

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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PETROLEUM GEO-SERVICES INC.  
Petitioner

v.

WESTERNGECO LLC  
Patent Owner

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Case No. IPR2014-00679  
Patent No. 6,691,038

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**PETITIONER'S RESPONSES TO PATENT OWNER'S  
INTERROGATORIES TO PETITIONERS**

Pursuant to 37 C.F.R. § 42.51(c), Petitioner Petroleum Geo-Services, Inc. ("PGS"), through its counsel, hereby provides the following objections and responses to "Patent Owner's Interrogatories to Petitioners" ("Interrogatories") as provided via email on August 28, 2014.

## GENERAL OBJECTIONS

The following General Objections form a part of, and are hereby incorporated into, the response to each and every question set forth below. Nothing in those responses, including any failure to recite a specific objection in response to a particular request, should be construed as a waiver of any of these General Objections.

1. PGS objects to the definition of “petitioners” in the prefatory language and caption of the Interrogatories to the extent that it suggests that the petitioners in this proceeding include any entities other than Petroleum Geo-Services, Inc. Petroleum Geo-Services, Inc. is the only petitioner in this proceeding.

2. PGS objects to each interrogatory, definition, and instruction as overbroad to the extent that the Interrogatories purport to include a Request For Production of Documents. Prior to serving its Interrogatories, Patent Owner had not requested —via communication with Petitioner’s counsel or the Board—to serve a Request For Production on Petitioner, and Petitioner has not agreed to provide any such discovery.

3. PGS objects to each interrogatory, definition, and instruction to the extent that it attempts to impose any discovery duties on PGS beyond the scope of discovery affirmatively imposed or agreed to by any applicable rule, law, doctrine, or accepted practice.

4. The responses given herein to any one or more of the interrogatories shall not be deemed to waive any claim of privilege or immunity that PGS may have as to any response, document, or information, or any objection that PGS may have as to a demand for further response to these or other interrogatories. During the teleconference, the Board advised that: “The agreement is that Patent Owner will today seek to get an agreement that answering any interrogatories would not be used as a waiver of privilege in District Court litigation.” Tr. 39:16-19. Patent Owner’s statement includes Condition No. 10: “WesternGeco reserves the right to argue that PGS’s affirmative reliance on any documents or information produced in response to the interrogatories may constitute a waiver of privilege held by the producing party.” In propounding this Condition No. 10, Patent Owner affirmatively has declined to agree to the precondition of PGS’s offer to provide discovery responses.

5. Petitioner objects to Condition No. 10. However, in an effort to resolve the dispute regarding the scope of discovery without the Board’s intervention, PGS nevertheless provides the responses to Patent Owner’s interrogatories, subject to the objections set forth herein, despite the fact that discovery has not been ordered by the Board and is not warranted by governing precedent.

6. PGS objects to each interrogatory, definition, and instruction as overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence to the extent that it seeks information concerning any subject other than ION's alleged participation in the preparation or prosecution of the "PGS IPR Proceedings" (defined below). In response to a request for guidance as to the appropriate scope of any potential discovery, the Board advised that: "And given that, then both sides will endeavor to negotiate on five interrogatories related to ION's participation in the IPR, hopefully by the end of this week." Tr. at 39:20-23. And Patent Owner represented to the Board that "My reaction is we are interested in communications that link ION, obviously, to this IPR effort. If the question is do we have a cutoff date, for example, once the IPR was filed, no. We're looking at communications that lead up to the preparation of that petition. And so, you know, certainly we're only looking for communications relating to the IPR effort." Tr. at 36:10-19. To the extent that discovery sought does not pertain to ION's alleged participation in the preparation or prosecution of the PGS IPR Proceedings, PGS declines to provide such information and has not included such information in its responses below.

7. PGS objects to each interrogatory to the extent that it calls for the disclosure of information protected by any privilege, including, without limitation, the attorney-client privilege, the work product doctrine, the common interest

privilege, or any other available and valid grounds for withholding information from production. All interrogatories have been read to exclude the discovery and/or production of such privileged information

8. PGS's responses herein are based on facts presently known to PGS and represent a diligent and good faith effort to respond to the interrogatories. PGS's discovery and investigation into the matters specified is continuing. PGS reserves the right to supplement, alter or change its responses and objections to these interrogatories and to provide additional responsive information, if any, that PGS has in its possession, custody, or control at the time the interrogatories were propounded.

#### **DEFINITIONS**

1. "PGS" means Petroleum Geo-Services, Inc. Although Patent Owner has not sought leave to serve discovery on PGS Geophysical AS or Petroleum Geo-Services ASA, PGS has conducted a reasonable investigation including PGS Geophysical AS and Petroleum Geo-Services ASA, and PGS's responses below do not exclude information that would have been provided by these entities had they been required to answer the following interrogatories.

2. "ION" means ION Geophysical Corporation, an employee of ION, or a person acting as an agent of ION within the scope of that agency.

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