UNITED STATES PATENT AND TRADEMARK OFFICE

_____

BEFORE THE PATENT TRIAL AND APPEAL BOARD

_____

SAFE ARC TECH., LLC
Petitioner,

v.

AL-AZEM,
Patent Owner.

_____

IPR2025-01214
Patent 9,545,775

_____

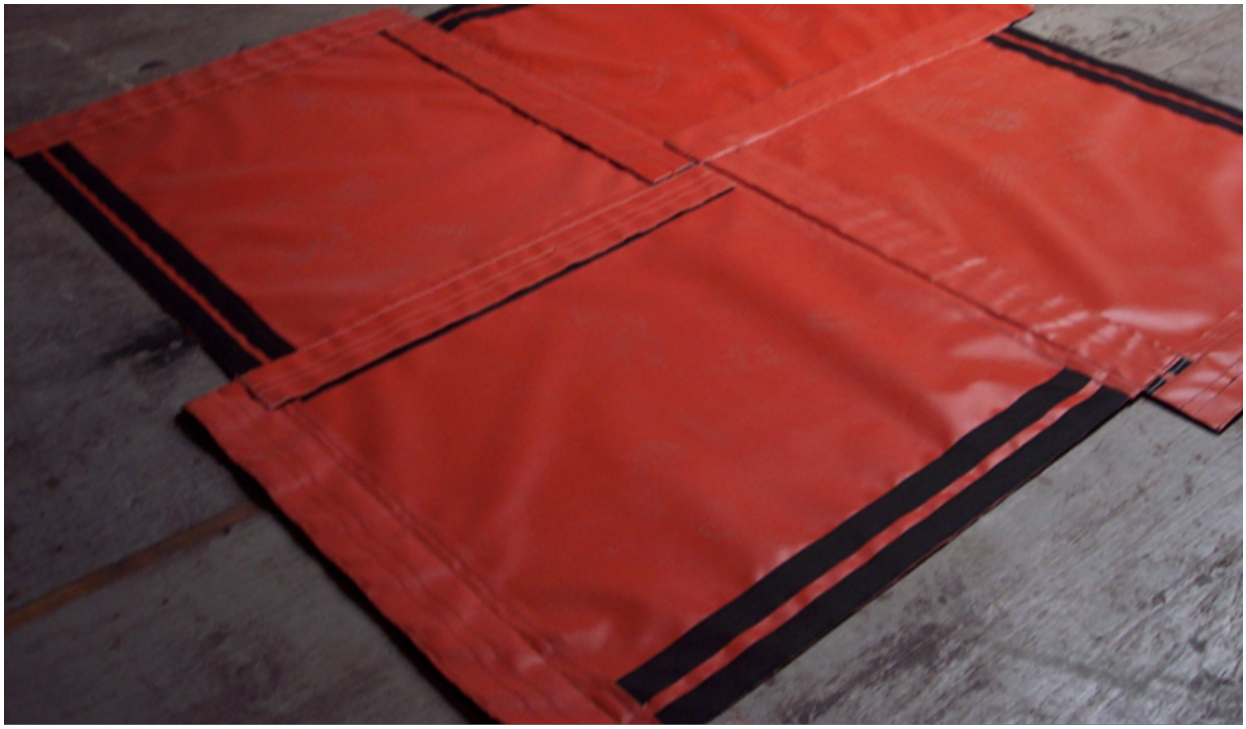
DECLARATION OF SAMER AL-AZEM
INVENTOR OF US PATENT NO. 9,545,775 AND SOLE OWNER OF PETROHAB LLC,
IN SUPPORT OF
DISCRETIONARY DENIAL OF PETITION FOR *INTER PARTES* REVIEW

I, Samer Al-Azem, testify under 28 USC §1746 as follows:

1. I am over the age of 18 years and am otherwise competent to make this Declaration. All statements made herein are based on my personal knowledge and recollection.

2. In this declaration, I refer to Exhibits 2006 – 2021 filed herewith, which are each true and accurate copies of what they purport to be.

3. In late 2010, I invented a novel pressurized welding enclosure ("PWE") that can be constructed through interlocking panels that attach to each other using male and female portions of a fastener system, such as strips of a hook and loop fastening medium, to form a pressurizable enclosure for welding and other hot work. Four interconnected panels of the first prototype made in 2010 are shown below:



4. On April 14, 2011, I formed PetroHab LLC as a business vehicle for commercializing this invention. **Exh. 2006**. I am, and always have been, the 100% owner of PetroHab LLC.

5. In anticipation of showing my invention at the 2011 Offshore Technology Conference ("OTC") in Houston (May 2-5, 2011), I filed provisional patent application no. 61/481,296 on May 2, 2011, which disclosed my PWE inventions, such as pictured above. Ultimately, I was granted US Patent No. 9,517,609 on December 13, 2016 (**Exh. 2007**) and US Patent No. 9,545,775 on January 17, 2017 (**Exh. 1001**), which is the subject patent in this IPR.

PetroHab Has Based its Business Around the Patent That is The Subject of This Request for IPR.

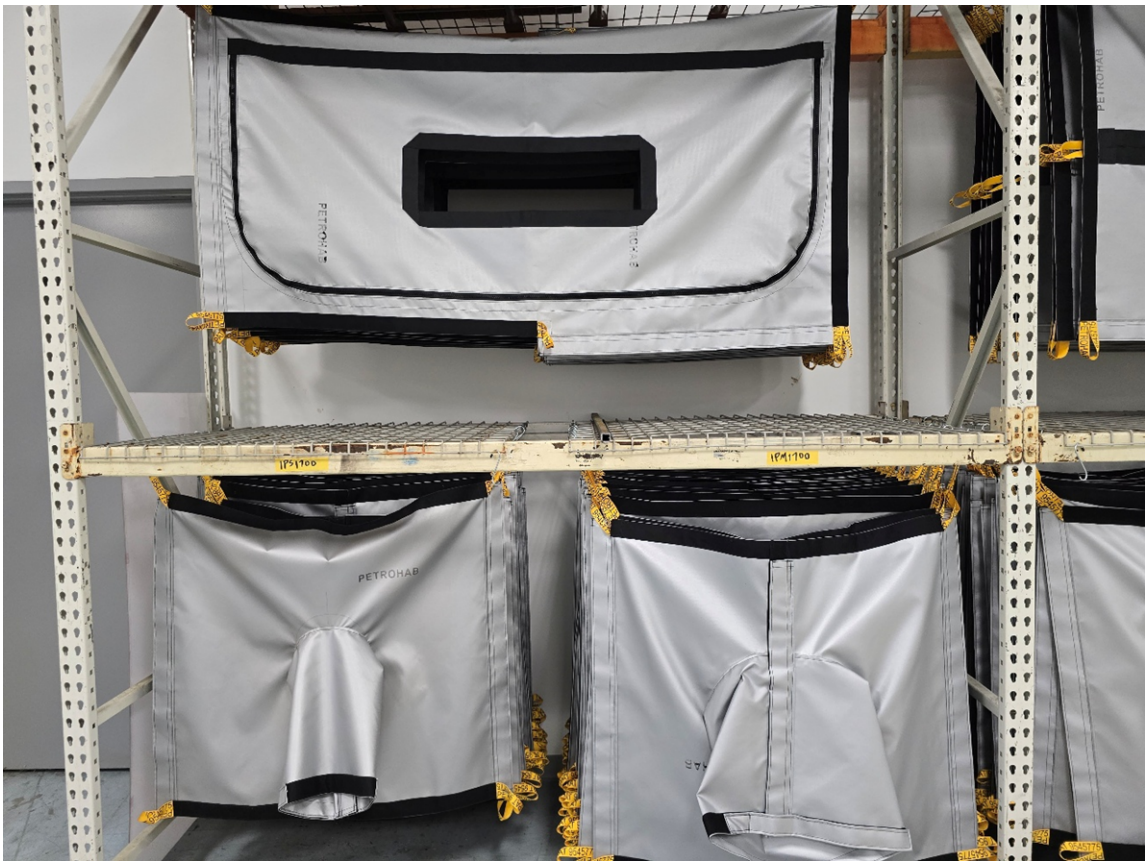
6. I formed PetroHab LLC around my PWE invention and my expectation that I would receive patent protection for that invention. I invested heavily in advertisements and marketing materials relating to my PWE invention to grow PetroHab. Among the ways that I advertised and marketed this invention was by attending the Offshore Technology Conferences ("OTCs") that are held in Houston for 4 days beginning on the first Monday in May of every year.

7. The initial team that I put together upon forming PetroHab LLC consisted of about 6 people (including myself). We initially operated out of my house on 2413 San Felipe Street in Houston, Texas. Very shortly thereafter, I leased a location on Dacoma Street in Houston, and I immediately went about investing in essentials such as computers, printers, a telephone system, and office furniture. Among the first big ticket marketing materials that I invested in was a 100 second animated video showing how the PWE is assembled and operated, at a cost of $10,000 and a similar amount for the design of PetroHab's website that is found at www.petrohab.com . I also invested in a YouTube video that a third party made of me, which video was first put up on You Tube on September 10, 2014 (**Exh. 2008**). Other initial big-ticket items were the fees associated with having a law firm prosecute the two non-provisional patent applications for me based on

provisional application No. 61/481,296 that I filed on May 2, 2011. I also invested in having several embodiments the PWEs manufactured for sale and rent.

8. I initially marketed the PetroHab PWEs as "patent pending" as seen on PetroHab's August 28, 2012, literature on www.weebly.com. **Exh. 2009**. Immediately after receiving patent protection, I changed the www.petrohab.com website and all PetroHab literature to reflect the receipt of patent protection and immediately started marking all my products with the patent number of the subject patent.

9. An example of marked PetroHab PWE panels are shown below. Each panel has loops that are used to secure or hang the panels (and the enclosure) from scaffolding or a frame and which are visible on an erected PWE. The loops are marked with "Pat 9,545,775" and/or "Pat 9,545,775" is stenciled on the inside of the front doors of each PWE.





10. Examples of press releases and marketing materials used by PetroHab after the of the subject patent are:

- Press release in May of 2017 addressing the patented panel attachment system that was dubbed "Quadra-Lock™". **Exh. 2010**
- 2017 Comparison of PetroHab PWE's to those of the competition. **Exh. 2011**.
- Press release in May of 2018 addressing the issuance of the '775 Patent and mentioning PetroHab's offices in Brazil, Alaska, Vietnam, Bahrain and the UAE. **Exh. 2012**.
- Press release in May of 2019 mentioning the Quadra-Lock™ patented panel interlocking technology. **Exh. 2013**.

11. Press releases on April 28, May 4, July 7, July 26, and July 27, 2023, also mentioning the Quadra-Lock™ patented panel interlocking technology (**Exh. 2014**, **Exh. 2015**,

Exh. 2016, **Exh. 2017**, and **Exh. 2018**) Based on revenues generated through marketing, renting and selling the patented PWEs, PetroHab has expanded from its headquarters in Houston, and now has sales offices in Brazil, Vietnam, Guyana, Nigeria, and Trinidad. PetroHab's patented PWEs have been used in the United States and throughout the World, including in the US, UK, Canada, Mexico, Trinidad, Guyana, Germany, Brazil, Nigeria, Angola, Malaysia, Indonesia, Thailand, New Zealand, and various countries in the Middle East. Since inception, PetroHab has ranged between 6 and 20 employees in the US.

12. PetroHab's reliance on the subject patent has been significant. The investments that I have personally made into PetroHab have all been made based on either the expectation of obtaining patent protection for my PWE or based on the subject patent. I estimate that at least 97% of the revenue generated by PetroHab since its inception has been the result of commercialization of the PWEs disclosed and claimed in the subject patent.

13. At no time since issuance of the subject patent until the filing of this IPR has anyone stated or implied that the subject patent or any of its claims are invalid or unenforceable.

Petitioner's Knowledge of PetroHab's Invention and Patent

14. Shortly after I formed PetroHab LLC in April 2011, I was approached by Mr. Ben Vetuski who, at the time, was a PWE supervisor for a company then known as Hot-Hed. Hot-Hed provided zippered-panel PWEs to the industry. When Mr. Vetuski approached me, Hot-Hed was experiencing financial difficulties, and the rumor was that it was expected to file for bankruptcy.

15. When he approached me, Mr. Vetuski told me that he was aware of the financial difficulties of Hot-Hed, that he had heard I had developed a new and different PWE, and that I had formed PetroHab LLC to commercialize the new PWE. Mr. Vetuski expressed his concern about the future of Hot-Hed and talked to me about working for PetroHab if he was let go by Hot-Hed.

16. I told Mr. Vetuski I would bring him on as Vice President of Field Operations for PetroHab if Mr. Vetuski were let go by Hot-Hed. At around that same time, I demonstrated a physical embodiment of my new PWE to Mr. Vetuski and told him that I was going to file a patent application on the panel design on or before the 2011 OTC.

17. In anticipation of Mr. Vetuski's employment with PetroHab and in joining our marketing efforts at the 2011 OTC, I set up an email address for him (b.vetuski@petrohab.com) and also had business cards prepared for him. An image of one of these business cards is shown below:



Mr. Vetuski initially appeared to be excited about joining PetroHab.

18. In advance of the May 2011 Offshore Technology Conference ("OTC") in Houston, Mr. Vetuski assisted me and the PetroHab team in developing marketing literature to be used at the OTC. Mr. Vetuski was planning on attending the OTC with the PetroHab team. Through his activities preparing for the OTC, Mr. Vetuski was exposed to and learned significant details about my PWE invention and its functional and commercial benefits and provided input on the creation of the animated video that we planned on showing at the 2011 OTC.

19. Without any notice to me, Mr. Vetuski failed to attend the 2011 OTC as we had planned. Over a month later, on July 18, 2011, Mr. Vetuski sent me an email from his bmv2ski@hotmail.com address informing me that he had taken a new job with another company

that he couldn't pass up. He said he should have told me earlier and that he was sorry for the inconvenience. He did not tell me who he went to work for or the nature of the business. I had limited contact with Mr. Vetuski after that.

20. Thereafter, I continued commercializing the PWE invention and have – since 2011 – successfully developed, produced, and placed in use commercial embodiments of my PWE invention both in the United States and around the World.

21. One of the companies that has used the PetroHab PWE was a company known as The Industrial Company. The Industrial Company used PetroHab's enclosures at its job site in Freeport, Texas (for Freeport LNG). As a result of PetroHab's work with The Industrial Company, I learned at the end of 2022 that petitioner Safe Arc had provided The Industrial Company with a PWE that not only incorporated my PWE invention, but that appeared to me to be a substantive copy of the PetroHab PWE that I disclosed to Mr. Vetuski before the OTC in early 2011. In fact, when I went up to one of the Safe Arc PWEs to take a closer look, I talked to a gentleman who I believe was the Safe Arc supervisor on that job. While I don't have complete recall of his name, it may have been Chris. I introduced myself to this gentleman as the owner of PetroHab. What I found particularly strange was that the first words out of his mouth were "We don't infringe your patent." I recall asking him why he said that, and his response was "Our habitat is different." I followed up with "How do you believe your habitat is different?" to which he responded "we don't use the same colors since "ours are red and yours are grey."

22. After I learned that Safe Arc was supplying PWE enclosures that appeared to be copies of PetroHab's PWE products, I also learned that Safe Arc had been formed on July 27, 2011, by David Walker. **Exh. 2019**.

IPR2025-01214
Exhibit 2005
Page 8 of 9

23. I learned that Mr. Walker was an individual associated with a number of companies, including petitioner Safe Arc and a company known as Team Management and Consulting LLC ("TMC"). **Exh 2020**. I believe that Mr. Walker is the owner of both defendant Safe Arc and of TMC.

24. I have learned from Mr. Vetuski's LinkedIn page that in June 2011, Mr. Walker's company, TMC, hired Mr. Vetuski as a "Projects Manager" where he, *inter alia*, "worked with management to establishment of new company" and "scheduled and supervised offshore services for installation of habitats and hot-work safety systems for brownfield work with multiple clients and project teams." **Exh. 2021**. I now believe that the "new company" he references was or became Petitioner, Safe Arc Technology.

25. The PWE enclosures offered by defendant Safe Art appear to be substantial copies of the PetroHab PWE products that I showed Mr. Vetuski in 2011. As shown in the claim charts attached to PetroHab's complaint (**Exh. 2001 at p.7-19**) in the parallel litigation, I believe Safe Arc's PWEs to be direct, literal infringements of the patent rights I was granted on my PWE invention.

I declare under penalty of perjury that the foregoing is true and correct. Executed on September 18, 2025, in Houston, Harris County, Texas.

Samer Al-Azem
Individually and as sole owner of PetroHab LLC

IPR2025-01214
Exhibit 2005
Page 9 of 9