

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

EFFECTIVE EXPLORATION, LLC,

Plaintiff,

v.

BLUESTONE NATURAL RESOURCES II, LLC,

ENERVEST OPERATING LLC.

VANTAGE FORT WORTH ENERGY, LLC

TRINITY RIVER ENERGY OPERATING, LLC,
ET.AL.

EXCO OPERATING COMPANY, LP, ET.AL.

Defendants,

2:16-cv-00607-JRG-RSP

LEAD CASE

2:16-CV-00608-JRG-RSP

2:16-CV-00609-JRG-RSP

2:16-CCV-00610-JRG-RSP

2:16-CV-00611-JRG-RSP

**SECOND AMENDED COMPLAINT FOR PATENT INFRINGEMENT AGAINST
ENERVEST OPERATING, LLC**

Plaintiff Effective Exploration, LLC (“Effective Exploration”), by way of its Second Amended Complaint against Enervest Operating, LLC (“Enervest” or “Defendant”), alleges the following:

NATURE OF THE ACTION

1. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35 of the United States Code.

THE PARTIES

2. Plaintiff Effective Exploration is a limited liability company organized under the laws of the State of Texas with a place of business at 555 Republic Drive, Suite 200, Plano, Texas, 75084.

3. On information and belief, Defendant Enervest Operating, LLC is a limited liability company organized under the laws of the State of Delaware with a principal place of business at 1001 Fannin Street, Suite 800 c/o Harry Kwan, Houston, Texas 77002. Enervest Operating, LLC is doing business in the State of Texas and has a registered agent in the State of Texas, Capitol Corporate Services, Inc., 206 E. 9th Street, Suite 1300, Austin, Texas 78701.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338.

5. This Court has personal jurisdiction over Defendant because it has ongoing and systematic contacts with this District and the United States. Specifically, Defendant is doing business in the State of Texas as well as this District and has a registered agent for service of process in Texas. In addition, Defendant, on information and belief, has systematic and ongoing operations in the Eastern District of Texas.

6. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(c) and 1400(b).

COUNT I **INFRINGEMENT OF U.S. PATENT NO. 8,813,840**

7. Plaintiff repeats and re-alleges the allegations of paragraphs 1 through 6 as though fully set forth herein.

8. On August 26, 2014, United States Patent No. 8,813,840 (“the ’840 Patent”), entitled “METHOD AND SYSTEM FOR ACCESSING SUBTERRANEAN DEPOSITS FROM THE SURFACE AND TOOLS THEREFOR,” was duly and legally issued by the United States

Patent and Trademark Office. A true and correct copy of the '840 Patent is attached as Exhibit A to this Complaint.

9. Effective Exploration is the assignee and owner of the right, title and interest in the '840 Patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of it.

10. Defendant has been directly infringing and continues to directly infringe one or more claims of the '840 Patent in the United States through at least its operation of oil and gas wells throughout the United States in violation of 35 U.S.C. § 271(a), including, but not limited to, the following wells (identified by API numbers): 42-121-34346, 42-121-34347, 42-121-34348, 42-121-34356, 42-121-34357, 42-121-34499, 42-121-34502, 42-121-34498, 42-121-34500, 42-121-34501, 42-121-34503, 42-121-34504, and 42-121-34505, or any combination of four or more horizontal wells, which are located on the same drilling pad at the surface, have non-common surface locations on the drilling pad, have a wellbore extending from the surface comprising a substantially vertical portion extending into a subterranean zone comprising shale and a substantially horizontal drainage bore extending from the substantially vertical portion, and where each well produces a fluid to the surface ("Accused Wells").

11. In particular, the wells are located on a drilling pad at the surface as indicated by the Texas Railroad Commission's ("RRC") Public GIS Viewer, which shows that all of the wells are closely spaced on the drilling pad. A true and correct copy of images from the RRC Public GIS Viewer showing the location of these wells on the drilling pad is attached to this complaint as Exhibit B. This images further show that each of the wellbores for the Accused Wells extends from non-common surface locations on the drilling pad at the surface and that the surface locations are closely spaced to each other on the drilling pad.

12. The Form W-1 for the well having an API number of 42-121-34346 (the '346 Well) is attached to this complaint as Exhibit C. The Form W-1 for the '346 Well states that it is a horizontal well. The Form W-1 further states under the field information that the '346 Well is located in the Barnett Shale. This information indicates that the '346 Well includes a substantially vertical portion extending from the surface into the Barnett Shale subterranean zone and that the '346 Well includes a substantially horizontal wellbore extending from the vertical portion and is located proximate to the Barnett Shale subterranean zone.

13. The Form W-1 for the well having an API number 42-121-34498 (the '498 Well) is attached to this complaint as Exhibit D. The Form W-1 for the '498 Well states that it is a horizontal well. The Form W-1 further states under the field information that the '498 Well is located in the Barnett Shale. This information indicates that the '498 Well includes a substantially vertical portion extending from the surface into the Barnett Shale subterranean zone and that the '498 Well includes a substantially horizontal wellbore extending from the vertical portion and is located proximate to the Barnett Shale subterranean zone.

14. The RRC Public GIS Viewer depicts the '346 Well and the '498 Well as extending in different directions from each other. See Exhibit B.

15. The Form W-1 for the well having an API number of 42-121-34347 (the '347 Well) is attached to this complaint as Exhibit E. The Form W-1 for the '347 Well states that it is a horizontal well. The Form W-1 further states under the field information that the '347 Well is located in the Barnett Shale. This information indicates that the '347 Well includes a substantially vertical portion extending from the surface into the Barnett Shale subterranean zone and that the '347 Well includes a substantially horizontal wellbore extending from the vertical portion and is located proximate to the Barnett Shale subterranean zone.

16. The Form W-1 for the well having an API number 42-121-34500 (the '500 Well) is attached to this complaint as Exhibit F. The Form W-1 for the '500 Well states that it is a horizontal well. The Form W-1 further states under the field information that the '500 Well is located in the Barnett Shale. This information indicates that the '500 Well includes a substantially vertical portion extending from the surface into the Barnett Shale subterranean zone and that the '500 Well includes a substantially horizontal wellbore extending from the vertical portion and is located proximate to the Barnett Shale subterranean zone.

17. The RRC Public GIS Viewer depicts the '347 Well and the '500 Well as extending in different directions from each other. See Exhibit B.

18. The production reports for the '346 Well, the '498 Well, the '347 Well, and the '500 Well state that gas and/or condensate is reported as produced from the wells at least as most recently as June 2016. A true and correct copy of portions of the production reports for these wells is attached as Exhibit G.

19. The '346 Well, the '498 Well, the '347 Well, and the '500 Well infringe at least claim 1 of the '840 Patent for the reasons stated herein.

20. On information and belief, the wells having API numbers 42-121-34348, 42-121-34356, 42-121-34357, 42-121-34499, and 42-121-34502 infringe the '840 Patent for the same reasons as the '346 Well. See Exhibit B.

21. On information and belief, the wells having API numbers 42-121-34501, 42-121-34503, 42-121-34504, and 42-121-34505 infringe the '840 Patent for the same reasons as the '498 Well. See Exhibit B.

22. The enumerated Accused Wells as well as any other combination of four or more horizontal wells, which are located on the same drilling pad at the surface, have non-common

surface locations on the drilling pad, have a wellbore extending from the surface comprising a substantially vertical portion extending into a subterranean zone comprising shale and a substantially horizontal drainage bore extending from the substantially vertical portion, and where each well produces a fluid to the surface infringes at least claim 1 of the '840 Patent for the reasons stated herein.

23. Defendant was made aware of the '840 Patent and its infringement thereof at least as early as the filing of this Complaint.

24. Because of Defendant's infringement of the '840 Patent, Plaintiff has suffered damages and will continue to suffer damages in the future. Plaintiff is entitled to an award of such damages in an amount to be determined at trial, but in no event less than a reasonable royalty.

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Effective Exploration, LLC respectfully demands entry of judgment against Defendant as follows:

- A. finding that Defendant has infringed one or more claims of the '840 Patent;
- B. permanently enjoining and restraining Defendant, its agents, affiliates, subsidiaries, servants, employees, officers, directors, attorneys, and those persons in active concert with or controlled by Defendant from further infringing the '840 Patent;
- C. awarding Plaintiff damages to be paid by Defendant adequate to compensate Plaintiff for Defendant's past infringement of the '840 Patent and any continuing or future

infringement of the '840 Patent through the date such judgment is entered, together with pre-judgment and post-judgment interest, costs and expenses as justified under 35 U.S.C. § 284;

D. a declaration that this case is exceptional under 35 U.S.C. § 285, and an award of Plaintiff's reasonable attorneys' fees;

E. ordering an accounting of all infringing acts including, but not limited to, those acts not presented at trial and an award of damages to Plaintiff for any such acts; and

F. awarding such other and further relief at law or in equity as the Court deems just and proper.

Dated: March 24, 2017

/s/ Bryan Atkinson
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CERTIFICATE OF SERVICE

I hereby certify that on March 24, 2017, I electronically filed the foregoing filing with the Clerk of Court using the CM/ECF system which will send notification of such filing *via* electronic mail to all counsel of records.

/s/ Bryan Atkinson
Bryan Atkinson