

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

PATENT OWNER'S MOTION TO SEAL

Pursuant to 37 C.F.R. §§ 42.14 and 42.54, Patent Owner respectfully submits this Motion to Seal a confidential exhibit concurrently filed with Patent Owner's Opposition to Petitioner's Motion to Exclude.

I. Good Cause Exists for Sealing The Exhibits.

Patent Owner previously moved to seal Exhibit 2055. Patent Owner now moves to seal Supplemental Exhibit 2055, which is a supplemental declaration of one its experts and which is being filed in response to Petitioner's Motion to Exclude. (Paper 83.) As with the original declaration, Supplemental Exhibit 2055 contains information derived from and extensively refers to Exhibit 2078 (IPR 8), which Petitioner produced and designated as Highly Confidential – Outside Counsel Only because it purportedly contains confidential sales and financial information. (*See also* Paper 49 (moving to seal original declaration Exhibit 2055 on same grounds based upon meet and confer with Petitioner's counsel).)

Petitioner previously represented to Patent Owner that the disclosure of this confidential information to the public would harm Petitioner in that it would provide competitors or the public with proprietary and competitively sensitive information. Patent Owner does not currently dispute that Exhibit 2078 or Supplemental Exhibit 2055 contain confidential information and that good cause exists to seal such documents, and requests that the Board grant this Motion so that the information remains protected under the Stipulated Protective Order in this proceeding.

Pursuant to the Stipulated Protective Order § 10(A)(ii), (Ex. 2034), and because Petitioner has represented that Supplemental Exhibit 2055 contains *both* confidential information and non-confidential information, Patent Owner is filing a redacted version of Supplemental Exhibit 2055 publicly and a non-redacted version under seal. The parties request that the Board maintain the non-redacted exhibit as under seal and the redacted exhibit as the public version.

II. Certification of Non-Public Status.

Petitioner previously certified to the undersigned counsel for Patent Owner that the information sought to be sealed has not been published or otherwise been made available to the public. Patent Owner has also not published or otherwise made the information available to the public.

III. Certification of Conference Between the Parties Pursuant to 37 C.F.R. § 42.54(a).

The undersigned counsel for Patent Owner certifies that they have in good faith met and conferred with counsel for Petitioner and have agreed that Exhibit 2055, and thus Supplemental Exhibit 2055, should be filed under seal.

IV. Conclusion

In light of the good cause identified herein, Patent Owner respectfully requests that the Board grant its Motion to Seal.

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Respectfully submitted,

Dated: May 6, 2020

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CERTIFICATE OF SERVICE

Pursuant to 37 CFR § 42.6(e), the undersigned hereby certifies that on May 6, 2020, the foregoing Patent Owner's Motion to Seal was served via e-mail, as authorized by the Petitioner, at the following email correspondence address of record:

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