

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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COSTCO WHOLESALE CORP.,  
Petitioner,

v.

ROBERT BOSCH LLC,  
Patent Owner.

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Case IPR2016-00034  
Patent 6,973,698 B1

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Before PHILLIP J. KAUFFMAN, WILLIAM V. SAINDON, and  
BARRY L. GROSSMAN, *Administrative Patent Judges*.

GROSSMAN, *Administrative Patent Judge*.

DECISION  
Institution of *Inter Partes* Review  
*37 C.F.R. § 42.108*

## I. INTRODUCTION

### A. Background

Costco Wholesale Corporation (“Petitioner”) filed a Petition requesting *inter partes* review of claim 1, the sole claim, in U.S. Patent No. 6,973,698 B1 (Ex. 1001, “the ’698 patent”) pursuant to 35 U.S.C. §§ 311–319. Paper 1 (“Pet.”). Robert Bosch LLC (“Patent Owner”) filed a Preliminary Response to the Petition. Paper 15 (“Prelim. Resp.”).

We have jurisdiction under 35 U.S.C. § 314(a) and 37 C.F.R. § 42.4(a). Pursuant to § 314(a) an *inter partes* review may not be instituted “unless . . . the information presented in the petition . . . shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” “The ‘reasonable likelihood’ standard is a somewhat flexible standard that allows the Board room to exercise judgment.” Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,765 (Aug. 14, 2012).

For the reasons described below, we determine that Petitioner has demonstrated that there is a reasonable likelihood that it would prevail on at least one of its asserted grounds of unpatentability with respect to claim 1. Accordingly, we institute an *inter partes* review in accordance with the Order included with this Decision.

### B. Related Proceedings

The parties state that the ’698 patent is asserted in *Robert Bosch LLC v. Alberee Products Inc. et al.*, Civil Action No. 12-574-LPS (consolidated with Civil Action No. 14-142-LPS), currently pending in the United States District Court for the District of Delaware. The ’698 also has been the

subject of several judicial proceedings and an ITC proceeding, each of which have been closed or terminated. Paper 5, 1–2. There are a number of pending petitions filed by Petitioner against patents owned by Patent Owner dealing with wiper blade technology. *E.g.*, IPR2016-00035, 00036, 00038–00042.

### *C. The '698 Patent*

The '698 patent discloses a wiper blade, shown below in Figure 1, such as a windshield wiper for an automobile.

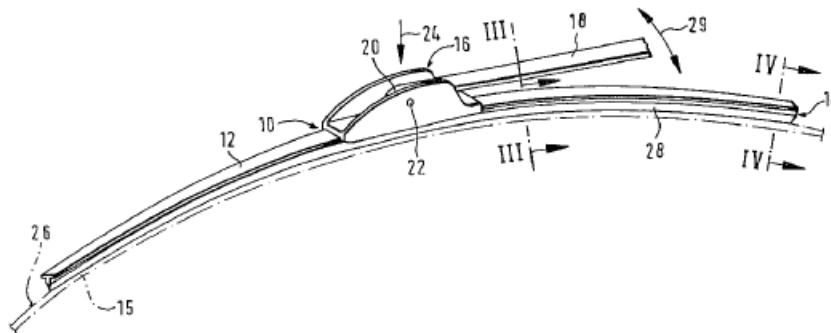


Figure 1 of the '698 patent showing a perspective view of a wiper blade connected to a wiper arm

The wiper blade includes wiper strip 14 carried by carrying element 12. Wiper strip 14 includes wiper lip 28. Carrying element 12 distributes the contact force (shown by arrow 24) of wiper lip 28 against window surface 26 over the entire length of the wiper strip. Ex. 1001, col. 3, ll. 27–29. As stated in the Specification, uniform pressure distribution over the entire wiper blade length, however, causes the wiper lip “to abruptly flip over along its entire length from its one drag position into the other when the wiper blade reverses its working direction.” *Id.* at col. 1, ll. 40–45.

According to the Specification, “the abrupt flipping over of the wiper lip,” produces “undesirable knocking noises.” *Id.* at col. 1, ll. 47–50.

To address the noise issue, carrying element 12, used for distributing the contact force, is designed so that the contact force of the wiper strip against the windshield surface is greater in the center section of the wiper strip than in its end sections. *Id.* at col. 4, ll. 6–12. The reduced contact force at the end sections results in a steeper drag position of the wiper lip (*see* Fig. 4 below) in comparison to the center region with the greater contact force (*see* Fig. 3 below – note compressed lip 28). *Id.* at col. 1, ll. 62–65.

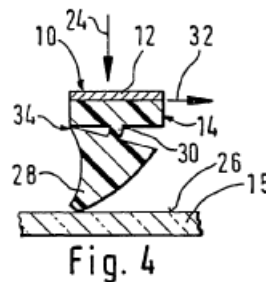
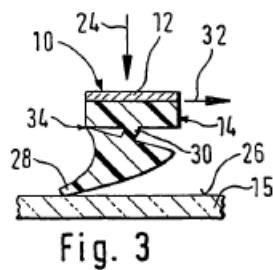


Figure 3 is a sectional view near the center of wiper strip 14

Figure 4 is a sectional view near the end of wiper strip 14

According to the Specification, the steeper position of the wiper lip, shown in Figure 4, “encourages its tilting-over process in the wiping direction reversal positions of the wiper blade.” *Id.* at col. 1, l. 65–col. 2, l. 1; col. 5, ll. 3–18. This prevents the abrupt snapping over of the entire

wiper lip and the “unpleasant knocking noise connected with it.” *Id.* at col. 2, ll. 2–4. The Specification explains that “[i]t is particularly advantageous if the contact pressure of the wiper strip against the window is lower at its two end sections than in its center section because the tilting-over process of the wiper lip then takes place starting from both ends and is therefore finished more quickly.” *Id.* at col. 2, ll. 11–15. The Specification also states that matching the carrying element stress to the desired pressure distribution “is problematic in the case of spherically curved windows.” *Id.* at col. 1, ll. 50–53.

To provide the desired pressure distribution, as shown generally in Figures 2 and 8, carrying element 12, when unloaded, has a sharper concave curvature than the window in the region of the wiping field being swept across by the wiper blade. The curvature is sharper in the center section 36 of the carrying element than at its end sections 38. *Id.* at col. 4, ll. 50–58.

#### *D. Illustrative Claim*

The '698 patent has only one claim, which is reproduced below.<sup>1</sup>

1. A wiper blade for a wiping device of a motor vehicle for wiping a window of the motor vehicle, comprising  
    an elongated wiper strip placeable against the window, and  
    an elongated spring-elastic carrying element disposed on a side of the wiper strip remote from the window,  
    said spring-elastic carrying element extending parallel to an axis of elongation of said wiper strip to distribute a contact force against the window over an entire length of said wiper strip,

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<sup>1</sup> Line breaks have been added to claim 1 to assist in identifying the elements recited in claim 1.

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