

Filed 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 IPR2016-00023

Patent RE039,618

**PATENT OWNER'S OPPOSITION TO PETITIONER'S MOTION FOR
JOINDER PURSUANT TO 37 C.F.R. § 42.23**

Patent Owner Seymour Levine (“Levine”) hereby submits this opposition to Petitioner’s Motion for Joinder, filed on January 21, 2016. (Paper No. 7).

Petitioner The Boeing Company (“Boeing”) has engaged in a multi-pronged effort to supplement the evidence presented in its original petition to, by its own admission, “address purported deficiencies raised in the PO Preliminary Response in IPR2015-01341.” Paper 1 at 1. In addition to filing the instant petition, which it admits “is substantively identical to the first petition with the exception of five additional paragraphs in the expert declaration and exhibits referenced therein,” Mot. at 1, Boeing has filed a motion to submit supplemental information in IPR2015-01341 (the “’1341 case”), to add those same five paragraphs to that case. ’1341 case, Paper 21.

Levine has opposed both of these efforts. In its Preliminary Response to Boeing’s petition in this case, Levine asks the Board to exercise its discretion under 35 U.S.C. § 325(d) to deny Boeing’s second petition because, among other reasons, to do otherwise would only “encourag[e], unnecessarily, the filing of petitions which are partially inadequate.” *ZTE Corp. v. ContentGuard Holdings, Inc.*, Case IPR2013-00454, slip op. at 5–6 (PTAB Sept. 25, 2013) (Paper 12)(informative). Paper 6.

In the ’1341 case, Levine opposed Boeing’s motion to submit supplemental information for the same reasons and, among others, because it seeks to improperly

“bolster the evidence originally submitted in support of the Petition” without explaining why that information could not have been submitted with the petition. *See, Mitsubishi Plastics, Inc., v. Celgard, LLC*, Case IPR2014-00524, slip op. at 5-6 (PTAB Nov. 28, 2014) (Paper 30). ’1341 case, Paper 23.

For all of the reasons set forth in Levine’s Preliminary Response in this case and in its opposition to Boeings motion to submit supplemental information in the ’1341 case, Levine continues to oppose Boeing’s effort to insert the additional evidence into these proceedings.

If, however, the Board decides to institute a trial in this case, Levine does not oppose having this case joined with the ’1341 case.

Date: February 22, 2016

Respectfully submitted,

By: /Bruce R. Zisser, Reg. No. 40,884/
Bruce R. Zisser, Reg. No. 40,884
QUINN EMANUEL URQUHART &
SULLIVAN LLP
865 S. Figueroa St., 10th Floor
Los Angeles, CA 90017
General Tel: (213) 443-3000
Direct Tel: (213) 443-3434
Fax: (213) 443-3100
Email: brucezisser@quinnemanuel.com

*Attorney for Patent Owner –
Seymour Levine*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing PATENT OWNER'S OPPOSITION TO PETITIONER'S MOTION FOR JOINDER PURSUANT TO 37 C.F.R. § 42.23 was served electronically via e-mail on February 22, 2016, in its entirety on the following:

Ryan J. McBrayer (Reg. No. 54,299)
Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101
RMcBrayer@perkinscoie.com

Chun M. Ng
Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101
CNg@perkinscoie.com

Date: February 22, 2016

Respectfully submitted,

By: /Bruce R. Zisser, Reg. No. 40,884/
Bruce R. Zisser, Reg. No. 40,884
Lead Attorney for Patent Owner
QUINN EMANUEL URQUHART &
SULLIVAN LLP
865 S. Figueroa St., 10th Floor
Los Angeles, CA 90017
General Tel: (213) 443-3000
Direct Tel: (213) 443-3434
Fax: (213) 443-3100
Email: brucezisser@quinnemanuel.com

*Attorney for Patent Owner –
Seymour Levine*