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Filed on behalf of:

Petitioner

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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 No. 11,964,175

**PETITIONER'S MOTION TO TERMINATE OR, IN THE ALTERNATIVE,
STAY PATENT OWNER'S REISSUE APPLICATION NO. 19/331,004**

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Petitioner Crüzr Saddles LLC (“Crüzr”) respectfully moves to terminate or, in the alternative, stay post-petition Reissue Application No. 19/331,004 (“the ’004 Reissue Application”) (Ex. 1149), filed by Patent Owner Tethrd, LLC (“Tethrd”) on September 17, 2025, directed to the same patent challenged in this IPR, namely, U.S. Patent 11,964,175 (“the ’175 Patent”). The Board has discretionary authority to terminate or stay a reissue application during the pendency of an IPR of the underlying patent. *See* 35 U.S.C. § 315(d); 37 C.F.R. §§ 42.122, 42.3(a). Action in a reissue application typically will be suspended when there is concurrent litigation or a pending trial before the PTAB. M.P.E.P. § 1442.02; Ex.1052 ¶ 51.

A. Tethrd’s Post-Petition Reissue Application Was Unauthorized

When a patent owner seeks to correct a patent that is subject to a post-grant proceeding, the patent owner must first seek authorization from the Board to file a motion requesting that the Board temporarily cede its *exclusive jurisdiction over the patent*. *See* 37 C.F.R. § 1.323; M.P.E.P. § 1485; *Honeywell International Inc. v. Arkema Inc.*, 939 F.3d 1345, 1348 (Fed. Cir. 2019); *Alarm.com Inc. v. Vivint, Inc.*, IPR2015-01995, Paper 10 (PTAB Jan 28, 2016). Tethrd’s September 17, 2025, ’004 Reissue Application was unauthorized and should be terminated.

B. Tethrd’s Rule 1.78(c) Petition Is Defective On Its Face

On July 2, 2025, Crüzr notified Tethrd of key undisclosed invalidating prior art references (Ex. 1137 at 3-24) and that “the ’175 Patent’s correct priority date

[is] April 15, 2021, *because of a break in continuity of the priority benefit claim* .

...” *Id.* at 14 (emphasis added). On July 23, 2025, *staunchly disagreed*: “[N]one of Defendant’s prior art references anticipate or render obvious any of the asserted claims of the 175 Patent” (Ex. 1138 at 3) and “the 175 Patent *properly claims priority* to the earliest application date of January 7, 2020.” *Id.* at 29 (emphasis added)). Thus, on August 11, 2025, Crüzr raised these issues with the PTAB in an IPR Petition. *E.g.*, Pet. (Paper 2) at 3-13. In response, and more than a month later, Tethrd filed the ’004 Reissue Application, including a Petition to revise its priority benefit claim under Rule 1.78(c), failing to serve either the Board or Crüzr with those USPTO filings. Critically, by its own concession (Ex. 1149 at 322), Tethrd deliberately decided *not* to act for more than 2-1/2 months (from July 2, 2025 until September 17, 2025) and responded only *after* Crüzr filed this IPR. A patent owner cannot meet the “unintentional delay” standard in 37 C.F.R.

§ 1.137(a) if any portion of the delay resulted from a deliberately chosen course of action on the part of the patent owner. *See* M.P.E.P. § 711; 85 Fed. Reg. 12,222 (March 2, 2020); Ex. 1152 ¶¶ 15-21. Moreover, an intentional course of action is not rendered unintentional when, upon reconsideration, the applicant changes their mind as to the course of action that should have been taken. *See In re Maldague*, 10 USPQ2d 1477, 1478 (Comm’r Pat. 1988); Ex. 1152 ¶ 22. Further, the Petition is signed by Adam J. Thompson, who is counsel with Bradley Arant, *not* counsel

of record for the '175 Patent, Kaufhold Dix. Ex. 1149 at 323; Ex. 1152 ¶¶ 13-14.

And the Petition is based solely on unsubstantiated hearsay testimony from Mr.

Thompson regarding what counsel of record Sean Kaufhold purportedly knew and did. Ex. 2149 at 322. Those hearsay statements do not comply with the USPTO's policy requiring first-hand knowledge when available. Ex. 1152 ¶¶ 15-16, 20.

C. The '004 Reissue Should Be Stayed To Avoid Duplicative Efforts And Waste Of Resources, And In The Interest of Justice

The Board routinely stays a parallel reissue proceeding involving a patent at issue in an IPR to avoid the Board and the patent examiner conducting parallel patentability determinations. *E.g., Stride Rite Children's Grp. v. Shoes by Firebug*, IPR2017-01810 (Paper 23) (PTAB Jul. 12, 2018); *Unified Patents v. Harry Heslop*, IPR2016-01464 (Paper 13) (PTAB Feb. 10, 2017); *Legend3D v. Prime Focus Creative Servs. Canada*, IPR2016-00806 (Paper 38) (PTAB Feb. 2, 2017). Avoiding duplication of efforts and wasting resources "outweigh[s]" any concerns of delaying the reissue. *Legend3D*, Paper 38, at 4; Ex. 1152 ¶¶ 46-48. Such duplicative effort and the resulting risk of inconsistent results provide ample basis for a stay. *E.g., Unified Patents*, Paper 13, at 2; *Acrux DDS PTY Ltd. v. Kaken Pharm. Co., Ltd.*, IPR2017-00190, Paper 31, at 3 (PTAB Aug. 31, 2017); *Legend3D, Inc.*, Paper 38, at 3-4; Ex. 1152 ¶¶ 46-48, 51. The interest of justice also favors a stay because the facts regarding the priority claim are subject to discovery in an IPR, which is not available in a reissue. Ex. 1152 ¶¶ 49-51.

Respectfully submitted,

STERLINGTON, PLLC

Dated: November 3, 2025

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the **PETITIONER'S
MOTION TO TERMINATE OR, IN THE ALTERNATIVE, STAY PATENT
OWNER'S REISSUE APPLICATION NO. 19/331,004** is being served on
November 3, 2025, electronically via P-TACTS and via electronic mail to the
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