

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PETROLEUM GEO-SERVICES INC.
Petitioner

v.

WESTERNGECO LLC
Patent Owner

Case No. IPR2014-01475
Patent No. 7,162,967

**PETITIONER'S RESPONSES TO
PATENT OWNER'S INTERROGATORIES**

Pursuant to 37 C.F.R. § 42.51(c), Petitioner Petroleum Geo-Services, Inc. (“PGS”), through its counsel, hereby provides the following objections and responses to “Patent Owner’s Interrogatories to Petitioners” (“Interrogatories”) as provided via email to the Board on November 10, 2014.

GENERAL OBJECTIONS

The following General Objections form a part of, and are hereby incorporated into, the response to each and every question set forth below. Nothing in those responses, including any failure to recite a specific objection in response to a particular request, should be construed as a waiver of any of these General Objections.

1. PGS objects to the definition of “petitioners” in the prefatory language and caption of the Interrogatories to the extent that it suggests that the petitioners in this proceeding include any entities other than Petroleum Geo-Services, Inc. Petroleum Geo-Services, Inc. is the only petitioner in this proceeding.

2. PGS objects to the conflicting definitions of “PGS” provided in the Interrogatories. *Compare* first sentence of preface *with* Definition No. 3. The definition of “PGS” applied in these responses is explained below in Definition No. 1.

3. PGS objects to the definition of “*Inter Partes* Review Proceedings” as overly broad. The definition of “PGS IPR Proceedings” applied in these responses is explained below in Definition No. 5.

4. PGS objects to each interrogatory, definition, and instruction as overbroad to the extent that the Interrogatories purport to include a Request For Production of Documents, and specifically the preface (“Pursuant to 37 C.F.R.

§ 42.51(c), WesternGeco requests that production of requested documents be made . . .” and Instruction No. 1 (“In responding to and producing documents and things responsive to these requests, the responding party will comply with instructions in the Patent Trial Practice Guide.”). Prior to emailing its Interrogatories to the Board, Patent Owner had not requested—via communication with Petitioner’s counsel or the Board—to serve a Request For Production on Petitioner. Petitioner has not agreed to provide any such discovery, Patent Owner has not requested any such discovery from the Board, and the Board has not ordered any such discovery.

5. PGS objects to each interrogatory, definition, and instruction to the extent that it attempts to impose any discovery duties on PGS beyond the scope of discovery affirmatively imposed or agreed to by any applicable rule, law, doctrine, or accepted practice.

6. The responses given herein to any one or more of the interrogatories shall not be deemed to waive any claim of privilege or immunity that PGS may have as to any response, document, or information, or any objection that PGS may have as to a demand for further response to these or other interrogatories. During the teleconference concerning the previously-filed IPR petitions concerning the same patents, the Board advised that: “The agreement is that Patent Owner will today seek to get an agreement that answering any interrogatories would not be used as a waiver of privilege in District Court litigation.” *Petroleum Geo-Services*

Inc v. WesternGeco LLC, IPR2014-00678, Paper No. 26, Ex. A (Transcript of August 27, 2014 Board Conference Call), at 39:15-19. Patent Owner’s Interrogatories include Condition No. 11: “WesternGeco reserves the right to argue that PGS’s affirmative reliance on any documents or information produced in response to the interrogatories may constitute a waiver of privilege held by the producing party.” In propounding this Condition No. 11, Patent Owner has again affirmatively declined to agree to the precondition of PGS’s offer to provide discovery responses.

7. Petitioner objects to Condition No. 11. However, in an effort to resolve the dispute regarding the scope of discovery without the Board’s intervention, PGS nevertheless provides the responses to Patent Owner’s interrogatories, subject to the objections set forth herein, despite the fact that discovery has not been ordered by the Board and is not warranted by governing precedent.

8. PGS objects to each interrogatory, definition, and instruction as overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence to the extent that it seeks information concerning any subject other than ION’s alleged participation in the preparation or prosecution of the “PGS IPR Proceedings” (defined below). In response to a request for guidance as to the appropriate scope of any potential discovery in IPR proceedings

concerning the same patents, the Board advised that: “And given that, then both sides will endeavor to negotiate on five interrogatories related to ION's participation in the IPR, hopefully by the end of this week.” *Petroleum Geoservices Inc v. WesternGeco LLC*, IPR2014-00678, Paper No. 26, Ex. A (Transcript of August 27, 2014 Board Conference Call), at 39:20-23. And Patent Owner represented to the Board that “My reaction is we are interested in communications that link ION, obviously, to this IPR effort. If the question is do we have a cutoff date, for example, once the IPR was filed, no. We’re looking at communications that lead up to the preparation of that petition. And so, you know, certainly we’re only looking for communications relating to the IPR effort.” *Id.* at 36:10-19. To the extent that discovery sought does not pertain to ION’s alleged participation in the preparation or prosecution of the PGS IPR Proceedings, PGS objects to the interrogatories as irrelevant.

9. PGS objects to each interrogatory to the extent that it calls for the disclosure of information protected by any privilege, including, without limitation, the attorney-client privilege, the work product doctrine, the common interest privilege, or any other available and valid grounds for withholding information from production. All interrogatories have been read to exclude the discovery and/or production of such privileged information.

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