

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PETROLEUM GEO-SERVICES INC.

Petitioner

v.

WESTERNGECO, LLC
Patent Owner

Case IPR2014-01477

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 evidence served by Patent Owner WesternGeco, LLC on August 7, 2015. PGS files these objections pursuant to 37 C.F.R. § 42.64(b)(1), which—as of May 19, 2015—requires objections to be filed with the Board. *See* 80 F.R. 28,561, 28,563.

The exhibits objected to, and grounds for PGS’ objections, are listed below. PGS also objects to Patent Owner’s reliance on or citation to any objected evidence in its papers.

I. IDENTIFICATION OF CHALLENGED EVIDENCE AND GROUNDS FOR OBJECTIONS

A. Exhibit 2053

PGS objects to Exhibit 2053 under FRE 802 because it is inadmissible hearsay. This document appears to be 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, consequently, did not have an opportunity to respond or object to these statements.

PGS further objects to Exhibit 2053 under FRE 402 and FRE 403 because it is irrelevant and its probative value is substantially outweighed by the danger of unfair prejudice and wasting time in this compressed proceeding. Because PGS

was not a party to the ION case and did not have an opportunity to examine witnesses, object to evidence or present evidence or argument, PGS would suffer substantial unfair prejudice if this exhibit were admitted. Exhibit 2053 is also irrelevant because it does not demonstrate the required nexus. Therefore, Exhibit 2053 should be excluded under FRE 402 and 403.

PGS further objects to Exhibit 2053 because it has not been authenticated under FRE 901, is not self-authenticating under FRE 902, and is not a “duplicate” as defined by FRE 1001(e). Exhibit 2053 is therefore inadmissible under FRE 901, 1002, and 1003.

WesternGeco specifically cites to the declaration of Rick Workman contained in Exhibit 2053. The preceding objections regarding Exhibit 2053 apply equally to that document. Furthermore, PGS further objects because PGS was not a party to the ION case and, consequently, did not have an opportunity to examine Mr. Workman or object to his declaration. In addition, that document fails to comply with 37 C.F.R. §§ 42.53, 42.2, and 1.68.

B. Exhibit 2057

PGS objects to Exhibit 2057 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. The Board has instituted this IPR based on various grounds that certain claims of the patent-in-suit are anticipated

and/or obvious. The Board declined to deny institution of the petition on the basis that ION is a real party in interest or a privy of PGS in this proceeding. Because Patent Owner has cited this exhibit solely in an effort to show that ION is a real party in interest or a privy of PGS in this proceeding, this exhibit is irrelevant to the determination to be made in this IPR. Moreover, even were the question of ION's status as a real party in interest or privy of PGS relevant to the proceeding, Exhibit 2057 is not relevant to that determination and therefore should be excluded under FRE 402. And because any relevance of Exhibit 2057 is significantly outweighed by the undue prejudice associated with ancillary litigation of the tangential and irrelevant issue of Petitioner's relationship with ION, it should be excluded pursuant to FRE 403.

C. Exhibit 2059

PGS objects to Exhibit 2059 under FRE 802 because it is inadmissible hearsay. This document appears to be from the ION case. PGS was not a party to the ION case and, consequently, did not have an opportunity to examine Mr. Thompson or object to his testimony at that deposition or at trial.

PGS further objects to Exhibit 2059 under FRE 402 and FRE 403 because its probative value is substantially outweighed by the danger of unfair prejudice and wasting time in this compressed proceeding. Because PGS was not a party to the ION case and did not have an opportunity to examine Mr. Thompson or object

to his testimony at his deposition or at trial, PGS would suffer substantial unfair prejudice if this testimony were admitted. Moreover, because PGS was not a party to the ION case and did not have an opportunity to examine witnesses, object to evidence or present evidence or argument, PGS would suffer substantial unfair prejudice if this exhibit were admitted. Therefore, Exhibit 2059 should be excluded under FRE 402 and 403.

PGS also objects to Exhibit 2059 under FRE 402 and 403 because it is irrelevant and its probative value is substantially outweighed by the danger of wasting time in this compressed proceeding. The Board has instituted this IPR based on various grounds that certain claims of the patent-in-suit are anticipated and/or obvious. The Board declined to deny institution of the petition on the basis that ION is a real party in interest or a privy of PGS in this proceeding. Because Patent Owner has cited this exhibit solely in an effort to show that ION is a real party in interest or a privy of PGS in this proceeding, this exhibit is irrelevant to the determination to be made in this IPR. Moreover, even were the question of ION's status as a real party in interest or privy of PGS, relevant to the proceeding, Exhibit 2059 is not relevant to that determination and therefore should be excluded under FRE 402. And because any relevance of Exhibit 2059 is significantly outweighed by the undue prejudice associated with ancillary litigation of the tangential and irrelevant issue of Petitioner's relationship with ION, it should be

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