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8 Attorneys for Plaintiff Seymour Levine

9 UNITED STATES DISTRICT COURT

10 CENTRAL DISTRICT OF CALIFORNIA

11 WESTERN DIVISION

12 Seymour Levine, an individual

13 Plaintiff,

14 v.

15 The Boeing Company, a Delaware
16 Corporation,

17 Defendant.

CASE NO.

COMPLAINT FOR PATENT
18 INFRINGEMENT AGAINST BOEING

19 DEMAND FOR JURY TRIAL

1 **COMPLAINT**

2 Plaintiff Seymour “Sy” Levine, by and through his undersigned attorneys, for
3 his Complaint against Defendant The Boeing Company alleges as follows:
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5 **JURISDICTION AND VENUE**

6 1. This Court has original jurisdiction over the patent infringement claims
7 in this action under 28 U.S.C. §§ 1331 and 1338(a).

8 2. Venue is established in this judicial district pursuant to 28 U.S.C.
9 §§ 1391(c) and 1400(b).
10

11 **NATURE OF THE ACTION**

12 3. This is a civil action for infringement of United States Patent No.
13 RE39,618 (the “Patent-in-Suit”). This action arises under the patent laws of the
14 United States, 35 U.S.C. § 1 *et seq.*
15

16 **PARTIES**

17 4. Plaintiff Seymour “Sy” Levine is an individual residing at 4928
18 Maytime Lane, Culver City, CA 90230. Mr. Levine is the sole inventor of the
19 Patent-in-Suit.

20 5. On information and belief, Defendant The Boeing Company
21 (“Boeing”) is a Delaware Corporation whose affiliations within this judicial district
22 are so continuous and systematic as to render it essentially at home in this judicial
23 district. In addition, on information and belief Boeing has infringed the Patent-in-
24 Suit within this judicial district. Boeing Commercial Airplanes, a division of
25 Boeing and the business unit responsible for the activity alleged herein to infringe
26 the Patent-in-Suit, operates and is expanding the Boeing Commercial Airplanes
27 Engineering Design Center at facilities within this District in Long Beach and Seal
28 Beach, California. The Engineering Design Center is responsible for, among other

1 things, ongoing support for a number of Boeing commercial aircraft models which
2 include or can be retrofitted to include the features alleged herein to infringe the
3 Patent-in-Suit. In addition, Boeing has and continues to operate aircraft test and
4 logistics facilities in this judicial district, including in Palmdale, Victorville, and San
5 Bernardino, California from where Boeing uses the system alleged herein to infringe
6 the Patent-in-Suit. Boeing also has facilities in Anaheim and El Segundo,
7 California, within this judicial district. Boeing has also repeatedly availed itself to
8 the courts in this judicial district to resolve civil disputes with other parties. By
9 virtue of these and other activities in this judicial district, both contemporaneous and
10 historical, Boeing's affiliations with this judicial district are so continuous and
11 systematic as to render it essentially at home in this judicial district.

12
13 **FACTUAL BACKGROUND**

14 6. Mr. Levine is a Senior Life Member of the IEEE with an M.Sc. in
15 electrical engineering who, although now retired, spent many years working for
16 and/or consulting with many of the largest aerospace companies in the world. In
17 1995, Mr. Levine retired as Chief Engineer at Northrop Grumman's Electronic
18 Systems Division where he was, among other things, in charge of the inertial
19 navigation system for the B-2 Stealth Bomber and the Automatic Test Equipment
20 (ATE) of the Peacekeeper Missile. Before joining Northrop, Mr. Levine worked on
21 navigation and guidance systems at both Litton Guidance & Control and Sperry
22 Gyroscope Company and one of his early patents reads on the first inertial
23 navigation system used in a Boeing commercial aircraft. Mr. Levine is a named
24 inventor on twelve U.S. patents, ranging in fields from inertial navigation to
25 remotely piloted vehicles.

26 7. After retiring in 1995, Mr. Levine developed and patented a number of
27 technologies related to the safety of commercial aviation, including the Patent-in-
28 Suit, which the United States Patent and Trademark Office issued as U.S. Patent No.

1 RE39,618 (the “‘618 patent”) on May 8, 2007 as a reissue of U.S. Patent No.
2 5,974,349, claiming priority to U.S. Patent No. 5,890,079, filed December 17, 1996.
3 A true and correct copy of the ‘618 patent is attached to this Complaint as Exhibit
4 A.

5 8. Defendant Boeing offers its commercial aircraft customers a service
6 that allows Boeing to actively monitor the health of an aircraft while it is in flight in
7 order to provide real-time maintenance advice. Boeing’s Airplane Health
8 Management system (“AHM”) consists of one or more transmitters onboard the
9 aircraft that communicates in-flight aircraft performance data to a Boeing-operated
10 ground station, where Boeing monitors thousands of aircraft parameters; analyzes
11 these parameters in the context of the particular aircraft’s configuration and history
12 as well the historical performance of other similar aircraft in the Boeing fleet; and
13 provides its customers real-time advice concerning anticipated maintenance needs.
14 As of August 2014, Boeing claimed that AHM is used by more than 70 airline fleets
15 worldwide as part of the Boeing Edge system, which is designed to “drive optimized
16 performance, efficiency and safety across customer operations.” AHM, is used on a
17 number of different Boeing aircraft models, including many 737s, 747s, 757s, 767s,
18 MD-10s, MD-11s, Boeing Business Jets, most 777s, all Boeing 787s and, as
19 hereinafter alleged, infringes the Patent-in-Suit.

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21 **COUNT I - PATENT INFRINGEMENT**

22 9. Plaintiff re-alleges and incorporates herein by this reference paragraphs
23 1 through 8, inclusive, as though fully set forth in this paragraph.

24 10. Boeing makes, uses, sells and offers for sale in the United States
25 aircraft and services incorporating the AHM system, and components thereof,
26 which, together with at least one Boeing ground station infringe one or more claims
27 of the ‘618 patent.
28

1 11. Boeing is not licensed or otherwise authorized to make or use the
2 apparatuses claimed in the '618 patent.

3 12. On information and belief, Boeing's infringement of the '618 patent
4 has been and continues to be willful, at least in part because Boeing was aware of
5 U.S. Patent No. 5,974,359, which was reissued as the '618 Patent-in-Suit and which
6 was cited as prior art during the prosecution of at least 10 of Boeing's patents.
7 Moreover, Mr. Levine presented a paper describing his invention at the NTSB
8 International Conference on Transportation Recorders entitled "The Remote Aircraft
9 Flight Recorder and Advisory Telemetry System, RAFT (Patented)." On
10 information and belief, one or more Boeing engineers was present at that
11 symposium.

12 13. By reason of Defendant Boeing's infringing activities, Mr. Levine has
13 suffered, and will continue to suffer, substantial damages in an amount no less than
14 a reasonable royalty.

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PRAYER FOR RELIEF

Wherefore, Plaintiff respectfully prays for judgment against Defendant as follows:

(a) A judgment holding Boeing liable for infringement of United States Patent No. RE39,618;

(b) An award to Mr. Levine of all available and legally permissible damages caused by Defendant’s infringing acts, but in no event less than a reasonable royalty and prejudgment and post-judgment interest thereon;

(c) A judgment holding that Boeing’s infringement is willful and enhanced damages pursuant to 35 U.S.C. § 284;

(d) A judgment holding this case to be an exceptional case under 35 U.S.C. § 285, and on such basis, an award of attorney fees for Plaintiff against Defendant Boeing; and

(e) Such other and further relief as this Court deems just and proper.

DATED: September 3, 2014

QUINN EMANUEL URQUHART &
SULLIVAN. LLP

By/s/ Frederick A. Lorig

Frederick A. Lorig
Bruce R. Zisser
Amar L. Thakur
Attorneys for Plaintiff Sevmour Levine

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JURY DEMAND

Pursuant to Fed. R. Civ. P. 38(b), Seymour Levine demands a trial by jury on all matters and issues triable by jury.

DATED: September 3, 2014

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By /s/ Frederick A. Lorig
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