

Case No: HC07C01084/1487/1488

IN THE HIGH COURT OF JUSTICE  
CHANCERY DIVISION

PATENTS COURT

Royal Courts of Justice  
Strand, London, WC2A 2LL

Date: 19/01/2009

Before :

**MR JUSTICE MANN**

Between :

SCHLUMBERGER HOLDINGS LIMITED

(a company incorporated in the British Virgin  
Islands)

Claimant

- and -

ELECTROMAGNETIC GEOSERVICES AS

(a company incorporated in Norway)

Defendant

### **SUMMARY OF DECISION**

1. This is a summary of my decision in this case. The circumstances in which it is given, and of the handing down of my judgment in its present form, are as follows.
2. I was informed that my judgment in this case was a price sensitive matter, that is to say it could affect the valuation of EMGS on the Oslo stock exchange. In those circumstances I was asked by the parties not to take the normal course of providing a judgment to the parties in draft, prior to the handing down of a finalised version (with the benefit of the parties' typographical and other minor corrections, in the normal way), but to deliver my decision on notice to the parties, and to provide a written judgment on that occasion. I was also asked to do that at a point in the day after the closing of the Oslo stock exchange. Hence the timing of this exercise, at 4.30.

3. I shall therefore in a moment announce my decision in this case, with a summary of the reasons for it, and provide the parties with what is in effect still a draft form of written judgment. That form of judgment has the equivalent status of a transcript of an oral judgment which is still subject to correction by the judge, save that on this occasion it has been provided to the parties as well. It is not for publication, and may not be used for any purpose other than the consideration of the matter between and within the parties, and for consideration and communication of such typographical and other amendments as the parties suggest that I make to the final version. I reserve the right to make all such amendments to that written judgment as I would make to a transcript of an oral judgment. In those circumstances it is not, I regret, yet available to the law reporters and other third parties. In those circumstances it is useful for an authorised summary to be made available, and this summary (delivered orally and available in writing) fulfils that purpose. For the avoidance of doubt, the substance of the judgment, and in particular this summary, is available for publication and can be made available to third parties. In the event of any conflict between this summary and my judgment, the latter prevails and is authoritative.
4. The result of the case is as follows. I have decided that all three patents in this case are invalid, are not saved by amendment, and fall to be revoked, subject, in the case of the case of the 887 patent, to the possibility of its being saved by a consideration of some of the subsidiary claims which Mr Burkill did not argue before me on the footing that he would argue them if necessary in due course. I do not foreclose that argument, and if he wishes to have the opportunity to sustain those claims then he may have that opportunity. Subject to that, the 887 patent suffers the same fate as the others. Since the patents are not saved by the proposed amendments, I refuse those amendments.
5. The key points of my decision are as follows (and I use the shorthand for describing the patents and the prior art which developed during the trial):
  - a) I have decided that the skilled addressee in this case is a team which includes a CSEM specialist, though since the common general knowledge of an exploration geophysicist will include some CSEM material, I doubt if that makes much difference.
  - b) The core material of common general knowledge of either person as at the priority dates of the 019 and 887 patents is the core material (but not all the detail) or the Chave prior art paper.
  - c) The 019 patent is not anticipated by any of the prior art.
  - d) It is not insufficient.
  - e) The invention in the 019 patent is obvious over the Chave prior art, McGregor, and Srnka when placed against the relevant common general knowledge. It is not obvious over the other pieces of prior art relied on.
  - f) The 887 patent is not anticipated by the prior art.

- g) The 887 patent is not insufficient.
  - h) The 887 patent is obvious over Ramesses III and Sinha.
  - i) The ~~604~~<sup>40</sup> patent is obvious over common general knowledge, and two pieces of prior art - the 019 patent application and the three Ramesses papers.
6. For those reasons, then, all three patents fail. I shall prepare an approved form of judgment when I have considered the parties' suggested corrections, at which point an approved draft will be made available to those who wish to have it. Anyone present in court (other than the parties, who will get one anyway) who wishes to have a form of approved judgment should provide their names and addresses (preferably email addresses) to my clerk.
7. All consequential matters arising out of this judgment will be heard on a separate occasion, to be fixed through the normal channels. I adjourn this trial for that purpose. I treat there as being before me applications for permission to appeal from both parties (on a just in case basis), and adjourn those applications too. That avoids an accidental loss of an opportunity to apply for permission to appeal to this court.
8. Last, I wish to repeat publicly my gratitude for the assistance provided by the court's expert, Professor Richard Bailey of Toronto University. I have referred to that in my judgment, to which reference should be made, but it is right that my gratitude should be made public on this occasion.

The Hon Mr Justice Mann

19<sup>th</sup> January 2008