

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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THE BOEING COMPANY,  
Petitioner,

v.

SEYMOUR LEVINE,  
Patent Owner.

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Case IPR2015-01341  
Patent RE39,618

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Before MICHAEL W. KIM, TRENTON A. WARD, and  
DANIEL N. FISHMAN, *Administrative Patent Judges*.

WARD, *Administrative Patent Judge*.

ORDER  
Conduct of Proceeding  
37 C.F.R. § 42.5

A conference call was held on January 15, 2016, and attended by the respective counsel for the parties. Petitioner requests the Board's authorization to file a Motion to Submit Supplemental Information pursuant to 37 C.F.R. § 42.123(a).

Petitioner seeks to file a Motion to Submit Supplemental Information in an effort to add testimony to the Declaration of Dr. Albert Helfrick submitted as Exhibit 1002. Petitioner indicated that it seeks to add two to three pages of testimony from Dr. Helfrick. Patent Owner opposes the request for authorization to file a Motion to Submit Supplemental Information.

Petitioner's request for authorization was made "within one month of the date the trial instituted"; thus, it is subject to the requirements of 37 C.F.R. § 42.123(a). Petitioner indicated that the supplemental information is "relevant to a claim for which trial has been instituted," as required by 37 C.F.R. § 42.123(a)(2), because the additional testimony is directed to a limitation in one or more of the claims challenged in U.S. Patent No. RE39,618 (Ex. 1001) for which a trial has been instituted. In view of the

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circumstances of this case, we authorize Petitioner to file a Motion to Submit Supplemental Information as set forth below.

### ORDER

In consideration of the foregoing, it is hereby:

ORDERED that Petitioner is authorized to file a Motion to Submit Supplemental Information by January 27, 2016, limited to five pages;

FURTHER ORDERED that Patent Owner is authorized to file an Opposition by February 3, 2016, limited to five pages; and

FURTHER ORDERED that no reply is authorized.

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PETITIONER:

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