

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**C&M OILFIELD RENTALS, LLC
D/B/A C-MOR ENERGY SERVICES,**

Plaintiff,

v.

**ENSIGN US SOUTHERN DRILLING
LLC,**

Defendant.

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Civil Action No. 4:22-cv-00965

JURY TRIAL DEMANDED

DECLARATION OF GARY WOOLEY REGARDING CLAIM CONSTRUCTION

generally be read into the claims. I further understand that it is improper to read limitations from a preferred embodiment described in the specification (even if it is the only embodiment) into the claims absent a clear indication in the intrinsic record that the patentee intended the claims to be so limited.

17. I understand that there are two exceptions to the general rule that claim terms are construed according to their plain and ordinary meaning. First, a patentee can become his or her own “lexicographer” by clearly setting forth a definition of the disputed term and clearly expressing an intent to define the term. Second, a patentee may disavow the full scope of the claim term either in the specification or during prosecution. To disavow the full scope of a claim term, the patentee’s statements in the specification or prosecuting history must represent a clear disavowal of claim scope. It is my understanding that when an applicant’s statements are amendable to multiple reasonable interpretations, they cannot be deemed clear and unmistakable.

18. I understand that, in some cases, the court may consider extrinsic evidence, such as technical dictionaries, treatises, and expert opinions, to understand the underlying technology and the way in which claim terms would be understood by a POSITA at the relevant time.

V. Level of Skill in the Art

19. For purposes of this declaration, I understand the time of the invention to be March 15, 2018, which is the filing date of the provisional application to which the Asserted Patents claim priority (provisional application no. 62/643,663).

20. I understand that several factors are relevant to determining the level of ordinary skill in the art at the time of the claimed invention. I understand that those factors include: (1) the educational level of the inventor(s); (2) the type of problems encountered in the art; (3) prior art solutions to those problems; (4) the rapidity with which innovations are made; (5) sophistication of the technology; and (6) the educational level of active workers in the field.

21. Having reviewed and considered the Asserted Patents, their prosecution history, the state of the art at the time of the inventions, including the level of skill of the persons with whom I worked, and the above-listed factors, it is my opinion that a POSITA would have had at least a bachelor's degree in Mechanical and/or Electrical Engineering with at least one year of experience working on rotary drilling rigs—either a drilling rig or a well servicing rig—and their associated lighting systems, and/or the installation and application of lighting systems used to illuminate wellsites where rotary drilling or well servicing operations are occurring. Alternatively, it is my opinion that a POSITA would have at least a high school diploma and five years of hands-on or design experience on rotary drilling rigs and their associated lighting systems and/or the installation and application of lighting systems used to illuminate rotary drilling operations.

22. I have used this level of ordinary skill in the art in forming my opinions as set forth in this declaration. My opinions are from the perspective of this level of ordinary skill in the art. I meet this level of skill in the art because I have at least a bachelor's degree in Mechanical Engineering, and I have had at least one year of experience working on rotary drilling rigs and with their associated lighting systems.

23. My opinion on the level of skill in the art takes into account the types of problems encountered in the art and the prior art solutions to those problems. In my opinion, the types of problems encountered in the art include problems involving exposure to hazardous substances, exposure to harsh weather conditions, ability to withstand shock and vibrations, stability of power supply, drop hazards, ease of installation, ease of maintenance or serviceability, fire and explosive hazards, cost effectiveness, downtime, risk of corrosion, and general and specific safety conditions, to name a few, nonlimiting examples.

24. My opinion on the level of skill in the art also takes into account the rapidity with which innovations are made and the sophistication of the technology. In my experience, the industry is hesitant to adopt overly progressive transformations. In my opinion, the hesitancy is related, at least in part, to how even the smallest changes to the design of any portion of a drilling rig or systems for a drilling rig can affect the overall structural stability and performance. In addition, any changes to a rig's configuration or systems attached to the rig poses potential safety risks, and designs must be approved before use. Of course, the rapidity with which innovations are made and the sophistication of the technology depends at least in part on the complexity of the particular design, the scope of the innovation at issue, internal resources available to innovators and companies (e.g., budget, time, etc.). This may vary project to project.

25. My opinion on the level of skill in the art also takes into account the experience and educational level of the inventor, as well as the experience and educational level of active workers in the field. For example, I understand that at least two of the named inventors had upwards of 10 years of experience working on drilling rigs. In addition, in my career, I have had the opportunity to work with persons having a broad range of education and experience in connection with drilling a well and working on drilling rigs, including persons having the education and/or experience outlined above. I have acted as a supervisor of or coworker with these persons, and I am intimately aware of their knowledge of and skill in the art.

VI. The Asserted Patents and Relevant Technology

A. The '016 Patent

26. The '016 Patent is titled "Elevated structure-mounted lighting system" and generally relates to lighting systems that may be used for drilling applications. It names Joshua C. Allison, Josh Haaland, and Jessica Ivanoff as inventors.

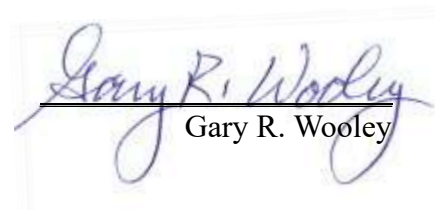
45. To illustrate the problem with Ensign's proposed construction, consider a stub column or a pedestal, which a POSITA would not understand to be the same as a "mounting pole." Although a POSITA would understand a stub column or a pedestal to be a structural component likely fixed at one end for mounting in the sense that it transfers a vertical load and raises something, a POSITA would not understand either a stub column or pedestal to be an elongated structure where the length of the structure necessarily far exceeds the width.

46. I reserve the right to offer opinions regarding Ensign's proposed construction for this term based on Ensign's arguments, the evidence it cites, and any opinions offered by any other expert in these proceedings.

VIII. Supplementation

47. I reserve the right to supplement this declaration based on additional information, including but not limited to Ensign's claim construction arguments and any opinions offered by any other expert in these proceedings.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on the 15th day of May 2023 in Houston, Texas.



Gary R. Wooley