

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ION GEOPHYSICAL CORPORATION AND ION INTERNATIONAL S.A.R.L.,
Petitioner

v.

WESTERNGECO LLC,
Patent Owner

U.S. Patent No. 7,080,607

(Trial No. IPR2015-00567)

**MOTION FOR JOINDER UNDER 35 U.S.C. § 315(c) AND
37 C.F.R. § 42.122(b)**

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I. STATEMENT OF RELIEF REQUESTED

ION Geophysical Corporation and ION International S.a.r.l. (collectively, “ION” or “Petitioners”) submit concurrently herewith a Petition for *inter partes* review of claims 1 and 15 of U.S. Patent No. 7,080,607 (“the ‘607 patent”), which has been designated as IPR2015-00567 (“Petition”). ION moves for joinder, pursuant to 35 U.S.C. § 315(c) and 37 C.F.R. § 42.122(b), with respect to the pending *inter partes* review designated as IPR2014-00688 (“the first PGS IPR”) and requested by Petroleum Geo-Services Inc. (“PGS”). In compliance with the timing requirement of 37 C.F.R. § 42.122(b), the Petition and this motion for joinder are being filed no later than one month after the institution date of IPR2014-00688, which was December 15, 2014.

In accordance with the Board’s Representative Order identifying matters to be addressed in a motion for joinder (IPR2013-00004, Paper No. 15)¹, ION

¹ A motion for joinder should: (1) set forth the reasons why joinder is appropriate; (2) identify any new grounds of unpatentability asserted in the petition; (3) explain what impact (if any) joinder would have on the trial schedule for the existing review; and (4) address specifically how briefing and discovery may be simplified. *See Kyocera Corporation v. Softview LLC*, IPR2013-00004, Paper No. 15 at 4 (April 24, 2013).

submits that: (1) the grounds of unpatentability and supporting evidence raised in ION's Petition are identical to those at issue in the first PGS IPR; (2) joinder would not affect the timely completion of that proceeding; (3) ION is willing to accept reasonable restrictions on briefing and discovery that will minimize the burden of joinder on the Board and on the parties; and (4) joinder will ensure the maintenance of ION's ongoing interests in the Office's review of the '607 patent without prejudicing the existing parties.

Accordingly, ION respectfully asks the Board to grant ION joinder.

II. BACKGROUND AND RELATED PROCEEDINGS

WesternGeco has asserted claims of the '607 patent against various defendants in numerous lawsuits.² ION is the named defendant in Civ. Act. No. 4-09-cv-01827 (S.D. Tex), filed Jun. 12, 2009 ("the ION litigation"). Notably, WesternGeco's complaint against ION alleging infringement of the '607 patent

² The '607 patent is or has been the subject of the following civil actions: (i) Civ. Act. No. 4-09-cv-01827 (S.D. Tex.), filed Jun. 12, 2009; (ii) Civ. Act. No. 4-10-cv-02120 (S.D. Tex.), filed Jun. 16, 2010; (iii) Civ. Act. No. 4-13-cv-02385 (S.D. Tex.), filed Aug. 15, 2013; and (iv) Civ. Act. No. 4-13-cv-02725 (S.D. Tex.), filed Sep. 16, 2013.

was filed more than three years before the existence of *inter partes* review proceedings. *See* Ex. 1058 (docket from ION Litigation) at pp. 1, 17.

The '607 patent is the subject of two petitions for *inter partes* review filed by PGS, including the First PGS IPR and a separate petition that has been designated IPR2014-01477 ("the second PGS IPR"). The second PGS IPR has not yet been instituted and ION is not currently seeking joinder to the second PGS IPR.

In the Petition accompanying the instant motion for joinder, ION requests cancelation of claims 1 and 15 of the '607 patent, and proposes the following grounds of rejection, which are the same as those proposed in the first PGS IPR:

- 1) Claims 1 and 15 are anticipated under § 102(b) by Workman;
- 2) Claims 1 and 15 are obvious under § 103 based on Workman;
- 3) Claims 1 and 15 are obvious under § 103 based on Workman in view of Elholm;
- 4) Claims 1 and 15 are obvious under § 103 based on Gikas in view of the '636 PCT; and
- 5) Claims 1 and 15 are obvious under § 103 based on the Gikas in view of Elholm.

III. THE BOARD HAS DISCRETION TO JOIN THE INSTANT IPR WITH THE FIRST PGS IPR

The Board, acting on behalf of the Director, has the discretion to grant joinder to an *inter partes* review to an entity that properly files, no later than one

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