

S-114/MC

Attorney No 02498

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, LAW DIVISION

RYSZARD WEC,

Plaintiff,

v.

ROBERT BOSCH TOOL CORPORATION, an  
Illinois Corporation.

Defendant.

No:

FILED-3  
2009 DEC -7 PM 1:21  
DOROTHY BROWN  
CLERK OF CIRCUIT COURT  
LAW DIVISION  
2009L0148  
CALENDAR ROOM E  
TIME 00:00  
Product Liability

**COMPLAINT AT LAW**

NOW COMES the Plaintiff, RYSZARD WEC, by and through his attorneys, CUSHING LAW OFFICES, complaining of the Defendant, ROBERT BOSCH TOOL CORPORATION, an Illinois Corporation and in support thereof the Plaintiff states as follows:

**PRELIMINARY STATEMENT**

1. This is an action for damages arising from the severe and disfiguring personal injuries suffered by Plaintiff while operating a miter saw designed, manufactured, sold and distributed by Robert Bosch Tool Corporation (hereinafter "Defendant").

2. At the time of the injuries, Defendant was fully aware of safer designs alternatives, including but not limited to an improved design for the guard mechanism and a flesh detecting braking device. Had the miter saw manufactured, sold and distributed by Defendant employed one or more of these design improvements, Plaintiff's injuries would have been substantially mitigated, or avoided altogether.

3. Rather than employ those safer alternatives, Defendant colluded with its competitors and others in the power tool industry to keep those alternatives off the market. By agreeing not employ such safer alternatives, Defendant and its competitors attempted to assure

that those alternatives would not become "state of the art," thereby attempting to insulate themselves from liability for placing a defective product on the market.

#### **THE PARTIES**

4. Plaintiff Ryszard Wec is an individual who resides at 3524 North Rutherford Street, Chicago, IL (hereinafter "Plaintiff").

5. Upon information and belief, Defendant is an Illinois corporation with its principal place of business at 1800 West Central Road, Mount Prospect, IL 60056. Defendant manufactures, distributes and sells power tools under the Bosch trade name.

#### **JURISDICTION & VENUE**

6. This Court has personal jurisdiction over Defendant because it has its principal place of business and is found in this State.

7. Venue is proper in this County because Plaintiff resides in this County.

#### **THE FACTS**

8. At times prior to December 5, 2007, Defendant was the designer, manufacturer, tester, supplier, seller, and/or distributor of a Bosch 5412 miter saw (hereinafter the "Subject Saw") and had distributed, supplied and/or sold the Subject Saw in Illinois.

9. On or about December 5, 2007, Plaintiff was operating the Subject Saw with all due care when the Subject Saw injured him while doing work on a jobsite.

10. The Subject Saw, along with all miter saws designed, manufactured and sold by Defendant, contains a number of design and/or manufacturing defects that renders it dangerous when used in ordinary and foreseeable ways. These defects include, but are not limited to the failure to equip the Subject Saw with a user-friendly blade guard and the failure to equip the Subject Saw with a flesh-detection and braking technology.

11. There has also been available technology for years that, for example, would stop a power tool saw blade almost instantly upon contact with human flesh, thereby avoiding the traumatic injury suffered by Plaintiff.

12. In or around November 2000, at a meeting of the Power Tool Institute, Inc. ("PTI"), of which Defendant is a member, Defendant was made aware of technology that detects when human flesh touches the saw blade, and once contact is detected, stops the saw blade almost instantly. At the time of the demonstration, the inventor of the flesh detection and braking technology offered to make the technology available to Defendant through a licensing agreement. Defendant chose not to utilize this technology and instead joined with other table saw manufacturers through PTI to form a joint venture, ostensibly to develop their own flesh detection and braking technology. Defendant, however, has continued to sell table and miter saws without this available technology.

13. Defendant, acting through PTI, has also actively lobbied the Consumer Protection Safety Commission ("CPSC") to prevent the adoption of flesh detection systems as a safety standard on table saws.

14. Defendant failed to pursue licensing and use of this available safer technology, or to implement any alternative technology or to mitigate or eliminate the effects of accidental blade contact with human flesh.

15. The Subject Saw does not incorporate the flesh detection and braking technology, or other comparable safety technology.

16. Defendant, as manufacturers of power tool saws, has failed to utilize available safer technology in their miter saws.

**COUNT I**  
**(Negligence)**

17. Plaintiff re-alleges and repeats each and every allegation contained in paragraphs 1 through 16 and incorporates each as if fully set forth herein.

18. Defendant was negligent with respect to the designing, manufacturing, testing, inspecting, distributing and selling of the Subject Saw and was negligent with respect to equipping the Subject Saw with adequate safeguards, warnings and/or instructions.

19. As the direct and proximate result of Defendant's said negligence, Plaintiff sustained severe and permanent physical injury, suffered great pain of body and anguish of mind, required extensive hospital and medical care and treatment, incurred medical expenses, lost time from work; and his ability to engage in normal and usual activities has been adversely affected.

WHEREFORE, Plaintiff RYSZARD WEC demands judgment against the Defendant ROBERT BOSCH TOOL CORPORATION, an Illinois corporation, in an amount in excess of THIRTY THOUSAND (\$30,000.00) Dollars for each of them, plus costs.

**COUNT II**  
**(Implied Warranty)**

20. Plaintiff re-alleges and repeats each and every allegation contained in paragraphs 1 through 19 and incorporates each as if fully set forth herein.

21. Defendant impliedly warranted, pursuant to 810 ILCS 5/2-314 to Plaintiff that the Subject Saw and its component parts were merchantable, safe and fit for ordinary purposes.

22. Defendant is a merchant with respect to goods of the kind involved in the accident. The product, component parts of the product and the product warnings and instructions

were defective, and therefore the product was not, in fact, merchantable, safe and fit as warranted by Defendant. Defendant therefore breached these warranties to Plaintiff.

23. As the direct and proximate result of Defendant's said breaches of warranties, Plaintiff sustained severe and permanent physical injury, suffered great pain of body and anguish of mind, required extensive hospital and medical care and treatment, incurred medical expenses, lost time from work; and his ability to engage in normal and usual activities has been adversely affected.

WHEREFORE, Plaintiff RYSZARD WEC demands judgment against the Defendant ROBERT BOSCH TOOL CORPORATION, an Illinois corporation, in an amount in excess of THIRTY THOUSAND (\$30,000.00) Dollars for each of them, plus costs.

**COUNT III**  
**(Strict Products Liability)**

24. Plaintiff re-alleges and repeats each and every allegation contained in paragraphs 1 through 23 and incorporates each as if fully set forth herein.

25. Defendant placed the miter saw that injured Plaintiff on the market, knowing that it would be used without inspection for defect.

26. The miter saw that was placed on the market by Defendant and which injured the Plaintiff, was defective.

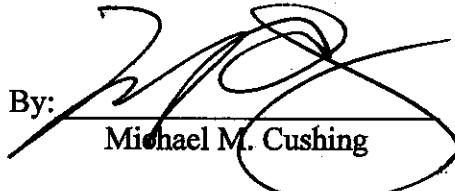
27. The defect in the miter saw caused the Plaintiff's injury, causing Plaintiff to sustain severe and permanent physical injury, great pain of body and anguish of mind, required extensive hospital and medical care and treatment, medical expenses, lost time from work; and impaired his ability to engage in normal and usual activities.

WHEREFORE, Plaintiff RYSZARD WEC demands judgment against the Defendant ROBERT BOSCH TOOL CORPORATION, an Illinois corporation, in an amount in excess of THIRTY THOUSAND (\$30,000.00) Dollars for each of them, plus costs.

**THE PLAINTIFF DEMANDS A TRIAL BY JURY**

CUSHING LAW OFFICES

By:



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