

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

United States Courts
Southern District of Texas
FILED

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JAN 31 2005

Michael N. Milby, Clerk

M-I L.L.C.

Plaintiff,

v.

VARCO INTERNATIONAL, INC.

Defendant.

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Civil Action No. H-04-4602

**PLAINTIFF'S FIRST AMENDED COMPLAINT FOR
DECLARATORY JUDGMENT REGARDING PATENT INFRINGEMENT**

M-I L.L.C., the plaintiff, for its First Amended Complaint for Declaratory Judgment Regarding Patent Infringement alleges as follows:

I. Parties

1. M-I L.L.C. ("M-I"), plaintiff, is a Delaware corporation, headquartered and having its principal place of business in Houston, Texas.

2. Varco International, Inc. ("Varco"), defendant, is a Delaware corporation having its principal place of business at 2000 W. Sam Houston Parkway South, Suite 1700, Houston, Texas 77042 (<http://www.varco.com>). Varco manufactures and distributes its products on a worldwide basis. It may be served with process by serving its registered agent, US Corp. Co., 800 Brazos, Suite 750, Austin, Texas 78701.

3. Varco L.P., defendant, is a Delaware limited partnership and a wholly owned subsidiary of Varco International, Inc. Varco L.P. has its principal place of business at 2835 Holmes Road, Houston, Texas 77051. On information and belief, Varco L.P. is the exclusive licensee of the rights granted under U.S. Patent No. 6,769,550. It may be served with

process by serving its registered agent, J. F. Maroney III, 2835 Holmes Road, Houston, Texas 77051.

4. Varco I/P Inc. ("Varco I/P") is a Delaware corporation with its principal place of business in Houston, Texas. On information and belief, Varco I/P is a subsidiary of Varco International, Inc and the assignee of the legal and beneficial ownership of U.S. Patent No. 6,769,550. It may be served with process by serving Varco International Inc.'s registered agent, US Corp. Co., 800 Brazos, Suite 750, Austin, Texas 78701.

II. Jurisdiction and Venue

5. M-I brings this suit under the Declaratory Judgment Act, 28 U.S.C. §§ 2201-02.

6. This Court has jurisdiction pursuant to 28 U.S.C. § 1338(a) because this action arises under the United States patent laws, 35 U.S.C. § 1 *et seq.*

7. Venue is proper pursuant to 28 U.S.C. §§ 1391 and 1400 because Varco, Varco L.P., and Varco I/P are based in and do business in this district and are subject to personal jurisdiction here, a substantial part of the events or omissions giving rise to the claim occurred here, and the alleged infringement is occurring here.

III. Count One - Declaratory Judgment

8. M-I markets a product that Varco, Varco L.P., and Varco I/P (the "Varco companies") wrongly allege infringes one or more claims of United States Patent No. 6,769,550 (the "550 patent"). From the conduct of the Varco companies, M-I has reasonably concluded that they will initiate suit against M-I if M-I continues with the production of certain allegedly infringing products.

9. Specifically, by letter dated November 1, 2004, from the President of Varco Services and written on Varco International, Inc. letterhead, M-I has reason to believe that

the Varco companies will pursue legal action against M-I. The Varco companies' overt threats and accusations that M-I is infringing the '550 patent and demands that M-I cease all marketing of M-I's AUTOFIT screen assembly products presents a real and present controversy within the jurisdiction of this Court. M-I seeks the Court's assistance to end a dispute and remove the uncertainty and apprehension that has arisen as a result of the Varco companies' challenge to M-I's production of its AUTOFIT screen.

10. M-I seeks a declaration from this Court that its production of its AUTOFIT screen does not infringe upon United States Patent No. 6,769,550 (the "'550 patent"), entitled "Screen Assemblies for Shale Shakers," owned and/or licensed by Varco, Varco L.P. and Varco I/P.

11. M-I also seeks a declaration that the '550 patent is invalid and unenforceable. This declaration will end the current controversy between M-I and defendants Varco, Varco L.P., and Varco I/P.

IV. Prayer and Relief

12. WHEREFORE, M-I prays that this Court:

(A) Enter judgment granting M-I the declaratory relief as requested above or supplemented hereafter;

(B) Award M-I its reasonable attorneys' fees for prosecuting this action;

(C) Award M-I its costs; and

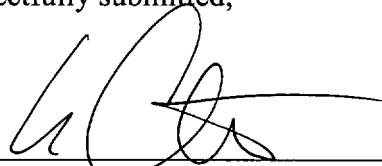
(D) Award M-I such other and further relief to which it may be justly entitled.

V. Jury Demand

M-I demands a jury trial on all issues of fact in this suit.

Respectfully submitted,

By:



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