Director_Discretionary_Decision@uspto.gov
571-272-7822

Paper 9
Date: July 2, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

ZHUHAI COSMX BATTERY CO., LTD.,
Petitioner,

v.

NINGDE AMPEREX TECHNOLOGY LIMITED,
Patent Owner.

IPR2025-00385 (Patent 10,964,927 B2)
IPR2025-00389 (Patent 11,923,498 B2)
IPR2025-00405 (Patent 11,769,910 B2)
IPR2025-00431 (Patent 11,799,131 B2)
IPR2025-00432 (Patent 11,575,148 B2)

Before COKE MORGAN STEWART, *Acting Under Secretary of Commerce for Intellectual Property and Acting Director of the United States Patent and Trademark Office*.

DECISION
Referring the Petitions to the Board

Ningde Amperex Technology Limited ("Patent Owner") filed a request for discretionary denial (Paper 6, "DD Req.") in the above-captioned cases, and Zhuhai CosMX Battery Co., Ltd. ("Petitioner") filed an opposition (Paper 7, "DD Opp.").[1]

After considering the parties' arguments and the record, and in view of all relevant considerations, discretionary denial of institution is not appropriate in these proceedings. This determination is based on the totality of the evidence and arguments the parties have presented.

Some facts favor discretionary denial. For example, the challenged patents are involved in a parallel district court proceeding, with a scheduled trial date in July 2026. DD Req. 16. The earliest projected final written decision due date in these Board proceeding is in August 2026. *See, e.g.*, IPR2025-00405, Paper 8, 22.[2] As such, it is unlikely that a final written decision in these proceedings will issue before district court trial occurs.

However, the considerations counseling against discretionary denial outweigh those that favor it. In particular, the challenged patents have not been in force for a significant period of time (issued in 2024, 2023, and 2021), and, accordingly, Patent Owner has not developed strong settled expectations that favor discretionary denial. *See* DD Opp. 30. Although there may be some inefficiencies with two proceedings operating in parallel,

[1] Citations are to papers in IPR2025-000385. The parties filed similar papers in the remaining cases.
[2] The latest projected final written decision due date in these Board proceedings is in September 2026. *See, e.g.*, DD Req. 16.

the early challenges to the patents tip the balance against discretionary denial.

Although certain arguments are highlighted above, the determination not to exercise discretion to deny institution is based on a holistic assessment of all of the evidence and arguments presented. Accordingly, the Petitions are referred to the Board to handle the cases in the normal course, including by issuing a decision on institution addressing the merits and other non-discretionary considerations, as appropriate.

In consideration of the foregoing, it is:

ORDERED that Patent Owner's request for discretionary denial is *denied*;

FURTHER ORDERED that the Petitions are referred to the Board; and

FURTHER ORDERED that neither party shall file a request for rehearing or Director Review of this decision until the Board issues a decision on institution.

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FOR PETITIONER:

Jason Eisenberg
Jason Fitzsimmons
Kristina Kelly
STERNE, KESSLER, GOLDSTEIN & FOX PLLC
jasone-ptab@sternekessler.com
jfitzsimmons-ptab@sternekessler.com
kckelly-ptab@sternekessler.com

James Stein
LEE & HAYES, P.C.
james.stein@leehayes.com

PATENT OWNER:

Christopher Douglas
Madeline Byrd
Miranda Sooter
Casey Hickey
ALSTON & BIRD LLP
christopher.douglas@alston.com
maddy.byrd@alston.com
miranda.sooter@alston.com
casey.hickey@alston.com