

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Case No. 1:23-cv-01180-RMR-SBP

DOWNING WELLHEAD
EQUIPMENT, LLC,

Plaintiff,

v.

INTELLIGENT WELLHEAD
SYSTEMS, INC., INTELLIGENT
WELLHEAD SYSTEMS, CORP., and
IWS USA CORP.,

Defendant.

**PLAINTIFF DOWNING WELLHEAD EQUIPMENT, LLC'S
OBJECTIONS AND RESPONSES TO DEFENDANTS' INTERROGATORIES
(NOS. 1-2)**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, Plaintiff Downing Wellhead Equipment, LLC ("Plaintiff" or "Downing") hereby objects and responds to Defendants Intelligent Wellhead Systems, Inc., Intelligent Wellhead Systems, Corp., and IWS USA Corp.'s ("Defendant" or "IWS") Interrogatories ("Interrogatories") Nos. 1 & 2.

GENERAL OBJECTIONS AND QUALIFICATIONS

The general objections and qualifications listed below are hereby incorporated by reference and made part of Downing's response to every Interrogatory, regardless of whether they are or are not reiterated within the specific responses below.

Downing bases its objections and responses upon information presently available and will further supplement or amend these objections and responses as discovery progresses in accordance with Fed. R. Civ. P. 26(e). Discovery is ongoing and Downing is still pursuing its investigation and analysis of the facts and law pertaining to this lawsuit and has not yet completed its investigation and analysis.

Downing responds to IWS's Interrogatories as Downing interprets and understands each Interrogatory with respect to the issues in this lawsuit. If IWS asserts a different interpretation of any Interrogatory, Downing reserves the right to supplement or amend its responses or objections.

Any response that indicates that Downing will provide information or produce documents should not be construed to mean that responsive information or documents in fact exist; only that, if such relevant, non-privileged, non-objectionable information or documents exist, are in Downing's possession, custody, or control, and are located after a reasonable search of the location or locations where responsive information or documents are likely to be located, such information or documents will be produced in a timely manner.

Downing objects to the Interrogatories, and the definitions and instructions that accompany them, to the extent that they seek to impose obligations and demands on Downing greater than or more extensive than those required by the Federal Rules of Civil Procedure, the Local Rules of the United States District Court for the District of Colorado, or any other applicable authority.

Downing objects to the Interrogatories, and the instructions and definitions that accompany them, to the extent that they seek information or identification for “any,” “each,” “every,” or “all” documents, persons, entities, objects, or events, when a subset of documents, persons, entities, objects, or events will provide the requested information. The burden or expense of collecting or analyzing the information called for by such Interrogatory outweighs its likely benefit.

Downing objects to the Interrogatories, and the instructions and definitions that accompany them, to the extent that they call for information or documents that are not within the possession, custody, or control of Downing.

Downing objects to the Interrogatories, and the instructions and definitions that accompany them, to the extent that they request that Downing create or produce information that Downing does not maintain in the ordinary course of its business, or to the extent they request that Downing create or produce information in a particular format or at a particular level of detail that Downing does not maintain in the ordinary course of its business.

Downing objects to the Interrogatories, and the instructions and definitions therewith, to the extent that they seek information or documents that Downing is not permitted to disclose pursuant to confidentiality obligations to third parties or by court order. To the extent any such information or any such documents are responsive, relevant, and non-privileged, Downing will produce that information and/or those documents in accordance with the Protective Order (Dkt. 44) and after complying with its obligations to third parties and/or court orders.

Downing objects to the Interrogatories, and the definitions and instructions that accompany them, to the extent that they seek information, documents, or things protected from disclosure by the attorney-client privilege, work product doctrine, common-interest privilege, or any other privilege or immunity against disclosure (collectively, as used here, “privilege”). Nothing contained in these responses should be considered a waiver of any privilege. Downing does not intend to provide information or produce documents that would divulge any privileged information. Any such disclosure is inadvertent and shall not be deemed a waiver of any applicable privilege.

Downing objects to the Interrogatories, and the instructions and definitions that accompany them, to the extent that they contain interrogatories with discrete subparts improperly grouped as a single Interrogatory. Any such subparts will be treated as a separate Interrogatory for the purposes of determining the number of interrogatories served by IWS.

Downing objects to the Interrogatories, and the instructions and definitions that accompany them, to the extent that they alter the plain meaning of any specific Interrogatory, on the ground that such alteration renders the Interrogatory vague, ambiguous, overly broad, and/or unduly burdensome.

Downing objects to the definition of “You,” “your,” and “Downing,” and to any Interrogatory incorporating those terms on the grounds that they encompass entities or individuals over whom Downing does not have control and over whose documents Downing does not have possession, custody, or control. Downing

provides these responses exclusively on its own behalf and does not purport to speak for others.

OBJECTIONS AND RESPONSES TO REQUESTS

INTERROGATORY NO. 1:

For each Asserted Claim of the Patents-in-Suit, identify the alleged priority date and describe in detail all facts and circumstances of alleged conception, reduction to practice (actual, and constructive), and diligence in such reduction to practice, including identifying the earliest date You contend that such Asserted Claim was conceived of; the persons involved in the conception and reduction to practice; the earliest date You contend that such Asserted Claim was actually or constructively reduced to practice; where the invention was first reduced to practice; when, where, and to whom it was first disclosed; all persons with knowledge of the relevant facts; and all testimony, Documents (by Bates number) or other evidence relating to any of the foregoing.

RESPONSE TO INTERROGATORY NO. 1:

Downing incorporates its General Objections and Qualifications as set forth above.

Downing objects to this Interrogatory to the extent it seeks information protected by the attorney-client privilege, work product doctrine, and/or any other applicable privilege or immunity.

Downing objects to this Interrogatory to the extent it calls for a narrative response and “all testimony,” which is more appropriately the subject of a deposition.

Downing objects to this Interrogatory as unduly burdensome and not proportional to the needs of the case to the extent it seeks publicly available information that is equally available to IWS, including from the USPTO database.

Downing objects to this Interrogatory as overly broad, unduly burdensome, not proportional to the needs of the case, and seeking information that is not relevant to any claim or defense, including but not limited to, because this Interrogatory prematurely attempts to shift the burden onto Downing to identify a priority date for each asserted claim of each Asserted Patent prior to Defendants' deadline to serve Invalidity Contentions and before Defendants have identified even a single prior art reference.

Downing objects to this Interrogatory as overly broad, unduly burdensome, not proportional to the needs of the case, and seeking information that is not relevant to any claim or defense, including but not limited to, because it seeks information relevant only to Pre-AIA 35 U.S.C. § 102 (e.g., all information relating to "alleged conception, reduction to practice (actual, and constructive), and diligence in such reduction to practice") despite the asserted claims of the Asserted Patents not being subject to the same given that they have effective filing dates after March 16, 2013. Further, the additional information requested related to such conception and reduction to practice (e.g., "the persons involved in the conception and reduction to practice; the earliest date You contend that such Asserted Claim was actually or constructively reduced to practice; where the invention was first reduced to practice; when, where, and to whom it was first disclosed; all persons with knowledge of the

relevant facts”) is equally irrelevant, over broad, unduly burdensome, not proportional to the needs of the case.

Downing further objects to this Interrogatory as premature, including but not limited to, because this Interrogatory improperly seeks Downing’s contentions on legal issues when discovery has only just begun. IWS has not produced any documents, identified any alleged prior art, or served its Invalidity Contentions, and the Court has not yet engaged in claim construction.

Subject to, and without waiving the General Objections and Qualifications, and specific objections above, Downing responds as follows:

Following service of Defendants’ Invalidity Contentions, Downing will supplement its response to this Interrogatory.

INTERROGATORY NO. 2:

Separately for each Asserted Claim of the Patents-in-Suit, identify and describe each named inventor’s and any other person’s contribution to the conception or reduction to practice of the claimed invention, or diligence in reducing to practice of the claimed invention, including without limitation, for each contribution, the date(s), location(s), the relevant portion(s) of the claimed invention involved, an identification of all witnesses who can corroborate such contribution, and an identification of all Documents (by Bates number) corroborating such contribution.

RESPONSE TO INTERROGATORY NO. 2:

Downing incorporates its General Objections and Qualifications as set forth above.

Downing objects to this Interrogatory to the extent it seeks information protected by the attorney-client privilege, work product doctrine, and/or any other applicable privilege or immunity.

Downing objects to this Interrogatory as overly broad, unduly burdensome, not proportional to the needs of the case, and seeking information that is not relevant to any claim or defense, including but not limited to, because this Interrogatory prematurely attempts to shift the burden onto Downing to identify a date for conception and reduction to practice for each asserted claim of each Asserted Patent prior to Defendants' deadline to serve Invalidity Contentions and before Defendants have identified even a single prior art reference.

Downing objects to this Interrogatory as overly broad, unduly burdensome, not proportional to the needs of the case, and seeking information that is not relevant to any claim or defense, including but not limited to, because it seeks information relevant only to Pre-AIA 35 U.S.C. § 102 (e.g., "each named inventor's and any other person's contribution to the conception or reduction to practice of the claimed invention, or diligence in reducing to practice of the claimed invention") despite the asserted claims of the Asserted Patents not being subject to the same given that they have effective filing dates after March 16, 2013. Further, the additional information requested related to such conception and reduction to practice (e.g., "for each contribution, the date(s), location(s), the relevant portion(s) of the claimed invention involved, an identification of all witnesses who can corroborate such contribution, and an identification of all Documents (by Bates

number) corroborating such contribution.”) is equally irrelevant, over broad, unduly burdensome, not proportional to the needs of the case.

Downing further objects to this Interrogatory to the extent it calls for a narrative response that is more appropriately the subject of a deposition.

Downing further objects to this interrogatory as vague and ambiguous to the extent it calls for a description of “the relevant portion(s) of the claimed invention involved” in relation to each contribution by an inventor to a given asserted claim.

Downing further objects to this Interrogatory as premature, including but not limited to, because this Interrogatory improperly seeks Downing’s contentions on legal issues when discovery has only just begun. IWS has not produced any documents, identified any alleged prior art, or served its Invalidity Contentions, and the Court has not yet engaged in claim construction.

Subject to, and without waiving the General Objections and Qualifications, and specific objections above, Downing responds that it is willing to meet and confer with Defendants regarding the scope and relevance of this Interrogatory.

DATED: November 21, 2023

/s/ Tiffany M. Cooke

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**ATTORNEYS FOR DOWNING
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CERTIFICATE OF SERVICE

I hereby certify that on November 21, 2023, that the foregoing documents
was served on all counsel of record via electronic mail.

/s/ Tiffany M. Cooke
Tiffany M. Cooke