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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 OPPOSITION TO PATENT OWNER'S
MOTION FOR DISCRETIONARY DENIAL**

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Pursuant to 37 C.F.R. § 42.63(e), Petitioner Crüzr Saddles LLC hereby submits its exhibit list associated with the above-captioned *inter partes* review of U.S. Patent No. 11,964,175.

Ex. 1001 - US 11,964,175 (Power, II)
Ex. 1002 - US App. No. 16-736345
Ex. 1003 - US App. No. 17-022844
Ex. 1004 - US App. No. 17-231717
Ex. 1005 - US App. No. 17-867553
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Ex. 1006-1 - US App. No. 18-602822 (updated)
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Ex. 1008 - Summons & Proof of Service (Compl.) (Dkt 8) (2024-08-14)
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Ex. 1157 - Petitioner's Confidential Search Disclosure Declaration (filed under seal)
Ex. 1158 - US 11,504,556

I. INTRODUCTION

Petitioner Crüzr Saddles LLC (“Crüzr”) respectfully requests that the Director deny Patent Owner Tethrd, LLC’s (“Tethrd’s”) Motion for Discretionary Denial and refer this case to the Panel for consideration of Crüzr’s patentability challenges on the merits. This Opposition is supported by the Declarations of Nicholas P. Godici, former USPTO Commissioner for Patents. Ex. 1154 (Second Godici Declaration); *see also* Ex. 1152 (First Godici Declaration in support of Crüzr’s Motion to Terminate or Stay Tethrd’s Reissue Application (Paper 15)).

II. CRUZR’S VOLUNTARY CONFIDENTIAL SEARCH DISCLOSURE DECLARATION (“SDD”) SUPPORTS INSTITUTION

The Director’s November 17, 2025 Memorandum entitled “Voluntary Search Disclosure Declarations as a Favorable Factor in Institution Decisions” (“SDD Memo”) states that “[t]he voluntary submission of an SDD will be considered as a non-exclusive, nondispositive **favorable discretionary factor** supporting institution, particularly where the SDD reveals new or underutilized pathways relevant to Office search practice.” SDD Memo at 2 (emphasis in original). In conformance with the Director’s guidance, Crüzr has filed its Confidential SDD with this Opposition, along with a request for entry of the PTAB’s Default Protective Order and *in camera* review of the SDD. Ex. 1157.

III. TETHRD’S POST-IPR PETITON ’004 REISSUE APPLICATION SHOULD BE STAYED AND DOES NOT WARRANT DISCRETIONARY DENIAL

Tethrd's central argument is that the Director should discretionarily deny institution of the earlier-filed IPR—as opposed to the later-filed Reissue Application—to avoid duplicative efforts. Mot. at 1-5. But as discussed below, Tethrd's suggestion would be far more *inefficient* for the USPTO, would take far more time, and would likely lead to inconsistent outcomes. Ex. 1154 ¶¶ 24-30. In this case, Tethrd strategically chose to pursue the parties' disputes related to the '175 Patent in an *inter partes* manner (*i.e.*, in district court). Even after Crüzr specifically explained those issues in considerable detail (Ex. 1137), Tethrd chose *not* to raise those disputes with the USPTO in, for example, a reexamination or reissue proceeding. Ex. 1138. It was only *after* Crüzr filed the IPR Petition that Tethrd reversed course, apparently hoping to avoid the rigorous scrutiny of an *inter partes* proceeding, sophisticated APJs, and participation by Crüzr. Ex. 1154 ¶ 15.

Tethrd's arguments turn the fundamental purpose of the AIA on its head and belie Tethrd's true underlying motivations here, which include:

- (a) to shop its multiple sets of patentably indistinct claims to at least *three different examiners* in at least *five different pending patent applications*, hoping for divergent examination outcomes;
- (b) to overwhelm the patent examiners in the multiple pending parallel applications with *several dozen prior art Internet references* asserted in this IPR proceeding, hoping for less substantive scrutiny given the

examiners' time and resource constraints;

- (c) to escape the more rigorous *inter partes* process in favor of multiple *ex parte* ones, hoping to preclude Crüzr's ability to provide a balanced analysis of the patentability issues; and
- (d) to submit deficient factual declarations to the Office, hoping that they will receive less scrutiny by the Office and not be subjected to any discovery (*e.g.*, cross-examination). Ex. 1154 ¶¶ 14-16 ("discovery").

Inter partes proceedings further Congress' goal of improving patent quality:

"The participation by third parties [was] considered vital" to the goal of "improving patent quality and validity" because "in many circumstances they [would] have the most relevant prior art available and incentive to seek to invalidate an allegedly defective patent."

H.R. Rep. 107–120, at 4 ([June 28,] 2001).

Regents of the Univ. of Minn. v. LSI Corp., 926 F.3d 1327, 1335 (Fed. Cir. 2019) (emphasis added); Ex. 1154 ¶¶ 18-23 ("high quality patent examination").

A. All Of The PTAB's Normal Factors For Deciding Whether To Stay A Parallel Proceeding Involving The Same Patent Favor A Stay Of Tethrd's '004 Reissue Application

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.1152 ¶¶ 46-51; Ex.1154 ¶¶ 30-33.

In the context of a PTAB proceeding, each of the factors outlined in the “Notice Regarding Options for Amendments by Patent Owner through Reissue or Reexamination During a Pending AIA Trial Proceeding (April 2019)” (84 Fed. Reg. 16,654) favors a stay of the ’004 Reissue Application:

- The challenged claims in this IPR proceeding (Claims 1-14) are the same as the claims at issue in the ’004 Reissue Application. Pet. (Paper 2) at 1, 9-13; Ex. 1149 at 360-62, 376.
- Because the reissue examiner is required to examine the patentability of the claims (M.P.E.P. § 1440), the same grounds of unpatentability (and much of the same prior art) are at issue in both proceedings;
- The concurrent parallel proceedings will duplicate efforts within the Office;
- The concurrent parallel proceedings could result in inconsistent results between proceedings;
- Amending the claims in the Reissue would affect the claim scope in the IPR.
- Amending the claims this IPR would affect the claims in the Reissue;
- This IPR was filed before the ’004 Reissue Application;
- The statutory deadline for this IPR is shorter than the typical duration of a reissue proceed, which has no statutory deadline; and
- A decision in this IPR would likely simplify issues in the parallel reissue

proceeding, and will likely render it moot.

Tethrd requests that “the Reissue Application be allowed to proceed [because] it is [Tethrd’s] desire that the application be examined at that time.” Mot. at 2 n.2 (quoting MPEP § 1442.02). But Tethrd’s reliance on that MPEP section is wholly misplaced because that provision is directed to requests to the Patents Organization, not to the PTAB. Ex. 1154 ¶¶ 31-35.

B. It Would Be Far More Efficient For A Single APJ Panel To Resolve The Same Disputed Patentability Issues In One *Inter Partes* Proceeding Rather Than Several Different Examiners In Multiple Co-Pending *Ex Parte* Applications, Including Two Separate Reissue Applications

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; Ex. 1154 ¶¶ 30-34.

In the context of the '175 Patent family at issue in this IPR, there are currently five (5) separate pending patent applications, assigned to at least three (3) different patent examiners:

Patents Organization				PTAB	
		PENDING Post-IPR Petition			
BRADFORD, CANDACE L	17/231,717 04/15/2021 11,504,556 (Issued)	➡	19/330,989 09/17/2025 (Reissue)	LILLIS, EILEEN DUNN	
STERLING, AMY JO	17/867,553 07/18/2022 11,964,175 C1 (Corrected)	➡	19/331,004 9/17/2025 (Reissue)	LILLIS, EILEEN DUNN	
STERLING, AMY JO	18/602,822 03/12/2024 (Allowed then Withdrawn)	➡	18/602,822 11/05/2025 (RCE)	STERLING, AMY JO	IPR2025-01407 08/11/2025
MCFARLAND, KATHLEEN MAVOURNEEN	18/671,581 05/22/2024 (Final Rejection)	➡	18/671,581 08/28/2025 (No RCE)	MCFARLAND, KATHLEEN MAVOURNEEN	
NOT YET ASSIGNED	19/284,965 07/30/2025 (Pending)	➡	19/284,965 11/20/2025 (Published)	NOT YET ASSIGNED	

Ex. 1154 ¶ 25. In the circumstances here, USPTO efficiency favors a single *inter partes* proceeding to evaluate the invention set forth in the '175 patent as opposed to multiple *ex parte* proceedings to evaluate the same invention. *Id.* ¶¶ 24-30.

Moreover, Tethrd is pursuing substantially similar and patentably indistinct claim sets in at least four different co-pending patent applications—including two reissue applications—before at least three different patent examiners:

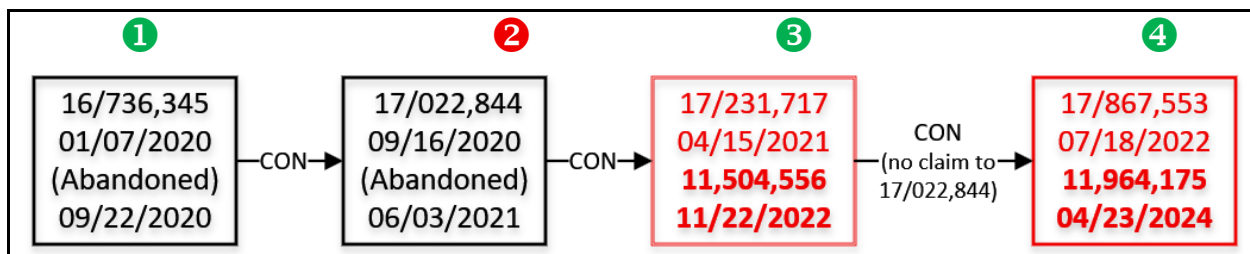
Claim 1 of U.S. Patent No. 11,964,175 (the Challenged '175 Patent), same as Claim 1 of U.S. Pat. App. No. 19/331,004 (the '004 Reissue Application) (Filed Sept. 17, 2025)	Claim 1 of U.S. Patent No. 11,504,556 (the Parent '556 Patent), same as Claim 1 of U.S. Pat. App. No. 19/330,989 (the Parallel '989 Reissue Application) (Filed Sept. 17, 2025)	Claim 1 of U.S. Pat. App. No. 18/602,822 (the Child '822 Application) (Allowed/Withdrawn/RCE Nov. 5, 2025)	Claim 1 of U.S. Pat. App. No. 18/671,581 (the Grandchild '581 Application) (Final Rejection Aug. 25, 2025 / No RCE)
Examiner: EILEEN DUNN LILLIS	Examiner: EILEEN DUNN LILLIS	Examiner: AMY JO STERLING	Examiner: KATHLEEN MAVOURNEEN MCFARLAND
1. A bridge rope assembly configured to couple together a tree rope to a first bridge loop and a second bridge loop on a harness, the bridge rope assembly including: a main body comprising a rope having a first end and a second end, the main body having a splice therein to form an eye loop in the main body, the eye loop being configured to engage the first bridge loop, the main body comprising a first portion including the first end and a second portion including the second end, the first portion extending through the second portion of the main body such that the first end is positioned within the second portion adjacent to the second end; and a friction hitch being positioned on the main body between the second end and the eye loop, the friction hitch being configured to engage the second bridge loop, the friction hitch comprising a closed loop.	1. A bridge rope assembly configured to couple together a tree rope to a first bridge loop and a second bridge loop on a harness, the bridge rope assembly including: a main body comprising a rope having a first end and a second end, the main body having a splice therein to form an eye loop in the main body, the eye loop being configured to engage the first bridge loop, the main body comprising a first portion including the first end and a second portion including the second end, the first portion extending through the second portion of the main body such that the first end is positioned within the second portion adjacent to the second end, a friction hitch being positioned on the main body between the second end stop knot and the eye loop, the friction hitch being configured to engage the second bridge loop, the friction hitch comprising a closed loop,	1. A bridge rope assembly configured to couple together a tree rope to ~~a first bridge loop and a second bridge loop on a~~ harness, the bridge rope assembly including: a main body comprising a rope having a first end and a second end, the main body having a splice therein to form an eye loop in the main body, ~~the eye loop being configured to engage the first bridge loop,~~ the main body comprising a first portion including the first end and a second portion including the second end, the first portion extending through the second portion of the main body such that the first end is positioned within the second portion adjacent to the second end; and <u>the main body being attached to the tree rope between the eye loop and the second end.</u> [2. . . . a friction hitch being positioned on the main body between the second end and the eye loop, ~~the friction hitch being configured to engage the second bridge loop,~~ the friction hitch comprising a dosed loop.	1. A bridge rope assembly configured to couple together a tree rope to a first bridge loop and a second bridge loop on a harness, the bridge rope assembly including: a main body comprising a rope having a first end and a second end, the main body having a splice therein to form an eye loop in the main body, the eye loop being configured to <u>permanently or releasably</u> engage <u>with</u> the first bridge loop <u>to permanently or releasably secure the main body to the first bridge loop</u> , the main body comprising a first portion including the first end and a second portion including the second end, the first portion extending through the second portion of the main body such that the first end is positioned within the second portion adjacent to the second end; and a friction hitch being positioned on the main body between the second end and the eye loop, the friction hitch being configured to <u>permanently or releasably</u> engage <u>with</u> the second bridge loop <u>to permanently or releasably secure the friction hitch to the second bridge loop</u> , the friction hitch comprising a closed loop.

Id. & Ex. H. Such duplicative effort and the resulting risk of inconsistent results favors a stay of at least Tethrd's pending '004 Reissue Application. *Id.* ¶¶ 28-30.

C. Tethrd Was Fully Aware Of The '175 Patent's Priority Claim Before The IPR Petition Was Filed, But Tethrd Nonetheless Made The Strategic Decision To *Not* Address That Issue With The USPTO

On July 2, 2025, Crüzr notified Tethrd 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, Tethrd *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.

The facts here are revealing. In disputing that the '175 Patent's priority claim had any break in continuity with Crüzr, Tethrd was fully aware of the four applications in the simple, linear continuity chain:



Ex. 1152 ¶ 23 & Ex. C. Tethrd articulated the 4-application chain in its response:

b. The Correct Priority Date for the 175 Patent

Inexplicably, Cruzr fails to explain how or why it believes the purported “correct” priority date is April 15, 2021. Specifically, ¹U.S. Patent Application 16/736,345 was filed on January 7, 2020, and subsequently the decision granting abandonment was dated September 22, 2020. Before that date, ²U.S. Patent Application No. 17/022,844 was filed on September 16, 2020, and that application was abandoned on June 2, 2021. Before that date, the ³717 Application was filed on April 15, 2021, which issued as ³U.S. Patent No. 11,504,556 on November 22, 2022. Before that date, ⁴U.S. Patent Application No. 17/867,553 was filed on July 18, 2022, and issued as the 175 Patent. Accordingly, the 175 Patent properly claims priority to the earliest application date of January 7, 2020.

Therefore, art published after January 7, 2020, including those cited in pages 14-20 of Cruzr’s contentions are not prior art.

Ex. 1138 at 29 (annotations added).

A quick review of the priority benefit claim in the parent ’556 Patent and the challenged ’175 Patent readily reveals that the ’844 Application (²) is *not* mentioned anywhere in the ’175 Patent’s priority benefit claim:

³ Parent ’556 Patent	⁴ Challenged ’175 Patent
Related U.S. Application Data (63) Continuation of ² application No. 17/022,844, filed on Sep. 16, 2020, now abandoned, and a continuation of ¹ application No. 16/736,345, filed on Jan. 7, 2020, now abandoned. * * *	Related U.S. Application Data (63) Continuation of ³ application No. 17/231,717, filed on Apr. 15, 2021, now Pat. No. 11,504,556, which is a continuation of ¹ application No. 16/736,345, filed on Jan. 7, 2020, now abandoned. * * *

CROSS-REFERENCE TO RELATED APPLICATIONS	CROSS-REFERENCE TO RELATED APPLICATIONS
This application is a continuation application and I hereby claim the benefit under 35 U.S.C. Section 120 of U.S. patent application Ser. No. 16/736,345 filed Jan. 7, 2020 and U.S. patent application Ser. No. 17/022,844 filed Sep. 16, 2020.	This application is a continuation and I claim the benefit of U.S. application Ser. No. 16/736,345, now abandoned, filed on Jan. 7, 2020 and U.S. application Ser. No. 17/231,717 filed on Apr. 15, 2021.
Ex. 1158 at 1, 12 (annotations added).	Ex. 1001 at 1, 12 (annotations added).

Further, a quick check of the USPTO's Patent Center (formerly PAIR) shows the entire patent family, with the '844 Application at the top of the list:

The screenshot shows the USPTO Patent Center interface for application 16/736,345, titled "TETH108: Bridge Rope Assembly". The interface includes a navigation bar with links like Home, New submission, Existing submissions, etc. The main content area shows application details and a "Continuity" section. The Continuity section lists parent and child applications. The parent application is 16/736,345. The child applications are listed in a table:

Application #	Filing or 371 (c) date	Status
17/022,844	09/16/2020	Abandoned
19/330,989	09/17/2025	Pending
19/331,004	09/17/2025	Pending
17/867,553	07/18/2022	Patented
18/602,822	03/12/2024	Pending
18/671,581	05/22/2024	Pending
17/231,717	04/15/2021	Patented

USPTO Patent Center, App'n No. 16/736,345 (annotations added).

Tethrd's Counsel of Record for the '175 Patent (Kaufhold Dix) includes four

(4) registered patent attorneys/agents, and Tethrd's litigation/IPR counsel (Bradley Arant) includes seven (7) registered patent attorneys/agents. *See* Patent Center.

Tethrd had already delayed the ongoing litigation once by requesting a Certificate of Correction for an error in the claims. Ex. 1001 at 18; Ex. 1009 at 3-4. Given the simplicity of the priority claim analysis set forth above, it is readily apparent that Tethrd decided not to delay the litigation a second time. Instead, when presented with the choice of litigating the priority claim before a jury, or filing a reissue application with the USPTO, Tethrd chose the jury. But, five weeks after Crüzr filed the IPR Petition, Tethrd reversed course and filed the '004 Reissue Application, hoping to end run the more rigorous scrutiny expected in an *inter partes* contest with the limited scrutiny expected in an *ex parte* process.

D. The Interests Of Justice Favor Evaluating The '175 Patent's Priority Date In An IPR Proceeding, Especially In View Of The Chronology Of The Parties' Dispute Here

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; Ex. 1154 ¶¶ 13-17, 23; *see Regents*, 926 F.3d at 1338 (“In IPR, Congress imported limited discovery and live hearings.”).

E. Tethrd's '004 Reissue Application Is An Attempt To End Run The More Rigorous PTAB Scrutiny, *Not* An Effort To Narrow Any Of The '175 Patent's Claims In View Of The Newly Presented Prior Art

In its discussion about “Options for *Amendments* through Reissue or

Reexamination” (emphasis added), the PTAB has recognized that “[u]nder the current statutory scheme, a patent owner may file a reissue application *to amend claims* before, during, or after an AIA trial proceeding concludes with a final written decision, as discussed above.” Notice Regarding Options for Amendments by Patent Owner through Reissue or Reexamination During a Pending AIA Trial Proceeding (Apr. 2019), at 3-4 (emphasis added); *id.* at 5 (“[T]he error requirement is satisfied by the patent owner’s failure to previously present narrower claims.”).

In contrast here—and unlike the contemplated scenario in which a Patent Owner seeks to *narrow* its patent’s claims in view of newly raised prior art, Tethrd has consistently maintained that the current unamended claims are patentable over the asserted prior art. *E.g.*, Mot. at 10 (“Claims 1-14 of the 175 Patent are not obvious in consideration of any of Petitioner’s cited references, whether individually or in combination.”).

F. Tethrd Has *Not* Acknowledged A Substantial New Question Of Patentability, Which Would Have Been Required In A More Common *Ex Parte* Reexamination Request

Tethrd purposely chose *not* to file the far more common request for *ex parte* reexamination, but instead chose to file a reissue application. The ostensible reason for this strategic decision is that Tethrd maintains that the prior art asserted in the Petition does *not* create a substantial new question of patentability. Indeed, Tethrd has requested that the Examiner simply allow the pending claims *without*

amendment. Ex. 1149 at 362 (“The claim[s] ha[ve] not been amended. . . . It is now believed that the application is in condition for allowance and such allowance is respectfully requested.”). Accordingly, any rationale that might possibly favor having an examiner consider claim amendments in the first instance (*e.g.*, in an *ex parte* reexamination application) are entirely absent here.

G. Tethrd’s Post-Petition ’004 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.

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

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.

IV. “SETTLED EXPECTATIONS” WEIGH STRONGLY IN FAVOR OF INSTITUTION

The ’175 Patent issued on April 23, 2024 (Ex. 1001 at 1), and its post-Complaint Certificate of Correction issued on November 12, 2024 (*id.* at 15). In addition, while Tethrd threatened Crüzr with infringement litigation of several other patents during the 2020-2024 time frame (Ex. 1009 at 292-311; Ex. 1142 at 1057-61), including the parent ’556 Patent (Ex. 1009 at 296-311), Tethrd did not pursue any of those threats. Thus, the settled expectations here weigh strongly in favor of having this patentability dispute decided by the PTAB on the merits.

V. ALL OF THE *FINTIV* FACTORS WEIGH OVERWHELMINGLY IN FAVOR OF INSTITUTION

In its Motion, Tethrd intentionally ignores most of the *Fintiv* factors (factors 1-3 & 5), and provides incorrect facts on the factors it does address (factors 4 & 6).

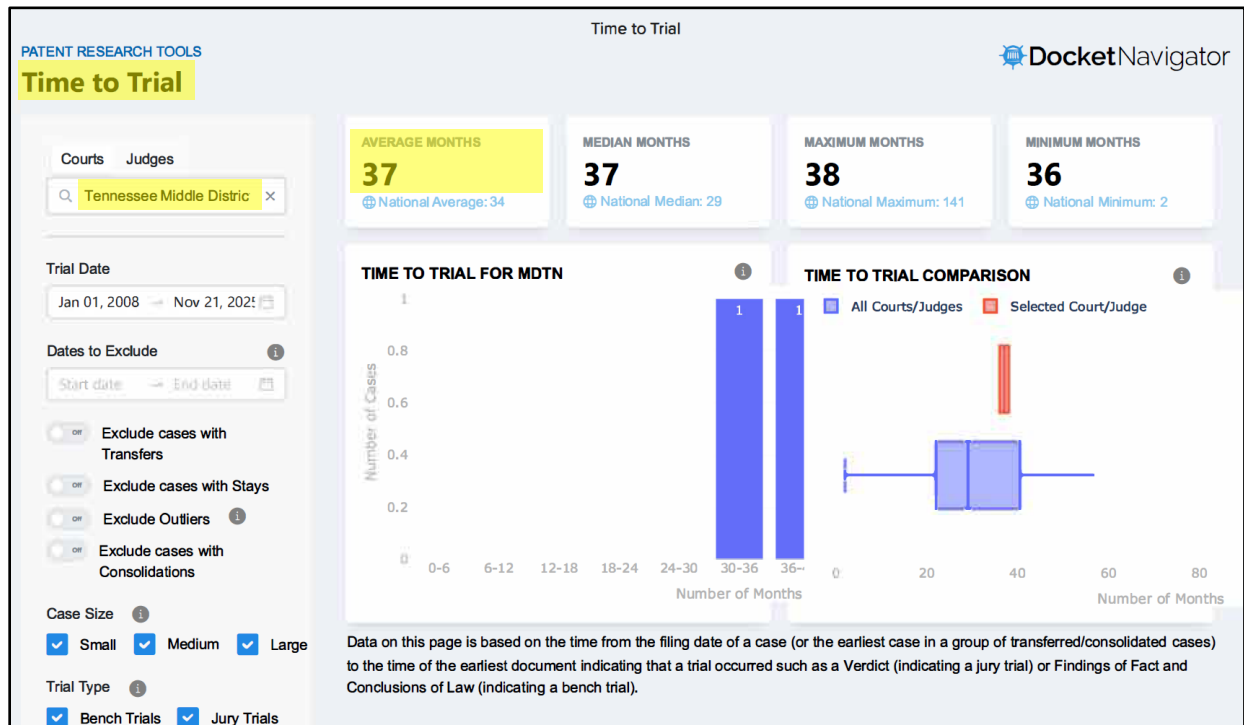
In this case, *all* of the *Fintiv* factors counsel against discretionary denial.

A. Factor 1: The District Court Has Already Stayed The Parallel Litigation

On September 10, 2025, the District Court stayed the parallel district court litigation. Ex. 1146.

B. Factor 2: In View Of The Litigation Stay, The District Court’s Trial Date (If Ever) Would Be Long After The Deadline For A FWD In This IPR

The FWD in this case is anticipated in early 2027. In view of the litigation stay, there is no trial date in the district court case. And the time to trial for a typical case in the Middle Tennessee is 37 months:



Ex. 1155; *see* Ex. 1156 at 45 (38.2 months median time to trial for 2024-2025):

TENNESSEE MIDDLE

U.S. District Court — Judicial Caseload Profile

			12-Month Periods Ending					
			Jun 30 2020	Jun 30 2021	Jun 30 2022	Jun 30 2023	Jun 30 2024	Jun 30 2025
Median Time (Months)	From Filing to Disposition	Criminal Felony	15.1	19.6	22.7	17.8	23.2	27.6
		Civil ²	10.6	10.4	11.2	8.9	8.0	8.3
	From Filing to Trial ² (Civil Only)		31.2	27.4	36.6	-	43.8	32.6

Thus, even in the unlikely event that the litigation stay were to be lifted, a district court trial would probably be scheduled any earlier than sometime in late 2027.

C. Factor 3: There Has Been Limited Investment In The Litigation By The District Court And The Parties

The district court litigation is in its very early stages, with a stay in place and the pleadings still in flux. The investment by the court and the parties has been minimal, with no *Markman* briefing (and thus no *Markman* hearing or ruling) and only limited discovery.

D. Factor 4: Crüzr Timely Filed And Served A So-Called “Tesla” Or “Sotera-Plus” Stipulation In The District Court And With The PTAB

Tethrd’s argument regarding overlapping issues is incorrect. Mot. at 9-10. Tethrd completely overlooks that a month before Tethrd filed its Motion for Discretionary Denial, Crüzr filed and served a so-called “Tesla” or “Sotera-Plus” Stipulation with both the District Court and with the PTAB. Exs. 1147-48; Petitioner’s Updated Mandatory Notices (Paper 12), at 2 (Sept. 27, 2025). Accordingly, there are no overlapping issues in the district court case and the IPR.

E. Factor 5: The Sole Parties In The Litigation And The IPR Are The Same: Crüzr And Tethrd

Crüzr is the sole Defendant/Counterclaimant in the parallel district court litigation, and Tethrd is the sole Plaintiff/Counterdefendant in that case. Ex. 1009.

F. Factor 6: The Petition Presents Compelling Section 102 And Section 103 Challenges

1. Tethrd Has Waived Filing A POPR, Thereby Providing No Initial Defense On The Merits Of Crüzr's Patentability Challenges

On November 17, 2025, Tethrd voluntarily waived filing a Preliminary Patent Owner Response ("POPR"). Paper 17. Tethrd's waiver of providing a substantive defense on the merits in a POPR weighs in favor of no discretionary denial. *See SMIC Americas v. Innovative Foundry Techs. LLC*, IPR2020-01003, Paper 10, at 22, 2020 WL 7378835, at *10 (PTAB Dec. 15, 2020) ("[T]his factor weighs in favor of not exercising discretion to deny institution under 35 U.S.C. § 314(a)."); *Micron Tech. Inc. v. Godo Kaisha IP Bridge 1*, IPR2020-01007, Paper 15, at 18, 2020 WL 7212722, at *7 (PTAB Dec. 7, 2020) ("[T]he merits, taken as a whole, weigh against discretionary denial.").

2. Ground 1 Demonstrates *Anticipation* Of Several Claims Of The '175 Patent

Tethrd incorrectly argues that "[t]he IPR Petition does not include a single reference that anticipates the claims of the 175 Patent." Mot. at 6. Even a cursory review of the Petition demonstrates otherwise:

Ground	Claims	Basis for Unpatentability
Ground 1 (Priority = 4/15/21)	1, 6, 11, 14	Anticipated Under 35 U.S.C. § 102 and/or Obvious under 35 U.S.C. § 103 over - YouTube - Tethrd Mantis VS The Phantom Saddles (Ex. 1132), or alternatively - YouTube - Tethrd PHANTOM Review and How-To Tutorial! (Ex. 1133), or - Saddle Hunter - Tethrd Phantom's Bridge Knot (p1) (Ex. 1116)

Pet. at 9, 65-94.

3. The Sherrill Expert Declaration Provides Standard Background And Claim Chart Testimony, And Is Not Used For Any Alleged “Gap Filling”

Contrary to Tethrd’s characterization, the Petition does not rely on “conclusory” expert testimony. Mot. at 6. The Sherrill Declaration provides a detailed explanation from POSA’s perspective, explaining how the claimed combinations were well-known in saddle hunting and analogous arts like arborist rigging and nautical knot-tying. The Petition meticulously maps the disclosures of prior art references themselves to the claims, leaving no gaps, demonstrating that the claimed invention was a predictable combination of known elements.

G. Factor 6: Tethrd Withheld All Internet Prior Art From The Patent Examiner, Despite Being Fully Aware Of That Prior Art And Even Posting Some Of The Primary Asserted References

Tethrd’s principals and named inventors were actively involved in the Internet saddle hunting community, participating in many forum threads and posting YouTube videos. Pet. at 15-16. However, Tethrd provided *none* of that

highly material prior art to the examiner to the Examiner. *Id.*; Ex. 1154 ¶¶ 18-22.

VI. TETHRD’S ALLEGED SECONDARY CONSIDERATIONS LACK A NEXUS TO THE SPECIFIC FEATURES OF THE CLAIMED INVENTION AND CANNOT OVERCOME THE STRONG EVIDENCE OF OBVIOUSNESS HERE

Tethrd’s superficial arguments regarding commercial success, copying, and long-felt need are unavailing, particularly at this stage of the proceeding. Mot. at 13-17. Of course, with respect to Ground 1, Tethrd’s Phantom product *is* the prior art itself, so any such evidence is irrelevant. *E.g., Yita LLC v. MacNeil IP LLC*, 69 F.4th 1356, 1364 (Fed. Cir. 2023). Similarly, with respect to Grounds 2 and 3, the general Phantom product features discussed on the Internet were all known in the prior art (*e.g.*, a fully-buried bridge, an Amsteel bridge, a fully-buried Amsteel bridge, an adjustable bridge, a closed-loop Prusik knot, an Amsteel Prusik knot, and Amsteel Prusik knot on an Amsteel bridge, etc.). *E.g.*, Pet. at 16-33, 65-169. Again, those prior art features were known, and thus are not relevant to the nexus inquiry. *Id.*; *see Hamilton Beach Brands, Inc. v. Courtesy Prods., LLC*, IPR2014-01257 (PTAB Feb. 24, 2016).

Importantly here, to establish the requisite nexus, the secondary considerations must be a “direct result of the unique characteristics of the claimed invention.” *In re Huang*, 100 F.3d 135, 140 (Fed. Cir. 1996); *Saint-Gobain Abrasives, Inc. v. 3M Innovative Properties Co.*, IPR2014-01281 (PTAB Feb. 23,

2016). For example, as explained in the Petition, all of the '175 Patent's claims require that both the eye loop and the friction hitch be spliced to interlock with the saddle loops, which is a permanent engagement. *See* Pet. § V.H.3. A simple attachment or connection is not claimed. *Id.* Further, the claims all require that the two ends of the spliced bridge be within a distance of 3.0 inches or less from each other. *See id.* § V.H.4. A fully buried that only extends through the usable sliding length of the bridge (*e.g.*, to the stop knot) is not claimed. *Id.* While these specific features are required by the claims, Tethrd has not shown that they are addressed anywhere in the cited evidence. *See Qualtrics, LLC v. OpinionLab, Inc.*, IPR2014-00356 (PTAB July 30, 2015) (affording little weight to evidence not “tie[d] . . . to the specific features of the claimed invention.”).

Accordingly, Tethrd fails to provide any evidence of secondary considerations with the required nexus to the invention *as claimed*. Further, where, as here, a strong *prima facie* case of obviousness exists, even relevant secondary considerations supported by substantial evidence may not dislodge the final conclusion of obviousness. *See, e.g., Leapfrog Enters., Inc. v. Fisher-Price, Inc.*, 485 F.3d 1157, 1162 (Fed. Cir. 2007).

VII. CONCLUSION

For the foregoing reasons, Crüzr respectfully requests that the Director deny Tethrd's Motion for Discretionary Denial.

Respectfully submitted,

STERLINGTON, PLLC

Dated: November 25, 2025

By: / Brenton R. Babcock /
Brenton R. Babcock (Reg. No. 39,592)
Attorneys for Petitioner
Crüzr Saddles LLC
(212) 433-2993

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the **PETITIONER'S
OPPOSITION TO PATENT OWNER'S MOTION FOR DISCRETIONARY
DENIAL** is being served on November 25, 2025, electronically via P-TACTS and
via electronic mail to the email addresses below:

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Dated: November 25, 2025

/ Brenton R. Babcock /

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