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

AMERICAN NATIONAL MANUFACTURING INC.,)
Petitioner,))
vs.) IPR2019-00497) Patent 8,769,747 B2
SLEEP NUMBER CORPORATION,) IPR2019-00500
f/k/a SELECT COMFORT CORPORATION,) Patent 9,737,154 B2)
Patent Owner.)))

DEPOSITION OF CRAIG MILLER
February 20, 2020
Corona, California

Reported by:

Michael G. McMorran

Job no: 27001



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1	DEPOSITION OF CRAIG MILLER, taken on behalf of	2	WITNESS: Craig Miller
2	Patent Owner at 9:01 a.m., Thursday, February 20th, 2020, at 2731 Blue Springs Drive, Corona, California,	3 4	EXAMINATION PAGE By Mr. Hansen 5
4	before Michael G. McMorran, Certified Shorthand	5	By Mr. Elliott 109
5	Reporter No. 13735 of the State of California, RPR,	6	EVILIDITO
6	pursuant to Notice.	7 8	E X H I B I T S EX. DESCRIPTION PAGE
7	pursuant to Notice.	9	1 Document entitled "Agreement" 20
8		10	CONFIDENTIAL
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10		11	3 Declaration of Craig Miller, Jr. in 31
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14		14	5 Document entitled "Dires Advertising 67
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16		16	6 Document entitled "Dires' Disapproval 76 Suspension Timeline - Private Search
17		17	Engine Companies"
18		18	7 IPR 10 Exhibit to Supplemental 89 Declaration of Craig Miller, Jr. in
19		19	Support of Petitioner's Reply to Patent
20		20	Owner's Response
21			8 IPR 11 Exhibit to Supplemental 93
22		21	Declaration of Craig Miller, Jr. in Support of Petitioner's Reply to Patent
23		22	Owner's Response CONFIDENTIAL
24		23 24	9 American National Invoice No. 0491641-IN 114
25		25	
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1	APPEARANCES OF COUNSEL:	1	CORONA, CALIFORNIA; THURSDAY, FEBRUARY 20TH, 2020
2	FOR PETITIONER: SPENCER FANE, LLP	2	9:01 A.M.
	BY: KYLE L. ELLIOTT, ESQ.	3	* * *
4	1000 Walnut Street	4	CRAIG MILLER,
5	Suite 1400 Kansas City, Missouri 64106-2140	5	the Witness herein, having been first duly sworn,
	(816) 292-8150	6	testified as follows:
6	kelliott@spencerfane.com	7	-000-
-/	FOR PATENT OWNER:	8	EXAMINATION
8		9	BY MR. HANSEN:
9	FOX ROTHSCHILD LLP BY: ANDREW S. HANSEN, ESQ.	10	Q Good morning, Mr. Miller.
)	222 South Ninth Street	11	A Good morning.
10	Suite 2000	12	Q As you know, my name is Andy Hansen. I'm
11	Minneapolis, Minnesota 55402-3338 (612) 607-7000	13	counsel for Sleep Number.
1	ahansen@foxrothschild.com	14 15	We've met before, correct? A We have.
12		16	Q Let me ask you just some preliminary
13 14	Also present: LARRY ASKEW	17	background questions about preparation today and prior
15	The present British House	18	testimony that you've given.
16		19	You've given depositions before, right?
17			A I have.
17 18		2.0	A Inave.
18 19		20 21	
18 19 20			Q And you've given trial testimony before?
18 19		21	Q And you've given trial testimony before? A I have.
18 19 20 21 22 23		21 22	Q And you've given trial testimony before?A I have.Q Have you given any depositions or trial
18 19 20 21 22		21 22 23	Q And you've given trial testimony before? A I have.

2 (Pages 2 to 5)



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19 remember correctly. 20 Q Have you been the 3 president of ANM in your role you've been the 3 president of ANM for a while now, right? 21 A Since the I don't remember exactly when my mom was the president. I was the vice president starting in '93. And then sometime thereafter, don't show exactly when that changed, but I think it changed about the time that we merged with Sizewise. 21 A Not since no, I haven't. 22 Q During your time as president of ANM, are you aware of ANM being involved in litigation with any on the rompanies? 23 A Not since no, I haven't. 24 Q During your time as president of ANM, are you aware of ANM being involved in litigation with any on been involved Dires? have the you been involved Dires have they been involved with any other Companies? 24 A Not since have they been involved with any other Companies? 25 Q How long? 26 A Since the I don't remember exactly when my mom was the president of ANM, are you aware of ANM being involved in litigation with any oubseen involved Dires? Same question. 26 Q And how about Dires? Same question. 27 Q And how about Dires? Same question. 28 MR. ELLIOTT: Objection to form. 29 Q And show doust Dires have they been involved with any other litigation with any ouppanies? 30 I multiple data the realter of Dires. 31 Q And how about Dires have they been involved with any other litigation with any companies? 32 A ANM is not a direct owner of Dires. 33 A ANM is not a direct owner of Dires. 4 A ANM is not a direct owner of Dires. 4 A ANM is not a direct owner of Dires. 4 A ANM is not a direct owner of Dires. 4 A ANM is not a direct owner of Dires. 4 A ANM is not a direct owner of Dires. 4 A ANM is not a direct owner of Dires. 4 A ANM is not a direct owner of Dires. 4 A ANM is not a direct owner of Dires. 5 Q Is it is the ownership of Dires from ANM, 4 to back up to help you know, put think it's I think we need to back up to help you know, put think it's I think it's I think it's I think it's I think it's				
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sales that we're going to get into later that I think are relevant to the scope?

MR. HANSEN: Well, there's multiple ways we'll get into it. We'll get into it with certain statements that have been made about the relationship when you get into false statements, which is within the scope of the declarations that were given when we talk about false statements from a previous litigation.

In addition, when we're talking about sales from ANM to Dires, it's relevant as to whether or not that is a direct to consumer or through a retailer, which gets in, again, to statements that have been made, which I'll ask questions about later.

MR. ELLIOTT: Well, we know Dires isn't a consumer. So to me, you can -- I'm okay with that question.

But why do you need to know the percentage ownership and who else is owners of Dires, you know, people that have never been mentioned in these IPRs?

MR. HANSEN: I don't think it really matters if somebody has been mentioned in the IPR yet when I'm asking questions about statements that have been made in a declaration.

I'm just getting some background right now about who is an owner of Dires, and I'm going to ask

MR. ELLIOTT: Okay.

MR. HANSEN: That's all I'm looking for right now.

MR. ELLIOTT: Okay.

5 BY MR. HANSEN:

Q I don't remember what the question was, but I believe it was who are the owners of Dires?

A Okay. The owners of Dires -- the owners of Dires are the seven owners of Sizewise.

Q Okay.

A Okay? Because there are seven owners of Sizewise, and then there are three minority owners of Dires.

But the owners of Sizewise own in excess of 80 percent of Dires.

Q And you're one of the owners of Sizewise?

A Correct.

Q And the other three minority owners are not related to Sizewise?

A Correct.

Q Mr. Miller, in these IPRs, you've submitted different declarations at different points in time. Initially, you submitted a declaration relating to some discovery requests that Sleep Number was pursuing.

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Is that accurate?

Page 11

questions about statements that have been made where Dires is making sales to consumers where they're attributing it to ANM as the manufacturer, Dires as the manufacturer.

And I'm trying to understand if these companies are separate or not.

MR. ELLIOTT: Let's move forward. But, you know, to the extent we're trying to figure out what the overall corporate structure of all this is in this deposition now, I'm going to cut off, and we'll give a call to the paralegal and see if we can get the Board on the phone.

MR. HANSEN: So you don't want me to ask any other questions about the ownership of Dires?

Are you saying he's not going to answer that, or are you going to cut it off?

MR. ELLIOTT: I'm saying let's go forward with your line of questioning. But what I'm saying is if it's continuing to turn into just an exploration of the whole ownership structure of individuals that aren't even real parties of interest in this IPR, then I'm going to cut it off.

MR. HANSEN: Okay. I don't think I'm going to go where you're concerned I'm going. I just want to get the framework for what the ownership is.

A Yes.

MR. ELLIOTT: And to the extent that you're going to ask questions about that generally, but if you're going to go into specifics of it, that's a discovery motion that's already been decided. It's not part of his testimony of substance in the IPR and would also be beyond the scope of the testimony that's being taken today.

MR. HANSEN: So you're saying that you don't -- you wouldn't -- you would object to any testimony relating to that prior declaration?

MR. ELLIOTT: Mmm-hmm, supporting the discovery motion, yes. Some of that, I think, overlaps with the declaration that's at issue substantively that the testimony today pertains to -- that his direct testimony pertains to.

MR. HANSEN: Well, I disagree with you that it's not relevant because I think we still have some carryover issues from discovery that are now at issue with the latest declarations that were put in when we sought discovery.

Obviously, you objected to a lot of the discovery we sought.

MR. ELLIOTT: Right.

MR. HANSEN: It played out. There was an

4 (Pages 10 to 13)



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Page 14 Page 16 order. And now we have a declaration in there that is 1 A Products other than conventional bedding. 1 2 2 They started from waterbeds, and then they evolved into taking issue. 3 3 That's my characterization. You don't have to things that were not mainstream. 4 4 Q So when you say -- when you say that, is it agree with it. 5 MR. ELLIOTT: Sure. 5 like, basically, beds other than inner spring? б 6 Is that a fair way to describe it? MR. HANSEN: But it's taking issue with some 7 7 of the discovery that was produced, and there is MR. ELLIOTT: Objection to form. 8 additional documents that have been now put forward in 8 THE WITNESS: They make futon. The shows we 9 9 attended was the specialty sleep shows. the declaration that were not produced earlier when we 10 were seeking that discovery. 10 BY MR. HANSEN: 11 MR. ELLIOTT: Sure. And as to the discovery 11 Q Okay. 12 that was ordered and then anything that's been produced 12 A And then it became the specialty sleep and 13 since then, I have no scope objections to that at all 13 futon shows. That's why I'm saying it that way. 14 because that is supporting Mr. Miller's testimony that 14 Q Okay. Did ANM -- you mentioned waterbeds. is in the declaration that's of substance here. 15 Did ANM manufacture any other types of beds? This is 15 16 So those what you state there regarding the 16 pre-entering that agreement with Sleep Number. A Yes. 17 discovery, I don't have issues with. 17 18 MR. HANSEN: All right. Well, Counsel, why 18 Q What types of beds were those? 19 don't we put that aside for now? Just bear with me a 19 A Prior to entering the agreement with Sleep Number, we manufactured all types of, you know, 20 20 moment. 21 21 MR. ELLIOTT: Sure. obviously, waterbeds, but also adjustable firmness 22 22 MR. HANSEN: And I'll see if that's something mattresses as well. 23 23 that we're going to have to see if we can get on a call Q Adjustable firmness -- is that using air 24 24 technology? 25 MR. ELLIOTT: Sure. Let me start tracking 25 A Yes. Page 15 Page 17 down the paralegal's phone number. 1 Q Any other types of beds? 1 2 A Yeah. We would make other types of products BY MR. HANSEN: 2 3 Q Well, let me ask you some questions about 3 that were specialty in nature. 4 Q Can you give me some examples? different companies that you have sold beds to in the 4 5 5 A Products that would go in motorhomes. Just we past. 6 6 were a specialty, you know, manufacturer; so we A Okay. 7 7 Q By "you," I'm talking about ANM. Okay? Is manufactured a lot of custom, you know, mattresses to 8 8 that fair? go into truck drivers, you know, rigs. Just various 9 9 specialty, you know, products, including the medical A Fair. 10 10 Q At one point in time, you entered into a products. consulting agreement with Sleep Number, right? 11 Q And setting aside the medical products, these 11 12 specialty mattresses -- would they be all adjustable 12 A Correct. 13 Q And what year was that? 13 air, or would some of them be different types of 14 14 That was 2007, if I recall correctly. mattresses? 15 They would be different types. Some would be Q So prior to that time, ANM was selling beds to 15 Α 16 other retailers, right? 16 17 A Correct. 17 Q When you say "different types," would some of Q And what were those retailers? 18 18 them be inner spring? 19 There was a number of retailers. There were 19 We've done some inner spring, but not very 20 different retailers in the specialty sleep, you know, 20 much. 21 market. Mostly companies that had transitioned from 21 Q In your declaration that you submitted in --22 22 it's Exhibit 1057 in the IPR, and it's titled selling waterbeds, which was our roots, our history, 23 23 that then transformed our companies into selling "Declaration of Craig Miller, Jr. in Support of 24 specialty sleep products. 24 Petitioner's Reply to Patent Owner Response," you talk 25 25 Q What do you mean by "specialty sleep"? about different programmers that you've worked with 5 (Pages 14 to 17)

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