Filed: May 12, 2017

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 REQUEST FOR REHEARING OF THE FINAL WRITTEN DECISION AS TO CLAIM 6 OF U.S. PATENT NO. 8,099,823

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Pursuant to 37 C.F.R. § 42.71(d), Petitioner respectfully requests Rehearing of the Board's decision that the evidence did not show claim 6 of U.S. Patent No. 8,099,823 (the "'823 Patent"; Ex. 1001) to be unpatentable. *See* Final Written Decision (Paper No. 70) at 36 (the "'823 Decision"). The Board held the *exact opposite* with respect to the *exact same claim limitation* challenged on the *exact same grounds* in a related proceeding involving the parent patent. *See* Final Written Decision, *Costco Wholesale Corp. v. Robert Bosch LLC*, IPR2016-00040, Paper No. 67 (PTAB March 30, 2017) (the "'264 Decision").[1] The '823 Decision overlooked Petitioner's evidence and, in any event, is precluded by the '264 Decision.

I. STATEMENT OF PRECISE RELIEF REQUESTED

Petitioner requests that the Board grant Rehearing of the '823 Decision as to claim 6 and amend its Final Written Decision to hold claim 6 unpatentable for the same reasons articulated in the '264 Decision.

II. REASONS FOR THE RELIEF REQUESTED

The '823 Patent shares a specification with, and claims priority to, U.S. Patent No. 7,484,264 (the "'264 Patent"). The '823 and '264 Patents each disclose and claim the substantially same windshield wiper assembly, comprising three

[1] Hereafter, any citation beginning with "'264," *e.g.*, "'264 Petition," including any associated Paper Number, refers to a filing in IPR2016-00040; any citation beginning with "'823" refers to a filing in IPR2016-00041.

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