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 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") with its Patent Owner Response 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 2045 -- Westin, Scott, Private Property, PwC, (Jan. 2, 2013)

Petitioner objects to Ex. 2045 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. 2045 under Fed. R. Evid. 801(c) and Fed. R. Evid. 802. For example, Patent Owner relies on Ex. 2045 for the truth of the matter asserted therein. *See, e.g.,* Exclusive Licensee Rapid Completions LLC's Response, IPR2016-01509, paper 32 (hereinafter "POR") at 29. Yet, Patent Owner has not offered any evidence that Ex. 2045 falls within any exception to the rule against hearsay of Fed. R. Evid. 802.

Petitioner objects to Ex. 2045 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. 2045 is inadmissible under Fed. R. Evid. 801, 802 and/or 901 as explained above. Furthermore, Patent Owner relies on Ex. 2045 as providing evidence of commercial success and/or praise for Packers Plus's techniques for providing zonal isolation in open hole portions of a well bore, or as providing evidence that such techniques were contrary to prevailing wisdom at the time of invention. *See, e.g.,* POR at 29. Yet, such evidence is not relevant in the current proceeding at least because, as demonstrated in the Petition for Inter Partes Review (hereinafter "Petition"), such techniques were known in the art at the time of the invention. *See, e.g.,* Petition at 7-14; *see also Tokai Corp. v. Easton Enters., Inc.*, 632 F.3d 1358, 1369 (Fed. Cir. 2011) ("If commercial success is due to an element in the prior art, no nexus exists.").

Exhibit 2046 -- Yager, David, Court Case Now On: It's Packers Plus Versus The World – Here's What's at Stake for Multi-stage Horizontal Completion Companies, EnergyNow Media (Feb. 23, 2017)

Petitioner objects to Ex. 2046 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. 2046 under Fed. R. Evid. 801(c) and Fed. R. Evid. 802. For example, Patent Owner relies on Ex. 2046 for the truth of the matter asserted therein. *See, e.g.,* POR at 29. Yet, Patent Owner has not offered any evidence that Ex. 2046 falls within any exception to the rule against hearsay of Fed. R. Evid. 802.

Petitioner objects to Ex. 2046 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. 2046 is inadmissible under Fed. R. Evid. 801, 802 and/or 901 as explained above. Furthermore, Patent Owner relies on Ex. 2046 as providing evidence of commercial success and/or praise for Packers Plus's techniques for 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.,* POR at 29. Yet, such evidence is not relevant in the current proceeding at least because such techniques were known in the art at the time of the invention. *See, e.g.,* Petition at 7-14; *see also Tokai Corp.,* 632 F.3d at 1369 ("If commercial success is due to an element in the prior art, no nexus exists.").

Exhibit 2047 -- BH00364675, CONFIDENTIAL Ball activated sliding sleeves report

Petitioner objects to Ex. 2047 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. 2047 under Fed. R. Evid. 801(c) and Fed. R. Evid. 802. For example, Patent Owner relies on Ex. 2047 for the truth of the matter asserted therein. *See, e.g.,* POR at 30, 40. Yet, Patent Owner has not offered any evidence that Ex. 2047 falls within any exception to the rule against hearsay of Fed. R. Evid. 802.

Petitioner objects to Ex. 2047 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. 2047 is inadmissible under Fed. R. Evid. 801, 802 and/or 901 as explained above. Furthermore, Patent Owner relies on Ex. 2047 as providing evidence of commercial success and/or praise Packers Plus's techniques for 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.,* POR at 30. Yet, such evidence is not relevant in the current proceeding. *See, e.g.,* Petition at 7-14; *see also Tokai Corp.,* 632 F.3d at 1369 ("If commercial success is due to an element in the prior art, no nexus exists.").

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