

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.

IPR2019-00514
Patent 5,904,172

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

FINAMORE, *Administrative Patent Judge*.

JUDGMENT

Final Written Decision

Determining Some Challenged Claims Unpatentable
35 U.S.C. § 318(a); 37 C.F.R. § 42.73

ORDER

Dismissing Patent Owner's Motion to Exclude
Dismissing Petitioner's Motion to Exclude
37 C.F.R. § 42.64(c)

Authorizing Entry of an Amended Stipulated Protective Order
Conditionally Granting Patent Owner's Motions to Seal
Conditionally Granting Petitioner's Motion to Seal
37 C.F.R. §§ 42.14, 42.54

I. INTRODUCTION

Petitioner filed a Petition requesting an *inter partes* review of claims 2, 4, 6, 12, 16, 20, 22, and 24 of U.S. Patent No. 5,904,172 (“the ’172 patent”)¹. Paper 2 (“Pet.”). Patent Owner filed a Preliminary Response. Paper 7 (“Prelim. Resp.”). With our authorization (Paper 6), Petitioner filed a Reply addressing Patent Owner’s alleged improper service. Paper 8 (“Reply”). On August 5, 2019, we granted Petitioner’s request, and instituted an *inter partes* review of the ’172 patent. Paper 10 (“Inst. Dec.”).

After institution, Patent Owner filed a Response. Paper 46 (“PO Resp.”). Petitioner filed a Reply to Patent Owner’s Response. Paper 69 (“Reply”). Patent Owner filed a Sur-reply. Paper 78 (“Sur-reply”).

Each party requested oral argument (Papers 80 and 81), and an oral argument was held on May 20, 2020. A transcript of the oral argument has been entered into the record. Paper 93 (“Tr.”).

Patent Owner filed a Motion to Exclude Petitioner’s Evidence. Paper 82 (“PO Mot. Excl.”). Petitioner filed an Amended Opposition (Paper 89), and Patent Owner filed a Reply (Paper 92). Similarly, Petitioner filed a Motion to Exclude Evidence. Paper 83 (“Pet. Mot. Excl.”). Patent Owner filed an Opposition (Paper 85), and Petitioner filed a Reply (Paper 91).

The parties jointly stipulate to the entry of a Stipulated Protective Order (Ex. 2034). Paper 40. In accordance with the Stipulated Protective Order, Patent Owner filed a Motion to Seal (Paper 49, “PO Mot. Seal”) and

¹ The ’172 patent includes *ex parte* reexamination certificate US 5,904,172 C1, issued January 3, 2014 (“reexamination certificate”).

a subsequent Motion to Seal (Paper 83, “PO 2nd Mot. Seal”), and Petitioner also filed a Motion to Seal (Paper 68, “Pet. Mot. Seal”). All of the Motions to Seal are unopposed.

This Final Written Decision (“Decision”) is issued pursuant to 35 U.S.C. § 318(a). For the reasons that follow, we conclude Petitioner has not demonstrated that claims 2, 4, 6, 12, 20, 22, and 24 are unpatentable by a preponderance of the evidence, but has demonstrated that claim 16 is unpatentable by a preponderance of the evidence.

II. BACKGROUND

A. Real Parties in Interest

Petitioner identifies the real parties in interest as itself, American National Manufacturing, Inc., as well as Number Bed Holdings, LLC; Sizewise Rentals, L.L.C.; Dires, LLC d/b/a Personal Comfort Bed; and Raye’s, Inc. d/b/a Sizewise Manufacturing. Paper 74, 2. Patent Owner identifies the real parties in interest as itself, Sleep Number Corporation, in addition to Select Comfort Retail Corporation; Select Comfort SC Corporation; Select Comfort Canada Holding Inc.; Select Comfort COSC Canada ULC; and Select Comfort Limited. Paper 75, 1.

B. Related Matters

The parties identify *Sleep Number Corp. v. American National Manufacturing, Inc.*, No. 3:17-cv-03517-B (N.D. Tex. dismissed Feb. 20, 2018) and *Sleep Number Corp. v. Sizewise Rentals, LLC*, No. 3:17-cv-03518-N (N.D. Tex. dismissed Feb. 20, 2018), which were refiled as *Sleep Number Corp. v. American National Manufacturing, Inc.*, No. 5:18-

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cv-00357-AB SP (C.D. Cal. filed Feb. 20, 2018) and *Sleep Number Corp. v. Sizewise Rentals, LLC*, No. 5:18-cv-00356-AB SP (C.D. Cal. filed Feb. 20, 2018), respectively, and currently stayed. Pet. 1; Paper 75, 2. The parties further identify the following terminated proceedings: *Select Comfort Corp. v. The Sleep Better Store, LLC*, No. 0:12-cv-1148 (D. Minn. dismissed Aug. 13, 2013); *Select Comfort Corp. v. Halcyon Waterspring*, No. 0:03-cv-3324 (D. Minn. dismissed Jan. 29, 2004); and *Select Comfort Corp. v. Tempur Sealy International, Inc. d/b/a Tempur-Pedic*, No. 0:14-cv-00245 (D. Minn. dismissed Sept. 6, 2017). Pet. 2–3; Paper 75, 3. Patent Owner also identifies the following antitrust action: *American National Manufacturing Inc. v. Select Comfort Corp.*, No. 16-cv-00582-GHK-JC (C.D. Cal. dismissed Jan. 13, 2017). Paper 75, 3.

In addition to these district court proceedings, the parties identify *Certain Air Mattress Systems, Components Thereof, and Methods of Using the Same*, Inv. No. 337-TA-971, USITC Pub. 4926 (Aug. 2019) (Final), *vacated in part*, 2020 WL 416443 (Jan. 22, 2020) (vacated with respect to the '172 patent). Pet. 2; Paper 74, 2; Paper 75, 2–3. The parties further identify the *ex parte* reexamination of the '172 patent, namely Reexamination Control No. 90/012,456 (filed Oct. 17, 2012)². Pet. 2–3; Paper 75, 3.

The parties also identify the following Board proceeding: *Tempur Sealy International, Inc. v. Select Comfort Corp.*, IPR2014-01419, Paper 7 (PTAB Feb. 17, 2015) (denying institution). Pet. 3; Paper 75, 3. Patent Owner further identifies *American National Manufacturing Inc. v. Sleep*

² The record from the reexamination is Exhibit 1003.

Number Corp., IPR2019-00497, Paper 105 (PTAB July 23, 2020) (final written decision) and *American National Manufacturing Inc. v. Sleep Number Corp.*, IPR2019-00500, Paper 105 (PTAB July 23, 2020) (final written decision). Paper 75, 2.

C. The '172 Patent (Ex. 1001)

The '172 patent is titled "VALVE ENCLOSURE ASSEMBLY." Ex. 1001, code [54]. A valve enclosure assembly is preferably coupled to a pump of an inflatable mattress system, as shown in Figure 1, reproduced below.

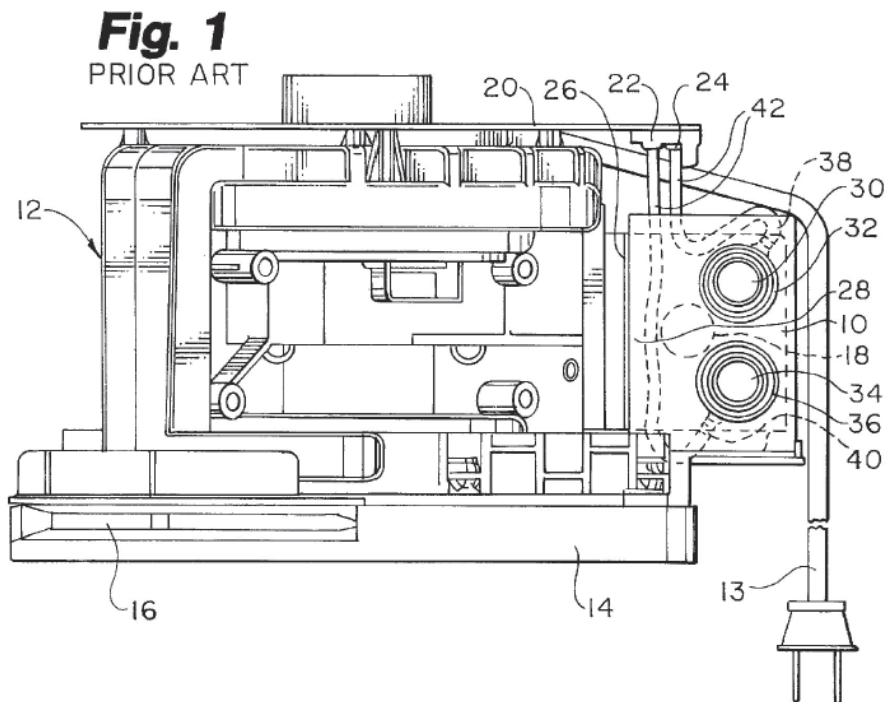


Figure 1 is a front elevational view of prior art valve enclosure assembly 10 coupled to pump 12. *Id.* at 1:13–14, 3:27–28. Air inlet 16 provides inlet air to pump 12, and pressurized air is discharged from pump 12 into prior art valve enclosure assembly 10 through air outlet 18 in the rear face of the valve enclosure assembly. *Id.* at 1:16–20. Front face 28 of prior art valve

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