

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.

IPR2025-00405
Patent 11,769,910 B2

Before JOHN A. SQUIRES, *Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent and Trademark Office.*

ORDER

Granting Director Review, Vacating the Decision Granting Institution, and
Denying Institution of *Inter Partes* Review

Ningde Amperex Technology Limited (“Patent Owner”) filed a request for Director Review of the Decision granting institution (“Decision,” Paper 12), and Zhuhai CosMX Battery Co., Ltd. (“Petitioner”) filed an authorized response. *See* Paper 16 (“DR Request”); Paper 18. Patent Owner argues that the Decision should be vacated because the Board “failed to acknowledge or address Patent Owner’s request to deny the Petition” as an inefficient use of Office resources. DR Request 1 (citing Paper 9, 59). In making its arguments, Patent Owner points to the Board’s determinations that Petitioner failed to meet the reasonable likelihood institution threshold for multiple grounds of asserted unpatentability and for all grounds asserted against claims 20–26. *Id.* at 2–3, 5–12 (citing Decision 39, 60–62, 72, 88, 91). According to Patent Owner, the “large subset of meritless claim challenges and grounds” justifies a denial of institution. *Id.* at 12.

Petitioner responds that Patent Owner’s arguments lack merit because the Board “found Petitioner was likely to prevail on the vast majority of claims and grounds presented in the Petition,” and even assuming that Petitioner has forfeited challenges to claims 20–26, “this small minority is outweighed by the challenges likely to prevail by a factor of 2:1.” Paper 18, 1, 5–7.

Although the Board did not abuse its discretion in instituting review, as a matter of policy, it is not an efficient use of Office resources to institute and maintain a trial when a petition presents a multitude of unfocused grounds leaving the work to be done by the Office. Here, the Petition asserts at least fifteen grounds of unpatentability, five of which each challenge claims 1–6, 12, and 16–26. *See, e.g.,* Paper 3 (Corrected Petition, “Pet.”), 12–13. For some of these grounds, the Petition presents arguments for

claims 1–6 but does not include separate arguments for claims 12 and 16–26. Instead, the Petition includes tables setting forth the limitation for each of claims 12, 16–19, and 21–26 (e.g., [12.pre] for claim 12’s preamble) and referring to arguments made in other sections of the Petition to explain the challenge. For example, in challenging claim 12 as obvious over Zeng,¹ the table includes each limitation and then cites to Petition sections VIII.B.1–VIII.B.8. *See* Pet. 30; *see also id.* at 68–69 (Petitioner’s table for a second obviousness ground challenging claims 12 and 16–26). Further, as the Board found, at least one of Petitioner’s summary tables does not include independent claim 20, and thus Petitioner failed to meet the reasonable likelihood standard as to that claim and its dependent claims 21–26. Decision 39, 61–62. This finding highlights the concern with Petitioner’s unfocused approach in this case. Because the Board must institute on all grounds or none, *SAS Institute Inc. v. Iancu*, 584 U.S. 357, 364–65 (2018), and because the Board must address all grounds in its final written decision,² maintaining a trial in this case would require the Board and Patent Owner to expend resources addressing multiple claims and grounds that do not meet the reasonable likelihood standard, as well as grounds that have not been sufficiently developed. That is not an efficient or respectful use of Office or party resources and thus institution is denied.

In consideration of the foregoing, it is:

ORDERED that Director Review is granted;

¹ CN 106099187 A, published Nov. 9, 2016 (Ex. 1005).

² *See* Memorandum entitled “Final Written Decision Procedures for AIA Trial Proceedings, dated July 29, 2025, available at <https://www.uspto.gov/sites/default/files/documents/20250729095727582.pdf>.

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FURTHER ORDERED that the Board's Decision granting institution of *inter partes* review is vacated; and

FURTHER ORDERED that the Petition is *denied*, and no trial is instituted.

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