

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BAKER HUGHES INCORPORATED and
BAKER HUGHES OILFIELD OPERATIONS, INC.,
Petitioner,

v.

PACKERS PLUS ENERGY SERVICES, INC.,
Patent Owner.

Case IPR2017-00247
Patent 9,303,501 B2

Before SCOTT A. DANIELS, NEIL T. POWELL, and
CARL M. DEFRANCO, *Administrative Patent Judges*.

POWELL, *Administrative Patent Judge*.

DECISION
Petitioner's Motions for Joinder
37 C.F.R. § 42.1

Introduction

Petitioner has timely filed a Motion for Joinder with Case IPR2016-01380. Paper 3 (“Motion” or “Mot.”). Patent Owner filed a Response to Petitioner’s Motion for Joinder. Paper 9 (“Response” or “Resp.”).

Petitioner notes that this case and IPR2016-01380 involve “the same patent, the same challenged claims, the same proposed claim constructions, the same parties, and the same expert for [Petitioner].” Motion 1.

Regarding the effect of the requested joinder on the trial schedule and discovery, Petitioner indicates that it is flexible. *Id.* at 7–8.

Petitioner also explains that this case and IPR2016-01380 involve many of the same references asserted as prior art. *Id.* at 5. Petitioner notes, for example, that both cases involve the Thomson¹ reference. *Id.* Petitioner explains that “[i]n the 1380 Proceeding, the primary reference is Thomson, a 1997 reference that shows an assembly with ball-actuated sliding sleeves and multi-element, solid body packers that was used for acidizing in a cased hole.” *Id.* In this case, Petitioner notes that Thomson is relied on for teachings related to packers. *Id.*

Petitioner further notes that Ellsworth² and Halliburton³ are asserted as prior art references in both this case and IPR2016-01380. *Id.* at 6.

Petitioner explains that Halliburton is relied on in both proceedings as

¹ D.W. Thomson et al., *Design and Installation of a Cost-Effective Completion System for Horizontal Chalk Wells Where Multiple Zones Require Acid Stimulation*, SPE (Society for Petroleum Engineering) 37482, 97–108 (1997).

² B. Ellsworth et al., *Production Control of Horizontal Wells in a Carbonate Reef Structure*, 1999 Canadian Institute of Mining, Metallurgy, and Petroleum Horizontal Well Conference (1999).

³ Halliburton, *Completion Products, Second Edition*.

teaching a hydraulically actuated sliding sleeve. *Id.* at 6. Petitioner also notes that in both this case and IPR2016-01380, Ellsworth is relied on for teaching the use of solid body packers. *Id.*

Patent Owner contends that Petitioner has not shown that joinder was appropriate at the time Petitioner filed the Motion. Resp. 2. Patent Owner bases this on observations that it had not yet been decided whether to institute *inter partes* review in certain other cases, or whether to grant certain other motions for joinder filed by Petitioner. *Id.* at 1. Noting some differences in how prior art references are asserted in this case and IPR2016-01380, Patent Owner also asserts that “[j]oinder will increase the risk that [Petitioner] may assert theories or uses for references not disclosed in a particular petition.” *Id.* at 2.

Under the circumstance of this case, we are persuaded that joinder is warranted. Because the cases involve the same patent, the same challenged claims, and the same parties, we are persuaded that significant substantive and procedural efficiencies would result from joining the cases. Procedurally, we determine that it would be efficient to have oral argument relating to the challenged patent on the same day. With respect to Patent Owner’s concern that certain other decisions had not been entered when Petitioner filed the Motion, those decisions have since been entered. *See* Resp. 1. Regarding Patent Owner’s other concern that Petitioner may attempt to rely on references for more than they were relied on in the respective petitions of this case and IPR2016-01380, we always exercise vigilance for any improper new arguments. And Patent Owner may raise any such issues with us at any time during the proceedings.

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In view of the foregoing, we grant Petitioner's Joinder Motion. A revised scheduling order for the joined cases is being issued concurrently.

Order

In consideration of the foregoing, it is hereby:

ORDERED that IPR2017-00247 is joined with IPR2016-01380;

FURTHER ORDERED that IPR2017-00247 is terminated under 37 C.F.R. § 42.72 and all further filings should be made in Case IPR2016-01380; and

FURTHER ORDERED that a copy of this Decision is to be entered in the file of Case IPR2016-01380.

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