

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

COSTCO WHOLESALE CORPORATION,
Petitioner,

v.

ROBERT BOSCH LLC,
Patent Owner.

Case IPR2016-00041
Patent 8,099,823

**PETITIONER'S OPPOSITION TO PATENT OWNER'S
MOTION TO EXCLUDE EVIDENCE PURSUANT TO 37 C.F.R. § 42.64**

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Costco Wholesale Corporation (“Petitioner”) hereby opposes the motion (Paper No. 53; the “Motion”) of Robert Bosch LLC (“Patent Owner”) to exclude the following evidence submitted by Petitioner in support of the unpatentability of U.S. Patent No. 8,099,823 (the “’823 Patent”; Ex. 1001): Paragraphs 7, 9–11, 15, 18, 19, 21, and 23–26 of the Declaration of David Peck (Ex. 1100). Patent Owner’s assertions regarding David Peck’s qualifications are factually insupportable and legally erroneous.

I. DAVID PECK IS QUALIFIED TO GIVE TECHNICAL EXPERT OPINIONS REGARDING THE STATE OF THE ART AND THE SKILL LEVEL IN THE ART AT THE TIME OF THE CLAIMED INVENTION

Patent Owner wrongly asserts that “Petitioner has made no showing that [Mr. Peck] has ever been a wiper-blade designer.” Motion at 3. To the contrary, the evidence of record establishes Mr. Peck’s extensive experience in this field. Mr. Peck received a Bachelor of Science in mechanical engineering and has held various automotive engineering roles throughout his career, including Chief Engineer of Applied Research at Rockwell International, Automotive Operations. *See* Ex. 1100, App’x A (*curriculum vitae* of David E. Peck) at pp. 15–16.

In 1997, Mr. Peck began his employment at Trico Products, Inc. (“Trico”) where he held the title of Manager of Advanced Products and Processes Research and Development. Ex. 1100 ¶ 3. In this role, he “became familiar with the

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