

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF, )  
 )  
KING SOLARMAN, INC., ) OTA NO. 230613462  
SOLARMAN DISTRIBUTION, INC., ) 230613464  
 )  
 )  
 ) APPELLANT. )  
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TRANSCRIPT OF PROCEEDINGS

Cerritos, California

Tuesday, December 9, 2025

Reported by:  
ERNALYN M. ALONZO  
HEARING REPORTER



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APPEARANCES:

Panel Lead: ALJ ANDREW WONG

Panel Members: ALJ SHERIENE ANNE RIDENOUR  
ALJ GREG TURNER

For the Appellant: STEVEN MATHER  
JAMES MATHER  
MICHAEL CUNG

For the Respondent: STATE OF CALIFORNIA  
DEPARTMENT OF TAX AND  
FEE ADMINISTRATION  
  
KEVIN SMITH  
JARRETT NOBLE  
JASON PARKER

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I N D E X

E X H I B I T S

(Appellant's Exhibits 1-26 were received into evidence at page 7.)

(Department's Exhibits A-F were received into evidence at page 8.)

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Cerritos, California; Tuesday, December 9, 2025

9:40 a.m.

JUDGE WONG: All right. We are streaming live, and let us go on the record.

These are the Appeals of King Solarman, Incorporated, and Solarman --

MR. J. MATHER: Distributions.

JUDGE WONG: Sorry. We're just having one technical difficulty. All right. I'm just going to proceed. Yes. Sorry.

These are the Appeals of King Solarman, Incorporated, and Solarman Distribution, Incorporated, before the Office of Tax Appeals. OTA Case Nos. 230613462 and 230613464. It is Tuesday December 9, 2025, and the time is 9:40 a.m. We are holding this hearing in Cerritos, California.

I'm Andrew Wong, the lead member of the three-member panel hearing this case. And with me are Administrative Judges Sheriene Anne Ridenour and Greg Turner.

Individuals representing the Appellants, the taxpayers, please introduce yourselves.

MR. J. MATHER: Good morning. I'm James Mather for Appellant.

1           MR. CUNG: Hi. I'm the owner of King Solarman,  
2 Inc., and Solarman Distribution, Inc.

3           JUDGE WONG: What's your name, sir?

4           MR. CUNG: My name is Michael Cung.

5           JUDGE WONG: Thank you.

6           MR. CUNG: Yes.

7           MR. S. MATHER: And Steve Mather, attorney for  
8 King Solarman and Solarman Distributions.

9           JUDGE WONG: Thank you.

10           And individuals representing the Respondent tax  
11 agency, the California Department of Tax and Fee  
12 Administration, CDTFA, could you please introduce  
13 yourselves.

14           MR. SMITH: Hello. I'm Kevin Smith from the  
15 CDTFA, legal division.

16           MR. NOBLE: Jarrett Noble, also from the legal  
17 division.

18           MR. PARKER: Jason Parker, Chief of Headquarters  
19 Operations Bureau with CDTFA.

20           JUDGE WONG: Thank you.

21           So let's go over the issues, the exhibits,  
22 witnesses, and the time allocation. So we are considering  
23 one issue today, and that is whether mobile solar units  
24 qualify as mobile transportation equipment under Revenue &  
25 Taxation Code section 6023.

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Is that correct, Mr. Mather?

MR. J. MATHER: Yes.

JUDGE WONG: CDTFA, is that correct?

MR. SMITH: That's correct.

JUDGE WONG: All right. As far as exhibits goes, Appellants have identified and submitted proposed Exhibits 1 through 26 -- both Appellants.

And, Appellants, there's no other exhibits; is that correct?

MR. J. MATHER: Yes, that is correct.

JUDGE WONG: Okay. And, CDTFA, do you have any objections to the proposed exhibits?

MR. SMITH: No, we do not.

JUDGE WONG: Okay. So Appellants' Exhibits 1 through 26 will be admitted into the record as evidence.

(Appellant's Exhibits 1-26 were received into evidence by the Administrative Law Judge.)

JUDGE WONG: And CDTFA has identified and submitted proposed Exhibits A through F as evidence.

And, CDTFA, you had no other exhibits?

MR. SMITH: That's correct.

JUDGE WONG: Okay. Mr. Mather, any objections to CDTFA's proposed exhibits?

MR. J. MATHER: No.

JUDGE WONG: Okay. So CDTFA's Exhibits A through

1 F will also be admitted into the record as evidence.

2 (Department's Exhibits A-F were received into  
3 evidence by the Administrative Law Judge.)

4 JUDGE WONG: Appellants have one witness,  
5 Mr. Michael Cung --

6 MR. CUNG: Yes.

7 JUDGE WONG: -- who is the owner of the  
8 Appellants, and CDTFA has no witnesses.

9 MR. SMITH: Correct.

10 JUDGE WONG: Okay. All right. So I will swear  
11 in the witness when we turn to Appellants for their  
12 presentation at that time.

13 As far as the time allocation goes, let's see --  
14 Appellants you've asked for 75 minutes; is that correct?

15 MR. J. MATHER: Yes, that's correct.

16 JUDGE WONG: Okay. And you'll divide that  
17 between your opening presentation, witness testimony, and  
18 then on the back end, rebuttal and closing.

19 MR. J. MATHER: Yes.

20 JUDGE WONG: So you can decide how you want to  
21 divide that.

22 And, CDTFA, you've asked for 20 minutes; is that  
23 right?

24 MR. SMITH: That's correct.

25 JUDGE WONG: All right. Any final questions

1 before we turn it over to the Appellants?

2 Mr. Mather, any questions?

3 MR. J. MATHER: No.

4 JUDGE WONG: Okay. CDTFA, any questions?

5 MR. SMITH: No.

6 JUDGE WONG: All right. So now I will swear in  
7 Mr. Cung.

8 If you could please raise your right hand.

9

10 M. CUNG,  
11 produced as a witness, and having been first duly sworn by  
12 the Administrative Law Judge, was examined, and testified  
13 as follows:

14

15 JUDGE WONG: All right. Thank you.

16 Appellants, you have 75 minutes.

17 MR. J. MATHER: Okay. Thank you.

18

19 PRESENTATION

20 MR. J. MATHER: Appellant operated a business  
21 that sold and leased towers known as mobile solar units.  
22 These towers were small-wheeled towers that featured  
23 either lighting or security cameras typically used in  
24 parking lots or open areas; and featured solar panels to  
25 keep the equipment running. As you highlighted, the

1 predominant issue in this case is whether the mobile solar  
2 units or MSUs qualify as mobile transportation equipment.

3 King Solarman and Solarman Distribution conducted  
4 sales and leases of the MSUS to businesses that were not  
5 the retail customer. Under the standard rule, this  
6 constitutes a sale for resale, and Appellant collected  
7 resale certificates for these transactions. However,  
8 under Regulation 1661(b)(1), sales to the lessor of the  
9 MTE are treated as a taxable sale, even though the lessor  
10 is not the retail customer. So both parties essentially  
11 agree that if the MSU is not MTE, then King Solarman and  
12 Solarman Distribution were conducting at nontaxable sales  
13 for resale and don't owe tax.

14 Now, MTE is defined as equipment for use in  
15 transporting persons or property for substantial  
16 distances. A classic example of MTE is a semi-truck  
17 trailer where it's a big box. It carries tens of  
18 thousands of pounds as multiple axles, and it's used to  
19 transport persons or property on the freeway. These MSUs  
20 are several steps removed from what could be considered  
21 MTE.

22 Now, on the -- one step removed, we have the  
23 holding of Adler Tank Rentals, where a heavy-duty tank  
24 trailer with an integrated rear axle and was towed by a  
25 semi-truck on the highway, was not considered to be MTE,

1 even considering all these facts, because the tank trailer  
2 in Adler Tank Rentals was found to only be carrying itself  
3 along the highway. It was not used for transporting  
4 persons or property. I believe it only held contents when  
5 stationary.

6 This is very similar to the MSUs because the MSUs  
7 are not a trailer with attachments. They are an  
8 integrated unit, with an integrated rear axle, which you  
9 do not put cargo in it or, you know, carry persons or  
10 property in any way. But even somewhat departing from  
11 Adler Tank Rentals, the MSUs were not predominantly  
12 designed for use on the highway, so whereas Adler Tank  
13 Rentals had actual highway use behind a semi-truck  
14 tractor.

15 Further step removed is a vehicle that does not  
16 travel substantial distances. This is in line with an  
17 exception to Regulation 1661, which specifically excludes  
18 equipment for short distance moving within the confines of  
19 a limited area, which is effectively what the MSUs are  
20 designed for. The MSUs have wheels so they could be moved  
21 around a site and put into position to light or provide  
22 surveillance for a particular area. They're not  
23 registered. They do not have license plates. As far as  
24 I'm aware, they are not legal to drive on the highway.  
25 They're designed to be unloaded from semi-trailer and

1 moved around the yard at which they've arrived at, which  
2 is in our Exhibit 8 where you can see, like, 10 of them on  
3 a semi-truck trailer when they would soon be unloaded.

4 However, even further removed from both of these  
5 exceptions is trailers designed to be towed by passenger  
6 vehicles. It's Regulation 1661(a)(1)(B), which  
7 specifically excludes trailers and baggage containers  
8 designed by hauling for passenger vehicles from the  
9 definition of MTE. You know, this is very much unlike our  
10 classic semi-truck example where you're towing it with a  
11 big rig on the freeway. And I should note that even under  
12 this passenger vehicle's exception, it does not appear to  
13 matter if it's towed on the highway or towing other  
14 equipment, as long as it's designed to be towed for -- by  
15 passenger vehicles.

16 The MSUs are essentially a quintessential example  
17 of something that's to be towed by passenger vehicles.  
18 The record in this case shows that the MSUs are  
19 approximately a 1,300-pound single-axle trailer with a  
20 standard 2-inch trailer ball coupling that you would find  
21 on, effectively, any trailer hitch anywhere. At  
22 1,300 pounds, the MSUs are towed by the lowest existing  
23 class of trailer hitch receiver, the Class 1 trailer hitch  
24 which can essentially be attached to any passenger car.  
25 Even at 2,100 pounds, which is the heaviest weight, as

1 reported in the record, the MSUs would still only require  
2 a Class 2 trailer hitch.

3 And I should note, in the record, we have an  
4 exhibit which shows that a Toyota RAV4, which I believe is  
5 the third best selling passenger vehicle in the United  
6 States and is a compact crossover vehicle, could easily  
7 tow a 2,100-pound load. I believe it is weighted for  
8 the -- rated for 3,500 pounds. U-Haul's equivalent  
9 trailer, which is similar in size to our MSUs but is  
10 actually greater in overall payload shown in Exhibit 15,  
11 is stated to be towable with any car. And in our  
12 Exhibit 7, see the trailer being towed by a Nissan Leaf,  
13 which is a compact passenger EV. This is obviously a far  
14 cry from semi-truck trailer which is, you know, towing  
15 tens of thousands of pounds behind a semi-truck.

16 So, effectively, what we have is a situation  
17 where MSUs fit multiple different definitions of MTE.  
18 They don't haul persons or property. They're not designed  
19 to haul substantial distances and were fully exempted from  
20 MTD definition as something designed to be towed by  
21 passenger vehicles.

22 So now I will move to answering my -- the  
23 taxpayer Michael Cung --

24 MR. CUNG: Yes.

25 MR. J. MATHER: -- questions.



1 because we were doing the solar panel import/export. Then  
2 later we do the installation of solar rooftop. When that  
3 business going down, then we got this opportunity do a  
4 small trailer for the low voltage, different from the  
5 DC Solar huge high-power industrial grade equipment, that  
6 we do a low voltage. We do 5 volt, 12 volt, the Wi-Fi,  
7 your cell phone charger, computer charger, camera, and the  
8 lighting -- small lighting. And that's what we specialize  
9 in these products.

10 We -- we grow that business. We got our contract  
11 as a startup from Google. They asked us to build, I think  
12 about 20-something units for the Google headquarter;  
13 Building 44 and 46. That's how we got started. Build a  
14 small solar lighting tower, a small LED light, and that's  
15 how we get started. Yeah.

16 Q And so what was the main difference between King  
17 Solarman and Solarman Distribution?

18 A So as the business get bigger, we need a  
19 separate, like King Solarman, Inc, as a manufacturing  
20 entity that was to do import/export and the distribution  
21 for the distribution of a solar products. Yeah.

22 Q And -- and what was your role with these  
23 businesses? You said you were the owner?

24 A I'm the owner, and I run the business.

25 Q Okay. So now essentially explained what the

1 mobile solar unit was. But, you know, just for the  
2 record, that's solar. How would you describe it?

3 A You mean the solar?

4 Q The mobile solar unit? Yeah.

5 A Oh, we first asked to create this. This got to  
6 be a small footprint, easy. Any -- any person, even a  
7 girl or a little boy can push around the trailer. It's  
8 1,200-pounds. There's only ten-kilowatt battery inside.  
9 Yes.

10 Q Okay. And let's see. So I have here, I believe,  
11 a copy of Exhibit 6. So does that -- to you, does that --

12 A That's --

13 Q Referring you to Exhibit 6. Does that look like  
14 a typical mobile solar unit?

15 A Yeah. This is old, very old. They -- this means  
16 they -- they can work around in customer's factory, their  
17 parking lot, their construction site. They can move  
18 around by any -- either the forklift or small vehicle or  
19 any vehicle. Yeah.

20 Q Okay. And who designed the MSU?

21 A Our engineering team; the electrical engineer,  
22 the mechanical engineer.

23 Q And where were these units getting built during  
24 2016 to 2019?

25 A They build in China. Yeah.

1           Q    And this was -- was this an off the shelf -- or  
2           was this an existing design, or you said it was a new  
3           design for your business?

4           A    We design, but they manufacturer it in China.  
5           And we ship over from China -- import it from China to  
6           California.  Yeah.

7           Q    Okay.  And let's see.  I have here Exhibit 5.  I  
8           apologize.  It's a little hard to read, but you can see  
9           the underlined portion at the bottom.  It says, "It can  
10          operate for 50 to 100 hours and weighs only 1,500 pounds  
11          and can be carried on the standard truck bed or towed by  
12          any SUV."  I mean, does that sound like an accurate  
13          description?

14          A    Yes.  Back then we do a lesser battery, so it's  
15          heavier, like 1,500 hundred pounds.  But right now,  
16          because lithium battery half of the weight and cut down to  
17          1,200 pound.

18          Q    Okay.  And let's see.  This one is a bit longer,  
19          but this is Exhibit 14.  And let's see.  We're going to go  
20          to page -- I think it's 8.  Yes.  Page 8, so this one  
21          lists it as 1,300 pounds.  So that you would -- is that  
22          accurate?

23          A    Yes.  1,300, 1,200 around there.  Yeah.

24          Q    And, for the record, this website at the top, is  
25          that your website?

1 A Yes. It's my website. The old website. Yes.

2 Q Okay. And so, can you connect the MSU to a  
3 vehicle if needed?

4 A You can attach to any vehicle as long as you have  
5 a two-inch ball and a hitch. You have a bicycle, you want  
6 to go to mountain, and you want to riding the bike. You  
7 have a hitch you can plug in, and you're ready to go. You  
8 can go camping, if want. You want to go to mountainside,  
9 you -- any place you go, no problem.

10 Q So you could -- you could push it around if  
11 you --

12 A You can push around. Yeah. Yes.

13 HEARING REPORTER: I need you both to please wait  
14 for the other to finish their question or answer before  
15 responding.

16 MR. J. MATHER: Thank you.

17 MR. CUNG: Sorry. All right. Okay.

18 BY MR. J. MATHER:

19 Q Okay. We'll move on. And so how many axles did  
20 the MSU typically have?

21 A Only one. There's only one axle, and it's a very  
22 narrow axle. It's built for the construction site for the  
23 parking lot. If you guys go to the Home Depot, Lowe's,  
24 you see those little trailer, that's what we do.

25 Q And so were they designed as -- as one single

1 unit, or was it like equipment attached to a trailer?

2 A We design as a -- as a single trailer. But you  
3 want to -- you want to moving the construction site or  
4 parking lot, you can -- you can -- the customer can do  
5 that all. No problem at all.

6 Q Okay.

7 A Easy to use.

8 Q And so what identifying marks was on one of  
9 these? Like, was there a VIN number and ID number?

10 A There's no -- there's a -- the VIN number is from  
11 China factory. There's no VIN number from USA. There's  
12 no license plate. We're not required because the weight  
13 is only 1,200, 1,300 pounds. There's no required by law  
14 because this product is not built for the highway. If you  
15 want to do the highway towing, the tire will break. The  
16 axle too narrow. It's very dangerous, and they can flip  
17 over and kill people because this is so narrow. The axle  
18 between the two tire, they're very narrow. It's different  
19 from the DC Solar trailer. Yeah.

20 Q And -- and so were they ever registered with the  
21 California DMV?

22 A We never do, but our customer, if they do wanted  
23 to, that's their own. We never do because why register  
24 for the DMV? Why we register? We got to pay the money.  
25 We don't want to pay. And it's never used in the public

1 road. Like, we're just doing the construction site.  
2 We -- we don't do a registration with the license plate in  
3 the State of California or outside of California. And  
4 there's no American VIN number over there.

5 Q So, to your knowledge, I mean, would these have  
6 been legal to drive on the highway?

7 A Well, there's no engine. There's -- there's no  
8 brake. How are you gonna drive?

9 Q Yeah?

10 A You want to drive, you must have an engine. You  
11 must have a brake. And if you want to kill somebody, it's  
12 very dangerous. And when we ship, we just ship like 10  
13 units in a flatbed truckload. You save a lot of money for  
14 the transportation. Because you go to a construction site  
15 or ship to the customer site, we ship -- we can put 10  
16 unit in a flatbed and save a lot of money and save a lot  
17 of time to ship.

18 Q Okay. And on that note, I'm going to refer you  
19 to Exhibit 8. So is that an example of the MSUs being  
20 transported?

21 A Yes, it is, and we do it all the time to save  
22 money. We ship to Texas, New York, Ohio, Pittsburgh,  
23 Chicago, Florida, like this.

24 Q So this is your standard practice to get them to  
25 the job site?

1           A    Yes.  The -- the cost efficiency and time, you  
2 know, the lowest time -- the leastest time.

3           Q    Okay.  Now I'm going to shift to the customer.  
4 Who were the typical customers of the MSU?

5           A    Who the -- the construction company, shopping  
6 mall, retail.  You see Walmart, Lowe's, Home Depot, Dollar  
7 Tree, Family Dollar; mostly high crime area or the  
8 factory, or the construction site.  They are in the middle  
9 of a construction site.  They don't have a temp lighting.  
10 They don't have a camera.  They not -- no power.  They're  
11 using this as a low voltage.  This is for the -- built for  
12 the low voltage power consumption equipment.

13          Q    And so were you leasing directly to the  
14 customers, or were you leasing to other, you know,  
15 resellers or both?

16          A    At that time, we have the largest customer called  
17 Ahern Rental.  We ran about 350 to 400 units.  And they  
18 rent out -- they have 100 equipment rental stores  
19 nationwide.  We went with built, we went to them.

20                JUDGE RIDENOUR:  I'm going to ask you to repeat  
21 the rental company, please.

22                MR. CUNG:  Ahern -- Ahern Rental.  And now they  
23 sold to United Rental a few years ago.

24                JUDGE RIDENOUR:  Okay.  It's for the court  
25 reporter.  Thank you.

1 MR. CUNG: Yes. No problem. Thank you.

2 BY MR. J. MATHER

3 Q And so when you leased to a Ahern, did you  
4 collect the resale certificate?

5 A Yes, I do collect the resale certificate. And I  
6 got audit in the past. I give them the resale  
7 certificate.

8 Q And so when you -- when you leased to Ahern, did  
9 you believe -- did you understand that they were  
10 collecting sales taxes?

11 A Yes. They are a nationwide company, and they're  
12 big. They have 3,000 employees. They operate nationwide.  
13 And couple of years they are public traded, and I'm sure  
14 they got audit. I don't run the Ahern business. I'm sure  
15 they collect the sales tax because we got a resale  
16 certificate for many, many states where Ahern operate  
17 their business.

18 Q And when you leased directly to a retail  
19 customer, would you collect sales taxes?

20 A Yes, we do.

21 MR. J. MATHER: That's all I have, Your Honor.

22 JUDGE WONG: All right. Thank you.

23 CDTF, do you have any questions for the witness  
24 on cross-examination?

25 MR. SMITH: Not at this time.

1 JUDGE WONG: Okay. Thank you.

2 So, Mr. Mather, so that ends your opening and  
3 your main presentation and your witness testimony; is that  
4 correct?

5 MR. J. MATHER: Yes, sir.

6 JUDGE WONG: Okay. So you have about 56 minutes  
7 left.

8 All right. I will now turn to my co-panelists to  
9 see if they have any questions for Appellants and their  
10 witness, starting with Judge Turner.

11 JUDGE TURNER: I don't have any questions yet.  
12 Thank you.

13 JUDGE WONG: Judge Ridenour?

14 JUDGE RIDENOUR: Also not yet. Thank you.

15 JUDGE WONG: Okay. I do have a few questions,  
16 and some of it might be repetitive to what Mr. Mather  
17 asked. So this is for Mr. Cung.

18 So you said that solarlightingtower.com, is that  
19 your website or Appellants' website; is that right?

20 MR. CUNG: It's my own website. I -- we -- our  
21 employee create it, and I own the website for marketing  
22 purpose. Yes.

23 JUDGE WONG: Okay. Thank you. And also, you had  
24 mentioned that someone asked you to, I guess, create these  
25 mobile solar units and they had certain requirements.

1       Could you provide a little bit more detail about that?  
2       Like, who asked you to do that, and what were their  
3       parameters or requirements for these MSUs?

4               MR. CUNG:   So my first customer is Google in  
5       Mountain View.   And they have a huge two parcel land,  
6       building 44 and building 46 in the City of Mountain View,  
7       like, Google headquarter.   And I think there were some  
8       problem.   They've been vacant.   And, at that time, because  
9       Google has a -- has a policy for all the -- their employee  
10      to eat and live -- shower, massage, live there.   And --  
11      and the vacant land is dangerous.   It's dark, so they  
12      asked us to build these solar lighting tower over there in  
13      the -- in the vacant land.   And that vacant land for at  
14      least -- as a customer, at least like seven or  
15      eight years.   That's our number one customer.

16              JUDGE WONG:   Okay.   And then Google provided you  
17      the requirements of what these mobile solar units needed  
18      to be able to do?

19              MR. CUNG:   Light up at nighttime.   It was dark.  
20      With these products, then you can -- you have LED lights  
21      and light up the big land.

22              JUDGE WONG:   So they were -- were they always --  
23      did they always have the tires or, like, the trailer?

24              MR. CUNG:   Wheel and tire was small.   It's --  
25      it's not like the -- the big semi-truck you see on the

1 highway. It's small. Like you see on the pictures, it's  
2 very small trailer.

3 JUDGE WONG: Okay. And you had mentioned that it  
4 was the Appellants' electrical engineers and mechanical  
5 engineers who designed this?

6 MR. CUNG: Yes.

7 JUDGE WONG: Were you involved in the design  
8 process?

9 MR. CUNG: Oh, I -- I certainly involved all the  
10 time.

11 JUDGE WONG: Okay. And then -- okay. Also --  
12 okay. So I had a couple of questions about the  
13 manufacturer of these mobile solar units. You had  
14 mentioned that they were in China, and I saw a couple of  
15 companies. And I was wondering if you could -- if you had  
16 knowledge of who these companies were. One was Kunshan  
17 Avertronics Company --

18 MR. CUNG: Yes.

19 JUDGE WONG: -- Limited?

20 MR. CUNG: They're my -- they're my OEM  
21 manufacturer.

22 JUDGE WONG: They're your what? I'm sorry.

23 MR. CUNG: OEM manufacturer.

24 JUDGE WONG: Oh, okay. OEM --

25 MR. CUNG: OEM, near Shanghai. Like one hour

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away from Shanghai.

JUDGE WONG: And OEM is a --

MR. CUNG: That means order -- we asked them to build, and they build according to our design.

JUDGE WONG: Okay. OEM means "original equipment manufacturer?"

MR. CUNG: Yes. Yes.

JUDGE WONG: And then just for the record, Kunshan is spelled K-u-n --

MR. CUNG: Yes.

JUDGE WONG: -- s-h-a-n?

MR. CUNG: Yes.

JUDGE WONG: Okay. Just let --

THE HEARING REPORTER: Mr. Cung, please let the judge finish his question before answering.

MR. CUNG: Yes. Yes.

THE HEARING REPORTER: Thank you.

JUDGE WONG: Okay. And then there was another company called Wuxi Rainbow Specialty Vehicle Company and -- hang on. Wuxi is spelled, W-u-x-i, alternatively, W-u-z-i. Who is that?

MR. CUNG: They are the man -- steel manufacturer.

JUDGE WONG: Okay.

MR. CUNG: Both of them steel and the wire cable

1 manufacturer.

2 JUDGE WONG: Okay. And then there's a model  
3 number mentioned, KS-1300W. What is that?

4 MR. CUNG: I create it. KS means King Solarman.  
5 1,300, that means 1,300-watt solar panel.

6 JUDGE WONG: And that's the model of the MS --

7 MR. CUNG: Trailer. We create it. Yeah.

8 JUDGE WONG: Okay. Were there any other models  
9 during the time period we're talking about, the liability  
10 period?

11 MR. CUNG: Later on we increase the solar panel  
12 efficiency as the technology improved. Then we have a  
13 KS-1500, 1,500-watt. Yeah. The 1300 means the solar  
14 panel from SunPower in America, and we put American-made  
15 solar panel over there.

16 JUDGE WONG: Okay. And then you had mentioned  
17 that there was -- or someone had mentioned there was a  
18 two-inch towing --

19 MR. CUNG: Tow -- towing hitch ball.

20 JUDGE WONG: Okay. And that was on the KS-130 --

21 MR. CUNG: All of them. Yeah.

22 JUDGE WONG: All right. That is all the  
23 questions I had for now. Thank you.

24 MR. CUNG: Thank you.

25 JUDGE WONG: All right. So now we will turn it

1 over to CDTFA for their presentation.

2 You have 20 minutes.

3 MR. SMITH: Thank you.

4

5 PRESENTATION

6 MR. SMITH: Good morning.

7 The issue today is whether adjustments are  
8 warranted to the measure for use tax due on leases of  
9 mobile transportation equipment or MTE. Appellant King  
10 Solarman, Inc., and Solarman Distribution are in the  
11 business of designing, manufacturing, and leasing mobile  
12 solar units or MSUs for off-grid purposes -- excuse me --  
13 such as concerts and construction projects. As  
14 demonstrated in Department's Exhibits A, pages 15  
15 through 21, the MSUs at issue consist of a trailer frame,  
16 battery inverters, charge controllers, solar panels, and  
17 lights. Appellants' liability resulted from its failure  
18 to report or pay use tax on its taxable leases of MSUs  
19 during the liability period.

20 California imposes a sales tax on a retailer's  
21 retail sales in the state of tangible personal property  
22 measured by the retailer's gross receipts, unless the sale  
23 is specifically exempt or excluded from taxation by  
24 statute. A lease is a temporary transfer of possession  
25 and control of tangible personal property for

1 consideration. For purposes of sales and use tax law, a  
2 taxable sale or purchase in the state includes any lease  
3 of tangible personal property for consideration, except a  
4 lease of MTE.

5 Revenue & Taxation Code section 6023 defines MTE  
6 as equipment, such as trucks, truck trailers, dollies,  
7 bogies, chassis, reusable cargo shipping containers, and  
8 tangible personal property, which is or becomes a  
9 component part of such equipment. Regulation 1661  
10 subdivision (a) (1) states that MTE includes equipment used  
11 in transporting persons or property for substantial  
12 distances, and tangible personal property which does not  
13 independently meet the definition of MTE, but which, by  
14 nature of its attachment to MTE, becomes a component part  
15 of the property. That does not meet the definition of  
16 MTE.

17 With respect to leases of MTE, the sale to the  
18 leaser is the retail sale, and the leaser is the consumer  
19 of the equipment. Thus, either sales tax applies to the  
20 sale of MTE to a lessor, or use tax applies on a lessor's  
21 use of MTE in the state for leasing purposes. If the use  
22 of MTE purchase without payment of tax is limited to  
23 leasing the MTE, the purchaser may elect to report and pay  
24 its use tax liability on the fair rental value of the MTE.

25 Such election must be made on or before the due

1 date of the return for the period in which the equipment  
2 is first leased. Otherwise, use tax is imposed on the  
3 lessor's entire purchase price for the MTE. When a timely  
4 election to pay tax on the fair rental of MTE is made, use  
5 tax must thereafter be paid with the lessor's return for  
6 each reporting period measured by fair rental value  
7 regardless of whether or not the MTE is thereafter located  
8 within the state.

9 Here, the mobile solar units are affixed to  
10 trailers which are statutorily included in the definition  
11 of MTE. Further, it was clear that the trailers are  
12 capable of transporting the MSUs substantial distances.  
13 In this respect, we know that the trailers have rugged  
14 wheels and frames. Furthermore, Appellants' sales  
15 brochure does not place any constraints on the use of the  
16 trailers. While Appellant asserts that the trailers were  
17 designed to only be used in small confined spaces, it has  
18 not provided any evidence that their use was restricted in  
19 this manner.

20 Furthermore, while Appellant asserts they were  
21 not required to be registered with the DMV, but again has  
22 not provide any documentation to substantiate the trailers  
23 were not subject to the DMV's standard trailer  
24 registration requirements. For example, in OTA's  
25 precedential opinion for Adler Tank Rentals, there was no

1       dispute that the tanks at issue could not be full while  
2       traveling substantial distances. And there was also no  
3       dispute that the tanks qualified as special mobile  
4       equipment under Vehicle Code section 575, and that the  
5       tanks were exempt from registration with the DMV pursuant  
6       to Vehicle Code section 4010. Such is not the case with  
7       the trailers at issue in this appeal. Accordingly, the  
8       trailers are MTE.

9               Next, the MSUs are affixed to and used in  
10       conjunction with the MTE, thus, become a component part of  
11       the MTE. Therefore, Appellants leased MTE during the  
12       liability period, and leases are subject to use tax  
13       regardless of whether these leases occurred in California  
14       or outside of the state. Appellants repeatedly contend  
15       that because it is possible for a passenger vehicle, such  
16       as an SUV, to haul one of the trailers at issue, that  
17       means the trailers are not MTE. This is incorrect. The  
18       mere fact that it's possible for a larger passenger  
19       vehicle to haul one of the trailers at issue does not mean  
20       the trailer was specifically designed for hauling by  
21       passenger vehicles as contemplated in the statute.

22               In this respect, we know that large passenger  
23       vehicles, such as SUVs, have a towing capacity similar to  
24       pickup trucks; and pickup trucks are defined as MTE by  
25       Regulation 1661. Furthermore, the MSUs are not unladen

1 trailers such as a U-Haul trailer, which are used by  
2 consumers to transport property from one place to another.  
3 The MSUs are loaded with commercial component parts.  
4 Thus, the MSUs are not the type of trailers Regulation  
5 1661 excludes from the definition of MTE.

6 Again, the trailers at issue here that the mobile  
7 solar units are affixed to are trailers which are  
8 statutorily included in the definition of MTE. And it is  
9 clear that the trailers are capable of transporting the  
10 MSUs substantial distances. Accordingly, the trailers, or  
11 MTE, and the MSUs that are affixed to the trailers and  
12 used in conjunction with MTE are a component part of the  
13 MTE. Thus, the lease of the entire mobile solar unit is  
14 subject to use tax. Therefore, no adjustments are  
15 warranted to Appellants' liability, and this concludes my  
16 presentation.

17 Thank you.

18 JUDGE WONG: Thank you, Mr. Smith.

19 All right. I will now to my co-panelists to see  
20 if they have any questions for CDTFA, beginning with  
21 Judge Turner.

22 JUDGE TURNER: Yeah. I guess I want to start out  
23 this question about what is a trailer?

24 MR. SMITH: I guess a trailer is anything that's  
25 pulled by a -- an another vehicle that is used to

1 transport property.

2 JUDGE TURNER: So if I attach an axle and wheels  
3 to a thing and tow it, it becomes a trailer?

4 MR. SMITH: Yes.

5 JUDGE TURNER: So if I understand correctly, in  
6 Adler, the panel, which is a precedential opinion,  
7 considered whether or not a tank to which an axle and  
8 wheels were attached and towed behind a vehicle, was not  
9 considered mobile transportation equipment because it  
10 wasn't a trailer. Can you explain to me the difference  
11 between how you just defined a trailer and Adler?

12 MR. SMITH: Well, I think in Adler they said that  
13 the -- sorry. The trailers in that case did not meet the  
14 definition of mobile transportation equipment, not that  
15 they were not trailers.

16 JUDGE TURNER: Okay. You said, though, that a  
17 trailer is mobile transportation equipment. So make the  
18 connection for me as to why a trailer -- differentiate  
19 between when a trailer is mobile transportation equipment,  
20 and when it's not.

21 MR. SMITH: I mean, as it states in the  
22 Regulation when it said there are specific types of  
23 trailers that are exempt from MTE, such as trailers that  
24 carry luggage from one place to another.

25 JUDGE TURNER: So I was looking in the Reg. It

1 says truck trailers that are specifically included. Is  
2 there a difference between a truck trailer and a trailer  
3 under -- was it (1)(b) trailers and baggage, designed for  
4 hauling by passenger vehicles. What's the -- what would  
5 you call the difference between a truck trailer and a  
6 trailer designed for hauling by passenger vehicles?

7 MR. SMITH: The Regulation doesn't provide what  
8 the difference is between those two terms. So -- go  
9 ahead.

10 JUDGE TURNER: I'm trying to understand the steps  
11 the Department is taking with respect to -- we understand  
12 the MSU is not independently an MTE. I think that's your  
13 argument. It's mere affixation to an axle and tires. At  
14 least, as I understand Adler, suggest it's not, doesn't  
15 make it MTE. What's the part -- what's the act or the  
16 equipment that becomes attached to those devices that  
17 transmogrifies this non-MTE into MTE under your argument?

18 MR. SMITH: Well, I mean they're MTE because  
19 they're trailers that are used to haul things substantial  
20 distances.

21 JUDGE TURNER: So but you said that trailers can  
22 be or cannot be MTE. But I'm not understanding this --  
23 the connection when a trailer becomes MTE from the  
24 Department's position.

25 MR. NOBLE: I would say in generally, per

1 Regulation 1661, the trailer is always going to be  
2 considered MTE, unless it fits into the narrow exclusion  
3 from that definition for trailers being hauled by  
4 passenger vehicles. And we went back and looked at the  
5 legislative history to find some ideal -- idea what they  
6 meant at the time they put that in there. And prior to  
7 the Reg in its current form, there was no real definition  
8 for MTE. What they looked at was whether or not the  
9 property was being used for a commercial purpose. That  
10 ran into a lot of issues. So all the stakeholders and  
11 people that were involved got together, and they came up  
12 with a definition of MTE.

13 The trailer is designed for towing by passenger  
14 vehicles was carved out because there were concerns by  
15 U-Haul and, I think at the time, Ryder Truck Trailer  
16 Rentals, because they had a lot of customers that were,  
17 like, individual home owners not being run by business,  
18 trailers that weren't being used for a commercial purpose.  
19 That was the closest thing we could find to an explanation  
20 as to what they were talking about.

21 So, literally, like a U-Haul -- U-Haul's smallest  
22 trailer that is being used to transport luggage during a  
23 move, or take camping gear with you when camping. That is  
24 what we think the exclusion to the general definition of  
25 MTE is.

1           JUDGE TURNER: So let me see. I want break that  
2 down into two things I think I understood what -- one is  
3 that the trailer is being used for a commercial purpose,  
4 which I would then question whether -- why isn't a U-Haul  
5 trailer considered to be mobile transportation equipment.  
6 Is it the hauling itself that's commercial? That's the  
7 issue? Or is it that the device itself, the trailer, is  
8 being used in a commercial capacity?

9           MR. NOBLE: I would say it's that the trailer is  
10 being used in a commercial capacity.

11          JUDGE TURNER: So it's the --

12          MR. NOBLE: I'm really just trying to explain the  
13 definition between a trailer that is loaded with component  
14 parts that would be considered MTE, and the small  
15 exception to a trailer being considered MTE, which is  
16 really an empty trailer being used to just transport  
17 household goods and things of that nature.

18          JUDGE TURNER: Okay. That's enough for right  
19 now. Thank you.

20          JUDGE WONG: No further questions at this time,  
21 Judge Turner?

22          JUDGE TURNER: No.

23          JUDGE WONG: Okay.

24          JUDGE TURNER: Thank you.

25          JUDGE WONG: Judge Ridenour?

1 JUDGE RIDENOUR: No. Thank you.

2 JUDGE WONG: Okay. Thank you.

3 I did have a few questions for CDTFA just to  
4 clarify your position. So -- so the solar equipment that  
5 we're talking about, the batteries, the lights, the poles  
6 that are attached to the trailer, there's no dispute that  
7 that's not MTE; is that right?

8 MR. SMITH: That's correct.

9 JUDGE WONG: Okay. And -- but the whole mobile  
10 solar unit, CDTFA's position is that it becomes MTE  
11 because it's attached to the trailer, which itself is MTE;  
12 is that right?

13 MR. SMITH: Correct.

14 JUDGE WONG: Okay. Okay. And then you had made  
15 the argument that the, quote, "The mere fact that it's  
16 possible for large passenger vehicle, such as an SUV, to  
17 haul one of the trailers at issue does not mean that the  
18 trailer was designed specifically for hauling by passenger  
19 vehicles as contemplated by the statute," end quote.

20 So then -- and then I think you went into the  
21 administrative history about what the statute contemplates  
22 when it says trailers designed for hauling by passenger  
23 vehicles. Could you kind of just recap that really quick  
24 for me?

25 MR. NOBLE: I think what we were getting at was

1 if it can be towed by cars that have engine capacity  
2 comparable to a pickup truck, it isn't really specifically  
3 designed for towing by passenger vehicles. I want to  
4 note, we attached as exhibits articles from Honda's  
5 website and Toyota's. And a Honda Accord and a Camry can  
6 tow max -- their max haul limit is under 1,000 pounds.  
7 That includes passengers, cargo, and anything being towed  
8 by the car.

9 JUDGE WONG: I did have a question about that.  
10 So looking at the last page of Exhibit E, I believe, it's  
11 the Accord -- it's an excerpt from the Accord owner's  
12 manual. So what you're referring to is, like, example one  
13 and example two. It talks about the maximum load 850  
14 pounds; is that correct?

15 MR. NOBLE: Yes.

16 JUDGE WONG: Okay. I mean, is that just a load  
17 for the Accord itself? Is that not -- that's not its  
18 towing capacity, is it? Because I'm looking at the left  
19 side. It talks about maximum load limit, and that's what  
20 this excerpt is from. But then under that, there's a  
21 towing a trailer, and don't have the expert from that.  
22 Isn't the towing capacity kind of different from its  
23 maximum -- the load capacity of the Accord itself?

24 MR. SMITH: I do see on page -- this is 1023. It  
25 says steps for correct -- determining correct load limit,

1 locate the statement -- which I have it labeled example.  
2 It says the combined weight of occupants and cargo should  
3 not never exceed this.

4 JUDGE WONG: Right. But isn't that talking about  
5 the load limit of the Accord itself with the vehicle  
6 that's pulling that would -- not the trailer. Because  
7 there seems to be a different section about towing a  
8 trailer.

9 MR. SMITH: Yeah.

10 JUDGE WONG: Talking about this pulling or, you  
11 know, because a trailer might -- so, sorry. Let me back  
12 up and lay a foundation for this. So under Vehicle Code  
13 section 630, a trailer is a vehicle designed for carrying  
14 persons or property on its own structure and for being  
15 drawn by a motor vehicle, and so constructed that no part  
16 of its weight rest upon any other vehicle. And so the  
17 information from the Accord manual seems to be the Accord,  
18 that vehicle itself. That weight capacity, how much it  
19 can hold, 850 pounds plus cargo and whatnot. It's not  
20 talking about its trailer, how much it can pull, since the  
21 trailer bears the weight of whatever is in it. Do you see  
22 the kind of distinction I'm making?

23 MR. SMITH: Right. I -- I guess I think that  
24 maybe this distinction is not as relevant because what  
25 we're saying is that these are trailers that were designed

1 for hauling -- designed for hauling equipment on  
2 substantial distances meet the definition of MTE. Just  
3 because you can show that maybe an Accord could tow one of  
4 these, it doesn't turn it into something that's outside  
5 the definition of MTE.

6 JUDGE WONG: Okay. But then your co-counsel had  
7 mentioned that, as far as the exception goes, the  
8 exception for trailers designed -- let's see for the  
9 exact -- trailers designed for hauling by passenger  
10 vehicles, he had mentioned that -- I guess CDTFA's  
11 position, it looks at whether the trailer can be pulled by  
12 a pickup truck -- something less than a pickup truck. And  
13 in that case, that would fall into the exception. But  
14 then you were talking -- so I'm talking about the  
15 exception itself, not whether it could be pulled long  
16 distances. Did you have any information about Accord or  
17 Camry's towing capacity; how much it can tow?

18 MR. NOBLE: All of our internet research, like,  
19 indicates that it's around 1,000 pounds for a Honda  
20 Accord.

21 JUDGE WONG: Okay. And I know, Appellants, you  
22 had provided information from Camrys; is that right? Did  
23 you provide Camry, like --

24 MR. J. MATHER: Yeah. From -- from our research,  
25 it looked like U-Haul would install a -- I believe it was

1 a Class 2 trailer hitch on a Toyota Camry. And then I  
2 believe that U-Haul will then rent you a Class 2 trailer  
3 after installing that hitch, and that's -- let's see.  
4 That is exhibit -- let me pull that out for you in a  
5 second.

6 JUDGE WONG: Exhibit 17?

7 MR. J. MATHER: Yes. That sounds right.

8 JUDGE WONG: Okay. All right. Thanks.

9 Sorry. Okay. Back to CDTFA. Okay. Are there  
10 any factors that CDTFA looks like when determining whether  
11 a trailer falls into that exception that was designed for  
12 hauling by passenger vehicles, aside from looking at  
13 whether a pickup truck could pull it?

14 MR. SMITH: I think we look at what the -- like  
15 in this case, what type of equipment is being hauled and  
16 whether it's like, you know, these mobile solar units  
17 where it's a trailer where this -- it has, you know,  
18 equipment permanently affixed it to and it becomes a  
19 component part, and then you can't even separate the two  
20 out any longer. I think we look at that type of  
21 information.

22 JUDGE WONG: Okay. Thank you. Also, I had  
23 another question about a statement in your -- in CDTFA's  
24 additional brief dated December 5th, 2024. It's on  
25 page -- it spans pages 1 through 2. So CDTFA wrote,

1 quote, "The evidence provided with our briefing shows that  
2 the trailers at issue in this appeal were not designed for  
3 hauling by passenger vehicles. Instead, they were  
4 designed for hauling by commercial vehicles, and the use  
5 made of them is for commercial purposes."

6 Could you expand on that a little bit? What  
7 specific evidence were you referring to? This is the  
8 additional brief dated December 5th, 2014.

9 MR. SMITH: Do you know the lines? Sorry.

10 JUDGE WONG: Yes. Hang on. This was from  
11 lines -- page 1, lines 26 through page 2, line 3.

12 MR. SMITH: I mean, I think that's just is  
13 repetitive of what we argued in our statement here.  
14 Again, the -- I mean, if you want to say they can be  
15 hauled by SUVs, which they have several pictures of an  
16 SUV. All of these, again, an SUV has a similar towing  
17 capacity to a pickup truck, which is included as MTE by  
18 definition.

19 JUDGE WONG: Okay. Okay. Okay. And then I just  
20 had a question about Exhibit F. That was the U-Haul  
21 trailer information. So what does this show us? What  
22 was -- basically, why did you include Exhibit F or this  
23 information? What was -- what is CDTEFA's -- what do you  
24 hope to show with this Exhibit F? Is it like an exemplar  
25 of a trailer that's designed to be --

1 MR. NOBLE: If I may?

2 JUDGE WONG: Yes.

3 MR. NOBLE: It was to show that the empty weight  
4 of the U-Haul trailer is approximately 630 pounds. And if  
5 you look at our statement, then an Accord can tow around  
6 1,000 pounds. That's what we were kind of looking at when  
7 it comes to designed to be towed by a passenger vehicle.

8 JUDGE WONG: Okay. And so Exhibit F, this type  
9 of U-Haul trailer would be in CDTFA's -- CD -- sorry.  
10 CDTFA's position would be that this type of U-Haul trailer  
11 would designed to be pulled by a passenger vehicle?

12 MR. NOBLE: Yeah.

13 JUDGE WONG: Okay. Okay. And then one other  
14 question. Like, in Appellants' Exhibit 16, they included  
15 an expert from the federal register which breaks down,  
16 like, federal hitch receivers and talks about the  
17 different classes of towing hitches, Class 1, 2, 3, 4, and  
18 the different towing capacities that each class has. Does  
19 CDTFA consider the class of towing hitch that a vehicle  
20 can tow -- sorry -- can CDTFA -- does that factor in what  
21 class -- does that effect whether a trailer is designed --  
22 do you think a trailer is designed to be towed by a  
23 passenger vehicle?

24 MR. NOBLE: I mean, just because a hitch can tow  
25 up to 2,000 pounds doesn't mean the car is capable of

1 doing that.

2 JUDGE WONG: Okay. Thank you.

3 All right. I believe Judge Turner has another  
4 question.

5 JUDGE TURNER: Yeah. It gets back to the  
6 question of the component part argument that you're making  
7 with respect to this equipment. The MSU itself is not  
8 MTE. What you're calling a trailer is not MTE, as you  
9 guys understand it, but it becomes a component part when  
10 it's towed by what is MTE. Did I understand that  
11 correctly?

12 MR. NOBLE: A trailer is MTE. And when you  
13 attach component parts to it and it is used in conjunction  
14 with it while affixed to the MTE also becomes MTE. And I  
15 would point towards all of the annotations cited in Adler  
16 Tank Rentals as other examples. For example, if you have  
17 a trailer and you attach air compressors to them and they  
18 are basically permanently affixed and used while on the  
19 trailer, the whole thing is MTE.

20 JUDGE TURNER: So you say in your brief -- this  
21 is Exhibit A, page 11 -- "we find the trailers with wheels  
22 on which MSUs are mounted are not MTE under the first  
23 prong, but they become MTE by the nature of their  
24 attachment to MTE."

25 MR. NOBLE: That's the Appeals Decision. Our

1 opening brief corrected that analysis. I would direct you  
2 towards that and not the --

3 JUDGE TURNER: So explain to me --

4 MR. NOBLE: -- Appeals analysis.

5 JUDGE TURNER: Thank you. I appreciate that.  
6 Can you explain to me once again now, what your position  
7 is?

8 MR. NOBLE: Our position is that trailers are  
9 defined by section 1661 as MTE --

10 JUDGE TURNER: Okay.

11 MR. NOBLER: -- and that the solar panels, the  
12 inverters, the batteries are all component parts of the  
13 trailer, and thus, are also considered MTE.

14 JUDGE TURNER: So a dual axle U-Haul trailer is  
15 not MTE; is that right, or it is?

16 MR. NOBLE: That would depend upon how small the  
17 trailer is and whether it could be towed by most passenger  
18 vehicles. But if you have a giant trailer, like one of  
19 the larger trailers that U-Haul rents, yeah, we would say  
20 that's MTE.

21 JUDGE TURNER: Okay. I have their smallest  
22 trailer, which is a single axle Class 2 hitch capable of  
23 being towed by any vehicle with a Class 2 hitch to it.  
24 It's not MTE?

25 MR. NOBLE: We don't have U-Haul trailers at

1 issue in this appeal. I'm not going to --

2 JUDGE TURNER: No. But I'm trying to --

3 MR. NOBLE: -- get into a hypothetical.

4 JUDGE TURNER: Fair enough. Except for, I think  
5 you included them in your exhibits with respect to trying  
6 to draw a distinction between the type of trailer, which  
7 is MTE, and a type of trailer, which isn't, because it's  
8 in the statute and the Reg differentiate between trailers  
9 designed to be hauled behind passenger vehicles; and they  
10 are not. I'm trying to understand that differentiation  
11 between when the Department thinks something is designed  
12 to be towed behind a passenger vehicle, as opposed to  
13 being capable of trying -- of being towed behind a  
14 passenger vehicle.

15 That's the distinction the Reg makes, and you're  
16 telling me that all trailers are MTE unless they're  
17 exempt. And there are clearly lots of examples in the  
18 marketplace of trailers that are exempt. And I'm trying  
19 to understand the distinction that you're making between  
20 when they, and when they are not.

21 MR. NOBLE: I think we've said it numerous times  
22 already --

23 JUDGE TURNER: Correct.

24 MR. NOBLE: -- to encapsulate it if --

25 JUDGE TURNER: Okay.

1 MR. NOBLE: Yeah. Thanks.

2 JUDGE WONG: Okay. Judge Ridenour also has a  
3 question.

4 JUDGE RIDENOUR: This is actually for Appellant.  
5 So we've been going back and forth about R&TC 6023  
6 designed for hauling by passenger vehicles; something  
7 possibly be able to be hauled by a passenger vehicle  
8 versus designed for it. And I was wondering what your  
9 argument is regarding that clarification between the two  
10 possibility versus designed?

11 MR. J. MATHER: Sure. Sure. I think that in our  
12 case, you know, the design comes from the fact that it's a  
13 very low weight. As we said, it's the lowest class of  
14 trailer hitches -- it's a Class 1 -- and then the fact  
15 that it has a two-inch trailer hitch ball. I -- I am not  
16 aware of any other way to tow a trailer with a -- with a  
17 passenger vehicle and -- you know, other than utilizing a  
18 trailer hitch ball. When you have MTE, something like  
19 going back to our semi-truck trailer example, that has  
20 sort of a completely different hitch mechanism.

21 We have some exhibits in the record for this, but  
22 that's -- it utilizes a fifth wheel, which is kind of a  
23 vertical attachment mechanism, which is different from the  
24 two-inch trailer hitch ball. The two -- you know, a  
25 standard trailer hitch ball maxes out at a certain amount

1 of weight, which is why you don't see, you know, a  
2 semi-truck towing a semi-truck trailer with a -- with a  
3 two-inch ball. It -- it's a much heavier duty design.

4 JUDGE RIDENOUR: How much larger would this need  
5 to be for you to say it was actually an MTE, considering  
6 the axles and all that?

7 MR. J. MATHER: So I -- I would like to kind of  
8 connect that with CDTFA's arguments regarding the pickup  
9 trucks. We have an exhibit in the record from -- I  
10 believe it's Consumer Reports, which suggest that a pickup  
11 truck -- a full-size pickup truck is towing something like  
12 5,000 pounds or more. You know, that's its towing  
13 capacity. And I believe they have Class 4 trailer hitches  
14 most of the time. You know, so if it was -- if our  
15 trailer was 6, 7,000 pounds and could only be towed by a  
16 pickup truck, I think I would agree with that.

17 In our case, you know, the CDTFA has brought up  
18 the fact that an SUV is similar in size and weight to a  
19 pickup truck. But I -- I think I would, you know,  
20 highlight the fact that SUV's these days, as we have in  
21 exhibit, are mostly crossover utility vehicles, which is  
22 something that is not built on a frame like a pickup  
23 truck. It is built on a literal car chassis. So our  
24 example of the RAV4 is not at all comparable in engine  
25 power or, you know, design to a pickup truck.

1           It's -- I mean, I imagine that some people in  
2 this room today came over -- came to this courtroom in a  
3 crossover, and they weren't using for commercial purposes.  
4 You know, the modern SUVs are the majority of cars being  
5 sold today and are not -- you know, are not designed  
6 equivalent to pickup trucks. And that was what we were  
7 showing with the RAV4, which is a quintessential compact  
8 SUV that is the third most popular vehicle in America.

9           JUDGE RIDENOUR: One last question. By chance,  
10 do you have any statistics of your customers what they  
11 hauled them with when took them off your lot?

12           MR. CUNG: So this solar lighting tower, we call  
13 tower. We didn't call trailer. They use in the vacant  
14 land, the place construction site. There's no power over  
15 there, or they put in the parking lot the -- the retail  
16 commercial parking lot. And we have a -- we don't have a  
17 permit to use the power from the retail shopping mall  
18 parking lot because the -- the power in the pole, they  
19 normally like we don't -- we need a permit. You need a  
20 permit from the city, but you need also hook up the 277  
21 voltage. The voltage is pretty high. But to do a little  
22 camera, the camera only use 3 watt per hour. The light  
23 bulb in the parking lot, they using about 500 watt per  
24 hour.

25           JUDGE RIDENOUR: So, I'm sorry.

1           MR. CUNG: I'm doing low voltage -- low voltage  
2 power consumption.

3           JUDGE RIDENOUR: Maybe I didn't ask my question.  
4 So when your customer comes to you and orders the  
5 equipment, do you have statistics of what they used to  
6 take your equipment off your lot to their location?

7           MR. J. MATHER: If I may, I believe we delivered  
8 the equipment to the location on the back of a semi-truck  
9 trailer, and then we would collect it afterwards.

10          JUDGE RIDENOUR: Okay. So all these pictures of  
11 them -- you guys having them being hitched to like the  
12 Lexus RX or whatever it was, that was just for  
13 demonstration purposes? You guys usually -- sorry. I  
14 just -- you usually -- that one picture when they were on  
15 that huge back end of the big truck, that's usually how  
16 you guys give it to the customer is that way?

17          MR. J. MATHER: Yes.

18          JUDGE RIDENOUR: I see. Okay. Thank you.

19          JUDGE WONG: Thank you.

20          Let's go off the record really quick.

21          (There is a pause in the proceedings.)

22          JUDGE WONG: Let's go back on the record.

23          All right. Thank you.

24          So we'll turn it over to Appellants for your  
25 rebuttal and closing presentation. You have 56 minutes.

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MR. J. MATHER: Thank you.

CLOSING STATEMENT

MR. J. MATHER: So I first wanted to just discuss the fact that, you know, CDTEFA seems to be referencing that we are attaching equipment to a trailer. And, you know, I want to highlight the fact that as we've discussed in the exhibits and -- and from testimony, you know, this is sort -- isn't really just attaching things to a trailer. It's a ground-up design. And we think that that is what was found in Adler Tank Rentals. You know, Adler Tank Rentals contemplated a -- I believe it was a liquid carrying tank with an integrated rear axle. And -- and we think we're in a similar -- you know, a similar definition.

And as I was highlighting earlier, I think CDTEFA sort of appears to be arguing that the passenger vehicle exemption is extremely limited or -- or maybe doesn't exist. You know, what we're attempting to highlight with our exhibits is that it is not just that a passenger vehicle could tow this. It's that it's, you know, way -- is extremely low on weight class and, you know, overall difficulty. Like I said, we're -- at 1,300 pounds, we're towed by a Class 1 trailer hitch, which is the lowest class that exists as far as I'm aware.

1           You know, if something you can tow with a Clas 1  
2 hitch is not for towing behind a passenger vehicle, then  
3 I -- I am not sure what would exist in that definition.  
4 Again, as -- as I was discussing before, you know, we're  
5 talking about towing ratings of Class 1 and Class 2  
6 vehicles, which by and large unibody crossovers that do  
7 not feature a pickup truck's latter frame. So we're  
8 significantly below what would be towed -- or what at  
9 least, you know, able to be towed by a pickup truck.  
10 Pickup trucks are towing 5,000, 7,000 pounds. Obviously,  
11 they could tow an MSU. A pickup truck rated for  
12 7,000 pounds can obviously tow a 1,300 pound trailer. But  
13 a RAV4, which very much not a pickup truck can also tow  
14 the MSU trailer, and we think that that's the distinction.

15           Again, I would want to highlight our U-Haul  
16 exhibit, which CDTFA consider, I believe, are compact  
17 U-Haul trailer to be towable by a passenger vehicle  
18 because it was weighted -- rated at -- well, our exhibit  
19 shows the 4x7 utility trailer, which is the -- and I  
20 believe that it shows the 4x7 utility trailer, which we  
21 found to be U-Haul's smallest flatbed trailer was -- sure,  
22 it has empty weight of 630 pounds. However, its max load  
23 is 1,700 pounds. So, obviously, when ladened, that's, you  
24 know, well within our -- our 1,300 pound rating.

25           I'd also like to highlight something that you

1 mentioned, Judge Wong, which was that I -- we believe that  
2 the payload -- that something like an Accord, the cargo  
3 payload is not the same as the trailer weighting class.  
4 You know, the trailer is designed to carry its weight on  
5 its wheels as you said. I believe there's another figure,  
6 which is known as the tongue weight, which is the  
7 approximate amount of weight that it places on the trailer  
8 hitch ball. And I believe that's supposed be 10 to  
9 15 percent of the overall weight of a trailer. So at  
10 1,300 pounds that's 130, 170 pounds. Something in that  
11 ballpark.

12           And, you know, like I said, I would just like to  
13 reiterate that that's, you know, this is very comparable  
14 to something like a compact U-Haul trailer where it's  
15 lightweight, and you can tow behind anything. And as far  
16 as I'm aware, U-Haul does not limit their towing to  
17 noncommercial purposes. I could be incorrect on that, but  
18 I don't believe that anything stops you from taking a  
19 U-Haul trailer off the lot and towing items for your  
20 business.

21           That's all. Thank you, Your Honor.

22           JUDGE WONG: Thank you.

23           For the last time I will turn to my co-panelists  
24 for any questions for either party, starting with  
25 Judge Turner.

1 JUDGE TURNER: None. Thank you.

2 JUDGE WONG: Judge Ridenour?

3 JUDGE RIDENOUR: No. Thank you.

4 JUDGE WONG: All right. I have one final  
5 question for Mr. Cung. So we've heard testimony as well  
6 as argument that the mobile solar units was about from  
7 1,300 pounds to -- earlier models -- I think someone had  
8 mentioned over 2,000 pounds; is that correct?

9 MR. CUNG: We only do 10 kilowatt. That will be  
10 4 pieces less bound together. So about 13 -- 1,300 pounds  
11 this model.

12 JUDGE WONG: Okay.

13 MR. CUNG: They -- we do build a very little,  
14 like a 20 kilowatt less a battery. In the old days  
15 there's no lithium battery back then. We do build that,  
16 but most of the customer, they prefer something small and  
17 lightweight; easy to move around. Any job site, one  
18 person can handle it, can move around. Yes.

19 JUDGE WONG: Okay. As far as MSUs go, what's the  
20 weight of just the solar equipment, the panels, the  
21 battery, not including the trailer frame itself, the one  
22 with the wheels and the axles? What's just the solar  
23 equipment and the tower? How much does that weigh? Do  
24 you know?

25 MR. CUNG: Solar panel 50 pounds. 50 pounds

1 times 4, so it would be 200 pounds. Like the solar panel  
2 in your house, that one. Each one by 50, so times 4. So  
3 all together it would be below 500 pounds.

4 JUDGE WONG: Okay. So the 1,300 pounds of the  
5 total mobile solar unit, 500 pounds would be for the solar  
6 equipment?

7 MR. CUNG: The solar, solar panel, inverter,  
8 MPBT, wire, cable, lighting, LED, or camera all together,  
9 I would say max would be 600.

10 JUDGE WONG: 600.

11 MR. CUNG: 600.

12 JUDGE WONG: Okay. So that would --

13 MR. CUNG: So half. Around half the weight.

14 JUDGE WONG: Half?

15 MR. CUNG: And the bat -- the battery kind of  
16 heavy. Each battery, I would say, about 80 pounds or 80,  
17 yeah. Each battery they are full. Yeah.

18 JUDGE WONG: Okay. So of the 1,300 pounds, the  
19 total weight of the MSU, half would be for like the  
20 battery, the solar, the -- and then the other half would  
21 be the --

22 MR. CUNG: Trailer.

23 JUDGE WONG: -- trailer?

24 MR. CUNG: Yeah.

25 JUDGE WONG: Okay.

1 MR. CUNG: Steel.

2 JUDGE WONG: Okay. Turning to CDTF, if a  
3 trailer weighs 750 pounds, like, would that be -- do you  
4 think that would be qualify as designed to be towed by a  
5 passenger vehicle? Because we -- I think earlier we had  
6 established that the solar equipment is not MTE, and it  
7 only becomes MTE if it's added and combined with the  
8 trailer part.

9 MR. SMITH: I think, again, this is a trailer,  
10 which is defined as MTE. Because all -- all this  
11 equipment is being attached to it. It becomes a component  
12 part, and together that's the MTE. I mean, that's our  
13 basic argument as we know.

14 MR. NOBLE: We would look at the total weight.

15 MR. SMITH: Yeah.

16 MR. NOBLE: And I just want to note that  
17 Exhibit A, page -- pages 15, is a brochure from  
18 Appellants' website. I understand that they do have  
19 varying weights with their unities, but they focused a lot  
20 on 1,300 pounds. The mechanical specs for this one list  
21 1,700 to 3,000 pounds.

22 JUDGE WONG: Okay. Thanks.

23 MR. NOBLE: And some of these are also dual axle,  
24 not single.

25 JUDGE WONG: Thank you. Okay. Thank you, very

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much.

All right. That concludes the hearing. The evidentiary record is closed, and these cases are submitted today.

The panel will meet and decide the case based on the exhibits presented and admitted as evidence, as well as witness testimony. We will send the parties our written decision no later than 100 days from today.

I'd like to thank both parties for their presentations, and witness for his testimony.

The oral hearing in this case is now adjourned.

Oral hearings will recommence this afternoon at 1:00 p.m.

Thank you, and we will go off the record.

(Proceedings concluded at 10:52 a.m.)

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HEARING REPORTER'S CERTIFICATE

I, Ernalyne M. Alonzo, Hearing Reporter in and for the State of California, do hereby certify:

That the foregoing transcript of proceedings was taken before me at the time and place set forth, that the testimony and proceedings were reported stenographically by me and later transcribed by computer-aided transcription under my direction and supervision, that the foregoing is a true record of the testimony and proceedings taken at that time.

I further certify that I am in no way interested in the outcome of said action.

I have hereunto subscribed my name this 29th day of December, 2025.

\_\_\_\_\_  
ERNALYN M. ALONZO  
HEARING REPORTER