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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.
Correspondence Address	CAROLYN S. WINDHAM HALLIBURTON ENERGY SERVICES, INC. 2601 E BELT LINE RD CARROLLTON, TX 75006-5401 sue.windham@halliburton.com
Submission	Response to Board Order/Inquiry
Filer's Name	Joel D. Leviton
Filer's e-mail	leviton@fr.com, rnr@fr.com, lls@fr.com, tmdoctc@fr.com
Signature	/Joel D. Leviton/
Date	10/31/2012
Attachments	Response to Order to Show Cause (10-31-12).pdf (5 pages)(266751 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

**RESPONSE TO ORDER TO SHOW CAUSE WHY
DEFAULT JUDGMENT SHOULD NOT BE ENTERED**

Through the undersigned counsel, Applicant, Halliburton Energy Services, Inc. (“Applicant”), respectfully responds to the Order of October 31, 2012 allowing Applicant thirty days to show cause why default judgment should not be entered. Concurrently herewith Applicant is filing its Answer to the Notice of Opposition. For the reasons stated below, Applicant submits that good cause exists for why default judgment should not be entered against Applicant and respectfully requests that default judgment not be entered and that Applicant’s Answer be accepted.

Good cause “is usually found when the defendant shows that (1) the delay in filing an answer was not the result of willful conduct or gross neglect on the part of the defendant, (2) the plaintiff will not be substantially prejudiced by the delay, and (3) the defendant has a meritorious defense to the action.” T.B.M.P. § 312.02.

Applicant’s delay was not the result of willful conduct or gross neglect. Applicant and Schlumberger Technology Corporation (“Opposer”) are parties to a number of opposition proceedings that have been consolidated under Opposition No. 91201442. Before filing the

Notice of Opposition against Applicant's Serial No. 85/509,570 for the mark RAPIDSHIFT, Opposer sought Applicant's consent to consolidate the opposition to the RAPIDSHIFT mark with the oppositions consolidated under parent Opposition No. 91201442. Applicant consented to consolidation, as noted in Paragraph 9 of Opposer's Notice of Opposition to Serial No. 85/509,570. Applicant had prepared its Answer to the Notice of Opposition, which is being filed concurrently herewith. However, there was confusion at Applicant's counsel in terms of docketing the Answer deadline given that it was believed that Opposition No. 91206885 was to be consolidated with parent Opposition No. 91201442. Applicant respectfully submits that good cause exists given that the parties consented to consolidating 91206885 with parent Opposition No. 91201442 and the presumed consolidation led to docketing confusion at Applicant's counsel. The delay was not the result of willful conduct or gross neglect on the part of Applicant.

Applicant respectfully submits that Opposer will not be substantially prejudiced by the delay in filing the Answer. As indicated, the parties have consented to consolidating Opposition No. 91206885 with parent Opposition No. 91201442. Parent Opposition No. 91201442 is currently on hold following Opposer's Motion for Leave to File a First Amended Notice of Opposition, which was filed by Opposer on June 28, 2012 and to which Applicant consented. The parties are awaiting a ruling from the Board on Opposer's Motion to Amend its Notice of Opposition. As such, the schedule in Opposition No. 91201442, into which the parties have requested Opposition No. 91206885 be consolidated, is on hold. Therefore, Opposer will not be substantially prejudiced by the late filing of the Answer in Opposition No. 91206885. Moreover, the issues involved in the oppositions consolidated under parent Opposition No. 91201442 are the same as the issues involved in Opposition No. 91206885. In all oppositions, Opposer is

alleging rights in a “RAPID” family of marks against a mark of Applicant’s that contains “RAPID.”

Finally, Applicant has a meritorious defense to the Notice of Opposition. Applicant is defending five oppositions that are consolidated under parent Opposition No. 91201442. As set forth in the Answer filed concurrently herewith, Applicant likewise has a valid basis to defend Opposition No. 91206885 on the merits.

In exercising its discretion whether to enter default judgment, “the Board must be mindful of the fact that it is the policy of the law to decide cases on their merits. Accordingly, the Board is very reluctant to enter a default judgment for failure to file a timely answer, and tends to resolve any doubt on the matter in favor of the defendant.” T.B.M.P. § 312.02. Applicant respectfully requests that the Board not enter default judgment in Opposition No. 91206885, accept Applicant’s Answer, and consolidate Opposition No. 91206885 with the opposition proceedings consolidated under parent Opposition No. 91201442 so all the oppositions can be decided on the merits.

Respectfully submitted,

Date: October 31, 2012

/Joel D. Leviton/

Joel D. Leviton

leviton@fr.com

Russell N. Rippamonti

rippamonti@fr.com

Elizabeth E. Brenckman

brenckman@fr.com

FISH & RICHARDSON P.C.

P.O Box 1022

Minneapolis, MN 55440-1022

Telephone: (612) 335-5070

Facsimile: (612) 288-9696

ATTORNEYS FOR APPLICANT

CERTIFICATE OF SERVICE

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

**RESPONSE TO ORDER TO SHOW CAUSE WHY
DEFAULT JUDGMENT SHOULD NOT BE ENTERED**

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

Margaret A. Boulware, Esq.
BOULWARE & VALOIR
Three Riverway Ste 950
Houston, TX 77056

/Joel D. Leviton/
Joel D. Leviton