UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

META PLATFORMS, INC.,
Petitioner,

v.

MULLEN INDUSTRIES LLC,
Patent Owner.

Case No. IPR2025-00737
U.S. Patent No. 8,585,476

PATENT OWNER'S PRELIMINARY SUR-REPLY

Patent Owner's ("PO") construction of "physical playfield" is correct because it is consistently supported by the intrinsic and extrinsic evidence, and common sense. Petitioner's arguments to the contrary are unpersuasive, as explained below.

I. A "PHYSICAL PLAYFIELD" IS "A BOUNDED PHYSICAL PLAY SPACE"; THERE ARE NO "UNBOUNDED" EMBODIMENTS, WHICH WOULD BE NONSENSICAL

Contrary to Petitioner's arguments, PO's construction does not exclude embodiments of a physical playfield. Petitioner alleges that the specification teaches examples of an "unbounded" "physical playfield" in the specification, but there is no such embodiment. The first quotation Petitioner relies on—"physical playfield (e.g., the physical world, a physical environment, or a defined physical playfield)"—supports PO's construction. POPR, 18-21. It does ***not*** imply that some playfields are unbounded and does ***not*** say that the entire world is a "physical playfield," which would be nonsensical. It would indeed render the term meaningless to equate a physical playfield with the entire world; a user would always be on, and never off, the playfield.[1] The quote states that some physical playfields are from the "physical

[1] It is well-understood, common sense that a "playfield" has boundaries defining whether one is on, or off, the playfield. As the iconic Hank Aaron said, "My motto was always to keep swinging. Whether I was in a slump or feeling badly or having

world" or a "physical environment," *e.g.*, marked pieces of land such as a backyard, a soccer field, or a "square area of a military base" (Ex. 1001, 11:53-54, 5:12-13), and some are "defined physical playfields," such as a playmat, which is not a piece of land but is another type of physical playfield (*id.*, 2:32-61, 3:14-16, 8:31-45).

Further, Earth as a whole is not described as a physical playfield, including in Petitioner's second citation, "the game world corresponds to an actual area of the physical world (such as the planet Earth or New York City)." Ex. 1001, 10:58-61. That quote states that an "***area of*** the physical world" (i.e., a bounded physical play space) corresponds to the game world—***not*** the whole physical world. The term "physical playfield" is mentioned in the specification six more times. In every such instance, which Petitioner ignores, the specification again clearly supports PO's construction. *Id.*, 2:58-61 ("***physical playfield perimeters***"); 3:38-39; 3:41-43; 5:63-65 (describing FIG. 3 clearly depicting a ***bounded space***); 6:30-32 (describing FIG. 13 clearly depicting a ***bounded space***); 7:7-9.

Petitioner next argues incorrectly that, because some claim preambles refer to augmented reality, there is no need for the physical play space boundaries. But claim 13 does not recite "augmented reality." "Augmented reality" appears only in the

---

troubles off the field, the only thing to do was keep swinging." This wisdom leverages a playfield's boundaries, to apply on-field lessons to life off of the field.

preamble of claim 1 and is not a claim requirement, nor does Petitioner prove it is. And augmented reality does not require a transparent screen, nor does claim 1.

Petitioner's additional arguments in Section II are inapposite. The POPR did not argue that each example is required by the claims; however, all of the examples do show the specification's consistent usage of the term "physical playfield" to mean a bounded play space, which is common sense. Even in embodiments in which "actual playfield data may not be stored at all so that only virtual playfield data is stored," which the Reply points to, the system stores "*scaling information* to convert the information to information *useable on a particular actual playfield*." Ex. 1001, 12:5-8. Scaling information is the correspondence between physical and virtual playfield sizes (*id.*, FIG. 3, 10:4-14:37), and imposes boundaries on the physical playfield. Scanning before versus during gameplay is irrelevant. Petitioner's quote also omits that it refers to a "landscape of a *pre-determined area (e.g., a particular square area of a military based [sic])* . . . being scanned as a game is playing," which likewise confirms that the playfield (pre-determined area) is bounded. *Id.*, 5:9-17.

II. THE EXTRINSIC EVIDENCE IS RELEVANT

Petitioner argues nonsensically that because the boundaries of the play space need not be hard rails, the dictionary definitions do not apply. Like the challenged patent, the dictionaries describe bounded physical play spaces without hard physical boundaries like rails, confirming a POSITA's understanding of "physical playfield."

Dated: August 20, 2025

Respectfully submitted,

/*Peter F. Snell*/

Peter F. Snell (Reg. No. 52,235)
Brad M. Scheller (Reg. No. 61,022)
MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C.
919 Third Avenue
New York, New York 10022
Telephone: 212-935-3000
Facsimile: 212-983-3115
E-mails: PFSnell@mintz.com;
BMScheller@mintz.com

Reza Dokhanchy (Reg. No. 62,795)
MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C.
3580 Carmel Mountain Rd Suite 300,
San Diego, CA 92130
Telephone: 858-314-1596
Facsimile: 858-314-1501
E-mail: RDokhanchy@mintz.com

CERTIFICATE OF SERVICE

I certify that a copy of this Patent Owner's Preliminary Sur-Reply is being served by electronic mail on the following counsel of record:

Lead Counsel
Heidi L. Keefe
(Reg. No. 40,673)
COOLEY LLP
1299 Pennsylvania Ave. NW,
Suite 700
Washington, DC 20004
Telephone: (650) 843-5001
Facsimile: (650) 849-7400
hkeefe@cooley.com

Backup Counsel
Phillip E. Morton
(Reg. No. 57,835)
pmorton@cooley.com
Andrew C. Mace
(Reg. No. 63,342)
amace@cooley.com
Mark R. Weinstein (Admission *pro hac vice* to be requested)
mweinstein@cooley.com
Lowell D. Mead (Admission *pro hac vice* to be requested)
lmead@cooley.com
Patrick Lauppe (Admission *pro hac vice* to be requested)
plauppe@cooley.com
COOLEY LLP
ATTN: PATENT GROUP
1299 Pennsylvania Ave. NW,
Suite 700
Washington, DC 20004
Telephone: (650) 843-5001
Facsimile: (650) 849-7400

Dated: August 20, 2025

/*Peter F. Snell*/
Peter F. Snell (Reg. No. 52,235)