## 

CASE NO. IPR2016-00038 U.S. Patent No. 6,292,974

Patent Owner.

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.	Intro	ductio	on	1	
II.	Level of ordinary skill in the art				
III.	The combinations of Prohaska and Hoyler or Appel '551 do not render obvious claims 1, 2, or 8 of the '974 patent				
	A.	from	tioner relies on impermissible hindsight to combine the spoil of Prohaska's conventional blade onto the beam blade of the depth of the Appel '551		
		1.	Conventional blades and beam blades are fundamentally different	3	
		2.	The previously unknown beam blade wind lift problem	5	
		3.	The '974 patent recognized the previously unknown beam blade wind lift problem and solved it in an unconventiona manner	ıl	
	B.	B. The objective indicia of non-obviousness		7	
IV.	Dr. Davis lacks credibility15			15	
V	Conclusion 19			19	



-

#### **TABLE OF AUTHORITIES**

	Page
Cases	
Alco Standard Corp. v. Tenn. Valley Auth., 808 F.2d 1490 (Fed. Cir. 1986)	12
Cardiac Pacemakers, Inc. v. St. Jude Med., Inc., 381 F.3d 1371 (Fed. Cir. 2004)	7
In re Cyclobenzaprine Hydrochloride Extended-Release Capsule Patent Litigation, 676 F.3d 1063 (Fed. Cir. 2012)	12
Graham v. John Deere Co. of Kan. City, 383 U.S. 1 (1966)	2, 8
InTouch Techs., Inc. v. VGo Comm'ns, Inc., 751 F.3d 1327 (Fed. Cir. 2014)	3
Leo Pharm. Prods., Ltd. v. Rea, 726 F.3d 1346 (Fed. Cir. 2013)	7, 8, 9, 16
Metabolite Labs., Inc. v. Laboratory Corp. of Am. Holdings, 370 F.3d 1354 (Fed. Cir. 2004)	14
Okajima v. Bourdeau, 261 F.3d 1350 (Fed. Cir. 2001)	2
In re Piasecki, 745 F.2d 1468 (Fed. Cir. 1984)	12
In re Sernaker, 702 F.2d 989 (Fed. Cir. 1983)	16
Stratoflex, Inc. v. Aeroquip Corp., 713 F.2d 1530 (Fed. Cir. 1983)	8
Transocean Offshore Deepwater Drilling Inc. v. Maersk Drilling USA, Inc., 699 F.3d 1340 (Fed. Cir. 2012)	8
Truswal Sys. Corp. v. Hydro-Air Eng'g, Inc., 813 F.2d 1207 (Fed. Cir. 1987)	8
WBIP, LLC v. Kohler Co., F.3d, 2016 WL 3902668 (Fed. Cir. July 19, 2016)	passim



#### **Statutes**

35 U.S.C. § 103(a)	1
35 U.S.C. § 112	
<b></b>	
Other Authorities	
37 C.F.R. § 42.51(b)(1)(iii)	18



### **LIST OF EXHIBITS**

<b>Exhibit Number</b>	Description
Ex. 2001	Cross-reference key correlating exhibits across instituted inter partes 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]



# DOCKET

## 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.

