

Submitted on behalf of Seymour Levine

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

THE BOEING COMPANY
Petitioner,

v.

SEYMOUR LEVINE
Patent Owner

Case IPR2015-01341

Patent RE039,618

**DECLARATION OF JOHN F. GRABOWSKY IN SUPPORT OF PATENT
OWNER'S RESPONSE PURSUANT TO 37 C.F.R. § 42.120**

I, John F. Grabowsky, declare as follows:

1. I have been retained by counsel for Patent Owner Seymour Levine as an expert witness to provide testimony in the above-captioned *Inter Partes* Review proceeding including on issues relating to the validity of U.S. Reissue Patent RE39,618 (“the ’618 patent”) entitled Remote, Aircraft, Global, Paperless Maintenance System. I make this Declaration based upon facts and matters within my own knowledge.

2. In this IPR, I understand that the Patent Office has instituted a review of claims 4, 5, 8, 9, 10, 14 and 16 of the ’618 patent based on various combinations of references.

3. In preparation for this declaration, I have reviewed and am now familiar with the following materials:

- a. The ’618 patent including the specification and claims (Ex. 1001);
- b. Petition for *Inter Partes* Review of the ’618 patent dated June 4, 2015;
- c. Declaration of Dr. Albert Helfrick in Support of Petition for *Inter Partes* Review of U.S. Patent No. RE 39,618 (Ex. 1002);
- d. Decision on Institution of *Inter Partes* Review of the ’618 patent dated December 21, 2015;
- e. Aeronautical Radio, Inc., Design Guidance for Onboard Maintenance System: ARINC Characteristic 624-1 (1993) (“ARINC 624-1”) (Ex. 1014);
- f. Ward, Power Plant Health Monitoring-The Human Factor, Royal Aeronautical Society, Tenth Annual Symposium (1992) (“Ward”) (Ex. 1015);

- g. Aeronautical Radio, Inc., Flight Management Computer System: ARINC Characteristic 702-6 (1994) (“ARINC 702-6”) (Ex. 1016);
- h. Farmakis et al., U.S. Patent No. 5,714,948 (“Farmakis”) (Ex. 1021);
- i. Chetail, Le CFM 56-6 Sur A320 A Air France, NATO Advisory Group for Aerospace Research and Development, June 1988 (“Chetail”) (Ex. 1018);
- j. Dyson, Commercial Engine Monitoring Status At GE Aircraft Engines, NATO Advisory Group for Aerospace Research and Development, June 1988 (“Dyson”) (Ex. 1019).

4. In making the statements, and reaching my opinions and conclusions stated herein, I have considered the documents cited above in the context of my own education, training, knowledge, and personal and professional experience, including knowledge of the state of the art and the perspective of a person of ordinary skill in the art at the time of the invention of the subject matter described and claimed in the '618 patent (*i.e.*, 1995).

5. I am being compensated for my time in connection with this IPR at a rate of \$500 per hour. My compensation is in no way dependent on, nor affects, the substance of my statements in this Declaration. I have no direct financial interest in the '618 patent.

I. BACKGROUND AND QUALIFICATIONS

6. I have more than 45 years experience in the aerospace industry. I earned a Bachelor's Degree in Electrical Engineering from Lehigh University in 1969 and have worked in both the defense and commercial aerospace sectors throughout my career. I was most recently the Chief Technology Office of AeroVironment, Inc., where, among other responsibilities, I assisted in establishing technical direction for Unmanned Aircraft Systems.

7. I am the named inventor on a patent directed to an aircraft flight data acquisition and transmission system for commercial aircraft. My Curriculum Vitae detailing my experience and qualifications is attached as Exhibit 2012.

II. ONE OF ORDINARY SKILL IN THE ART

8. Based on the technologies disclosed in the '618 patent, one of ordinary skill in the art would have at least a B.S. degree in electrical, systems, or computer engineering, or an FAA Mechanic Certificate with an airframe rating in accordance with 14 CFR part 65.71 and 65.85; as well as either an M.S. or equivalent work experience, such as 3-5 years of experience in avionics.

9. As a result of my more than 45-years' experience in the aerospace industry, I am very familiar with technology at issue. Accordingly, I am qualified to provide expert opinions on the technology described in the '618 patent as well as the teachings of the cited references.

III. LEGAL STANDARDS

A. Claim Construction Standard

10. I understand that in this *Inter Partes* Review, claims are to be given their broadest reasonable construction in light of the specification as would be read by a person of ordinary skill in the relevant art at the time of the invention.

B. Obviousness

11. I have an understanding of the term “obviousness” based on my experience with patents and based upon explanations provided to me by counsel in this and other matters.

12. I understand that to establish obviousness, one must construe the scope of the prior art, identify the differences between the claims and the prior art, and determine the level of skill in the pertinent art at the time of the invention. There then must be an explicit, cogent reason based on the foregoing why it would be obvious to modify the prior art to arrive at the claimed invention.

13. It is my understanding that the analysis of the prior art with respect to a determination of obvious/non-obviousness includes evidence relevant to the finding of whether there is a teaching, motivation, or suggestion to select and combine the references relied on as evidence of obviousness, though the analysis is not limited to these issues. It is my further understanding that the motivation, suggestion or teaching may come explicitly from statements in the prior art, the

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