UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

WEATHERFORD INTERNATIONAL, LLC;
WEATHERFORD/LAMB, INC.; WEATHERFORD US, LP; and
WEATHERFORD ARTIFICIAL LIFT SYSTEMS, LLC
Petitioners

v.

PACKERS PLUS ENERGY SERVICES, INC.,
Patent Owner

Case IPR2016-01509
Patent 7,861,774

PETITIONER'S OBJECTIONS TO PATENT OWNER'S PRELIMINARY RESPONSE EVIDENCE PURSUANT TO 37 C.F.R. § 42.64(b)(1)

Under the Federal Rules of Evidence and 37 C.F.R. § 42.64, Petitioners Weatherford International LLC, et al. (hereinafter "Petitioner"), timely object to evidence submitted by Exclusive Licensee Rapid Completions (hereinafter "Patent Owner") prior to institution of the trial in IPR2016-01509. Petitioner serves Patent Owner with these objections to provide notice that Petitioner may move to exclude the challenged exhibits under 37 C.F.R. § 42.64(c) unless Patent Owner cures the defects associated with the challenged exhibits identified below.

Exhibit 2003

Petitioner objects to Ex. 2003 under Fed. R. Evid. 901(a) as Patent Owner has not "produce[d] evidence sufficient to support a finding that the item is what the proponent claims it is." For example, Patent Owner has not provided any evidence pursuant to Fed. R. Evid. 901(b) or otherwise satisfying the requirement of Fed. R. Evid. 901(a).

Petitioner objects to Ex. 2003 under Fed. R. Evid. 801(c) and Fed. R. Evid. 802. For example, Patent Owners relies on Ex. 2003 for the truth of the matter asserted therein. *See, e.g.,* Exclusive Licensee Rapid Completions LLC's Preliminary Response, IPR2016-01509, paper 18 (hereinafter "POPR") at 24 and 35. Yet, Patent Owner has not offered any evidence that Ex. 2003 falls within any exception to the rule against hearsay of Fed. R. Evid. 802.

Petitioner objects to Ex. 2003 as being irrelevant under Fed. R. Evid. 401 and thus inadmissible under Fed. R. Evid. 402, or as being confusing or a waste of time under Fed. R. Evid. 403 because Ex. 2003 is inadmissible under Fed. R. Evid. 801, 802 and 901 as explained above. Furthermore, Patent Owner relies on Ex. 2003 as providing evidence of commercial success and/or praise for devices providing zonal isolation in open hole portions of a well bore, or as providing evidence that such a technique was contrary to prevailing wisdom at the time of invention. *See, e.g.,* POPR at 24, 35. Yet, such evidence is not relevant in the current proceeding because, as demonstrated in the Petition for Inter Partes Review (hereinafter "Petition"), providing zonal isolation in open hole portions of a well bore was known in the art at the time of the invention. *See, e.g.,* IPR2016-01509, Institution Decision, paper 23 (hereinafter "Institution Decision") at 30 *citing Ormco Corp. v. Align Tech., Inc.,* 463 F.3d 1299, 1312 (Fed. Cir. 2006). Additionally, Patent Owner cites this reference, a reference purportedly from 2006, as illustrating the conventional wisdom at the time of invention while the '774 patent claims priority to 2001. As such, Ex. 2003 makes no assertions regarding the conventional wisdom at the time of invention, and therefore, is irrelevant under Fed. R. Evid. 401 as it has no tendency to make any fact upon which it is relied more or less probable. Finally, Patent Owner has not proven that any system in the exhibit upon which it relies, or any activity involving such system is covered by any challenged claim. Therefore, Ex.

2003 is irrelevant under Fed. R. Evid. 401 and thus inadmissible under Fed. R. Evid. 402, or as being confusing or a waste of time under Fed. R. Evid. 403.

Exhibit 2004

Petitioner objects to Ex. 2004 under Fed. R. Evid. 901(a) as Patent Owner has not "produce[d] evidence sufficient to support a finding that the item is what the proponent claims it is." For example, Patent Owner has not provided any evidence pursuant to Fed. R. Evid. 901(b) or otherwise satisfying the requirement of Fed. R. Evid. 901(a).

Petitioner objects to Ex. 2004 under Fed. R. Evid. 801(c) and Fed. R. Evid. 802. For example, Patent Owners relies on Ex. 2004 for the truth of the matter asserted therein. *See, e.g.,* POPR at 27-28. Yet, Patent Owner has not offered any evidence that Ex. 2004 falls within any exception to the rule against hearsay of Fed. R. Evid. 802.

Petitioner objects to Ex. 2004 as being irrelevant under Fed. R. Evid. 401 and thus inadmissible under Fed. R. Evid. 402, or as being confusing or a waste of time under Fed. R. Evid. 403 because Ex. 2004 is inadmissible under Fed. R. Evid. 801, 802 and 901 as explained above. Furthermore, Patent Owner relies on Ex. 2004 as providing evidence of commercial success and/or praise for devices providing zonal isolation in open hole portions of a well bore. *See, e.g.,* POPR at 27-28. Yet, such

evidence is not relevant in the current proceeding because, as demonstrated in the Petition, providing zonal isolation in open hole portions of a well bore was known in the art at the time of the invention. *See, e.g.,* Institution Decision at 30 *citing Ormco Corp.,* 463 F.3d at 1312. Additionally, Patent Owner has not proven that any system in the exhibit upon which it relies, or any activity involving such system is covered by any challenged claim. For example, the reference purports to show that an inventor of the '774 patent received an award, yet Patent Owner has provided no evidence that the award was related to covered by any claim of the '774 patent. Therefore, Ex. 2004 is irrelevant under Fed. R. Evid. 401 and thus inadmissible under Fed. R. Evid. 402, or as being confusing or a waste of time under Fed. R. Evid. 403.

Exhibit 2005

Petitioner objects to Ex. 2005 under Fed. R. Evid. 901(a) as Patent Owner has not "produce[d] evidence sufficient to support a finding that the item is what the proponent claims it is." For example, Patent Owner has not provided any evidence pursuant to Fed. R. Evid. 901(b) or otherwise satisfying the requirement of Fed. R. Evid. 901(a).

Petitioner objects to Ex. 2005 under Fed. R. Evid. 801(c) and Fed. R. Evid. 802. For example, Patent Owners relies on Ex. 2005 for the truth of the matter

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