

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 No. IPR2015-01341  
U.S. Patent No. RE39,618

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**PETITIONER'S MOTION TO EXPUNGE**

Petitioner, The Boeing Company, moves to expunge originally filed Exhibits 1044 and 1045 (Docket Nos. 80 and 81) filed on July 5, 2016, and to file substitute Exhibits 1044 and 1045.

Originally filed Exhibits 1044 and 1045 were filed in error. As filed, both documents were inadvertently mislabeled “Exhibit 1043” in the footer on each page. The mistake was discovered the same day as the original exhibits were filed. Correctly labeled substitute exhibits were provided to Petitioner’s counsel the same day.

The guidance provided in question A9 in the Frequently Asked Questions section of the Board’s e-filing and case management website states that, if the wrong document is submitted through the e-filing interface, the filing party “should file the correct document and a motion to expunge the wrong document as soon as possible. Any motion to expunge filed on the same day as the wrong document will generally be granted.”

Good cause exists to grant this motion. Petitioner has filed the motion as soon as possible and on the same day as the erroneous filing, as the Frequently Asked Questions website instructs. Correction of the labels on Exhibits 1044 and 1045 will avoid any confusion created by the mislabeling. Substituting the correctly labeled exhibits for the incorrectly labeled exhibits would also avoid the need to re-file the paper that cites Exhibits 1044 and 1045.

Patent Owner has indicated that he does not oppose Petitioner's motion to expunge originally filed Exhibits 1044 and 1045 and substitute correctly labeled Exhibits 1044 and 1045.

Accordingly, Petitioner respectfully requests that this motion be granted.

Dated: July 5, 2016

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the foregoing MOTION TO EXPUNGE and corrected Exhibits 1044-1045 was served in its entirety on July 5 2016, upon the following counsel for Patent Owner via e-mail, pursuant to the parties' agreement concerning service:

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Dated: July 5, 2016

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