

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

NINGDE AMPEREX TECHNOLOGY
LIMITED,

Plaintiff,

v.

ZHUHAI COSMX BATTERY CO., LTD.,

Defendant.

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Civil Action No.: 2:22-CV-232

JURY TRIAL DEMANDED

PLAINTIFF’S RESPONSES TO DEFENDANT’S THIRD SET OF INTERROGATORIES

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, Plaintiff Ningde AmpereX Technology Limited (“ATL” or “Plaintiff”) hereby object and respond as follows to the First Set of Interrogatories (Nos. 11-12) propounded by Defendant Zhuhai CosMX Battery Co., Ltd. (“CosMX” or “Defendant”). These objections and responses are made based on information reasonably available to ATL at the present time. ATL reserves the right to supplement these responses if and when additional information becomes available.

ATL expressly incorporates the following General Objections as though set forth fully for each of the following individual interrogatories and—to the extent they are not raised as a specific objection to any particular interrogatory—ATL does not waive those objections.

GENERAL RESPONSES

1. ATL’s Responses to CosMX’s First Set of Interrogatories are made to the best of ATL’s present knowledge, information, and belief. These Responses are at all times subject to such additional or different information that discovery or further investigation may disclose and, while based on the present state of ATL’s recollection, are subject to such refreshing of recollection, and such additional knowledge of facts, as may result from ATL’s further discovery or investigation. ATL reserves the right to make use of, or to introduce at any hearing and trial, information, and/or

documents responsive to CosMX's Interrogatories but discovered subsequent to the date of these Responses, including, but not limited to, any such information or documents obtained during discovery.

2. ATL reserves all objections or other questions as to the competency, relevance, materiality, privilege, or admissibility as evidence in any subsequent proceeding or trial of this or any other action for any purpose whatsoever of ATL's Responses herein and any document or thing identified or provided in response to CosMX's Interrogatories.

3. ATL reserves the right to object on any ground at any time to such other or supplemental Interrogatories as CosMX may at any time propound involving or relating to the subject matter of these Interrogatories.

4. ATL incorporates each of the following General Objections into its Responses to each of CosMX's Interrogatories, whether or not expressly referred to in each such Response.

5. Pursuant to Fed. R. Civ. P. 33(d), the answers to a number of CosMX's Interrogatories may, in substantial part, be derived or ascertained from ATL's records and documents. Because the burden of deriving or ascertaining the answers from ATL's records and documents is substantially the same for ATL as it for CosMX, ATL will respond to those Interrogatories by identifying the responsive documents and records from which the answers may be ascertained.

6. ATL reserves the right to supplement their answers, objections, or production if ATL uncovers additional documents or information called for by CosMX's Interrogatories.

General Objections

The following objections apply to each and every interrogatory propounded by CosMX, and are incorporated into each of the specific objections by reference as if set forth fully therein:

1. ATL objects to CosMX's Definitions and Instructions as vague, ambiguous and overly broad, and to the extent they seek to impose upon ATL obligations beyond those required by the Federal Rules of Civil Procedure and any other applicable rules or orders. ATL further objects to these Definitions and Instructions to the extent they require ATL to pursue information that is not currently in its possession, custody or control.

2. ATL further objects to these Definitions and Instructions to the extent they seek communications and/or documents protected by the attorney-client or any other applicable privilege or the attorney work product doctrine.

3. ATL objects to each of the Interrogatories to the extent it seeks information that is readily available from public sources, including public dockets in other cases.

4. ATL objects to each of the Interrogatories to the extent it seeks the impressions, conclusions, opinions, legal theories, legal research, and other work product of counsel for ATL.

5. ATL objects to each of the Interrogatories to the extent it seeks information that is not within ATL's possession, custody, or control.

6. ATL objects to each of the Interrogatories to the extent it is vague and ambiguous.

7. ATL objects to each of the Interrogatories to the extent that it is premature because discovery has only just begun.

8. ATL objects to each of the Interrogatories to the extent it calls for expert testimony before the deadlines set in the Docket Control Order.

9. ATL objects to each Interrogatory to the extent it contains multiple parts, each of which shall count against the total number of interrogatories allowed for CosMX.

INTERROGATORY NO. 11.

Identify and describe the contributions of each person—including, without limitation, each of the Named ATL Inventors—who contributed to the conception or reduction to practice of the subject matter disclosed and claimed in each of the Patents-in-Suit, including for each contribution, the person who made the contribution, when the contribution was conceived, when the contribution was reduced to practice, what documents reflect, relate to, or corroborate the contribution, where the text, figures, and claims of any of the Patents-in-Suit reflect the contribution, and when and to whom the person disclosed or described the contribution before the patent’s effective filing date.

RESPONSE TO INTERROGATORY NO. 11

ATL incorporates by reference all of its General Objections as if fully set forth herein. ATL further objects to this Interrogatory on the grounds that it (i) seeks information that is protected by the attorney-client privilege, work product doctrine, or other applicable privilege or immunity; (ii) seeks information the relevance of which is not proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties’ relative access to relevant information, the parties’ resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit, including to the extent it seeks information not relevant to any issue in dispute; (iii) is vague, overly broad, overly expansive, oppressive and unduly burdensome and imposes on ATL an unreasonable burden of inquiry, and to the extent that it seeks irrelevant information not reasonably calculated to lead to the discovery of admissible evidence; (iv) is vague and overly broad with respect to “the contributions,” “contributed to,” “when the contribution was conceived,” “when the contribution was reduced to practice,” “reflect, relate to, or corroborate the contribution”; and (vii) is compound.

Subject to and without waiving the foregoing General and Specific Objections, ATL responds as follows:

The inventors of the '987 Patent, Jianjian Yi, Xinzhi Zhang, Zengbin Wei, and Xinghua Tao, conceived and reduced to practice of the inventions in the '987 Patent at least by April 11, 2018, when Chinese application no. 201810321779.5 was filed, which establishes priority for all claims of the '987 Patent at least as early as this date.

The inventors of the '352 Patent, Peipei Guo, Yi Zhao, Ping He, Hongxin Fang, and Wenqiang Cheng, conceived and reduced to practice of the inventions in the '352 Patent at least by August 31, 2015, when application no. PCT/CN2015/088638 was filed, which establishes priority for all claims of the '352 Patent at least as early as this date.

The inventors of the '363 Patent, Kefei Wang, Qiao Zeng, Liangzhen Xiao, and Fei Wu, conceived and reduced to practice of the inventions in the '363 Patent at least by September 21, 2018, when Chinese application no. 201811108529.X was filed, which establishes priority for all claims of the '363 Patent at least as early as this date.

Pursuant to Rule 33(d), information responsive to this Interrogatory may be ascertained in documents produced within the range ATL_COSMX_00001677 to ATL_COSMX_00001851, ATL_COSMX_00005806 to ATL_COSMX_00037775, ATL_COSMX_00037782 to ATL_COSMX_0055371.

ATL's investigation is ongoing. Discovery in this case is ongoing and ATL may supplement its response to this Interrogatory as appropriate, including as allowed by the Federal Rules, any Local Rules, and/or the Court's orders in this case.

INTERROGATORY NO. 12

Identify and describe each document (whether or not it is still in existence)—including, without limitation, laboratory notebook pages, protocols, reports, and data—relating to each working example, comparative example, and test result disclosed in the Patents-in-Suit, including the document’s contents, creation date, production numbers (if applicable), authors, recipients, and (if applicable) the date and circumstances of its destruction.

RESPONSE TO INTERROGATORY NO. 12

ATL incorporates by reference all of its General Objections as if fully set forth herein. ATL further objects to this Interrogatory on the grounds that it (i) seeks information that is protected by the attorney-client privilege, work product doctrine, or other applicable privilege or immunity; (ii) seeks information that is not in ATL’s possession, custody, or control; (iii) seeks information the relevance of which is not proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties’ relative access to relevant information, the parties’ resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit, including to the extent it seeks information not relevant to any issue in dispute; (iv) is vague, overly broad, overly expansive, oppressive and unduly burdensome and imposes on ATL an unreasonable burden of inquiry, and to the extent that it seeks irrelevant information not reasonably calculated to lead to the discovery of admissible evidence; (v) vague and overly broad with respect to “laboratory notebook pages, protocols, reports, and data,” working example, comparative example, and test result,” and “the date and circumstances of its destruction”; and (vii) is compound.

Subject to and without waiving the foregoing General and Specific Objections, ATL responds as follows:

Pursuant to Rule 33(d), information responsive to this Interrogatory may be ascertained in documents produced within the range ATL_COSMX_00001677 to ATL_COSMX_00001851, ATL_COSMX_00005806 to ATL_COSMX_00037775, ATL_COSMX_00037782 to ATL_COSMX_0055371.

ATL's investigation is ongoing. ATL will supplement its response to this Interrogatory after further investigation, including as allowed by the Federal Rules, any Local Rules, and/or the Court's orders in this case.

DATED: May 31, 2023

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Attorneys for Plaintiff Ningde Ampere Technology Limited

CERTIFICATE OF SERVICE

I hereby certify that on May 31, 2023, a true and correct copy of the foregoing was served on counsel of record via electronic mail pursuant to Federal and Local rules.

/s/ Chunmeng Yang
Chunmeng Yang