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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

WESTERNGECO LLC	*	09-CV-1827
	*	Houston, Texas
VS.	*	
	*	
ION GEOPHYSICAL CORPORATION, FUGRO GEOTEAM, INC., ET AL	*	7:30 a.m.
	*	
	*	July 30, 2012

JURY TRIAL

Volume 6
Morning Session

BEFORE THE HONORABLE KEITH P. ELLISON
UNITED STATES DISTRICT JUDGE

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I N D E X

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WITNESS

PAGE

ROBIN WALKER

DIRECT EXAMINATION BY MR. LOCASCIO..... 1606

CROSS-EXAMINATION BY MR. TORGERSON..... 1703

1 THE COURT: You may.

2 MR. LOCASCIO: Thank you. WesternGeco calls
3 Robin Walker as its next witness.

4 THE COURT: Okay. Mr. Walker, if you could
07:36:52 5 make your way up here. If you could raise your right hand,
6 Mrs. Loewe will administer the oath.

7 CASE MANAGER: Do you solemnly swear that the
8 testimony you are about to give in the matter before the
9 Court will be the truth, the whole truth and nothing but
10 the truth?

11 THE WITNESS: I do.

12 THE COURT: Make yourself as comfortable as you
13 can. Do speak directly into the mike, if you would.

14 THE WITNESS: Thank you.

07:37:10 15 MR. LOCASCIO: Robin Walker is WesternGeco's
16 director of marketing and vice-president of sales. He
17 began his job with the company in 1985 and has been in
18 various sales and marketing roles with WesternGeco ever
19 since. His involvement with the Q-Marine system started in
07:37:29 20 1993 while he was the marine marketing and technique
21 manager. WesternGeco calls Mr. Walker to explain the
22 development of Q-Marine from a marketing and sales
23 perspective, as well as discuss the lateral steering
24 marketplace and how it has been impacted by ION and Fugro's
07:37:48 25 infringement.

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Direct-Walker/By Mr. LoCascio

1 **ROBIN WALKER,**
2 after having been first cautioned and duly sworn, testified
3 as follows:

4 **DIRECT EXAMINATION**

07:37:09 5 BY MR. LOCASCIO:

6 **Q.** Good morning, Mr. Walker.

7 **A.** Good morning.

8 **Q.** I gave a little bit of your background, but not to
9 cut it short, can you tell the jury if you have any
10 degrees and where from?

07:37:57

11 **A.** Yes. I have a bachelor's in geology from the
12 University of London in 1980.

13 **Q.** And in your role as director of marketing and
14 vice-president of sales, can you explain to the jury your
15 responsibilities, sir?

07:38:09

16 **A.** Yes. So I have three real responsibilities: I have
17 to -- responsible for the revenue. So WesternGeco's
18 revenue is about -- last year, it was \$2.2 billion out of
19 a market of 11.5 billion. And I have to run the sales
20 team, sales and marketing team. They're in three groups.
21 It's a total of 135 people.

07:38:31

22 And most importantly, I have to work with
23 customers, engage with customers, to find out what they
24 want, what they need and what they're planning to do.

07:38:50

25 **Q.** Thank you, sir.

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Direct-Walker/By Mr. LoCascio

1 Can you explain how you and your team
2 engage and interact with your customers?

3 **A.** Yes. So we have several ways where we engage. We
4 have formal ways. Some of our -- mainly one of the teams
07:39:06 5 is the global account managers, and they look after our
6 top 20 accounts. And we engage with those. I manage my
7 colleagues. Our management team and the customers'
8 management team have a annual review. And there we will
9 review the projects we've done, the -- what their projects
07:39:25 10 are planning to do and technology needs and business
11 issues. So that's one.

12 We engage at trade shows. We have -- there
13 are two major trade shows for our industry: One in the
14 U.S., one is somewhere in Europe. And we'll have a lot of
07:39:42 15 engagement with customers around there.

16 We have a lot of one-on-one meetings,
17 technical meetings. I still do technical presentations. I
18 love it. Technical meetings, business meetings, around the
19 sale cycle and separate to that. So we keep close. And a
07:39:58 20 lot of these people I've been -- since 1985 been dealing
21 with customers, so long, we've grown old and gray together.
22 So deal with them.

23 And then, of course, there's the formal
24 tender process where we bid for work and respond, and
07:40:16 25 that's -- that's very formal and a less open engagement,

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Direct-Walker/By Mr. LoCascio

1 but that's very important.

2 **Q.** Thank you.

3 Do you, sir, from your experience with
4 customers, believe there's a need for lateral steering in
5 your industry?

07:40:28

6 **A.** I do, yes, absolutely.

7 **Q.** When was the first time you saw that need?

8 **A.** So I saw it when -- when I was in the Far East you
9 mentioned, I went to Oslo to do the marine marketing
10 technique role. Before that, I was in the Far East, and I
11 saw there was a real need for surveys to be more cost
12 effective and so they need to be better quality. And that
13 was one way of doing that.

07:40:42

14 **Q.** When you moved to WesternGeco or Geco-Prakla, was the
15 company already working on that project?

07:41:02

16 **A.** When I moved to Oslo, we -- well, I moved to
17 Stavanger, the group is -- the engineering group was in
18 Oslo, yes, it was already underway.

19 **Q.** And after you were in Stavanger, what was your next
20 role with the company?

07:41:16

21 **A.** In 1998, I followed Q-Marine and the other stuff we
22 were doing up through until '98, and then '98, I moved to
23 Houston, here, had three lovely years in Houston, really
24 enjoyed it, and I was the manager of geophysics and
25 marketing at that stage.

07:41:30

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1 **Q.** And did you have any interaction with Q-Marine when
2 you were here in Houston?

3 **A.** Yes, I did. We normally -- it was going to go into
4 its initial testing in the wet testing, in-the-water
07:41:45 5 testing, and we normally do that in the North Sea. But
6 since it had been my baby, I said, rather I want to do it
7 in the Gulf of Mexico. So I was engaged with it on two
8 tests here.

9 **Q.** And what did you do after that?

10 **A.** So after that, WesternGeco was formed right at the
07:41:57 11 end of 2000, and then I moved to the London office,
12 Gatwick, where I became the market research manager.

13 **Q.** At some point did you ever have responsibility for
14 Q-Marine as a whole?

15 **A.** Yes. So we introduced Q-Marine and Q-Line which is
07:42:14 16 land system, around the same time, Q-Line slightly earlier
17 in 2001. And by 2004, the company decided we needed to
18 have one person to look after all of that business and
19 make sure it grew right, so I was appointed to that role
07:42:38 20 in 2004.

21 **Q.** I hand you binder some of exhibits. Also a cup in
22 case you need that with water.

23 **A.** Thank you very much.

24 **Q.** Yes, sir. Before we look at a few exhibits, I want
07:43:05 25 to ask you at a high level, can you explain how you see

Direct-Walker/By Mr. LoCascio

1 Q-Marine, what it consists of and how it works?

2 **A.** Yes. Of course. So it's got four parts, it's got
3 the lateral steering, that puts the streamers where you
4 want them to be, it's got the acoustic full brace acoustic
07:43:26 5 network, that tells the streamers where they are, and it's
6 got what we call calibrated marine source, that controls
7 the quality of the energy, we put into the earth, and it
8 has the single sensor streamer, which is used to get rid
9 of the noise.

07:43:41 10 **Q.** Is one of those a primary feature or the primary
11 feature of Q-Marine?

12 **A.** The one our customers want is lateral steering.

13 **Q.** And how do you know that?

14 **A.** Because that's the one they keep asking for in
07:43:55 15 quotes. And in the informal engagement to a big extent.

16 **Q.** Why is it that your customers put the most value on
17 lateral steering?

18 **A.** Because it speeds up projects, it makes them more
19 efficient, and it allows to improve data quality, so you
07:44:15 20 can't really operate with streamers close together when
21 they're very long, so you need to have lateral steering
22 and then they will just -- streamers be closer together,
23 and that's allows better quality.

24 **Q.** How does the streamer spacing -- is that the word you
07:44:32 25 used?

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Direct-Walker/By Mr. LoCascio

1 **A.** Spacing, yes.

2 **Q.** How does the streamer spacing improve quality?

3 **A.** Well, you want your sampling of the earth because
4 doing this 3D sampling of the earth, you want the size of
07:44:45 5 each little cube of earth you're investigating to be as
6 small as possible, and if your streamers a long way apart,
7 then your bits of earth it's like that big, you want them
8 to be smaller the only way to bring that smaller is to
9 have your streamers closer together.

07:45:00 10 **Q.** Was there a typical streamer spacing that the
11 customers used or sought before they were able to steer
12 the streamers laterally?

13 **A.** Pretty much everything was a hundred meters. That's
14 the length of a football field.

07:45:12 15 **Q.** Between each streamer?

16 **A.** Between each streamer, sideways yeah.

17 **Q.** Between lateral steering and Q-Marine product have
18 you been able to offer narrower spacing in those
19 streamers?

07:45:21 20 **A.** Yes. We've done 75 meters, we've done 50 meters. So
21 half a football field on a lot of projects. We did one at
22 37 and a half, that was a bit hairy.

23 **Q.** With streamers that are 5 or 6 kilometers long are
24 you able to do 50 or 75 kilometers -- pardon me -- 50 or
07:45:44 25 75-meter spacing safely without lateral steering?

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Direct-Walker/By Mr. LoCascio

1 **A.** Yeah.

2 **Q.** Without lateral steering?

3 **A.** Sorry. Without lateral steering, no, it's -- a
4 hundred meters is fine, but if you need, with lateral
07:45:55 5 steering, with lateral steering, it works, yes.

6 THE COURT: Does anybody ever ask that lateral
7 steering not be included for any reason?

8 THE WITNESS: Since about 2006, 2007, it's
9 either they explicitly ask for it or it's silent. I've
07:46:16 10 never seen anyone say: We actually don't want it.

11 THE COURT: Okay. And going back to your
12 introduction of yourself, where are you now working, sir?

13 THE WITNESS: So now I'm still in the Gatwick
14 office, which is our headquarters.

07:46:27 15 THE COURT: All right. Thank you.

16 THE WITNESS: Yeah.

17 BY MR. LOCASCIO:

18 **Q.** Can you give the jury a relative -- an idea of the
19 relative magnitude of the Q-Marine project?

07:46:37 20 **A.** It was the biggest project we were doing in
21 engineering. The engineering center in Oslo covers land
22 marine systems, if you like, and it was by far the biggest
23 project going in Oslo at the time.

24 **Q.** Was this something that was viewed as a easy one to
07:46:55 25 decide it was going to be a guaranteed winner?

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Direct-Walker/By Mr. LoCascio

1 **A.** No. It was -- it was a gamble. When it came out,
2 the CEO talked about Q technology as being his hundred
3 million-dollar gamble.

4 **Q.** Why is that?

07:47:08 5 **A.** Because over all, that's what we'd invested in the
6 technology and we didn't know if it would, the market
7 would accept it.

8 **Q.** And why did you think there might be some lack of
9 acceptance by the marketplace?

07:47:21 10 **A.** The industry is a little conservative. These
11 projects are very, very important, and they're very big, a
12 typical 3D seismic, it could be five, 10, \$20 million even
13 then, now that we do big surveys, it could be a million
14 dollars easily. And if it didn't work, then you could end
07:47:46 15 up with the things all ending up a massive pile of
16 spaghetti, customers a little bit show me that it works
17 and then I'll buy into it, which we understood, that's
18 part of what we do.

19 **Q.** You indicated the engineering development side of
07:48:03 20 bringing Q-Marine to the market was a hundred
21 million-dollar gamble was described as, do you know the
22 exact breakdown of where those funds were or how it breaks
23 down?

24 **A.** No, I don't. The lateral steering was a big part of
07:48:19 25 it, but that was, it over all -- I found the reference the

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Direct-Walker/By Mr. LoCascio

1 other day. It was over all Q technology. So there was a
2 little bit on the land side and the single sensor was
3 shared and the rest was marine. I don't have a breakdown,
4 I'm afraid.

07:48:33 5 **Q.** Were there essential funds necessary to get it
6 through market accepted after that initial hundred million
7 dollars?

8 **A.** Yeah, that was -- the hundred million was like a
9 entry ticket really because we had to put it into the
07:48:43 10 water, put it out, do projects for customers and do -- and
11 prove to customers that it worked, that we wouldn't end up
12 with more tangles -- which might have happened -- and it
13 actually gave the quality that it did. So we did a couple
14 of multiple client projects which were...

07:49:04 15 **Q.** The jury's heard a lot of things. I don't think
16 they've actually heard about a multi-client job. Can you
17 very briefly just explain what that is?

18 **A.** Okay. Sorry. So a multi-client job, a normal
19 proprietary job the company commissions us to shoot a
07:49:20 20 survey. And we give them the -- provide the data. A
21 multi-client job project we invest our own money in a
22 survey. For example, in the Gulf of Mexico we have
23 projects going on right now. And we spend our money to
24 invest in the survey, and then customers license the data
07:49:41 25 and as anyone who wants to can license that data, and just

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1 as much or as little as they want, the whole survey or
2 just one block, and then for a fee. So it's a different
3 business model.

07:50:00 4 **Q.** You indicated that there was a demand for lateral
5 steering both for better quality surveys as well as more
6 efficient or faster surveys. The jury has heard a little
7 bit about that. Can you briefly explain the key benefits
8 from your perspective in those two areas?

07:50:21 9 **A.** Yes. So, faster, more efficient surveys with lateral
10 steering, you can, first of all, what we call mobilize,
11 which is put the kit into the water quicker because you
12 can stern out, and then you can line up and you have -- if
13 you can steer your streamers and control them then you get
14 less infill, which you mentioned in the opening this thing
07:50:41 15 about little bits of grass left.

16 **Q.** That one I think the jury has heard a lot about.

17 **A.** Right. Okay. And then on doing the line change when
18 you're doing kind of a hand-brake turn but with a big
19 spread, these -- a seismic spread is the biggest moving
07:50:57 20 thing on the earth, so it may be a half a mile wide and
21 four or five miles long, and you want to turn it around as
22 quickly as possible because we don't make money turning
23 around, we make money shooting data. So you have to turn
24 around and then those streamers have to be absolutely
07:51:15 25 straight before you fire your first shot.

Direct-Walker/By Mr. LoCascio

1 So it steers them around and snap them
2 straight, so it saves a lot of time there. And that cuts
3 down the project duration.

4 **Q.** Is survey repeatability spreadsheet something that's
07:51:29 5 also valuable from your perspective?

6 **A.** That's very valuable.

7 **Q.** The jury has heard about 4D, but you've got a
8 demonstrative in there that --

9 **A.** Yes.

07:51:42 10 **Q.** Can we switch it? If you can briefly explain what
11 customers have told you about 4D and its impact on the
12 marketplace.

13 **A.** Right. So the idea of shooting 4D isn't new because
14 as we develop technology, customers they might reshoot a
07:52:10 15 survey anyway and do what we call accidental 4D, in other
16 words, I've shot it, I'll reshoot it, I might as well look
17 at the difference.

18 But then in the early '90s, mid '90s, we
19 started saying: Well, let's have a go at actually trying
07:52:28 20 to do it deliberately. So this shows a 3D over a survey,
21 a 3D survey over a field.

22 **Q.** Go to the next slide.

23 **A.** And the idea what we get out of good quality seismic
24 are attributes, you know, here's what the rocks look like,
07:52:47 25 here's what the geology looks like. And so, we can see

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Direct-Walker/By Mr. LoCascio

1 here that there's a reservoir and we can see oil and water
2 and gas and this is derived from the information we
3 acquire.

4 Now, if you go and reshoot that after a
07:53:05 5 certain period of time, then of course the rocks haven't
6 changed, the only thing that's changed is the fluid, and
7 so, you've produced oil and you can see and highlighted
8 areas is where the oil is produced from.

9 Now, a reservoir it's not just a big tank
07:53:24 10 full of oil, it's -- the oil is stuck in between in the
11 pores between the sands and it's split up by faults and it
12 splits and faulted and it's got little lithology changes.
13 So for our customers to produce from a reservoir, they
14 really need to understand all of this information. The
07:53:49 15 only way they can do that is with seismic. And we don't
16 necessarily know exactly if a fault is there, let's say
17 here's a bit of reservoir and another separated by a
18 fault. Well is oil going up that fault or not? We don't
19 know. We don't know.

07:54:07 20 So from the customers' the perspective, if
21 it is, I can sit here and this will eventually drain. If
22 it isn't, well, I've got to put a hole in here and drain
23 it.

24 So managing the reservoir, drilling in the
07:54:18 25 right place, because they keep drilling it. It isn't --

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1 you know, you develop a reservoir and it doesn't stay, it
2 keeps changing. So that information what this highlights
3 is, that is the area that's changed. And after a time --
4 thank you.

07:54:37 5 **Q.** Go ahead.

6 **A.** Then you separate -- you take one volume, subtract
7 the other and this is meant to come out and show up really
8 clearly and concisely the way -- where I've drained and
9 where I haven't drained.

07:54:51 10 **Q.** You mentioned that there were 4D surveys before
11 lateral steering. What's the big deal about it?

12 **A.** Well, the -- the problem is we did a survey and we
13 did a 4D survey for Statoil over at Ekofisk, not Ekofisk.
14 Gofax.

07:55:12 15 **Q.** And that's a place?

16 **A.** Yeah, that's the field name -- and in the Norwegian
17 section of the North Sea. You can Google it. It's still
18 one of the textbook presented in number of technical
19 papers. Gave a good result, but it was 10 years between
07:55:25 20 the two surveys. And it had to be 10 years because you
21 couldn't control that repetition. You had poor
22 repeatability, so the 4D single if you like, had to be
23 really loud so you can see it with clarity.

24 **Q.** You had to wait 10 years to see the difference
07:55:43 25 between the original formation and what happened?

Direct-Walker/By Mr. LoCascio

1 **A.** Exactly, yeah.

2 **Q.** Is 10 years a desirable amount of time to wait for
3 that 4D survey in the industry?

4 **A.** No, it isn't. If you look at fields around the
07:55:55 5 world, they are. Most fields, they are switched open, but
6 most fields are in kind of terminal design by that stage.
7 So a field will produce oil, and if we imagine it over
8 time, it starts out like that and then it trails off.

9 As the fresh decreases, becomes harder to
07:56:12 10 produce. And there comes a point where they say, okay,
11 we're done.

12 And so, during that time to keep the
13 production up, you want to inject water to increase
14 pressure, whole bunch of stuff the oil companies do. If I
07:56:28 15 can do a snapshot every two years, then I can do some
16 redevelopment on that field, whatever I want to do, and I
17 end up with a much greater production. In, fact because
18 of 4D, the Norwegian government mandates that 50 percent
19 of the oil in place should be produced from every
07:56:50 20 reservoir in Norway. Around the world on average it's
21 around 30 percent.

22 **Q.** And is that difference the ability to get a 4D image
23 in a two-year stretch, the contribution of lateral
24 steering versus having to wait 10 years?

07:57:06 25 **A.** It is. Absolutely it is, we couldn't do it before,

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Direct-Walker/By Mr. LoCascio

1 just couldn't do it.

2 **Q.** What does it take to be able to get that image over a
3 shorter period of time?

4 **A.** You have to be -- you have to repeat where your
07:57:17 5 streamers are, so here's my streamers on the underlying
6 survey and I want the new ones to be sitting right on top
7 of the old ones.

8 **Q.** Does it -- is it essentially like having a better
9 camera?

10 **A.** Yeah. That's the way of putting it. My daughter
11 turned 20 a couple of weeks ago, and we always take
12 birthday photos and line up with the criminals parade. So
13 if I look back and when my daughter was 10, any -- a poor
14 quality camera I can tell the difference, I know the
07:57:54 15 difference. But if I want to look at a picture of my
16 daughter at 19, the picture of my daughter at 20, picture
17 of my daughter at 21, you need to line it up, take a
18 picture in the good place, take a light, clothes won't to
19 be same, fashions will change. But, you know, just on her
07:58:12 20 fact I would tell the difference. But I would need a
21 better quality camera. It's a camera. Yeah, it is.
22 That's what doing. We're taking pictures of the
23 reservoir.

24 **Q.** Did you have any personal experience with the efforts
07:58:20 25 to test Q-Marine for the marketplace?

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Direct-Walker/By Mr. LoCascio

1 **A.** I did.

2 **Q.** Tell us about that.

3 **A.** So I said when I they moved me to Houston, I felt
4 kind of cheated because this had been my baby, but it was
07:58:33 5 good because I went out and the first thing we do is we do
6 just a test of the equipment, really. We want to know
7 that it will work. So we just put a streamer -- a single
8 streamer in the water just to test it. And we test it, we
9 could steer it and test that the electric works and all
07:58:53 10 the rest of it because posed a high risk. And normally we
11 just do that in and we don't really get some data, but I
12 had a, there was a customer worked for Kerr-McGee, who
13 was -- who had a particular problem at that stage and we
14 signed a mutual nondisclosure agreement and he told me
07:59:11 15 about his problem, and I told him about something we were
16 doing. So we actually went out and actually got a bit of
17 money out of him to do that test.

18 **Q.** You mentioned Kerr-McGee. Is that an oil company?

19 **A.** That's an oil company, yes.

07:59:28 20 **Q.** Were there some companies that were earlier adopters
21 of this technology, once you launched?

22 **A.** Yes. You always get an adoption cycle, some come on
23 early. So the guy, Kerr-Magee, he went from the U.S. to
24 Aberdeen and the first thing he did was phone up and
07:59:42 25 commission a Q-Marine survey.

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Direct-Walker/By Mr. LoCascio

1 I said I'd done a couple of surveys in the
2 Gulf of Mexico. The second one was -- the first of that
3 little multi-client project, which we didn't expect to
4 sell, but it was over Shell acreage. And they loved it,
07:59:59 5 the chief geophysicist at the time from Shell, Barbara
6 Bone said this was a new start for the Gulf of Mexico, so
7 it was really -- was fantastic. We were very pleased to
8 get that.

9 **Q.** When was the product ultimately commercialized?

08:00:13 10 **A.** So it was commercialized in 2001, in the North Sea,
11 and we had -- the first project was BP, they did a 4D, and
12 then Statoil picked it up immediately. So Geco was a very
13 Norwegian company. As I said, I'd been in Norway. So
14 Statoil, which is the stage oil company in Norway, were
08:00:36 15 very close.

16 We told them what we were doing we told
17 them a little bit about the technology, so they were
18 really just waiting. And the moment we said okay now it's
19 ready, they said right. We're going to go and try it.

08:00:51 20 **Q.** Was WesternGeco the first company in the market with
21 a lateral steering system for its streamers?

22 **A.** Yes.

23 **Q.** And how long was WesternGeco the only company in that
24 market offering that technology?

08:01:02 25 **A.** We were on our own until 2007 in the marketplace in

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1 business.

2 **Q.** During that time, were there WesternGeco customers
3 that developed a preference for using steerable streamers?

4 **A.** Yes, there were a lot. I said Statoil had done the
08:01:21 5 first project and then once they'd done it and they saw
6 that we could control the streamers, then they said, okay,
7 right, all 4D going forward, immediately, we want lateral
8 steering on all of them.

9 Shell used it, so we did a project in
08:01:39 10 Malaysia in late 2001 to early 2002. And they were
11 delighted because we just -- is this picture -- yeah, the
12 picture is still up. One of the other things you can do
13 with it if we -- customers have an irritating habit of
14 having production facilities in a producing oil field, and
08:01:58 15 they want us to be as close as -- they want us to get as
16 close as we can to it.

17 **Q.** To the rig?

18 **A.** To the rig.

19 Now, we normally steer our streamers to be
08:02:08 20 straight. That's what you do. But you may say: All
21 right. What I want to do because the vessel has a -- can't
22 get that close to the rig because of safety concerns,
23 absolutely right -- that you can actually deliberately
24 steer your streamers sideways so that you can get coverage
08:02:27 25 very near the rig, just by careful survey, planning and

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1 careful operation, so they were interested in doing that,
2 so they came onboard quite early.

3 **Q.** Are there other conditions at certain places of the
4 world that get a real benefit from this technology?

08:02:40 5 **A.** Yes. There are areas where you've got a lot of
6 currents, and the boats is going at four and a half knots,
7 something like that, which is about five and a half miles
8 an hour. And so, if you have a cross current, then your
9 streamers are going to be pushed out sideways.

08:03:02 10 Well, if they're regular, you can live with
11 that, but if you have odd currents and you get odd currents
12 maybe where you have a change in water depth, currents by
13 the outflow of rivers, big rivers, particularly around
14 Brazil, imagine what the Amazon water flow does, or in West
08:03:26 15 Africa we have projects there. So that's an area you want
16 to be able to steer them. There's another -- another very
17 specialized area which is in the Arctic, because the
18 shooting window in the Arctic is very short. You've
19 obviously -- you've got to wait for the ice to break up.

08:03:41 20 So if you can steer your streamers then even though there
21 are icebergs floating around and you have to do some fairly
22 hairy maneuvers, you can steer around them and you can get
23 started. And you can add a month to your shooting window,
24 and that's very, very important for our customers.

08:04:00 25 **Q.** Were there companies during this window after you

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1 launched Q-Marine that give direct awards to WesternGeco
2 because you were the only ones that could offer this
3 technology?

08:04:14 4 **A.** Yes. We had lots of them. I said Statoil after the
5 first survey. They gave us -- we had a five-year contract
6 that was about 15 surveys, 15, 4D surveys. We had direct
7 awards from Shell, direct towards from Total, direct
8 awards from Chevron in the 2003 area.

08:04:36 9 And we also had direct awards, quite big
10 ones from ONGC for example, which is the National Oil
11 Company of India. That was about \$300 million, that was
12 about three or four seasons work.

08:04:55 13 We had direct awards from Petro Gas. They
14 had a very complicated 4D, 3D, 4D they wanted. And a
15 direct award from PEMEX, which is the Mexican National Oil
16 Company for two seasons work, our vessel for a couple of
17 years.

18 **Q.** Was it unusual for companies, particularly national
19 oil companies to award direct awards?

08:05:10 20 **A.** Unheard of.

21 **Q.** Why?

22 **A.** Because they spend -- effectively they are spending
23 taxpayer dollars, and so they have to be open and
24 transparent and they do genuinely open public bids
08:05:23 25 openings or everyone bids and they set quite often fairly

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1 low technical criteria, and then take the cheapest because
2 it's the taxpayers' money they're spending, and they have
3 to look after.

4 But in these cases what they wanted to do
08:05:34 5 they knew they needed lateral steering, so it was a direct
6 negotiation. A fairly tough one, but it was direct.

7 **Q.** Due to your ability to be the only company offering
8 this patented technology, were you able to get premiums
9 from your customers on price?

08:05:49 10 **A.** We were, yes. We started with quite a high price and
11 then as we built up the fleet, we adjusted that and we
12 settled by about 2000, late 2000, late 2004, which is when
13 I was -- took over responsibility. I said: Look, let's
14 aim for about a 40 percent revenue increase. And it
08:06:14 15 didn't really look like 40 percent to the customers, but
16 that was 40 percent.

17 **Q.** Can you explain what you mean by if you're going to
18 increase your revenues as a company by 40 percent, how
19 that can be anything but a 40 percent increase for the
08:06:30 20 customer?

21 **A.** Yes. I said we're more efficient. So you imagine
22 that I'm doing 4Ds in the North Sea, and it takes me a
23 month and I've got maybe -- conventionally I'd have
24 \$10 million revenue, and another month of \$10 million, if
08:06:46 25 I can do that in three weeks, then and I've got a bit of

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1 an uplift mash it's \$12 million, then, I can get on to the
2 next job.

3 **Q.** Can -- make sure I understand that. So the example
4 you just gave, sir, say that's the start of a year, so you
08:07:25 5 have the first two months of the year. Under the first
6 example you gave with conventional streamers, how long did
7 you say that first job would take?

8 **A.** Well, let's say it took a month..

9 **Q.** And how much would you typically in this example say
08:07:46 10 charge for that job?

11 **A.** At the time about 10 million a month.

12 **Q.** And after you finished that job what would you do in
13 the second month?

14 **A.** Go on straight on to the next one.

08:07:57 15 **Q.** And how long that would take?

16 **A.** If it was the same size, it would be another month,
17 let's say.

18 **Q.** Same price?

19 **A.** Yeah.

08:08:11 20 **Q.** So with conventional in that one month, how much
21 would you get paid?

22 **A.** You'd get.

23 **Q.** On that two-month?

24 **A.** Two months you'd get 20 million.

08:08:29 25 **Q.** With lateral steering, how would these two jobs play

1 out?

2 **A.** So lateral steering we may do it in three weeks,
3 three weeks instead of a month, let's say.

08:08:44

4 **Q.** So call that job one and that job two. Job one would
5 now take how long?

6 **A.** Let's say three weeks.

7 **Q.** And how much would you be able to be able to charge
8 that customer for doing it with lateral steering?

08:08:59

9 **A.** If we wanted a bit of after premium, then maybe 12
10 million because the customer doesn't care. They'd like it
11 to take less time. They'd like it to happen instantly if
12 we could.

13 **Q.** Did they also get any benefit from that additional
14 \$2 million?

08:09:10

15 **A.** Yeah. Because it's a better quality product. That's
16 the point they get a better quality product out of it.

17 **Q.** And were you able to charge premiums like that 12
18 million instead of the 10?

08:09:24

19 **A.** Yes. Although it was very stainable the customers
20 were very happy with that engagement.

21 **Q.** Job two, would that take again three weeks in this
22 example?

23 **A.** Yes.

24 **Q.** And again 12 million?

08:09:39

25 **A.** Yeah.

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1 Q. So in the example you were giving a second ago you've
2 done both jobs in six weeks roughly instead of 8 and --

3 A. Yeah.

4 Q. -- you charged a little bit more so you made more
08:09:52 5 money?

6 A. Absolutely.

7 Q. Is there additional benefit to WesternGeco?

8 A. Well, we go on to job number three. The North Sea
9 season, it wouldn't maybe start in January but North Sea
08:10:03 10 season starts in April through to October you want to line
11 your jobs up back-to-back, so you have no dead time
12 between jobs.

13 Q. So in that example, you just gave, you'd have half a
14 job you got in or a little more than half a job in the
08:10:18 15 same month?

16 A. Yeah.

17 Q. And for that piece of that job, in those two weeks,
18 about how much would you make?

19 A. Maybe 6 million, maybe half a job. Yeah.

08:10:32 20 Q. And for that same two-month window or as you made 20
21 million with conventional streamers, how much money would
22 WesternGeco have made using lateral?

23 A. You'd make 30 million, so 50 percent -- 50 percent
24 increase in revenue, even though it's not a 50 percent
08:10:49 25 increase in price to our customers. Yeah, that's it.

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1 Q. In this example, you're able to charge more to your
2 customers but that additional time amount is what percent?

3 A. Well, it's 20 percent more to our customers, but
4 50 percent more revenue to us.

08:11:11 5 Q. Thank you.

6 MR. LOCASCIO: Go ahead and mark this as Walker
7 Demonstrative 1A.

8 BY MR. LOCASCIO:

9 Q. Were customers willing to make these payments of an
08:11:31 10 additional 20 percent or so to have their surveys done
11 quicker and better?

12 A. Oh, absolutely. They thought that was good exchange.

13 Q. Can you give an example of a customer who saw
14 particular benefit from 4D repeatability?

08:11:45 15 A. So Statoil was the first, what we had decided that
16 the real, the risk reduction point, the point of market
17 acceptance would come when we'd done the first Q project,
18 and then put another Q project on top of it, which we call
19 Q-on-Q, really to prove that the repeatability would work.

08:12:06 20 And Statoil did that very early on in the piece.

21 Q. If you can turn in your binder to Plaintiff's
22 Exhibit 95.

23 A. Oh, yeah.

24 Q. Can you find it? We've got Plaintiff's Exhibit 95 on
08:12:37 25 the screen. You also have a paper copy.

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1 What is that we're looking at, sir?

2 **A.** So this is a press release. So "Schlumberger
3 RealtimeNews" at the time was industry articles; but
4 obviously, we would contribute to it. So that was a press
08:12:55 5 release by us done with Statoil's agreement about the new
6 contracts that we'd been awarded by them.

7 MR. LOCASCIO: Dave, you can blow up the second
8 paragraph again, "We selected"?

9 THE WITNESS: Yeah.

08:13:09 10 BY MR. LOCASCIO:

11 **Q.** Again, can you tell us what that -- what that relates
12 to, sir?

13 **A.** So that was -- that was Eric was very keen to go and
14 get a Q-Marine project to do a Q-on-Q. And there you see,
08:13:26 15 we can say, "We selected the WesternGeco Q-Technology
16 because of the repeatability provided by streamer steering
17 and minimum azimuth variation between base and monitor
18 surveys."

19 So the azimuth, if you've got a survey
08:13:40 20 like that and the repeat is all off -- even if they're
21 perfectly separate, they're all offset, then it's still
22 not repeatable. So you have to have the same orientation
23 as well.

24 **Q.** And was there any discussion about how the accuracy
08:13:54 25 of WesternGeco's survey impacted their plans on the field?

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1 **A.** There was because this was Q-on-Q.

2 And the other thing we did was give them a
3 difference Q very, very quickly, three weeks after the
4 project. So now we've processed the base data, processed
08:14:12 5 the new data, gave them a difference Q. And they changed
6 their drilling plans. They were going to drill four
7 wells, and they changed the location of all four of those
8 wells within 30 days of the last shot on the survey. So
9 they were absolutely ecstatic.

08:14:27 10 I think if you go down -- I think there's
11 a reference, if you go to Paragraph 5.

12 MR. LOCASCIO: Scroll down a little bit. There
13 you go.

14 BY MR. LOCASCIO:

08:14:35 15 **Q.** Which paragraph is that, the "Our first Q surveys"
16 paragraph?

17 **A.** Yes. It says, "Our first Q surveys on Norne," which
18 is the field in the North Sea, "confirmed repeatability
19 was accurate enough to detect subtle 4D effects and
08:14:50 20 resulted in changed drilling plans."

21 Now, that was -- you see the reference in
22 Paragraph 4. It says Q-on-Q performed in 2001 and
23 repeated in 2003, so that was just 22 months. And this is
24 a survey for 2004, so then it's just one year. They got
08:15:08 25 two years, got a result out of two years and said, Let's

1 try it with just one year between the survey. And we've
2 shot it every year since up until about 2009.

3 **Q.** And how much did you get paid for the survey and how
4 much did Statoil save or benefit from the survey?

08:15:25 5 **A.** That's -- we got paid about \$30 million for these
6 surveys, and they were a bit coy for a while, but actually
7 they published a paper at -- a technical paper at SEG
8 where they were talking the -- that's -- sorry -- that's
9 the Society of Exploration Geophysicists, so that's our
08:15:45 10 technical body -- where they disclosed in that that they
11 generated \$240 million of value out of those surveys. So
12 that was a great data point for the industry. We realized
13 we had sold it cheap.

14 **Q.** Were there other studies or surveys you did involving
08:16:05 15 either rigs or obstructed areas where this technology
16 showed its benefit?

17 **A.** Yes. We'd done -- I said we had a direct role to
18 Petrobras. That was over a field called Marlim, which
19 was -- it was either one or two fields. They didn't know.
08:16:19 20 One was in production. They were going to develop the
21 next one. And that had -- there were 46 obstructions that
22 we had to shoot around and in between, so getting close to
23 those absolutely critical for the coverage.

24 I think there was there's a press release
08:16:40 25 or article.

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1 Q. If you turn to PTX 114.

2 A. That's the one. The 114 that's on the second page.
3 What's that? 956 reference. That's -- a bit small, but
4 if you look at the second paragraph.

08:17:01 5 MR. LOCASCIO: Blow that up. Thank you.

6 THE WITNESS: Zoom in on that.

7 Another example where Q-Marine's enhanced
8 acquisition techniques is in maximizing subsurface coverage
9 3D surveys. So this was -- this is actually a magazine
08:17:16 10 article. It's a final draft which was sent for me for fact
11 approval. But it's a magazine article having to do with a
12 trade show.

13 And over the Marlim complex of fields
14 operated by Petrobras in Campos basin, heavily obstructed
08:17:31 15 area, known for unpredictable currents and sea states.
16 Innovative utilization, remote source vessel, continuous
17 recording and streamer steering enabled subsurface
18 coverage.

19 So on that project, say it was a direct
08:17:46 20 award, we acquired it and they could tell from -- given the
21 quality of the data, which they'd never got before, they
22 could see that there were actually two fields, that the two
23 bits weren't actually connected. And so, that completely
24 changed their development plans for the second field.

08:18:02 25 MR. LOCASCIO: Dave, can you zoom out a second?

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1 BY MR. LOCASCIO:

2 Q. At the bottom left, it's sort of looks like there's a
3 Q video game.

4 Do you see that?

08:18:11 5 A. Yeah.

6 Q. Can you tell us about that?

7 A. We have -- we do have fun sometimes. This -- we
8 wanted to get the -- find a way of getting the point over
9 to our customers, because this was still very new. And
10 so, we -- this was on the trade show floor for two or
11 three years, and we invited our customers to sit down.
12 And it's -- the graphics were fairly simplistic, but
13 behind it was -- we'd introduced the enhancement to Q
14 called "advanced spread control," and that really
15 automated and got these different modes.

16 So we had them steer the vessel through
17 some obstructions, around some obstructions, and they did
18 it twice. The first time they did it conventionally, and
19 the second time we switched the streamer steering on and
20 they could get through the -- get through the
21 obstructions. It proved to be very popular, and we gave
22 them -- there was a PS3 as a prize at the end of each day
23 for the highest score, and you basically started from
24 20,000 to down when you were offline.

08:19:19 25 There was interest because we had -- it

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1 was great for us because the students all came along, but
2 the people who won it every day were the older people
3 because the students are doing this, and older people are
4 just a little bit more calm. So they tended to win. And
08:19:37 5 they said, PS3. What the hell am I going to do with that?

6 **Q.** Sir, was the technology behind the scenes, if you
7 will, running this similar to the actual lateral steering
8 technology you used on the boat?

9 **A.** It was exactly. It was a massive computer actually
08:19:56 10 behind it. Didn't look very -- graphically that exciting.
11 No, it was exactly that.

12 So we put currents into it, and it behaved
13 exactly the way the streamers do behave in the real world.
14 So it was -- it was a bit of entertainment, but it was
08:20:12 15 serious as well.

16 **Q.** I want talk to you about other customer reactions.
17 If you can turn to PTX 94 in your binder.

18 Were there oil companies that believed
19 that lateral steering was critical to 4D efforts?

08:20:24 20 **A.** There were. So this is -- this is a magazine article
21 for "Offshore Technology." And of course, they phoned us
22 up and asked us for pictures, but we had no control over
23 what went into this one. So you can't say you're not
24 going to do it. I was pleased when it came out.

08:20:43 25 So "Offshore Technology" is one that is used

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1 for all our industry, the oil industry. So some of you
2 guys may be in the oil industry if we're in Houston. You
3 may read this magazine. I don't know.

4 So to get a seismic article in "Offshore
08:21:01 5 Technology" was quite -- at the time quite unusual.

6 Anyway, yes, so it's --

7 Q. If you look at this top section --

8 MR. LOCASCIO: Dave, can we pull up this?

9 BY MR. LOCASCIO:

08:21:15 10 Q. It says, "WesternGeco's marine seismic solution is
11 gaining acceptance among E&P companies for it's high
12 definition images and vast improvement in repeatability."

13 Are the E&P companies the oil companies?

14 A. Yes. The E&P stands for exploration and production.

08:21:32 15 I was very happy with that headline.

16 MR. LOCASCIO: And if you turn to the second
17 page. Dave, if you can flip.

18 BY MR. LOCASCIO:

19 Q. There's a picture down here at the bottom that I want
08:21:42 20 to ask you about.

21 A. Right.

22 Q. Can you tell the jury what that is?

23 A. Yes. This is a screen dump. So on the boat, the
24 navigators who are monitoring where everything is in the
08:21:54 25 instrument room are watching continuously where everything

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1 is. And we position everything so we know where it is.

2 So the convention on the left-hand side is
3 a screen dump. It was a Q-Marine vessel, but we switched
4 the steering off. And this -- I wanted this picture.

08:22:14 5 Switch the steering off, and there was a
6 bit of a cross-current, and you can see where -- I think
7 that this was about the last shot point before we switched
8 the gun. You can understand they bottled at that point.

9 **Q.** Looks like you're flying pretty close to the edge
08:22:28 10 there.

11 **A.** Very close to the edge, yeah. I was -- I thought it
12 was a great shot, but I was glad I saw it after. I think
13 if I'd been on board, I would have -- whew.

14 Anyway, so that's conventional, and then
08:22:40 15 we switched the steering on. So it's the same vessel.
16 And then the second -- the picture on the right-hand side
17 is the steered streamers. And those two pictures were
18 taken 20 minutes apart.

19 **Q.** So that's real data. That's not just somebody's
08:22:55 20 cartoon of what this looks like?

21 **A.** Oh, no, no. That's real screen data. That's a
22 screen dump from the on board vessel.

23 MR. LOCASCIO: Thanks, Dave.

24 BY MR. LOCASCIO:

08:23:06 25 **Q.** Sir, what's WesternGeco's policy on licensing its

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1 technology to others?

2 **A.** We don't.

3 **Q.** Why not?

4 **A.** Because we use our technology to provide services,
08:23:17 5 and we're constantly trying to make better services and
6 improve the industry overall. And if we -- we want to do
7 what we do, and we encourage others to do what they want
8 to do and innovate and do different things.

9 **Q.** And is that part of your culture of inventing is
08:23:38 10 investing in your technology and then using it with your
11 customers?

12 **A.** Exactly, yes.

13 **Q.** Is it valuable to have the benefits of that
14 investment so you can differentiate yourself in the
08:23:48 15 marketplace?

16 **A.** Yeah. That's what we want to do is make money from
17 providing better services or more valuable services to our
18 customers so they've got a better quality of product, and
19 they -- because, you know, these surveys, they may only
08:24:05 20 cost millions, but the companies are making saving through
21 better optimized billions. In Jack with BP, I remember
22 once, said, you know, this 3D seismic will save us
23 billions, because that's -- that's very highly geared.

24 **Q.** Prior to the launch of Q-Marine, how did companies
08:24:28 25 differentiate themselves? Was it just sort of a price

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1 war?

2 **A.** It was a price war, yeah.

3 **Q.** And if you can talk to us for a few minutes about how
4 oil companies actually choose a company to perform their
08:24:44 5 surveys, I'd like to talk to you about that.

6 **A.** Okay.

7 **Q.** How does it start the process? So if somebody, let's
8 say, ExxonMobil has a field and they want to get a survey,
9 what's the first you learn of that?

08:24:52 10 **A.** So, they will talk to -- we'll hear about that two
11 ways, and this is probably a year in advance of a tender
12 actually appearing. But we have -- as I said, I have an
13 organization of geographical salespeople, and they're
14 close to what are called the "op co's," the operating
08:25:14 15 companies. So let's say it's -- you said Exxon --

16 ExxonMobil in Malaysia. Our guys know the chief
17 geophysicists of ExxonMobil in Malaysia. I also have a
18 global account manager who talks at headquarters level,
19 and he will know the manager of acquisition worldwide.

08:25:31 20 And it may come from either of those places, and it's
21 normally expressed as, Hey, we want to talk to you. We're
22 planning a survey. We're thinking about doing something
23 next year, and it starts a conversation rolling. And so,
24 we log that in our database as -- we call that an
08:25:50 25 opportunity. So that's a conversation with a customer.

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1 Q. And then does it proceed into a more formal process
2 over time?

3 A. Yes. So we may -- the customer may be talking --
4 your example of ExxonMobil, they would know exactly what
08:26:05 5 they wanted. But a lot of other companies may want to use
6 our expertise and say, Look, this is what we want to
7 achieve. We don't know quite how to go about it, so can
8 you help us design the survey?

9 So we do quite a lot of that.

08:26:19 10 So it gets gradually a little more and more
11 formal, and it also at some point ends up in a tender,
12 someone sending out a formal request for proposal for work.

13 Q. You put together a demonstrative to talk about how
14 these factors play into the bidding process.

08:26:39 15 MR. LOCASCIO: Dave, can we switch to Walker
16 Demonstrative 3.

17 THE WITNESS: Yes.

18 BY MR. LOCASCIO:

19 Q. Can you explain to the jury what you put together
08:26:49 20 here, what's going on?

21 A. Yeah. So we're at the stage now where a customer is
22 asking for proposals, they send out a formal tender with
23 requirement. And that tend to be a bunch of legalese and
24 stuff of that nature, saying all the rest of it. But it
08:27:09 25 will have a specification of what the project should be,

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1 including technical requirements, and they will send out a
2 request for proposal to -- quite broadly to companies.

3 And the way I've drawn it I've got four
4 people coming in and putting in proposals. And the first
08:27:29 5 thing that happens is a customer will specify technology.
6 It may be the number of streamers. Lateral steering is
7 something which is very often specified these days because
8 of its benefit.

9 Now, if you have -- if you don't have the
08:27:49 10 technology, you're number one or number four, then your
11 technical proposal will be rejected. Very often they're
12 actually in two envelopes, your technology and then your
13 turnaround and price. And you'll be rejected technically.
14 So you want to sort of make it through the bull's eye.

08:28:12 15 And Guy 2 and 3 I've got here are -- have got inside, and
16 those have been accepted technically, they've made the
17 barrier. And then there will be a discussion about price
18 and availability and how long the project will take and
19 operational risks and all that kind of stuff.

08:28:27 20 And then they'll make a decision, they'll
21 seek clarification from people and some of them will win
22 and some won't.

23 **Q.** For the people that get over the technology barrier,
24 you've got that triangle on the left side with, it looks
08:28:41 25 like, money, risk and timing.

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1 **A.** Yeah.

2 **Q.** How do those play into each other?

3 **A.** So those -- a customer comer will need -- will want
4 to get the right deal for them. And what they want on a
08:28:54 5 particular time may vary, in just the same way if you book
6 an airline ticket and you want to go tomorrow, timing is
7 more important to you and it's more expensive, and
8 that's -- that's it.

9 If a customer is well planned, they say,
08:29:09 10 Well, there's no particular rush on this project, price is
11 very important, then that would be the issue.

12 And the risk is the operational risk.
13 It's a little bit of an assessment of, Are they going to
14 turn on up on time? Have they done projects like this
08:29:23 15 before? You know, it's a soft delineation requirement.

16 **Q.** In your experience, do the customers even get to that
17 analysis until they've looked at the technology they want?

18 **A.** No. As I say, very often it's two -- very
19 formalized. Send it in two envelopes. The technology
08:29:41 20 analysis is done by the technical people, by the
21 geophysicists because they're going to be accountable
22 drilling in the right place, which is it's all about. And
23 the procurement people are just looking at this triangle.

24 **Q.** Can you give us an example in everyday life where you
08:29:57 25 might have this technology wall that's the first step in

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1 your decision-making process?

2 **A.** Yes. If I have four kids, which I haven't, but if I
3 had four kids and I was going to buy a car, I'd want three
4 rows of seats, and I'd want to have seatbelts in all of
08:30:14 5 them. So it wouldn't really matter. I may personally
6 lust after the convertible on one side, but I know that's
7 not what I'm going to end up buying. I'm going to end up
8 buying a people-mover with three rows of seats, and
9 nothing else will do. It's like that.

08:30:31 10 **Q.** Can you explain to the jury how exceptions to tenders
11 work? There was a little bit of discussion that you're
12 not privy to about exceptions to tender couple of days
13 back.

14 **A.** Okay. So every supplier puts in exceptions. There
08:30:47 15 are -- which is are not -- this is, I'd rather not live
16 with this or whatever. So contractual exceptions come in
17 into that triangle. They're part of the risk analysis.
18 If you get -- if you have the technology and you've made
19 it through technology barrier or over the technology wall,
08:31:04 20 then that's part of the customer's analysis. They may
21 say, This is important. They may say, It's not that
22 important; or they may say, Look, you've got to back down
23 on this. That's usually what they say. That's usually
24 what happens, actually.

08:31:18 25 **Q.** And for lateral steering, is that something that's

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1 usually negotiated in the back end or that's a technology
2 barrier?

3 **A.** No, that's always a technology barrier. That's
4 always a technology barrier.

08:31:28 5 **Q.** I'd like to talk more specifically about the tender
6 itself.

7 **A.** Right.

8 **Q.** So you talked about how you talk with the customers
9 and find out this was coming down the pipelines.

08:31:38 10 **A.** Yes.

11 **Q.** What happens next? They have to issue some document.

12 **A.** So then we've had have a lot of communication, and
13 then you go into lockdown mode really. Customer says,
14 Okay. We can't talk to you now, which is fair enough, and
08:31:49 15 then we get a tender document which is going to be a big
16 thing. It's got legalese, technical requirements and all
17 the rest of it, and we work from that.

18 **Q.** And how do you evaluate on a particular tender what
19 is actually required for that job?

08:32:04 20 **A.** So we will look at the operations, because the
21 customer, the first thing they'll always have is a map,
22 and they'll have the outline specifications, and the map
23 will tell us a lot. The map's really important, and we'll
24 look at it and say, Where is it? Is there shallow water?

08:32:22 25 Are there obstructions? You know, they -- what's the

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1 shape of the survey? That kind of stuff. So that's very
2 important.

3 We'll split up, and we'll have a look at
4 the technology, the outlying technical specifications.

08:32:39 5 And we'll look at the very detailed technical specs as
6 well.

7 So we have a small bid team that works on
8 that. So there will be six or eight people under the lead
9 of one marine sales. So we have about 20 people who are
08:32:55 10 just marine sales around the world. They will work on two
11 or three -- may have two or three bids we're working on at
12 the time. And they -- and only that bid team can interact
13 on that project.

14 **Q.** Does the specific customer give you insight as to
08:33:07 15 whether or not something, for instance, steerable
16 streamers is a requirement?

17 **A.** Yes, they do. There are several places that can be.
18 The obvious place is in the tender document itself. It
19 may say it.

08:33:22 20 **Q.** It may just say it.

21 **A.** Yes, may just say explicitly, very often.

22 It may be implicit. For example, if
23 you've got long streamers close together, I talked about
24 how you really couldn't do five-, six-kilometer streamers,
08:33:36 25 75 or 50 meters apart, without lateral steering. So then

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1 it's an implicit requirement.

2 There are also some companies who say at
3 headquarters level, We want lateral steering on every
4 project, so there are several like that.

08:33:54 5 **Q.** And who has that requirement? What customers have
6 put out that global requirement for lateral steering?

7 **A.** So Statoil did after 2001 to us. And Total says it.
8 They were quite early. 2004 they said -- in one of the
9 annual business reviews we had, they said, Lateral
10 steering is our top technology requirement for marine.

11 BP said it in 2005, the head of subsurface
12 technology, Peter Carragher, said, We only want to see
13 streamer steering from here on.

14 So we take that message seriously
08:34:37 15 because -- when it's delivered like that at the annual
16 business, you know, it's me and my boss who's the
17 president and their top level people, we say, Yes, sir we
18 take note.

19 **Q.** Were there any other companies that required lateral
08:34:49 20 steering for the jobs?

21 **A.** Petrobras did. We -- Shell have said they want to
22 see it. ExxonMobil have said they want to see it as well.

23 **Q.** How about Apache?

24 **A.** Apache did, but a bit later. They -- Dave Monk was a
08:35:06 25 bit, Okay, I'm not certain if this is really for me.

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1 But then once he decided, he said, Okay,
2 yeah, I want streamer steering everywhere.

3 **Q.** And has that been the case for several years?

4 **A.** Yes. It was from the -- late 2008.

08:35:23 5 **Q.** Are there situations where a technical requirement
6 might not explicitly be in the tender? And if so, why?

7 **A.** Very often, yes. So the big oil companies very often
8 work in areas like Africa, and actually their relationship
9 is they are a contractor to the government. It's kind of
08:35:44 10 a weird model, but they're a contractor to the government
11 and they are commissioning surveys from us on behalf of
12 the government. And the government then says, Well, I
13 want a certain minimum number of qualified bidders who can
14 bid this work.

08:36:01 15 So then it becomes a little bit of a game.
16 So they will then have to expand the universe of -- this
17 is -- there's apparently technically accepted people, and
18 they will have a -- they will then kind of look at what
19 they've got and say, Right, how can we make sure the
08:36:22 20 people who have the real technology we need are in there?
21 But the tender itself will -- they will deliberately lower
22 the apparent technical specifications in order to get the
23 right number of qualified bidders.

24 **Q.** Do they ultimately choose the ones that they have
08:36:39 25 lowered the standards to meet typically?

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1 **A.** No, not usually.

2 **Q.** How many tenders does WesternGeco receive every year?

3 **A.** Several hundred.

4 **Q.** And how many do you bid on?

08:36:48 5 **A.** We try to bid on pretty much all of them.

6 **Q.** Why?

7 **A.** Well, we're not going to win all of them, of course,
8 but we -- there are a couple of reasons.

9 In some areas, like Indonesia, if you
08:37:03 10 don't -- if you turn down three bids and you don't bid,
11 then you get taken off the bid list and you have to go
12 through a bunch of administration to get back on the bids.
13 So then we'll put a bid in anyway.

14 The other thing is we want to showcase our
08:37:21 15 technology, and one good clear way of showcasing it is to
16 put it in as an alternative or a base offering to the
17 customer. So the tender process can be used that way,
18 because you can always put in alternatives if you want to.

19 **Q.** Are there any companies that -- oil companies that
08:37:41 20 either don't let you bid or for whom you don't bid out of
21 personal choice?

22 **A.** No.

23 **Q.** Is there something called a master agreement you have
24 with some oil companies?

08:37:53 25 **A.** Yes. So quite a lot of the big oil companies want to

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1 have a master service agreement, so that's all the --
2 sorry -- the lawyer stuff, the Ts and Cs, that are all
3 sorted out, so that when they come to bid a project, then
4 they all they have to do is look at this famous triangle
08:38:14 5 there and technology. So it's much quicker for everyone.

6 So there is some companies where we have agreed
7 exceptions, and it looks -- you talked about exceptions
8 earlier. When you look at the looks frightful, but in
9 fact, with Total, we put in our 24 pages and they say,
08:38:33 10 Yes, they're all acceptable. And our different service
11 companies will have a different set of 24 pages, and they
12 all go through the same process.

13 **Q.** Are there some companies that you don't have a master
14 agreement with and you proceed job by job?

08:38:45 15 **A.** Yes. So the one we have with Statoil takes us
16 through the end of 2012. We're operating under that this
17 year, and we haven't agreed to what the procurement
18 department want to do after that. So what we've done is
19 we will bid on a job-by-job basis, and E&I, the Italian
08:39:05 20 oil company, the same, we say, We won't sign your master
21 agreement, but we've come to an agreement with them where
22 they will send us the bid and we will bid on a
23 case-by-case basis.

24 **Q.** And do you get work in that situation as well?

08:39:19 25 **A.** Yes. We do, yeah.

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1 Q. With more than a hundred tenders a year, how do you
2 keep track of them all?

3 A. Several hundred, I said.

4 We put them into a database called CRM.

08:39:32 5 Q. What does C --

6 A. Customer relationship -- sorry.

7 Q. What does CRM stand for?

8 A. Customer relationship management. It's not specific
9 to us. I mean, it's used in a lot of industries. It's an
10 approach. And Schlumberger uses it for all -- we use it
11 for all Schlumberger bids.

08:39:44

12 Q. How did CRM or customer relation management get its
13 start at WesternGeco?

14 A. Well, actually, I started it a good long time ago
15 because what you have to have -- we started with a vessel
16 schedule, where you live or die by the vessel schedule.
17 And that vessel schedule is our vessels, of course, but
18 it's also the competitor vessels.

08:39:58

19 When you lose a bid, which of course, we
20 do, then it goes to one of your competitors, and we want
21 to know where or when. So having a schedule put in helps.

08:40:13

22 So I did that, and then I linked the
23 module that's we used to cost the survey, because it's a
24 lot of parameters. It's a quite complicated thing, and
25 you pull up statistical databases and all the rest of it.

08:40:30

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1 And that was some big Excel application, which was --
2 actually ended up being quite hairy. And then that was
3 all put in to a web application, and then that was
4 incorporated into -- we bought this third-party software
08:40:52 5 from I don't know who, Oracle, I think, and adapted it for
6 Schlumberger's needs. So we have now have the vessel
7 schedule in there, and the survey costing tool linked. So
8 the price we are putting on a survey goes in there.

9 **Q.** And when you're at the desk or on the road with your
08:41:10 10 computer, do you have access to the CRM?

11 **A.** Yes. I've been using it a lot recently.

12 **Q.** And the information that's in there, is there
13 information on each of the jobs or tenders you get?

14 **A.** Yes. Every -- every opportunity, when -- and I said,
08:41:26 15 when we start with a new opportunity, which can be very
16 vague at that point, every opportunity gets its own
17 identifier, and then the project team gradually builds up
18 around it.

19 **Q.** As information comes in, is it put into the CRM
08:41:44 20 database at or around the time that you get the
21 information?

22 **A.** Yes. It's part of the salesman's job to update CRM
23 on basically on a daily basis. Whenever something
24 significant happens, then he's supposed to put that into
08:41:59 25 the database. That's his job. Or their job. Sorry.

1 Q. When tenders come in, is information then put into
2 the CRM database?

3 A. Yeah, the tender, the contract goes in and that's the
4 shared document or the shared database where the bid team
08:42:17 5 will work from. So they will put all the information into
6 the CRM, and the sales, accounting manager whose putting
7 the bid together will consolidate them.

8 Q. And does the team responsible for a bid, are they the
9 ones with access to that entry in the database?

10 A. Yes. You can't have anyone messing around with it
11 the way you were.

12 Q. Do the people who input the information, are they the
13 folks who actually have the knowledge of what the bid was
14 and what the customer said?

15 A. Oh, absolutely. Right from the beginning when the
16 customer first has a conversation that says, you know, I'm
17 looking for a boat for next year, then that gets logged
18 into CRM and the guy gets back to his office, or as you
19 say, you don't have to be in the office. I can access it
08:43:06 20 remotely.

21 Q. And does the CRM contain the best information you
22 have about what's going on in the marketplace at any
23 particular point in time?

24 A. Absolutely, yes.

08:43:14 25 Q. Do you and other companies at the company rely on it

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1 in the course of your work?

2 **A.** We rely on this, absolutely, yes.

3 **Q.** How so?

4 **A.** Because I said we live or die by the vessel. We want
08:43:26 5 to know exactly where competitor boats are when we're
6 bidding because that will impact our pricing. I also when
7 the -- we have a weekly operations meeting called and CRM
8 is used. Basically if it isn't CRM you don't have to talk
9 about it on a weekly call because it must be in CRM. It
08:43:49 10 must be there. So that's pulled up from and the president
11 and all the regional managers and me attend that call.

12 So if the regional sales managers haven't
13 got it absolutely clear, then they're in big trouble, and
14 I use it monthly because I'm compiling statistics monthly.

08:44:09 15 **Q.** Do you use the CRM to determine how to price bids to
16 customers?

17 **A.** Yes.

18 **Q.** How?

19 **A.** We're looking at the mark rate, so when one
08:44:19 20 someone -- when we lose a bid, or when we win it, even,
21 the customer may have put in five or six different survey
22 designs, different options, different technical
23 parameters, and we don't know at the time of award, which
24 one the customer will choose.

08:44:39 25 And so, obviously, whether we lose one,

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08:45:01 1 the competitor wins, we don't know which one they've
2 selected because the customer hasn't chosen. But what we
3 do know is when we look, when we win it, we do our best to
4 find out what the price is and the customers will usually
5 tell us, they're quite pleased to tell us if we lost
6 something on price, and we know what the scope was, so we
7 know the price and the scope and that gives us an idea of
8 what people are charging per vessel month and we're
9 watching that very closely.

08:45:17 10 **Q.** Where else do you get information that finds its way
11 into the CRM -- about what your competitors are doing?

12 **A.** So we get it directly from the customer. We may get
13 it from public bidder, so it's a small, like 10 percent of
14 the country -- of the world, where the bids are opened in
08:45:36 15 public, even when it's a western oil company ExxonMobile
16 or Chevron, they're all public, and they're all published
17 so that you know the price and usually the duration for
18 the specification of work.

19 So that is very clear and then we'll have
08:45:54 20 a clear idea and we'll put that in that data.

21 **Q.** Is there a standard policy about entering data in a
22 timely fashion?

23 **A.** Oh, yeah. I want it to be put in very clearly in a
24 timely fashion and example for marine Sam Gracon who is my
08:46:12 25 marine sales manager, which she just changed roles, she

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1 will be phoning people up and nagging them if there wasn't
2 something, and she was -- or she is very obsessed about it
3 being accurate. So if we're not certain if we don't think
4 it's reliable, it doesn't go in there.

08:46:27

5 So I wouldn't -- to be honest I wouldn't
6 say it's complete, its incomplete, but I trust what's in
7 there and that is what I'm -- I need to use in my
8 business.

08:46:39

9 **Q.** Have you ever seen a print out of some piece of the
10 CRM?

11 **A.** I did see a -- yeah, I think you had that in the
12 office, yeah. That's not what I use.

13 **Q.** You don't carry the -- this is Plaintiff's 547, you
14 don't haul this around with you like this?

08:46:54

15 **A.** No, I don't even haul it around. I think that's an
16 Excel. I don't haul it around in Excel either.

17 **THE COURT:** Could you tell us what you do?

18 **THE WITNESS:** Yes, absolutely.

19 **THE COURT:** You put that on the screen?

08:47:03

20 **THE WITNESS:** I look at it on the screen. It's
21 a Web application, so I can log in from anywhere, it's
22 obviously secure, log in from anywhere I am in the world,
23 get on to the application, then I can search by
24 opportunity.

08:47:17

25 And then we've got something called

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1 "Reporter," which outputs the results and then I look at
2 that from the point of view weekly, monthly revenue
3 updates.

4 BY MR. LOCASCIO:

08:47:29 5 **Q.** Have you taken any screen shots of the CRM so you can
6 explain to the jury what it looks like?

7 **A.** Yes, I did. You asked he to do that a little while
8 ago.

9 MR. THOMPSON: Your Honor, ION reiterates its
08:47:42 10 objections as to the admissibility that's under Rule 26 and
11 37 for failure to produce previously.

12 THE COURT: You may take him on voir dire, if
13 you want.

14 MR. THOMPSON: It's not a foundational issue,
08:47:51 15 Your Honor. It's a discovery issue.

16 MR. LOCASCIO: We produced this giant set of
17 the data, Your Honor. From the beginning it was always
18 clear from everyone's talked about it that you need to see
19 it if you want to interact with it. There was never a
08:48:04 20 request to see it. For source code, for instance, they
21 asked to see it, we provided it. They never did for this.

22 MR. THOMPSON: Au contraire. We didn't learn
23 only a certain amount has been produced. It was first
24 learned about during the deposition Samantha Graycon and we
08:48:21 25 expected a full supplementation and we didn't receive it.

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1 MR. LOCASCIO: No request was made to see it.
2 These are demonstratives of what the screen shot looks like
3 as opposed to the exhibits.

4 MR. THOMPSON: They are not demonstratives.
08:48:29 5 They are substantive material evidence of what they use on
6 a daily basis. And the first time we see it is in a
7 context of the so-called demonstrative.

8 MR. LOCASCIO: I'm not moving demonstratives
9 in, Your Honor.

08:48:40 10 THE COURT: You don't want to admit this?

11 MR. LOCASCIO: 547 we do, but the
12 demonstratives that we're about to show, just to show how
13 it looks to people who use it are for demonstrative
14 purposes only, Your Honor.

08:48:51 15 MR. THOMAS: You Honor, we'd note also if
16 they're trying to admit them as 1006, they haven't offered
17 to produce the underlying data and make it available for
18 inspection or copy, so we don't think it comes in that way
19 either.

20

21

22

23

24

25

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1 THE COURT: Well, very difficult for me to
2 understand what was and what was not requested and what was
3 or was not produced. I do think that it qualifies as a
4 business record. I didn't originally anticipate that it
08:49:18 5 would, but Mr. Walker has persuaded me. I'm going to allow
6 it. Sorry.

7 BY MR. LOCASCIO:

8 Q. Pull up RW-4, please, Dave.

9 So, we've got picture of your laptop using
08:49:37 10 the CRM?

11 A. That's my laptop screen, so that's me logged on.

12 THE COURT: Okay.

13 BY MR. LOCASCIO:

14 Q. Dave, if we can blow this part up, just this top
08:49:48 15 header here.

16 And if we need to, Mr. Walker, if you want
17 to point us to a different piece of the screen you have a
18 printout.

19 A. Yeah.

08:49:55 20 Q. If you let us know, we can zoom it in --

21 A. Yeah.

22 Q. -- a little bit better. I can do it with the ELMO.

23 A. Okay.

24 Q. Sure. Thank you, Ms. Loewe. You were one step ahead
08:50:10 25 of me.

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1 And so, what we have here.

2 **A.** So --

3 **Q.** Explain what we're looking at here.

4 **A.** So this is my home page, if you like, there's one
08:50:26 5 welcome screen, so you can see it says "opportunities"
6 across there, so that's our language for a business
7 opportunity, and you can see "opportunity home," and then
8 also they say "opportunity chart application." If you go
9 across you can see there's one that says "contacts" and
08:50:49 10 "WesternGeco." And the top there and that's where the --

11 **Q.** Is this here?

12 **A.** -- that's where the vessel charts and the vessel
13 schedule is hidden. And I can just draw any combination
14 of vessels there. So that's what it looks like, and I
08:51:02 15 type in -- I search by customer, I search by country, and
16 down at the bottom you can see there's it's actually off
17 the bottom, but there's a ID and I have -- when we talk on
18 the weekly calls, then it's always the CRM ID that people
19 are talking about so anyone can find it. So, anyway, I
08:51:28 20 answered that.

21 **Q.** If you can go to the next slide and show us what
22 we're telling the jury what we're seeing here. And I'll
23 show it on the screen.

24 **A.** So this is where we're looking and I did a search on
08:51:37 25 the customer and the search on the country, and we can see

1 it's not absolutely clear. There are two pieces of
2 business that we have with that customer in that country.
3 And because it's French Guiana it's not a very active
4 country.

08:51:52 5 **Q.** The French Guiana is where?

6 **A.** It's Latin America. It's just north of Brazil.
7 There's a series of small countries there. So this was a
8 3D survey. We were bidding and you can see the other one
9 says, well site, poor pressure services. That's nothing
08:52:09 10 to do with WesternGeco. That's one of the other business
11 segments. So I can't do anything with that, but I can see
12 it. So I get an overview of what the customer's business
13 looks like by the global account director.

14 **Q.** And if you look here for that entry you've
08:52:26 15 highlighted, it says "new tender," and then "new tender
16 received," and then a revenue number. Do you see that?

17 **A.** Yes, I do.

18 **Q.** Is that information that's inside that entry on the
19 CRM?

08:52:35 20 **A.** It is, yes.

21 **Q.** And how do you then find out more about this job?

22 **A.** So I then click on that and it goes to the next slide
23 and it's out of focus. So this is the -- this is my front
24 page to that project, so we've sort of gone down one
08:52:57 25 level. And in my front page I can see on the top it says,

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1 "Tullow Group Services," so that's the customer, sales
2 stage, that's closed, last, French Guiana is the country
3 I've got closed date, I've got significant dates of what
4 goes on WG Marine acquisition. So I know what it was
08:53:18 5 because I use this -- when we're looking at Marine
6 acquisition I use it for land, I use it for data
7 processing, I use it for multi-client licenses.

8 If you go down just a little bit you can
9 see the revenue. And that says "total revenue, read
08:53:34 10 only," and that's -- even though I'm the VP of sales, I'm
11 not allowed to mess with that number because I'm not on
12 the sales team.

13 So only the sales team can mess with that
14 number and that's transferred from the survey costing
08:53:47 15 tool, and that's what goes in. That's what we put it in.
16 That was our estimate of what the final cost would be,
17 based upon the customer's calculation of square
18 kilometers.

19 **Q.** And then there's a field called "awarded value" under
08:54:01 20 that, and over here on this side it looks like there's
21 some additional fields. Can you explain what these are?

22 **A.** Yes. The comment section is kind of like a running
23 commentary. And it's -- this is the start of it. So
24 customers request so there the account manager who was
08:54:20 25 Steve Whitten in this case. I know that because I can see

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1 the ID of his name.

2 **Q.** Is the next slide a blowup of those so it might be a
3 little bit easier to see.

4 **A.** That may be better actually. We tied it with script
08:54:33 5 because it wasn't there.

6 **Q.** And so, in the comments field, what does it say?

7 **A.** So that was the customer request where Steve Whitten
8 was talking to the chief geophysicists of Tullow for
9 French Guiana. And they said we want to get an idea of
08:54:48 10 availability of 10 streamer vessels, 75-meter separation.
11 I apologize for his spelling. Steerable streamers in
12 offshore French Guiana.

13 And so, that would be -- that's the
14 beginning of the chain where we would start to have a
08:55:03 15 discussion. So that would have been a business meeting, a
16 phone call, a face-to-face discussion, and that it gets
17 locked into CRM and that's the beginning of the
18 opportunity and then -- so this customer request
19 doesn't -- this comment section, doesn't contain

08:55:21 20 everything. There's a lot that's going on. I don't need
21 to know every single phone call, but before I go and see a
22 customer, obviously I want to know what's going on, so I
23 will just pull up CRM, all the active opportunities, all
24 the recently closed opportunities, and I'll flick through
08:55:37 25 them before I go and talk to the customers. I want to be

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1 informed.

2 And this is a good way, people who aren't
3 on the project team to get kind of a running commentary.

4 **Q.** Did you pull up a second job as another example?

08:55:49 5 **A.** Yeah.

6 **Q.** This is Slide 8.

7 **A.** So this one is total E&P Angola. Then you can see if
8 you look, it says contact's last name, so Phillip Kapell
9 is the chief geophysicists.

08:56:10 10 **Q.** Here?

11 **A.** Yes, of Total Angola.

12 **Q.** This also tells you who the person is you're dealing
13 with this?

14 **A.** Yeah, we have the whole customer organizational chart
08:56:19 15 in here. But this is the main contact name, which would,
16 you know, Phillip would be the person that I would expect
17 to be in charge of that project on the customer side.

18 **Q.** And for this job again, we blew up the comments as
19 you read, can you explain to the jury what this says?

08:56:38 20 **A.** So this is a little bit further down the role, he's
21 keeping this comment refreshed and updated, so 4D baseline
22 pass law tender has landed now, bid is due in on Luander
23 on Monday, 31st of May at noon latest.

24 THE COURT: Let me slow you down a little bit.

08:56:58 25 THE WITNESS: Yeah.

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1 THE COURT: The court reporter has got to keep
2 up with everything.

3 THE WITNESS: I'm sorry. Funny British accent
4 to cope with as well.

08:57:05 5 THE COURT: It's something we all have to be
6 reminded of, including myself.

7 THE WITNESS: Right.

8 BY MR. LOCASCIO:

9 Q. At the time, sir, it says "4D baseline," and looks
08:57:14 10 like the word is "Paz floor"?

11 A. "Paz floor." So that's the field that Total are
12 going to develop. So that's why it's a 4D baseline.

13 Q. And so, it's the first of two in the 4D timeline?

14 A. The first of many, hopefully in the 4D timeline.

08:57:32 15 Q. And then under that it discusses 10 streamers minimum
16 6,000 meters long, 50-meter separation?

17 A. Exactly.

18 Q. Does that give you an insight into your customer's
19 desire for lateral steering?

08:57:43 20 A. Well, three things on the sheet gives me insight on
21 the customer, first of all it's Total and they always want
22 streamer steering, secondly it's Phillip who regards
23 himself has the inventor of fan shooting, so I'll know
24 he'll -- I'll bet he'll want it shot fan, so that needs
08:58:01 25 lateral steering.

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1 And the six meet, six kilometer long
2 50-meter separation close to which Paz floor, if you look
3 at it, is an adjunct to the Girassol Dahlia complex, so we
4 probably have to do line change around -- shall I spell
08:58:16 5 that for the Court?

6 THE COURT: Yes, that would be good.

7 THE WITNESS: G-I-R-A-S-S-O-L, strike, at
8 Dahlia, D-A-H-L-I-A. It's -- they're actually flowers in
9 Angola.

08:58:35 10 BY MR. LOCASCIO:

11 **Q.** It then goes on to say, "Steerable streamers are
12 requested. Fan mode requested." Does that tell you
13 anything about what they want?

14 **A.** Obviously, it says steerable streamers are requested,
08:58:46 15 and he's requesting fan mode as well. Yeah. So I know
16 that lateral steering will be needed for this.

17 **Q.** And are these typical examples of how in your job you
18 look to the CRM to see what customers really want?

19 **A.** Yes. Absolutely.

08:59:02 20 **Q.** You talked a little bit about customer needs for
21 lateral steering. How early did you see that in the
22 trade? When did you start to see customers say I want
23 lateral steering?

24 **A.** So it started to appear -- I said we had this meeting
08:59:26 25 with Total in 2004, when they said lateral steering is our

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1 top technology requirement. So they made that clear to us
2 then. It started to appear in about 2007, in quite a lot
3 of tenders.

08:59:45

4 **Q.** And did you start to see it explicitly indicated as
5 required in all those tenders?

6 **A.** No. It started off saying -- sort of language that
7 said preferred, or a nice would be an advantage or
8 something like that.

09:00:04

9 **Q.** And as of today, 2010 or 2011, what percent of your
10 customers require lateral steering on their jobs?

11 **A.** So about 30 percent put it in as a requirement.

12 **Q.** Are they or others that tell you it's their
13 preference, or you know that's what they want?

09:00:17

14 **A.** Yeah, there's another 20 percent, I would say, who
15 say it's a preference.

16 **Q.** I want to look at a couple of tenders. The jury's
17 seen I think one tender so far. I want to ask you to look
18 at a tender or two and tell us where it indicates if they
19 want lateral steering or not.

09:00:32

20 **A.** Okay.

21 **Q.** Start with PTX 594. And so, what are we looking at
22 here in PTX 594?

23 **A.** So this is StatoilHydro U.S.A. and it's a bid for the
24 3D on Chukchi Sea. That's in Alaska -- offshore Alaska.

09:00:58

25 **Q.** And did you bid on this job?

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1 **A.** We did, yes.

2 **Q.** Did you get this job?

3 **A.** No, unfortunately we lost this.

4 **Q.** Who did you lose it to?

09:01:07 5 **A.** We lost it to Fugro with ION DigiFIN.

6 **Q.** Do you believe this tender indicates lateral
7 required?

8 **A.** I do. Yes.

9 **Q.** Can you tell us why you think for this job lateral
09:01:20 10 steering was required, either generally or from the tender
11 itself?

12 **A.** Yeah. So first of all it says Statoil. They would
13 merge with Hydro, StatoilHydro. But this would have been
14 the first time they'd not used lateral steering on a job
09:01:34 15 since 2001.

16 **Q.** So if it wasn't a requirement on this, it would have
17 been an exception?

18 **A.** It would have been very new usual.

19 **Q.** And you know, in fact, that they did use lateral
09:01:45 20 steering; correct?

21 **A.** They did. I've since found out they did use lateral
22 steering. We suggested to operate fan mode on this in our
23 tender response, which they adopted. It wasn't specified
24 but they adopted it.

09:01:57 25 **Q.** The jury's has seen some pictures of fan mode, does

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1 that require lateral steering?

2 **A.** It does, yes.

3 **Q.** Did the location of the survey indicate a need for
4 lateral steering?

09:02:06 5 **A.** Yes. So the map isn't in this exhibit, but when you
6 look at the map, you're in the Arctic and on -- or I
7 said -- I mentioned when you asked me awhile ago, the
8 ability to avoid icebergs and steer around icebergs can
9 extend the shooting window quite significantly in this
09:02:25 10 case.

11 **Q.** Does the tender have any information that also
12 supports that view?

13 **A.** It did. If you go to page -- I think it's 701 --
14 it's 702.

09:02:35 15 **Q.** Okay.

16 **A.** If you go to that.

17 **Q.** At the bottom, Dave.

18 **A.** Yes, at the bottom.

19 **Q.** What's the tender say about steering or lateral
09:02:48 20 steering?

21 **A.** It says, "Streamer geometry tolerances and criteria."
22 The first two are how they want. And the third one says,
23 "Lateral streamer position control, in case the turn to
24 technology encompassing lateral streamer position is
09:02:56 25 chosen, the above two criteria related to streamer

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1 separation location --"

2 THE COURT: You're going too fast. Slow down.

3 THE WITNESS: Yes. Sorry.

4 BY MR. LOCASCIO:

09:03:09 5 Q. You need to slow quite a bit.

6 A. Sorry.

7 Q. It says --

8 A. "Natural streamer position control." My apologies to
9 the Court.

09:03:20 10 Q. Does this paragraph you've just read on the screen
11 right now, that says, "In case an alternative technology
12 encompassing lateral streamer position control is chosen
13 for a particular survey, the above two criteria related to
14 streamer separation and location shall apply to all offset
09:03:38 15 groups," give you information about the customers' desire
16 for lateral steering?

17 A. Yes, it does. They're not saying how we are how to
18 do it, whatever the alternative is, but they're saying
19 they want it, yeah.

09:03:51 20 Q. The jury's already heard that on this job,
21 WesternGeco proposed the ship with lateral steering, but
22 also proposed a different ship. Are there instances where
23 you'll give customers two choices, even though you know
24 they want lateral steering?

09:04:08 25 A. Yes.

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1 Q. Why?

2 A. Well, there's two reasons: One, I talked about
3 someone having -- putting a bid in a country where the
4 government may have a say, so you may say we would put in
09:04:23 5 something -- and probably our competitors would as well --
6 not just specific to ours -- put in something that just
7 meets that technical requirement, even though you don't
8 know that's a real technical requirement, and then we'd
9 put in an alternative that meets the technical
09:04:40 10 requirement. The only thing is we want to demonstrate the
11 value of our technology.

12 Q. What do you mean?

13 A. Well, we can -- we can show customers, well, if you
14 did it without, then you can work through in cost. We may
09:04:55 15 work up a costing on exactly what a project would cost
16 without, and demonstrate the saving costing with, and then
17 they can make up their mind. And it's there in black and
18 white because it's our opportunity. It's our shop window
19 to -- the technical people are convinced, but we need to
09:05:14 20 deal with procurement departments as well.

21 Q. Let's look at another tender, sir, PTX 543. Dave,
22 can we pull that up some. Thank you. If we can just
23 blowup from this piece right here.

24 Can you explain to the jury what we're
09:05:35 25 looking at here in Plaintiff's 543?

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1 **A.** So this is Apache PA Australia. So this is when you
2 look at it, this is three surveys. It says "WA261P334P"
3 and "246" and "247P" combined.

4 So the northwest shelf of Australia is a
09:06:01 5 very perspective area. It's a very interesting area.
6 It's partly -- there's quite lot of production from it and
7 it's open, and Apache is particularly active. It's got a
8 lot of blocks out there.

9 **Q.** Okay. Did you bid on this job?

09:06:17 10 **A.** We did bid on this job.

11 **Q.** And did you get this job?

12 **A.** No, we didn't, unfortunately. Which was particularly
13 a shame on this one because this three was just the start
14 of a whole sequence of projects.

09:06:30 15 **Q.** Do you know who got this job?

16 **A.** Fugro did with ION DigiFIN.

17 **Q.** And how do you know that Apache wanted lateral
18 steering on this job?

19 **A.** So if you go down a bit on this -- so first of all,
09:06:45 20 it's Apache, and it's February 2010. So I know Dave
21 Marcus, who is a very dominant character, chief physicist
22 for Apache will be saying I want streamer steering on all
23 this project because he decided at the end of 2008. So if
24 I had nothing else, again, that would be a big clue.

09:07:06 25 **Q.** Does the letter we're looking at here, tell you

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1 something as well?

2 **A.** Yeah. If you go to the middle, the big paragraph
3 there's a bit that's underlined.

4 **Q.** Did you underline that or did it come that way from
5 Apache?
09:07:17

6 **A.** No, it came that way from Apache. They want to be
7 absolutely clear on their requirements.

8 **Q.** And what does it say?

9 **A.** So if you look at the -- don't read it all, but that
10 first line preferred acquisition, it says 10 times 75
11 times, 5000 meters.
09:07:28

12 **Q.** Is that right here in that first sentence?

13 **A.** Yeah. And underneath it just two lines down it says,
14 10 times 75 times 6,600 meters.

15 **Q.** Now, that way of describing a streamer array with 3
16 numbers, 10 times 75 times 5000 meters. What does that
17 say?
09:07:46

18 **A.** So that says I want 10 streamers, I'd like 10
19 streamers. I want them 75 meters apart, and they will be
20 for these -- remember this is three projects. One project
21 wanted 5,000 meters, and the other two projects I think
22 wanted 6,600 meters long. So I've got a very long spread
23 with streamers quite close together for that part of the
24 world.
09:08:05

25 **Q.** Okay. And what does that indicate to you about the
09:08:22

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1 customer's requirements for this job?

2 **A.** He's obviously -- the needs have that streamer
3 separation, so even if it wasn't Apache, we'd be looking
4 and saying we'd want to do streamer steering on this
5 project.

09:08:37

6 **Q.** Because for a 6,600-meter streamer --

7 **A.** 75 meters apart, that's a very dense spread without
8 lateral steering.

9 **Q.** Did they tell you anything else, or did you have to
10 just go on that basis?

09:08:50

11 **A.** No. If you turn to the next page and you can see
12 there's a bit in bold, right in the middle. And they
13 said -- you can read that, "Proposals offering streamer
14 lengths greater than 6,500 and 5,000 meters, and number of
15 streamers fully steerable of 4 or more will be
16 considered."

09:09:15

17 **Q.** What does that mean?

18 **A.** So that means I must, I'm not going to compromise on
19 streamer length, go ahead and 6,500 and greater than
20 5,000. Now, because the streamer length really controls
21 how deep you can get your seismic image from, so that's --
22 streamer length is really important and number of
23 streamers fully steerable, so they must be fully
24 steerable. At the time some people were saying I'll just
25 steer the tail. So fully steerable. And what's

09:09:50

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1 interesting here is it says four or more.

2 **Q.** I thought he wanted 10?

3 **A.** He wanted 10, but what he's signaling here is he will
4 compromise on the number of streamers. That's a soft
09:10:07 5 technology requirement that they must be fully steerable
6 and they must be that length.

7 **Q.** If we can turn to the next header, 822 in your
8 binder. If we can pull that up.

9 **A.** By the way, he also puts it explicitly underlined
09:10:26 10 in -- in case we didn't get the point, it's on Page 008,
11 it says, "A method for steering the streamers will be
12 considered as a prerequisite."

13 **Q.** Okay. Dave, can you pull that up?

14 **A.** A little bit belt and suspenders maybe, but I think,
09:10:44 15 you know --

16 MR. LOCASCIO: 543.

17 THE WITNESS: You couldn't fail to get the
18 message on that one.

19 BY MR. LOCASCIO:

09:10:47 20 **Q.** Where did you see that it was a prerequisite in this?

21 **A.** If you look at Page 008 --

22 **Q.** Okay.

23 **A.** If you look Section 1, which has been underlined.

24 **Q.** Okay. This is the first sentence where it said, "A
09:11:08 25 method for steering of the streamers will be considered a

1 prerequisite"?

2 **A.** Yeah.

3 **Q.** That's pretty clear indication that you have to have
4 it on this job?

09:11:15 5 **A.** Yeah. If we missed the subtle and the unsubtle,
6 that's the kick where it hurts, just in case we were
7 asleep on -- and the person doing the bid was asleep.

8 **Q.** Dave, if we can go to 822 again, please.

9 Mr. Walker, if you turn to the binder to PTX
09:11:32 10 822. Can you tell us what tender this is?

11 **A.** Yes. So this is a Tullow for Cote d'Ivoire, which is
12 Ivory Coast.

13 **Q.** Where is that?

14 **A.** That's in the Gulf of Guinea. We're doing a lot of
09:11:49 15 Guinea. This is the gulf of Guinea in West Africa. So
16 it's two or three countries to the west of Nigeria for
17 that job.

18 **Q.** And did you bid on this job?

19 **A.** We did bid on this job.

09:11:57 20 **Q.** And did you get this job?

21 **A.** No. We lost this.

22 **Q.** To who?

23 **A.** To Fugro with ION DigiFIN.

24 **Q.** Does this tender tell you anything that indicates you
09:12:08 25 need to use lateral steering?

1 **A.** Yes. If you go to Page 866. And you can see it says
2 "Currents" there.

3 **Q.** Let me just make sure we're all on the same page.

4 MR. LOCASCIO: And if we could blow up the page
5 for the jury.

09:12:24 6 BY MR. LOCASCIO:

7 **Q.** Is it 4.3.1?

8 **A.** Uh-huh. 4.3.1.

9 **Q.** What does this tell you?

09:12:30 10 **A.** It says -- it doesn't say streamer steering at this
11 point explicitly; but if you go at the end then in
12 "Execution," will see -- January to March will see effects
13 and these upwelling. They're talking about the currents
14 sentence.

09:12:46 15 **Q.** This is the end of the sentence?

16 **A.** Yeah. And some other inconsistencies which may cause
17 rip currents which will disrupt spread geometry.

18 **Q.** What are the currents like in the Ivory Coast?

19 **A.** Remember I mentioned that there are water --
09:13:01 20 freshwater rivers coming down, and there's quite a lot of
21 project -- quite a lot of acreage where the -- that's
22 impacted by the water coming out. And then you get -- you
23 know that picture I showed you with the streamers all
24 about to tangle, that's what it looks like when you get a
09:13:19 25 rip current coming through.

1 **Q.** Okay. Is there anything else in this tender other
2 than the fact that it's going to be used in a place with
3 these currents that indicates the customer is interested
4 in lateral steering?

09:13:30 5 **A.** Yes. If we go -- I need to flip my way through this.
6 There was section on geophysical objectives on 870.

7 **Q.** Okay. Is this Paragraph 6.4?

8 **A.** Yeah. 6.4, it says, "Additional requirements (as
9 requested by Company)."

09:13:59 10 Lateral streamer control system, Number 1
11 of that list.

12 **Q.** And does the paragraph below talk all about lateral
13 steering as well?

14 **A.** Yes. That says, "Deployments of lateral control
09:14:12 15 systems, either partial or a full deployment."

16 This project was quite interesting. This
17 was like the Australia project. You know, I said,
18 actually Australia, there was -- that was for three
19 projects; but in fact, there were another two or three,
09:14:29 20 and whichever vessel is there will obviously win the
21 followup work.

22 **Q.** Why is that?

23 **A.** Because a lot of these surveys are in very remote
24 areas. Some areas like the North Sea, there's quite a lot
09:14:41 25 of boats in the summer. But areas like here, there will

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1 only be one vessel around.

2 **Q.** Is there not that much exploration off the Ivory
3 Coast?

4 **A.** No, it's not that busy a country. It's just coming
09:14:53 5 in. I hope it will be busy in the future, but it's not
6 business at the moment.

7 **Q.** And you indicated there was a follow-on job?

8 **A.** Well, there was because we got a job from Apache --
9 not Apache, Anadarko, and Anadarko, in their tender
09:15:10 10 document, sent us a note saying they were partners with
11 Tullow on this project, so oil companies do risk-sharing
12 by two of them. So Tellow is the operator on here;
13 Anadarko is the partner.

14 And they said, You will soon get a bid
09:15:29 15 from Tellow. It is our intention to acquire these two
16 projects back-to-back with the same contractor, and you'll
17 find our technical specifications are substantially the
18 same.

19 So it was clear to us that you win both or
09:15:41 20 lose both.

21 **Q.** After Fugro won the Tellow job for Ivory Coast, who
22 won the Anadarko job you were just referring to?

23 **A.** Fugro won the Anadarko job as well with DigiFIN.

24 **Q.** Let's look at one last tender. If you can turn to
09:16:01 25 PTX 742.

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1 Can you tell us a little bit about this
2 job?

3 **A.** So this is ConocoPhillips. This is another one in
4 Australia.

09:16:18 5 **Q.** And did you bid this job?

6 **A.** We did, yes.

7 **Q.** Did you win this job?

8 **A.** No, we didn't.

9 **Q.** Who did you lose this job to?

09:16:25 10 **A.** We lost this one to CGGV. I believe it was DigiFIN
11 they used.

12 **Q.** If you look at this tender, does this tender require
13 you to use lateral steering?

14 **A.** It does, yes.

09:16:40 15 **Q.** Can you explain to the jury how you recognize that?

16 **A.** So if you look at the -- this is an area, if you look
17 at the -- there's an obstacle in the middle of the map,
18 well, middle of the project, which is identified in
19 Page 414, if you can flip quickly to this. I don't want
09:17:01 20 to spend too much time on this.

21 **Q.** Sure. If we look at "Optional Acquisition Services,"
22 is this the Paragraph A you were looking at?

23 **A.** Yeah. And the contractor will perform perpendicular
24 reef acquisition lines. And, in fact, further down, it
09:17:17 25 talks about there's obstacle reef, Seringapatam Reef. And

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1 this is a coral reef that's in the middle of the project,
2 so having --

3 MR. LOCASCIO: If we could turn to 866, Dave,
4 it's Page 4418. I think that reef seems to be showing.

09:17:29 5 THE WITNESS: Yeah. This is a close-up --

6 MR. LOCASCIO: One more?

7 THE WITNESS: Well, if we look at this one,
8 yeah, you can see one, two different configurations. This
9 is interesting, actually, whilst we're looking at it, that
09:17:40 10 shows two different designs.

11 They will have asked for a price for each,
12 and we won't know when we're awarded which one will do.
13 But both of them have this Seringapatam Reef in the middle
14 of it.

09:17:53 15 **Q.** I take it the name if the reef is the Seringapatam?

16 **A.** Yes.

17 MR. LOCASCIO: Dave, turn to the next page.

18 BY MR. LOCASCIO:

19 **Q.** Do you see it there.

09:17:59 20 **A.** Yeah. I don't know whether that's important for the
21 Court records.

22 MR. LOCASCIO: Can you blow up that picture?

23 BY MR. LOCASCIO:

24 **Q.** And explain to the jury what we're seeing on this
09:18:08 25 slide now.

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09:18:26 1 **A.** So this is -- that's the reef, so it's a coral reef.
2 So it's a pretty fragile environment. And obviously, you
3 can run the vessel through it, but you can't run -- the
4 streamers will break the coral. So very important to look
5 after this.

6 So we can see what looks like four sets of
7 lines around the outside of the reef. Those are -- that's
8 what they were talking about wanting to do, which were the
9 perpendicular lines around the reef. And that's all about
09:18:45 10 getting close to an obstruction.

11 So with 4D, we talked about 4D, and how
12 there's always -- almost always a production platform.
13 Well, this is a different sort of obstruction, a natural
14 obstruction, and it's very important to get close. And
09:19:03 15 you can also see, if you look up in the top left-hand
16 side, those lines going northwest/southeast. That
17 shows --

18 **Q.** This set up here?

19 **A.** -- these lines.

09:19:11 20 Yeah. That shows part of the basic
21 survey, and those are what's called the deadhead, which
22 means, our normal patent is this racetrack pattern. And
23 this is -- in order to get in as close as possible, get as
24 much data as possible and then to do a real hand-brake
09:19:28 25 turn to void the reef.

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1 So they're saying how close they want us
2 to be, and our guys will have calculated how tight a turn
3 they have to make. So we would expect you really have to
4 have lateral steering in order to do this.

09:19:43 5 **Q.** Did the contractor or the oil company also tell you
6 that you needed to use lateral steering to pull this off?

7 **A.** They did. If you look -- in fact, the next Page 419,
8 it's -- down the bottom it says, "Steerable Streamers.
9 Streamers must use lateral steering control devices
09:20:03 10 starting after the first" -- it's bunch of technical
11 specifications of how that lateral steering will be run.

12 **Q.** But this set of parameters indicated that the
13 customer wanted you use lateral streamers?

14 **A.** The lateral streamer control is mandatory, yes.

09:20:19 15 **Q.** Are you familiar with other jobs in Australia, such
16 as the TGS job?

17 **A.** Yes. TGS, they're not an oil company. I talked
18 about multi clients. So TGS is a company that does
19 multi-client but doesn't have its own boat. So they
09:20:44 20 charter boats from companies like us, and then they ask --
21 you know, it's a fairly informal tender process. And, in
22 fact, their tender to us was just an e-mail that said,
23 Here's what we want, give us a price.

24 So in that case, it was a very simplistic
09:21:04 25 specification, and then they wanted -- it was quite a big

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1 project to shoot, and it's a shame we missed that.

2 **Q.** Did they want lateral steering?

3 **A.** They wanted lateral steering. That was specified in
4 the e-mail, yes.

09:21:16 5 **Q.** And who did you lose the job to?

6 **A.** We lost that to Fugro with DigiFIN.

7 **Q.** How do you price these jobs?

8 **A.** I priced them to win.

9 **Q.** Were these the only surveys, the five or six we've
09:21:31 10 looked at now, where WesternGeco lost because a competitor
11 like Fugro had ION's DigiFIN equipment?

12 **A.** No. This is a small subset. I think there were more
13 than 200 that we found, but these -- this is -- I think it
14 was 25 in total. Those are the ones where it was very

09:21:48 15 clear that lateral steering was mandatory in those cases.

16 **Q.** So in this case, WesternGeco is seeking its profits
17 on all of those jobs or only of a small subset?

18 **A.** Only on that small subset.

19 **Q.** Have you lost jobs even in the past few months to
09:22:06 20 Fugro?

21 **A.** Yes. Frustratingly, we lost one a little while ago,
22 which is a project for Total, the Pistolet survey in
23 Holland, which is 20 -- I've got 26 obstructions under it,
24 and they've come and spoken to us over a year ago. And
09:22:29 25 where they were going to do it with OBC, ocean bottom

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1 cable, because of so many obstructions.

2 And we did some design and convinced them
3 that, with lateral steering, we'd be able to do it with
4 towed marine, which would be about half the price of OBC.

09:22:45 5 So --

6 **Q.** So they thought there would be too many obstructions
7 even to do it with a marine seismic vessel?

8 **A.** No one other than the NASA dynamic ^ splg project
9 with that complexity, I was talking about Marlim. So they
10 thought they couldn't do it with towed marine.

09:23:00

11 **Q.** And if you can't get the ships in, their suggestion
12 was that they would put cables on the ocean floor to do
13 it?

14 **A.** Yes, absolutely.

09:23:07

15 **Q.** Sort of like a land-based system, but lowering it to
16 the bottom of the ocean?

17 **A.** A full OBC. We have a big OBC crew as well.

18 **Q.** And what did you do to convince them otherwise?

09:23:20

19 **A.** So we did some very detailed survey design. They
20 gave us a map with all the obstructions, all the layout,
21 the area they wanted covered. And then our technical
22 specialists drew the design for them where all the
23 sections would go and where the heads would go.

09:23:38

24 **Q.** And after you did all that, who did they use for the
25 survey?

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1 **A.** They used Fugro with ION DigiFIN. \$64 million.

2 **Q.** Can you tell us about any trends you've seen in the
3 industry towards lateral steering?

4 **A.** Yes. It's gone from being a nice to have to a must
09:23:54 5 have. I think it's really mandatory for 4D, and it's
6 becoming very much a must have on exploration as well.

7 **Q.** Are more and more customers doing a 3D survey as a
8 baseline for an eventual 4D job?

9 **A.** They are, yes. So we're seeing more and more a trend
09:24:15 10 to finer -- smaller separation between the streamers, even
11 in the exploration stage. And even where customers stick
12 with a hundred meters because they want -- you know, they
13 want to cover as much acreage as they can, to identify
14 their prospect, then they'll say, Well, the good thing is
09:24:36 15 if I -- this one's a hundred meters apart, then if I've
16 got 50 meters for baseline, then I can put it in between
17 and my every other streamer then is my baseline, but I've
18 got a good quality 4D as well.

19 **Q.** Are you familiar with a company called Welling and
09:24:55 20 company?

21 **A.** I am, yes.

22 **Q.** What do they' do?

23 **A.** They do market research for all businesses in the oil
24 field.

09:25:03 25 THE COURT: Are you approaching the end?

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Direct-Walker/By Mr. LoCascio

1 MR. LOCASCIO: This is a good spot. I have a
2 little bit left, but this Welling Company is a good break.

3 THE COURT: Okay. Morning break. All rise for
4 the jury.

09:25:48

5 **(Recessed at 9:25 a.m.)**

6 **(The following was held before the jury)**

7 THE COURT: Members of the jury, you may be
8 seated. Okay. You may resume your inquiry.

9 MR. LOCASCIO: Thank you, Your Honor.

09:44:36

10 BY MR. LOCASCIO:

11 Q. Right before we took a break, Mr. Walker, I asked you
12 about a company called Welling and Company?

13 A. Yes.

14 Q. Who is Welling and Company?

09:44:45

15 A. So Welling do market research for all companies in
16 the oil field services. Schlumberger use them a lot and
17 we use them, so. They do market -- market surveys.

18 Q. So you do surveys where you survey a field for
19 reservoirs, these folks do a different kind of survey;

09:45:05

20 correct?

21 A. Yes, they're surveying professionals in the
22 organization, our customers.

23 Q. And are they used throughout the industry, not just
24 by you, but by your competitors?

09:45:16

25 A. They're used by everyone, yes. I assume other

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1 people.

2 **Q.** And you've seen enough about them in trades and other
3 things to know they're reliable and are use in the
4 industry?

09:45:26 5 **A.** Yeah, we've been using them since 2001.

6 **Q.** Turn to PTX 132, sir. What is PTX 132 just at a high
7 level. We'll focus on the details in a second.

8 **A.** Yes. So this is a graph -- this is a graph of
9 results of that survey, posted into PowerPoint.

09:45:50 10 **Q.** And so, can you tell us a little bit and explain to
11 the jury -- I know you took some screen shots for
12 demonstratives, what the Welling survey is and how you use
13 it at WesternGeco?

14 **A.** Absolutely. So we use it -- it's first of all, they
09:46:06 15 do it every two years or so. And they will interview
16 around 200 people, our customers, and put it in context.
17 The decision-makers in our industry for seismic
18 geophysicists is about 6- or 700 around the world. So
19 this is a big slice of those people that we're they're
09:46:30 20 interviewing.

21 They do it face-to-face, so we're not
22 involved, which is you got much more accurate results if
23 people aren't involved. And they do it face-to-face as an
24 interview, or they may do it over the phone because it's
09:46:47 25 customers all around the world.

1 Q. Can you pull the microphone a little closer.

2 A. Oh, I'm sorry.

3 Q. You don't need to move. You can just move the mike.
4 And with the demonstratives we've got on the screen, can
09:46:59 5 you explain to the jury what these are and what you did?

6 A. Yes.

7 Q. We can move back. Dave, if you can blow this part up
8 here, this top part.

9 A. So this is -- this is the user interface. One of the
09:47:17 10 really useful things about Welling is we get hundreds and
11 hundreds and hundreds of PowerPoint graphs, but I can get
12 into it and use it as an application, so thanks for
13 cutting it up.

14 This is from the 2010 survey, as it
09:47:36 15 happens. And you can see on the left-hand side there's a
16 column with a bunch of questions. And I click on the
17 question, and that will then show up on the top screen on
18 the right-hand side, and then the bottom, down at the
19 bottom, the results will be posted.

09:47:56 20 Q. And so, this is how you get information from the
21 marketplace, one way to see what customers are interested
22 in?

23 A. One way. Nice thing is that it's, you know, it's
24 fairly objective. We don't necessarily believe what they
09:48:08 25 say about price, but it's fairly objective.

Direct-Walker/By Mr. LoCascio

1 **Q.** If you can turn to the next slide, Dave. If you can
2 pull that up.

3 What are we looking at here?

4 Dave, if we can blow up the middle chart.

09:48:21 5 **A.** So this is -- the question was company type. And so,
6 they asked each individual person what company do you work
7 for? And then they have their categorization or I can
8 make my own, but they have their categorization as you
9 see, "major, large independent, medium independent, and
09:48:42 10 national oil company." So that's -- it shows me this is a
11 good spread. Very good spread.

12 **Q.** And can you then use this information to determine
13 what they think about a particular technology?

14 **A.** Yes. So I can -- I can then ask, I can then pull up
09:49:00 15 any of these questions and look at the answers to that
16 question. I can do it with a whole sample or I can do it
17 with a sub sample, which may be one of these they defined,
18 or it may be very specific.

19 **Q.** For instance, if we pull up RW 14, Dave. Thank you.

09:49:16 20 Is this an example of that?

21 **A.** Yes. So this is -- this is over the whole sample.
22 And you notice just before you blow it up, you can see on
23 the main sheet right at the bottom right-hand side, it
24 says "graph." So it's nice and easy. You just click the
09:49:36 25 graph and up pops the graph that you see. And then that

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1 graph I click "export," that goes into PowerPoint. So
2 that's how the PowerPoint data appeared.

3 So this says, "prefer to us steerables,"
4 and that's for the -- and this is the whole sample, and
09:49:58 5 you can see it says, "strong reject, slight reject, slight
6 prefer, strong prefer --" I'm sorry. I'm speaking too
7 fast, again -- my apologies -- "strong prefer, or no
8 preference."

9 **Q.** So your customers and others in the industry are
09:50:11 10 asked if they have a strong preference, slight preference,
11 a slight rejection or a strong rejection to the concept
12 of using lateral streamers?

13 **A.** Exactly. When you asked me earlier was there anyone
14 who said they didn't want to use lateral steering, this
09:50:27 15 makes our point.

16 **Q.** And so, does this lone person up here in this
17 category of 85 respondents that said they strongly reject
18 and there's a couple that slightly reject, looks like two
19 people?

09:50:43 20 **A.** Yeah.

21 **Q.** And there are, what, 34 people that said a slight
22 prefer?

23 **A.** Exactly.

24 **Q.** And 24 that strongly prefer?

09:50:51 25 **A.** Yes, that's the overall sample. As you see in the

Direct-Walker/By Mr. LoCascio

1 bottom, that's 85 respondents. So they -- the subset in
2 this case is the people who said that they use marine
3 seismic acquisition or marine services. So they're a
4 qualified sample.

09:51:08 5 **Q.** Can you focus that on a particularized set of
6 customers, not just all people in the oil and gas
7 business?

8 **A.** Yes, I can pull up a company name, and then I can
9 include or exclude a subset based on who they work on.

09:51:23 10 **Q.** And did you do that?

11 **A.** I did, yes.

12 **Q.** If we can go to the next slide, please. If you can
13 blow that up a bit.

14 We've got on the bottom, it says "23
09:51:40 15 respondents, SM." What's "SM"?

16 **A.** So "SMs" is super majors. So that's ExxonMobile,
17 Chevron, Chevron Texaco, Chevron, BP, Shell,
18 ConocoPhillips and Total. Those are the big six major oil
19 companies.

09:51:58 20 **Q.** And is this the same question, do they prefer to use
21 steerable streamers, but across only that set of super
22 majors?

23 **A.** Exactly. It's exactly the same question, and it's --
24 the response you can see, it's a smaller sample is 23, but
09:52:12 25 that's, you know, 23 chief geophysicists super major,

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1 that's good from my perspective.

2 **Q.** If we can go to Slide 17, which shows it a little
3 clearer. And what does the Welling survey about the super
4 majors?

09:52:25 5 **A.** That shows -- it's interesting if you remember the
6 previous patent where there was a slight preference,
7 strong preference, which was quite marked. Here it's even
8 more marked. The strong preference is even more dominant.
9 It's something like 89 or something percent of the total
09:52:43 10 sample had either a slight or a strong preference.

11 **Q.** Were there also questions about what particular
12 benefits customers saw from lateral steering?

13 **A.** There were, yes.

14 **Q.** And did you get that data. Go to RW 8.

09:52:58 15 **A.** I did. That was 18.

16 **Q.** And so, if we blow up the very bottom, Dave, if you
17 can do that that would be great.

18 It says, "First subset WG across market 82
19 respondents." What's that?

09:53:12 20 **A.** So I've gone through and I've looked at -- I've taken
21 the by job title. I don't know the people, obviously.
22 It's an anonymous survey. But I've taken the job titles
23 of our top 30 customers and then put in the most senior
24 people from the sample by job title for just those 30
09:53:34 25 customers also.

Direct-Walker/By Mr. LoCascio

1 Q. You can actually select what level of the employees
2 you want to include?

3 A. Yeah. One-by-one, yes.

4 Q. And what's the result of the data? If we could go to
09:53:43 5 the next slide, Dave.

6 For this question about value and steerable
7 streamers, what were the results for your approximate
8 market?

9 A. So you can see for our approximate market, this is --
09:53:54 10 the question was asked was: Do you see -- how do you
11 value where 10 is actually the, you know, gang busters and
12 1 is I don't care. And you can see this is the mean of
13 the medians, so two average responses. And we can see
14 it's around eight for those six categories of value in
09:54:21 15 steerable streamers.

16 Deployment is a little bit lower, which we
17 would expect, because we charge a lump -- a fixed sum for
18 deployment. So the customer -- it takes us a day or three
19 days. The customer isn't paying. He doesn't really care.
09:54:37 20 He wants it done quickly.

21 Q. Okay. Thank you, Mr. Walker.

22 I want to talk to you a little bit about the
23 damage to WesternGeco from ION introducing DigiFIN into the
24 marketplace and its use by Fugro.

09:54:53 25 First of all, who are WesternGeco's main

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1 competitors?

2 **A.** Our main competitors are Fugro CGV and PGS.

3 **Q.** And what companies are currently competing against
4 WesternGeco Q-FIN lateral steering, using ION's DigiFIN
09:55:10 5 equipment?

6 **A.** Fugro had it on I think all their fleet, and CVG and
7 PGS have some.

8 **Q.** What was the lateral steering market like before
9 DigiFIN entered the market?

09:55:23 10 **A.** So lateral steering market was stable, it was
11 constantly growing. We obviously had a hundred percent of
12 it, but it was growing year on year.

13 **Q.** And what happened after DigiFIN entered the market?

14 **A.** Well, then we started losing jobs and the premium
09:55:47 15 which I discussed that we could get in the marketplace,
16 evaporated very quickly.

17 **Q.** Was there a decrease in your market share as a result
18 of ION's introduction to this technology?

19 **A.** Yes. We started losing jobs with lateral steering.

09:56:04 20 **Q.** There are -- I think 200 or so jobs, 25 of those are
21 jobs where WesternGeco is seeking its lost profits for the
22 infringement. Did WesternGeco bid on all those jobs?

23 **A.** Yes, we did.

24 **Q.** Did you have the capability of actually doing the
09:56:23 25 work on all those jobs if you had gotten them?

1 **A.** Yes, we did.

2 **Q.** How so?

3 **A.** Well, after DigiFIN was introduced, we -- and we
4 started losing market share, as you've said, then we -- we
09:56:42 5 had in 2009, we had some empty slots on the vessel
6 schedule. So that's the vessel is there willing to do
7 work, but we couldn't find a project for it. So they were
8 tied up at the dock cite, not for a long time, but that is
9 time that we would have used in doing these projects.

09:57:00 10 **Q.** Have you looked specifically at those 25 jobs to see
11 if there was a ship that would be able to have done that
12 work, if it wasn't for the infringement?

13 **A.** There was in some cases. We couldn't have done all
14 of them, we could have done some of them, yes.

09:57:13 15 **Q.** You couldn't have done all the hundreds, but you
16 could have done the 25?

17 **A.** Just with the slots we might have done, but we had
18 extra capacity we could have used anyway.

19 **Q.** So you had some you could have the boats you had.
09:57:29 20 What's the excess capacity?

21 **A.** We had -- we built six vessels. And the last two of
22 those we held back. We held back for -- one for 13 months
23 and the other one for 15 months. So we could have brought
24 them out earlier, and we didn't because of the loss of
09:57:48 25 market share. So we didn't have the -- we didn't have the

Direct-Walker/By Mr. LoCascio

1 work for them to do.

2 **Q.** Which ships are those?

3 **A.** That was the TAZMAN and the COOK.

4 **Q.** Were there any other ships you could have used to do
09:57:59 5 this work?

6 **A.** Yes. We had three 8 streamer Q-marine vessels, so 8
7 for Fugro. I talked about earlier, Fugro started that
8 with an 8 streamer, a lateral steering boat. So it's
9 perfectly saleable in the market today.

09:58:17 10 We had three of those vessels, the TOPAZ,
11 THE SEARCHER and the PRIDE, that were equipped with
12 Q-Marine, and we actually derigged them. So we could have
13 just kept those operating. We turned them into source
14 boats.

09:58:32 15 **Q.** A source boat is the same type of boat, but it only
16 has the airgun?

17 **A.** It only has the airgun, but when we're doing
18 undershoot projects or we're doing azimuth, then we need
19 source boat for some of that time as well.

09:58:42 20 **Q.** When you're in a situation where you have a job and
21 you need to be there, but you don't have a ship, are there
22 other ways you can solve that?

23 **A.** Well, we could if we wanted to charter a vessel and
24 put our equipment on it. And very often the customer may
09:58:57 25 be -- the timing may be critical, it may not be critical.

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Direct-Walker/By Mr. LoCascio

1 If we say, we'll always be very honest about the vessel
2 availability, and we'll say we can do it, but maybe we
3 can't start on the first of the month, maybe it's the
4 middle of the month, or the first of the month afterwards
09:59:13 5 and say that's fine.

6 **Q.** I want to ask you a couple of questions about the
7 market share. Were you here for opening statements?

8 **A.** I was here for opening statements, yes.

9 **Q.** Did you hear Mr. Torrgeson for ION talk about how
09:59:29 10 WesternGeco's market share went down and it was
11 WesternGeco's own fault?

12 **A.** I heard that, yes.

13 **Q.** Pull up -- do you remember ION put this slide on the
14 screen and suggested the market share went from '01 to '07
09:59:53 15 down because, if I remember right, Q-Marine wasn't very
16 good, customers didn't like you, and you overpriced your
17 product. Do you remember that?

18 **A.** I do remember that, yes.

19 **Q.** It didn't have any numbers on it. Do you know what
10:00:09 20 the actual numbers that go with these graphs would be?

21 **A.** Yes. So our revenue in 2001 was \$1.8 billion, and in
22 2007 it was a slight under \$3 billion.

23 **Q.** And so, ION had these on its slide as being the same
24 size pie. Is that accurate or is that misleading?

10:00:35 25 **A.** No. The overall seismic industry in 2001, was

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Direct-Walker/By Mr. LoCascio

1 between 4- and \$5 billion, and it was \$12 billion in 2007.

2 **Q.** And from a profitability standpoint, what was the
3 profit in '01 versus the profit in '07?

10:00:58

4 **A.** So in 2007, we made, it was about 12 percent profit,
5 and then in 2007 it was 36, 37 profit.

6 **Q.** And so, what actually happened between 2001 and 2007
7 that resulted in the shrinking of your market share?

10:01:24

8 **A.** So we formed WesternGeco right at the end of 2000,
9 and that was -- Western had a float -- fleet and Geco had
10 a fleet, and we were very dominant in a lot of vessels.

11 But we decided that there were too many
12 vessels in the industry. There was overcapacity and
13 prices were very low. So we decided to be proactive and
14 take vessels away, in the hope that others would kind of
15 follow suit and the thing would stabilize out.

10:01:44

16 So from 2001 to 2003 we took nine vessels
17 away. We removed nine vessels.

18 **Q.** And the result of that was your market share went
19 down. Did your revenues go up?

10:02:01

20 **A.** Yes. Yeah.

21 **Q.** Did your profitability go up?

22 **A.** Yes.

10:02:12

23 **Q.** If you wanted to accurately represent these two
24 different stages to the market, would you need to take the
25 size of the pie into account?

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Direct-Walker/By Mr. LoCascio

1 **A.** Yes. The pie was smaller.

2 **Q.** So as we've got it now, is that a more accurate way
3 to depict the market than ION showed it on it?

4 **A.** I believe so, yeah.

10:02:25 5 **Q.** Now, this is all before Fugro and ION entered the
6 marketplace; correct?

7 **A.** Absolutely, yes.

8 **Q.** And so, in the window before infringement begins your
9 profitability had gone from 12.2 up to 36.7 percent;

10:02:41 10 correct?

11 **A.** Yes.

12 **Q.** What happened after that? Can we go compare to 2007
13 to 2011?

14 **A.** Yeah. So in 2011, the overall market you can see --
10:03:00 15 and this is, when I looked at it, I was trying to get
16 where the 40 percent came from, and I think, but I'm not
17 certain, that it includes seismic services and equipment.
18 That came up with 40 percent.

19 **Q.** And that data is available to you?

10:03:15 20 **A.** Yeah. It's -- we monitor competitor quarterly
21 revenue on a quarterly basis.

22 **Q.** So, for instance, your revenues are publicly
23 disclosed as well as Fugro's, et cetera?

24 **A.** Our revenue was publicly disclosed up until end of
10:03:34 25 2010. So 2011 they're not -- we've reconfigured and we

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Direct-Walker/By Mr. LoCascio

1 became part of the reporting of Schlumberger was a group
2 level.

3 **Q.** So your numbers, you know them?

4 **A.** I know them.

10:03:47 5 **Q.** Okay.

6 **A.** I know them. I know our numbers.

7 **Q.** And for your competitors' numbers they're available
8 to you because they're published?

9 **A.** It's public domain information, yes.

10:03:55 10 **Q.** In 2007, the market was 12.2 billion. What was it in
11 2011?

12 **A.** It was 12.4 billion. Services went down and
13 equipment sales went up.

14 **Q.** And the profitability of your business in this period
10:04:08 15 after ION and Fugro launched DigiFIN went from what to
16 what?

17 **A.** So it went from 37 percent down to 20 percent.

18 **Q.** And so, on opening, ION only showed '01 to '07, but
19 in the window that matters in this case, '07, after they
10:04:26 20 lost the infringing product to 2011, did your market share
21 go down?

22 **A.** It did, yes.

23 **Q.** Did your profitability go down dramatically?

24 **A.** It did, yes.

10:04:36 25 **Q.** Are you saying that all of that is Fugro and ION's

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1 fault?

2 **A.** No, absolutely not. There was a downturn in the
3 industry and would expect it to go down.

4 **Q.** But you believe some of it is?

10:04:48 5 **A.** I do, yes.

6 **Q.** And why so?

7 **A.** Because if you look at the -- in a downturn in the
8 industry -- and ours is a cyclic industry -- you would
9 expect everyone to go down. And we went down, CGV went
10:05:05 10 down, PGS went down, but Fugro went up.

11 **Q.** If could you pull up RW20.

12 Did you look at the actual revenues at
13 market share of the big four? You weren't here, but there
14 was a chart shown to one of the witnesses of the big four's
10:05:18 15 market share. Are these the big four, WesternGeco on the
16 left, CGGV, PGS and then Fugro?

17 **A.** They are, yes.

18 **Q.** And did you compare their market share amongst each
19 other in '07 and 2011?

10:05:32 20 **A.** Yeah.

21 **Q.** And what did it show?

22 **A.** So you can see here that CGV and PGS went down 8,
23 10 percent, which is inline with the way the market went
24 down. But WesternGeco went down a lot more than that. We
10:05:46 25 went down 26 percent and Fugro went up 55 percent.

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Cross-Walker/By Mr. Torgerson

1 Q. So in this window in the market for seismic services
2 shrunk and WesternGeco went down 26 percent, and two of
3 the other big four went down a little bit, Fugro went up a
4 great deal?

10:06:05 5 A. Yes.

6 Q. And is the window when Fugro was offering lateral
7 steering using ION and DigiFIN equipment?

8 A. It is, yes.

9 MR. LOCASCIO: Pass the witness, Your Honor.

10:06:14 10 MR. TORGERSON: May I proceed, Your Honor?

11 THE COURT: You may.

12 **CROSS-EXAMINATION**

13 BY MR. TORGERSON:

14 Q. Good morning, Mr. Walker.

10:07:08 15 A. Good morning.

16 Q. My name is Ray Torgerson. I represent ION
17 Geophysical. We met previously at your deposition. How
18 are you today?

19 A. Yes.

10:07:18 20 Q. I've got a couple of questions that I'd like to start
21 with you. In your testimony on direct actually started us
22 off in the right direction.

23 I'd like to turn, if we can, to
24 demonstrative 22, that was just shown to you. If we could
10:07:37 25 switch to the ELMO, please.

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Cross-Walker/By Mr. Torgerson

1 We were just discussing this with
2 Mr. LoCascio. You would agree with me that in between
3 2007 and 2009, WesternGeco's market share was 25 percent;
4 correct?

10:08:01 5 **A.** Overall, yeah.

6 **Q.** So if we were to write in 2009, we could say
7 25 percent; fair?

8 **A.** Yes.

9 **Q.** What was WesternGeco's profit, in terms of dollars in
10 2009?

11 **A.** In 2009, we made -- and to check this -- I think it
12 was 600, 500 million IBT.

13 **Q.** 500 million?

14 **A.** I think. These are all IBT and I was looking at data
15 point. I need to check.

16 **Q.** What is IBT, for the benefit of the jury?

17 **A.** It's income before tax.

18 **Q.** But all of these numbers here, the 1.1 billion profit
19 in 2007, and the 431 million in 2011, that's under the
10:08:54 20 same IBT standard, so we're dealing with apples to apples;
21 fair?

22 **A.** We are, yes.

23 **Q.** And let's go back to -- and to be clear, this
24 25 percent market share had stayed the same between 2007
10:09:10 25 and 2009 during that two-year period that DigiFIN was in

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1 the market?

2 **A.** It would have stayed about pretty reasonably flat,
3 yes.

4 **Q.** All right. And if we go back to Page 21 of your
10:09:23 5 demonstrative, right there. I apologize. I don't have
6 the timing pie that you were showed. I don't have that
7 slide. I just have this slide. But would you agree with
8 me that in the data set between 2001 and 2007, let's take,
9 for example, 2004, you would agree with me that

10:09:45 10 WesternGeco's market share had dropped already to
11 25 percent?

12 **A.** It was on its way there. It was about between 20- --
13 about 28, 30 percent. It took a dip. As I said, we
14 reduced the fleet in 2001.

10:10:03 15 **Q.** And that was the result of the overcapacity in the
16 general towed marine seismic market that had nothing to do
17 with the competitor for lateral steering?

18 **A.** Yes, I've said that.

19 **Q.** Some three years before DigiFIN entered the market;
10:10:16 20 yes?

21 **A.** Yes.

22 **Q.** Now what was WesternGeco's profit in 2004?

23 **A.** In 2004, I think it was -- it was about 300 million,
24 something like that, IBT.

10:10:43 25 **Q.** Fortunes had increased between 2004 and 2007, from a

Cross-Walker/By Mr. Torgerson

1 dollar standpoint; agreed?

2 **A.** Yes.

3 **Q.** Would you agree that that was a good time in the
4 industry and that essentially, all companies were doing
10:11:01 5 well, not just WesternGeco?

6 **A.** Yes, all companies were -- well, yes, they were doing
7 well, yeah.

8 **Q.** Now, in 2011 -- going back to Demonstrative 22 -- in
9 2011, you testified that your market share was about
10:11:26 10 18 percent. Have you ever told me that your market share,
11 by way of revenue, was actually 25 to 30 percent?

12 **A.** I did, because I was looking at the services revenue
13 for marine I think at that stage, in the question. But
14 some of these services I didn't include equipment, which
10:11:46 15 we did because I was trying to match your 40 percent to
16 start with.

17 **Q.** So when you told me previously in connection with
18 this case, that the market share for WesternGeco in 2011,
19 at least by September of 2011, was between 25 and
10:12:02 20 30 percent, we were comparing apples and oranges?

21 **A.** Yes.

22 **Q.** All right.

23 **A.** I think we may have been talking about capacity or
24 revenue. You'd need to remind me. It was awhile ago.

10:12:12 25 **Q.** Is there a difference between capacity and revenue

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Cross-Walker/By Mr. Torgerson

1 for purposes of arriving at these numbers?

2 **A.** So if we were dealing with marine revenue, there
3 would be because capacity is split between the third party
4 and the multi-client market. And I think our previous
10:12:28 5 conversation we were talking about the proprietary market
6 and bids won and lost.

7 **Q.** And when you say proprietary market, did that include
8 the multi-client work that WesternGeco does for itself?

9 **A.** No, we treat that separately.

10:12:44 10 **Q.** Okay. Now, you've testified that the big four and we
11 saw your demonstrative 20 included WesternGeco, CGGV, PGS,
12 and Fugro; correct?

13 **A.** Yes.

14 **Q.** Looking at the last slide, your estimate is that, for
10:13:05 15 2011, WesternGeco's market share is 18 percent?

16 **A.** Of the overall services plus equipment, yes.

17 **Q.** What is the share market of CGGV?

18 **A.** They are slightly bigger than us. I think they're
19 the biggest because they have Sercel as well. So --

10:13:28 20 **Q.** Can you give me an approximate of their market share?

21 **A.** They're about 30 percent, something like that.

22 **Q.** What about PGS?

23 **A.** They are -- they are smaller. They are -- CGGV might
24 be a little bigger than that actually and might be
10:13:55 25 33 percent and PGS must be 30 -- 30 percent or something

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1 like that.

2 **Q.** And what is Fugro's market share?

3 **A.** I think Fugro's market share is about 15 percent. So
4 it's the smallest of the big four.

10:14:13 5 **Q.** Who are the next two largest seismic companies that
6 are your competition for bids?

7 **A.** You mean for marine?

8 **Q.** Yes, towed marine?

9 **A.** Towed marine. Towed marine, it's Polarcus. And then
10 the one after that is Dolphin.

10:14:28 11 **Q.** What is your estimate of the market share size for
12 towed marine seismic for Polarcus?

13 **A.** They are -- can we -- are we dealing with third party
14 or overall marine?

10:14:51 15 **Q.** Let's focus on overall marine.

16 **A.** Okay. Overall marine, then I think the third --
17 Polarcus is -- they have five boats. So out of six -- out
18 of about 60 boats, they've got -- 46 boats, they've got
19 five, so they'd be that -- what does that make it? About
10:15:17 20 10 percent, 9 -- 8 percent, something like that.

21 **Q.** How about Dolphin?

22 **A.** They're fairly new. I think they're probably half
23 Polarcus's size.

24 **Q.** So maybe about 4 percent?

10:15:29 25 **A.** Yeah.

Cross-Walker/By Mr. Torgerson

1 Q. And whatever percentage between this total and a
2 hundred, assuming we haven't exceeded it, those would be
3 other companies?

4 A. Yes.

10:15:35 5 Q. All right. And all of these companies bid actively
6 on the same tenders that WesternGeco's bidding on?

7 A. They do, yes.

8 Q. All right. And in connection with the technology for
9 lateral steering, does each of these companies provide a
10:15:49 10 lateral steering solution in its tenders?

11 A. I think -- I have to say obviously, we don't get a
12 copy of their tenders, but we see some -- I think Polarcus
13 do. I think they also operate with DigiFIN, and I'm not
14 certain about Dolphin.

10:16:08 15 Q. Have you heard that Dolphin actually utilizes
16 Nautilus, which is Sercel's device?

17 A. I've seen they advertise it. Whether they won a
18 project with it, I don't know.

19 Q. You understand that they offer it to the market?

10:16:20 20 A. I understand they offer it to the market, yes, sir.

21 Q. We know that Fugro utilizes DigiFIN?

22 A. Yeah.

23 Q. Were you aware that Fugro had used Nautilus in the
24 past?

10:16:29 25 A. I did not know that, no.

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1 Q. And what about PGS? What does PGS currently use?

2 A. So PGS started with DigiFIN, and I think they were
3 early on. And I believe they have put in the eBird from
4 Konigsberg. They certainly made a statement they were
10:16:49 5 going to go that way. We haven't -- we're not certain
6 whether they're operating it yet.

7 Q. Your market intelligence that you have hasn't given
8 you a clear indication that PGS has actually used eBird in
9 the field on an actual survey?

10:17:04 10 A. We believe they have. We have no absolutely proof.

11 Q. What about CGGV? What devices do they use?

12 A. Again, I think they started with a DigiFIN system,
13 probably tested; but I think they are mainly -- my
14 apologies -- they're mainly Sercel, Nautilus.

10:17:22 15 Q. And that would be the Nautilus device.

16 As you sit here today, do you know whether
17 CGGV is using DigiFIN at all on any vessel?

18 A. I do not know that, no.

19 Q. So that's a question?

10:17:33 20 A. That's a question, whether they still use it. They
21 may have stopped using it.

22 MR. TORGERSON: I'm going to, for the record,
23 mark this as Demo 20A, 22A, and 21A respectively. Then
24 we'll come back to these.

10:17:54 25 BY MR. TORGERSON:

1 Q. Would you agree with me that, for some period of
2 time, WesternGeco secured about 25 to 30 percent of the
3 bids that it tendered for?

4 A. Yes.

10:18:24 5 Q. And would you agree with me that that 25 to
6 30 percent roughly equates with your market share that we
7 just looked at in terms of revenue?

8 A. It equates to the capacity market share, yes.

9 Q. Now, all players bid on 4D projects, don't they?

10:18:42 10 A. The big ones do. I -- I haven't seen any evidence.
11 I -- Polarcus I've had bid. I don't know. I think
12 they've won at least one. They may not have won more than
13 that. I haven't seen that Fugro has won one. That's --
14 my apologies -- Dolphin has won a 4D as yet.

10:19:05 15 Q. Now, would you agree with me that some of these
16 players were bidding on 4D projects before they had a
17 lateral steering device competitive to Q FIN?

18 A. They were bidding on them, yes.

19 Q. Were they securing them?

10:19:20 20 A. Yes. They would have secured some 4D, yes.

21 As I said, it's -- we know 4D existed
22 before lateral steering.

23 Q. So can you explain to us why a company that didn't
24 have lateral steering technology could secure a 4D bid
10:19:36 25 when you were the only one offering lateral steering? Why

Cross-Walker/By Mr. Torgerson

1 ever would an oil company agree to go with a nonlateral
2 solution for 4D survey if one were available?

3 **A.** So not all customers came to the party at the same
4 time. There were -- I spoke about Apache. They were not
10:19:55 5 really believers in lateral steering until late 2008,
6 2009, when they said, Okay, then our next 4D we'll have
7 lateral steering. Then it was 4Ds, and we secured that.

8 **Q.** All right. I've got a followup question with regard
9 to 22A, and specifically, let's look at 2011.

10:20:22 10 Your estimate is that the total available
11 revenue for all surveys in the -- I assume this is towed
12 marine seismic; correct?

13 **A.** No. That's all seismic plus services.

14 **Q.** Okay.

10:20:38 15 **A.** Plus -- seismic services plus equipment, so I was
16 looking for something that would correspond to your
17 opening slide on 40 percent, and that's what -- I'm not
18 saying what you had. That's what I had.

19 **Q.** Okay. Of the 12.4 billion what percentage of that or
10:20:52 20 dollarwise is towed marine seismic?

21 **A.** So probably about \$7 billion, if I include towed
22 marine proprietary and offshore multi-client.

23 **Q.** But if you can combine multi-client?

24 **A.** If I combine them together, yeah.

10:21:14 25 **Q.** And what percentage is multi-client out of that 7

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1 billion?

2 **A.** It's probably about 4 billion.

3 **Q.** So we're really talking about a \$3 billion market for
4 using towed arrays in the 2D, 3D and 4D context?

10:21:34 5 **A.** So I'm not really including 2D there because I'm
6 really -- it's really our business. We're not in 2D. But
7 it -- it's a small part of multi-client where we don't
8 play, so it's probably in that 4 billion for multi-client.
9 But apart from that 3 and 4 -- 3D/4D, yes.

10:21:55 10 **Q.** What's percentage of the 12.4 billion relates to 2D
11 surveys?

12 **A.** I would not hazard a guess. It's not a business
13 we're in, so I can't really.

14 **Q.** And that 2D number, is it even reflected in the
10:22:11 15 12.4 billion?

16 **A.** I think it's pretty much all multi-client, so it
17 would be in that 7 billion of multi-client.

18 **Q.** Okay. So in other words, the 4 billion of the 7?

19 **A.** The 4 -- yes. My apologies. The 4 of the 7, yes.

10:22:22 20 **Q.** And you can't hazard a guess as to an approximation
21 for the jury of the percentage of 2D surveys in that \$4
22 billion multi-client business on an annual basis?

23 **A.** I can't because it's not something we monitor. We're
24 not looking at it.

10:22:37 25 **Q.** And in fact, because you're not interested in the 2D

1 part, the only thing that you have any involvement in the
2 2D market relates to a high-tech aspect in the so-called
3 over/under types of surveys; is that correct?

4 **A.** On 2D, we've done a few under/over surveys, yeah.

10:22:54 5 **Q.** And an under/over survey is simply two streamers, one
6 being towed at a higher depth and the other streamer being
7 towed at a lower depth?

8 **A.** No.

9 **Q.** Explain that for us.

10:23:05 10 **A.** It's a mini 3D spread. It's a very configured CAD 3D
11 spread. So you have two lateral streamers, and one and
12 two vertical streamers. So it's four streamers.

13 **Q.** Okay. Fair. But there is an over/under component
14 which gives you that terminology?

10:23:20 15 **A.** There is an over/under component, yes.

16 **Q.** How many of those has WesternGeco shot?

17 **A.** We've done four or five small projects, really test
18 projects, and we did one quite sizeable one in India.

10:23:38 19 **Q.** Do you know whether your competition, these big four,
20 and perhaps these other two, participate in the 2D market?

21 **A.** I don't. Fugro does -- I think Fugro has some 2D. I
22 think Polarcus is really their boats are 3D. And Dolphin,
23 as far as I know, is equipped for 3D, as well. CGV and
24 PVS, like us, have generally quite big 3D vessels, so we
10:24:10 25 probably don't play in the 2D market.

1 Q. Now, if we're looking at Demonstrative 20A, of the
2 companies in the big four, two of them have actually
3 worked to develop their own competitive product to Q FIN;
4 correct?

10:24:23 5 A. Yes.

6 Q. And that would be Sercel, which is a wholly owned
7 subsidiary of CGGV; correct?

8 A. Uh-huh. Yes.

9 Q. And they developed the Nautilus device?

10:24:33 10 A. Nautilus, yes.

11 Q. And Nautilus device is a three-winged bird?

12 A. Two wings with an anchor, as we understand it. It
13 looks like three wings.

14 Q. All right. And PGS worked with Konigsberg to launch
10:24:48 15 the eBird, which is another three-wing device?

16 A. Yes.

17 Q. Let's look, if we can, at Defendant's Exhibit 259.

18 MR. TORGERSON: I apologize.

19 Would you turn that on its side.

10:25:06 20 BY MR. TORGERSON:

21 Q. As part of your market research, Mr. Walker, do you
22 from time to time go to your competitor's Websites?

23 A. Yes, I do.

24 Q. And do you recognize this Web site Defendant's --
10:25:19 25 Ion's Exhibit 259 as being from the Sercel Website

1 describing the Nautilus device?

2 **A.** I do yes.

3 **Q.** And you recognize the photograph of the three-wing
4 device coming up out of the water, and you've probably
10:25:32 5 seen one live in a trade show?

6 **A.** I've seen it in a trade show, yes.

7 **Q.** Yes. Let's go to Page -- or rather 260. ION 260.

8 This is a brochure for Nautilus. Have you
9 seen this before?

10:25:49 10 **A.** I've seen it on their -- their stand. I haven't seen
11 inside it.

12 **Q.** These brochures are available for the public at trade
13 shows?

14 **A.** Yes.

10:25:57 15 **Q.** So you might have on a stand at a convention trade
16 show an actual device standing there and takeaways,
17 written takeaways that you can take with you?

18 **A.** Yes.

19 **Q.** All right. Let's go to ION's Exhibit 258 and look at
10:26:19 20 the Konigsberg device.

21 Have you had occasion to go to
22 Konigsberg's Website and look at what they said about the
23 eBird?

24 **A.** I did, yes.

10:26:25 25 **Q.** Can you recognize this photograph?

1 **A.** Yes.

2 **Q.** Let's look at ION -- or Exhibit 263. This is
3 likewise another brochure. And if we highlight the
4 photograph in the middle, you can see the three wings
5 there?

10:26:40

6 **A.** I can, yes.

7 **Q.** All right. And you understand that the Nautilus
8 device and the eBird device are intended to provide
9 lateral steering for towed marine surveys?

10:26:53

10 **A.** Yes.

11 **Q.** And they are currently being utilized by CCGV and
12 PGS0 respectively?

13 **A.** They've been implemented recently, yes.

10:27:06

14 **Q.** And in connection with Nautilus, Dolphin is likely
15 using that device?

16 **A.** Yes, I believe so, and you've made that point.

17 **Q.** Now, do you understand that a PGS was the launch
18 partner for DigiFIN's device back in 2007?

10:27:23

19 **A.** I remember hearing it at the time vaguely, and I've
20 heard it since.

21 **Q.** Let's turn briefly -- you made some comments that I'd
22 like to develop a little bit about the way that
23 WesternGeco sees itself in the market.

10:27:42

24 Would you agree with me that WesternGeco
25 separates itself from the competition, if you will, by its

1 technology differentiation?

2 **A.** It's a big part of what we do, yes.

3 MR. TORGERSON: Could we look at ION
4 Exhibit 274?

10:27:52 5 BY MR. TORGERSON:

6 **Q.** Do you recognize this document?

7 **A.** Not specifically, but I'm sure I've seen it our R&D
8 portfolio meeting sort of thing I would go to.

9 MR. TORGERSON: My apologies. I've been remiss
10:28:19 10 in not handing out copies of these, but they've been fairly
11 straightforward.

12 May I approach, Your Honor? Your Honor,
13 may I approach the witness?

14 THE COURT: You may.

10:28:30 15 THE WITNESS: Thank you, sir.

16 BY MR. TORGERSON:

17 **Q.** Now, I believe if you flip through a couple of pages
18 of ION Exhibit 274, Mr. Walker, you contributed to the
19 content of this PowerPoint?

10:28:49 20 **A.** I'm sure I did.

21 MR. TORGERSON: And if we go back to the first
22 page, Mr. Carlock.

23 BY MR. TORGERSON:

24 **Q.** It indicates that it's a WesternGeco technology
10:28:57 25 strategy and R&D portfolio review meeting?

1 **A.** Yes.

2 **Q.** And it was conducted in Houston in June 2005?

3 **A.** Yes.

4 **Q.** You attended this meeting?

10:29:06 5 **A.** I'm sure I did.

6 **Q.** All right. Now, you mentioned something earlier on
7 direct examination from Mr. LoCascio that, before Q, it
8 was very difficult to distinguish technologically between
9 or among the different competitors in the field; correct?

10:29:22 10 **A.** Yes.

11 MR. TORGERSON: Go to the third page if you
12 would, Mr. Carlock.

13 BY MR. TORGERSON:

14 **Q.** We see here at the top -- I just love this slide
10:29:28 15 apparently there is a Ernest Hemingway look-alike
16 competition in Florida every year. And so, all of these
17 guys with white beards and hair show up and they act like
18 Hemingway. Is that fair?

19 **A.** Yeah. As we understood it.

10:29:43 20 **Q.** All right. Fair. And so, before Q, it was very
21 difficult to distinguish between the real Hemingways?

22 **A.** That was the point being made by the presenter here.

23 **Q.** But if you turn the page, WesternGeco has a different
24 model. And these are two rugby players getting after it;
10:30:02 25 right?

1 **A.** Yes.

2 **Q.** And you would agree that WesternGeco's view of
3 technology differentiation can sometimes be a little rough
4 and tumble?

10:30:12 5 **A.** Well, we want to differentiate in the marketplace,
6 absolutely.

7 **Q.** All right. If we turn to Page 727 --

8 MR. TORGERSON: Some eight pages back,
9 Mr. Carlock.

10:30:23 10 BY MR. TORGERSON:

11 **Q.** Market summary; correct? And we look at the middle,
12 there's a bullet point?

13 **A.** Sorry. Would you say 737, did you say?

14 **Q.** 727. I apologize.

10:30:33 15 **A.** 727. I didn't hear you.

16 **Q.** It's on Page 8 of the PowerPoint slide.

17 **A.** Yeah.

18 **Q.** The middle point reads: "Towed 4D Time-lapse seismic
19 becoming a global tool."

10:30:45 20 **A.** Yes.

21 **Q.** You would agree with me that in June 2005 in
22 connection with this PowerPoint that lateral steering was
23 only provided by WesternGeco at that stage?

24 **A.** Yes.

10:30:52 25 **Q.** And yet, 4D time-lapse seismic was becoming a global

Cross-Walker/By Mr. Torgerson

1 tool.

2 Explain how that could be possible.

3 **A.** So we had worked on 4D very much in the North Sea.

4 And at this -- by this time, we had done Q-on-Q or Q

10:31:13 5 baselines in the Far East, we'd done them in West Africa,

6 we'd done them -- I talked about Petrobras in Latin

7 America, and we'd even done them in the Gulf of Mexico.

8 **Q.** Would you agree that there were other players, your

9 competitors, in the field also providing 4D solutions

10:31:29 10 without lateral steering in 2005?

11 **A.** Outside of the North Sea, I don't think there were

12 that many 4D projects being done. There may have been

13 some.

14 **Q.** Were you -- you are familiar with a company called

10:31:46 15 Concept Systems in Edinburgh, Scotland?

16 **A.** Yes.

17 **Q.** And you understand that that's now a subsidiary or

18 affiliate of ION?

19 **A.** I do, yes.

10:31:55 20 **Q.** And you understand at one point that they were

21 free-standing?

22 **A.** Yes.

23 **Q.** Did you understand -- or did you have an

24 understanding of the work that Concept was doing on 4D

10:32:03 25 planning before lateral steering?

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Cross-Walker/By Mr. Torgerson

1 **A.** Well, I'd certainly seen it at trade shows.

2 **Q.** Give us some examples of what Concept was doing that
3 you recall?

4 **A.** So I think they were -- their approach was optimizing
10:32:20 5 tides to minimize differences. For example, when there
6 was a tidal cover and steering for source points, to do
7 what was possible to improve repeatability.

8 MR. TORGERSON: If we could go back towards the
9 end of the documents, Mr. Carlock, to Page 27 which is 746.

10:32:39 10 BY MR. TORGERSON:

11 **Q.** "Marine threats." Let's look at this.

12 And as a regular part of your competitive
13 intelligence, Mr. Walker, you and others within
14 WesternGeco evaluate perceived threats from a competitive
10:33:00 15 landscape standpoint; fair?

16 **A.** Yes. Yeah.

17 **Q.** You see on the first bullet point, it reads: "Only Q
18 competition we know for certain is I/O DigiFIN"; right?

19 **A.** Yes.

10:33:10 20 **Q.** So by June of 2005, WesternGeco knew that ION, at
21 that time called I/O, was developing a lateral steering
22 device called DigiFIN?

23 **A.** We knew it was being developed. We hadn't seen it
24 offered for sale. We hadn't seen it in the marketplace;
10:33:27 25 but by that stage, we knew it was under development.

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1 Q. And you knew it was coming to the market?

2 A. We would expect it to come to the market.

3 Q. We can also see on the third bullet point, "First
4 possible development of single sensor systems 2007-2008."

10:33:42

5 Would you agree with me that that is some
6 sort of future prediction of a competitive technology
7 being offered against this single sensor measurement
8 capability of Q-Marine?

9 A. Yes.

10:33:53

10 Q. Has that emerged as of today?

11 A. As of today, no.

12 Q. So as of today, from 2001 when it was commercially
13 launched, to 2012, WesternGeco is the only company on the
14 planet in towed marine seismic that can offer this single
15 sensor recording capability?

10:34:12

16 A. It's a way of doing noise attenuation. So that's our
17 way.

18 Q. Do you think that noise attenuation is important?

19 A. I think noise attenuation is always important.

10:34:22

20 Q. Do you recall that lateral steering is the most
21 important aspect of Q-Marine?

22 A. I do, yes.

23 Q. You always --

24 A. That's what customers want.

10:34:30

25 Q. All right. That's a fair point.

Cross-Walker/By Mr. Torgerson

1 But you personally, Mr. Walker, as the
2 head of marketing for WesternGeco, you believe that
3 lateral steering of the four aspects of Q is the most
4 important?

10:34:39 5 **A.** It's the one our customers ask for, yes.

6 **Q.** Have you ever held a different view?

7 **A.** I originally had a lot of hope that the single sensor
8 would lead to our customers' adopting change in the way
9 they acquire data; but in fact, that didn't happen.

10:35:00 10 **Q.** We've talked about this differentiation in the
11 market, Mr. Walker.

12 Would you agree that WesternGeco sees
13 itself in the higher end from a product-offering
14 standpoint?

10:35:14 15 **A.** We try to, yes.

16 **Q.** And you understand that the market has some views
17 that you personally fielded that WesternGeco is viewed as
18 too expensive for everything, not just Q-Marine?

19 **A.** That's -- we've been told sometimes that.

10:35:32 20 **Q.** You would agree with me that regardless of what some
21 company might feel or what you personally might feel about
22 the importance of the four aspects of Q-Marine,
23 WesternGeco has never attempted to allocate from a dollar
24 standpoint what is the driver of these among these
10:35:56 25 aspects?

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1 **A.** You mean what is the driver?

2 **Q.** Let me restate it.

3 **A.** Yes.

4 **Q.** That was a long question. I want to be compact for
10:36:05 5 you on this.

6 At no time has WesternGeco attempted to
7 allocate any portion of revenue attributable to a single
8 aspect of Q-Marine; for example, lateral steering?

9 **A.** We only -- we have a kilometer rate that includes
10:36:19 10 whatever is there, yes.

11 **Q.** So there's the premium -- likewise, the premium price
12 that you charge to your customers, say, for example, X
13 times over conventional, that would be as a result of the
14 combined suite of all the different technical aspects of
10:36:37 15 Q-Marine, not just lateral steering?

16 **A.** We can separate out the CMS, because that's on the
17 whole fleet, and we've never succeeded in sort of selling
18 that as an add-on to the conventional.

19 **Q.** Remind us of CMS again.

10:36:50 20 **A.** That's the source -- I'm sorry. That's the source
21 component. So that's -- in marketing terms, it's added to
22 Q-Marine, but it isn't really linked to it.

23 **Q.** Okay.

24 **A.** It was preexisting. So that we know we haven't been
10:37:04 25 able to sell despite trying.

1 We know that, of the remaining three
2 elements, lateral steering is the one that's asked for.

3 **Q.** And yet even though it's the one that's asked for,
4 there is no attempt within WesternGeco to break out and
10:37:20 5 say, This particular survey was won because of lateral
6 steering?

7 **A.** If it says lateral steering on the tender and we won
8 the project, then that's our assumption.

9 **Q.** Would you also agree, then, if you lost a survey to
10:37:35 10 another company, like Fugro, we've heard several examples
11 today with Mr. LoCascio, that somewhere within
12 WesternGeco's records, there would be an indication that
13 you lost a survey because of lateral steering?

14 **A.** We would know lateral steering -- lateral steering
10:37:52 15 was a requirement and we lost it, then we would know that
16 would be -- that would mean that another company that won
17 it had lateral steering and they had got through that
18 technical barrier I was talking, and then it's into that
19 triangle.

10:38:10 20 **Q.** Well, we'll get into the specifics of the CRM
21 database in a moment, Mr. Walker.

22 But would you expect if, in connection
23 with a monitoring of a competitive tender situation, that
24 if WesternGeco lost a survey bid because of a competitor
10:38:24 25 using lateral steering, you would expect someone to make

Cross-Walker/By Mr. Torgerson

1 an entry in that database that says, We lost because of
2 lateral steering?

3 **A.** It would depend on -- the CRM is used by all of
4 Schlumberger. So we've got thousands of technologies, so
10:38:43 5 we couldn't have a tick box that would tell us that. It
6 would be either in the comments or it would be in the
7 system, maybe in one of the e-mails.

8 **Q.** Would you expect to see any kind of record that
9 specifically says, Mr. Walker, WesternGeco lost this
10:38:58 10 Tellow survey, for example, to Fugro because of lateral
11 steering? Would you expect to see that some sort of
12 record at WesternGeco?

13 **A.** Not necessarily. Because we have -- if there's more
14 than one -- if lateral steering is a specification and
10:39:16 15 there's more than one that are qualified that meet that
16 specification, then the reason, once you may be one of the
17 others on the triangle; but without the specification --
18 oh, my apologies I hit the mike -- without the -- meeting
19 the specification, we'd be the only people.

10:39:36 20 **Q.** Well, let's look.

21 MR. TORGERSON: If we could go back to the
22 ELMO, please.

23 BY MR. TORGERSON:

24 **Q.** Under Demonstrative 6 -- do you still have your
10:39:52 25 demonstratives up there with you, sir?

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1 **A.** I do. Let me get them.

2 **Q.** Sure. You have it in front of you?

3 **A.** I do, yes.

4 **Q.** Page 6, you see this "Comment" section here?

10:40:10 5 **A.** Yeah.

6 **Q.** We've seen other pages, but as this prospect is
7 updated, wouldn't you think it would be useful for
8 WesternGeco to track the reasons why it lost a bid to a
9 competitor; for example, to Fugro?

10:40:26 10 **A.** We would expect to do -- get some update and some
11 idea of the reason for it, yeah.

12 **Q.** And once that attempt had been made and, hopefully,
13 some reason had been obtained, you would agree with me,
14 sir, that that should be entered into this CRM database?

10:40:46 15 **A.** It may be entered in CRM. Once the thing is lost, it
16 may also be collated by the marine marketing manager who
17 is responsible for putting the -- the technology plan
18 together for marine, as I did when I was doing that job.

19 **Q.** Tell me what you mean by "collated."

10:41:09 20 **A.** If you have a trend of technology or other issues
21 that result in -- you understand that are a reason for
22 winning or losing a job, let's say a technical barrier,
23 then the marine marketing manager and sales manager is
24 interested in finding those, so they may interact with the
10:41:38 25 sales team via CRM, or they may do it directly, good old

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1 e-mail and a phone. End Dolly 1-7 Rosie 1-8.

2 **Q.** And so, in addition to the CRM database there might
3 be some additional documents generated in maintaining
4 within WesternGeco, like e-mails or other reports that
10:41:58 5 might reflect the reasons why WesternGeco could win a
6 competitor secure a survey over WesternGeco?

7 **A.** It may be e-mail conversations. We did since the
8 start of this case, we did the -- we did collect
9 survey's -- we did collect projects where survey lateral
10:42:27 10 steering was a decision.

11 **Q.** Were you shown in connection with these
12 demonstratives of excerpt screen shots you said from your
13 own laptop, from the CRM database, were you shown any
14 comments in connection with any of these surveys that were
10:42:40 15 lost based during your discussion with Mr. LoCascio that
16 were attributable to the competitor having lateral
17 steering?

18 **A.** In each of the cases where I went through we
19 determined the lateral steering was a requirement and
10:42:58 20 therefore, it was the technical barrier no one without
21 lateral steering could have -- would have won that job,
22 once they were in that technical barrier, then the
23 decision may be written, may be ascribed to lateral
24 steering or it may be ascribed to availability or price.

10:43:20 25 **Q.** And I appreciate that rational, that line of

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1 thinking. What I'm asking more is a little bit more
2 specific and, that is, in connection with any of these
3 surveys that you saw, demonstratively put up for you,
4 accepted or excerpted from your CRM database, did any of
10:43:38 5 them specifically say WesternGeco lost this survey because
6 the competitor had lateral steering or words to that
7 effect?

8 **A.** I wouldn't expect to see that because we have lateral
9 steering as well.

10:43:52 10 **Q.** Would you expect to see some sort of commentary
11 blaming the loss of the bid on the other company being
12 able to offer lateral steering?

13 **A.** It would be more like that the other company having
14 lateral steering if they were available and cheaper, then
10:44:11 15 we may look and say we lost it on price. Some of these
16 they said they lost it in price.

17 **Q.** Well, let's look at some of these issues in
18 connection with the CRM database itself. I'd asked
19 whether you agree or disagree with the following
10:44:25 20 statements.

21 Would you agree, that at least part of the
22 CRM database is based on rumor and hearsay?

23 **A.** No. I would say -- depends what you mean by rumor
24 and hearsay. So we tend to be keen that our salespeople
10:44:46 25 have a conversation with a customer and before they put

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1 information in or we see it from some public source.

2 So if, for example, a customer says
3 something to us, then we would regard that as useful
4 information. We wouldn't regard that as hearsay.

10:45:05 5 **Q.** So you know, Mr. Scoulios here in the courtroom?

6 **A.** Yeah.

7 **Q.** And he used to be -- work in North America region for
8 sales and was responsible for tendering?

9 **A.** Yeah.

10:45:17 10 **Q.** And we know that he actually helped put together
11 WesternGeco's bid for the Chukchi survey for -- against
12 Fugro for Statoil up off the coast of Alaska?

13 **A.** Yes. I think so.

14 **Q.** And if he stated that the CRM database was founded at
10:45:35 15 least in part on rumor and hearsay, you would think that
16 would not be an accurate description?

17 **A.** I would -- I'm still asking what exactly rumor and
18 hearsay means. We try to qualify everything that goes
19 into it. Now, there may be something that is just a
10:45:53 20 customer's opinion, and if that counts as rumor, then it
21 would be rumor.

22 **Q.** Fair. Would you agree that some groups -- agree or
23 disagree is the same, would you agree or disagree that
24 different sales groups have varying utilizations of
10:46:10 25 actually putting information into the CRM database?

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1 **A.** They are more or less certain about the information,
2 so if they're less certain they put less in.

3 **Q.** I'm not asking about certainty of information that's
4 putting in. I'm talking about frequency of utilization.

10:46:26 5 So what I mean by that, is are there some groups who are
6 out there, despite your best efforts or perhaps
7 Ms. Graycon's best efforts at diligence, that there are
8 some groups who are better than others about inputting
9 that information?

10:46:38 10 **A.** They input it in a timely fashion when they do input
11 it, and they don't necessarily get as much information.

12 **Q.** And some groups do not put in information with the
13 frequency that others do, is that fair?

14 **A.** No. When they -- all the salespeople using it, it's
10:46:59 15 their job to log the information in CRM.

16 **Q.** I appreciate that it's their job, and that you
17 certainly expect them, to. But if Mr. Scoulios said that
18 some of us aren't very good at putting stuff in the CRM,
19 would you agree or disagree with him?

10:47:14 20 **A.** Well, if that's what he said, I would agree with him
21 and I could understand at his level in the organization he
22 probably gets other people to do it for him.

23 **Q.** Fair point. But would you agree or disagree that
24 other people under his charge, were not very good at
10:47:29 25 entering that information either. Would you agree or

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1 disagree with that?

2 **A.** I would say I don't have the information to hand to
3 state one way or the other.

4 **Q.** Agree or disagree with this statement. It's
10:47:44 5 difficult to utilize the CRM database?

6 **A.** I don't have any problem with it. So if it's a
7 question to me personally, then I'll say, no. But I know
8 that it's very demanding.

9 **Q.** And so, if Mr. Scoulios testified that it's a very
10:48:07 10 difficult database to use, you don't have any reason to
11 disagree with that?

12 **A.** Again, since he's not a full-time salesman, I would
13 absolutely understand that it's a tool he would use less
14 frequently than others.

10:48:20 15 **Q.** Agree or disagree, that the CRM database is only as
16 good as the information that's put into it?

17 **A.** I'd agree with that.

18 **Q.** All right. At some stage, Mr. Walker, WesternGeco as
19 a company, evaluates other companies for acquisition;
10:48:45 20 fair?

21 **A.** Yes.

22 **Q.** Are you aware of a time that WesternGeco evaluated
23 the acquisition of ION?

24 **A.** No, I'm not.

10:49:02 25 MR. TORGERSON: May I approach, Your Honor?

Cross-Walker/By Mr. Torgerson

1 THE COURT: Yes, you may.

2 BY MR. TORGERSON:

3 Q. I'm showing you, Mr. Walker, Exhibit 99, ION
4 Exhibit 99, which is entitled "Oslo Technology Center
10:49:23 5 Technical evaluation of I/O, November 2004."

6 Now, you've seen this before; right?

7 A. No, I haven't seen this before, even though it's
8 obviously and no doubt about its authenticity, when we do
9 a look at a company with a view to purchase we keep it
10:49:50 10 very, very tight. So there's a team, and if you're on the
11 team you don't need to know.

12 Q. Do you know whether you would have been involved in
13 November 2004, from a marketing standpoint of evaluating
14 the acquisition or at least the evaluation of I/O?

10:50:03 15 A. I wasn't sir, no.

16 Q. All right. If you go to the third page, I want to
17 ask you about a concept here, under "evaluation summary,"
18 and specifically the middle paragraph, the middle bullet,
19 "Threats for WesternGeco." The first subbullet reads,
10:50:20 20 "Working on streamer steering devices, Digi-Wing."

21 Before the term DigiFIN had come out, do you
22 remember hearing the term Digi-Wing being utilized within
23 WesternGeco to describe the lateral steering device.

24 A. I don't, actually, no.

10:50:37 25 Q. And somebody noted at the bottom a few DigiCOURSE

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1 product components as the encompasses could possibly be
2 integrated into our Q systems. Do you recall that in this
3 time period, even to this day, that WesternGeco utilizes
4 ION's compasses?

10:50:52 5 **A.** We do. It proved to be a step too far when we tried
6 to get rid of compasses. Our customers said they wanted
7 them.

8 **Q.** And you would agree with me that ION's compasses are
9 the gold standard in the industry?

10:51:02 10 **A.** They are the ones that are used and I don't know
11 whether -- and they used that language at the opening. We
12 don't use them, really, in the positioning, but our
13 customers want us to have them there.

14 **Q.** Well, now, wait a minute. That confuses me,
10:51:22 15 Mr. Walker. Why would you put extraneous equipment on
16 these streamers being drugged through the water for
17 5 miles or so, only at the insistence of your customers?

18 **A.** Because that's what they want.

19 **Q.** That adds weight to the streamer?

10:51:36 20 **A.** Yes.

21 **Q.** That adds noise to the system?

22 **A.** It is noisy, yeah.

23 **Q.** Have you ever attempted to persuade your customers
24 not to use ION's compasses on your streamers?

10:51:48 25 **A.** Multiple times.

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1 Q. And that hasn't worked?

2 A. No. And they've said we're used to compasses, we've
3 always specified compasses, we want compasses to be there,
4 and it just ended up being too big a fight and not that
5 important.

10:52:04

6 Q. If you could, Mr. Carlock, go to Page 349911. Next
7 one, please. Keep going. I apologize. Go back -- there
8 it is.

9 "Positioning products and peripherals." We
10 see up in the upper right-hand corner, is that what appears
11 to be a the Digi-Bird, upper right-hand corner?

10:52:32

12 A. It's not a particularly good quality thing, but I'm
13 sure that would have been some mood image, so probably.

14 Q. If we could, Mr. Carlock, if you'd highlight this
15 section down here. This is the end of this template, this
16 evaluation template, WesternGeco was evaluating ION.

10:52:52

17 Could we blow that up just by itself,
18 Mr. Carlock.

19 The IP position, you understand IP to mean
20 intellectual property position?

10:53:09

21 A. Yes.

22 Q. And it says, "Patent 6525992, two wing steerable
23 bird." Do you know what that means?

24 A. That's the -- I think that's an ION -- to be honest
25 the IP, the numbers of which patent is which, I am not

10:53:25

1 sure about.

2 **Q.** I can't keep up with them either, but in connection
3 with this, are you familiar with ION having a patent on a
4 two wing steerable bird?

10:53:40 5 **A.** I've become aware of it in the course of this.

6 **Q.** And what does the word steerable bird mean to you, if
7 anything?

8 **A.** That means a bird which is used as part of an overall
9 system command and the control for affecting lateral
10 steering.

11 **Q.** If you look under threats it says, "could develop
12 inline components." Now, the Q FIN is what's been
13 described many times as an inline solution; correct?

14 **A.** It's built into the streamer.

10:54:13 15 **Q.** And so, as it's built into the streamer, the parlance
16 is that it's inline?

17 **A.** Yes.

18 **Q.** And the DigiFIN device, or perhaps other devices, are
19 so-called external devices; is that fair?

10:54:26 20 **A.** Yes. Attached to the streamer.

21 **Q.** Do you know whether -- did you have any conversations
22 with people within WesternGeco in this 2004 timeframe,
23 about being threatened by inline components?

24 **A.** No. I was expecting -- as I said, I haven't seen
10:54:46 25 this before. I was expecting at the time that DigiCOURSE,

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1 as it was then, was continuing the external birds.

2 **Q.** And would it be fair to say that WesternGeco, because
3 it wasn't interested in an external device, wasn't
4 threatened by an external device?

10:55:08 5 **A.** It's a different way of achieving the same goal. So
6 the end result of lateral steering can be achieved with an
7 inline or an external device.

8 **Q.** I want to step back in time for just a moment and
9 touch on what might be some interesting or important
10:55:30 10 history.

11 The merger between WesternGeco --

12 **A.** Are you finished with this now?

13 **Q.** You can put that down, absolutely, sir.

14 The merger between WesternGeco and
10:55:42 15 Geco-Prakla happened in -- was finalized in December 2000;
16 is that right?

17 **A.** Yes.

18 **Q.** Now, the merger of these two groups caused some
19 internal discord with regard to the approach at Q-Marine;
10:55:55 20 right?

21 **A.** There was -- there were people on both sides of the
22 technology camp.

23 **Q.** And Western Geophysical was known for its solid
24 streamer technology at the time?

10:56:09 25 **A.** It had built a solid streamer, yes.

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1 Q. And Q-Marine was in the process of being launched or
2 had been launched and was certainly being tested at the
3 time of that merger; right?

4 A. Yeah, we were just doing final testing.

10:56:19 5 Q. So Geco-Prakla had invested some time and money into
6 this Q-Marine product that was going to merge four
7 different aspects into a ground breaking new product;
8 fair?

9 A. Yes.

10:56:30 10 Q. And there was some tension in that the WesternGeco
11 physical camp, which then included the president Gary
12 Jones, was somewhat skeptical of Q; right?

13 A. He wanted to be convinced, yes, absolutely.

14 Q. And he was more interested and the Western
10:56:47 15 Geophysical people were more interested in moving into a
16 solid streamer platform?

17 A. They also invested time and effort in the solid
18 platform.

19 Q. And the -- did -- Mr. Jones, the then president,
10:56:58 20 eventually left WesternGeco over this?

21 A. He left, that was -- that may or may not have
22 contributed to it. I wasn't part of those discussions, as
23 you can imagine.

24 Q. But Q prevailed, nonetheless; fair?

10:57:12 25 A. Q prevailed.

1 Q. And that was in 2003?

2 A. Yes.

3 Q. So for two years from the time of its
4 commercialization until 2003, when Mr. Jones left and was
10:57:21 5 replaced by Dolton Boutte --

6 A. Dolton Boutee.

7 Q. -- that there was some internal strife or internal
8 disagreement within WesternGeco about what we're going to
9 do with this Q-Marine product; fair?

10:57:33 10 A. Yeah.

11 Q. All right. And would you agree or disagree, that
12 that contributed to an external, an outside WesternGeco
13 lack of confidence in the Q-Marine product?

14 A. I wouldn't -- I wouldn't agree with that, no. I
10:57:48 15 would think that we -- our customers liked the lateral
16 steering and the improved resolution it gave. And they
17 were, they were happy with it.

18 Q. There was no criticism of Q-Marine before 2003?

19 A. At the very beginning we had -- we shuffled around
10:58:14 20 with our customers on business issues and pricing, and we
21 started with a very high price, and that really settled
22 down by 2003, 2004.

23 Q. Let's look at the pricing for a moment. Let's turn
24 to that. The original plan was to price Q-Marine at about
10:58:38 25 twice WesternGeco's conventional rates; fair?

Cross-Walker/By Mr. Torgerson

1 **A.** The introductory stage, yes.

2 **Q.** So at the introductory stage, if WesternGeco was
3 going to bid for a survey that cost \$10 million with a
4 conventional system, it would charge \$20 million for a
5 Q-Marine system?

10:58:55

6 **A.** It was twice the revenue, so maybe not exactly that,
7 but as we've discussed this morning, there was an
8 efficiency in improvement.

9 **Q.** And you would agree that that price was intended to
10 originally create sticker shock?

10:59:06

11 **A.** Yeah. We wanted to wake people up. That was a
12 decision from above.

13 **Q.** And that mission was accomplished; right?

14 **A.** It was accomplished, yes.

10:59:15

15 **Q.** And you knew that that price was going for drop over
16 time; right?

17 **A.** Yes.

18 **Q.** Sort of like when you're in a negotiation and you
19 start high in order to end up where you really want to be;
20 is that fair?

10:59:25

21 **A.** That's fair.

22 **Q.** Okay. And this premium for the Q suite of
23 technologies, that was met with resistance by your
24 customers?

10:59:34

25 **A.** Not all of our customers. I testified about Statoil

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1 adopting it straight off and Shell adopting it for the
2 survey, and in the Far East Chevron adopted it and Total
3 adopted it, but not everyone adopted it in the first two
4 years.

10:59:53 5 **Q.** At the outset, Mr. Walker, you would agree with me
6 that some companies made it clear to you or to
7 WesternGeco, that they would never pay more for this
8 single sensor technology?

9 **A.** They'd never pay more for Q-Marine. That was the
11:00:06 10 statement made by a couple in the early days, yes.

11 **Q.** Who was the couple in the early days?

12 **A.** Chevron and ExxonMobil were.

13 **Q.** Now, there's a word, I don't know if it's been used
14 today, but it's been used in the past in this trial about
11:00:23 15 commoditization?

16 **A.** Yes.

17 **Q.** What does commoditization mean to you, sir?

18 **A.** So, commoditization means the flattening of the
19 equalization of technical operational consideration, so
11:00:39 20 that really all that's left is people fighting on price,
21 so spreading uniformity of specification.

22 **Q.** Some of these oil companies attempted to commoditize
23 Q-Marine by pushing down the price; right?

24 **A.** Well, most oil companies will push down on price,
11:01:00 25 they're big projects, yeah.

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Cross-Walker/By Mr. Torgerson

1 **Q.** That's sort of in their best interest, isn't it?

2 **A.** That's in their best interest.

3 **Q.** And especially when you get some sort of new
4 technology and you want a premium associated with it, it's
11:01:10 5 not unusual for the oil companies to say, well, that's
6 nice, but that's new, but we're not going to pay anymore
7 for it?

8 **A.** That happens.

9 **Q.** And you still hear that even in recent history;
11:01:22 10 right?

11 **A.** Every once in awhile we do, people -- there are
12 people who are not -- not aware of it, that haven't used
13 it, and they have -- they have questions about it. The
14 companies that adopted it, we resolve the questions,
11:01:41 15 they're happy.

16 **Q.** Well, let's look at Defendant's Exhibit or ION's
17 Exhibit 178. Anadarko is a --

18 MR. TORGERSON: May I approach, Judge?

19 THE COURT: Yes, you may.

11:02:03 20 BY MR. TORGERSON:

21 **Q.** Anadarko is a long time customer of WesternGeco's?

22 **A.** Yes.

23 **Q.** And there was some discussion earlier about Anadarko
24 being a partner of some sort on these two surveys with
11:02:19 25 Tullow, and if you got one, you were going to get two. Do

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1 you recall that testimony?

2 **A.** I do.

3 **Q.** If you look at the ION Exhibit 178, this is an
4 e-mail, if you'd look at the top portion, Mr. Carlock, so
5 we get our context.

11:02:32

6 This is an e-mail from John Paul Herman on
7 November 11th, 2009. Who is Mr. Herman?

8 **A.** He was the account manager for Anadarko and other
9 customers in Europe for Europe, Africa.

11:02:51

10 **Q.** And you're copied on this e-mail?

11 **A.** I am, yes.

12 **Q.** And it's about feedback from jubilee partner meeting
13 Q-Marine. Do you recall this discussion?

14 **A.** I recall the meeting. I joined it remotely.

11:03:08

15 **Q.** What was the jubilee?

16 **A.** The jubilee was a project. That's the name of the
17 project, and Cos (phonetic) Moss was the operator, and
18 Anadarko and other companies -- I'm afraid I can't
19 remember who -- were partners, and we had operated the
20 project for Cos Moss ^ ? and there had been a lot of
21 internal decent as it later emerge between the members of
22 that partnership about the survey design that Cos Moss ^ ?
23 had run with.

11:03:33

24 They wanted to get a particular data set,
25 and the way you design a survey will cause you to get a

11:03:55

1 certain data set.

2 **Q.** Do you recall that Anadarko was critical of the
3 Q-Marine technology in connection with this discussion?

4 **A.** In this discussion they were critical of what they'd
5 seen on this particular project.
11:04:12

6 **Q.** Let's look at number 2, specifically, Mr. Carlock,
7 and can we blow that you?

8 Let's reset it, if we can. And just focus
9 on that Paragraph 2. "They found the jubilee survey to
10 have been slow, problematic and expensive and gave them a
11 finished product that they felt was no better than a
12 conventional shoot." Do you agree or disagree with that
13 assessment by Anadarko.
11:04:33

14 **A.** I agree that's what they said.

15 **Q.** And if you go down to number six, "Excessive feather
16 busted their budget, Cosmos had not factored in feather
17 over 15 percent, that was included. The 35 to 40 percent
18 infill was more than they expected. They are also
19 concerned about using this data with so much feather and
20 infill for 4D." Do you recall that being discussed?
11:04:47
11:05:11

21 **A.** It was -- I mentioned it was a survey designed and we
22 had told Cosmos that we didn't think what they wanted to
23 do was the right way to shoot it and it turned to be the
24 case.

25 **Q.** All right. If we can pull back out to the larger
11:05:26

1 documents, Mr. Carlock, and focus on these last few points
2 here at the bottom.

3 General Q-Marine and technology comments.

4 "Number one, Q-Marine document's and advertising does not
11:05:43 5 live up to expectation with Anadarko." Number 2, "Anadarko
6 has yet to see an uplift with Q-Marine over conventional on
7 their few proprietary projects."

8 Number 3. "Anadarko prefers not to use
9 Q-Marine on their proprietary work. They don't believe it
11:06:03 10 would be better than conventional."

11 And number 4, "Anadarko does not see
12 anything wrong with Q-Marine and if it was priced equally
13 with conventional, would not have a problem with Q-Marine,
14 they just don't see the uplift."

11:06:19 15 Now, the term uplift, would you agree that
16 that's a synonymous with premium?

17 **A.** It is synonymous with premium, yeah.

18 **Q.** And do you recall Anadarko tapping on these comments
19 about its perception of Q in November 2009?

11:06:35 20 **A.** They didn't have a lot of experience, and I remember
21 all five of those comments. If you look at five as well.

22 **Q.** Sure. Let's look at five. Made a comment that the
23 conventional WAZ, that's white azimuth?

24 **A.** Azimuth.

11:06:49 25 **Q.** Data.

1 **A.** They have in the GOM, Gulf of Mexico.

2 **A.** Gulf of Mexico.

3 **Q.** "Is the best white azimuth data they have seen in
4 comparison to other white azimuth data. After I corrected
11:06:58 5 him that this was Q-Marine data, he was surprised and a
6 little more accepting."

7 Fair point. But that white azimuth data,
8 that's in relation to the single sensor technology; fair?

9 **A.** No.

11:07:11 10 **Q.** It's not?

11 **A.** No.

12 **Q.** It's actually a combination of the different aspects
13 of Q, for example, lateral steering, with single sensor
14 technology and all the other technical benefits?

11:07:19 15 **A.** No. It's essentially putting the streamers in the
16 right place to illuminate the subsurface. That's what
17 makes the difference.

18 **Q.** Well, it's not talking about positioning, it's
19 talking about data, isn't it?

11:07:30 20 **A.** Well, the data is the result, what they're looking at
21 this is a multi-client project. So they're looking at the
22 end result. And that's a very well illuminated and well
23 focused image.

24 So they had not really used Q marine that
11:07:44 25 often. And this was the start of the meeting, actually.

1 This meeting started a better engagement with them where
2 they actually did look at them. We -- because, bear in
3 mind, don't forget this is a partner meeting and the
4 partners have been handed a bill for something they didn't
11:08:04 5 like because we were caught a little bit in the crossfire.

6 **Q.** You've talked about licensing briefly with
7 Mr. LoCascio. We understand that WesternGeco's policy is
8 to not license its technology as a general rule and it's
9 true that no aspect of Q-Marine has ever been licensed to
11:08:20 10 another company; fair?

11 **A.** Except we had to do an internal license to our
12 Mexican subsidiary to work for Pemex.

13 **Q.** But that was a Geco to Geco?

14 **A.** Geco to Geco, yes.

11:08:37 15 **Q.** Now, companies had wanted WesternGeco very early on
16 to license this technology to other companies; right?

17 **A.** They did ask us to, yes.

18 **Q.** And you refused?

19 **A.** Yeah.

11:08:45 20 **Q.** All right. Let's look at ION 269.

21 MR. TORGERSON: May I approach, Your Honor?

22 THE COURT: Yes, you may.

23 BY MR. TORGERSON:

24 **Q.** Do you recognize this document?

11:09:19 25 **A.** Yes, I collated this.

Cross-Walker/By Mr. Torgerson

1 Q. And by "collated," you mean put it together?

2 A. Yes, sorry.

3 Q. That's fair. If we could go to the -- this is
4 essentially a three-year plan we see in the upper third of
11:09:36 5 the document for 2001, 2004. And now just generally
6 speaking, Mr. Walker, with somebody with firsthand
7 experience with it, what's the point of this three-year
8 plan?

9 A. So we were a 70, 30 joint venture between
11:09:53 10 Schlumberger and Baker-Hughes and one of the requirements
11 of the joint venture master formation agreement is we had
12 to have and keep updated a business plan, and this is that
13 document.

14 Q. If we turn to the sixth page. This paragraph here,
11:10:18 15 Mr. Carlock, under the role of Q, and specifically this
16 second sentence. If you're with me, Mr. Walker, it reads,
17 "Although take up for Q-Marine was split between super
18 majors and independents."

19 Now the timeframe we're talking about is
11:10:39 20 what, 2001?

21 A. Yes.

22 Q. All right. "We have already seen attempts at
23 commoditization from the super majors, making independents
24 a natural initial market bridgehead." What does that
11:10:53 25 mean?

Johnny C. Sanchez, RMR, CRR - jscourtreporter@aol.com

Cross-Walker/By Mr. Torgerson

1 **A.** They had -- they had done exactly what you commented
2 earlier, they asked us to license the technology to other
3 companies.

4 **Q.** They had also asked you to drop the price?

11:11:08 5 **A.** Yeah.

6 **Q.** All right. The price did drop over time to -- from
7 double in 2000, 2001, to about one and a half by 2004?

8 **A.** Yes.

9 **Q.** And that was without any competition in the market?

11:11:23 10 **A.** No. That was part of planned business growth.

11 **Q.** And that was due to pressure from companies not
12 wanting to pay more than conventional surveys, as opposed
13 to this uplift or premium for Q-Marine; right?

14 **A.** It was more to start with we'd go to all these direct
11:11:40 15 towards but we know that was -- you can't build a global
16 business on direct towards. So it's seismic surveys are
17 too big, too few of those. So we knew if we were going
18 out to the boat market and we were responding to tenders
19 with an alternative for Q, then it was unsustainable to
11:11:58 20 have two times or something. We needed to find that
21 number.

22 **Q.** Was there ever an attempt to tier or layer the
23 pricing that was offered by Q-Marine?

24 **A.** We did. We tried up streamer of the day -- our
11:12:18 25 commodity streamer is called Nessie-4, and we tried a mode

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1 called Nessie-4 emulation that was not a success. We had
2 a go, part of settling down the product.

3 **Q.** Do you recall -- and essentially, if that was sort of
4 a low-end application for Q?

11:12:35 5 **A.** We would -- yes.

6 **Q.** Okay. As near to conventional as you could be on a Q
7 platform?

8 **A.** Yeah.

9 **Q.** All right. Was there ever an attempt to price or
10 create tiers at varying levels of price over conventional
11 as the base depending on the quality of the data that
12 would be provided?

13 **A.** So we had a go at a -- so the single sensor data is
14 there for noise attenuation, and that's what it does. But
11:13:05 15 you can do some cool things with it. And one of the
16 things you can do is output different data density along
17 the streamer. And we had several goes at marketing that
18 as an upper tier.

19 **Q.** Do you recall who tried to institute that tiering?

11:13:28 20 **A.** It was -- I put it together and with the marine
21 marketing manager at the time and probably the director of
22 marketing at the time.

23 **Q.** Who was director of marketing at the time?

24 **A.** It would have been Ken Williamson, I think.

11:13:40 25 **Q.** And Ken Williamson now works for ION?

1 **A.** He does, yeah.

2 It didn't work. We had a go, but it
3 didn't work.

4 **Q.** It was a strategy to try to squeeze some more value
11:13:50 5 or rank value depending on who your customer was?

6 **A.** Well, the logic was, if we knew the base price would
7 have to go down, we wanted to institute a second tier if
8 we could make money that way.

9 **Q.** Now, let's turn back to something quickly about your
11:14:06 10 belief that lateral steering is the most important aspect
11 of Q-Marine, specifically Defendant's or ION's
12 Exhibit 268.

13 Actually in the interest of time let's
14 move on. No, let's stay with that. 268.

11:14:32 15 **MR. TORGERSON:** May I approach the witness,
16 Judge?

17 **THE COURT:** Yes, you may.

18 **BY MR. TORGERSON:**

19 **Q.** Do you recognize 268?

11:14:47 20 **A.** I think I do. It was probably -- I may well have
21 written this given the job I was doing at the time, 2001.

22 **MR. TORGERSON:** If we could turn to Page 4 of
23 the document, Mr. Carlock. Actually let's go back to the
24 first page. I apologize.

11:15:06 25 **BY MR. TORGERSON:**

1 Q. Let's get the context for this and see what we're
2 looking at.

3 The top sentence reads: "Please describe
4 in short paragraphs what the three marketing and financial
11:15:18 5 achievements for WG have been over the full year of 2001."

6 What's the point of this document?

7 A. So this is input for the financial reporting process.
8 So we'd need to -- really preparing Q and A and marketing
9 and business points.

10 MR. TORGERSON: Go to the fourth page,
11 Mr. Carlock. Under here, number 2, highlight that first
12 paragraph.

13 BY MR. TORGERSON:

14 Q. "What is the differentiating capability of the
11:15:50 15 Q-land/marine suite?"

16 It reads: "Put simply, Q technology is
17 based on sampling for the noise field (which requires
18 denser sampling than the effective seismic energy
19 signal)" --

11:16:02 20 THE COURT: Slowly. Slowly.

21 MR. TORGERSON: Sure.

22 BY MR. TORGERSON:

23 Q. -- "then digitizing every sensor, which enables
24 improved (digital), filtering of noise in various smart
11:16:10 25 and adaptive ways, as well as enhancing signal to preserve

1 full bandwidth.

2 "The result of this is better calibrated,
3 more repeatable, higher fidelity seismic data - which
4 already have proven to add great value to scientific data
11:16:26 5 in general but is certainly set to change the game for
6 markets that require/depend on" -- and then a bunch of
7 technical language.

8 Is this essentially, Mr. Walker, the point
9 that the differentiating capability is a technical one in
11:16:43 10 the sense of as it relates to the single sensor data?

11 **A.** No. This means that we could eliminate the noise
12 better, and that would enable everything else to happen.
13 And that was our view at the time, that we'd done the
14 right thing to eliminate the noise by single sensor
11:17:02 15 instead of solid.

16 **Q.** And that would be sometimes called noise attenuation?

17 **A.** Noise attenuation.

18 MR. TORGERSON: If you turn to the next page,
19 Mr. Carlock, this first paragraph here, "Future Situation,"
11:17:19 20 under that heading.

21 BY MR. TORGERSON:

22 **Q.** It reads: "Q-Marine needs for deliver significantly
23 quieter data -- Q is better, but not go markedly so, than
24 solid streamers today. Whether a solid route or denser
11:17:33 25 sensor spacing is the route to go we have not yet

1 decided."

2 So my question, Mr. Walker: Is this an
3 acknowledgement that -- we had talked about these
4 different camps from Western Geophysical and Geco-Prakla.
5 This was part of that internal reconciliation of the Q
6 platform versus a solid streamer platform?

11:17:49

7 **A.** It was -- it was -- yes, we did a back-to-back tow,
8 and we found that we weren't quite as smart as we thought
9 we were.

11:18:02

10 MR. TORGERSON: If you pull up out -- back to
11 the larger document, Mr. Carlock, under the bottom quarter
12 here, "Competition Note" -- and, yes.

13 BY MR. TORGERSON:

11:18:16

14 **Q.** "To compete with Q technology requires the hardware,
15 a service capability and a software process and technology
16 to do the noise attenuation and signal enhancement prior
17 to array forming. This latter point" -- meaning noise
18 attenuation -- "and signal enhancement" --

19 **A.** Yeah.

11:18:28

20 **Q.** Yes.

21 -- "is the critical element to defend --
22 which is why we are refusing (so far successfully) to
23 release to single sensor data to any clients."

24 What does that mean?

11:18:42

25 **A.** So at the time, we firmly believed -- and this is a

Cross-Walker/By Mr. Torgerson

1 long time ago.

2 Now, we firmly believed that you wouldn't
3 be able to do the noise attenuation very well with solid
4 streamers. As your clients know, you make a business out
11:19:02 5 of successfully steering streamers, leaving aside the
6 legal issues. So you can do it very well with solid
7 streamer, but at the time, we thought you would need to
8 have the single sensor to do that.

9 **Q.** What does this mean about, "We are refusing (so far
11:19:20 10 successfully) to release the single sensor data to any
11 clients"?

12 **A.** So we -- when you make a streamer, a conventional
13 analog group streamer, you have a series of sensors, and
14 this -- sorry -- this is going to be technical.

11:19:37 15 A series of sensors, you wire it up
16 together. A different way of doing it, which is the way
17 we do it, is to treat each sensor as a separate channel
18 and then send all that information back to the boat and
19 then do the noise attenuation on computers, and input
11:20:00 20 field data to take in exactly the same way you would with
21 any other vessel. So the output from a Q-Marine project
22 is exactly the same as an output from a conventional
23 project.

24 **Q.** But the oil companies, in touting this single sensor
11:20:16 25 technology, wanted the raw measurements?

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1 **A.** Originally they wanted to know what we'd done. They
2 were saying, Wait a minute. We want to see this black
3 box. Tell us what you're doing.

4 And when we sat down with them and
11:20:27 5 explained what we were doing, then the whole thing went
6 away. It was a bit of drama.

7 **Q.** Has WesternGeco released -- agreed to release that
8 data as you sit here today?

9 **A.** No, we haven't. It's the measurements. It's not
11:20:45 10 data. It's noise.

11 **Q.** Okay. And this was an issue, this refusal to release
12 the raw sensor measurements? At least back historically,
13 in the 2001 timeframe, that was a concern expressed to you
14 by Chevron?

11:21:02 15 **A.** Yes.

16 **Q.** Exxon?

17 **A.** Yeah.

18 **Q.** Total?

19 **A.** Total raised it.

11:21:07 20 **Q.** Kerr-McGee?

21 **A.** Kerr-McGee said they wanted it and we had a
22 discussion and it was a storm in a teacup.

23 **Q.** You think you resolved it favorably?

24 **A.** Yes.

11:21:21 25 **Q.** Now, if you keep reading on this document, right

Cross-Walker/By Mr. Torgerson

1 here, "Q over samples" --

2 MR. TORGERSON: This entire paragraph,

3 Mr. Carlock.

4 BY MR. TORGERSON:

11:21:35 5 Q. "Q over samples that reflected energy in order to --"

6 THE COURT: Too fast. Too fast. Start over
7 again.

8 MR. TORGERSON: Apologies.

9 BY MR. TORGERSON:

11:21:40 10 Q. "Q oversamples that reflected energy in order to
11 sample the noise. We have several patented methods to
12 achieve the noise attenuation and our service competitors
13 are already claiming that they can do whatever we can
14 do -- in order to help break the value chain by splitting
11:21:58 15 acquisition and processing, naturally with the full
16 encouragement of the oil majors."

17 Now, what were your service competitors
18 saying in 2001 about being able to do -- perform this
19 noise attenuation?

11:22:13 20 A. What they were saying is, We've got different ways
21 where we could do it and we could -- we would like to --
22 like to give it a go.

23 Q. And this was your competitor -- your competition
24 trying to distinguish themselves in the field saying, We
11:22:30 25 can do something that they can do, and you were

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1 disagreeing with that?

2 **A.** We didn't disagree they couldn't do it.

3 We said, We've invested a lot of money in
4 this technology. We've put some great scientists on to
5 work for it, and we believe we can do better.

11:22:46

6 And in fact, when the customers came and
7 worked with us and sat down through our work flows and
8 said, Well, I tell you what, can we try this way? Can we
9 try this way? then they agreed that our way was better.

11:22:59

10 **Q.** And it says here, "Naturally with the full
11 encouragement of the oil majors.

12 Was it the case, Mr. Walker, that the oil
13 companies were encouraging this competition?

14 **A.** Yes. They always encourage competition.

11:23:10

15 **Q.** In fact, oil companies don't like a one-supplier
16 market?

17 **A.** Well, oil companies would always prefer to have
18 multiple suppliers for everything.

19 **Q.** And that brings the price down on things; fair?

11:23:22

20 **A.** Yeah.

21 **Q.** But you would also agree with me that competition and
22 this drive to distinguish one another technologically can
23 lead to better seismic?

24 **A.** Innovation is good.

11:23:34

25 **Q.** All right. And here we've seen some documents and

1 thought that Statoil and Apache and other oil companies
2 wanted over time an alternative product to Q-Marine;
3 right?

4 **A.** They wanted lateral steering, yes.

11:23:47 5 **Q.** And they knew, they had experience with that Q-Marine
6 product, including Q FIN; right?

7 **A.** Yeah.

8 **Q.** And they went to other companies and said, We want
9 you to work on your own solution; fair?

11:23:59 10 **A.** Yes.

11 **Q.** And they chose, Statoil, for example, in connection
12 with these, chose to go with Fugro or PGV or CGGV instead
13 WesternGeco; right?

14 **A.** They've done a project, yeah.

11:24:14 15 **Q.** Isn't the right of these oil companies, to select who
16 they want to do business with?

17 **A.** It's the right of the oil companies to use any
18 technology. The question is whether that technology does
19 or doesn't infringe your patent.

11:24:24 20 **Q.** And in this case, WesternGeco's position is that's
21 not possible. You can't perform lateral steering at all
22 without infringing our patents. Is that fair?

23 **A.** I think I'm the wrong person to ask about the exact
24 scope of the -- of the patent.

11:24:40 25 **Q.** Okay.

1 **A.** It's our understanding that the approach taken, not
2 to say there are no other approaches -- the approach taken
3 was infringing.

11:24:52

4 **Q.** Mr. Walker, as you sit here today, do you have an
5 understanding that could be an approach to lateral
6 steering in the towed seismic market that would not
7 infringe WesternGeco's patents?

11:25:10

8 **A.** Well, people tried chaining the -- roping streamers
9 together. Now that doesn't help with steering, but it
10 helps prevent a trousering, which is where streamers pull
11 apart.

12 But it's our view that an integrated
13 system with central command and control and birds
14 contravenes the patent.

11:25:24

15 **Q.** So any integrated system with birds and a control
16 system you believe would violate WesternGeco's patents in
17 this case?

18 **A.** Well, that's what our IP experts say to me. Like I
19 say, I'm a businessman rather than an IP expert. So...

11:25:41

20 **Q.** Do you believe that Statoil and Apache and these
21 other companies were encouraging contractors such as Fugro
22 or others to violate WesternGeco's patents?

23 **A.** They were asking for services, including lateral
24 steering.

11:25:57

25 **Q.** Do you believe that that encouragement was asking

1 contractors to violate WesternGeco's patent rights?

2 **A.** If they were found to be infringing, then, to an
3 extent, yes.

11:26:27

4 **Q.** Excuse me. Now, WesternGeco relies on its customers
5 which are these large oil companies for its business;
6 right?

7 **A.** Yes.

8 **Q.** WesternGeco has promised not to sue Statoil in
9 connection with this case; right?

11:26:40

10 **A.** We've said we don't intend to take any oil company to
11 court.

12 **Q.** And you've made that message quite clear?

13 **A.** Yes, we have.

11:26:52

14 **Q.** And is that because WesternGeco doesn't want to bite
15 the hand that feeds it?

16 **A.** In a way, yes.

17 **Q.** All right. Let's turn to ION 74?

18 THE COURT: We are -- you need to look for a
19 place where we can break for lunch.

11:27:11

20 MR. TORGERSON: This is a great break.

21 THE COURT: Okay. Ladies and gentlemen, we're
22 going to take a little bit longer at lunch. I have a
23 criminal matter to handle, and we need to conduct some
24 lawyer business in this case. So I'll ask you to be back
11:27:23 25 at 12:30.

Cross-Walker/By Mr. Torgerson

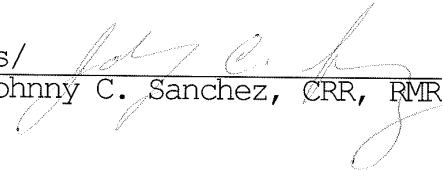
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Would all please rise for the jury.

(Recessed at 11:28 a.m.)

COURT REPORTER'S CERTIFICATE

I, Johnny C. Sanchez, certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

/s/ 
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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF TEXAS
3 HOUSTON DIVISION

4 WESTERNGECO LLC, . 4:09-CV-01827
5 . HOUSTON, TEXAS

6 PLAINTIFF, .

7 vs. .

8 ION GEOPHYSICAL .
9 CORPORATION, FUGRO GEOTEAM, .
10 INC., ET AL, .

11 DEFENDANTS .

12 AFTERNOON SESSION
13 JULY 30, 2012
14 11:56 A.M.

15 TRANSCRIPT OF JURY TRIAL
16 BEFORE THE HONORABLE KEITH P. ELLISON
17 UNITED STATES DISTRICT JUDGE

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1 surveys anywhere. So when the reference is made to defendants,
2 it is somebody other than ION.

3 *MR. THOMPSON:* I don't know if I could -- I can try
4 and make my point orally if that's fine or elicit a question
5 and answer. But if they are going to take the position that
6 the Statoil job performed by Fugro was in the EEZ and,
7 therefore, in the territorial waters, I would note that since
8 WG bid on that survey, they would be bidding and attempting to
9 perform a survey in the territorial waters of the United
10 States, that the decision is overturned and I would ask the
11 witness if he knows whether or not they marked their patents.

12 *THE COURT:* Any response, Mr. LoCascio?

13 *MR. LOCASCIO:* I don't know if the witness has any
14 idea if they do or not, but I expect it is a service performed
15 inside the United States, so --

16 *THE COURT:* Have y'all talked about this?

17 *MR. LoCascio:* We have not discussed it.

18 *THE COURT:* Why don't you talk about it? We will take
19 some more evidence if we need to or take some more proffer if
20 we need to.

21 *(Jury present)*

22 *THE COURT:* You may inquire.

23 *MR. TORGERSON:* Thank you, Your Honor.

24 **ROBIN WALKER, PREVIOUSLY SWORN, FURTHER TESTIFIED:**

25 **CROSS-EXAMINATION** (Continued)

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Torgerson Cross of Robin Walker

1 BY MR. TORGERSON:

2 Q Mr. Walker, welcome back. Are you ready to proceed?

3 A I am.

4 Q I want to turn back to your earlier opinions about the
5 value of Q-Marine.

6 *MR. TORGERSON:* I'd ask if we could pull up ION
7 Exhibit Number 74.

8 BY MR. TORGERSON:

9 Q I believe you testified before the break that your early
10 thoughts were that the value of Q was in connection with the
11 noise attenuation and -- rather than specifically the lateral
12 steering, but then effectively you have come around to the
13 customer's way of thinking, which is lateral steering is where
14 it's at. Is that a fair summary?

15 A We had hoped to make money out of the other components, but
16 the lateral steering is the one that our customers said was of
17 value.

18 *MR. TORGERSON:* And specifically if we can look,
19 Mr. Carlock, at the first full paragraph and actually look at
20 the email.

21 *THE WITNESS:* Do I have a copy of this document?

22 BY MR. TORGERSON:

23 Q I will get one for you. I apologize.

24 *MR. TORGERSON:* May I approach?

25 *THE COURT:* You may.

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1 **THE WITNESS:** Thank you, sir.

2 BY MR. TORGERSON:

3 Q ION 74 is an email from you to Julie Marshall and Jens Olav
4 Paulsen and we have a dating issue with regard to how this
5 document was printed. It is not actually from the year 4501.

6 A I think I will be retired then.

7 Q Likewise. If you can verify that the date of the preceding
8 email was on October 24, 2005?

9 A Yes.

10 Q So essentially the late 2005 is the time frame that we are
11 dealing with, fair?

12 A Yes.

13 Q All right. And this is an email from you to Julie
14 Marshall?

15 A Yes.

16 Q And in connection with that, she was then the product
17 champion for Q-Marine, fair?

18 A She was the product champion for the advanced spread
19 control, which is that particular component of advanced
20 steering. So that was her area of expertise.

21 Q Okay. Who was Jens Olav Paulsen?

22 A He was the -- at the time in 2005, he was -- by that point
23 he probably would have been in engineering, had a little time
24 when he was a global contract manager. He was probably in
25 engineering at that stage.

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1 Q And this is a discussion about, in part, streamer steering
2 involving Chevron, fair?

3 A Yes.

4 *MR. TORGERSON:* And if we could highlight the sentence
5 here, Mr. Carlock, on the streamer steering issue and just read
6 along with me.

7 BY MR. TORGERSON:

8 Q "on the streamer steering issue, I agree. Also, don't
9 forget that this was only presented under an NDA" -- a
10 nondisclosure agreement?

11 A Yeah.

12 Q "...which Chevron people do take seriously and which Steve
13 Doherty reminded everyone about prior to the presentation. My
14 intent, as I discussed with you, was to position streamer
15 steering as one element of Q. In other words, without the
16 ability to attenuate the noise, no element of streamer steering
17 will have any value."

18 Would you agree with me that the introduction of
19 lateral streamer steering introduced noise into the system?

20 A It generated noise in just the same way that other -- that
21 other activities generate noise.

22 Q Certainly. And devices that are outside the streamer can
23 contribute or exacerbate that noise. Is that fair?

24 A It is generally the noise on the streamer going -- pushing
25 it -- you are trying to push it sideways through the water.

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1 Q And that's the problem with the noise that you need to
2 attenuate or minimize?

3 A Yes.

4 Q All right. If we keep reading, it says: This point was
5 not lost on the CVX guys -- which I assume is an acronym for
6 some Chevron folks?

7 A Yes.

8 Q "...who were particularly interested in the fact that the
9 model data -- they asked a bit about that. I told them
10 absolutely nothing about any of the method, by the way, as we
11 agreed -- would simply be swamped by analog group data, which
12 reinforced their view that the IO product would never work or
13 at least it would not be effective. I prefer this."

14 Was there doubt by the Chevron folks in
15 November 2005 about the efficacy of the then to be introduced
16 DigiFIN product?

17 A I think they were -- they were certain -- they raised the
18 issue of noise attenuation and noise attenuation is important,
19 was important.

20 Q And other than a single streamer -- single sensor
21 capability of Q-Marine, nobody else had the ability or had the
22 ability in '05 to attenuate noise the way WesternGeco did?

23 A You could have done it with solid streamer.

24 Q Okay. Fair. Now, when -- there was a change at some point
25 in connection with Q-Fin about the size of the wing. Do you

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1 recall that?

2 A Yes.

3 Q And there was sometimes an internal reference to Q-Fin 2?

4 A Indeed, yes.

5 Q Can you explain to the jury what that change was, what was
6 the reason for that?

7 A Yes. We wanted to keep the body the name, the in-line bit,
8 and put on larger wings with the intention of being able to
9 increase the amount of steering we could put on it.

10 Q Has that been brought to market yet?

11 A No, it hasn't.

12 Q When did the engineering work on Q-Fin 2, these larger
13 wings, start?

14 A It started probably about -- I think about 2006. To be
15 honest, I'm not really sure.

16 Q And it now being 2012, these larger wings have not been
17 implemented into the Q-Marine fleet?

18 A No.

19 Q Why not?

20 A We ran the -- by the time we got it out and tested it, the
21 first iteration, the model we got of how a streamer behaves on
22 the steer -- the model we got of the streamer under steer
23 seemed to be to us a bit unstable and we had a case when a bird
24 was spinning and that created tie up on the streamer and we
25 said, Okay, it is nice to have, it is not absolute. Let's put

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1 it on the back burner.

2 Q Was the point of the larger wing to increase the level of
3 steerage capable?

4 A Yes.

5 Q And there was a point in time at which WesternGeco marketed
6 this anticipated offering to the market, correct?

7 A We did, yes.

8 *MR. TORGERSON:* May I approach?

9 *THE COURT:* You don't need to ask permission to
10 approach. We have gone over that.

11 BY MR. TORGERSON:

12 Q I'm showing you ION Exhibit 229, sir. And it appears to be
13 a PowerPoint, Q-Marine SEG with four topics: Coil shooting,
14 discover, upscaled Q-Fin and wave height corrected seismic.

15 Do you recognize this document?

16 A I'm sure I should. It would have been input to SEG and
17 what we were promoting to our customers.

18 Q Coil shooting is an instance where you have the boats go
19 around in a circle like a coil?

20 A Indeed, yes.

21 Q Discover, is that the over/under capability?

22 A Yes. It is the over/under to get more band activity.

23 Q Okay. Let's look at the upscaled Q-Fin.

24 *MR. TORGERSON:* And it is specifically, Mr. Carlock,
25 page 7 of this document. Let's highlight that if we can.

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1 BY MR. TORGERSON:

2 Q It says: Upscaled Q-Fin currently in testing, available
3 2009.

4 So this was for the 2008 SEG?

5 A Yes.

6 Q Do you remember what city the 2008 SEG was?

7 A It might have been here actually.

8 Q Was it Las Vegas?

9 A Maybe it was Las Vegas. After 20 of them, you tend to
10 forget.

11 Q I have never been to one of those. I don't get to go to
12 those.

13 But just for purposes real quick, the SEG is the
14 American trade show and the EAG is the European trade show?

15 A Yes.

16 Q The EAG is usually in June and the SEG is usually in the
17 fall?

18 A Yes.

19 Q All right. And here we see at the bottom: WG response to
20 DigiFIN and Nautilus. Any client who claims our leadership is
21 being eroded, needs to see this and read our frequently asked
22 questions.

23 A Yes.

24 Q Would you agree with me, Mr. Walker, that WesternGeco was
25 marketing this potential increased steerage of the Q-Fin 2 to

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1 respond to the market reaction to DigiFIN and Nautilus?

2 A Yes.

3 Q And you would agree with me that you were, consistent with
4 what we discussed before lunch, trying to make something new to
5 Q-Fin that would differentiate it technologically from the rest
6 of the competitive field?

7 A Yes.

8 Q And clearly you are touting your leadership in the industry
9 at that stage, fair?

10 A We had a lot of experience and we wanted to lead on the
11 experience.

12 Q All of that experience, in fairness, was a monopoly. You
13 were the only one in the field until late 2007, right?

14 A It had originally been a monopoly. It wasn't at this
15 stage.

16 Q And the reaction from WesternGeco at that point was to say:
17 We have been working in anticipation of this new device. We
18 are going to give it some new capabilities and tout those
19 capabilities?

20 A We were trying to extend leadership, yes.

21 **MR. TORGERSON:** If we could go to the Elmo, Ms. Loewe.

22 BY MR. TORGERSON:

23 Q We talked about some reasons for losing bids in this
24 industry. And can we all agree that probably the number one
25 reason for losing bids is price?

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1 A The people who are technologically qualified, price and
2 availability are very important.

3 Q And when you say availability, do you mean availability of
4 vessels?

5 A Availability of vessels in the time slot.

6 Q What are some other issues for why a company might lose a
7 bid?

8 A Those are the two main ones.

9 Q You had talked about technical requirements, right?

10 A In the context of all people being technically equal,
11 amongst those are the technically qualified.

12 Q Can we call it "technical qualifications"?

13 A Technical qualifications is good.

14 Q And specifically we talked about -- at the beginning, we
15 saw your graphic of the gentleman running into the brick wall.
16 Do you remember that?

17 A Yes.

18 Q And specifically this is an older version, but this poor
19 gentleman and this poor gentleman didn't have the technical
20 capability and so they didn't get to get to the second stage of
21 negotiation with the company, right?

22 A Yes.

23 Q All right. Now, one of the technical requirements --
24 actually, I believe that there are generally three major
25 technical requirements or qualifications. And you described

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1 those to me before as lateral steering, broadband data and
2 solid streamer, correct?

3 A They are not related, but those are three big drivers at
4 present.

5 Q Fair. And I'm not implying that they are related. I'm
6 just saying those are sort of the three large ticks that you
7 look in the box and say you will typically see three primary
8 drivers, solid streamer, lateral steering and broadband data,
9 right?

10 A So the solid streamer is about noise attenuation generally,
11 yes.

12 Q Until 2010, specifically with regard to the TASMAN vessel,
13 WesternGeco did not have solid streamer capability on any
14 Q-Marine vessel?

15 A No. We delayed its rollout because TASMAN was delayed.

16 Q Why weren't solid streamers put on the other Q vessels
17 before 2010?

18 A Because they were already equipped.

19 Q And they had gel filled streamers?

20 A They had a fluid filled streamer.

21 Q What was the fluid?

22 A Isopar, Isopar N. My apologies. If I'm going a bit fast,
23 I will slow down.

24 Q One of the reasons for not replacing the fluid filled
25 streamers with solid streamers is you wanted to age those out

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1 of -- sort of the depreciation out of your fleet?

2 A They were -- we didn't have a problem selling them in the
3 marketplace, so we certainly weren't going to write them off.

4 Q Was there a technical problem, Mr. Walker, with introducing
5 solid streamers to the Q-Fin before 2010?

6 A We had some challenges on getting the long-term longevity
7 and we wanted to be absolutely certain of that before we
8 released it into the field.

9 Q Were there any issues, to your knowledge, sir, about
10 twisting or spinning problems of the Q-Fin device and its
11 impact on solid streamers?

12 A That was the Q-Fin 2, which would have had the same impact
13 on any streamer. It is fairly complicated technically and you
14 screw it up and tie it up like that, you will do it irreparable
15 damage.

16 Q I guess my question is a little more specific, and let me
17 try to be more clear. In connection with a solid streamer, it
18 would take less torsion or twisting to cause damage to the
19 electrical parts inside than, say, a --

20 *THE REPORTER:* I'm sorry?

21 BY MR. TORGERSON:

22 Q Sure. So would you agree with me that in a solid streamer,
23 that twisting or spinning, it would be easier to cause damage
24 to the electrical parts inside a solid streamer than, say, a
25 fluid filled streamer? Do you agree or disagree with that?

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1 A I would disagree and state that I'm not an engineer, so I'm
2 not sure. But I can't see how it would be that different
3 because it is a gel, a streamer is a gel, a reversible gel.

4 Q Fair. And you would agree with me that until 2010 with the
5 TASMAN -- and what month in 2010 did the TASMAN come out with a
6 solid streamer?

7 A We came out in April 2010.

8 Q So before April 2010, as it relates to Q-Marine vessels
9 being bid on projects, you would agree with me that WesternGeco
10 could only meet two of the technical qualifications and not all
11 three?

12 A It would depend upon why the solid streamer was required.
13 Because if the solid streamer was a way of reducing the
14 noise -- which it is, it's a big selling point -- then we did
15 that perfectly well with the single sensor approach.

16 Q You would agree with me that some oil companies, just like
17 you have testified about with lateral steering having primary
18 importance, some oil companies had primary importance of solid
19 streamers?

20 A I have seen it expressed as a preference. I don't think we
21 have ever lost a job because we don't have solid streamer. It
22 is expressed as a preference because of noise generally.

23 Q And we have seen in connection -- we will get to the
24 specific document in a moment -- with regard to the Statoil
25 survey and the Chukchi that was lost to Fugro, that WesternGeco

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1 actually made two bid proposals?

2 A Yes.

3 Q And one of them was with the TASMAN with its new solid
4 streamer, correct?

5 A Yes.

6 Q And one was with the TRIDENT with its also solid streamer
7 just made by another manufacturer?

8 A Yes.

9 Q Specifically Sercel's Sentinel streamer?

10 A Yes.

11 Q Was there any thought or discussion within WesternGeco to
12 place its Q-Fin device on its non-Q vessels, specifically the
13 Sentinel streamers, which were solid?

14 A So the Sentinel streamers, no. During the development, we
15 put steerable streamers -- we put the Q-Fin on to the Nessie-4
16 streamer, which was a fluid filled analogue group streamer.

17 Q When did WesternGeco put Q-Fin on its fluid filled Nessie-4
18 streamer?

19 A That was during development and it would have been '98,
20 maybe '97, something like that.

21 Q And since that time, in any commercial setting, any
22 commercial setting has WesternGeco ever deployed a Q-Fin device
23 on a Nessie-4 fluid filled streamer?

24 A No. It was a test.

25 Q Coming forward, was there any discussion within WesternGeco

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1 to place Q-Fin devices on its solid streamers non-Q boats
2 before 2010?

3 A There was a discussion and people looked about whether it
4 would be worthwhile from the point of view of engineering the
5 coupling because a lot of sections have particular coupling and
6 particular requirements and then you go through the other end.

7 Q But to be clear, it was never actually done?

8 A No. And I don't think it was tested.

9 Q So if there was a demand for a streamer with lateral
10 steering capability, WesternGeco never really investigated
11 putting Q-Fins on its non-Q vessels?

12 A No. We -- it was just on the Q streamer. It was designed
13 to work with the Q streamer.

14 Q How many vessels are in WesternGeco's fleet today?

15 A 16 -- 15.

16 Q And how many of those are seismic vessels?

17 A Sorry. Those -- I thought you meant -- those are 15
18 3D seismic vessels.

19 Q All right.

20 A We have an additional five or six vessels that we use for
21 source of command.

22 Q And of those 15 3D capable vessels, how many are equipped
23 with Q?

24 A 11.

25 Q And of those 11 that have Q, how many have Q solid

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1 streamers?

2 A Seven.

3 Q What are some other reasons for losing bids? We can talk
4 about -- we've talked about technical qualifications. What are
5 some non-technical reasons or perhaps business reasons why bids
6 are won or lost, based on your experience?

7 A We have -- we talk about whether we have -- we have
8 contractual discussions and relationship, and operational
9 experience is very important.

10 Q Especially in a given area that might have peculiar
11 specific physical characteristics, like riptides or things of
12 that nature?

13 A Yes. Obviously I mean lack of operational experience from
14 operational experience.

15 Q What about age of vessels?

16 A Age of vessels, if they are not purpose built for seismic
17 is a question mark with one oil company at the moment.

18 Q Who is that?

19 A Total.

20 Q Operational experience, I could also add -- for example, I
21 believe you also mentioned business experience, like the
22 history of the companies together?

23 A Yes.

24 Q That's important, right?

25 A Hope so.

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1 Q What else am I missing on the different reasons that a
2 company might lose a seismic bid?

3 A We talked about contracts, which is a part of the
4 negotiation. And other than that, I don't -- I can't think of
5 anything else.

6 Q You feel like this is a pretty comprehensive list?

7 A I would think so, yeah.

8 Q Now, you would agree with me that you often don't know why
9 a particular bid was won or lost, correct?

10 A If we have met the key technical specifications, we will
11 always try and find out. We will usually find out on price,
12 where were we on price. Usually find out on availability and
13 who won. We usually get, with Total, a clear message on vessel
14 age, so they signal that very loudly.

15 Q You had agree -- go ahead. I'm sorry.

16 A So we have that mix.

17 Q You would agree with me, Mr. Walker, that information is
18 actually rarely available to WesternGeco or even its
19 competitors because oil companies decline to say the reason why
20 bids are won or lost?

21 A It is rarely available in a concise, clear, transparent
22 manner.

23 Q And specifically when you approach them, if an oil company
24 says, Well, here is the reason why you lost the bid, you would
25 agree with me that you can't believe them?

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1 A We will believe them if -- in general we will believe them
2 what they -- what they will tell us. There may be something
3 else that they don't tell us. We can't possibly know what they
4 don't tell us, but we will believe the words coming out of
5 their mouth. Of course we will.

6 Q You are going to believe the words that come out of their
7 mouth?

8 A We are going to take them that they are not necessarily out
9 and out lying to us. We may have a view that they are watching
10 what they say carefully.

11 Q Mr. Walker, do you remember having your deposition taken in
12 this case in September of 2011?

13 A I do, yes.

14 Q Do you remember being asked that very often you don't know
15 firsthand from a client or a customer what their rationale
16 might be as to selecting Contractor A versus Contractor C, D or
17 F? Do you remember that question being posed to you?

18 A Yes. I personally don't necessarily know.

19 Q And at the time you said, in response to that specific
20 question: No, we don't, we don't necessarily know, right?

21 A Yes.

22 Q And you continued: And if we asked them, I don't want to
23 sit having made notes and say, I believe what they say.

24 In September 2011, Mr. Walker, you told me you
25 can't believe what they say when they do tell you a reason,

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1 right?

2 A Right. What I said is I can't take it absolutely unedited.
3 If they say we were more expensive, for example, I would ask
4 how much. They may -- I wouldn't necessarily say they
5 absolutely give me the number difference.

6 Q That's fair. You would agree with me that oil companies
7 don't want to divulge to you their decision-making process?

8 A They don't want to divulge they -- if they have those
9 awaiting on the options, so we have the must have
10 requirements and then the optional or the -- let's say the
11 soft -- the evaluation criteria. And they don't generally want
12 to tell us how that goes. I would love to be a fly on the
13 wall.

14 Q That would be a huge advantage to you, wouldn't it?

15 A It would be a huge advantage to everyone who's on the wall,
16 yes.

17 Q And that is why the oil companies don't divulge that to you
18 or Fugro or to the other companies, so that there is a level
19 playing field, right?

20 A Yeah.

21 Q All right. In fact, I believe you testified with
22 Mr. LoCascio that the public bids that are opened after the
23 fact are only available in about 10 percent of those
24 circumstances?

25 A Yes. In that it's very clear.

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1 Q Now, I want to show you something, if we stay on the Elmo.
2 In connection with your demonstratives from earlier --
3 Slide 18, I will just show it to you. This is your
4 Demonstrative 18.

5 Now, this was the Welling survey from 2002,
6 right?

7 A No. It was the Welling survey from 2010. If you look --
8 if you zoom it up to the corner --

9 Q I apologize. 2010.

10 A 2010, yes.

11 Q What is the reference to MRAS 2002?

12 A That was their software. It stands for Market Research
13 Analysis Software, and they launched it in 2002.

14 Q Okay. And so in 2010, you are asking the Question 127:
15 The industry also seems to be moving to steerable streamers.
16 How much value do you see in the following benefits steerable
17 streamers claim to provide? Scale 1 to 10. And we have talked
18 about all of these operational benefits.

19 My question to you is: Before 2010, WesternGeco
20 was certainly marketing to these oil companies the benefits and
21 advantages of lateral steering when it was the only player in
22 the market with it, right?

23 A Yes.

24 Q You would agree with me that WesternGeco was also working
25 to suggest that oil companies put lateral steering as a

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1 requirement or a preference in their tenders?

2 A Well, we will propose our technology and seek to influence
3 the customers whenever we can.

4 Q And that would be financially to your benefit to attempt to
5 influence the oil companies by saying, Listen, this lateral
6 steering is so great, let me show you why, so in your tenders,
7 make lateral steering a requirement or preference. That would
8 benefit you as the only player in the market during that
9 period, correct?

10 A We tended to talk about all those four elements of Q and
11 promote them because we were always interested to get the best
12 degree of differentiation that we can.

13 Q And you wanted to transfer or translate that technological
14 differentiation into a dollar differentiation over your
15 competition, right?

16 A Yes. We wanted to get a return on our investment. We want
17 to provide better quality data to our customers.

18 Q Now, you said this morning that lateral steering is a
19 technological barrier to entry. Do you recall that?

20 A Yes.

21 Q And specifically with these four gentlemen at the up and
22 bottom of Walker Demonstrative 1, they didn't have some of the
23 technical requirements and were turned away, right?

24 A Yes.

25 Q Now, you recall in connection with the Chukchi survey, I've

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1 told you before -- we have talked about before --

2 *MR. TORGERSON:* Let's go ahead and pull up Plaintiff's
3 Exhibit 767.

4 BY MR. TORGERSON:

5 Q This was shown to others in this case, and I'm going to see
6 if you recognize it. This is Appendix 1, pricing of tender
7 alternative proposal, and it relates to the Chukchi survey.
8 Are you familiar with these documents, Mr. Walker?

9 A I have seen this, yes.

10 *MR. TORGERSON:* All right. Let's turn to the second
11 page, if we can. Let's blow that up.

12 BY MR. TORGERSON:

13 Q This, again, is the WESTERN TRIDENT numerical budget
14 example. Again, this was an alternative proposal, right?

15 A So we had the -- yes, the multiple proposals.

16 Q And WESTERN TRIDENT is a non-Q vessel?

17 A Yes.

18 Q Not steerable streamers?

19 A Yes.

20 Q And your testimony with Mr. LoCascio was quite clear that
21 the Chukchi survey for Statoil was a lateral steering required
22 survey, yes?

23 A So we put in -- we like to show the value of the
24 technology, so we put in two alternatives, yes.

25 Q And I guess my question is --

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1 **MR. TORGERSON:** If we could switch back to the Elmo,
2 Ms. Loewe.

3 BY MR. TORGERSON:

4 Q Explain to the jury, then, why WesternGeco, with its
5 alternative proposal, isn't this poor fellow running into the
6 brick wall because if lateral steering is a requirement, one of
7 your alternatives is not providing lateral steering?

8 A That's why we put in one that is compliant and one that is
9 an alternative.

10 Q So explain to us why you would try to offer them something
11 that they are not asking for that would be, to use your own
12 words, a technological barrier to successfully earning that
13 bid.

14 A We just like to show the incremental value of the
15 technology. If you look at the Q proposal on that --

16 Q Sure.

17 A -- we were suggesting also different ways of acquiring the
18 project. We suggested -- and there is a separate document
19 there, which is more of a marketing document, which you may or
20 may not have, of different ways of doing it in order to reduce
21 the survey time. And one of them was Fan-Mode, for example.
22 So we just wanted to give our customer as many choices but
23 ensuring that the one that is prime bid is technologically
24 compliant.

25 Q Back to 767. Do you remember that the non-Q bid was for

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1 27,731,000, right?

2 A I remembered the round numbers, yeah.

3 Q And if we go to the third page to contrast that 27,7 number
4 to the one for the TASMAN, which is your Q vessel, the bid was
5 for 28,871,000?

6 A We'd acquire it a great deal quicker in our estimation with
7 Q, yes.

8 Q And specifically the estimation of the acquisition for the
9 Q was going to be in about 63 days. Is that fair?

10 A I don't -- I don't recall. I have looked at this. I don't
11 recall the detail, if it is on the --

12 *MR. TORGERSON:* Pull back, if we can, Mr. Carlock, to
13 right here.

14 BY MR. TORGERSON:

15 Q Tell me if I'm reading this right. The print is very
16 small, and it is not my document.

17 A The print is very small, isn't it?

18 Q Right here, 63.3, and that is \$1,472 per day. Am I reading
19 that correctly?

20 *MR. LOCASCIO:* Would it help if the witness has a copy
21 of this?

22 *MR. TORGERSON:* That's fair. He can look at mine.

23 *THE WITNESS:* Thank you.

24 BY MR. TORGERSON:

25 Q You see that it is 63 days approximately and that is

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1 contrasted with the TRIDENT non-Q survey --

2 A 63 days, yeah.

3 Q Versus 72.4 days or 72.6 days?

4 A Yes.

5 Q Am I reading that correctly?

6 A Yes.

7 Q Okay. So to be clear, the TASMAN, the Q survey was
8 expected to be 63.3 days and the TRIDENT non-Q was going to be
9 72.6 days?

10 A Yes. Can I just look at this?

11 Q Absolutely. I want to make sure I'm right.

12 A So that is the operational time. It is the time when we
13 have got -- the link there is the PAM system operator, who is
14 one of the onboard supports. But yeah, yes.

15 Q Okay. And including that -- or taking that time
16 differential into account of approximately nine days, it is
17 about a \$1.1 million price difference, more for Q?

18 A Yeah. What we would need to check is whether this is the
19 Fan or the baseline. I'm not certain.

20 Q That's fair. But when we go and look at your example, back
21 to the Elmo with Mr. LoCascio from earlier this morning, do you
22 remember this diagram?

23 A Yes.

24 Q Where the notion was you could do a lateral steering survey
25 faster and get more work in, you would agree with me if we look

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1 at this possibility here that has a couple of assumptions.

2 One of the assumptions is that another job is
3 waiting for WesternGeco?

4 A Yes. That's an assumption.

5 Q Another assumption is that WesternGeco would secure that
6 survey, such that it could leave survey 2 and go to survey 3,
7 right?

8 A Yes.

9 Q And that's a bid process, that you have told us before
10 lunch, WesternGeco is successful about 25 to 30 percent of the
11 time?

12 A So that's a global number. This was, for example in the
13 North Sea, where once you have secured work, you would look to
14 secure further work behind the vessel.

15 Q And you would agree with me that from 2009 to 2011, and
16 perhaps even today, that the demand isn't there such that jobs
17 are not waiting for you back to back to back?

18 A So we have very little dead time on the vessels. In 2011,
19 we had a little bit of dead time in 20- -- 20- -- at the end of
20 2011 we had some planning lost time, but many people in the
21 industry have planning lost time. But apart from that, our
22 vessels were fully occupied.

23 Q And that's a good point. Let's talk about your capacity.

24 You would agree that the recession had an impact
25 not just on the entire seismic market, but also on WesternGeco,

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1 right?

2 A Yes.

3 Q And specifically, the total seismic spend was down
4 30 percent in 2009 versus 2008, right?

5 A Yes.

6 Q And you would agree with me that there were two obstacles
7 facing the industry: Number one, fewer surveys, right?

8 A There were fewer surveys, yeah.

9 Q And everybody, all the big players, PGS, CGGV, and
10 WesternGeco, reduced their vessel fleet size as a result of
11 that?

12 A Yes. We are taking Q off three of our boats.

13 Q And there was also a lower price?

14 A Yes.

15 Q There was essentially a price war for the work that was
16 available, right?

17 A It was -- the margins went down. I suppose you could call
18 it a price war.

19 Q The margins went down for WesternGeco by 50 percent, didn't
20 they?

21 A Yes.

22 Q So you would agree that in 2009, comparing revenue versus
23 2008, it was a 50 percent drop that was a direct result of
24 competition over fewer surveys. Yes?

25 A It's a combination of things, but it's -- certainly the

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1 entrance of FUGRO into the market meant that we were competing
2 on the steerable -- lateral steering market, where we hadn't
3 been doing so before.

4 Q All right.

5 *MR. TORGERSON:* I'm sorry, Ms. Loewe, for the back and
6 forth. But if we could go to the computer and pull up ION
7 Exhibit 271.

8 *THE WITNESS:* Thank you.

9 BY MR. TORGERSON:

10 Q This is a PowerPoint update to the board. We will get to
11 the data in a second.

12 It was prepared by you or in part by you for
13 Mr. Kibsgaard, correct?

14 A It was, yes. I -- I made at least some of these.

15 Q All right. And if we could turn to the third page
16 overview, talking about trends, marine update, and the outlook
17 for second quarter 2009.

18 Would you agree with me that this PowerPoint
19 relates -- or was prepared in approximately the first third of
20 2009?

21 A Yes.

22 Q Now, you would agree that -- that the recession really
23 trickled into the oil and gas industry in about 2008, when
24 commodity prices dropped like a rock?

25 A That's -- yes. The end of 2008, yes.

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1 Q You would agree with me -- or do you recall the heavy days
2 in the summer of 2008, when the price of oil per barrel was
3 about \$145?

4 A Yes.

5 Q And do you remember that by November of 2008 that oil had
6 dropped below \$60 a barrel?

7 A Yes.

8 Q All right.

9 **MR. TORGERSON:** So let's go to the fourth page. I
10 apologize. Right there.

11 BY MR. TORGERSON:

12 Q Seismic market trends, impact of downturn.

13 A Yes.

14 Q We see right here the seismic spend '95 to 2009, and we see
15 some dollars.

16 A Yes.

17 Q Is this total seismic including land, OBC, marine,
18 combined?

19 A It's land, OBC, and it's the companies who report to a
20 financial authority somewhere so that we have got public
21 figures, and it excludes equipment manufacturers.

22 Q All right. And we see here "Total spend down 30 percent
23 versus 2008"?

24 A Yes.

25 Q And we see that some small competitors are struggling, for

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1 example, ION?

2 A Yes.

3 Q Do you remember that in the first quarter of 2009 that ION,
4 as a company, was struggling?

5 A It was our understanding at the time that that was related
6 to the GXT business, the data processing arm of ION.

7 Q And this last bullet here says: "Overcapacity in marine
8 becoming evident."

9 And this relates to the issue that there's less
10 surveys and too many boats hanging out there. And this is when
11 the big three decided to pull some vessels from their fleets,
12 right?

13 A Yes.

14 Q Send those Q-boats to dry dock or whatever, right?

15 A Well, we derigged three Q-Marine vessels and a couple of
16 conventional vessels.

17 Q And we see that on the next slide, in the upper portion.

18 This is specifically on the total marine market
19 vessel outlook for April. PGS reduced five vessels, CGGV
20 reduced four vessels, and WesternGeco had a net reduction of
21 four vessels, right?

22 A Yes.

23 **MR. TORGERSON:** If we could go three more pages
24 forward, Mr. Carlock.

25 Next one, please. I'm sorry, bidding and

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1 pricing. It's page 7488.

2 BY MR. TORGERSON:

3 Q And we see here, with regard to the bidding and pricing,
4 again in the first quarter of 2009, that there's an overall
5 bidding level drop of 40 percent in 2009 versus 2008, right?

6 A There was, yes, at that point.

7 Q And we see WesternGeco pricing trends: "Pricing now
8 reduced by 50 percent versus third quarter 2008."

9 So in the span of about six months, WesternGeco
10 had dropped its price for marine surveys, presumably Q and
11 nonQ, by 50 percent, correct?

12 A Yes.

13 Q And we see under the success rate, low success rate in
14 recent quarters. And we know that your standard is about,
15 historically, 25 to 30 percent success rate, right?

16 A Yes.

17 Q And you wanted to reestablish that 30-plus percent win
18 rate, right?

19 A So in fact, on this we kept -- we had a go at keeping our
20 prices up through Q4, through Q1 2009. And at that point,
21 given -- you see it's the board meeting -- we were signaling to
22 the board that we would have to move significantly on pricing.

23 Q And that's a classic reaction to the larger industry
24 problems, which is when the oil companies tighten their belts,
25 they are more interested in production of established fields

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1 rather than in exploring new areas, correct?

2 A (No verbal response.)

3 Q This is a cycle that you've seen in the industry several
4 times?

5 A Yes.

6 Q All right. And the reality is, because of the recession
7 that hit at the end of 2008, 2009, and 2010, and perhaps even
8 in 2011, were in the low part of that cycle, the trough, if you
9 will?

10 A It was the trough --

11 Q All right.

12 A -- exacerbated by the loss of that market we had.

13 Q And this led WesternGeco to increase the monitoring, the
14 level of intelligence on its competitors.

15 Would you agree with that?

16 A We -- we monitor what our competitors do. We always have
17 monitored what our competitors do closely, so I wouldn't
18 necessarily say there was an increase at that point.

19 Q Well, something new was put in place in 2009 with regard to
20 DigiFIN, right?

21 A Yes.

22 Q Yeah. Specifically ION Exhibit 207, we have an email.

23 **MR. TORGERSON:** If we could highlight the top portion,
24 Mr. Carlock.

25

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1 BY MR. TORGERSON:

2 Q From Andy Coutts to a list of people that includes you,
3 right --

4 A Yes.

5 Q -- on May 8, 2009, right?

6 A Absolutely, yes.

7 Q And it says: "DigiFIN activity tracking. Importance,
8 high."

9 A Yes.

10 Q Do you see that?

11 A Yes.

12 Q Let's scroll down to the bottom half and see this email
13 here.

14 *MR. TORGERSON:* And if we could include the chart at
15 the bottom, too, that would be good.

16 Thank you.

17 BY MR. TORGERSON:

18 Q This is an e-mail from Rob Ross to a long list of people on
19 May 8, 2009. It says: "Folks, to strengthen our understanding
20 of the adoption of DigiFIN, we urgently need the following
21 information for presentation to management. Please check with
22 your teams, marine sales managers, and recent DP tenders" --
23 that means data processing tenders?

24 A Data processing, yes.

25 Q -- "DP sales managers, or with your client internal

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1 communications, GAMs and others, and complete ASAP, preferably
2 today, and e-mail back to me. Please check, particularly DP
3 sales, that I have not missed someone crucial from the list."

4 And we see the fields that were asked to be
5 filled out. And specifically, these were competitors using
6 DigiFIN, right?

7 A They are, yes.

8 Q Competitor name, vessel name, spread, client, location,
9 percent certainty DigiFIN, and any other details like steering
10 methodology.

11 Why was WesternGeco suddenly interested in
12 tracking the specific activity of DigiFIN use in May of 2009?

13 A Because FUGRO, where ION had proven you could do lateral
14 steering without -- with our way of doing it and it was,
15 therefore, a very everyday commercial threat, to my
16 understanding.

17 Q You would agree with me by May of 2009 Sercel's Nautilus
18 product was also in the market and also eroding your position,
19 correct?

20 A That had really just been introduced at that stage. It had
21 been out on the trade shows. We didn't, at that stage, have
22 evidence that it was actually being used.

23 Q And other companies besides FUGRO were using DigiFIN,
24 including PGS, right?

25 A The DigiFIN, yes.

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1 Q All right.

2 A This, as you can imagine, was linked to the -- because
3 the -- this issue between us had just started at that stage,
4 and this was part of trying to check the information.

5 *MR. TORGERSON:* ION 236, please.

6 BY MR. TORGERSON:

7 Q Do you recognize this Comp Watch form?

8 A I don't recall it, but I'm sure I would have seen it.

9 Q Well, at the top part -- you've seen some of these before
10 in the trial. But this is a template that WesternGeco
11 maintains to get feedback on its competitors at various events,
12 correct?

13 A Yes.

14 Q And this is specifically related to the 2009 SEG, which was
15 in Houston, right?

16 A Yes.

17 *MR. TORGERSON:* And if you'd go to the last page,
18 Mr. Carlock.

19 BY MR. TORGERSON:

20 Q We see here that the contributors are three: Rob Ross, Ken
21 Walker, and yourself?

22 A Yes.

23 Q Do you recall contributing to this report related to PGS at
24 the 2009 SEG?

25 A I would have done -- I would have been -- Rob Ross reported

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1 to me, so I would have been supporting him.

2 **MR. TORGERSON:** If you'd go to the second page of this
3 document, Mr. Carlock.

4 BY MR. TORGERSON:

5 Q In this top paragraph here it states: "Kongsberg released
6 eBird, a steering solution for GeoStreamer."

7 GeoStreamer is PGS's proprietary streamer?

8 A That's their streamer, yes.

9 Q And it reads on: "It was not entirely clear how this
10 solution generated less noise than the already rejected
11 DigiFIN."

12 Do you know what is meant there by the "already
13 rejected DigiFIN" by PGS?

14 A It was our understanding that the original test with
15 DigiFIN hadn't worked with the GeoStreamer. That's what we
16 understood to be the case. Or what -- why it didn't work we
17 didn't know, but that was our understanding.

18 Q And you understood at the time that PGS, as one of your
19 major competitors, was moving on to another device to enable
20 lateral steering, which was the Kongsberg eBird device?

21 A And we looked at the Kongsberg, and we looked at the
22 Sercel, and we were very interested to understand exactly how
23 they both worked from the point of view of assessing whether we
24 thought they infringed, as well.

25 **THE COURT:** And Kongsberg, for the reporter, is

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1 K-O-N-I-G-S-B-E-R-G (sic). EBird is E-B-I-R-D.

2 *MR. TORGERSON:* If we'd go to the next page of this
3 document, Mr. Carlock.

4 BY MR. TORGERSON:

5 Q This page right here: "An interesting PGS observation.
6 PGS do not seem to have a defensive patent strategy.
7 Everything they publish they seem to at least try. This is in
8 contrast to WG. Therefore, future PGS innovations can be
9 predicted accurately from the patents they publish."

10 What does this mean, sir?

11 A So when we engineer something, because we do a lot of
12 engineering, not everything works. And our strategy is to
13 patent the things that we may -- all the possible approaches we
14 may use, and then we'll see which one we do use, and then we'll
15 maintain the patent of the one we do use.

16 In contrast, PGS seems to patent at a later
17 stage.

18 Q So when WesternGeco comes up with an idea, even if it's
19 something they decide perhaps even early on that they choose
20 not to go down that road and build that project, WesternGeco
21 has a strategy of defensively filing patents to block its
22 competition, correct?

23 A No. It is not to block the competition, really. It's to
24 make sure that we, in our own side, are not blocked by the
25 competition filing something that we are working on.

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1 Q All right. Is it your understanding that WesternGeco
2 intends to continue the expansion of Q-Marine across its entire
3 fleet?

4 A We would certainly plan to do that, yes.

5 Q And you testified with Mr. LoCascio that you certainly
6 think that lateral steering remains a requirement, right?

7 A Absolutely, it does.

8 Q And you also testified, I believe, that you think that
9 WesternGeco will continue to operate more streamers spaced even
10 closer together in the future.

11 A We will -- well, with the streamers we've got today,
12 50 meters, with the length we have got, that's probably about
13 the limit.

14 Q But you think that lateral steering on a go-forward basis
15 is critical to maintain that small spacing?

16 A Yes.

17 **MR. TORGERSON:** May we approach, Your Honor? We have
18 a limine point.

19 **THE COURT:** Yes.

20 *(At the bench)*

21 **MR. TORGERSON:** In deference to your rulings, we had
22 raised an issue of Isometrix, which is a new product offering.
23 It has nothing to do with damages, but I think the door has
24 been opened by the direct examination of Mr. LoCascio to
25 Mr. Walker to show that their new product solution is not to

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1 have more streamers spaced closer together, but it is actually
2 fewer streamers --

3 *THE COURT:* This goes to lost profit and damages?

4 *MR. TORGERSON:* It relates to also his credibility as
5 to what he just said. It is impeachment of the point.

6 *MR. LOCASCIO:* Mr. Torgerson I think at the beginning
7 said it doesn't go to damages --

8 *THE COURT:* One at a time.

9 *MR. LOCASCIO:* It doesn't go to damages. I don't
10 think their position is it does.

11 *MR. TORGERSON:* Here's the point: It's not a
12 historical look back. It doesn't relate to the damages being
13 calculated.

14 What we are saying is, and what we have already
15 seen on some issues, is this is a natural art and a product
16 line that is toward the end of its life, and they have moved on
17 to the next product. The jury needs to hear that.

18 They have just heard that this is going to
19 continue and we are going to keep doing this, and a month and a
20 half ago they told the world they are not. We are entitled to
21 explore that.

22 *MR. THOMPSON:* I think this does go to damages,
23 because the life shows --

24 *THE COURT:* I'm going to allow it. I'm going to allow
25 it.

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1 (Open court)

2 BY MR. TORGERSON:

3 Q Mr. Walker, in connection with the EAGE meeting in
4 Copenhagen -- in June of 2012, right?

5 A Yes.

6 Q WesternGeco launched its new technology called IsoMetrix,
7 right?

8 A Yes.

9 Q Explain IsoMetrix in 30 words or less.

10 A Let me see. So IsoMetrix is a stream- -- a new streamer
11 that takes different measurements which will be able to
12 reconstruct data between the physical streamers by actually
13 bouncing energy off the sea surface, which the sea is a mirror.

14 So that means we will be able to create a fine
15 grid of measurements and finally address this cross-line
16 sampling challenge, which still remains a bit of a challenge.

17 **MR. TORGERSON:** If we could go to the Elmo, Ms. Loewe.

18 For the record, I will mark our list of reasons
19 for losing bids as Walker ION Demo 1, and I will mark this new
20 document as Walker ION Demo 2.

21 BY MR. TORGERSON:

22 Q One of the aspects of IsoMetrix -- did I spell that
23 correctly?

24 A We will fight about branding.

25 Q Is that registered? Fair enough.

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1 (Laughter)

2 BY MR. TORGERSON:

3 Q With regard to IsoMetrix, it might actually discount the
4 importance of lateral steering in complex surveys, correct?

5 A No.

6 Q You don't think that this new technology will discount the
7 importance of lateral steering in complex surveys?

8 A It will extend it.

9 Q Well, in particular, part of the thing with IsoMetrix
10 that's sort of one of the advantages of it, is that WesternGeco
11 now claims it can create virtual streamers at closer spacing
12 distances, correct?

13 A Yes.

14 Q And so if we normally have our vessel here and our
15 streamers at 100-meter standard spacing, what IsoMetrix is
16 intended to do is to allow you to run actually fewer streamers
17 that would be able to reconstruct virtual data down to six and
18 a half meters, correct?

19 A And the cross-line spacing, yes.

20 Q So in other words, at six-and-a-half-meter spacings, it's
21 like you've got all of these virtual streamers in here along --
22 across --

23 A We treat it as a grid of data, yes.

24 Q I'm sorry?

25 A We treat it as a grid of data. We think about it as a grid

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1 of data.

2 Q And the point here is that you don't -- you can actually
3 run fewer streamers across the width of the array to get an
4 even better sample, right?

5 A But you still need to know where they are, and you still
6 need to put them where you need them to be, yes.

7 Q And this virtual streamer spacing that's essentially
8 extrapolated after the fact. Is that fair?

9 A It's reconstructed on board, but, yes.

10 Q Okay. And that leads to a much denser data acquisition
11 than even your single-sensor technology, right?

12 A Yes.

13 Q Now this would reduce the need, in a 4D context when we
14 talked about repeatability, to place the streamer in exactly
15 the same location as the baseline survey, right?

16 A No.

17 Q You don't think so?

18 A No.

19 Q All right.

20 A If you are going to -- the big benefit of this is if --
21 let's take your -- this is a baseline. Okay.

22 Q Sure.

23 A Let's call this is a baseline, and I want to repeat that
24 baseline. Now, let's -- assuming that's imperfect. Streamers
25 are a little bit all over the place.

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1 Where I am today, if I'm an oil company, I'm
2 coming -- I have a decision. Do I want to have a 4D, which
3 attempts to replicate the baseline, or do I want to wave
4 good-bye to that investment and a 4D which is a perfect
5 baseline going forward?

6 So what we have said with IsoMetrix is you don't
7 have to make a compromise.

8 Could you bring the Elmo here and I'll draw on
9 it?

10 Q You can come up here if you want to.

11 A Okay.

12 Q It's all yours.

13 A Okay. So here (indicating) is my baseline survey.

14 Q Sure.

15 A Now, my exact location of the streamers, if I'm going to
16 have a new baseline and I'm going to be backwards compatible on
17 that, then my new spread has to make certain that it's outside
18 and completely contains the underlying spread within it.

19 So -- can I have a new sheet of paper?

20 Q Sure.

21 A I will let you label this after.

22 Q Sure.

23 A So let's say my underlying spread at one point looks like
24 that (indicating).

25 So at one point the underlying -- if this

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1 (indicating) is line 1 and that's (indicating) line 2 -- am I
2 losing everyone? That's line 1 and line 2.

3 So line 1 on the underlying survey was shot when
4 the streamers were feathering to port, to the left; and line 2
5 was when the streamers were feathering to the right, a
6 nonsteered one, or a -- a difficult controller.

7 So if I come back with IsoMetrix here
8 (indicating), I must do one of two things: Either do that
9 (indicating) or do, maybe, that (indicating).

10 And then when I come with the second pass, I have
11 to be able to steer from that to the new spread. And I'm
12 making a little bit of a mess of that, so I apologize.

13 Q That's okay.

14 A So in fact, we are looking at having steerable birds every
15 200 meters instead of every 400 meters.

16 I know it seems counterintuitive, but it's the
17 exterior spread which we have to manage.

18 Q Okay.

19 A And we also have to manage the streamers within it.

20 Q And you would agree with me, though, that the streamer
21 spacings in the second survey using IsoMetrix can actually be
22 further apart than the 100-meter spacing than baseline, and you
23 can extrapolate finer detail within?

24 A Well, we've -- we've tested it to 75 meters, and we would
25 hope to go further. So I would say yes to 75 meters. I

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1 wouldn't yet go beyond that.

2 Q Okay.

3 A That's our business goal.

4 Q Okay. Fair enough. And with regard -- please have a seat.

5 With regard to your business goal, you would
6 agree with me at the EAGE, there was some discussion about
7 getting down to 6.5 meters?

8 A So the idea is the grid output is at 6.25 meters in both
9 directions. That -- that's -- geophysically, that is a point
10 receiver. So that's -- once you have got to that grid size,
11 the earth is not going to give you back any finer information.
12 So you know, this is as close to a perfect data search as can
13 you get.

14 Q And this used to be called, in its R and D days within
15 WesternGeco, as Nessie-6?

16 A Nessie-6, yes. It is still -- the streamer itself is
17 called Nessie-6. IsoMetrix is the branding.

18 **MR. TORGERSON:** And this, for the record, is marked as
19 Walker ION Demo 3, demonstrative 3.

20 BY MR. TORGERSON:

21 Q Is this -- and would it be fair to characterize this new
22 technology, while -- clearly, you think it's a game changer,
23 right?

24 A I hope so.

25 Q All right. This is your new technological differentiation

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1 from the market, right?

2 A Yeah.

3 Q Nobody has this, right?

4 A Not at the moment.

5 Q Okay. And you would agree with me that this is, in a
6 sense, oversampling, a -- a 2012 version of what the industry
7 has called oversampling before?

8 A Yes. So what we are hoping is, by having this very fine
9 sampling that we will -- we have ideas on how to process this
10 data, and our customers have ideas on how to process the data.

11 If you talk about oversampling, we would say six
12 and a quarter by six and a quarter is correct sampling.

13 Q Okay. Are you familiar with PGS's HD3D offering back in
14 the mid 2000s?

15 A Yes.

16 Q Was that an approach to oversampling?

17 A That was still undersampled, because they were -- that was
18 a branded approach to streamers 50 meters apart.

19 Q Now you would agree with me, Mr. Walker, that at the end of
20 the day, based on what we have talked about for reasons for
21 losing bids and that you might not necessarily be able to
22 believe the oil companies when they tell you why, you would
23 admit, would you not, that you don't ultimately know the reason
24 why oil companies select another company other than WesternGeco
25 for a particular survey?

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1 A We some- -- well, sometimes we know. We talked about the
2 10 percent where it's clear.

3 We know if we've met the technical, the must-have
4 technical specs written in the tender.

5 We know if we've not met the technical
6 requirements, for example on broadband. If we haven't got a
7 broadband offering, that is -- then that would be very clear.
8 We don't win all of them.

9 Q And is WesternGeco taking the position in this lawsuit that
10 every survey bid that it lost between today and before, that
11 had a preference for lateral streamer steering, was because of
12 ION's DigiFIN or some other competing technology related to
13 lateral steering?

14 A No. It's a very small proportion of them.

15 Q And in fact, you don't know the reasons from these
16 companies?

17 A What they are saying is there were -- as I understand it --
18 200-something projects, and we're just looking at the 25 where
19 lateral steering was required.

20 And if there had not been anyone else in the
21 market to provide lateral steering, then we're saying we would
22 have won those projects.

23 Q And that lateral steering, that might be a dominant
24 component or it might be a smaller component. You just don't
25 know how those companies are weighting those decisions, right?

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Torgerson Cross of Robin Walker

1 A What we are saying, looking at it, is we believe those
2 are -- that is a technological barrier. From what we have seen
3 in the tender documents, what we have seen as a requirement,
4 lateral steering is a must-have, and other qualifications are
5 nice to have. The weighting will be on the nice-to-haves and
6 not on the must-haves.

7 Q Do you recall, when I took your deposition in
8 September 2011, Mr. Walker, I asked you that very question?

9 And you answered, in talking about the
10 components, and you admitted that you don't know the reasons
11 and the weights that oil companies provide to lateral steering.

12 A I said -- no. I said, in general, we would -- if it's --
13 let me clarify.

14 In general, if it's not written in the tender as
15 a requirement as a must-have, then if there are multiple
16 requirements, that is one of them. And we can't say what the
17 weighting is at this distance.

18 If it's a definite requirement in the tender,
19 then we say that is a priority.

20 Q So with regard to these 25 surveys that you are claiming
21 lost profits on, can you confirm for me that every single one
22 of those surveys took place more than 12 miles outside the
23 coast of the United States?

24 A If that is relevant to the extent, yes, as far as I know.

25 Q You can confirm that every one of these surveys of these

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Thompson Cross of Robin Walker

1 lists of lost profits, 25, they all occurred more than 12 miles
2 outside the U.S., yes?

3 A They -- offshore?

4 Q Yes.

5 A No, you said outside the U.S.

6 Offshore, the coast.

7 Q Off the coast. 12 miles off the coast of the
8 United States, yes.

9 A Yes.

10 *MR. TORGERSON:* I pass the witness.

11 **CROSS-EXAMINATION**

12 BY MR. THOMPSON:

13 Q Good afternoon, Mr. Walker.

14 A Good afternoon.

15 Q We haven't had a chance to meet. My name is James
16 Thompson. I'm representing Fugro-Geoteam.

17 You will be happy to know that Mr. Torgerson has
18 covered most of my areas of inquiry, so we will be quicker.

19 I want to follow back up, if we could, and go
20 back and talk a little bit more about the Statoil job.

21 A Yes.

22 Q If I understood your testimony correctly, you indicated
23 that Statoil was one of the early adopters of streamer
24 steering, correct?

25 A Yes.

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1 Q And I believe you testified that as of 2001, they started
2 making streamer steering a requirement, correct?

3 A They certainly did at the time on 4D, yes.

4 Q Okay. What about the 3D?

5 A When it's not for field development, if it is exploration.
6 At that time, in 2001, they talked to us about 4D because that
7 was most of the business they were doing with us.

8 I don't think we discussed 3D with them in
9 exploration until about 2006, 2007.

10 Q Okay. So if WG lost jobs -- or we can agree that up until
11 2007, no other seismic provider was offering lateral steering,
12 correct?

13 A Yes.

14 Q So if WG lost 3D jobs offered by Statoil to other providers
15 prior to 2007, you would agree it had nothing to do with
16 whether Statoil required lateral steering?

17 A I would say I don't know why.

18 Q But if they had a requirement for lateral steering, and you
19 were the only provider and they didn't pick you, wouldn't that
20 lead you to believe that it wasn't really a requirement for 3D?

21 A Well, Mr. Torgerson was talking to me making the point that
22 if it's -- if it's a preference rather than a requirement, I
23 don't know what the weighting is. And I've already said I
24 don't know what the weighting is if it's a preference.

25 Now, they stated -- remember that -- that I said

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1 we got a direct award, which we did, a five-year -- which
2 occurred in 2001 through 2006.

3 So the technology was written in that that it's a
4 direct award. So I couldn't necessarily say it is or it isn't
5 for something that was tendered.

6 Q What about -- staying on that subject, you indicated Total
7 made it a requirement in 2004. Was that for just 4D surveys as
8 well, or was that for all surveys?

9 A That was -- they said for 4D at the time. And then in the
10 technology adoption it starts here, and then you look and you
11 say, okay, well, we wanted that.

12 Q Okay. So again, if Total was awarding 3D surveys to other
13 seismic companies besides WG before 2007, you would agree that
14 would lead you to believe it wasn't a requirement for 3D?

15 A It would depend. Same answer. It would depend upon what
16 the weighting is.

17 And also, a 3D may also be a baseline 4D.

18 Q Okay.

19 A So a finely sampled 3D, for -- for example, if you've got
20 50 meters between the streamers, that's probably for what we
21 call development. So a customer is going to spend a lot of
22 money developing a field, and they want the best resolution
23 data to do that.

24 So there may be a 3D where streamer steering will
25 be either a preference or a must-have, or there may be one

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1 where they -- a 100-meter streamer where they may say it's not
2 so important.

3 Q Did I hear you correctly that that's how you described the
4 Chukshi Sea survey for Statoil, that it would be one of those
5 that was going to be a baseline, you believed?

6 A For -- I think for Statoil, they -- they make the position
7 that every 3D is a potential baseline 4D.

8 Q Okay. So then let's -- let me back up, then, to Statoil.

9 So if -- as of 2001, it's your testimony they had
10 a requirement for 4D, and a requirement for any 3D that might
11 be a baseline. But what you just said is all of their 3Ds are
12 going to be baselines.

13 Do you know whether or not Statoil awarded all of
14 their 3D surveys to WG between 2000 and 2007?

15 A No, I don't know that.

16 Q Okay. Would -- would you be surprised if they awarded
17 surveys to other seismic companies besides WG?

18 A No, I wouldn't.

19 Q Okay. And would you agree that those seismic companies
20 during that time period performing 3D surveys for Statoil would
21 not be using lateral steering?

22 A I -- I would expect -- I'm not exactly certain of the
23 introduction when -- DigiFIN, I think was introduced a little
24 earlier, and I now understand that it was definitely used by
25 PGS earlier.

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1 So I'm not going to say that no one had it
2 available. We are talking about big market adoption.

3 Q Okay. So let's back up to the Chukchi Sea survey.

4 Is it your opinion that that was the -- Statoil
5 says all 3Ds are baselines, or did they specifically say this
6 is going to be a baseline for a future 4D survey?

7 A I think Statoil, when -- in the conversation I had with
8 Peter Sable, they -- they did want it to be a 4D baseline. But
9 I think the main reason they wanted streamer steering was
10 because it was in the arctic. And in order for -- to be
11 efficient, and they -- they liked the idea that we proposed on
12 doing fan mode, and that would -- that would be more efficient
13 in the survey. And then we would have that -- as they would
14 have that as an efficient -- efficiency thing rather than
15 necessarily a data quality thing.

16 Q And I believe earlier, with Mr. LoCascio, you looked
17 through Statoil's request for coil, and it didn't specifically
18 require lateral steering, but you pointed to some sections that
19 led you to believe it was a requirement.

20 Do you remember that?

21 A I -- yes. And I also made the comment that we proposed to
22 do fan mode which, in fact, your clients did operate it in fan
23 mode, which does require lateral steering. So lateral steering
24 was required on the project.

25 Q And what do you base your knowledge on that Fugro used fan

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1 mode on the Statoil survey?

2 A I understand from -- from information that people have said
3 to me that it was.

4 Q Do you recall who told you that?

5 A I don't. I think it was one of the legal team, apparently,
6 that was something in discovery.

7 Q So that isn't anything you would have learned out in the
8 industry or that would have been on your CRM database?

9 A The CRM database didn't include a reference to fan. I
10 think the -- the other place that fan came from was from the
11 global account manager.

12 Q Now, when the tender -- when WG responded to the Statoil
13 tender, or request for quote, were you in a position that you
14 had to approve the tender that was going out the door?

15 A I didn't have to approve that one directly. I think it
16 was -- Tom approved it. I didn't have to approve that one.

17 Q Okay. Do you know, based on your testimony that Statoil
18 was going to use this as a baseline, that they wanted fan mode,
19 and that they required lateral steering -- this was shown
20 earlier to the jury, Plaintiff's Exhibit 746.

21 This was WesternGeco's base case proposal for the
22 Statoil job.

23 Earlier, you testified that in the alternative
24 proposal Mr. Torgerson showed you, that you offered a nonQ
25 vessel to show off your Q differentiation and to show off the

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1 value of Q.

2 A Yes.

3 Q Do you know why, in the base case scenario, that WG
4 submitted a nonlateral steering vessel, given everything you
5 have said, that Statoil requires lateral steering, that this
6 was going to be a baseline 4D survey, and that they wanted fan
7 mode?

8 A I think, since I did -- you have asked me a question. I
9 didn't approve it directly. I think the salesman was probably
10 making the point, because Q had a reputation for being
11 expensive, which we discussed.

12 And we had moved, so that the cost was very
13 comparable to products -- in our view -- products without
14 streamer steering.

15 And our approach here, I think -- and I'm
16 thinking -- was that we wanted to make a point that lateral
17 steering, despite maybe a higher kilometer rate -- and I
18 haven't gone through this -- would end up in our model being
19 pretty much the same cost.

20 Q Before seeing this base case right here, were you aware
21 that WG submitted a base case proposal with a nonlateral
22 steering model?

23 A No, I wasn't.

24 Q Would you agree that it is important, in responding to a
25 tender with your base case, your first offer, that you meet all

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1 of the technical requirements that you believe the E&P company
2 is asking for?

3 A I believe in one of the offers you put in, which have
4 equal -- all the offers had equal stages -- you must have one
5 that is compliant.

6 Q Okay. So you don't believe that by submitting this base
7 case proposal that WG is going to be one of those poor fellows
8 hitting the brick wall?

9 A Our relationship with Statoil is good enough that they
10 will -- would understand that this -- by "base," I think we
11 mean low end rather than primary or secondary in any way.

12 Q Well, I understand that's your position. But you would at
13 least agree with me somebody within Statoil, when responding to
14 this request for quote, felt that a nonlateral vessel met all
15 of the technical requirements asked for by Statoil, correct?

16 A No.

17 Q You don't believe so?

18 A I'm not saying -- I'm not saying it met all the technical
19 requirements. I'm saying it was put in as an al- -- as a
20 demonstrative alternative.

21 Q So you believe the base case proposal is a demonstrative
22 alternative?

23 A I think that all -- what I said is they are all equal
24 stages. There's no A has priority over B has priority over C.
25 We put our shop, we -- we are showcasing our technology. We

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1 are putting the shop out and we're putting -- letting the
2 customer choose.

3 Q Do you think it was a mistake to make your base case a
4 nonlateral vessel?

5 A I don't think it made any difference. I think it will have
6 demonstrated that the uplift for Q was -- was very limited --

7 Q If you --

8 A -- and the efficiency of the project would bring the value.

9 Q If you were submitting this proposal again today, would you
10 make your base case scenario a nonQ vessel?

11 A I don't know that I would, I don't know that I wouldn't.

12 In -- in terms of the relationship with Statoil,
13 we have known Statoil for years. We've been talking -- as I
14 said, we have been talking to Statoil for nine months about
15 this project, so we knew absolutely what -- what they wanted.

16 This is a little way of demonstrating that -- to
17 my understanding -- a little way of demonstrating that Q really
18 doesn't cost that much more, which was a point we wanted to
19 make in 2009.

20 Q Okay. But you agree you made that point in the alternative
21 proposal, as well. So it wasn't necessary to make the point
22 that Q is not that much more expensive twice, because you
23 already made that point in your alternative proposal that you
24 looked at with Mr. Torgerson.

25 A Well, without a base -- without a comparator -- because if

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1 we said the -- the Q we turned to was 28 million, and this
2 case, this nonsteerable is 27 million. Without putting in the
3 27 million, then it may well be that our customers would still
4 have thought, wow, you know, that's 27 million of the -- the
5 base would have been 16 million or something. I don't know.

6 Q Do you see here on the bottom the base case here was
7 actually 29 million?

8 A Okay. I wouldn't -- yeah.

9 *MR. THOMPSON:* If we could pull up Walker Demo 20,
10 please?

11 *THE COURT:* Do you have much more?

12 *MR. THOMPSON:* Yes, Your Honor, not near as long as
13 Mr. Torgerson but probably --

14 *THE COURT:* Do you-all need a break?

15 Okay. Would all please rise for the jury.

16 *(Jury not present)*

17 *THE COURT:* Once again, I'm grateful to have so many
18 good lawyers in the courtroom and I appreciate the obviously
19 extensive efforts of everyone to be prepared. I do think we
20 continue to strap an awful lot on the jury. I really do.
21 These are witnesses who are on for -- this is one witness we
22 have had today and he has been on for an awfully long time.

23 I don't mean to pretermit anyone's cross, but I
24 do ask you to imagine yourself as a juror in this case and
25 continue to try to be as short and simple as you can be in the

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1 examination.

2 These are important points. I'm not inclined to
3 interfere, but I am mindful of the jury's time and attention.

4 Okay. Thank you very much.

5 *(Court recessed at 2:10 p.m.)*

6 *(Court resumed at 2:23 p.m.)*

7 *(Jury not present)*

8 **THE COURT:** What is the issue?

9 **MR. LOCASCIO:** The issue is questions relating to
10 indemnity, discussions between ION and Fugro about who would
11 pay in the event of infringement. We briefed this in response
12 to a motion in limine that Your Honor didn't grant at the time.
13 Their case is in this context that say it relates to
14 particularly willfulness as well as the inducement problem of
15 271.

16 **THE COURT:** What is the other side of the argument?

17 **MR. TORGERSON:** We just disagree with how they are
18 spinning it, Judge. We believe it doesn't really relate to
19 willfulness and doesn't relate to this after the fact. I mean,
20 there is no dispute that there was no indemnity on the table
21 when this case emerged, when the dispute arose. And the
22 testimony is clear that everyone was operating that indemnity
23 didn't exist. So there was a subsequent agreement that,
24 frankly, was an accident and that the companies are dealing
25 with --

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1 **THE COURT:** Why was it an accident?

2 **MR. TORGERSON:** Well, it was -- an agreement was sent
3 over with a provision and it was immediately rejected and then
4 there were still negotiations ongoing. When a provision hits
5 an agreement and somebody signs it and doesn't realize it,
6 that's our position. And now all of a sudden we have an
7 exploitation of it by WesternGeco.

8 **MR. LOCASCIO:** Even the fact of discussions of
9 indemnity would be relevant to both these issues of willfulness
10 and inducement. If our position is even though they signed it
11 and then they initialed every page, if they want to have a
12 dispute with Fugro about whether it's a binding agreement is
13 not my fight, Your Honor, but it doesn't change the fact that
14 it goes to --

15 **THE COURT:** I understand both sides.

16 (Pause)

17 **THE COURT:** I'm going to let it in. Y'all can argue
18 about what it means, but I'm going to let it in.

19 (Jury present)

20 BY MR. THOMPSON:

21 Q Mr. Walker, just briefly, we have been talking about
22 certain surveys and spent a lot of time on that. But just
23 briefly, could you explain the difference in your understanding
24 as to an E&P company's preference in a tender versus a
25 requirement?

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1 A As I understand it?

2 Q Yes.

3 A Yes. So if you have a preference, then that is a soft
4 requirement. It's something that may or may not go into the
5 evaluation matrix. If you have a hard requirement, then you
6 are saying, This, I must have it. So it is a barrier to entry
7 but once you get over it -- it may be a tick box. Once you get
8 over it, the soft requirements may be part of an evaluation.

9 Q What is an exception?

10 A An exception usually is not -- there are two exceptions,
11 contractual or technical exception. So which do you mean?

12 Q A technical exception.

13 A A technical exception is if a detail of the way your
14 equipment operates means you cannot under any circumstances
15 meet both the high level requirements but some of the very down
16 detailed level requirements, then you put in a technical
17 exception that says, you know, we have a different number of
18 hydrophones per trace or something like that.

19 Q Is it possible to win a survey or be awarded a survey if
20 you have submitted exceptions to even what the E&P company said
21 was a requirement?

22 A I'm not certain and I would not say that you can or would
23 not say that you can't. Generally, I would say in a practical
24 level, if you put in something that's a requirement, then you
25 put in an exception saying I haven't got it at all, I wouldn't

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1 expect to win it.

2 Q Prior to 2010 when Q-Solid was available, do you know if WG
3 had ever had to submit any exceptions when a request for tender
4 had solid streamers as a requirement?

5 A At that time we put in exceptions saying we do our
6 attenuation different ways.

7 Q Were you ever awarded any of those surveys?

8 A Yes, very often.

9 Q So wouldn't that be an example of you winning a survey on a
10 technical requirement when you had to submit an exception?

11 A No. Well, you said a preference.

12 Q No. If there's a requirement, if solid streamer is a
13 requirement and WG submits an exception, have you ever been
14 awarded a job like that for solid streamers?

15 A In the case of solid streamer, we have because we raise a
16 challenge to say -- we raise -- usually we would raise a
17 clarification. So you send a formal clarification in and say,
18 What do you need solid streamer for? Is it for noise
19 attenuation or because you don't like fluid filled streamers or
20 is it because of some other reason?

21 Q So it is fair, then, to say it is possible, because WG has
22 done it, to win a survey even when you submit a technical
23 exception?

24 A If it's -- if you can find another way of achieving the
25 same goal and you can demonstrate a way of achieving the same

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1 goal, then yes.

2 Q Okay. For example, let's say hypothetically an E&P company
3 wants lateral steering because of in-fill concerns. Would it
4 be possible to submit a technical exception saying, We don't
5 have lateral steering but we, the contractor, will take on all
6 the risk of in-fill? Will that count as a technical exception?

7 A It would depend if in-fill was the only reason the customer
8 wanted lateral steering.

9 Q If it was?

10 A If it was declared that we want lateral steering purely for
11 in-fill, then that's their decision. It's not ours.

12 Q But would that be a fair example of a technical exception?
13 One way to get around lateral steering is take on the risk of
14 in-fill, in that scenario?

15 A In that scenario, if the reason for doing lateral steering
16 is in-fill, then that would be something you could -- you could
17 submit, yeah. Whether it would be accepted or not, I can't
18 say.

19 **MR. THOMPSON:** Can we pull up Walker Demo 15, please?

20 BY MR. THOMPSON:

21 Q Now, we looked at these earlier. I won't go back through
22 them in detail. But would you at least agree with me -- and
23 you have indicated, you've testified you believe this was a
24 2010 survey, correct?

25 A 2010, yes.

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1 Q And there would be similar charts and graphs as this for
2 all of the questions they ask an E&P company. It is not just
3 about lateral steering, correct?

4 A No. No. All of them, yes.

5 Q Okay. So all the jury got to see was this one nice little
6 chart pulled out and the one that goes with it, but they didn't
7 see all the other things about solid streamers and everything
8 else?

9 A 130 odd questions.

10 Q Okay. So even as of 2010, would you agree with me that the
11 E&P companies are not having to put in -- were not even offered
12 the option to say that steerable streamers are a requirement?

13 A Well, I didn't write the question. I probably need to
14 explain this.

15 I said -- in terms of input to the survey because
16 Welling, in doing the survey for 10 years or 12 years, and each
17 time they do it, they canvas people who are going to
18 participate in that survey and say, Well, what's new? What's
19 interesting? What would you like to have added to the set of
20 questions?

21 And I and, I'm sure, other people will raise
22 things and say, Well, I'm interested in finding out about this.
23 But we don't write the questions. Welling writes the questions
24 and asks them. I don't have the right to do that.

25 And so if you looked at when is technology -- if

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1 you looked at it on, you know, all the ones where technology
2 came up in that whole survey, their whole style is: Do you say
3 strong reject, slight reject, slight prefer, strong prefer, no
4 preference -- I'm sorry, I'm going terribly fast -- or not
5 applicable, don't know. So that is their house style. So I
6 didn't dictate the question about whether requirement versus
7 preference.

8 Q I understand you didn't write the question. What I'm
9 asking is: Is it fair that in this Welling survey from 2010,
10 none of the E&P companies are indicating that lateral steering
11 is a requirement? The best they can get is a strong prefer?

12 A They weren't given the option of saying it is a drop dead
13 requirement from that graph.

14 *MR. THOMPSON:* Can we pull up Walker Demo 20, please?

15 BY MR. THOMPSON:

16 Q Now, Mr. Torgerson covered this in some detail, so I just
17 want to highlight.

18 Again, is it fair to say it wasn't your intention
19 to somehow allege between 2007 and 2011 that Fugro has garnered
20 55 percent of the market, correct?

21 A No, no, no. No, its market share change --

22 Q Okay. So this is a change in the market share?

23 A Yeah.

24 Q And you indicated that you thought Fugro was in about
25 15 percent of the market. If I said the number might be closer

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1 to nine, would you dispute that?

2 A In terms of revenue, I -- you mean 2007 or 2011?

3 Q Between 2007 and 2011? Do you think Fugro was closer --
4 you guesstimated earlier at 15 percent. Do you think it is
5 closer to 15 or closer to nine?

6 A In 2007 or 2011?

7 Q Well, the time period we have got is between those. But if
8 it changes during the years, let me know.

9 A Well, so my point is this is starting at 2007 and looking
10 at 2011. So at the beginning of that period, I would agree
11 that Fugro's business -- now, recall, I'm only using publicly
12 quoted information, so Fugro's numbers are for all of seismic,
13 so I don't subdivide -- and all the other numbers are all of
14 seismic services. So this isn't just marine.

15 So Fugro's share at the beginning of the period,
16 8 or 9 percent, would make sense and at the end of the period,
17 I'm saying it was about 14 or 15 percent.

18 Q And if your numbers are correct -- and let's just keep
19 those for now. If you think it went from 8 to -- I'm sorry,
20 did you say 11 or 12?

21 A I think it was -- I thought it was 14 percent.

22 Q Okay. We will just go with 8 to 14. Is it your testimony
23 you believe that entire percentage increase was because of
24 DigiFINs?

25 A No, not at all. My testimony was exactly the opposite. I

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1 said it was one of the factors.

2 Q Okay. Now, I want to go back. You mentioned a term "total
3 marine seismic." And I'm not sure it has been covered a whole
4 lot. So I want to briefly touch on it.

5 Isn't it true that if an E&P company uses
6 Q-Marine to shoot the seismic survey, they also have to use WG
7 to process the data?

8 A Not now. We -- so up until about the end of 2008, we said,
9 You get the tapes, you process the data wherever you want
10 exactly as you would with Fugro or anybody else, but we want
11 to -- out of that bigger price, the part we will pay for is we
12 will process it because we want to demonstrate the improvement
13 on the technology. And by the end of 2008, we sort of said,
14 Okay, we have done that. Everyone knows, and we didn't -- we
15 then dropped it.

16 Q So from the time Q came out in, say, 2000 until around
17 2008, the only way an E&P company could use Q is if they were
18 also willing to use WG to process the data, correct?

19 A No.

20 Q Isn't that what you just said?

21 A No. What I said is they get a set of field tapes that they
22 take wherever they want and process them. They may process
23 them in-house. They may process for CGV, and they may process
24 with Fugro's data processing center. They process it wherever
25 they want. There is no limitation whatsoever on processing.

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1 Q Does it make it harder to process when the E&P company
2 doesn't have access to the raw data?

3 A No, you've got the raw data. The field tape is exactly the
4 same as every other contractor.

5 Q What is the raw data that you've testified about that WG
6 would not provide the E&P companies then?

7 A The raw sensor measurements is the noise. So at
8 3.125 meters, it's oversampled for reflected seismic energy and
9 that is a lot of noise and a very little bit of signal. And
10 then we remove the noise with digital filters in exactly the
11 same way as Fugro removed the noise in analog filters and then
12 it is put to tape. And the customer gets a field tape exactly
13 the same as they do with any other contractor.

14 Q Going back to Demo 20, do you recall how many vessels Fugro
15 had prior to 2007?

16 A I don't.

17 Q Was Fugro -- were they very involved in the 3D seismic
18 surveys prior to 2007?

19 A They started to be, yes.

20 Q Do you recall around this time frame of 2007, 2011, that
21 Fugro began launching new vessels and reconditioning their
22 older vessels?

23 A Yes. In a fleet expansion mode, yes.

24 Q Do you understand they launched what was called the C class
25 vessels?

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1 A Yes.

2 Q And just briefly, what is a C class vessel?

3 A That's a big capacity vessel comparable to other big
4 capacity vessels in the fleet.

5 Q And prior to the C class vessels -- when you say big
6 capacity, you mean the ability to tow more streamers?

7 A The ability to tow more streamers and generally to tow a
8 bit wider.

9 Q Okay. And so prior to the launch -- in fact, do you recall
10 how many C class vessels were launched between 2007 and 2011?

11 A I think four, but I'm not certain.

12 Q Okay. And these were brand-new vessels, correct?

13 A Yes.

14 Q Did you at least see Fugro marketing that in the industry
15 to all the E&P companies, that we have a whole fleet of
16 brand-new high capacity vessels?

17 A The whole industry was going through a period of growth at
18 that stage and everyone was advertising new vessels, yes.

19 Q So this percentage of market share, part of what we are
20 talking about is capacity, correct, percentage of capacity
21 versus percentage of revenue?

22 A Yes.

23 Q Okay. So would you agree with me that launching four
24 brand-new high capacity vessels that Fugro never had before is
25 going to necessarily increase their percentage of capacity

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1 because there is brand-new capacity on the market?

2 A The question was not that they were launching the capacity.
3 Everyone has got the right to do that. The question is
4 launching the capacity with the technology onboard.

5 Q That wasn't my question. Would you agree with me that by
6 launching four new high capacity vessels and adding capacity to
7 the market, that Fugro would now own that capacity? Their
8 percentage of the capacity, the seismic capacity, is going to
9 increase just on that fact?

10 A It depends how many old vessels they take away. But
11 assuming if there is a netback, then they will add capacity.
12 In fact, all companies add capacity at that stage.

13 Q I want to go back briefly through a couple documents
14 Mr. LoCascio showed you.

15 **MR. THOMPSON:** If we could pull back up Plaintiff's
16 Exhibit 543, please?

17 BY MR. THOMPSON:

18 Q There was some talk on this one about the Apache job. And
19 just briefly if you could turn -- do you still have this
20 document in front of you?

21 A I'll have it in my folder, yes.

22 Q Okay. It is 543. And if we could go to Bates number
23 ending in 9011. It is near the back of the document. It says
24 Data Delivery on top.

25 A Okay. Yeah.

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1 Q So here Apache is requesting that each data shipment
2 contain the raw seismic data. Is this a situation that you
3 believe WesternGeco is able to provide this or is this going to
4 be part of the stuff that is being withheld on the raw sensor
5 data?

6 A The raw seismic data means the tapes from -- containing the
7 reflected entry coming up from the subsurface, which will be
8 perfectly processed to produce an image.

9 Q Okay. And with regard to -- you were talking about the
10 North Sea earlier about if you send a vessel out, you are
11 willing to do it because you generally know you can line up
12 more work right afterwards because it's hard to get out there
13 and there is a short season?

14 A In the North Sea, I said the jobs go back to back. You
15 will tend to have -- not just us, everyone will tend to have a
16 vessel there for the season.

17 Q Would you agree that necessarily because of a shortened
18 season but because it is further out and harder to get to,
19 that's also the same for Australia, it's basically once you get
20 out there and get a job, you are going to be more likely to
21 tend to line up more back to back?

22 A I made exactly that point, yes.

23 **MR. THOMPSON:** If we could go to Plaintiff's
24 Exhibit 822, please?

25

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1 BY MR. THOMPSON:

2 Q Now, there was some talk earlier about the Tullow survey,
3 and I believe you testified you believe this was one of the
4 surveys you lost to Fugro because of their use of DigiFINs.

5 A Yes.

6 Q Okay. And it was briefly discussed, but I just want to
7 make sure I understood. You understood this survey to be that
8 Tullow and Anadarko were going to conduct back-to-back surveys,
9 so to speak, and they wanted the same vessel for both surveys?

10 A Yes, it's not on this. It's on the other, the Anadarko
11 tender. There was a note on the front of the spec that said
12 this is -- you will be receiving a tender from Tullow. So to
13 be clear, Anadarko, this is Tullow, the operator. Anadarko is
14 a partner, so they are taking a proportionate risk in the
15 block.

16 And in the other block, Anadarko is the operator
17 and what they said is we will be -- it is our intention to
18 shoot these two surveys back to back, Tullow going first,
19 Anadarko going second. And Anadarko will take the Tullow
20 vessel and what it said is you will find our technical specs
21 are substantially the same.

22 Q You will agree that Anadarko, because it was going to be
23 back-to-back surveys and they wanted the same vessel, Anadarko
24 was going to have some say-so in who performed these two
25 surveys?

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1 A I wouldn't be able to say one way or the other on that.

2 Q Do you know about the time period that Tullow's request for
3 services came out, do you recall if that was about
4 November 2009?

5 A Well, I didn't see it at the time, but is this dated?

6 Q I don't believe that is.

7 A I think there will be a cover letter.

8 *MR. THOMPSON:* If we could briefly pull up FD1027.

9 BY MR. THOMPSON:

10 Q Is this the Anadarko corollary?

11 A It is, yes.

12 Q Okay. So you see the proposed deadline for proposals is
13 November 12, 2009?

14 A Yes, that's fine.

15 Q So you would agree, then, that the Tullow survey is going
16 to be somewhere at least in the fall of 2009?

17 A Yes.

18 *MR. THOMPSON:* Okay. If we could pull back up just
19 briefly what was already entered as ION 178.

20 BY MR. THOMPSON:

21 Q This would have been a document Mr. Torgerson gave you. If
22 you still have your copies. Just briefly, this was the meeting
23 you had and you've talked quite a bit about -- I'm not going to
24 go back through it. But at least in November 2009, Anadarko
25 actually had a preference not to use Q-Marine for their

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1 proprietary work?

2 A As I testified, it was at this meeting when they were
3 surprised that the phase that they liked so much was Q-Marine
4 and that was a pivotal meeting that we had.

5 Q Wouldn't you agree that if Anadarko in November 2009 had a
6 preference not to use Q-Marine, that would have made it more
7 difficult for WG to win the Tullow job that was conditioned
8 upon the following Anadarko job?

9 A I think what they said is they would accept it if it was
10 the same price. One of the issues about this particular
11 meeting is we had a problem on a vessel which happened to be
12 manifested there and they were -- which we addressed a
13 technical fault. Part of this meeting, which wasn't mentioned
14 here, was pointing out that problem would not happen again.

15 So I think they would have -- they probably
16 wouldn't be queuing up to pay a premium, but they would have --
17 it is my belief they would have been very happy if there hadn't
18 been much of a premium.

19 Q So it is your testimony you don't believe any preference --
20 we have talked a lot about the word "preference." But if
21 Anadarko had a preference not to use Q-Marine, you don't think
22 that had any part in WG not being awarded the survey?

23 A I'm saying I can't say it was or wasn't. What I'm saying
24 is at that stage, they did begin to agree with us and
25 understand.

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1 Q If you will go back quickly to the document --

2 A The FD document, I think, on your side.

3 *MR. THOMPSON:* Give me one second.

4 And before everybody sighs, I'm not entering all
5 of these. Most of them have already come in. They were just
6 put together in a binder earlier.

7 BY MR. THOMPSON:

8 Q You wanted to go back to -- let me find my other one.

9 A The cover note on the Anadarko?

10 Q Yes.

11 A If you go down to the bottom of that page, I think it says
12 tender sequencing considerations, along with Anadarko, Tullow
13 Oil, PLC and its affiliate holds interests in both --

14 *THE COURT:* You are going way too fast. Start over
15 again.

16 *THE WITNESS:* So along with Anadarko, Tullow Oil, PLC,
17 through affiliate entities hold interests in both Ivory Coast
18 Block CI-105 and Ivory Coast block CI-103.

19 You go down a couple of lines, it says: It is
20 the objective of both operators, Anadarko and Tullow, to select
21 a single seismic vessel to acquire these two surveys back to
22 back. Notwithstanding the following, Anadarko and Tullow shall
23 operate their own survey within their representative operating
24 fields and, likewise, will negotiate their own contracts with
25 the successful bidder.

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1 So this document is -- to me is saying quite
2 clearly that whoever wins the Tullow will win the Anadarko
3 because they intend to use the same vessel for both.

4 BY MR. THOMPSON:

5 Q Do you know, if Anadarko could not offer the same vessel
6 for both the Tullow and the Anadarko back to back, do you think
7 that would have had an effect on WG not winning the award?

8 A I think the interest of Anadarko and Tullow was to get an
9 efficient operation. And their way of looking at it was let's
10 do the two jobs back to back, so I'm not able to answer that
11 question.

12 Q At least in the document you just read from, it was their
13 objective to use one boat for both surveys, correct?

14 A Yes.

15 Q Do you know, did WG offer the same boat for both surveys?

16 A I'm afraid I don't know.

17 Q Let's go to FD1047, please, and this should be in the
18 binder I just handed you. We have already skipped a lot of the
19 documents. Would this be -- does it appear to be WG's response
20 to the Tullow request for proposal?

21 A It is, yes.

22 Q Okay. If you could turn with me to Bates number ending in
23 2475. About 13, 14 pages in. Do you see that?

24 **MR. THOMPSON:** Could we highlight the name of that
25 vessel, please?

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1 BY MR. THOMPSON:

2 Q At the time -- this was fall of 2009. Do you know, was the
3 WESTERN PATRIOT a Q vessel?

4 A No. It would have been solid streamer vessel.

5 Q Okay. So WesternGeco, in response to Tullow here, is
6 offering -- again, we are offering a nonlateral steering vessel
7 just like you did with Statoil, correct?

8 A Yes. So I hadn't seen this proposal before.

9 Q And if we flip a few pages to 2479, in fairness, you also
10 offer the WESTERN SPIRIT?

11 A Yes.

12 Q And that was a Q vessel?

13 A Yes.

14 Q It was Q liquid, correct?

15 A Q wet, yeah.

16 Q Do you know whether Tullow had any preference for solid
17 streamers?

18 A No, I don't recall them saying they had a preference.

19 Q What about Anadarko having a preference for solid
20 streamers?

21 A Anadarko, I think they were still in the mode of analog
22 fluid filled streamers are noisy and from that perspective,
23 they wanted better noise performance. But I don't know whether
24 they had a hard and fast for solid streamers. I don't remember
25 seeing it in their technical spec.

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1 Q If we could turn to that same document, Bates number ending
2 in 0215 under the section "Free Timing."

3 A Which one is this?

4 Q I'm sorry. I skipped ahead. It wasn't marked.

5 *MR. THOMPSON:* Are we still on FD0265? Can we put up
6 FD0265?

7 BY MR. THOMPSON:

8 Q It should be in your binder.

9 A 265?

10 Q Yes. Is this part of the scope of work for the Tullow
11 survey we have been talking about?

12 A Can I just get to it?

13 Q Sure.

14 *MR. THOMPSON:* Let's highlight the top where it says
15 "Tullow."

16 *THE WITNESS:* Yes. It is the scope of that.

17 BY MR. THOMPSON:

18 Q Okay. So if could go a couple pages in to Section 3,
19 "Timing, correct?"

20 A Yes.

21 Q Do you see that Tullow was wanting to commence this survey
22 between February 1 and February 10, 2010?

23 A Yes, I see that.

24 Q If we could go now in the same document to Section 6.4,
25 which is ending in Bates Number 0220.

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1 Do you see here this is for steering?

2 A Yes.

3 Q And this says, "In this section, the company" -- that would
4 be Tullow, correct?

5 A Yes.

6 Q It says: "The company, at its option, may require one or
7 more of the following additional technologies."

8 It includes lateral steering, correct?

9 A Yes.

10 Q So are they saying they may at some point require an
11 additional technology, but it's not a requirement?

12 A No. What they are saying is if you look at the currents in
13 this area, they build up and slow down. And so what they are
14 saying is, we want it on board. We will -- in the same way,
15 when I rent a car in Houston, I'm going to specify air
16 conditioning. Whether I use it is my choice.

17 And so my read of that -- and I will specify, I
18 didn't do the bid. But you quite often say the company wants
19 this to be available, and 127 miles off the coast of Azerbaijan
20 is not the place to suddenly decide you need it.

21 Q Okay. Do you see in that same Section 6.4.1, Tullow is
22 actually leaving it to the contractor, that if the additional
23 technology is going to be offered, there's a couple different
24 ways in which it can be offered?

25 A Yes.

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1 Q So there's no set requirement as to full spread or partial
2 spread or even -- aside from the current situation, there's no
3 set requirement for lateral steering?

4 A Well, it says may be either a partial, which -- last
5 two-thirds of streamer length or full deployment. This would
6 be primarily to maintain streamer separation. So the first
7 thing -- the value we discussed of being equal separation, the
8 company may also require the systems to be used to effect fan
9 mode shooting over the prospect, so if you do fan mode shooting
10 when your streamers are pulled apart from the front all the way
11 to the tail. And again, they are saying we may require it.

12 So for us -- obviously for us, this is a whole
13 streamer system anyway. But we would assume that it would be
14 used on the whole streamer network to --

15 Q Okay. I'm sorry. I didn't mean to cut you off.

16 A No, no. Over the whole streamer network to do fan mode.

17 Q Okay. If we could turn to Section 7.1.4, please.

18 I just -- I have a question for you here.

19 Do you know -- are you there yet?

20 A 7.1.4?

21 Q Yeah.

22 A Yeah.

23 Q Do you know what is meant when they say "all vessels shall
24 have a minimum endurance at sea of 40 days"?

25 A Yes. It means your vessel does -- "endurance at sea" means

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1 absent being replenished at sea, which all vessels are, that
2 you would be able to maintain endurance, to be operating for 40
3 days without having to go to port.

4 Q Would -- endurance at sea, would you take that, based on
5 your experience, to mean the same thing as endurance in
6 production?

7 A I think that's reasonable.

8 Q Okay. If we could turn to FD1046. It should be in your
9 binder.

10 Do you see here we are still talking about the
11 Tullow survey, and it's a WesternGeco technical proposal?

12 A Yes.

13 Q Okay. If we could turn to proposal summary -- it's 7133
14 Bates number.

15 And again, just briefly --

16 A 7133?

17 Q Yes. If we could go down to the "Proposes the following
18 acquisition offering."

19 And again, this is two different boats being
20 offered. And one is a Q-Marine, and one is nonlateral
21 steering?

22 A Yes.

23 Q Okay. If you could flip with me, and stay in that
24 document, to Bates Number 712106. It's Section T1.1.

25 A Okay.

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1 Q Do you remember in the other document we looked at Tullow
2 was -- well, first off, let me back up.

3 We talked about, aside from technical
4 requirements, the other big factors in awarding a survey are
5 price and availability, correct?

6 A Yes.

7 Q Okay. So with regard to Tullow and Anadarko, we know they
8 wanted the same vessel, correct?

9 A Wanted the surveys back to back, yes.

10 Q And we've looked at the documents. Tullow was wanting the
11 vessels available between February 1 and February 10, 2010?

12 A Yes.

13 Q Okay. When did WesternGeco say it would make its vessels
14 available? When was the WESTERN PATRIOT made available?

15 A So that says mid April.

16 Q Would that be before or after February 2010?

17 A That would be a couple months afterwards.

18 Q Okay. What about the WESTERN SPIRIT?

19 A The WESTERN SPIRIT, the first week of March.

20 Q Okay. So is it fair that neither of the vessels you
21 offered were available during the projected start time that
22 Tullow was requesting?

23 A They were very close to it.

24 Q But they weren't available in February?

25 A No. They weren't available in February.

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1 Q Okay. If we could go two more pages. It's the T1.3
2 schedule.

3 Do you see here where it says "Estimated vessel
4 endurance in production"?

5 A Yes.

6 Q You see the WESTERN SPIRIT is 24 days and the WESTERN
7 PATRIOT is 25 days?

8 A Yes.

9 Q And so neither of these meet the endurance requirement of
10 40 days that we just saw in the Tullow document?

11 A No. That is -- that's an incorrect assessment, because you
12 can refuel at sea. So we would probably have raised that point
13 and said we would refuel at sea, so to not interrupt
14 production.

15 Q Would that be an exception you had to file to the
16 endurance?

17 A I didn't put in the bid, so I don't -- I don't know.

18 Q Well, if -- if the vessel doesn't have the required
19 endurance and it's going to require refueling at sea, would
20 that be an exception?

21 A No. It's -- it's two every day. Everyone refuels at sea.
22 So I think we would simply make it as a comment.

23 But I haven't read the whole document, so I can't
24 tell you.

25 Q But you agree -- because you agreed with me earlier -- that

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1 endurance at sea, in your mind, would equal endurance in
2 production. And we can at least agree that 24 and 25 days are
3 less than 40 days.

4 A We can agree that 24 and 25 days are less than 40. But it
5 is irrelevant, because we can refuel at sea.

6 Q So it's your position that it's irrelevant.

7 If it was irrelevant, why would Tullow bother
8 putting it in their document?

9 A Because if you have endurance where you have to go back
10 into port for other purposes, then that impacts the
11 productivity of the project, because you have got to pick up
12 all of your equipment to go back into port.

13 With us, we have vessels in the Gulf of Mexico
14 here, which are out for a year at a time. We have a process
15 for refueling at sea. We would go through that process.

16 And probably somewhere in this 150 pages is the
17 refuel at sea process. I don't know. We may not have
18 published that. I haven't seen that.

19 Q Okay.

20 A It's not the same as a technical requirement, when they
21 said they wanted streamer steering. That would impact -- a
22 lack of lateral steering would impact the quality of the data,
23 impact the way the operation would work; whereas, simply coming
24 alongside with the vessel bows and refueling the vessel would
25 not impact productivity at all.

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1 Q Okay. I want to move on to -- earlier, you talked about
2 some direct awards. And that's when there's -- the E&P company
3 doesn't send out a request for quote, they just pick someone,
4 correct?

5 A Well, they still negotiate hard, but, yes.

6 Q Well, they negotiate, but they negotiate with one provider?

7 A Yes.

8 Q And you indicated that WG was a winner of quite a few
9 direct awards between 2000 and 2007.

10 A I said between 2000 and 2004.

11 Q Okay. Between 2000 and 2004, would it be fair that a
12 reasonable component that drove those direct awards was the
13 fact that WG had the single-sensor recording?

14 A No.

15 Q That wasn't the big differentiator when Q first came out?

16 A No. We tried very hard, because it does two things. It
17 does noise attenuation, which everyone does different ways, and
18 you do short groups and the high in-line sampling.

19 And we've never got anyone interested in the
20 short groups of the in-line sampling, so that's not really
21 what's made the difference.

22 Q Okay. Do you know -- have you -- well, first off, do you
23 know who Mr. Raymond Sims is as it relates to this case?

24 A I -- I've met him, and we have discussed he is the damages
25 expert.

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1 Q And he is the damages expert hired by WesternGeco?

2 A I'm not sure. He may have been hired -- retained by the
3 lawyers.

4 Q Fair enough. But he's WG's damages expert in this case?

5 A Yes.

6 Q And as part of his work in preparing his opinions and his
7 report, did he meet with you on occasion?

8 A He did, yes.

9 Q And did he talk with you on occasion?

10 A Yes.

11 Q And he was able to ask you any questions and rely on you as
12 a source of information?

13 A Yes. That was part of the purpose.

14 Q Did he discuss any of his opinions that he was reaching as
15 to the valuation of lateral steering, his ultimate conclusions?

16 A No. That wasn't his role. His role -- my role was to feed
17 him experience and information.

18 Q Okay. Is it -- you indicated earlier today that within
19 Q-Marine, the suite, there's the lateral steering, the single
20 sensor, the calibrated source, and the fully abrasive
21 acoustics.

22 A Yeah.

23 Q I think you've already said the calibrated source was
24 pretty much a failure, and that you didn't get as much upswing
25 in the single sensor as you had hoped.

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1 But you testified that you believed customers
2 today are wanting lateral steering the most of those -- of the
3 technology in the suite, correct?

4 A That's what they are saying in their tenders and in their
5 communication to us at these trade shows.

6 Q Okay. And we talked a little bit -- do you know, has
7 WesternGeco ever attempted to allocate any of the Q-Marine
8 revenue broken down by these discrete components of Q-Marine?

9 A No. We just have a kilometer rate.

10 Q And would you agree with me -- and you have actually said
11 that would be impossible to do, to break out the valuation of
12 the different technologies?

13 A Yes. Because if I give you one kilometer rate, then that's
14 it. It's -- I -- I can't make a value judgment about what you
15 find important.

16 Q And actually, do you remember, sir, at your deposition, you
17 actually said that would be impossible to do?

18 A Yes.

19 Q Okay. And so it would be impossible for WesternGeco to
20 break out by percentage of total survey revenue the value of
21 lateral steering?

22 A We tried to do -- at one stage internally, we messed around
23 with sort of a Chinese menu where we just stuck numbers on it,
24 but it didn't go anywhere, and I don't think we ever sent it as
25 a proposal.

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1 Q Given that you have tried to do it and you weren't
2 successful, would it be information that you would like to have
3 if it was available?

4 A If our customers told us what their internal evaluation
5 was, yes.

6 Q Well, no, not just what your customers told you. You said
7 internally, WesternGeco has even tried to figure out the
8 valuation of, say, lateral steering as opposed to the other Q
9 elements, but it was impossible and your internal efforts
10 failed.

11 I'm asking: If somebody was able to do that,
12 would that be information you would want to use in your
13 business?

14 A If I could pinpoint, yes, it would be useful.

15 Q Okay. Are you aware, sir, that Mr. Sims actually has made
16 and come to the ultimate opinion in this case that the benefits
17 of lateral steering, at least as to Fugro, are 20.8 percent of
18 the total survey revenue on every survey?

19 A I had heard it in the court here just -- just today. I was
20 unaware of it before.

21 Q And you have said, sir, that was impossible to do, and your
22 efforts internally within WesternGeco failed. But, apparently,
23 Mr. Sims has done the impossible, correct?

24 A No. What I said is I -- of the incremental uplift, I
25 cannot evaluate what is useful for the customer.

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1 We can make a model of save so much downtime,
2 save so much line change time, yes, of course, we can do that,
3 but that's not evaluation of what the customer wants.

4 Q Have you internally, for your business purposes -- now that
5 it is available, have you implemented and done any business
6 calculations or research using Mr. Sims' breakdown of
7 20.8 percent of total survey revenue?

8 A No, because I only heard it just now.

9 Q Okay. So WesternGeco, is it fair, is not using that for
10 any business purposes, correct?

11 A To -- lateral steering as against whatever else is in Q in
12 terms of its uplift?

13 Q Yes.

14 A No. It's either Q or it isn't Q.

15 Q Okay.

16 **MR. THOMPSON:** If we could switch back to the Elmo.

17 BY MR. THOMPSON:

18 Q I'm just about done, sir. I just want to follow back up,
19 and I'm going to try and move quickly.

20 Do you recall at your deposition there was some
21 discussion about the gross profitability of Q between 2008 and
22 2011?

23 A Yes. I remember.

24 Q Okay. And is it -- if you don't recall, that is fine. We
25 can look at your deposition.

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Thompson Cross of Robin Walker

1 But to speed things up, is it fair to say that
2 for 2008 you said the gross profitability of Q was
3 approximately 20 percent?

4 Does that sound about right?

5 A It sounds about right.

6 Q Okay. In 2009, it was just above break even?

7 A Yes.

8 Q And in 2010, just above break even?

9 A Are we talking about Q-Marine or were we talking about
10 marine in general?

11 Q Q-Marine.

12 A Q-Marine. Okay. If that was the conversation, then, yes.

13 Q And in 2011, it was break even?

14 A Yes.

15 Q And so if we very quickly map this out -- and this is
16 gross.

17 Forgive my handwriting. I get ragged on it -- I
18 get ragged about it all the time.

19 We have 10 percent, 20 percent, 30 percent,
20 40 percent, 50 percent, 60 percent.

21 And so we know, based on the numbers, that 2008
22 was around 20 percent, correct?

23 A Yes.

24 Q We will just go ahead and put it 20 percent.

25 You said 2009 was close to break even, correct?

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Thompson Cross of Robin Walker

1 A Yes.

2 Q That would be right about here.

3 2010 would be close to break even?

4 A Yes.

5 Q And in 2011, break even?

6 A We recovered a bit in 2011. Gross profitability has picked
7 up a little.

8 Did we say gross profitability or did we say net?

9 Q Gross.

10 A Gross. Okay.

11 Q Where do you want me to put 2011?

12 A Just a little bit up.

13 Q Above break even?

14 A Yeah. Just...

15 Q About right here?

16 A Yeah.

17 Q All right. So if we -- starting out, we see about that
18 sort of decline, correct?

19 A Yes.

20 Q And this would be the decline coming down in 2008 from the
21 prior years, right?

22 A Yes.

23 Q Okay.

24 **MR. THOMPSON:** I'm going to mark this FD Walker Demo
25 001 for the record.

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Thompson Cross of Robin Walker

1 BY MR. THOMPSON:

2 Q And if we could, I would like to show you FD1005B.

3 *MR. THOMPSON:* And for the record, we have taken one
4 page out of what was previously marked FD1005, and the page we
5 are going to be offering is this one, and we've marked 1005B.

6 *THE COURT:* Very well.

7 BY MR. THOMPSON:

8 Q Do you see, sir --

9 *MR. THOMPSON:* Could we go to that one? It's 654696.

10 BY MR. THOMPSON:

11 Q The jury has actually seen a different version of this with
12 Mr. Scoulios, and it was blocked out. And there was some
13 concern with Mr. Scoulios as to he didn't think the time
14 related to 2005 to 2010.

15 But do you see here below, we see Q-Marine is
16 2005 and we see Nessie-6, which would be the N6, is 2010?

17 A Yes. That was certainly the aspiration.

18 Q Okay. And do you -- at least within -- internally within
19 WesternGeco, do you see with regard to Q-Marine --

20 *MR. THOMPSON:* Can we highlight the curve? It may be
21 hard to do the curve.

22 In fact, why don't we just switch to the Elmo, if
23 we could go back to the Elmo.

24 BY MR. THOMPSON:

25 Q Do you see, with regard to the Q-Marine curve, which is

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1 this one, there was an anticipated decline of price over time.

2 Do you see that?

3 A Well, I see that we planned to put in advanced spread
4 control, which we did to offset the decline, yes.

5 Q But you would agree with me that at least internally,
6 within WesternGeco even as far back as 2000, you understood
7 that there was a shelf life, so to speak, of any technology
8 including Q-Marine?

9 A If you don't update it, yes.

10 Q And at some point, the prices are going to go down?

11 A Yes.

12 Q Okay.

13 A If you don't update it, which we did.

14 Q And according to this chart -- well, even with the update
15 it's going to decline, as well, before 2010, right?

16 A I -- well, that's not -- not extrapolated forward. And as
17 we discussed, Nessie-6 proved to be a serious challenge, and we
18 have only just field tested it.

19 So I would say, in terms of viability in the
20 marketplace, we are continuing to do coil shooting and Discover
21 and new configurations, which are adding value to the platform.

22 Q Okay.

23 A The Nessie-6 was replaced maybe by Discover. Let's put
24 that.

25 Q I understand Nessie-6 didn't come out on time. I'm asking

Thompson Cross of Robin Walker

1 internally, WesternGeco predicted a decline in the price of
2 Q-Marine before 2010, correct?

3 A We predicted the need to continue to innovate.

4 Q Okay. And so if we just -- and I'm going to make this a
5 demonstrative.

6 If we take that down to its logical conclusion,
7 would that somehow go with this curve which is Walker Demo 1,
8 which saw the decline in 2008, flattening out to 2011?

9 A If we hadn't implemented the advanced spread control, which
10 we did.

11 Q And advanced spread control, also, you see a decline before
12 2010?

13 A Well, I mean, this is a graphic that someone has drawn to
14 make the point. This is not proven revenue or anything. It's
15 no more than a cartoon.

16 Q And the point of this graphic, when it was drawn, is that
17 WesternGeco internally knew that the price of Q-Marine was
18 going to decrease and that the product itself has a shelf life
19 like any other product?

20 A And if we didn't innovate, it would be -- we would need to
21 innovate, which we did.

22 *MR. THOMPSON:* No further questions, Your Honor.

23 *THE COURT:* Is that it?

24 *MR. THOMPSON:* No further questions.

25 *THE COURT:* Your redirect will be mercifully brief?

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LoCascio Redirect of Robin Walker

1 *MR. LOCASCIO:* It's all in my head, right here.

2 *MR. THOMPSON:* And just for the record, this writing
3 is going to be FD Walker Demo 002.

4 **REDIRECT EXAMINATION**

5 BY MR. LOCASCIO:

6 Q Let's start where Mr. Thompson left off, sir.

7 That Q-ASC --

8 A Yes.

9 Q -- is that patented?

10 A Yes.

11 Q And whose patent is that?

12 A That's the Zajac patent.

13 Q And so this line right here --

14 *MR. LOCASCIO:* I won't draw on your demonstrative,
15 Mr. Thompson.

16 BY MR. LOCASCIO:

17 Q -- that goes out that way, that is all covered by
18 WesternGeco's patents, correct?

19 A Yes.

20 Q You were asked a lot of questions about the Tullow job and
21 the availability date of the vessel.

22 Do you recall that?

23 A Yes.

24 Q I gather suggesting you wouldn't have had a boat there on
25 time.

LoCascio Redirect of Robin Walker

1 A Yes.

2 Q From FD1046 -- you were shown this -- that indicated you
3 told them you would have a vessel there available in March of
4 2010?

5 A Yes.

6 Q Now, I want to show you what Fugro has provided to us about
7 when they actually performed these jobs, sir.

8 Do you see the two that I've highlighted?

9 A Yes. Yeah.

10 Q Are those the two jobs we have been talking about for
11 Tullow and Anadarko?

12 A 103 and 105. Yes, they are.

13 Q And when did -- you can see the heading -- I'm sorry, I
14 guess you can't see that. Let me zoom out.

15 When did Fugro start -- well, let's back up.

16 Did they do any jobs in February 2010 for either
17 Anadarko or Tullow?

18 A No.

19 Q And when did Fugro start the Anadarko job?

20 A They started the Anadarko job on the 3rd of March 2010.

21 Q The same month your vessel was available?

22 A Yes.

23 Q And when did they perform the Tullow job, sir?

24 A That was in the middle of April 2010.

25 Q After your vessel was available?

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LoCascio Redirect of Robin Walker

1 A Yes.

2 Q You were asked a handful of questions about Mr. Sims.

3 Now, you are not an expert witness in this case,
4 correct.

5 A No.

6 Q Has Fugro -- have Fugro and ION allowed you to see all
7 their internal documents, or is that something that only
8 Mr. Sims is privy to?

9 A No, I haven't seen any internal documents.

10 Q So in terms of how they have treated their own
11 profitability and how much money they thought they would make
12 from infringement, that's not something they have let you see?

13 A No.

14 Q Both Mr. Thompson, under the name Nessie-6, and
15 Mr. Torgerson, under the name of IsoMetrix, asked you some
16 questions about the next step in your innovation.

17 Do you recall that?

18 A I do, yes.

19 Q Is that how it works at WesternGeco? You are always
20 investing in innovating?

21 A Yes. We spent \$120 million on engineering last year.

22 Q Does it still matter, under your new products or your old
23 products, where you put the streamers with lateral steering?

24 A Yes.

25 Q And the --

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LoCascio Redirect of Robin Walker

1 A The cartoon wasn't very good. But the point about it is if
2 you are trying to repeat a baseline survey that could be not
3 steered, which we can't do today, we would actually have to do
4 more steering, not less.

5 Q The jobs you are seeking damages for, are they all jobs
6 that have happened in the past or are you seeking some future
7 jobs?

8 A No, they have happened in the past.

9 Q Before IsoMetrix?

10 A Yes.

11 Q Is IsoMetrix even commercialized today?

12 A No.

13 Q Once you come out with Version 3.2 of your technology, does
14 that mean it's okay for people to use and take your technology
15 that's in Version 3.1 and 3.0?

16 **MR. TORGERSON:** Objection.

17 **THE COURT:** I'm going to allow it.

18 **THE WITNESS:** No. We -- we invest in technology. And
19 the length of time it takes to build technology, you know, if
20 you file a patent, you -- half the life of that patent may have
21 elapsed before you ever get the technology into the field, and
22 then have you to prove it in the marketplace.

23 BY MR. LOCASCIO:

24 Q You were asked about Statoil and whether they have hired
25 Fugro to use ION's equipment to perform their surveys.

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LoCascio Redirect of Robin Walker

1 Do you recall that?

2 A Yes.

3 Q And it was suggested that, you know, you should have gone
4 off and sued Statoil also.

5 Do you recall that?

6 A Yes.

7 Q Who decided to offer DigiFIN components for use in those
8 surveys?

9 A Fugro.

10 Q And who actually made the equipment that they used in those
11 surveys?

12 A ION.

13 Q And who made money from the infringement?

14 A ION and Fugro.

15 Q Is that why you sued them and not Statoil?

16 A Yes.

17 Q You were shown by Mr. Thompson the tenders for the Chukshi
18 job.

19 A Yes.

20 Q And do you recall he showed you the two prices and said
21 they were essentially not that different, the 27 million and
22 the \$28 million?

23 A Yes.

24 Q If I might find a piece of paper.

25 We have one right here.

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LoCascio Redirect of Robin Walker

1 Do you still have the document that is PTX767
2 with you?

3 A I think that was the one that was -- was a rare bird. I
4 don't think I ever --

5 Q I will just give you mine, sir.

6 A Let me just check. Oh, no, I do have it.

7 No, that was -- wait a minute. No, I think that
8 was the one that we were short of.

9 Q Here you go, sir.

10 A Thank you.

11 Q Can you tell me what price you quoted Statoil for the
12 conventional streamers?

13 A Conventional? I just -- let me check this. This is both
14 reimbursables, business models. They are the same.

15 Q So these are apples to apples?

16 A That's apples to apples. 27.7 million.

17 Q Can you give me the exact number?

18 A 27 million, seven hundred and -- either 30 or 81 -- 31,000,
19 384 dollars.

20 Q And you were asked, I believe by Mr. Torgerson, if it would
21 take you a certain number of days, and I think it was 72.6.

22 Do you see that?

23 A 72.6, which I'm interpreting, as I didn't -- I didn't do
24 this bid. I didn't see the bid before it went in, so I think
25 that's first -- first line shop, I'm not sure.

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LoCascio Redirect of Robin Walker

1 Q Now, for the lateral steering Q job that you proposed, how
2 much were you going to charge for that job?

3 A \$28,871,967.

4 Q And was that the 63.3 days?

5 A That was the 63.3 days, yeah.

6 Q I'll save you the trouble of bringing up a calculator.

7 A That's a relief.

8 Q Per day for conventional, you would have been charging
9 \$381,975 for that vessel. Is that about right?

10 A Looks -- yeah, looks about right.

11 Q And for the lateral steering version, you would have
12 charged \$456,113 per day. So 19.4 percent difference for
13 lateral steering versus conventional.

14 A Yes.

15 Q Is that consistent with what you anticipated and received
16 from customers?

17 A Yes.

18 Q And the suggestion was you wouldn't actually be making much
19 more money. Would you be making a significant amount more per
20 day and over the course of the year with lateral steering on a
21 job like that?

22 A Absolutely, yes.

23 *MR. LOCASCIO:* I'm going to call this Walker Demo 2A.

24 BY MR. LOCASCIO:

25 Q A couple other questions, sir. You were asked a question

LoCascio Redirect of Robin Walker

1 about whether ultimately ION and Fugro used the infringing
2 equipment in other parts of the world or this part of the
3 world.

4 Is your business global?

5 A Yes, it is.

6 Q Does the injury to WesternGeco from ION and Fugro's
7 infringement stop at the border?

8 A Absolutely not.

9 Q You were asked a fair number of questions about this.
10 The suggestion was that, well, there was a
11 recession during this period of time.

12 Do you recall that?

13 A Yes.

14 Q And did that recession -- should it have affected everyone
15 equally?

16 A I believe so, yes.

17 Q And in a recession, does infringement hurt even more than
18 during the good times?

19 A Yes, it does.

20 *MR. LOCASCIO:* No further questions, Your Honor.

21 *THE COURT:* Okay.

22 *MR. THOMPSON:* Your Honor, may I respond to two
23 points?

24 *THE COURT:* All right. All right.

25 **REXCROSS-EXAMINATION**

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Thompson Recross of Robin Walker

1 BY MR. THOMPSON:

2 Q Mr. Walker, just briefly.

3 You and -- Mr. LoCascio asked you if Q-ASC was
4 related to the Zajac patents, correct?

5 A Yes.

6 Q Is it fair, then, that Q-Marine was related to the
7 Bittleston patents?

8 A I think there are components in both, but I'm -- I'm not a
9 patent expert.

10 Q Okay. And so within Q-Marine -- or within WesternGeco, the
11 Bittleston patents were expected to reach their shelf life, so
12 to speak, by 2008?

13 A No, I'm not saying that -- that -- when I said it's -- the
14 ASC is the Zajac patent, there are elements of both that are
15 needed for both.

16 Q Now, I apologize. I don't have copies of this. I wasn't
17 expecting to need it.

18 Mr. LoCascio showed you a spreadsheet and said,
19 "Well, Fugro couldn't even offer the Tullow job on time because
20 it said April and March."

21 Do you remember that? You just looked at it?

22 A Yes.

23 Q Does this appear to you to be -- based on your
24 experience -- would be a cover letter responding to a tender
25 request?

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Thompson Recross of Robin Walker

1 A It would, yes.

2 Q And just briefly, you see this as coming from Fugro?

3 A Yes.

4 Q Okay. Do you see here in my highlighted paragraph, when
5 was -- when did Fugro offer its vessels to Tullow?

6 A They were promising it late January, early February 2010.

7 Q Okay. So Fugro's response met the requirements of vessel
8 availability by February, correct?

9 A No. Fugro's promise met the requirements.

10 Q And you have no reason to know why the survey took place in
11 April versus when Fugro promised the vessels would be available
12 by January/February?

13 A We've -- we've seen that there are some players who will
14 put in and say this is -- we will promise the vessel
15 availability when the customer wants to have it, so that vessel
16 availability is not a factor in their decision. Whether they
17 can make that or not is another matter.

18 Q Are you somehow implying to the jury that Fugro is one of
19 these people that promises vessel availability and knows they
20 can't meet it?

21 A No. What I'm saying is a lot can happen in advance of a
22 project. A previous project can run on, you may want to have
23 another job that goes in front, an urgent job.

24 I'm saying that a lot can happen between a bid
25 coming in and a bid turning out, the vessel turning up.

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Thompson Recross of Robin Walker

1 Q But you're not implying to the jury that Fugro somehow has
2 some reputation that they make promises they can't keep?

3 A I would not like to make that assertion, no.

4 *MR. THOMPSON:* No further questions.

5 *MR. TORGERSON:* Nothing further.

6 *THE COURT:* You may step down. Thank you very much.

7 *THE WITNESS:* The jury has heard enough of me for
8 today.

9 *THE COURT:* Yes.

10 Do you wish to call another witness?

11 *MR. LOCASCIO:* We do, Your Honor. At this point,
12 we're going to -- it's a deposition. We have agreed on an
13 instruction, although you, frankly, don't need our explanation.

14 *THE COURT:* You can hand it to Ms. Loewe.

15 I think I have already told you something like
16 this, but it's inoffensive just to read what has just been
17 handed to me, instructions on what depositions mean.

18 Prior to trial, both sides have the opportunity
19 to ask questions of the other side's witnesses under oath in
20 what is called a deposition. These depositions are videotaped,
21 and as part of this trial, we may hear testimony from such
22 witnesses by playing excerpts of these videos.

23 The witnesses are given the same oath as they
24 would be in court, and their testimony is entitled to the same
25 consideration as if they had given it live.

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