Paper No. 19

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 REPLY TO**
**PATENT OWNER'S PRELIMINARY RESPONSE**

# TABLE OF AUTHORITIES

## Cases



## Other Authorities

**Rules**

## I. INTRODUCTION

Patent Owner ("PO") filed a patent infringement lawsuit against four sets of Defendants, including Petitioner and Baker Hughes (who are competitors), but PO wants only one Defendant/Baker Hughes to file IPRs. Attempting to strip Petitioner of its right to have its own IPR evidence and grounds of rejection considered, including those citing Yost,[1] PO alleges that Petitioner failed to identify Baker Hughes as a real party in interest (RPI). PO has failed to rebut the presumption that Petitioner correctly identified all RPIs. Baker Hughes is not an RPI to the present proceeding, a fact PO was made aware of in the co-pending litigation prior to the filing of the Patent Owner Preliminary Response (POPR). Indeed, from the outset of the litigation, all Defendants agreed that they would act independently in IPRs, which is precisely what has happened. Baker Hughes has exerted no control over Petitioner in the IPRs (and vice versa). Nor has Baker Hughes had the "opportunity" to exert any such control (and vice versa).

## II. PATENT OWNER HAS FAILED TO REBUT THE PRESUMPTION THAT PETITIONER CORRECTLY IDENTIFIED THE RPI

The Board's practice to "initially accept[] the identification of real parties in

[1] Yost negates PO's position in Baker Hughes' IPRs that it was not known to perform multistage fracturing of horizontal open hole wells using packers for zonal isolation and ported sliding sleeves for injecting fracturing fluids.

interest in a petition as accurate acts as a rebuttable presumption.… The party against whom a presumption is directed has the burden of producing evidence to rebut the presumption." IPR2013-00453, paper 88 at 7-8 (emphasis added). Thus, PO has the initial burden of rebutting Petitioner's identification of the RPIs with sufficient evidence that brings into question the accuracy of the identified RPIs. *Id.* at 8; *see also* IPR2014-01021, paper 42, p. 7. PO has failed to meet this burden.

All that PO has alleged in the POPR is that: 1) Baker Hughes is a joint defense partner with Petitioner **in the litigation** (POPR at 10); 2) Petitioner allowed Baker Hughes to obtain discovery on its behalf **in the litigation** (POPR at 3); 3) Baker Hughes participated in drafting invalidity contentions **in the litigation** (POPR at 2-5, 10, 11)[2]; 4) Baker Hughes filed its own **separate IPR petitions** using similar art, but not Petitioner's Yost reference (POPR at 3, 5, 11); and 5) Baker Hughes and Petitioner pursued **separate** summary judgment theories **in the litigation** (POPR at 11-12). In other words, all of PO's evidence is directed to actions taken as part of a joint defense group in the litigation, or Baker Hughes' separately filed IPR petitions in which Petitioners had no involvement.

Participation in a joint defense group and other actions taken in a co-pending litigation do not provide a connection to the present proceeding sufficient to show

[2] Contrary to PO's argument based on PDF metadata, Petitioner's litigation counsel actually drafted the Yost-based invalidity contentions, as well as other contentions.

DOCKET ALARM

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts

Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research

With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips

Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

**LAW FIRMS**
Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

**FINANCIAL INSTITUTIONS**
Litigation and bankruptcy checks for companies and debtors.

**E-DISCOVERY AND LEGAL VENDORS**
Sync your system to PACER to automate legal marketing.