

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

COSTCO WHOLESALE CORP.,
Petitioner,

v.

ROBERT BOSCH LLC,
Patent Owner.

Case IPR2016-00038
Patent 6,292,974 B1

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

KAUFFMAN, *Administrative Patent Judge*.

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

I. INTRODUCTION

A. OVERVIEW

Costco Wholesale Corp. (“Petitioner”) filed a Petition (Paper 1, “Pet.”) requesting *inter partes* review of claims 1, 2, and 8 of U.S. Patent No. 6,292,974 B1 (Ex. 1001, “the ’974 patent”). Pet. 1. Robert Bosch LLC (“Patent Owner”) filed a Preliminary Response (Paper 15, “Prelim. Resp.”) to the Petition.

Upon consideration of the Petition and the Preliminary Response, for the reasons explained below, Petitioner has demonstrated a reasonable likelihood of prevailing with respect to at least one of the challenged claims. We institute an *inter partes* review of claims 1, 2, and 8 of the ’974 patent.

B. RELATED PROCEEDINGS

The parties indicate that the ’974 patent is at issue in: *Robert Bosch LLC v. Alberee Products Inc. et al.*, No. 12-574-LPS (consolidated with No. 14-142-LPS) (D. Del.). Pet. 1; Paper 5, 1.

The parties in the case at hand are currently involved in the following *inter partes* proceedings:

| Case # | U.S. Patent # |
|---------------|---------------|
| IPR2016-00034 | 6,973,698 |
| IPR2016-00035 | 6,836,926 |
| IPR2016-00036 | 6,944,905 |
| IPR2016-00038 | 6,292,974 |
| IPR2016-00039 | 7,228,588 |
| IPR2016-00040 | 7,484,264 |
| IPR2016-00041 | 8,099,823 |
| IPR2016-00042 | 8,544,136 |

The patent at issue in IPR2016-00040 is a division of the application that became the patent that is now at issue in IPR2016-00039. *See* IPR2016-00040, Ex. 1001, 1 (62).

C. EVIDENCE AND ASSERTED GROUNDS OF UNPATENTABILITY

Petitioner asserts that the challenged claims are unpatentable under the following grounds:

| Claims Challenged | § | References(s) |
|-------------------|--------|--|
| 1, 2, 8 | 103(a) | Prohaska ¹ and Appel ² |
| 1, 2, 8 | 103(a) | Prohaska and Hoyler ³ |

Pet. 3.

II. THE CLAIMED SUBJECT MATTER

A. INTRODUCTION

1. *Types of Wipers*

There are two main types of windshield wiper structures: beam and yoke. The conventional yoke-style structure includes a series of flexible rails that distribute force along the wiper blade. Ex. 1008 ¶ 19. Figure 1 of U.S. Patent 3,418,679 is reproduced below:

¹ U.K. Patent Application No. GB 2 106 775 A, published Apr. 20, 1983 (Ex. 1004).

² U.S. Patent No. 3,192,551, issued July 6, 1965 (Ex. 1005).

³ German Patent No. 1,028,896 published June 24, 1954 (Ex. 1006). The certified English translation begins at page 6.

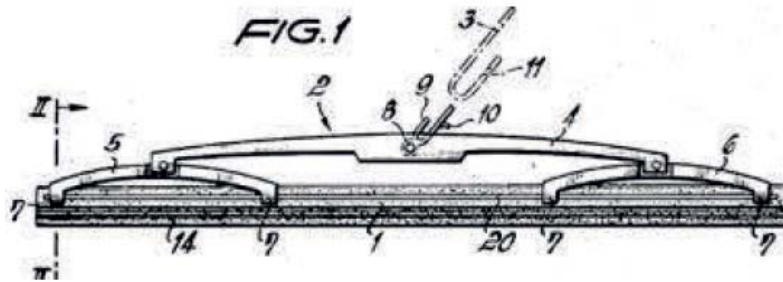


Figure 1 depicts a yoke-style wiper structure, having a large main rail 4 connected to two smaller rails 5, which in turn are connected to the wiper blade.

In contrast to the yoke style wiper is the beam, or flat, style of wiper. This type of wiper uses metal strips adjacent the wiper blade to distribute the load along the length of the wiper blade rather than the yokes. *Id.* ¶ 22.

Figure 1 of the '974 patent is reproduced below:

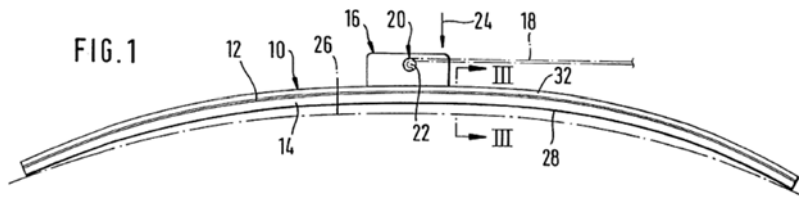


Figure 1 of the '974 patent depicts a beam-style wiper structure, in which the beam is attached along the entire length of the wiper. Ex. 1001, 2:50–51.

2. The '974 patent

The '974 patent relates to a wiper blade for windows⁴ of motor vehicles. Ex. 1001, Abstract, 1:5–6.

As background, the '974 patent describes that the support element assures that wiper blade contact pressure on the window is as even as

⁴ Throughout this opinion we use the terms “window,” “windscreen,” and “windshield” interchangeably.

possible over the entire swept field. *Id.* at 1:7–10. Although the pendulum motion of a wiper changes its position relative to the oncoming wind,⁵ the lateral side of the wiper generally exposed to the wind is the “front side” and the opposing side is the “back side.” *Id.* at 1:34–40. The wind induces overpressure on the front side of the wiper blade, and negative pressure on the back side, and these forces tend to lift the wiper blade off the window (“liftoff tendency”). *Id.* at 1:25–34, 64–67. At relatively high vehicle speeds, these forces may reduce contact pressure to the point that proper wiping is no longer possible. *Id.* at 1:40–45. Increasing wiper blade contact pressure can counter this problem, but the attending drawback is that at lower vehicle speeds the increased contact pressure increases friction, leading to undesirable noise buildup and high stress on the wiper and drive components. *Id.* at 1:45–51.

An object of the '974 patent was to avoid these disadvantages by providing a wiper blade with a leading-edge face which extends longitudinally over the wiper blade, substantially parallel to the window, facing into the wind and forming an acute angle with the window. *Id.* at 1:55–63. The wiper blade causes a force component that counters the liftoff tendency and assures better cleaning quality, at least in the region most important to the vehicle’s driver. *Id.* at 1:64–2:3. The wiper blade can be embodied in a separate, elongated component, with a cross section approximating a triangle that is solidly joined to the support element. *Id.* at 2:16–22. Alternatively, the leading edge face may have a hollow curvature

⁵ Meaning the relative air movement caused by movement of the vehicle.

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