

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ION GEOPHYSICAL CORPORATION
and ION INTERNATIONAL S.A.R.L.,
Petitioners,

v.

WESTERNGECO LLC,
Patent Owner.

Cases¹

IPR2015-00565 (Patent 7,293,520)
IPR2015-00566 (Patent 7,162,967)
IPR2015-00567 (Patent 7,080,607)

Before SCOTT A. DANIELS, BEVERLY M. BUNTING, and
BARBARA A. PARVIS, *Administrative Patent Judges*.

DANIELS, *Administrative Patent Judge*.

ORDER
Conduct of the Proceedings
37 C.F.R. § 42.5

¹ This Order addresses issues that are the same in all three cases. Therefore, we exercise our discretion to issue one Order to be filed in each case. The parties are not authorized to use this style heading for any subsequent papers.

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IPR2015-00567 (Patent 7,080,607)

On March 17, 2015, a conference call was held in the above proceedings regarding a request via email by WesternGeco for additional discovery. Present on the call were counsel for ION, WesternGeco, and Administrative Patent Judges Bryan Moore, Scott Daniels, Beverly Bunting, and Barbara Parvis.

Motion for Additional Discovery

Patent Owner requested authorization to file a motion seeking additional discovery on the issue of whether Petroleum Geo-Services Inc. (“PGS”) is controlling ION in this proceeding such that it should have been named a real party in interest.² In support of this request, Patent Owner pointed to the fact that WesternGeco has filed lawsuits against PGS and ION in district court. WesternGeco also alleges that now before the USPTO, PGS and ION have coordinated efforts to attack the validity of the ’520, ’607, and ’967 patents. According to WesternGeco, an example of this coordination is that ION abandoned its appeal to the Federal Circuit when PGS filed its *inter partes* reviews (the “PGS IPR’s”). WesternGeco stated during the call that PGS representatives attended the trial in the ION lawsuit and that certain exhibits in the PGS IPR’s identify an indemnification agreement between PGS and ION. Specifically, WesternGeco asserted that a Master Services Agreement between PGS and ION, filed as an exhibit in the PGS IPR’s, apparently relating to the allegedly infringing DigiFin product, is indicative of the existence of an indemnification agreement.

² PGS is the Petitioner in IPR2014-00687, IPR2014-00688, and IPR2014-00689 (the “PGS IPR’s”) relating to the same patents at issue in these proceedings.

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WesternGeco suggested that these circumstances and exhibits in the PGS IPR's show that PGS at least has the opportunity to control ION in this proceeding. WesternGeco, however, was unable to point to any new evidence apart from that of record in the PGS IPR's, or evidence of record in the present proceedings that would lead us to conclude that this proceeding is being controlled by PGS, rather WesternGeco pointed to facts and circumstances indicating that PGS and ION share a mutual interest to invalidate the patents at issue in these proceedings.

Petitioners' counsel opposed the request to file a motion. The Board took the request under advisement.

As an initial matter, we note that certain exhibits, including the Master Services Agreement referred to by WesternGeco during the call are not of record in these proceedings and are sealed in the PGS IPR's. Currently, ION does not have access to those exhibits and stated that it was unaware of the contents of these exhibits. Moreover, with the exception of the Master Services Agreement, we have already dealt with the subject matter of these exhibits and the alleged facts and circumstances apparently indicating collusion between ION and PGS, in the PGS IPR's.³ On this record, and in the absence of any new evidence, we refer ION and WesternGeco to our decision with respect to real party in interest between ION and PGS in the PGS IPR's. *See Apple v. Mobile Telecommunications Technologies, LLC*, Case IPR2014-00689, slip op. at 15–25 (PTAB Dec. 15, 2014) (Paper 32)

³ The Master Services Agreement was filed as an exhibit in each of the PGS IPR's with Westerngeco's Patent Owner Response on March 20, 2015.

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The mere allegation of WesternGeco, without more, is not enough to persuade us that something useful will result from authorizing the proposed motion. In the absence of any such showing, the request for authorization is denied at this time.

It is

ORDERED that Patent Owner's request for authorization to file a motion for additional discovery under 37 C.F.R. § 42.51(b)(2) is denied.

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