

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**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**

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***Inter Partes* Review No. IPR2016-01509  
Patent 7,861,774**

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**PETITIONERS' RESPONSE TO PATENT OWNER'S MOTION  
FOR OBSERVATION ON THE CROSS EXAMINATION**

In Patent Owner's Motion for Observation on the Cross Examination ("Observation"), Patent Owner cites the Transcript of the Deposition of Vikram Rao taken on September 7, 2017("Rao Reply Depo")<sup>1</sup> at 13:11-24 as relevant to Petitioner's position that "multi-stage open-hole fracturing ["OHMS"] was prevalent by 2001." Observation at 1 (*quoting* Petitioner's Reply (paper 39) at 1). In response, Petitioner cites the following excerpts from the Rao Reply Depo:

Q. What are the applications where you think prior to 2001 it would have been obvious to do open hole multistage fracturing?

MR. SHAPIRO: Objection, form.

THE WITNESS: It's too broad a question. One of the circumstances under which somebody would have

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<sup>1</sup> For clarity, Petitioner notes that Patent Owner quotes from the Transcript of the Deposition of Vikram Rao taken on September 7, 2017 when citing to Exhibit 2101 in its Motion for Observation on the Cross Examination. The transcript was filed with the Board on September 29, 2017 and was designated as "Exhibit 2101." Subsequently, Patent Owner filed a second exhibit designed "Exhibit 2101" on October 12, 2017, the "Paltzat Declaration." Patent Owner's Updated Exhibit list filed on October 12, 2017 fails to include the Transcript of the Deposition of Vikram Rao taken on September 7, 2017.

wanted -- I would take the obvious away -- somebody would have wished to do zonal isolation.

Well, Yost wanted to do it and did it, so then -- Yost, Y-O-S-T. And so in individual cases it is possible that folks were persuaded to zonally isolate in order to fracture. What my -- my point was, there was not a widespread industry need, if you will, that was felt. There was no -- there was no need felt, yes, widespread. That is my point.

Rao Reply Depo at 12:10-13:1.

Q. Prior to 2001 a person skilled in the art had no motivation to do open hole multistage fracturing?

A. You're misstating what I said. I said by and large. I said industry-wide, the vast majority of the fracturing was done in Austin Chalk and Austin Chalk did not require multistage fracturing, open hole or otherwise.

Rao Reply Depo at 14:1-8.

Q. Dr. Rao, did Yost disclose open hole multistage fracturing before 2001?

A. Yost disclosed open hole multistage fracturing, yes.

Rao Reply Depo at 53:21-24.

Q. Did DOE perform any other open hole multistage fracturing after Yost before 2001?

MR. NEMUNAITIS: Objection, outside the scope potentially.

THE WITNESS: Yeah -- yes, they did. I -- I believe Overbey did that, the same Overbey that I was presented with on the document. In fact, I think it was that same paper.

Anyway, yes, Overbey, et al. did multistage hydraulic fracturing following Yost. Overbey said Yost was successful and, therefore, they were going to employ it in this other well. That is correct, they did it, um-hmm (affirmative).

Rao Reply Depo at 54:9-21.

Q. Are you aware of any other examples of somebody disclosing open hole multistage fracturing prior to 2001?

MR. NEMUNAITIS: Objection, outside the scope.

THE WITNESS: Yes, so that is described -- well, let me be very clear on what I'm saying yes to. Open hole multistage fracturing using external casing packers, solid body packers and sliding sleeves with a ball drop,

were disclosed in the Carlisle patent. I don't have the number, but I remember that the -- the -- the date was the -- was April of 1999.

I remember that because I wanted to see when it was that the application was filed. So Carlisle says somebody was doing it and the "it" was using Wizard packers in open hole and using ball drops to move sleeves to perform the fracturing operation. He doesn't say who, but he says somebody was doing it.

Rao Reply Depo at 54:22-55:17.

Q. Are you aware of any other examples of somebody disclosing open hole multistage fracturing prior to 2001?

A. Yes, another one, McLellan in Canada, the shale guy. And he used straddle packers and he used inflatables. Sorry. Sorry. Sorry. He used inflatable packers, 27 zones, I believe. And he reported no failure. He -- he had very high pressures. He had, like, 3300 psi pressures.

So, yeah. So McLellan in 1992-ish did open hole multistage fracturing, but using straddle packers.

Rao Reply Depo at 55:18-56:4.

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