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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

DUHN OIL TOOL, INC.,

Plaintiff/Counterclaim-Defendant,

vs.

CAMERON INTERNATIONAL
CORPORATION,

Defendant/Counterclaim-Plaintiff.

Case No. 1:05-cv-01411-OWW-GSA

**ORDER RE DEFENDANT CAMERON'S
MOTIONS *IN LIMINE*
(DOCKET NOS. 528 and 531)**

Hon. Oliver W. Wanger

1
2 Pending before this Court are Defendant Cameron's Motions *in Limine* filed
3 December 14, 2010 (Docket Nos. 528 and 531). The Court having considered all of the
4 parties' respective moving and opposition papers and related documents, and oral
5 argument, finds as follows:
6

7 **1. Cameron's Motion *in Limine* No. 1, Reference to the Macando Prospect or**
8 **Gulf of Mexico Oil Spill.**

9 Cameron's Motion *in Limine* No. 1 is Granted.

10 **2. Cameron's Motion *in Limine* No. 2, Duhn Oil's Reasons for Terminating**
11 **Mr. John Rogers.**

12 Cameron's Motion *in Limine* is Granted in part and denied in part. Duhn Oil
13 may offer evidence as to reasons for John Rogers' termination, but limited to the
14 reasons set out in the following documents: D096730, D096731, D096732 and
15 D096736-37.
16

17 **3. Cameron's Motion *in Limine* No. 3, Asserting an Advice of Counsel Defense**
18 **Regarding Duhn Oil's Intent for Inequitable Conduct.**

19 Cameron's Motion *in Limine* No. 3 is Denied without prejudice.

20 **4. Cameron's Motion *in Limine* No. 4, Subsequent Remedial Measures.**

21 Cameron's Motion *in Limine* No. 4 is Granted in part and Denied in part. The
22 parties may offer evidence of the changes that Cameron made to its mandrels,
23 but these design changes shall not be considered "subsequent remedial
24 measures" within the meaning of FRE 407. Duhn Oil may not argue that
25 Cameron's mandrel design changes in any way evidence Cameron's belief that
26 its earlier designs were infringing the '925 patent, or that Cameron's mandrel
27
28

1 design changes evidence that earlier Cameron mandrel designs were infringing
2 the '925 patent.

3 **5. Cameron's Motion *in Limine* No. 5, Financial State of Cameron.**

4 Cameron's Motion *in Limine* No. 5 is Granted.

5 **6. Cameron's Motion *in Limine* No. 6; Reference to Motions *in Limine*.**

6 Cameron's Motion *in Limine* No. 6 is Granted.

7 **7. Cameron's Motion *in Limine* No. 7; Reference to Denied Summary**
8 **Judgment Motions.**

9 Cameron's Motion *in Limine* No. 7 is Granted.

10 **8. Cameron's Motion *in Limine* No. 8, Request for Stipulation and**
11 **Documents.**

12 Cameron's Motion *in Limine* No. 8 is Granted and neither party shall make such
13 requests in the presence of the jury.

14 **9. Cameron's Motion No. 9 regarding any Reference to Objections during the**
15 **Reading of Deposition Testimony.**

16 Cameron's Motion *in Limine* No. 9 is Granted.

17 **10. Cameron's Motion *in Limine* No. 10, The Nature of Any Fact Witness's**
18 **Preparation for Trial or for Deposition Testimony with that Witness's**
19 **Counsel.**

20 Cameron's Motion *in Limine* No. 10 is Denied without prejudice.

21 **11. Cameron's Motion *in Limine* No. 11 in Reference to Courtroom Attendees.**

22 Cameron's Motion *in Limine* No. 11 is Granted.

23 **12. Cameron's Motion *in Limine* No. 12 regarding Connections to California.**

1 Cameron's Motion *in Limine* No. 12 is Granted, except that witnesses are
2 permitted to refer to California to the extent it is relevant to a witness's
3 background.

4 **13. Cameron's Motion *in Limine* No. 13, Focus Groups**

5 Cameron's Motion *in Limine* No. 13 is Granted.

6 **14. Cameron's Motion *in Limine* No. 14, Failure to Call a Witness at Trial.**

7 Cameron's Motion *in Limine* No. 14 is Denied without prejudice.

8 **15. Cameron's Motion *in Limine* No. 15 regarding Providing Legal Opinions or**
9 **Misleading the Jury.**

10 Cameron's Motion *in Limine* No. 15 is Granted, except that properly designated
11 expert witnesses may testify on issues on infringement and invalidity.

12 **16. Cameron's Motion *in Limine* No. 16 regarding Settlement Discussions.**

13 Cameron's Motion *in Limine* No. 16 is Granted.

14 **17. Cameron's Motion *in Limine* No. 17, Undisclosed Expert Opinion**
15 **Testimony.**

16 Cameron's Motion *in Limine* No. 17 is Granted.

17 **18. Cameron's Motion *in Limine* No. 18, Reference to Claims of Privilege.**

18 Cameron's Motion *in Limine* No. 18 is Granted.

19 **19. Cameron's Motion *in Limine* No. 19, Reference to Privileged Subject**
20 **Matter.**

21 The Court has reserved judgment on this motion.

22 **20. Cameron's Motion *in Limine* No. 20, Presumption of Validity.**

23 Cameron's Motion *in Limine* No. 20 is Granted.

1 **21. Cameron’s Motion *in Limine* to Exclude Portions of Plaintiff’s Expert**
2 **Stuart Levy’s Proposed Testimony**

3 The Court grants in part and denies in part Cameron’s Motion to Exclude
4 Portions of Plaintiff’s Expert Stuart Levy’s Proposed Testimony (Doc. 531).
5 Cameron’s request to exclude Mr Levy’s proposed testimony at pages 3-6 of his
6 report, concerning his prior employment at the PTO, is granted in part and
7 denied in part. Mr. Levy may briefly explain his employment history at the
8 PTO. However, to the extent that such testimony pertains to patent validity
9 issues, claim construction, interpretation of “legal precedents,” or miscellaneous
10 projects or awards unrelated to any matter in dispute (e.g., “Vice President Al
11 Gore’s Hammer Award”), it is excluded as neither relevant nor helpful to the
12 Jury under FED.R. EVID. 702. Cameron’s request to exclude Mr. Levy’s
13 proposed testimony concerning the knowledge, skill, ability, or competence of
14 patent examiners at pages 10-15 of his report is excluded as neither relevant nor
15 helpful to the jury under FED.R. EVID. 702. Cameron’s request to exclude Mr.
16 Levy’s proposed testimony concerning a prior art search by a professional
17 search firm at pages 34-36 of his report is conditionally denied, provided that the
18 parties are able to resolve their dispute concerning related documents withheld
19 by Duhn Oil from Mr. Marantidis’ files. Cameron’s request to exclude Mr.
20 Levy’s proposed testimony at page 36 of his report, concerning knowledge help
21 by Mr. Meek, is granted as incompetent and not relevant under FED. R. EVID.
22 601 and 702. Cameron’s request to exclude Mr. Levy’s proposed testimony at
23 page 40 of his report, concerning communications between Ms. Duncan and Mr.
24 Casillas, is denied.

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IT IS SO ORDERED.

Dated: January 25, 2011

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE