

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

COSTCO WHOLESALE CORPORATION,
Petitioner,

v.

ROBERT BOSCH LLC,
Patent Owner.

DECLARATION OF MARTIN KASHNOWSKI

Robert Bosch Exhibit 2007

Page 1

COSTCO (Petitioner) v. ROBERT BOSCH (Patent Owner)

IPR2016-00034; IPR2016-00036; IPR2016-00038;

I, Martin Kashnowski, hereby declare as follows:

1. I am employed as Director, Commodities Management for Robert Bosch LLC. I was previously employed by Robert Bosch LLC as Director of Product Management for Wiping Systems, and had been working to various degrees in that capacity since 1993.

2. When I began working with wiping systems in 1993, I was working exclusively with what are now commonly referred to in the industry as “conventional” wiper blades. These blades have a number of disadvantages compared to what are now commonly referred to as “beam” or “flat” wiper blades. For example, the conventional blades can be clogged with ice and snow, which can cause the blade to freeze and stick and lead to banding, which can result in poor visibility. For another example, conventional blades are also prone to wearing unevenly, with the portion of the wiper strip underneath the pressure points wearing first, which can lead to streaking and poor visibility. All of these problems with conventional wiper blades were well known in the industry, but solutions to those problems were not.

3. In 2002, Bosch introduced a wiper blade called Aerotwin to the automotive aftermarket, first in Europe and then in the United States. The

Robert Bosch Exhibit 2007

Page 2

COSTCO (Petitioner) v. ROBERT BOSCH (Patent Owner)

IPR2016-00034; IPR2016-00036; IPR2016-00038;

Aerotwin blade was the first commercially successful beam blade in the U.S. aftermarket and it was given a number of awards by industry groups, including both the Pace award and the Automechanika award. The Pace award particularly mentioned the use of a flexible spoiler on the Aerotwin blade. As far as I know, there were no commercially viable beam blades prior to 2002.

4. One disadvantage of the Aerotwin product was that we needed approximately 75 to 80 different part numbers (physically different blades) to fit the different applications (car model years) for which we were selling the Aerotwin wiper blades (at that time, these were primarily European cars). The different part numbers were necessary because different cars have differently shaped windshields, and because the Aerotwin blade was very sensitive both to air pressure and to the shape of the windshield. Some windshields are shaped in complicated ways and, for example, have depressions that can't be seen with the naked eye yet affect wiping quality. So Bosch custom-made each different Aerotwin part number to work on a specific application.

5. In 2005, Bosch introduced the Icon wiper blade to the U.S. aftermarket. The Icon blade was a beam blade designed to cover more applications with fewer part numbers than the Aerotwin blade. The demand from our

Robert Bosch Exhibit 2007

Page 3

COSTCO (Petitioner) v. ROBERT BOSCH (Patent Owner)

IPR2016-00034; IPR2016-00036; IPR2016-00038;

customers for the Icon blade was considerably high, even though it was more expensive than conventional blades. Customers were more excited for the Icon product than for any other automotive product I had been involved with.

6. Both the Aerotwin blade and the Icon blade included a flexible spoiler with diverging legs mounted on the top of the blade, as well as plastic end caps. Bosch tested these products extensively before releasing them. One aspect tested was noise. The Bosch beam blades were quiet in operation, including when the wiping direction changes and the wiper strip flips from one side to the other. Those features were part of the reason for the great customer demand for these products. Both products solved many of the problems associated with conventional blades.

7. The commercial success of the Icon product was in contrast to the failure of a competitor's beam-blade product, the Trico Innovision wiper blade. The Trico product was introduced in 2004, before Icon, but it failed in the marketplace. The Trico product included neither a flexible spoiler nor end caps.

8. In 2006, Bosch's sales of the Icon product were approximately \$17M; in 2007, they were approximately \$24M, and in 2008, approximately \$28M. These sales figures are significant in the context of aftermarket wiper blades. In 2008,

Robert Bosch Exhibit 2007

Page 4

COSTCO (Petitioner) v. ROBERT BOSCH (Patent Owner)

IPR2016-00034; IPR2016-00036; IPR2016-00038;

the Icon product was given the Frost & Sullivan award for innovation. At that time Frost & Sullivan was one of the more prominent automotive research organizations.

9. Bosch created an entirely new and tremendously successful market category when it introduced Aerotwin and Icon. But within a year, knockoff products that to me looked identical to Icon appeared in the United States. In particular, like the Icon blade, the knockoff products included spoilers with diverging legs similar to that shown on the cover of United States Patent No. 6,944,905, as well as end caps.

10. I have previously testified about many of the issues discussed above in connection with various lawsuits in which Robert Bosch LLC sought to defend its patent rights related to beam blades, including at the 2010 trial of Bosch's case against a company called Pylon. Despite Bosch's efforts, however, competitors continued to sell knockoff products that appeared to me to be copies of Bosch's aftermarket beam blades, including Icon and its successor products such as the Evolution wiper blade.

11. However, the industry is now largely respectful of Bosch's beam-blade patent rights. All of Bosch's major competitors have made licensing

Robert Bosch Exhibit 2007

Page 5

COSTCO (Petitioner) v. ROBERT BOSCH (Patent Owner)

IPR2016-00034; IPR2016-00036; IPR2016-00038;

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