

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

META PLATFORMS, INC.,
Petitioner,

v.

MULLEN INDUSTRIES LLC,
Patent Owner.

Case IPR2025-00742
U.S. Patent No. 11,904,243 B2

PETITIONER'S PRELIMINARY REPLY¹

¹ A Preliminary Reply was authorized by the Board via email on August 12, 2025.

Patent Owner's erroneous construction limiting "**portable device**" to a device "free of encumbering external connections" should be rejected because it contradicts both the intrinsic record and Patent Owner's extrinsic evidence. The patent uses the term "portable" with its ordinary meaning: capable of being transported or moved.²

I. THE INTRINSIC RECORD AND EXTRINSIC EVIDENCE CONTRADICT PATENT OWNER'S PROPOSED CONSTRUCTION

According to Patent Owner, "[t]o be 'portable,' a computing device must be free of encumbering external connections, such as cables." (POPR, 2, 31.) Therefore, Patent Owner argues, because the head-mounted device in the Levesque prior art is "tethered" to a vehicle, it is not "portable" as required by claim 1. (*Id.*)

Patent Owner cites only two passages in the '243 patent as purported intrinsic support. (POPR, 30 (citing EX1001, 4:22-28, 7:23-27).) Those passages merely provide open-ended examples of portable devices, including "laptops" (which conventionally use power cables), a visor, or "any other" portable device. ('243, 4:22-28, 7:23-27.) The '243 patent never teaches that a "portable device" cannot have an "encumbering external connection" or be "tethered." On the contrary, the patent expressly teaches that a laptop or visor tethered to an automobile is a "portable device." Specifically, the '243 patent incorporates by reference U.S. Provisional

² See, e.g., dictionary.com <<https://www.dictionary.com/browse/portable>>; merriam-webster.com <<https://www.merriam-webster.com/dictionary/portable>>.

Application No. 60/603,481. ('243, 1:14-18.) That application, which describes a “portable device,” states: “Persons skilled in the art will appreciate that components of portable device 100 may be non-portable, or integrated into a non-portable device. For example, the flexible display and keyboard combinations of the present invention may be integrated into, and extendable from, a car ceiling or dashboard.” (EX1009, 004, ¶0023.) The '243 patent thus expressly discloses that a “portable device” can have an encumbering external connection or be otherwise tethered. *See Paice, LLC v. Ford Motor Co.*, 881 F.3d 894, 906-907 (Fed. Cir. 2018) (incorporated material “effectively part of the host document as if it were explicitly contained therein”); *Kaufman v. Microsoft Corp.*, 34 F.4th 1360, 1372 (Fed. Cir. 2022) (excluding disclosed embodiment is “rarely, if ever correct and would require highly persuasive evidentiary support”). According to the '243 patent then, much like the Levesque prior art, a “visor” tethered to an automobile would be an example of a “portable device.” ('243, 4:22-28 (“visor” embodiment of “portable gaming system”); Pet. 10-11, 34; EX1003, ¶¶24, 30, Fig 3.)

Patent Owner’s own extrinsic evidence further confirms that a “portable” device can have an “encumbering external connection” or be “tethered.” Patent Owner points to the 2002 Microsoft Computer Dictionary and its entry for “portable.” (POPR, 2 (citing EX2013, 3), 31 (same).) But Patent Owner’s exhibit truncates the next entry, for “portable computer,” and omits the following table:

Table P.2 Portable Computers.

Type	Approximate weight	Power source	Comments
Transportable	15–30 lb.	House current	Sometimes called luggable; usually has floppy and hard-drives; standard CRT screen.
Laptop	8–15 lb.	House current or batteries	Can be held on the lap; usually has a floppy drive;uses flat LCD or plasma screen.
Ultralight	2–8 lb.	Batteries or trans-former pack	Easy to carry in a briefcase; sometimes uses RAM drive or EPROM instead of floppy or hard drive; thinner models are known as notebook computers.
Handheld	Less than 2 lb.	Batteries or trans-former pack	Also called palmtop or palm-sized; can be held in one hand.

As shown above, “portable computers” include “transportable” (or “luggable”) computers that require “house current” as their power source. (Microsoft Computer Dictionary (5th ed. 2002), p.413.³) In other words, “portable computers” include computers encumbered with an external power cord connection to a wall outlet. Therefore, the Microsoft Computer Dictionary also confirms that a “portable device” can have an “encumbering external connection” or be “tethered.” In fact, the head-mounted device of the Levesque prior art is even less encumbered than the “luggable” computer described by the dictionary because the HMD, being fitted to a small personal recreational vehicle (EX1003, ¶0030), does not remain stationary during operation. Instead, the HMD and vehicle can be easily moved, consistent with the ordinary meaning of “portable” and the cited definition of “portable computer.” (EX2013, 3 (“[A]ny computer designed to be moved easily”).)

³ A complete copy is available here: <<https://archive.org/details/microsoft-computer-dictionary-5th-edition/page/412/mode/2up>>.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify, pursuant to 37 C.F.R. Section 42.6, that a complete copy of the attached **PETITIONER'S PRELIMINARY REPLY** is being served via electronic mail on the 19th day of August 2025, upon Patent Owner by serving Patent Owner's counsel of record in this proceeding as follows:

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