

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

RAPID COMPLETIONS LLC,

Plaintiff,

v.

**BAKER HUGHES INCORPORATED,
et al.,**

Defendants.

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Civil Action No. 6:15-cv-724-RWS-KNM

Consolidated with

Civil Action No. 6:16-cv-286-RWS-KNM

JURY TRIAL DEMANDED

**WEATHERFORD'S EXPEDITED MOTION TO STAY PENDING
INTER PARTES REVIEW PROCEEDINGS**

Weatherford International LLC et al.
Exhibit 1028

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35 U.S.C § 315(e)----- *Weatherford International LLC et al.*⁷

In accordance with the Court's June 1, 2016 Order, Baker Hughes recently renewed its prior motion to stay,¹ and requested a stay of this litigation pending completion of *inter partes* reviews ("IPRs") that the Patent Trial & Appeal Board ("PTAB") recently instituted in connection with the Baker Hughes' IPR petitions. The Weatherford Defendants ("Weatherford") now file their expedited motion to stay based, in part, on their own IPR petitions that were filed in July.² Those Weatherford IPR petitions on the '505, '634 and '774 patents will likely be instituted for the same reasons that the Baker Hughes' IPRs were instituted, as well as other reasons based on additional prior art and evidence. Weatherford will also file an IPR petition on the new '501 patent later this month.

I. INTRODUCTION

The PTAB recently instituted IPRs on all asserted claims of the five original patents-in-suit, finding that Baker Hughes demonstrated a "reasonable likelihood" of proving invalidity. *See, e.g.*, Decision to Institute dated August 22, 2016, IPR 2016-00598 at 11. Statutory estoppel will attach to Baker Hughes when final written decisions issue in the Baker Hughes IPRs. It is extremely likely that the PTAB will institute additional IPRs based on Weatherford's IPR petitions given that those petitions contain grounds similar to those on which the PTAB has already found a "reasonable likelihood" of proving invalidity, as well as additional grounds and additional evidence. The PTAB would have to do a complete one-eighty in order to not institute Weatherford's IPRs – this will not happen. Accordingly, statutory estoppel will also likely attach

¹ On March 3, 2016, Baker Hughes moved to stay the first-filed action (Case No. 6:15-cv-724) on the 7,134,505 ("505"), 7,543,634 ("634"), 7,861,774 ("774"), 8,657,009 ("009") and 9,074,451 ("451") patents-in-suit. (Dkt. Nos. 132, 143.) On April 5, 2016, Rapid filed a separate action (Case No. 6:16-cv-286), asserting the 9,303,501 ("501") patent, which is a continuation of the '774 patent-in-suit. On June 15, 2016, the Court consolidated the two actions. (Case No. 6:15-cv-724, Dkt. 29).

² Weatherford and Rapid have reached an agreement on an expedited briefing schedule as follows: Rapid will file a response to this Motion within 5 business days; Weatherford will file a reply within 3 business days of the response; and Rapid will file a surreply within 3 business days of the reply.

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