

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

DAVIS-LYNCH, INC.	§	
Plaintiff	§	CIVIL ACTION NO. 6: 04-CV-54
	§	
v.	§	Judge Schneider
	§	
WEATHERFORD INTERNATIONAL, INC.	§	
Defendant	§	<u>JURY TRIAL DEMANDED</u>

**FIRST AMENDED COMPLAINT**

\_\_\_\_\_Davis-Lynch, Inc. (“Davis-Lynch”), Plaintiff, files this First Amended Complaint against Defendant, Weatherford International, Inc., and for cause of action respectfully shows as follows:

**PARTIES, JURISDICTION AND VENUE**

1. Davis-Lynch is a Texas corporation having its principal place of business in Pearland, Texas.

2. The Defendant, Weatherford International, Inc. ("Weatherford") is a Delaware corporation doing business in this judicial district and having a principal place of business at 515 Post Oak Blvd., Suite 600, Houston, Texas 77027. Defendant has previously answered and entered its appearance in this action.

3. This action arises under the patent laws of the United States including 35 U.S.C. § 271.

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

5. Venue is proper in this Court under 28 U.S.C. § 1400(b). Upon information and belief, the Defendant, Weatherford, conducts business within this judicial district and has engaged

in acts of patent infringement as herein alleged within this judicial district.

### **CLAIMS FOR RELIEF**

6. Davis-Lynch owns all right, title and interest in and to United States Patent No. 6,401,824 B1 (hereinafter "the '824 patent"), which issued June 11, 2002, and in and to United States Patent No. 6,679,336 B2 (hereinafter "the '336" patent), which issued January 20, 2004. Application for the '336 patent was filed on October 17, 2001 as a continuation-in-part of the application for the '824 patent. Copies of the '824 patent and the '336 patent are attached to Plaintiff's original Complaint herein as Exhibits A and B respectively and incorporated herein by reference.

7. Defendant, Weatherford, has infringed, willfully infringed and/or contributed to or induced infringement of the '824 patent and/or the '336 patent by making, using, selling or offering for sale products that come within or are operated within the scope of one or more of the claims of the patent(s) including products marketed and sold under the trade designation "Auto-Fill Float Collar."

8. Weatherford's acts of infringement are irreparably harming and causing damages to Davis-Lynch, and will continue to do so unless and until enjoined by order of this Court.

### **ATTORNEY FEES**

9. Davis-Lynch asserts that this is an exceptional case such that Weatherford should be required to pay Davis-Lynch's reasonable costs and attorney's fees in accordance with 35 U.S.C. § 285.

### **JURY DEMAND**

10. Davis-Lynch demands a jury trial for all issues pursuant to Rule 38 of the Federal Rules of Civil Procedure.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, Davis-Lynch, prays for the following relief from the Court and Jury:

(a) That Plaintiff be awarded judgment against Defendant for damages, enhanced damages, interest and costs resulting from infringement and/or willful infringement of the '824 patent and/or the '336 patent pursuant to 35 U.S.C. § 284;

(b) That this Court enjoin the Defendant and all those in active concert or participation with the Defendant from infringing the '824 patent and/or the '336 patent in accordance with 35 U.S.C. § 283;

(c) That this Court determine and declare this to be an exceptional case and award Plaintiff its reasonable costs and attorney's fees pursuant to 35 U.S.C. § 285; and

(d) That Plaintiff be awarded such other and further relief as may be just and appropriate.

Respectfully submitted,

/s/Guy E. Matthews

Guy E. Matthews

State Bar No. 13207000

Attorney-in-Charge

The Matthews Firm

1900 West Loop South, Suite 1800

Houston, Texas 77027

(713) 355-4200

(713) 355-9689 (facsimile)

Of Counsel:

C. Vernon Lawson

State Bar No. 12058150

The Matthews Firm

1900 West Loop South, Suite 1800

Houston, Texas 77027

(713) 355-4200  
(713) 355-9689 (facsimile)

Andy Tindel  
Provost Umphrey, LLP  
304 West Rusk  
Tyler, Texas 75701  
(903) 596-0900  
(903) 596-0909 (facsimile)

**ATTORNEYS FOR PLAINTIFF  
DAVIS-LYNCH, INC.**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document has been served upon the following counsel of record via ECF and/or U.S. Mail on December 14, 2004.

Stephen H. Cagle  
J. Dean Lechtenberger  
Tyler T. VanHoutan  
HOWREY SIMON ARNOLD & WHITE, LLP  
750 Bering Drive  
Houston, Texas 77057  
Telephone: (713) 787-1400  
Facsimile: (713) 787-1440

Calvin Capshaw  
Brown Mc Carroll, LLP  
1127 Judson Road, Suite 220  
P.O. Box 3999  
Longview, Texas 75601-5157

/s/ C. Vernon Lawson  
C. Vernon Lawson