

1 JAMES A. OLIFF (*pro hac vice* app. pending)
2 KIRK M. HUDSON (*pro hac vice* app. pending)
3 J. GREGORY WHITEHAIR (*pro hac vice* app. pending)
4 JESSE O. COLLIER (*pro hac vice* app. pending)
5 JOHN A. RADI (*pro hac vice* app. pending)
6 OLIFF & BERRIDGE, PLC
7 277 South Washington St., Suite 500
8 Alexandria, Virginia 22314
9 Telephone: (703) 836-6400
10 Facsimile: (703) 836-2787

11 LOCAL COUNSEL:
12 Jeffrey D. Wexler, State Bar No. 132256
13 Michael H. Bierman, State Bar No. 89156
14 LUCE, FORWARD, HAMILTON & SCRIPPS LLP
15 601 South Figueroa, Suite 3900
16 Los Angeles, California 90017
17 Telephone: (213) 892-4992
18 Facsimile: (213) 892-7731
19 jwexler@luce.com

20 Attorneys for Plaintiffs
21 MAKITA CORPORATION, MAKITA U.S.A., INC.,
22 and MAKITA CORPORATION OF AMERICA

23 UNITED STATES DISTRICT COURT
24 CENTRAL DISTRICT OF CALIFORNIA
25 SOUTHERN DIVISION

26 MAKITA CORPORATION,
27 MAKITA U.S.A., INC., and
28 MAKITA CORPORATION OF
AMERICA,

Plaintiffs,

vs.

MILWAUKEE ELECTRIC TOOL
CORPORATION,

Defendant.

Case No. SACV09-772 JVS (RNB*)

COMPLAINT FOR
DECLARATORY RELIEF

FILED
7:09 PM
JUL -7
2009
CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
SANTA ANA

1/5 ad

1/2

1 **COMPLAINT FOR DECLARATORY JUDGMENT**

2 Makita Corporation, Makita U.S.A., Inc., and Makita Corporation of America
3 (collectively, "Makita"), for their Complaint against Milwaukee Electric Tool
4 Corporation ("Milwaukee"), state as follows:

5 **PARTIES, JURISDICTION AND VENUE**

6 1. This action arises under the Declaratory Judgment Act, 28 U.S.C. §§
7 2201 and 2202, concerning issues arising under the patent laws of the United States,
8 Title 35, United States Code. Jurisdiction is conferred on this Court pursuant to 28
9 U.S.C. §§ 1331, 1338(a), 2201, 2202 and the United States Patent Laws, 35 U.S.C.
10 §§ 1 et seq. An actual and substantial justiciable controversy exists between Makita
11 and Milwaukee as to the validity of Milwaukee's U.S. Patent Nos. 7,176,654 B2
12 ("the 654 Patent"), 7,253,585 B2 ("the 585 Patent"), 7,262,580 B2 ("the 580
13 Patent"), 7,323,847 B2 ("the 847 Patent"), 7,425,816 B2 ("the 816 Patent"),
14 7,554,290 B2 ("the 290 Patent"), and 7,557,535 B2 ("the 535 Patent"), as well as to
15 whether Makita has infringed or is infringing any valid claim of Milwaukee's 654,
16 585, 580, 847, 816, 290 or 535 Patents.

17 2. Venue in this district is proper under 28 U.S.C. §§ 1391 and 1400(b),
18 because, *inter alia*, a substantial part of the events giving rise to the claims occurred
19 in this district and potential witnesses reside in or near the Central District of
20 California.

21 3. Makita Corporation is a company organized under the laws of Japan,
22 with a place of business at 3-11-8, Sumiyoshi-cho, Anjo, Aichi 446-8502, Japan.

23 4. Makita U.S.A., Inc. is a company organized under the laws of the State
24 of California, with a principal place of business at 14930 Northam Street, La
25 Mirada, CA 90638-5753, which is situated in this federal district.

26 5. Makita Corporation of America is a company organized under laws of
27 the State of Georgia, with a principal place of business at 2650 Buford Highway,
28 Buford, GA 30518.

1 6. Upon information and belief, Milwaukee is a company organized under
2 the laws of the State of Delaware, with a principal place of business at 13135 West
3 Lisbon Road, Brookfield, Wisconsin 53005; Milwaukee is a wholly owned
4 subsidiary of Techtronic Industries North America, Inc., located at 1428 Pearman
5 Dairy Rd., Anderson, SC 29625, which in turn is itself a subsidiary of Techtronic
6 Industries Company, Ltd., located at 24/F CDW Building, Tsuen Wan, NT, Hong
7 Kong, a special administrative region of the People’s Republic of China.

8 7. Milwaukee has continuous and systematic general business contacts
9 with the Central District of California, and has purposefully directed activities in the
10 Central District of California through established regular distribution channels. For
11 example, and without limitation, on information and belief, Milwaukee is currently
12 registered to do business in California, and has been registered to do business in
13 California since July 27, 1987; Milwaukee has designated C T Corporation System
14 at 818 West Seventh Street, Los Angeles, CA 90017 as its Agent for Service of
15 Process; Milwaukee maintains a branch office situated in this district; and
16 Milwaukee directly markets its products to customers in the Central District of
17 California through established regular distribution channels, including retail outlets
18 such as The Home Depot. Milwaukee has also supported a joint marketing initiative
19 by The Home Depot of Milwaukee and Makita products; and Milwaukee has
20 specifically warned Makita U.S.A. in connection with that joint marketing of
21 Milwaukee's intention to enforce Milwaukee's patent rights.

FACTS

22
23 8. Upon information and belief, Milwaukee is the sole owner of the 654,
24 585, 580, 847, 816, 290 and 535 Patents.

25 9. The 654 Patent issued on February 13, 2007 and is entitled "Method
26 and System of Charging Multi-Cell Lithium-Based Batteries."

27 10. The 585 Patent issued on August 7, 2007 and is entitled "Battery Pack."
28

1 11. The 580 Patent issued on August 28, 2007 and is a continuation of the
2 654 Patent, and is entitled "Method and System for Charging Multi-Cell Lithium-
3 Based Batteries."

4 12. The 847 Patent issued on January 29, 2008 and is a continuation of the
5 654 Patent, and is also entitled "Method and System of Charging Multi-Cell
6 Lithium-Based Batteries."

7 13. The 816 Patent issued on September 16, 2008 and incorporates by
8 reference the 654 and 585 Patent applications, and is entitled "Method and System
9 for Pulse Charging of a Lithium-Based Battery."

10 14. The 290 Patent issued on June 30, 2009 and is a continuation of the 585
11 Patent, and is entitled "Lithium-Based Battery Pack for a Hand-Held Power Tool."

12 15. The 535 Patent issued on Tuesday, July 7, 2009 and is a continuation of
13 the 585 Patent.

14 16. Makita sells battery-powered handheld power tools in the United States
15 that are powered by multi-cell battery packs having cells with various chemistries,
16 including Nickel Cadmium (NiCd), Nickel-Metal-Hydride (NiMH) and Lithium-ion
17 ("Li-ion")-based chemistries. Makita also sells various battery chargers in the
18 United States that are operable to charge the battery packs used to power Makita's
19 battery-powered hand-held power tools sold in the United States. The Makita
20 battery packs having a Li-ion based cell chemistry ("Li-ion battery packs"), the
21 Makita battery chargers that are used to charge Makita's Li-ion battery packs, and
22 the Makita hand-held power tools that are powered by Makita's Li-ion battery packs
23 are hereinafter referred to as Makita's "Li-ion Products."

24 17. The 654, 585, 580, 847, 816, 290, and 535 Patents are part of a
25 portfolio of closely related U.S. patents and patent applications owned by
26 Milwaukee ("Li-ion Battery Portfolio") that is directed to battery-powered hand-
27 held power tool battery packs having cells with Li-ion-based chemistry, battery
28 chargers for charging such battery packs, and battery-powered hand-held power

1 tools including such battery packs. The patents and patent applications in
2 Milwaukee's Lithium Battery Portfolio share overlapping disclosures and are based
3 on a group of provisional applications filed in the PTO beginning in 2002.

4 18. Before any of the 654, 585, 580, 847, 816, 290 and 535 Patents had
5 issued, Milwaukee began repeatedly advising Makita in writing of specific
6 applications in Milwaukee's Li-ion Battery Portfolio, and further warning Makita of
7 the compensation that Milwaukee can obtain for infringement of U.S. patents, that
8 Milwaukee intends to enforce its patent rights in Milwaukee's Li-ion Battery
9 Portfolio once the applications issue, and that Milwaukee expects Makita to respect
10 Milwaukee's intellectual property rights. Some of these letters have been directed to
11 Makita Corporation and its counsel in Japan, and at least one was directed to
12 Makita, USA, Inc. in this district.

13 19. Among the patent applications asserted by Milwaukee are U.S. Patent
14 Pub. No. 2004/0263119, which later issued as the 654 Patent, and U.S. Patent Pub.
15 No. 2004/0257038, which later issued as the 585 Patent. The 847 Patent issued
16 from a later filed continuation of U.S. Patent Pub. No. 2004/0263119. The 290 and
17 535 Patents issued from later filed continuations of U.S. Patent Pub. No.
18 2004/0257038. The 580 Patent issued from a later filed continuation of the 654
19 Patent. The 816 Patent incorporates by reference the entire contents of the 654 and
20 585 Patent applications. The 654, 847, 580 and 816 Patents have closely related
21 claims. The 585, 290 and 535 Patents have closely related claims.

22 20. Milwaukee originally specifically advised Makita that Milwaukee has
23 reviewed Makita's Model BTD130F cordless impact driver and Li-ion battery pack
24 in connection with Milwaukee's intellectual property rights. Makita has been selling
25 and continues to sell the Model BTD130F cordless impact driver and Li-ion battery
26 pack in the United States, as well as a battery charger for charging the Li-ion battery
27 pack used with the Model BTD130F. The Model BTD130F driver, battery pack and
28

1 charger are part of a line of related Li-ion Products that Makita is currently selling in
2 the United States.

3 21. Faced with Milwaukee's repeated assertion of and stated intention to
4 enforce its Li-ion Battery Portfolio, and prior to being sued by Milwaukee, Makita
5 had tried to reach an acceptable negotiated resolution of Milwaukee's assertion of its
6 Li-ion Battery Portfolio against Makita's Li-ion Products, but was not able to do so.

7 22. On June 30, 2009, the day the 290 Patent issued, Milwaukee and Metco
8 Battery Technologies, LLC sued Makita for infringement of the 654, 847, 290, 580
9 and 816 Patents in the U.S. District Court for the Eastern District of Wisconsin, Civ.
10 Action No. 09-CV-0636. The complaint broadly alleges that the Makita products
11 accused of infringement "include but are not limited to" Makita's Li-ion batteries
12 and battery chargers for charging Makita's Li-ion batteries.

13 23. As part of its continuing development of Li-ion Products, Makita has
14 taken substantial and concrete steps toward the development and early introduction
15 into the United States market of a new 36-volt Li-ion battery pack, battery charger
16 for the new Li-ion battery pack, and a new hand-held power tool that is powered by
17 the new Li-ion battery pack ("New Li-ion Products") that are related to Makita's
18 existing Li-ion Products and also to Milwaukee's asserted 654, 585, 580, 847, 816,
19 290 and/or 535 Patents.

20 24. Consequently, Makita has a reasonable apprehension of being sued by
21 Milwaukee for patent infringement with respect to Makita's New Li-ion Products.

22 25. Makita does not infringe, has not infringed, and will not infringe any
23 valid claim of the 654, 585, 580, 847, 816, 290 or 535 Patents, directly,
24 contributorily or by inducement with respect to any of Makita's present Li-ion
25 Products or the aforementioned New Li-ion Products that Makita is taking steps to
26 introduce into the United States.

27

28

1 26. One or more claims of the 654, 585, 580, 847, 816, 290 and 535
2 Patents are invalid for failure to satisfy the requirements of Title 35 of the United
3 States Code, including but not limited to 35 U.S.C. §§ 102, 103 and/or 112.

4 27. Accordingly, an actual controversy within the meaning of the
5 Declaratory Judgment Act exists between Makita and Milwaukee.

6 **FIRST CLAIM FOR RELIEF**

7 **Noninfringement**

8 28. Makita repeats and realleges, as though fully set forth herein, the
9 allegations contained in paragraphs 1 through 27 of this complaint.

10 29. Upon information and belief, none of Makita's Li-ion Products,
11 including the New Li-ion Products, infringes any valid claim of the 654 Patent, and
12 Makita has not contributed to or induced others to infringe any valid claim of the
13 654 Patent.

14 30. Upon information and belief, none of Makita's Li-ion Products,
15 including the New Li-ion Products, infringes any valid claim of the 585 Patent, and
16 Makita has not contributed to or induced others to infringe any valid claim of the
17 585 Patent.

18 31. Upon information and belief, none of Makita's Li-ion Products,
19 including the New Li-ion Products, infringes any valid claim of the 580 Patent, and
20 Makita has not contributed to or induced others to infringe any valid claim of the
21 580 Patent.

22 32. Upon information and belief, none of Makita's Li-ion Products,
23 including the New Li-ion Products, infringes any valid claim of the 847 Patent, and
24 Makita has not contributed to or induced others to infringe any valid claim of the
25 847 Patent.

26 33. Upon information and belief, none of Makita's Li-ion Products,
27 including the New Li-ion Products, infringes any valid claim of the 816 Patent, and
28

1 Makita has not contributed to or induced others to infringe any valid claim of the
2 816 Patent.

3 34. Upon information and belief, none of Makita's Li-ion Products,
4 including the New Li-ion Products, infringes any valid claim of the 290 Patent, and
5 Makita has not contributed to or induced others to infringe any valid claim of the
6 290 Patent.

7 35. Upon information and belief, none of Makita's Li-ion Products,
8 including the New Li-ion Products, infringes any valid claim of the 535 Patent, and
9 Makita has not contributed to or induced others to infringe any valid claim of the
10 535 Patent.

11 36. Makita is entitled to a declaration from the Court that none of Makita's
12 Li-ion Products, including Makita's New Li-ion Products, directly infringes the 654
13 Patent, and that Makita has never contributed to or induced infringement (and is not
14 contributorily infringing or inducing infringement) of any valid claim of the 654
15 Patent.

16 37. Makita is entitled to a declaration from the Court that none of Makita's
17 Li-ion Products, including Makita's New Li-ion Products, directly infringes the 585
18 Patent, and that Makita has never contributed to or induced infringement (and is not
19 contributorily infringing or inducing infringement) of any valid claim of the 585
20 Patent.

21 38. Makita is entitled to a declaration from the Court that none of Makita's
22 Li-ion Products, including Makita's New Li-ion Products, directly infringes the 580
23 Patent, and that Makita has never contributed to or induced infringement (and is not
24 contributorily infringing or inducing infringement) of any valid claim of the 580
25 Patent.

26 39. Makita is entitled to a declaration from the Court that none of Makita's
27 Li-ion Products, including Makita's New Li-ion Products, directly infringes the 847
28 Patent, and that Makita has never contributed to or induced infringement (and is not

1 contributorily infringing or inducing infringement) of any valid claim of the 847
2 Patent.

3 40. Makita is entitled to a declaration from the Court that none of Makita's
4 Li-ion Products, including Makita's New Li-ion Products, directly infringes the 816
5 Patent, and that Makita has never contributed to or induced infringement (and is not
6 contributorily infringing or inducing infringement) of any valid claim of the 816
7 Patent.

8 41. Makita is entitled to a declaration from the Court that none of Makita's
9 Li-ion Products, including Makita's New Li-ion Products, directly infringes the 290
10 Patent, and that Makita has never contributed to or induced infringement (and is not
11 contributorily infringing or inducing infringement) of any valid claim of the 290
12 Patent.

13 42. Makita is entitled to a declaration from the Court that none of Makita's
14 Li-ion Products, including Makita's New Li-ion Products, directly infringes the 535
15 Patent, and that Makita has never contributed to or induced infringement (and is not
16 contributorily infringing or inducing infringement) of any valid claim of the 535
17 Patent.

18 **SECOND CLAIM FOR RELIEF**

19 **Invalidity**

20 43. Makita repeats and realleges, as though fully set forth herein, the
21 allegations contained in paragraphs 1 through 42 of this Complaint.

22 44. Upon information and belief, claims of the 654 Patent are invalid for
23 failure to meet one or more of the requirements of patentability of United States
24 Code, Title 35, including without limitation those requirements set forth in 35
25 U.S.C. §§ 102, 103 and/or 112.

26 45. Upon information and belief, claims of the 585 Patent are invalid for
27 failure to meet one or more of the requirements of patentability of United States
28

1 Code, Title 35, including without limitation those requirements set forth in 35
2 U.S.C. §§ 102, 103 and/or 112.

3 46. Upon information and belief, claims of the 580 Patent are invalid for
4 failure to meet one or more of the requirements of patentability of United States
5 Code, Title 35, including without limitation those requirements set forth in 35
6 U.S.C. §§ 102, 103 and/or 112.

7 47. Upon information and belief, claims of the 847 Patent are invalid for
8 failure to meet one or more of the requirements of patentability of United States
9 Code, Title 35, including without limitation those requirements set forth in 35
10 U.S.C. §§ 102, 103 and/or 112.

11 48. Upon information and belief, claims of the 816 Patent are invalid for
12 failure to meet one or more of the requirements of patentability of United States
13 Code, Title 35, including without limitation those requirements set forth in 35
14 U.S.C. §§ 102, 103 and/or 112.

15 49. Upon information and belief, claims of the 290 Patent are invalid for
16 failure to meet one or more of the requirements of patentability of United States
17 Code, Title 35, including without limitation those requirements set forth in 35
18 U.S.C. §§ 102, 103 and/or 112.

19 50. Upon information and belief, claims of the 535 Patent are invalid for
20 failure to meet one or more of the requirements of patentability of United States
21 Code, Title 35, including without limitation those requirements set forth in 35
22 U.S.C. §§ 102, 103 and/or 112.

23 51. Makita is entitled to a declaration from the Court that some or all of the
24 claims of the 654 Patent are invalid.

25 52. Makita is entitled to a declaration from the Court that some or all of the
26 claims of the 585 Patent are invalid.

27 53. Makita is entitled to a declaration from the Court that some or all of the
28 claims of the 580 Patent are invalid.

1 54. Makita is entitled to a declaration from the Court that some or all of the
2 claims of the 847 Patent are invalid.

3 55. Makita is entitled to a declaration from the Court that some or all of the
4 claims of the 816 Patent are invalid.

5 56. Makita is entitled to a declaration from the Court that some or all of the
6 claims of the 290 Patent are invalid.

7 57. Makita is entitled to a declaration from the Court that some or all of the
8 claims of the 535 Patent are invalid.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Makita seeks the following relief:

11 A. A final judgment declaring that Makita's Li-ion Products and New Li-
12 ion Products do not infringe any valid claim of the 654 Patent;

13 B. A final judgment declaring that Makita's Li-ion Products and New Li-
14 ion Products do not infringe any valid claim of the 585 Patent;

15 C. A final judgment declaring that Makita's Li-ion Products and New Li-
16 ion Products do not infringe any valid claim of the 580 Patent;

17 D. A final judgment declaring that Makita's Li-ion Products and New Li-
18 ion Products do not infringe any valid claim of the 847 Patent;

19 E. A final judgment declaring that Makita's Li-ion Products and New Li-
20 ion Products do not infringe any valid claim of the 816 Patent;

21 F. A final judgment declaring that Makita's Li-ion Products and New Li-
22 ion Products do not infringe any valid claim of the 290 Patent;

23 G. A final judgment declaring that Makita's Li-ion Products and New Li-
24 ion Products do not infringe any valid claim of the 535 Patent;

25 H. A final judgment declaring that Makita has never contributed to or
26 induced infringement and is not contributorily infringing or inducing infringement
27 of any valid claim of the 654 Patent.

28

1 I. A final judgment declaring that Makita has never contributed to or
2 induced infringement and is not contributorily infringing or inducing infringement
3 of any valid claim of the 585 Patent.

4 J. A final judgment declaring that Makita has never contributed to or
5 induced infringement and is not contributorily infringing or inducing infringement
6 of any valid claim of the 580 Patent.

7 K. A final judgment declaring that Makita has never contributed to or
8 induced infringement and is not contributorily infringing or inducing infringement
9 of any valid claim of the 847 Patent.

10 L. A final judgment declaring that Makita has never contributed to or
11 induced infringement and is not contributorily infringing or inducing infringement
12 of any valid claim of the 816 Patent.

13 M. A final judgment declaring that Makita has never contributed to or
14 induced infringement and is not contributorily infringing or inducing infringement
15 of any valid claim of the 290 Patent.

16 N. A final judgment declaring that Makita has never contributed to or
17 induced infringement and is not contributorily infringing or inducing infringement
18 of any valid claim of the 535 Patent.

19 O. A final judgment declaring that one or more claims of the 654 Patent
20 are invalid;

21 P. A final judgment declaring that one or more claims of the 585 Patent
22 are invalid;

23 Q. A final judgment declaring that one or more claims of the 580 Patent
24 are invalid;

25 R. A final judgment declaring that one or more claims of the 847 Patent
26 are invalid;

27 S. A final judgment declaring that one or more claims of the 816 Patent
28 are invalid;

- 1 T. A final judgment declaring that one or more claims of the 290 Patent
- 2 are invalid;
- 3 U. A final judgment declaring that one or more claims of the 535 Patent
- 4 are invalid;
- 5 V. Award Makita its attorneys' fees; and
- 6 W. Award Makita such further relief as this Court deems just and proper.

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Respectfully submitted,

DATED: July 7, 2009

LUCE, FORWARD, HAMILTON & SCRIPPS LLP
Jeffrey D. Wexler
Michael H. Bierman

OLIFF & BERRIDGE, PLC
James A. Oliff (*pro hac vice* app. pending)
Kirk M. Hudson (*pro hac vice* app. pending)
J. Gregory Whitehair (*pro hac vice* app. pending)
Jesse O. Collier (*pro hac vice* app. pending)
John A. Radi (*pro hac vice* app. pending)

By: 

Jeffrey D. Wexler
Attorneys for Plaintiffs MAKITA
CORPORATION, MAKITA U.S.A., INC.,
and MAKITA CORPORATION OF AMERICA

201034437.1

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) Makita Corporation, Makita U.S.A., Inc., and Makita Corporation of America	DEFENDANTS Milwaukee Electric Tool Corporation
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) See attachment.	Attorneys (If Known) See attachment.

II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th>PTF</th> <th>DEF</th> <th></th> <th>PTF</th> <th>DEF</th> </tr> </thead> <tbody> <tr> <td>Citizen of This State</td> <td><input type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State</td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </tbody> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
	PTF	DEF		PTF	DEF																				
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4																				
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5																				
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. ORIGIN (Place an X in one box only.)

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from another district (specify): 6 Multi-District Litigation 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: Yes No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: Yes No **MONEY DEMANDED IN COMPLAINT:** \$ Declaratory Judgment

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	TORTS PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 Habeas Corpus <input type="checkbox"/> 535 General <input type="checkbox"/> 540 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE / PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety /Health <input type="checkbox"/> 690 Other	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
---	--	--	---	--	--

FOR OFFICE USE ONLY: Case Number: SACV09-772 JVS(RNBX)

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? No Yes
If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? No Yes
If yes, list case number(s): Case No. SACV 09-0133 DOC (MLGx)

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) A. Arise from the same or closely related transactions, happenings, or events; or
 B. Call for determination of the same or substantially related or similar questions of law and fact; or
 C. For other reasons would entail substantial duplication of labor if heard by different judges; or
 D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.
 Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Makita U.S.A., Inc. - Los Angeles County	Makita Corporation of America - Georgia Makita Corporation - Japan

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.
 Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Orange County	Milwaukee Electric Tool Corp. - Headquarters in Wisconsin; Service Center in Orange County, CA

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.
Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Orange County	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER): *Jeffrey L. White* Date July 7, 2009

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))

Attachment to Civil Cover Sheet

Attorneys for Plaintiffs:

JEFFREY D. WEXLER, State Bar No. 132256
MICHAEL H. BIERMAN, State Bar No. 89156
LUCE, FORWARD, HAMILTON & SCRIPPS LLP
601 South Figueroa, Suite 3900
Los Angeles, CA 90017
Telephone: (213) 892-4992

JAMES A. OLIFF (*pro hac vice* application pending)
KIRK M. HUDSON (*pro hac vice* application pending)
J. GREGORY WHITEHAIR (*pro hac vice* application pending)
JESSE O. COLLIER (*pro hac vice* application pending)
JOHN A. RADI (*pro hac vice* application pending)
OLIFF & BERRIDGE, PLC
277 South Washington St., Suite 500
Alexandria, VA 22314
Telephone: (703) 836-6400

Attorneys for Defendant:

J. DONALD BEST
MICHAEL BEST & FRIEDRICH LLP
One South Pinckney Street, Suite 700
Madison, WI 53703-1806
Telephone: (608) 257-3501

KAREN G. PAGNANELLI
MITCHELL SILBERBERG & KNUPP LLP
11377 West Olympic Blvd.
Los Angeles, CA 90064-1683
Telephone: (310) 312-2000

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

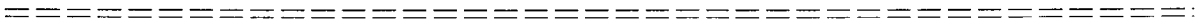
This case has been assigned to District Judge James V. Selna and the assigned discovery Magistrate Judge is Robert N. Block.

The case number on all documents filed with the Court should read as follows:

SACV09- 772 JVS (RNBx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge



NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

Western Division
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

Southern Division
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

Eastern Division
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

Jeffrey D. Wexler / Michael H. Bierman
LUCE, FORWARD, HAMILTON & SCRIPPS LLP
601 South Figueroa, Suite 3900
Los Angeles, CA 90017
Telephone: (213) 892-4992
See attachment for additional attorneys.

FOR OFFICE USE ONLY

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Makita Corporation, Makita U.S.A., Inc., and Makita Corporation of America,

PLAINTIFF(S)

v.

Milwaukee Electric Tool Corporation,

DEFENDANT(S).

CASE NUMBER

SACV09-772 JVS(RNBX)

SUMMONS

TO: DEFENDANT(S): _____

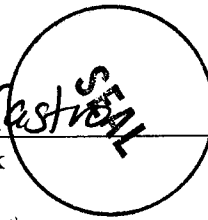
A lawsuit has been filed against you.

Within 20 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint _____ amended complaint counterclaim cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Jeffrey D. Wexler, whose address is Luce Forward Hamilton & Scripps, 601 S. Figueroa, Suite 3900, Los Angeles, CA 90017. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: JUL - 7 2009

By: Nancy Castriello
Deputy Clerk



FOR OFFICE USE ONLY
(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

Attachment to Summons

Additional Attorneys for Plaintiffs:

JAMES A. OLIFF (*pro hac vice* application pending)
KIRK M. HUDSON (*pro hac vice* application pending)
J. GREGORY WHITEHAIR (*pro hac vice* application pending)
JESSE O. COLLIER (*pro hac vice* application pending)
JOHN A. RADI (*pro hac vice* application pending)
OLIFF & BERRIDGE, PLC
277 South Washington St., Suite 500
Alexandria, VA 22314
Telephone: (703) 836-6400

201034433.1