

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Klein Tools, Inc.
Petitioner,

v.

Milwaukee Electric Tool Corporation,
Keter Home and Garden Products Ltd.,
Patent Owners.

Case IPR2025-01018
U.S. Patent No. 11,952,167

**PATENT OWNERS' NOTICE OF WAIVER OF PATENT OWNER
PRELIMINARY RESPONSE
U.S. PATENT NO. 11,952,167**

TABLE OF EXHIBITS

(new exhibits in italics)

Exhibit No.	Description
2001	RESERVED
2002	RESERVED
2003	Complaint filed in <i>Milwaukee Electric Tool Corporation and Keter Home and Garden Products Ltd. v. Klein Tools, Inc.</i> , No. 1-24-cv-04284, Dkt. 1 (N.D. Ill.), dated May 23, 2024
2004	Summons, <i>Milwaukee Electric Tool Corporation and Keter Home and Garden Products Ltd. v. Klein Tools, Inc.</i> , No. 1-24-cv-04284, Dkt. 10 (N.D. Ill.), dated May 28, 2024
2005	Guidance on USPTO’s Recission of “Interim Procedure for Discretionary Denials in AIA Post-Grant Proceedings with Parallel District Court Litigation,” dated March 24, 2025
2006	Notice of Initial Determination on Violation of Section 337, <i>Certain Storage Containers and Toolboxes, Organizers, Component Boxes, and Coolers</i> , Inv. No. 337-TA-1409 (U.S.I.T.C.), dated August 1, 2025
2007	Notice of Commission Determination Not to Review an Initial Determination Extending the Target Date for Completion of the Investigation, <i>Certain Storage Containers and Toolboxes, Organizers, Component Boxes, and Coolers</i> , Inv. No. 337-TA-1409 (U.S.I.T.C.), dated August 12, 2025
2008	Declaration of Scott D. Sherwin in Support of Petitioner’s Notice of Intent to Designate Scott D. Sherwin as a Provisionally Recognized PTAB Attorney Eligible for Automatic <i>Pro Hac Vice</i> Admission as Back-Up Counsel Pursuant to 37 C.F.R. § 42.10
2009	<i>Initial Determination of Violation of Section 337 and Recommendation on Remedy and Bond, Certain Storage Containers and Toolboxes, Organizers, Component Boxes, and Coolers, Inv. No. 337-TA-1409 (U.S.I.T.C.), dated August 1, 2025</i>

Pursuant to 37 C.F.R. § 42.107, Patent Owners Milwaukee Electric Tool Corporation and Keter Home and Garden Products Ltd. (Patent Owners) waive the filing of a Patent Owners' Preliminary Response (POPR) in this proceeding. Two previous IPRs filed by Petitioner Klein Tools, Inc., against patents in the same family, IPR2024-01400 and -01401, were discretionarily denied. Since the same operative facts resulting in those denials are present here with an even more advanced timeline of the co-pending ITC proceeding, Patent Owners believe this Petition will similarly be discretionarily denied and, thus, no preliminary response is necessary.

Further, since Patent Owners filed their Discretionary Denial Brief (Paper 10), the co-pending ITC proceeding's Initial Determination has been published, finding that Petitioner "has failed to show, clearly and convincingly, that any asserted patent claim is invalid as obvious under 35 U.S.C. § 103." Ex-2009 at 286. Because the present Petition has significantly overlapping claims and invalidity grounds as the co-pending ITC proceeding, the ITC's decision further demonstrates the weakness of the Petition and underscores the extent to which efforts would be duplicated should this IPR be instituted.

Patent Owner does not believe additional briefing is necessary at this time. However, this waiver does not constitute a relinquishment of any arguments.

Nothing herein should be taken as any concession that the Petition satisfies the § 314(a) standard.

Respectfully submitted,

Dated: September 22, 2025

By: / Dion M. Bregman /
Dion M. Bregman, Reg. No. 45,645

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e)(4), lead counsel for Patent Owners hereby certifies that on September 22, 2025 a copy of this PATENT OWNERS' NOTICE OF WAIVER OF PATENT OWNER PRELIMINARY RESPONSE and Exhibit 2009 were served to the email correspondence address of record for Petitioner's counsel of record:

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Respectfully Submitted,

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