

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 IPR2025-00389
U.S. Patent No. 11,923,498

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

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Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Zhuhai CosMX Battery Co. EX1032
IPR2025-00389
U.S. Patent No. 11,923,498

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. 11,923,498 (“’498 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 1-2, 5-10, and 12-22 of the ’498 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 ’498 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 ’498 patent was invalid over a prior-art battery cell/electrode that was on-sale before relevant priority date, namely, CosMX CA3952A4. *See* Ex. 2003 at 17, 25-26.

6. As Exhibit 2003 shows, many of the contentions relating to the '498 patent in CosMX's March 12, 2025 P.R. 3-3 and 3-4 contentions in *ATL II* are based on the prior-art battery cell/electrode CosMX CA3952A4. *See* Ex. 2003 at 25-26 (stating that Exhibit Nos. 498-01 through 498-11, for example, are invalidity grounds based on the CosMX CA3952A4 Cell/Electrode. 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 battery cell/electrode CosMX CA3952A4 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 10th day of June in Cleveland, Ohio



John C. Evans
JONES DAY