

Case IPR2014-00688
Patent 7,080,607

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PETROLEUM GEO-SERVICES INC.
Petitioner

v.

WESTERNGECO, LLC
Patent Owner

Case IPR2014-00688

U.S. Patent No. 7,080,607

PETROLEUM GEO-SERVICES INC.'S OBJECTIONS TO EVIDENCE

Petitioner Petroleum Geo-Services Inc. (“PGS”) objects pursuant to 37 C.F.R. § 42.64(b)(1) and the Federal Rules of Evidence (“FRE”) to the admissibility of exhibits served by Patent Owner WesternGeco, LLC on March 20, 2015. The exhibits objected to, and grounds for PGS’ objections, are listed below. PGS also objects to Patent Owner’s reliance or citation to any objected evidence in its papers.

I. IDENTIFICATION OF CHALLENGED EVIDENCE AND GROUNDS FOR OBJECTIONS

A. Exhibit 2042

PGS objects to Exhibit 2042, the Declaration of Dr. Triantafyllou, under FRE 402 to the extent it includes or relies on irrelevant information and under FRE 403 to the extent that it includes or relies on information, the probative value of which is substantially outweighed by the danger of wasting time in this compressed proceeding. By way of non-exclusive example, Exhibit 2042 relies on exhibits and information not available to the public as of the priority date. This evidence has no relevance to what a person of ordinary skill in the art would have known by the priority date. By way of non-exclusive example, Dr. Triantafyllou cites Exhibit 2053 in discussing the prior art, but that article was published in 2009 and has no relevance to what a person of ordinary skill in the art would have known by the October 1, 1998 priority date.

PGS further objects to Exhibit 2042 under FRE 402 and FRE 403 because it is irrelevant and its probative value is substantially outweighed by the danger of unfair prejudice and the danger of wasting time. Exhibit 2042 includes or relies on testimony and exhibits from *WesternGeco LLC v. ION Geophysical Corp.*, 4:09-cv-01827 (S.D. Tex.) (“the ION case”). PGS was not a party to the ION case and did not have an opportunity to examine witnesses, object to evidence, or present evidence in that case. Furthermore, reliance on this evidence is additionally irrelevant, unfairly prejudicial, and would result in a waste of time because the issues presented in the ION case were substantively different than those presented in this case. As a result, PGS would suffer substantial unfair prejudice if reliance on this evidence were permitted. For that additional reason, Exhibit 2042 should be excluded under FRE 402 and 403.

PGS further objects to Exhibit 2042 under FRE 802 because it contains and relies on inadmissible hearsay, including testimony and exhibits from the ION case. PGS did not have an opportunity to examine witnesses, object to evidence, or present evidence in that case as it was not a party to it. The probative value of this hearsay does not substantially outweigh its prejudicial effect, particularly given that the issues presented in the ION case were substantively different than those presented in this case.

PGS objects to Exhibit 2042 to the extent Dr. Triantafyllou's Declaration is being offered pursuant to FRE 702, including to the extent that he offers opinions without having demonstrated the requisite expertise, basis, methodology or foundation. To the extent Exhibit 2042 is being offered as an expert declaration, PGS objects on the ground that it does not comply with the requirements for an expert declaration. PGS also objects to Exhibit 2042 to the extent it includes subject matter that is not permitted pursuant to FRE 602 or 701, including to the extent that Dr. Triantafyllou is commenting as a fact witness on matters that are outside his personal knowledge or offering improper lay opinion testimony. PGS also objects to Exhibit 2042 under FRE 402 and 403 for these same reasons. PGS also objects to Exhibit 2042 for failure to comply with 37 C.F.R. § 42.53.

PGS further objects to Exhibit 2042 as irrelevant under FRE 401, and as unfairly prejudicial and needlessly presenting cumulative evidence and wasting time under FRE 403, to the extent that the opinions and conclusions expressed in the exhibit are not expressly relied on and incorporated in Patent Owner's Response.

PGS objects to Exhibit 2042 under FRE 901, 1002, and 1003 on the basis that it cites or relies on exhibits that have not been authenticated or lack foundation, such as Exhibit 2051. *See, e.g.*, Ex. 2042 at 29.

PGS incorporates herein by reference its objections to the exhibits relied on or cited in Exhibit 2042.

B. Exhibit 2046

Exhibit 2046 purports to be a book entitled “Fluid-Structure Interactions: Slender Structures and Axial Flow,” but it is incomplete. The Exhibit includes only the cover page and table of contents of the book. Additionally, this exhibit is inadmissible hearsay under FRE 802.

C. Exhibit 2049

PGS objects to Exhibit 2049 under FRE 402 and FRE 403 because it is irrelevant and its probative value is substantially outweighed by the danger of wasting time in this compressed proceeding. Exhibit 2049 was published in 2002 and, therefore, bears no relevance to what a person of ordinary skill in the art would have known by the October 1, 1998 priority date. Therefore, Exhibit 2049 should be excluded under FRE 402 and 403. Additionally, this exhibit is inadmissible hearsay under FRE 802.

D. Exhibit 2050

PGS objects to Exhibit 2050 under FRE 802 because it is inadmissible hearsay, specifically trial testimony from Simon Bittleston in the ION case. PGS was not a party to the ION case and, consequently, did not have an opportunity to examine Dr. Bittleston or object to his testimony at that trial. This exhibit also

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