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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91206885
Party	Defendant Halliburton Energy Services, Inc.
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Date	10/31/2012
Attachments	Answer to RAPIDSHIFT Not of Opp (10-31-2012).pdf (7 pages)(888404 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

SCHLUMBERGER TECHNOLOGY
CORPORATION,

Opposer,

v.

HALLIBURTON ENERGY SERVICES, INC.,

Applicant.

In the matter of Serial No. 85/509,570

For the mark RAPIDSHIFT

Published August 21, 2012

Opposition No.: 91206885

ANSWER TO NOTICE OF OPPOSITION

Through the undersigned counsel, Applicant, Halliburton Energy Services, Inc. (“Applicant”), answers the Notice of Opposition filed against Application Serial No. 85/509,570 by Schlumberger Technology Corporation (“Opposer”), as set forth below. The Answer paragraphs are numbered to correspond to the numbered paragraphs of the Notice of Opposition.

The first paragraph of the Notice of Opposition is an introductory paragraph to which no responsive pleading is required. To the extent a response is deemed necessary, Applicant denies that Opposer will be damaged by registration of the mark shown in Application Serial No. 85/509,570.

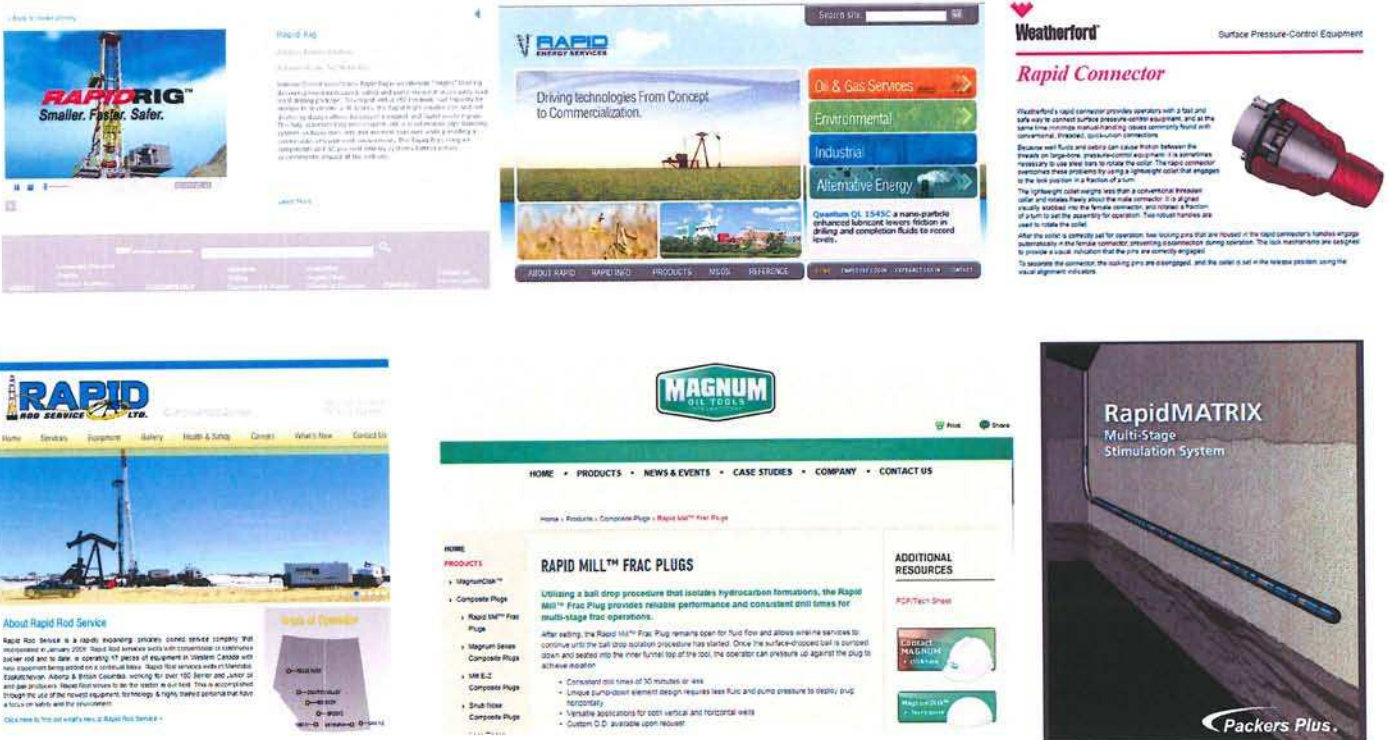
1. Applicant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 1 of the Notice of Opposition and, therefore, denies the same.

2. Applicant admits that it filed an application to register the RAPIDSHIFT mark based on an intent to use the mark and admits that it has not filed a statement of use in connection with its application for the RAPIDSHIFT mark. Applicant denies that Opposer owns a family of RAPID marks. Applicant is without knowledge or information sufficient to form a

belief as to the truth or falsity of the remaining allegations contained in Paragraph 2 of the Notice of Opposition and, therefore, denies the same.

3. Applicant denies that Opposer owns a family of RAPID marks. Applicant is without knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations contained in Paragraph 3 of the Notice of Opposition and, therefore, denies the same.

4. Applicant denies that Opposer owns a family of RAPID marks. Applicant further denies that Opposer has had “exclusive use” of the term RAPID. Applicant further denies that the term RAPID is distinctive of any of Opposer’s goods or services. There are numerous uses of the term RAPID in trade names and trademarks used in the oil and gas industry such that the term RAPID by itself is not distinctive and does not singularly identify Opposer, including, without limitation, the following uses of the term RAPID in trade names and marks of third-party companies:



Applicant is without knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations contained in Paragraph 4 of the Notice of Opposition and, therefore, denies the same.

5. Applicant denies that Opposer owns a family of RAPID marks and denies that Opposer has long prior rights in and to a family of RAPID marks. Applicant admits that on January 5, 2012 it filed an application for registration of the mark RAPIDSHIFT for “Power-operated oil and gas well completion tool, namely, a sliding sleeve that can be opened to provide a flow path between the production conduit and the annulus commonly used in hydraulic fracturing operations” in International Class 7. Applicant otherwise denies the remaining allegations of Paragraph 5 of the Notice of Opposition.

6. Applicant denies that Opposer owns a family of RAPID marks and denies the allegations contained in the first sentence of Paragraph 6 of the Notice of Opposition. Applicant is without knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations contained in Paragraph 6 of the Notice of Opposition and, therefore, denies the same.

7. Applicant denies the allegations contained in Paragraph 7 of the Notice of Opposition and specifically denies that there is or ever was a purported “agreement” between Opposer and Applicant whereby Applicant agreed not to use a mark containing the term “RAPID.” Moreover, Applicant has provided notice to Opposer, by letter of September 11, 2012, that Applicant repudiates the existence of any such purported agreement. In addition, even if there was an agreement, which there was not, Applicant has not breached such purported agreement.

8. Applicant denies the allegations contained in the Paragraph 8 of the Notice of Opposition.

9. Applicant consents to the consolidation of the present opposition (No. 91206885) with the oppositions that are consolidated under Opposition No. 91201442.

DEFENSES

1. The purported agreement asserted by Opposer in Paragraph 7 of the Notice of Opposition was not formed between Opposer and Applicant relating to use of the term RAPID because there was never an offer, or acceptance of such a purported offer, or consideration. In an email dated August 22, 2000, in-house counsel for Applicant made the following statement of fact in response to an email from Opposer's in-house counsel of the same date: "Halliburton has no intention to use the term 'RAPID' in conjunction with multilateral completion technology and services."

2. An agreement was not formed between Opposer and Applicant relating to use of the term RAPID because in-house counsel by whom the purported agreement was agreed to on behalf of Applicant lacked authority to enter into such an agreement on behalf of Applicant.

3. The purported agreement asserted by Opposer in Paragraph 7 of the Notice of Opposition is invalid because of indefiniteness.

4. In the alternative, not waiving any defenses asserted by Applicant herein or otherwise available to Applicant, the purported agreement asserted by Opposer in Paragraph 7 of the Notice of Opposition was not formed between Opposer and Applicant relating to use of the term RAPID because the written representation by Applicant dated August 22, 2000 referred to in Paragraph 7 of the Notice of Opposition was, at most, a counteroffer by Applicant that was never accepted by Schlumberger.

5. The purported agreement asserted by Opposer in Paragraph 7 of the Notice of Opposition has been repudiated by Applicant.

6. Opposer waived the right to enforce any rights it might have had under the purported agreement asserted by Opposer in Paragraph 7 of the Notice of Opposition because Applicant has been using the mark RAPIDFRAC for services related to fracturing for over six years without a single objection from Opposer following Opposer's email of August 22, 2000 until in or around June 2012 when Opposer proposed filing an amended Notice of Opposition in Consolidated Notice of Opposition No. 91201442 and for the first time raised the purported agreement asserted in Paragraph 7 of the Notice of Opposition.

7. Opposer is barred from enforcing any rights it might have had under the purported agreement asserted by Opposer in Paragraph 7 of the Notice of Opposition due to the doctrines of laches and estoppel because Applicant has been using the mark RAPIDFRAC for services related to fracturing for over six years without a single objection from Opposer following Opposer's email of August 22, 2000 until in or around June 2012 when Opposer proposed filing an amended Notice of Opposition in Consolidated Notice of Opposition No. 91201442 and for the first time raised the purported agreement asserted in Paragraph 7 of the Notice of Opposition.

WHEREFORE, Applicant, Halliburton Energy Services, Inc., respectfully requests that the Trademark Trial and Appeal Board dismiss the Notice of Opposition with prejudice.

Respectfully submitted,

Date: October 31, 2012

/Joel D. Leviton/

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ATTORNEYS FOR APPLICANT

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the following document:

ANSWER TO NOTICE OF OPPOSITION

has been served this 31st day of October, 2012 by U.S. mail, postage prepaid, upon counsel for the Opposer:

Margaret A. Boulware, Esq.
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Houston, TX 77056

/Joel D. Leviton/

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