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M. TRIANTAFYLLOU
UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

PETROLEUM GEO-SERVICES INC.

Petitioner

v.

WESTERNGECO LLC

Patent Owner

Case No. IPR2014-01475, -01476, -01477, -91478

Patent No. 7,162,520 B2

Patent No. 7,162,967 B2

Patent No. 7,080,607

DEPOSITION OF DR. MICHAEL TRIANTAFYLLOU

Volume 1

Alexandria, Virginia

August 27, 2015

Reported by: Mary Ann Payonk

Job No. 96925

M. TRIANTAFYLLOU

August 27 2015
8:35 a.m.

Deposition of DR. MICHAEL TRIANTAFYLLOU, Ph.D., Volume 1, held at the offices of Oblon, McClelland, Maier & Neustadt, 1940 Duke Street, Alexandria, Virginia, pursuant to Notice before Mary Ann Payonk, Nationally Certified Realtime Reporter and Notary Public of the District of Columbia, Commonwealth of Virginia, States of Maryland and New York, CA-CSR No. 13431.

M. TRIANTAFYLLOU

APPEARANCES:

ON BEHALF OF PETITIONER:

THOMAS FLETCHER, ESQUIRE
JESSAMYN BERNIKER, ESQUIRE
ALEC SWAFFORD, ESQUIRE
WILLIAMS & CONNOLLY
725 Twelfth Street, N.W.
Washington, D.C. 20005

ON BEHALF OF PATENT OWNER:

MICHAEL KIKLIS, ESQUIRE
CHRISTOPHER RICCIUTI, ESQUIRE
KATHERINE CAPPAERT, ESQUIRE
OBLON, McCLELLAND, MAIER & NEUSTADT
1940 Duke Street
Alexandria, VA 22314

ALSO PRESENT:

Kevin Hart, Petroleum Geo-Services,
Inc. (By phone)

M. TRIANTAFYLLOU
MICHAEL TRIANTAFYLLOU,
called as a witness, having been duly
sworn, was examined and testified as
follows:

EXAMINATION

BY MS. BERNIKER:

Q. Good morning, Doctor.

A. Good morning.

Q. I introduced myself earlier, but
again for the record my name is Jessamyn
Berniker and I represent the petitioner in this
case.

Would you please state your full
name?

A. Michael Triantafyllou.

Q. Do you understand that you're under
oath, sir?

A. Yes.

Q. And what do you understand that to
mean?

A. That I have to -- to -- to tell the
truth and there are legal repercussions if I
don't tell the truth.

Q. Okay. And do you understand that you

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should answer my questions fully and
completely?

A. I understand truthfully.

Q. Okay. Are you on any medication that
would affect your ability to testify accurately
today?

A. No.

Q. Have you ingested anything else that
you think would affect your ability to testify
accurately today?

A. No.

Q. I know you've done this before, but I
just want to go over a few reminders. We will
need your answers to be verbal so that the
court reporter can take that -- them down.

Do you understand that?

A. Verbal as -- as opposed to what?

Q. As opposed to nodding or shaking your
head.

A. Sure.

Q. Okay. And would you please let me
know if you don't understand a question I'm
asking? If you don't let me know, I'm going to
assume you understand it.

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 2 Do you understand that?
 3 A. I understand.
 4 Q. Okay. And I don't have to ask this,
 5 but Mr. Kiklis does ask all of our witnesses,
 6 so have you ever been arrested, sir?
 7 A. No.
 8 Q. Okay. Now, how many times have you
 9 previously testified as a -- as a witness?
 10 A. Three times.
 11 Q. Can you tell me what those three are?
 12 A. The first time was in regards the ION
 13 case. There was a second time with a small
 14 company suing over a patent. I forget the
 15 names now. It was actually here in Virginia.
 16 But I stated this -- the facts, I think, in my
 17 last deposition, so you can find them there.
 18 The third time was with you guys here in May.
 19 Q. Okay. And the second one, what was
 20 the general subject matter of that patent?
 21 A. It was a device which was swimming
 22 like a -- a mechanical device that was swimming
 23 like a fish.
 24 Q. Right. Okay. Thank you, sir. Now,
 25 with respect to the ION case, did you testify

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 2 both by deposition and at trial?
 3 A. Yes.
 4 Q. Okay. And was that testimony
 5 truthful in both instances?
 6 A. Yes.
 7 Q. And complete?
 8 A. And complete.
 9 Q. And the testimony that you provided
 10 in this -- I shouldn't say in this case. In
 11 the first PGS versus WesternGeco IPR proceeding
 12 a few months back, do you remember that
 13 testimony?
 14 A. Yes, I do.
 15 Q. And did you provide truthful
 16 testimony in that instance?
 17 A. Yes.
 18 Q. I'm going to hand you the deposition
 19 transcript with the erratas from that case.
 20 The first volume is marked PGS Exhibit 1103 in
 21 these proceedings. And when I say "these
 22 proceedings," I mean IPR2014-01475, -1477 and
 23 -1478.
 24 Do you understand that, sir?
 25 A. Say this again.

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 2 Q. Sure. When I refer to "these
 3 proceedings," the ones that are the subject of
 4 this present deposition, I'm referring to IPR
 5 2014-1475, -1477, and -1478.
 6 A. This is the deposition that happened
 7 in May?
 8 Q. No. Let me just clarify. The
 9 deposition that happened in May was for a first
 10 set of proceedings that are IPR-2014-68 --
 11 -0687, -0688 and -0689.
 12 A. And this is today's?
 13 Q. Today's is -1475, -1477, -1478. Do
 14 you understand that?
 15 A. I understand it.
 16 Q. Okay. Do you understand that there
 17 are two separate proceedings at the Patent
 18 Office going on between PGS and WesternGeco in
 19 connection with the Hillesund patents? Or I
 20 think you refer to them as the Bittleston
 21 patents in your expert report.
 22 MR. KIKLIS: I hate to do this,
 23 Jessamyn, but you just said "two
 24 proceedings," and we all know there's
 25 like six.

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 2 MS. BERNIKER: Fair. Fair enough.
 3 Two sets of proceedings.
 4 MR. KIKLIS: Maybe first round,
 5 second round, something like that.
 6 BY MS. BERNIKER:
 7 Q. To try to make it clear for purposes
 8 of our discussion today, is it okay if I refer
 9 to them as Phase I, reflecting the deposition
 10 that you had a few months ago, and Phase II
 11 reflecting the current deposition?
 12 A. Thank you.
 13 Q. Okay. Excellent. So let's go back
 14 to what I'm handing you by way of exhibits.
 15 I've handed you Exhibit 1103, which
 16 was the first volume of your deposition
 17 transcript, and now I'm handing you
 18 Exhibit 1104, which is the second volume of
 19 your deposition transcript from Phase I.
 20 Does that look familiar to you, sir?
 21 A. It looks like the one I've read.
 22 Q. At the back of them, you signed
 23 errata. If you flip to the back, would you
 24 please confirm that for me?
 25 A. Yes.

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Q. So you reviewed these transcripts after they were completed; is that right?

A. Yes, I did.

Q. And what -- how much time did you spend reviewing them at that point?

A. A few hours. I don't remember exactly, but it's a long reading so I was trying to capture to see whether my statements were captured.

Q. Okay. In your erratas did you include all edits that you had to the transcript?

A. To the extent I was -- I were at the time, yes, with a purpose of reflecting what I was thinking -- what I was -- what I had said at that time.

Q. Okay. And do you have any reason to believe that the testimony reflected in Exhibits 1103 and 1104, subject to your erratas, do you have any reason to believe it is inaccurate at this point?

A. There were cases where I thought afterwards I would have additions and modifications, but not changing the nature of

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the -- of my testimony.

Q. The substance of your testimony is correct as far as you know?

A. Subject to some additions here and there.

Q. Is there anything sitting here today that you can tell me that you believe should be added or modified about the testimony reflected in 1103 and 1104?

A. I'll have to go through my declaration and everything and then I can point you out.

Q. There's nothing you can think of right now?

A. No. I can do it, but it will take time.

Q. How much time will it take, sir?

A. I will look through my testimony here and --

Q. You're testifying that you have to sit here and read your entire deposition transcript in order to tell me whether there are errors in it?

A. No, it will take some time to recall

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the specific locations. Afterwards, you know how you get questions and they percolate in your mind and you say here there's something more I could have said.

Q. When's the last time that you read this deposition transcript, sir?

A. It was when it was sent to me.

Q. Did you read it in preparation for this deposition today?

A. In preparation? Well, I was recalling what I had read when I read it, so I just skimmed through. I didn't -- I didn't go in detail on it.

Q. When did you skim through?

A. Maybe it was last Saturday on the plane.

Q. Okay. When you skimmed through it did you identify anything that you felt was in error?

A. It was not exactly in error. I'll give you an example. I was asked by Mr. Burl -- let me try and recall which -- he pointed me to one of the patents, and in particular, he pointed me to -- I think it was

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the '520, but because they are all three in that aspect the same.

We were talking about the streamer --

Q. Are you looking in the '520 patent, sir?

A. Yes, and I'm trying to see whether that's where I remember it or it was another part.

Yes, it was I think on line 21, it may have not been the '520, but it's included in all the patents: "In the preferred embodiment of the present invention, the global control system" --

Q. Could you tell us where you're reading from, sir?

A. Patent '520, column 4.

Q. Okay.

A. It's in line 21 through 25.

Q. Okay.

A. Sorry for the quick.

Q. You're referring to the statement that reads: "In the preferred embodiment of the present invention, the global control system 22 monitors the actual positions of each

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 2 of the birds 18 and is programmed with the
 3 desired positions of or the desired minimum
 4 separations between the seismic streamers"?
 5 That sentence?
 6 A. Yes.
 7 Q. Uh-huh.
 8 A. And the question was whether that
 9 refers to the streamer separation mode at the
 10 time. And at the time, something bugged me
 11 about this, but in general, it's discussing
 12 some -- some issues of the patent, but whereas
 13 the -- the precise description of this comes on
 14 column 10 where it -- it gives the precise
 15 definition of the inventive control system.
 16 So I didn't want it to be understood
 17 that a -- one embodiment would supersede the
 18 definition because it creates the wrong
 19 impression. So, for example, on column 10 of
 20 the same patent, line 53 through 58 -- in fact,
 21 through 65, it gives the precise description of
 22 the system as invented, as -- as the title says
 23 here.
 24 And the reason that it bugged me
 25 afterwards is because in my analysis I put so

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 2 not the language regarding the global control
 3 system being programmed with the desired
 4 positions of or the desired minimum separations
 5 between the seismic streamers, whether that
 6 language refers to an embodiment of streamer
 7 separation mode; right?
 8 A. Correct.
 9 Q. And at the time, you said it did;
 10 right?
 11 A. And I said that at the time that I
 12 thought or I presumed or I hypothesized, I
 13 don't remember the precise words right now that
 14 I used, but that's how I said it.
 15 Q. At the time you essentially agreed
 16 that it did?
 17 A. At the time, at the time I said I
 18 hypothesized that, yes, it was referring to
 19 this. It was referring to this.
 20 Q. Okay. And now you're taking that
 21 back? Is that what's happening?
 22 A. No. Right now I'm saying that this
 23 describes some functionality of the system but
 24 that the complete description of the patent is
 25 in -- of the inventive control system is in

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 2 much emphasis on the definitions here,
 3 particularly how the system operates. I
 4 made -- made several graphs in my declaration
 5 to explain this, that I just wanted to make
 6 clear that, yes, the answer is truthful, that
 7 that was referring to the system. It was
 8 giving some of the functionalities of the
 9 system. It was not describing the system
 10 per se. The system's described in this
 11 paragraph. I don't want it to be in any
 12 contradiction already, but that's -- that's how
 13 the order should be.
 14 In other words, the precedence is
 15 from how the invention is described in the
 16 words of the -- of the early inventor.
 17 Q. I want to make sure I understand what
 18 you said. During your deposition with Mr. Burl
 19 in Phase I, you discussed the language on
 20 column 4 that you pointed to of the '520
 21 patent, lines 21 through 25; right?
 22 A. Yes.
 23 Q. And he asked you -- I don't have the
 24 exact question in front of me, but he -- part
 25 of the discussion at the time was whether or

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 2 section 10, which agrees also with all my
 3 sketches that I had done in my declaration, the
 4 first and the present one, the first set and
 5 the second set.
 6 Q. Okay. So let's -- I want to
 7 understand what you just said. First of all,
 8 is it your view that the language in column 4
 9 that we have been discussing is or is not an
 10 embodiment of streamer separation mode?
 11 A. It is an embodiment, but it does not
 12 contain the entire patent. It does not contain
 13 all the aspects of it.
 14 Q. It is one but not all of the
 15 embodiments of streamer separation mode?
 16 A. It is an embodiment but it does not
 17 contain all the elements that the patent should
 18 contain.
 19 Q. Which elements does it not contain?
 20 A. Well, one of the principal ones,
 21 which you can find in 10, for example, is the
 22 inner streamers will then be regularly spaced
 23 between those outmost streamers.
 24 Q. And do you understand that to be a
 25 requirement of all embodiments of streamer

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