

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
GALVESTON DIVISION

Schoeller-Bleckmann Oilfield Equipment )  
AG and BICO Drilling Tools, Inc. )

*Plaintiffs,*

v.

Churchill Drilling Tools (Rentals) Ltd., )  
Churchill Drilling Tools US, Inc. and )  
B&W Drilling Tools, LLC )

*Defendants.*

CIVIL ACTION NO.

JURY TRIAL DEMANDED

**FIRST AMENDED COMPLAINT**

Plaintiffs Schoeller-Bleckmann Oilfield Equipment AG (“Schoeller-Bleckmann”) and BICO Drilling Tools, Inc. (“BICO”), for their Complaint against Defendants Churchill Drilling Tools (Rentals) Ltd. (“Churchill”), Churchill Drilling Tools US, Inc. (“Churchill US”) and B&W Drilling Tools, LLC (“B&W”), state and allege as follows:

**THE PARTIES**

1. Schoeller-Bleckmann is a corporation organized and existing under the laws of Austria with a principal place of business at Hauptstraße 2, A-2630 Ternitz, Austria.

2. BICO is a corporation organized and existing under the laws of the State of Texas with a principal place of business at 1604 Greens Road, Houston, Texas 77032.

3. Upon information and belief, Churchill is a corporation organized and existing under the laws of the United Kingdom with a place of business at Unit 6, 99 Crombie Road, Aberdeen, AB11 9QQ, Scotland.

4. Upon information and belief, Churchill US is a corporation organized and existing under the laws of the State of Texas with a place of business at 5125 Hiltonview Road, Houston, Texas 77086.

5. Upon information and belief, B&W is a corporation organized and existing under the laws of the State of Alabama with sales offices and stocking locations in Houston, Texas.

### **JURISDICTION AND VENUE**

6. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction over this case pursuant to 28 U.S.C. §§ 1331 and 1338.

7. Defendants have been and are continuing to transact business in this judicial district, and have been and are continuing to commit acts of infringement in this judicial district. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and 1400(b).

### **FACTUAL BACKGROUND**

8. On January 11, 2011, United States Patent No. 7,866,397 (“the ‘397 patent”), entitled “Activating Mechanism for Controlling the Operation of a Downhole Tool,” was duly and legally issued by the United States Patent and Trademark Office to Paul Bernard Lee. Mr. Lee assigned the ‘397 patent to Schoeller-Bleckmann on May 15, 2011. Schoeller-Bleckmann continues to hold all rights and interest in the ‘397 patent. A copy of the ‘397 patent is attached to this Complaint as Exhibit A.

9. Through its subsidiary BICO, Schoeller-Bleckmann offers for rent and rents drilling equipment tools. BICO is an exclusive licensee of the ‘397 patent in the United States.

10. Churchill offers for rent and rents the Dart Activated Valve (DAV) Mechanical Extrusion Technology (MX) system. The DAV MX™ system utilizes various darts, referred to by Churchill as Smart Darts™. These darts include the “Standard Diverter Dart,” the “Split

Flow Dart,” and the “Alternative Diverter Dart” formerly known as the “Well Control Dart.” Upon information and belief, Churchill imports its DAV MX™ system with Smart Darts™ into the United States through Churchill US and/or B&W.

11. Directly or through its distributor B&W, Churchill and Churchill US offer for sale, offer for rent, sell or rent the DAV MX™ system with Smart Dart™, in this judicial districts and others throughout the United States. B&W advertises this system on its website. See Exhibit B, <http://bwdrillingtools.com/products.html> and Exhibit C, [http://bwdrillingtools.com/pdf/BW\\_DAV\\_CircSub\\_Leaflet\\_2011K2.pdf](http://bwdrillingtools.com/pdf/BW_DAV_CircSub_Leaflet_2011K2.pdf) visited on March 8, 2013.

**COUNT I – INFRINGEMENT OF UNITED STATES PATENT NO. 7,866,397**

12. Plaintiffs allege and incorporate by reference Paragraphs 1 – 11 of this Complaint, as if set forth herein.

13. Upon information and belief, Defendants have infringed one or more claims of the ‘397 patent under one or more sections of 35 U.S.C. § 271.

14. Upon information and belief, Defendants working together have imported into the United States, offered for sale and/or rent and sold and/or rented Churchill’s DAV MX™ system with Smart Darts™ in the United States. This system infringes one or more claims of the ‘397 patent.

15. Defendants continue to engage in infringing activities.

16. Upon information and belief, the infringing activities of the Defendants are willful.

17. Plaintiffs have sustained damages and will continue to sustain damages as a result of Defendants’ infringing activities. Plaintiffs are entitled to recover from Defendants the damages sustained by Plaintiffs as a result of Defendants’ infringing activities.

18. Plaintiffs do not have an adequate remedy at law.

19. Defendants will continue to willfully infringe unless enjoined by the Court.

**RELIEF SOUGHT**

WHEREFORE, Plaintiffs ask this Court to enter judgment in favor of them against Defendants by granting the following relief:

- a. That this Court enter judgment that Defendants have infringed United States Patent No. 7,866,397.
- b. That this Court enter judgment that such patent infringement was willful.
- c. That Defendants, their agents, servants, employees, and other persons in active concert or participation with the Defendants, be permanently enjoined from directly or indirectly making or causing to be made, manufactured, selling or causing to be sold, renting or causing to be rented, using or in any way distributing any apparatus or device which embodies the claimed inventions of the '397 patent, or which is designed, intended or adapted for use in any way, directly or indirectly infringing upon or violating Plaintiffs' rights in the '397 patent and from contributing to, aiding or inducing such infringement by others.
- d. That Plaintiffs recover damages from Defendants resulting from their patent infringement.
- e. That Plaintiffs recover enhanced damages.
- f. That Plaintiffs recover its prejudgment and postjudgment interest.
- g. That Plaintiffs be granted a permanent injunction.
- h. That Plaintiffs have such other and further relief as the Court deems just and proper.

**JURY DEMAND**

Under Federal Rule of Civil Procedure 38(b), Plaintiff demands a trial by jury.

Dated: October 8, 2013

Respectfully submitted,

/s/Brian W. Nolan

Brian W. Nolan (*pro hac vice*)

Attorney-in-Charge

MAYER BROWN LLP

1675 Broadway

New York, New York 10019

Telephone: (212) 506-2500

Facsimile: (212) 262-1910

Email: [bnolan@mayerbrown.com](mailto:bnolan@mayerbrown.com)

**Of Counsel:**

Sharon A. Israel

Texas Bar No. 00789394

Southern District I.D. No. 16727

MAYER BROWN LLP

700 Louisiana Street, Suite 3400

Houston, Texas 77002

Telephone: (713) 238-2630

Facsimile: (713) 238-4630

Email: [sisrael@mayerbrown.com](mailto:sisrael@mayerbrown.com)

Lisa M. Ferri (*pro hac vice*)

Neil DuChez (*pro hac vice*)

MAYER BROWN LLP

1675 Broadway

New York, New York 10019

Telephone: (212) 506-2500

Facsimile: (212) 262-1910

Email: [lferri@mayerbrown.com](mailto:lferri@mayerbrown.com)

[nduchez@mayerbrown.com](mailto:nduchez@mayerbrown.com)

ATTORNEYS FOR PLAINTIFFS SCHOELLER-  
BLECKMANN OILFIELD EQUIPMENT AG and  
BICO DRILLING TOOLS, INC.

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing document, Plaintiffs Schoeller-Bleckmann Oilfield Equipment AG and BICO Drilling Tools, Inc. First Amended Complaint was electronically served on October 8, 2013 in accordance with the parties' agreement pursuant to FED. R. CIV. P. 5(b)(2)(E) by email to the following recipients:

Melissa Clonts (MClonts@Counselip.com)  
David Cabello (DCabello@Counselip.com)  
Sarah Cabello (SCabello@Counselip.com)  
Billy Allen (BAllen@Counselip.com)  
James Hall (jhall@Counselip.com)

*/s/Neil DuChez*

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Neil DuChez

MAYER BROWN LLP

1675 Broadway

New York, New York 10019