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3 UNITED STATES DISTRICT COURT  
4 Northern District of California  
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6 BRENDAN SCHMIDT,

No. C 08-04589 TEH (MEJ)

7 Plaintiff,

**ORDER RE JANUARY 27, 2011 JOINT  
LETTER (Dkt. # 108)**

8 v.

9 DELTA INTERNATIONAL MACHINERY  
CORP., *et al.*,

10 Defendants.  
11 \_\_\_\_\_/

12 On January 27, 2011, the parties in this action filed a joint letter re-asserting a discovery  
13 dispute concerning Delta's refusal to produce certain documents. (Dkt. #108.) Specifically,  
14 Plaintiffs seek an order compelling Delta to produce documents from 2010 relating to Black &  
15 Decker's "development, analysis, and consideration of incorporating a form of flesh detection  
16 devices (and related technology such as interlock devices) which has been developed by the Power  
17 Tool Industry ("PTI") Joint Venture ("J.V.") and which would mitigate or prevent injuries from  
18 table saw users' contact with the spinning blade of table saws." (*Id.* at 3.) Black & Decker  
19 previously produced similar documents that were generated up through the end of 2009. (*Id.* at 4.)  
20 Subsequently, in October 2010, Plaintiffs sought to compel Delta to produce all additional  
21 documents relating to Black & Decker's evaluation of the Joint Venture technology from 2010.  
22 (Dkt. #90.) On November 17, 2010, the Court denied Plaintiffs' request without prejudice.  
23 However, the Court indicated that, "[i]f Plaintiffs show that Delta affirmatively contests the  
24 feasibility of the technology in the lawsuit . . . the Court may order Delta to produce relevant  
25 documents upon a further showing of relevance." (Dkt. #103 at 2.) In the instant joint letter, Delta  
26 states that it intends to dispute that it was feasible to incorporate flesh detection technology into the  
27 subject saw when it manufactured it in 2004. (Dkt. #108 at 3.) Thus, the key question is whether  
28 Plaintiffs have established that documents from 2010 relating to Black & Decker's evaluation of the  
Joint Venture flesh detection technology are relevant to any of its claims in this case.

1 In support of their request, Plaintiffs argue that the documents are relevant because the saw  
2 at issue in this case is a benchtop saw and “Plaintiffs’ counsel knows from discovery that Black &  
3 Decker is developing this technology for use on . . . benchtop saws.” (*Id.* at 2.) Plaintiffs further  
4 assert that they “are prepared to show at trial that the technology developed by the Joint Venture was  
5 feasible in 2004 and could have been incorporated in a saw reasonably similar to the Subject Saw.”  
6 (*Id.*) In particular, Plaintiffs contend that “[t]he 2010 documents . . . are critical to show that flesh  
7 detection technology was feasible for the Subject Saw because Black & Decker is now at the critical  
8 stage of development.” (*Id.* at 3.)

9 Delta, however, maintains that while it will contest the feasibility of incorporating flesh  
10 sensing technology on the subject saw, the documents Plaintiffs seek are irrelevant to the feasibility  
11 issue. First, Delta argues that the documents concern a project that Black & Decker began in 2008  
12 for future model table saws that are not related in any way to the TS200 model saw at issue here.  
13 (*Id.* at 3-4.) Second, Delta argues that the information in the documents do not relate to the Saw  
14 Stop technology that Delta claims is the focus of Plaintiffs’ experts’ opinions. (*Id.* at 4.) Finally,  
15 Delta asserts that Black & Decker already produced substantial documentation regarding the Joint  
16 Venture technology and Plaintiffs have not shown that the later documents concerning Black &  
17 Decker’s testing of the flesh sensing technology have any relevance to assessing whether the Saw  
18 Stop or other flesh sensing technology was feasible on a TS200 saw made in 2004 by Delta.

19 The Court has carefully considered the parties’ arguments and cited authorities, and agrees  
20 with Delta. The documents Plaintiffs seek were not drafted by Delta, do not concern the subject  
21 saw, and involve technology developed years after Delta manufactured the saw at issue in this case.  
22 The Court therefore finds that Plaintiffs have not sufficiently demonstrated that the 2010 documents  
23 are relevant to the issue of feasibility. Accordingly, the Court **DENIES** Plaintiffs’ request to compel  
24 production of the documents.

25 **IT IS SO ORDERED.**

26 Dated: February 9, 2011

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28 Maria-Elena James  
Chief United States Magistrate Judge