

solution system 10 to calculate desired changes in position of one or more of the streamer positioning devices 14. Because the Workman Patent discloses all the limitations of Claim 15 of the '607 Patent, Claim 15 is invalid as anticipated under 35 U.S.C. § 102. The evidence and testimony in this regard is clear, convincing, and un-rebutted, and the jury's contrary conclusion is against the great weight of the evidence.

D. The '607 Patent – Claim 15 Is Obvious Based On the Combination of the Workman Patent and the '636 Patent Publication.

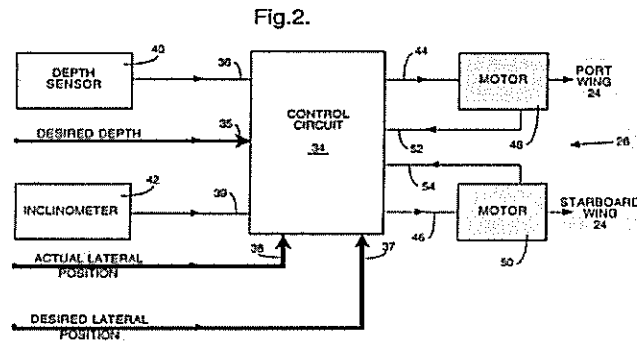
As explained in Section V(C) *supra*, the Workman Patent discloses each and every limitation of claim 15 of the '607 Patent. However, to the extent there is any doubt that the Workman Patent discloses limitation (c) of Claim 15, that limitation is undoubtedly disclosed in the '636 Patent Publication. As explained by Mr. Brune, the Workman Patent and the '636 Patent Publication are in the same field, and they are both also in the same field as the '607 Patent. Ex. A, Tr. at 3819:21 – 3820:4. Even a cursory review of the patents confirms Mr. Brune's opinion:

Workman Patent - "The present invention generally relates to an improved system for controlling the position and shape of marine seismic streamers." Ex. C, DX 266 at 5 (col. 1, ll. 6-8).

'636 Publication - "This invention relates to control devices for controlling the position of a marine seismic streamer." Ex. E, DX 18 at 3.

Additionally, a person of ordinary skill in the art would be motivated to combine the Workman Patent and the '636 Publication. Ex. A, Tr. at 3820:5-15.

Figure 2 of the '636 Publication is a detailed view of the local control system 26 that resides on or near the streamer positioning device 10:



Ex. E, DX 18 at 13.

The '636 Publication makes clear that the desired changes in positions of the streamer positioning devices as recited in limitation (c) of the '607 Patent are calculated. For example, as shown in Figure 2 above, the control system 26 comprises a microprocessor-based control circuit 34 having respective inputs 35 to 38 to receive control signals representative of desired depth, actual depth, desired lateral position, and actual lateral position. Ex. E, DX 18 at 7; *see also id.* at 8 (“In operation, the control circuit 34 receives between its inputs 35 and 36 a signal indicative of the difference between the actual and desired depths of the bird 10, and receives between its inputs 37 and 38 a signal indicative of the difference between the actual and desired lateral positions of the birds 10.”). The control circuit 34 uses the differences to calculate the respective angular positions of the wings 24 which together will produce the lateral force (left or right) required to move the bird 10 to the desired lateral position. *Id.*

In conclusion, the Workman Patent and the '636 Publication render Claim 15 of the '607 Patent obvious, and thus invalid under 35 U.S.C. § 103. The evidence and testimony in this regard is clear, convincing, and un-rebutted, and the jury's contrary conclusion is against the great weight of the evidence.

E. The ‘967 Patent - Claim 15 Is Obvious Based On the Combination of the Workman Patent and the ‘636 Publication.

Mr. Brune testified that, in his expert opinion, Claim 15 of the ‘967 Patent is obvious based on the combination of the Workman Patent and the ‘636 Publication. *See generally Brune Ex. A, Tr. at 3828:14 – 3837:8.* Claim 15 of the ‘967 Patent reads:

15. An array of seismic streamers towed by a towing vessel comprising:
- (a) a plurality of streamer positioning devices on or inline with each streamer, at least one of the streamer positioning devices having a wing;
 - (b) global control system transmitting location information to at least one local control system on the at least one streamer positioning device having a wing, the local control system adjusting the wing.

Ex. F, PX 2 at 10 (col. 12, ll. 33-41).

The Court construed the following limitations of Claim 15:

“streamer positioning device(s)”; “the positioning device”	a device that controls the position of a streamer as it is towed (e.g., a “bird”)
“global control system”	a control system that sends commands to other devices in a system (e.g., local control systems)
“local control system”	a control system located on or near the streamer positioning devices (e.g., birds)
“location information”	information regarding location

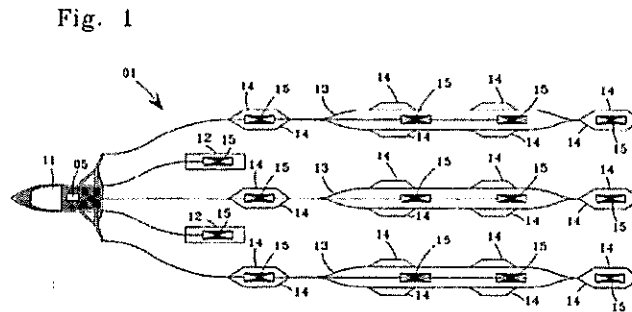
Jury Instructions (Dkt. 530), Instruction No. 6.

As discussed above, the Workman Patent and the ‘636 Publication are analogous prior art, and a person of ordinary skill in the art would be motivated to combine these references. *See Section V(D) supra.*

1. The Combination of the Workman Patent and the ‘636 Publication Discloses Limitation (a) of Claim 15

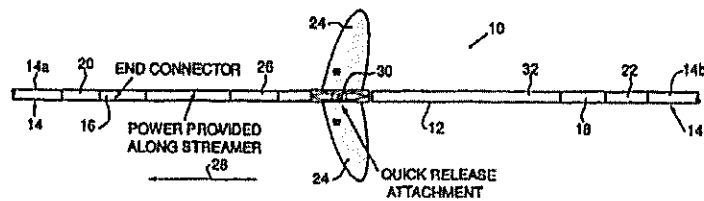
Limitation (a) of Claim 15 recites “a plurality of streamer positioning devices on or inline with each streamer, at least one of the streamer positioning devices having a wing.” Ex. F, PX 2

at 10 (col. 12, ll. 35-37). The first portion of limitation (a) relates to streamer positioning devices and streamers. Figure 1 of the Workman Patent clearly and convincingly discloses “a plurality of streamer positioning devices on or inline with each streamer,” as required by Claim 15:



Ex. C, DX 266 at 2 (emphasis added); *see also id.* at 6 (col. 3, ll. 14-21) (“streamer positioning devices 14, for example birds and tail buoys, may be attached to the exterior of the streamer cables 13 for adjusting the vertical and lateral positions of the streamer cables 13.”); *see also* Ex. A, Tr. at 3829:19 – 3830:7.

The second portion of limitation (a) requires that the streamer positioning devices have wings, which is disclosed in the ‘636 Publication:



Ex. E, DX 18 at 12; *see also* Ex. A, Tr. at 3830:12 – 3831:2. As the text of the ‘636 Publication makes clear, “[i]n its preferred form, the bird [10] has two opposed wings (24)” Ex. E, DX 18 at 1. Therefore, the combination of the Workman Patent and the ‘636 Publication clearly and convincingly discloses limitation (a) of Claim 15.

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