

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BAKER HUGHES INCORPORATED
and
BAKER HUGHES OILFIELD OPERATIONS, INC.,
Petitioners

v.

PACKERS PLUS ENERGY SERVICES, INC.
Patent Owner

Case IPR2016-01506
Patent 7,861,774

**PETITIONERS' MOTION TO SUBMIT
SUPPLEMENTAL INFORMATION**

I. STATEMENT OF PRECISE RELIEF REQUESTED

Pursuant to 37 C.F.R. § 42.123(a), Petitioners move to submit Exs. 1023, 1024, 1027, and 1028 as supplemental information to further establish the prior art nature of Lane-Wells (Ex. 1002), Van Dyke (Ex. 1006), Baker (Ex. 1007), Howard (Ex. 1018), and Hyne (Ex. 1019).

II. STATEMENT OF MATERIAL FACTS

1. On July 30, 2016, Petitioners filed IPR2016-01506 against claims 1-16 of U.S. Pat. No. 7,861,774 (“the ’774 Patent”). The petition raised three grounds of unpatentability: (1) claims 1-16 are obvious over Lane-Wells (Ex. 1002) and Ellsworth (Ex. 1003); (2) claim 15 is obvious over Lane-Wells, Ellsworth, and Hartley (Ex. 1004); and (3) claims 4 and 6 are obvious over Lane-Wells, Ellsworth, and the knowledge of person of ordinary skill in the art (POSITA). *See* Paper 1 at, *e.g.*, 5-6. The petition asserts that Lane-Wells is prior art under 35 U.S.C. § 102(b). *Id.* at 5.

2. Petitioners cite Van Dyke (Ex. 1006) and Baker (Ex. 1007) in petition sections V.A. (Field of Technology – Drilling an Oil Well) and V.B. (Field of Technology – Well Stimulation and Selective Fluid Treatment) as teaching aspects of what was known in the prior art about well stimulation techniques (citing Van Dyke and Baker at pages 7-8) and well production equipment (citing Van Dyke at pages 6-7 and Baker at page 7).

3. Petitioners' expert, Dr. Daneshy, cites Howard (Ex. 1018) and Hyne (Ex. 1019) in paragraph 33 of his declaration (Ex. 1005) under section V.B. (Field of Technology – Well Stimulation and Treatment) as teaching aspects of what a POSITA would have understood the term “acidizing” to mean. Petitioners cite paragraph 33 of Dr. Daneshy's declaration in the petition at page 8 (discussing well stimulation) and pages 14 and 36-37 (discussing the understanding of a POSITA).

4. The earliest-claimed priority date of the '774 Patent is November 19, 2001, making the 35 U.S.C. § 102(b) critical date November 19, 2000 (the “Critical Date”). *See* Ex. 1001.

5. Rapid Completions challenged the publication of Lane-Wells, and therefore its status as prior art, in its Preliminary Response. *See* Paper 17 at 12-16.

6. On February 9, 2017, trial was instituted on all challenged claims based on all asserted grounds. *See* Paper 19 at 11.

7. The Board indicated it was not persuaded by Rapid Completions' challenge that Lane-Wells is not a printed publication. *Id.* at 8.

8. In its February 16, 2017 evidence objections (Paper 22), Rapid Completions again challenged the publication of Lane-Wells, and therefore its status as prior art:

To the extent Petitioners rely on the contents of this document for the

truth of the matter asserted (*for example, to establish public accessibility as a printed publication*), Rapid Completions objects to such contents as inadmissible hearsay under FRE 801 and 802. And Rapid Completions objects to this document as irrelevant under FRE 401 and thus inadmissible under FRE 402, or as confusing or a waste of time under FRE 403 because this document is inadmissible under FRE 801, 802, and 901 as explained above.

Paper 22 at 1 (emphasis added).

9. Also in its February 16, 2017 evidence objections, Rapid Completions challenged the publication of Van Dyke, Baker, Howard, and Hyne—and therefore their status as prior art—using language similar to that quoted above for Lane-Wells. *See* Paper 22 at 2, 3, 5, and 6 (citing FRE 602 instead of FRE 901, but otherwise relying on the same Federal Rules of Evidence).

10. On March 2, 2017, Petitioners timely served on Rapid Completions supplemental evidence comprising Exs. 1023, 1024, 1027, and 1028 described below, pursuant to 37 C.F.R. § 42.64(b)(2).

11. On March 5, 2017, Petitioners emailed counsel for Rapid Completions, asking if they would oppose Petitioners' request to file this motion.

12. On Monday, March 6, 2017, Petitioners timely emailed the Board, requesting permission to file this motion. *See* 37 C.F.R. §§ 1.7(a) and 42.1(a). Petitioners were granted permission the same day.

13. Ex. 1023 is a February 13, 2017 affidavit of Velma J’Nette Davis-Nichols, the Specialized Product Sales Manager at the world headquarters of Gulf Publishing Company LLC (“GPC”) in Houston, Texas. The affidavit explains that GPC’s on-site library contains old copies of the Composite Catalog, including Volume 2 of the 21st edition published in 1955, in which a copy of Lane-Wells—identical to the Lane-Wells of Ex. 1002 (though the quality of the images in the figures and text differs between the copies)—appears. The affidavit explains that, in 2000, any member of the public who wanted to view old copies of the Composite Catalog, including the 21st edition, could make an appointment with GPC’s Houston office to visit the on-site library, review what was in it, and make copies for a small fee. The affidavit explains that companies could purchase publication space in the Composite Catalog and includes a copy of an index card indicating that Lane-Wells purchased publication space in the 21st edition. The affidavit also explains that GPC sold copies of the Composite Catalog to members of the public and includes a copy of the related order form. The affidavit therefore establishes that Lane-Wells was published, searchable, and available to the public prior to the Critical Date.

14. Ex. 1024 is a September 30, 2016 affidavit of Debbie Caples, the Senior Graphics Designer for the Petroleum Extension Service (“PETEX”) at the University of Texas at Austin in Austin, Texas. The affidavit explains how copies

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