

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JEREMIAH BERNIER, Plaintiff v. ONE WORLD TECHNOLOGIES, INC., RYOBI TECHNOLOGIES INC. and HOME DEPOT U.S.A., INC., Defendants	CIVIL ACTION NO. 08-12083-NMG
SHAUN MALONEY, Plaintiff, v. TECHTRONIC INDUSTRIES OF NORTH AMERICA, INC. AND THE HOME DEPOT, INC. Defendants.	CIVIL ACTION NO. 08-11888-NMG
GLENN ROBERT WHITE, Plaintiff, v. ONE WORLD TECHNOLOGIES, INC., RYOBI TECHNOLOGIES, INC., and HOME DEPOT U.S.A., INC., Defendants	CIVIL ACTION NO. 09-10011-NMG

ORDER REGARDING MODIFICATION OF PROTECTIVE ORDER

IT IS HEREBY ORDERED that the protective orders in the above-entitled actions are modified as follows:

1. Within thirty days of this order, plaintiffs' counsel shall produce to defendants' counsel copies of the brake cartridge data maintained by SawStop LLC. Dr. Gass shall either (a) produce reasonably sufficient information to permit defense counsel to review the brake cartridge data or (b) submit for a deposition within thirty days of the

production of the data for the purpose of providing such information to defense counsel. In addition, defense counsel and/or any defense experts approved by way of the procedures set forth in this order may inspect the brake cartridges themselves upon request. Unless the parties agree otherwise, the inspection shall occur, at Plaintiff's option, at either SawStop's offices or the offices of Plaintiff's counsel. If the parties dispute the propriety of a second or subsequent inspection they shall submit that dispute to the Court.

2. Only defendants' counsel and employees of defense counsel may access the brake cartridge data and shall access the data solely for use in these actions and any action in which Dr. Gass has been identified as a fact or expert witness. Defendants' counsel and employees of defense counsel shall not share the brake cartridge data with any other person except defense experts (and only under the conditions set forth below), plaintiffs, plaintiffs' counsel, Dr. Gass and the Court. Defense counsel (and employees of defense counsel) shall segregate the brake cartridge data and take other reasonable precautions so as to protect the confidentiality of this data and to avoid any inadvertent disclosure including without limitation (1) maintaining a list of each person accessing the data and of each copy of the data in the event more than one copy is made and (2) requiring each person seeing the data to sign an acknowledgement of the protective order.

3. In the course of their duties, the Court, court employees, court reporters and stenographers may also access the brake cartridge data. Any filings with the Court that concern brake cartridge data shall be filed under seal with the Court.

4. Defendants' counsel may also share the brake cartridge data with one or more consulting or testifying experts. Prior to disclosing the brake cartridge data to an

expert, defendants' counsel shall provide written notice to plaintiffs' counsel identifying the name, address, and occupation of the expert ("Written Notice"). Each such expert shall execute a declaration stating that he or she shall access the brake cartridge data only for use in these actions or any action in which Dr. Gass has been identified as a fact or expert witness and shall not assist in the development of SawStop type technology (or any similar sensing technology) for power saws for any person or company. A copy of such declaration shall be provided to plaintiffs' counsel at the same time as the Written Notice.

5. After receiving the Written Notice, plaintiffs' counsel shall have 10 days to file a motion objecting to the disclosure of the brake cartridge data to the identified expert. No production of the brake cartridge data shall be made by defendants' counsel to the identified expert until the expiration of this 10-day period and, if such a motion is made by plaintiffs' counsel, until further order of this Court.

6. Each and every person reviewing the brake cartridge data shall also agree to keep the information confidential and to disclose the information only as permitted by this Order.

7. This Order governs the use of and access to the data and the cartridges in the captioned cases. Defense counsel (and any approved experts) may use this information in other power saw cases by requesting in that case to approve this Protective Order.

8. One year after the conclusion of all power saw litigation (including all appeals) in which defense counsel or an approved expert(s) is involved, defense counsel

and the approved expert(s) shall destroy all copies of the brake cartridge data and so certify to Plaintiffs' counsel.

SO ORDERED:

Dated: July 14, 2010


Magistrate Judge Leo T. Sorokin

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