

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

ZHUHAI COSMX BATTERY CO., LTD.,  
Petitioner

v.

NINGDE AMPEREX TECHNOLOGY LIMITED,  
Patent Owner

---

Case IPR2025-00385  
U.S. Patent No. 10,964,927

---

**DECLARATION OF JOHN C. EVANS IN SUPPORT OF  
PETITIONER'S RESPONSE TO PATENT OWNER'S  
DISCRETIONARY DENIAL BRIEF**

***Mail Stop "PATENT BOARD"***  
Patent Trial and Appeal Board  
U.S. Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

Zhuhai CosMX Battery Co. EX1027  
IPR2025-00385  
U.S. Patent No. 10,964,927

1. I am counsel for Zhuhai CosMX Battery Co., Ltd. (“Petitioner” or “CosMX”) in the pending litigation matter, *Ningde Amperex Technology Limited v. Zhuhai CosMX Battery Co., Ltd.*, No. 2:24-cv-728-JRG (E.D. Tex.) (“*ATL I*”).

2. In *ATL II*, Patent Owner Ningde Amperex Technology Limited (“Patent Owner” or “ATL”) has accused CosMX of infringing certain claims of U.S. Patent No. 10,964,927 (“’927 patent”). More particularly, ATL served its P.R. 3-1 Infringement Contentions in *ATL II* on January 7, 2025. In its P.R. 3-1 contentions, ATL accused CosMX of infringing claims 1-4, and 6-10 of the ’927 patent.

3. I understand that CosMX is requesting that the Patent Trial and Appeal Board (“PTAB” or “Board”) institute an *inter partes* review (“IPR”) proceeding of the ’927 patent.

4. CosMX served its P.R. 3-3 and 3-4 Invalidity Contentions in *ATL II* on March 12, 2025. *See* Ex. 2003 (ATL’s submission of the cover pleadings for CosMX’s P.R. 3-3 and 3-4 Invalidity Contentions in *ATL II* dated March 12, 2025).

5. In its P.R. 3-3 and 3-4 contentions, CosMX asserted that the ’927 patent was invalid over prior-art systems, including the following prior-art battery cells and separators that were on-sale before relevant priority date: (1) CosMX

CA3270C4G; (2) CosMX CA245065HV; (3) CosMX CA3952A4; (4) ATL 265066; and (5) Samsung S9+. *See* Ex. 2003 at 18, 27.

6. As Exhibit 2003 shows, most of the contentions relating to the '927 patent in CosMX's March 12, 2025 P.R. 3-3 and 3-4 contentions in *ATL II* are based on the prior-art systems referenced above. *See* Ex. 2003 at 27 (stating that Exhibit Nos. 927-04 through 927-15, for example, are invalidity grounds based on the CosMX CA3270C4G Cell/Separator, CA245065HV Cell/Separator, and CA3952A4 Cell/Separator). CosMX's March 12, 2025 P.R. 3-3 and 3-4 contentions in *ATL II* rely on confidential testing of the features of the prior-art systems referenced above.

7. I hereby declare that all statements made of my own knowledge are true and that all statements made on information and belief are believed to be true. I could testify to the matters in this declaration competently if called upon to do so. I further declare that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of the Title 18 of the United States Code.

Executed on this 6th day of June in Cleveland, Ohio

A handwritten signature in blue ink, appearing to read "John C. Evans", is displayed within a black rectangular box.

---

John C. Evans  
JONES DAY

# APPENDIX A

**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.*

---

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

Civil Case No. 2:24-cv-728-JRG

**DEFENDANT’S INITIAL P.R. 3-3 AND 3-4 DISCLOSURES**

**6. The '927 Patent**

**a. Prior Art Patents and Published Patent Applications**

| <b>Patent No.</b> | <b>Country of Origin</b> | <b>Issue/Publication Date</b> | <b>Short Title</b> |
|-------------------|--------------------------|-------------------------------|--------------------|
| 2015/0180002      | U.S.                     | June 25, 2015                 | Nishikawa          |
| 10,559,802        | U.S.                     | February 13, 2014             | Zhang              |

**b. Prior Art Non-Patent Publications**

| <b>Title</b>                                                                                   | <b>Author/ Publisher</b> | <b>Publication Date</b> | <b>Short Title</b> |
|------------------------------------------------------------------------------------------------|--------------------------|-------------------------|--------------------|
| Deformation and fracture behaviors of microporous polymer separators for lithium ion batteries | RSC Advances             | March 2014              | Chen               |

**c. Prior Art Products**

| <b>Product</b>            | <b>Company</b> | <b>Available at Least By</b> | <b>Short Title</b>        |
|---------------------------|----------------|------------------------------|---------------------------|
| CA3270C4G Cell/Separator  | CosMX          | September 1, 2017            | CA3270C4G Cell/Separator  |
| CA245065HV Cell/Separator | CosMX          | October 7, 2014              | CA245065HV Cell/Separator |
| CA3952A4 Cell/Separator   | CosMX          | August 1, 2013               | CA3952A4 Cell/Separator   |
| ATL 265066 Cell/Separator | ATL            | November 2016                | ATL 265066 Cell/Separator |
| Samsung S9+               | Samsung        | April 11, 2018               | S9+ Cell/Separator        |

**B. P.R. 3-3(b) Disclosures: Each Item of Prior Art that Anticipates and/or Renders Obvious the Asserted Claim, and Obviousness Combinations and Motivations**

Based on presently known information and the apparent constructions ATL is asserting in its Infringement Contentions, the Appendices to CosMX's Invalidity Contentions identify for each item of prior art whether it anticipates the Asserted Claims and/or renders the Asserted Claims

| <b>Ex. No.</b> | <b>Ground</b>                          |
|----------------|----------------------------------------|
| 118-16         | CA3270C4G Cell/Electrode and Wang      |
| 118-17         | CA3952A4 Cell/Electrode and Ishigaki   |
| 118-18         | CA3952A4 Cell/Electrode and Wang       |
| 118-19         | ATL 265066 Cell/Electrode and Ishigaki |

**f. The '927 Patent (Appendix 927)**

| <b>Ex. No.</b> | <b>Ground</b>                           |
|----------------|-----------------------------------------|
| 927-01         | Nishikawa                               |
| 927-02         | Nishikawa and Chen                      |
| 927-03         | Chen and Zhang                          |
| 927-04         | CA3270C4G Cell/Separator                |
| 927-05         | CA3270C4G Cell/Separator and Chen       |
| 927-06         | CA3270C4G Cell/Separator and Nishikawa  |
| 927-07         | CA3270C4G Cell/Separator and Zhang      |
| 927-08         | CA245065HV Cell/Separator               |
| 927-09         | CA245065HV Cell/Separator and Chen      |
| 927-10         | CA245065HV Cell/Separator and Nishikawa |
| 927-11         | CA245065HV Cell/Separator and Zhang     |
| 927-12         | CA3952A4 Cell/Separator                 |
| 927-13         | CA3952A4 Cell/Separator and Chen        |
| 927-14         | CA3952A4 Cell/Separator and Nishikawa   |
| 927-15         | CA3952A4 Cell/Separator and Zhang       |
| 927-16         | ATL 265066 Cell/Separator               |
| 927-17         | S9+ Cell/Separator                      |

**2. Motivations to Combine**

It would have been obvious to a POSA to combine one or more of the prior art references listed above with each of the other references and/or nothing more than his or her own knowledge, education, experience and/or common sense to arrive at the claimed invention. As the Supreme