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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
19/331,004	09/17/2025	Walter Ernest POWER II	305774-401012	8375

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Bradley Arant Boult Cummings LLP
IP Department
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EXAMINER

LILLIS, EILEEN DUNN

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ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

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UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of :
Tethrd LLC :
Application No. 19/331,004 : **DECISION ON PETITION**
Filed: 17 Sep 2025 :
For: BRIDGE ROPE ASSEMBLY :

This is a decision on the petition under 37 CFR 1.78(e), filed September 17, 2025, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of priority to the prior-filed nonprovisional application listed on the concurrently-filed Application Data Sheet (ADS).

The petition is **DISMISSED**.

If the reference required by 35 U.S.C. 120 and 37 CFR 1.78(d)(2) is presented after the time period provided by 37 CFR 1.78(d)(3), the claim under 35 U.S.C. 120 for the benefit of a prior-filed nonprovisional application may be accepted if the reference required by 37 CFR 1.78(d)(2) was unintentionally delayed. A petition to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of a prior-filed application must be accompanied by:

- (1) the reference required by 35 U.S.C. 120 and 37 CFR 1.78(d)(2) of the prior-filed application, which must be filed in an ADS, unless previously submitted;
- (2) the petition fee set forth in 37 CFR 1.17(m), and the applicable fee set forth in 37 CFR 1.17(w);¹ and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(d)(3) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

¹ A continuing application fee set forth in 37 CFR 1.17(w) may also be due when filing a petition under 37 CFR 1.78(e), if the petition is filed in an application (or patent that issued from an application) that has an actual filing date more than six years after the earliest benefit date. The earliest benefit date is the earliest filing date for which benefit is claimed under 35 U.S.C. 120, 121, 365(c), or 386(c) and § 1.78(d)), and is determined based on the benefit claims presented in the petition and those previously entered in the application or patent.

The petition does not comply with item(s) (3).

With regard to item (3), it is noted that petitioner has provided a statement that the delay was unintentional, however, the Director may require additional information where there is a question whether the delay was unintentional.

The USPTO requires additional information concerning whether a delay in seeking acceptance of a delayed benefit claim was unintentional where the petition to accept such benefit claim was filed more than two years after the date the benefit claim was due. See *Clarification of the Practice for Requiring Additional Information in Petitions Filed in Patent Applications and Patents Based on Unintentional Delay*, 85 FR 12222 (March 2, 2020).

In a reissue application, the period of delay runs from the date the benefit claim was due in the underlying application which is the subject of the reissue application until the date the petition was filed. In this instance, a petition under 37 CFR 1.78 was filed more than two years after the date the benefit claim was due. Therefore, petitioner must provide sufficient information of the facts and circumstances surrounding the entire delay to support a conclusion that the entire delay was unintentional. *Id.* at 12223. Details regarding the cause of petitioner's failure to timely file the benefit claim, when the failure to timely file the benefit claim was discovered, and the delay between discovery of the failure to timely file the benefit claim and filing of the petition under 37 CFR 1.78 are of particular relevance. Petitioner should provide relevant dates and identify responsible parties where appropriate.

Any renewed petition must be accompanied by an adequate explanation that the entire delay, from the date the benefit claim was due until the date the benefit claim was filed, was unintentional.

See MPEP § 711.03(c)(II)(C)-(H) for additional guidance on the information required to establish that the entire delay was unintentional.

Petitioner asserts, in pertinent part, that petitioner's counsel at the time Kaufhold Dix Patent Law (hereinafter "Kaufhold Dix") unintentionally omitted the delayed benefit claims. Kaufhold Dix was unaware of the omission and did not discover it until after issuance of the patent. Petitioner further states:

Patent Owner filed a complaint against CRÜZR Saddles LLC ("Crüزر") alleging infringement of the 175 Patent on December 3, 2024. On July 2, 2025, Crüزر served its invalidity contentions on Patent Owner alleging that the 175 Patent included an improper priority claim to the 345 Application and the 844 Application. Patent Owner asked Kaufhold Dix about the alleged improper priority claim, and Kaufhold Dix informed Patent Owner that they did not understand why Crüزر was alleging that the 175 Patent included an improper priority claim. On August 11, 2025, Crüزر filed a petition for Inter Partes Review of the 175 Patent, further alleging that the 175 Patent included an improper priority claim to the 345 Application and the 844 Application. Patent Owner,

again, asked Kaufhold Dix about the improper priority claim, and Sean Kaufhold discovered the improper claim to priority in the Application Data Sheet for the 553 Application. Patent Owner requested that Kaufhold Dix correct the priority claims for the 553 Application. Patent Owner contacted Adam J. Thompson (e.g., current counsel for Patent Owner) to correct the priority claim. **Thus, from July 18, 2022 (e.g., the filing date of the 553 Application) until the filing of the present reissue application, the entire delay to correct the priority for the 553 Application has been unintentional.**

Petitioner has not provided an adequate explanation that the entire delay was unintentional. In this regard, petitioner must explain the date it was learned by Kaufhold Dix that the benefit claim had been omitted. Furthermore, petitioner must provide the date petitioner requested current counsel file the subject petition. If there was an additional period of delay after petitioner learned that the benefit claim had been omitted, petitioner must provide an adequate explanation that that period of delay was unintentional.

Lastly, petitioner must explain the date it first informed Kaufhold Dix about the alleged improper priority claim. Did Kaufhold Dix perform any review of the priority claim before informing the patent owner that Kaufhold Dix did not understand why the allegation that the priority claim was improper had been made? If not, why was no investigation performed?

Petitioner should note that the party whose delay is relevant is the party having the right or authority to file the domestic benefit claim in the above-identified application. When the applicant assigns the entire right, title, and interest in an invention to a third party (and thus does not retain any legal or equitable interest in the invention), the applicant's delay is irrelevant in evaluating whether the delay was unintentional. *See Kim v. Quigg*, 718 F. Supp. 1280, 1284, 12 USPQ2d 1604, 1607-08 (E.D. Va. 1989). *See* MPEP 711.03(c)(II)(C)-(F) for additional guidance on the information required to establish that the entire delay was unintentional.

A renewed petition must be filed, accompanied by the item(s) described above, if reconsideration is desired.

Because this application has an actual filing date that is not more than six years after the earliest benefit date, no fee under 37 CFR 1.17(w) is required.

A renewed petition must be filed, accompanied by the item(s) described above, if reconsideration is desired.

The petition fee set forth in 37 CFR 1.17(m)(1) of \$1,200 (small entity) has been received. No further fee is due in connection with this petition.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail: Mail Stop PETITIONS
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: Customer Service Window
 Mail Stop Petitions
 Knox Building
 501 Dulany Street
 Alexandria, VA 22314

By fax: (571) 273-8300
 ATTN: Office of Petitions

By internet: Patent Electronic System²

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3231.

Information regarding the status of published or unpublished applications may be obtained from Patent Center at <https://patentcenter.uspto.gov>. Unpublished application information in Patent Center is available to registered users.

All other inquiries concerning the examination of this application should be directed to the assigned Technology Center.

/DOUGLAS I WOOD/
Attorney Advisor, OPET

² <https://www.uspto.gov/patents/apply>