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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**PETITIONER'S UNOPPOSED MOTION FOR
PRO HAC VICE ADMISSION OF
BRIAN T. BEAR UNDER 37 C.F.R. § 42.10(c)**

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Pursuant to 37 C.F.R. § 42.10, American National Manufacturing, Inc. ("Petitioner") respectfully requests the *pro hac vice* admission of Brian T. Bear into the present proceeding (IPR2019-00514).

I. Introduction

This motion is filed further to the Notice of Filing Date Accorded to Petition and Time for filing Patent Owner Preliminary Response, Paper No. 4 (the "Notice"), which authorizes motions for *pro hac vice* admission under 37 C.F.R. § 42.10. Further to the Notice, this motion is filed in accordance with the "Order – Authorizing Motion for *Pro Hac Vic*e Admission" in Case IPR2013-00639, Paper 7 (the "Order") and no sooner than twenty-one (21) days after service of the petition. In accordance with the Order, this motion includes the following Statement of Facts, as well as a Declaration of Brian T. Bear in Support of Motion for *Pro Hac Vice* Admission, attached hereto and made part of hereof (the "Bear Declaration").

II. No Opposition to this Motion

The parties met and conferred on this issue September 4, 2019, and Patent Owner counsel does not oppose the pro hac vice admission request of Mr. Brian T. Bear.

III.   Statement of the Facts

Lead counsel for Petitioner, Kyle L. Elliott, is a patent attorney registered to practice before the USPTO. Mr. Elliott will remain as lead counsel. Mr. Bear will become a back-up counsel.

Mr. Bear is an experienced litigator, and patent litigator with an established familiarity with the subject matter at issue in this proceeding, e.g., U.S. Patent No. 5,904,172 (the "'172 Patent"), at least by virtue of Mr. Bear's active role as co-counsel in the co-pending patent litigation of the '172 Patent and other related patents before the United States District Court for the Central District of California, Civil Action Nos. 5:18-cv-00356-AB (Spx) and 5:18-cv-00357- AB (Spx). Ex. 1037 at 1. Mr. Bear has been substantially involved with this litigation and is familiar with all facets of the dispute, including but not limited to, the subject matter of the '172 Patent and its relationship with the prior art.

Mr. Bear works closely with the undersigned lead and back-up counsel in this matter. Mr. Bear has reviewed, and is familiar with, the Petition for *Inter Partes Review* of the '172 Patent (Paper No. 1), the prior art cited in the petition, the arguments and factual assertions made by this petition, and the file history of the '172 Patent.

IV. Argument

Upon a showing of good cause, the Board may admit counsel who are not registered practitioners to appear *pro hac vice* in IPR and other Board proceedings. The applicable rule provides as follows:

> The Board may recognize counsel *pro hac vice* during a proceeding upon a showing of good cause, subject to the condition that lead counsel be a registered practitioner and to any other conditions as the Board may impose. For example, where the lead counsel is a registered practitioner, a motion to appear pro hac vice by counsel who is not a registered practitioner may be granted upon showing that counsel is an experienced litigating attorney and has an established familiarity with the subject matter at issue in the proceeding.

37 C.F.R. § 42.10(c).

As seen in the Statement of Facts above and in the accompanying declaration, the conditions for admission pro hac vice have been satisfied. In particular, Mr. Bear is an experienced litigator and has ample familiarity with the subject matter at issue in this IPR proceeding. Mr. Bear has never been censured, disciplined, suspended, nor denied admission by any court or administrative body. Further, Mr. Bear agrees to comply with or be subject to all relevant procedural and ethical rules. Finally, a

registered practitioner, the undersigned Mr. Elliott, will remain lead counsel, and

Mr. Tuttle and Mr. Hare, registered practitioners, shall remain back-up counsel.

V.   Conclusion

In view of the foregoing and the attached Bear Declaration, Petitioner most

respectfully submits that there is good cause for the Board to recognize Mr. Bear *pro*

hac vice as additional back-up counsel in this IPR.

Date: September 11, 2019   Respectfully Submitted,
                                            SPENCER FANE LLP

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