

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

(1) NOV Downhole Eurasia Limited, and
(2) National Oilwell DHT, L.P.

Plaintiffs,

v.

(1) DRILFORMANCE LLC.,

Defendant.

Civil Action No. 12-355

JURY DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiffs, NOV Downhole Eurasia Limited and National Oilwell DHT, L.P. (collectively “NOV” or “Plaintiffs”) for their Complaint against Defendant Drilformance LLC (“Drilformance” or “Defendant”) allege as follows:

THE PARTIES

1. Plaintiff NOV Downhole Eurasia Limited (“NOV UK”) is a United Kingdom company having its principal place of business in Stonehouse, Gloucestershire, England and it is the successor-in-interest to the assets of ReedHycalog UK, another United Kingdom corporation with its principal place of business in Stonehouse, Gloucestershire, England.

2. Plaintiff National Oilwell DHT, L.P. a Delaware limited partnership with its principal place of business in Houston, Texas and the successor-in-interest to the assets of ReedHycalog, L.P. (“NOV DHT LP”), another Delaware limited partnership with its principal place of business in Houston, Texas. NOV UK and NOV DHT LP will be collectively referred to as “NOV” or “Plaintiffs.”

3. On information and belief, Defendant Drilformance is a Delaware limited liability corporation with places of business in Midland, Texas and Houston, Texas. On information and belief, Drilformance manufactures, sales and/or rents drill bits that include polycrystalline diamond compact (“PDC”) cutters and inserts (individually and collectively “PDCs”) wherein at least a portion of the catalyzing material from the polycrystalline diamond matrix is removed or depleted.

JURISDICTION

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§. 1331 and 1338(a) because this action arises under the patent laws of the United States, Title 35, United States Code, including 35 U.S.C. § 271 *et seq.* The Court has personal jurisdiction over Drilformance because Drilformance has established minimum contacts with the forum. Drilformance has sold and/or offered for sale infringing drill bits to entities in Texas, including entities in this judicial district. Moreover, Drilformance’s infringing drill bits are used in this judicial district. Drilformance has committed acts of infringement or induced or contributed others to commit acts of infringement in this judicial district. The exercise of jurisdiction over Drilformance will not offend traditional notions of fair play and substantial justice.

VENUE

5. Venue is proper in this district pursuant to 28 U.S.C. §§ 1331, 1338(a), 1391(b), (c) and (d) and 1400(b).

GENERAL ALLEGATIONS

6. On information and belief, within the six years prior to the filing of this Complaint, Drilformance has manufactured, sold and/or rented infringing drill bits that include polycrystalline diamond compact cutters and inserts wherein at least a portion of the catalyzing material has been removed or depleted from the polycrystalline diamond matrix. On information and belief, Drilformance sells and/or rents such infringing drill bits to its customers. On

information and belief, Drilformance continues to manufacture, sell and/or rent the infringing drill bits described in this paragraph.

7. On information and belief, within the six years prior to the filing of this Complaint, Drilformance has manufactured, sold and/or rented infringing drill bits that include polycrystalline diamond compact cutters that have a diamond table in which at least a portion of the catalyzing material has been removed or depleted from a first region of the diamond table while the catalyzing material is present in another second region of the diamond table, and wherein the depth of the first region is greater than 0.1 mm as measured normal to a plane containing the top planar surface of the partially leached polycrystalline diamond cutter. On information and belief, Drilformance continues to manufacture, sell and/or rent the infringing drill bits described in this paragraph.

8. On information and belief, within the six years prior to the filing of this Complaint, Drilformance has performed, or caused one of or more of its unknown agents or suppliers, to perform one or more processes to remove or deplete at least a portion of the catalyzing material from the polycrystalline diamond matrix of the polycrystalline diamond compact cutters that Drilformance uses on its infringing drill bits that it has manufactured, sold and/or rented during this period. On information and belief, Drilformance continues to perform, or continues to cause one or more of its unknown agents or suppliers, to perform the processes described in this paragraph.

9. Pursuant to the present Complaint, Plaintiffs allege that Drilformance has infringed and continues to infringe the following patents: 6,861,098, 6,861,137, 6,878,447, 6,601,662, 6,544,308, 6,585,064, 6,589,640, 6,739,214, 6,749,033 and 6,797,326 (the "Asserted Patents"). The Asserted Patents were the subject of four previous Markman orders issued by this Court. See Exhibits A, B and C.

10. Of the Asserted Patents, patents 6,861,098, 6,861,137, 6,878,447, 6,601,662, 6,544,308, 6,589,640, 6,749,033 and 6,797,326 were tried to a jury verdict in a case filed in this Court styled *ReedHycalog UK Ltd. v. Diamond Innovations*, Civil Action No. 6:08-CV-325. By

jury verdict dated June 10, 2010, those patents were found to be willfully infringed and not invalid. A copy of the jury verdict in that case is attached as Exhibit D.

11. The technology covered by the Asserted Patents has achieved widespread commercial and technical success in the marketplace. The commercial success of the technology covered by the Asserted Patents is evidenced, at least in part, by the fact that Plaintiffs have entered into non-exclusive license agreements with at least 23 drill bit manufactures that are located throughout the world whereby those licensees pay plaintiffs an on-going royalty for use of Plaintiffs' patented technology. In some cases, the licensees also made a substantial payment for past acts of infringement in addition to agreeing to pay on-going royalties for future use of the Plaintiffs' patented technology. Those 23 licensees, together with Plaintiffs, represent at least 90 percent of the worldwide drill bit manufacturing capacity. Plaintiffs receive millions of dollars in royalty payments from the aforementioned licensees annually for their use of Plaintiffs' patented technology that is embodied in the Asserted Patents.

INFRINGEMENT OF U.S. PATENT NO. 6,861,098

12. On March 1, 2005, United States Patent No. 6,861,098 ("the '098 patent") was duly and legally issued to inventors Nigel Dennis Griffin and Peter Raymond Hughes for a Polycrystalline Diamond Partially Depleted of Catalyzing Material. All rights and interest in the '098 patent have been assigned to the plaintiff NOV UK. NOV DHT LP is a licensee of the '098 patent. A true and correct copy of the '098 patent is attached hereto as Exhibit E.

13. Upon information and belief, Drillformance has infringed and continues to infringe the '098 patent, both directly and indirectly. The infringing acts of Drillformance include, but are not limited to, direct infringement, inducing infringement and/or contributory infringement of the '098 patent. Defendant Drillformance is liable for infringement of the '098 patent pursuant to 35 U.S.C. § 271.

14. Drillformance's acts of infringement have caused damage to Plaintiffs, and Plaintiffs are entitled to recover from Drillformance the damages sustained by Plaintiffs as a

result of Drilformance's wrongful acts in an amount subject to proof at trial. Drilformance's infringement of Plaintiffs' rights under the '098 patent will continue to damage Plaintiffs' business, causing irreparable harm, for which there is no adequate remedy at law, unless Drilformance is enjoined by this Court.

15. Upon information and belief, Drilformance's infringement of the '098 patent is willful and deliberate, entitling Plaintiffs to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

INFRINGEMENT OF U.S. PATENT NO. 6,861,137

16. On March 1, 2005, United States Patent No. 6,861,137 ("the '137 patent") was duly and legally issued to inventors Nigel Dennis Griffin and Peter Raymond Hughes for a High Volume Density Polycrystalline Diamond with Working Surfaces Depleted of Catalyzing Material. All rights and interest in the '137 patent have been assigned to the plaintiff NOV UK. NOV DHT LP is a licensee of the '137 patent. A true and correct copy of the '137 patent is attached hereto as Exhibit F.

17. Upon information and belief, Drilformance has infringed and continues to infringe the '137 patent, both directly and indirectly. The infringing acts of Drilformance include, but are not limited to, direct infringement, inducing infringement and/or contributory infringement of the '137 patent. Drilformance is liable for infringement of the '137 patent pursuant to 35 U.S.C. § 271.

18. Drilformance's acts of infringement have caused damage to Plaintiffs, and Plaintiffs are entitled to recover from Drilformance the damages sustained by Plaintiffs as a result of Drilformance's wrongful acts in an amount subject to proof at trial. Drilformance's infringement of Plaintiffs' rights under the '137 patent will continue to damage Plaintiffs' business, causing irreparable harm, for which there is no adequate remedy at law, unless Drilformance is enjoined by this Court.

19. Upon information and belief, Drilformance's infringement of the '137 patent is willful and deliberate, entitling Plaintiffs to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

INFRINGEMENT OF U.S. PATENT NO. 6,878,447

20. On April 13, 2005, United States Patent No. 6,878,447 ("the '447 patent") was duly and legally issued to inventors Nigel Dennis Griffin and Peter Raymond Hughes for a Polycrystalline Diamond Partially Depleted of Catalyzing Material. All rights and interest in the '447 patent have been assigned to the plaintiff NOV UK. NOV DHT LP is a licensee of the '447 patent. A true and correct copy of the '447 patent is attached hereto as Exhibit G.

21. Upon information and belief, Drilformance has infringed and continues to infringe the '447 patent, both directly and indirectly. The infringing acts of Drilformance include, but are not limited to, direct infringement, inducing infringement and/or contributory infringement of the '447 patent. Drilformance is liable for infringement of the '447 patent pursuant to 35 U.S.C. § 271.

22. Drilformance's acts of infringement have caused damage to Plaintiffs, and Plaintiffs are entitled to recover from Drilformance the damages sustained by Plaintiffs as a result of Drilformance's wrongful acts in an amount subject to proof at trial. Drilformance's infringement of Plaintiffs' rights under the '447 patent will continue to damage Plaintiffs' business, causing irreparable harm, for which there is no adequate remedy at law, unless Drilformance is enjoined by this Court.

23. Upon information and belief, Drilformance's infringement of the '447 patent is willful and deliberate, entitling Plaintiffs to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

INFRINGEMENT OF U.S. PATENT NO. 6,601,662

24. On August 5, 2003, United States Patent No. 6,601,662 ("the '662 patent") was duly and legally issued to inventors Terry R. Matthias, Nigel Dennis Griffin and Peter Raymond

Hughes for Polycrystalline Diamond Cutters With Working Surfaces Having Varied Wear Resistance While Maintaining Impact Strength. All rights and interest in the '662 patent have been assigned to the plaintiff NOV UK. NOV DHT LP is a licensee of the '662 patent. A true and correct copy of the '662 patent is attached hereto as Exhibit H.

25. Upon information and belief, Drilformance has infringed and continues to infringe the '662 patent, both directly and indirectly. The infringing acts of Drilformance include, but are not limited to, direct infringement, inducing infringement and/or contributory infringement of the '662 patent. Drilformance is liable for infringement of the '662 patent pursuant to 35 U.S.C. § 271.

26. Drilformance's acts of infringement have caused damage to Plaintiffs, and Plaintiffs are entitled to recover from Drilformance the damages sustained by Plaintiffs as a result of Drilformance's wrongful acts in an amount subject to proof at trial. Drilformance's infringement of Plaintiffs' rights under the '662 patent will continue to damage Plaintiffs' business, causing irreparable harm, for which there is no adequate remedy at law, unless Drilformance is enjoined by this Court.

27. Upon information and belief, Drilformance's infringement of the '662 patent is willful and deliberate, entitling Plaintiffs to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

INFRINGEMENT OF U.S. PATENT NO. 6,544,308

28. On April 8, 2003, United States Patent No. 6,544,308 ("the '308 patent") was duly and legally issued to inventors Nigel Dennis Griffin and Peter Raymond Hughes for High Volume Density Polycrystalline Diamond With Working Surfaces Depleted of Catalyzing Material. All rights and interest in the '308 patent have been assigned to the plaintiff NOV UK. NOV DHT LP is a licensee of the '308 patent. A true and correct copy of the '308 patent is attached hereto as Exhibit I.

29. Upon information and belief, Drilformance has infringed and continues to infringe the '308 patent, both directly and indirectly. The infringing acts of Drilformance include, but are not limited to, direct infringement, inducing infringement and/or contributory infringement of the '308 patent. Drilformance is liable for infringement of the '308 patent pursuant to 35 U.S.C. § 271.

30. Drilformance's acts of infringement have caused damage to Plaintiffs, and Plaintiffs are entitled to recover from Drilformance the damages sustained by Plaintiffs as a result of Drilformance's wrongful acts in an amount subject to proof at trial. Drilformance's infringement of Plaintiffs' rights under the '308 patent will continue to damage Plaintiffs' business, causing irreparable harm, for which there is no adequate remedy at law, unless Drilformance is enjoined by this Court.

31. Upon information and belief, Drilformance's infringement of the '308 patent is willful and deliberate, entitling Plaintiffs to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

INFRINGEMENT OF U.S. PATENT NO. 6,585,064

32. On July 1, 2003, United States Patent No. 6,585,064 ("the '064 patent") was duly and legally issued to inventors Nigel Dennis Griffin and Peter Raymond Hughes for Polycrystalline Diamond Partially Depleted of Catalyzing Material. All rights and interest in the '064 patent have been assigned to the plaintiff NOV UK. NOV DHT LP is a licensee of the '064 patent. A true and correct copy of the '064 patent is attached hereto as Exhibit J.

33. Upon information and belief, Drilformance has infringed and continues to infringe the '064 patent, both directly and indirectly. The infringing acts of Drilformance include, but are not limited to, direct infringement, inducing infringement and/or contributory infringement of the '064 patent. Drilformance is liable for infringement of the '064 patent pursuant to 35 U.S.C. § 271.

34. Drilformance's acts of infringement have caused damage to Plaintiffs, and Plaintiffs are entitled to recover from Drilformance the damages sustained by Plaintiffs as a result of Drilformance's wrongful acts in an amount subject to proof at trial. Drilformance's infringement of Plaintiffs' rights under the '064 patent will continue to damage Plaintiffs' business, causing irreparable harm, for which there is no adequate remedy at law, unless Drilformance is enjoined by this Court.

35. Upon information and belief, Drilformance's infringement of the '064 patent is willful and deliberate, entitling Plaintiffs to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

INFRINGEMENT OF U.S. PATENT NO. 6,589,640

36. On July 8, 2003, United States Patent No. 6,589,640 ("the '640 patent") was duly and legally issued to inventors Nigel Dennis Griffin and Peter Raymond Hughes for Polycrystalline Diamond Partially Depleted of Catalyzing Material. All rights and interest in the '640 patent have been assigned to the plaintiff NOV UK. NOV DHT LP is a licensee of the '640 patent. A true and correct copy of the '640 patent is attached hereto as Exhibit K.

37. Upon information and belief, Drilformance has infringed and continues to infringe the '640 patent, both directly and indirectly. The infringing acts of Drilformance include, but are not limited to, direct infringement, inducing infringement and/or contributory infringement of the '640 patent. Drilformance is liable for infringement of the '640 patent pursuant to 35 U.S.C. § 271.

38. Drilformance's acts of infringement have caused damage to Plaintiffs, and Plaintiffs are entitled to recover from Drilformance the damages sustained by Plaintiffs as a result of Drilformance's wrongful acts in an amount subject to proof at trial. Drilformance's infringement of Plaintiffs' rights under the '640 patent will continue to damage Plaintiffs' business, causing irreparable harm, for which there is no adequate remedy at law, unless Drilformance is enjoined by this Court.

39. Upon information and belief, Drilformance's infringement of the '640 patent is willful and deliberate, entitling Plaintiffs to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

INFRINGEMENT OF U.S. PATENT NO. 6,739,214

40. On May 25, 2004, United States Patent No. 6,739,214 ("the '214 patent") was duly and legally issued to inventors Nigel Dennis Griffin and Peter Raymond Hughes for Polycrystalline Diamond Partially Depleted of Catalyzing Material. All rights and interest in the '214 patent have been assigned to the plaintiff NOV UK. NOV DHT LP is a licensee of the '214 patent. A true and correct copy of the '214 patent is attached hereto as Exhibit L.

41. Upon information and belief, Drilformance has infringed and continues to infringe the '214 patent, both directly and indirectly. The infringing acts of Drilformance include, but are not limited to, direct infringement, inducing infringement and/or contributory infringement of the '214 patent. Drilformance is liable for infringement of the '214 patent pursuant to 35 U.S.C. § 271.

42. Drilformance's acts of infringement have caused damage to Plaintiffs, and Plaintiffs are entitled to recover from Drilformance the damages sustained by Plaintiffs as a result of Drilformance's wrongful acts in an amount subject to proof at trial. Drilformance's infringement of Plaintiffs' rights under the '214 patent will continue to damage Plaintiffs' business, causing irreparable harm, for which there is no adequate remedy at law, unless Drilformance is enjoined by this Court.

43. Upon information and belief, Drilformance's infringement of the '214 patent is willful and deliberate, entitling Plaintiffs to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

INFRINGEMENT OF U.S. PATENT NO. 6,749,033

44. On June 15, 2004, United States Patent No. 6,749,033 ("the '033 patent") was duly and legally issued to inventors Nigel Dennis Griffin and Peter Raymond Hughes for

Polycrystalline Diamond Partially Depleted of Catalyzing Material. All rights and interest in the '033 patent have been assigned to the plaintiff NOV UK. NOV DHT LP is a licensee of the '033 patent. A true and correct copy of the '033 patent is attached hereto as Exhibit M.

45. Upon information and belief, Drilformance has infringed and continues to infringe the '033 patent, both directly and indirectly. The infringing acts of Drilformance include, but are not limited to, direct infringement, inducing infringement and/or contributory infringement of the '033 patent. Drilformance is liable for infringement of the '033 patent pursuant to 35 U.S.C. § 271.

46. Drilformance's acts of infringement have caused damage to Plaintiffs, and Plaintiffs are entitled to recover from Drilformance the damages sustained by Plaintiffs as a result of Drilformance's wrongful acts in an amount subject to proof at trial. Drilformance's infringement of Plaintiffs' rights under the '033 patent will continue to damage Plaintiffs' business, causing irreparable harm, for which there is no adequate remedy at law, unless Drilformance is enjoined by this Court.

47. Upon information and belief, Drilformance's infringement of the '033 patent is willful and deliberate, entitling Plaintiffs to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

INFRINGEMENT OF U.S. PATENT NO. 6,797,326

48. On September 24, 2004, United States Patent No. 6,797,326 ("the '326 patent") was duly and legally issued to inventors Nigel Dennis Griffin and Peter Raymond Hughes for Method of Making Polycrystalline Diamond with Working Surfaces Depleted of Catalyzing Material. All rights and interest in the '326 patent have been assigned to the plaintiff NOV UK. NOV DHT LP is a licensee of the '326 patent. A true and correct copy of the '326 patent is attached hereto as Exhibit N.

49. Upon information and belief, Drilformance has infringed and continues to infringe the '326 patent, both directly and indirectly. The infringing acts of Drilformance

include, but are not limited to, direct infringement, inducing infringement and/or contributory infringement of the '326 patent. Drilformance is liable for infringement of the '326 patent pursuant to 35 U.S.C. § 271.

50. Drilformance's acts of infringement have caused damage to Plaintiffs, and Plaintiffs are entitled to recover from Drilformance the damages sustained by Plaintiffs as a result of Drilformance's wrongful acts in an amount subject to proof at trial. Drilformance's infringement of Plaintiffs' rights under the '326 patent will continue to damage Plaintiffs' business, causing irreparable harm, for which there is no adequate remedy at law, unless Drilformance is enjoined by this Court.

51. Upon information and belief, Drilformance's infringement of the '326 patent is willful and deliberate, entitling Plaintiffs to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

JURY DEMAND

52. Plaintiffs hereby demand a jury trial on all issues and claims so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment and seek the following relief:

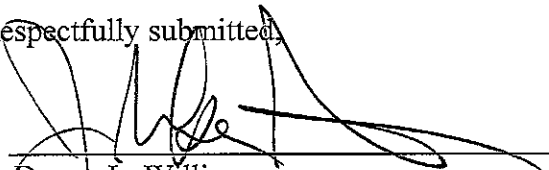
- (a) For judgment that each of the Asserted Patents have been and/or continue to be infringed by Drilformance;
- (b) For an accounting of all damages sustained by Plaintiffs as the result of Drilformance's acts of infringement;
- (c) For a permanent injunction enjoining the aforesaid acts of infringement by Drilformance, its officers, agents, servants, employees, subsidiaries and attorneys, and those persons acting in concert with Drilformance, including related individuals and entities, customers, representatives, OEMs, dealers, distributors and importers;
- (d) For actual damages together with prejudgment interest, according to proof,
- (e) For enhanced damages pursuant to 35 U.S.C. § 284;

- (f) For an award of attorneys' fees pursuant to 35 U.S.C. § 285 or as otherwise permitted by law;
- (g) For all costs of suit; and
- (h) For such other and further relief as the Court may deem just and proper.

DATED: May 29, 2012

Respectfully submitted,

By:



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