

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MILWAUKEE ELECTRIC TOOL
CORPORATION,

Plaintiff,

v.

KLEIN TOOLS, INC.,

Defendant.

Case No. 1:25-cv-04689

Judge John H. Tharp, Jr.
Magistrate Judge Keri L. Holleb Hotaling

JOINT STATUS REPORT

Pursuant to the Court's January 13, 2026 Order (Dkt. 50), Plaintiff Milwaukee Electric Tool Corporation ("Milwaukee Tool") and Defendant Klein Tools, Inc. ("Klein Tools") submit the following Joint Status Report:

I. Milwaukee's Forthcoming Motion to Dismiss Regarding Standing

Milwaukee Tool's Position

As noted in Milwaukee Tool's Motion to Dismiss Defendant's Counterclaim Count 1 (Dkt. 63), Milwaukee Tool recently determined it lacked constitutional standing at the time it filed its Complaint (Dkt. 1), such that this Court does not have jurisdiction. In mid-January 2026, Milwaukee Tool first became aware of agreements between Milwaukee Tool and another entity that affected ownership of the Asserted Patents. Milwaukee Tool notified Klein of this issue and produced the relevant agreements to Klein on February 13, 2026. Milwaukee Tool intends to file a motion to dismiss without prejudice and refile this case with constitutional standing corrected.

The parties met and conferred on March 3, 2026 to discuss whether Klein would oppose Milwaukee Tool's motion to dismiss. While Klein agrees that Milwaukee Tool lacked constitutional standing at the time the Complaint (Dkt. 1) was filed, Klein has indicated it intends to oppose Milwaukee Tool's motion to dismiss. If Milwaukee Tool's motion to dismiss is granted, it will identify Judge Tharp and the case number for this current lawsuit on the designation sheet for the new lawsuit pursuant to LR 40.3(b)(2).

The parties previously discussed, and appeared to agree, that discovery produced in this action could be used in the new litigation. Specifically, on March 3, 2026, Klein sent a letter to Milwaukee Tool requesting that, among other things, Milwaukee agree: (1) all documents produced by the parties are considered produced in any new litigation, (2) any deposition testimony shall be considered produced and available for use in any new litigation, (3) the previously agreed-to limitations on number of interrogatories and requests for admission shall apply in any new litigation, and (4) all written discovery, including responses thereto are to be considered served in any new litigation. Klein stated that these requests were intended to "mitigate the prejudice to Klein Tools." However, Klein has since indicated that it is no longer agreeing to proceed on that basis and instead suggests the parties confer regarding discovery in any new litigation after the Court resolves Milwaukee Tool's motion to dismiss.

Milwaukee Tool also notes that Klein's position contains several incorrect statements. Milwaukee Tool disputes those assertions and will respond to any requests or accusations raised by Klein at the appropriate time.

Klein Tools' Position

In Milwaukee's rush to sue Klein Tools before a pre-set meeting last May, Milwaukee failed to conduct a proper pre-suit investigation. It then failed to follow the Local Rules by not

producing all ownership documents in July of 2025. And it failed to comply with its discovery obligations by not searching for and producing “Documents and Things concerning any Person’s or any entity’s alleged rights to or ownership of the Patents-in-Suit,” in response to Klein Tools’ RFP No. 13. Any reasonable investigation by Milwaukee at any of these points would have revealed that it lacked constitutional standing.

It was not until Klein Tools invested significant resources in this case, completed initial contentions, drafted, served, and responded to multiple rounds of written discovery, deposed one of the named inventors, and bought an inequitable conduct claim that Milwaukee informed Klein Tools that Milwaukee “discovered” that *it did not even own the patents it bought suit on*. Milwaukee’s unilateral actions inflicted unfair prejudice on Klein Tools. When Klein Tools made a proposal to attempt to *mitigate* that prejudice, Milwaukee refused.¹

Instead, Milwaukee seeks the Court’s permission to impose the consequences of its failures onto Klein Tools by having this case dismissed without prejudice and without any conditions. Milwaukee does not even attempt to hide why: it wants to capitalize on its lack of diligence to ditch its current litigation positions and hit reset. For example, at present, Milwaukee can only assert a single claim from the ’067 patent that is facially invalid over publicly available Stanley Black & Decker products Milwaukee tested *before* filing for the ’067 patent (worse still, Milwaukee intentionally withheld those invalidating tape measures from the patent office). Now,

¹ While Klein Tools’ March 3, 2026 proposal included the four discovery items Milwaukee identifies above, Milwaukee omits that it *rejected* Klein Tools’ proposal on March 6 because Klein Tools’ proposal *also required* Milwaukee to be bound by its present contentions, i.e., limited to the same currently asserted claims of the ’067 and ’064 patents, among other things. As Klein Tools explained in response, Milwaukee cannot cherry-pick portions of Klein Tools’ proposal because, if Milwaukee is permitted to bring new claims and accuse new products, discovery in any new case may need to change and merely transferring discovery does not mitigate Klein Tools’ prejudice.

Milwaukee plans to re-sue Klein Tools to assert additional claims from the '067 and '064 patents, against additional products—which Milwaukee could not do in this case absent Court order—further compounding the prejudice Klein Tools already faces.

Because the burden of Milwaukee's improper and unilateral actions should not fall on Klein Tools, Klein Tools opposes Milwaukee's motion to dismiss its case without prejudice and will seek conditions on dismissal and sanctions. Klein Tools provided a proposed briefing schedule for Milwaukee's motion to dismiss and anticipates the parties will, in accordance with the Court's rules, come to an agreement on that schedule. Klein Tools looks forward to presenting its arguments during the briefing process.

II. Discovery & Docket 63

On January 20, 2026 the parties filed a Joint Agreed Motion to Extend Certain Deadlines (Dkt. 53) which the Court granted on January 21, 2026 (Dkt. 54). All deadlines and discovery should be stayed given Milwaukee's forthcoming motion to dismiss its own claims and related briefing.

Given the standing issue discussed above, Milwaukee extended the time for Klein Tools to respond to Milwaukee's motion on Klein Tools' counterclaim 1 (Dkt. 63) until after the standing issue is resolved.

III. Likelihood of Settlement

The parties are engaged in multiple litigations in multiple jurisdictions and have had prior discussions around settlement. Given the status of the litigations, settlement at this stage remains unlikely. The parties will provide additional updates to the Court accordingly.

Dated: March 10, 2026

/s/ Jason C. White

Jason C. White

Scott D. Sherwin

MORGAN LEWIS & BOCKIUS

110 N. Wacker Drive, Suite 2800

Chicago, IL 60601-5094

Telephone: 312.324.1000

Fax: 312.324.1001

jason.white@morganlewis.com

scott.sherwin@morganlewis.com

karon.fowler@morganlewis.com

*Attorneys for Plaintiff Milwaukee Electric Tool
Corporation*

Respectfully submitted,

/s/ Nathaniel DeLucia

Brian A. Verbus

KIRKLAND & ELLIS LLP

333 W. Wolf Point Plaza,

Chicago, IL 60654

Tel: (312) 862-6000

Fax: (312) 862-2200

brian.verbus@kirkland.com

Gregory S. Arovas

Ryan Kane, P.C. (admitted *pro hac vice*)

Nathaniel DeLucia (admitted *pro hac vice*)

KIRKLAND & ELLIS LLP

601 Lexington Avenue

New York, NY 10022

Tel: (212) 446-4800

Fax: (212) 446-4900

garovas@kirkland.com

ryan.kane@kirkland.com

nathaniel.delucia@kirkland.com

Attorneys for Defendant Klein Tools, Inc.