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J. Cole

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, -01476, -01477, -91478

Patent No. 7,162,520 B2

Patent No. 7,162,967 B2

Patent No. 7,080,607

DEPOSITION OF JACK H. COLE, Ph.D.

Washington, D.C.

Volume One - June 25 2015

Reported by: Mary Ann Payonk

Job No. 94684

Page 2

1 J. Cole
2
3
4
5 June 25 2015
6 9:08 a.m.
7
8 Deposition of DR. JACK H. COLE, Ph.D.,
9 Volume One, held at the offices of Williams &
10 Connolly, 725 12th Street, N.W., Washington,
11 D.C., pursuant to Notice before Mary Ann
12 Payonk, Nationally Certified Realtime Reporter
13 and Notary Public of the District of Columbia,
14 Commonwealth of Virginia, States of Maryland
15 and New York, CA-CSR No. 13431.
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1 J. Cole
2 Appearances (Cont'd.):
3 ON BEHALF OF PATENT OWNER:
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10 ALSO PRESENT:
11 Kevin Hart, (by Internet Realtime)
12 Petroleum Geo-Services, Inc.
13 Ms. Marta Chlistunoff
14
15
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Page 3

1 J. Cole
2 APPEARANCES:
3 ON BEHALF OF PETITIONER:
4 THOMAS FLETCHER, ESQUIRE
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12 ON BEHALF OF PATENT OWNER:
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14 CHRISTOPHER RUCCIUTI, ESQUIRE
15 KATHERINE CAPPAERT, ESQUIRE
16 OBLON McCLELLAND MAIER
17 & NEUSTADT
18 1940 Duke Street
19 Alexandria, VA 22314
20
21
22
23
24
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1 J. Cole
2 MR. KIKLIS: I guess let's do 09:08:01
3 appearances. Michael Kiklis for 09:08:03
4 WesternGeco, patent owner. With me is 09:08:07
5 Chris Ricciuti and Kate Cappaert, all 09:08:10
6 from the Oblon firm. Also, we have 09:08:14
7 Simeon Papacostas from Kirkland & Ellis 09:08:16
8 in the Chicago office. 09:08:20
9 MR. FLETCHER: Tom Fletcher for 09:08:22
10 petitioner Petroleum Geo-Services, Inc. 09:08:23
11 Williams & Connolly. With me are my 09:08:26
12 colleagues Jessamyn Berniker and Alec 09:08:29
13 Swafford, and one of our summer 09:08:33
14 associates, Marta Chlistunoff. We have 09:08:35
15 observing by remote realtime feed Kevin 09:08:37
16 Hart, Petroleum Geo-Services, Inc. 09:08:40
17 DR. JACK H. COLE, Ph.D.,
18 called as a witness, having been duly
19 sworn, was examined and testified as
20 follows:
21 EXAMINATION
22 BY MR. KIKLIS: 09:08:47
23 Q. Good morning, Dr. Cole. 09:08:47
24 A. Good morning. 09:08:49
25 Q. How are you today? 09:08:49

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1 J. Cole

2 A. I'm good. How are you? 09:08:50

3 Q. Very good. So we're here to take 09:08:51

4 your deposition today in three related cases. 09:08:59

5 Is that your understanding? 09:09:04

6 A. Yes, sir. 09:09:05

7 Q. Okay. One of the cases is 09:09:06

8 IPR2014-01478 for the 729,520 patent. Is that 09:09:08

9 your understanding? 09:09:19

10 A. May I see the documents? 09:09:24

11 Q. Sure. I'm going to hand you your 09:09:26

12 three declarations in these matters. And we 09:09:29

13 will be referring to them of course during the 09:09:36

14 course of this deposition. This has already 09:09:38

15 been marked. I'm handing what's been marked 09:09:43

16 already as Exhibit 1003 in the -- let me get 09:09:46

17 the right translation here -- in the 1478 IPR. 09:09:55

18 A. Is it okay if I write on the front of 09:10:10

19 this? 09:10:12

20 Q. Yeah, absolutely. In fact, you 09:10:12

21 should probably write on there IPR2014-014 -- 09:10:14

22 A. Just a minute. I'll write that at 09:10:19

23 the top. "IPR." 09:10:21

24 Q. 2014. 09:10:22

25 A. 2014. 09:10:23

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1 J. Cole

2 Q. Now I'm going to hand you what's been 09:11:22

3 marked as Petitioners' Exhibit 1003 -- 09:11:24

4 A. This is the same thing. 09:11:32

5 Q. It's actually in a different case. 09:11:34

6 A. Oh, I'm sorry. Whatever. 09:11:34

7 Q. Different case. 09:11:35

8 A. I'm sorry. 09:11:36

9 Q. No problem. And this is from the 09:11:37

10 case number IPR2014-01477. 09:11:42

11 A. Would you repeat that again? 09:11:50

12 Q. Sure. Actually, here's your depo 09:11:52

13 notice for this case, for that particular case. 09:11:54

14 You can copy it right off of there. 09:11:57

15 Any objections, counsel? 09:11:59

16 MR. FLETCHER: Are you marking that 09:12:00

17 as an exhibit? 09:12:00

18 MR. KIKLIS: No, I just want him to 09:12:02

19 copy it off, that's all. 09:12:04

20 MR. FLETCHER: That's fine. 09:12:07

21 THE WITNESS: That's very helpful. 09:12:08

22 MR. KIKLIS: A lot of numbers to be 09:12:13

23 thrown around here. I want to be sure 09:12:13

24 we get it right. 09:12:15

25 THE WITNESS: This is in regards to 09:12:17

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1 J. Cole

2 Q. 1478. 09:10:24

3 A. 1478. 09:10:26

4 Q. And if you look -- 09:10:27

5 A. Wait just a minute. Sometimes I'm a 09:10:28

6 little bit dyslexic. I tend to transpose 09:10:32

7 numbers. 1478? 09:10:35

8 Q. Sure. 09:10:37

9 A. Okay. And the patent is 7,293,520? 09:10:38

10 Q. Yes. 09:10:45

11 A. That's what you refer to as the '520 09:10:45

12 patent. 09:10:49

13 Q. Exactly. 09:10:49

14 A. Is that okay if I write that on here? 09:10:50

15 Q. Sure. During the course of this 09:10:54

16 deposition, what I'm going to prefer to refer 09:10:55

17 to is the '520 patent case. 09:10:57

18 A. Okay. 09:11:01

19 Q. I'm not going to be referring to 09:11:01

20 1478. Okay? But we can all agree, I would 09:11:05

21 like your agreement at least that when I'm 09:11:09

22 referring to the '520 patent case, you 09:11:10

23 understand that I'm referring to the case 09:11:13

24 number IPR2014-01478. 09:11:16

25 A. I understand. 09:11:22

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1 J. Cole

2 '607? Is that what that says? 09:12:18

3 MR. KIKLIS: Correct. 09:12:23

4 THE WITNESS: You say this is 09:12:28

5 from -- make sure I heard you. Did you 09:12:29

6 say this is from a different deposition? 09:12:31

7 MR. KIKLIS: No. If you flip 09:12:35

8 open -- 09:12:37

9 THE WITNESS: The one that I 09:12:38

10 just -- 09:12:38

11 MR. KIKLIS: Yes. 09:12:40

12 THE WITNESS: So '607 B2. 09:12:46

13 MR. FLETCHER: Different case 09:12:49

14 numbers, but the case numbers don't 09:12:50

15 exist on the covers yet. 09:12:52

16 THE WITNESS: Oh, I see. 09:12:54

17 MR. KIKLIS: Now I'm going to hand 09:12:55

18 you what's been marked as Exhibit 1003 09:12:56

19 in the IPR2014-01475 IPR relating to 09:13:17

20 U.S. Patent Number 7,162,967. Here is 09:13:25

21 your deposition notice for that case. 09:13:30

22 You can copy off the numbers if you 09:13:33

23 like. 09:13:35

24 A. Just a second. I think I got the 09:13:37

25 number off there. IPR2014-01475? 09:13:38

1 J. Cole

2 Q. Correct, correct. So for the balance 09:13:43
3 of this deposition, I'm going to be referring 09:13:46
4 to your '967 declaration because that's your 09:13:50
5 declaration dealing with the '967 patent. 09:13:54

6 A. Is this the declaration I'm holding 09:13:59
7 in my hand? 09:14:00

8 Q. That is correct. And then for the 09:14:03
9 declaration that you did with respect to the 09:14:04
10 '607 patent, I'll refer to that as the '607 09:14:06
11 declaration. 09:14:10

12 A. That's this one? 09:14:11

13 Q. Correct. And then with respect to 09:14:12
14 your declaration for the '520 patent, I'll be 09:14:15
15 referring to that, the '520 declaration. 09:14:21

16 A. This document? 09:14:23

17 Q. Yes. So what I'm trying to get 09:14:25
18 across, Dr. Cole, is for the balance of your 09:14:28
19 deposition, I'm going to be referring to the 09:14:29
20 patent numbers, not necessarily the IPR 09:14:32
21 numbers. Okay? 09:14:34

22 A. That would be very helpful. 09:14:35

23 Q. Yes. I think it would be easier for 09:14:36
24 everybody. 09:14:38

25 A. Okay. 09:14:39

1 J. Cole

2 Q. And did you agree to testify 09:15:43
3 truthfully and honestly when you drafted that 09:15:46
4 declaration? 09:15:49

5 A. Yes. 09:15:50

6 Q. Okay. Let's move to the third one. 09:15:51
7 Could you identify that for us? 09:15:53

8 A. '520 patent. 09:15:55

9 Q. That's your declaration in the '520 09:15:57
10 patent case? 09:15:59

11 A. Yes, sir. 09:16:06

12 Q. Okay. Did you sign that declaration? 09:16:07

13 A. Yes, sir, I did. 09:16:09

14 Q. And did you agree to testify 09:16:10
15 truthfully and honestly in your testimony for 09:16:13
16 that declaration? 09:16:16

17 A. Yes, sir. 09:16:17

18 Q. So during the course of this 09:16:23
19 deposition, I'll be referring to "these cases" 09:16:25
20 sometimes, in which case I'm referring to all 09:16:30
21 three of those of the cases for which you did 09:16:32
22 declarations. Okay? 09:16:35

23 A. Let me make sure I understand what 09:16:37
24 you're saying. These three are different 09:16:39
25 cases. 09:16:41

1 J. Cole

2 Q. Okay. So since I've handed you these 09:14:40
3 exhibits, why don't you go one at a time and 09:14:44
4 tell me for the first one that you have in your 09:14:47
5 hand -- 09:14:50

6 A. The one I have in my hand is the 09:14:51
7 '967. 09:14:52

8 Q. What is it? It's the '967 09:14:53
9 declaration? Okay. Is that your declaration, 09:14:56
10 sir? 09:15:00

11 A. Yes. 09:15:03

12 Q. Okay. Did you sign that? 09:15:03

13 A. Yes. 09:15:14

14 Q. And when you signed that, you 09:15:14
15 understood that you were under oath and had to 09:15:16
16 testify truthfully? 09:15:18

17 A. Yes, sir. 09:15:19

18 Q. Okay. Now if you could pick the next 09:15:20
19 one up and identify that for us. 09:15:22

20 A. '607 patent. 09:15:26

21 Q. Okay. Is that your declaration for 09:15:28
22 the '607 patent case? 09:15:30

23 A. Yes, it is. 09:15:41

24 Q. And did you sign that? 09:15:41

25 A. Yes, sir. 09:15:42

1 J. Cole

2 Q. They are. 09:16:41

3 A. Okay, good. 09:16:42

4 Q. That's why you wrote down different 09:16:43
5 case numbers on the top of each. 09:16:45

6 A. I understand that, thank you. 09:16:46

7 Q. And you testified in February about 09:16:47
8 three different cases. Do you remember that? 09:16:50

9 A. February of this year? Let me -- 09:16:57

10 Q. February of 2015, did you have a 09:17:02
11 deposition related to these patents? 09:17:03

12 A. I would have to check my notes, but 09:17:06
13 I -- I think that's correct. 09:17:09

14 Q. Okay. 09:17:11

15 A. I don't have my calendar with me. 09:17:12

16 Q. That's okay. 09:17:13

17 A. But I did this year, so I believe it 09:17:14
18 was. I'm sorry, go ahead. 09:17:17

19 Q. How many times have you ever been 09:17:19
20 deposed? 09:17:20

21 A. One. 09:17:20

22 Q. One? So -- and that other deposition 09:17:21
23 was with respect to the '607, the '967 and the 09:17:24
24 '520 patents; right? 09:17:28

25 A. That's correct. 09:17:29

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1 J. Cole

2 Q. And those -- that deposition also 09:17:30

3 dealt with IPRs for those patents? 09:17:33

4 A. Cases. 09:17:39

5 Q. Correct. 09:17:39

6 A. Yes, sir. 09:17:40

7 Q. Now, you've been sworn in today. Do 09:17:44

8 you understand what that means, sir? 09:17:45

9 A. Yes, sir. 09:17:49

10 Q. That means you've got to testify 09:17:49

11 truthfully and honestly; correct? 09:17:52

12 A. Correct. 09:17:54

13 Q. And if you do not testify truthfully 09:17:54

14 and honestly, then you could be subject to a 09:17:56

15 charge of perjury. Do you understand that? 09:17:59

16 A. Yes, sir. 09:18:02

17 Q. Okay. I'm going to be asking you a 09:18:02

18 series of questions today, and if at any point 09:18:05

19 my questions are ambiguous, unclear, please 09:18:07

20 just let me know and I'll try to rephrase them 09:18:12

21 so that you can understand the question and 09:18:16

22 answer it. Okay? 09:18:18

23 A. Okay. 09:18:21

24 Q. If at any point you need to take a 09:18:22

25 break, it's absolutely fine as long as there 09:18:25

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1 J. Cole

2 Q. I think that's something you'd 09:19:20

3 remember. 09:19:22

4 Have you met Dr. Evans? 09:19:29

5 A. No, sir. 09:19:32

6 Q. Do you know who Dr. Evans is? 09:19:33

7 A. Yes, sir. 09:19:35

8 Q. Who is he? 09:19:35

9 A. He's a engineer -- I just know a 09:19:38

10 little bit about it. I -- I think when I heard 09:19:42

11 that he was going to be another witness, I 09:19:47

12 Googled, if you will, his information. And as 09:19:55

13 I understand, he's a professor of petroleum 09:20:00

14 engineering in Australia somewhere, a 09:20:03

15 university there. 09:20:09

16 Q. What else do you know about 09:20:10

17 Dr. Evans? 09:20:12

18 A. I don't recall without refreshing 09:20:15

19 myself because I was impressed, as I recall, at 09:20:19

20 the things he'd done. He has a pretty -- 09:20:24

21 especially because he's an academic, as I at 09:20:28

22 least used to be, so I was very much interested 09:20:32

23 in that. 09:20:34

24 And the other thing is I try to 09:20:35

25 network with people who are in this industry. 09:20:37

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1 J. Cole

2 isn't a question pending. We will try to take 09:18:27

3 a break every hour or so, so you can stretch 09:18:29

4 your legs, we can all stretch our legs and 09:18:32

5 whatnot. Fair enough? 09:18:35

6 A. Fair enough. 09:18:37

7 Q. So as long as -- if you need to take 09:18:37

8 a break for whatever reason, as long as there 09:18:39

9 isn't a question pending, we can do that. 09:18:41

10 Now, sir, are you under any 09:18:45

11 medication or the influence of any substance 09:18:46

12 whatsoever that would prevent you from 09:18:47

13 testifying completely and honestly and 09:18:51

14 truthfully today? 09:18:54

15 A. Not to my knowledge. 09:18:55

16 Q. Okay. And have you ever been 09:18:57

17 diagnosed with any condition whatsoever that 09:18:58

18 would affect your cognitive abilities or your 09:19:00

19 memory? 09:19:04

20 A. Not that I'm aware of. 09:19:05

21 Q. And forgive the next question, but I 09:19:08

22 have to ask it. Have you ever been arrested, 09:19:09

23 sir? 09:19:11

24 A. No, sir, not to my -- not to my 09:19:15

25 remembrance. 09:19:18

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1 J. Cole

2 And I almost went to Australia one year, so I 09:20:40

3 thought if I ever go back, I -- he's one person 09:20:45

4 I really want to look up. 09:20:47

5 Q. When you refer to "this industry," 09:20:49

6 what industry are you referring to? 09:20:50

7 A. The -- well, let me preface that 09:20:54

8 remark about what I do. My field is -- is 09:20:56

9 what's called subsurface diagnostic and 09:21:00

10 imaging, and that covers the spectrum of what 09:21:04

11 we do to try to determine what's beneath the 09:21:09

12 earth and where it is. And I'm also a 09:21:15

13 petroleum engineer by education and training. 09:21:19

14 He's a petroleum engineer. So we -- we have 09:21:26

15 more than one area. We have the engineering 09:21:30

16 aspect of it, then there -- there are more than 09:21:33

17 one aspect of -- of geophysics or so forth. 09:21:36

18 There's -- there's called upstream and 09:21:40

19 downstream, if you will. 09:21:42

20 The upstream has to do with -- they 09:21:44

21 used to call it expression production, then 09:21:47

22 they changed it to, what was it, like searching 09:21:51

23 and finding, or finding and producing. 09:21:54

24 But I think both of us work in -- in 09:21:58

25 those two areas. So I think that that's what 09:21:59

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