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THE HONORABLE ROBERT S. LASNIK

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SEYMOUR LEVINE,

Plaintiff,

vs.

THE BOEING COMPANY,

Defendant.

Case No. 2:14-cv-1991-RSL

**JOINT CLAIM CONSTRUCTION AND
PREHEARING STATEMENT**

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1 Pursuant to LPR 132 and the Court’s scheduling order (Dkt. 53), Plaintiff Seymour Levine
2 and Defendant The Boeing Company (“Boeing”) submit this Joint Claim Construction and
3 Prehearing Statement.

4 **A. LPR 132(a): Terms Proposed for Construction on Which the Parties Agree**

5 The parties agree that the terms “transmitter portable” and “transmitter positionable,” in
6 claims 4 and 14, respectively, should each be construed to mean “a removable device for
7 generating radio frequency signals.”

8 **B. LPR 132(b): Each Party’s Proposed Claim Constructions and Supporting
9 Evidence**

10 A side-by-side comparison of the parties’ respective proposed constructions, an
11 identification of the party proposing the construction, and an identification of the intrinsic
12 evidence that each party intends to rely upon supporting that party’s construction, and the extrinsic
13 evidence that each party intends to rely upon, either to support its proposed construction of the
14 claim terms or to oppose the other party’s proposed construction, are provided in Exhibit 1.

15 Each party has served (or, concurrently with this filing, will serve) the extrinsic evidence
16 on which it intends to rely, and the parties intend to file the relevant intrinsic and extrinsic
17 evidence in conjunction with their claim construction briefs. The parties will provide the Court
18 with copies of the intrinsic and extrinsic evidence before the filing of the claim construction briefs
19 if the Court so instructs.

20 **C. LPR 132(c): Identification of Significant Terms**

21 The parties dispute fewer than ten claim terms.

22 The parties believe that construction of the terms identified would be most helpful in
23 narrowing the infringement and validity issues, and thus the most productive in setting the
24 groundwork for possible settlement.

25 **D. LPR 132(d): Length of Claim Construction Hearing**

26 The parties agree that approximately half a day, divided equally between the parties, would
27 be an appropriate and adequate time to set aside for the claim construction hearing.

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1 **E. LPR 132(e): Proposed Order of Presentation at Claim Construction Hearing**

2 The parties suggest a term-by-term order of presentation at the claim construction hearing,
3 with the party presenting first to alternate from term to term. Specifically, the parties suggest the
4 following order of presentation:

- 5 • Plaintiff will address “digital aircraft performance data” and “aircraft performance
6 and control parameters,” then Defendant will address those terms, and then Plaintiff
7 will reply;
- 8 • Defendant will address the “central station” and “ground based station” terms, then
9 Plaintiff will address those terms, and then Defendant will reply;
- 10 • Plaintiff will address “configuration label,” then Defendant will address that term,
11 and then Plaintiff will reply; and
- 12 • Defendant will address “sensor multiplexer,” then Plaintiff will address that term,
13 and then Defendant will reply.

14 **F. LPR 132(f): Witness and/or Expert Testimony**

15 Neither party intends to call any witnesses at the claim construction hearing. The parties
16 agree that the claim construction hearing will not be an evidentiary hearing.

17 Boeing intends to rely on the declaration of an expert, Professor R. John Hansman, and
18 will serve Mr. Levine with a copy of Professor Hansman’s declaration concurrently with this
19 filing.

20 If the Court decides to consider Boeing’s expert declaration, over Levine’s objection,
21 Levine intends to offer a declaration from his expert, Mr. John Grabowsky, in response to the
22 Hansman declaration. The parties have agreed that Levine will serve Boeing with the Grabowsky
23 declaration no later than August 27, 2015.

24 **G. LPR 132(g): Tutorial**

25 The parties agree that a tutorial to assist the Court in understanding the underlying
26 technology may be helpful. Each party is available to present its respective tutorial either
27 immediately before the claim construction hearing, or in advance of the claim construction
28 hearing, at the Court’s convenience.

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H. LPR 132(h): Prehearing Conference

As stated above, if the Court desires tutorials in advance of the claim construction hearing, both parties are available at the Court’s convenience before the claim construction hearing. Otherwise, the parties agree that a prehearing conference before the claim construction hearing should not be necessary.

I. LPR 132(i): Appointment by the Court of an Independent Expert

As previously stated in the Joint Status Report (Dkt. 52 at 8), Levine does not believe that the straightforward issues in this case warrant the appointment and expense of a technical advisor.

As previously stated in the Joint Status Report (Dkt. 52 at 8), Boeing believes that the Court should appoint a technical advisor to aid in understanding the technology underlying the patent and the specification and claim terms, with the costs to be shared equally between the parties.

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1 DATED: August 6, 2015

2 s/ Bruce R. Zisser

3 Jenny A. Durkan, WSBA 15751
4 QUINN EMANUEL URQUHART &
5 SULLIVAN LLP
6 600 University Street, Suite 2800
7 Seattle, WA 98101
8 jennydurkan@quinnemanuel.com
9 Tel: 206.905.7074

7 Frederick A. Lorig
8 Amar L. Thakur
9 Bruce R. Zisser

9 QUINN EMANUEL URQUHART &
10 SULLIVAN LLP
11 865 South Figueroa Street, 10th Floor
12 Los Angeles, CA 90017
13 Tel: 213.443.3000

14 *Attorneys for Plaintiff Seymour Levine*

s/ Adam R. Lawton

Ted Dane (admitted *pro hac vice*)
Peter E. Gratzinger (admitted *pro hac vice*)
Adam R. Lawton (admitted *pro hac vice*)
MUNGER, TOLLES & OLSON LLP
355 S. Grand Ave., 35th Floor
Los Angeles, CA 90071
Tel: 213.683.9100
ted.dane@mto.com
peter.gratzinger@mto.com
adam.lawton@mto.com

Rohit K. Singla (admitted *pro hac vice*)
MUNGER, TOLLES & OLSON LLP
560 Mission Street, 27th Floor
San Francisco, CA 94105-2907
Tel: 415.512.4000
rohit.singla@mto.com

Ryan J. McBrayer WSBA #28338
PERKINS COIE LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Tel: 206.359.3073/Fax: 206.359.4073
RMcBrayer@perkinscoie.com

Attorneys for Defendant The Boeing Company

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