

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

MAXELL, LTD.,

Plaintiff,

v.

**ZHUHAI COSMX BATTERY CO.,
LTD.,**

Defendant.

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Case No. 6:21-cv-00845-ADA

JURY TRIAL DEMANDED

**RESPONDENTS' STIPULATION REGARDING
CERTAIN INVALIDITY DEFENSES FOR U.S. PATENT NO. 9,266,251**

Defendant Zhuhai CosMX Battery Co., Ltd. ("CosMX") submits this stipulation of invalidity contentions.

On December 14, 2022, CosMX filed a petition for *Inter Partes* Review asking the Patent Trial and Appeal Board to cancel all claims of U.S. Patent No. 9,166,251 (the "'251 Patent"). The Petition asserts claims 1-37 of the '251 Patent are obvious under 35 U.S.C. § 103 over European Patent Application Publication EP 1115166 A1 ("Yoshida") and International Patent Application Publication WO 2007/066768 ("Katayama").

CosMX hereby stipulates that if the Patent Trial and Appeal Board institutes trial in IPR2023-00226, then in this case CosMX will not pursue against claims 1-37 of the '251 Patent any ground for which the Board institutes trial in IPR2023-00226 or any other ground that was raised or could have been reasonably raised in IPR2023-00226.

This stipulation is not intended, and should be construed, to limit CosMX's ability to assert invalidity of the asserted claims of the '251 Patent in this case on any other ground (e.g., invalidity under 35 §§ 101, 112), regardless of whether trial is instituted for the above-referenced IPR .

Respectfully submitted,

Dated: [Date]

/s/ [DRAFT]

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CERTIFICATE OF SERVICE

I certify that on [Date] all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system.

/s/ [DRAFT]

Charles Walker