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 IPR2025-00431
U.S. Patent No. 11,799,131

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

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P.O. Box 1450
Alexandria, VA 22313-1450

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 II*").

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. 11,799,131 ("'131 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 1-7, 12, and 14-17 of the '131 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 '131 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 '131 patent was invalid over prior-art systems, including the following prior-art battery electrolytes that were on-sale before relevant priority date: (1) DP018; (2) DP030; DP039; (3) CF41/CF42; (4) CHP16/CHP17/CHP18; (5) CL444; (6) CL470;

(7) CL471; (8) Samsung EB-BG965ABA; and (9) Samsung EB-BG965ABE. *See* Ex. 2003 at 18, 27.

6. As Exhibit 2003 shows, many of the contentions relating to the '131 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. 131-67 through 131-86, for example, are invalidity grounds based on the DP018, DP030, DP039, CF41/CF42, CHP16/CHP17/CHP18, CL444, CL470, CL471, Samsung EB-BG965ABA, and Samsung EB-BG965ABE). 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

/*John C. Evans*/
John C. Evans
JONES DAY