Trials@uspto.gov
Tel: 571-272-7822

Paper No. 98
Originally Entered: March 27, 2017
Redacted Version: May 18, 2017

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SEADRILL AMERICAS, INC.,
SEADRILL GULF OPERATIONS AURIGA, LLC,
SEADRILL GULF OPERATIONS VELA, LLC,
SEADRILL GULF OPERATIONS NEPTUNE, LLC,
Petitioner,

v.

TRANSOCEAN OFFSHORE DEEPWATER DRILLING, INC.,
Patent Owner.

Cases
IPR2015-01929 (Patent 6,047,781)
IPR2015-01989 (Patent 6,085,851)
IPR2015-01990 (Patent 6,068,069)

Before WILLIAM V. SAINDON, BARRY L. GROSSMAN, and TIMOTHY J. GOODSON, *Administrative Patent Judges*.

SAINDON, *Administrative Patent Judge*.

FINAL WRITTEN DECISION
Finding No Claims Unpatentable
Granting-In-Part Patent Owner's Motions to Seal without Prejudice
Denying Petitioner's Motion to Seal without Prejudice
Denying Petitioner's Motion to Exclude Evidence as Moot
Ordering Parties to Provide Redacted Copies of Papers and Evidence
35 U.S.C. § 318(a); 37 C.F.R. §§ 42.54, 42.64, 42.73

I. INTRODUCTION

We have jurisdiction under 35 U.S.C. § 6. We enter this Final Written Decision pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73. We also address herein the parties' Motions to Seal and Petitioner's Motion to Exclude Evidence. Lastly, we order the parties to provide redacted copies of certain papers and evidence.

This Final Written Decision is for three proceedings. IPR2015-01929 addresses U.S. Patent No. 6,047,781 (Ex. 1001, "the '781 patent"). Upon consideration of Petitioner's Petition (Paper 5, "Pet.") in that proceeding, we instituted *inter partes* review on all claims challenged by Petitioner: claims 10–13 and 30. Paper 14 ("Dec. on Inst."). We focus our analysis on the arguments and evidence of this proceeding because it is representative of the three proceedings;[1] our citations herein are exclusively to papers and evidence in IPR2015-01929, except as otherwise noted. We also instituted an *inter partes* review of claim 10 of U.S. Patent No. 6,085,851 ("the '851 patent") in IPR2015-01989,[2] and of claims 17–19 of U.S. Patent No. 6,068,069 ("the '069 patent") in IPR2015-01990,[3] which represent all claims challenged by Petitioner in those proceedings.

After our Decision on Institution, Patent Owner filed a Response (Paper 44) and a Redacted Response (Paper 69, "PO Resp."). We cite to the

[1] Specifically, although the claims are slightly different in each proceeding, the grounds and arguments are effectively the same, and the evidence of obviousness and non-obviousness is the same.
[2] Paper 8 in IPR2015-01989.
[3] Paper 8 in IPR2015-01990.

Redacted Response herein. Petitioner then filed its Reply (Paper 72, "Pet. Reply") but not a Redacted Reply. An oral hearing was held February 13, 2017.

With respect to the grounds asserted in these trial, we have considered the papers submitted by the parties and the evidence cited therein. For the reasons discussed below, we determine that Petitioner has not shown, by a preponderance of the evidence, that any claims of the '781, '851, or '069 patents (together, the "challenged patents") are unpatentable.

A. Related Matters

Petitioner represents that the following matters would affect, or be affected by, a decision in this proceeding: *Transocean Offshore Deepwater Drilling, Inc. v. Seadrill Americas, Inc.*, Civil Action No. 4:15-cv-00144 filed on January 16, 2015, in the U.S. District Court for the Southern District of Texas; *Transocean Offshore Deepwater Drilling, Inc. v. Pacific Drilling SA*, Civil Action No. 4:13-cv-1088, filed on April 16, 2013, in the U.S. District Court for the Southern District of Texas. Pet. 1–2; Paper 7, 1.

Patent Owner indicates that the challenged patents have been asserted against other parties in other lawsuits, some of which we address next. Paper 9 ("Prelim. Resp."), 2.

B. Partial Prior Litigation History

Although Petitioner was not a party, the challenged patents have been involved in prior litigation including *Transocean Offshore Deepwater Drilling, Inc. v. Pacific Drilling SA*, Civil Action No. 4:13-cv-1088 (S.D. Tex.) (hereinafter the "*Pacific* Lawsuit"), *Transocean Offshore Deepwater*

Drilling, Inc. v. GlobalSantaFe Corp., Civil Action No. 4:03-cv-02910 (S.D. Tex.) (hereinafter the "*GlobalSantaFe* Lawsuit"), *Transocean Offshore Deepwater Drilling, Inc. v. Stena Drilling Ltd.*, Civil Action No. 4:08-cv-03287 (S.D. Tex.) (hereinafter the "*Stena* Lawsuit"), and *Transocean Offshore Deepwater Drilling, Inc. v. Maersk Contractors USA Inc.*, Civil Action No. 4:07-cv-02392 (S.D. Tex.) (hereinafter the "*Maersk* Lawsuit"). Pet. 4, 49; Prelim. Resp. 2–3. The *Maersk* Lawsuit included two successive appeals *Transocean Offshore Deepwater Drilling, Inc. v. Maersk Contractors USA, Inc.*, 617 F.3d 1296 (Fed. Cir. 2010) (hereinafter "*Transocean I*") and *Transocean Offshore Deepwater Drilling, Inc. v. Maersk Drilling USA, Inc.*, 699 F.3d 1340 (Fed. Cir. 2012) (hereinafter "*Transocean II*"). Prelim. Resp. 3–4.

The District Court in the *Pacific* Lawsuit held a *Markman* hearing and construed several limitations of the challenged patents. Ex. 1009. *Markman* hearings were also conducted in the *Stena* Lawsuit (Ex. 2005), the *GlobalSantaFe* Lawsuit (Ex. 2007), and the *Maersk* Lawsuit (Ex. 2006). In the *Maersk* Lawsuit, the District Court granted summary judgment for defendant, *inter alia*, on invalidity of all asserted claims based on obviousness. *Transocean I*, 617 F.3d at 1302. On appeal, the Federal Circuit held "that the teachings of the references as well as th[e] reason to combine support a *prima facie* case that the claims would have been obvious to one of ordinary skill in the art" (*id.* at 1304) but reversed the grant of summary judgment in part "[b]ecause there remain genuine issues of material fact regarding objective evidence of nonobviousness." *Id.* at 1313; *see also id.* at 1304–05 (disagreeing that the district court "is required to

consider only the first three [*Graham*] factors" and determining that "the district court ignored . . . objective evidence of nonobviousness").[4] On remand, after review of the evidence of nonobviousness, a jury found that the defendant had not established by clear and convincing evidence that the claims were obvious, but the district court granted a motion for judgment as a matter of law (JMOL) that the claims were invalid as obvious. *Transocean II*, 669 F.3d at 1346. On appeal, the Federal Circuit reversed the district court's grant of JMOL, finding that the jury's findings regarding objective evidence of nonobviousness were supported by substantial evidence. *Id.* at 1349–55.

C. The Challenged Patents

The '781 patent is directed to a multi-activity offshore drilling apparatus, such as a drillship. Ex. 1001, Abstract. The apparatus has a single derrick but multiple tubular activity stations, such that primary drilling activity and auxiliary drilling activity may be conducted from the same derrick at the same time. *Id.*; *see also* Ex. 1007 ¶¶ 17–34; Prelim. Resp. 5–12 (providing background information on conventional and multi-activity drilling).

The '781 patent states that it is a continuation of the application that issued as the '851 patent. Ex. 1001, at [63]; Case IPR2015-01989, Ex. 1001, at [21]. The '069 patent states that it is a continuation of the application that issued as the '781 patent. Case IPR2015-01990, Ex. 1001, at [63]. Thus,

[4] The references referred to by the Federal Circuit as demonstrating a prima facie case of obviousness are also asserted in this proceeding.

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