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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91202677
Party	Defendant ROBERT BOSCH TOOL CORPORATION
Correspondence Address	CECILLE A. MARTIN ROBERT BOSCH LLC 2800 S 25TH AVE BROADVIEW, IL 60155-4532  cecille.martin@us.bosch.com
Submission	Motion to Suspend for Civil Action
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Attachments	Motion to Suspend Proceedings Pending Outcome of Civil Action.pdf ( 17 pages ) (446846 bytes )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

WEYERHAEUSER NR COMPANY, )  
 )  
 Opposer, )  
 )  
 v. ) Opposition No. 91202677  
 )  
 ROBERT BOSCH TOOL CORPORATION, )  
 )  
 Applicant. )

**MOTION TO SUSPEND PROCEEDINGS**  
**PENDING OUTCOME OF CIVIL ACTION**

In accordance with 37 C.F.R. § 2.117(a) and T.B.M.P. § 510.02(a), Applicant hereby moves the Board to suspend the captioned proceedings pending the outcome of a proceeding filed in United States District Court. In support of this motion, Applicant states as follows:

1. The opposition proceeding before the Board involves an application for registration of the word mark ILEVEL for "hand tools, namely, laser device used for indoor leveling and alignment applications." (the "Mark").
2. On December 6, 2011, Opposer filed suit against Applicant, alleging infringement and unfair competition of Opposer's alleged rights in word and design marks incorporating "ILEVEL", in the United States District Court for the District of Nevada. The case caption is 2:11-cv-01793-JVC-VCF (hereinafter referred to as the "Civil Action"). A copy of the Complaint from the Civil Action is attached as Exhibit A.
3. The final disposition of the Civil Action may have a bearing on these proceedings and could possibly determine Applicant's rights in the Mark and subsume the issues in these opposition proceedings.

4. PTO Rule of Practice 37 C.F.R. §2.117 provides:

(a) Whenever it shall come to the attention of the Trademark Trial and Appeal Board that a party or parties to a pending case are engaged in a civil action ... which may have a bearing on the case, proceedings before the Board may be suspended until termination of the civil action ... .

5. The Board has expounded on the rule in the TBMP § 510.02(a), recognizing the favored approach of suspension in this situation:

Most commonly, a request to suspend pending the outcome of another proceeding seeks suspension because of a civil action pending between the parties in a Federal district court. To the extent that a civil action in a Federal district court involves issues in common with those in a proceeding before the Board, the decision of the Federal district court is often binding upon the Board, while the decision of the Board is not binding upon the Court.

.....

Ordinarily, the Board will suspend proceedings in the case before it if the final determination of the other proceeding will have a bearing on the issues before the Board.

6. Because Applicant has not yet filed its Answer to Opposer's Notice of Opposition and nothing substantive has yet happened in these opposition proceedings, Applicant requests the Board apply its general rule to suspend proceedings.

WHEREFORE, Applicant moves to suspend these proceedings pending a final determination on the merits of the above noted Civil Action, including any and all rights of appeal.

Dated: December 22, 2011

Respectfully submitted,

PATTISHALL McAULIFFE, NEWBURY,  
HILLIARD & GERALDSON LLP

By:           /Elisabeth O'Neill/          

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**CERTIFICATE OF ELECTRONIC TRANSMISSION**

I hereby certify that this APPLICANT'S MOTION TO SUSPEND PROCEEDINGS PENDING OUTCOME OF CIVIL ACTION is being electronically transmitted to the Patent and Trademark Office on December 22, 2011.

\_\_\_\_\_  
/Elisabeth O'Neill/

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing APPLICANT'S MOTION TO SUSPEND PROCEEDINGS PENDING OUTCOME OF CIVIL ACTION was served upon Opposer's current counsel of record in this proceeding, in accordance with the Federal Rules of Civil Procedure, via First-Class U.S. Mail on December 22, 2011 to:

Teresa J. Wiant  
Weyerhaeuser Company  
P.O. Box 9777  
Federal Way, Washington 98063-9777

\_\_\_\_\_  
/Elisabeth O'Neill/

# EXHIBIT A

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7

8 **UNITED STATES DISTRICT COURT**  
9 **DISTRICT OF NEVADA**  
10

11 WEYERHAEUSER NR COMPANY,  
a Washington corporation,  
12

13 Plaintiff,

14 v.

15 ROBERT BOSCH TOOL CORPORATION,  
a Delaware corporation,  
16

16 Defendant.

**COMPLAINT**

**(JURY DEMAND)**

17  
18 For its Complaint, Plaintiff Weyerhaeuser NR Company ("Plaintiff" and/or  
19 "Weyerhaeuser") alleges the following against Defendant Robert Bosch Tool Corporation  
20 ("Defendant" and/or "Bosch"):

21 **NATURE OF THE CASE**

22 1. Weyerhaeuser, the owner of seventeen (17) federal trademark registrations for the  
23 iLevel mark for building-related products, brings this action against Bosch, a tool manufacturer  
24 that recently began using the identical mark for related products with full knowledge of  
25 Weyerhaeuser's rights in the iLevel mark. Weyerhaeuser asserts claims for trademark  
26 infringement and unfair competition under federal and common law. Weyerhaeuser seeks  
27 preliminary and permanent injunctive relief, damages (including treble damages for willful  
28 infringement), attorneys' fees and costs.

**JURISDICTION**

1  
2           2.       This Court has original jurisdiction over Weyerhaeuser’s federal trademark claims  
3 pursuant to 15 U.S.C. § 1121(a) and 28 U.S.C. § 1338(a)-(b). This Court has supplemental  
4 jurisdiction over Weyerhaeuser’s common law claims under 28 U.S.C. § 1367, because those  
5 claims are related to claims under this Court’s original jurisdiction and form part of the same case  
6 or controversy under Article III of the United States Constitution.

7           3.       This Court has general personal jurisdiction over Bosch based on its continuous  
8 and systematic contacts with the State of Nevada, including its sales of products at physical  
9 locations in the State of Nevada, such as Lowe’s and Home Depot, and its sales of products to  
10 Nevada residents through its interactive websites at <skilshop.com> and <cpotools.com>, which  
11 sell and ship Bosch products directly to Nevada residents. Bosch also sells its products to Nevada  
12 residents through its interactive websites <skiltools.com> and <boschtools.com>, which link to a  
13 network of online distributors, including: <acehardware.com>, <allprotools.com>,  
14 <amazon.com>, <build.com>, <doitbest.com>, <internationaltool.com>, <lowes.com>,  
15 <toolbarn.com>, <toolking.com>, <toolup.com>, <tylertool.com>, <walmart.com>, and  
16 <whitecap.com>, who each ship Bosch products into Nevada. In addition, upon information and  
17 belief, Bosch regularly attends trade shows in Nevada.

18           4.       This Court has specific personal jurisdiction over Bosch, because Bosch has  
19 purposefully availed itself of the privilege of conducting business in Nevada. Upon information  
20 and belief, Bosch (directly or through authorized agents) conducts business at various locations in  
21 Nevada that sell its products to Nevada residents. Upon information and belief, Bosch (directly or  
22 through authorized agents) operates service centers in Nevada that repair Bosch products.  
23 Weyerhaeuser’s claims arise, in part, out of Bosch’s contacts with the State of Nevada, because  
24 Bosch is using the iLevel mark at issue on products sold and advertised in the State of Nevada.

25           5.       Venue lies in this judicial district pursuant to 28 U.S.C. § 1391(b)(2), because a  
26 substantial part of the events which gave rise to the claims asserted by Weyerhaeuser (namely,  
27 Bosch’s sale of products bearing the infringing and diluting mark) have occurred and are  
28 continuing to occur in this judicial district.



1 **PARTIES**

2 6. Weyerhaeuser is a Washington corporation with its principal place of business at  
3 33663 Weyerhaeuser Way South, Federal Way, Washington 98003.

4 7. Bosch is a Delaware corporation with its principal place of business at 1800 West  
5 Central Road, Mount Prospect, Illinois 60056.

6 **ALLEGATIONS COMMON TO ALL CLAIMS**

7 **Background on Weyerhaeuser and its iLevel Marks**

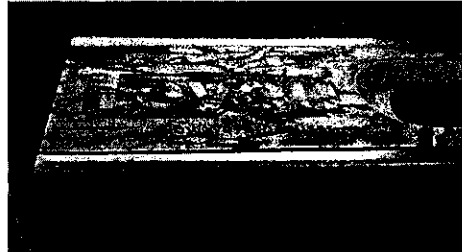
8 8. Weyerhaeuser is part of an 111-year old company based in the State of  
9 Washington. Weyerhaeuser began operations in 1900, when Frederick Weyerhaeuser and 15  
10 partners bought 900,000 acres of timberland. Weyerhaeuser now has offices or operations in 10  
11 countries and has customers worldwide. In 2010, Weyerhaeuser's worldwide operations  
12 generated \$6.6 billion in net sales.

13 9. Weyerhaeuser currently has several business units including: growing and  
14 harvesting trees in renewable cycles; manufacturing and distribution of wood building materials  
15 for homes and other structures; manufacturing a variety of pulp used to produce papers, absorbent  
16 products, photographic film, and other products; and building and developing homes.

17 10. At least as early as 2006, Weyerhaeuser adopted and began using the iLevel mark  
18 in connection with certain products and services for the residential construction market. The  
19 products included, among others: (a) computer software for selecting and customizing engineered  
20 wood and other building material products during the design, fabrication, and installation process;  
21 (b) non-metallic building materials (*i.e.*, floors, millwork exclusive of cabinets, moldings, doors,  
22 and decorative wall panels made from solid wood; engineered wood, plastics and combinations  
23 thereof; wooden veneers, plywood, fiberboard, lumber, particle board, oriented strand board, core  
24 stock and cut stock; composite wood paneling, structural wood-based products, namely, structural  
25 joists, beams, headers, trusses and columns; laminated wood veneer products, namely, scaffolding,  
26 structural framing and bleacher planking; pre-fabricated wood components, namely, trusses or  
27 joists with panels; and decking engineered from wood fiber); (c) distribution services for building  
28 products; (d) engineering and architectural services in the design of structures for others and

1 determining potential building materials that meet structural engineering requirements; (e)  
2 subfloor adhesive; and (f) other products, such as shirts, hats, toy vehicles, and levels.

3 11. Weyerhaeuser has used the iLevel mark on tools, such as levels, as shown in Figure  
4 A below:



5  
6  
7  
8  
9 Figure A

10 12. Since at least as early as 2006, Weyerhaeuser adopted and began using the iLevel  
11 design mark shown in Figure B:



12  
13 Figure B

14 13. In addition, Weyerhaeuser has adopted a family of iLevel marks each containing  
15 the iLevel design mark coupled with additional terms and design elements, including, for example,  
16 the marks shown below in Figure C:



17  
18  
19  
20  
21  
22 Figure C

23 (The iLevel word mark and the design marks referenced in Paragraphs 12 and 13 shall be  
24 collectively referred to as the “iLevel Marks”).

25 14. Weyerhaeuser owns seventeen (17) federal trademark registrations for the iLevel  
26 Marks on the Principal Register of the United States Patent and Trademark Office (“USPTO”)  
27 including, among others:

- 28 a. iLevel (U.S. Trademark Registration Nos. 3,231,697; 3,231,695; 3,243,094;

1 3,243,093; 3,473,619; 3,517,285; and 3,463,595) for: (a) computer software for selecting and  
2 customizing engineered wood and other building material products during the design, fabrication,  
3 and installation process; (b) non-metallic building materials (*i.e.*, floors, millwork exclusive of  
4 cabinets, moldings, doors, and decorative wall panels made from solid wood; engineered wood,  
5 plastics and combinations thereof; wooden veneers, plywood, fiberboard, lumber, particle board,  
6 oriented strand board, core stock and cut stock; composite wood paneling, structural wood-based  
7 products, namely, structural joists, beams, headers, trusses and columns; laminated wood veneer  
8 products, namely, scaffolding, structural framing and bleacher planking; pre-fabricated wood  
9 components, namely, trusses or joists with panels; and decking engineered from wood fiber); (c)  
10 distribution services for building products; (d) engineering and architectural services in the design  
11 of structures for others and determining potential building materials that meet structural  
12 engineering requirements; (e) subfloor adhesive; (f) shirts; (g) hats; and (h) toy vehicles;

13           b.     **iLevel by Weyerhaeuser** (U.S. Trademark Registration No. 3,348,153) for:  
14 (a) computer software for selecting and customizing engineered wood and other building material  
15 products during the design, fabrication, and installation process; (b) non-metallic building  
16 materials (*i.e.*, floors, millwork exclusive of cabinets, moldings, doors, and decorative wall panels  
17 made from solid wood; engineered wood, plastics and combinations thereof; wooden veneers,  
18 plywood, fiberboard, lumber, particle board, oriented strand board, core stock and cut stock;  
19 composite wood paneling, structural wood-based products, namely, structural joists, beams,  
20 headers, trusses and columns; laminated wood veneer products, namely, scaffolding, structural  
21 framing and bleacher planking; pre-fabricated wood components, namely, trusses or joists with  
22 panels; and decking engineered from wood fiber); (c) distribution services for building products;  
23 and (d) engineering and architectural design services, including determining which building  
24 materials meet structural engineering requirements;

25           c.     **iLevel Framer Series** (U.S. Trademark Registration No. 3,503,157) and  
26 **iLevel Lumber Performance Tested** (U.S. Trademark Registration No. 3,282,902) for lumber;

27           d.     **iLevel Trus Joist TJI** (U.S. Trademark Registration No. 3,438,207) for:  
28 structural wood products, namely, structural trusses and joists; structural beams, headers and

1 columns; laminated wood planking and decking; and wood bridges;

2 e. **iLevel Trus Joist Silent Floor** (U.S. Trademark Registration No.  
3 3,428,651) for: structural wood-based products, namely, structural joists, beams, headers, trusses  
4 and columns;

5 f. **iLevel Trus Joist TimberStrand LSL** (U.S. Trademark Registration No.  
6 3,438,206) and **iLevel Trus Joist Parallam PSL** (U.S. Trademark Registration No. 3,438,205)  
7 for: structural wood-based products, namely, structural joists, beams, headers, trusses and  
8 columns; laminated wood veneer products, namely, scaffolding, structural framing; and lumber;

9 g. **iLevel Trus Joist Microllam LVL** (U.S. Trademark Registration No.  
10 3,438,204) for: structural wood products, namely, structural trusses and joists; structural beams,  
11 headers and columns; laminated wood planking and decking;

12 h. **iLevel Structurwood Edge Gold** (U.S. Trademark Registration No.  
13 3,424,609) for: non-metallic building materials, namely, oriented strand board; and

14 i. **iLevel Trus Joist Form-I Joist** (U.S. Trademark Registration No.  
15 3,628,416) for: structural wood-based products, namely, structural joists, laminated wood veneer  
16 products, namely structural framing.

17 15. The federal trademark registrations referenced above are valid and subsisting and  
18 have not been abandoned, cancelled or revoked. As a result, they constitute *prima facie* evidence  
19 of the validity of the registered marks, Weyerhaeuser's ownership of the iLevel Marks, and  
20 Weyerhaeuser's exclusive right to use the iLevel Marks in commerce in connection with the goods  
21 and services referenced therein. In addition, these registrations constitute nationwide constructive  
22 notice of Weyerhaeuser's rights in the registered marks.

23 16. Weyerhaeuser's products bearing the iLevel Marks are sold by building materials  
24 dealers and distributors, and well-known home improvement specialty retailers such Home Depot  
25 and Lowe's, throughout the United States.

26 17. Weyerhaeuser has spent a substantial amount of money in advertising and  
27 promoting its goods and services using the iLevel Marks. Weyerhaeuser has advertised and  
28 marketed its goods and services using the iLevel Marks through its <iLevel.com> website and

1 other online ads, in print advertisements, through retail merchandising, on promotional goods, and  
2 at trade shows.

3 18. Since Weyerhaeuser's adoption of the iLevel Marks in 2006, millions of U.S.  
4 consumers have been exposed to the marks on building materials, in advertisements, on in-store  
5 merchandising, on various promotional products, on the official "iLevel by Weyerhaeuser"  
6 channel on YouTube, and through the iLevel feed on Twitter.

7 19. Weyerhaeuser has generated approximately \$6.6 Billion in sales of products  
8 bearing the iLevel Marks over the past five years.

9 20. Based on Weyerhaeuser's extensive sales and significant advertising and  
10 promotional activities, consumers have come to associate the iLevel Marks with Weyerhaeuser.

11 21. Despite the tremendous recognition of the iLevel Marks, to simplify its customer  
12 contacts and leverage the more well-known WEYERHAEUSER brand, on August 31, 2011,  
13 Weyerhaeuser announced that that it will begin transitioning its iLevel-branded products to the  
14 WEYERHAEUSER brand. Weyerhaeuser, however, continues to produce and sell products  
15 bearing the iLevel Marks. Moreover, Weyerhaeuser continues to own extraordinarily valuable  
16 rights in the iLevel Marks. Weyerhaeuser continues to maintain and enforce its iLevel Marks and  
17 will do so for the foreseeable future.

18 **Bosch's Adoption of the iLevel Mark**

19 22. Bosch sells, among other things, portable electric power tools and accessories for  
20 the consumer do-it-yourself and professional construction markets under the SKIL house brand.

21 23. On March 25, 2011, Bosch filed a U.S. trademark application for registration of the  
22 iLevel mark for hand tools in International Class 9. At the time, Bosch was not using the iLevel  
23 mark.

24 24. On or about August 18, 2011, after the USPTO approved Bosch's application,  
25 Weyerhaeuser sought and obtained an extension of time to oppose Bosch's registration of the  
26 iLevel mark. Bosch received notice of the request for extension, and, therefore, had actual notice  
27 of Weyerhaeuser's rights in the iLevel Marks.

28 25. In or around early September 2011, counsel for Weyerhaeuser and counsel for

1 Bosch discussed Weyerhaeuser's potential filing of an opposition to Bosch's application to  
2 register the iLevel mark and possible settlement.

3 26. On September 22, 2011, Weyerhaeuser sought and obtained a second extension of  
4 time to oppose Bosch's registration of the iLevel mark to give the parties additional time to  
5 discuss settlement. Again, Bosch received notice of the request for extension.

6 27. On October 12, 2011, *with full knowledge of Weyerhaeuser's existing trademark*  
7 *rights in the iLevel Marks*, Bosch issued a press release announcing the introduction of a product  
8 bearing the iLevel mark -- a product that projects a laser line for leveling and alignment projects.

9 28. The iLevel mark adopted by Bosch is identical to Weyerhaeuser's iLevel word  
10 mark. The marks are both comprised of the letter string i-L-e-v-e-l. The marks sound identical.  
11 The marks look identical. The marks create the same overall commercial impression.

12 29. In addition to using the iLevel mark in plain font, Bosch uses the iLevel mark in the  
13 stylized form shown below left. However, when used in its stylized form, the Bosch mark is still  
14 confusingly similar to the Weyerhaeuser iLevel mark shown below right in that both marks start  
15 with a lower case "i" followed by an upper case "L" followed by lower case "evel" in plain, san  
16 serif font, in white lettering:



21 Figure D



22 Figure E

23 30. Bosch is using the iLevel mark on products similar or related to those offered by  
24 Weyerhaeuser under the iLevel Marks or within Weyerhaeuser's natural zone of expansion.  
25 Bosch's iLevel product and Weyerhaeuser's iLevel products are both used in home construction  
26 and improvement. Moreover, *some of Weyerhaeuser's iLevel product literature identifies Bosch*  
27 *tools in the context of disclosing the extent to which the Weyerhaeuser product is compatible with*  
28 *the Bosch tool*. Accordingly, Weyerhaeuser's iLevel products may be used with certain Bosch  
tools.

1           31.    Bosch sells its iLevel product in the same marketing channels as Weyerhaeuser's  
2 iLevel products, including, but not limited to, home improvement specialty retailers such as Home  
3 Depot and Lowe's.

4           32.    Bosch advertises and markets its iLevel product to the same consumers as  
5 Weyerhaeuser, including do-it-yourself consumers and professionals.

6           33.    Bosch adopted the iLevel mark with actual knowledge of Weyerhaeuser's iLevel  
7 Marks.

8           34.    Upon information and belief, Bosch intended to cause confusion among consumers  
9 and trade off of the goodwill and reputation of Weyerhaeuser symbolized by the iLevel Marks.

10          35.    The iLevel Marks are entitled to a broad scope of protection. The iLevel Marks are  
11 conceptually distinctive in that they are fanciful when used in connection with Weyerhaeuser's  
12 goods and services. Moreover, the iLevel Marks are commercially strong based on the nature and  
13 extent of Weyerhaeuser's use of the marks in commerce.

14          36.    Bosch's use of the iLevel mark is likely to cause confusion, or to cause mistake, or  
15 to deceive consumers as the source of Bosch's product, or as to an affiliation, connection, or  
16 association between Bosch and Weyerhaeuser, or as to the origin, sponsorship, or approval of  
17 Bosch's products by Weyerhaeuser. Indeed, consumers are likely to believe that Weyerhaeuser is  
18 the source of Bosch's iLevel-branded products or has authorized or licensed Bosch to manufacture  
19 and sell iLevel-branded products.

20          37.    Bosch's conduct has caused and is likely to cause Weyerhaeuser to suffer damages  
21 and irreparable injury, including loss of reputation or goodwill.

22                               **COUNT I**  
23                               (Trademark Infringement under  
24                               the Lanham Act, 15 U.S.C. § 1114)

25          38.    Weyerhaeuser incorporates the allegations in the preceding paragraphs as if fully  
26 set forth herein.

27          39.    Bosch's use in commerce of the iLevel mark constitutes a reproduction, copying,  
28 counterfeiting, and colorable imitation of Weyerhaeuser's iLevel Marks in a manner that is likely  
to cause confusion or mistake or deceive consumers.

1 40. Bosch's use of the iLevel mark in connection with the sale, offering for sale, or  
2 advertising of its goods is likely to cause confusion, mistake or deceive consumers as to an  
3 affiliation, connection, or association with Weyerhaeuser or as to the origin, sponsorship, or  
4 approval of Bosch's goods or commercial activities by Weyerhaeuser.

5 41. As a direct and proximate result of such trademark infringement, Bosch has caused  
6 and will cause Weyerhaeuser to suffer irreparable injury and damages in an amount to be  
7 determined at trial.

8 42. Upon information and belief, Bosch's infringement is willful.

9 **COUNT II**  
(Unfair Competition under  
10 the Lanham Act, 15 U.S.C. § 1125(a))

11 43. Weyerhaeuser incorporates the allegations in the preceding paragraphs as if fully  
12 set forth herein.

13 44. Bosch's use of the iLevel mark in commerce constitutes a false designation of  
14 origin which is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation,  
15 connection, or association of Bosch with Weyerhaeuser, or as to the origin, sponsorship, or  
16 approval of Bosch's goods by Weyerhaeuser.

17 45. As a direct and proximate result of such unfair competition, Bosch has caused and  
18 will cause Weyerhaeuser to suffer irreparable injury and damages in an amount to be determined  
19 at trial.

20 **COUNT III**  
(Common Law Trademark Infringement)

21 46. Weyerhaeuser incorporates the allegations in the preceding paragraphs as if fully  
22 set forth herein.

23 47. Bosch's use in commerce of the iLevel mark constitutes a reproduction, copying,  
24 counterfeiting, and colorable imitation of Weyerhaeuser's iLevel Marks in a manner that is likely  
25 to cause confusion or mistake or deceive consumers.

26 48. Bosch's use of the iLevel mark in connection with the sale, offering for sale, or  
27 advertising of its goods is likely to cause confusion or mistake, or to deceive consumers as to an  
28 affiliation, connection, or association with Weyerhaeuser or as to the origin, sponsorship, or



1 approval of Bosch's goods or commercial activities by Weyerhaeuser.

2 49. As a direct and proximate result of such trademark infringement, Bosch has caused  
3 and will cause Weyerhaeuser to suffer irreparable injury and damages in an amount to be  
4 determined at trial.

5 **COUNT IV**  
6 (Common Law Unfair Competition)

7 50. Weyerhaeuser incorporates the allegations in the preceding paragraphs as if fully  
8 set forth herein.

9 51. Bosch's use in commerce of the iLevel mark constitutes a reproduction, copying,  
10 counterfeiting, and colorable imitation of Weyerhaeuser's iLevel Marks in a manner that is likely  
11 to cause confusion or mistake or deceive consumers.

12 52. Bosch's use of the iLevel mark in connection with the sale, offering for sale, or  
13 advertising of its goods is likely to cause confusion or mistake, or to deceive consumers as to an  
14 affiliation, connection, or association with Weyerhaeuser or as to the origin, sponsorship, or  
15 approval of Bosch's goods or commercial activities by Weyerhaeuser.

16 53. As a direct and proximate result of such unfair competition, Bosch has caused and  
17 will cause Weyerhaeuser to suffer irreparable injury and damages in an amount to be determined  
18 at trial.

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Weyerhaeuser respectfully prays that the Court, pursuant to the Lanham  
21 Act, 15 U.S.C. §§ 1117-1119, and common law:

22 A. Preliminarily and permanently enjoin Bosch and all others acting in concert with  
23 Bosch from engaging in the tortious conduct set forth in this Complaint, including, but not limited  
24 to, using the iLevel mark, or any colorable imitations thereof, whether alone or in association with  
25 any words or designs, in commerce in connection with the advertising, distribution or sale of any  
26 goods or services, including, but not limited to, products bearing the iLevel mark.

27 B. Enter an order requiring that all labels, signs, prints, packages, wrappers,  
28 receptacles, and advertisements bearing the iLevel mark and plates, molds and other means of

1 making the infringing products be delivered up and destroyed.

2 C. Enter judgment in favor of Weyerhaeuser and against Bosch for damages  
3 (including, but not limited to, Weyerhaeuser's lost profits, all profits generated by Bosch from its  
4 tortious conduct, damages for corrective advertising, and all other forms of compensatory,  
5 punitive and exemplary damages recoverable under law and trebled to the extent permitted by  
6 law).

7 D. Enter an order directing the USPTO to refuse registration of the Bosch iLevel  
8 Mark, specifically, the application bearing Serial No. 85276985.

9 E. Enter judgment in favor of Weyerhaeuser and against Bosch for attorneys' fees,  
10 costs and interest in an amount to be determined at trial; and

11 F. Grant any other relief to which Weyerhaeuser is entitled.

12 **JURY DEMAND**

13 Plaintiff hereby requests a trial by jury on all issues so triable.

14 LEWIS AND ROCA LLP

15 By: /s/Michael J. McCue

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22 Attorneys for Plaintiff

23 WEYERHAEUSER NR COMPANY  
24  
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27  
28