

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

STINGER WELLHEAD PROTECTION, INC.,

and

OIL STATES ENERGY SERVICES, INC.,

Plaintiffs,

v.

GUARDIAN WELLHEAD PROTECTION, INC.
A.K.A. GUARDIAN WELLHEAD SPECIALTIES

Defendant.

CIVIL ACTION NO. 2:06CV-481 (TJW)

PLAINTIFFS' SECOND AMENDED COMPLAINT

Plaintiffs Stinger Wellhead Protection, Inc. (“Stinger”) and Oil States Energy Services, Inc. (“Oil States”) file Plaintiffs’ Second Amended Complaint against Defendant Guardian Wellhead Protection, Inc. a.k.a. Guardian Wellhead Specialties (“Guardian”) as set forth below:

PARTIES

1. Stinger is a Texas corporation with its mailing address at P.O. Box 1639, Allen, Texas 75013.
2. Oil States is a Delaware Corporation with its mailing address at Three Allen Center, 333 Clay Street, Houston, Texas 77002.
3. Guardian is a business corporation organized and existing under the laws of the State of Texas, who may be served with citation herein by service upon its registered agent, Mr. Murray A. Erickson at 6907 East Commerce, Odessa, Texas 79762.

NATURE OF THIS ACTION

4. This is an action for patent infringement arising under the patent laws of the United States, particularly 35 U.S.C. §§ 271-287.

JURISDICTION AND VENUE

5. This Court has exclusive subject matter jurisdiction over this action under 28 U.S.C. § 1338(a).

6. This Court has personal jurisdiction over Defendant Guardian and venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b)-(c) and 1400(b).

FACTS

7. On September 18, 2001, U.S. Patent No. 6,289,993 (“the ‘993 patent”) entitled “Blowout Preventer Protector and Setting Tool” was duly and legally issued by the U.S. Patent and Trademark Office to L. Murray Dallas. A true and correct copy of the ‘993 patent is attached hereto as Exhibit 1.

8. The ‘993 patent is presumed valid pursuant to 35 U.S.C. § 282.

9. Plaintiff Stinger is the current owner by assignment of the ‘993 patent.

10. Prior to the assignment of the ‘993 patent on December 19, 2006, Plaintiff Stinger had been the exclusive licensee of Oil States under the ‘993 patent with full rights in and to the causes of action involved in this Complaint at all relevant times.

11. No other company is licensed to make, use, sell, offer to sell, or import a protector tool that is covered by the claims of the ‘993 patent.

12. On November 16, 2004, U.S. Patent No. 6,817,423 (“the ‘423 patent”) entitled “Well Stimulation Tool and Method of Using Same” was duly and legally issued by the U.S.

Patent and Trademark Office to L. Murray Dallas. A true and correct copy of the '423 patent is attached hereto as Exhibit 2.

13. The '423 patent is presumed valid pursuant to 35 U.S.C. § 282.

14. Plaintiff Stinger is the current owner by assignment of the '423 patent.

15. No other company is licensed to make, use, sell, offer to sell, or import a tool or perform a method of using a tool that is covered by the claims of the '423 patent.

16. On January 30, 2001, U.S. Patent No. 6,179,053 ("the '053 patent") entitled "Lockdown Mechanism for Well Tools Requiring Fixed-Point Packoff" was duly and legally issued by the U.S. Patent and Trademark Office to L. Murray Dallas. A true and correct copy of the '053 patent is attached hereto as Exhibit 3.

17. The '053 patent is presumed valid pursuant to 35 U.S.C. § 282.

18. Plaintiff Stinger is the current owner by assignment of the '053 patent.

19. No other company is licensed to make, use, sell, offer to sell, or import a tool or perform a method of using a tool that is covered by the claims of the '053 patent.

20. In general, the '993, the '423, and the '053 patents disclose and claim tools used to protect wellhead equipment while stimulating a wellbore

21. Guardian is a company servicing the wellhead isolation service markets in Texas.

22. Within the last year, Guardian has begun selling services in direct infringement of the '993 patent, the '423 patent, and the '053 patent. Guardian has used a protector tool that infringes one or more claims of the '993 patent, the '423 patent, and the '053 patent.

23. Upon information and belief, Guardian made a change to the configuration of the accused device after the filing date of the Original Complaint.

24. Upon information and belief, Guardian made yet another change to the configuration of the accused device after Stinger made Guardian aware of the '423 patent.

25. The picture below is of an infringing Guardian tool in a partially disassembled state during use or after being used by Guardian in an infringing manner at a well site in this district.



26. On information and belief, Guardian is the manufacturer of the infringing tool, or has directed others to manufacture the infringing tool.

PATENT INFRINGEMENT CLAIMS

27. Paragraphs 1-26 are incorporated by reference.

28. Guardian is making, using, offering to sell, and/or selling products that infringe one or more claims of the '993 patent without the authority or license to do so.

29. Guardian has induced and continues to induce others to infringe and/or has committed acts of contributory infringement of one or more claims of the '993 patent.

30. Guardian tool's includes a mandrel.

31. The Guardian tool's mandrel is adapted to be inserted through a blowout preventer.

32. The mandrel includes an annular sealing body at a bottom end.

33. The annular sealing body is bonded to the bottom end of the mandrel.

34. The annular sealing body comprises a plastic material.

35. The annular sealing body comprises a rubber material.

36. The Guardian tool's mandrel includes mandrel extension sections to permit a length of the mandrel to be increased.

37. The mandrel is inserted into a position for sealing engagement with a top of a casing.

38. The Guardian tool includes a mechanical lockdown mechanism.

39. The Guardian tool's mechanical lockdown mechanism can detachably secure the mandrel to a blowout preventer.

40. The Guardian tool's mechanical lockdown mechanism is adapted to ensure that the annular sealing body can be securely seated against the top of the casing.

41. The Guardian tool's mechanical lockdown mechanism has a base member.

42. The base member of the Guardian tool's mechanical lockdown mechanism has a central bore.

43. The Guardian tool's mechanical lockdown mechanism has elongated spiral threads.

44. The elongated spiral threads of the Guardian tool's mechanical lockdown mechanism engage complimentary threads of lockdown nuts.

45. Guardian is making, using, offering to sell, and/or selling products that infringe one or more claims of the '423 patent without the authority or license to do so.

46. Guardian has induced and continues to induce others to infringe and/or has committed acts of contributory infringement of one or more claims of the '423 patent.

47. The Guardian tool is adapted to be inserted through the wellhead of a well into an operative position.

48. The Guardian tool includes a base plate.

49. The base plate of Guardian's tool is adapted to be connected to a top end of the wellhead.

50. The Guardian tool includes a connector plate at the top end.

51. Equipment is selectively mounted to the connector plate of Guardian's tool.

52. Guardian's tool includes a pair of injectors.

53. Guardian's injectors are in a parallel relationship located at respective opposite sides of the base plate and the connector plate.

54. Each of Guardian's injectors has one end secured to the base plate and one end secured to the connector plate.

55. Guardian's injectors reciprocate a mandrel through the wellhead into and out of the operative position.

56. Guardian's injectors reciprocate the mandrel when the base plate is connected to the top of the wellhead.

57. In the process of connecting the Guardian tool to the wellhead, the Guardian tool is suspended above the wellhead.

58. The Guardian tool includes a mandrel adapted to be inserted through a wellhead to an operative position.

59. The mandrel of Guardian's tool is aligned with the wellhead.

60. The Guardian tool is lowered until it rests on the wellhead.

61. The base plate of the Guardian tool is mounted to the wellhead.

62. When operating the Guardian tool, a fluid flow control mechanism is open.

63. The opening of a fluid flow control mechanism permits access to the wellbore.

64. The injectors of the Guardian tool are actuated to insert the mandrel through the wellhead.

65. The mandrel of the Guardian tool includes an annular sealing body.

66. At the operative position, the annular sealing body of the Guardian tool is in a fluid sealing engagement with an inner wall of a tubing head spool.

67. The tubing head spool is located at a top of a casing of the well.

68. The mandrel of the Guardian tool is locked in the operative position.

69. During operation of the Guardian tool, a high pressure fluid line for well stimulation is connected to the Guardian tool.

70. Guardian is making, using, offering to sell, and/or selling products that infringe one or more claims of the '053 patent without the authority or license to do so.

71. Guardian has induced and continues to induce others to infringe and/or has committed acts of contributory infringement of one or more claims of the '053 patent.

72. Upon information and belief, Guardian's infringing activities have been willful and deliberate.

73. As a result of Guardian's infringing activities, Plaintiffs have suffered actual damages in an amount to be determined at trial. Additionally, as a result of the willful and deliberate nature of Guardian's infringing activities, Plaintiffs are entitled to a trebling of their actual damages and are entitled to recover their attorney's fees and costs incurred in prosecuting this action. 28 U.S.C. §§ 284-285.

74. Guardian's acts of infringement have caused irreparable harm to Plaintiffs for which there is no adequate remedy at law, and will continue to cause irreparable harm to Plaintiffs unless Guardian is preliminarily and permanently enjoined by this Court.

JURY DEMAND

74. Pursuant to Fed. R. Civ. P. 38(b), Plaintiffs request a trial by jury.

PRAYER

Plaintiffs respectfully request that this Court enter judgment against Guardian, granting Plaintiffs the following relief:

- A. A preliminary and permanent injunction enjoining Guardian, its owners, affiliates, officers, directors, managers, agents, servants, employees, trainees, and all persons in active concert or participation with it, from continuing to infringe United States Patent No. 6,289,993, United States Patent No. 6,817,423, and United States Patent No. 6,179,053;
- B. An award of damages adequate to compensate Plaintiffs for Guardian's infringement of United States Patent No. 6,289,993, United States Patent No. 6,817,423, and United States Patent No. 6,179,053;

- C. A determination that Guardian's infringement of United States Patent No. 6,289,993, United States Patent No. 6,817,423, and United States Patent No. 6,179,053 has been willful and deliberate;
- D. A determination that this case is "exceptional" under 35 U.S.C. § 285, thereby entitling Plaintiffs to an award of their reasonable attorneys' fees and costs incurred in prosecuting this action;
- E. An award of treble damages based on the willful and deliberate nature of Guardian's infringement;
- F. An award of pre-judgment and post-judgment interest on all damages computed; and
- G. Such other relief as this Court deems fair and appropriate.

Respectfully submitted,

/s/ John R. Keville

John R. Keville
kevillej@howrey.com
Attorney in Charge
Texas Bar No. 00794085
Rexford A. Johnson
Texas Bar No. 24036852
HOWREY LLP
1111 Louisiana, 25th Floor
Houston, TX 77002-5242
(713) 787-1400
(713) 787-1440 Facsimile

ATTORNEYS FOR PLAINTIFF

DATED: June 15, 2007

OF COUNSEL:
S. Calvin Capshaw
ccapshaw@mailbmc.com
Brown McCarroll LLP
1127 Judson Road, Suite 220
Longview, Texas 75601
(903) 236-9800
(903) 236-8787 Facsimile

CERTIFICATE OF SERVICE

I hereby certify that the following counsel of record who are deemed to have consented to electronic service are being served this 15th day of June, 2007, with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3). Any other counsel of record will be served by electronic mail, facsimile transmission and/or first class mail on this same date.

V. Bryan Medlock, Jr.
bmedlock@sidley.com
SIDLEY AUSTIN LLP
717 N. Harwood, Suite 3400
Dallas, TX 75201

 /s/ John R. Keville
John R. Keville