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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION**

21

22   SLEEP NUMBER CORPORATION,

23   Plaintiff,

24   v.

25   AMERICAN NATIONAL
MANUFACTURING, INC.,

26   Defendant.

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Case No. 5:18–cv–00357 AB (SPx)

**STIPULATED PROTECTIVE
ORDER**

[DISCOVERY MATTER]

1.   A.   <u>PURPOSES AND LIMITATIONS</u>

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate to and petition the Court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles. The parties further acknowledge, as set forth in Section 12.3, below, that this Stipulated Protective Order does not entitle them to file confidential information under seal; Civil Local Rule 79-5 sets forth the procedures that must be followed and the standards that will be applied when a party seeks permission from the court to file material under seal.

B.   <u>GOOD CAUSE STATEMENT</u>

This action is likely to involve confidential product and patent information, trade secrets, customer and pricing lists or records, software code, technical drawings and reports, business and/or marketing plans, records, and analysis, and other valuable research, development, commercial, financial, technical, and/or proprietary information for which special protection from public disclosure and from use for any purpose other than prosecution of this action is warranted. Such confidential and proprietary materials and information further consists of, among other things, confidential business or financial information, information regarding products and patents, information regarding confidential business practices, processes, operations, and style of work, or other confidential research, development, or commercial information (including information implicating privacy rights of third parties), information otherwise generally unavailable to the

1   public, or which may be privileged or otherwise protected from disclosure under

2   state or federal statutes, court rules, case decisions, or common law. Accordingly,

3   to expedite the flow of information, to facilitate the prompt resolution of disputes

4   over confidentiality of discovery materials, to adequately protect information the

5   parties are entitled to keep confidential, to ensure that the parties are permitted

6   reasonable necessary uses of such material in preparation for and in the conduct of

7   trial, to address their handling at the end of the litigation, and serve the ends of

8   justice, a protective order for such information is justified in this matter. It is the

9   intent of the parties that information will not be designated as confidential for

10   tactical reasons and that nothing be so designated without a good faith belief that it

11   has been maintained in a confidential, non-public manner, and there is good cause

12   why it should not be part of the public record of this case.

13   2.   DEFINITIONS

14   2.1   Action: this pending case and the related pending case against

15   Sizewise Rentals, LLC.

16   2.2   Challenging Party: a Party or Non-Party that challenges the

17   designation of information or items under this Order.

18   2.3   Confidential Information or Items: information (regardless of how it is

19   generated, stored or maintained) or tangible things that qualify for protection under

20   Federal Rule of Civil Procedure 26(c), and as specified above in the Good Cause

21   Statement.

22   2.4   Counsel: Outside Counsel of Record, House Counsel, as well as each

23   of their support staff.

24   2.5   Designating Party: a Party or Non-Party that designates information or

25   items that it produces in disclosures or in responses to discovery as

26   "CONFIDENTIAL," "HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL

27   ONLY," or "HIGHLY CONFIDENTIAL SOURCE CODE — OUTSIDE

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1   COUNSEL ONLY."

2   2.6   <u>Disclosure or Discovery Material</u>: all items or information, regardless

3   of the medium or manner in which it is generated, stored, or maintained (including,

4   among other things, testimony, transcripts, and tangible things), that are produced

5   or generated in disclosures or responses to discovery in this matter.

6   2.7   <u>Expert</u>: a person with specialized knowledge or experience in a matter

7   pertinent to the litigation who has been retained by a Party or its counsel to serve

8   as an expert witness or as a consultant in this Action.

9   2.8   <u>"HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL ONLY"</u>

10   <u>Information or Items</u>: extremely sensitive "Confidential Information or Items"

11   whose disclosure to another Party or Non-Party would create a substantial risk of

12   serious harm that could not be avoided by less restrictive means.

13   2.9   <u>"HIGHLY CONFIDENTIAL SOURCE CODE – OUTSIDE</u>

14   <u>COUNSEL ONLY" Information or Items</u>: extremely sensitive "Confidential

15   Information or Items" if it comprises or describes Source Code. "Source Code"

16   means computer/software code, scripts, assembly language, source code,

17   object/executable code, source code listings, object code listings and descriptions

18   of object code, Hardware Description Language (HDL) or Register Transfer Level

19   (RTL) files that describe the hardware design of any ASIC or other chip, and

20   formulas, engineering specifications, or schematics that define or otherwise

21   describe in detail the algorithms or structure of software. Source Code documents

22   at least include (1) printed documents that contain or refer to selected Source Code

23   components; (2) electronic communications and descriptive documents, such as

24   emails, design documents and programming examples, which contain or refer to

25   selected Source Code components; (3) electronic Source Code documents that

26   reside in a Source Code repository from which software and related data files may

27   be compiled, assembled, linked, executed, debugged and/or tested; and (4)

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1 transcripts, reports, video, audio, or other media that include, quote, cite, describe,

2 or otherwise refer to Source Code, Source Code files, and/or the development

3 thereof. Source Code files include, but are not limited to documents containing

4 source code in "C", "C++", Java, Java scripting languages, assembler languages,

5 command languages and shell languages. Source Code files may further include

6 "header files," "make" files, project files, link files, and other human-readable text

7 files used in the generation, compilation, translation, and/or building of executable

8 software, including software intended for execution by an interpreter. Documents

9 and things produced during this Action designated with the label "HIGHLY

10 CONFIDENTIAL SOURCE CODE – OUTSIDE COUNSEL ONLY," shall be

11 protected in accordance with this Protective Order and subject to additional

12 protections provided herein below.

13   2.10   House Counsel: attorneys who are employees of a party to this Action,

14 or work in the legal department of a party to this Action. House Counsel does not

15 include Outside Counsel of Record or any other outside counsel.

16   2.11   Non-Party: any natural person, partnership, corporation, association or

17 other legal entity not named as a Party to this action.

18   2.12   Outside Counsel of Record: attorneys who are not employees of a

19 party to this Action and do not work in the legal department of a party to this

20 Action or who are not otherwise directly affiliated with a party to this Action but

21 are retained to represent or advise a party to this Action and have appeared in this

22 Action on behalf of that party or are affiliated with a law firm that has appeared on

23 behalf of that party, and includes support personnel.[1]

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25 [1]   Any dual role attorney (such as Mr. Samuel R. Hellfeld, acting as both Vice

26 President, Associate General Counsel to Sleep Number Corporation, and as an
   attorney for Fox Rothschild LLP) is intended to be excluded from the definition

27 of Outside Counsel of Record, but may still be considered to be House Counsel.

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