

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CRÜZR SADDLES LLC,

Petitioner,

v.

TETHRD, LLC,

Patent Owner

Case No. IPR2025-01407

Patent 11,964,175

Filing Date: October 27, 2025

PATENT OWNER'S BRIEF REQUESTING DISCRETIONARY DENIAL

TABLE OF CONTENTS

	Page
TABLE OF AUTHORITIES	ii
TABLE OF CITED EXHIBITS.....	iv
I. INTRODUCTION	1
II. BACKGROUND	2
III. DISCRETIONARY DENIAL IS APPROPRIATE UNDER THE RELEVANT CONSIDERATIONS IDENTIFIED IN THE GUIDANCE	3
1. The Reissue Application Favors Discretionary Denial.....	3
2. The IPR Petition’s Extensive Reliance on Expert Testimony Favors Discretionary Denial.....	5
3. The IPR Petition’s Relatively Weak Patentability Challenge Favors Discretionary Denial.....	6
IV. DISCRETIONARY DENIAL IS APPROPRIATE UNDER FINTIV	9
1. The Overlap Between the Issues Raised in the IPR Petition and the District Court Proceeding Favor Discretionary Denial.....	9
2. The Merits of the IPR Petition’s Arguments Favor Discretionary Denial.....	10
V. CONCLUSION.....	17

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Advanced Display Sys., Inc. v. Kent State Univ.</i> , 212 F.3d 1272 (Fed. Cir. 2000)	13
<i>Apple Inc. v. e-Watch, Inc.</i> , IPR2015-00414, Final Decision (PTAB June 22, 2016).....	1, 4
<i>Apple Inc. v. Fintiv, Inc.</i> , IPR2020-00019, Paper 11 (PTAB Mar. 20, 2020)	2, 9, 10, 17
<i>Arctic Cat Inc. v. Bombardier Recreational Prods. Inc.</i> , 876 F.3d 1350 (Fed. Cir. 2017)	15
<i>Cardiac Pacemakers, Inc. v. St. Jude Medical, Inc.</i> , 381 F.3d 1371 (Fed. Cir. 2004)	13
<i>In re Dembiczak</i> , 175 F.3d 994 (Fed. Cir. 1999)	9
<i>KSR Int'l Co. v. Teleflex Inc.</i> , 550 U.S. 398, 127 S. Ct. 1727, 167 L. Ed. 2d 705 (2007)	12
<i>Mintz v. Dietz & Watson, Inc.</i> , 679 F.3d 1372 (Fed. Cir. 2012)	11, 12
<i>Simmons Fastener Corp. v. Illinois Tool Works, Inc.</i> , 739 F.2d 1573 (Fed. Cir. 1984)	12
Statutes	
35 U.S.C. § 120	4
35 U.S.C. § 252	2
Other Authorities	
MPEP § 1442	5

MPEP § 1442.02	1
MPEP § 2141.01(a).....	16
U.S. Patent No. 11,964,175.....	<i>passim</i>

TABLE OF CITED EXHIBITS

Ex. 1015 Declaration of Tobe Sherrill	6
Ex. 1098 SaddleHunter - Paracord (p2).....	8
Ex. 1125 YouTube - DIY Utilibridge.....	15
Ex. 1137 Cruzr's Initial Invalidity and Unenforceability Contentions (2025-07-02).....	10
Ex. 1144 SaddleHunter - Patent Research - Tethrd (pp1-7)	9
Ex. 1145 SaddleHunter - Water under the Bridge[Q] Tethrd v. Latitude mavericks (pp1-4).....	9
Ex. 1146 Cruzr's Motion to Stay and Order Granting Motion	11
Ex. 2001 Petition to Accept Unintentionally Delayed Claim of Priority.pdf	2
Ex. 2002 Information Disclosure Statement.pdf	5
Ex. 2003 ATA Announces 2020 Trade Show Award Winners - ATA.pdf	14
Ex. 2004 Tethrd_ The Busiest Booth at ATA 2020_ Archery Business.pdf	14
Ex. 2005 Tethrd Phantom Review_ Sleek, Lightweight, So Comfortable - YouTube.pdf.....	14
Ex. 2006 Tree Saddle Hunting Gear Round-Up - Best of the Best - Bowhunter.pdf.....	14
Ex. 2007 Utilibridge_saddlehunter.com.pdf.....	15
Ex. 2008 DIY Utilibridge_saddlehunter.com.pdf.....	15
Ex. 2009 Upgrade your Tethrd Mantis into a Tethrd Phantom (Amsteel prussik bridge)	15
Ex. 2010 Cruzr Saddles_saddlehunter.com.pdf.....	16
Ex. 2011 CRUZR Saddle_saddlehunter.com.pdf	16
Ex. 2012 Rope_Users_Manual_WEB.pdf.....	16
Ex. 2013 How to Hunt Longer in a Tree Saddle - 6 Adjustments for Comfort - YouTube.pdf	17

I. INTRODUCTION

Patent Owner, Tethrd LLC (“Tethrd”), submits this Brief requesting discretionary denial pursuant to the Director’s guidance on “Interim Processes for PTAB Workload Management,” dated March 26, 2025 (“Guidance”).

At a minimum, the Director should grant discretionary denial to prevent duplicative efforts by the U.S. Patent & Trademark Office (“Office”). Tethrd has filed a reissue application, U.S. Patent Application No. 19/331,004 (“Reissue Application”) to remedy a break in continuity as noted by the Petition for *Inter Partes Review* (p. 3–8, “IPR Petition”) for the patent at issue, U.S. Patent No. 11,964,175 (“175 Patent”).¹ The Office can better allocate its limited resources if the Director grants discretionary denial and allows the Reissue Application to

¹ The Office authorizes patent owners to file reissue applications to correct defective priority claims, as Tethrd has done here. *See Apple Inc. v. e-Watch, Inc.*, IPR2015-00414, Final Decision at *15 (Paper 34) (PTAB June 22, 2016) (“Patent Owner was aware of the [defective priority claim] at least from the time of the service of the Petition. It could have sought a certificate of correction or reissue.”); *see also* MPEP § 1442.02.

proceed.² Moreover, if the Reissue Application eventually issues, this *inter partes* review would be rendered moot because Tethrd will surrender the 175 Patent. *See* 35 U.S.C. § 252. As discussed further, the factors set forth in the Guidance and the *Fintiv* factors favor discretionary denial.

II. BACKGROUND

At the time of filing, Tethrd intended for the application for the 175 Patent (*i.e.*, U.S. Patent Application No. 17/867,553, “553 Application”) to properly claim priority to U.S. Patent Application No. 16/736,345 (“345 Application”) such that the 175 Patent would be entitled to a January 7, 2020 priority date (*i.e.*, the filing date of the 345 Application). Ex. 2001. At the time of filing the 553 Application, Tethrd believed that its prosecution counsel, Kaufhold & Dix Patent Law (“Kaufhold”) made a proper priority claim in the Application Data Sheet for the 553 Application. *Id.* However, Kaufhold unintentionally failed to claim priority by omitting an intervening application claiming the benefit of, and priority to, the 345 Application in the Application Data Sheet for the 553 Application. *Id.* Tethrd has filed the Reissue

² Even if discretionary denial is not granted, Tethrd asks that the Reissue Application be allowed to proceed because “it is [Tethrd’s] desire that the application be examined at that time.” (*quoting* MPEP Section 1442.02).

Application along with a Petition to Accept an Unintentionally Delayed Claim of Priority (“Priority Petition”) to correct the priority claim to the 345 Application.

III. DISCRETIONARY DENIAL IS APPROPRIATE UNDER THE RELEVANT CONSIDERATIONS IDENTIFIED IN THE GUIDANCE

The Guidance sets forth factors that may be raised in discretionary denial briefing. Particularly relevant here are (1) the Reissue Application (“any other considerations bearing on the Director’s discretion”), (2) the IPR Petition’s extensive reliance on expert testimony, and (3) the relative weakness of the IPR Petition’s unpatentability challenge.

1. The Reissue Application Favors Discretionary Denial

By granting discretionary denial and by allowing the Reissue Application to proceed, the Director will prevent duplicative efforts within the Office to resolve the priority issue, and as a result, “improve PTAB efficiency, maintain PTAB capacity to conduct AIA proceedings, [and] reduce pendency in ex parte appeals.” Guidance, p. 3. Simply put, a discretionary denial will better allocate resources within the Office to resolve the priority issue. This case squarely fits within efficiency concerns addressed by the Guidance and would cause two branches of the Office (e.g., PTAB and the Examiner) to otherwise duplicate efforts.

First, the Office’s decision on the Priority Petition will render some or all of the grounds identified in the IPR Petition as moot. The IPR Petition (p. 8–13)

identifies three invalidity grounds, one based on the later priority date of April 15, 2021, and two based on the earlier priority date of January 7, 2020. The Office's decision on the Priority Petition will definitively resolve the priority date question, which will eliminate the ground based on the April 15, 2021 priority date (*i.e.*, Ground 1) entirely.

Moreover, the Reissue Application is the appropriate process to resolve the priority date issue. Although the 175 Patent met the co-pendency requirements to claim priority to the 345 Application, *see* 35 U.S.C. § 120, the 175 Patent has a break in the claim of priority due to Kaufhold improperly filling out the Application Data Sheet for the 553 Application. Given the administrative nature of the priority issue and the availability to correct priority through the Reissue Application, the Office should have the opportunity to address the priority date issue through the Reissue Application rather than *inter partes* review. *See Apple Inc. v. e-Watch, Inc.*, IPR2015-00414, Final Decision at *15 (Paper 34) (PTAB June 22, 2016)

Second, the Office will have an opportunity to determine whether the claims at issue³ are obvious in light of the prior art cited by Petitioner Crüzr Saddles LLC ("Petitioner" or "Cruzr"). Tethrd cited the prior art references identified by the IPR

³ Tethrd has not amended the claims in the Reissue Application from the 175 Patent.

Petition in an Information Disclosure Statement filed with the Reissue Application. Ex. 2002. Thus, an Examiner within the Office will be able to determine whether the claims at issue are obvious, which will render this *inter partes* review moot, or at best, duplicative. Also, if the reissue results in amended claims based on Tethrd's response to the Examiner's review of the prior art, the IPR Petition would be rendered moot. Further, because reissue applications are "taken up 'special,'" *see* MPEP § 1442, an Examiner may be able to make the obviousness determination before the Board is able to issue a final decision for this *inter partes* review. Either way, the IPR Petition's grounds would be resolved—in whole or in part—by the Office's administrative decision. Thus, the Director should grant discretionary denial to improve resource allocation within the Office and improve Board efficiency.

2. The IPR Petition's Extensive Reliance on Expert Testimony Favors Discretionary Denial

The IPR Petition relies on expert testimony for its proposed claim constructions, identifying analogous art, and reasons to combine the prior art. In particular, the IPR Petition cites extensively to the declaration of Tobe Sherrill ("Sherrill Declaration"), who has experience in the arborist industry, but not the saddle hunting industry. Ex. 1015, p. 1–8. The IPR Petition only cites to the Sherrill Declaration and the 175 Patent to argue that the claims are indefinite and propose attenuated claim constructions. IPR Petition, p. 34–49. The IPR Petition cites

extensively to the Sherrill Declaration to identify “Tree Care and Management Slings and Harnesses, Outdoor Suspension Hammocks, Safety Ropes and Harnesses, Nautical/Sailing Lines, and Ropes and Splices in General” as analogous art. IPR Petition, p. 50–52. The IPR Petition simply parrots the claim charts from the Sherrill Declaration. *Id.* at p. 65–169.

Most critically, the IPR Petition relies entirely on the Sherrill Declaration to fill gaps in the prior art by providing reasons to combine prior art references. *Id.* The Sherrill Declaration provides conclusory testimony to gap-fill the holes in the prior art explaining why a POSITA would combine the prior art references to create the claimed invention. Ex. 1015, p. 88–89, 119–130, and 161. Given the gap-filling by the Sherrill Declaration, discretionary denial is appropriate.

3. The IPR Petition’s Relatively Weak Patentability Challenge Favors Discretionary Denial

On its face, the IPR Petition presents a weak patentability challenge. The IPR Petition does not include a single reference that anticipates the claims of the 175 Patent. Instead, the IPR Petition cites a combination of 30 references for Grounds 2 and 3. Although the IPR Petition attempts to characterize Tethrd’s Phantom product

as prior art,⁴ Petitioner has failed to present a single prior art reference that discloses each limitation of the 175 Patent claims. Given that the Phantom Saddle was released in January 2020, one would expect Petitioner to provide at least one reference that could anticipate the 175 Patent since Ground 1 assumes a priority date of April 14, 2021. The lack of such a reference speaks to the relative weakness of the IPR Petition's patentability arguments.

Moreover, the IPR Petition acknowledges that saddle hunters were skeptical of replacing a fixed eye of prior art bridge designs with an adjustable friction hitch. The IPR Petition admits that "commentators in the saddle hunting community may have questioned the use of Amsteel-on-Amsteel" and includes a number of posts from the SaddleHunter forum where members questioned the safety of using an adjustable friction hitch with Amsteel. IPR Petition, p. 136–37. For example, one member stated that "[t]here are better materials" for friction hitches than Amsteel, and another member suggested that anyone testing such a friction hitch should "[b]e

⁴ Following the January 7, 2020, filing date for the 345 Application and the correct priority date for the 175 Patent, Tethrd released the Phantom saddle product ("Phantom Saddle"), which includes the bridge ("Utilibridge") claimed by the 175 Patent.

safe” and would need another knot “backing [the friction hitch] up.” Ex. 1098 at 1–2. Notably, neither the IPR Petition nor Petitioner’s expert attempt to overcome this teaching away from the claimed invention. Thus, the IPR Petition concedes the weakness in its multi-reference obviousness challenge, justifying discretionary denial.

Finally, the IPR Petition relies on a number of posts from the SaddleHunter forum to argue that “the USPTO is issuing meritless patents,” and that the Director should institute the *inter partes* review to “maintain[] its institutional integrity and public reputation for quality patent examination.” IPR Petition, p. 60–65. Not only are these posts entirely irrelevant to the obviousness challenges identified by the IPR Petition, but these posts also demonstrate the impermissible hindsight bias that the IPR Petition applies to the obviousness analysis. First, all of the posts are dated well after the 175 Patent’s correct priority date (*i.e.*, January 7, 2020). IPR Petition, p. 60–65, *see* Ex. 1145 at 4, 5, 12, 14, 25 (posted on February 3, 2025); Ex. 1144 at 5, 40–42, 44, 47, 50–51 (posted March 18 to June 27, 2021). Given that these posts are all dated after the 175 Patent’s priority date, the individuals who made the posts had the benefit of hindsight (similar to the IPR Petition) to understand how to create the bridge rope assembly claimed by the 175 Patent. Indeed, the Federal Circuit has cautioned that “in the case of less technologically complex inventions, where the

very ease with which the invention can be understood may prompt one ‘to fall victim to the insidious effect of a hindsight syndrome.’” *In re Dembiczak*, 175 F.3d 994 (Fed. Cir. 1999) (quoting *W.L. Gore & Assocs., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1553 (Fed.Cir.1983)). Second, the posts are made by a series of unidentified individuals who may not have even read the 175 Patent or were not aware of the scope of its claims or the priority date of the invention. Moreover, these unidentified individuals may not be considered a “person having ordinary skill in the art” of saddle hunting, meaning that their opinion bears no weight on whether the claims of the 175 Patent are obvious.

IV. DISCRETIONARY DENIAL IS APPROPRIATE UNDER *FINTIV*

The Board’s precedential decision in *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11 (PTAB Mar. 20, 2020) (“*Fintiv*”) sets forth additional factors that may be raised during discretionary denial briefing. Particularly relevant here are: (1) the overlap between the issues raised in the IPR Petition and the district court proceeding, and (2) the merits of the IPR Petition’s arguments in favor of unpatentability.

1. The Overlap Between the Issues Raised in the IPR Petition and the District Court Proceeding Favor Discretionary Denial

The IPR Petition raises the same invalidity grounds as the invalidity contentions in the district court proceedings. For example, the claim charts provided

in the invalidity contentions overlap significantly with the claim charts provided for Grounds 1, 2, and 3 in the IPR Petition. *Compare* Ex. 1137, p. 3–20 *with* IPR Petition, p. 66–169. Both the IPR Petition and the invalidity contentions rely on the same prior art references. *Id.* Because “the petition includes the same or substantially the same claims, grounds, arguments, and evidence as presented in the parallel proceeding, this fact has favored denial.” *Fintiv* at *10 & 11. Thus, given the significant overlap between the invalidity contentions and the IPR Petition, *Fintiv* factor 4 favors discretionary denial. Further, in granting the unopposed motion to stay the litigation, the district court agreed that if the IPR petition is denied, the court will lift the stay, and the case shall proceed on a revised case management schedule. Ex. 1146, p. 2.

2. The Merits of the IPR Petition’s Arguments Favor Discretionary Denial

Petitioner is unlikely to prevail on the merits of the IPR Petition. First, the Reissue Application renders Ground 1 moot. If the Office grants the Priority Petition and allows the Reissue Application to issue, the prior art cited for Ground 1—most of which is from Tethrd—will no longer be considered prior art.

Second, Petitioner fails on both Grounds 2 and 3 because Claims 1-14 of the 175 Patent are not obvious in consideration of any of Petitioner’s cited references, whether individually or in combination. The mere existence of prior art elements is

not sufficient to render a claimed invention obvious; rather, there must be a clear reason or rationale for a POSITA to combine those elements in the claimed manner. Here, Petitioner fails to address this requirement. None of Petitioner's references disclose the claimed features, nor do they provide any motivation or rationale that would have led a POSITA to combine them in the manner required by the 175 Patent.

Notably, the cited prior art references fail to disclose all the limitations of at least claim 1 of the 175 Patent. For example, a number of the references disclose the legacy bridge design that includes a fixed-length bridge that includes two eye loops. IPR Petition, p. 18-20; 22-23; 26; 96-100. Other references disclose an adjustable bridge using a friction hitch but fail to disclose a buried main body where the friction hitch engages the same. *Id.* at p. 18-23; 25-26; 96-100. Finally, other examples disclose using a buried bridge but only with the legacy fixed eye-loops on both sides. First, this legacy design results in a clumsy and non-uniform design where user can feel a non-buried "valley" between the eye-loops in the bridge if the ends do not perfectly touch, or a "lump" if the ends overlap. *Id.* at p. 18-21. Second, there would be no reason for a POSITA to include a friction hitch on a buried fixed-length bridge with two eye-loops. Accordingly, Petitioner has failed to show why a POSITA would combine the prior art references to render the 175 Patent invention obvious. Notably, with so many DIY saddle makers, no one understood or discovered the incredible

benefits of the 175 Patent by creating an adjustable bridge design utilizing an eye loop with a fully buried main body to engage a friction hitch.

Petitioner's instant argument relies on impermissible hindsight reconstruction guided by the 175 Patent disclosures, piecing together disparate elements from incompatible bridge designs (fixed-length bridges and friction hitches). As the Federal Circuit has held, "objective consideration of simple technology is often the most difficult because, once the problem and solution appear together in the patent disclosure, the advance seems self-evident." *Mintz v. Dietz & Watson, Inc.*, 679 F.3d 1372, 1379 (Fed. Cir. 2012). Rather than relying on impermissible hindsight for simple inventions, "objective indicia may be the most probative and cogent evidence of nonobviousness in the record." *Id.* at 1378 (internal punctuation omitted).

"A nexus between the merits of the claimed invention and evidence of secondary considerations is required in order for the evidence to be given substantial weight in an obviousness decision." *Simmons Fastener Corp. v. Illinois Tool Works, Inc.*, 739 F.2d 1573, 1575 (Fed. Cir. 1984). Examples of indicia of nonobviousness include but are not limited to: (i) commercial success, (ii) long felt but unresolved needs, (iii) prior failures of others to solve such problems, (iv) skepticism by experts, and (v) copying by others. *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 399, 127 S. Ct. 1727, 1730, 167 L. Ed. 2d 705 (2007) (citing *Graham v. John Deere Co. of*

Kansas City, 383 U.S. 1, 18, 86 S. Ct. 684, 694, 15 L. Ed. 2d 545 (1966)); *Cardiac Pacemakers, Inc.*, 381 F.3d at 1376; *Advanced Display Sys., Inc. v. Kent State Univ.*, 212 F.3d 1272, 1285 (Fed. Cir. 2000).

Here, as to Grounds 2 and 3, Petitioner alleges the 175 Patent would have been obvious over various saddles that were on the market by January 2020 in view of certain YouTube videos, ArboristSite, SaddleHunter, and HammockForum forum posts, and Samson splicing instructions. None of these references, however, either individually or in combination, describe a full bury adjustable bridge with a friction hitch. As an initial matter, the unmodified bridges on these saddles are all fixed in length and have an eye loop on each end, which is fundamentally different from the 175 Patent. In fact, the fixed length and heavy rope materials used in previous bridges contributed to the precise long felt, but unresolved needs Tethrd aimed to solve. When Tethrd debuted the Phantom Saddle at the January 2020 Archery Trade Association (“ATA”) Show that included the Utilibridge design, the invention was met with immediate commercial success and praise. *See e.g.*, Ex. 2003 (Tethrd’s Phantom Saddle awarded bronze for New Product Launch); Ex. 2004 (“In the author’s opinion, the Tethrd booth was busiest of all.”). Reviewers appreciated the adjustability and lightweight design. *See e.g.*, Ex. 2005 (“I really enjoy this saddle. I find it to be an excellent balance of comfort, and it’s lightweight, it’s streamlined.

I love that I can strap it on, tighten the bridge down.”); Ex. 2006 (“Perhaps the most significant advance is the new Amsteel Utilibridge, which provides 30 inches of smooth-sliding, on-the-fly adjustability, so you can get the exact bridge length you prefer.”).

Before Tethrd debuted the Phantom Saddle, other saddle manufacturers, including those cited by Petitioner in Grounds 2 and 3, and even Tethrd itself, had tried and failed to develop a lightweight, adjustable bridge. In cases where the bridge was made of Amsteel, like the Mantis Saddle, *see* IPR Petition, p. 25, it was not adjustable, causing discomfort and soreness. And where other competitors offered an adjustable bridge, it was not made of Amsteel, so the material was heavy and bulky, and the friction hitch would not slide smoothly.

And once the Phantom Saddle debuted, an immediate wave of competitors attempted to replicate the groundbreaking Amsteel Utilibridge design. *See e.g.*, Ex. 1125 (describing how to recreate Tethrd’s Utilibridge at home). In fact, *less than 24 hours* after the first day of ATA where Tethrd showcased its new bridge rope assembly on the Phantom Saddle, dozens of saddle hunters converged on the SaddleHunter forum to figure out how to recreate it. *See e.g.*, Ex. 2007 (“So far the best idea I’ve seen on the ATA videos is the new Tethrd Utilibridge. I’m totally ordering some stuff from Amazon to build it and some daisy chains.”); Ex. 2008

(“Just put together my copy of the Utilibridge on a fleece saddle. “); Ex. 2009 (“For those that saw the Tethrd Phantom at the 2020 ATA show and wanted to get an amsteel prussik bridge (the main difference on the phantom), it can be done.... for about \$20”).

And one month after the Phantom Saddle’s debut, Petitioner launched its website and sold its first saddles copying the adjustable full bury Amsteel bridge covered by the 175 Patent. *See e.g.*, Ex. 2010 (“Didn't know if anyone saw this company before. Supposedly going on sale at the end of this week.”); Ex. 2011 (“Just ran across this, Another new saddle maker??”).

While Petitioner cites Samson splicing rope instructions as reasons why a POSITA would splice and fully bury Amsteel to create a bridge, Samson rope’s user manual explicitly cautions against using Amsteel rope in such a manner, highlighting safety concerns and performance limitations. Samson warns that tying knots in Amsteel is inadvisable because most knots weaken the rope strength and may slip, which increases a saddle hunter’s risk of falling. *See* Ex. 2012, p. 33–35 (“[k]nots can significantly decrease a rope’s strength” up to 50%). In such an instance where the reference expresses concern for failure, courts have held this degree of teaching away is relevant to a determination of nonobviousness. *Arctic Cat Inc. v. Bombardier Recreational Prods. Inc.*, 876 F.3d 1350, 1360 (Fed. Cir. 2017). The explicit warning

by Samson constitutes a clear “teaching away” under *Artic Cat*, where the reference discourages the very modification alleged to be obvious.

Further, the HammockForum and ArboristSite references are non-analogous art. A reference is analogous art to the claimed invention if: (1) the reference is from the same field of endeavor as the claimed invention (even if it addresses a different problem); or (2) the reference is reasonably pertinent to the problem faced by the inventor (even if it is not in the same field of endeavor as the claimed invention). *See* MPEP § 2141.01(a). Hunting saddles, arborist harnesses, and recreational hammocks are fundamentally different, and any innovations in these respective fields would seek to address the fundamentally different problems and objectives in saddle hunting. While arborists prioritize safety, load-bearing, and vertical mobility for climbing, arborists are not usually up in a tree for over six hours at a time. In contrast, saddle hunters prioritize long-wear comfort, since they may stay suspended in a tree for several hours at a time while hunting. *See e.g.*, Ex. 2013 (explaining various adjustments a saddle hunter can make to maximize comfort and extend hunts). Additionally, saddle hunters seek lightweight, mobile systems for quiet and efficient positions when hunting, which is not a concern for arborists or hammock users. And because hammock users are laying down rather than suspended in a seated position, they would not be concerned with the adjustability of a saddle

bridge. Petitioner has not demonstrated that a POSITA in January 2020 would have looked to hammock camping or arborist rigging to solve the distinct problems and objectives related to saddle bridges. Because Petitioner has not shown that the hammock camping and arborists references are reasonably pertinent to a POSITA designing a saddle bridge, the hammock camping and arborists references are not analogous art.

As set forth above, objective evidence, including commercial success of Tethrd's Phantom Saddle, long-felt but unresolved needs in the saddle hunting industry, failure of others to solve the problems addressed by the 175 Patent, expert skepticism, and copying by others (including Petitioner), demonstrate the invention's significance and nonobvious nature. Tethrd's Amsteel Utilibridge achieved results where prior attempts failed, and the market's response reflects a clear nexus between the patented features and the product's success.

V. CONCLUSION

Under the factors set forth by the Guidance and *Fintiv*, the Director should exercise discretionary power to deny institution. The pending Reissue Application will address the priority issue and place all cited art before the Examiner assigned to the Reissue Application. Thus, the Reissue Application will moot the grounds identified by the IPR Petition, or at least, materially narrow the grounds. Further, the

IPR Petition depends on the conclusory expert testimony riddled with impermissible hindsight bias, relies on non-analogous art, ignores contemporaneous skepticism and teaching away, and fails to identify a single anticipating reference despite alleging an April 15, 2021 priority date. Thus, the Director should deny institution because the IPR Petition is an inefficient use of the Board's time and resources.

For these reasons, institution should be denied.

Respectfully submitted,

Bradley Arant Boult Cummings LLP

Date: October 27, 2025

By: /Daniel L. Huynh/
Daniel L. Huynh (Reg. No. 67,991)
Attorneys for Patent Owner, Tethrd LLC

CERTIFICATE OF PAGE COUNT UNDER 37 CFR § 42.24(d)

The undersigned certifies service pursuant to 37 C.F.R. § 42.24(d) that the foregoing brief contains 18 substantive pages (e.g., excluding the cover page, the table of contents, the table of authorities, the table of cited exhibits, and the required certifications) according to the page count tool in Microsoft Office.

Date: October 27, 2025

By: /Daniel L. Huynh/
Daniel L. Huynh (Reg. No. 67,991)
Attorneys for Patent Owner, Tethrd LLC

CERTIFICATE OF SERVICE

The undersigned certifies service pursuant to 37 C.F.R. § 42.6(e)(4) on
Petitioner, Crüzr Saddles LLC, by emailing an electronic copy of this Patent
Owner's Mandatory Notices at the following email address:

brent.babcock@sterlingtonlaw.com;

yang.wang@sterlingtonlaw.com; and

hope.vanetten@sterlingtonlaw.com.

Date: October 27, 2025

By: /Daniel L. Huynh/
Daniel L. Huynh (Reg. No. 67,991)
Attorneys for Patent Owner, Tethrd LLC