

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

COSTCO WHOLESALE CORP.,
Petitioner,

v.

ROBERT BOSCH LLC,
Patent Owner.

Case IPR2016-00039
Patent 7,228,588 B2

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, 12, and 14 of U.S. Patent No. 7,228,588 B2 (Ex. 1001, “the ’588 patent”).¹ Pet. 1. Robert Bosch LLC (“Patent Owner”) filed a Preliminary Response (Paper 18, “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, 12, and 14 of the ’588 patent.

B. RELATED PROCEEDINGS

The parties indicate that the ’588 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 6, 1.

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

¹ Petitioner also entered a copy of the Petition with an amended certificate of service. Paper 3, 58. Throughout this decision, our reference to the Petition is to Paper 1. The “Notice of Accepting a Corrected Petition” (Paper 10) actually pertains to accepting a corrected version of Exhibit 1016. *See* Papers 4, 7.

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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 this proceeding. *See* IPR2016-00040, Ex. 1001, 1 [62].

C. EVIDENCE AND ASSERTED GROUNDS OF UNPATENTABILITY

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

Claims Challenged	§	References(s)
1, 14	102(b)	Prohaska ²
1, 14	103(a)	Prohaska and Appel ³
1, 14	103(a)	Prohaska and Hoyler ⁴
1, 12, 14	103(a)	Kotlarski ⁵ and Prohaska
1, 12, 14	103(a)	Merkel ⁶ and Prohaska

Pet. 2–3.

II. THE CLAIMED SUBJECT MATTER

A. INTRODUCTION

The '588 patent relates to a wiper blade that cleans panes, in particular of motor vehicles.⁷ Ex. 1001, Abstract.

As background, the '588 patent describes that it was known to configure wiper blades with a wind deflection strip that produces a force component directed toward the windshield to counteract the tendency of the wiper blade to lift off the windshield due to airflow at high vehicle speeds. *Id.* at 1:40–46. The cross section of the wind deflection strip was

² U.K. Patent Application No. GB 2 106 775 A, published Apr. 20, 1983 (Ex. 1003).

³ U.S. Patent No. 3,192,551 issued July 6, 1965 (Ex. 1004).

⁴ German Patent No. 1,028,896 published June 24, 1954 (Ex. 1005). The certified English translation begins at page 5.

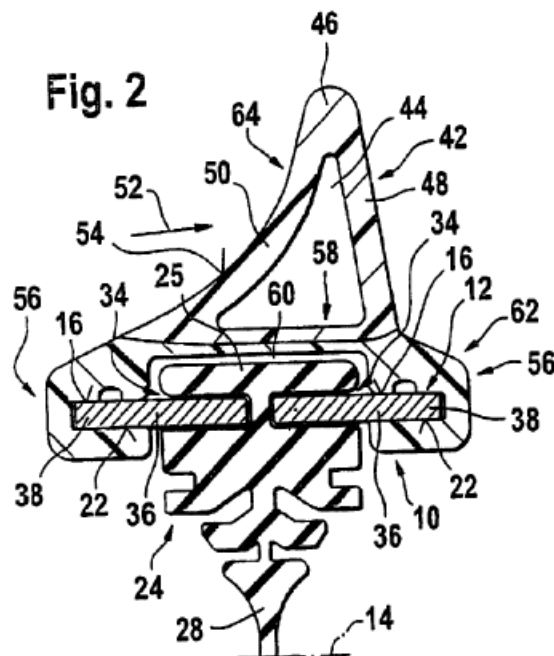
⁵ PCT WO 99/02382, published Jan. 21, 1999 (Ex. 1006). The certified English translation begins at page 27.

⁶ PCT WO 99/12784, published March 18, 1999 (Ex. 1013). The certified English translation begins at page 20.

⁷ Throughout this opinion we use the terms “pane,” “window,” “windscreen,” and “windshield” interchangeably.

approximately the shape of a right triangle with the hypotenuse representing the incident surface. *Id.* at 1:46–54. This configuration had several drawbacks: it required a relatively large amount of material to manufacture that added cost and weight to the design, the increased weight necessitated a more powerful drive system and a more expensive pendulum gear, and it adversely affected bending stiffness. *Id.* at 1:56–67. The wiper blade of the '588 patent was designed to eliminate these drawbacks. *Id.* at 2:3–13.

Wiper blade 10 includes elongated belt-shaped, flexible spring support element 12 and wind deflector strip 42. *Id.* at 4:15–17, 5:9–13; Figs. 1, 2. Wind deflector strip 42 is made of an elastic material such as “a plastic”, and has an essentially triangular cross section formed by sides 48 and 50 diverging from common base point 46 at one end and connected at the opposite ends by a support means such as wall 58. *Id.* at 5:15–21, 36–44. Figure 2 follows.



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