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INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1442]

Certain Glow Fish Tape Systems, Safety Helmet Systems, and Components Thereof; Notice of a Final Determination Finding a Violation of Section 337; Issuance of a Limited Exclusion Order and Cease and Desist Order; Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission ("the Commission") has determined that respondent Milwaukee Electric Tool Corporation of Brookfield, Wisconsin ("Milwaukee") has violated section 337 of the Tariff Act of 1930, as amended, by importing, selling for importation, or selling in the United States after importation certain glow fish tape systems and components thereof that infringe claim 6 of U.S. Patent No. 12,187,573 ("the '573 patent"). The Commission has determined that the appropriate remedies are a limited exclusion order ("LEO") and cease and desist order ("CDO") against Milwaukee, and that the public interest factors do not preclude issuance of such remedial orders. The Commission has also determined to set a bond in the amount of 100 percent (100%) of the entered value of the covered products imported during the period of Presidential review. This investigation is hereby terminated.

FOR FURTHER INFORMATION CONTACT: Carl Bretscher, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, D.C. 20436, telephone 202-205-2382. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov*. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its Internet server at *https://www.usitc.gov*. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: On March 19, 2025, the Commission instituted this investigation based on a complaint, as supplemented, filed by Klein Tools, Inc. of Lincolnshire, Illinois ("Klein"), accusing Milwaukee of violating section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 ("section 337"), by importing into the United States, selling for importation, or selling in the United States after importation certain glow fish tape systems, safety helmet systems, and components thereof by reason of the infringement of the asserted claims of the '573 patent and U.S. Patent Nos. 11,713,209 ("the '209 patent") and 11,452,327 ("the '327 patent"). 90 FR 12790 (Mar. 19, 2025). The complaint further alleges that a domestic industry exists. *Id.* The Office of Unfair Import Investigations did not participate in the investigation. *Id.*

On May 30, 2025, the Commission amended the notice of investigation to include allegations of infringement of certain asserted claims of U.S. Patent No. 12,268,265 ("the '265 patent"). Order No. 6 (May 1, 2025), *unreviewed by* Comm'n Notice (May 30, 2025). The '265 patent and related '327 patent are collectively referred to as the "Helmet Patents." The '209 patent and related '573 patent are collectively referred to as the "Glow Fish Tape Patents."

The Commission subsequently partially terminated the investigation with respect to certain asserted claims of the '327 patent, '209 patent, and '573 patent due to Klein's withdrawal of the complaint with respect to those claims. Order No. 14 (Nov. 20, 2025), *unreviewed by* Comm'n Notice (Dec. 12, 2025); Order No. 19 (Jan. 5, 2026), *unreviewed by* Comm'n Notice (Jan. 28, 2026).

On January 20, 2026, the Commission granted Klein's motion for summary determination that it has satisfied the technical and economic prongs of the domestic industry requirement for the Glow Fish Tape Patents. Order No. 17 (Dec. 19, 2025), *unreviewed by* Comm'n Notice (Jan. 20, 2026).

The presiding Chief Administrative Law Judge ("CALJ") held an evidentiary hearing from January 5-8, 2026. At the time of the hearing, the asserted claims of the Helmet Patents

still at issue were claims 8, 10, and 17 of the ’327 patent and claims 1-4 of the ’265 patent. The asserted claims of the Glow Fish Tape Patents still at issue were claim 6 of the ’209 patent and claim 6 of the ’573 patent.

On June 5, 2026, the CALJ issued a final Initial Determination on Violation of Section 337 (“FID”) and a Recommendation on Remedy and Bond (“RD”). With respect to the Helmet Patents, the FID finds that: (i) Milwaukee infringed the ’265 patent but not the ’327 patent; (ii) the asserted claims of the Helmet Patents are not invalid as obvious or for failing the written description requirement under 35 U.S.C. 112; and (iii) Klein has satisfied both the technical and economic prongs of the domestic industry requirement for both Helmet Patents. With respect to the Glow Fish Tape Patents, the FID finds that: (i) Milwaukee did not infringe the ’209 patent or ’573 patent; (ii) the asserted claims of the Glow Fish Tape Patent are not invalid as obvious under 35 U.S.C. 103 or for failing the written description requirement; and (iii) Klein has satisfied the technical prong of the domestic industry requirement with respect to claim 6 of each Glow Fish Tape Patent (to supplement the CALJ’s earlier summary determination that Klein has satisfied both the economic and technical prongs with respect to claims 1 and 5 of the Glow Fish Tape Patents in Order No. 17, *supra*). The FID concludes that Milwaukee has violated section 337 with respect to the ’265 patent (a Helmet Patent) but not the ’327 patent or either of the Glow Fish Tape Patents.

The RD recommends that, if a violation is found, the Commission issue an LEO and a CDO against Milwaukee. The RD also recommends that the Commission set a bond in the amount of 100 percent of the entered value of covered products that are imported during the 60-day period of Presidential review.

On June 22, 2026, both Milwaukee and Klein filed petitions and/or contingent petitions for review of certain adverse findings in the FID. On June 30, 2026, each party filed its respective response to the opposing party’s petition.

On July 10, 2026, Klein's counsel submitted a letter to the Commission identifying certain allegedly false statements in Milwaukee's opposition to Klein's petition. On the same date, Milwaukee's counsel submitted a response, to which it attached a copy of a letter to Klein's counsel dated July 8, 2026, explaining why Milwaukee's representations are allegedly correct. Upon review of the letters, the Commission declined to consider them because they are not permissible under the Commission's rules.

The parties did not submit statements concerning the public interest pursuant to Commission Rule 210.50(a)(4)(i), 19 C.F.R. § 210.50(a)(4)(i). The Commission also did not receive any submissions in response to its request for submissions from interested third parties or government agencies on remedy and the public interest factors. 91 FR 43402-03 (July 15, 2026).

On September 9, 2026, the Commission determined to review the FID in part. 91 FR 57383 (Sept. 9, 2026). With respect to the Helmet Patents, the Commission determined to review the FID's findings that: (i) the asserted claims of the '265 patent and '327 patent are not obvious under 35 U.S.C. 103; and (ii) Klein satisfied the economic prong of the domestic industry requirement. With respect to the Glow Fish Tape Patents, the Commission determined to review: (i) the construction of the claim term "wherein at least a portion of the case is configured to allow the luminescent material to be energized by light passing through the portion" in the '573 patent and related infringement and validity findings; (ii) the FID's finding of non-infringement of the '209 and '573 patents, both literal and under the doctrine of equivalents; and (iii) the FID's finding that the asserted claims of the Glow Fish Tape Patents are not invalid as obvious. The Commission determined not to review, and thereby adopted, the other findings in the FID. The Commission directed the parties to brief certain violation issues on review and remedy, the public interest, and bond.

Pursuant to the Commission's directions, the parties filed their initial responses to the Commission's questions on September 18, 2026, and their respective replies to the opposing party's initial response on September 25, 2026.

Having reviewed the FID, the parties' submissions, and the record below, the Commission has determined to reverse the FID and find that Milwaukee has violated section 337 by importing into the United States, selling for importation, or selling in the United States after importation certain glow fish tape products and components thereof that infringe claim 6 of the '573 patent (a Glow Fish Tape Patent). As further explained in the Commission Opinion issued concurrently herewith, the Commission has also determined to adopt the FID's findings that the asserted claims of the Glow Fish Tape Patents are not invalid as obvious and to adopt, with modifications, the FID's finding that claim 6 of the '209 patent is not infringed. With respect to the Helmet Patents, the Commission has determined to reverse the FID's finding that Milwaukee has violated section 337 with respect to the '265 patent and to find instead that the asserted claims of the '265 patent are invalid as obvious. The Commission, having previously determined to adopt the FID's finding that the asserted claims of the '327 patent are not infringed (91 FR at 57384), takes no position on whether the '327 patent claims are also invalid as obvious or whether Klein has satisfied the domestic industry requirement with respect to the Helmet Patents.

The Commission has determined that the appropriate remedy is: (i) an LEO prohibiting the importation of certain glow fish tape products and components thereof that infringe claim 6 of the '573 patent; and (ii) a CDO against Milwaukee. The Commission has determined that the public interest factors do not preclude issuance of a remedy. The Commission has set a bond in the amount of 100 percent (100%) of the entered value of infringing products imported during the period of Presidential review (19 U.S.C. 1337(j)).

The Commission issues its opinion herewith setting forth its determinations on certain issues. This investigation is hereby terminated.

The Commission's orders and opinion were delivered to the President and United States

Trade Representative on the day of their issuance.

The Commission vote for this determination took place on November 4, 2026.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR Part 210).

By order of the Commission.

Issued: November 4, 2026.

Lisa Barton,

Secretary to the Commission.

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