UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

COSTCO WHOLESALE CORP.,
Petitioner,

v.

ROBERT BOSCH LLC,
Patent Owner.

Case IPR2016-00040
Patent 7,484,264 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, 2, and 3 of U.S. Patent No. 7,484,264 B2 (Ex. 1001, "the '264 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 3 of the '264 patent.

B.   RELATED PROCEEDINGS

The parties indicate that the '264 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 4, 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 '264 patent is a division of the application that became the patent that is now at issue in IPR2016-00039. Ex. 1001, 1 (62).

C.   EVIDENCE AND ASSERTED GROUNDS OF UNPATENTABILITY

Petitioner asserts that the challenged claims are unpatentable based on the following grounds (Pet. 3):

Claims Challenged	§	References(s)
1, 2	102(b)	Prohaska[1]
1, 2	103(a)	Prohaska and Appel[2]
1, 2	103(a)	Prohaska and Hoyler[3]
1, 2	103(a)	Kotlarski '383[4] and Prohaska
1, 2	103(a)	Merkel[5] and Prohaska
3	103(a)	Prohaska, Appel, and Kotlarski '090[6]
3	103(a)	Prohaska, Hoyler, and Kotlarski '090
3	103(a)	Kotlarski '383, Prohaska, and Kotlarski '090
3	103(a)	Merkel, Prohaska, and Kotlarski '090
3	103(a)	Prohaska, Appel, and Mathues[7]
3	103(a)	Prohaska, Hoyler, and Mathues
3	103(a)	Kotlarski '383, Prohaska, and Mathues
3	103(a)	Merkel, Prohaska, and Mathues

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

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

[3] German Patent No. 1,028,896 published June 24, 1954 (Ex. 1005). The certified English translation begins at page 6.

[4] PCT WO 99/02382, published Jan. 21, 1999 (Ex. 1006). The certified English translation begins at page 26.

[5] PCT WO 99/12784, published Mar. 18, 1999 (Ex. 1016). Although the pages of this exhibit are not numbered, the certified English translation begins at page 19.

[6] PCT WO 00/34090, published June 15, 2000 (Ex. 1008).

[7] U.S. Patent No. 3,121,133, issued Feb. 11, 1964 (Ex. 1013).

II. THE CLAIMED SUBJECT MATTER

A. INTRODUCTION

The '264 patent relates to a wiper blade that cleans panes, in particular of motor vehicles.[8] Ex. 1001, Abstract.

As background, the '264 patent describes that in wiper blades with a spring-action support element, the support element provides even distribution of wiper blade pressure onto the windshield. *Id.* at 1:12–16. The un-loaded support element is bent to a shape having a radius of curvature somewhat greater than the maximum curvature within the wipe field on the windshield. *Id.* at 1:16–26.

The '264 patent discloses a wiper blade having 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 1:46–51.

Wiper blade 10 includes elongated belt-shaped, flexible spring support element 12 and wind deflector strip 42. *Id.* at 4:9–10, 4:67–5:6; Figs. 1, 2. Wind deflector strip 42 is made of an elastic material such as 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 5:6–34. Figure 2 follows.

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[8] Throughout this opinion we use the terms "pane," "window," "windscreen," and "windshield" interchangeably.

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