

ION Exhibit 1053

Defendants' Amended Response in Opposition to
WesternGeco L.L.C.'s Motion for Summary
Judgment

6 pages

Pages numbered 1-6

Ex. PGS 1053

(EXCERPTED)

Protective Order Material – Subject to Protective Order

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

WESTERNGECO L.L.C.,	§	
	§	
Plaintiff,	§	
	§	
V.	§	CIVIL ACTION NO. 4:09-cv-01827
	§	
ION GEOPHYSICAL CORPORATION, FUGRO-GEOTEAM, INC., FUGRO- GEOTEAM AS, FUGRO NORWAY MARINE SERVICES AS, FUGRO, INC., FUGRO (USA), INC. and FUGRO GEOSERVICES, INC.,	§	Judge Keith P. Ellison
	§	
	§	<u>FILED UNDER SEAL</u>
	§	
Defendants.	§	JURY TRIAL DEMANDED
	§	

**DEFENDANTS' AMENDED RESPONSE IN OPPOSITION TO
WESTERNGECO L.L.C.'S MOTION FOR SUMMARY JUDGMENT
OF WILLFUL INFRINGEMENT OF VALID CLAIMS OF THE '520 PATENT¹**

Defendants ION Geophysical Corporation (“ION”), Fugro-Geoteam, Inc., Fugro-Geoteam AS, Fugro Norway Marine Services AS, Fugro, Inc., Fugro (USA), Inc., and Fugro Geoservices, Inc. (“the Fugro Defendants”) (collectively “Defendants”) file this Response in Opposition to Plaintiff WesternGeco L.L.C.’s (“WesternGeco”) Motion for Summary Judgment of Willful Infringement of Valid Claims of the ‘520 Patent (Doc. No. 276) (the “‘520 Motion”), and respectfully show as follows:

RELEVANT PROCEDURAL HISTORY

Before the Court is WesternGeco’s action against Defendants for patent infringement of five of its patents. (Doc. Nos. 1, 145). WesternGeco’s U.S. Patent No. 7,293,520 (the “‘520 Patent”) is the only patent relevant to this motion.

¹ Defendants amend their response brief per the Court’s request to limit the brief to 50 pages.

CLAIM TERM	COURT'S CONSTRUCTION
“streamer positioning device(s)”; “the positioning device”	a device that controls the position of a streamer as it is towed (<i>e.g.</i> , a “bird”)
“feather angle mode”	a control mode that attempts to set and maintain each streamer in a straight line offset from the towing direction by a certain feather angle
“turn control mode”	mode wherein streamer positioning device(s) generate a force in the opposite direction of a turn and then directing each streamer positioning device to the position defined in the feather angle mode
“streamer separation mode”	a control mode that attempts to set and maintain the spacing between adjacent streamers

Also at issue in this motion, and yet to be construed by the Court, is the phrase “a control system configured to use a control mode selected from [the listed modes].”

Courts examine the patent’s intrinsic evidence to define the patented invention’s scope. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1313 (Fed. Cir. 2005) (*en banc*). This intrinsic evidence includes the claims themselves, the specification, and the prosecution history. *See id.* at 1314; *C.R. Bard, Inc. v. U.S. Surgical Corp.*, 388 F.3d 858, 861 (Fed. Cir. 2001).

“[T]he claims themselves provide substantial guidance in determining the meaning of particular claim terms.” *Phillips*, 415 F.3d at 1314. A term’s context in the asserted claim can be very instructive. *Id.* Other asserted or unasserted claims can also aid in determining the claim’s meaning because claim terms are typically used consistently throughout the patent. *Id.* Differences among the claim terms can also assist in understanding a term’s meaning. *Id.*

- 1. Claim 18 of the ‘520 Patent requires a control system configured to use a feather angle mode, a turn control mode, a streamer separation mode, and two or more of these modes.**

Claim 18 requires “a control system configured to use a control mode selected from a

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