Acacia Feels Fallout From Schlumberger Ruling

By Scott Flaherty
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Patent licensing juggernaut Acacia Research Group suffered a blow last week when its lawyers—including its entire in-house legal department—were kicked off an infringement suit against oilfield services company Schlumberger Ltd. Now Schlumberger’s win is reverberating through other cases, potentially putting a damper on Acacia’s efforts to target the oil exploration industry in Texas.

As sibling publication Corporate Counsel reported on March 31, Schlumberger’s lawyers at Latham & Watkins convinced U.S. District Judge Lee Yeakel in Austin to disqualify Acacia’s counsel in a case accusing Schlumberger of violating a patent related to three-dimensional geologic mapping. The judge also dismissed the suit, filed by Acacia subsidiary Dynamic 3D Geosolutions LLC, without prejudice.

Yeakel has since canceled an upcoming claim construction hearing in Acacia’s parallel infringement cases against five other oil services companies—Hallerburton Co., Paradigm BV, Emerson Electric Co., IHS Global Inc. and LMK Resources Inc. The judge ordered the parties in the Halliburton, Emerson and LMK cases to file dismissal papers by May 1, and he approved joint stipulations of dismissal in the Paradigm and IHS cases.

Schlumberger’s disqualification bid centered on the role that Acacia lawyer and executive Charlotte Rutherford played in Acacia’s decision to acquire the 3D-mapping patent in late 2013 and to sue Schlumberger in February 2014. Rutherford served as Schlumberger’s deputy general counsel for intellectual property for four years, until she joined Acacia and took the lead of its newly formed Texas energy practice in 2013. Schlumberger claimed Rutherford worked on matters related to Acacia’s infringement claims before making the move, and then counseled her new company about the litigation.

Yeakel disqualifying not only Rutherford, but also the rest of Acacia’s in-house legal team and its outside lawyers at Collins, Edmonds, Pogorzelski, Schiather & Tower. He then dismissed the case, ruling that “although a harsh result,” Rutherford’s involvement had tainted the litigation.

“This has been, to my knowledge, only the third case that’s been published where a disqualification has led to a dismissal,” said Latham’s Maximilian Grant, who argued the disqualification motion for Schlumberger at a November hearing.

“Judge Yeakel’s ruling is also likely to be cited in yet another court dispute between the patent licensing company and Schlumberger. Represented by Latham, Schlumberger sued Rutherford in Texas state court, alleging she breached her contractual obligations to Schlumberger and misappropriated the company’s trade secrets once she moved to Acacia.

That case hasn’t gone well so far for Schlumberger: An appeal is pending after a trial court judge dismissed most of the claims in August 2014 and ordered the company to pay $600,000 in fees and sanctions.