

IN THE 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. IPR2014-01477¹
U.S. Patent No. 7,080,607

PETITIONER PETROLEUM GEO-SERVICES INC.'S REPLY

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¹ Case IPR2014-00688 is a related proceeding.

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As in the first '607 IPR (IPR2014-00688), WesternGeco (WG) has no response to PGS's validity challenge to the '607 patent except to propose a claim construction of "prediction" that is inconsistent with (1) the claims, (2) the specification, (3) WG's prior litigation positions, and, quite alarmingly, (4) the position WG advocated to the European Patent Office ("EPO") in a brief only two weeks ago. WG apparently believes it may rewrite its claims with impunity, in direct contravention of the intrinsic evidence and its own repeated statements to multiple tribunals regarding the meaning of that intrinsic evidence.

WG urges that the only "reasonable" construction of "predict positions" requires the use of a so-called "behavior-predictive model" even though PGS, Dr. Evans, the Board (preliminarily, in the Institution Decision), WG's contentions in the *ION* trial, and WG's European lawyers all agree that the specification does *not* require any particular prediction methodology. Only WG's current U.S. lawyers disagree, as not even Dr. Triantafyllou, WG's expert, was willing to adopt this position. He testified that the specification identifies as "preferred" various methods of prediction that are *not* behavior-predictive models, Ex. 1001 at 4:28-29; Ex. 1117 at 204-05; Ex. 1105, meaning that WG's proposed construction reads out preferred embodiments—the antithesis of the "broadest reasonable interpretation" applicable in this proceeding. Even Dr. Triantafyllou recognized that the Board's broader preliminary construction is *not* unreasonable—testimony

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