

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Milwaukee Electric Tool Corporation,

Petitioner,

v.

Klein Tools, Inc.,
Patent Owner

U.S. PATENT NO. 12,268,265

Case No. PGR2025-00080

**PATENT OWNER'S REPLY TO REQUEST FOR
DISCRETIONARY DENIAL OF POST-GRANT REVIEW**

TABLE OF AUTHORITIES

Cases	Page(s)
<i>Advanced Micro Devices, Inc. v. Concurrent Ventures, LLC</i> , IPR2025-00223, Paper 9 (P.T.A.B. June 12, 2025)	1

TABLE OF EXHIBITS

<u>Exhibit</u>	<u>Description</u>
2001	Order No. 13: Rescheduling Evidentiary Hearing, <i>In the Matter of Certain Glow Fish Tape Systems, Safety Helmet Systems, and Components Thereof</i> , Investigation No. 337-TA-1442, November 17, 2025
2002	Order No. 16: Amended Procedural Schedule, <i>In the Matter of Certain Glow Fish Tape Systems, Safety Helmet Systems, and Components Thereof</i> , Investigation No. 337-TA-1442, November 20, 2025
2003	United States Patent and Trademark Office Memorandum re Interim Processes for PTAB Workload Management, March 26, 2025
2004	Excerpt from Klein Tools Inc.’s Pre Hearing Brief, <i>In the Matter of Certain Glow Fish Tape Systems, Safety Helmet Systems, and Components Thereof</i> , Investigation No. 337-TA-1442, November 17, 2025 (Public Version)
2005	Excerpt from Second Supplemental Hard Hat Domestic Industry Claim Chart for U.S. Patent No. 12,268,265, <i>In the Matter of Certain Glow Fish Tape Systems, Safety Helmet Systems, and Components Thereof</i> , Investigation No. 337-TA-1442
2006	Excerpt from Milwaukee Electric Tool Corporation’s Fifth Supplemental Objections and Responses to Klein Tools Inc.’s First Set of Interrogatories (Nos. 1-18), <i>In the Matter of Certain Glow Fish Tape Systems, Safety Helmet Systems, and Components Thereof</i> , Investigation No. 337-TA-1442, July 1, 2025
2007	Transcript of Markman Hearing, <i>In the Matter of Certain Glow Fish Tape Systems, Safety Helmet Systems, and Components Thereof</i> , Investigation No. 337-TA-1442, July 23, 2025
2008	Techtronic Industries Group’s Annual Report 2024

<u>Exhibit</u>	<u>Description</u>
2009	Milwaukee Electric Tool Corporation’s Power of Attorney, <i>Milwaukee Electric Tool Corporation, et al. v. Irwin Industrial Tool Company</i> , IPR2015-01461, July 19, 2016
2010	Techtronic Industries Group’s Power of Attorney, <i>Milwaukee Electric Tool Corporation, et al. v. Irwin Industrial Tool Company</i> , IPR2015-01461, August 22, 2016
2011	Milwaukee Electric Tool Corporation’s Power of Attorney, <i>Milwaukee Electric Tool Corporation, et al. v. Irwin Industrial Tool Company</i> , IPR2015-01462, July 19, 2016
2012	Techtronic Industries Group’s Power of Attorney, <i>Milwaukee Electric Tool Corporation, et al. v. Irwin Industrial Tool Company</i> , IPR2015-01462, August 22, 2016
2013	United States Patent and Trademark Office Memorandum re Guidance on USPTO’s recession of “Interim Procedure for Discretionary Denials in AIA Post-Grant Proceedings with Parallel District Court Litigation,” March 24, 2025
2014	Reproduction of Figure 5 in the ’491 Provisional
2015	Excerpt from Klein Tools Inc.’ Pre Hearing Brief, <i>In the Matter of Certain Glow Fish Tape Systems, Safety Helmet Systems, and Components Thereof</i> , Investigation No. 337-TA-1442, November 17, 2025 (Public Version)
2016	Joint Chart of Disputed Claim Terms for Construction, <i>In the Matter of Certain Glow Fish Tape Systems, Safety Helmet Systems, and Components Thereof</i> , Investigation No. 337-TA-1442, June 25, 2025
2017	H.R.6938 - Commerce, Justice, Science; Energy and Water Development; and Interior and Environment Appropriations Act, 2026, 119th Congress (2025-2015); available at https://www.congress.gov/bill/119th-congress/house-bill/6938/all-actions

<u>Exhibit</u>	<u>Description</u>
2018	H.R. 6938: An Act; 119th Congress, 2d Session (Excerpted); available at https://www.congress.gov/119/bills/hr6938/BILLS-119hr6938eh.pdf
2019	Techtronic Industries Company Limited; SEHK: 669; FH1 2021 Earnings Call Transcript, dated August 12, 2021
2020	Evidentiary Hearing Transcript (Excerpted), <i>In the Matter of Certain Glow Fish Tape Systems, Safety Helmet Systems, and Components Thereof</i> , Investigation No. 337-TA-1442, January 7, 2026 (Public Version)
2021	S&P Global Port Import/Export Reporting Service (PIERS) Search Results (Annotated)
2022	Company Profile of Techtronic Cordless GP; available at https://www.dnb.com/business-directory/company-profiles.techtronic_cordless_gp.2f330117830e3bf1b6dc69c2b09bf392.html

While Petitioner’s entire opposition (“DD Opp.”) to Patent Owner’s Request for Discretionary Denial (“DD Req.”) rests on faulty analysis, Petitioner raises two new and erroneous arguments that need correcting.

First, Petitioner’s repeated speculation about whether the Parallel ITC Investigation will finish on time due to potential funding issues should not be given any weight. *See* DD Opp. at 1, 3, 4, 5, 6, 8. As the Office previously recognized, speculation on the timing of a parallel litigation is not given any significant weight. *See Advanced Micro Devices, Inc. v. Concurrent Ventures, LLC*, IPR2025-00223, Paper 9 at 3 (P.T.A.B. June 12, 2025) (“Petitioner’s arguments based on the likelihood of the district court granting its motion to transfer are speculative and not sufficiently persuasive to overcome the aforementioned considerations favoring discretionary denial.”). Indeed, the events of the past week show precisely why such speculation should not be credited. The House recently passed by a wide margin (397-28) a “minibus” that would provide the ITC \$122 million in funding. *See* Ex. 2017 at 2 (Congressional website showing that House passed H.R. 6938); Ex. 2018 at 104 (providing funding to the International Trade Commission). And just yesterday, the Senate passed the bill (again by a wide margin, 82-15), and it is on its way to be signed into law by President Trump. *See* Ex. 2017 at 1. Given these facts, there is no real danger of a lapse in funding for the ITC.

Second, Petitioner *does not deny* that TTI is an RPI, instead arguing that Patent Owner has not done enough to prove TTI is an RPI. *Compare* DD Req. at 17 (“The failure to name TTI—a multinational group headquartered in Hong Kong—as an RPI undermines the integrity of the proceeding ...”) *with* DD. Opp. at 11 (“Patent Owner has not met its burden here. Rather than identifying evidence showing that TTI exercised control over this proceeding or was the true party in interest, Patent Owner relies solely on the existence of a corporate relationship between Petitioner and TTI to allege that TTI is an RPI to the proceeding.”).

Petitioner is incorrect. The evidence cited in the DD Req. shows that TTI is an RPI, and as Patent Owner noted in the DD Req., TTI’s CEO is directly involved in Milwaukee’s business. As a witness from Petitioner confirmed last week, TTI describes the hard hats accused of infringement as its own. *See* Ex. 2019 at 11 (earnings call from TTI’s CEO stating “*we* have pioneered a unique range of hard hats”); Ex 2020 at 605:5–607:11 (Petitioner’s employee, Mr. Richman, testifying that the foregoing sentence from the earnings call is the “CEO of TTI ... referring to the [accused] hard hats”). Further, even a simple import search for the accused BOLT system indicates that Techtronic Cordless GP (d/b/a TTI), has shipped such products—including BOLT headlamps—to the US. Ex. 2021, PIERS Search (Annotated); Ex. 2022 (showing Techtronic Cordless GP does business as TTI).

For these reasons and those previously briefed, institution should be denied.

Date: January 16, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

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