

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

WESTERNGECO L.L.C.,

Plaintiff,

V.

ION GEOPHYSICAL CORPORATION,

Defendant.

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CIVIL ACTION NO. 4:09-cv-01827

JURY TRIAL DEMANDED

**ION GEOPHYSICAL CORPORATION’S ANSWER, AFFIRMATIVE DEFENSES,
AND COUNTERCLAIMS TO WESTERNGECO L.L.C.’S
COMPLAINT FOR PATENT INFRINGEMENT**

Defendant ION Geophysical Corporation (“ION Geophysical”) files this Answer, Affirmative Defenses, and Counterclaims in response to WesternGeco L.L.C.’s Complaint (the “Complaint”), and in support thereof would respectfully show the Court the following:

ANSWER

1. ION Geophysical lacks information sufficient to admit or deny the allegations of Paragraph 1 of the Complaint and on that basis denies them.
2. ION Geophysical admits the allegations of Paragraph 2 of the Complaint.
3. ION Geophysical admits that the Complaint attempts to allege causes of action for infringement of certain patents, as stated in Paragraph 3 of the Complaint, but ION Geophysical denies all such allegations.
4. ION Geophysical admits that the Court has jurisdiction over this case as alleged in Paragraph 4 of the Complaint.
5. ION Geophysical admits the allegations of Paragraph 5 of the Complaint.
6. ION Geophysical admits the allegations of Paragraph 6 of the Complaint.

7. ION Geophysical admits that the '038 Patent was issued on February 10, 2004, as alleged in the first sentence of Paragraph 7 of the Complaint. ION Geophysical denies that the '038 Patent was "duly and legally issued to WesternGeco" as further alleged in the first sentence of Paragraph 7 of the Complaint. ION Geophysical lacks information sufficient to admit or deny the allegations of the second sentence of Paragraph 7 of the Complaint and on that basis denies them. ION Geophysical admits the allegations made in the third sentence of Paragraph 7 of the Complaint.

8. ION Geophysical admits that the '017 Patent was issued on August 23, 2005, as alleged in the first sentence of Paragraph 8 of the Complaint. ION Geophysical denies that the '017 Patent was "duly and legally issued to WesternGeco" as further alleged in the first sentence of Paragraph 8 of the Complaint. ION Geophysical lacks information sufficient to admit or deny the allegations of the second sentence of Paragraph 8 of the Complaint and on that basis denies them. ION Geophysical admits the allegations made in the third sentence of Paragraph 8 of the Complaint.

9. ION Geophysical admits that the '607 Patent was issued on July 25, 2006, as alleged in the first sentence of Paragraph 9 of the Complaint. ION Geophysical denies that the '607 Patent was "duly and legally issued to WesternGeco" as further alleged in the first sentence of Paragraph 9 of the Complaint. ION Geophysical lacks information sufficient to admit or deny the allegations of the second sentence of Paragraph 9 of the Complaint and on that basis denies them. ION Geophysical admits the allegations made in the third sentence of Paragraph 9 of the Complaint.

10. ION Geophysical admits that the '967 Patent was issued on January 16, 2007, as alleged in the first sentence of Paragraph 10 of the Complaint. ION Geophysical denies that the

'967 Patent was "duly and legally issued to WesternGeco" as further alleged in the first sentence of Paragraph 10 of the Complaint. ION Geophysical lacks information sufficient to admit or deny the allegations of the second sentence of Paragraph 10 of the Complaint and on that basis denies them. ION Geophysical admits the allegations made in the third sentence of Paragraph 10 of the Complaint.

11. ION Geophysical admits that the '520 Patent was issued on November 13, 2007, as alleged in the first sentence of Paragraph 11 of the Complaint. ION Geophysical denies that the '520 Patent was "duly and legally issued to WesternGeco" as further alleged in the first sentence of Paragraph 11 of the Complaint. ION Geophysical lacks information sufficient to admit or deny the allegations of the second sentence of Paragraph 11 of the Complaint and on that basis denies them. ION Geophysical admits the allegations made in the third sentence of Paragraph 11 of the Complaint.

12. Paragraph 12 of the Complaint contains a legal conclusion requiring no response.

13. ION Geophysical denies the allegations made in Paragraph 13 of the Complaint.

14. ION Geophysical admits the allegations made in Paragraph 14 of the Complaint.

15. ION Geophysical lacks information sufficient to admit or deny the allegations of Paragraph 15 of the Complaint and on that basis denies them.

16. ION Geophysical denies the allegations made in Paragraph 16 of the Complaint.

17. ION Geophysical denies the allegations made in Paragraph 17 of the Complaint.

18. Paragraph 18 of the Complaint contains a legal conclusion requiring no response.

19. ION Geophysical denies the allegations made in Paragraph 19 of the Complaint.

20. ION Geophysical admits the allegations made in Paragraph 20 of the Complaint.

21. ION Geophysical lacks information sufficient to admit or deny the allegations of Paragraph 21 of the Complaint and on that basis denies them.

22. ION Geophysical denies the allegations made in Paragraph 22 of the Complaint.

23. ION Geophysical denies the allegations made in Paragraph 23 of the Complaint.

24. Paragraph 24 of the Complaint contains a legal conclusion requiring no response.

25. ION Geophysical denies the allegations made in Paragraph 25 of the Complaint.

26. ION Geophysical admits the allegations made in Paragraph 26 of the Complaint.

27. ION Geophysical lacks information sufficient to admit or deny the allegations of Paragraph 27 of the Complaint and on that basis denies them.

28. ION Geophysical denies the allegations made in Paragraph 28 of the Complaint.

29. ION Geophysical denies the allegations made in Paragraph 29 of the Complaint.

30. Paragraph 30 of the Complaint contains a legal conclusion requiring no response.

31. ION Geophysical denies the allegations made in Paragraph 31 of the Complaint.

32. ION Geophysical admits the allegations made in Paragraph 32 of the Complaint.

33. ION Geophysical lacks information sufficient to admit or deny the allegations of Paragraph 33 of the Complaint and on that basis denies them.

34. ION Geophysical denies the allegations made in Paragraph 34 of the Complaint.

35. ION Geophysical denies the allegations made in Paragraph 35 of the Complaint.

36. Paragraph 36 of the Complaint contains a legal conclusion requiring no response.

37. ION Geophysical denies the allegations made in Paragraph 37 of the Complaint.

38. ION Geophysical admits the allegations made in Paragraph 38 of the Complaint.

39. ION Geophysical lacks information sufficient to admit or deny the allegations of Paragraph 39 of the Complaint and on that basis denies them.

40. ION Geophysical denies the allegations made in Paragraph 40 of the Complaint.

41. ION Geophysical denies the allegations made in Paragraph 41 of the Complaint.

42. All allegations made in the Complaint which are not specifically admitted herein are denied.

AFFIRMATIVE DEFENSES

43. ION Geophysical asserts the following affirmative defenses to Plaintiff's claims for patent infringement. The assertion of an affirmative defense is not a concession that ION Geophysical has the burden of proving the matter asserted:

First Affirmative Defense

44. The '038 Patent, the '017 Patent, the '607 Patent, the '967 Patent, or the '520 Patent (collectively, the "Patents"), are invalid for failure to comply with or satisfy the requirements and/or conditions of patentability as specified under one or more sections of Title 35 of the United States Code, including, without limitation, 35 U.S.C. §§ 101, 102, 103, or 112, or the Patents are unenforceable. ION Geophysical reserves the right to assert any other basis for invalidity or unenforceability, or any other defense, that discovery may reveal.

Second Affirmative Defense

45. Plaintiff's claims for relief and prayer for damages are barred, in whole or in part, by 35 U.S.C. § 287.

Third Affirmative Defense

46. Plaintiff is estopped from construing the claims of the Patents in such a way as may cover any ION Geophysical product or process by reasons of statements made to the United States Patent and Trademark Office ("PTO") during the prosecution of the applications that led to the issuance of the Patents.

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