

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PETROLEUM GEO-SERVICES INC.

Petitioner

v.

WESTERNGECO, LLC

Patent Owner

Case IPR2014-00678
U.S. Patent No. 6,691,038

**JOINT MOTION FOR ENTRY OF THE
DEFAULT PROTECTIVE ORDER
AND TO SEAL UNDER
37 C.F.R. §§ 42.14 AND 42.54**

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Pursuant to 37 C.F.R. §§ 42.14, 42.54 and the Board's August 12, 2014 Order (Paper 23), Patent Owner, WesternGeco L.L.C ("WesternGeco" or "Patent Owner") and Petitioner, Petroleum Geo-Services, Inc. ("PGS" or "Petitioner") jointly submit this Motion for Entry of the Default Protective Order and to Seal certain exhibits submitted with the Petition for *Inter Partes* Review ("Petition") filed by Petitioner filed on April 23, 2014, and certain exhibits submitted with the Patent Owner Preliminary Response ("Preliminary Response") filed by Patent Owner on September 16, 2014.

The Petition and certain accompanying exhibits were filed under seal because they contained information that Patent Owner had designated as confidential. The Preliminary Response and all of the accompanying exhibits were filed under seal to allow the parties time to confer regarding which exhibits or portions thereof should remain confidential. Submitted herewith is an updated Patent Owner Exhibit List that identifies which Patent Owner exhibits can be made public, and which Patent Owner exhibits should remain under seal. In addition, a redacted, public version of the Preliminary Response is submitted with this joint motion. Also submitted herewith are updated public versions of Petitioner's Exhibit List and the Petition in light of the withdrawal of certain of Patent Owner's confidentiality designations.

The parties have conferred and have agreed to the terms of the Default Protective Order, submitted herewith as Exhibit 2041.

I. Reasons for Sealing Certain Confidential Information

A. Petition Exhibits

Exhibits 1015, 1017, 1019, and 1036 were filed under seal. Patent Owner states that Exhibit 1015 does not need to remain under seal, and may be made available to the public. As set forth in the Table 1, below, good cause exists for maintaining Exhibits 1017, 1019, and 1036 under seal.

Table 1. Exhibits to the Petition that Should Remain Under Seal

Exhibit	Description	Good Cause
1017	Excerpt from Opening Expert Report of Michael S. Triantafyllou in <i>WesternGeco L.L.C. v. Ion Geophysical Corporation</i> , Civil Action No. 4:09-CV-01827.	Patent Owner states that this exhibit includes third party (Ion Geophysical Corporation, “ION”) confidential materials that are subject to a protective order in <i>WesternGeco L.L.C. v. Ion Geophysical Corp.</i> , Civil Action No. 4:09-CV-01827. In particular, the material in this exhibit is an excerpt from the Deposition Transcript of ION Employee Desmond Flynn, which was designated “confidential” in its entirety by ION.
1019	Rebuttal Report of Michael S. Triantafyllou in <i>WesternGeco L.L.C. v. Ion Geophysical Corporation</i> , Civil Action No. 4:09-CV-01827.	Patent Owner states that this exhibit includes WesternGeco and third party (ION) confidential materials that are subject to a protective order in <i>WesternGeco L.L.C. v. Ion</i>

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		<i>Geophysical Corp.</i> , Civil Action No. 4:09-CV-01827. With respect to WesternGeco confidential information, this document refers to deposition testimony by WesternGeco witnesses discussing confidential business information and technical development documents that are not public, that are maintained in confidence, and that are unnecessary for the public to understand the patentability dispute at issue.
1036	Mark Zajac Deposition Transcript in <i>WesternGeco L.L.C. v. Ion Geophysical Corporation</i> , Civil Action No. 4:09-CV-01827, January 29, 2010.	Patent Owner states that this exhibit includes WesternGeco confidential materials that are subject to a protective order in <i>WesternGeco L.L.C. v. Ion Geophysical Corp.</i> , Civil Action No. 4:09-CV-01827. In particular, this document references deposition testimony by a WesternGeco witness discussing confidential business information that is not public, that is maintained in confidence, and that is unnecessary for the public to understand the patentability dispute at issue.

B. Preliminary Response

As set forth in the Table 2, below, good cause exists for maintaining Exhibits 2004, 2005, 2006, 2007, 2009, 2017, 2022, 2023, 2024, 2025, 2026, and 2030 under seal.

Table 2. Exhibits to the Preliminary Response that Should Remain Under Seal

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Exhibit	Description	Good Cause
2004	Excerpt of Robert Brune Deposition Transcript in <i>WesternGeco L.L.C. v. Ion Geophysical Corporation</i> , Civil Action No. 4:09-CV-01827, April 4, 2012.	Patent Owner states that this exhibit includes testimony on behalf of a third party (Ion Geophysical Corporation) that is subject to a protective order in <i>WesternGeco L.L.C. v. Ion Geophysical Corporation</i> , Civil Action No. 4:09-CV-01827.
2005	“Proposal For Next Generation Streamer Positioning System,” <i>WesternGeco L.L.C. v. Ion Geophysical Corporation</i> , Civil Action No. 4:09-CV-01827, ION10473-505.	Patent Owner states that this exhibit includes third party (Ion Geophysical Corporation) confidential materials that are subject to a protective order in <i>WesternGeco L.L.C. v. Ion Geophysical Corporation</i> , Civil Action No. 4:09-CV-01827.
2006	<i>WesternGeco L.L.C. v. Ion Geophysical Corporation</i> , Civil Action No. 4:09-CV-01827, ION17940-74.	Patent Owner states that this exhibit includes third party (Ion Geophysical Corporation) confidential materials that are subject to a protective order in <i>WesternGeco L.L.C. v. Ion Geophysical Corporation</i> , Civil Action No. 4:09-CV-01827.
2007	<i>WesternGeco LLC v. Petroleum Geo-Services Inc.</i> , et al., No. 4-13-cv-02725, PGSUS 10.	Petitioner states that this exhibit includes confidential business information of the Petitioner concerning the negotiation of a commercial agreement. This business information is not public, is maintained in confidence, and is unnecessary for the public to understand the patentability dispute at issue.
2009	<i>WesternGeco L.L.C. v. Ion Geophysical Corporation</i> , Civil Action No. 4:09-CV-	Petitioner states that this exhibit includes confidential business information of the Petitioner

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Exhibit	Description	Good Cause
	01827, ION732624-28.	concerning the negotiation of a commercial agreement. This business information is not public, is maintained in confidence, and is unnecessary for the public to understand the patentability dispute at issue.
2017	<i>WesternGeco LLC v. Petroleum Geo-Services Inc.</i> , et al., No. 4-13-cv-02725, PGSI-T2725-WG-46643.	Petitioner states that this exhibit includes confidential business information of the Petitioner concerning its business organization. This business information is not public, is maintained in confidence, and is unnecessary for the public to understand the patentability dispute at issue.
2022	<i>WesternGeco L.L.C. v. Ion Geophysical Corporation</i> , Civil Action No. 4:09-CV-01827, ION886761-67.	Petitioner states that this exhibit includes confidential business information of the Petitioner concerning its commercial transactions with a third party. This business information is not public, is maintained in confidence, and is unnecessary for the public to understand the patentability dispute at issue.
2023	<i>WesternGeco L.L.C. v. Ion Geophysical Corporation</i> , Civil Action No. 4:09-CV-01827, ION 891471-77.	Petitioner states that this exhibit includes confidential business information of the Petitioner concerning its commercial transactions with a third party. This business information is not public, is maintained in confidence, and is unnecessary for the public to understand the patentability dispute at

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Exhibit	Description	Good Cause
		issue.
2024	Invoices for transactions between ION and PGS.	Petitioner states that this exhibit includes confidential business information of the Petitioner concerning its commercial transactions with a third party. This business information is not public, is maintained in confidence, and is unnecessary for the public to understand the patentability dispute at issue.
2025	<i>WesternGeco LLC v. Petroleum Geo-Services Inc.</i> , et al., No. 4-13-cv-02725, PGSI-T2725-WG-46456-58.	Petitioner states that this exhibit includes confidential business information of the Petitioner concerning the negotiation of a commercial agreement. This business information is not public, is maintained in confidence, and is unnecessary for the public to understand the patentability dispute at issue.
2026	<i>WesternGeco LLC v. Petroleum Geo-Services Inc.</i> , et al., No. 4-13-cv-02725, PGSI-T2725-WG-47225.	Petitioner states that this exhibit includes confidential business information of the Petitioner concerning the negotiation of a commercial agreement. This business information is not public, is maintained in confidence, and is unnecessary for the public to understand the patentability dispute at issue.
2030	<i>WesternGeco LLC v. Petroleum Geo-Services Inc.</i> , et al., No. 4-13-cv-02725, PGSI-T2725-WG-47303.	Petitioner states that this exhibit includes confidential business information of the Petitioner concerning the provisions of a

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Exhibit	Description	Good Cause
		commercial agreement. This business information is not public, is maintained in confidence, and is unnecessary for the public to understand the patentability dispute at issue.

II. Certification of Non-Publication Status

Petitioner's and Patent Owner's undersigned counsel certify that, with respect to the exhibits as to which each party has provided a showing of good cause in the foregoing tables, the information sought to be sealed by this motion has not been published or otherwise made public to the best of their knowledge.

III. Certification of Conference with Opposing Party Pursuant to 37 C.F.R. § 42.54

Patent Owner has in good faith conferred with Petitioner and the parties have agreed to the terms of the Board's Default Protective Order and to Seal the Exhibits discussed above. The proposed Protective Order submitted herewith as Exhibit 2041 is executed by counsel for both parties.

IV. Proposed Protective Order

The Proposed Protective Order submitted herewith as Exhibit 2041 is the Board's Default Protective Order to which the Parties agree to be bound in this matter.

V. Request For Relief

Patent Owner and Petitioner jointly request entry of Proposed Protective Order (Ex. 2041), and request that the following exhibits remain under seal:

Petitioner Exhibits 1017, 1019, and 1036; and

Patent Owner Exhibits 2004, 2005, 2006, 2007, 2009, 2017, 2022, 2023, 2024, 2025, 2026, and 2030.

Agreed upon by the parties.

Respectfully submitted,

WesternGeco L.L.C
Patent Owner

Petroleum Geo-Services, Inc.
Petitioner

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