IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

KLEIN TOOLS, INC., Plaintiff, v. MILWAUKEE ELECTRIC TOOL CORPORATION, Defendant.	**C.A. No. 1:25-cv-00143-JLH** **JURY TRIAL DEMANDED**

DEFENDANT'S UNOPPOSED MOTION TO STAY PURSUANT TO 28 U.S.C.§ 1659 AND FOR AN EXTENSION OF TIME TO RESPOND TO THE COMPLAINT

Pursuant to 28 U.S.C. § 1659, defendant Milwaukee Electric Tool Corporation ("Defendant" or "Milwaukee"), by and through its counsel, respectfully moves for a stay of the above-captioned case pending the resolution of a parallel proceeding in the United States International Trade Commission ("ITC") captioned *Certain Glow Fish Tape Systems, Safety Helmet Systems, and Components Thereof*, Inv. No. 337-TA-1442 (the "1442 Investigation"), and to extend the deadline to move, answer, or otherwise respond to the complaint until 30 days after the Court issues an order lifting the stay.

On February 2, 2025, plaintiff Klein Tools, Inc. ("Klein" or "Plaintiff") filed the instant action alleging infringement of U.S. Patent Nos. U.S. Patent Nos. 11,452,327; 11,713,209; and 12,187,573. *See* D.I. 1. On February 11, 2025, Plaintiff filed a complaint under Section 337 of the Tariff Act of 1930, as amended, requesting that the ITC institute an investigation against Milwaukee for alleged infringement of the same three patents. The complaint was supplemented on March 3, 2025. The ITC instituted the 1442 Investigation on March 13, 2025, after which a Notice of Investigation was published in the Federal Register on March 19, 2025. *See* 90 Fed. Reg. 12790. The Notice of Investigation identifies Milwaukee as the respondent in the 1442 Investigation. *See id.*

Section 1659 of Title 28 provides: "In a civil action involving parties that are also parties to a proceeding before the United States International Trade Commission under section 337 of the Tariff Act of 1930, at the request of a party to the civil action that is also a respondent in the proceeding before the Commission, the district court shall stay, until the determination of the Commission becomes final, proceedings in the civil action with respect to any claim that involves the same issues involved in the proceeding before the Commission." 28 U.S.C. § 1659(a). A stay under this section is mandatory and must be granted if made within thirty days from the later of (1) the party being named a respondent in a proceeding before the ITC or (2) the filing of the district court action. 28 U.S.C. § 1659(a)(1)-(2); *see also In re Remy Cointreau USA, Inc.*, 541 F. App'x 985, 987 (Fed. Cir. 2013) (upholding the district court's stay of all proceedings under 28 U.S.C. § 1659(a) until the ITC proceedings became final).

This action and the 1442 Investigation involve the same parties and same asserted patents. Thus, the conditions of 28 U.S.C. § 1659 are satisfied and this action must be stayed until the ITC issues a final determination in the 1442 Investigation. This Motion is submitted within thirty days of Milwaukee being named as Respondent in the instituted ITC 1449 Investigation and is therefore timely filed. *See* 19 C.F.R. § 210.10(b).

Pursuant to D. Del. Local Rule 7.1.1., counsel for Milwaukee communicated with counsel for Plaintiff regarding this Motion, and counsel for Klein has advised that Klein does not oppose the Motion and requested stay of this action. The parties further agree and hereby stipulate that the deadline for Milwaukee to move, answer, or otherwise respond to the Complaint shall be extended until 30 days after the stay of the instant action is lifted.

In seeking a stay, Milwaukee expressly reserves all of its objections and defenses to Plaintiff's complaint in this action, including without limitation, any defenses based on lack of jurisdiction, improper venue, insufficiency of process, and insufficiency of service of process.

WHEREFORE, Milwaukee respectfully requests this Court stay this action pending a Final Determination of the ITC in the 1442 Investigation and extend the deadline for Milwaukee's response to the complaint until 30 days after the Court issues an order lifting the stay.

Dated: March 27, 2025

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

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[PROPOSED] ORDER

At Wilmington this ___ day of _____, 2025, having considered Defendant Milwaukee Electric Tool Corporation's Unopposed Motion to Stay Pursuant to 28 U.S.C. § 1659 and For An Extension of Time to Respond to the Complaint, IT IS HEREBY ORDERED that:

1. The Motion is GRANTED;

2. The instant action is STAYED pending resolution of *Certain Glow Fish Tape Systems, Safety Helmet Systems, and Components Thereof*, Inv. No. 337-TA-1442 (the "1442 Investigation");

3. The Parties shall file a joint status report within 30 days of the resolution of the 1442 Investigation; and

4. The deadline for Milwaukee Electric Tool Corporation to move, answer, or otherwise respond to the Complaint (D.I. 1) is hereby extended until thirty (30) days after the Court issues an order lifting the stay of the instant action.

_____
Honorable Jennifer L. Hall
U.S. District Court Judge