

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

FMC TECHNOLOGIES, INC.,

Plaintiff,

vs.

ONESUBSEA IP UK LIMITED,
ONESUBSEA UK LIMITED,
ONESUBSEA LLC & CAMERON
INTERNATIONAL CORPORATION,

Defendants.

Civil Action No. 4-18-cv-02459

JURY TRIAL DEMANDED

PLAINTIFF'S AMENDED COMPLAINT

Pursuant to the Court's order requiring Plaintiff to file substitute pleadings pertaining only to the "live" claims and defenses at issue in this severed proceeding (Dkt. 59), Plaintiff FMC Technologies, Inc. ("Plaintiff" or "FMC") files this "Amended Complaint" against OneSubsea IP UK Limited, OneSubsea UK Limited, OneSubsea LLC and Cameron International Corporation (collectively, "Defendants" or "OSS"), alleging as follows based on its own knowledge and actions as well as based on information and belief as to all other matters:

NATURE OF ACTION

1. FMC asserts U.S. Patent No. 6,715,554 (the “554 Patent”) against OSS.

PARTIES

2. Plaintiff FMC Technologies, Inc. (“FMC”) is a Delaware corporation with its principal place of business located at 11740 Katy Freeway, Energy Tower 3, Houston, Texas 77079.

3. Defendant OneSubsea IP UK Limited is a company incorporated in England and Wales with a registered address at 100 New Bridge Street, London EC4V 6JA.

4. Defendant OneSubsea UK Limited is a company incorporated in England and Wales with a registered address at 100 New Bridge Street, London EC4V 6JA.

5. OneSubsea LLC is a Delaware limited liability company with a principal place of business located at 4646 West Sam Houston Parkway North, Houston, Texas 77041.

6. On information and belief, OneSubsea LLC is an affiliate of OneSubsea IP UK Limited and OneSubsea UK Limited.

7. On information and belief, OneSubsea LLC directs and controls the activities of OneSubsea UK Limited and OneSubsea IP UK Limited.

8. On information and belief, OneSubsea LLC is vicariously liable for the actions of OneSubsea UK Limited and OneSubsea IP UK Limited in the United States.

9. Cameron International Corporation is incorporated under the laws of Delaware with its headquarters located at 1333 West Loop S., Suite 1700, Houston, Texas 77027.

10. On information and belief, OneSubsea LLC's majority owner is Cameron International Corporation.

11. On information and belief, Cameron International Corporation directs and controls the activities of OneSubsea LLC, OneSubsea UK Limited, and OneSubsea IP UK Limited.

12. On information and belief, Cameron International Corporation is vicariously liable for the actions of OneSubsea LLC, OneSubsea UK Limited, and OneSubsea IP UK Limited in the United States.

JURISDICTION AND VENUE

13. Plaintiff incorporates by reference paragraphs 1–12 above as if fully set forth herein.

14. This Court has jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

15. OneSubsea IP UK Limited and OneSubsea UK Limited have consented to the personal jurisdiction of this Court by at least commencing a pending action for patent infringement in this district.

16. OneSubsea LLC and Cameron International Corporation have purposefully availed themselves of the privilege of conducting business with residents of the State of Texas and residents of this judicial district, has established at least minimal contacts with the State of Texas such that it should reasonably and fairly anticipate being brought into

court in Texas, and has purposefully reached out to residents of Texas through its marketing, distribution and sale of products, including the products accused of infringement.

17. OneSubsea LLC and Cameron International Corporation have committed acts of infringement in the State of Texas, and regularly transacts business in the State of Texas, including making, using, marketing, distributing, and selling the products accused of infringement.

18. This Court has personal jurisdiction over OneSubsea LLC and Cameron International Corporation by virtue of their tortious acts of patent infringement which have been committed in the State of Texas, and by virtue of their transaction of business in the State of Texas.

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

BACKGROUND

20. On April 6, 2004, the '554 Patent, entitled "Slimbore Subsea Completion System and Method," was duly and lawfully issued by the U.S. Patent Office. A true and correct copy of the '554 Patent is attached as Exhibit A.

21. FMC currently owns all rights, title, and interest in the '554 Patent, and has owned these rights for the duration of OSS's infringing acts.

22. FMC is a developer and supplier of subsea hydrocarbon recovery systems, including subsea Christmas trees, associated tubing spools, tubing hangers, monitoring systems, running tools, and related products and systems.

23. Prior to the formation of OneSubsea LLC in 2013, Cameron International Corporation competed with FMC for customers in the United States in the field of subsea hydrocarbon recovery systems.

24. Since the formation of OneSubsea LLC in 2013, OneSubsea LLC has competed with FMC for customers in the United States in the field of subsea hydrocarbon recovery systems.

25. Defendants compete with FMC through their making, using, selling, offering for sale, importing into, and exporting from the United States subsea Christmas tree systems and associated products and systems, including their Vertical Monobore Subsea Tree and Hybrid Subsea Tree configurations and associated products, systems, and methods.

26. Defendants have infringed, directly, contributorily, and through the inducement of others, the claimed inventions of the '554 Patent through at least its making, using, offering for sale, selling, and importing of subsea trees designed for use with a tubing spool and tubing hanger (including, but not limited to, their Vertical Monobore Subsea Tree and/or Hybrid Subsea Tree configurations) and associated tubing spool and tubing hanger products and systems in the United States, and by exporting a substantial portion of components or an especially made or adapted component for non-U.S. combination into subsea trees designed for use with a tubing spool and tubing hanger (including, but not limited to, its Vertical Monobore Subsea Tree and/or Hybrid Subsea Tree configurations) and associated tubing spool and tubing hanger products and systems that embody the patented invention.

COUNT I

(Infringement of the '554 Patent)

27. FMC incorporates by reference paragraphs 1–26 as if fully set forth herein.

28. On information and belief, one or more of the Defendants have made subsea trees designed for use with a tubing spool and tubing hanger (including, but not limited to, their Vertical Monobore Subsea Tree and/or Hybrid Subsea Tree configurations) and associated tubing spool and tubing hanger products and systems in the United States.

29. On information and belief, one or more of the Defendants have used subsea trees designed for use with a tubing spool and tubing hanger (including, but not limited to, their Vertical Monobore Subsea Tree and/or Hybrid Subsea Tree configurations) and associated tubing spool and tubing hanger products and systems in the United States.

30. One or more of the Defendants have offered subsea trees designed for use with a tubing spool and tubing hanger (including, but not limited to, their Vertical Monobore Subsea Tree and/or Hybrid Subsea Tree configurations) and associated tubing spool and tubing hanger products and systems for sale in the United States.

31. On information and belief, one or more of the Defendants have sold subsea trees designed for use with a tubing spool and tubing hanger (including, but not limited to, their Vertical Monobore Subsea Tree and/or Hybrid Subsea Tree configurations) and associated tubing spool and tubing hanger products and systems in the United States.

32. On information and belief, one or more of the Defendants have imported subsea trees designed for use with a tubing spool and tubing hanger (including, but not

limited to, their Vertical Monobore Subsea Tree and/or Hybrid Subsea Tree configurations) and associated tubing spool and tubing hanger products and systems into the United States.

33. On information and belief, one or more of the Defendants have exported at least a substantial portion of components or an especially made or adapted component for non-U.S. combination into subsea trees designed for use with a tubing spool and tubing hanger (including, but not limited to, their Vertical Monobore Subsea Tree and/or Hybrid Subsea Tree configurations) and associated tubing spool and tubing hanger products and systems that embody the patented invention of the '554 Patent.

34. On information and belief, one or more of the Defendants provided instructions for the installation and use of subsea trees designed for use with a tubing spool and tubing hanger (including, but not limited to, their Vertical Monobore Subsea Tree and/or Hybrid Subsea Tree configurations) and associated tubing spool and tubing hanger products and systems to their actual and/or prospective customers.

35. On information and belief, one or more of the Defendants intended for users of subsea trees designed for use with a tubing spool and tubing hanger (including, but not limited to, their Vertical Monobore Subsea Tree and/or Hybrid Subsea Tree configurations) and associated tubing spool and tubing hanger products and systems to follow the instructions Defendants provided to those customers.

36. On information and belief, Defendants were aware of the '554 Patent while designing subsea trees designed for use with a tubing spool and tubing hanger (including, but not limited to, their Vertical Monobore Subsea Tree and/or Hybrid Subsea Tree configurations) and associated tubing spool and tubing hanger products and systems.

37. On information and belief, Defendants were aware of the '554 Patent while they were making, using, offering for sale, selling, importing, and/or exporting subsea trees designed for use with a tubing spool and tubing hanger (including, but not limited to, their Vertical Monobore Subsea Tree and/or Hybrid Subsea Tree configurations) and associated tubing spool and tubing hanger products and systems.

38. On information and belief, Defendants have been aware of the '554 Patent since prior to March 30, 2015.

39. On information and belief, Defendants have been aware of the '554 Patent since at least 2013, as evidenced at least by the citation of the '554 Patent as prior art on the face of OSS's U.S. Patent No. 8,573,306 (the "'306 Patent") resulting from the citation of the '554 Patent as prior art by a U.S. Patent and Trademark Office patent examiner during prosecution of the application leading to the '306 Patent.

40. On information and belief, Cameron International Corporation has been aware of the '554 Patent since at least 2012 when a U.S. Patent and Trademark Office patent examiner cited the '554 Patent as a prior art reference during the prosecution of the application leading to the '306 Patent.

41. On information and belief, Cameron International Corporation transferred its knowledge of the '554 Patent to the other Defendants.

42. Defendants have infringed, directly, contributorily, and/or through the inducement of others, the claimed inventions of the '554 Patent through at least their making, using, offering for sale, selling, and/or importing of subsea trees designed for use with a tubing spool and tubing hanger (including, but not limited to, their Vertical

Monobore Subsea Tree and/or Hybrid Subsea Tree configurations) and associated tubing spool and tubing hanger products and systems in the United States, and/or by exporting a substantial portion of components or an especially made or adapted component for non-U.S. combination into subsea trees designed for use with a tubing spool and tubing hanger (including, but not limited to, their Vertical Monobore Subsea Tree and/or Hybrid Subsea Tree configurations) and associated tubing spool and tubing hanger products and systems that embody the patented invention. Defendants' actions are in violation of one or more of the provisions of 35 U.S.C. § 271(a), (b), (c), and/or (f).

43. Defendants have infringed at least one claim of the '554 Patent under 35 U.S.C. § 271(a) and/or (f) by making, using, offering for sale, selling, and/or importing subsea trees designed for use with a tubing spool and tubing hanger (including, but not limited to, their Vertical Monobore Subsea Tree and/or Hybrid Subsea Tree configurations) and associated tubing spool and tubing hanger products and systems in the United States that embody the patented invention, and/or by exporting a substantial portion of components or an especially made or adapted component for non-U.S. combination into subsea trees designed for use with a tubing spool and tubing hanger (including, but not limited to, their Vertical Monobore Subsea Tree and/or Hybrid Subsea Tree configurations) and associated tubing spool and tubing hanger products and systems that embody the patented invention.

44. On information and belief, Defendants have actively induced infringement of at least one claim of the '554 Patent under 35 U.S.C. § 271(b) by providing, encouraging, instructing, and/or aiding others to use subsea trees designed for use with a tubing spool

and tubing hanger (including, but not limited to, their Vertical Monobore Subsea Tree and/or Hybrid Subsea Tree configurations) and associated tubing spool and tubing hanger products and systems in the United States that embody the patented invention. Such direct infringers include at least the persons who install and operate subsea trees designed for use with a tubing spool and tubing hanger (including, but not limited to, their Vertical Monobore Subsea Tree and/or Hybrid Subsea Tree configurations) and associated tubing spool and tubing hanger products and systems. On information and belief, Defendants had actual notice of their infringement of the '554 Patent before FMC first alleged infringement on August 13, 2015 (Case No. 4:16-cv-00051, Dkt. No. 24), and have acted with specific intent to induce infringement.

45. On information and belief, Defendants have contributorily infringed at least one claim of the '554 Patent under 35 U.S.C. § 271(c) by contributing to the direct infringement of the '554 Patent by the end users of subsea trees designed for use with a tubing spool and tubing hanger (including, but not limited to, their Vertical Monobore Subsea Tree and/or Hybrid Subsea Tree configurations) and associated tubing spool and tubing hanger products and systems through the selling, providing, encouraging, instructing, and/or aiding of others to use these products and systems in an infringing manner. Defendants have engaged in these activities knowing their products are especially made and adapted for use, and are in fact used, in a manner that constitutes infringement of the '554 Patent.

46. The subsea trees designed for use with a tubing spool and tubing hanger (including, but not limited to, their Vertical Monobore Subsea Tree and/or Hybrid Subsea

Tree configurations) and associated tubing spool and tubing hanger products and systems have special features that are specially designed to be used in an infringing way and that have no substantial uses other than ones that infringe the '554 Patent. The special features constitute a material part of the invention of one or more of the claims of the '554 Patent and are not staple articles of commerce suitable for substantial non-infringing use.

47. Defendants' actions have been at least objectively reckless as to the risk of infringing the '554 Patent, and this risk was either known or should have been known by Defendants. Specifically, Defendants have made, used, offered for sale, sold, imported, and/or exported subsea trees designed for use with a tubing spool and tubing hanger (including, but not limited to, their Vertical Monobore Subsea Tree and/or Hybrid Subsea Tree configurations) and associated tubing spool and tubing hanger products and systems in the United States despite an objectively high likelihood that their actions constitute infringement of the '554 Patent. Moreover, Defendants knew or should have known that their actions would constitute and result in infringement of the '554 Patent.

48. Defendants' direct and indirect infringement of the '554 Patent has been willful, intentional, deliberate, and/or in conscious disregard of FMC's rights under the '554 Patent.

49. FMC has been and will continue to be injured as a result of the infringing conduct by Defendants alleged above.

50. Defendants are liable to FMC in an amount that adequately compensates FMC for such infringement, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court.

51. FMC and its predecessors in interest have complied with the statutory requirements of the patent laws of the United States to collect pre-filing damages for the full period allowed by law.

PRAYER FOR RELIEF

WHEREFORE, FMC asks this Court to enter judgment against Cameron International Corporation, OneSubsea LLC, OneSubsea IP UK Limited, and OneSubsea UK Limited, jointly and severally, and their subsidiaries, affiliates, agents, servants, employees and all persons in active concert or participation with them, granting the following relief:

- a. A judgment that one or more claims of the '554 Patent have been infringed by OSS;
- b. That the Court order an accounting for damages;
- c. A judgment and an award of all damages sustained by FMC as the result of Defendants' acts of infringement with an accounting as needed;
- d. A judgment and an award of enhanced damages under 35 U.S.C. § 284;
- e. A finding that this is an exceptional case and a judgment and award of attorneys' fees under 35 U.S.C. § 285 or as otherwise permitted by law;
- f. A judgment and an award of all interest and costs; and
- g. A judgment and an award of such other and further relief as the Court or a jury may deem just and proper.

JURY DEMAND

FMC demands a trial by jury.

January 2, 2019

Respectfully submitted

By: /s/ Bret T. Winterle

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**ATTORNEYS FOR PLAINTIFF
FMC TECHNOLOGIES, INC.**

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this document was served on all counsel who have consented to electronic service, Local Rule CV-5(a), on January 2, 2019.

/s/ Bret T. Winterle

Bret T. Winterle