

Ex. PGS 1017

(EXCERPTED)

Protective Order Material – Subject to Protective Order

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

WESTERNGECO LLC, . 4:09-CV-01827
 . HOUSTON, TEXAS
 PLAINTIFF, .
 .
 vs. .
 .
 ION GEOPHYSICAL, .
 CORPORATION, FUGRO GEOTECH, .
 INC., ET AL, .
 DEFENDANTS . VOLUME 17
 . AUGUST 15, 2012
 . 7:33 A.M.

TRANSCRIPT OF JURY TRIAL
BEFORE THE HONORABLE KEITH P. ELLISON
UNITED STATES DISTRICT JUDGE

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

FOR THE PLAINTIFF:

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Mauro Malena CSR BMB CBB

Closing Argument by Mr. LoCascio

07:54 1 He ultimately agrees with that.

2 ION has location information in its system?

3 Agreed.

4 And ultimately that is winnowed down and

07:54 5 calculated down into the fin angle?

6 He says, yes, and he agreed that is transmitted
7 to the DigiFINs.

8 After pushing back and looking over the Court's
9 actual construction, what he was supposed to take into account,
07:54 10 Mr. Brune said, okay, I used the Court's construction, the fact
11 that the fin angle is calculated from that location information
12 satisfies the claim and the claim is infringed?

13 And he says, yes, agreed. Mr. Brune agrees that
14 under the Court's construction, the '967 patent, Claim 15, is
07:54 15 infringed.

16 And you heard from others, including Dr. Leonard,
17 Dr. Triantafyllou and others, who agreed with that.

18 The Bittleston '607 patent, this involves
19 predicting where the birds are. You may remember some
07:55 20 discussion about the Kalman filters and predictions.
21 Dr. Triantafyllou walked you through each of those limitations
22 and showed that they were matching.

23 There is no Mr. Brune on this slide, and you may
24 remember why. Because on this score, on the '607 patent,
07:55 25 whether or not ION infringes, they don't dispute that they

Closing Argument by Mr. LoCascio

07:55 1 infringe. You never heard a single ION witness, you certainly
2 never heard Mr. Brune under oath say they don't infringe the
3 '607 patent because he knows it does infringe. And so instead
4 of people are paying him from ION, instead of having an opinion
07:55 5 that says we infringe, he declines to comment on that.

6 You may remember I said, sir, you don't even
7 offer a rebuttal opinion on Claim 15 of the '607 patent?

8 And his first answer was: Not in the testimony
9 today.

07:56 10 That's what it was like with Mr. Brune. It was a
11 long afternoon. Then I said, well, sir, you didn't offer it
12 before. You don't have an opinion on that?

13 He agreed, okay, you are right. I don't have an
14 opinion.

07:56 15 They don't oppose it, but just to show you in
16 case if there is any question in your mind, you remember
17 Dr. Leonard went through all the software code. I tried to
18 keep up with Dr. Leonard as well. And he was telling you about
19 prediction in there 500 times and he walked you through
07:56 20 specifically some code language and showed you ION's system
21 knows where the DigiFTN was and then tries to move it forward
22 in a state to tell you where it is.

23 Mr. Macrab said, the Kalman filter predicts the
24 positions of the DigiFIN and, indeed, he says it predicts all
07:56 25 of their positions, not ever just some.

Mauro Malone CSB EMB CBB

Closing Argument by Mr. LoCascio

07:56 1 And the patent is on top. This is Plaintiff's 3,
2 the '607 patent. It makes clear in the specification that the
3 position predictor software is to estimate the actual location
4 of the birds. Mr. Macnab, it's as if he had already read it
07:57 5 and was ready to tell you they infringed. I said, you are
6 estimating the actual location of the DigiFIN?

7 Answer: We provide an estimate of where we
8 believe the DigiFIN positions are in a given time.

9 Question: Their actual locations as best you can
07:57 10 estimate it, right?

11 That's correct.

12 That's what the '607 patent covers. The Court's
13 construed it. It needs to ultimately have a position predictor
14 system and estimate where the birds are. It is infringed.

07:57 15 They don't even offer you an expert that can say the opposite
16 because there are none.

17 Last patent is the Zajac patent. Claim 14 of the
18 Zajac patent, it's the longest one, but fortunately for our
19 purposes, Mr. Brunc only disputes two limitations. It goes to
07:57 20 repeating over time a survey, keeping the streamers with the
21 same feather so you can get this time lapsed survey to be a
22 better image.

23 The two he contests he doesn't really talk about
24 are the master control having a command for issuing these
07:58 25 positioning commands. You may not remember this one that much,

Mauro Malone CSB EMB CBB