

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE OFFICE OF THE UNDER SECRETARY OF COMMERCE  
FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE  
UNITED STATES PATENT AND TRADEMARK OFFICE

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MILWAUKEE ELECTRIC TOOL CORPORATION,  
Petitioner,

v.

KLEIN TOOLS, INC.,  
Patent Owner.

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IPR2025-00724 (Patent 11,452,327 B2)  
IPR2025-00892 (Patent 11,713,209 B2)  
PGR2025-00048 (Patent 12,187,573 B2)

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Before COKE MORGAN STEWART, *Acting Under Secretary of  
Commerce for Intellectual Property and Acting Director of the United States  
Patent and Trademark Office.*

DECISION  
Denying Institution of *Inter Partes* Review

IPR2025-00724 (Patent 11,452,327 B2)  
IPR2025-00892 (Patent 11,713,209 B2)  
PGR2025-00048 (Patent 12,187,573 B2)

Klein Tools, Inc. (“Patent Owner”) filed a request for discretionary denial (Paper 8, “DD Req.”) in the above-captioned cases, and Milwaukee Electric Tool Corporation (“Petitioner”) filed an opposition (Paper 11, “DD Opp.”).<sup>1</sup> With authorization, Patent Owner filed a Reply (Paper 12), and Petitioner filed a Sur-reply (Paper 13).

After considering the parties’ arguments and the record, and in view of all relevant considerations, discretionary denial of institution is appropriate in these proceedings. This determination is based on the totality of the evidence and arguments the parties have presented.

Some considerations counsel against discretionary denial. For example, the challenged patents have not been in force for a significant period of time (issued in 2022, 2023, and 2025). Accordingly, Patent Owner has not developed strong settled expectations that favor discretionary denial as to these patents. Further, as to PGR2025-00048, petitions for post-grant review are favored because they must be filed no later than nine months from the grant of the patent (35 U.S.C. § 321(c)), are close in time to examination, and occur before expectations in the patent rights are strongly settled. *LifeVac, LLC v. DCSTAR Inc.*, IPR2025-00454, Paper 11 at 2 (Director July 11, 2025).

Other considerations favor discretionary denial. In particular, the projected final written decision due date in the Board proceedings is November 21, 2026. DD Req. 6; DD Opp. 20. The hearing in the parallel U.S. International Trade Commission (“ITC”) investigation is set for

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<sup>1</sup> Citations are to papers in IPR2025-00724. The parties filed similar papers in IPR2025-00892 and PGR2025-00048.

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November 17, 2025, the scheduled final initial determination date is February 18, 2026, and the target date for completion is June 18, 2026. DD Req. 10–12; Ex. 2007, 3. As such, it is unlikely that a final written decision in these proceedings will issue before the ITC investigation is completed, resulting in significant duplication of effort, additional expense for the parties, and a risk of inconsistent decisions. Additionally, there is insufficient evidence that the ITC is likely to stay its proceeding even if the Board were to institute trial. DD Req. 9. Furthermore, there has been meaningful investment in the parallel proceeding by the parties. *Id.* at 11–12. For example, the ITC held a *Markman* hearing, fact discovery is complete, and expert discovery will have completed before a decision on institution is due. *Id.*; Ex. 2007, 2. On balance, the circumstances in these cases favor discretionary denial.

Although certain arguments are highlighted above, the determination to exercise discretion to deny institution is based on a holistic assessment of all of the evidence and arguments presented. Accordingly, the Petitions are denied under 35 U.S.C. § 314(a).

In consideration of the foregoing, it is:

ORDERED that Patent Owner’s requests for discretionary denial are *granted*; and

FURTHER ORDERED that the Petitions are *denied*, and no trial is instituted.

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