

**UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.**

**Before the Honorable Clark S. Cheney
Chief Administrative Law Judge**

In the Matter of

**CERTAIN GLOW FISH TAPE
SYSTEMS, SAFETY HELMET
SYSTEMS, AND COMPONENTS
THEREOF**

Investigation No. 337-TA-1442

**RESPONDENT'S FIFTH SUPPLEMENTAL OBJECTIONS AND
RESPONSES TO COMPLAINANT KLEIN TOOLS, INC.'S
FIRST SET OF INTERROGATORIES (NOS. 1-18)**

Respondent Milwaukee Electric Tool Corporation ("Milwaukee" or "Respondent"), pursuant to 19 C.F.R. §§ 210.27 and 210.29, hereby provides its Fifth Supplemental Objections and Responses to Complainant Klein Tools, Inc.'s ("Complainant" or "Klein") First Set of Interrogatories (Nos. 1-18), subject to the General and specific objections set forth below. Discovery is ongoing, and Milwaukee reserves the right to amend, modify, and/or supplement these responses pursuant to 19 C.F.R. § 210.27.

GENERAL OBJECTIONS

Respondent incorporates by reference the General Objections contained in Respondent's Objections and Responses to Complainant Klein Tools, Inc.'s First Set of Interrogatories (Nos. 1-18).

OBJECTIONS AND RESPONSES TO SPECIFIC INTERROGATORIES

Interrogatory No. 1. Identify all Accused Products, their prototypes, and components thereof, that are or have been offered for sale, used, imported into the United States, sold for importation into the United States, and/or sold within the United States after importation, by Milwaukee, or that Milwaukee intends to import into the United States, sell for importation into the United States, and/or sell within the United States after importation before the Target Date in

[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

Interrogatory No. 3. Set Forth the Complete Basis for Your contentions, if any, that any claims of the Asserted Patents are invalid (including under 35 U.S.C. §§ 101, 102, 103, 112) or unenforceable, including all facts that support or refute any such contention.

RESPONSE TO INTERROGATORY NO. 3:

In addition to the foregoing General Objections, Milwaukee specifically objects to this Interrogatory as premature to the extent it seeks the disclosure of expert opinion and testimony, and to the extent it seeks Milwaukee’s legal contentions in advance of the deadlines to be set forth in the forthcoming Procedural Schedule, the relevant Ground Rules, and/or any agreement between the parties. Milwaukee further objects to this Interrogatory to the extent it calls for information that is protected by the attorney-client privilege, the work product doctrine, or any other applicable privilege or immunity. Milwaukee further objects to this Interrogatory to the extent it seeks information that is subject to a confidentiality obligation owed to a Third Party. Milwaukee further objects to this Interrogatory as overly broad and unduly burdensome to the extent it requests “all

Second Supplemental Response to Interrogatory No. 3 (May 19, 2025):

Subject to the foregoing General and Specific Objections, Respondent further responds as follows:

Respondent incorporates by reference its General Reservations stated above in its First Supplemental Response to Interrogatory No. 3 as if stated fully herein. Respondent further notes that in addition to the Asserted Claims noted in that First Supplemental Response, Klein also asserts that Respondent infringes claims 1-4 of U.S. Patent No. 12,268,265 (“the ’265 Patent”) and also identifies claims 1-4 of the ’265 Patent as Domestic Industry Claims.

I. INVALIDITY OF U.S. PATENT NO. 12,268,265

A. Priority Date of the ’265 Patent

The ’265 Patent was filed on July 1, 2022 as a continuation of the ’327 Patent, which was filed on January 14, 2019. The ’265 Patent claims priority to Provisional Application No. 62/645,491 (“the ’491 Provisional”), filed on March 20, 2018 and Provisional Application No. 62/622,472 (“the ’472 Provisional”), filed on January 26, 2018.

For similar reasons as discussed with respect to the ’327 Patent, incorporated here, the claims of the ’265 Patent are not entitled to a priority date earlier than October 21, 2021. Independent claim 1 of the ’265 Patent recites a “safety helmet system, comprising: a safety helmet comprising: . . . a front receptacle having a first pair of external slots and a stop . . . wherein the **stop is integrally molded** with the exterior surface of the outer shell.” Dependent claim 2 further recites “wherein the outer shell, the front receptacle, and the rear receptacle are formed from **a common material.**”

As filed, none of the ’491 Provisional, the ’472 Provisional, or the originally filed application leading to the ’327 Patent included a description of the stop being integrally molded or the outer shell, front receptacle, and rear receptacle being formed from a common material.

Instead, as discussed in IPR2025-00724, incorporated here, Patent Owner repeatedly introduced new matter to attempt to overcome the prior art. This includes adding six new drawings and amendments, including new disclosures, to the specification on October 21, 2021 and including further amendments to the specification, claims, and drawings on April 25, 2022.

Thus, for the same reasons as discussed in IPR2025-00724, and because the claims of the '265 Patent require the same “integrally molded” language, at best, the '265 Patent is entitled to a priority date no earlier than October 21, 2021. The '265 Patent is an AIA patent.

B. The Claims of the '265 Patent are Invalid Under 35 U.S.C. § 102 and/or 35 U.S.C. § 103

If the '265 Patent is entitled to a priority date no earlier than October 21, 2021, and the DI Products satisfy the technical prong as Klein contends, then each of the claims of the '265 Patent is invalid under 35 U.S.C. § 102 because the DI Products, and information about the DI products, was described in a printed publication, in public use, on sale, and/or otherwise available to the public before the priority date.

As noted in the Complaint, Klein issued a press release on July 23, 2019 touting the launch of a new generation of hard hats and identifying the products as “patent-pending.” Am. Compl. ¶¶ 27. In its DI chart for the '265 Patent (Ex. 8) served on May 9, 2025, Klein states that it “contends that U.S. Patent No. 12,268,265 (the '265 Patent) is practiced by the Klein Tools Domestic Industry Products, including the Klein Tools Hard Hat System, literally and/or under the doctrine of equivalents.” Ex. 8 to Interrogatory Response served 5/9/2025. Klein provides a chart mapping each of the claims to what it has asserted are “representative” DI Products.

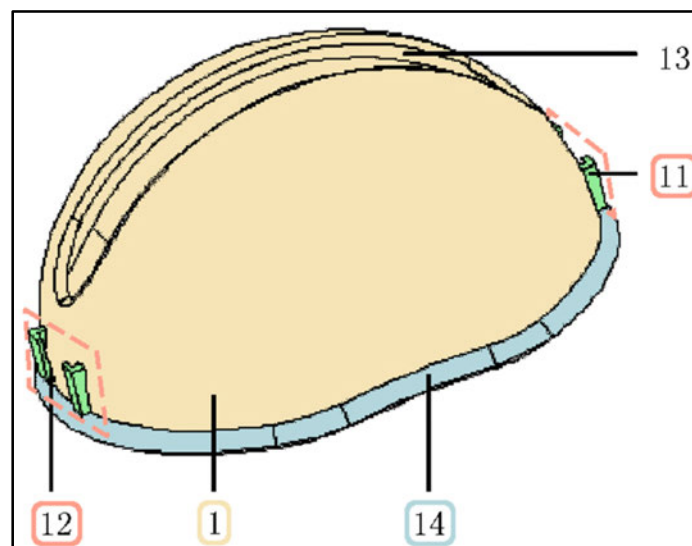
One of the representative products that Klein maps in the chart, and thus contends satisfies the technical DI prong by including all elements of the claims, is Klein’s hard hat Model Number 60407 with one or two headlamps. *See, e.g.*, Ex. 8 at 2, 5, 19. This model number 60407 hard hat

along with headlamps was identified in the 2019 press release. METCO1442_00004523-4524. Respondent reserves the right to further supplement and amend this response to rely on physical products as anticipatory prior art, such as Model Number 60407 and headlamps, as well as other DI Products that Respondent contends satisfy the technical DI prong, and any printed publications that describe those products. Respondent further incorporates by reference in its entirety the anticipatory Ground 4 outlined in IPR2025-00724, as well as incorporates by reference the entirety of IPR2025-00724.

Claims 1-4 of the '265 Patent are invalid under 35 U.S.C. § 103 based on at least the following combinations:

- 1. Claims 1-4 are obvious under 35 U.S.C. § 103 in view of Chinese Utility Model App. No. 2011-20014896.0 to Yan (“Yan”) combined with U.S. Patent No. 9,993,043 to Daley (“Daley”).**

As seen in annotated Figure 2 of Yan, Yan teaches a safety helmet with a helmet body 1, a brim 14, and snap-fit slots 11 and 12, each of which includes a respective pair of symmetrically arranged L-shaped slots. Yan ¶¶ 5, 9.



Yan Fig. 2 (annotated)

Dated: July 1, 2025

Respectfully Submitted,

/s/ Stephanie L. Roberts

Eric. S. Namrow

Stephanie L. Roberts

Kandis C. Gibson

Calvin M. Brien

Emily K. Burge

Morgan, Lewis & Bockius LLP

1111 Pennsylvania Avenue, N.W.

Washington, D.C. 20004-2541

Telephone: (202) 739-3000

Facsimile: (202) 739-3001

Jason C. White

Scott D. Sherwin

Maria E. Doukas

Liya Levin

Morgan, Lewis & Bockius LLP

110 N. Wacker Drive

Chicago, IL 60606

Telephone: (312) 324-1000

Facsimile: (312) 324-1001

*Counsel for Milwaukee Electric Tool
Corporation*

CERTIFICATE OF SERVICE

I, Nina Armah, hereby certify that on July 1, 2025, copies of the foregoing
**RESPONDENT'S FIFTH SUPPLEMENTAL OBJECTIONS AND RESPONSES TO
COMPLAINANT KLEIN TOOLS, INC.'S FIRST SET OF INTERROGATORIES (NOS.
1-18)** were served as follows:

The Honorable Lisa R. Barton Secretary to the Commission U.S. International Trade Commission 500 E Street, SW, Room 112 Washington, DC 20436	☐ Via Electronic Filing (EDIS) ☐ Via First Class Mail ☐ Via Hand Delivery ☐ Via Express Delivery ☒ Not Served
Hon. Clark S. Cheney Chief Administrative Law Judge U.S. International Trade Commission 500 E Street, S.W. Washington, D.C. 20436 <i>Cheney1442@usitc.gov</i>	☐ Via EDIS ☐ Via Email/Box Upload ☐ Via Overnight Delivery ☐ First Class Mail ☒ Not Served
<i>Counsel for Complainant Klein Tools, Inc.</i>	
Paul F. Brinkman, P.C. KIRKLAND & ELLIS LLP 1301 Pennsylvania Avenue, N.W. Washington, D.C. 20004 Greg S. Arovas, P.C. Ryan Kane, P.C. Alan Rabinowitz Jae Hyun Kim Robert Endrizzi KIRKLAND & ELLIS LLP 601 Lexington Avenue New York, NY 10022 <i>KleinTools_Litigation@kirkland.com</i>	☒ Via Email ☐ Via Express Delivery ☐ Via First Class Mail ☐ Via Hand Delivery

/s/ Nina Armah
Nina Armah