IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s):	Walter Ernest POWER II, et al.	Examiner:	Eileen Dunn LILLIS
Applicant(s):	Tethrd LLC	Art Unit:	3993
Serial No.:	19/331,004	Conf. No.:	8375
Filed:	September 17, 2025		
For:	BRIDGE ROPE ASSEMBLY		

December 26, 2025

THIRD PARTY PETITION TO THE DIRECTOR UNDER 37 C.F.R. §§ 1.181 & 1.182 AND TO THE CHIEF ADMINISTRATIVE PATENT JUDGE UNDER 37 C.F.R. §§ 41.3 & 41.103 TO STAY REISSUE APPLICATION NO. 19/331,004 PURSUANT TO 37 C.F.R. § 42.122(a) OR, IN THE ALTERNATIVE, TO EXTEND THE TIME FOR FILING A PROTEST PURSUANT TO 37 C.F.R. § 1.291(b) & M.P.E.P. § 1901.04

TO THE DIRECTOR AND THE CHIEF ADMINISTRATIVE PATENT JUDGE:

On September 17, 2025, Applicant Tethrd LLC ("Tethrd") filed Reissue Application Serial No. 19/331,004 ("the '004 Reissue Application") for U.S. Patent No. 11,964,175 ("the '175 Patent"). For the reasons set forth in this Petition, Third Party Crüzr Saddles LLC (Crüzr) respectfully requests that the '004 Reissue Application be stayed in view of Crüzr's earlier filed Petition for *Inter Partes* Review of the '175 Patent in Case No. IPR2025-01407. In the alternative, Crüzr respectfully requests a two-month extension of time to file a Protest in the '004 Reissue Application.

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I. BACKGROUND AND PROCEDURAL HISTORY

A. The Parallel District Court Litigation

Tethrd asserted the original ’175 Patent against Crüzr in an original Complaint filed on August 12, 2024, and the corrected ’175 Patent against Crüzr in a First Amended and Supplemental Complaint (“FASC”) filed on December 3, 2024, both cases captioned *Tethrd, LLC v. Crüzr Saddles LLC*, Case No. 1:24-cv-00076 (M.D. Tenn.). Exs. 1007, 1009.[1] Crüzr was served with the original Complaint on August 14, 2024, and the FASC on December 3, 2024. Exs. 1008, 1010.

1. The ’175 Patent’s Certificate of Correction

As Tethrd acknowledged in the original Complaint, the original ’175 Patent contained an error in Claim 1, the only independent claim of the patent. Ex. 1007 at 5 n.3. Thus, in response to the original Complaint asserting the uncorrected ’175 Patent, Crüzr filed a Motion to Dismiss the Complaint, stating as follows:

> The Federal Circuit has consistently held that “under sections 254 and 255, a ‘certificate of correction is only effective for causes of action arising after it was issued.’” *Novo Indus., L.P. v. Micro Molds Corp.*, 350 F.3d 1348, 1356 (Fed. Cir. 2003) (citing *Sw. Software, Inc. v. Harlequin Inc.*, 226 F.3d 1280 (Fed. Cir. 2000)) (emphases added).

Thereafter, on October 11, 2024, Tethrd formally requested that the USPTO correct the ’175 Patent’s only independent claim (Ex. 1005 at 4-9), and on November 12, 2024, the USPTO responded by issuing a Certificate of Correction (Ex. 1 at 15; Ex. 1005 at 1-3). Accordingly, the corrected ’175 has been in litigation since December 3, 2024. Exs. 1009, 1010. For purposes of this Petition, “the ’175 Patent” will refer to the corrected ’175 Patent.

2. The Dispute Regarding the ’175 Patent’s Priority Date

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*** . . .

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[1] References to all Exhibits and Papers are to the PTAB record in the pending parallel *Inter Partes* Review Proceeding captioned *Crüzr Saddles LLC v. Tethrd, LLC*, Case No. IPR2025-01407, which record is publicly available on the USPTO’s P-TACTS website. *See* https://ptacts.uspto.gov/ptacts/ui/home.

." Ex. 1137 at 14 (emphasis added). Tethrd promptly considered Crüzr's allegation (Ex. 1149 at 322) and on July 23, 2025, intentionally ***stated its disagreement***: "[T]he 175 Patent ***properly claims priority*** to the earliest application date of January 7, 2020." Ex. 1138 at 29 (emphasis added). Thus, on August 11, 2025, Crüzr raised this issue with the PTAB in an IPR Petition. Pet. (Paper 2) at 3-9.

3. The Stay of the District Court Litigation

On August 25, 2025, Crüzr filed an Unopposed Motion to Stay the district court litigation pending the IPR proceeding. Ex. 1146. On September 10, 2025, the Court granted Crüzr's motion and stayed the co-pending district court litigation. *Id.* at 1. As of the date of this Petition, the district court litigation remains stayed.

B. The Parallel *Inter Partes* Review Proceeding

On August 11, 2025, Crüzr filed an IPR Petition challenging all of the claims of the '175 Patent. *Crüzr Saddles LLC v. Tethrd, LLC*, Case No. IPR2025-01407. Pet. (Paper 2). The IPR Petition includes three (3) separate grounds of unpatentability, asserting both anticipation under 35 U.S.C. § 102 and obviousness under 35 U.S.C. § 103. *Id.* at 65-169. As noted above, Crüzr raised the '175 Patent's priority date issue with the PTAB in the IPR Petition, specifically with respect to Ground 1. *Id.* at 3-9.

1. Crüzr's Motion to Terminate or, in the Alternative, Stay the '004 Reissue Proceeding

On September 25, 2025, the same day that Tethrd first informed Crüzr of the '004 Reissue Application (*see* Patent Owner's Mandatory Notices at 2 (Paper 9) (filed September 25, 2025)), Crüzr initiated the requisite meet-and-confer in advance of filing a motion to terminate or, alternatively, to stay the '004 Reissue Application. The next day, on September 26, 2025, Crüzr requested authorization from the Board to file that Motion. On October 29, 2025, the Board authorized the requested Motion. On November 3, 2025, Crüzr filed a Motion to Terminate or, in the Alternative, Stay the '004 Reissue Application. Paper 15. The bases for that Motion include (1) Tethrd's post-petition reissue application was unauthorized; (2) Tethrd's Rule 1.78(c) Petition is defective on its face; and (3) the '004 Reissue Application should be stayed to avoid duplicative efforts and waste of resources, and in the interest of justice. *Id.* On

November 6, 2025, Tethrd filed an Opposition to Crüzr's Motion. Paper 16. That Motion remains pending before the Board. In view of the Director's recently introduced bifurcated procedures, Crüzr does not know when the Board will decide that Motion. Accordingly, given that uncertainly and the passage of time, Crüzr believes that this similar Petition to the Director and the Chief APJ is appropriate.

2. The Director's Denial of Tethrd's Motion for Discretionary Denial

On October 27, 2025, Tethrd filed a Motion for Discretionary Denial of Crüzr's IPR Petition. Paper 14. On November 25, 2025, Crüzr filed an opposition to Tethrd's Motion. Paper 19. On December 18, 2025, the Director denied Tethrd's Motion, referring Crüzr's IPR Petion for "review[] for merits and non-discretionary considerations." Paper 22 at 2.

3. Tethrd's Waiver of Filing a POPR

On November 17, 2025, Tethrd formally waived filing a Patent Owner Preliminary Response in response to Crüzr's IPR Petition. Paper 17. Accordingly, Crüzr believes that institution of the IPR proceeding is highly likely. The Institution Decision is anticipated on or before February 25, 2026, six months after the August 25, 2005 Notice of Filing Date Accorded to Petition. Paper 4.

C. The Parallel Reissue Proceeding

In response to Crüzr's IPR Petition, and more than a month later, Tethrd filed the '004 Reissue Application, including a Petition to Accept an Unintentionally Delayed Claim of Priority under 37 C.F.R. § 1.78(c)) ("Rule 1.78(c) Petition"), but failed to serve either the Board or Crüzr with those USPTO filings, and failed to include the IPR2025-01407 case number in the Rule 1.78(c) Petition. Crüzr first learned of Tethrd's Reissue Application on September 25, 2025, upon receipt of Tethrd's belated service of its Mandatory Notices.

1. Tethrd's Intentional Delay in Seeking to Change Its Priority Benefit Claim

By its own concession (Ex. 1149 at 322), Tethrd deliberately decided ***not*** to act with regard to its priority benefit claim for more than 2-1/2 months (from July 2, 2025

until September 17, 2025) and responded only ***after*** Crüzr filed the IPR Petition. 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 Arant Bradley, ***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.

On December 8, 2025, the USPTO dismissed Tethrd's above-referenced Rule 1.78(c) Petition included with Tethrd's Reissue Application No. 19/331,004. Ex. 1159. In the decision, the USPTO stated, *inter alia*, that "Petitioner has not provided an adequate explanation that the entire delay was unintentional." *Id.* at 3.

2. Tethrd's Wholly Inadequate Information Disclosure Statement

As part of Reissue Application No. 19/331,004, Tethrd filed an IDS and several prior art references, but that IDS is wholly inadequate for many reasons. For example, the IPR Petition relies extensively on prior art references from the Internet, copies of which Crüzr served on Tethrd and which are available on P-TACTS. *See* https://ptacts.uspto.gov/ptacts/ui/home. But Tethrd's IDS does not include copies of many of the website pages (NPL references) that Crüzr included with the IPR Petition, as required by the USPTO. *E.g.*, 37 C.F.R. § 1.98(a)(2)(ii) ("A legible copy of . . . [e]ach publication or that portion which caused it to be listed . . . ."); M.P.E.P. § 609.07 ("If any references to foreign patent documents or NPLs or unpublished U.S. patent applications (that are not stored in the Office's Image File Wrapper (IFW) system) are to be cited, applicants must submit copies of these documents in PDF using Patent Center.").

Indeed, Tethrd's IDS cites only a selected ***subset*** of the Internet prior art references relied upon in the IPR Petition, failing to cite more than a dozen of the references relied upon in the three claim charts setting for the detailed grounds of unpatentability. *See* Pet. (Paper 2) at 65-169. And compounding these deficiencies, Tethrd's IDS lists non-hyperlinked text URLs of many (but nowhere near all) of the prior art references included in the IPR Petition. When those text URLs are copied into a web browser, they are all (or nearly all) incorrect, making them essentially useless to the Examiner.

II. THE '004 REISSUE APPLICATION SHOULD BE STAYED TO CONSERVE USPTO RESOURCES AND IN THE INTEREST OF JUSTICE [2]

In view of the pending IPR proceeding challenging all of the claims of the '175 Patent, allowing the '004 Reissue Application to proceed in parallel 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;

[2] This section is taken largely from Crüzr's Opposition to Tethrd's Motion for Discretionary Denial (Paper 19) at 3-13 (filed November 25, 2025).

(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. Each of the Factors in the "Notice Regarding Options for Amendments by Patent Owner through Reissue or Reexamination During a Pending AIA Trial Proceeding" Favors a Stay of The '004 Reissue Application

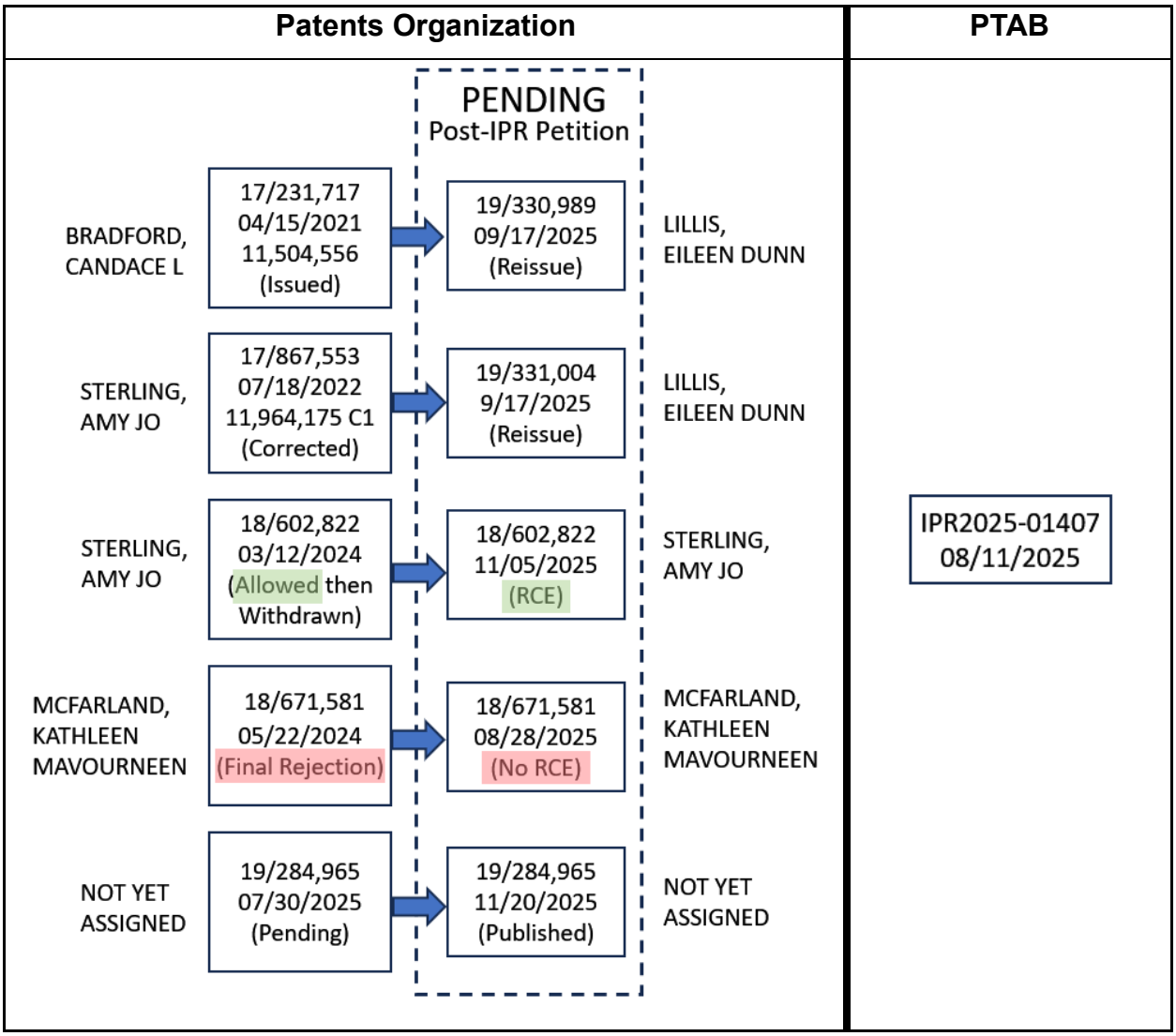
Action in a reissue application typically will be suspended when there is concurrent litigation or a pending trial before the PTAB. M.P.E.P. § 1442.02; Ex.1152 ¶¶ 46-51; Ex.1154 ¶¶ 30-33. In the context of a PTAB proceeding, each of the factors outlined in the "Notice Regarding Options for Amendments 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 the 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;
- The IPR was filed before the ’004 Reissue Application;
- The statutory deadline for the IPR is shorter than the typical duration of a reissue proceed, which has no statutory deadline; and
- A decision in the IPR would likely simplify issues in the parallel reissue proceeding, and will likely render it moot.

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

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:



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:	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:	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:	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	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	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	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 **permanently or releasably** engage **with** the first bridge loop **to permanently or releasably secure the main body to the first bridge loop**, the main body comprising a first portion including the first end and a
portion of the main body such that the first end is positioned within the second portion adjacent to the second end; and	portion of the main body such that the first end is positioned within the second portion adjacent to the second end,	portion of the main body such that the first end is positioned within the second portion adjacent to the second end; and **the main body being attached to the tree rope between the eye loop and the second end.**	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.	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,	[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.	a friction hitch being positioned on the main body between the second end and the eye loop, the friction hitch being configured to **permanently or releasably** engage **with** the second bridge loop **to permanently or releasably secure the friction hitch to the second bridge loop**, the friction hitch comprising a closed loop.

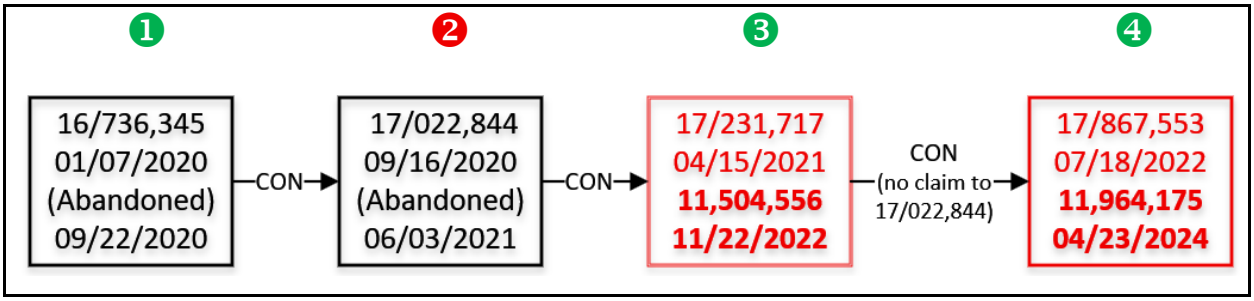
Id. & Ex. H. Such duplicative effort and the resulting risk of inconsistent results favors a stay of at least Tethrd's pending '004 Reissue Application. *Id.* ¶¶ 28-30.

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

As discussed above, 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, U.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, U.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 717 Application was filed on April 15, 2021, which issued as U.S. Patent No. 11,504,556 on November 22, 2022. Before that date, U.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 (❷) is ***not*** mentioned anywhere in the '175 Patent's priority benefit claim:

❸ **Parent '556 Patent**	❹ **Challenged '175 Patent**
Related U.S. Application Data (63) Continuation of application No. 17/022,844, filed on Sep. 16, 2020, now abandoned, and a continuation of application No. 16/736,345, filed on Jan. 7, 2020, now abandoned. * * * 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.	**Related U.S. Application Data** (63) Continuation of application No. 17/231,717, filed on Apr. 15, 2021, now Pat. No. 11,504,556, which is a continuation of application No. 16/736,345, filed on Jan. 7, 2020, now abandoned. * * * CROSS-REFERENCE TO RELATED APPLICATIONS 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:

uspto

Patent Center

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Back to home

1 **16/736,345 | TETH108: Bridge Rope Assembly** PUBLIC VIEW

Application #	Confirmation #	Attorney Docket #
16/736,345	1035	TETH108

- Application Data
- Documents & Transactions
- **Continuity**
- Patent Term Adjustment
- Foreign priority
- Fee payment history
- Address & Attorney/Agent Information
- Supplemental Content
- Assignments
- Display References

Continuity

Parent data

No parent data available for selected application

Child data

Application #	Filing or 371 (c) date	Status
17/022,844 2	09/16/2020	Abandoned
19/330,989	09/17/2025	Pending
19/331,004	09/17/2025	Pending
17/867,553 4	07/18/2022	Patented
18/602,822	03/12/2024	Pending
18/671,581	05/22/2024	Pending
17/231,717 3	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. for Discretionary Denial (Paper 14) 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.

III. ALTERNATIVELY, THE TIME FOR FILING A PROTEST IN THE '004 REISSUE APPLICATION SHOULD BE EXTENDED BY TWO MONTHS

The '004 Reissue Application published in the Official Gazette on October 28, 2025. Accordingly, a Protest should normally be filed by December 28, 2025. *See* M.P.E.P. § 1441.01 (II) ("A protest with regard to a reissue application should be filed within the 2-month period following the announcement of the filing of the reissue application in the Official Gazette."). In this case, however, Crüzr has requested that the '004 Reissue Application be stayed in view of the pending IPR proceeding challenging the '175 Patent. *See* supra Part II. In the event that the '004 Reissue Application is stayed, a Protest would be effectively moot.

The time and resources necessary for Crüzr to prepare a Protest in this case would be significant. In particular, the IPR Petition includes some 113 prior art Internet publications. *See* Pet. (Paper 2) at vii-xi (Exs. 1017-18, 1024-1134). The three claim charts set forth in the IPR Petition, which detail the three unpatentability grounds, include 37 of those prior art Internet publications. *Id.* at 65-169. In accordance with the USPTO's rules, the content of a Protest includes the following information:

> (c) [A] protest must include:
>
> > (1) An information list of the documents, portions of documents, or other information being submitted, where each:
> >
> > * * *
> >
> > > (iv) Non-patent publication is identified by author (if any), title, pages being submitted, publication date, and, where available, publisher and place of publication; and
> >
> > * * *

> (2) A concise explanation of the relevance of each item identified in the information list pursuant to paragraph (c)(1) of this section;
>
> (3) A legible copy of each item identified in the information list, other than U.S. patents and U.S. patent application publications[.]

37 C.F.R. § 1.291; *see* M.P.E.P. § 1441.01.

Crüzr is optimistic that the ’004 Reissue Application will be stayed, and thus the filing of a Protest would be unnecessary (at least at this time). Crüzr therefore respectfully requests that the time for filing a Protest in the ’004 Reissue Application be extended until Crüzr’s request for a stay can be decided. Crüzr estimates that a two-month stay should be sufficient for that determination to be made.

IV. REGULATORY AUTHORITY FOR THIS PETITION AND PAYMENT OF THE REQUISITE PETITION FEES

Crüzr brings this Petition to the Director pursuant to 37 C.F.R. §§ 1.181 & 1.182, and to the Chief Administrative Patent Judge pursuant to 37 C.F.R. §§ 41.3 & 41.103. Those regulatory provisions provide, in relevant part:

> **1.181 Petition to the Director.**
>
> (a) Petition may be taken to the Director:
>
> ***
>
> (3) To invoke the supervisory authority of the Director in appropriate circumstances.
>
> **1.182 Questions not specifically provided for.**
>
> All situations not specifically provided for in the regulations of this part will be decided in accordance with the merits of each situation by or under the authority of the Director, subject to such other requirements as may be imposed, and such decision will be communicated to the interested parties in writing.
>
> **41.3 Petitions.**
>
> Deciding official. Petitions must be addressed to the Chief Administrative Patent Judge.
> Scope. This section covers petitions on matters pending before the Board(§§ 41.35, 41.64, 41.103, and 41.205)[.]

> **41.103 Jurisdiction over involved files.**
>
> The Board acquires jurisdiction over any involved file when the Board initiates a contested case.

See Alarm.com Inc. v. Vivint, Inc., Case IPR2015-01995 (PTAB, Jan. 28, 2016):

> Under 37 C.F.R. § 42.3, "[t]he Board may exercise exclusive jurisdiction within the Office over *every* involved application and patent during [a] proceeding, as the Board may order" (emphases added). Under 37 C.F.R. § 42.2, "*Proceeding* means a trial or preliminary proceeding," where a "*Preliminary Proceeding* begins with the filing of a petition for instituting a trial and ends with a written decision as to whether a trial will be instituted."

In addition, the provisions of 37 C.F.R. §§ 1.181 & 1.182 state that "[a]ny petition seeking a decision under this section must be accompanied by the petition fee set forth in § 1.17(f)," and the provisions of 37 C.F.R. §§ 41.3 & 41.103 state that "[t]he fee set in § 41.20(a) must accompany any petition under this section." Accordingly, the Commissioner is hereby authorized to charge both of these petition fees under 37 C.F.R. § 1.17(f) (*viz.*, $180 for a small entity) and 37 C.F.R. § 41.20(a) (*viz.*, $ 452) (totaling $632) via the **Credit Card Payment Form** (PTO-2038 (11-2023)), filed concurrently herewith. Crüzr believes that no additional fees are due with the filing of this Petition. The Commissioner, however, is hereby authorized to charge any additional fees, or credit any overpayment, to **Deposit Account 60-7334**.

V. CONCLUSION

In view of the foregoing, Crüzr respectfully requests that, with the Director's consult and at the Director's direction, the '004 Reissue Application be stayed in view of Crüzr's earlier filed Petition for *Inter Partes* Review of the '175 Patent in Case No. IPR2025-01407. In the alternative, Crüzr respectfully requests a two-month extension of time to file a Protest in the '004 Reissue Application.

Respectfully submitted,

STERLINGTON, PLLC

Dated: December 26, 2025

By:_____

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the **THIRD PARTY PETITION TO THE DIRECTOR UNDER 37 C.F.R. §§ 1.181 & 1.182 AND TO THE CHIEF ADMINISTRATIVE PATENT JUDGE UNDER 37 C.F.R. §§ 41.3 & 41.103 TO STAY REISSUE APPLICATION NO. 19/331,004 PURSUANT TO 37 C.F.R. § 42.122(a) OR, IN THE ALTERNATIVE, TO EXTEND THE TIME FOR FILING A PROTEST PURSUANT TO 37 C.F.R. § 1.291(b) & M.P.E.P. § 1901.04** is being served on December 26, 2025, via Federal Express priority to the addresses below:

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