

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

WESTERNGECO L.L.C.,

*Plaintiff,*

v.

ION GEOPHYSICAL CORPORATION,

*Defendant.*

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)  
) Civil Action No. 4:09-CV-01827  
)  
) **Jury Trial Demanded**  
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**WESTERNGECO'S REPLY CLAIM CONSTRUCTION BRIEF**

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Plaintiff WesternGeco L.L.C. ("WesternGeco") respectfully submits its Reply Claim Construction Brief in further support of WesternGeco's proposed constructions set forth in the parties' Joint Claim Construction and Prehearing Statement (D.I. 39).

### SUMMARY OF ARGUMENT

WesternGeco filed its Complaint on June 12, 2009 to halt ION Geophysical Corp.'s ("ION's") willful infringement of U.S. Patent Nos. 6,932,017 ("the '017 patent"); 7,080,607 ("the '607 patent"); 7,162,967 ("the '967 patent") and 7,293,520 ("the '520 patent") (collectively, "the Bittleston patents"); and 6,691,038 ("the Zajac '038 patent"). (D.I. 1) ION filed a counterclaim for alleged infringement of one ION patent. (D.I. 6) This Reply addresses the parties' proposed constructions for the five WesternGeco patents.

The Federal Circuit's 2005 *en banc* decision in *Phillips* sets forth the proper framework for claim construction. It holds that disputed claim terms are properly construed based on their ordinary meanings in the context of the patent. As set forth in WesternGeco's Opening Brief ("WGOB"), WesternGeco's proposed constructions for the Bittleston and Zajac patents are based on this intrinsic record. They are properly adopted by the Court.

As also set forth in WesternGeco's Opening Brief, however, ION's proposed constructions commit the "cardinal sin of claim construction" by improperly limiting WesternGeco's patents to their preferred embodiments. They violate the requirements of *Phillips* by: (1) reading limitations into the claims; (2) ignoring the ordinary meaning of the claim terms; (3) relying heavily on extrinsic evidence; (4) excluding disclosed embodiments; (5) rendering claim terms superfluous; and (6) rendering claims duplicative. As discussed below, any of these flaws would be improper. Many of ION's proposed constructions suffer them all.

ION's Response Brief ("IRB") concedes that many of its proposed constructions were improper. For some, ION now agrees with WesternGeco's proposed constructions. For others,

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