

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

**PATENT OWNER'S MOTION FOR OBSERVATION ON CROSS-
EXAMINATION OF GREGORY DAVIS**

Pursuant to the Scheduling Order (Paper 17) and the Office Patent Trial Practice Guide, Patent Owner Robert Bosch LLC (“Bosch”) moves the Board to observe the following passages in the cross-examination of Gregory Davis. Petitioner Costco Wholesale Corp. (“Costco”) submitted a declaration by Dr. Davis (Ex. 1101) with its Reply, and Bosch cross-examined Dr. Davis on November 30, 2016. The complete transcript of the cross-examination is submitted herewith as Exhibit 2030.

1. In Exhibit 2030, at page 120, lines 9–13, Dr. Davis testified that Prohaska’s spoiler designs were for conventional blades, but “that’s why I was looking at the idea of the combination of Prohaska with, like, Appel or Hoyler.” This testimony is relevant to Costco’s position, argued at pages 5–8 of its Reply, that it would have been obvious to apply conventional-blade spoilers to beam blades. It is relevant because, consistent with Bosch’s arguments in its Response, it shows that Dr. Davis (and, by extension, Costco) is using the ’974 patent as a roadmap to construct a hindsight-driven obviousness argument.

2. In Exhibit 2030, on page 131, lines 8–12, Dr. Davis testified, “Whether or not they would literally try to take the spoiler as is from Prohaska and combine it with Appel or Hoyler, I don’t think that’s the point. It’s the idea of what’s disclosed in Prohaska in applying it to these beam-style blades of Appel and Hoyler.” This testimony is relevant to Costco’s position, argued at pages 5–8 of its

Reply, that it would have been obvious to apply conventional-blade spoilers to beam blades. It is relevant because Dr. Davis implicitly acknowledges that changes would be required to adapt Prohaska's spoiler to Hoyler's beam blade, but does not account for what those changes might be or how they might have been implemented.

DATED: December 13, 2016

Respectfully submitted,

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Certificate of Service

The undersigned hereby certifies that the foregoing PATENT OWNER'S MOTION FOR OBSERVATION ON CROSS-EXAMINATION OF GREGORY DAVIS was served via electronic mail on December 13, 2016, on the following counsel for Petitioner:

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