IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:	*	Case No. 15-35615
	*	
Raam Global Energy, Company, et al.,	*	Chapter 11
	*	
Debtors	*	Jointly Administered
	*	

WESTERNGECO, L.L.C.'S REPLY TO UPSTREAM EXPLORATION LLC'S RESPONSE TO WESTERNGECO, L.L.C.'S MOTION TO PARTIALLY VACATE (1)THE COURT'S ORDER AUTHORIZING AND APPROVING (A) STALKING HORSE PURCHASE AGREEMENT, (B) BIDDING PROCEDURES, (C) PROCEDURES FOR DETERMINING CURE AMOUNTS FOR EXECUTORY CONTRACTS AND UNEXPIRED LEASES, AND (D) RELATED RELIEF [DKT. NO. 180] AND (2) ORDER (I) AUTHORIZING AND APPROVING THE DEBTORS TO SELL SUBSTANTIALLY ALL OF THEIR PROPERTY FREE AND CLEAR OFALL RIGHTS, LIENS, CLAIMS, INTERESTS, AND ENCUMBRANCES, (II)AUTHORIZING THE DEBTORS TO ASSUME AND ASSIGN CERTAIN EXECUTORYCONTRACTS AND UNEXPIRED LEASES, AND (III) GRANTING RELATED RELIEF

TO THE HONORABLE MARVIN ISGUR, UNITED STATES BANKRUPTCY JUDGE:

WesternGeco, L.L.C. ("WesternGeco") submits this memorandum (the "Reply") in reply to Upstream Exploration LLC's ("Upstream") response (the "Response") to WesternGeco's Motion to Partially Vacate the Court's (1) Order Authorizing and Approving (a) Stalking Horse Purchase Agreement, (b) Bidding Procedures, (c) Procedures for Determining Cure Amounts for Assumption and Assignment of Executory Contracts and Unexpired Leases and (d) Related Relief [Dkt. No. 180] and the Court's (2) Order Authorizing and Approving the Debtors to (I) Sell Substantially all of their Property Free and Clear of all Rights, Liens, Claims, and Encumbrances, (II) Authorizing the Debtors to Assume and Assign Certain Executory Contracts and Unexpired Leases and (III) Granting Related Relief [Dkt. No. 377] (the "Motion"). As is shown below, Upstream's Response, in large part, misstates the facts and law. Further, the evidence to be

presented at the hearing on WesternGeco's Motion will show that WesternGeco was not afforded reasonable notice of the proposed sale and/or assignment of its Master License Agreement and Seismic Data by Century Exploration Company ("Century" or "the Debtor"; collectively along with the other debtors, "the Debtors") to Upstream, in time for it to take meaningful action in response to the impending deprivation of its rights, in blatant violation of WesternGeco's Due Process rights under the United States Constitution. Thus, the Motion should be granted by the Court.

I. WESTERNGECO'S REPLY TO UPSTREAM'S ARGUMENTS

A. WESTERNGECO DID NOT RECEIVE ANY FORMAL NOTICE OF THE DEBTORS' BANKRUPTCY PROCEEDINGS

1. Upstream argues in its Response that WesternGeco was served with formal notice of the Debtors' bankruptcy proceeding through service of (a) a notice of commencement of the Chapter 11 Cases; (b) notice of the disclosure statement hearing; (c) a "Notice of Transaction" that referenced the Bidding Procedures Motion and Bidding Procedures Order, and set January 11, 2016, as the objection deadline for the sale; and (d) plan solicitation materials.[1] According to Upstream, WesternGeco was served with these materials at Chase Bank of Texas, P.O. Box 200815, Houston, Texas 77216-0815 (the "Chase PO Address").[2]

2. The evidence will show that contrary to Upstream' contention, WesternGeco did not receive any of those notices. Nor was it reasonable for the Debtors to direct any notices to WesternGeco to the Chase PO Address. The Chase PO Address was a lock box at Chase Bank utilized by WesternGeco in the past for the receipt of payment from customers and direct deposit of those funds into a bank account maintained by WesternGeco at Chase Bank. WesternGeco had

[1] Upstream's Response, p. 8, ¶25.
[2] *Id.*

no control or access to the lock box or the materials delivered thereto. Rather, as most lock boxes work, upon delivery of materials to the lock box, Chase Bank retrieved the payments, processed them and deposited them directly into WesternGeco's bank account without forwarding the original or copies of the delivered materials to WesternGeco.

3. The evidence will further show that prior to the institution of the Debtors' bankruptcy proceedings, the Chase PO Address and the lock box established by WesternGeco at Chase Bank of Texas, and the related bank account, were closed by WesternGeco.

4. The Debtors knew or should have been aware that sending notices to WesternGeco at the Chase PO Address was not a reasonable method for insuring service of notices upon WesternGeco. WesternGeco's office address at 10001 Richmond Avenue, Houston, Texas 77042 (the "Office Address") was well known to the Debtors. It was stated on the first page of the Master License Agreement and on a number of the exhibits and addenda attached thereto.[3] Further it was listed on each of the Supplemental Agreements to the Master License Agreement pursuant to which the Debtor actually licensed Seismic Data from WesternGeco pursuant to the terms of the Master License Agreement.[4] Moreover, the "Notices" section of the Master License Agreement specifically required that any notices relating to the agreement were to be addressed to WesternGeco "attn.: General Manager, Multiclient Library . . . at the addresses set out in this License Agreement or at such other address as may from time to time be notified."[5] At no time did WesternGeco ever inform the Debtors that notices should be sent to it at any address other than its Office Address. In any event, simply going on the internet or searching a telephone directly

[3] Master License Agreement, Exhibit "1," p. 1. *See also* Exhibit A to Master License Agreement, p. 1; and Addenda to Master License Agreement, p. 1.
[4] Supplemental Agreements, Exhibit "2."
[5] Master License Agreement, Exhibit "1," p. 10, ¶11.

would have made it clear to the Debtors that the correct address for sending any notices to WesternGeco would have been its Office Address. On the other hand, researching the correct mailing address for WesternGeco on the internet or a telephone book would not have produced the Chase PO Address, as it was never an address utilized by WesternGeco for receipt of mail or important communications or notices.[6]

5. The Debtors' own actions make it clear that it was aware or at least concerned during its bankruptcy proceedings that the Chase PO Address it had utilized to send isolated notices[7] to WesternGeco was not a viable or reasonable method for giving notice to WesternGeco. In fact, after purporting to have issued notices to WesternGeco at the Chase PO Address on four occasions, none of which were received by WesternGeco, upon filing and issuing the Supplemental Notice of Possible Assumption and Assignment of Executory Contracts and Unexpired Leases (the "Supplemental Assumption Notice") [Dkt No. 391] on January 22, 2016, which for the first time gave notice that among the executory contracts sought to be assumed and assigned by the Debtor to Upstream were WesternGeco's Master License Agreement and all of the Seismic Data licensed by WesternGeco to the Debtor, the Debtors changed the address to which the Supplemental Assumption Notice was to be directed to WesternGeco from the Chase PO Address to WesternGeco's correct Office Address.[8] Unfortunately, notwithstanding that the Supplemental Assumption Notice gave counterparties to the added executory contracts, including WesternGeco, five (5) days from mailing and thus until January 27, 2016 to file any objections

[6] If the Debtors had any concern regarding the proper address to which to send WesternGeco notices, they could have easily contacted the very representative WesternGeco who they had been communicating with in May 2015, before the Debtors filed their bankruptcy proceedings, as they already had her email address and contact information.
[7] The Debtors, during their bankruptcy proceedings, only apparently purport to have attempted to send four (4) notices out of all of the pleadings and orders filed in the case to WesternGeco.
[8] *See* Certificate of Service dated 1/26/16 filed by the Debtors [Dkt. No. 302].

thereto, and even though the Debtors were aware that the notice was being mailed over a weekend, did nothing to make sure that WesternGeco and the other counterparties would actually receive the Supplemental Assumption Notice prior to the passage of the January 27, 2016 objection deadline. The evidence will show that, in fact, WesternGeco did not.[9]

6. It has been held that an adjudication that purports to determine the rights of adverse parties will not be accorded finality unless all affected individuals are given notice reasonably calculated to apprise them of the pendency of the proceeding and the scope of their rights, together with information sufficient to provide them with an opportunity to prepare and present a response. *In re Faden*, 170 B.R. 304, 308 (Bankr. S.D.Tex. 1994), *aff'd*, 96 F.3d 792 (5th Cir. 1996), citing, *Mennonite Board of Missions v. Adams*, 462 U.S. 791, 795, 103 S.Ct. 2706, 2709-10, 77 L.Ed 2d 180 (1983); *Memphis Light, Gas & Water Div. v. Kraft*, 436 U.S. 1, 14-15, 98 S.Ct. 1554 1562-63, 56 L.Ed.2d 30 (1978); *Mullane v. Central Hanover Trust Co.*, 339 U.S. 306, 314, 70 S.Ct. 652, 657, 94 L.Ed. 865 (1949). In *Mullane*, the Supreme Court made clear that "whether a particular method of notice is reasonable depends upon the particular [factual] circumstances." *In re Faden*, 170 B.R. at 308; citing *Tulsa Professional Collection Services v. Pope*, 485 U.S. 478, 108 S.Ct. 1340, 99 L.Ed.2d 565 (1988).

7. Due process requires, however, that the debtor's known creditors be given actual notice. *In re Placid Oil Co.*, 753 F. 3d 151, 154 (5/27/14); *In re Faden*, 170 B.R. at 308; citing *New York v. N.Y., N.H. & H.R. Co.*, 344 U.S. 293, 73 S.Ct. 299, L.Ed. 333 (1953). The purpose of

[9] The United States District Court for the Northern District of Texas, in *In re The Bombay Company*, 2007 WL 2826071 (Bankr. 2007), expressed its concern that a five day notice provision similar to that utilized by the Debtors here for approval of the assumption and assignment of WesternGeco's Master License Agreement and Seismic Data did not comply with the requirements of Due Process. *Id.* at *3. Indeed, the court stated that it was "extremely concerned by this time-trap. The forced nature of its consideration of the Motion is inconsistent with the Code, due process of law, the exercise of the court's authority and simple common sense." *Id.*

requiring a debtor to list creditors with their proper mailing address is to afford those creditors basic due process notice. *In re Glenwood Med. Group, Ltd.*, 211 B.R. 282, 285 (Bankr. N.D.Ill. 1997). Further, the debtor is required to utilize the means most likely to achieve actual notice to those affected persons under the circumstances. *Greene v. Lindsey*, 456 U.S. 444, 449-50, 102 S.Ct. 1874, 1877-78, L.Ed.2d 249 (1982). It is the debtor's burden in a bankruptcy case to use diligence to accurately complete their schedules of names and addresses of creditors for purposes of insuring notice to creditors. *In re Faden*, 170 B.R. at 308; *Matter of Springer*, 127 B.R. 702 (Bankr. M.D. Fla. 1991). Where it is found that a debtor has an available address for proper notice to a creditor but fails to use it, that is insufficient from a constitutional standpoint to bind the creditor. *In re Faden*, 170 B.R. at 309. Here, the Debtors (and Upstream) plainly failed to meet that burden.

B. SERVICE OF NOTICE ON WESTERNGECO'S PARENT COMPANY IS LEGALLY INSUFFICIENT TO BE IMPUTED TO WESTERNGECO

8. As an alternative argument, Upstream asserts that WesternGeco's parent company, Schlumberger Technology Corporation ("Schlumberger Technology") was included on the notice of commencement of the Chapter 11 Cases and "Notice of Transaction" that was mailed to WesternGeco at the wrong address, and thus it is inferred by Upstream that even if WesternGeco did not actually receive those notices, notice thereof should be imputed to WesternGeco.

9. WesternGeco is a separate entity from Schlumberger Technology that has its own separate corporate existence and operations. Further, it is believed that Schlumberger Technology had its own contractual relationship and transactions with one or more of the Debtors. Thus, it would have had no reason to believe that there was any reason to inform WesternGeco of the notices or, indeed, of the Debtors' bankruptcies.

10. In any event, it has been held that notice to a parent or subsidiary corporation of a creditor is insufficient to put the creditor on notice of a bankruptcy proceeding or to grant a creditor actual knowledge of the debtor's bankruptcy proceeding. *In re Faden*, 170 B.R. at 309. *See also Ford Motor Credit Co. v. Weaver*, 680 F. 2d 451 (6th Cir. 1982). According to the ruling of the Southern District of Texas in *In re Faden*, "notice or actual knowledge can not be imputed to the creditor where the subsidiary [or parent] corporation, which was not alleged to be the creditor's agent, is not an attorney nor where the was no actual or implied authority either to collect the entire outstanding balance of the debt, represent the creditor in the bankruptcy proceedings or receive legal notices on behalf of the creditor." *Id.* at 309. Here, there is no evidence that would support any such allegation.

C. WESTERNGECO DID NOT HAVE ACTUAL KNOWLEDGE OF THE DEBTOR'S INTENTION TO ASSUME AND ASSIGN THE MASTER LICENSE AGREEMENT AND SEISMIC DATA AS REQUIRED BY *IN RE NATIONAL GYPSUM*, AND IT WAS LULLED INTO BELIEVING THAT THE DEBTOR AND UPSTREAM, IN GOOD FAITH, WERE NEGOTIATING A NEW MASTER LICENSE AGREEMENT WITH IT RATHER THAN SECRETLY TAKING ACTION TO FORCE AN ASSIGNMENT, IN VIOLATION OF WESTERNGECO'S MASTER LICENSE AGREEMENT, AND WITHOUT ANY COMPENSATION BEING PAID TO WESTERNGECO

11. Upstream implies that WesternGeco had actual knowledge during the Debtors' bankruptcy proceedings of the Debtor's intention to sell its assets to Upstream and assign the Master License Agreement and Seismic Data thereto. In large part, Upstream bases this contention on the "facts" that: (a) in the Spring of 2015, prior to the institution of the Debtors' bankruptcy proceedings, the Debtors conferred with a representative of WesternGeco regarding the possibility of the Debtor's parent company doing an equity exchange with its first lien holder group;[10] (b) the representative of WesternGeco consented to Century's parent company, Raam

[10] Upstream's Response, p. 5, ¶15.

Global, undergoing a change of ownership by virtue of certain lienholders taking equity in the company without WesternGeco seeking any additional compensation or terminating Century's Master License Agreement;[11] (c) after the bankruptcy filing, a representative of Geophysical Pursuit, Inc. ("GPI"), an alleged partner of WesternGeco, had discussions with a representative of the Debtors regarding the potential transfer of the Master License Agreement or sale of a new seismic data license to a "NewCo;"[12] and (d) a representative of GPI, on its own behalf and on behalf of WesternGeco, began negotiating a price with a representative of the Debtor for granting a new license to Upstream for the purpose of obtaining some of the Seismic Data previously licensed by WesternGeco to the Debtor.[13]

12. Contrary to Upstream's implication, the "evidence" does not show that WesternGeco had actual knowledge of the fact that that the Debtors intended to file a motion to assume and assign the Master License Agreement and the licensed Seismic Data to Upstream. To the contrary, it shows, as will be confirmed by testimony of WesternGeco's witnesses at the hearing on WesternGeco's Motion, that the Debtors, in December 2015 and January 2016, were in the midst of negotiating a price for granting Upstream a new license for some of the Seismic Data previously licensed by WesternGeco to the Debtor when, without telling WesternGeco (or GPI), the Debtors and Upstream went behind WesternGeco's back and, in an effort to avoid having to pay WesternGeco a new license fee, the Debtors and Upstream moved to have WesternGeco's Seismic Data to be transferred to Upstream for no additional consideration. Moreover, they did so without taking reasonable efforts to insure that WesternGeco received timely notice thereof so that WesternGeco could file an objection or otherwise properly protect its rights.

[11] Upstream's Response, p. 5. ¶16.
[12] Upstream's Response, pp. 6-7. ¶¶17 – 22.
[13] Upstream's Response, pp. 6-7. ¶¶20 – 22.

13. It may be that WesternGeco and/or GPI, contrary to what WesternGeco initially believed at the time it filed its Motion, did obtain general knowledge either in late 2015 or early January 2016 of the Debtors' bankruptcy proceeding. WesternGeco's initial allegations regarding that issue were based upon the information available to it at the time it filed the Motion. However, when assumption and assignment of executory contracts like the Master License Agreement are at issue, the law is clear that general knowledge of a bankruptcy proceeding is insufficient knowledge to meet the requirements of Due Process. *In re National Gypsum Co.*, 208 F.3d 498, 512-513 (5th Cir.), *U.S. cert. denied*, 121 S. Ct. 172 (2000).

14. Rather, in *National Gypsum*, the Fifth Circuit held that when a debtor desires to assume an executory contract, whether by motion or in a plan, the debtor has responsibility:

> to assure that the non-debtor party was on notice of the debtor's specific intent to assume the contract. Unless there is a showing that the non-debtor possessed actual knowledge of a sufficiently refined degree, the debtor must demonstrate delivery of the proposed plan of reorganization or some other court-ordered notice that set forth . . . [the debtor's] intent to assume the . . . [counter-party's contract]."

In re National Gypsum Co., 208 F.3d at 513. This strict adherence to the requirements of Bankruptcy Code §365 and Rules 6006 and 9014 is premised on concern with protecting unknowing contractual partners from the consequences of an assumption of which they had no notice and which they had no opportunity to contest. *Id.* at 512.

15. Thus, in *National Gypsum*, the Fifth Circuit overturned the bankruptcy court's decision upholding a debtor's assumption of an executory contract even though the contract counter-party was aware of the filing of the debtor's bankruptcy proceeding, the counter-party received status reports thereof, and the counter-party may have received various notices in the

bankruptcy case. *Id.* at 513-514. What was significant to the Fifth Circuit was that none of the reports and other documents received by the counter-party mentioned a bar date, assumption of the contract, deadlines for objections, the debtor's solicitation package, or the plan. *Id.* at 514.

16. The evidence will show that at most, WesternGeco may have been generally aware at some point in December 2015 or early January 2016 of the Debtors' bankruptcy proceeding. WesternGeco may have also been generally aware of ongoing negotiations at that time with the Debtors regarding the possibility of the Debtors, for a fee, assuming and assigning the Master License Agreement and the Seismic Data to Upstream or entering into a new license agreement with Upstream for some of the seismic. Nevertheless, at no time prior to the passage of the deadline for objecting to the assumption and assignment of the Master License Agreement and Seismic Data to Upstream did WesternGeco receive any written or other notice that any proceeding had been instituted in the Debtors' bankruptcy proceeding to do so, of any bar date for filing an objection to same, of the procedures approved in the bankruptcy in connection therewith, or of the effect of missing the bar date for objecting thereto. In fact, up until it received the Supplemental Assumption Notice on January 28, 2016, after the objection deadline had already passed, WesternGeco had not been served with or received **any** notices in the Debtors' bankruptcy proceedings.

17. Thus, the evidence makes it clear that WesternGeco had no actual knowledge "of a sufficiently refined degree" to meet the requirements of *National Gypsum* or pass Constitutional muster. This is especially the case where, as here, the Debtors, by their own admission, were at the time at least outwardly in the process of negotiating a transfer or purchase fee with WesternGeco, lulling WesternGeco into the belief that there was no need for it to take any other

action in the bankruptcy proceeding to protect its rights, and the Debtors then "pulled the rug" out from under WesternGeco by filing the Supplemental Assumption Notice without telling WesternGeco that it had done so or otherwise insuring timely service thereof on WesternGeco so that WesternGeco could object or otherwise protect its interests.

D. WESTERNGECO'S MOTION IS NOT AN IMPROPER COLLATERAL ATTACK ON THE SALE ORDER

18. Upstream asserts that WesternGeco' Motion is an "improper collateral attack" on the Sale Order; however, Fed. R. Civ. P. 60(b), made applicable by Fed. R. Bankr. P. 9024, specifically provides that, on motion and just terms, a court may relieve a party from a final judgment, order, or proceeding for reasons including "(1) mistake, inadvertence, surprise, or excusable neglect…(4) the judgment is void…or (6) any other reason that justifies relief." It has been specifically held that a bankruptcy sale order is a final judgment that can be vacated under Fed. R. Bankr. P. 9024 and Fed. R. Civ. P. 60. *See, e.g., In re Noram Res., Inc.*, No. 08-38222, 2011 WL 6936361, at *9-10 (Bankr. S.D. Tex. Dec. 30, 2011). *See also, In re BFW Liquidation, LLC*, 471 B.R. 652, 670 (Bankr. N.D.Ala. 3/26/12). The only requirements regarding the timing of filing of such a motion are that a motion under Rule 60(b) must be made within a "reasonable time" and for reasons (1), (2), and (3) no more than a year after the entry of the judgment or order or the date of the proceeding. Fed. R. Civ. P. 60(c). However, it has been held that motions brought pursuant to Rule 60(b)(4) (relief from judgment based on voidness) have no set time limit. *See Carter v. Fenner*, 136 F .3d 1000, 1006 (5th Cir.), *U.S. cert. denied*, 119 S.Ct. 591 (1998) ("[t]here is no time limit on an attack on a judgment as void."). *See also, In re Aztec Supply Corp.*, 399 B.R. 480, 492 (Bankr. N.D. Ill. 2009).

19. As discussed in more detail in WesternGeco's original Motion, waiting until

February 11, 2016 (14 days after first learning of the filing of the Supplemental Assumption Notice) to obtain counsel, investigate the matter, conduct necessary research, and file its Late-filed Objection to the Supplemental Notice and the Sale Motion [Dkt. 417] cannot possibly be considered unreasonable. Nor can it be considered unreasonable for WesternGeco to have waited until February 26, 2016 to file the instant Motion, in order to give it the opportunity to investigate and research the facts and law surrounding that issue.

20. All in all, WesternGeco ultimately filed the instant pleadings and took the appropriate steps to attempt to protect its interests less than a month after first being informed of the fact that its Master License Agreement and Seismic Data had, without its previous knowledge, consent or ability to object, already apparently been assumed and assigned by the Debtor to Upstream. On the other hand, the Debtors and Upstream knew, as early as November 6, 2015 when the Debtors filed their Sale Motion [Dkt. No. 90], and likely much earlier, that they intended to sell substantially all of the Debtors' assets and assign the Master License Agreement and WesternGeco's Seismic Data to Upstream. Yet they waited until over two (2) months later, and then belatedly after the objection deadline had already passed, to give WesternGeco any notice thereof. Clearly under those circumstances, the timing of the filing of WesternGeco's Motion cannot be considered to have been unreasonable within the meaning of Fed. R. Civ. P. 60(c).

E. THE VIABILITY OF WESTERNGECO'S ARGUMENT THAT ITS LICENSED SEISMIC DATA IS PROTECTED FROM ASSIGNMENT BY COPYRIGHT LAW AND, ACCORDINGLY, IS NOT ASSIGNABLE UNDER BANKRUPTCY CODE § 365 (c)(1)(A) IS NOT BEFORE THE COURT ON THIS MOTION BUT IS SUPPORTED BY COMPETENT EVIDENCE

21. Finally, Upstream asserts that WesternGeco does not cite a single case where any court has found that seismic data is subject to copyright protection, and that the court in *In re*

Virgin Offshore USA, Inc., 2013 WL 4854312 (E.D. La. 9/10/13), dismissed WesternGeco's argument.[14]

22. Actually, the court in *Virgin Offshore* did not dismiss WesternGeco's argument. Rather, the court in that case dismissed the argument made by the seismic company involved there, TGS–Nopec Geophysical Company, L.P. ("TGSN"). And while indeed, the court did so, the Eastern District of Louisiana did find that the seismic license agreement was an executory contract under Bankruptcy Code §365. *Id.* at *2. In addition, the court found that the argument regarding seismic data being protected by copyright law, although suffering from "a lack of affirmative support," was "novel" and that there is "just as significant a lack of cases refuting . . . [TGS'] position." *Id.* *3. Perhaps most importantly, in *Virgin*, TGSN simply did not put on sufficient evidence to prove to the court the applicability of the Copyright laws ("though the Court recognizes the potential of . . . [TGSN's] argument, TGSN simply does not provide enough proof to allow the Court to make this leap).[15] *Id.* at *4.

23. In any event, the viability of WesternGeco's argument that its licensed seismic data is protected from assignment by Copyright law and, accordingly, is non-assignable under Bankruptcy Code § 365 (c)(1)(a) is not before the Court on this Motion.

II. CONCLUSION

For the reasons set forth above and in the original Motion filed by WesternGeco, WesternGeco respectfully requests that the Court, pursuant to Fed. R. Bankr. P. 9024 and Fed. R. Civ. P. 60, vacate the Court's (1) Order Authorizing and Approving (a) Stalking Horse Purchase

[14] Upstream's Response, p. 18, ¶62.

[15] Further, it is significant that in *Virgin*, the seismic license agreement at issue did not purport to establish or contain any agreement that the licensed seismic was protected by copyright while, the Master License Agreement here plainly does. *Id*. at *4. And, the court in *Virgin* found that TGSN, in its license agreement, had agreed to an assignment. *Id.* at *6. That is different than the facts here.

Agreement, (b) Bidding Procedures, (c) Procedures for Determining Cure Amounts for Assumption and Assignment of Executory Contracts and Unexpired Leases and (d) Related Relief [Dkt. No. 180] and the Court's (2) Order Authorizing and Approving the Debtors to (I) Sell Substantially all of their Property Free and Clear of all Rights, Liens, Claims, and Encumbrances, (II) Authorizing the Debtors to Assume and Assign Certain Executory Contracts and Unexpired Leases and (III) Granting Related Relief [Dkt. No. 377] to the extent that these orders approve of the assumption, assignment and/or sale of WesternGeco's Master License Agreement and/or licensed Seismic Data or otherwise affect WesternGeco's rights or interests, and grant WesternGeco such other and further relief as is just and equitable.

Respectfully submitted:

/s/ Andrew A. Braun
ANDREW A. BRAUN
Texas Bar No. 24061558
GIEGER, LABORDE & LAPEROUSE, L.L.C.
Suite 4800 - One Shell Square
701 Poydras Street
New Orleans, Louisiana 70139-4800
Telephone: (504) 561-0400
Facsimile: (504) 561-0100
Email: abraun@glllaw.com

And

MARGARET V. GLASS
Texas State Bar No. 24091315
GIEGER, LABORDE & LAPEROUSE, L.L.C.
5151 San Felipe, Suite 750
Houston, Texas 77056
Telephone: (832) 255-6000
Facsimile: (832) 255-6001
Email: mglass@glllaw.com
Counsel for WesternGeco, L.L.C.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was served via electronic mail on the 23rd day of March, 2016, to all parties in interest listed on the ECF service list requesting notice.

/s/ Andrew A. Braun