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Filing date: **06/12/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92054201
Party	Plaintiff Dan Foam ApS
Correspondence Address	AMY SULLIVAN CAHILL STITES HARBISON PLLC 400 WEST MARKET STREET , SUITE 1800 LOUISVILLE, KY 40202 3352 UNITED STATES acahill@stites.com
Submission	Other Motions/Papers
Filer's Name	Mari-Elise Taube
Filer's e-mail	mtaube@stites.com
Signature	/mari-elise taube/
Date	06/12/2013
Attachments	Notice to the Board.pdf(64522 bytes ) Exhibit A -- Email exchange between counsel.pdf(253430 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

DAN FOAM APS	)	
	)	
Petitioner,	)	
	)	Cancellation No. 92054201
v.	)	
	)	
SLEEP INNOVATIONS, INC.,	)	
	)	
Registrant.	)	

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**NOTICE TO THE BOARD**

Petitioner, Dan Foam APS, by counsel, hereby notifies the Board that the parties in the above-captioned matter were unable to agree that this proceeding should be decided by accelerated case resolution (ACR). On May 13, 2013, the Board issued an Order denying Petitioner’s motion for summary judgment and Registrant’s cross-motion for summary judgment and recommending that the parties consider having the above-captioned matter decided by ACR. [D.E. # 42.] In accordance with the Board’s Order, counsel for Petitioner contacted counsel for Registrant to discuss the possibility of proceeding on an ACR track. *See* Exhibit A. Registrant refused to consent to ACR. *Id.* Accordingly, proceedings should be resumed and Petitioner’s testimony period should commence.

Respectfully submitted,

s/Amy Sullivan Cahill  
Amy Sullivan Cahill  
[acahill@stites.com](mailto:acahill@stites.com)  
STITES & HARBISON PLLC  
400 West Market Street, Suite 1800  
Louisville, KY 40202-3352  
Telephone: 502-587-3400  
Facsimile: 402-587-6392

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing was served on counsel for Registrant, this 12th day of June, 2013, by sending same via First Class Mail, postage prepaid, to:

Irene Hurtado  
Robert W. Smith  
MCCARTER & ENGLISH LLP  
Four Gateway Center  
100 Mulberry Street  
Newark, New Jersey 07102

s/Mari-Elise Taube

**Subject:** FW: DanFoam / Sleep Innovations: TTAB Opposition

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**From:** Hurtado, Irene [<mailto:IHurtado@McCarter.com>]  
**Sent:** Wednesday, May 22, 2013 1:10 PM  
**To:** Cahill, Amy  
**Cc:** Smith, Robert; Trubilla, Lina; Popovic, Deborah A.  
**Subject:** RE: DanFoam / Sleep Innovations

Dear Amy:

Our client will not consent to ACR.

Best,  
Irene

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**From:** Cahill, Amy [<mailto:acahill@stites.com>]  
**Sent:** Monday, May 20, 2013 11:35 AM  
**To:** Hurtado, Irene  
**Cc:** Cahill, Amy  
**Subject:** DanFoam / Sleep Innovations

WITHOUT PREJUDICE

Irene:

I assume that you have received the Board's order denying the parties' cross-motions for summary judgment.

The Board has recommended that we proceed on an ACR track. I believe that this is an option worth exploring given the potential cost savings for our clients. Could we schedule a conference call to discuss the various options, either with or without a Board attorney involved? I understand there to be various options for proceeding in this manner.

The Board has given us 30 days to advise on whether we will proceed with ACR, otherwise it appears that the Board will reset the trial deadlines.

Thank you,

Amy Cahill

**Amy Sullivan Cahill**

*Member*

*Direct: [502-681-0597](tel:502-681-0597)*

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