

IPR2026-00233 (Patent 11,656,067)
Reply in Support of Opposition to Request for Discretionary Denial

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

KLEIN TOOLS, INC.,

Petitioner,

v.

MILWAUKEE ELECTRIC TOOL CORPORATION,

Patent Owner

Case No. IPR2026-00233

U.S. Patent No. 11,656,067

REPLY IN SUPPORT OF OPPOSITION TO
PATENT OWNER'S REQUEST FOR DISCRETIONARY DENIAL

TABLE OF AUTHORITIES¹

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Cases

<i>Cochlear Bone Anchored Sols. AB v. Oticon Med. AB</i> , 958 F.3d 1348 (Fed. Cir. 2020)	2
<i>Evenflo Co., Inc. v. Baby Jogger, LLC</i> , IPR2025-01120, Paper 17 (Dec. 1, 2025)	1
<i>Revvo Techs., Inc. v. Cerebrum Sensor Techs., Inc.</i> , IPR2025-00632, Paper 20 (Nov. 3, 2025)	2

¹ All emphasis added unless otherwise noted.

LIST OF EXHIBITS²

Exhibit No.	Description
1001	Certified U.S. Patent No. 11,656,067
1002	Certified File History for U.S. Patent No. 11,656,067
1003	Declaration of Robert Giachetti
1004	<i>Curriculum Vitae</i> of Robert Giachetti
1005	U.S. Patent No. 7,096,596 (“Hernandez”)
1006	U.S. Patent No. 6,324,769 (“Murray”)
1007	U.S. Patent No. 6,367,161
1008	U.S. Patent No. 6,662,463
1009	U.S. Patent Application Publication No. 2004/0071869 (filed Oct. 10, 2002) (“Gilliam”)
1010	U.S. Patent No. 4,429,462
1011	U.S. Patent No. 6,243,964
1012	U.S. Patent No. 6,282,808
1013	U.S. Patent No. 6,643,947
1014	U.S. Patent No. 6,804,899
1015	Patent Owner’s Preliminary Response to Petition, <i>Apex Tool Group LLC v. Milwaukee Electric Tool Corp.</i> , PGR2020-00056, Paper No. 9

² Descriptions are for convenience only and are not admissions or evidence.

Exhibit No.	Description
1016	Milwaukee Tool Internal May 8, 2017 Presentation, titled “Wider tape standout issue[:] Root cause analysis and Rework”
1017	Milwaukee Tool Internal Standout Procedure Excel Spreadsheet
1018	Kat Eschner, <i>How Hoop Skirts Led to Tape Measures</i> , Smithsonian Magazine (July 14, 2017), https://www.smithsonianmag.com/smart-news/how-hoop-skirts-led-tape-measures-180963995/ (last visited Dec. 5, 2025)
1019	Tape (Chesterman), https://americanhistory.si.edu/collections/object/nmah_761653
1020	U.S. Patent No. 79,965
1021	U.S. Patent No. 1,402,589
1022	Dkt. 28, Report of the Parties’ Planning Meeting in <i>Milwaukee Electric Tool Corporation v. Klein Tools, Inc.</i> , No. 1:25-cv-04689 (N.D. Ill.)
1023	Dkt. 30, Order adopting Parties’ Proposed Case Management Schedule in <i>Milwaukee Electric Tool Corporation v. Klein Tools, Inc.</i> , No. 1:25-cv-04689 (N.D. Ill.)
1024	Dkt. 42, Order granting Joint Motion for Extension of Certain Dates in <i>Milwaukee Electric Tool Corporation v. Klein Tools, Inc.</i> , No. 1:25-cv-04689 (N.D. Ill.)
1025	Dkt. 53, Joint Motion to Extend Certain Deadlines in the Scheduling Order in <i>Milwaukee Electric Tool Corporation v. Klein Tools, Inc.</i> , No. 1:25-cv-04689 (N.D. Ill.)
1026	Declaration of Nathaniel Louis DeLucia in Support of Admission <i>Pro Hac Vice</i>
1027	Declaration of Ryan Kane

Exhibit No.	Description
1028	Dkt. 68, Joint Status Report in <i>Milwaukee Electric Tool Corporation v. Klein Tools, Inc.</i> , No. 1:25-cv-04689 (N.D. Ill.)
1029	Dkt. 70, Plaintiff's Opposed Motion for Voluntary Dismissal of Plaintiff's First Amended Complaint Without Prejudice and Dismissal of Defendant's Counterclaims Without Prejudice in <i>Milwaukee Electric Tool Corporation v. Klein Tools, Inc.</i> , No. 1:25-cv-04689 (N.D. Ill.)
1030	Dkt. 72, Memorandum in Support of Plaintiff's Opposed Motion for Voluntary Dismissal of Plaintiff's First Amended Complaint Without Prejudice and Dismissal of Defendant's Counterclaims Without Prejudice in <i>Milwaukee Electric Tool Corporation v. Klein Tools, Inc.</i> , No. 1:25-cv-04689 (N.D. Ill.)
1031	Dkt. 76, Minute Entry Assigning Case Back to District Judge in <i>Milwaukee Electric Tool Corporation v. Klein Tools, Inc.</i> , No. 1:25-cv-04689 (N.D. Ill.)
1032	March 6, 2026 Response Letter from J. White to R. Kane in <i>Milwaukee Electric Tool Corporation v. Klein Tools, Inc.</i> , No. 1:25-cv-04689 (N.D. Ill.)
1033	<i>Case Study: Milwaukee Tool</i> , Tariff Integrity, https://www.tariffintegrity.org/tti/milwaukeeetool (last visited April 14, 2026)
1034	<i>Chinese-owned power tool company based in Wisconsin targeted by Trump administration for tariff evasion</i> , Washington Examiner (February 12, 2026), https://www.washingtonexaminer.com/news/white-house/4454169/trump-administration-action-chinese-owned-company-wisconsin/ (last visited April 29, 2026)
1035	<i>American Manufacturing</i> , Klein Tools, https://www.kleintools.com/content/american-manufacturing (last visited April 14, 2026)

Exhibit No.	Description
1036	Techtronic Industries 2025 Annual Report (excerpted)
1037	Dkt. 78, Klein Tools' Opposition to Plaintiff's Motion for Voluntary Dismissal of Plaintiff's First Amended Complaint Without Prejudice and Dismissal of Defendant's Counterclaims Without Prejudice and Request for Sanctions in <i>Milwaukee Electric Tool Corporation v. Klein Tools, Inc.</i> , No. 1:25-cv-04689 (N.D. Ill.)

The Petition addressed Klein’s claim construction positions in light of *Revvo*.

Pet. 14-17. But Milwaukee chose to ignore *Revvo* in its discretionary denial brief, lying in wait to instead address *Revvo* in its POPR, seeking a tactical last word where it could argue—without response³—that “the Petition offers no real explanation” on indefiniteness (Paper 10 at 8), an “unexplained reversal” (*id.*), and to suggest Klein was not “candid” (*id.* at 9). Because Milwaukee could have (and should have) addressed *Revvo* then given its discretionary nature, Milwaukee’s new arguments should be deemed waived. Interim Director Discretionary Process at I.C; *Evenflo Co., Inc. v. Baby Jogger, LLC*, IPR2025-01120, Paper 17 at 1 (Dec. 1, 2025) (characterizing *Revvo* as discretionary). As explained below and in the Petition, Milwaukee’s belated assertions are untrue and—even if considered—meritless.

First, Klein’s preliminary invalidity contentions alleging indefiniteness are entirely consistent with its claim construction positions in the Petition. Simply put, there is a difference between reading the claims on the accused products, where measurements can vary depending on use, and Hernandez and Murray’s written disclosures with unambiguous numerical values. As to standout, one user might extend the accused tape quickly and achieve more standout than another; or extend it so fast that it buckles, achieving relatively less standout. Pet. at 15-17. Likewise,

³ Milwaukee also opposed this routine request for a reply (with sur-reply).

the accused tapes’ curved dimensions “vary along the length of the blade,” but Milwaukee identified only one “curved height” and “curved width” for each, without explaining why a POSA would pick that measurement. Pet. at 16. But these issues do not “imply inability to conduct a prior-art analysis needed for an inter partes review”: the ambiguity arises from Milwaukee’s characterization of the accused products’ dimensions, not from the prior art references’ disclosures. *Cochlear Bone Anchored Sols. AB v. Oticon Med. AB*, 958 F.3d 1348, 1360 (Fed. Cir. 2020). Hernandez and Murray unambiguously disclose standout greater than 150 inches, a “curved profile” that does not “vary” but spans the entire blade, and numerical values that satisfy the curvature limitations. Pet. at 32-38, 40.

Second, *Revvo*’s fundamental concern—pursuing contrary constructions in a parallel proceeding—is not present here. IPR2025-00632, Paper 20 at 4 (Nov. 3, 2025). The case Milwaukee relies on ***will be dismissed*** with no claim construction ruling because Milwaukee lacked any rights in the ’067 patent; the only issue left is whether Milwaukee will face conditions or sanctions for its egregious conduct. Exs. 1028 at 4; 1029 at 1; Ex. 1037 at 9-14. And any suggestion that a future litigation may raise such concerns is speculation given no such litigation exists and, even if filed, would likely be stayed should this IPR be instituted.

The Director should reject Milwaukee’s belated and tactical attempt to invoke *Revvo* and manufacture a claim construction issue where none exists.

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Date: May 26, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document and supporting exhibit was served on May 26, 2026 on counsel of record for the Patent

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