

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

BENTON ENERGY SERVICE COMPANY)	CIVIL ACTION NO. _____
dba BESCO TUBULAR)	
)	
VERSUS)	JUDGE _____
)	
CAJUN SERVICES UNLIMITED, LLC)	
dba SPOKED MANUFACTURING)	MAGISTRATE JUDGE _____
)	

**COMPLAINT FOR DECLARATORY JUDGMENT OF INVALIDITY,
NONINFRINGEMENT AND UNENFORCEABILITY**

Plaintiff BENTON ENERGY SERVICE COMPANY dba BESCO TUBULAR

("Besco" or "Plaintiff") hereby files this Complaint against Defendant Cajun Services Unlimited, LLC dba Spoked Manufacturing ("CAJUN" or "Defendant"), and alleges as follows:

NATURE OF ACTION

1. Plaintiff Besco seeks a declaration that U.S. Patent No. 9,988,862 entitled "Elevator Roller Insert System" ("the '862 Patent") is invalid, unenforceable and/or not infringed by the manufacture, use, sale, and/or offer of sale of any goods or services by Besco.

2. Plaintiff brings this action to lift the cloud created by the imminent threat of a lawsuit by Defendant against Plaintiff for alleged infringement of the '862 Patent. Without declaratory relief, the threat of suit poses a substantial risk of injury to Plaintiff as well as Plaintiff's customers using Besco's pipe running services and/or planning to use such services. The continued existence and threat of suit of this invalid patent harms Plaintiff's manufacture, marketing, sale and use of Besco's pipe running services and related goods.

THE PARTIES

3. Plaintiff BESCO is a corporation organized and existing under the laws of Louisiana and having a principal place of business at 359 Equity Boulevard, Houma, Louisiana 70360.

4. Defendant Cajun Services Unlimited, LLC dba Spoked Manufacturing (“CAJUN” or “Defendant”), is a Louisiana limited liability company having a principal place of business at 106 Mac Court, Gray, Louisiana 70539.

JURISDICTION AND VENUE

5. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the Declaratory Judgment Act of 1934 (28 U.S.C. §§ 2201-2202), Title 28 of the United States Code, for the purposes of determining an actual and justiciable controversy between the parties, and under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has personal jurisdiction over Cajun based on its organization under the laws of the State of Louisiana and because its principal place of operation is in this judicial district in Louisiana.

7. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391 and 1400(b) because Defendant’s registered office and principal place of business are in this District and a substantial part of the events or omissions giving rise to the claims occurred in this District.

FACTUAL BACKGROUND

8. Besco is an oilfield service company specializing in oilfield pipe running services utilizing specialized tubular handling equipment that is operated by Besco's highly-trained personnel.

9. In connection with these services, Besco developed a specialized system for compensating or offsetting of suspended tubular goods during pipe installation and/or removal operations that is sometimes referred to as Besco's *Bail Assisted Tubular Thread System*, or "BATT System" for short.

10. The BATT System is proprietary technology developed and owned exclusively by Besco, and neither Cajun, nor any of its principals or representatives, were involved in or had anything to do with the design, development or implementation of the BATT System.

11. Besco decided to utilize a hydraulic single joint elevator ("HSJE") in connection with the BATT System; the particular HSJE selected by Besco for this purpose, which was originally manufactured by Tesco Corporation, is a pipe gripping apparatus that Besco incorporated into the BATT System in order to support weight compensated pipe sections.

12. The Tesco HSJE Elevator is essentially a hinged gripping device that can selectively open and close around the external surface of a pipe segment in order to grip, lift and support the pipe segment.

13. Interchangeable die inserts are installed within the Tesco HSJE in order to accommodate different pipe sizes gripped with the Tesco HSJE; instead of interchanging the entire Tesco HSJE when different sizes of pipe are being run, only the die inserts must be removed and replaced (with different die inserts having different dimensions) in order to fit the different diameter pipe.

14. In order to accommodate pipe rotation, Besco experimented with various options before settling on the idea of installing bearings and/or rollers into the existing Tesco HSJE in order to permit pipe to spin inside the Tesco HSJE.

15. More specifically, Jamie Lovell, an employee of Besco, conceived of the idea of installing rollers into the replaceable die inserts of the Tesco HSJE.

16. Because Besco is an oilfield service provider, not a manufacturer or fabricator, Besco frequently retains third party machine shops and/or fabrication companies such as Cajun to prepare computer aided drawings and to manufacture certain specialized equipment.

17. Mr. Lovell described his idea regarding incorporation of rollers into die inserts of the Tesco HSJE to Cajun and asked Cajun to prepare drawings reflecting his concept.

18. Further, Besco sent Cajun general information regarding single joint elevators, verbally explained the concept, allowed representatives of Cajun to examine its Tesco HSJE and roller samples, and provided detailed pipe weight dimensions and specifications to Cajun.

19. Following the successful testing of prototype roller dies, Besco requested that Cajun provide Besco with pricing for the manufacture and sale of HSJE roller die inserts to Besco. Cajun responded by claiming that it owned the HSJE roller die inserts and refusing to sell them to Besco.

20. Esco Benton, Chief Operating Officer of Besco, always envisioned that the HSJE roller die inserts would be fabricated by Cajun and sold to Besco like the other equipment manufactured by Cajun and sold to Besco.

21. Besco believed that Cajun had no right to claim ownership of the roller die insert concept since it was Mr. Lovell's original idea, and had further always contemplated a purchase arrangement pursuant to which Cajun would sell the HSJE roller die inserts to Besco. However,

due to the short lead time associated with an upcoming project, Besco begrudgingly agreed to rent the roller dies from Cajun.

22. For a period Besco rented the HSJE roller die inserts from Cajun, but there was no written rental agreement between the parties and disputes soon developed regarding the terms and conditions of the rental arrangement.

23. As time went on, Cajun began making additional demands on Besco that were never agreed to by the parties and which further soured their business relationship.

24. Thereafter, Besco contacted a third party manufacturer, Elite Energy Services, LLC (“Elite”) to make alternative HSJE roller dies, and subsequently contracted with Elite to independently design and manufacture new roller die inserts in accordance with Besco’s original concept.

DEFENDANT’S PATENT

25. Although Jamie Lovell of Besco originally conceived of the concept, Cajun, through its owners Heath and Shane Triche, filed an application for patent with the United States Patent and Trademark Office.

26. Cajun previously filed a separate action against Besco in the US District Court for the Eastern District of Louisiana captioned *Cajun Services Unlimited, LLC dba Spoked Manufacturing vs. Benton Energy Service Company dba Besco Tubular, et al.*, Civil Action No. 2:17-cv-00491. That action was subsequently dismissed on standing grounds, and administratively closed.

27. In the previous action, Cajun expressly informed the Court and Besco that “Cajun intends to file suit for patent infringement against Besco and seek a preliminary injunction enjoining

Besco's use of Cajun's proprietary tool on the day the patent issues. Cajun anticipates such suit will be filed in mid-June."

28. Thus, the present matter constitutes an actual and justiciable controversy between the parties.

FIRST CAUSE OF ACTION
PATENT INVALIDITY

29. Plaintiff re-alleges and incorporates by reference the allegations of the preceding paragraphs of this Complaint as if fully set forth herein.

30. An actual and substantial controversy has arisen and now exists between the parties concerning the validity of the '862 Patent.

31. All claims of the '862 Patent, including Claims 1-29 thereof, are invalid because the purported inventions therein fail to meet the conditions for patentability specified in 35 U.S.C. §§ 101 *et seq.*, including but not limited to 35 U.S.C. §§ 101, 102, 103, and 112.

32. By way of example and without limiting the grounds of invalidity that will be asserted in this action, each claim of the '862 Patent is invalid for failure to properly identify all true and correct inventors of the claimed invention.

33. By way of further example and without limiting the grounds of invalidity that will be asserted in this action, each claim of the '862 Patent is invalid for failure to satisfy the requirements of 35 U.S.C. § 103.

34. Besco expressly reserves the right to assert additional grounds of invalidity after having the ability to conduct discovery.

35. Plaintiff seeks a declaratory judgment that the '862 Patent is invalid.

SECOND CAUSE OF ACTION
NON-INFRINGEMENT

36. Plaintiff re-alleges and incorporates by reference the allegations of the preceding paragraphs of this Complaint as if fully set forth herein.

37. An actual and substantial controversy has arisen and now exists between the parties concerning whether Plaintiff's manufacture, use, sale, or offer for sale of any of its pipe running services and/or related goods infringes any valid and enforceable claim of '862 Patent, either directly or indirectly, literally, under the doctrine of equivalents, or otherwise.

38. By way of example and without limiting the grounds of non-infringement that will be asserted, Plaintiff's pipe running services and related products do not infringe any claim of the '862 Patent because they do not contain certain limitations set forth in each of the independent and dependent Claims of the '862 Patent.

39. Plaintiff expressly reserves the right to assert additional grounds of non-infringement after having the ability to conduct discovery and the Court has construed the claims.

40. Plaintiff seeks a declaratory judgment that making, using, offering to sell and/or selling of its pipe running services and/or related equipment does not and will not infringe any valid and enforceable claim of the '862 Patent.

THIRD CAUSE OF ACTION
UNENFORCEABILITY

41. Plaintiff re-alleges and incorporates by reference the allegations of the preceding paragraphs of this Complaint as if fully set forth herein.

42. An actual controversy has arisen and now exists between the parties concerning the enforceability of the '862 Patent.

43. Notwithstanding anything set forth herein, by way of example and without limiting the grounds of invalidity that will be asserted in this action, each claim of the '862 Patent is unenforceable due to Plaintiff's unclean hands including, without limitation, failure to identify to the US Patent and Trademark Office all true and correct inventors of the claimed invention.

PRAYER FOR RELIEF

WHEREFORE, BESCO respectfully requests that this Honorable Court enter judgment in its favor and against Defendant on all of the above causes of action, as follows:

- (a) Declaring the '862 Patent invalid;
- (b) Declaring that the manufacture, use, sale and/or offer of sale of Plaintiff's pipe running services and related products (including, without limitation, Besco Roller Dies) does not infringe any valid and enforceable claim of the '862 Patent;
- (c) Declaring the '862 Patent unenforceable;
- (d) Enjoining Defendant Cajun from enforcing the '862 Patent;
- (e) A finding that this case is exceptional under 35 U.S.C. § 285;
- (f) Awarding Plaintiff their costs and attorney's fees;

AND ALL OTHER SUCH RELIEF THAT THIS HONORABLE COURT SHALL DEEM JUST AND REASONABLE.

DATED: June 4, 2018

Respectfully submitted:

/s/Ted M. Anthony

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