

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.

Case No. IPR2019-00514
Patent No. 5,904,172

**PATENT OWNER'S MOTION FOR ADMISSION *PRO HAC VICE*
OF ELIZABETH A. PATTON**

Pursuant to 37 C.F.R. § 42.10 and the Board's authorization to file motions for *pro hac* vice admission in *Inter Partes* Review Case No. IPR2019-00514, Patent Owner requests that the Board admit Elizabeth A. Patton *pro hac* vice in this proceeding.

The Board may recognize counsel *pro hac* vice during a proceeding on a showing of good cause. “[W]here lead counsel is a registered practitioner, a motion to appear *pro hac* vice may be granted upon a showing that counsel is an experienced litigation attorney and has an established familiarity with the subject matter at issue in the proceeding.” 37 C.F.R. § 42.10(c).

Here, lead counsel, Steve Moore is a registered practitioner (Reg. No. 55,462). Additionally, first backup, Lukas D. Toft, who practices in the same firm as Ms. Patton, is also a registered practitioner (Reg. No. 75,311). Ms. Patton has six years of patent litigation experience, and she is considerably familiar with the subject matter at issue in this proceedings. Accompanying this motion is the Declaration of Elizabeth A. Patton, where Ms. Patton attests to her experience and familiarity. *See generally* Patton Decl. (Ex. 2031). Specifically, Ms. Patton attests that:

- She has been practicing intellectual property litigation for over seven years, and has been specifically practicing patent litigation for the last six years;
- She has been counsel on several patent litigation cases; and

- She is a senior member of the team representing Patent Owner in the following proceedings: IPR2019-00497 (U.S. Pat. No. 8,769,747), IPR2019-00500 (U.S. Pat. No. 9,737,154), and IPR2019-00514 (U.S. Pat. No. 5,904,172).
- She is also a senior member of the team representing Patent Owner in the following related district court cases: *Sleep Number Corporation v. American National Manufacturing Inc.*, 5:18-cv-00357(AB)(SPx) and *Sleep Number Corporation v. Sizewise Rentals, LLC*, 5:18-cv-00356(AB)(SPx).

Good cause exists because (1) the Parties anticipate numerous calls with the Board in which Ms. Patton may have insight to provide or argument to assert, (2) the Parties have multiple depositions to take between September 15, 2019 and October 8, 2019, some of which may need two days to take, and (3) Patent Owner also anticipates additional discovery or motion practice, including additional depositions after submission of Patent Owner's Response, that would necessitate Ms. Patton's involvement. Ms. Patton's involvement in these proceedings alleviates conflict concerns created by the schedule and ensures the full team representing Patent Owner can appear before the Board. Additionally, this motion and Ms. Patton's declaration meet the other requirements for *pro hac vice* admission in this matter. Moreover, Petitioner has indicated that it will not oppose this motion. Accordingly, these facts establish good cause to recognize Ms. Patton in this proceeding. Thus,

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Patent Owner requests that the Board admit Ms. Patton *pro hac vice* in this proceeding.

Dated: September 12, 2019

Respectfully submitted,

FOX ROTHSCHILD, LLP

s/Luke Toft

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. §§ 42.6(e) and 42.105, and by agreement of counsel, the undersigned hereby certifies on this 12th day of September, 2019, that a complete copy of Patent Owner's Motion for Admission *Pro Hac Vice* of Elizabeth A. Patton, was served by e-mail, as authorized by the Petitioner, at the following email correspondence address of record as follows:

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Dated: September 12, 2019

By: s/Luke Toft
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