



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

February 5, 2015  
8:49 a.m.

Deposition of BRIAN EVANS, PH.D.,  
held at Williams & Connolly, 725 12th  
Street, Northwest, Washington, D.C. before  
Lori J. Goodin, RPR, CLR, CRR, a Notary  
Public of the District of Columbia.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**A P P E A R A N C E S:**

On Behalf of Petitioner:  
**WILLIAMS & CONNOLLY**  
725 Twelfth Street, Northwest  
Washington, D.C. 20005  
BY: THOMAS FLETCHER, ESQUIRE  
BY: DAVID BERL, ESQUIRE  
BY: CHRISTOPHER SUAREZ, ESQUIRE

**PETROLEUM GEO-SERVICES, INC.**  
15150 Memorial Drive  
Houston, Texas 77079  
BY: KEVIN HART, ESQUIRE

On Behalf of Patent Owner:  
**OBLON MCCLELLAND MAIER &  
NEUSTADT**  
1940 Duke Street  
Alexandria, Virginia 22314  
BY: SCOTT MCKEOWN, ESQUIRE  
CHRISTOPHER BULLARD, ESQUIRE

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**A P P E A R A N C E S (CONTINUED):**

On Behalf of Patent Owner:  
**KIRKLAND & ELLIS**  
300 North La Salle  
Chicago, Illinois 60654  
BY: SIMEON PAPACOSTAS, ESQUIRE

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

B. Evans, Ph.D.  
**BRIAN J. EVANS, PH.D.,**  
having been first duly sworn, testified as  
follows:  
**EXAMINATION**  
BY MR. MCKEOWN:  
Q. Can you please state your name for the record. 08:49  
A. Brian John Evans. 08:49  
Q. Okay. Mr. Evans, my name is Scott McKeown, I'm an attorney for WesternGeco, and you have filed some declarations in some proceedings at the U.S. Patent and Trademark Office. Those are 2014-687 through 689. Are you generally familiar with those proceedings?  
A. Generally. But I'm not a lawyer.  
Q. Sure.  
MR. BERL: I don't mean to interrupt, but are we putting appearances on the record?  
MR. MCKEOWN: Yes, sure, we can go around the table, if you want to.  
So, I'm Scott McKeown. I'm an attorney for WesternGeco. To my right is

Page 6

1 B. Evans, Ph.D.  
2 Chris Bullard, also with the Oblon firm. 08:49  
3 To his immediate right is Simeon -- 08:49  
4 MR. PAPACOSTAS: Papacostas. 08:49  
5 MR. MCKEOWN: There you go. Of the 08:49  
6 Kirkland & Ellis firm. 08:49  
7 MR. BERL: And it is David Berl of 08:49  
8 Williams & Connolly for petitioner. Along 08:50  
9 with me is Tom Fletcher from Williams & 08:50  
10 Connolly, Chris Suarez from Williams & 08:50  
11 Connolly and Kevin Hart from PGS. 08:50  
12 BY MR. MCKEOWN: 08:50  
13 Q. So, I will be asking you some 08:50  
14 questions today about some declarations you 08:50  
15 prepared in those proceedings at the Patent 08:50  
16 Office. 08:50  
17 I would ask that we try not to talk 08:50  
18 over each other. And if you need more 08:50  
19 information or clarification about a question, 08:50  
20 please feel free to ask. If you need a break 08:50  
21 for the bathroom, we can do that whenever you 08:50  
22 need it, just as long as it is not as a 08:50  
23 question is pending. 08:50  
24 So, when I ask you questions, you 08:50  
25 are expected to give truthful answers to the 08:50

Page 8

1 B. Evans, Ph.D.  
2 Q. Are they U.S. patents? 08:51  
3 A. No, Australia. 08:51  
4 Q. Okay. What is the subject matter of 08:51  
5 those patents? 08:51  
6 A. Oh, it was a seismic, seismic data 08:51  
7 processing were two of them. 08:52  
8 And the other one was a function of 08:52  
9 my Ph.D. thesis about 3D techniques. 08:52  
10 Q. What was the title of your Ph.D. 08:52  
11 thesis? 08:52  
12 A. I need to see my -- I can't remember 08:52  
13 these things. 08:52  
14 Q. Okay. Why don't I give you your 08:52  
15 declarations here. 08:52  
16 So, I will give you all three of 08:52  
17 them. 08:52  
18 A. Okay, thanks. 08:52  
19 Q. And, a copy for your counsel as 08:52  
20 well. So, the first one I'm handing you is for 08:52  
21 the '607. 08:52  
22 THE WITNESS: This is the '607. 08:52  
23 MR. BERL: That is for you. He will 08:52  
24 give me my copy. 08:52  
25 MR. BULLARD: That is one copy of 08:52

Page 7

1 B. Evans, Ph.D.  
2 extent you can. And you are required to answer 08:50  
3 unless your attorney instructs you not to 08:51  
4 answer. 08:51  
5 Do you understand that? 08:51  
6 A. Oh, okay. 08:51  
7 Q. Okay. Have you had, have you been 08:51  
8 previously deposed before? 08:51  
9 A. What do you mean by deposed? 08:51  
10 Q. This, what we are doing today is a 08:51  
11 deposition. 08:51  
12 A. Because I'm not legal. I'm a 08:51  
13 scientist. 08:51  
14 Q. Okay. 08:51  
15 A. No, I have never. This is the first 08:51  
16 time. 08:51  
17 Q. Okay. Fair enough. Do you have any 08:51  
18 other questions before we begin? 08:51  
19 A. I don't know until I've got 08:51  
20 something to ask. 08:51  
21 Q. Okay, fair enough. Fair enough. 08:51  
22 Are you an inventor on any patents, Mr. Evans? 08:51  
23 A. I am a coinventor on three. Not 08:51  
24 that they have been continued, because we paid 08:51  
25 the money out. 08:51

Page 9

1 B. Evans, Ph.D.  
2 the '607. 08:52  
3 MR. MCKEOWN: This is the '607. I 08:53  
4 may as well give them all out here. That 08:53  
5 is the '967. 08:53  
6 THE WITNESS: This isn't the same 08:53  
7 index as I have had it. 08:53  
8 MR. BERL: Yes. 08:53  
9 BY MR. MCKEOWN: 08:53  
10 Q. And this is the '520. So, we will 08:53  
11 be talking about all three of these today. I 08:53  
12 will try to keep it clear which one we are 08:53  
13 talking about when we are talking about it, so 08:53  
14 we don't confuse the three. 08:53  
15 MR. BERL: And for the record, as 08:53  
16 Dr. Evans just noted. We realize that the 08:53  
17 table of contents was inappropriately 08:53  
18 abridged in his declarations. 08:53  
19 And we prepared, and it may move 08:53  
20 things along more quickly to use table of 08:53  
21 contents that goes down each level and 08:53  
22 reflects the actual sections of the 08:53  
23 declaration. 08:53  
24 So, we have prepared those if you 08:53  
25 would like to use and mark them. It may 08:53

Page 10

1 B. Evans, Ph.D.  
2 make the process more efficient in the 08:53  
3 coming days. The table of contents in the 08:53  
4 actual declarations only go down two or 08:54  
5 sometimes three levels, rather than all of 08:54  
6 the way down. 08:54  
7 THE WITNESS: So, do I get an update 08:54  
8 then? 08:54  
9 MR. BERL: He will likely give you a 08:54  
10 copy. 08:54  
11 MR. MCKEOWN: Do you have a copy of 08:54  
12 this, Mr. Evans? 08:54  
13 THE WITNESS: No, I don't. 08:54  
14 MR. BERL: So, I will give you three 08:54  
15 copies of each, Mr. McKeown, and then you 08:54  
16 can give them back to Dr. Evans. 08:54  
17 MR. MCKEOWN: Okay. All right. 08:54  
18 MR. BERL: And maybe mark them as-B 08:54  
19 or however you want to mark them is fine 08:54  
20 with us. 08:54  
21 MR. MCKEOWN: So, are these 08:54  
22 corresponding to outline entries in the 08:54  
23 actual declaration or are these -- 08:54  
24 MR. BERL: Yes. 08:54  
25 MR. MCKEOWN: Okay. All right. I 08:54

Page 12

1 B. Evans, Ph.D.  
2 A. Page 5. 08:55  
3 MR. BERL: These are the '520. 08:55  
4 THE WITNESS: We are in the '520, 08:55  
5 right? 08:55  
6 BY MR. MCKEOWN: 08:55  
7 Q. I think it is the same in all of 08:55  
8 them at least for the first couple of 08:55  
9 paragraphs. But -- 08:55  
10 A. So, should I be looking at '607. 08:55  
11 MR. BERL: He thinks it is the same. 08:56  
12 THE WITNESS: Oh, okay. 08:56  
13 BY MR. MCKEOWN: 08:56  
14 Q. It looks the top of Page 6 there. 08:56  
15 A. So, Yes, top of Page 6, Advancements 08:56  
16 in Techniques of Low Fold Three-Dimensional 08:56  
17 Seismic Reflection Surveying. I think that 08:56  
18 answers your question. 08:56  
19 Q. Okay. So, that was the topic of the 08:56  
20 thesis you were referring to? 08:56  
21 A. Yes. 08:56  
22 Q. Okay. Have you ever been involved 08:56  
23 in any kind of patent disputes previously? 08:56  
24 MR. BERL: Objection. 08:56  
25 THE WITNESS: When you say 08:56

Page 11

1 B. Evans, Ph.D.  
2 don't know that I need to use them. So, 08:54  
3 let's just keep them on the side. 08:54  
4 MR. BERL: It may make it easier to 08:54  
5 find. 08:54  
6 MR. MCKEOWN: I will be referring to 08:54  
7 paragraph numbers, so I am not using 08:54  
8 headings. 08:54  
9 THE WITNESS: The headings help me 08:55  
10 to find it in the -- 08:55  
11 BY MR. MCKEOWN: 08:55  
12 Q. Yes, okay. I will refer you to 08:55  
13 the -- 08:55  
14 A. Because in between these, I get 08:55  
15 confused. 08:55  
16 Q. Okay. Sure. Yes. So I was just 08:55  
17 asking the name, or the title of your thesis. 08:55  
18 A. Okay. Can I -- It is one of these 08:55  
19 three replacement contents. 08:55  
20 Q. Let me see if I can find it for you. 08:55  
21 Looks to be about Paragraphs 10 through 11 talk 08:55  
22 about your Ph.D. 08:55  
23 A. What page? 08:55  
24 Q. So, looks like Paragraph 10 top of 08:55  
25 Page 5 in the '520. 08:55

Page 13

1 B. Evans, Ph.D.  
2 objection, sorry, I'm not, I don't 08:56  
3 understand the process. 08:56  
4 BY MR. MCKEOWN: 08:56  
5 Q. You can answer. You are expected to 08:56  
6 answer. 08:56  
7 MR. BERL: You can answer the 08:56  
8 question. I am just preserving the 08:56  
9 objection. 08:56  
10 THE WITNESS: Oh, okay. Okay. 08:56  
11 Only inasmuch as talking between 08:56  
12 authors of a patent that I argued my name 08:57  
13 should be first and he argued. And he won. 08:57  
14 It was just a personal argument. 08:57  
15 BY MR. MCKEOWN: 08:57  
16 Q. So, you haven't been hired as a 08:57  
17 consultant? 08:57  
18 A. Oh, never, never, never. 08:57  
19 Q. Okay. 08:57  
20 A. First time ever. 08:57  
21 Q. Sure. How many declarations did you 08:57  
22 prepare for this matter? 08:57  
23 A. I think -- 08:57  
24 MR. BERL: What? For this? 08:57  
25 BY MR. MCKEOWN: 08:57

1 B. Evans, Ph.D.  
 2 Q. For this matter. 08:57  
 3 A. For the whole -- 08:57  
 4 MR. BERL: Objection. 08:57  
 5 MR. MCKEOWN: Right. 08:57  
 6 BY MR. MCKEOWN: 08:57  
 7 Q. So, you have three declarations in 08:57  
 8 front of you. 08:57  
 9 A. Yes. 08:57  
 10 Q. Did you just prepare three? 08:57  
 11 A. I think there was a fourth, I think. 08:57  
 12 My memory isn't what it should be. 08:57  
 13 Q. Okay. 08:57  
 14 A. I think there is a fourth. 08:57  
 15 Q. Are you aware of the Patent Office's 08:57  
 16 review of those declarations? 08:57  
 17 MR. BERL: Objection. 08:57  
 18 THE WITNESS: I'm confused in him 08:58  
 19 saying objection. Am I supposed to stop 08:58  
 20 now or -- 08:58  
 21 MR. BERL: You can answer the 08:58  
 22 question. He will ask you questions, I may 08:58  
 23 object. 08:58  
 24 If I tell you not to answer, then 08:58  
 25 you don't answer. Unless I tell you not to 08:58

1 B. Evans, Ph.D.  
 2 answer you can try to answer his question, 08:58  
 3 if you understand it. 08:58  
 4 THE WITNESS: Okay. I don't 08:58  
 5 understand the process, you understand. 08:58  
 6 Now, could you repeat? 08:58  
 7 BY MR. MCKEOWN: 08:58  
 8 Q. Sure. So you prepared four 08:58  
 9 declarations, correct? 08:58  
 10 A. Yes. 08:58  
 11 Q. And they were -- 08:58  
 12 A. To the best of my memory. 08:58  
 13 Q. And they were submitted to the 08:58  
 14 Patent Office; is that right? 08:58  
 15 A. Through his company. 08:58  
 16 Q. Okay. Have you seen the decisions 08:58  
 17 from the Patent Office? 08:58  
 18 A. Yes, I have scanned over them. 08:58  
 19 Q. Okay. So you are aware that the 08:58  
 20 fourth submission, or one of these submissions 08:58  
 21 was denied; is that right? 08:58  
 22 MR. BERL: Objection. 08:58  
 23 THE WITNESS: Yes. Because now, you 08:58  
 24 know, I am working with three now instead 08:58  
 25 of four. That is my -- 08:58

1 B. Evans, Ph.D.  
 2 BY MR. MCKEOWN: 08:58  
 3 Q. Okay. But you did read the decision 08:58  
 4 that denied the fourth? 08:58  
 5 A. I read it, but that was -- I have 08:59  
 6 got seven Ph.D. students. That is one of the 08:59  
 7 many documents I read on a daily basis, but I 08:59  
 8 don't exactly read these things on a daily 08:59  
 9 basis. 08:59  
 10 Q. Sure. Did you form an opinion as to 08:59  
 11 whether you believe that decision was correct 08:59  
 12 or not? 08:59  
 13 A. The board made? 08:59  
 14 Q. Right. 08:59  
 15 MR. BERL: Objection. 08:59  
 16 THE WITNESS: I, my impression, 08:59  
 17 because I didn't go into it deeply, and I 08:59  
 18 was on my own, not with anyone else, not 08:59  
 19 discussing it with anyone else, 08:59  
 20 12,000 miles away, was that I didn't think 08:59  
 21 the interpretation was the same as I had 08:59  
 22 put on it. 08:59  
 23 BY MR. MCKEOWN: 08:59  
 24 Q. Uh-huh. So did you conclude that 08:59  
 25 the USPTO's interpretation was wrong? 09:00

1 B. Evans, Ph.D.  
 2 MR. BERL: Objection, relevance. 09:00  
 3 THE WITNESS: In Australia, a court 09:00  
 4 in one state can have a different decision 09:00  
 5 from a court in another state. 09:00  
 6 And part of that decision process is 09:00  
 7 based on state rules and regulations. I am 09:00  
 8 not conversant with U.S. or Australia state 09:00  
 9 rules and regulations. 09:00  
 10 So, I can't really saying that it 09:00  
 11 was wrong without a thorough understanding 09:01  
 12 and a legal standing. 09:01  
 13 Wouldn't you agree with that, that 09:01  
 14 that is a reasonable assumption? I 09:01  
 15 couldn't even make a decision myself on 09:01  
 16 whether there is something wrong. 09:01  
 17 But, if I came to my opinion and the 09:01  
 18 court came to their opinion, based on their 09:01  
 19 knowledge, which is far superior to mine, 09:01  
 20 one assumes they must be right based on 09:01  
 21 their own regulations. 09:01  
 22 BY MR. MCKEOWN: 09:01  
 23 Q. Okay. I'm going to talk a little 09:01  
 24 bit about your educational background in the 09:01  
 25 next couple of questions. And I believe that 09:01

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.