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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

DUHN OIL TOOL, INC.,	)	1:05-cv-1411 OWW GSA
	)	
Plaintiff,	)	ORDER RE: PLAINTIFF'S
	)	MOTION FOR PRELIMINARY
v.	)	INJUNCTION (DOCKET 240) AND
	)	DEFENDANT'S BUSINESS
COOPER CAMERON CORPORATION,	)	PRACTICES REGARDING THE
	)	INSTALLATION AND USE OF ITS
Defendant.	)	FRAC ASSEMBLY
	)	
	)	

Pending before this Court is Plaintiff Duhn Oil Tool, Inc.'s ("Duhn Oil") Motion for a Preliminary Injunction (Docket 240). Plaintiff Duhn Oil seeks a preliminary injunction to enjoin Defendant Cooper Cameron Corporation ("Cameron") from manufacture, sales, installation, use, and rental of Cameron's New Style and Original Design frac mandrels (Docket 240). The evidence has not yet established how many devices are being used in a manner that is infringing. Based on the factual findings that the Court makes that the frac mandrels are used in connection with well-initiation and well-stimulation, that are usually: (1) in the first instance, a well-initiating use and that the time of that use is in the early life of a well, at that time, what I am going to call "the wellhead equipment" in the

1 well is being installed; and (2) there is the possibility of  
2 restimulation, which would mean that a frac mandrel would be  
3 reutilized at a later time and that time is not specified because  
4 of the geology and the unpredictability of knowing when a source  
5 of hydrocarbons is going to become limited or unavailable and  
6 when there might be a proximate alternative or additional source  
7 that could be successfully tapped by frac'ing.

8         The Court believes that as to the past actions, there is an  
9 adequate remedy at law, which would be damages. There is nothing  
10 to enjoin there because those wells have been frac'ed, and the  
11 frac mandrels previously installed and used. That happened at a  
12 time before the relief was sought.

13         As to future installations of Old Style, the New Style or  
14 the Original Design frac mandrels, the Court has been presented  
15 strongly conflicting evidence primarily presented by attorneys.  
16 We do not have evidentiary declarations that are focused on the  
17 issue of the frequency of use and the frequency of infringing  
18 conduct by either Cameron or by any agents or persons acting  
19 under or on its behalf. Consequently, the Court does not believe  
20 that there is yet a sufficient showing for injunctive relief of  
21 the scope and of the nature, including the notice requirement  
22 that Plaintiffs are seeking.

23         However, Cameron should start following practices that  
24 assure that the lockscrews are not engaged and that any frac  
25 mandrels that are new that they sell for installation or use are  
26 not going to be used in an infringing way. That could be  
27 accomplished by very specific and directed instructions to  
28 purchasers or users (lessees) through the instructions that were

1 promulgated by Cameron as the engineering instructions in 2008.

2 There are also other steps that could be taken.

3         The Court hereby orders that accounting records be  
4 maintained for each location of any new or, what would be  
5 restimulation of existing wells; where frac mandrels that are new  
6 that Cameron has some ability to either supervise, control, or  
7 provide advice as to operations; that as to all of those records,  
8 there be kept: (1) the identity of the owner or operator of the  
9 alleged infringing device; (2) description of any time period of  
10 operation that is known; (3) a copy of any written instructions  
11 furnished by Cameron; and (4) a transcript of any oral  
12 instructions that are given to the alleged infringing user by  
13 Cameron or its employees or agents, to be recorded on a recording  
14 device and transcribed and that such records be maintained by  
15 Cameron.

16         The Court does not believe that injunctive relief is  
17 justified in light of the extent and the depth of the factual  
18 dispute. Further, denial of a preliminary injunction is not  
19 against the public interest. In addition, in balancing the  
20 hardships, a published order of injunctive relief, would in  
21 effect, convict Cameron in the eyes of a very limited industry  
22 before a trial on the merits.

23         It is the belief of the Court that it would be much more  
24 damaging to the defendant with very little gain to the plaintiff  
25 if the plaintiff ultimately prevails and will be able to, of  
26 course, permanently enjoin any infringing use, recover damages  
27 and any other remedies that may be appropriate.

28         Consequently, issuance of a preliminary injunction at this

1 time would not be a measured and appropriate exercise of  
2 equitable discretion on the present evidentiary record. The  
3 court denies Duhn Oil's Motion for Preliminary Injunction, but  
4 will require Cameron to adhere to the following accounting  
5 practices from now through trial.

6 1. These accounting practices apply to the "Old Style,"  
7 "New Style," and "Original Design," frac mandrels that are under  
8 the control of Cameron.

9 2. For each installation or use of a frac mandrel that  
10 falls within paragraph 1, Cameron will maintain accounting  
11 records for the following:

12 a. Dates of install, uninstall, if available, and the  
13 identity and location of the wellsite;

14 b. Location where each previously installed frac  
15 mandrel was installed, if it is not now installed;

16 c. Any written instructions given by Cameron or its  
17 employees or agents to the customer and/or installer;

18 d. Transcript of recording of oral instructions from  
19 Cameron given to the customer, installer, and/or well owner. The  
20 person giving such instructions shall use a recording device to  
21 record oral instructions for all future installations and/or use  
22 of any Cameron frac mandrel described in paragraph 1;

23 e. A unique identifier (e.g., serial number) for the  
24 frac mandrel used at any future job;

25 f. Identity of the installer; and

26 g. Cameron shall report this information to Duhn on  
27 the last Friday of each month, starting in April, 2009.

28 3. Cameron will provide instructions to its frac mandrel

1 customers, which unambiguously state that the lockscrews are not  
2 to be engaged during installation or use of the frac mandrel.

3 4. Within 30 days following service of this Order, Cameron  
4 shall allow Duhn to photograph each newly installed or newly  
5 installed restimulation frac mandrel in a way that shows each  
6 frac mandrel's unique identifier as well as its indentation  
7 pattern, if any, created by the tightening-in of the lower  
8 lockscrews. At reasonable times thereafter, on twenty (20) days'  
9 notice, Cameron will permit Duhn to inspect and photograph the  
10 frac mandrels and conduct discovery on the installers until  
11 trial.

12  
13 IT IS SO ORDERED.

14 Dated: April 1, 2009

/s/ Oliver W. Wanger  
UNITED STATES DISTRICT JUDGE