

COSTCO WHOLESALE CORPORATION, Petitioner,

v.

ROBERT BOSCH LLC, Patent Owner.

Case No. IPR2016-00041 U.S. Patent No. 8,099,823

PATENT OWNER RESPONSE

Mail Stop "PATENT BOARD" Patent Trial and Appeal Board U.S. Patent & Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450



TABLE OF CONTENTS

				Page		
I.	Intro	ductio	On	1		
II.	Leve	Level of ordinary skill in the art1				
III.	The combinations do not render obvious claims 1, 6, 9, or 10 of the '823 patent					
	A.	haska and one of Appel '551, Hoyler, Kotlarski '383 or Merland teach or suggest the claimed "wind deflection strip" with ergent sides in claims 1, 6, 9, and 10				
		1.	Conventional blades and beam blades are fundamentally different	4		
		2.	A POSITA would not have had reason to modify the complete beam blade solutions of Kotlarksi '383 or Merk	el6		
		3.	Prohaska recognized the disadvantages and discouraged upof a hollow spoiler			
	B.	The addition of either Kotlarski '090 or Mathues does not teach or suggest the "binary component" of claim 6				
	C.	The objective indicia of non-obviousness12				
IV.	Dr. Davis lacks credibility20					
V	Conclusion			24		



TABLE OF AUTHORITIES

	rage
Cases	
Alco Standard Corp. v. Tenn. Valley Auth., 808 F.2d 1490 (Fed. Cir. 1986)	17
In re Cyclobenzaprine Hydrochloride Extended-Release Capsule Patent Litigation, 676 F.3d 1063 (Fed. Cir. 2012)	17
Graham v. John Deere Co. of Kan. City, 383 U.S. 1 (1966)	2, 12
InTouch Techs., Inc. v. VGo Commc'ns, Inc., 751 F.3d 1327 (Fed. Cir. 2014)	3
Leo Pharms. v. Rea, 726 F.3d 1346 (Fed. Cir. 2013)	12, 13, 14
Metabolite Labs., Inc. v. Laboratory Corp. of Am. Holdings, 370 F.3d 1354 (Fed. Cir. 2004)	20
Okajima v. Bourdeau, 261 F.3d 1350 (Fed. Cir. 2001)	2
In re Piasecki, 745 F.2d 1468 (Fed. Cir. 1984)	17
Plas-Pak Indus., Inc. v. Sulzer Mixpac AG, 600 F. App'x 755 (Fed. Cir. 2015)	6
In re Sernaker, 702 F.2d 989 (Fed. Cir. 1983)	20
Stratoflex, Inc. v. Aeroquip Corp., 713 F.2d 1530 (Fed. Cir. 1983)	12
Transocean Offshore Deepwater Drilling Inc. v. Maersk Drilling USA, Inc., 699 F.3d 1340 (Fed. Cir. 2012)	13
Truswal Sys. Corp. v. Hydro-Air Eng'g, Inc., 813 F.2d 1207 (Fed. Cir. 1987)	12
WBIP, LLC v. Kohler Co., F.3d, 2016 WL 3902668 (Fed. Cir. July 19, 2016)	passim



Statutes

35 U.S.C. § 103(a)	1
35 U.S.C. § 112	23
Other Authorities	
37 C.F.R. § 42.51(b)(1)(iii)	23



LIST OF EXHIBITS

Exhibit Number	Description
Ex. 2001	Cross-reference key correlating exhibits across instituted inter partes review proceedings
Ex. 2002	Deposition of Petitioner's Declarant, Gregory Davis, dated July 7, 2016
Ex. 2003	Declaration of Dr. Steven Dubowsky
Ex. 2004	Curriculum Vitae of Dr. Steven Dubowsky
Ex. 2005	April 15, 2010 Trial Transcript from <i>Robert Bosch LLC v. Pylon Manufacturing Corporation</i> in the District of Delaware, Case No. 08-542 (SLR)
Ex. 2006	April 19, 2010 Trial Transcript from <i>Robert Bosch LLC v. Pylon Manufacturing Corporation</i> in the District of Delaware, Case No. 08-542 (SLR)
Ex. 2007	Declaration of Martin Kashnowski
Ex. 2008	U.S. Patent No. 2,596,063
Ex. 2009	U.S. Patent No. 3,418,679
Ex. 2010	Excerpt from Supplemental Initial Expert Report of Gregory Davis Regarding U.S. Patent Nos. 6,675,434, 6,836,926 and 6,973,698 in <i>In the Matter of Certain Wiper Blades</i> , Inv. No. 337-TA-816 before the U.S. International Trade Commission
Ex. 2011	Order No. 94 from <i>In the Matter of Certain Wiper Blades</i> , Inv. No. 337-TA-816 before the U.S. International Trade Commission
Ex. 2012	[Not used; reserved]



DOCKET

Explore Litigation Insights



Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time** alerts and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.

