

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.

IPR2019-00497 (Patent 8,769,747 B2)
IPR2019-00500 (Patent 9,737,154 B2)
IPR2019-00514 (Patent 5,904,172)

Record of Oral Hearing
Held: May 20, 2020

Before SCOTT A. DANIELS, FRANCES L. IPPOLITO and
ALYSSA A. FINAMORE, *Administrative Patent Judges*.

IPR2019-00497 (Patent 8,769,747 B2)
IPR2019-00500 (Patent 9,737,154 B2)
IPR2019-00514 (Patent 5,904,172)

APPEARANCES:

ON BEHALF OF THE PETITIONER:

KYLE L. ELLIOTT
KEVIN S. TUTTLE
JASPAL S. HARE
Spencer Fane LLP
1000 Walnut Street
Suite 1400
Kansas City, MO 64106

ON BEHALF OF THE PATENT OWNER:

STEVEN A. MOORE
KECIA J. REYNOLDS
Pillsbury Winthrop Shaw Pittman LLP
501 West Broadway
Suite 1100
San Diego, CA 92101-3575

LUKE TOFT
Fox Rothschild LLP
222 S. Ninth St., Suite 2000
Minneapolis MN 55402-3338

The above-entitled matter came on for hearing on Wednesday, May 20, 2020, commencing at 1:03 p.m. (by video).

IPR2019-00497 (Patent 8,769,747 B2)
IPR2019-00500 (Patent 9,737,154 B2)
IPR2019-00514 (Patent 5,904,172)

1 PROCEEDINGS

2 (1:00 p.m.)

3 JUDGE DANIELS: Please unmute yourself, sir.

4 MR. ELLIOTT: All right.

5 JUDGE DANIELS: Okay, Mr. Elliott.

6 MR. ELLIOTT: So, this is Kyle Elliot, with Spencer Fane for
7 American National. And Jaspal Hare is also on camera and speaking on
8 behalf of American National.

9 MR. HARE: Good afternoon, Your Honors. This is Jaspal Hare.

10 MR. MOORE: Good afternoon, Steve Moore, from Zhong Lun, on
11 behalf of the Patent Owner. And with me, who will be speaking today are
12 Mr. Luke Toft and Ms. Archana Nath.

13 JUDGE DANIELS: Thank you. All right. This is our final hearing
14 in three cases. We have IPR2019-00497, 00500, and 00514, between
15 Petitioner, American National Manufacturing, Inc., and Patent Owner,
16 Sleep Number Corporation, which we will -- I'll refer to American National
17 as ANM sometimes and Sleep Number.

18 A few other administrative matters. So, I'm Judge Daniels and I'm
19 here today with Judge Finamore, and joining us from the West Coast is
20 Judge Ippolito. Our court reporter -- if our court reporter needs anything
21 he's already been instructed that he can ask some questions if he needs to
22 get a spelling from anybody, or we can do it before break.

23 Also, one of the odd things is we don't have a timer like we have in
24 the hearing rooms, so I will be keeping time. I'll be keeping time that you
25 all need here. If you want to keep it yourself, that's probably a good idea,
26 too. I'm just keeping it on my phone because that's the easiest way to do it.

IPR2019-00497 (Patent 8,769,747 B2)

IPR2019-00500 (Patent 9,737,154 B2)

IPR2019-00514 (Patent 5,904,172)

1 We already have everyone's appearances. So, we set the procedure
2 for this in our trial order, but I think what I needed to do was get from you
3 all, and maybe I'll start with Mr. Elliott; what time you have -- did you all
4 discuss what times you wanted to break this hearing up into?

5 MR. ELLIOTT: Yes, Your Honor, I do have kind of a plan for that
6 time. And the time splits would be 70 minutes in total for the pressure
7 adjustment patents and the Mahoney patents, with 40 minutes for open, and
8 30 minutes for rebuttal. And that would leave then 50 minutes for the 172
9 patent and 514 IPR. And splitting back to the target is 30 minutes for the
10 open and 20 minutes for rebuttal.

11 JUDGE DANIELS: Great is that -- does that comport with how you
12 all wanted to it, whoever is speaking first for Patent Owner?

13 MR. MOORE: Well, Your Honor, our thoughts were that we would
14 take about 65 minutes to 70 minutes possibly on the 747 and 154 and the
15 remainder of the time on the 172. We'd like to reserve a few moments if
16 possible for rebuttal, if time permits. And I believe the Board addressed
17 that in the May 1st Order.

18 JUDGE DANIELS: Yeah, so that's about the same time. So,
19 basically 70 minutes each for everybody. And again, you can -- how much
20 time did you want to reserve?

21 MR. MOORE: You know, I don't have a specific time limit we'd
22 would like to reserve. We'd would like to spend as much time as necessary
23 in the -- on the patent issues, and if time permits then allow that whatever
24 time left over for the rebuttal.

25 JUDGE DANIELS: That's fine. Sure. Okay, I just wanted to know
26 how much, just to set my clock here for. I will do my best to give you a

IPR2019-00497 (Patent 8,769,747 B2)

IPR2019-00500 (Patent 9,737,154 B2)

IPR2019-00514 (Patent 5,904,172)

1 few minutes notice before you get to, Mr. Elliott, before you get to the end
2 of your 40 minutes. We'll start there when we get going.

3 We will take a break, unless anyone, well, I was thinking about a 10
4 minute break. Is that okay, before we go on to the 514 case? Is that okay
5 with both Counsel?

6 MR. ELLIOTT: For Petitioner certainly fine with us, Your Honor.

7 MR. MOORE: Yes, Your Honor, there's an issue that the Board
8 should be aware of. One of my colleagues may need a little more control
9 over when she takes a break. She's pregnant and sometimes those issues
10 aren't as easily schedulable for. But you know, generally the time periods
11 that you're talking about are great.

12 JUDGE DANIELS: We are completely flexible. If we need to take
13 a couple breaks, we can do that. I just wanted to make sure you all had
14 enough time and we didn't spend too much time on breaks since there is a
15 lot of material to get through today. So, just let us know, we're flexible.

16 Let me just -- a couple -- because the all video remote hearings are a
17 little unique still to us, I would remind everyone that it's helpful to mute
18 yourself unless you're speaking. And if no one hears you, you probably
19 have muted yourself and you need to unmute. So, just keep that in mind.

20 Just be aware that the court reporter is -- don't speak over each other.
21 Just like in the hearing room. The court reporter will ask us if he has --
22 needs something to be said again, or a particular spelling.

23 We have your demonstratives so they're -- they'll be right in front of
24 us. And as you've all probably been in these hearings before, we -- it's
25 helpful to us and really imperative that you tell us what slide number you're
26 on, every -- whenever you're speaking or -- and we'll ask sometimes if

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.