

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 B2

Before PHILLIP J. KAUFFMAN, WILLIAM V. SAINDON, and
BARRY L. GROSSMAN, *Administrative Patent Judges*.

SAINDON, *Administrative Patent Judge*.

ORDER

Denying Patent Owner's Motion to Vacate Final Written Decision
37 C.F.R. § 42.5

Upon authorization from the panel (Paper 74), Patent Owner filed a motion “seeking to vacate the final written decision in IPR2016-00041 or, in the alternative, to otherwise prevent the Office from issuing a certificate pursuant to 35 U.S.C. § 318(b).” Paper 75 (“Mot.” or “Motion”). Petitioner filed an opposition. Paper 76 (“Opp.”). We deny Patent Owner’s Motion.

Patent Owner asserts that, “[i]n view of the parties’ settlement and [Petitioner’s] abandonment of the contest . . . [Patent Owner] moves the Board to vacate the final written decision.” Mot. 1. Alternatively, Patent Owner moves to “terminate this IPR pursuant to” 37 C.F.R. § 42.5(a) or to “enter adverse judgment against [Petitioner]” pursuant to 37 C.F.R. § 42.73(b)(4). *Id.* at 1–2.

Contrary to Patent Owner’s representation, however, the parties never settled the present case. Settlement in IPRs is conducted under 35 U.S.C. § 317 and 37 C.F.R. § 42.74, but no request was made to settle this proceeding, no written agreement was filed, and no settlement was entered.

In addition, Petitioner did not abandon this contest. Petitioner has made no specific request to abandon this contest. Indeed, Petitioner has sought a Request for Rehearing (Paper 71), which has not been withdrawn, and Petitioner filed an opposition to Patent Owner’s present Motion. Patent Owner represents that Petitioner has withdrawn from the appeal of one or more other related cases in one or more other fora (Mot. 2), but that does not represent withdrawal of this contest in this forum. We do not find Petitioner to have abandoned the contest under 37 C.F.R. § 42.73(b)(4).

The factual underpinnings for the various requests for relief in Patent Owner’s Motion are unsupported; Petitioner neither settled nor abandoned

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the contest. Accordingly, it is hereby ORDERED that Patent Owner's
Motion is DENIED.

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