

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

LUBRIZOL SPECIALTY PRODUCTS, INC.,

Plaintiff,

v.

BAKER HUGHES INC.,

Defendant.

Civil Action No. 4:15-cv-02915

**DEMAND FOR JURY TRIAL**

**COMPLAINT**

Plaintiff Lubrizol Specialty Products, Inc. (“LSPI”) brings this Complaint against Defendant Baker Hughes Incorporated (“Baker Hughes”) and alleges as follows:

**NATURE OF THE ACTION**

This is an action for patent infringement pursuant to 35 U.S.C. § 271, and for declaratory judgment of patent infringement under 28 U.S.C. § 2201. The patented inventions owned by LSPI are pioneering advances in the treatment and efficient pipeline transport of heavy, asphaltenic crude oils. LSPI’s asserted patents disclose and claim novel and innovative methods for the introduction of certain drag reducing agents (“DRAs”) into heavy, asphaltenic hydrocarbon streams to achieve a reduction in drag (friction) as the hydrocarbon stream flows through a pipeline. LSPI’s patented methods are currently used in the United States and abroad by LSPI’s customers to increase the throughput of heavy, asphaltenic crude oils in pipelines and to reduce the operating pressures of those pipelines. No other drag reduction method works as effectively for improving the transportation of heavy, asphaltenic crude oils in pipelines.

Defendant Baker Hughes has made a DRA for heavy crude oils that is especially made, adapted, and intended for use in accordance with LSPI’s patented methods. Baker Hughes has

previously used, induced a potential customer to use, and/or contributed to a potential customer's use of a DRA that is especially made, adapted, and/or designed for use in heavy, asphaltenic crude oils in a manner that infringes LSPI's patent claims. Baker Hughes is in the process of making substantial and meaningful preparations to use, induce others to use, and/or contribute to others' use of methods that have infringed and/or will infringe LSPI's patents. Baker Hughes is advertising DRAs that are material to practicing, and are especially made and adapted for use in a manner that infringes, the claims of LSPI's patents. LSPI stands to suffer enormous and irreparable harm and prejudice if Baker Hughes's infringement and meaningful preparation for infringement are not stopped. LSPI thus brings this action for patent infringement to seek relief not only for the past infringement of Baker Hughes, but to obtain declaratory relief to protect itself from imminent future acts of direct and/or indirect infringement by Baker Hughes and the irreparable harm that LSPI will continue to suffer, to its substantial detriment and prejudice, in the absence of such relief.

### **THE PARTIES**

1. LSPI is a corporation organized and existing under the laws of the State of Texas, and maintains its headquarters and principal place of business at One BriarLake Plaza, 2000 West Sam Houston Pkwy South, Suite 320, Houston, TX 77042.

2. LSPI is and has long been a pioneer in the field of DRAs. LSPI's predecessor invented the first commercial DRA, revolutionized the industry with the invention and commercialization of suspension DRAs, and introduced heavy crude DRAs with its invention of the use of high-molecular weight polymeric DRAs in heavy, asphaltenic crude oils. LSPI is a respected leader in the field of DRAs for hydrocarbon streams and has continued to lead the industry with innovative advances in DRA technology.

3. LSPI's ExtremePower® Flow Improver products are widely used in the industry in accordance with the claimed methods of U.S. Patent Nos. 8,022,118, 8,426,498, 8,450,249, and 8,450,250 (collectively "the Patents-in-Suit"). Until the infringement and substantial and meaningful preparation to infringe alleged herein, LSPI's ExtremePower® Flow Improver products were the only commercial DRAs offered to customers that achieved the benefits of LSPI's patented technology by substantially reducing drag during the pipeline transport of heavy, asphaltenic crude oils.

4. Baker Hughes is a Delaware corporation, and maintains its principal place of business at 2929 Allen Parkway, Suite 2100, Houston, Texas 77019.

5. Baker Hughes makes, uses, imports, offers to sell, and/or sells in the United States and in this District its FLO ULTIMA 91000 DRA, FLO ULTIMA Heavy Crude DRA, and/or other heavy crude DRA products (the "Baker Heavy Crude DRA Products"), which as described herein are especially made and adapted to be used in accordance with the claimed methods of the Patents-in-Suit, are material to practicing the inventions of the Patents-in-Suit, and have no substantial non-infringing use.

6. Baker Hughes has made and continues to make substantial and meaningful preparations, in the United States and in this District, to make, use, import, offer to sell, sell, contribute to others' use, and/or to induce others to use the Baker Heavy Crude DRA Products with the intent and purpose of infringing, inducing others to infringe, and/or contributing to the infringement by others of one or more of the claims of the Patents-in-Suit.

#### **JURISDICTION AND VENUE**

7. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. §§ 1, *et seq.*, and for a declaratory judgment of patent infringement arising under the Laws of the United States, 28 U.S.C. § 2201.

8. This Court has subject matter jurisdiction pursuant to 38 U.S.C. §§ 1331 and 1338.

9. This Court has personal jurisdiction over Baker Hughes because Baker Hughes conducts business in this District, regularly solicits business from this District, does business with, and derives value from services provided to, customers in this District, and has committed or intends imminently to commit acts of patent infringement in this District and cause injuries to LSPI in this District.

10. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b), (c), and 1400(b) because Baker Hughes operates in this District, has its principal place of business in this District, and has made meaningful preparations for infringement within this District.

#### **THE PATENTS-IN-SUIT**

11. On September 20, 2011, the United States Patent and Trademark Office duly and legally issued United States Patent No. 8,022,118 (“the ’118 Patent”), entitled “Drag Reduction of Asphaltenic Crude Oils” after a full and fair examination. A true and correct copy of the ’118 Patent is attached as Exhibit A.

12. LSPI is the owner by assignment of the ’118 Patent and holds all rights, title, and interest in and to the ’118 Patent, including the right to sue and recover for all past, present, and future infringements.

13. On April 23, 2013, the United States Patent and Trademark Office duly and legally issued United States Patent No. 8,426,498 (“the ’498 Patent”), entitled “Drag Reduction of Asphaltenic Crude Oils” after a full and fair examination. A true and correct copy of the ’498 Patent is attached as Exhibit B.

14. LSPI is the owner by assignment of the '498 Patent and holds all rights, title, and interest in and to the '498 Patent, including the right to sue and recover for all past, present, and future infringements.

15. On May 28, 2013, the United States Patent and Trademark Office duly and legally issued United States Patent No. 8,450,249 ("the '249 Patent"), entitled "Drag Reduction of Asphaltenic Crude Oils" after a full and fair examination. A true and correct copy of the '249 Patent is attached as Exhibit C.

16. LSPI is the owner by assignment of the '249 Patent and holds all rights, title, and interest in and to the '249 Patent, including the right to sue and recover for all past, present, and future infringements.

17. On May 28, 2013, the United States Patent and Trademark Office duly and legally issued United States Patent No. 8,450,250 ("the '250 Patent"), entitled "Drag Reduction of Asphaltenic Crude Oils" after a full and fair examination. A true and correct copy of the '250 Patent is attached as Exhibit D.

18. LSPI is the owner by assignment of the '250 Patent and holds all rights, title, and interest in and to the '250 Patent, including the right to sue and recover for all past, present, and future infringements.

19. The '118 Patent, '498 Patent, '249 Patent, and '250 Patent are referred to herein collectively as the "Patents-in-Suit." Each of the Patents-in-Suit is valid and enforceable.

### **GENERAL ALLEGATIONS**

#### **Baker Hughes's Knowledge of and Intent to Infringe the Patents-in-Suit**

20. Baker Hughes knows of the Patents-in-Suit; that the Heavy Crude DRA products are especially made and/or adapted for use in infringing the Patents-in-Suit; and that its actions

will lead to infringement of the Patents-in-Suit. Baker Hughes's actions are therefore deliberate and willful.

21. In the Spring of 2015, LSPI learned that Baker Hughes would be submitting a bid in competition with LSPI in response to a request for tender issued by an LSPI customer for the supply of a heavy crude DRA to be used in the pipeline transportation of heavy, asphaltenic crude oil.

22. In a March 19, 2015 telephone conversation between the President of Baker Hughes's Downstream Chemical group and the Chief Operating Officer of LSPI, Baker Hughes acknowledged that it was aware of LSPI's "heavy oil" DRA patent portfolio. This portfolio includes the Patents-in-Suit.

23. Baker Hughes is understood to have reviewed and/or analyzed the Patents-in-Suit prior to the March 19, 2015 telephone conversation. Further, on information and belief, Baker Hughes learned of the Patents-in-Suit through its efforts to research and/or monitor patents in the technology area of the Patents-in-Suit.

24. Baker Hughes therefore had actual knowledge of the Patents-in-Suit prior to the filing of this Complaint and by no later than March 19, 2015.

25. Representatives for Baker Hughes met with representatives for LSPI on September 9, 2015. At the meeting, LSPI expressed to Baker Hughes LSPI's concern that Baker Hughes is infringing and/or will imminently infringe LSPI's patents relating to the introduction of DRAs into heavy crude oil, including specifically each of the Patents-in-Suit. More specifically, LSPI expressed concerns about Baker Hughes's testing, use, and offering for sale of the Baker Heavy Crude DRA products, which are believed to be especially made and/or adapted for use only in accordance with the claims of the Patents-in-Suit.

26. Further to the parties' September 9, 2015 meeting and at Baker Hughes's request, LSPI sent a letter to Baker Hughes on September 15, 2015. The letter identified each of the Patents-in-Suit by patent number as well as exemplary claims therefrom.

27. Baker Hughes therefore had knowledge of each of Patents-in-Suit, specifically, prior to the filing of this Complaint and by no later than September 15, 2015.

28. Baker Hughes had knowledge of the published patent application that led to the '118 patent (*i.e.*, U.S. Patent Publication No. 2008/0149530) by no later than August 25, 2009. On August 25, 2009 and December 4, 2012, this published patent application was submitted in Information Disclosure Statements to the U.S. Patent Office during the prosecutions of two patent applications assigned to Baker Hughes, which issued as U.S. Patent Nos. 8,342,198 and 8,575,082.

29. Baker Hughes's Heavy Crude DRA products have no commercially-viable use other than for treatment of liquid hydrocarbons having an asphaltene content of at least 3 weight percent and an API gravity of less than about 26 degrees.

30. On information and belief, Baker Hughes studied one or more of LSPI's ExtremePower<sup>®</sup> Flow Improver products before completing the development of the Baker Heavy Crude DRA Products.

31. On information and belief, Baker Hughes used information related to one or more of LSPI's ExtremePower<sup>®</sup> Flow Improver products and/or one or more of the Patents-In-Suit in the development of one or more of the Baker Heavy Crude DRA Products.

32. Baker Hughes is currently making, using, selling, importing, and/or offering for sale the Baker Heavy Crude DRA Products. As discussed further herein, the Baker Heavy Crude DRA Products are each especially made and/or adapted for use in heavy, asphaltenic crude oils

to achieve drag reduction in accordance with one or more of the claimed methods of the Patents-in-Suit and are material to practicing one or more of the claimed inventions of the Patents-in-Suit. The Baker Heavy Crude DRA Products have no substantial non-infringing use(s).

**Baker Hughes's Willful Direct and Indirect Infringement of the Patents-In-Suit**

33. With knowledge of the Patents-in-Suit, Baker Hughes has deliberately and willfully committed direct, induced, and/or contributory infringement of one or more of the claimed methods of the Patents-in-Suit.

34. In 2014, Baker Hughes, in conjunction with another party that Baker Hughes has identified as “a US Gulf Coast refinery,” used Baker Hughes’s injection equipment to introduce the Baker Hughes FLO ULTIMA 91000 DRA into a U.S. Gulf Coast pipeline containing heavy, asphaltenic Canadian crude oil (hereinafter referred to as “the U.S. Gulf Coast test”). Baker Hughes asserted that the U.S. Gulf Coast test demonstrated “a 44% increase in the flow rate, and a 62.5% reduction in drag” for the heavy crude oil in the pipeline. A true and correct copy of a Baker Hughes case history entitled “FLO ULTIMA 91000 DRA Increased Pipeline Flow of Heavy Canadian Crude Oil Blend by 44%,” which describes this U.S. Gulf Coast Test, is attached as Exhibit E.

35. A true and correct copy of an article authored by Baker Hughes, entitled “Enhancing Flow for Canadian Crudes” and published in November 2014, which describes the U.S. Gulf Coast Test, is attached as Exhibit F. According to Baker Hughes, “its FLO ULTIMA series of DRAs” contain “a long-chain latex polymer specifically designed to dissolve in high asphaltene-content crudes with a gravity of less than 23° API and improve the flow of heavy oil through pipelines.” *See* Exhibit F at 80.



36. Baker Hughes's Form 8-K U.S. Securities and Exchange Commission ("SEC") filing, dated January 20, 2015 at p. 18, states: "Recent successful applications have increased throughput of a heavy Canadian crude oil blend at a Gulf Coast refiner and increased flow of heavy crude with a pipeline operator in South America." Baker Hughes's Form 8-K SEC filing at p. 18 further describes the "FLO™ ULTIMA heavy crude drag reducing agent" as a "specialized drag reducing agent [that] reduces frictional pressure loss and increases throughput of asphaltenic crudes in pipelines that are restricted by viscosity or operating pressure, giving pipeline operators the ability to get heavy crude oils to market faster." A true and correct copy of Baker Hughes's Form 8-K U.S. Securities and Exchange Commission filing, dated January 20, 2015, is attached as Exhibit I.

37. On information and belief, Baker Hughes had knowledge of at least one of the Patents-in-Suit by no later than the time that the U.S. Gulf Coast Test was performed.

38. On information and belief, Baker Hughes had knowledge of each of the Patents-in-Suit by no later than the time that the U.S. Gulf Coast Test was performed. At that time, Baker Hughes also knew that the use of LSPI's ExtremePower® Flow Improver products was covered by the Patents-In-Suit. Alternatively, on information and belief, Baker Hughes believed there was a high probability that the use of LSPI's ExtremePower® Flow Improver products was covered by LSPI's patents, and Baker Hughes took deliberate actions to avoid knowing of that fact. Baker Hughes therefore was willfully blind as to the infringing nature of its making, using, selling, and/or offering to sell the Baker Heavy Crude DRA Products.

39. Baker Hughes's FLO ULTIMA 91000 product includes a drag reducing polymer. A true and correct copy of a page from Baker Hughes's website describing the FLO ULTIMA 91000 DRA is attached as Exhibit G. As stated by Baker Hughes, the FLO ULTIMA 91000

DRA “has a chemistry specifically engineered to improve the flow rate of heavy oil through pipelines” and includes a “long chain polymer [that] is specifically designed to dissolve in asphaltenic crudes with an API gravity of less than 23.” *See* Exhibit G.

40. On information and belief, as part of the U.S. Gulf Coast test, Baker Hughes injected and/or caused to be injected its FLO ULTIMA 91000 product into a liquid hydrocarbon having an asphaltene content of at least 3 weight percent and an API gravity of less than 26 degrees.

41. The injection of the FLO ULTIMA 91000 product suppressed the growth of turbulent eddies in the heavy crude oil being transported through the U.S. Gulf Coast pipeline and resulted in a reduction in drag in the pipeline. As Baker Hughes stated, “the polymer molecules [in the DRA] disrupt the formation of turbulent eddies that form at the contact point between the oil and the pipe wall” and “[l]ower turbulence translates to lower drag and improved flow of heavy oil through the pipes, with lower pumping requirements.” *See* Exhibit F at 80.

42. On information and belief, Baker Hughes has also knowingly induced and/or contributed to infringement by others of one or more of the claimed methods of the Patents-in-Suit with intent by, without limitation, supplying at least one of the Baker Heavy Crude DRA Products to one or more potential customers with knowledge that the Baker Heavy Crude DRA Products would be used to infringe one or more of the methods claimed in the Patents-in-Suit, arranging for testing of the Baker Heavy Crude DRA Products in a manner that would infringe one or more of the methods claimed in the Patents-in-Suit, providing equipment to be used to inject the Baker Heavy Crude DRA Products into a heavy crude oil stream in a pipeline in a manner that would infringe one or more of the methods claimed in the Patents-in-Suit, providing advertising that demonstrates how the Baker Heavy Crude DRA Products can be used in an

infringing manner, and soliciting one or more potential customers to purchase and use the Baker Heavy Crude DRA Products and/or participate in testing that infringes. For example, without limitation, Baker Hughes encourages and provides instructions to potential customers on how to introduce its FLO ULTIMA 91000 DRA product into a pipeline containing a liquid hydrocarbon having a high asphaltene content and an API gravity of less than 23 degrees to produce a treated liquid hydrocarbon without lowering the viscosity of the mixture, as described in the Patents-in-Suit. The result is that the friction loss associated with the turbulent flow through the pipeline is reduced by suppressing the growth of turbulent eddies.

43. LSPI and/or its predecessors-in-interest have satisfied the statutory requirements to collect pre-suit damages for infringement of the Patents-in-Suit, including, without limitation, any applicable provisions of 35 U.S.C. § 287.

**Baker Hughes's Imminent Direct and Indirect Infringement of the Patents-In-Suit**

44. Despite having knowledge of the Patents-in-Suit, Baker Hughes has made and continues to make substantial and meaningful preparations to imminently cause future infringement of one or more methods of the Patents-in-Suit.

45. Baker Hughes is currently offering to sell its Heavy Crude DRA products and seeks to benefit through advertisements and/or claims from its sales force that achieve the same benefits as LSPI's patented methods and/or LSPI's ExtremePower<sup>®</sup> Flow Improver products when used in an asphaltenic heavy crude oil. Specifically, Baker Hughes advertises its FLO ULTIMA Heavy Crude line of products for use in accordance with LSPI's patented methods, in particular for use in pipelines carrying liquid hydrocarbons having a high asphaltene content and an API gravity of less than 23 degrees. A true and correct copy of a Baker Hughes

advertisement for the FLO ULTIMA Heavy Crude products entitled “FLO Ultima Heavy Crude Drag Reducing Agents” is attached as Exhibit H.

46. Baker Hughes is improperly seeking to build a customer base in the U.S. for the Baker Heavy Crude DRA Products with full knowledge that these products are especially adapted for practicing the claimed methods and have no substantial non-infringing use.

47. Baker Hughes has offered to provide and/or sell the Baker Heavy Crude DRA Products to one or more potential customers who operate pipelines carrying liquid hydrocarbons having an asphaltene content of at least 3 weight percent and an API gravity of less than about 26 degrees, and has made and is continuing to make substantial and meaningful preparations to continue to sell and/or offer for sale the Baker Heavy Crude DRA Products to customers for the purpose of practicing methods claimed in the Patents-in-Suit.

48. By way of example and without limitation, Baker Hughes has offered to arrange and/or perform testing of the Baker Heavy Crude DRA Products in the U.S. for one or more potential customers who operate pipelines carrying liquid hydrocarbons having an asphaltene content of at least 3 weight percent and an API gravity of less than about 26 degrees. In addition, on information and belief, Baker Hughes has arranged for imminent actual testing of the Baker Heavy Crude DRA Products on a U.S. pipeline carrying liquid hydrocarbons having an asphaltene content of at least 3 weight percent and an API gravity of less than about 26 degrees.

49. On information and belief, Baker Hughes has made substantial and meaningful preparations to be in a position to quickly supply significant quantities of the Baker Heavy Crude DRA Products for use in a heavy, highly asphaltenic crude oil stream in the U.S. as soon as it receives an order from a customer.

50. Baker Hughes intends to imminently make, use, offer for sale, import, and/or sell the Baker Heavy Crude DRA Products, contribute to potential customers' use of the Baker Heavy Crude DRA Products, and/or encourage, assist, and instruct potential customers to use the Baker Heavy Crude DRA Products in a manner that Baker Hughes knows will infringe one or more claims of the Patents-in-Suit.

51. By no later than the telephone conversation between the Chief Operating Officer of LSPI and the President of Baker Hughes's Downstream Chemical group on March 19, 2015, Baker Hughes had or should have had a reasonable apprehension of a lawsuit by LSPI to enforce the Patents-in-Suit based on Baker Hughes's choice to continue to advertise and solicit potential customers to purchase and use its FLO Heavy Crude DRA Products in a manner that Baker Hughes knows will infringe one or more claims of the Patents-in-Suit.

52. Despite having knowledge of the Patents-in-Suit and of LSPI's intent to enforce the Patents-in-Suit to stop infringement by Baker Hughes, Baker Hughes has refused to change the course of its actions, as evidenced at least by its continued advertising, promotion, and/or offering of the Baker Heavy Crude DRA Products for use in heavy, asphaltenic crude oils, as well as its refusal to cease such activities following the above-mentioned recent meeting and correspondence between Baker Hughes and LSPI about the Patents-in-Suit.

53. Baker Hughes has made substantial and meaningful preparations to directly infringe one or more claims of the Patents-in-Suit, to induce others to infringe one or more claims of the Patents-in-Suit, and/or to contribute to infringement by others of one or more claims of the Patents-in-Suit. Baker Hughes has offered to sell and made samples of one or more of the Baker Heavy Crude DRA Products available to one or more potential customers and/or intermediate suppliers. These samples are especially made and/or adapted for use in heavy,

asphaltenic crude oils to achieve drag reduction in accordance with the claimed methods of the Patents-in-Suit. The samples of the Baker Hughes Heavy Crude DRA Products are material to practicing the claimed methods and have no substantial non-infringing use.

54. Baker Hughes's past and ongoing preparation and readiness to engage in future acts of direct and indirect infringement is evidenced, by way of example, by its recent attempts to solicit heavy crude DRA business from one or more potential customers, including its submission of a bid in competition with LSPI in response to a request for tender issued by an LSPI customer for the supply of a heavy crude DRA to be used in the pipeline transportation of heavy, asphaltenic crude oil. Baker Hughes provided this bid with knowledge and intent that its supplying of heavy crude DRA products would cause infringement when the products are used to treat a heavy, asphaltenic crude oil abroad that is subsequently imported into the U.S.

55. As a further part of the ongoing preparation by Baker Hughes to directly infringe, induce, and/or contribute to infringement by others of the Patents-in-Suit, Baker Hughes has in the past approached and, on information and belief, has established a practice of continuing to approach one or more of LSPI's customers in the U.S. about buying Baker Hughes Heavy Crude DRA products. On information and belief, Baker Hughes is making preparations to be able to submit bids in competition with LSPI to supply heavy crude DRAs for use in treating heavy, asphaltenic crude oils transported through pipelines in the U.S. Through these customer solicitations, Baker Hughes is seeking to unfairly exploit LSPI's patented methods claimed in the Patents-in-Suit and cause direct and/or indirect infringement of one or more claims of such patents. Absent injunctive relief, Baker Hughes's imminent future infringement will cause irreparable harm and substantial prejudice. The irreparable harm to LSPI will include (among other things) the inability to recoup the value of a substantial investment in the development of a

pioneering invention, lost sales and revenue from its patented technology, loss of customer relationships, inability to develop new and existing customer relationships, and harm to LSPI's reputation and goodwill – injuries that cannot be redressed through money damages alone.

**COUNT 1 – INFRINGEMENT OF U.S. PATENT NO. 8,022,118**

56. LSPI reincorporates and realleges all of the above paragraphs as if included herein.

57. Baker Hughes has and continues to directly infringe, induce others' infringement of, and/or contribute to others' infringement of one or more claims of the '118 Patent, literally or by equivalence, by making, using, selling, importing, and/or offering to sell the Baker Heavy Crude DRA Products, providing others with the Baker Heavy Crude DRA Products, and/or instructing others on how to use the Baker Heavy Crude DRA Products.

58. Baker Hughes's infringement of the '118 Patent has been willful and deliberate since, at least, the time that the U.S. Gulf Coast Test was performed.

59. Baker Hughes's infringement of the '118 Patent has caused irreparable harm to LSPI in its business and property rights. Baker Hughes will continue to cause such harm unless and until Baker Hughes's infringing activities are enjoined by this Court.

**COUNT 2 – DECLARATORY JUDGMENT OF  
INFRINGEMENT OF U.S. PATENT NO. 8,022,118**

60. LSPI reincorporates and realleges all of the above paragraphs as if included herein.

61. There is a real, immediate, substantial, actual, and justiciable controversy between LSPI and Baker Hughes concerning Baker Hughes's impending direct and indirect infringement

of one or more claims of the '118 Patent. This controversy is amenable to specific relief through a decree of a conclusive character.

62. LSPI is entitled to, and hereby requests, a judicial declaration that Baker Hughes will infringe, has induced the impending infringement of, and/or has contributed to the impending infringement of one or more claims of the '118 Patent, literally or by equivalence, by making, using, selling, importing, and/or offering to sell the Baker Heavy Crude DRA Products, providing others with the Baker Heavy Crude DRA Products, and/or instructing others on how to use the Baker Heavy Crude DRA Products.

63. Baker Hughes's activities have caused and will continue to cause irreparable harm to LSPI in its business and property rights, for which there is no adequate remedy at law, unless and until those activities are enjoined by this Court.

**COUNT 3 – INFRINGEMENT OF U.S. PATENT NO. 8,426,498**

64. LSPI reincorporates and realleges all of the above paragraphs as if included herein.

65. Baker Hughes has and continues to directly infringe, induce others' infringement of, and/or contribute to others' infringement of one or more claims of the '498 Patent, literally or by equivalence, by making, using, selling, importing, and/or offering to sell the Baker Heavy Crude DRA Products, providing others with the Baker Heavy Crude DRA Products, and/or instructing others on how to use the Baker Heavy Crude DRA Products.

66. Baker Hughes's infringement of the '498 Patent has been willful and deliberate since, at least, the time that the U.S. Gulf Coast Test was performed.

67. Baker Hughes's infringement of the '498 Patent has caused irreparable harm to LSPI in its business and property rights. Baker Hughes will continue to cause such harm unless and until Baker Hughes's infringing activities are enjoined by this Court.



**COUNT 4 – DECLARATORY JUDGMENT OF  
INFRINGEMENT OF U.S. PATENT NO. 8,426,498**

68. LSPI reincorporates and realleges all of the above paragraphs as if included herein.

69. There is a real, immediate, substantial, actual, and justiciable controversy between LSPI and Baker Hughes concerning Baker Hughes's impending direct and indirect infringement of one or more claims of the '498 Patent. This controversy is amenable to specific relief through a decree of a conclusive character.

70. LSPI is entitled to, and hereby requests, a judicial declaration that Baker Hughes will infringe, has induced the impending infringement of, and/or has contributed to the impending infringement of one or more claims of the '498 Patent, literally or by equivalence, by making, using, selling, importing, and/or offering to sell the Baker Heavy Crude DRA Products, providing others with the Baker Heavy Crude DRA Products, and/or instructing others on how to use the Baker Heavy Crude DRA Products.

71. Baker Hughes's activities have caused and will continue to cause irreparable harm to LSPI in its business and property rights, for which there is no adequate remedy at law, unless and until those activities are enjoined by this Court.

**COUNT 5 – INFRINGEMENT OF U.S. PATENT NO. 8,450,249**

72. LSPI reincorporates and realleges all of the above paragraphs as if included herein.

73. Baker Hughes has and continues to directly infringe, induce others' infringement of, and/or contribute to others' infringement of one or more claims of the '249 Patent, literally or by equivalence, by making, using, selling, importing, and/or offering to sell the Baker Heavy

Crude DRA Products, providing others with the Baker Heavy Crude DRA Products, and/or instructing others on how to use the Baker Heavy Crude DRA Products.

74. Baker Hughes's infringement of the '249 Patent has been willful and deliberate since, at least, the time that the U.S. Gulf Coast Test was performed.

75. Baker Hughes's infringement of the '249 Patent has caused irreparable harm to LSPI in its business and property rights. Baker Hughes will continue to cause such harm unless and until Baker Hughes's infringing activities are enjoined by this Court.

**COUNT 6 – DECLARATORY JUDGMENT OF  
INFRINGEMENT OF U.S. PATENT NO. 8,450,249**

76. LSPI reincorporates and realleges all of the above paragraphs as if included herein.

77. There is a real, immediate, substantial, actual, and justiciable controversy between LSPI and Baker Hughes concerning Baker Hughes's impending direct and indirect infringement of one or more claims of the '249 Patent. This controversy is amenable to specific relief through a decree of a conclusive character.

78. LSPI is entitled to, and hereby requests, a judicial declaration that Baker Hughes will infringe, has induced the impending infringement of, and/or has contributed to the impending infringement of one or more claims of the '249 Patent, literally or by equivalence, by making, using, selling, importing, and/or offering to sell the Baker Heavy Crude DRA Products, providing others with the Baker Heavy Crude DRA Products, and/or instructing others on how to use the Baker Heavy Crude DRA Products.

79. Baker Hughes's activities have caused and will continue to cause irreparable harm to LSPI in its business and property rights, for which there is no adequate remedy at law, unless and until those activities are enjoined by this Court.

**COUNT 7 – INFRINGEMENT OF U.S. PATENT NO. 8,450,250**

80. LSPI reincorporates and realleges all of the above paragraphs as if included herein.

81. Baker Hughes has and continues to directly infringe, induce others' infringement of, and/or contribute to others' infringement of one or more claims of the '250 Patent, literally or by equivalence, by making, using, selling, importing, and/or offering to sell the Baker Heavy Crude DRA Products, providing others with the Baker Heavy Crude DRA Products, and/or instructing others on how to use the Heavy Crude DRA Products. Baker Hughes also has induced and contributed to, and continues to induce and contribute to, others' infringement of one or more claims of the '250 Patent by providing others with the Baker Heavy Crude DRA Products and/or instructing others on how to use the Baker Heavy Crude DRA Products in heavy, asphaltenic crude oils, which are sold in, offered for sale in, used in, and/or imported into the United States.

82. Baker Hughes's infringement of the '250 Patent has been willful and deliberate since, at least, the time that the U.S. Gulf Coast Test was performed.

83. Baker Hughes's infringement of the '250 Patent has caused irreparable harm to LSPI in its business and property rights. Baker Hughes will continue to cause such harm unless and until Baker Hughes's infringing activities are enjoined by this Court.

**COUNT 8 – DECLARATORY JUDGMENT OF  
INFRINGEMENT OF U.S. PATENT NO. 8,450,250**

84. LSPI reincorporates and realleges all of the above paragraphs as if included herein.

85. There is a real, immediate, substantial, actual, and justiciable controversy between LSPI and Baker Hughes concerning Baker Hughes's impending direct and indirect infringement

of one or more claims of the '250 Patent. This controversy is amenable to specific relief through a decree of a conclusive character.

86. LSPI is entitled to, and hereby requests, a judicial declaration that Baker Hughes will infringe, has induced the impending infringement of, and/or has contributed to the impending infringement of one or more claims of the '250 Patent, literally or by equivalence, by making, using, selling, importing, and/or offering to sell the Baker Heavy Crude DRA Products, providing others with the Baker Heavy Crude DRA Products, and/or instructing others on how to use the Baker Heavy Crude DRA Products. Baker Hughes also has induced and contributed to, continues to induce and contribute to, and/or will induce and contribute to others' impending infringement, including (without limitation) under 35 U.S.C. § 271(g), of one or more claims of the '250 Patent by providing others with the Baker Heavy Crude DRA Products, submitting a bid to sell the Baker Heavy Crude DRA Products, and/or instructing others on how to use the Baker Heavy Crude DRA Products in heavy, asphaltenic crude oils, which are sold in, offered for sale in, used in, and/or imported into the United States.

87. Baker Hughes's activities have caused and will continue to cause irreparable harm to LSPI in its business and property rights, for which there is no adequate remedy at law, unless and until those activities are enjoined by this Court.

#### **DEMAND FOR JURY TRIAL**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, LSPI respectfully requests a trial by jury of all issues properly triable by jury.

#### **REQUEST FOR RELIEF**

88. On information and belief, Baker Hughes has caused or will cause, by its infringing conduct, irreparable harm to LSPI for which there is no adequate remedy at law. As a result of Baker Hughes's actions, LSPI has suffered and continues to suffer substantial injury,

including irreparable harm and damages including loss of sales and profits that LSPI would have made but for the infringement by Baker Hughes.

WHEREFORE, LSPI respectfully requests the following relief:

- (a) A declaration that Baker Hughes will directly infringe, induce others to infringe, and/or contribute to others' infringement of each of the Patents-in-Suit when Baker Hughes uses, makes, sells, offers to sell, and/or imports the Baker Heavy Crude DRA Products, provides its customers with the Baker Heavy Crude DRA Products, and/or instructs its customers on how to use the Baker Heavy Crude DRA Products.
- (b) A judgment holding Baker Hughes liable for direct, induced, and/or contributory infringement of each of the Patents-in-Suit;
- (c) A judgment holding that each of the Patents-in-Suit are valid and enforceable;
- (d) A judgment and order requiring Baker Hughes to pay LSPI its damages, costs, expenses, and pre-judgment and post-judgment interest for Baker Hughes's direct, contributory, and/or induced infringement of each of the Patents-in-Suit, including (without limitation) any lost profit and/or reasonable royalty damages for past infringements and on-going royalties for the life of each Patent-in-Suit (in the absence of an injunction);
- (e) A judgment finding Baker Hughes's direct, induced, and/or contributory infringement of each of the Patents-in-Suit willful;
- (f) A judgment against Baker Hughes declaring that LSPI is entitled to enhanced damages as a result of the knowing, deliberate, and willful nature of Baker Hughes's direct, induced, and/or contributory infringement of each of the Patents-in-Suit;
- (g) A judgment against Baker Hughes declaring that this is an exceptional case within the meaning of 35 U.S.C. § 285 as against Baker Hughes and awarding LSPI its reasonable

attorneys' fees against Baker Hughes;

- (h) A preliminary injunction to prevent irreparable harm to LSPI during the pendency of this suit by preventing Baker Hughes, and the directors, officers, agents, servants, employees, and those acting in concert or participation with Baker Hughes from committing acts of direct infringement, contributing to infringement, or inducing infringement of each of the Patents-in-Suit;
- (i) A permanent injunction preventing Baker Hughes and its directors, officers, agents, servants, employees, and those acting in concert or participation with Baker Hughes from committing acts of direct infringement, contributing to infringement, or inducing infringement of each of the Patents-in-Suit; and
- (j) Any and all such other relief as this Court deems just and proper.

Dated: October 5, 2015

Respectfully submitted,

/s/ Douglas W. McClellan

---

OF COUNSEL:

Elizabeth Stotland Weiswasser  
(pro hac vice pending)  
elizabeth.weiswasser@weil.com  
Claire K. Comfort (pro hac vice pending)  
claire.comfort@weil.com  
WEIL, GOTSHAL & MANGES LLP  
767 Fifth Avenue  
New York, NY 10153  
(212) 310-8000 (phone)  
(212) 310-8007 (fax)

Aaron Huang (pro hac vice pending)  
aaron.huang@weil.com  
WEIL, GOTSHAL & MANGES LLP  
201 Redwood Shores Pkwy,  
Redwood Shores, CA 94065  
(650) 802-3000 (phone)  
(650) 802-3100 (fax)

WEIL, GOTSHAL & MANGES LLP  
Douglas W. McClellan  
Attorney-in-Charge  
Texas Bar No. 24027488  
S.D. Texas No. 393038  
doug.mcclellan@weil.com  
WEIL, GOTSHAL & MANGES LLP  
700 Louisiana, Suite 1700  
Houston, TX 77002  
(713) 546-5000 (phone)  
(713) 224-9511 (fax)

Suzanne F. Day  
Texas Bar No. 24047516  
S.D. Texas No. 22529  
suzanne.day@lubrizol.com  
The Lubrizol Corporation  
2000 West Sam Houston Pkwy South  
Suite 400  
Houston, TX 77042  
(440) 347-5073

Julie A. Harris  
Texas Bar No. 24094278  
S.D. Texas No. 621717  
julie.harris@lubrizol.com  
The Lubrizol Corporation  
29400 Lakeland Blvd.  
Wickliffe, OH 44092  
(440) 347-2302

*Attorneys for Plaintiff Lubrizol Specialty  
Products, Inc.*