

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

COSTCO WHOLESALE CORPORATION,
Petitioner,

v.

ROBERT BOSCH LLC,
Patent Owner.

CASE NO. IPR2016-00036
U.S. Patent No. 6,944,905

PATENT OWNER RESPONSE

Mail Stop "PATENT BOARD"
Patent Trial and Appeal Board
U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

TABLE OF CONTENTS

	Page
I. Introduction.....	1
II. Level of ordinary skill in the art.....	1
III. The combination of Prohaska and Hoyler does not render obvious claims 13, 17, or 18 of the '905 patent.....	3
A. The “End Cap” Limitations.....	3
1. Prohaska and Hoyler do not teach or suggest the claimed “end cap[s]”.....	3
2. Prohaska and Hoyler do not teach or suggest “a section (40) of the wind deflection strip (42) is disposed between and in contact with each respective end cap (38) and the device piece (15),” as required by claim 13.....	7
B. Prohaska and Hoyler do not teach or suggest the “wind deflection strip” having “two diverging legs” in each challenged claim.....	8
1. Conventional blades and beam blades are fundamentally different.....	8
2. The problems of wind lift and spoiler rigidity and mass reduction were not known in beam blades.....	10
3. Prohaska recognized the disadvantages and discouraged use of a hollow spoiler.....	11
C. The objective indicia of non-obviousness.....	15
IV. Dr. Davis lacks credibility.....	23
V. Conclusion.....	27

TABLE OF AUTHORITIES

	Page
Cases	
<i>Alco Standard Corp. v. Tenn. Valley Auth.</i> , 808 F.2d 1490 (Fed. Cir. 1986)	20
<i>In re Cyclobenzaprine Hydrochloride Extended-Release Capsule Patent Litig.</i> , 676 F.3d 1063 (Fed. Cir. 2012)	6, 20
<i>Graham v. John Deere Co. of Kan. City</i> , 383 U.S. 1 (1966).....	2, 16
<i>InTouch Techs., Inc. v. VGo Commc’ns, Inc.</i> , 751 F.3d 1327 (Fed. Cir. 2014)	7, 8
<i>Leo Pharms. v. Rea</i> , 726 F.3d 1346 (Fed. Cir. 2013).....	15, 16, 17, 23
<i>Metabolite Labs., Inc. v. Laboratory Corp. of Am. Holdings</i> , 370 F.3d 1354 (Fed. Cir. 2004).....	23
<i>Okajima v. Bourdeau</i> , 261 F.3d 1350 (Fed. Cir. 2001).....	2, 3
<i>In re Piasecki</i> , 745 F.2d 1468 (Fed. Cir. 1984)	20
<i>In re Sernaker</i> , 702 F.2d 989 (Fed. Cir. 1983)	23
<i>Stratoflex, Inc. v. Aeroquip Corp.</i> , 713 F.2d 1530 (Fed. Cir. 1983).....	16
<i>Transocean Offshore Deepwater Drilling Inc. v. Maersk Drilling USA, Inc.</i> , 699 F.3d 1340 (Fed. Cir. 2012).....	16
<i>Truswal Sys. Corp. v. Hydro-Air Eng’g, Inc.</i> , 813 F.2d 1207 (Fed. Cir. 1987)	16
<i>WBIP, LLC v. Kohler Co.</i> , ___ F.3d ___, 2016 WL 3902668 (Fed. Cir. July 19, 2016).....	<i>passim</i>

Statutes

35 U.S.C. § 1031
35 U.S.C. § 112.....26

Other Authorities

37 C.F.R. § 42.51(b)(1)(iii).....26

LIST OF EXHIBITS

Exhibit Number	Description
Ex. 2001	Cross-reference key correlating exhibits across instituted <i>inter partes</i> review proceedings
Ex. 2002	Deposition of Petitioner's Declarant, Gregory Davis, dated July 7, 2016
Ex. 2003	Declaration of Dr. Steven Dubowsky
Ex. 2004	Curriculum Vitae of Dr. Steven Dubowsky
Ex. 2005	April 15, 2010 Trial Transcript from <i>Robert Bosch LLC v. Pylon Manufacturing Corporation</i> in the District of Delaware, Case No. 08-542 (SLR)
Ex. 2006	April 19, 2010 Trial Transcript from <i>Robert Bosch LLC v. Pylon Manufacturing Corporation</i> in the District of Delaware, Case No. 08-542 (SLR)
Ex. 2007	Declaration of Martin Kashnowski
Ex. 2008	U.S. Patent No. 2,596,063
Ex. 2009	U.S. Patent No. 3,418,679
Ex. 2010	Excerpt from Supplemental Initial Expert Report of Gregory Davis Regarding U.S. Patent Nos. 6,675,434, 6,836,926 and 6,973,698 in <i>In the Matter of Certain Wiper Blades</i> , Inv. No. 337-TA-816 before the U.S. International Trade Commission
Ex. 2011	Order No. 94 from <i>In the Matter of Certain Wiper Blades</i> , Inv. No. 337-TA-816 before the U.S. International Trade Commission
Ex. 2012	[Not used; reserved]

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.