

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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AMERICAN NATIONAL MANUFACTURING INC.  
Petitioner

v.

SLEEP NUMBER CORPORATION  
f/k/a SELECT COMFORT CORPORATION  
Patent Owner

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Case No. IPR2019-00514

Patent No. 5,904,172

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**DECLARATION OF KYLE L. ELLIOTT IN SUPPORT OF  
PETITIONER'S REPLY TO PATENT OWNER'S REQUEST TO RESCIND  
THE FILING DATE OF THE PETITION AND DENY INSTUTION OF  
THE PETTION FOR FAILURE TO TIMELY SERVE THE PETITION  
UPON PATENT OWNER**

I, Kyle L. Elliott, declare and state as follows:

1. I am an attorney with the law firm of Spencer Fane LLP. I represent Petitioner, American National Manufacturing, Inc., in the above captioned proceeding. I make this Declaration in support of Petitioner's reply to Patent Owner's request to rescind the filing date as identified in Patent Owner's Preliminary Response. I am above eighteen years of age, of sound mind, and if called to testify I could and would competently testify hereto. I make this declaration of my own personal knowledge.

2. Attached as **Exhibit 1030** is a true and correct copy of the Court Order Granting Defendants' Motion to Stay Pending *Inter Partes Review* issued on February 12, 2019; 5:18-cv-0357AB(SP<sub>x</sub>), Dkt. No. 142.

3. Attached as **Exhibit 1031** is a true and correct copy of the Federal Express package shipping and delivery confirmation notice of the served petition and accompanying materials to Ms. Elizabeth Patton at Fox Rothschild LLP, Minneapolis, MN.

4. Attached as **Exhibit 1032** is a true and correct copy of the Federal Express package shipping and delivery confirmation notice of the served petition and accompanying materials to Mr. Stuart Nelson at Fish & Richardson PC, Minneapolis, MN.

5. Attached as **Exhibit 1033** is a true and correct copy of Mr. Lukas Toft's January 10, 2019 email correspondence to Petitioner's counsel regarding the service of the petition.

6. Attached as **Exhibit 1034** is a true and correct copy of the Proof of Service of the first filed complaint against petitioner alleging infringement of U.S. Patent No. 5,904,172 dated January 2, 2018; 3:17-cv-03517, Dkt. No. 7.

7. Attached as **Exhibit 1035** is a true and correct copy of Change of Name Patent Assignment filed by Patent Owner on November 16, 2017 and recorded at Reel/Frame 044784/0925.

8. Attached as **Exhibit 1036** is a true and correct copy of Mr. Lukas Toft's January 11, 2019 email correspondence to the Board seeking guidance to challenge the service of the petition.

9. Attached as **Exhibit 1037** is a true and correct copy of the Joint Stipulation Regarding Stay of District Court Actions filed on February 12, 2019; 5:18-cv-0357AB(SPx), Dkt. No. 141.

10. Attached as **Exhibit 1038** is a true and correct copy of the Federal Express package tracking information of the served petition and accompanying materials to Ms. Elizabeth Patton at Fox Rothschild LLP, Minneapolis, MN.

11. Attached as **Exhibit 1039** is a true and correct copy of the Federal Express package tracking information of the served petition and accompanying materials to Mr. Stuart Nelson at Fish & Richardson PC, Minneapolis, MN.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Date: May 17, 2019

By /s/Kyle L. Elliott  
Kyle L. Elliott, Reg. No. 39,485  
Spencer Fane LLP  
1000 Walnut Street, Suite 1400  
Kansas City, Missouri 64106-2140  
Telephone: (816) 474-8100

## CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), the undersigned hereby certifies that a copy of the foregoing DELCARATION OF KYLE L. ELLIOTT IN SUPPORT OF PETITIONER'S REPLY TO PATENT OWNER'S REQUEST TO RESCIND THE FILING DATE OF THE PETITION AND DENY INSTUTION OF THE PETTION FOR FAILURE TO TIMELY SERVE THE PETITION UPON PATENT OWNER and its exhibits were served in its entirety on May 17, 2019, by electronic mail, as authorized by Patent Owner's Mandatory Notices, directed to the attorneys of record for Patent Owner at the following correspondence address of record:

Steven A. Moore  
Steve.moore@pillsburylaw.com

PILLSBURY WINTHROP SHAW PITTMAN LLP  
501 West Broadway, Suite 1100  
San Diego, CA 92101

Luke Toft  
LToft@foxrothschild.com

FOX ROTHSCHILD LLP  
Campbell Mithun Tower, Suite 2000  
222 South Ninth Street  
Minneapolis, MN 55402

Kecia J. Reynolds  
kecia.reynolds@pillsburylaw.com

PILLSBURY WINTHROP SHAW PITTMAN LLP  
1200 Seventeenth Street, NW  
Washington, DC 20036

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