

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NATIONAL OILWELL VARCO, L.P.,
Petitioner,

v.

TECHNICAL INDUSTRIES, INC.,
Patent Owner.

Case IPR2017-00648 (Patent 7,263,887 B2)
Case IPR2017-00699 (Patent 7,401,518 B2)

Record of Oral Hearing
Held: March 27, 2018

Before BRYAN F. MOORE, MINN CHUNG, and JACQUELINE T.
HARLOW, *Administrative Patent Judges*.

Case IPR2017-00648 (Patent 7,263,887 B2)

Case IPR2017-00699 (Patent 7,401,518 B2)

APPEARANCES:

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The above-entitled matter came on for hearing on Tuesday, March 27, 2018, at 1 p.m., at the U.S. Patent and Trademark Office, Madison Building East, 600 Dulany Street, Alexandria, Virginia.

PROCEEDINGS

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2 JUDGE HARLOW: Good afternoon. Judge Moore, may I get
3 started?

4 JUDGE MOORE: Yes.

5 JUDGE HARLOW: Thank you. Apologies, I have difficulty seeing
6 my colleague in Alexandria. We will hear argument now in IPR2017-00648
7 and IPR2017-00699, National Oilwell Varco L.P., v. Technical Industries,
8 Inc., concerning U.S. patent Nos. 7,263,887 B2 and 7,401,518 B2. At this
9 time we'd ask counsel to introduce themselves and their colleagues
10 beginning with counsel for Petitioner.

11 MR. BOWICK: Yes. Bobby Bowick, and with me is Bradford Laney
12 for Petitioner National Oilwell Varco.

13 JUDGE HARLOW: thank you, Mr. Bowick.

14 MR. LEMOINE: Judges, Joe Lemoine for Patent Owner, Technical
15 Industries, and with me is Mr. Ted Anthony, co-counsel.

16 JUDGE HARLOW: Thank you, Mr. Lemoine, and welcome to the
17 Board. Before we turn to the substance of today's proceedings there are
18 several preliminary matters we would like to address. First, beginning with
19 Mr. Lemoine, counsel for Patent Owner, it's the understanding of the panel
20 that Patent Owner has represented both in its preliminary response as well as
21 its Patent Owner response that Patent Owner wishes to disclaim certain
22 claims of the challenged patents; is that correct?

23 MR. LEMOINE: That is correct.

1 JUDGE HARLOW: Thank you. For clarity of the record, would
2 Patent Owner be amenable to filing within two weeks a request for adverse
3 judgment in order to formally disclaim those claims?

4 MR. LEMOINE: We would, Your Honor.

5 JUDGE HARLOW: Thank you. Petitioner, would you have any
6 objection to that procedure?

7 MR. BOWICK: No objection.

8 JUDGE HARLOW: Thank you. Patent Owner, we direct you to our
9 rules and in particular 37 C.F.R. §42.73 which govern requests for adverse
10 judgment, but this should be a very straightforward filing and to the extent
11 either party has any questions please feel free to contact us via email.

12 MR. LEMOINE: Thank you.

13 JUDGE HARLOW: With that out of the way, counsel for Petitioner,
14 when we were reviewing the record in preparation for today's hearing it
15 came to our attention that it appears Petitioner has filed excerpts instead of
16 full transcripts for certain depositions. Am I reading the record correctly?

17 MR. BOWICK: That would be correct.

18 JUDGE HARLOW: Thank you. Again, to have a full and complete
19 and clear record, we would request that Petitioner go ahead and file full
20 transcripts as exhibits as well as any exhibits that were used during
21 depositions, noticed and taken by Petitioner, but that are not already of
22 record. Does that make sense?

23 MR. BOWICK: Yes. One question with respect to that. You want us
24 to substitute those depositions with the exhibits for the existing exhibits in
25 the record or file them as new exhibits to the IPR?

1 JUDGE HARLOW: If we were to substitute those exhibits, would
2 that cause problems for citations in Petitioner's filings?

3 MR. BOWICK: I don't believe it would. I just want to make sure that
4 we follow the Court's practice and give you guys what you want.

5 MR. LEMOINE: May I respectfully attempt to be helpful here?

6 JUDGE HARLOW: Certainly, Mr. Lemoine.

7 MR. LEMOINE: The Petitioner, the depositions that you had filed
8 excerpts for Bobby, we have gone ahead and filed full transcripts of those in
9 the record and they are already in the record. We can give the particular
10 exhibit numbers and I don't know if you have to re-file them or just make
11 reference to them because we did go ahead and already put the full
12 transcripts into the record. I don't know if that helps save a few trees at
13 least.

14 JUDGE HARLOW: Thank you, Mr. Lemoine. Our normal
15 procedure pursuant to our records requires that the party noticing and taking
16 the deposition file the transcripts, however in view of the fact that it sounds
17 like the transcripts may already be of record we may be able to go ahead and
18 make an exception in this instance. What I would ask the parties to do is
19 within two weeks to send an email to the Board indicating whether indeed
20 all of the transcripts and all of the exhibits used during those depositions
21 exist in their entirety somewhere in the record. If they do, then the Board
22 can address any concerns we might have about who filed what and make that
23 of record. But as an initial step if the parties are agreeable to it, if the parties
24 wouldn't mind conferring and then sending an email to the Board confirming
25 whether each transcript and exhibit used in the depositions is already of
26 record.

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