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2 UNITED STATES PATENT AND TRADEMARK OFFICE  
3 BEFORE THE PATENT TRIAL AND APPEAL BOARD  
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5 PETROLEUM GEO-SERVICES,  
6 Petitioner  
7 V.  
8 WESTERNGECO,  
9 Patent Owner

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10  
11 CASES: IPR2014-00687, 00678, 00689, 00688  
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14 TELEPHONIC HEARING

15 2:19 p.m.  
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22

23 Reported by:

24 ROBIN NUNEZ

25 JOB NO. 82885

A P P E A R A N C E S

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BY: SCOTT MCKEOWN, ESQ

CHRISTOPHER BULLARD, ESQ

Also Present:

MITCH BLAKELY

DAVID BURROW

## 1 HEARING

2 THE COURT: This is a call requested  
3 by the parties in IPR 2014-678,687,688 and  
4 689, and the topics for the call were  
5 request for motion to seal, and I believe a  
6 request for clarification on the order that  
7 we put out in the case.

8 Can we have who is on the call  
9 starting with petitioner.

10 MR. MCKEOWN: For petitioner, your  
11 honor, it is Scott McKeown and Chris  
12 Bullard, and we also have Mitch Blakely  
13 representing for the patent owner on the  
14 line as well, and a court reporter,  
15 although I think at present there are two  
16 of them, so we are trying to sort out which  
17 one wins here, I guess.

18 THE COURT: Why don't we take a break  
19 here for a second, if you guys want to talk  
20 and whatever you need to resolve and let me  
21 know when you are ready to go.

22 MR. MCKEOWN: I think we have  
23 resolved it. I think we are going to go  
24 forward with the reporter that was on the  
25 line first.

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2 THE COURT: Since we have a court  
3 reporter on the call, a couple of things  
4 the reporter will tell you but I'll go  
5 ahead and say as well when you speak on the  
6 call, if you can identify yourselves, it  
7 makes it easier for the reporter to get  
8 things down. And the other thing is whoever  
9 is handling the reporter, I would like you  
10 to get a copy of the transcript for this  
11 call and file it in the purpose in the  
12 case.

13 MR. MCKEOWN: Will do, your Honor.

14 THE COURT: Who's on the line for  
15 petitioner?

16 MS. BERNIKER: This is Jessamyn  
17 Berniker for petitioner Petroleum  
18 Geo-Services Inc., and with me is Chris  
19 Suarez, backup counsel, as well as David  
20 Burrow.

21 THE COURT: And then for patent  
22 owner?

23 MR. MCKEOWN: Yes, your Honor, for  
24 patent owner is Scott McKeown and Chris  
25 Bullard, as well as Mitch Blakely who is a

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2 representative of the patent owner.

3 THE COURT: And there is no  
4 objection on the call for Mr. Blakely to be  
5 on the call?

6 MS. BERNIKER: No objection on our  
7 end.

8 MR. MCKEOWN: No objection, your  
9 Honor.

10 THE COURT: So we should start with  
11 the motion to seal issue, and I believe  
12 that's an issue brought by patent owner.  
13 Maybe if you start off by discussing that  
14 issue.

15 MR. MCKEOWN: The motion to seal  
16 certain documents were part of the pending  
17 litigation. Some of these documents were  
18 designated highly confidential, and after  
19 that petition was filed the parties agreed  
20 to the petitioner's proposal that we adopt  
21 for the protective order. It is our  
22 understanding that in order to maintain the  
23 current state here in this proceeding and  
24 to keep everything protected as we would  
25 need, nonetheless, permission for a motion

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2 to seal basically the same materials that  
3 are sealed and perhaps some additional  
4 materials. And then I would look for the  
5 board's guidance on whether or not we would  
6 also have to file a motion to enter the  
7 default protective order or whether or not  
8 we can use the transcript to sort of  
9 memorialize.

10 Just looking for the board's  
11 guidance on how they like to proceed on  
12 these issues.

13 THE COURT: Okay. And can I get  
14 petitioner just to briefly let me know if  
15 if that's their understanding.

16 MS. BERNIKER: That is generally our  
17 understanding. I assume we are talking  
18 about, I think patent owner represented  
19 that they are referring to the same  
20 materials that we filed as part of our  
21 petition. If it is the same materials, then  
22 we certainly have no objection to that.

23 THE COURT: Okay. Well, we probably  
24 need to go back to patent owner then,  
25 because you mentioned, and just for

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2 clarification, your preliminary responses  
3 are due, I think indicated today and  
4 tomorrow in the cases; is that correct?

5 MR. MCKEOWN: That's correct. One  
6 filing is due today, the remainder due  
7 tomorrow.

8 THE COURT: I think you indicated  
9 that there were additional documents other  
10 than the documents that petitioner  
11 requested to be sealed, and so if you can  
12 give me a sense of what those documents  
13 are.

14 MR. MCKEOWN: Sure, when I say  
15 additional documents, I'm not necessarily  
16 referencing altogether new documents, but  
17 these are also the documents from the  
18 litigation. I think we are talking about  
19 the same documents, the same transcripts;  
20 however, we may be referring to two  
21 different sections. I'm not aware of any  
22 new documents so to speak, this will be the  
23 same transcripts, perhaps just different  
24 sections.

25 THE COURT: All right. And

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2 petitioner, do you have any response to  
3 this.

4 MS. BERNIKER: I think that's fine.  
5 Separate portions of the same transcript is  
6 not a problem from our perspective.

7 THE COURT: All right. So the  
8 situation, I think, that we have here, is  
9 the motion to seal, the original motion to  
10 seal that was filed since we stated that  
11 the documents were marked highly  
12 confidential in the district court  
13 litigation, and in here at the board, we  
14 require that you give more of an  
15 explanation than simply that the documents  
16 were declared confidential in district  
17 court litigation, and in this case, it  
18 appears to me that the information is  
19 patent owner's information, the petitioner  
20 marked it confidential out of caution and  
21 courtesy to the patent owner in this. If I  
22 pencil that as correct, the issue that I  
23 have that we need more detail certainly  
24 than it was given in the opening motion to  
25 seal in order to appeal these documents.



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2 But of course, we are dealing with  
3 something that's going out today and  
4 something that's going out tomorrow. It is  
5 probably not much opportunity to add that  
6 detail at this time, so I guess before I go  
7 further, patent owner, did you -- let me  
8 know, sort of my understanding of what you  
9 are seeking to put in is correct, that it  
10 will be substantially similar reason  
11 petitioner gave in their motion to seal; is  
12 that correct?

13 MR. MCKEOWN: I guess if we need to  
14 supplement or we need to give a little more  
15 detail, we can do that. We certainly want  
16 to keep these documents under seal, so if  
17 the board requires that, we will do our  
18 best to meet that showing.

19 THE COURT: Okay. Well, then what  
20 I'm going to do, I'll memorialize that in  
21 an order that comes after this, but given  
22 the time, what I'm going to do is allow  
23 petitioner to file, and appears to be a  
24 joint, motion to seal, just as you have it  
25 now, I'm not going to require you to

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2 supplement it in a couple of hours. I'd  
3 rather have something you're taking some  
4 time with. So what I would proposal is that  
5 you go ahead and put in the motion to seal  
6 as it is to keep them sealed for now, and  
7 then I will, in the order, give you some  
8 guidance as to what I need in a motion to  
9 seal, and then have you go ahead and read  
10 -- do a renewed note motion, probably don't  
11 need to withdraw the old motion, just do a  
12 renewed motion to seal, and in about ten  
13 business days that gives more detail on why  
14 each of one of these, or the portions of  
15 the documents that you feel should be  
16 confidential, why they are confidential,  
17 and an explanation, document by document,  
18 for the board.

19 So I guess are there any questions  
20 starting with patent owner as to what we  
21 are contemplating doing here?

22 MR. MCKEOWN: No, your Honor. We  
23 appreciate the courtesy. I think that's a  
24 fair resolution. I guess the only other  
25 issue is whether or not we would need to

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2 file something formally on the default  
3 protective order or should we wait until  
4 this order comes out.

5 THE COURT: Right, just wait until  
6 the order comes out. The default protective  
7 order is in the motion. And everything will  
8 be sealed under the default protective  
9 order. If there is anything further we need  
10 you to do, we'll indicate it in the order  
11 and you can do it once you get the order.

12 MR. MCKEOWN: Understood, your  
13 Honor.

14 THE COURT: And I guess then  
15 petitioner, does that sound reasonable to  
16 you or do you have any comment?

17 MS. BERNIKER: That's fine, your  
18 Honor.

19 THE COURT: Okay. So I think that  
20 takes care of that issue. So the next issue  
21 I think is petitioner's, I think they  
22 indicated that they wanted to discuss what  
23 action they can take in response to the  
24 order, the previous order, the July 24th  
25 order. So petitioner if you want to go

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2 ahead with that.

3 MS. BERNIKER: Yes, your Honor,,  
4 thank you.

5 We are considering, as an abundance  
6 of caution, filing an updated mandatory  
7 notice to identify additional potential  
8 real parties in an interest to direct the  
9 point that patent owner has raised. As we  
10 indicated on our call a few weeks ago, we  
11 don't see any reason why this should matter  
12 for the purposes of the merits of the case  
13 or for purposes of whether the petition  
14 should be instituted given that these  
15 parties wouldn't change any analysis by the  
16 board on that front.

17 As a precaution, we are  
18 contemplating that and we want to request  
19 permission from the board to prepare to  
20 file that updated mandatory notice.

21 THE COURT: Okay. I'm thinking  
22 whether I need a comment here from patent  
23 owner. I think with all respect to the  
24 patent owner, it will help if I made a few  
25 comments before I have you speak on this

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2 issue. In the order I think we indicated  
3 that, you know, our sense of it is that in  
4 order to do that, you would lose your  
5 filing date because it is not a clerical  
6 error, it is not something that was done  
7 inadvertently, even though you deal  
8 legitimately and you have no reason to put  
9 it in there. It is not a situation that  
10 there is something that could have gone in  
11 and there was some sort of mistake.

12 So our reading of the rules then is  
13 that you would then lose your filing date,  
14 and I think what we indicated in the order  
15 was that there may have been sort of an  
16 open issue as to whether you'd have to  
17 re-file. But my sense of this here on the  
18 call, and maybe for the purposes of this  
19 call, we need to discuss it this way, is  
20 that in order to get that done and get that  
21 person listed, you would need to withdraw  
22 this case or these cases, and re-file them  
23 with a new real parties interest, if you  
24 want to, in the abundance of caution,  
25 before the bar date, I would assume you

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2 would want to get that listed and sort of  
3 removed that issue from the case.

4 So I think that what that would do,  
5 I'll let you tell me if that's what you  
6 want to do, but my sense is then that the  
7 issue then becomes these preliminary  
8 responses, which are sort of ready to go  
9 into the cage today and tomorrow, and you  
10 know what the status of those, if you  
11 re-file, obviously the re-file, you would  
12 have the opportunity to put whatever you  
13 would want to put in in the re-file motion.

14 So the difficulty I have here today,  
15 I don't want these preliminary responses to  
16 go in and have to be re-filed in a second  
17 case; if we can avoid that. I guess I said  
18 a lot, maybe if petitioner, you can sort of  
19 respond to what I said, and then we'll get  
20 the patent owner to give a him an  
21 opportunity to speak on it.

22 MS. BERNIKER: Certainly, your  
23 Honor.

24 We have given close attention of the  
25 rule and regulations in the circumstances,

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2 and also try to take a look at what other  
3 parties have done in the circumstances. It  
4 appears to us that too quickly when the  
5 parties are making this sort of amendment,  
6 it is done by mandatory updated notice. It  
7 is not done by re-filing the petition. And  
8 in fact if you take a look at section  
9 42.106, it is specifically references the  
10 contents of an incomplete petition, and  
11 obviously our view is that our petition is  
12 not incomplete, but putting that aside, it  
13 still addresses the concept of correcting  
14 the petition without -- it certainly  
15 doesn't imply that you need to re-file it  
16 as a whole, and so I think our view is that  
17 given that the only thing that's changing  
18 is the real party's interest  
19 identification, if anything, that that  
20 shouldn't require an entire re-filing.

21 Now I understand the board's  
22 comments in the order regarding a new  
23 filing date. I think that is a separate  
24 question, but just with respect to the  
25 procedural question on how to go about

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2 this, it appears the parties have routinely  
3 in the past done this by way of amended and  
4 way of mandatory notice, and it is not  
5 clear why we would have to formally re-file  
6 the entire petition.

7 I think there is a separate question  
8 that you raised about the question of when  
9 or how to go about responding with respect  
10 to the patent owner, and with respect to  
11 that, the rules certainly imply that the  
12 obligation -- state that the obligation is  
13 to respond within three months of the  
14 request to institute, and which is  
15 obviously today or tomorrow of this  
16 particular instance, and from our  
17 perspective this shouldn't trigger a new  
18 three-month window. I think that's a  
19 separate question from a procedural  
20 question on how to go about making this  
21 amendment.

22 THE COURT: Okay. This is probably a  
23 good time for patent owner to weigh in on  
24 everything that's been said by me and by  
25 petitioner.



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2 MR. MCKEOWN: Sure. Thanks, your  
3 Honor.

4 I'm not aware of a single case that  
5 the failure to name the real parties  
6 interest, which is required by statute, was  
7 ever fixed by mandatory notice. The  
8 incomplete filing rules that opposing  
9 counsel is referring to refers to  
10 incomplete filings which don't have filing  
11 dates to begin with. So what we are talking  
12 about here is unfortunately something  
13 that's been going in the litigation with  
14 this idea of sort of playing hide the ball  
15 on jurisdictional issues, and we, of  
16 course, object to the piecemeal treatment  
17 of these proceedings. And if you named the  
18 wrong real parties in interest, you just  
19 need to re-file.

20 And then as they've mentioned, there  
21 is no leads from their perspective on the  
22 statutory bar issues, so there is nothing  
23 preventing that. This creates significant  
24 issues for us, because we've been exploring  
25 on the litigation side relationships from

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2 an earlier litigation and the currently  
3 named party. Now we are talking about  
4 adding two additional parties which  
5 necessarily would require us to investigate  
6 the relationships on that side as well. So  
7 we've been on this issue since June and,  
8 you know, here it is the day that our  
9 responses are due, and this is something  
10 that's been brought up by PGS. This is  
11 after the order issue. Clearly there is  
12 something there. An abundance of caution or  
13 otherwise. We wouldn't be talking about  
14 this unless this is a significant concern,  
15 as we argued all along it should be because  
16 the necessary parties aren't here.

17 So if we are going to talk about  
18 fixing it today, we think it is wholly  
19 unreasonable for us to be submitting  
20 piecemeal responses when we are going to  
21 see re-filings essentially in a week or  
22 whenever, and we would ask that the dates  
23 be extended in some manner to account for  
24 any kind of change in direction of this  
25 late date.

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2 THE COURT: Okay. Petitioner.

3 MS. BERNIKER: In the first instance

4 I think it is worth pointing out that we  
5 obviously are not trying to do anything in  
6 secret here. As we said when this was first  
7 raised by patent owner, we think it's an  
8 issue that they are raising in order to  
9 either try to delay this proceeding  
10 substantially or to try to come with a  
11 hypothetical basis for dismissing the  
12 petition early in the date. But  
13 substantively there is nothing different  
14 about these entities that would change the  
15 ability -- change the estoppel question or  
16 change the question on whether the  
17 proceeding should be able to go forward. It  
18 is probably to make the modification  
19 designed to be a minor correction, that we  
20 frankly don't think it is incorrect, and we  
21 understand in the district court patent  
22 owner has been attempting to take raw  
23 discovery with respect to any PGS entity in  
24 an effort to come up with some sort of  
25 argument from what we can tell is leading

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2 nowhere. But obviously our goal here is to  
3 avoid passing a bar date on the off chance  
4 that this becomes some sort of issue.

5 So I think the real question, a  
6 practical matter which we have been raising  
7 for a few weeks now, how can we fix this if  
8 there is something to be fixed so that it  
9 is corrected before the bar date and we can  
10 move forward on a timely basis with respect  
11 to the IPR?

12 So we don't think this is an excuse  
13 for delaying everything several more  
14 months. As a substantive matter, it doesn't  
15 seem like we are taking any offense to the  
16 arguments that the patent owner appears to  
17 be intending to make in their preliminary  
18 response, which we understand to be  
19 substantive and not procedural in nature.  
20 But, you know, if they are proposing to  
21 have some sort of short extension with  
22 respect to their preliminary response, so  
23 that we can take into account this  
24 amendment on our side, I think we'd be  
25 comfortable with that. We are trying to

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2 look for our practical way of handling the  
3 issue.

4 THE COURT: All right. If you can  
5 just give me a moment, I think we have  
6 enough commentary from both sides on this  
7 issue. I'm going to convene with the panel  
8 for a moment and then I'll come back on the  
9 line and we'll have further discussion on  
10 this issue.

11 (The board convenes. 2:43 p.m.)

12 (On the record. 2:53 p.m.)

13 THE COURT: I discussed this with  
14 the panel, and the first thing I'd like to  
15 do is if the petitioner mentioned that  
16 there were instances where the change be  
17 treated as a correction, and if you have  
18 any citations that you can give me here on  
19 the call, I would appreciate those, if you  
20 have them.

21 MS. BERNIKER: Certainly, your  
22 Honor.

23 Well, first of all, I believe  
24 section 42.1068 supports for that  
25 proposition, which states, "where a party

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2 files an incomplete petition, no filing  
3 date will be accorded, and the office will  
4 dismiss the petition if the deficiency in  
5 the petition is not corrected within one  
6 month from the notice of an incomplete  
7 petition."

8 We understand that rule to state  
9 that to the extent th office determines  
10 that the petition is incomplete, that  
11 allows the petitioner to have a month to  
12 correct it, and it otherwise doesn't  
13 require any other sort of re-filing.  
14 Separate from that we are not aware of any  
15 rule that specifically would require  
16 re-filing in this circumstance.

17 In addition to that, we have seen a  
18 number of cases where parties have filed  
19 amended mandatory notices. I'm going to  
20 look to my colleague to get me those cases,  
21 if you don't mind.

22 THE COURT: That's fine.

23 MS. BERNIKER: Your Honor, an  
24 example of a recent case to reference is  
25 the Motorola mobility case, IPR 2014-00504,

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2 paper number 10, where they reference the  
3 fact that a party files an amended  
4 mandatory notice in order to correct a real  
5 party's interest or update a real party's  
6 interest identification. Now, I believe  
7 there are other cases, but those are at my  
8 fingertips at the moment. We'd be happy to  
9 provide you with additional support by  
10 e-mail if you'd prefer that.

11 THE COURT: Okay. And obviously I'm  
12 actually doing it to try to be fair and say  
13 patent owner, if you have any commentary? I  
14 wouldn't expect you to have any citations  
15 at this point on the call, but if you have  
16 some brief comments regarding what she  
17 said.

18 MR. MCKEOWN: Sure.

19 Just to reiterate the rule about  
20 incomplete filing dates, you don't get the  
21 filing dates until you complete your  
22 petition. So the fact there is some time in  
23 order for you to fix your petition in order  
24 to get a date, I'm not sure what this has  
25 to do with the the case here, the case that

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2 was cited. My recollection of that case is  
3 the name of one of the party's changed, so  
4 we are talking about updating a corporate  
5 name change, not adding an entirely new  
6 party which is the case here. From the  
7 patentee's perspective, we don't see any  
8 authority that would allow what's being  
9 proposed here absent a re-filing.

10 THE COURT: All right. Okay. Given  
11 the timing and my -- and the sort of, I  
12 guess, not proposal but the allowance by  
13 petitioner for some delay, and also because  
14 I have a sense, although we haven't  
15 determined, that if you are going to do  
16 this, and you get a new filing date, it  
17 should restart the clock. It should mean  
18 that patent owner should get the full three  
19 months put in there. New preliminary  
20 response and to the extent that the results  
21 of this is, I think alluded to in the order  
22 that substantive requirement, it can't be  
23 corrected unless, you know, there is a  
24 change of situation which the rules  
25 contemplate there being a change of



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2 situation, or a typographical error. To the  
3 extent that it is substantive and there  
4 needs to be a new filing date, there would  
5 need to be an opportunity for patent owner  
6 to get the benefit of that filing date as  
7 far as all patent owner stated. Because  
8 this situation is presenting itself here  
9 the day the preliminary response is due,  
10 I'm proposing and since petitioner  
11 mentioned this, I'll just get patent  
12 owner's response to this. I'm looking for  
13 patent owner's reaction to approximately a  
14 one week extension of the preliminary  
15 responses giving the board time to just  
16 examine this issue for a couple of days,  
17 and make itself comfortable. How we are  
18 going to go forward if this case dealing  
19 with this issue, and then maybe again  
20 around a short e-mail as we had before,  
21 which laid out, the you know, the  
22 petitioner's basis for why they should be  
23 able to correct, I think we've already  
24 resolved the issue that the filing date  
25 would be lost, that if you reread the

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2 order, I don't think it is an issue.

3 My sense of what the issue is here  
4 is whether or not it can be corrected in  
5 this IPR or whether the IPR would need to  
6 be re-filed, so that's the issue that I see  
7 is before us right now. So, you know, that  
8 would be my tentative proposal right now,  
9 and then maybe I can hear from patent owner  
10 of their reaction to that.

11 MR. MCKEOWN: Sure, your Honor.

12 I think it makes sense to delay  
13 today's filings at the very least as to the  
14 amount of time. I leave that to the board's  
15 discretion. If we are waiting on an order,  
16 I'm not really in a position to say when  
17 that order is coming out. I'm assuming it  
18 is coming out on the short term, I think we  
19 would be agreeable to that.

20 THE COURT: Okay. Petitioner, any  
21 reaction?

22 MS. BERNIKER: I guess the question  
23 that is not clear to us is whether or not  
24 it is in fact required that with a new  
25 filing date that would necessarily add an

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2 additional three months in terms of a  
3 response. Given to the rules, it would  
4 appear that the three months are triggered  
5 by the original notice instituting this  
6 procedure -- the proceeding. And so I guess  
7 the only hesitation I have if the board has  
8 already determined that there will  
9 necessarily be an initial three months,  
10 obviously we have a decision to make on our  
11 end about whether or not we want to go  
12 forward with any of these plans or whether  
13 we should leave the situation as is.

14 Is this something that's open for  
15 briefing, the additional three months, or  
16 is that an issue that the board has already  
17 determined?

18 THE COURT: All right. Before I  
19 respond to that, I should probably just  
20 take a moment to speak with the panel. I'll  
21 get right back to you.

22 (Board convenes. 3:02 p.m.)

23 (On the record. 3:06 p.m.)

24 THE COURT: I guess my understanding  
25 of the rules is that the three months for

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2 the preliminary response is triggered by  
3 the notice of filing date, not by the  
4 actual date that petition was filed,  
5 looking at just generic notice of filing  
6 date that I have in front of me. So I'm not  
7 sure that I contemplate a situation where  
8 the three months wouldn't be reset in some  
9 way. I guess my feeling is here on this  
10 call we've got a preliminary response  
11 that's going to come in and I don't want to  
12 have two preliminary responses coming in  
13 this case, if we can avoid it. I think, you  
14 know, we have an issue here that given the  
15 short amount of time that would prejudice  
16 either party, we are talking about a matter  
17 of probably five days or at the most  
18 10 days. The prudent thing to do here would  
19 be to delay these preliminary responses and  
20 explore this issue about the filing date  
21 and get it resolved, at least get the  
22 parties from a sense of how this is going  
23 to be resolved, and then either go forward  
24 with the responses or have petitioner  
25 indicate that they plan to re-file, or if

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2 it turns out that, you know, a correction  
3 or an updated mandatory notice to be done,  
4 then they would go ahead and do that.  
5 Either way, my sense of it is that the  
6 three-month clock would be reset, but we  
7 can resolve all those issues today by a  
8 short delay.

9 I think that's the best way to go in  
10 the situation that we have right now. I  
11 guess once again, the petitioner brought up  
12 this issue, maybe petitioner if they have  
13 any comment at this point?

14 MS. BERNIKER: Well, we'll proceed  
15 as you propose, your Honor.

16 THE COURT: And patent owner?

17 MR. MCKEOWN: Nothing from patent  
18 owner, your Honor.

19 THE COURT: Okay. So I guess just to  
20 recap what we have here, I would  
21 contemplate because I don't want a whole  
22 lot of reaching on this issue, and  
23 ultimately we are going to resolve from our  
24 understanding of the rules is a short  
25 e-mail, due tomorrow from petitioner,

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2 because although it is patent owner that's  
3 requesting that the real party interest be  
4 changed, petitioner is actually requesting  
5 the situation because of the resolution of  
6 the order last week. So a short e-mail, I  
7 think, I'm not sure what number of words or  
8 pages, but it would be then two paragraphs  
9 of the previous e-mails, was one paragraph  
10 of a certain number of pages, 300, 400, or  
11 something like that. We'll contemplate an  
12 an e-mail of twice that length, with two  
13 paragraphs, to deal with those issues that  
14 some support for doing it under a mandatory  
15 notice and as opposed to re-filing and some  
16 support regarding the three month deadline,  
17 although I kind of told you where that's  
18 going to end up.

19 Then patent owner would get the same  
20 thing, the next day, which would be  
21 Wednesday, by end of day, as I did mention  
22 by end of day, for both of these; an e-mail  
23 at the same length to responding to what  
24 they said.

25 We'll put out a short order this

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2 week and depending on the discussions we  
3 have, they will either be a five-day, or no  
4 longer than ten-day business day extension  
5 on the preliminary responses, but you  
6 should know within the next day or two the  
7 extension of the preliminary responses, but  
8 the full response of these issues would  
9 obviously come later.

10 So I think that covers everything we  
11 need for this call. So is there anything  
12 else, any clarification needed from  
13 petitioner?

14 MS. BERNIKER: Not at this time,  
15 your Honor.

16 THE COURT: And from patent owner?

17 MR. MCKEOWN: Nothing further on our  
18 side, your Honor.

19 THE COURT: Okay. All right. Given  
20 that, then this call is adjourned.

21 (Time noted: 3:13 p.m.)  
22  
23  
24  
25

C E R T I F I C A T E

STATE OF NEW YORK )

) SS. :

COUNTY OF NEW YORK )

I, ROBIN NUNEZ, a Notary  
Public within and for the State of New  
York, do hereby certify that the within is a  
true and accurate transcript, to the best of my  
ability, of the proceedings held on July 28,  
2014.

That I am not related to any of the parties to this action by blood or marriage; and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto  
set my hand this 7th day of August, 2014.

ROBIN NUNEZ