

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ZHUHAI COSMX BATTERY CO., LTD.,
Petitioner

v.

NINGDE AMPEREX TECHNOLOGY LTD.,
Patent Owner

Case IPR2025-00524
U.S. Patent No. 12,015,118

**PETITIONER ZHUHAI COSMX BATTERY CO. LTD.’S OBJECTIONS
TO EVIDENCE PURSUANT TO 37 C.F.R. § 42.64(B)(1)**

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

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I. INTRODUCTION

Petitioner Zhuhai CosMX Battery Co., Ltd. (“Petitioner”), objects under the Federal Rules of Evidence (F.R.E.) and 37 C.F.R. § 42.64(b)(1) to the admissibility of the following evidence:

- Exhibit 2015, the “Declaration of Dean Wheeler, Ph.D.”;
- Exhibit 2004, Summons to attend oral proceedings in German Case No. 3 Ni 12/23 (EP) (“Germany Order 1”);
- Exhibit 2005, Summons to attend oral proceedings in German Case No. 3 Ni 12/24 (EP) (“Germany Order 2”);
- Exhibit 2006, Docket Navigator Statistics for Judge Rodney Gilstrap (accessed May 5, 2025);
- Exhibit 2007, Docket, *Ningde Amperex Tech. Ltd. v. Zhuhai CosMX Battery Co.*, Case No. 2:22-cv-00232 (E.D. Tex.);
- Exhibit 2008, Joint Motion for Entry of Protective Order, *Ningde Amperex Tech. Ltd. v. Zhuhai CosMX Battery Co.*, No. 2:24-cv-00728-JRG, ECF No. 30 (E.D. Tex. Feb. 11, 2025);
- Exhibit 2009, Amended Final Judgment, *Ningde Amperex Tech. Ltd. v. Zhuhai CosMX Battery Co.*, Case No. 2:22-cv-00232, ECF No. 427 (E.D. Tex.);

- Exhibit 2010, Article, *Lithium battery manufacturer ATL won injunction against its Chinese rival COSMX in German Court*, China IP Today (April 6, 2024); and
- Exhibit 2013, Darts IP Reports: CN109301326, CN104466097, CN206490141, CN108352492 (May 6, 2025).

Exhibits 2004-2010 and 2013 were filed by Patent Owner Ningde Ampere Technology Ltd. (“Patent Owner”) on July 7, 2025, with Patent Owner’s Discretionary Denial Brief. Exhibit 2015 was filed by Patent Owner on August 5, 2025, with Patent Owner’s Preliminary Response. Petitioner’s Objections are timely filed under 37 C.F.R. § 42.64(b)(1), within 10 business days of the October 24, 2025 Institution Decision. Petitioner files these Objections to provide notice to Patent Owner that Petitioner may move to exclude the Challenged Evidence under 37 C.F.R. § 42.64(c).

II. EXHIBIT 2015 – DECLARATION OF DEAN WHEELER, PH.D.

Petitioner objects to Exhibit 2015 under F.R.E. 702 and 703 because Exhibit 2015 includes statements and testimony based on insufficient facts or data, and is not the product of reliable principles and methods. *See, e.g.*, EX2015, ¶¶41-182. Further, the relied-upon facts and data are not those on which experts in this field would reasonably apply.

Petitioner further objects to Exhibit 2015 under F.R.E. 602 to the extent that Exhibit 2015 presents as “facts” information that is outside the personal knowledge of the declarant.

Petitioner further objects to Exhibit 2015 as not being relevant under F.R.E. 401-402 because any probative value is substantially outweighed by other considerations under F.R.E. 403, including unfair prejudice, confusion of the issues, and waste of time. Petitioner further objects to any portions of Exhibit 2015 that cite an exhibit objected to herein for the reasons stated herein.

**III. EXHIBIT 2004 – SUMMONS TO ATTEND ORAL PROCEEDINGS
IN GERMAN CASE NO. 3 NI 12/23 (EP)**

Petitioner objects to Exhibit 2004 under F.R.E. 401-403 as not being relevant under F.R.E. 401-402, at least to the extent it is not relied upon in Patent Owner’s Preliminary Response. Exhibit 2004 purportedly pertains to a foreign (German) proceeding regarding a different patent. Accordingly, Petitioner further objects to Exhibit 2004 as not being relevant under F.R.E. 401-402 because any probative value is substantially outweighed by other considerations under F.R.E. 403, including unfair prejudice, confusion of the issues, and waste of time.

**IV. EXHIBIT 2005 – SUMMONS TO ATTEND ORAL PROCEEDINGS
IN GERMAN CASE NO. 3 NI 12/24 (EP)**

Petitioner objects to Exhibit 2005 under F.R.E. 401-403 as not being relevant under F.R.E. 401-402, at least to the extent it is not relied upon in Patent

Owner's Preliminary Response. Exhibit 2005 purportedly pertains to a foreign (German) proceeding regarding a different patent. Accordingly, Petitioner further objects to Exhibit 2005 as not being relevant under F.R.E. 401-402 because any probative value is substantially outweighed by other considerations under F.R.E. 403, including unfair prejudice, confusion of the issues, and waste of time.

V. EXHIBIT 2006 – DOCKET NAVIGATOR STATISTICS FOR JUDGE RODNEY GILSTRAP

Petitioner objects to Exhibit 2006 under F.R.E. 401-403 as not being relevant under F.R.E. 401-402, at least to the extent it is not relied upon in Patent Owner's Preliminary Response. Petitioner further objects to Exhibit 2006 as not being relevant under F.R.E. 401-402 because it is irrelevant to the patentability of the '118 patent and any probative value is substantially outweighed by other considerations under F.R.E. 403, including unfair prejudice, confusion of the issues, and waste of time.

VI. EXHIBIT 2007 – DOCKET, NINGDE AMPEREX TECH. LTD. V. ZHUHAI COSMX BATTERY CO., NO. 2:22-CV-00232 (E.D. TEX.)

Petitioner objects to Exhibit 2007 under F.R.E. 401-403 as not being relevant under F.R.E. 401-402, at least to the extent it is not relied upon in Patent Owner's Preliminary Response. Petitioner further objects to Exhibit 2007 as not being relevant under F.R.E. 401-402 because it is irrelevant to the patentability of the '118 patent and any probative value is substantially outweighed by other

considerations under F.R.E. 403, including unfair prejudice, confusion of the issues, and waste of time.

VII. EXHIBIT 2008 – JOINT MOTION FOR ENTRY OF PROTECTIVE ORDER, NINGDE AMPEREX TECH. LTD. V. ZHUHAI COSMX BATTERY CO., NO. 2:24-CV-00728-JRG, ECF NO. 30 (E.D. TEX. FEB. 11, 2025)

Petitioner objects to Exhibit 2008 under F.R.E. 401-403 as not being relevant under F.R.E. 401-402, at least to the extent it is not relied upon in Patent Owner's Preliminary Response. Petitioner further objects to Exhibit 2008 as not being relevant under F.R.E. 401-402 because it is irrelevant to the patentability of the '118 patent and any probative value is substantially outweighed by other considerations under F.R.E. 403, including unfair prejudice, confusion of the issues, and waste of time.

VIII. EXHIBIT 2009 – AMENDED FINAL JUDGMENT, NINGDE AMPEREX TECH. LTD. V. ZHUHAI COSMX BATTERY CO., NO. 2:22-CV-00232, ECF NO. 427 (E.D. TEX.)

Petitioner objects to Exhibit 2009 under F.R.E. 401-403 as not being relevant under F.R.E. 401-402, at least to the extent it is not relied upon in Patent Owner's Preliminary Response. Exhibit 2009 is purportedly the final judgment in a separate case that did not involve the '118 patent. Accordingly, Petitioner further objects to Exhibit 2009 as not being relevant under F.R.E. 401-402 because it is irrelevant to the patentability of the '118 patent and any probative value is

substantially outweighed by other considerations under F.R.E. 403, including unfair prejudice, confusion of the issues, and waste of time.

IX. EXHIBIT 2010 – ARTICLE, LITHIUM BATTERY MANUFACTURER ATL WON INJUNCTION AGAINST ITS CHINESE RIVAL COSMX IN GERMAN COURT, CHINA IP TODAY (APRIL 6, 2024)

Petitioner objects to Exhibit 2010 under F.R.E. 901 as lacking authentication.

Petitioner further objects to Exhibit 2010 under F.R.E. 401-403 as not being relevant under F.R.E. 401-402, at least to the extent it is not relied upon in Patent Owner's Preliminary Response. Exhibit 2010 is purportedly a news article regarding a litigation that did not involve the '118 patent. Accordingly, Petitioner further objects to Exhibit 2010 as not being relevant under F.R.E. 401-402 because it is irrelevant to the patentability of the '118 patent and any probative value is substantially outweighed by other considerations under F.R.E. 403, including unfair prejudice, confusion of the issues, and waste of time.

X. EXHIBIT 2013 – DARTS IP REPORTS: CN109301326, CN104466097, CN206490141, CN108352492 (MAY 6, 2025)

Petitioner objects to Exhibit 2013 under F.R.E. 901 as lacking authentication.

Petitioner further objects to Exhibit 2013 under F.R.E. 401-403 as not being relevant under F.R.E. 401-402, at least to the extent it is not relied upon in Patent

Owner's Preliminary Response. Exhibit 2013 is purportedly a report regarding the status of various Chinese Patents that are unrelated to the '118 patent. Accordingly, Petitioner further objects to Exhibit 2013 as not being relevant under F.R.E. 401-402 because it is irrelevant to the patentability of the '118 patent and any probative value is substantially outweighed by other considerations under F.R.E. 403, including unfair prejudice, confusion of the issues, and waste of time.

XI. CONCLUSION

To the extent Patent Owner fails to correct the defects associated with the Challenged Evidence in view of Petitioner's objections herein, Petitioner may file a motion to exclude the Challenged Evidence under 37 C.F.R. § 42.64(c).

Respectfully submitted,

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CERTIFICATE OF SERVICE (37 C.F.R. § 42.6(e))

I certify that the above-captioned **PETITIONER ZHUHAI COSMX BATTERY CO., LTD.’S OBJECTIONS TO EVIDENCE PURSUANT TO 37 C.F.R. § 42.64(B)(1)** was served in its entirety on November 7, 2025 upon the following parties via electronic mail:

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