

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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COSTCO WHOLESALE CORPORATION,

Petitioner,

v.

ROBERT BOSCH LLC,

Patent Owner.

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CASE NO. IPR2016-00041

U.S. Patent No. 8,099,823

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**PATENT OWNER ROBERT BOSCH LLC'S NOTICE OF APPEAL**

Please take notice that, pursuant to 37 C.F.R. §§ 90.2(a) and 90.3(a) and 35 U.S.C. §§ 141(c), 142, and 319, Patent Owner Robert Bosch LLC (“Bosch”) hereby appeals to the United States Court of Appeals for the Federal Circuit from the Final Written Decision entered on April 12, 2017 (Paper No. 70) (the “Final Written Decision”) in the above-captioned *inter partes* review of U.S. Patent No. 8,099,823 (“the ’823 patent”).<sup>1</sup>

In accordance with 37 C.F.R. § 90.2(a)(3)(ii), Bosch’s issues on appeal include at least the following: (i) in finding claims 1, 9, and 10 of the ’823 patent unpatentable as obvious under 35 U.S.C. § 103(a) over the combination of: (a) U.K. Patent App. No. GB 2 106 775 A to Prohaska (“Prohaska”) and either U.S. Patent No. 3,192,551 to Appel or German Patent No. 1,028,896 to Hoyler, or (b) either PCT WO 99/02383 to Kotlarski or PCT WO 99/12784 to Merkel and Prohaska, the Board made factual findings unsupported by the evidence, and failed to make factual findings mandated by the evidence; (ii) any findings or determinations supporting or related to those issues, as well as other issues decided adversely to Bosch in any orders, decisions, rulings, and opinions; and (iii) it would violate the Constitution of the United States for the Patent and Trademark Office to extinguish Bosch’s property rights in the ’823 patent by cancelling the claims at issue in this *inter partes* review.

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<sup>1</sup> The Board issued on November 20, 2017 its written decision denying Petitioner’s Request for Rehearing.

Simultaneously with this submission, Bosch is filing a true and correct copy of this Notice of Appeal with the Director of the United States Patent and Trademark Office and a true and correct copy (or copies) of the same, along with the required filing fee, with the Clerk of the United States Court of Appeals for the Federal Circuit as set forth in the accompanying Certificate of Filing.

DATED: January 22, 2018

Respectfully submitted,

Shearman & Sterling LLP

/Patrick R. Colsher/

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*Counsel for Patent Owner*

*Robert Bosch LLC*

## CERTIFICATE OF FILING

The undersigned hereby certifies that, in addition to being electronically filed through E2E, a true and correct copy of the above-captioned PATENT OWNER ROBERT BOSCH LLC'S NOTICE OF APPEAL is being filed by Express Mail (Label No. EE122919915US) with the Director on January 22, 2018, at the following address:

Office of the General Counsel  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

The undersigned also hereby certifies that a true and correct copy of the above-captioned PATENT OWNER ROBERT BOSCH LLC'S NOTICE OF APPEAL and the filing fee is being filed via CM/ECF with the Clerk's Office of the United States Court of Appeals for the Federal Circuit on January 22, 2018.

DATED: January 22, 2018

Respectfully submitted,

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## CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing PATENT OWNER ROBERT BOSCH LLC'S NOTICE OF APPEAL was served, in accordance with the parties' electronic service agreement, via electronic mail on January 22, 2018, on the following counsel of record for Petitioner:

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