

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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Cases

IPR2016-00034 (Patent 6,973,698 B1)

IPR2016-00036 (Patent 6,944,905 B2)

IPR2016-00038 (Patent 6,292,974 B1)

IPR2016-00039 (Patent 7,228,588 B2)

IPR2016-00040 (Patent 7,484,264 B2)

IPR2016-00041 (Patent 8,099,823 B2)

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

SAINDON, *Administrative Patent Judge.*

ORDER

Authorizing Petitioner to File a Motion to Strike  
*37 C.F.R. § 42.5(a)*

IPR2016-00034 (Patent 6,973,698 B1)  
IPR2016-00036 (Patent 6,944,905 B2)  
IPR2016-00038 (Patent 6,292,974 B1)  
IPR2016-00039 (Patent 7,228,588 B2)  
IPR2016-00040 (Patent 7,484,264 B2)  
IPR2016-00041 (Patent 8,099,823 B2)

Patent Owner submitted with its Response excerpts of the testimony of Mr. Wilfried Merkel during a prior district court case involving Patent Owner and a third party. *See Ex. 2005*. After some discussion between the parties, Patent Owner informed Petitioner that Mr. Merkel would not be available for cross-examination due to health reasons but would be willing to provide written responses to written questions. On September 27, 2016, a conference call was held to discuss Petitioner's request for the Board to order Patent Owner to provide Mr. Merkel for cross examination or, in the alternative, for authorization to file a motion to strike Exhibit 2005.

Upon hearing the positions of the parties, we authorized Petitioner to file a motion to strike. The motion is to be no more than 5 pages and is due no later than October 24, 2017. Patent Owner is authorized to file an opposition of no more than 5 pages, due no later than October 28, 2017.

It is so ORDERED.

IPR2016-00034 (Patent 6,973,698 B1)  
IPR2016-00036 (Patent 6,944,905 B2)  
IPR2016-00038 (Patent 6,292,974 B1)  
IPR2016-00039 (Patent 7,228,588 B2)  
IPR2016-00040 (Patent 7,484,264 B2)  
IPR2016-00041 (Patent 8,099,823 B2)

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