

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF WISCONSIN**

MILWAUKEE ELECTRIC TOOL)	
CORPORATION,)	
METCO BATTERY TECHNOLOGIES,)	
LLC, TTI (MACAO COMMERCIAL)	
OFFSHORE) LIMITED and)	CASE NO
TECHTRONIC INDUSTRIES CO. LTD.,)	PATENT CASE
)	
Plaintiffs,)	JURY DEMANDED
)	
v.)	
)	
CHERVON (HK) LIMITED,)	
)	
Defendant.)	

COMPLAINT FOR PATENT INFRINGEMENT

Milwaukee Electric Tool Corporation, Metco Battery Technologies, LLC, TTI (Macao Commercial Offshore) Limited, and Techtronic Industries Co. Ltd. (collectively "Plaintiffs"), for their Complaint against Defendant Chervon (HK) Limited (a/k/a Chervon Limited Corp.) ("Chervon-HK"), allege as follows:

THE PARTIES

1. Plaintiff Milwaukee Electric Tool Corporation ("Milwaukee Tool") is a Delaware corporation with its principal place of business located at 13135 West Lisbon Road, Brookfield, Wisconsin 53005.
2. Plaintiff Metco Battery Technologies, LLC ("MBT") is a Delaware company with its principal place of business located at 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808.

3. Plaintiff TTi (Macao Commercial Offshore) Limited ("TTi Macao") is a Macao corporation with its principal place of business located at Avenida da Praia Grande, n. 429 - Centro Comercial da Praia Grande, 26. andar "D."

4. Plaintiff Techtronic Industries Co. Ltd. ("TTi Hong Kong") is a Hong Kong corporation with its principal place of business located at 24/F CDW Building, 388 Castle Peak Road, Tsuen Wan, New Territories, Hong Kong.

5. Defendant Chervon-HK is a Hong Kong company having a registered address for process service at Room 803B, 8/F Allied Kajima Building, 138 Gloucester Road, Wanchi, Hong Kong. Defendant Chervon-HK manufactures, imports into the United States, offers for sale, or sells products under at least the following brand names: Kobalt, Masterforce, Performax, and Craftsman, including, without limitation, the products further identified herein.

NATURE, JURISDICTION AND VENUE

6. This is an action for patent infringement founded upon the patent laws of the United States, 35 U.S.C § 100 *et seq.*, including, without limitation, 35 U.S.C. § 271.

7. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1338(a).

8. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391 and 1400(b).

9. On information and belief, Chervon-HK causes its products to be imported and sold throughout Wisconsin and this District, including, without limitation, products sold under the Kobalt brand at Lowe's stores in the District, products sold under the Masterforce and Performax brands at Menard's stores in the District, and products sold under the Craftsman brand at Sears stores in the District.

10. In addition to importing and selling products under the Kobalt, Masterforce, Performax, and Craftsman brands in the United States and in this District, Chervon-HK sells the aforementioned products through its exclusive marketing and sales agent, Chervon North America, Inc. ("Chervon-NA").

11. Chervon-NA is a Delaware company having registered address for process service at 900 Monroe Avenue NW, Grand Rapids, MI 49503. Chervon-NA is a wholly-owned subsidiary of Defendant Chervon-HK.

12. Since at least 2009, Chervon-NA has been and continues to be the exclusive North American marketing and sales agent for all products sold in the United States and in this District by Defendant Chervon-HK under at least the Kobalt, Masterforce, Performax, and Craftsman brand names.

13. As Chervon-HK's marketing and sales agent, Chervon-NA identifies customers and negotiates sales contracts on behalf of Chervon-HK related to products imported into and sold in the United States and this District by Chervon-HK under at least the Kobalt, Masterforce, Performax, and Craftsman brand names.

14. Under its agreements with Chervon-HK, Chervon-NA must use its best efforts to perform its marketing and sales obligations and to give priority to Chervon-HK over all other customers.

15. All, or substantially all, of Chervon-NA's revenue is dependent upon its relationship with Chervon-HK. Chervon-HK controls the compensation paid to Chervon-NA for its sales and marketing services.

16. Chervon-NA executives, including Michael Nipke, the former President and CEO for Chervon-NA, have executed sales contracts with customers in the United

States, including, but not limited to, Sears, Roebuck, and Co., as agents of Defendant Chervon-HK.

17. On information and belief, Chervon-HK and Chervon-NA share the same officers, directors, and shareholders, including but not limited to Michael Nipke.

18. Chervon-NA effectively operates as the sales and marketing department for Defendant Chervon-HK in North America, including products sold in the United States and in this District by Defendant Chervon-HK under at least the Kobalt, Masterforce, Performax, and Craftsman brand names.

THE PATENTS IN SUIT

19. On June 30, 2009, United States Patent No. 7,554,290 (the "'290 patent") was duly and properly issued to Todd W. Johnson et al., for an invention entitled "Lithium-Based Battery Pack for a Hand-Held Power Tool."

20. Milwaukee Tool, TTi Macao, and TTi Hong Kong are the owners by assignment of the '290 patent.

21. MBT has a license to certain exclusive rights under the '290 patent.

22. Together Plaintiffs possess all rights necessary to bring this suit for infringement of the '290 patent.

23. The '290 patent was the subject of *inter partes* reexamination proceeding No. 95/001,848 before the United States Patent and Trademark Office ("PTO"). That proceeding completed with the issuance of a reexamination certificate, confirming the patentability of all claims of the '290 patent without modification.

24. On May 17, 2011, United States Patent No. 7,944,173 (the "'173 patent") was duly and properly issued to Todd W. Johnson et al., for an invention entitled "Lithium-Based Battery Pack for a High Current Draw, Hand Held Power Tool."

25. Milwaukee Tool, TTi Macao, and TTi Hong Kong are the owners by assignment of the '173 patent.

26. MBT has a license to certain exclusive rights under the '173 patent.

27. Together Plaintiffs possess all rights necessary to bring this suit for infringement of the '173 patent.

28. The '173 patent was the subject of *inter partes* reexamination proceeding No. 95/001,847 before the PTO. An Action Closing Prosecution was issued in that proceeding rejecting all proposed grounds for invalidity. The proceeding will therefore shortly end with the issuance of a reexamination certificate, confirming the patentability of all claims of the '173 patent without modification.

29. On August 16, 2011, United States Patent No. 7,999,510 (the "'510 patent") was duly and properly issued to Todd W. Johnson et al., for an invention entitled "Method and System of Charging Multi-Cell Lithium-Based Batteries."

30. Milwaukee Tool, TTi Macao, and TTi Hong Kong are the owners by assignment of the '510 patent.

31. MBT has a license to certain exclusive rights under the '510 patent.

32. Together Plaintiffs possess all rights necessary to bring this suit for infringement of the '510 patent.

33. The '510 patent was the subject of *inter partes* reexamination proceeding No. 95/001,846 before the PTO. That proceeding completed with the issuance of a

reexamination certificate, confirming the patentability of all claims of the '510 patent without modification.

BACKGROUND FACTS

34. Collectively the '290 patent, '173 patent, and '510 patent, (hereafter, when used collectively, the "Patents-In-Suit") cover aspects of Milwaukee Tool's pioneering inventions in the area of Lithium-Ion ("Li-Ion") powered handheld cordless power tools and associated technologies related to controlling and charging battery packs for such tools.

35. Prior to Milwaukee Tool's introduction of the first Li-Ion powered handheld cordless power tool in January 2005, most handheld cordless power tools were powered by battery packs utilizing Nickel-Cadmium ("NiCad") batteries.

36. By the late 1990's, NiCad batteries had plateaued in potential performance.

37. Even at their plateau, NiCad batteries could not successfully provide power equivalent to a corded, line-voltage power tool in a format for handheld cordless power tools because NiCad batteries of sufficient power were too heavy and bulky to be commercially viable.

38. Prior to Milwaukee Tool's industry-changing introduction of the first Li-Ion powered tool providing line-voltage performance in a handheld cordless tool, Li-Ion chemistry was generally viewed as being unsuitable for delivering the high-power required for a cordless power tool.

39. Milwaukee Tool revolutionized the cordless handheld power tool industry in 2005 with its introduction of the V28 line of Li-Ion powered tools embodying the

inventions of the Patents-In-Suit. The V28 line were the first handheld cordless power tools to perform equivalently to line-voltage corded tools while remaining as light and compact as earlier lower power cordless tools.

40. Industry press at the time of Milwaukee Tool's introduction praised the quantum leap forward represented by Milwaukee Tool's new technology. Many well-respected industry commentators recognized that Milwaukee Tool's invention was an industry first and satisfied the long-felt demand for a convenient cordless handheld tool with power equivalent to a comparable corded tool. The broad acknowledgement of Milwaukee Tool's revolutionary invention culminated with Milwaukee Tool's receipt of many industry awards for innovation, including, for example:

- (a) The 2005 Editors' Choice Grand Award from *Tools of the Trade*;
- (b) A 2005 Handy Innovation Award as one of Nine Groundbreaking New Products;
- (c) The 2005 Breakthrough Award from *Popular Mechanics*;
- (d) The 2005 Most Innovative Product award from *Electrical Contracting Products*;
- (e) A 2006 Top 10 Innovative Tools award from *Workbench*;
- (f) The Most Valuable Product award from *Building Products Magazine*;
- (g) The 2006 Editors' Choice Grand Award (Co-recipient) from *Tools of the Trade*; and
- (h) The 2006 Readers' Choice Award from *Woodshop News*.

41. Soon after Milwaukee Tool's introduction, Li-Ion became the *de facto* industry standard. No other technology could offer the combination of high power, light weight and compact size made possible by Milwaukee Tool's inventions.

42. Every competitor in the handheld cordless power tool industry, including Defendant, soon adopted Milwaukee Tool's inventions and transitioned, at least in part, to the use of Li-Ion powered battery packs in their handheld cordless power tools.

43. As demonstrated by Defendant's infringement of the Patents-In-Suit, handheld cordless power tools utilizing Milwaukee Tool's foundational inventions related to Li-Ion powered battery packs dominate the industry.

44. On information and belief, Defendant copied and used Plaintiffs' patented technology in order to develop and compete with Plaintiffs in the sale of products utilizing Li-Ion powered battery packs with handheld cordless power tools.

45. Defendant infringed and continues to infringe the Patents-in-Suit despite an objectively high likelihood that Defendant's actions constituted infringement of the Patents-in-Suit. The objectively-defined risk of infringement of the Patents-in-Suit was known by Defendant or so obvious that it should have been known to Defendant.

COUNT I
(INFRINGEMENT OF THE '290 PATENT)

46. Plaintiffs incorporate and re-allege as if fully set forth herein each and every allegation contained in paragraphs 1-45.

47. Defendant makes, imports, offers for sale, and/or sells several lines of handheld cordless power tools that utilize multi-cell Li-Ion battery packs. These products are sold in various combinations of tools, battery packs, and chargers. Among such lines of tools made, imported, offered for sale, and/or sold by Defendant are the Craftsman

19.2V C3 1/2" Drill/Driver (5275.1), Craftsman Nextec 5702 Right Angle Drill (should be 5712), Craftsman NEXTEC Jigsaw (5810), Craftsman NEXTEC 12.0 Volt Cordless Drill Driver (1430), Craftsman C3 19.2V Reciprocating Saw (5818.3), Craftsman NEXTEC 12V Drill/Driver (11812), Craftsman NEXTEC 12.0 Volt Hammerhead Auto Hammer Combo Kit (11818), Craftsman NEXTEC 12.0 Volt Cordless Multi-Saw - Tool Only (14299), Craftsman Pro 20V Li-Ion 7-1/4" Circular Saw Combo Kit (17199), Craftsman NEXTEC 12.0 Volt Li-Ion Cordless Dual Position Multi-Saw Combo Kit (17419), Craftsman NEXTEC 12-volt Cordless Compact 1/4" Impact Driver (17428), Craftsman NEXTEC 12.0 Volt Li-Ion Cordless Multi Tool Combo Kit (17438), Craftsman NEXTEC 12.0 Volt Right Angle Impact Driver Combo Kit (17562), Craftsman NEXTEC 12.0V Lithium-Ion Drill/Driver (17586), Craftsman Multi Tool Combo Kit (22190), Craftsman Pro 1HP Mobile Horizontal Band Saw (22612), Craftsman Pro 20V Li-Ion Cordless Drill/Driver with LED Light (26302), Craftsman Pro 20.0 Volt Li-Ion Cordless Variable Speed Orbital Reciprocating Saw (26314), Craftsman Pro 20V Li-Ion Cordless Circular Saw (28102), Craftsman Pro 20V Li-Ion Cordless 1/4" Impact Driver (28128), Craftsman Pro 20V Li-Ion Cordless 1/2" Drill/Driver (28169), Craftsman NEXTEC Compact Palm Grip Jig Saw (28188), Craftsman Pro 20V Li-Ion Cordless 1/2" Impact Wrench Combo Kit (29297), Craftsman NEXTEC 12.0 Volt Hammerhead Auto Hammer with Rotating Head (30261), Craftsman NEXTEC 12.0 Volt Right Angle Impact Driver (30295), Craftsman NEXTEC 12.0 Volt Drill/Driver (30565), Craftsman NEXTEC 12 Volt Multi-Tool with Quick Release (30566), Craftsman NEXTEC 12.0 Volt Li-Ion Rotary Tool (31224), Craftsman NEXTEC 3-Piece Tool Combo Kit (31897), Craftsman NEXTEC 12.0 Volt Jig Saw Combo Kit (33179),

Craftsman 19.2V C3 Brushless Drill/Driver (38595), Craftsman C3 19.2V Max Axess Auto Ratchet (38596), Craftsman Multi Tool Combo Kit (38598), Craftsman 19.2V Multi Tool Kit (38599), Craftsman C3 19.2V Rotating Auto Hammer (38600), Craftsman C3 Max Axess Auto Ratchet Kit (39558), Craftsman NEXTEC 12 Volt Cordless Impact Driver (61189), Craftsman NEXTEC 61199 12 Volt Multi-Tool (61199), Craftsman NEXTEC 61325 Circular Saw (61325), Craftsman NEXTEC 12.0 Volt Li-Ion Finish™ Sander (61326), Craftsman Nextec Hammerhead (61352), Craftsman 20.0 Volt Li-Ion Cordless Reciprocating Saw Combo Kit (79567), Craftsman Pro 20V Li-Ion Cordless 1/4" Impact Driver Combo Kit (79568), Kobalt 2-Tool 18-Volt Lithium Ion Cordless Combo Kit (K18CP-26A), Kobalt 18-Volt 1/4-in Cordless Variable Speed Impact Driver (K18ID-16A), Kobalt 50-Degree 6-1/2-in Cordless Circular Saw (K18LC-16AB), Kobalt 4-Tool 18-Volt Lithium-Ion Cordless Combo Kit (K18LC-2006A), Kobalt 18-Volt 1/2-in Cordless Drill (K18LD-16AB), Kobalt 18-Volt 1/2-in Cordless Drill with Battery and Soft Case (K18LD-26A), Kobalt 18-Volt Variable Speed Cordless Reciprocating Saw (Bare Tool) (K18LR-16AB), Kobalt 18V 1/2" Cordless Impact Wrench (K18LW-16A), Kobalt 18-Volt 1/2-in Drive Cordless Impact Wrench Kit (K18LW-16A), Kobalt Bare Tool 18-Volt 1/2-in Drive Cordless Impact Wrench (K18LW-16AB), Kobalt 50-Degree 6-1/2-in Cordless Circular Saw (K18NC-06AB), Kobalt 18-Volt 1/2-in Cordless Drill (Bare Tool) (K18ND-06AB), Kobalt 18-Volt Variable Speed Cordless Reciprocating Saw (Bare Tool) (K18NR-06AB), Kobalt 18-Volt 1/2-in Cordless Drill with Battery (K18PD-26A), Kobalt 20-Volt 1/4-in Cordless Variable Speed Impact Driver with Soft Case (K20ID-26A), Kobalt 20-Volt 1/4-in Cordless Variable Speed Impact Driver (K20ID-26AB), Kobalt 20-Volt Max 6-1/2-in Cordless Circular Saw with Brake (Bare

Tool) (K20LC-26A), Kobalt 4-Tool 20-Volt Lithium Ion (Li-ion) Cordless Combo Kit with Soft Case (K20LC-4000A), Kobalt 5-Tool 20-Volt Max Lithium Ion (Li-ion) Cordless Combo Kit with Soft Case (K20LC-5000P), Kobalt 20-Volt 1/2-in Cordless Drill (Bare Tool) (K20LD-26AB), Kobalt 20-Volt Variable Speed Cordless Reciprocating Saw (Bare Tool) (K20LR-26AB), Kobalt 20-Volt 1/2-in Drive Cordless Impact Wrench Kit (K20LW-26A), Kobalt 20-Volt 1/2-in Drive Cordless Impact Wrench (Bare Tool) (K20LW-26AB), Kobalt 18-Volt 1/2-in Cordless Drill with Battery and Soft Case (KT200A), Kobalt 20-Volt 1/2-in Cordless Drill with Battery and Soft Case (KT300A), Masterforce 12-Volt 3/8" Cordless Drill (241-0300), Masterforce 12-Volt Right Angle Drill (241-0301), Masterforce 12-Volt Cordless Metal Shear (241-0302), Masterforce 12-Volt Impact Driver (241-0303), Masterforce 2 Tool 12-Volt Lithium-Ion Cordless Combo Kit (241-0304), Masterforce 2-Tool 12-Volt Lithium-Ion Combo Kit (241-0305), Masterforce HAMMERHEAD 12.0 Volt Lithium Ion Auto-Hammer (241-0306), Masterforce 12.0-Volt Lithium-Ion Cordless Drill/Driver (241-0308), Masterforce 12 Volt Lithium-Ion Impact Driver (241-0312), Masterforce 12-Volt Lithium-Ion 3/8" Drill Kit (241-0313), Masterforce 12-Volt Lithium-Ion 1/4" Impact Driver Kit (241-0314), Masterforce 12-Volt Lithium-Ion 1/4" Right Angle Drill Kit (241-0315), Masterforce Multi Saw (241-0320), Masterforce FlexPower 20-Volt 1/2" Drill Kit with 1.5Ah Batteries (241-0401), Masterforce FlexPower 20-Volt 1/2" Drill and Impact Driver Combo Kit (214-0402), Masterforce FlexPower 18V 1/2" Cordless Drill/Driver (241-0404), Masterforce FlexPower 20-Volt Cordless 1/2" Drill Kit with 2.0Ah battery (241-0405), Masterforce 20V 1/4" Impact Driver Kit (241-0406), Masterforce FlexPower 20-Volt 1/2" Heavy Duty Impact Wrench Kit with 4.0Ah Batteries (241-0407), Masterforce

18V Drill-Driver (241-0408), Masterforce FlexPower 20-Volt 1/2" Drill/Driver (241-0409), Masterforce FlexPower 20-Volt 1/2" Drill Kit with 2.0Ah Batteries (241-0410), Masterforce FlexPower 20-Volt 1/2" Hammer Drill Kit with 4.0Ah Batteries (241-0411), Masterforce FlexPower 18-Volt Cordless 1/2" Hammer Drill (241-0412), Masterforce 20V 1/2" Hammer Drill (241-0413), Masterforce FlexPower 18-Volt Cordless 1/2" Impact Wrench (241-0414), Masterforce 20V 1/2" Impact Wrench (241-0415), Masterforce 18V 3-Tool Combo Kit (241-0417), Masterforce FlexPower 20-Volt Cordless Combo Kit (24-01418), Masterforce FlexPower 20-Volt 1/2" Drill & Impact Driver Combo Kit (241-0419), Masterforce 18V 8-Tool Combo Kit (241-0422), Masterforce 20V 1/2" Impact Wrench (241-0424), Masterforce FlexPower 20-Volt 1/4 in. Impact Driver (Tool Only) (241-0425), Masterforce 20-Volt 1/2" Impact Wrench (Tool Only) (241-0426), Masterforce FlexPower 20-Volt 6-1/2 in. Circular Saw (Tool Only) (241-0428), Masterforce FlexPower 20-Volt Orbital Jigsaw (Tool Only) (241-0429), Masterforce FlexPower 20-Volt Compact Reciprocating Saw (Tool Only) (241-0431), Masterforce FlexPower 20-Volt Reciprocating Saw (Tool Only) (241-0432), Masterforce FlexPower 20-Volt 3/8 in. Right Angle Drill (Tool Only) (241-0436), Masterforce FlexPower 20-Volt 4-1/2" Angle Grinder (Tool Only) (241-0438), Masterforce FlexPower 20-Volt Band Saw (Tool Only) (241-0440), Masterforce FlexPower 20-Volt 4 Tool Combo Kit with 3 Batteries and 4 Port Charger (241-0450), Masterforce 2-Tool Drill/Driver & Circular Saw Cordless Combo Kit (241-0451), Masterforce 2-Tool Drill/Driver & Reciprocating Saw Cordless Combo Kit (241-0452), Masterforce 20-Volt Drill and Impact Driver Combo (241-0453), Masterforce FlexPower 20-Volt 1/2" Lithium-Ion Drill Kit (241-0460), Masterforce FlexPower 20-Volt 1/2"

Brushless Drill Kit with 2.0Ah Batteries (241-0461), Masterforce 18V Drill (Kraftech) (241-0765), Performax 12-Volt Oscillating Tool with Battery and Charger (241-0500), Performax 12-Volt 3/8" Compact Drill 9241-0502), Performax 12-Volt Compact Reciprocating Saw (241-0504), Performax Rotary Tool with 30 Pieces (241-0505), Performax 18V Drill/Driver with Li-Ion Battery (241-0905), Performax 18-Volt Cordless Drill Lithium-ion (241-0908), Performax Hammer Drill (241-0916), Performax 18-Volt Lithium-ion Hammer Drill & Impact Driver Kit (241-0918), Performax 3-Tool Cordless 18-Volt Lithium-Ion Combo Kit (241-0921), Performax 18-Volt Cordless Jigsaw (241-0924), Performax 18-Volt 1/4" Cordless Impact Driver (241-0928), Performax 18-Volt Cordless Reciprocating Saw (241-0932). Each of these products made, imported, offered for sale, and/or sold by Defendant uses multi-cell Li-Ion battery packs that can produce an average discharge current greater than or equal to approximately 20 amps. Defendant makes, imports, offers for sale, and/or sells these battery packs under the Kobalt, Masterforce, Performax, and Craftsman labels, under various part numbers or designations, including but not limited to the following: Kobalt 18-Volt 1.5-Amp Hours Lithium-Ion Battery Pack (K18-LB15A), Kobalt 18-Volt 3.0-Amp Hours Lithium-Ion Battery Pack (K18-LB30A), Kobalt 18-Volt Lithium-Ion Battery Pack (K18-LBS23A), Kobalt 20-Volt 2.0-Amp Hours Lithium-Ion Battery Pack (K20-LB20A), Kobalt 20-Volt 4.0-Amp Hours Lithium-Ion Battery Pack (K20-LB40A); Kobalt 24V 1.5-Amp Hours Lithium Power Tool Battery (5176.1) (KB 124-03); Kobalt 24V 2.0-Amp Hours Lithium Power Tool Battery (5176) (KB 224-03); Kobalt 24V 5.0-Amp Hours Lithium Power Tool Battery (5177) (KB 524-03); Kobalt 24V MaxV 4.0-Amp Hours Lithium Power Tool Battery (5177.1) (KB 424-03); Masterforce Lithium-Ion Battery Pack Kraftech

(252-0765), Masterforce 12 Volt Lithium-Ion Battery Pack (252-8016), Masterforce 12 Volt Lithium-Ion Battery Pack (252-8017), Masterforce 18 Volt Lithium-Ion Battery Pack (252-8028), Masterforce 12 Volt Lithium-Ion Battery Pack (252-8029), Masterforce 12 Volt Lithium-Ion Battery Pack (252-8030), Masterforce 20 Volt Lithium-Ion Battery Pack (252-8031), Masterforce 18 Volt Lithium-Ion Battery Pack (252-8032), Masterforce 20 Volt Lithium-Ion Battery Pack (252-8033), Masterforce 20 Volt Lithium-Ion Battery Pack (252-8034), Craftsman Pro 20-Volt Lithium-Ion Cordless Battery Pack, 2.2Ah (5126), Craftsman C3 19.2 Volt Lithium-Ion Battery Pack (5166), Craftsman C3 19.2-Volt Lithium-Ion Battery Pack (5166.1), Craftsman Diehard Lithium-Ion Battery Pack (5166.2), Craftsman 18V battery, 1.3Ah (5168), Craftsman 11221 NEXTEC 12-Volt Lithium-Ion Battery Pack (5120), Craftsman 33170 NEXTEC 12-Volt LED Lighted Battery Pack (5120.2), Craftsman Pro 20-Volt Lithium-Ion Cordless Battery Pack (5108), Craftsman NEXTEC 12-Volt LED Lighted Battery Pack (33170), Performax 18V (252-0908). Defendant also makes, imports, offers for sale, and/or sells these and comparable battery packs as part of various tools and kits under a variety of other designations.

48. Defendant is infringing Plaintiffs' exclusive rights in the '290 patent in violation of 35 U.S.C. § 271 by manufacturing, importing, using, offering for sale, or selling products that embody the inventions of and are within the scope of the claims of the '290 patent, and will continue to do so unless enjoined by this Court. Such products include, but are not limited to, the battery packs identified in paragraph 47 and other comparable multi-cell Li-Ion battery packs capable of producing an average discharge current greater than or equal to approximately 20 amps as set forth in the '290 patent, whether sold alone or together with other packs, tools, and/or chargers.

49. Upon information and belief, Defendant was on notice and aware of the '290 patent prior to the filing of the Complaint in this action and as early as June 30, 2009. Defendant also has been aware that its conduct constitutes infringement of the '290 Patent. Nevertheless, Defendant has continued intentionally to infringe. Accordingly, Defendant's infringement has been and continues to be willful.

50. At least as early as October 31, 2011, Milwaukee Tool sent correspondence to Defendant notifying it of Milwaukee Tool's patent rights in the area of Li-Ion technology. In addition, Milwaukee Tool's inventions related to Li-Ion technology in handheld cordless power tools have been the subject to extensive industry press coverage and Milwaukee Tool consistently marked its products with the applicable Patents-In-Suit.

COUNT II
(INFRINGEMENT OF THE '173 PATENT)

51. Plaintiffs incorporate and re-allege as if fully set forth herein each and every allegation contained in paragraphs 1-50.

52. Defendant makes, imports, offers for sale, and/or sells several lines of handheld cordless power tools that utilize multi-cell Li-Ion battery packs. These products are sold in various combinations of tools, battery packs, and chargers. Among such lines of tools made, imported, offered for sale, and/or sold by Defendant are the Craftsman 19.2V C3 1/2" Drill/Driver (5275.1), Craftsman Nextec 5702 Right Angle Drill (should be 5712), Craftsman NEXTEC Jigsaw (5810), Craftsman NEXTEC 12.0 Volt Cordless Drill Driver (1430), Craftsman C3 19.2V Reciprocating Saw (5818.3), Craftsman NEXTEC 12V Drill/Driver (11812), Craftsman NEXTEC 12.0 Volt Hammerhead Auto Hammer Combo Kit (11818), Craftsman NEXTEC 12.0 Volt Cordless Multi-Saw - Tool

Only (14299), Craftsman Pro 20V Li-Ion 7-1/4" Circular Saw Combo Kit (17199), Craftsman NEXTEC 12.0 Volt Li-Ion Cordless Dual Position Multi-Saw Combo Kit (17419), Craftsman NEXTEC 12-volt Cordless Compact 1/4" Impact Driver (17428), Craftsman NEXTEC 12.0 Volt Li-Ion Cordless Multi Tool Combo Kit (17438), Craftsman NEXTEC 12.0 Volt Right Angle Impact Driver Combo Kit (17562), Craftsman NEXTEC 12.0V Lithium-Ion Drill/Driver (17586), Craftsman Multi Tool Combo Kit (22190), Craftsman Pro 1HP Mobile Horizontal Band Saw (22612), Craftsman Pro 20V Li-Ion Cordless Drill/Driver with LED Light (26302), Craftsman Pro 20.0 Volt Li-Ion Cordless Variable Speed Orbital Reciprocating Saw (26314), Craftsman Pro 20V Li-Ion Cordless Circular Saw (28102), Craftsman Pro 20V Li-Ion Cordless 1/4" Impact Driver (28128), Craftsman Pro 20V Li-Ion Cordless 1/2" Drill/Driver (28169), Craftsman NEXTEC Compact Palm Grip Jig Saw (28188), Craftsman Pro 20V Li-Ion Cordless 1/2" Impact Wrench Combo Kit (29297), Craftsman NEXTEC 12.0 Volt Hammerhead Auto Hammer with Rotating Head (30261), Craftsman NEXTEC 12.0 Volt Right Angle Impact Driver (30295), Craftsman NEXTEC 12.0 Volt Drill/Driver (30565), Craftsman NEXTEC 12 Volt Multi-Tool with Quick Release (30566), Craftsman NEXTEC 12.0 Volt Li-Ion Rotary Tool (31224), Craftsman NEXTEC 3-Piece Tool Combo Kit (31897), Craftsman NEXTEC 12.0 Volt Jig Saw Combo Kit (33179), Craftsman 19.2V C3 Brushless Drill/Driver (38595), Craftsman C3 19.2V Max Axess Auto Ratchet (38596), Craftsman Multi Tool Combo Kit (38598), Craftsman 19.2V Multi Tool Kit (38599), Craftsman C3 19.2V Rotating Auto Hammer (38600), Craftsman C3 Max Axess Auto Ratchet Kit (39558), Craftsman NEXTEC 12 Volt Cordless Impact Driver (61189), Craftsman NEXTEC 61199 12 Volt Multi-Tool (61199), Craftsman

NEXTEC 61325 Circular Saw (61325), Craftsman NEXTEC 12.0 Volt Li-Ion Finish™ Sander (61326), Craftsman Nextec Hammerhead (61352), Craftsman 20.0 Volt Li-Ion Cordless Reciprocating Saw Combo Kit (79567), Craftsman Pro 20V Li-Ion Cordless 1/4" Impact Driver Combo Kit (79568), Kobalt 2-Tool 18-Volt Lithium Ion Cordless Combo Kit (K18CP-26A), Kobalt 18-Volt 1/4-in Cordless Variable Speed Impact Driver (K18ID-16A), Kobalt 50-Degree 6-1/2-in Cordless Circular Saw (K18LC-16AB), Kobalt 4-Tool 18-Volt Lithium-Ion Cordless Combo Kit (K18LC-2006A), Kobalt 18-Volt 1/2-in Cordless Drill (K18LD-16AB), Kobalt 18-Volt 1/2-in Cordless Drill with Battery and Soft Case (K18LD-26A), Kobalt 18-Volt Variable Speed Cordless Reciprocating Saw (Bare Tool) (K18LR-16AB), Kobalt 18V 1/2" Cordless Impact Wrench (K18LW-16A), Kobalt 18-Volt 1/2-in Drive Cordless Impact Wrench Kit (K18LW-16A), Kobalt Bare Tool 18-Volt 1/2-in Drive Cordless Impact Wrench (K18LW-16AB), Kobalt 50-Degree 6-1/2-in Cordless Circular Saw (K18NC-06AB, Kobalt 18-Volt 1/2-in Cordless Drill (Bare Tool) (K18ND-06AB), Kobalt 18-Volt Variable Speed Cordless Reciprocating Saw (Bare Tool) (K18NR-06AB), Kobalt 18-Volt 1/2-in Cordless Drill with Battery (K18PD-26A), Kobalt 20-Volt 1/4-in Cordless Variable Speed Impact Driver with Soft Case (K20ID-26A), Kobalt 20-Volt 1/4-in Cordless Variable Speed Impact Driver (K20ID-26AB), Kobalt 20-Volt Max 6-1/2-in Cordless Circular Saw with Brake (Bare Tool) (K20LC-26A), Kobalt 4-Tool 20-Volt Lithium Ion (Li-ion) Cordless Combo Kit with Soft Case (K20LC-4000A), Kobalt 5-Tool 20-Volt Max Lithium Ion (Li-ion) Cordless Combo Kit with Soft Case (K20LC-5000P), Kobalt 20-Volt 1/2-in Cordless Drill (Bare Tool) (K20LD-26AB), Kobalt 20-Volt Variable Speed Cordless Reciprocating Saw (Bare Tool) (K20LR-26AB), Kobalt 20-Volt 1/2-in Drive Cordless

Impact Wrench Kit (K20LW-26A), Kobalt 20-Volt 1/2-in Drive Cordless Impact Wrench (Bare Tool) (K20LW-26AB), Kobalt 18-Volt 1/2-in Cordless Drill with Battery and Soft Case(KT200A), Kobalt 20-Volt 1/2-in Cordless Drill with Battery and Soft Case (KT300A), Masterforce 12-Volt 3/8" Cordless Drill (241-0300), Masterforce 12-Volt Right Angle Drill (241-0301), Masterforce 12-Volt Cordless Metal Shear (241-0302), Masterforce 12-Volt Impact Driver (241-0303), Masterforce 2 Tool 12-Volt Lithium-Ion Cordless Combo Kit (241-0304), Masterforce 2-Tool 12-Volt Lithium-Ion Combo Kit (241-0305), Masterforce HAMMERHEAD 12.0 Volt Lithium Ion Auto-Hammer (241-0306), Masterforce 12.0-Volt Lithium-Ion Cordless Drill/Driver (241-0308), Masterforce 12 Volt Lithium-Ion Impact Driver (241-0312), Masterforce 12-Volt Lithium-Ion 3/8" Drill Kit (241-0313), Masterforce 12-Volt Lithium-Ion 1/4" Impact Driver Kit (241-0314), Masterforce 12-Volt Lithium-Ion 1/4" Right Angle Drill Kit (241-0315), Masterforce Multi Saw (241-0320), Masterforce FlexPower 20-Volt 1/2" Drill Kit with 1.5Ah Batteries (241-0401), Masterforce FlexPower 20-Volt 1/2" Drill and Impact Driver Combo Kit (214-0402), Masterforce FlexPower 18V 1/2" Cordless Drill/Driver (241-0404), Masterforce FlexPower 20-Volt Cordless 1/2" Drill Kit with 2.0Ah battery (241-0405), Masterforce 20V 1/4" Impact Driver Kit (241-0406), Masterforce FlexPower 20-Volt 1/2" Heavy Duty Impact Wrench Kit with 4.0Ah Batteries (241-0407), Masterforce 18V Drill-Driver (241-0408), Masterforce FlexPower 20-Volt 1/2" Drill/Driver (241-0409), Masterforce FlexPower 20-Volt 1/2" Drill Kit with 2.0Ah Batteries (241-0410), Masterforce FlexPower 20-Volt 1/2" Hammer Drill Kit with 4.0Ah Batteries (241-0411), Masterforce FlexPower 18-Volt Cordless 1/2" Hammer Drill (241-0412), Masterforce 20V 1/2" Hammer Drill (241-0413), Masterforce FlexPower 18-Volt Cordless 1/2"

Impact Wrench (241-0414), Masterforce 20V 1/2" Impact Wrench (241-0415), Masterforce 18V 3-Tool Combo Kit (241-0417), Masterforce FlexPower 20-Volt Cordless Combo Kit (24-01418), Masterforce FlexPower 20-Volt 1/2" Drill & Impact Driver Combo Kit (241-0419), Masterforce 18V 8-Tool Combo Kit (241-0422), Masterforce 20V 1/2" Impact Wrench (241-0424), Masterforce FlexPower 20-Volt 1/4 in. Impact Driver (Tool Only) (241-0425), Masterforce 20-Volt 1/2" Impact Wrench (Tool Only) (241-0426), Masterforce FlexPower 20-Volt 6-1/2 in. Circular Saw (Tool Only) (241-0428), Masterforce FlexPower 20-Volt Orbital Jigsaw (Tool Only) (241-0429), Masterforce FlexPower 20-Volt Compact Reciprocating Saw (Tool Only) (241-0431), Masterforce FlexPower 20-Volt Reciprocating Saw (Tool Only) (241-0432), Masterforce FlexPower 20-Volt 3/8 in. Right Angle Drill (Tool Only) (241-0436), Masterforce FlexPower 20-Volt 4-1/2" Angle Grinder (Tool Only) (241-0438), Masterforce FlexPower 20-Volt Band Saw (Tool Only) (241-0440), Masterforce FlexPower 20-Volt 4 Tool Combo Kit with 3 Batteries and 4 Port Charger (241-0450), Masterforce 2-Tool Drill/Driver & Circular Saw Cordless Combo Kit (241-0451), Masterforce 2-Tool Drill/Driver & Reciprocating Saw Cordless Combo Kit (241-0452), Masterforce 20-Volt Drill and Impact Driver Combo (241-0453), Masterforce FlexPower 20-Volt 1/2" Lithium-Ion Drill Kit (241-0460), Masterforce FlexPower 20-Volt 1/2" Brushless Drill Kit with 2.0Ah Batteries (241-0461), Masterforce 18V Drill (Kraftech) (241-0765), Performax 12-Volt Oscillating Tool with Battery and Charger (241-0500), Performax 12-Volt 3/8" Compact Drill (241-0502), Performax 12-Volt Compact Reciprocating Saw (241-0504), Performax Rotary Tool with 30 Pieces (241-0505), Performax 18V Drill/Driver with Li-Ion Battery (241-0905), Performax 18-Volt Cordless

Drill Lithium-ion (241-0908), Performax Hammer Drill (241-0916), Performax 18-Volt Lithium-ion Hammer Drill & Impact Driver Kit (241-0918), Performax 3-Tool Cordless 18-Volt Lithium-Ion Combo Kit (241-0921), Performax 18-Volt Cordless Jigsaw (241-0924), Performax 18-Volt 1/4" Cordless Impact Driver (241-0928), Performax 18-Volt Cordless Reciprocating Saw (241-0932). Each of these products made, imported, offered for sale, and/or sold by Defendant uses multi-cell Li-Ion battery packs that can produce an average discharge current greater than or equal to approximately 20 amps. Defendant makes, imports, offers for sale, and/or sells these battery packs under the Kobalt, Masterforce, Performax, and Craftsman labels, under various part numbers or designations, including but not limited to the following: Kobalt 18-Volt 1.5-Amp Hours Lithium-Ion Battery Pack (K18-LB15A), Kobalt 18-Volt 3.0-Amp Hours Lithium-Ion Battery Pack (K18-LB30A), Kobalt 18-Volt Lithium-Ion Battery Pack (K18-LBS23A), Kobalt 20-Volt 2.0-Amp Hours Lithium-Ion Battery Pack (K20-LB20A), Kobalt 20-Volt 4.0-Amp Hours Lithium-Ion Battery Pack (K20-LB40A); Kobalt 24V 1.5-Amp Hours Lithium Power Tool Battery (5176.1) (KB 124-03); Kobalt 24V 2.0-Amp Hours Lithium Power Tool Battery (5176) (KB 224-03); Kobalt 24V 5.0-Amp Hours Lithium Power Tool Battery (5177) (KB 524-03); Kobalt 24V MaxV 4.0-Amp Hours Lithium Power Tool Battery (5177.1) (KB 424-03); Masterforce Lithium-Ion Battery Pack Kraftech (252-0765), Masterforce 12 Volt Lithium-Ion Battery Pack (252-8016), Masterforce 12 Volt Lithium-Ion Battery Pack (252-8017), Masterforce 18 Volt Lithium-Ion Battery Pack (252-8028), Masterforce 12 Volt Lithium-Ion Battery Pack (252-8029), Masterforce 12 Volt Lithium-Ion Battery Pack (252-8030), Masterforce 20 Volt Lithium-Ion Battery Pack (252-8031), Masterforce 18 Volt Lithium-Ion Battery Pack (252-8032), Masterforce

20 Volt Lithium-Ion Battery Pack (252-8033), Masterforce 20 Volt Lithium-Ion Battery Pack (252-8034), Craftsman Pro 20-Volt Lithium-Ion Cordless Battery Pack, 2.2Ah (5126), Craftsman C3 19.2 Volt Lithium-Ion Battery Pack (5166), Craftsman C3 19.2-Volt Lithium-Ion Battery Pack (5166.1), Craftsman Diehard Lithium-Ion Battery Pack (5166.2), Craftsman 18V battery, 1.3Ah (5168), Craftsman 11221 NEXTEC 12-Volt Lithium-Ion Battery Pack (5120), Craftsman 33170 NEXTEC 12-Volt LED Lighted Battery Pack (5120.2), Craftsman Pro 20-Volt Lithium-Ion Cordless Battery Pack (5108), Craftsman NEXTEC 12-Volt LED Lighted Battery Pack (33170), Performax 18V (252-0908). Defendant also makes, imports, offers for sale, and/or sells these and comparable battery packs as part of various tools and kits under a variety of other designations.

53. Defendant is infringing Plaintiffs' exclusive rights in the '173 patent in violation of 35 U.S.C. § 271 by manufacturing, importing, using, offering for sale, or selling products that embody the inventions of and are within the scope of the claims of the '173 patent, and will continue to do so unless enjoined by this Court. Such products include, but are not limited to, the battery packs identified in paragraph 52 and other comparable multi-cell Li-Ion battery packs capable of producing an average discharge current greater than or equal to approximately 20 amps, that incorporate at least one terminal through which the battery pack discharge current flows to a corresponding terminal on the tool, and include a locking assembly to lock the pack to the tool as set forth in the '173 patent, whether such packs are sold alone or together with other packs, tools, and/or chargers.

54. Upon information and belief, Defendant was on notice and aware of the '173 patent prior to the filing of the Complaint in this action and as early as May 17,

2011. Defendant also has been aware that its conduct constitutes infringement of the '173 Patent. Nevertheless, Defendant has continued intentionally to infringe. Accordingly, Defendant's infringement has been and continues to be willful.

55. At least as early as October 31, 2011, Milwaukee Tool sent correspondence to Defendant notifying it of Milwaukee Tool's patent rights in the area of Li-Ion technology. In addition, Milwaukee Tool's inventions related to Li-Ion technology in handheld cordless power tools have been the subject to extensive industry press coverage and Milwaukee Tool consistently marked its products with the applicable Patents-In-Suit.

COUNT III
(INFRINGEMENT OF THE '510 PATENT)

56. Plaintiffs incorporate and re-allege as if fully set forth herein each and every allegation contained in paragraphs 1-55.

57. Defendant makes, imports, offers for sale, and/or sells several lines of handheld cordless power tools that utilize multi-cell Li-Ion battery packs. These products are sold in various combinations of tools, battery packs, and chargers. Among such lines of tools made, imported, offered for sale, and/or sold by Defendant are the Craftsman 19.2V C3 1/2" Drill/Driver (5275.1), Craftsman Nextec 5702 Right Angle Drill (should be 5712), Craftsman NEXTEC Jigsaw (5810), Craftsman NEXTEC 12.0 Volt Cordless Drill Driver (1430), Craftsman C3 19.2V Reciprocating Saw (5818.3), Craftsman NEXTEC 12V Drill/Driver (11812), Craftsman NEXTEC 12.0 Volt Hammerhead Auto Hammer Combo Kit (11818), Craftsman NEXTEC 12.0 Volt Cordless Multi-Saw - Tool Only (14299), Craftsman Pro 20V Li-Ion 7-1/4" Circular Saw Combo Kit (17199), Craftsman NEXTEC 12.0 Volt Li-Ion Cordless Dual Position Multi-Saw Combo Kit

(17419), Craftsman NEXTEC 12-volt Cordless Compact 1/4" Impact Driver (17428), Craftsman NEXTEC 12.0 Volt Li-Ion Cordless Multi Tool Combo Kit (17438), Craftsman NEXTEC 12.0 Volt Right Angle Impact Driver Combo Kit (17562), Craftsman NEXTEC 12.0V Lithium-Ion Drill/Driver (17586), Craftsman Multi Tool Combo Kit (22190), Craftsman Pro 1HP Mobile Horizontal Band Saw (22612), Craftsman Pro 20V Li-Ion Cordless Drill/Driver with LED Light (26302), Craftsman Pro 20.0 Volt Li-Ion Cordless Variable Speed Orbital Reciprocating Saw (26314), Craftsman Pro 20V Li-Ion Cordless Circular Saw (28102), Craftsman Pro 20V Li-Ion Cordless 1/4" Impact Driver (28128), Craftsman Pro 20V Li-Ion Cordless 1/2" Drill/Driver (28169), Craftsman NEXTEC Compact Palm Grip Jig Saw (28188), Craftsman Pro 20V Li-Ion Cordless 1/2" Impact Wrench Combo Kit (29297), Craftsman NEXTEC 12.0 Volt Hammerhead Auto Hammer with Rotating Head (30261), Craftsman NEXTEC 12.0 Volt Right Angle Impact Driver (30295), Craftsman NEXTEC 12.0 Volt Drill/Driver (30565), Craftsman NEXTEC 12 Volt Multi-Tool with Quick Release (30566), Craftsman NEXTEC 12.0 Volt Li-Ion Rotary Tool (31224), Craftsman NEXTEC 3-Piece Tool Combo Kit (31897), Craftsman NEXTEC 12.0 Volt Jig Saw Combo Kit (33179), Craftsman 19.2V C3 Brushless Drill/Driver (38595), Craftsman C3 19.2V Max Axess Auto Ratchet (38596), Craftsman Multi Tool Combo Kit (38598), Craftsman 19.2V Multi Tool Kit (38599), Craftsman C3 19.2V Rotating Auto Hammer (38600), Craftsman C3 Max Axess Auto Ratchet Kit (39558), Craftsman NEXTEC 12 Volt Cordless Impact Driver (61189), Craftsman NEXTEC 61199 12 Volt Multi-Tool (61199), Craftsman NEXTEC 61325 Circular Saw (61325), Craftsman NEXTEC 12.0 Volt Li-Ion Finish™ Sander (61326), Craftsman Nextec Hammerhead (61352), Craftsman 20.0 Volt Li-Ion

Cordless Reciprocating Saw Combo Kit (79567), Craftsman Pro 20V Li-Ion Cordless 1/4" Impact Driver Combo Kit (79568), Kobalt 2-Tool 18-Volt Lithium Ion Cordless Combo Kit (K18CP-26A), Kobalt 18-Volt 1/4-in Cordless Variable Speed Impact Driver (K18ID-16A), Kobalt 50-Degree 6-1/2-in Cordless Circular Saw (K18LC-16AB), Kobalt 4-Tool 18-Volt Lithium-Ion Cordless Combo Kit (K18LC-2006A), Kobalt 18-Volt 1/2-in Cordless Drill (K18LD-16AB), Kobalt 18-Volt 1/2-in Cordless Drill with Battery and Soft Case (K18LD-26A), Kobalt 18-Volt Variable Speed Cordless Reciprocating Saw (Bare Tool) (K18LR-16AB), Kobalt 18V 1/2" Cordless Impact Wrench (K18LW-16A), Kobalt 18-Volt 1/2-in Drive Cordless Impact Wrench Kit (K18LW-16A), Kobalt Bare Tool 18-Volt 1/2-in Drive Cordless Impact Wrench (K18LW-16AB), Kobalt 50-Degree 6-1/2-in Cordless Circular Saw (K18NC-06AB, Kobalt 18-Volt 1/2-in Cordless Drill (Bare Tool) (K18ND-06AB), Kobalt 18-Volt Variable Speed Cordless Reciprocating Saw (Bare Tool) (K18NR-06AB), Kobalt 18-Volt 1/2-in Cordless Drill with Battery (K18PD-26A), Kobalt 20-Volt 1/4-in Cordless Variable Speed Impact Driver with Soft Case (K20ID-26A), Kobalt 20-Volt 1/4-in Cordless Variable Speed Impact Driver (K20ID-26AB), Kobalt 20-Volt Max 6-1/2-in Cordless Circular Saw with Brake (Bare Tool) (K20LC-26A), Kobalt 4-Tool 20-Volt Lithium Ion (Li-ion) Cordless Combo Kit with Soft Case (K20LC-4000A), Kobalt 5-Tool 20-Volt Max Lithium Ion (Li-ion) Cordless Combo Kit with Soft Case (K20LC-5000P), Kobalt 20-Volt 1/2-in Cordless Drill (Bare Tool) (K20LD-26AB), Kobalt 20-Volt Variable Speed Cordless Reciprocating Saw (Bare Tool) (K20LR-26AB), Kobalt 20-Volt 1/2-in Drive Cordless Impact Wrench Kit (K20LW-26A), Kobalt 20-Volt 1/2-in Drive Cordless Impact Wrench (Bare Tool) (K20LW-26AB), Kobalt 18-Volt 1/2-in Cordless Drill with Battery and Soft

Case(KT200A), Kobalt 20-Volt 1/2-in Cordless Drill with Battery and Soft Case (KT300A), Masterforce 12-Volt 3/8" Cordless Drill (241-0300), Masterforce 12-Volt Right Angle Drill (241-0301), Masterforce 12-Volt Cordless Metal Shear (241-0302), Masterforce 12-Volt Impact Driver (241-0303), Masterforce 2 Tool 12-Volt Lithium-Ion Cordless Combo Kit (241-0304), Masterforce 2-Tool 12-Volt Lithium-Ion Combo Kit (241-0305), Masterforce HAMMERHEAD 12.0 Volt Lithium Ion Auto-Hammer (241-0306), Masterforce 12.0-Volt Lithium-Ion Cordless Drill/Driver (241-0308), Masterforce 12 Volt Lithium-Ion Impact Driver (241-0312), Masterforce 12-Volt Lithium-Ion 3/8" Drill Kit (241-0313), Masterforce 12-Volt Lithium-Ion 1/4" Impact Driver Kit (241-0314), Masterforce 12-Volt Lithium-Ion 1/4" Right Angle Drill Kit (241-0315), Masterforce Multi Saw (241-0320), Masterforce FlexPower 20-Volt 1/2" Drill Kit with 1.5Ah Batteries (241-0401), Masterforce FlexPower 20-Volt 1/2" Drill and Impact Driver Combo Kit (214-0402), Masterforce FlexPower 18V 1/2" Cordless Drill/Driver (241-0404), Masterforce FlexPower 20-Volt Cordless 1/2" Drill Kit with 2.0Ah battery (241-0405), Masterforce 20V 1/4" Impact Driver Kit (241-0406), Masterforce FlexPower 20-Volt 1/2" Heavy Duty Impact Wrench Kit with 4.0Ah Batteries (241-0407), Masterforce 18V Drill-Driver (241-0408), Masterforce FlexPower 20-Volt 1/2" Drill/Driver (241-0409), Masterforce FlexPower 20-Volt 1/2" Drill Kit with 2.0Ah Batteries (241-0410), Masterforce FlexPower 20-Volt 1/2" Hammer Drill Kit with 4.0Ah Batteries (241-0411), Masterforce FlexPower 18-Volt Cordless 1/2" Hammer Drill (241-0412), Masterforce 20V 1/2" Hammer Drill (241-0413), Masterforce FlexPower 18-Volt Cordless 1/2" Impact Wrench (241-0414), Masterforce 20V 1/2" Impact Wrench (241-0415), Masterforce 18V 3-Tool Combo Kit (241-0417), Masterforce FlexPower 20-Volt

Cordless Combo Kit (24-01418), Masterforce FlexPower 20-Volt 1/2" Drill & Impact Driver Combo Kit (241-0419), Masterforce 18V 8-Tool Combo Kit (241-0422), Masterforce 20V 1/2" Impact Wrench (241-0424), Masterforce FlexPower 20-Volt 1/4 in. Impact Driver (Tool Only) (241-0425), Masterforce 20-Volt 1/2" Impact Wrench (Tool Only) (241-0426), Masterforce FlexPower 20-Volt 6-1/2 in. Circular Saw (Tool Only) (241-0428), Masterforce FlexPower 20-Volt Orbital Jigsaw (Tool Only) (241-0429), Masterforce FlexPower 20-Volt Compact Reciprocating Saw (Tool Only) (241-0431), Masterforce FlexPower 20-Volt Reciprocating Saw (Tool Only) (241-0432), Masterforce FlexPower 20-Volt 3/8 in. Right Angle Drill (Tool Only) (241-0436), Masterforce FlexPower 20-Volt 4-1/2" Angle Grinder (Tool Only) (241-0438), Masterforce FlexPower 20-Volt Band Saw (Tool Only) (241-0440), Masterforce FlexPower 20-Volt 4 Tool Combo Kit with 3 Batteries and 4 Port Charger (241-0450), Masterforce 2-Tool Drill/Driver & Circular Saw Cordless Combo Kit (241-0451), Masterforce 2-Tool Drill/Driver & Reciprocating Saw Cordless Combo Kit (241-0452), Masterforce 20-Volt Drill and Impact Driver Combo (241-0453), Masterforce FlexPower 20-Volt 1/2" Lithium-Ion Drill Kit (241-0460), Masterforce FlexPower 20-Volt 1/2" Brushless Drill Kit with 2.0Ah Batteries (241-0461), Masterforce 18V Drill (Kraftech) (241-0765), Performax 12-Volt Oscillating Tool with Battery and Charger (241-0500), Performax 12-Volt 3/8" Compact Drill 9241-0502), Performax 12-Volt Compact Reciprocating Saw (241-0504), Performax Rotary Tool with 30 Pieces (241-0505), Performax 18V Drill/Driver with Li-Ion Battery (241-0905), Performax 18-Volt Cordless Drill Lithium-ion (241-0908), Performax Hammer Drill (241-0916), Performax 18-Volt Lithium-ion Hammer Drill & Impact Driver Kit (241-0918), Performax 3-Tool Cordless

18-Volt Lithium-Ion Combo Kit (241-0921), Performax 18-Volt Cordless Jigsaw (241-0924), Performax 18-Volt 1/4" Cordless Impact Driver (241-0928), Performax 18-Volt Cordless Reciprocating Saw (241-0932). Each of these products made, imported, offered for sale, and/or sold by Defendant uses multi-cell Li-Ion battery packs that can produce an average discharge current greater than or equal to approximately 20 amps. Defendant makes, imports, offers for sale, and/or sells these battery packs under the Kobalt, Masterforce, Performax, and Craftsman labels, under various part numbers or designations, including but not limited to the following: Kobalt 18-Volt 1.5-Amp Hours Lithium-Ion Battery Pack (K18-LB15A), Kobalt 18-Volt 3.0-Amp Hours Lithium-Ion Battery Pack (K18-LB30A), Kobalt 18-Volt Lithium-Ion Battery Pack (K18-LBS23A), Kobalt 20-Volt 2.0-Amp Hours Lithium-Ion Battery Pack (K20-LB20A), Kobalt 20-Volt 4.0-Amp Hours Lithium-Ion Battery Pack (K20-LB40A); Kobalt 24V 1.5-Amp Hours Lithium Power Tool Battery (5176.1) (KB 124-03); Kobalt 24V 2.0-Amp Hours Lithium Power Tool Battery (5176) (KB 224-03); Kobalt 24V 5.0-Amp Hours Lithium Power Tool Battery (5177) (KB 524-03); Kobalt 24V MaxV 4.0-Amp Hours Lithium Power Tool Battery (5177.1) (KB 424-03); Masterforce Lithium-Ion Battery Pack Kraftech (252-0765), Masterforce 12 Volt Lithium-Ion Battery Pack (252-8016), Masterforce 12 Volt Lithium-Ion Battery Pack (252-8017), Masterforce 18 Volt Lithium-Ion Battery Pack (252-8028), Masterforce 12 Volt Lithium-Ion Battery Pack (252-8029), Masterforce Volt Lithium-Ion Battery Pack (252-8030), Masterforce 20 Volt Lithium-Ion Battery Pack (252-8031), Masterforce 18 Volt Lithium-Ion Battery Pack (252-8032), Masterforce 20 Volt Lithium-Ion Battery Pack (252-8033), Masterforce 20 Volt Lithium-Ion Battery Pack (252-8034), Craftsman Pro 20-Volt Lithium-Ion Cordless Battery Pack, 2.2Ah

(5126), Craftsman C3 19.2 Volt Lithium-Ion Battery Pack (5166), Craftsman C3 19.2-Volt Lithium-Ion Battery Pack (5166.1), Craftsman Diehard Lithium-Ion Battery Pack (5166.2), Craftsman 18V battery, 1.3Ah (5168), Craftsman 11221 NEXTEC 12-Volt Lithium-Ion Battery Pack (5120), Craftsman 33170 NEXTEC 12-Volt LED Lighted Battery Pack (5120.2), Craftsman Pro 20-Volt Lithium-Ion Cordless Battery Pack (5108), Craftsman NEXTEC 12-Volt LED Lighted Battery Pack (33170), Performax 18V (252-0908). Defendant also makes, imports, offers for sale, and/or sells these and comparable battery packs as part of various tools and kits under a variety of other designations.

58. Defendant is infringing Plaintiffs' exclusive rights in the '510 patent in violation of 35 U.S.C. § 271 by manufacturing, importing, using, offering for sale, or selling products that embody the inventions of and are within the scope of the claims of the '510 patent, and will continue to do so unless enjoined by this Court. Such products include, but are not limited to, the battery packs identified in paragraph 57 and other comparable multi-cell Li-Ion battery packs capable of producing an average discharge current greater than or equal to approximately 20 amps, and have a nominal pack voltage of at least approximately 12, 18, or 20 volts, respectively as set forth in the '510 patent, whether such packs are sold alone or together with other packs, tools, and/or chargers.

59. Upon information and belief, Defendant was on notice and aware of the '510 patent prior to the filing of the original Complaint in this action and as early as August 16, 2011. Defendant also has been aware that its conduct constitutes infringement of the '510 Patent. Nevertheless, Defendant has continued intentionally to infringe. Accordingly, Defendant's infringement has been and continues to be willful.

60. At least as early as October 31, 2011, Milwaukee Tool sent correspondence to Defendant notifying it of Milwaukee Tool's patent rights in the area of Li-Ion technology. In addition, Milwaukee Tool's inventions related to Li-Ion technology in handheld cordless power tools have been the subject to extensive industry press coverage and Milwaukee Tool consistently marked its products with the applicable Patents-In-Suit.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray that this Court enter judgment in their favor and against Defendant, jointly and severally, as follows:

- A. Finding that Defendant has infringed, respectively, each of the '290 patent, the '173 patent, and the '510 patent;
- B. Awarding damages to Plaintiffs under 35 U.S.C. § 284, along with interest and costs for Defendant's infringement, respectively, of each of the '290 patent, the '173 patent, and the '510 patent;
- C. Finding that this case is an exceptional case under 35 U.S.C. § 285, and awarding Plaintiffs their attorneys' fees and costs;
- D. Finding that Defendant's infringement is willful, and trebling any damages found or assessed;
- E. Entering a permanent injunction under 35 U.S.C. § 283 enjoining Defendant, its officers, partners, employees, agents, parents, subsidiaries, attorneys, and anyone acting or participating with Defendant, from manufacturing, making, selling, offering for sale, importing, or using the

infringing products identified herein or any comparable product that infringes any of the '290 patent, the '173 patent, and the '510 patent; and

- F. Awarding to Plaintiffs such other and further relief as the Court may deem just and equitable.

JURY TRIAL DEMAND

Plaintiffs demand a trial by jury on all matters and issues triable by a jury.

Dated: May 5, 2017

Respectfully submitted,

s/James N. Law

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