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.

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Cases

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

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

DEPOSITION of DR. JOSHUA PHINNEY

September 24, 2019

New York, New York

Reported by: Joseph Danyo V Job no: 26065

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#### Page 1

1         J. PHINNEY           2         to Notice, held at the offices of Fox Nothschild,         2           3         U.D.P. 10 Park Avenue, 11 Thi Floor, New York, New         4           4         York, on September 24, 2019, at 900 a.m., before         4           5         Joseph Danyo V, a Shorthad Reporter and Notary         6           6         Public for the State of New York.         6           7         Number Corporation from Pillsbury         8           8         Winthrop, and with me is Luke Toff from the           11         10         MR. MOORE: Steve Moore for Sleep           7         Number Corporation from Pillsbury           8         Winthrop, and with me is Luke Toff from the           11         11         law firm of Spencer frame LLP in Kansas           14         14         14           15         Fane in Kansas City, Missouri, for petitioners, American           16         16         EXAMINATION           17         BY MR. MOORE:         1           18         Q. Good morning, Dr. Phinney, Exibit 1,           19         20         Good morning.           21         21         22           22         22         23           23         Goo		Page 2		Page 4
2       to Notice, ledi at the offices of Fox Rothschild,       2       D.R. JOSHUA PHINNEY,         3       LLP, IO Park Avenue, 17h Floor, New York, New       3       the Witness herein, having first been         4       York, on September 24, 2019, at 9:00 a.m., before       3       the Witness herein, having first been         5       Joseph Danyo V, a Shorthand Reporter and Notary       8       Witness herein, having first been         7       Witness herein, having first been       4       duly sworn by the Notary Public, was         9       Witness herein, having first been       4       duly sworn by the Notary Public, was         9       Witness herein, having first been       4       duly sworn by the Notary Public, was         9       Witness herein, having first been       4       duly sworn by the Notary Public, was         10       MR.MOORE: Steve Moore for Sleep       7       Number Corporation from Pillsbury         11       Iaw firm of Spencer Fane ILP in Kansas       12       City, Missouri, for petitioners, American         13       National Manufacturing, and Th here with       my colleague, Kyle Ellioti, of Spencer       Fane in Kansas City, Missouri, 12         14       Iaw firm of Spencer Fane ILP is Knasa       Cod morning, Dr. Phinney, Eshibit I,       12         20       God morning, Dr. Phinney, Eshibit I,	1	DEPOSITION of DR. JOSHUA PHINNEY, pursuant	1	I PHINNEY
3       LLP, 101 Park Avenue, 17th Floor, New York, New       3       the Witness herein, having first been         4       Vork, on September 24, 2019, at 900 and, here is for the State of New York.       4       duly sworn by the Notary Public, was         5       Joseph Danyo V, a Shorthand Reporter and Notary       6       MR. MOORE: Steve Moore for Sleep         7       Number Corporation from Pillsbury       8       Winthrop, and with me is Luke Toft from         9       Fox Rothschild.       10       MR. MOORE: Steve Moore for Sleep         11       Ia with me is Luke Toft from       He Kanasa       12         12       City, Missouri, for petitioners, American       13         13       13       National Manufacturing, and I'm here with         14       14       my colleague, Kyle Filiott, of Spencer         15       Fane in Kanasa City, Missouri,       16         16       IS Admina City, State Point, State				
4       York, on September 24, 2019, at 9:00 a.m., before       4       duly sworn by the Notary/Public, was         5       Joseph Danyo V, a Shorthand Reporter and Notary       5       examined and testified as follows:         7       Public for the State of New York.       7       MR. MOORE: Steve Moore for Sleep         7       8       8       Winthrop, and with me is Luke Toft from         9       9       9       7       Number Corporation from Pillsbury         10       10       MR. TUTTLE: Kevin Tuttle from the       11         11       11       11       Iaw firm of Spencer Fane LLP in Kansas         12       12       City, Missouri, for petitioners, American         13       National Manufacturing, and Th here with         14       my colleague, Kyle Elliott, of Spencer         15       Fane in Kansas City, Missouri.         16       16       EXAMINATION         17       17       BY MR. MOORE:         18       Q. Good morning.       Or Phinney.         19       A. Good morning.       Or USA test op marked         21       22       of ridentification, as of this date.)         22       Q. Dr. Phinney, have you seen this       Coord morning.         23       Q. Untrification in support t				
5       Joseph Danyo V, a Shorthand Reporter and Notary       5       examined and testified as follows:         6       Public for the State of New York.       6       MR. MOORE: Steve Moore for Sleep         7       Number Corporation from Pillsbury       8         8       9       9       Fox Rothschild.         10       10       MR. MOORE: Steve Moore for Sleep         11       1a Martine State of New York.       7         12       10       MR. MOORE: Steve Moore for Sleep         13       National Manufacturing, and Truthe from the         14       13       National Manufacturing, and Truthe From With         14       14       my colleague, Kyle Elliott, of Spencer         15       16       16         16       16       16         17       BY MR. MOORE:       10         18       Q. Good morning, Dr. Phinney.         20       20       Go U.S. Pattent 973/154 was hereby marked         21       declaration in support the party's review       21         22       of U.S. Pattent 973/154 was hereby marked       3         23       24       Q. Dr. Phinney, have you seen this         24       24       Q. Dr. Phinney, have you seen this         25				
6       MR, MOORE: Steve Moore for Sleep         7       Number Corporation from Pillsbury         8       Winthrop, and with me is Luke Toft from         9       9         10       10         11       11         12       11         13       National Manufacturing, and I'm here with         14       14         15       Fane in Kansas City, Missouri.         16       16         17       17         18       18         19       Q. Good morning, Dr. Phinney.         19       A. Good morning.         10       Warkeroupon, Phinney Exhibit 1,         11       Uhercupon, Phinney, Exhibit 1,         12       20         14       Q. Good morning, Dr. Phinney.         15       18         16       10         17       BY MR. MOORE:         18       Q. Good morning. Dr. Phinney.         20       CWereupon, Phinney Exhibit 1,         21       declaration in support of this datc.)         22       23       Goid Morning.         24       Q. Tr.Phinney, have you seen this         25       26       APEARANCES:         3 </td <td></td> <td></td> <td></td> <td></td>				
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8       Winthrop, and with me is Luke Toft from         9       9         10       10         11       10         12       11         13       11         14       12         15       12         16       14         17       17         18       16         19       16         17       17         18       18         19       19         20       20         21       21         22       22         23       24         24       24         25       25         26       1         27       28         28       29         29       20         20       21         21       declaration in support the party's review         22       23         24       24         25       0         26       0.00 Phinney, have you seen this         27       2         3       0. What is this document?         4       10.00 Wainn Sincrd, bin is upport of		Tuble for the State of New Tork.		
9     Fox Rothschild.       10     10       11     10       12     11       13     12       14     12       15     12       16     14       17     14       18     16       19     17       19     18       19     19       20     (Whereupon, Phinney Exhibit 1,       19     19       20     (Whereupon, Phinney Exhibit 1,       21     21       22     22       23     21       24     24       25     25       26     100 morning.       27     20       28     21       29     20       20     (Whereupon, Phinney Exhibit 1,       21     22       22     23       23     21       24     24       25     25       26     Dr. Phinney, have you seen this       27     A Yes.       38     SPENCER FANE LLP       4     A This is my declaration in support of       6     1000 Wahnet Street, Suite 1400       7     A. Yes.       8     Q. Dr. Phinney.       9     <				
10       MR. TUTTLE: Kevin Tuttle from the         11       law firm of Spencer Fac LLP in Kansas         12       12         13       13         14       13         15       15         16       16         17       17         18       18         19       19         20       20         21       declaration in support the party's review         22       21         23       20         24       21         25       declaration in support the party's review         24       24         25       25         26       24         27       28         28       29         29       20         20       21         21       declaration in support the party's review         22       23         24       24         25       25         26       24         27       APPEARANCES:         3       SPENCER FANE LLP         3       Astomeys for Petitioner         6       1000 wlant Street. Suite 1400         7 </td <td></td> <td></td> <td></td> <td></td>				
11       law firm of Spencer Fane LLP in Kansas         12       City, Missouri, for petitioners, American         13       13         14       National Manufacturing, and I'm here with         14       my colleague, Kyle Elliott, of Spencer         15       15         16       16         17       17         18       0. Good morning, Dr. Phinney.         19       1.         20       (Whereupon, Phinney Exhibit 1,         21       21         22       22         23       23         24       24         25       of identification in support the party's review         24       24         25       25         26       27         27       28         28       29         29       20         20       U.S. Patent 9737154 was hereby marked         21       21         22       of identification, as of this date.)         24       24         25       25         26       Durger this document?         3       Q. What is this document?         4       SPENCER FANE LLP       A. Tes. <td></td> <td></td> <td></td> <td></td>				
12       City, Missouri, for petitioners, American         13       National Manufacturing, and Pin here with         14       13       National Manufacturing, of Spencer         15       15       Fane in Kansas City, Missouri.         16       16       EXAMINATION         17       17       BY MR. MOORE:         18       Q. Good morning, Dr. Phinney.         19       A. Good morning, Dr. Phinney.         20       (Whereupon, Phinney Exhibit 1,         21       21       declaration in support the party's review         22       23       for identification, as of this date.)         24       24       Q. Dr. Phinney, have you seen this         25       25       24         26       27       Q. What is this document?         3       APPEARANCES:       2       A. Yes.         3       SPENCER FANE LLP       3       Q. What is this document?         4       Kumeys for Patitioner       6       Q. Did you prepare this document?         7       Kassa City, Missouri 64106       6       Q. Did you prepare this document?         7       Kassa City, Missouri 64106       6       Q. Just take a look at the introduction         8       Yty Ly LE LLUTAT, ESS.			1	
13       13       National Manufacturing, and I'm here with         14       my colleague, Kyle Elliott, of Spencer         15       15         16       16         17       17         18       18         20       20         21       21         22       22         23       21         24       24         25       22         26       23         27       24         28       24         29       24         20       What is this document?         21       APPEARANCES:         22       APPEARANCES:         34       SPENCER FANE LLP         4       Attomeys for Petitioner         7       Attomeys for Petitioner         7       Kaisse City, Missouri 64100         7       Kellbitt@geneerfane.com         9       Kellbitt@geneerfane.com         16       West Broadway, Suite 1100         15       San Diego, California 92101         16       BY: KYLE L.ELLOTT, ESQ.         17       -AND-         18       YEVEL AN OPKE:         19       FOX ROTHSCHI			1	
14       14       my colleague, Kyle Elliott, of Spencer         15       16       16         16       16       16         17       17       BY MR. MOORE:         18       Q. Good morning, Dr. Phinney.         19       19       A. Good morning, Dr. Phinney.         20       20       (Whereupon, Phinney Exhibit 1,         21       21       22         22       22       22         23       of U.S. Patent 9737154 was hereby marked         24       24       Q. Dr. Phinney, have you seen this         25       25       document before?         Page 3         14       J. PHINNEY         2       A. Yes.         3       Q. What is this document?         4       Attorneys for Patitioner       4         6       1000 Wahut Street, Suite 1400       5         7       A. Yes.       8         9       Kuttl@apencerfane.com       9         14       West Broadway, Suite 1100       14         15       Attorneys for Patent Owar       13         16       A. Yes.       8       Q. Sup oure here as an expert witness;         17       -AND-				
15       Fane in Kansas City, Missouri.         16       16         17       17         18       Q. Good morning, Dr. Phinney.         19       19         20       20         21       21         22       22         23       23         24       24         25       25         26       24         27       25         28       24         29       25         29       20         20       24         24       25         25       25         26       26         27       27         28       28         29       29         20       20         21       24         22       25         23       26         24       29         25       29         26       24         27       29         28       29         29       4         2000       What is this document?         3000       What is this document?				
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17       17       BY MR. MOORE:         18       Q. Good morning, Dr. Phinney.         19       19       A. Good morning.         20       20       (Whereupon, Phinney Exhibit 1, declaration in support the party's review         21       declaration in support the party's review         22       21       declaration in support the party's review         23       23       for identification, as of this date.)         24       24       Q. Dr. Phinney, have you seen this         25       25       document before?         Page 3       Page 5         1       J. PHINNEY         2       A. Yes.         3       SPENCER FANE LLP         4       SPENCER FANE LLOTT. ESQ.         4       SPENCER FANE LLOTT. ESQ.         6       100 Wahut Street, Suite 1400         7       Kansas City, Missouri 64106         8       GV. Lust take a look at the introduction         9       KEVIN S. TUTTLE, ESQ.         10       kutute@gencerfane.com         11       Q. So you'the here as an expert witness;         12       PILLSBURY WINTHROP SHAW PITTMAN LLP         13       A. Yes.         14       501 West Broadway, Suit 1100				
18       18       Q. Good morning, Dr. Phinney.         19       A. Good morning.         20       20         21       21         22       22         23       23         24       24         25       24         26       24         27       24         28       21         29       61 U.S. Patent 9737154 was hereby marked         21       22         22       23         24       24         25       24         26       0. Dr. Phinney, have you seen this         27       24         28       29         29       24. Yes.         3       Q. What is this document?         4       A. This is my declaration in support of         5       the party's review of U.S. Patent 9737154.         6       Q. What is this document?         7       Kansas City, Missouri 64106         7       Kansas City, Missouri 64106         8       Q. Just take a look at the introduction         9       KEVIN S. TUTTLE, ESQ.         10       Kutut@@pencerfane.com         11       Q. So you're here as an exp				
19       19       A. Good morning.         20       20       (Whereupon, Phinney, Exhibit 1,         21       21       declaration in support the party's review         22       22       0 U.S. Patent 9737154 was hereby marked         23       23       for identification, as of this date.)         24       24       Q. Dr. Phinney, have you seen this         25       25       25         Page 3         1       J. PHINNEY         2       APPEARANCES:       3         3       Q. What is this document?         4       A. This is my declaration in support of         5       http://www.org/streated/stre				
20       20       (Whereupon, Phinney Exhibit 1,         21       21       declaration in support the party's review         22       of U.S. Patent 9737154 was hereby marked         23       23       for identification, as of this date.)         24       24       Q. Dr. Phinney, have you seen this         25       24       Q. Dr. Phinney, have you seen this         26       25       Page 3         7       A. Yes.       Page 5         1       J. PHINNEY         2       A. Yes.         3       Q. What is this document?         4       A. This is my declaration in support of         5       Attorneys for Petitioner         6       1000 Wahuu Street, Suite 1400         7       Kassa City, Missouri 64106         8       BY: KYLE L. ELLIOTT, ESQ.         10       kelliott@spencerfane.com         9       Kutule@spencerfane.com         11       Q. So you're here as an expert witness;         12       PILLSBURY WINTHROP SHAW PITTMAN LLP         13       A. Yes.         14       S01 West Broadway, Suite 1100         15       San Diego, California 92101         16       A. Yes.         17       A				
21       declaration in support the party's review         22       of U.S. Patent 9737154 was hereby marked         23       for identification, as of this date.)         24       24         25       25         26       27         27       Page 3         28       29         29       20         24       24         25       25         26       27         27       APPEARANCES:         3       3         4       SPENCER FANE LLP         5       Atomeys for Petitioner         6       1000 Wahut Street, Suite 1400         7       Kassas City, Missouri 64106         8       BY: KYLE L. ELLIOTT, ESQ.         9       KEVIN S. TUTTLE, ESQ.         9       Kelliot@spencerfane.com         10       A. Irm three.         11       Q. So you're here as an expert witness;         12       PILLSBURY WINTHROP SHAW PITTMAN LLP         13       Attorneys for Patent Owner         14       501 West Broadway, Suite 1100         15       San Diego, California 92101         16       A. Yes.         17       -AND-				e
22       22       of U.S. Patent 9737154 was hereby marked         23       24       23       for identification, as of this date.)         24       24       Q. Dr. Phinney, have you seen this         25       25       document before?         Page 3       Page 5         1       J. PHINNEY         2       A. Yes.         3       Q. What is this document?         4       SPENCER FANE LLP         5       Attorneys for Petitioner         6       1000 Wahus Xeet, Suite 1400         7       Kansas City, Missouri 64106         8       BY: KYLE L. ELIOTT, ESQ.         kelliott@spencerfane.com       9         KEVINS, TUTTLE, ESQ.       9         1       Vast take a look at the introduction         11       Q. So you're here as an expert witness;         12       PILLSBURY WINTHROP SHAW PITTMAN LLP         13       Attorneys for Patent Owner         14       SO West Broadway, Suite 1100         15       San Diego, California 92101         16       BY: STEVEN A. MOORE, JD, Ph.D.         17       -AND-         18       A. Exponent is a scientific and         19       FOX ROTHSCHILD LLP       20 </td <td></td> <td></td> <td></td> <td></td>				
23       23       for identification, as of this date.)         24       24       Q. Dr. Phinney, have you seen this         25       25       page 3         24       Q. Dr. Phinney, have you seen this         25       26         26       27         27       Page 3         28       Page 3         29       Page 3         20       D. PHINNEY         21       J. PHINNEY         22       A. Yes.         3       Q. What is this document?         4       Attorneys for Petitioner         6       1000 Wahnu Street, Suite 1400         7       Kasas City, Missouri 64106         8       BY: KYLE L. ELLIOTT, ESQ.         kelliott@spencerfane.com       9         KEVIN S. TUTTLE, ESQ.       9         10       kutut@apencerfane.com         11       Q. So you're here as an expert witness;         12       are you not?         13       A. Yes.         14       S01 West Broadway, Suit 1100         15       seve.moore@pillsburylaw.com         16       BY: STEVEN A. MOORE, JD. Ph.D.         18       A. Yes.         19       Fox ROTHSCHILD				
24       24       Q. Dr. Phinney, have you seen this         25       24       Q. Dr. Phinney, have you seen this         25       25       document before?         Page 3       Page 5         1       J. PHINNEY         2       A. Yes.         3       Q. What is this document?         4       SPENCER FANE LLP         5       Attomeys for Petitioner         6       1000 Walnut Street, Suite 1400         7       Kansas City, Missouri 64106         8       BY: KYLE LELIOTT, ESQ.         kelliott@spencerfane.com       7         9       KEVIN S. TUTTLE, ESQ.         10       ktuttle@spencerfane.com         11       Q. So you're here as an expert witness;         12       PILLSBURY WINTHROP SHAW PITTMAN LLP         13       A. Yes.         14       O. So you're here as an expert witness;         15       San Diego, California 92101         16       BY: STEVEN A. MOORE, JD, Ph.D.         16       A. Yes.         17       -AND-         18       A. Exponent?         19       FOX ROTHSCHILD LLP         20       South Street, Suite 2000         21       Minneapoli				
25     25     document before?       Page 3     Page 5       1     J. PHINNEY       2     APPEARANCES:     1       3     Q. What is this document?       4     A. This is my declaration in support of       5     Attomeys for Petitioner       6     1000 Walnut Street, suite 1400       7     Kansas City, Missouri 64106       8     BY: KYLE L. ELLIOTT, ESQ.       9     KEVIN S. TUTTLE, ESQ.       10     Ktuttle@spencerfane.com       9     KEVIN S. TUTTLE, ESQ.       11     Q. So you're here as an expert witness;       12     PILLSBURY WINTHROP SHAW PITTMAN LLP       13     A. Yes.       14     501 West Broadway, Suite 1100       15     San Diego, California 92101       16     BY: STEVEN A. MOORE, JD, Ph.D.       17     -AND-       18     A. Exponent?       19     FOX ROTHSCHILD LLP       20     222 South Ninh Street, Suite 2000       21     Minneapolis, Minnesota 55402       22     St. UKKE D. TOFT, ESQ.       23     Q. What percentage of your work is				
Page 3Page 51J. PHINNEY2APPEARANCES:314SPENCER FANE LLP5Attorneys for Petitioner61000 Walnut Street, Suite 14007Kansas City, Missouri 641068BY: KYLE L. ELLIOTT, ESQ.8WEVIN S. TUTTLE, ESQ.9KEVIN S. TUTTLE, ESQ.10ktuttle@spencerfane.com9KEVIN S. TUTTLE, ESQ.11Q. Soyou're here as an expert witness;12PILLSBURY WINTHROP SHAW PITTMAN LLP13Attorneys for Patent Owner14501 West Broadway, Suite 110015San Diego, California 9210116BY: STEVEN A. MOORE, JD, Ph.D.17-AND-18A. Exponent?19FOX ROTHSCHILD LLP20222 South Ninth Street, Suite 200021Minneapolis, Minnesota 5540222BY: LUKE D. TOFT, ESQ.23Q. What percentage of your work is2424				
1       J. PHINNEY         2       APPEARANCES:         3       Q. What is this document?         4       SPENCER FANE LLP         5       Attorneys for Petitioner         6       1000 Wahnut Street, Suite 1400         7       Kansas City, Missouri 64106         8       BY: KYLE L. ELLIOTT, ESQ.         kelliott@spencerfane.com       6         9       KEVIN S. TUTTLE, ESQ.         10       ktutle@spencerfane.com         11       Q. Just take a look at the introduction         12       PILLSBURY WINTHROP SHAW PITTMAN LLP         13       Attorneys for Patent Owner         14       501 West Broadway, Suite 1100         15       San Diego, California 92101         16       BY: STEVEN A. MOORE, JD, Ph.D.         17       -AND-         18       A. Exponent?         19       FOX ROTHSCHILD LLP         20       222 South Ninth Street, Suite 2000         21       Minneapolis, Minnesota 55402         22       BY: LUKE D. TOFT, ESQ.         24       Liegal?	25		25	
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2 (Pages 2 to 5)

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	Page 6		Page 8
1	J. PHINNEY	1	J. PHINNEY
2	Q. 50?	2	Q. Your work was related to the control
3	A. Yes.	3	of the pneumatic system?
4	Q. And the other 50 percent is of what	4	A. It involved a pneumatic system and a
5	nature?	5	hydraulic system. The main working fluid for the
6	A. It's engineering work, particularly	6	actuators, which are these actuators around the
7	helping clients understand the cause of failure	7	experiment that would move the experiment for
8	of their products or assisting them with	8	the working fluids there was this mineral oil, so
9	calculating things like electromagnetic.	9	that was a hydraulic system, but it also included
10	Q. What percentage of your current work	10	a pneumatic component, because one way I created
11	is related to fluid dynamics?	11	a source of pressurized hydraulic fluid for the
12	A. I'd say just this litigation, so	12	experiment was with a pneumatic control system
13	right now maybe 10 percent.	13	and a pressurized volume of TRINYTE (phonetic).
14	Q. Ten percent. About how many hours	14	Q. Did that have any relation to traffic
15	have you worked on this litigation?	15	safety?
16	A. I'm going to guess it was about 250.	16	A. That was not related to traffic
17	Q. Was all that in 2019?	17	safety.
18	A. No.	18	Q. Did it have any relation to trucking,
19	Q. Which years did that work happen?	19	generally?
20	A. I recall I was definitely working	20	A. I wouldn't say that it had a general
21	on this or the related district court matter one	21	relationship to that, no.
22	year ago, approximately, so October 2018.	22	Q. Did it have any relation to
23	Q. Any other work that you're currently	23	biomedical devices?
24	doing in pneumatic systems	24	A. I'd say, no.
25	A. No.	25	Q. Or measurement of blood pressure?
	Page 7		Page 9
1	J. PHINNEY	1	J. PHINNEY
2	Q or hydraulics?	2	A. No.
3	A. No.	3	Q. Did it have any relation to
4	Q. Looking at your qualifications on	4	inflatable beds?
5	page 2 of this document, it says you worked on	5	A. I would say for all of these where
6	the Laser Interferometric Gravitational Wave		A. I would say for all of these where
	the Laser interferonetile Oravitational wave	6	
7		6 7	I'm answering, no, this is a it's not a
7 8	Observatory.		I'm answering, no, this is a it's not a scientific experiment, so it's a physics
8	Observatory. What specifically was your work	7	I'm answering, no, this is a it's not a scientific experiment, so it's a physics experiment, ultimately.
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8 9	Observatory. What specifically was your work related to in that experiment? A. So I had worked on the hydraulic	7 8 9	I'm answering, no, this is a it's not a scientific experiment, so it's a physics experiment, ultimately. So apart from the principles of the pneumatic and the hydraulic and fluid control
8 9 10	Observatory. What specifically was your work related to in that experiment? A. So I had worked on the hydraulic power supply for the experiment in order to	7 8 9 10	I'm answering, no, this is a it's not a scientific experiment, so it's a physics experiment, ultimately. So apart from the principles of the pneumatic and the hydraulic and fluid control systems, I don't think there is a relationship.
8 9 10 11	Observatory. What specifically was your work related to in that experiment? A. So I had worked on the hydraulic power supply for the experiment in order to handle the outer stage isolation of the	7 8 9 10 11	I'm answering, no, this is a it's not a scientific experiment, so it's a physics experiment, ultimately. So apart from the principles of the pneumatic and the hydraulic and fluid control systems, I don't think there is a relationship. Q. Thank you. Dr. Phinney, in paragraph
8 9 10 11 12	Observatory. What specifically was your work related to in that experiment? A. So I had worked on the hydraulic power supply for the experiment in order to handle the outer stage isolation of the experiment, which was itself in a vacuum.	7 8 9 10 11 12 13	I'm answering, no, this is a it's not a scientific experiment, so it's a physics experiment, ultimately. So apart from the principles of the pneumatic and the hydraulic and fluid control systems, I don't think there is a relationship. Q. Thank you. Dr. Phinney, in paragraph 11, you list a number of cases and legal matters
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8 9 10 11 12 13 14 15 16	Observatory. What specifically was your work related to in that experiment? A. So I had worked on the hydraulic power supply for the experiment in order to handle the outer stage isolation of the experiment, which was itself in a vacuum. Q. Outer stage isolation, could you explain that a little more? A. Yes. This is an experiment that is designed to be in an inertial frame of reference, and that means it needs to reject movements of	7 8 9 10 11 12 13 14 15 16 17 18	I'm answering, no, this is a it's not a scientific experiment, so it's a physics experiment, ultimately. So apart from the principles of the pneumatic and the hydraulic and fluid control systems, I don't think there is a relationship. Q. Thank you. Dr. Phinney, in paragraph 11, you list a number of cases and legal matters in which you were involved. Is this a complete list of your engagements in the legal environment? A. No. I think this would be the cases in which I offered testimony at the time when I
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8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Observatory. What specifically was your work related to in that experiment? A. So I had worked on the hydraulic power supply for the experiment in order to handle the outer stage isolation of the experiment, which was itself in a vacuum. Q. Outer stage isolation, could you explain that a little more? A. Yes. This is an experiment that is designed to be in an inertial frame of reference, and that means it needs to reject movements of the earth with respect to an inertial frame. So, for instance, seismic, the motions of the earth need to be detected, and if they go left, the experiment needs to push right to counteract them and sort of remain in what I'm	7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	I'm answering, no, this is a it's not a scientific experiment, so it's a physics experiment, ultimately. So apart from the principles of the pneumatic and the hydraulic and fluid control systems, I don't think there is a relationship. Q. Thank you. Dr. Phinney, in paragraph 11, you list a number of cases and legal matters in which you were involved. Is this a complete list of your engagements in the legal environment? A. No. I think this would be the cases in which I offered testimony at the time when I submitted this report. Q. Dr. Phinney, has a court ever found your testimony to be unreliable? A. I don't believe so. Q. Dr. Phinney, have you ever made a
8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	Observatory. What specifically was your work related to in that experiment? A. So I had worked on the hydraulic power supply for the experiment in order to handle the outer stage isolation of the experiment, which was itself in a vacuum. Q. Outer stage isolation, could you explain that a little more? A. Yes. This is an experiment that is designed to be in an inertial frame of reference, and that means it needs to reject movements of the earth with respect to an inertial frame. So, for instance, seismic, the motions of the earth need to be detected, and if they go left, the experiment needs to push right	7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	I'm answering, no, this is a it's not a scientific experiment, so it's a physics experiment, ultimately. So apart from the principles of the pneumatic and the hydraulic and fluid control systems, I don't think there is a relationship. Q. Thank you. Dr. Phinney, in paragraph 11, you list a number of cases and legal matters in which you were involved. Is this a complete list of your engagements in the legal environment? A. No. I think this would be the cases in which I offered testimony at the time when I submitted this report. Q. Dr. Phinney, has a court ever found your testimony to be unreliable? A. I don't believe so.

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1	Page 10		Page 12
	J. PHINNEY	1	J. PHINNEY
2	that. You know, I have had typos, but I'm not	2	Q. Was this during your PhD?
3	aware of a mistake in any report.	3	A. Yes. That's fair. It was after I
4	Q. Were any of these cases related to	4	got my master's, but before I got my PhD.
5	pneumatic systems?	5	
6		6	Q. Dr. Phinney, what was your
	A. The number N there, the	7	dissertation topic?
7	Westinghouse air brake case, that was related to	1 ·	A. It was for the PhD?
8	air brakes for trains, which is a pneumatic	8	Q. Um-hum.
9	system.	9	A. It related to power electronics.
10	Q. Would you say that that's related to	10	Q. So your work in the LIGO experiment
11	transportation safety?	11	didn't relate to your research at MIT for your
12	A. Yes. I think that's a fair	12	PhD?
13	characterization, but that's	13	A. That is correct. One thing, I'm
14	Q. Thank you.	14	sorry, if I can clarify, you asked what my PhD
15	A. Not just that, but I think that's	15	was about. My PhD also included some aspects of
16	part of it that's related to.	16	electric mechanical conversion.
17	Q. Is it related to trucking?	17	Q. Thank you. While you were working on
18	A. I give the same sort of answer that I	18	the LIGO experiment, how much of your time was
19	gave previously. Not it's not really, apart	19	spent in your research at MIT versus how much of
20	from the principles of the operation in a	20	your time was spent working on the hydraulics and
21	pneumatic control system, for instance.	21	pneumatics of the LIGO experiment?
22	Q. Is it related to measurement of blood	22	A. It was all LIGO. For that time, I
23	pressure?	23	was working on that constantly, apart from taking
24	A. Again, the same kind of answer, no,	24	classes.
25	with that qualification.	25	Q. What percentage of your time did your
	<b>^</b>	<u> </u>	
	Page 11		Page 13
1	J. PHINNEY	1	J. PHINNEY
2	Q. Inflatable beds?	1	
1 ~		2	classwork take?
3	A. The same answer, no, with that	3	A. In the summer, it took no time, and
	A. The same answer, no, with that qualification.		A. In the summer, it took no time, and
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4 (Pages 10 to 13)

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		idge ii		i dge i
	1	J. PHINNEY	1	J. PHINNEY
	2	A. I think the experience I had is, you	2	MR. TUTTLE: Objection, form.
	3	know, I think is equivalent to that amount of	3	A. Yes. I believe so.
	4	experience.	4	Q. Take a look at page 4. Under D1,
	5	Q. Thank you. So starting at paragraph	5	first sentence, do you see where it says,
	6	19 in your declaration, you have a number of	6	"Mahoney is directed to a system and method for
	7	claim terms that have been offered here for	7	adjusting the pressure in an inflatable object
	8	construction. Do you see those?	8	such as an air bed"?
	9	A. Yes.	9	Do you see that?
	10	Q. Do you know if the board adopted any	10	A. Yes.
	11	of those?	11	Q. Is that how you characterized
	12	A. I don't believe the board did is my	12	Mahoney?
	13	recollection.	13	A. I can check.
	14	Q. Your opinions in your declaration are	14	Q. Would you, please.
	15	based on the claim constructions that you've	15	A. I'll look at Exhibit 1, so, for
	16	offered here; are they not?	16	instance, in my paragraph 70, I have a similar
	17	A. I would say that they are, but that	17	sentence, but I say that the '154 patent is
	18	my opinions wouldn't change with other claim	18	directed to a method for adjusting air pressure
	19	constructions that have been offered in this	19	within an air bed.
	20	case.	20	Q. Thank you. Do you agree that the
	21	Q. Specifically, paragraph 20, the first	21	patent is directed to air beds and not generally
	22	sentence, doesn't it say that you've applied the	22	inflatable objects?
	23	constructions below?	23	A. It seems to be what I'm saying here,
	24	A. Yes.	24	that the '154 patent is directed to adjusting air
	25	Q. That means the constructions in	25	pressure within an air bed.
ĺ		Page 15		Page 1
	1	J. PHINNEY	1	J. PHINNEY
	2	paragraphs 21 through 26; does it not?	2	Q. Thank you. So let's go back to your
	3	A. Yes, but as I	3	background for just a moment. That will be back
	4	Q. Thank you. Okay, let's take a look	4	in Exhibit 1.
	5	at I'm going to be handing you another	5	Any of your time in your professional
	6	document.	6	career other than this casework related to
	7	(Whereupon, Phinney Exhibit 2,	7	inflatable beds?
	8	petition for interparty's review of patent	8	MR. TUTTLE: Objection to form.
	9	9737154 was hereby marked for	9	A. I have experience related to
	10	identification, as of this date.)	10	different types of blowers and flow control
	11	Q. Dr. Phinney, have you seen this	11	systems that I think would be applicable to
	12	document before?	12	inflatable beds.
	13	A. Yes.	13	Q. Have you worked with inflatable beds
	14	Q. What is this document?	14	before?
	15	A. This is the petition for interparty's	15	A. Without not working with
	16	review of patent 9737154.	16	inflatable beds, but I think related to, because
	17	Q. Did you draft this document?	17	it's a similar type of application.
	18	A. No.	18	Q. What application is that?
	19	Q. Were you involved in drafting this	19	A. Related to CPAP systems, for
	20	document?	20	instance.
	21	A. No.	21	Q. Do the CPAP systems show up in your
	22	Q. Are you aware that this document	22	CV here somewhere?
		- 14 E1, 11, 14, 1,, 1, -1,4,9	23	
	23 24	cites Exhibit 1, your declaration?	23	A. No. I don't believe I've testified

Page 14

A. No. I don't believe I've testified 23 24 about them.

Q. What is your knowledge of CPAP

5 (Pages 14 to 17)

Page 16

17

25

A. Yes. That's my understanding.

Q. Do you agree with this document?

24

25

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## DOCKET A L A R M



# 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.