

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

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WESTERNGECO L.L.C.,

*Plaintiff,*

v.

ION GEOPHYSICAL CORPORATION,

*Defendant.*

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)  
) Civil Action No. 4:09-CV-01827  
)  
) Judge Keith P. Ellison  
)  
) Jury Trial Demanded  
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**WESTERNGECO’S OPPOSITION TO ION’S RENEWED MOTION  
FOR JUDGMENT AS A MATTER OF LAW AND ALTERNATIVE  
MOTION FOR NEW TRIAL REGARDING NON-INFRINGEMENT (D.I. 556)**

*Of Counsel:*

Gregg F. LoCascio, P.C.  
gregg.locascio@kirkland.com  
KIRKLAND & ELLIS LLP  
655 Fifteenth Street, N.W.  
Washington, D.C. 20005-5793  
Tel.: (202) 879-5000  
Fax: (202) 879-5200

Timothy K. Gilman  
timothy.gilman@kirkland.com  
Ryan Kane  
ryan.kane@kirkland.com  
KIRKLAND & ELLIS LLP  
601 Lexington Avenue  
New York, New York 10022  
Tel.: (212) 446-4800  
Fax: (212) 446-4900

Lee L. Kaplan  
lkaplan@skv.com  
SMYSER KAPLAN  
& VESELKA, L.L.P.  
Bank of America Center  
700 Louisiana, Suite 2300  
Houston, TX 77002  
Tel: (713) 221-2323  
Fax: (713) 221-2320

*Attorneys for Plaintiff  
WesternGeco L.L.C.*

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WesternGeco L.L.C. (“WesternGeco”) opposes ION’s Renewed Motion for Judgment as a Matter of Law and Alternative Motion for New Trial Regarding Non-Infringement (D.I. 556).

### **SUMMARY OF THE ARGUMENT**

Following a three-and-a-half week jury trial, ION was found to willfully infringe four valid WesternGeco patents under multiple sections of the Patent Act. Seeking to substitute its own judgment for that of the jury, ION cherry-picks snippets of interested testimony to argue to reverse or set aside the jury’s conclusions. In doing so, ION ignores record evidence—including its own witnesses’ admissions—supporting, indeed confirming, the jury’s verdict. In arguing that the jury erred on every infringement question it was asked, ION telegraphs its flawed approach to post-trial motions: a demand that the Court wholesale substitute ION’s attorney argument and chosen facts for the jury’s weighing of the full evidentiary record and witness credibility over a three-and-a-half week trial.

ION’s approach is improper. On post-trial motions, the entire record must be considered and the jury’s credibility and balancing determinations cannot be second-guessed or discarded as ION suggests. Merely showing *some* evidence that purportedly supports ION’s trial arguments is not sufficient—ION must prove that no reasonable jury could find infringement based on its consideration of *all* of the record evidence. ION fails to apply the right test, fails to consider the ample evidence of its willful infringement, and fails to call the jury’s verdict into question. ION’s manuals, internal documents, witness testimony and expert testimony all confirm that ION’s system meets each and every element of the asserted claims. Because a rational jury could—and did—review the evidence and determine that ION infringes those claims, ION’s motion must be denied.

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