

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

PATENT OWNER'S PRELIMINARY SUR-REPLY

The intrinsic and extrinsic evidence support that Levesque’s display—which the parties agree is tethered to a jet ski—is ***not*** a portable device as claimed in the ’243 patent. The Board should reject Petitioner’s nonsensical attempt to contort the meaning of “portable” as a pretense to misapplying it to such wildly different art, and deny institution.

I. The Intrinsic And Extrinsic Evidence Supports That Levesque’s Display—Which Is Tethered to a Jet Ski— Is Not A Portable Device

Petitioner strains credulity when it incorrectly argues that “the patent expressly teaches that a laptop or visor tethered to an automobile is a ‘portable device,’” pointing to Ex. 1009, which the ’243 patent incorporates by reference. Reply, 1. In fact, Ex. 1009 says ***the opposite***: a device becomes “***non-portable***” when integrated into a non-portable device like a vehicle:

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.***

Ex. 1009, ¶ [0023]. Thus, when a “flexible display and keyboard combination” (which on its own could be “portable”) is integrated into a car, it is a “**non-portable device**” as it is no longer free of encumbering external connections.

Petitioner next incorrectly argues that the ordinary meaning of the term “portable” is “capable of being transported or moved.” Reply, 1, n. 2. Petitioner cites <https://www.dictionary.com/browse/portable>, which gives an example of a “portable stage.” This is at best incomplete, and most importantly, clearly does not match the ’243 patent’s usage of the term, which describes wireless telephones, laptops, PDAs, Blackberries, Personal Electronic Devices, and iPods. Ex. 1001, 4:22-28, 7:23-27. These examples are all mobile electronic devices that can readily be moved by a person carrying them. However, under Petitioner’s nonsensical definition, a house on a foundation could be lifted and put on a moving truck, and is thus portable. A POSITA simply would not extend “portable” to cover anything that can be moved.

Finally, Petitioner points to a “transportable” (or “luggable”) computer, described in Ex. 2013 (example below), which also does not support its argument:



Petitioner argues that the luggable computer must be plugged into the wall and is called “portable” in the dictionary and therefore so should Levesque’s display be

considered portable. But there is a key difference. The “transportable” or “luggable” computer is intended to be unplugged, moved and taken to a new location, and plugged in again (they generally had handles to assist in that process). Beyond common sense, the power cable is not an *encumbering* connection, as precluded by the definition of “portable” (Ex. 2013, POPR 30-32) because it does not hinder mobility with respect to the wall—the device gets unplugged and can be readily moved. The dictionary indeed defines “portable” as being free of “encumbering external connections” and lists the “luggable” computer as a portable computer.

By contrast, the display in Levesque is not portable. The display cannot be unplugged and taken somewhere to be used. Rather, its connection to the jet ski, which is required for operation (well more than just power), *is* an encumbrance on its mobility. And Petitioner’s argument that the display-jet ski combination as a whole is portable is incorrect. While the jet ski might be *movable*, like a car is movable, it is not *portable*, just as the ’243 patent explicitly states a car is “non-portable,” as explained above. Ex. 1009, ¶ [0023]. At bottom, the jet ski bears no resemblance whatsoever to the handheld electronics described in the specification. And, again, the display itself, unlike those portable devices, cannot be moved with respect to what it is tethered to, the non-portable jet ski.

The Board should reject Petitioners’ arguments and deny institution for at least this reason, as well as the additional reasons set forth in the POPR.

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Respectfully submitted,

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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:

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