

2. Upon information and belief, Bosch LLC is a limited liability company organized and existing under the laws of Delaware, having its principal place of business in Broadview, Illinois.

Response: Bosch GmbH admits the allegations of paragraph 2 of the Counterclaims.

3. Upon information and belief, Bosch GmbH is a corporation organized and existing under the laws of Germany, having its principal place of business in Gerlingern-Schillerhohe, Germany.

Response: Bosch GmbH admits the allegations of paragraph 3 of the Counterclaims.

4. Upon information and belief, Bosch LLC is a wholly-owned subsidiary of Bosch GmbH.

Response: Bosch GmbH states that it is the ultimate parent company of Robert Bosch LLC; otherwise denied.

5. The Court has jurisdiction to hear Costco's counterclaims under at least 28 U.S.C. §§ 1331, 1332(a), 1338(a), and 1367. The parties are of diverse citizenship, and the amount in controversy exceeds the sum or value of \$75,000.00 exclusive of interest and costs.

Response: Bosch GmbH admits the allegations of paragraph 5 of the Counterclaims.

FIRST COUNTERCLAIM

(VIOLATION OF WASH. REV. CODE § 19.86.020)

6. The allegations contained in the preceding paragraphs 1 through 5 of these Counterclaims are incorporated and re-alleged as if fully set forth herein.

Response: Bosch GmbH incorporates its responses to the allegations in paragraphs 1 through 5 of the Counterclaims as if forth set fully herein.

7. Costco operates membership-based warehouse stores in which Costco members can purchase high quality merchandise at low prices

Response: Bosch GmbH lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 7 of the Counterclaims and accordingly denies the same.

8. Costco sells GOODYEAR® Hybrid windshield wipers at the everyday low retail price of \$7.99 per pair.

Response: Bosch GmbH lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 8 of the Counterclaims and accordingly denies the same.

9. GOODYEAR® Hybrid windshield wipers are made in U.S.A. and supplied to Costco by Saver Automotive Products, Inc. (“Saver”).

Response: Bosch GmbH lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 9 of the Counterclaims and accordingly denies the same.

10. In September 2014, representatives of Bosch LLC and Bosch GmbH (collectively, “Bosch”) visited Costco headquarters in Issaquah, Washington.

Response: Bosch GmbH denies the allegations of paragraph 10 of the Counterclaims.

11. While visiting Costco headquarters in Issaquah, Washington in September 2014, Bosch representatives sought to persuade Costco to raise its retail prices for windshield wipers and to sell, in place of made-in-U.S.A. GOODYEAR® Hybrid windshield wipers, an inferior, flat spring windshield wiper product that Bosch proposed to import from China and sell to Costco at much higher prices than Costco was then paying for made-in-U.S.A. GOODYEAR® Hybrid windshield wiper products.

Response: Bosch GmbH denies the allegations of paragraph 11 of the Counterclaims.

12. When Costco declined to accede to Bosch’s commercial proposal described above, Bosch GmbH caused Bosch LLC to file objectively baseless lawsuit claims against Costco which alleged, among other things, that (a) Costco members purportedly did not have any right to use Bosch-supplied original equipment (OE) windshield wiper systems that came installed on various makes and models of new vehicles sold in the United States (e.g., 2010-2015 BMW X3 models), with the purported result that (b) Costco members purportedly infringed U.S. Patent No. 6,553,607 (the “’607 Patent”) and U.S. Patent No. 8,272,096 (the “’096 Patent”) by installing GOODYEAR® Hybrid windshield wipers on their vehicles.

Response: Bosch GmbH denies the allegations of paragraph 12 of the Counterclaims.

13. In furtherance of the baseless lawsuit claims described in paragraph 12, above, Bosch GmbH acted to hinder any fair test of those claims by (i) transferring title to the ’607 and ’096 Patents to a wholly-owned United States subsidiary, namely, Bosch LLC; (ii) causing Bosch LLC to assert, falsely, that Bosch LLC purportedly did not have access to documents recording the terms on which Bosch GmbH had supplied OE wiper systems to manufacturers of vehicles that Costco members might own; (iii) willfully withholding documents recording the terms on which Bosch GmbH had supplied OE wiper systems to manufacturers of vehicles that Costco members

might own; and (iv) causing Bosch LLC to assert, falsely, that initial United States sales of OE wiper systems supplied by Bosch GmbH purportedly were never “authorized” by Bosch.

Response: Bosch GmbH denies the allegations of paragraph 13 of the Counterclaims.

14. On information and belief, Bosch authorized initial United States sales of all OE side lock wiper systems that Bosch GmbH supplied to new vehicle manufacturers and its contrary assertion, made through Bosch LLC, was false and known to be false when made.

Response: Bosch GmbH denies the allegations of paragraph 14 of the Counterclaims.

15. The conduct of Bosch described in paragraphs 10–14, above, had a capacity to deceive a substantial portion of the public as to their rights to use and repair windshield wiper systems that they own.

Response: Bosch GmbH denies the allegations of paragraph 15 of the Counterclaims.

16. The conduct of Bosch described in paragraphs 10–14, above, was targeted at Costco in the State of Washington.

Response: Bosch GmbH denies the allegations of paragraph 16 of the Counterclaims.

17. The conduct of Bosch described in paragraphs 10–14, above, occurred in trade or commerce, namely, an attempt by Bosch to exclude lawful competition in the sale of windshield wipers in the United States including in the State of Washington.

Response: Bosch GmbH denies the allegations of paragraph 17 of the Counterclaims.

18. The conduct of Bosch described in paragraphs 10–14, above, was unfair and violated the public interest in being able to purchase windshield wipers at low prices.

Response: Bosch GmbH denies the allegations of paragraph 18 of the Counterclaims.

19. The conduct of Bosch described in paragraphs 10–14, above, had a capacity to deceive a substantial portion of the public as to their rights to purchase and use windshield wipers that meet manufacturer-prescribed specifications.

Response: Bosch GmbH denies the allegations of paragraph 19 of the Counterclaims.

20. The conduct of Bosch described in paragraphs 10–14, above, has caused injury to Costco’s business and property in the State of Washington, including increased operating costs and lost profits on sales of GOODYEAR® Hybrid windshield wipers.

Response: Bosch GmbH denies the allegations of paragraph 20 of the Counterclaims.

21. On information and belief, Bosch GmbH has directly employed or controlled one or more individuals who have participated in the unfair and deceptive conduct alleged in paragraphs 10–14, above.

Response: Bosch GmbH denies the allegations of paragraph 21 of the Counterclaims.

22. On information and belief, Bosch GmbH has actively participated and furthered the unfair and deceptive conduct alleged in paragraphs 10–14, above.

Response: Bosch GmbH denies the allegations of paragraph 22 of the Counterclaims.

23. On information and belief, the unfair and deceptive conduct alleged in paragraphs 10–15, was carried out as part of a common plan between Bosch GmbH and Bosch LLC to exclude lawful competition in the sale of replacement windshield wipers by unfair, deceptive, and anticompetitive means.

Response: Bosch GmbH denies the allegations of paragraph 23 of the Counterclaims.

24. On information and belief, Bosch GmbH has lent aid and encouragement to the actors which have engaged in the unfair and deceptive conduct alleged in paragraphs 10–14, above.

Response: Bosch GmbH denies the allegations of paragraph 24 of the Counterclaims.

25. On information and belief, Bosch GmbH has ratified the unfair and deceptive conduct alleged in paragraphs 10–14, above.

Response: Bosch GmbH denies the allegations of paragraph 25 of the Counterclaims.

26. On information and belief, the unfair and deceptive conduct alleged in paragraphs 10–14, above, was engaged in for Bosch GmbH's ultimate benefit.

Response: Bosch GmbH denies the allegations of paragraph 26 of the Counterclaims.

27. On information and belief, Bosch GmbH had knowledge of the unfair and deceptive conduct alleged in paragraphs 10–14, above, at all relevant times.

Response: Bosch GmbH denies the allegations of paragraph 27 of the Counterclaims.

28. On information and belief, Bosch GmbH has given substantial assistance to the unfair and deceptive conduct alleged in paragraphs 10–14, above.

Response: Bosch GmbH denies the allegations of paragraph 28 of the Counterclaims.

29. Bosch LLC and Bosch GmbH are liable to Costco, jointly and severally, for violation of Wash. Rev. Code § 19.86.020.

Response: Bosch GmbH denies the allegations of paragraph 29 of the Counterclaims.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.