

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

Seymour Levine, an individual)	
)	
Plaintiff,)	
)	Case No. 14-cv-7587
v.)	
)	
The Boeing Company, a Delaware Corporation,)	DEMAND FOR JURY TRIAL
)	
Defendant.)	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Seymour “Sy” Levine, by and through his undersigned attorneys, for his Complaint against Defendant The Boeing Company alleges as follows:

JURISDICTION AND VENUE

1. This Court has original jurisdiction over the patent infringement claims in this action under 28 U.S.C. §§ 1331 and 1338(a).
2. Venue is established in this judicial district pursuant to 28 U.S.C. §§ 1391(c) and 1400(b).

NATURE OF THE ACTION

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

PARTIES

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

5. On information and belief, Defendant The Boeing Company (“Boeing”) is a Delaware Corporation with its corporate headquarters at 100 North Riverside Plaza, Chicago, Illinois 60606.

FACTUAL BACKGROUND

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

7. After retiring in 1995, Mr. Levine developed and patented a number of technologies related to the safety of commercial aviation, including the Patent-in-Suit, which the United States Patent and Trademark Office issued as U.S. Patent No. RE39,618 (the “‘618 patent”) on May 8, 2007 as a reissue of U.S. Patent No. 5,974,349, claiming priority to U.S. Patent No. 5,890,079, filed December 17, 1996. A true and correct copy of the ‘618 patent is attached to this Complaint as Exhibit A.

8. Defendant Boeing offers its commercial aircraft customers a service that allows Boeing to actively monitor the health of an aircraft while it is in flight in order to provide real-time maintenance advice. Boeing’s Airplane Health Management system (“AHM”) consists of

one or more transmitters onboard the aircraft that communicates in-flight aircraft performance data to a Boeing-operated ground station, where Boeing monitors thousands of aircraft parameters; analyzes these parameters in the context of the particular aircraft's configuration and history as well the historical performance of other similar aircraft in the Boeing fleet; and provides its customers real-time advice concerning anticipated maintenance needs. As of August 2014, Boeing claimed that AHM is used by more than 70 airline fleets worldwide as part of the Boeing Edge system, which is designed to "drive optimized performance, efficiency and safety across customer operations." AHM, is used on a number of different Boeing aircraft models, including many 737s, 747s, 757s, 767s, MD-10s, MD-11s, Boeing Business Jets, most 777s, all Boeing 787s and, as hereinafter alleged, infringes the Patent-in-Suit.

COUNT I - PATENT INFRINGEMENT

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

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

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

12. On information and belief, Boeing's infringement of the '618 patent has been and continues to be willful, at least in part because Boeing was aware of U.S. Patent No. 5,974,359, which was reissued as the '618 Patent-in-Suit and which was cited as prior art during the prosecution of at least 10 of Boeing's patents. Moreover, Mr. Levine presented a paper describing his invention at the NTSB International Conference on Transportation Recorders

entitled “The Remote Aircraft Flight Recorder and Advisory Telemetry System, RAFT (Patented).” On information and belief, one or more Boeing engineers was present at that symposium.

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

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.

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 29, 2014

Respectfully submitted,

By: */s/ David A. Nelson*

Frederick A. Lorig (*pro hac vice* to be filed)

Amar L. Thakur (*pro hac vice* to be filed)

Bruce R. Zisser (*pro hac vice* to be filed)

Quinn Emanuel Urquhart & Sullivan LLP

865 South Figueroa Street. 10th Floor

Los Angeles, CA 90017

Phone: (213) 443-3000

Email: fredlorig@quinnemanuel.com

amarthakur@quinnemanuel.com

brucezisser@quinnemanuel.com

David A. Nelson

Quinn Emanuel Urquhart & Sullivan LLP

500 West Madison St., Suite 2450

Chicago, IL 60661

Phone: (312) 463-2965

Email: davenelson@quinnemanuel.com

Attorneys for Plaintiff Seymour Levine