Only and contains financial information of Dires, LLC;
5. An inventor deposition transcript, Exhibit 1077, from investigation number 337-TA-971 before the United States International Trade Commission which was deemed “Confidential Business Information” by the parties under the protective order enforceable by the United States International Trade Commission, and in turn, deemed “Highly Confidential-Outside Counsel Only” by the parties under the provisions of the modified

District Court Protective Order (“DCPO”) enforceable by the District Court;
and

6. An exhibit to a confidential inventor deposition transcript, Exhibit 1078, from investigation number 337-TA-971 before the United States International Trade Commission which was deemed “Confidential Business Information” by the parties under the protective order enforceable by the United States International Trade Commission, and in turn, deemed “Highly Confidential-Outside Counsel Only” by the parties under the provisions of the modified District Court Protective Order (“DCPO”) enforceable by the District Court.

The disclosure of Petitioner’s 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 1075. 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 1066, 1067, 1068, 1069, 1071, and 1072. 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
1066	January 8, 2020 Deposition Transcript of Dr. William Messner	In deposition, Dr. Messner was asked questions regarding an exhibit that has been deemed by Patent Owner as Highly Confidential – Outside Counsel Only in the District Court Proceeding and ITC Proceeding.

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